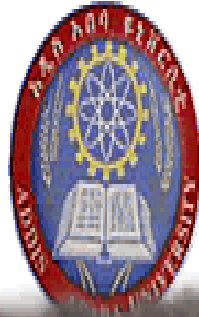


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COLLEGE OF LAW AND GOVERNANCE STUDIES

**HORIZONTAL INTERGOVERNMENTAL RELATIONS BETWEEN ETHIOPIAN
FEDERATING UNITS: THE CASE OF AMHARA AND BENSHANGUL GUMUZ
REGIONS**

BY: DESSALEGN TIGABU HAILE

OCTOBER 2014

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BY: DESSALEGN TIGABU HAILE

ADVISOR: DR. ASSEFA FISEHA (Associate Professor)

**A THESIS SUBMITTED TO THE COLLEGE OF LAW AND GOVERNANCE
STUDIES OF ADDIS ABABA UNIVERSITY IN PARTIAL FULFILLMENT OF THE
REQUIREMENTS FOR THE DEGREE OF MASTERS OF LAWS IN
CONSTITUTIONAL AND PUBLIC LAW**

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DECLARATION

I, **Dessaegn Tigabu**, hereby declare that this thesis: ‘Horizontal Intergovernmental Relations between Ethiopian Federating Units: The Case of Amhara and Benshangul Gumuz Regions’, is original work and has never been submitted for any degree or examination in any other institution. Any secondary information has been duly acknowledged.

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LIST OF ABRIVATIONS

ANRS	Amhara National Regional State
APC	Annual premiers' Conference
BGNRS	Benishangul Gumuz National Regional State
BPLM	Benishangul Gumuz Peoples Liberation Front
EPRDF	Ethiopian People's Revolutionary Democratic Front
FDRE	Federal Democratic Republic of Ethiopia
HoF	House of Federation
HPR	House of Peoples Representatives
IGR	Intergovernmental Relations
MoFA	Ministry of Federal Affairs
TGE	Transitional Government of Ethiopia
TPLF	Tigrayan Peoples Libration Front
SNNP	South Nations, Nationalities and Peoples
PCU	Bilateral Program Coordinating Unit

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ABSTRACT

A broader understanding of Federal system calls for the study of the compartment on which the state to state relationship is based. In the context wherein multilevel governments persist; studying the way how horizontal Intergovernmental Relations (IGRs) function are essential. Both vertical and horizontal federalism are fundamental elements of federal state structured government. Yet most scholarship about federalism focuses on vertical, federal-state interactions while neglecting horizontal state-state interactions. In this light, this research examined institutions and practices of IGRs between Amhara and Benishangul Gumuz Regional States of Ethiopia. The two Regional States are closely related in many respects. This reality necessitates horizontal intergovernmental relations between Amhara and Benishangul Gumuz Regional States.

CHAPTER ONE

INTRODUCTION

1.1. Background of the Study

Countries around the world have their own system of government that they contemplated as best to respond to the respective questions their citizens may desire to be answered. While some states have adopted a unitary form of government, others opted for a federal form of government to mention just two of such forms of governments. Federalism is essentially the choice of governments and it is a distribution of decision making power across multi leveled governments.¹

In democratic government the state has believed to have no concern than public snooping. To fill the public demands it always needs interaction between different spheres of government. Intergovernmental Relation is the mechanism by which different levels and branches of government interact with one another in the process of meeting the needs and interests of the public. The government must be seen as the agent of the people. Members of the parliament are their representatives and bureaucrats are their servants. Thus, intergovernmental relation has to be viewed as the arrangements put in place for cooperation amongst levels of government to meet the needs and interests of the people whom they serve. In federalism it is inevitable; some rather put Intergovernmental relation as an element of definition of federalism.²

Taking the federal form of government, for instance, it generally deals with devolving powers among various competing power centers.³ It signifies that power is not only concentrated at the central government but transferred to regional and local governments who enjoy substantial autonomies to

¹ Abu Moges, Fiscal Federalism and its Discontents, available at www.homepages.wmich.edu/.../fiscal-federalism%5B1%5D-Abu.pdf, last visited on 15/10/2013

²Ronald Watts (2007), Comparing Federal Systems, 3rd Edition, McGill-Queen's University Press Montreal & Kingston London , at 118. In this case Lijphart lists three characteristics of federal structure: Bicameral legislature with strong federal chamber representing the constituent regions, a written constitution that sets up the two spheres of government and divide power between them that is difficult to amend, and a supreme court to decide jurisdictional dispute. An essential fourth feature, that **Watts's** detail is system of intergovernmental institutions and processes to facilitate collaboration in areas of shared and overlapping jurisdictions.

³Franze L.Newman (2005): Federalism and Freedom; A critique, in Demetrious Karmis and Wayne Norman (eds); Theories of Federalism; a Reader; Palgrave Macmillan, New York, at 208.

exercise their power as they think fit. This division of power between the federal and the state governments covers all constitutionally delimited powers and responsibilities in their respective side including fiscal powers and responsibilities.

Intergovernmental Relations (herein after IGR) is vital for federations to be effective and complaisant for common purposes. In modern world states are expected to be closer one another, one thing to be aware of the global condition, and the other for doing their responsibilities best. The goals of intergovernmental relations are said to be to promote peace and harmony among the tiers of government, which are the Federal, State and Local Government. In so doing, inter-governmental relations will help to minimize inter-jurisdictional conflicts among the various levels of government. Again to enhance the emergence of co-operative rather than competitive Federation there is also need to enhance effective and efficient utilization of available human and material resources among the levels of government.⁴

In so doing, channel of communication should be at its high level between the levels of Governments in order to produce an effective result. This is because without one another there would not be effectiveness due to the fact that an inter-governmental relation is relationship between the different levels of government.

The study of intergovernmental relations is typically vertical, that is, the relationship of a government at one level with governments at another level: the national government with the states or the states with their local governments.⁵ But intergovernmental relations can be horizontal as well; State governments may interact to each other. Horizontal intergovernmental relations between constituent units have been considered as less important and it results less developed. In some federations like, Canada and Switzerland the constituent units have mechanisms to promote the development of common positions within the states in dealing the central government but it can be difficult when it is diverse.

Managing and regulating horizontal intergovernmental relations is not an easy task. States must be watchful in setting guidelines and establishing institutions to deal with IGR. Ethiopia is not best

⁴ John Nwafor (2009), Intergovernmental Relations. Enugu: Unpublished work

⁵ Ann O'M. Bowman (2004), Horizontal Federalism: Exploring interstate relations, university of South Carolina, journal of public Administration research and theory, Vol.14, no.4,

model in managing such issues. Rather will take lessons from other countries. In this paper three countries are chosen for discussion.

This research viewed contemporary interstate-relations, focusing primarily on cooperation between two neighboring regional states of federal Ethiopia. Currently these two adjacent regions make consultations on various issues, which are discoursed on the main part of the research. The forgoing discussion shows that in federal systems intergovernmental cooperation is inevitable. A number of researches were made on the vertical intergovernmental aspects, but less is made on horizontal federalism not only in Ethiopia but also in other federations. This paper then aimed to add significant contribution to the existing literatures on the field specifically entrusted to it.

Ethiopia is not an exception to these challenges of intergovernmental relations given the unorganized horizontal intergovernmental relation mechanisms, unclear guidelines for the relation, weak awareness on IGR; states consider it as the task of the Central government, substantial dependence of all the nine regional states on the federal government⁶ and the regional inequalities of resource endowments. The challenges of intergovernmental relations in Ethiopia, then, revolve around these factors of intergovernmental issues.

1.2. Statement of the Problem

It is contended that the Ethiopian Intergovernmental relation field is not developed especially when looked from horizontal IGR perspective.⁷ On the other hand, as I have mentioned it above, Horizontal Intergovernmental relation is main area of government concern that has to be managed properly so to play its vital role in developing and functioning of federal structure in its full sense. Horizontal Intergovernmental relations can be observed when government cooperates in different fields, to mention some: securities, transportation, controlling epidemics, are examples.⁸ Thus, as Intergovernmental relations seem inevitable, it is important to deal with issues of regional concern without necessarily resorting to the center. However, the behavior of states cooperation and the law

⁶Getachew Mengste (2011), Intergovernmental Fiscal Transfer in Ethiopia, (Master Thesis Unpublished) Addis Ababa University School of Law.

⁷Assefa Fiseha (2009), The System of Intergovernmental Relations (IGR) in Ethiopia: In Search of Institutions and Guidelines, Journal of Ethiopian Law, Vol.23 No.1, at 108.

⁸Solomon Nigussie (2008), fiscal federalism in the Ethiopian ethnic based federal system(Netherlands: wolf legal publisher,) at 67

governing these are not yet clearly explored. Researches appear not to be available in this topic of investigation as well

1.3. Research Questions

To feed on the problem statement that is put previously, the research should answer at least the questions which are listed here under illustratively. Accordingly, the thesis will be committed in responding for the following preliminary questions.

1. How intergovernmental Relation in general and horizontal intergovernmental relations in particular is conceptualized in Ethiopia? What relevance do Horizontal Intergovernmental has on Federations to function?
2. What are the institutions entrusted with intergovernmental relations in Ethiopia? What are the implications? To what extent are the operations of the institutions themselves governed by explicit procedures and formal decision rules? Or are the institutions fluid and ad hoc, developing and changing according to the political needs of the participating governments?
3. What are the experiences of Nigeria, South Africa and Canada on intergovernmental relations? What lesson could Ethiopia derive from those experiences?
4. Where do the two Regional states get the finance to run intergovernmental Relations?
5. What are the areas of unease of the two regional states horizontal Intergovernmental Relations?
6. What legal loop holes are prevalent in Ethiopia to obstruct successful horizontal intergovernmental relations?

1.4. Objectives of the Study

The main objective of this research is to demonstrate the existing problems on horizontal intergovernmental relations of Ethiopia. The study is aimed at evaluating intergovernmental relations focusing on the horizontal cooperation between states of federal Ethiopia, taking practical examples from two neighboring regions namely Amhara and Benshangul_Gumuz to evaluate its implications on the federal system in general, accepting the presence of various factors having influence on it some of which may be relevance to a specific region or regions. After exploring the existing realities and practices of Ethiopia and examining the experience of foreign countries (Nigeria, South Africa

and Canada) on the issue at hand so that we could suggest any solutions there from. With this general objective in mind, the study does also have the following specific objectives.

Other objectives of the Study include:

- i. To determine the relevance of horizontal inter-governmental relations in Ethiopia
- ii. To determine the main sources of conflict (if any) between Amhara and Benshangul Gumuz regional states?
- iii. To recommend measures required for an improved inter-governmental relations in Ethiopia.
- iv. To explain factors that impedes the proper adoption and/or implementation of IGR in Ethiopia.
- v. To endeavor and extract a lesson from other countries' practice on horizontal intergovernmental Relations.
- vi. To venture the formal and informal mechanisms of horizontal intergovernmental relations in Ethiopia.
- vii. To discuss the legal regimes (and its loop holes, if any) of Ethiopia on horizontal intergovernmental relations.

1.5. Significance of the Study

The research, being specifically devoted to horizontal intergovernmental Relations of federal Ethiopia taking the two neighboring regions, Amhara and Benshangul Gumuz as an experiment, is hoped to add on the existing literatures for it is specifically targeted. The research seeks to contribute Ethiopian experience of horizontal governmental cooperation. Since the research spirals about the horizontal intergovernmental relations, which is currently being devised by the different organs like, Ministry of Federal affairs, and House of Federation, and Regional intergovernmental directorate, it is believed that, it contributes to serve as a reference for the efficient adoption and/or implementation of sound IGR structure.

This is evident from the fact that the experience of three federal countries would be reviewed that serve as a means of comparing and contrasting the Ethiopian Horizontal IGR which is helpful to conclude whether it is devoid of criticisms and to take a remedial action accordingly.

This study will be of great benefit to different levels of Ethiopian Government. This is because it will expose to the challenges it is facing on horizontal intergovernmental relations.

It would also be of great significance to researchers by way of making them aware of problems that have been uncovered by these researchers, so that they would know where to start from in their subsequent research work in the area of inter-governmental relations. It would also be useful to university students like students of Addis Ababa University when doing a likely research. The study would be significant to policy makers and policy implementers, as they would make use of the findings and recommendations of this study.

1.6. Scope of the Study

The study is on the horizontal intergovernmental relations between Ethiopian federating units and its impacts on the overall federal structure. For the sake of time and resource limitations, the study is restricted on the relation between two regional states of Ethiopia, Amhara vis a vis Benshangul Gumuz.

Thus, this research is limited to discussing on horizontal intergovernmental relations between state governments in federalist Ethiopia by taking relations between Amhara and Benshangul-Gumuz regional states as an example. The focus is therefore the on relations between state governments without the coordination of the center.

1.7. Research Methodology

The study employed a qualitative method of research. Accordingly, it descriptively analyzed the theoretical and practical challenges of horizontal intergovernmental relations in federations, the key point being the Ethiopian system particularly the case between Amhara and Benshangul-Gumuz regional states. The study is principally based on reviewing the relevant literatures on intergovernmental relations. The experience of Nigeria, South Africa and Canada has given special emphasis.

On the other hand, semi-structured interviews was also made with the concerned parties and officials at the federal level (such as the House of Federation and the Ministry of Federal Affairs) and states level. Agreements made by the two regions for cooperation on various matters would also be given special care. 16 purposely selected out officials and experts from the above concerned stakeholders were participated as interviewees. Given the research questions put forward, the best way to gather data would be by using semi-structured and unstructured interview. Semi-structured interviews will be used in this study as it gives informants more freedom of expression. This type of interview, with its flexible and

open-ended questions, gives the respondents freedom to choose how s/he replies. The objective of the study in general and of the interview in particular will clearly be explained before it starts so that it could build the confidence of the informants. The interviews were carried out in a place where the privacy of the informant is protected. As such, I collected oral data from those ‘knowledgeable’ informants of Regional, and Federal levels. The interviewees will be selected based on purposeful as well as snow-ball sampling since it is more appropriate to select informants who are government officials and those inhabitants of the Raya area that are believed to be information-rich.

Pertinent documents had collected from officially published and unpublished materials such as proclamations, policy briefs, federal and regional constitutions, regulations, implementation reports. The researcher consulted secondary sources so that they were helpful in retracing primary source materials or to be used as a means of reaching out to the voices of the ‘others’. Above all, the FDRE Constitution and other relevant laws on horizontal Intergovernmental relations would be analyzed and tested against the practice.

Observation can be essential to closely observe the people and the environment. Since observing does not mean only seeing, by conducting participant and non-participant observation, helped me to smell, feel, and taste the way people do things, talk, and understand things among them.

1.8. Limitations of the Study

The researcher met with some problem in undertaking this study. The problems were following:

- The most important limitation of this study was the difficulty to make a comprehensive study and interviews with the officials and other concerned parties of the two regional states of Ethiopia owing to the time and financial constraints in doing this research.
- Finding appropriate information was difficult owing to the absence of organized institutions or mechanism of controlling horizontal relations.

1.9. Ethical Considerations

The writer took important ethical considerations in to account. Among other things, my interviewees were informed about the purpose of the study without any form of deception before securing consent from them. This writer would also provide an accurate account of the information through examining the collected data to build a coherent justification for descriptions, using member checking by taking the final report or specific descriptions back to participants and search for peer debriefing to cross

validate to the accuracy of the study. The writer will also provide an accurate account of the information through examining the collected data to build a coherent justification for descriptions.

CHAPTER TWO

FEDERALISM AND INTERGOVERNMENTAL RELATIONS: CONCEPTUAL AND THEORETICAL FRAMEWORK

2.1. Introduction

This chapter dwells on the examination of different theoretical perspectives on federalism and intergovernmental relations in federations. It has tried to incorporate brief explanation of both federalism and intergovernmental relations. In the first part, I have attempted to provide definitions on basic concepts that are related in one way or another to federalism and federations.

Federal political system is an arrangement for dividing legislature, executive, judicial and financial powers between at least two levels of government that exercise genuine autonomy in their jurisdictions and are accountable for their respective electorates. Federalism as a political system is not something that can be randomly introduced to rectify internal political unrests or to rally round state building attempts. There are factors that need serious considerations before a country or a realm opted for federal system. In some cases, there are naturally federal polities while on the other spectrum there are nations that best suit unitary arrangements leads us to ascertain factors that have a significant portion to play in making a state either federally suitable or not.

The other part of this chapter is devoted on the Conception of Intergovernmental relations. Intergovernmental relations encompass all the complex and interdependent relation among various spheres of government as well as coordination of public policies among levels of government, through program reporting requirements, grants-in-aid, the planning and budgetary process and informal communication among officials.

This chapter also discusses the purpose, types, different models, institutions and guiding principles of intergovernmental relations and factors that can in one way or another can affect governmental cooperation.

2.2. The Concept and Chief Features of Federalism and Federations

2.2.1. Federalism and Federations: How Conceptualized?

Federation and federalism are two separate concepts, each describing different aspects of federal theory.⁹ Basically, federalism is the normative term whereas federation is the descriptive one.¹⁰ To this end, federalism is considered to be an ideology or a value concept including philosophical perspectives promoting federal solution.¹¹ Here the emphasis is to consider federalism as organizing principle advocates a 'multi-tiered' government combining elements of 'shared-rule' through common institutions for some purposes and the regional 'self-rule' for constituent units for some other purposes, there by accommodating unity and diversity within a larger political union.¹² On the other hand, federation is an empirical reality; a specific type of institutional arrangement which refers to essentially an institution defined by federalism.

As King noted, federation is a descriptive concept referring to the actual system of government.¹³ As a normative term, federalism basically embodies the idea of self-rule and shared rule between at least two tiers of government. “It accommodates preserves and promotes distinct identities within a larger political union.”¹⁴ On the other hand, Federation as a descriptive term refers to the institutional make-up of the federal nation. It embodies such principles as the division of powers, a written constitution, regional representation at the center, equality of both central and regional governments, and regional autonomy. Federation therefore is the employment of the principles of federalism in order to achieve a balance between unity and diversity.¹⁵

Federal systems are always challenged with the basic question of who does / shall do what? According to the traditional understanding whatever is important to the constituent units shall remain within their own jurisdiction, whereas, issues of greater concern shall form the body of competences of the federal level.

⁹ Lovise Aalen (2000). *Ethnic Federalism in a Dominant Party State: The Ethiopian Experience 1991*, at 12.

¹⁰Ronald Watts (1996), comparing federal systems in the 1990s, Kingston Ontario: Institute of Intergovernmental Relations, Queen’s University, at 6.

¹¹Michael Burgess (1998). *Federalism and Federation: a reappraisal* in Burgess, M. and Gagnon, A. (ed.) *Comparative federalism and federation*. New York: Harvester Wheatsheaf (1993).

¹² Assefa Fiseha (2006). *Federalism and Accommodation of Diversity in Ethiopia*, Nijmegen, Wolf Legal Publishers, the Netherlands at 109.

¹³ Preston King (1982). *Federalism and federation*, London: Croom Helm at 74.

¹⁴ Ronald Watts (1996), note 10 at 6

¹⁵Ibid.

Etymologically, the word ‘federalism’ comes from the Latin, *foedus*, meaning “covenant”.¹⁶ Hence, federalism, being essentially a covenant or a treaty, is a solemn agreement among smaller polities to form a larger perpetual polity. Kincaid suggests that a covenant signifies a binding partnership among co-equals in which the parties to the covenant retain their individual identity and integrity while creating a new entity, such as a family or a body politic, that has its own identity and integrity as well.¹⁷ A covenant also signifies a morally binding commitment in which the partners behave toward each other in accord with the spirit of the law rather than merely the letter of the law.¹⁸

Stanford Encyclopedia of Philosophy defined Federalism as the theory or advocacy of federal principles for dividing powers between member units and common institutions.¹⁹ An American political scientist William Riker also defined federalism as a political organization in which the activities of government are divided between regional governments and a central government in such a way that each kind of government has some activities on which it makes final decisions.²⁰

Some thought “Federalism” is an amorphous concept. It has an “I know it when I see it” character.²¹ It is because like many other concepts, there are admittedly some difficulties in defining federalism. It might therefore mean different for different people depending on historical and cultural context. Meaning, single definition for federal structure of government is unpredicted. Though, no single definition of Federalism is generally accepted, there are some elements that can best describe federalism which, will be discussed latter.

Ronald L. Watts, one of the famous writers on federalism describes:

“In all federations, a common feature has been the existence at one and the same time of powerful motives to be united for a certain purposes and of deep-rooted motives for

¹⁶Elazar Daniel and Kincaid John (1984), *The Covenant Connection: Federal Theology and the Origins of Modern Politics*, Lanham, MD, Center for the Study of Federalism, American University Press for a more comprehensive treatment of the federal idea as essentially covenantal.

¹⁷Kincaid John (2002). *Handbook of Federal Countries: Introduction*, Montreal and Kingston: McGill, Queen's University Press.

¹⁸Ibid

¹⁹Stanford Encyclopedia of philosophy, first published Jan 5, 2003; substantive revision Mar9, 2010, available at: <https://www.leibniz.stanford.edu/friends/preview/federalism>, accessed December 2, 2014.

²⁰Riker W., *Federalism*, *Handbook of Political Science: Governmental Institutions and Processes*, eds. Fred I. Greenstein and Nelson W. Polsby (Reading, MA: Addison-Wesley, 1975), pp.93-172.

²¹Allan Erbsen (2008), *Horizontal Federalism*, *Minnesota law review* p.494

autonomous regional governments for other purposes. This has expressed itself in the design of federations by the distribution of powers between those assigned to the federal government for the purposes assigned to the federal government for purposes shared in common and those assigned to the regional units of government for the purpose related to the expression of regional identity.”²²

Accordingly federal political system is organized in central government and regional governments; the former assumes responsibilities related to safeguarding and promoting the commonly shared federal values and interests that are indispensable for the formation and enhancement of one integrated economic and political society through developing and implementing nationwide standard strategies, policies, and programs. State governments on the other hand, stand for the cultural distinctiveness of the diverse federal societies.

Assefa also noted federalism as organizing principle that advocates a ‘multi-tiered’ government combining elements of shared-rule and through common institutions for some purposes and regional self-rule for constituent units for some other purposes, there by accommodating unity and diversity within a large political union.²³ This definition indicates that in any federal government a federation should hold at least two levels of government. One is the government for the entire country that is usually responsible for a few subjects of common national interest. The others are governments at the level of provinces, regions or states that look after much of the day-to-day administering of their state. Both these levels of governments enjoy their power independent of the other.

For Anderson, federalism differs greatly in their social and economic composition and their institution. They include very large and very small countries, rich and poor countries, countries that have very homogenous and very diverse populations. Some federations are long standing democracies, while others have more recent and trouble histories of democracy.²⁴ He stated that written constitutions are essential in federations to establish the framework within which each order of government operates. At a minimum the constitution must establish certain key institutions and allocation of responsibility within the federal system. For him two independent orders of governments in the federation create a need for a constitutional arbiter to resolve conflicts

²² R. Watts (1996), note 10, at 8

²³ Assefa Fiseha (2006) note 12 at 102

²⁴ George Anderson (2008), *Federalism: An Introduction*, Forum of Federalism, Oxford University press p.2

over their respective constitutional competences. Accordingly federal constitution must provide a method for resolving possible conflicts over the legal powers of the two orders of government (central government and states).²⁵

In the broader sense, federalism generally refers to the principle by which legislative powers are divided between the general government for the whole government called by variety of names including federal government, central or national government and the constituent units referred as states (US), cantons (Switzerland), provinces (Canada and South Africa), lander (Germany), or regional state (Ethiopia). As federal political system is organized in central (federal) government and state/regional governments the former assumes responsibilities relevant to safeguarding and promotion of commonly shared federal values and interests which are indispensable for the formation and enhancement of one integrated economic and political society through developing and implementing nationwide standard strategies, policies and programs. State governments on the other hand, stand for cultural, distinctiveness of the divers' federal societies. Hence the primary concern is to ensure political equality and socio-economic welfare of their citizens, the people inside their jurisdiction without negatively affecting the people in the other region. And develop policies to this end.²⁶

Daniel J. Elazar, one of the leading experts in field of federalism, on his part expressed it as: 'federalism has to do with the need of the people and politics to unite for common purposes yet remain separate to preserve their integrity. Federalism is concerned simultaneously with the diffusion of political power in the name of liberty and its concentration on behalf of unity.'²⁷ Here the basic federal principle is concerned with the combination of 'self-rule' and 'shared-rule'. It is the framework that involves the linkage of individuals, groups and polities in lasting but limited union in such a way as to provide for the pursuit of common ends while maintaining the respective integrities of all parties. Accordingly, federalism is considered as a comprehensive system of political relationships which emphasis the combination of self-rule and shared-rule within the matrix of constitutionally dispersed power.²⁸

²⁵ Id., pp 2-4

²⁶ Dimitros Karmis and Wayne Norman (2005), *Theories of Federalism: A Reader*, (New York, Palgrave Macmillan), at 137-139

²⁷ Daniel J. Elazar (1987), *Exploring Federalism* (Tuscaloosa, Alabama University Press), at 33

²⁸ Ibid

Another author, Diel S. Wright, give explanation for the structure as the system of government consisted of one central and sub-national governments, which enable each organs exercise significant decision making separately. It is a system of government that is found between highly centralized unitary systems on the one hand and a loose alliance of con-federal type on the other extreme.²⁹

In general, in defining federal political system, there is no singles definition that can explain the whole features because the system encompasses variety of rooms. However, there are common characteristics that could be shared to all federations.

2.2.2. Features of Federalism

As Preston King argues, the ‘chief distinguishing feature of a federation is the territorial grouping of its citizens and the means by which these groups are represented.’³⁰ The federal principle, which in fact is the organizing principle and encompasses the principles of federalism, underpins both federalism and federation. Embodying the idea of balancing and maintaining unity and diversity, the federal principle is realized through the federal institutions and Constitution established in the federation. The federal principle thus informs how a federal society is organized.³¹ Hence, federalism embodies the standards of what a specific nation should follow to share the powers for the sub-national units whereas federation sets the institutional framework which used for implementation of such shared rule and self-rule.

In federations there are at least two levels of government exercising shared rule using commonly established institutions for mutual interest and shared rule. There is division of legislative, executive and financial powers between the general government and the constituent units. This power division cannot unilaterally be altered by ordinary legislation that rather needs a more strict level of authorization often involving both tiers of government. The two tiers of governments are autonomous in their own sphere of jurisdiction acting on the same people. Each tier derives its powers from the supreme, rigid and rigid constitution. There is also an umpire to rule on the interpretation of constitutional cases involving the division of power. Lastly there are institutions

²⁹Deil S. Wright (1988). *Understanding Intergovernmental Relations*, 3rd ed. (Pacific Grove, CA: Brooks/Cole,) P.36

³⁰Preston King (1993), *Federation and Representation*, Toronto: (University of Toronto Press), at .94-101.

³¹ Ibid

and processes (formal and informal) intergovernmental consultation, cooperation and coordination in those shared or overlapped governmental responsibilities.³²

The existence two levels of government and the divided political powers between federal and state governments are essential features of federations. In a broader context, the form of constitutional division of legislative and executive power, and the relationship between the legislature and the executive affect the nature of IGR. In this regard, the scope and kind of relations between and among institutions of federal arrangement have been analyzed in relation to either of the two constitutional models: “dual federalism” and executive federalism.”³³

Federations are distinguished from other polities primarily by the fact that political power (commonly related to legislative, executive, judicial and financial functions) is constitutionally divided between the federal government and the states, and that both orders of government are autonomous with respect to the powers granted to them. A common feature among federations has been the existence of powerful motives to be united for certain purposes, on the one hand, and deep-rooted motives for autonomous states for other purposes, on the other. This underlying notion federation has implications on the design of federations through distribution of powers.

The federal government is often empowered with those powers that are shared in common and the states with those powers considered relevant for the expression of regional identity. Hence, the famous expression that defines federations as shared rule through common institutions and self-rule for constituent units. Though the former unity was promoted and through the second, diversity is equally promoted. The principle of power sharing inherent in federalism implies shared competencies and shared institutions through which the constituent units are accorded the right to be included in policy making at federal level. Institutions are setup to protect the existence and authority of both orders of governments.

The other essential point that one observes as a shared feature in federations relates to the fact that the division of powers between the federal government and the states is based on written and

³² Ronald Watts (1996), note 10, at p.9

³³In Dual federalism/layer cake federalism the executive authority is divided between the federal government and the states in those matters in which they exercise legislative power. This shows little overlap of power between the tiers of governments. In Executive federalism on the other hand, there is much overlap of powers which leads more cooperative. The federal government mainly concerned with policy initiation, formulation and legislation, and the states mainly concerned with implementation and administration. For further read, Assefa Fiseha (2009) note 15 at p.337; Solomon Nigussie (2009), note 8, p.68

supreme federal constitutions to which both orders of governments must submit. Federations originate from particular bargains struck at a particular time designed to serve for generations. Written constitutions are, therefore, necessary records of the terms of the bargain. In deed to write and to adopt a constitution is to agree the bargain itself. The term of agreement which establish the federal government and the states and which distribute powers between them, must be enshrined in the supreme federal constitution, which is binding. This is derived from the nature of federation itself. The federal constitution regulates their relations and so far as it regulates their relations with each other, it must remain supreme at least in all that concerns division of authority between the two. To be brief, the federal arrangement presupposes the existence of supreme federal constitution from which the federal government and the states drive their authority.

The other important feature of federations emanates from the principle requiring the supremacy of the constitution. Federal constitutions must be rigid and require the participation of both the federal government and the states for their amendment.

Federal constitutions, however, differs significantly both as regards to special procedures they prescribe and the degree of state participation for any amendment. According to Assefa some federations require the consent of every state for any amendment and for others ordinary vote for federal parliament may sometimes suffice for amending the constitution.³⁴

Another vital feature in federations is that there is an organ to resolve disputes concerning constitutionality and division of powers. This is an umpire in the form of in different forms (courts, provisions for referendums, or an upper house with special powers). The constitutionality entrenched

Another important element of federalism added by R. Watts is the process and institutions to facilitate intergovernmental collaboration for those areas where governmental responsibilities are shared or inevitable overlap.

Furthermore, because most of the federal institutions are based on direct election by the citizens, federation as a form of government provides all citizens with an opportunity to participate fully through democratic processes in the legislative and executive operations of shared-rule

³⁴Assefa Fiseha (2009), note 7 at 121

thereby taken as an additional avenue of democratization and democratic thought. Note also that, proliferating points of access to government, competing power centers, the right of exit, and local experimentation relates to the attributes of federalism.

2.3. Definition and Conception of Inter-Governmental Relations

2.3.1. Definition of Intergovernmental Relations

The inevitability within federations of overlaps and interdependence in the exercise by governments of the powers distributed to them has generally required the different orders of government to treat each other as partners. This has necessitated extensive consultation, cooperation and coordination between governments.³⁵ Intergovernmental relations are the subjects of how our different governments deal with each other and what their relative roles, responsibilities, and levels of influence are and should be.

Even though the supreme written constitution divided legislative, executive, judicial and financial powers between the tiers of governments in the form of exclusive, shared or residual powers, it is impossible to delineate clearly, because different powers need to share something in common as a federation in promoting unity without neglecting the self-rule aspect of federalism.³⁶ A mere existence of constitutionally well-established division of power among the levels of governments does not signify that there are no overlaps, interdependency and interaction between spheres of governments.

Donald L. Doernberg describes it:

[t]he flow of power is not all in one direction; one might see ... a river running in two directions

³⁵ R. Agranoff (2001). Autonomy, Devolution and Intergovernmental Relations, *Regional and Federal Studies*, 14:1 : 25–65; Forum of Federations, *Intergovernmental Relations in Federal Countries* (Ottawa: Forum of Federations); R.L. Watts, *Executive Federalism: A Comparative Analysis* (Kingston: Institute of Inter-governmental Relations, Queen's University, 1989); J. Kincaid and G.A. Tarr, eds., *Constitutional Origins, Structure, and Change in Federal Countries* Forum of Federations and International Association of Centers for Federal Studies, *A Global Dialogue on Federalism*, vol. 1 (Montreal & Kingston: McGill-Queen's University Press, 2005), pp. 438–9; K. Le Roy and C. Saunders, eds., *Legislative, Executive and Judicial Governance in Federal Countries* Forum of Federations and International Association of Centers for Federal Studies, *A Global Dialogue on Federalism*, vol. 3 (Montreal & Kingston: McGill-Queen's University Press, 2006), pp. 375-8.

³⁶ Ronald Watts (1996) note 10, p. 7, *Assefa IGR* (2009) note 7, at .98

*at once, each driven by different branch of the federal government.*³⁷

Hence, the inevitability of overlaps of power and interdependence between the orders of governments in executing functions and responsibilities necessitated extensive consultation, cooperation and coordination which scholars termed this process as intergovernmental relations. The entire federation intends to build one economic and political community. Consequentially, various forms of interaction and collaboration through formal or informal means are likely to happen between governments in the federation. The shared interest or interdependence of the citizens, the economies of scale that can be accomplished by increasing the size or extent of governmental activities, the effectiveness which can be achieved when governmental activities and programs are sufficiently well developed can be the main forces for intergovernmental relations to be happening.

Intergovernmental relations are a ubiquitous – if sometimes underestimated – dimension of any federation.³⁸ This is the case, whether the federal regime is the result of a process of unification or of devolution, whether it is “dualist” or “integrated”, whether it has a “federal chamber” or not, whether it is coupled with a parliamentary or a presidential system or a directorate along Swiss lines, and regardless of the legal tradition in which it is grounded.³⁹ The concept is very important in understanding the operational part of a federal system since it has the tendency to alter or entirely change the constitutional division of power. The term connotes both formal and informal relations between the governments at different levels and capacities.⁴⁰

As stated earlier, it is common knowledge that we live in an area of interdependence. Intergovernmental relations, involved the while range of interactions among all levels of government. Federalism divides the power of the state between central government and regional governments. All federations have considerable interdependence between governments. How politicians, civil servants, citizens, and other stakeholders, try to influence outcomes in

³⁷ Donald L. Doernberg (2007) in Laurence J. O’Toole Jr. Ed., *American Intergovernmental Relations: foundations, perspectives, and issues*, 4th ed. (Washington DC, CQ Press), at 144

³⁸Johannes Poirier and Cheryl Saunders (2008), *Intergovernmental Relations in Federal Countries*, global dialogue theme 8, (November1st) at1.

³⁹Ibid.

⁴⁰The relationship may be envisioned as between the federal government and constituent units among the units, federal-local or it may take the form state-local even local-local. The specific participants include Ministers, Cabinets, Legislators, officials and Agencies. But it is usually dominated by the executives. And for the purpose of this study, the focus is on the Horizontal aspect of the system.

jurisdictions other than their own goes to the heart of each federation's political life.⁴¹ There is no any federal country without the need of interdependence. Interdependence rather, is inevitable and significant in all federations. Federations can deal with interdependence through formal, even constitutional mechanisms, or ad hoc and informal arrangements.

Daniel Elazar in his own explains that IGR has not caught on in most other nations because of the U.S. tie to federalism as self-rule and shared rule, in which federal theory holds that the people delegate powers to different governments serving different arenas for different purposes. Unless the American usage has gained currency in other federal systems, the accepted theory of the state in Europe and the Old World holds sovereignty to be indivisible, with the state as the exclusive source of power, with all other bodies exercising powers to be merely authorities and instrumentalities. Thus, on a strict legal basis there can be no IGR within systems. Practice, however, suggests otherwise. The concept of IGR transcends constitutional-legal approaches to divisions of government and their respective powers and duties. It is not a replacement for such historical concepts as federalism and the structure of unitary systems, but a supplement allowing for the growing realities of politics and administration as governments have expanded.⁴² IGR is, however, distinctively no legal in orientation.

The tradition in central/sub national government research has been legalistic, with its emphasis on constitutional structures and procedural rules. Intergovernmental approaches are more no legal, involving a variety of organizations, behaviors, and patterns. As Wright has suggested, perhaps an asset of IGR in this respect is "that it does not ignore or depreciate legal/ constitutional analyses but attempts to overcome the potential limits of the strong justice tradition inherent in federalism."⁴³ He also suggests that as a relatively new approach, IGR does not carry the political baggage that has sometimes accompanied systems of government such as federalism. This apolitical connotation increases its analytic utility, helps preserve its precision, and fosters accumulation of knowledge that adds to understanding.⁴⁴

⁴¹George Anderson, note 24, p.64

⁴² Daniel Elazar (1987), note 27 at 15

⁴³ Deil S. Wright (1988), note 29, at 10

⁴⁴ Ibid

An intergovernmental relation system therefore, consists of facilitative systems and relationships that enable the units of government to participate effectively and carry out mandates so that governmental goals are achieved. This includes executive mechanisms, coordinating mechanisms, cooperative agreements, judiciary and legislative mechanisms that all facilitate delivery by government machinery. Intergovernmental relations can thus be defined as the “glue” that holds them together. In other words, it is the interactions, relationships and the conduct of officials between governmental activities. It seeks the achievement of common goals through mutual relationships between and across vertical and horizontal governmental arrangements, alignment and cohesion across all spheres of government. The aim of intergovernmental relations therefore, is to enable governmental activities (primarily service delivery), through synergy, efficiency and effectiveness in delivering services, to sustain democracy and strengthen delivery capacity across all spheres of government for the common good.

Intergovernmental relations are the responses that have been developed to facilitate cooperative policy making among divided governments within a federal system. They are supposed to play a ‘bridge-building’ role to bring a degree of coordination and cooperation to divided powers, and the mechanism by which different levels and branches of government interact with one another in the process of meeting the needs and interests of the public. The state does not have any interest other than the public interest. It must be seen as the agent of the people. Members of the parliament are their representatives and bureaucrats are their servants. Thus, intergovernmental relation has to be viewed as the arrangements put in place for cooperation amongst levels of government to meet the needs and interests of the people whom they serve. It is a series of legal, political and administrative relationship established among units of government and which possess varying degrees of authority and jurisdiction autonomy.

Finally, IGR connotes interactions that take place among the different levels of government within a state. Usually, the concept is associated with states having a Federal administration system where the relationships between the Federal, Central or national Government and the major sub-national unit (province, region or state) are formally spelt out in the constitution and any re-arrangement must be through a constitutional amendment involving all the levels of government. Although, the emphasis in the analysis of inter-governmental relations (Inter-governmental Relations) is on Federal-State Relations, the full picture also includes how both levels relate to the Local Government

units established within each state. The result, then, is that a full analysis of inter-governmental Relations within a Federal administration system must cover the following: Federal-State, Federal-State-Local, Federal-Local, Inter-State, State-Local and Inter-Local Relations.⁴⁵

The definition and sharing of the State as well as the resources to accomplish such goals is the primary thing in democratic system such, inter-governmental” sharing is normally done in the basis of perceived importance, coverage and capability of each level of government and especially in Federal democratic systems, it is enshrined in the country’s constitution. Secondly, another objective of the inter-governmental relations is bilateral or a multitude of pursuits of conflicting self-interest in the areas of first business undertakings, personnel and information exchanges, grants of extra-territorial rights in service delivery and the pooling and co-ordinations of resources and efforts, aimed at attaining greater economy and effectiveness in operations.⁴⁶

The more vital point to note is that intergovernmental relations are described for the overall efficient performance of the entire system, for the mechanisms of checks and balances and to avoid crisis of confidence in the process of governance. Again, there are numerous variations in the nature, structure and/or patterns of inter-governmental relation’s from one country to another – a state of affairs which arises principally from the differences in culture, tradition, history, origin of the state, party system and system of state organization of the different societies. The outcome therefore, is that there no anyone best system of inter-governmental relations for all countries and for all time, rather it all depends on the peculiar circumstances of each society. Indeed, even within a particular country, the system of inter-governmental relations is not static but varies from one period to another. Besides, even the transactional processes among units of government are not always smooth and co-operative. Indeed, an inter-jurisdictional conflict seems to be the rule rather than the exception.⁴⁷

To sum up this notion, the concept is best understood in terms of the five distinctive features identified by Wright in relation to the United States, but appears applicable in many other national contexts and governmental systems: (1) transcendence of constitutionally recognized patterns of governmental involvement to include varieties of relationships, including national-local, regional-

⁴⁵Nwatu J. Ralph and Okafor, C Ifeoma (2008), *Comparative Local Government Administration* Enugu: Academic Publishing Company, at 174.

⁴⁶Ibid

⁴⁷Ibid

local, national-regional, inter-local, as well as quasi-governmental organizations and private organizations; (2) a human element or the activities and attitudes of persons occupying official positions in the units of government under consideration; (3) relationships between officials involved in their continuous contacts and exchanges of information and views; (4) involvement of all types of public officials—legislators, judges, administrators—at different levels of government as potential or actual participants in decision-making processes; and (5) a policy dimension, involving interactions of actors across boundaries surrounding the formulation, implementation, and evaluation of policy. IGR involves an approach that focuses on the location of decision making, on what basis, whose values are being served, and the consequences of those actions.⁴⁸

2.3.2. Purpose of Intergovernmental Relations

A comprehensible understanding of the operation of federal system requires an analysis of the institutional framework and the character of intergovernmental relations which are usually dependent on the underlying politico-social and economic factors. The major concern of intergovernmental relations is to balance the objectives and constitutional inflexibility. It developed in the 1930s with the rise of active state. The needs for welfare and social policies lead to practice of shared programs and joint financing projects.⁴⁹ Values of coordination in achieving the national goals and avoid overlaps of functions and authorities on the one hand and to maintain the values of self-administration and encourage policy innovation of states.⁵⁰

In a globalizing and interdependent world, IGRs are increasingly important to politics, policy and administration. Understanding the various dimensions, institutions, processes and challenges of IGR may not necessarily lead to harmonious relations, but further study of this important aspect of public policy and administration should highlight some possibilities for reform and more effective outcomes for citizens and governments alike.

IGR cooperation and coordination between different orders of government is significant for number of reasons; some of these are listed below:

⁴⁸ Deil S. Wright (1988), note 29, at, pp. 15-24

⁴⁹Ronald Watts, conceptual issues pp22-23, Thomas Huglin and Alan Fenna (2006) *infra* note 53, at 215

⁵⁰ Ronald Watts (1996), note 10 at, p.22

- It enables information to be shared and statistics to be gathered for the subsequent policy coordination in areas of shared jurisdiction or where there are overlaps in authorities and responsibilities of national, sub-national and local governments.
- It also enables to attain the rational objectives in the lower levels of government.
- Interaction also helps to accommodate policy capacity and fiscal resources among levels of governments in executing their functions.⁵¹
- Furthermore IGR has the objective to ensure the maintenance of balance between too much cooperation that may lead to centralization and hence reduce democratic accountability of each level of governments to its electorate and on the other hand to reduce to much competition that may finally lead to conflicts.⁵²
- It has also the objective to encourage flexibility and adoptability to changing political, social, and economic realities that are less likely to be addressed by formal constitutional amendment.⁵³
- Smooth IGR also gives opportunity to collaborate and exchange experience, skilled man power, security issues. It also necessitated with in idealizing objectives of IGRs some may take as a means of eliminating competition and conflict. But it is possible only to manage or reduce competition and conflicts between governments or parties by encouraging cooperation.⁵⁴ Unless they are managed, conflicts and tensions may be exacerbated by other factors, such as poverty, socioeconomic disparities, uneven regional development and deep cultural differences particularly in developing countries.⁵⁵ Intergovernmental negotiations, legislative actions and even constitutional amendments could be possible measures to resolve or manage conflicts.⁵⁶
- The rapid development in transportation, communication, technology and other shared values.⁵⁷ In other words the rapid expansion of globalization intergovernmental bargain provides the necessary flexibility and served as tool for efficient government of citizens. It also facilitates the spread of successful innovations and serves as mechanism

⁵¹ Ibid

⁵² Id. at .25

⁵³ Thomas Hueglin and Alan Fena (2006), *Comparative Federalism: A Systematic Inquiry* (Toronto: Broad view press,) p219

⁵⁴ Ronald Watts (1996), note 10 at 26, John Kincaid and Rupak Chettopadhyay pp.16-17

⁵⁵ Watts supra note 10, at 18

⁵⁶ Ibid

⁵⁷ Ibid

- to warm those entities which are less successful in executing functions and responsibilities.⁵⁸
- IGRs are important in installing the culture of negotiation between the federal government and the states, changing the trend of centralization and thereby enhancing the bargaining power of states.
 - As the number of actors or parties increase in interaction process effective IGRs can help in accommodating the policies of international agencies in accordance with the needs and priorities of the federal government. Smooth IGR also assists in building trust and confidence between groups that hierarchically were mistrust of each other.⁵⁹
 - IGRs also can serve as medium or forum for the different tiers of governments by which the federal bodies addresses the national policies and programs to the states and the states can ensure whether in their concerns are included in the programs and policies of the national government.⁶⁰

R. Watts concludes that, institutions and processes of IGR have two important functions: “conflict avoidance and resolution, and a means to adapt to changing circumstances without having to restore to formal constitutional amendment.”⁶¹ Overlaps and interdependencies are unavoidable in all federations since levels of governments cannot function in incontestable compartments.

2.3.3. Types of Intergovernmental Relations

In order to consider a specific polity as federal, its political, economic and social diversity should be expressed at all levels and at all times. Intergovernmental relations have two important dimensions. It can be described as vertical and horizontal. One is that of relations between the federal and unit governments. The other is that of inter-unit relations. Normally in federations both kinds of intergovernmental relations have played an important role.

Vertical relationships are those linking lower levels of government with a government of higher or broader jurisdiction. We have vertical relations where the central government interacts with the states or localities, or where the states interact with the localities. It is horizontal relations when

⁵⁸Huglien , Thomas and Alan, supra note 53, pp.16-17

⁵⁹ Ibid

⁶⁰Assefa Fiseha (2009), supra note 7, at.110

⁶¹ R. Watts (2008) Comparing federal systems, 3nd ed.,(Montreal McGill-Queen’s Uni. Press), at p.117

governments at the same level interact, for example, inter-state or inter-local interactions. In a federal system, a complete analysis of IGR should at least cover the following six classes of relations: central-state, central-state-local, central-local, state-local, state-state and local.

Horizontal IGR takes many forms and evolve some or all of the constituent elements. Typically horizontal relations between constituent units arise to deal with geographic trans-border issues like rivers, transport, local taxation, and service provisions. Horizontal relation, one among others, is important as the network of human nervous systems does, for the proper functioning of the federal system. It deals with inter-units and inter-local governments.

2.3.4. Structures, Institutions and Processes of IGR

Federalism divides sovereignty between central governments and regional governments. This establishes two sets of relations, one the relations between the constituent units and the central government, two the relations between states of the federation, which is the primary concern of this paper. Intergovernmental relation of both kinds profoundly shape the way in which a particular federation functions.⁶²

The structure of Intergovernmental relations can vary greatly from one federal system to another. While all perform the same general function, namely, to manage the interface among governments, especially between the two orders of government, they play considerable variety- a variety which is directly related to different factors.

In some federal administration systems a member of administrative mechanisms have devised for managing inter-governmental Relation. In Canada, for example, the emphasis is on the use of periodic conferences of political leaders and appointed officials. This approach is also a common feature of intergovernmental relations in a few other Federal systems such as Australia, Nigeria and India. In each of these countries, the two major subjects for discussion are Finance and Economic policy.

For effective IGR, the establishment of institutions and structures and processes within each government is essential so as to coordinate activities. David Cameron categorized the IGR

⁶² David Cameron (2004), the Structure of Intergovernmental Relations, (UAS Blackwell Publishers, UNESCO,) at p. 121

institutions/structures in to four types: intra jurisdictional, inter jurisdictional, judicial and international.⁶³ Formal channels of IGR occur through the legislative, executive, judicial and financial institutions. Legislatures of federal and state governments may cooperate in the exercise of their jurisdictions.

Intergovernmental relation may happen through one or more of the following four channels:-

- Arriving at an agreement with each other through consultation and coordination with major role of executives and administrative organs;
- Legislatives of each governments has also significant role, mainly in enacting matching legislations and ensuring its implementation in their jurisdiction;
- Probably the most widely known and vital in most multilevel government is inter-governmental financial transfers grant mainly from the center, to sub-national governments; and
- The fourth channel of intergovernmental relation involves negotiation, and/or judicial process with intent to manage disputes among them.

Accordingly, with intent to achieve cooperation in multi-level governments, the roles of the executives (consultation and coordination), legislatives (enacting laws and ensuring its implementation), intermediates (grant of inter financial transfer), and courts (negotiation and adjudication) are extensively dominant.

Some on the other hand divides IGR in to three: intra jurisdictional, federal-state and interstate.⁶⁴ Intra jurisdictional institutions are organized in several federations such as federations brought the state into the institutions of the center usually through second chamber. In the second chamber representative of the state reflect the interest of the regions in policy making and state issues. The effectiveness of the institutions between the federal government and states depend on the powers, composition and manner of election or appointment of the members. In some federations like

⁶³ David Cameron, intergovernmental relations in Canada international Conference on Federalism Mont-Tremblant, October 1999 at 5.

⁶⁴Assefa Fiseha (2009), IGR supra note 7, at.110, David Cameroon Structure of IGR, supra note 54.

Austria representatives are directly elected, in some other federations they are indirectly elected. Still in federations like Germany they are nominated by the regional governments directly.

The second chamber is key federal institution in coordinating IGR, because it is an intra-jurisdictional institutions and representing the constituent units' interest in federal policy making. Their role becomes crucial in areas of shared rule, and is one of the pillars of federalism. However the roles, functions, powers and compositions vary from country to country. What matters is being strong or weak second chamber are that the constitutionally allocated powers and functions, mode of selection of its members and its composition.

2.3.5. Determinant Factors for the Nature of Intergovernmental Relations

Intergovernmental relations are mainly the results of sub constitutional and often informal arrangement. Still some countries provide provisions in their constitution aiming to deal IGR in systematic and institutional base. Whatever the case may be, there are a number of factors that contribute in shaping or creating unique pattern of intergovernmental relations.

2.3.5.1. Form of Government

Though the focus of this paper is to deal with intergovernmental Relations in federal countries, it does not at any rate mean that IGR is the lone feature of federal polity. We possibly will get IGR in decentralized unitary systems as well. Recognizing and describing the existence of IGR in a unitary structure, Adamolekun states that:

“In a unitary state, inter-governmental relations would refer to the interactions between the national government and the sub-national governments. However, the constitutional allocation of governmental functions between federal and regional governments in a federal system is absent; it is the central government that determines which functions it allocates to the sub-national governments. The central government can also decide to modify the functional allocations without consulting the lower units. (But) in the jargon of federalism, the federal and regional government are said to be coordinate in contrast to the unitary system, where the sub-national governments

*are subordinate to the central government. Furthermore, the central government in a unitary state can unilaterally determine both the substance and the style of inter-governmental interactions.*⁶⁵

The common characteristic that broadly distinguishes unitary from federal system is that in the former legislative power rests with the central government; however, in federal system it is divided or shared between the different levels of governments. Unitary system usually comprises one level of government above the local level. Though there is an attempt to divide responsibilities among tiers of government in unitary system there has no constitutional ground. In unitary system especially in those who did not officially devolve powers to the lower levels most of the time IGR takes place as the result of enforced duties as prescribed by the national constitution or statute which control lower authorities by virtue of the centralized control of authority. Most legislation tends to set out principles, leaving all the detail to be stated by regulations.

Federalism is a type of governmental formation in which there are at least two levels of governments in which; supreme powers are constitutionally divide between a federal government and regional or provincial governments (e.g. states in the United States of America and Australia, regions in Ethiopia, provinces in Canada and South Africa and lander in Germany). Therefore, legal sovereignty and powers divided between two or more levels of government each enjoyed a direct relationship with the people.⁶⁶

2.3.5.2. Demographic and Geographical Factors

The size of the country, the size of the population and the distribution of the population on the territory may all affect the structures and processes of IGR. Russia's federal experience will be very different from that of ,say ,Switzerland, if for no other reason than that the former is the largest country in the world, spanning a dozen time zones, while the latter is a tiny country tucked in to the heart of Western Europe. India, with a population of almost a billion people, crowded in to a sub-continent, will conduct its federal affairs differently from the Republic of Comoros, composed of three islands in the Indian Ocean.⁶⁷

⁶⁵Adamolekun, L (2002) Public Administration in Africa, Lagos: Spectrum Books

⁶⁶ Ronald L. Watts (1979), Comparing Federal Systems, second edition (Montreal & Kingston London Ithaca, McGill-Queens University Press,) p.7-9

⁶⁷ David Cameron, supra note 54

2.3.5.3. Social and Cultural Factors

The racial, religious, linguistic and cultural composition of a given country often sets the terms of the federal bargain, ruling in or out certain institutional forms and practices. Belgium, Canada, India, Malaysia, and Switzerland, with their multilingual and multicultural societies, stand in contrast to the socially more homogeneous federations of Australia, Austria, Germany, and the United States.

A common language simplifies federal interchange; the existence of more than one official language makes IGR communications more difficult. Profound socio-cultural differences within a country may create mutual ignorance and suspicions that inhibit effective intergovernmental relations. The existence of a significant, concentrated cultural minority may encourage a greater degree of formalization of IGR rules and processes than might otherwise be the case.

2.3.5.4. Systems of Governments

IGR greatly vary based on the nature and origin of the federal system. In parliamentary system where the regime of executive federalism is more common, the system of IGR is dominated by executive authorities than in presidential federations, and hence is known as “*executive federalism*”. This is so because in parliamentary there is a strong party discipline and the fusion of the legislature and the executive that enables the executive to have a firm control over all processes of decision making.⁶⁸ But this does not wholly exclude the point that cooperation through the other government branches as an aspect of IGR in federal systems. This model of IGR is characterized by an extensive cooperation, coordination and consultation among the different tiers of government through their executives. However, there is the inherent danger of power centralization to the extent undermining the role of the legislature and superseding its power.⁶⁹

While a second chamber plays a key role in IGR, some scholars argue second chambers are bound to be weak in parliamentary federations than presidential federations.

In presidential system of federalism on the other hand, where there is clear separation of political power, IGR is characterized by more of competition than cooperation. But this is not always true.

⁶⁸ John Kincaid and Rupakm Chattopadhyay (2008) Interaction in Federal Systems, (New Delhi, Viva Books,) pp.46-47

⁶⁹ Ibid,p.8

In general IGR is mainly dominated by executive officials and bureaucrats rather than politicians.⁷⁰ Politicians are actively involved on IGR issues that are more constitutional than policy related in nature.

2.3.5.5. Constitutional and Institutional Factors

The number and relative size of the units in federations, the degree of asymmetry among them, determines the nature of IGRs and processes. Different legal systems presuppose a certain degree of formality or informality in the structure of government, and this will sharply affect the character of IGR. A parliamentary system which concentrates power in the executive, and a congressional system, which disperses power among many actors, will produce quite different patterns of IGR, the one, executive dominated, and the other, conducted by the legislative branch as well.

2.3.6. Models of Intergovernmental Relations

Models are significant in directing our attention to important aspects about how a federal system operates and avoids unnecessary complication and details. Models of inter-governmental relations have been derived by scholars to guide us in understanding IGRs in any political system beyond constitutional delineation of powers.

There are several models portraying the relationships amid different levels of governments. But, Wright identifies three general types. These are coordinate or separated authority, inclusive authority and overlapping authority models. Other scholars differ in giving terminology. According to David C. Nice and Patricia Frederickson, the three models are; Competitive, interdependent and functional models.⁷¹ As unavailability of overlap of responsibilities and interest and interests necessitates intergovernmental networks, one country may not limit only to one of the models. There is an opportunity of hybrid.⁷² For the purpose of this paper I prefer to use the first terminologies.

⁷⁰ John Kincaid and Rupak Chattopadhyay(2008), note 60, at.8

⁷¹ David C. Nice and Patricia Frederickson (1995), *The Politics of Intergovernmental Relations*, second edition, (USA, Washington DC, Chicago, Nelson-Hall Publishers) at 4

⁷²Teshome Yami (2010), *The Role of Intergovernmental Relations Between Oromia National Regional State and Addis Ababa City Administration*, (LLM Thesis), Addis Ababa University, at 20

The Co-ordinate Authority Model: This model depicts clear distinct boarder; divide the central government and the constituent units.⁷³ Again, it shows the absence of formal recognition of local governments. Thus, and the fate of local governments is fall under the competence of constituent units. Furthermore, the coordinate authority model indicates none overlapping or high extent of independence between the center and sub-units governments. Accordingly, Wright argues, this model was exercised in South Africa, following the 1909 Constitution and still followed in countries like Australia, where state governments have demarcation of power from the central government.⁷⁴ Contrary to this model, the writer of this thesis argues, emanating from unavailability of responsibilities mainly in federal system, the practical reality of this model seems dubious.

The Inclusive Authority Model: The essence of inclusive authority model is that power is distributed in a concentric circle such that both states and local powers are subsystems of the national power. This model shows the existence of necessary hierarchical nature of authority.⁷⁵ Thus, constituent units and local governments are highly subject to the national government. Hence, their pressure on national politics and public policy is little or nothing.⁷⁶ As practical reality of the former model is uncertain, in active or passive role of the sub-units also make this model ineffective in federal systems. Because, both sub-national units and local governments exist only for sham, and the model indicates centralized system which ignore differences. It did not give much free space for horizontal dimension of intergovernmental relations.

The Bargaining Authority Model: This model has vital role in linking the separate entities within close and overlapping of duties and authorities. This model attempts to produce compromise that paves the way in flourishing the sense of win-win approaches in complex political situations. The bargaining model depicts non-hierarchical but, interdependent, interrelated, and also separate entities. This interdependence and interrelatedness of entities produce shared areas that represent common and/or concurrent competencies. This interaction also indicates the existence of relations. This model shows the existence of joint responsibility through cooperation on one side. It is known for its joint and separated powers; reasonable areas of autonomy; and great degree of

⁷³Id. P.21

⁷⁴Id. P.20

⁷⁵Id. P.22

⁷⁶Ibid.

interdependence. It is also known for cooperation, competition, bargaining, and negotiation, as a mechanism to attain consensus on their joint concern.

2.3.7. Features of IGR

The distinctive features of intergovernmental relations suggest the increased complexity and interdependency in political systems. As stated by Wright, state some of the essential features of IGR to include all governmental unit (central, state and local); actions of officials and their attitudes (purposeful behavior and perception of other participant in the system); regular interactions among officials (day to day contacts, practical working relationship and continuity of action patterns); all public officials (elected and appointed); and financial policy issues (intergovernmental revenues and expenditures, borrowing and debt, policy formulation and implementation policy content - distributive and regulatory issues). The characteristics of these more complex and interdependent systems are: The number and growth of governmental institutions, the number and variety of public officials involved, the intensity and regularity of contrasts among these officials and, the preoccupation with financial policy issues.⁷⁷

Wright identifies some features of IGR in a federal system, using the American type of federation as follows that: IGR encompasses all the permutations and combinations of relations among the units of government in a federal system; IGR comprises the activities and attitudes of persons occupying positions in all the units of government under consideration of federal, state, local political, administrative and in the judicial, legislative or executive branches of government; IGR includes concerted and regularized actions of officials as well as the one-time occasional occurrences such as new statutes and landmark court decisions etc.; Politics, economics and administration combine to put finance at the policy centre of IGR; and Whereas some federal systems exclude references to local governments, IGR encompasses all relationships between government including local governments.⁷⁸

2.3.8. Approaches to Intergovernmental Relations

Approaches according to Van Dyke (1960:4) are criterion employed in formulating the questions asked in any (political) enquiry. There are four major approaches to IGR and they are the

⁷⁷Wright, supra note 29 p. 8

⁷⁸ Ibid

democratic approach; constitutional/legal approach; financial approach; and the normative-operational approach.

2.3.8.1. The Democratic Approach

The democratic approach to the study of intergovernmental relations emphasize provincial and local governments right to self-determination to the extent the democratic approach stresses provincial and local government's right to self-determination to the extent of regarding such governmental bodies as independent institutions. In view of this, 'advocates of this approach do not support centralization of authority; rather they are stoutly in favor of greater devolution to subordinate authorities'⁷⁹. The views held by these advocates are separatist-inclined as they stress the autonomous right of existence of every level of government in itself as they emphasize, even at sacrificing community values, a regional uniqueness. This stance of 'stressing of a single value, that is, democratic principles at the expense of other values contradicts the basis of participation within a total governmental hierarchy'.⁸⁰

2.3.8.2. Constitutional/Legal Approach

As for second approach which is the constitutional/legal approach, it was historically advocated by the federalist movement in the United States in the 18th and 19th centuries; 'the movement equally accepted the existing hierarchy of governments as a constitutional fact and the Constitution which was considered as an instrument for achieving harmony, was seen as the basis for the determination of intergovernmental relations.'⁸¹ The democratic approach simply suggests that the Constitution and other legislative provisions of a country may be used as a point of departure in studying IGR. Corroborating this, Hattingh states that 'the democratic approach accepts the factual information contained in legislation as a constant until amended by subsequent legislation; and also accepts that relations between governmental bodies exist exclusively within the framework of clauses permitting such relations.'⁸²

⁷⁹Hattingh, J.J (1998) *Governmental Relations: A South African Perspective*. Pretoria: UNISA Press, pp. 11-12

⁸⁰Roux, N.L, Brynard, P.A, Botes, P.S AND Fourie, D.J (1997) *Critical Issues In Public Management and Administration in South Africa*. Pretoria: Kagiso Tertiary, at.171

⁸¹ Ibid

⁸²Hattingh supra note 79 at 11

2.3.8.3. Financial Approach

Some analysts view fiscal relations as the essence of IGR. While there is no doubt that the fiscal tie is a basic one, it will be demonstrated that political and managerial determinations also formulate important means of understanding IGR. The third approach to IGR is the financial approach; the approach suggests an equitable sharing of revenue raised nationally among the national and other levels of government in a country.

Further to this, the approach suggests the determination of each level of government's equitable share of the revenue; any other allocations accrued to it from the national government's share of the revenue; and any conditions on which such allocations may be made. It is important to note that this financial approach applies to different kinds of government; it is not associated with fiscal decentralization in officially declared federations only; it is applicable even to non-federal states that have got no formal federal constitutional arrangement in the sense that they encompass different levels of government which have de facto decision making authority.⁸³

2.3.9. Principles of Intergovernmental Relations

Without some guiding principles it will be difficult if not impossible to achieve intergovernmental cooperation objectives. Principles of intergovernmental relations emanate partly from the federal political principle itself and partly from the federal political practice.⁸⁴

Whether formalized or not IGR structures and processes need to be guided by certain principles. Scholars list various principles of IGR in conducting effective cooperation in federal political systems. Some argue that IGR needs to be conducted on principles of **efficiency**, **justice**, and **fairness** and **democracy**. In addition to civil and political rights to ensure the prevalence of democracy both tiers of government have to create opportunities for all citizens in respect of social and economic rights. Democratic imputes are required to ensure that the aim of efficiency and social justice implemented side by side.⁸⁵

⁸³ King supra note 5 at

⁸⁴ Assefa Fiseha (2009), note 7 at 114

⁸⁵ John Kincaid and Rupak Chattopadhyay supra note 68, p.33

Theoretically there are some basic principles of IGR. These are the principles of Trust and mutual respect, the principle of consensual decision making, the principle of negotiation, in good faith, federal comity and adherence to the agreed procedure. In addition to these, it involves the principle of effectiveness, transparency, accountability, efficiency and autonomy.

The decision making process also significantly affect IGR federal systems. It requires coordination with some guiding policies of joint tasks to plan, finance, and decide together. Since federal arrangement is based on covenant which is voluntarily entered agreement for mutual benefit; decisions need to be participatory, and mutually beneficial. This is because participating parties are supposed to be willing in participation if it is at least partly accomplish their interest. Therefore, the general theory prefers decision process that based on consensus. Since consensual decision-making is more desirable in avoiding inconveniences,⁸⁶ however, it does not mean that other systems such as simple majority voting do not take place in IGR, so as to avoid the joint decision trap problem, which occurs often in governments established through coalition, and which may require formalized procedure and qualified majority than simple majority or consensus, because it is not easy to reach on consensus.

Effective information concerning guiding principle and objectives and decision making must be in the public sphere of influence; so that there is transparency about the bases designed for decisions and dealings as well as greater demands brought to bear on governments to preserve the federal system and be accountable for advancement and outcomes. Transparency is considered necessary principle of IGR to guarantee the measures and decisions of the political decision makers. At the same time to judge them in conjunction with the policy objectives being pursued. In addition transparency creates greater reliability to the conclusions of those who have met and negotiated outcomes. High level of openness also reinforces the acceptance of and commitment in the community to the recommendations of the political leaders and the logic behind it.

The third important principle of IGR assumes intergovernmental dialogue and negotiations on **good faith**. In the absence of good faith it will be difficult to reach consensus during negotiations.

⁸⁶ Brain R Opeskin, 'Mechanism for Intergovernmental Relations' a paper presented in International Conference on Federalism at Monte Tremblant, October 1999.

Here it is good to know the relative extent of effect an issue has upon each constituent unit and the level of concern they have.

2.3.10. IGR Issues

As far as federalism in the existence of minimum two tiers of governments which constitute the whole federation is opted, it would be impossible to assume that each level of government can execute all the responsibilities independently. In short, this is to mean an overlap of responsibilities, so that interdependence and interpenetration is an inevitable truth within federations where the constituent units implement federally legislated laws and programs; where the type of grant from the central government is conditional. Intergovernmental relation enhances coordination of policies. It facilitates the advised against less successfully mechanism. It also enhances trust between groups that may be originally distrustful one to another. Moreover, interactions have enough room for flexibility which intern enables to attain the national versus sub national goals. Taking into account the nature of the federal systems cooperation, friendly relations, consultation, and coordination and informing one another on matters of common interest, and supporting one another to cope up with dynamism, and conflict managements are among the major importance of intergovernmental relation.

Constitutional ambiguity, fiscal relations, public policy interdependence, investment and trade, infrastructure management, environmental protection, policing and security, and the sharing of resources are some of the issues that necessitate the forum of cooperation in federations. Intergovernmental cooperation becomes a moderate way of bridging the gap between the governments of a federation. It facilitates the attainment of common goals through cooperation and used in this sense, mechanisms for intergovernmental relations may be seen as employing consensual tools for the mutual benefit of the constituent units of the state.

IGR issues historically include (1) the use of the promulgation of regulations by federal administrative agencies as a vehicle for intergovernmental control, (2) continuing fiscal constraints on all levels of government, (3) continuing incidence of intergovernmental conflict between national and state governments, (4) changes in administrative autonomy at all levels of government, (5) renewed calls for maintaining and increasing government accountability in the federal system, and increasingly in state governments as well, and (6) unfunded mandates.

CHAPTER THREE

FOREIGN EXPERIENCE ON HORIZONTAL INTERGOVERNMENTAL RELATIONS

3.1. Introduction

In this chapter selected foreign experiences on horizontal intergovernmental will be discussed, lessons learnt will be identified and linked to the Ethiopian context. This chapter tried to assess the experience of three federal countries, namely Nigeria, South Africa and Canada, in terms of conceptualizing IGR, IGR guiding principles and Institutional mechanisms used to facilitate interaction between levels of government as well as planning, implementing, financing and monitoring and evaluation of joint programs, policies and strategies in brief focusing on the horizontal aspects.

3.2. Canadian Horizontal Intergovernmental Relations

3.2.1. Canadian IGR in General

Canada, geographically the second largest country in the world, has relied on its federal system to help manage the challenges of multiple geographic, economic and social cleavages. Canada consists of two orders of government, each autonomous in its exercise of legislative powers, which stem from the constitution. Canada's federation was created in 1867 with the adoption of the British North America Act (later renamed Constitutional Act of 1867), which united the four original provinces of Ontario, Quebec, New Brunswick, and Nova Scotia in to Canada and laid down the rules to admit other North American British colonies and lands in the newly created Dominion.⁸⁷ The Canadian Constitution provides a rough division of powers across the two levels of government: federal and provincial. Municipal government was born out of provincial/territorial legislation.⁸⁸

⁸⁷ Benoit Pelletier, Intergovernmental Relations in Canada: A Horizontal Perspective, at 15, Editors Alberto López Basaguren Leire Escajedo San Epifanio The Ways of Federalism in Western Countries and the Horizons of Territorial Autonomy in Spain Volume 2

⁸⁸<http://www.fin.gov.on.ca/en/reformcommission/chapters/ch20.html>

Provinces are created by the constitution itself; they do not depend on the central authorities. However, the federal order of government holds possession of the territories. In Canada dual model of federal and provincial powers are listed separately. But the constitution does not ignore the need of intergovernmental relations.

Scholars interested in intergovernmental relations in Canada have tended to focus on interactions between provincial governments and the federal government on the one hand and between municipalities and the provincial governments on the other. There has been very little attention paid to the third intergovernmental relationship, that between municipal governments and the federal government.⁸⁹

Managing intergovernmental relations is an important aspect of Canadian federalism. Canada has strong, autonomous orders of government and there are few issues in public policy that do not cross jurisdictional lines, few areas in which the actions of one government do not affect other governments. Consequently, relations with other governments are a major concern of all the Canadian jurisdictions and Governments have developed mechanisms to coordinate their response to intergovernmental issues.

Intergovernmental agreements are the primary instruments of relations between governments. These agreements can be global or general, sector-based, or ad hoc.⁹⁰ Collaborations are built between provinces and between provinces, territories, and the federal government. When the relation is between the provincial governments, mostly they rely on the free consent of the signatory provinces respecting their autonomy and priorities in every way.⁹¹ But when the agreement is between the federal government and one or more provinces, administrative agreements allow a certain form of asymmetry to develop in the Canadian federal system.⁹² Thus, for national agenda and interest some of the regional interests may be compromised.

Intergovernmental relations in Canada focus on the relations among federal and provincial/territorial executives - First Ministers, Ministers, and senior officials. These relationships serve a number of purposes. They provide forums for the exchange of information,

⁸⁹Feldman and Graham, 1979; Andrew, 1994

⁹⁰ Benoit Pelletier , Supra note 88, at p.22

⁹¹ Id., at .23

⁹² Id., at .22

for bargaining, negotiation, and consensus-building. The neglected one however, is between federal-municipal linkages also caused by the constitutional structure of Canada, for the division of jurisdictions leads analysts to focus on the other intergovernmental relationships.⁹³

3.2.2. Institutional Mechanisms of Canadian Horizontal Interprovincial Relations

Canada, like most federations has not formally anchored its intergovernmental structures and processes in its Constitution, rather its intergovernmental mechanisms have tended to evolve in response to changing political dynamics. But, still like formal institutions, they are recurrent, fairly solemn, and well structured; they are taken seriously and rest on well-established traditions and practices. These relations are numerous, and touch on a long list of topics at times in provincial jurisdictions, at times in federal jurisdictions, and at times in shared jurisdictions.⁹⁴ Canada is seriously deficient in its institutions of intra-state federalism.

As older federations, Canadian constitution has not constitutional or statutory foundations and IGRs activities carried out simply by the preference or whim of political actors. Moreover the Canadian system has no any guiding principles that can facilitate cooperation among tiers of government. Most of the national policies, strategies and programs are achieved by quasi diplomatic character of IGRs that requires the full willingness of state governments and territories of Canada.⁹⁵ David Cameron lists four factors that have shaped the present Canadian experience. First, the construction and consolidation of the Canada welfare state, second, the rise liberal nationalism in Quebec, third, the ‘province building’ enterprises of several Canadian provinces, and fourth, the recent aspiration for self-determination of Canada’s aboriginal peoples.⁹⁶ Since intra-state structure of IGR is weak, Canadian system has been called inter-state federalism.⁹⁷ This is because of electoral system enables the regional parties to get large number of seats in the House

⁹³Robert Young (2003), Conference on Municipal-Federal-Provincial Relations: New Structures/New Connections Institute of Intergovernmental Relations, Queen’s University. May 9-10,

⁹⁴ Beloit Pelletier, supra note 87, at . 35

⁹⁵Tesfaye Abreha (2002), Vertical Intergovernmental Relations in the federal systems of Ethiopia: the case of education bureau of the Amhara National Regional State and the Ministry of Education(unpublished), LL. M Thesis, Ethiopian Civil Service University, Addis Ababa, at .48

⁹⁶ David Cameron and Richard Simeon, ‘Intergovernmental Relations in Canada: the emergence of collaborative federalism,’ The Journal of Federalism, Volume 32 No.2, 2002 at 50.

⁹⁷ Ibid

of Commons than the national parties. Moreover the Lower Chamber is partisan with highly disciplined party loyalty where the members could not debate and reflect the interest of their provinces or community in the chamber. As a result IGRs become the only mechanisms to achieve the coordination of provincial and federal interests.⁹⁸

Provinces are created by the constitution itself; they do not depend on central authorities. However, the federal order of government holds possession of the territories. It is de jure entitled to delegate powers to territorial authorities, amend their constitutive acts, or recognize them geographically. Provinces could even be created from this lands (which would obtain the same level of autonomy as other provinces) or be annexed to existing provinces.

The players in Canadian intergovernmental relations are the executive rather than the parliament. Parliaments work to crystallize agreements reached between governments in legislative and constitutional form or to change domestic law based on those agreements.⁹⁹ It is worth mentioning that the Canadian senate does not play any role whatsoever in terms of intergovernmental relations. Judicial bodies in particular, the supreme court of Canada, play a fundamental role in the interpretation and application of the constitution and of laws, quasi constitutional, or otherwise. The following are the major actors of Canadian Intergovernmental relations, some on the vertical aspect and some others on the horizontal relation arena. This agreement can be global or general, sector based or ad hoc. Through them, collaboration is built between provinces and also between provinces, territories, and the federal government.

As for institutions serving horizontal intergovernmental relations between the provinces, a few exist in Canada. Some also have elements of vertical aspirations. The following are the common forms of government cooperation mechanisms in Canada.

i. The council of federations

The council of federation is an institution that encourages cooperation among provinces and territories. While it has demonstrated its effectiveness so far in certain matters, the council deserves to be reinforced in the future.

⁹⁸ Thomas Hueglin and Alan Fena, (2006)Comparative Federalism: A Systematic Inquiry (Toronto: Broad view press,at .22

⁹⁹ Pelletier, supra note 88, at .28

The council of federation facilitates the adoption of common, coherent, and concerted positions among provinces and territories.¹⁰⁰ Council of federation promotes relations based on the respect of the constitution and on acceptance of diversity within the federations.¹⁰¹ The founding agreement on its preamble states that the recognition of the existence of differences between the provinces and territories implies that governments may have different priorities and choices in the policies.

ii. First Ministers' Conferences (FMC)

At the apex of the system, bringing together Canada's most senior political leaders, are federal/provincial/territorial First Ministers Conferences or Meetings (FMMs). They often provide the opportunity for governments to find common purposes and chart general policy directions. They provide a forum for the exchange of information and ideas, and for negotiation and persuasion.

The frequency of meetings has varied considerably over time, depending on the political agenda, since there is no regular schedule for the holding of FMMs. They are called by the Prime Minister. There are no fixed procedures for FMMs. The Prime Minister Chairs, and normally provinces speak in the order of their entry into Confederation. No votes are taken. Parts of conferences may be held in public, but most discussion takes place in camera.

iii. Ministerial Meetings/Ministerial Council

Much of the work in intergovernmental relations takes place in a growing number of councils of policy sectors, from the environment to social policy. This council become institutionalized and began to carry out house functions assigned by the first ministers' conferences. Some have become institutionalized, with regular meetings, often co-chaired by federal and provincial ministers, and with strong bureaucratic support. Several have also developed working relationships with interest groups involved in their policy fields.

¹⁰⁰ Pelletier, *supra* note 88, at 23

¹⁰¹ Council of the Federation founding Agreement, December 5, 2003, The Agreement can be found at http://www.councilofthefederation.ca/pdfs/COF_agreement.pdf

Ministers regularly meet to discuss sectorial issues relating to Agriculture, Education, Environment, Finance, Health, Internal Trade, Sport, Tourism and Transport, to name a few.¹⁰²

iv. Annual Premier Conference (APC)

At the beginning is served as forum of preparation for the coming FMC. APC particularly become IGR institution with the gradual decline of FMC. APC chaired by provinces and territories turn by turn gradually become a formidable intergovernmental meeting professionals supported by civil servants. APC meeting gradually could bear social union framework agreements.¹⁰³

v. Officials' Meetings

Below the political level are innumerable meetings, formal and informal, among deputy ministers and/or other senior officials. These may be bi-lateral or multi-lateral. The meetings of elected representatives described above are supported and paralleled by a large number of meetings of senior and middle-rank officials in all the relevant fields. Held almost entirely out of the public view, they are indispensable to the proper functioning of the federation.¹⁰⁴

3.3. Horizontal Intergovernmental Relations in Nigeria

Nigeria is a federal country with over four hundred lingo-cultural groups, a population of over 120 million, thirty-six state and a Federal Capital Territory and 774 Local Government, IGR in Nigeria inevitability, over the years the pendulum of Federal associations among groups has swung between centrifugal and centripetal forces, as Nigeria sought to adjust the Federation.¹⁰⁵

As Nigeria used the framework of Federalism to manage its conflicts, it has found that intergovernmental relations is a necessary mechanism to promote cooperation, manage conflicts, respond to changing circumstance and deliver services more efficiently. In Nigeria, Intergovernmental Relations is basically a mechanism for managing conflict and delivering services.

¹⁰² Thomas O. Heglien and Alan Fenna Supra note 99, at pp. 125-1227

¹⁰³ Id., at 124

¹⁰⁴ Ibid

¹⁰⁵ www.caritasuni.edu.ng/pro/management/pa16.doc last visited on August, 2013

The provisions of the 1999 Constitution of the Federal Republic of Nigeria, main public responsibilities are split across various government levels. Issues of IGR in Nigeria are still relatively underdeveloped because Nigeria lacks formal IGR structures and institutions. This was essentially attributed to the current dominant position of the federal government in the federation and the resultant dependency of the states. However, political scholars have expressed optimism that, despite this inchoate nature of IGR in Nigeria, there is a burgeoning cooperation between the central government and the states to suggest intergovernmental relations will eventually take better traction in Nigeria. Intergovernmental collaboration as the positive side of intergovernmental relations essentially designates the synergetic relationship between and among the various tiers of government.¹⁰⁶

As regards to Horizontal IGR: The 1999 Constitution allows room for some inter-state political communication, e.g. through the instrumentality of National Council of State. Yet, it is possible to specify a legislative list of subjects on which states could cooperate (Roberts, 1999). If such function attract grants. Such horizontal IGR would be encouraged. Roberts (1999) further states that account should also be taken of IGR that are at once horizontal and vertical, like the type IGR resultant from the establishment of the Niger Delta Development Commission (NDDC) which involves both the federal government and a number of state governments.¹⁰⁷

3.3.1. Institutional Mechanism of Nigerian Horizontal IGR

In Nigeria, IGR is relatively formalized. But most of the lists in the constitution uses for vertical relations between the federal government and constituent units. Looking at the constitutional institution, these are constitutionally provided institutions of IGR and they include;

- **The council of States** – This is essentially one of the advisory executive bodies contained in the constitutions of 1979, 1989 and 1999. Its functions include advising the President with regard to the conduct of national census, prerogatives of mercy, award of national honor, the Independent Electoral Commission, the National Judicial Commission, the

¹⁰⁶ The 1999 constitution of this country allows for concurrent responsibility and collaboration for service delivery in education, (university, technological and post-primary), health, infrastructure, agriculture and industry.

¹⁰⁷ Ponnle Solomon Lawson Nigeria's 1999 Constitutions and Intergovernmental Relations (IGR): Need for Improvement, Ozean Journal of Social Sciences Volume 4, Issue 3, December 2011, p.200

- National Population Commission and on public order. The membership of this body also reflects its intergovernmental nature.
- **The Federal Character Commission is another constitutionally guaranteed executive IGR's agency.** The functions of this agency include working out equitable formula for the distribution of all cadres of posts in the Federal and State public services, promoting, monitoring and enforcing compliance of proportional sharing of public offices and taking measures to enforce such compliance. Given various complaints about injustices/unfairness in the distribution of public services positions among components units of the Federation, the importance of this commission cannot be over emphasized. This agency is expected to carry out the constitutional provisions in Section 14 (3-4) of 1979, 15(3-4) of 1989 and 14(3-4) of 1999 constitutions which states that the composition of the government of the Federation or any of its agencies and the conduct of its affairs shall be carried out in such manner as to reflect the Federal Character and the need to promote national unity.¹⁰⁸
 - **The Revenue Mobilization Allocation and Fiscal Commission** are responsible for monitoring accruals to and disbursement of revenue from the Federation account. Periodically reviewing the revenue allocation formula and principles in operation to ensure conformity with changing reality advising federal and state government on fiscal efficiency and methods by which their revenue can be increased and determining the remuneration of the President and Vice President.

All these executive IGR institutions are constitutional. The long period of military rule “froze” the activities of some of these agencies but they are again operational. Ironically, many of these agencies were created by various military administration but they are now operating fully to carry out their mandates.

3.3.2. Ad hoc or Informal bodies and Agencies

They are useful in bringing together Federal, State and Local Officials in a particular policy area. They also help to make intergovernmental relations smooth and encourage cooperation among

¹⁰⁸ The 1999 Constitution of Nigerian

component units of the Federation. The various National Councils in Education, Agriculture, Health, Industry, Information, Tourism and Finance are usually meetings among Ministers at Federal and State levels to bring State and Federal political executives together to harmonized policies in the interest of the Federation.

All the above institutions of IGR are important in managing conflict and responding to changing circumstances in the Nigerian Federation. While IGR institutions are useful, they also carry with them the baggage of their own problem, which need careful attention. Some of the tension, which arise in the Nigerian Federal, emanate from the overlap of functions among tiers of government. They are derivable from the kind of pulls, the tension arising from attempt at delicately striking a balance between centripetal and centrifugal forces. These become very evident in the relations between Federal and State governments, State and Local Governments and even in the relations among state governments.¹⁰⁹

Presently, the local governments are assigned roles and functions partakers in the inter-governmental relations which makes hitherto prevail existed between only the central and state or regional government alone. At the end of the reform of the local government and the consequent execute olfaction of the officials in the Council level. Annual conferences of chairmen of Local Government in Nigeria started off. Also, the bi-annual conference of Commissioners for Local Governments and creation of an executive office of special Assistant to the Governor on Local Government matters etc. all as avenue or for inter-governmental relations between the local government levels and other levels or among local governments started off.

Having reviewed the evolution of the institutions and processes of IGR and intergovernmental interactions, essentially in terms of the relations among the levels of government; some argued that it was necessary to emphasize that a full analysis of intergovernmental relations must also focus on the ordinary citizens reactions and o the activities of the public official who operate at the different levels of government. Also the attitudes and roles of both political leaders and appointed officials

¹⁰⁹Elaiigwu, J. Isawa (2007) Fiscal Federalism in Nigeria; Facing the Challenges of the Future. Jos: Aha Publishing House, at.129.

at the different levels of government throughout the period under review (1954-81) have significantly influenced both the substance and style of Inter-governmental Relations in Nigeria.¹¹⁰

Due to the relationship between the three tiers of government, state governments are vested with the powers to “enact through the state House of Assembly a law providing for the structure, composition, revenue. Expenditure and other financial matters, staff meeting and other relevant matters for the local governments in the states” subject to the provisions of the constitution. The state government established a Joint Planning Board through a law enacted by the State Assembly.¹¹¹

The law provided for the participation of every local Government within the state in the economic planning and development of the local Government area. The National and State Assemblies are empowered by the constitution to legislate on the creation of new states and adjustment of state boundaries also requires a legislative approval of the local government Councils in the State concerned. The state executive possesses the power to institute a Panel of inquiry into the operations of any local government which does not perform satisfactorily and give appropriate punishment to offenders. He is also empowered to dissolve a local government council if the council fails to discharge its functions effectively and can appoint a caretaker management Committee to discharge its functions. The local Government (Basis constitutional and Transitional Provisions) Decree 1980 has gone far to provide that the President possesses the power to remove any chairman of the Local Government or dissolve the Council and appoint a caretaker Committee to manage the affairs of the Local government until an election is held.¹¹²

The annual estimates of the local governments were subject to approval by the Ministry before they were implemented. The Ministry approved major contracts of the Local Governments before they were awarded. The Ministry exercised very powerful control of local governments through its inspectorate division, which provided inspectors who visited local governments regularly to inspect their operations in order to ensure that officials and councilors complied with law and regulations. The State Government provided local governments with Financial memorandum which guided their

¹¹⁰Nwatu. J Ralph and Okafor, C Ifeoma (2008), Comparative Local Government Administration Enugu: Academic Publishing Company, at.207.

¹¹¹Okoli F.C. and Onah Fab .O. (2002). Public Administration in Nigeria: Nature, Principles and Application. Enugu: John Jacobs Classic Publishers limited pp. 218.

¹¹²Ralph supra note 111, at 204

financial management. The Ministry also imposed adoptive bye-laws to Local Government whenever it was deemed necessary.¹¹³

3.4. Horizontal IGR in the Republic of South Africa

3.4.1. South African Structure of IGR

South Africa was a country torn by racial divisions as a result of the apartheid system of government that promoted the interests of a few at the expense of the majority of its people. The South African liberation struggle, like most other liberation struggles, had an underlying class issue although this class struggle was distinctively along racial lines with majority of the white population being economically stable and the blacks, poor. However, in an attempt to attain complete freedom, an intrinsic part of the struggle was to emancipate previously oppressed groups through a participatory democracy. One of the aims of the new democracy was to address the class and racial divisions, hence it can be said that the removal of political and socio-economic inequalities was primary and overriding in the South African state. While the removal of political inequalities has been attained, the state still faces huge service delivery challenges in its attempt to remove socio-economic inequalities and level the playing field.

The constitution recognized three “spheres” of government giving formal constitutional recognition to the central, provincial and local governments, and it was designed to promote cooperative federalism rather than competitive federalism. The legislative powers of all three spheres are set out, but the central government is favored, since concurrent powers are extensive and the central government may set national standards and norms and may override provincial standards that threaten national unity or national standards.¹¹⁴ South Africa is a sovereign, democratic state founded on the following values: human dignity, the achievement of equality and the advancement of human rights and freedoms; non-racialism and non-sexism; supremacy of the constitution of the Republic of South Africa,¹¹⁵ and the rule of law; universal adult suffrage, national common voters’ roll, regular elections and a mutual-party system of democratic government to ensure accountability, responsiveness and openness.¹¹⁶ South Africa’s constitution

¹¹³ Ibid

¹¹⁴ Ronald Watts supra note 12 at 49

¹¹⁵ Section one of the constitution of the Republic of South Africa, 1996[act 108n of 1996]

¹¹⁶ South African constitution Act 108 of 1996

establishes an undivided state with nine provinces. Provinces are described in chapter Six and Seven of the constitution and their powers in schedule 4 and 5.

Is South Africa federal? The constitution does not declare South Africa to be federal, but is federal in form.¹¹⁷ There are three “spheres” of government, each with assigned powers, each independently elected, and each protected by the constitution, enforced by the Constitutional Court.¹¹⁸ South Africa’s is a highly centralized federalism. This goes back to the apartheid era’s abuse of provincialism, as well as a fear of tribal and linguistic fragmentation. Another concern was that stronger provinces might impede the national government.¹¹⁹

A notable feature of the 1996 constitution of South Africa is chapter three (Articles 40-41) which is entitled “co-operative government.” This explicitly enumerates the intergovernmental cooperation is to be underlying philosophy for the conduct of government and the relations between the three spheres of government: national, provincial and local. Furthermore to encourage intergovernmental co-operation the constitution empowers the constitutional court, if it is not satisfied that every reasonable effort to settle a dispute by intergovernmental negotiation has been taken, to refer a dispute back to the government involved.¹²⁰ Though it is not unique in South Africa, an intricate and complex system of intergovernmental relations regulate the way in which the three spheres cooperate and coordinate with each other in the exercise their powers and functions. Any multi-tiered systems of government-especially in federal- type dispensations – requires institutions, structures, policies, and procedures where by the actions of the respective levels of government are coordinated and integrated for effective governance, avoidance of duplication and maximum uses of scarce resources.

IGR in South Africa commonly used to refer to relations between central, regional, and local governments that facilitate the attainment of common goals through cooperation. Used in this sense, mechanisms for intergovernmental relations may be seen as employing consensual tools for the mutual benefit of the constituent units of the state.¹²¹ Intergovernmental relations which seek

¹¹⁷ Simeon, R (2004) ‘Conclusion,’ in J.PMeekison (Ed.) Intergovernmental Relations in Federal Countries A Series of Essays on the Practice of Federal Governance, Canada: Forum of Federations.

¹¹⁸ Ibid

¹¹⁹ Ibid

¹²⁰South African constitution Article 41[4]

¹²¹Opeskin, D. (1998). The reform of intergovernmental fiscal relations in developing and emerging market economies, Washington, DC: World Bank.

to create opportunities for genuine negotiations and the development as well as sustainability of a shared vision. Without an integration of multi sectorial, cooperation among the spheres of government and creating the right balance, the tensions that arise in these relationships will continue to create systemic blockages and weaken government's delivery capacity further.

While mechanisms have been established for promoting sectorial coordination between different spheres of government, no such mechanism appears to be operating at the national level. Although the cabinet does provide a clearing house for national policy, the integration of activities at the departmental level appears to take place in a largely ad hoc manner and independently of any formal institutional mechanisms. In its identification of the factors inhibiting effective coordination of intergovernmental relations, the Presidential Review Commission highlighted the lack of an effective coordinating mechanism at national level. The lack of an effective coordination mechanism at the central level has meant that national policy is often fragmentary and uncoordinated. This inhibits the elaboration of multi-sectorial programs and the development of a coherent national policy framework.

Provinces exercise concurrent powers in education, health, welfare, environment, public works, and housing, transportation, development, trade, language and culture, and others, and Exclusive power is exercised only in the following areas: abattoirs, ambulance services, provincial archives, provincial libraries, liquor licenses, provincial museums, planning, provincial sport, roads and traffic.¹²²

3.4.2. The Process and Role of Intergovernmental Relations

Intergovernmental relations are the basic interactions within and between spheres of government with regard to exclusive and functional areas of the constitution of the Republic of South Africa. Intergovernmental roles are the roles allocated to the different spheres of government in a certain intergovernmental process while intergovernmental structure and institutions are the institutional arrangements for intergovernmental relations determined by the constitutions of the Republic of

¹²² Olivier, Nic, "Intergovernmental Relations in South Africa: Conflict Resolution within the Executive and Legislative Branches of Government," Forum of Federations, www.forumfed.org, nd, p.76

South Africa and other legislations and may include commissions, institutions, committees, and forums.¹²³

The purpose of a system of intergovernmental relations is to promote cooperative decision-making; to ensure the execution of policies through the effective flow of communication; to coordinate priorities and budgets across different sectors and the prevention of disputes and conflicts between spheres of government.¹²⁴

The process of intergovernmental relations refers to a matrix of interactions among organs of state and institutions of government, with particular reference to the executive and legislative components of government. Intergovernmental processes are derived from the Constitution. Examples of processes of intergovernmental relations in South Africa are dispute settlement; consultation and information-sharing, coordination of actions, and intervention of one sphere of government in another.¹²⁵ Intergovernmental processes are derived from the constitution. Examples of processes of intergovernmental relations are: dispute settlement; capacity building and mutual support; intervention of one sphere of government in another; assignment of powers and functions; planning; intergovernmental financial relations; co-ordination and monitoring of actions as well as consultation and information-sharing.

3.4.3. Guiding Principles of IGR in South Africa

As noted earlier, cooperation of governments need to be involved through principles of trust and mutual respect, consensual decision making, negotiation in good faith, federal comity and adherence to agreed procedures as a founding blocks of federal interaction. On top of those principles of effectiveness, transparency, accountability, efficiency and autonomy also are important.¹²⁶

In this regard South Africa has explicitly established and exercising some of these principles early during the constitutional design. The then raised contentious issues associated with secessionist

¹²³ South African Act 108 of 1996 and Discussion Document 1999 p.4

¹²⁴The White Paper on Local Government 9 March 1998, p.38, available at: www.mfma.treasury.gov.za/MFMA/Guidelines/whitepaper.pdf

¹²⁵ L. Malan, Intergovernmental relations and co-operative government in South Africa: the ten-years review, school of Public Management and Administration, University of Pretoria p. 237. Available at: [www.repository.up.ac.za/bitstream/.../Malan_Intergovernmental\(2005\).pdf](http://www.repository.up.ac.za/bitstream/.../Malan_Intergovernmental(2005).pdf)? Last visited on September, 2013.

¹²⁶ See chapter two section 2.3.9 of this thesis

tendencies, allocation of powers, and the relationship between the spheres settled through negotiation and consensual decision. Consequently, IGR was inserted in the constitution and the compromise terminology of “co-operative government” that represented a system of government between unitary and federal state was devised.¹²⁷

South African IGR is determined by the constitution of the republic of South Africa 40 of 1996. The constitution recognizes three levels of government.¹²⁸ Further it establishes 9 provinces in South Africa. Moreover, the three spheres are constitutionally established as distinctive, each with legislative and executive competencies; interdependent, that takes place in the local sphere entitlement to get assistance and the duty of the national government to supervise; and interrelated with common duty to work for the greater good of the country.¹²⁹

Despite the constitution of government in the manner referred to above, South Africa is often defined as a unitary state with federal characteristics. The principles of cooperative government and intergovernmental relations forcefully bring this point home.

Constitution sets four requirements in section 41(1) (c): **Effective government** - co-operative government must entail the effective and efficient use of resources, not wastage and duplication, but the unlocking of synergy of collective effort., **Transparent government** - co-operative government should not be an entangled web of committee and consultations, making it difficult to determine who is responsible for what task. **Accountable government** - the system and processes of cooperative government should not impede holding executives accountable for their decisions and actions. **Coherent government** - government should be rational, informed by best information with due regard to consultation between spheres of government. Contradictory or overlapping policies should not arise by oversight, the absence of consultation or poorly informed decisions.

¹²⁷ FM Lucky Mathebula , Intergovernmental Relations Reform in A Newly Emerging South African Policy, (PhD Dissertation), University of Pretoria, South Africa, 2004, p.105, Available at <http://upetd.up.ac.za/thesis/available/etd-09192007-114115/unrestricted/07back.pdf>, last visited on September, 26,2013.

¹²⁸Article 40(1) of the constitution of South Africa states that, In the Republic, government is constituted as national, provincial and local spheres of government which are distinctive, interdependent and interrelated.

¹²⁹ The constitution of the republic of South Africa, section 43

Intergovernmental relations in the South African context concern the interaction of the different spheres of government as defined in Chapter 3 of the Constitution. The Constitution declares that government is comprised of national, provincial and local spheres of government and that these spheres are “distinctive, interdependent and interrelated”. These concepts reflect the three constituent components of the decentralized South African state. Working definitions of these three components are as follows:

i. Distinctive

The distinctiveness of each sphere is the degree of legislative and executive autonomy entrenched by the Constitution. One sphere is distinguishable from the other in its powers to make laws and execute them. In short, each sphere has distinctive legislative and executive competencies. The allocation of competencies is based on the assumption that there are particular public interests which are best served by the respective spheres of government. The existence of unique provincial and local interests called for their protection and promotion not through a unitary but through a decentralized state. The 1996 Constitution of Republic of South African, Section 41(1) (e), dictates that there should be respect for the constitutional status of institutions and the powers and functions of government in other spheres of governance. This suggests that each sphere of government has its own status with a clear mandate. Hence Section 41(f) adds that spheres must “not assume any power or function except that those conferred on them in terms of the Constitution”. The constitution notes that spheres “must exercise their powers and functions in a manner that does not encroach on the geographical, functional or institutional integrity of government in another sphere”; and it spells out the manner in which it is to be achieved, which is “co-operate with one another in mutual trust and good faith.”¹³⁰

ii. Interdependent

Section 41(h) of the 1996 constitution of South Africa stipulates that spheres must cooperate if the goals of the nation are to be achieved. The term “interdependent” means that no sphere can operate in isolation. All spheres are inter-reliant, mutually dependent and supportive with each other, especially in terms of capacity support for provincial and local government. They should be closely

¹³⁰ South African Constitution Section 41(e and g)

supervised and monitored to ensure that national objectives are met through effective oversight by appropriate institutions.

iii. **Interrelated**

The interrelatedness of the spheres is the duty on each sphere to “co-operate with one another in mutual trust and good faith “for the greater good of the country as a whole. Based on the distinctiveness of each sphere, the relationship is one of relative equality. However, because this relationship must be realized within the duty of co-operative government, the result is not “competitive federalism”. Consequently, a duty is imposed on each sphere to avoid litigation against another sphere. The underlying principle of integrated developing planning across spheres is that it must be a dialogue between spheres. National priorities are influenced and shaped by the articulation by communities of their needs through the municipal integrated planning process.¹³¹

Having discussed the important elements in which the South African cooperative government is embedded, it can be stated that, co-operative government requires mutual respect and the building of relationship among all spheres of government for the primary purpose of achieving government’s agenda, including improving the pace of service delivery.

3.4.4. Institutions of Horizontal IGR in South Africa

The Constitution builds in a tension between national direction (national government defining how to secure the well-being of all the people) and locally defined preferences (provincial and local governments determining their preferred choices within their areas of jurisdiction). The object of intergovernmental relations is to manage this tension - to get coherent government that delivers services to the nation through the three spheres of government. In other words, intergovernmental relations are not an end in themselves, but a means for marshaling the distinctive effort, capacity, leadership and resources of each sphere and directing these as effectively as possible towards the developmental and service delivery objectives of government as a whole. Intergovernmental relations in our country have this developmental character.

¹³¹Timothy Layman, Intergovernmental Relations and Service Delivery in South Africa available at www.sarpn.org/documents/d0000875/docs/Layman.%20Tim.pdf last visited August, 2013

At the outset the Intergovernmental Forum (IGF) sought to bring together all the role players of the intergovernmental relations system. This forum, encompassing the national cabinet, all provincial executives and organized local government, failed in its endeavor largely due to its unwieldy size and lack of focus. In its place emerged in 1999 the President's Coordinating Council (PCC), comprising of the President, the Minister of Provincial and Local Government, and provincial premiers. Organized local government attended on invitation. The PCC is a consultative body that deals with cross-sectorial issues and presents an opportunity for provinces to impact on national policy and to ensure the coordinated and integrated implementation of national policies and programs at provincial level. Some of the common IGR institutions in South Africa are discussed below.

(a) **Clusters of Ministries-** Meetings of horizontal groupings of ministries at national and provincial levels to integrate policy between departments in the same sphere, for example the following clusters have been established at the national level: infrastructure development; economic sectors and employment; human development; social protection and community development; governance and administration; international cooperation, trade and security; and justice, crime prevention and security. These clusters have proven to be essential in coordinating and integrating the activities of the national and/or provincial spheres.

Since 1996 informal IGR forums have been formed along sectorial lines, consisting of national ministers and their provincial counterparts in so-called MinMECs which have both Vertical and horizontal elements of IGR. Only the financial and educational sectors have formalized their structure into statutory bodies. Where local government issues have been discussed, SALGA has represented organized local government in these forums. MinMECs performed multi-purpose functions: They have been used for information sharing and consultation. They have been used by supervising spheres to consult with supervised spheres on supervision issues. As a forum of co-operative government, they have been utilized to align policies and coordinate actions.

(b) Budget Council and Budget Forum

The Intergovernmental Fiscal Relations Act established the Budget Council and the Budget Forum. The Budget Council comprises of the national Minister of Finance and the nine MECs responsible for finance in the provinces. The Budget Forum consists of the members of the Budget

Council and representatives of organized local government. The function of both bodies is to facilitate cooperation and consultation in the budget process.

(c) Technical forums

It indicates the meetings of directors-general and/or senior officials of government departments at national and provincial spheres. These meetings are generally held in preparation of meetings of political functionaries and also for close cooperation between civil servants when it comes to implementation of joint programmes. Tracking the political IGR forums are the numerous technical forums of bureaucrats, the most important of these being the Forum of South African Directors-General (FOSAD), consisting of the national and provincial directors-generals. Apart from the forums that developed, intergovernmental relations take place through a dense network of informal task teams, workshops, conferences, interpersonal telephone and e-mail communications.

(d) Provincial IGR forums

Intergovernmental forums have also proliferated in the provinces. In the majority of provinces an all-inclusive IGR forum has been established that links the province executive with organized local government. However, some forums exist in name only or function poorly. The latter problem has been attributed to the fact that there are too many forums, resulting in the lack of substantive agendas for each. Forums with a large membership also encounter difficulties in finding suitable meeting dates and then fade into obscurity. There are a number of effective provincial forums, of which the North West Intergovernmental Forum is a good example.¹³²

3.4.5. Challenges for strengthening intergovernmental relations in South Africa

Though South African intergovernmental relation systems can be used as a lesson for others, one can easily observe certain challenges: Firstly, in South Africa, as with all countries, the need for quality leadership is critical as the public service faces a range of challenges, some of which include issues of motivation, ethics, systemic challenges as well as capacity limitations. This leadership quality is further weakened by a competitive rather than a complementary relationship between the administrative and political class. Given the above, there is a need to re-energize

¹³² Ibid

political and administrative leadership and explore opportunities for alignment. In this regard, ways must be sought to galvanize synergy amongst IGR role players and continually promote and sustain such liaison. More importantly, the leadership interface sought must be outcome-oriented and must seek to improve the current levels of service delivery. This requires the ability to organize, learn and act with one another to construct more complex social, economic and political relationships which are necessary for development to occur.¹³³ Leadership, at all spheres of government must, therefore, actively promote strong intergovernmental relations and move beyond “compliance” or a “cosmetic” approach to one that is more result-driven and outcome-oriented.¹³⁴

Secondly, the quality of planning has been less than desirable. Over the past few years, there has been an attempt at institutionalizing the planning activity across spheres of government with the integrated development plans (IDP) and provincial growth and development plans (PGDP). These are plans that contain the strategic goals of the provinces as well as those of the municipalities. Over the years, these plans have taken cognizance of the political pronouncements from the president’s state of the nation addresses as well as the premier’s addresses. These speeches in turn, have borrowed their philosophical stance from the manifesto of their political parties. However, it would appear that, in terms of utilizing these plans as effective management tools, the three spheres of government have struggled to sustain a shared focus. This planning problem has also been complicated by the fact that, in some instances, de-concentration was made without an adequate policy framework as the IGR Framework Act Number 13 of 2005 only came into being, eleven years after the attainment of democratic governance.¹³⁵

Thirdly, the inability of “core” departments to service their internal as well as external clients at the implementation phases has led to a complex multi-faceted delivery blockage. Given that some departments play a core (primary) and pivotal role in government’s ability to deliver, every effort should be made to improve their delivery capacity. For instance, with regard to most social services, people require identity documents to be able to Strengthening intergovernmental relations

¹³³ James S. Wunsch and Dele Olowu *The Failure of the Centralized State: Institutions and Self-Governance in Africa* (Wunsch&Olowu, 2000, p. 79)

¹³⁴Isioma Uregu Ile, *Strengthening, Intergovernmental Relations for Improved Service Delivery in South Africa: Issue for Consideration*, *Journal of US-China Public Administration*, vol.7 No.1, Jan 2010, School of government, University of western Cape, Bellville, South Africa, at 55

¹³⁵Ib. at 56

for improved service delivery in South Africa: Issues for consideration access the available services (such as health, housing, child support grant, old age grant and voting rights). This means that the web of IGR that services such “core” departments must be strengthened to ensure an outcome-oriented result. This is critical because the other departments that rely on the core departments may fail in their role if the core departments are not identified and targeted for IGR strengthening. In this regard, political and administrative leadership efforts must seek to address complexities that will unblock the functionality of the “core” departments.¹³⁶

Fourthly, the issue of coordinating and synergizing policies also deserves attention. The ability of leadership to effectively coordinate ad-hoc and existing IGR structures impacts on government delivery. An analysis of the legislative provisions and existing structures of intergovernmental relations, from a coordinating point of view, suggests that much more still needs to be done. In certain instances, the existence of some structures, especially ad-hoc structures, that have been constituted by government to iron out some delivery issues, has been misconstrued as a ploy to witch hunt and therefore resisted because they seem to warrant suspicion on the part of one of the role players involved in a particular activity. In terms of coordination, over the years, the results have been somewhat mixed with South Africans, becoming increasingly impatient with the pace of service delivery. As a result of the fragmentation in the delivery approach, vertically and horizontally (both within and across spheres), the task of synergizing remains a huge challenge for the South African government. Weak coordination has exacerbated the problems of non-compliance, non-adherence to the existing sector based framework, weaknesses in the oversight function, lack of monitoring and evaluating of progress as well as poor communication.¹³⁷

Lastly, there are weaknesses relating to issues of delegation of responsibilities. This has to be thoroughly considered to ensure that the sphere expected to execute an activity has the appropriate capacity to deliver. This suggests that the issues of monitoring and providing remedial support to various stakeholders in the process of delivery have been less than satisfactory and need to be improved. For instance, housing is a national competency, but this cannot be delivered directly by the National Department of Housing. Therefore, the National Department uses the Provincial Departments as delivery agencies and gives them mandate as well as conditional grants to deliver

¹³⁶ *ibid*

¹³⁷ *ibid*

on the Departmental objective. However, this may not be enough; they must continually monitor progress and evaluate readiness of a sphere to deliver, and where possible, render appropriate support to ensure the objective is met. To this end, the issue of delegation (with due consideration of capacity, improving monitoring and providing remedial support to various stakeholders in the process of delivery) is vital.¹³⁸

3.5. Comparative Lessons to be Drawn from the Three Federal States

What lessons could Ethiopia learn from the comparative perspectives studied in the previous sections is main theme of this subsection. The legal, institutional and political arrangements of the federal countries studied in this chapter could serve us a necessary reference point from which we could justify the incorporation or relinquishment of a certain idea in the Ethiopian horizontal intergovernmental relationships. I hasten to add here that the challenge that each country faces on its IGR system may differ with the same that Ethiopia faces. The same is true on means of handling the problems which differ based on the capacity and readiness of the country for a desired change even when the problems are similar.

1. In Canada, even though IGR institutional mechanisms have no constitution or statutory foundations, they do have developed practice. IGR activities carried out simply by whelm of political actors. Most of the national policies, strategies and programs to be achieved by quasi-diplomatic character of IGR require the full willingness of state governments and territories of Canada.
2. As long as the Nigerian Federation continues to survive, resources sharing adjustments will continue to feature as an important fiscal arrangement in the Federation; this will continue to play a vital role in the operation and structural interplay of the Federation. Managing this issue through IGR can give a lesson to Ethiopia. Intergovernmental relations have a circuitous evolutionary background in Nigeria. It is not a one time and static configuration of interactions. Over the years, certain constitutional and over-arching political events have configured and reconfigured the relationships among the levels of government. Since 1999 and the new democratic dispensation, formal institutions and structures now control policy making although ‘special advisers’ do have an informal role

¹³⁸ Ibid

in policy making. There is now a broad consensus for a more consultative policy making process. Despite the above recent positive developments, there is a perception among states that existing constitutional provisions constrain the functions of states and concentrate too much power on federal authorities, but Ethiopia still lacks this kind of institution.

3. South Africa has established the basic principles of IGR early during its constitutional designs. In South Africa there are many opportunities for government, business, communities and organizations to influence service delivery plans during the different phases of drawing up the Integrated Development Plan. In addition to constitutional provisions in 2005, the Intergovernmental Relations Framework Act was passed to make sure that the principles in Chapter Three of the Constitution on cooperative government are implemented. The Act seeks to set up mechanisms to coordinate the work of all spheres of government in providing services, alleviating poverty and promoting development. The Act also establishes a line of communication that goes from municipalities to the provinces and directly to the Presidency. In general, it could be said that there are various lessons learned from the comparative reviews.

CHAPTER FOUR

ETHIOPIAN HORIZONTAL IGR EXPERIENCE: SPECIAL EMPHASIS TO THE COOPERATION BETWEEN AMHARA AND BENISHANGUL GUMUZ REGIONAL STATES

4.1. Introduction

Ethiopia is located in East Africa occupying a total territory size of 1,127,127 sq. km borders Djibouti, Eritrea, Kenya, Somalia, Sudan, and South Sudan. Ethiopia is characterized by its distinctive feature of culture, ethnic heterogeneity and geographic diversity. It has its own written script, number and calendar. It is also a country glorified with patriotism in the history of mankind. Ethiopia is the only African country that successfully resisted European colonization after foiling successive waves of Italian aggression. In the earlier ages, leaders claimed divine power, and hence were absolute monarchs. They were the law makers, the executives, and the judges, enjoying unlimited powers. There were some unwritten monarchical rules, but they barely limited the power of the leaders.

The boundaries of the modern Ethiopian state were carved at the end of the 19th century, after several wars, some claimed it as a conquest.¹³⁹ It was about more than half a century before the first written Ethiopian Constitution was adopted in 1931, just after Emperor Haile Sellasie (formerly known as Ras Teferi) was enthroned. This Constitution, however, did no more than codifying and fortifying the absolute powers of the monarch. A new (revised) Constitution was adopted in 1955 in reaction to, among other things, international developments, and to accommodate the federation of Eritrea. Two of the main historically recurring constitutional themes—feudal land ownership and the issue of ethnicity—were left unaddressed by the early efforts of constitutional era. This led to several riots throughout the country, led particularly by the farmers. Ethiopia's constitution of the imperial regime was based on the principle of territorial integrity of the country and unity of the system of state authority.

¹³⁹Adem Kassie, Ethiopian constitutional development at 1 , available at: www.icla.up.ac.za/images/country_reports/ethiopia_country_report.pdf, last visited on 20/4/2014

The system instituted greater centralization of political power ensuring the supremacy of central government over any local administrative settings. A structure of municipality's directorate within the ministry of Interior was made responsible for oversight and support towards proper functioning of municipalities as well as setting the necessary uniform procedures that govern their operations.¹⁴⁰ Horizontal interaction was highly limited due to the highly centralized legislative, administrative, judicial and financial authority and the absence of sub-national autonomous governments.

In 1974, the last Ethiopian monarch was overthrown following the largest successful revolution in Ethiopian history. The revolution led to the creation of a military junta called the Dergue (literally 'Committee'), which led the country for 17 years until 1991. The communist overtones of the Dergue meant that the feudal land system was abolished once and for all. The revolution extinguished one of its major flames: the question of feudal land ownership. The second main issue—the question of ethnicity—was, however, not addressed in any meaningful way, as the Dergue emphasized a strong Ethiopian national identity.¹⁴¹ The regime established highly centralized unitary system of state structure that left little option for accommodating demands for autonomy and recognition.

Thus, Ethiopia has gone through several regime changes. Those regimes were claimed by many as very authoritarian and centralized until the government has decided to adopt federal form of government based on nations, nationalities and peoples, in 1991 after the overthrow of the military junta.¹⁴² Since then the new political restructured the state on federal systems with a considerable emphasis on the right of Nations, Nationalities and Peoples as the fundamental principle.

Within the new federal structure, the different multicultural elements are reflected in the state members. Nine constituent states are organized under the federal constitution based on settlement patterns, language, identity, and consent. Accordingly, the nine states are Tigray, Afar, Amhara, Oromia, Somali, Benshangul Gumuz, Gambella, Harari, and the SNNPR (Southern Nations,

¹⁴⁰ Fasil Nahum (1997), *Constitution for Nation of Nations*, Asmara, the Red Sea Press Inc... p19

¹⁴¹ Adem Kassie, *supra* note 141 at 1

¹⁴² Hagos Sbatu (2009), *Vertical Intergovernmental Relations (IGR) in the Ethiopian Federal System*, LL. M Thesis, Ethiopian Civil Service University, Addis Ababa, at 53

Nationalities, and Peoples Region). Addis Ababa and later Dire Dawa became federally administered city-states.

It is argued elsewhere that the motives and the initial mind set in setting up a federal arrangement in Ethiopia is to give sufficient politico-economic autonomy for the diverse nationalities through decentralized governance. As the constitution precisely pronounces, ‘... adequate power shall be granted to the lowest units of government to enable the people to participate directly in the administration of such units’¹⁴³ The principle of ethnic self-determination including and up to secession adopted in Ethiopia by the EPRDF regime as the central aspect of the Ethiopian transition was a major departure from the established disposition of post-colonial African states thereby posing a threat to the cherished values and norms of the ‘nation-state’ that is, maintaining territorial integrity and undivided sovereignty.

The adoption of federalism in Ethiopia appears to have been motivated by the problem of finding an appropriate state structure that could be used as an instrument of managing the complex ethno-linguistic diversity for the country and reducing conflicts.

The constitution and other subsidiary laws of Ethiopia are silent concerning intergovernmental relations especially when viewed on its horizontal standpoint. IGR is less treated subject in the federal arrangement of Ethiopia. Slightly addressed matters as regards of intergovernmental relations at least constitutionally, though strongly related to vertical IGR, are issues of fiscal intergovernmental relations and conflict resolution mechanisms.¹⁴⁴ That is why writers on Ethiopian federalism considered IGR as the least developed and the least understood dimension of federalism partly due to youngest nature of federal system and partly due to the existence of highly centralized political culture.¹⁴⁵ Still we can add the less attention given during constitutional making as to how the respective levels of governments can cooperate, coordinate and integrate in the discharge of their functions as another contributing factor it’s a lesser level of development. Interrelation is inevitable in federations, thus in the absence of such laws

¹⁴³The constitution of the Federal Democratic Republic of Ethiopia, proclamation No. 1/1995, Federal Negarit Gazette, 1st year, No. 1, Addis ababa,1995, Article 50 (4) .

¹⁴⁴ As can be seen from The FDRE constitution art 94 ff and 62

¹⁴⁵ Assefa Fiseha (2011) supra note 7 at 112

governing the issue, there are agreements between states within the federation especially among neighboring states, to perform their constitutionally granted rights and responsibilities.

In this chapter Ethiopian Horizontal IGR experience especially between Amhara and Benishangul Gumuz regional states on selected areas; the principles of cooperation and the challenges on implementation are going to be dealt on the following sections.

4.2. Ethiopian IGR in General

It is now more than two decades since Ethiopia has adopted de facto federalism in 1991.¹⁴⁶ The federal arrangement was hoped to serve as a panacea for all conflicts in Ethiopia by recognizing the rights of nations, nationalities, and peoples of Ethiopia. FDRE Constitution allocates sovereign power along two dimensions: a vertical plane that establishes a hierarchy and boundaries between federal and state authority, and a horizontal plane that attempts to coordinate nine coequal states that must peaceably coexist. Both vertical and horizontal federalism are fundamental elements of federal state structured government. Yet most scholarship about “federalism” focuses on vertical federal-state interactions while neglecting horizontal state-state interactions. This broad approach presumes that distinct strands of vertical federalism doctrine comprise a single coherent field of study in which analysis of one subsidiary issue can influence approaches to others. In contrast, scholars rarely conceptualize horizontal federalism as an integrated field and have not developed theories and models linking its myriad components.¹⁴⁷

The common understanding in Ethiopia is that, the constitution or other subsidiary legislations are ignorant concerning the issue of intergovernmental relations. It is the less treated subject in the federal setup of the country. But the institution of cooperation between the states and the center is especially significant in Ethiopia because the formal distribution of powers neither follows the dual arrangement nor empowers the states to implement federally deliberated policies. The constitution has tried to highlight under Article 50(8) about the co-existence of the two levels of governments by placing the federal comity principle. But this should not be taken as a guiding rule for the existence of cooperative forums in achieving the national goals and programs. There has

¹⁴⁶ De jure federalism is adopted with the promulgation of the FDRE Constitution in 1995.

¹⁴⁷For further horizontal federalism, see Lea Brilmayer, *Liberalism, Community, and State Borders*, 41 *DUKEL.J.* 1 (1991) Samuel Issacharoff & Catherine M. Sharkey, *Backdoor Federalization*, 53 *UCLAL.REV.* 1353 (2006) , Douglas Laycock, *Equal Citizens of Equal and Territorial States: The Constitutional Foundations of Choice of Law*.

to be at least some formal systems that shape the cooperation phases. Otherwise, it will be unfairly manipulated by one of the parties (usually by the center and in case of Horizontal IGR by more advanced Regional state) in setting an agenda or coercing the partakers.

Some Ethiopian publications have tried to suggest the inclusion of formal ways of collaboration even from the lexis of the constitution. The provision dealing with delegation of some administrative like authority to the states with all its shortcomings is the first way of cooperation as indicated by these groups.¹⁴⁸ However, delegation may not always create the opportunity to discuss the manners and possibilities of enforcing the power in question. And, delegation is not an appropriate tool of cooperation since it is a blessing from one of the parties (the central government in our case).

Note that, through intergovernmental cooperation forums, federal partners pursue a wide variety of objectives from information sharing to policy coordination, from the elaboration of joint projects to coordinated law (or treaty) making, from the setting up of joint bodies to the establishment of mechanisms for dispute resolution. Even if we argue in favor of such a practice of delegation, the only area which is explicitly delegated to the states is judicial authority which means the center-states relations through delegation is not as such impressive and serves no or little purpose for the coordination between the two, with the exception of judicial power.

4.3. Constitutional Power Division and its Implication on IGR

The federal arrangement is introduced de facto in 1991 and de jure in 1995 with the adoption of the federal constitution. According to FDRE constitution some exclusive powers are assigned to both regional and federal governments, but it would be difficult for each level to exercise them separately.

According to Ethiopian constitution, competitive approach is the norm with regard to powers exclusively assigned to each level of government, since article 50(2) of the constitution hints a dual form of federalism. Unless both levels of government entered in to cooperation for the better performance of responsibilities, they are at liberty to discharge the tasks assigned to them

¹⁴⁸ Under Article 50(9) the FDRE constitution adopts the possibility of downward delegation by which the center may expressly delegate some of its powers to the states.

autonomously. Both the federal and state governments execute their own policies and laws using their own machineries. Except the above provision, intergovernmental relations are the least regulated area under the constitution. It appears to provide executive and legislative powers for both the federal and states.

In principle each order that is federal and regional state governments are responsible for the execution of what they legislate. The power of the states is provided for in Article 52 of the FDRE constitution as the “reserved” or ‘residual’ power that is “not given expressly to the Federal Government alone, or concurrently to the Federal Government and the States”.¹⁴⁹ While the constitution reserves the residual powers to the states, it also makes it clear that states, among other things, have the power to set up their own administration “that best advances self-government, a democratic order based on the rule of law; to protect and defend the federal constitution”, to “enact and execute” their own state constitutions, and other laws, to administer land within the framework legislations of the federal government to levy and collect state taxes on their own revenue sources, to establish and administer their own police force, etc.¹⁵⁰

4.4. The Experience of Horizontal Intergovernmental Relations in Ethiopia

Horizontal Intergovernmental Relations is a cooperation that subsists between states in their undertaking to accomplish constitutionally allocated responsibilities. Federal practices of Ethiopia indicate that the constituent units of federation are engaged in horizontal cooperation between themselves, despite the absence of constitutional clauses to that effect. This horizontal cooperation is important for several reasons. It can be used for addressing conflicts (related to either borders or to resource sharing) between states, for sharing of experiences and for bringing stable development among regional states.¹⁵¹

It is recommended that sound intergovernmental relations in Ethiopia is required for various reasons, one of the most important of which is the need to address the disparities that exist between regional states.¹⁵² FDRE constitution promised to create one economic community among

¹⁴⁹ FDRE constitution Article 52(1)

¹⁵⁰ FDRE constitution Article 52(2)

¹⁵¹ Solomon Nigussie note 8 pp 102 -103

¹⁵² Interview with Ato Belay Wedisha, Legal and Security Advisor to BGNRS President Office, held on February 05, 2014, Assossa.

regional state that would be generated training of staffs, and intergovernmental assistance, were identified as a means to rectify imbalances.

FDRE constitution gives equal powers and functions to all regional states. The relations between Regional States in Ethiopia are mostly sector by sector basis. Implementation of policies and government programs require close cooperation between the spheres of government, especially at executive level.

Even though Ethiopian laws nowhere give definition for horizontal intergovernmental relations, it can be reflected and practiced in inter-regional relations or intra-regional relations¹⁵³, as far as IGRs in regional states are concerned. As stated elsewhere in this paper the former is my center of attention. Practically Ethiopian Horizontal intergovernmental relations tend to be less important and developed. The federal constitution remained silent in case of regional interactions in Ethiopia. States opt their own way to establish 'formal' or informal institutions through which they can exercise their common agendas.

Practices do tell us the necessities to cooperation between states horizontally are many. In federations in general compared to vertical cooperation, the horizontal one has given less painstaking, though it is equally important for federations to function properly.

There are some examples of horizontal intergovernmental relations in Ethiopia. Eastern Ethiopian five regions intergovernmental relations, Oromia and Somali regional states collaboration forum, Afar and Tigray regional states collaboration, Afar and Amhara, Amhara and Benshangul Gumuz, and SNNP and Gambella regional States forums are practical horizontal relationships with in federal Ethiopia aimed at several responsibilities to mention some conflict resolution, securing good governance, balancing economic disparities. Some other informal communications are developed across regional states. Some empirical data which are results of the agreements of the two regional state governments (Amhara and Benshangul Gumuz), on issues of security, agricultural development, civil service, health, education, trade and transport related, will be carefully discussed as part of the study. Its effectiveness in controlling the objectives in which the

¹⁵³ Interregional relation is a cooperation between two or more regions in the federation where as intra-regional relations occur between same levels of administrative authorities within the regional states, since regional states themselves are a multi-level governance compartments.

cooperation is designed to serve, and the way it facilitate the cooperation will also be evaluated, after the following sections gave us additional hints on these horizontal cooperation specimens.

Five Neighboring regions of eastern Ethiopia namely, Somali, Harari, Dire Dawa, Afar and Oromia made agreement of cooperation and in 2006 they established a congress aimed at to coordinate the development and good administration issues between these neighboring regions.¹⁵⁴

Oromia regional state and Southern Nations, Nationalities and Peoples (SNNP) regional state made horizontal cooperation to resolve conflicts around bordering woredas of East Shewa Zone of Oromia and Gurage, Siltie and Alaba special Woreda of SNNP region; West Arsi zone of Oromia and Hadya, Sidama and Alaba of SNNP; Borena zone of Oromia and Amaro special woreda of SNNP; Burji of Oromia and Konso of SNNP. These two Regional states developed memorandum of understanding mainly to manage conflicts and to avoid violence between the bordering areas, to bring economic development.

Another example of horizontal cooperation is the agreement between Oromia and Somali regions. Border areas between Oromia and Somali stretches to Borena, Guji, Bale, East Hararge and West Hararge Zones of Oromia region and Liban, Afdheer, Fik, Jigjiga and Shinile zones of Somali regional state. Conflicts over postural land, water and other resources have been common phenomenon between different clans from both Regions. To encourage relations, culture, values, and ways of life of the neighboring people, to hearten common exploitation of resources and to strengthening people to people communications they started cooperation and a joint development program was established. This bilateral development called PCU was an initiative established by the Oromia and Somali regions to address conflicts along the border areas of the two regions mostly caused by over pasture land, water points and other resource related sources.

The other horizontal communication is between Amhara and Benishangul Gumuz Regions; which is the main purpose of this work. A separate space is needed to discuss the agreements and the overall functioning of the IG agreements.

¹⁵⁴ Article 2 of the Charter

4.5. Institutional Mechanisms of IGRs in Ethiopia

The major objectives of establishing intergovernmental institution in federal systems are to promote cooperation between the levels of government in order to address the different political, economic and social related questions of the people of the cooperating units that will arise out of inevitability of collaboration in federations, to resolve some disputes between them and to efficiently perform the functions and responsibilities assigned to both of them jointly.¹⁵⁵

There are differences among federal countries in respect of whether IGR should be stipulated under the constitution and other laws or it should be evolve on its own.¹⁵⁶ There is a wide range of IGR institutions and processes in different countries most of which are extra constitutional and belongs to the executive branch of government. It may evolve through constitutional provisions like South Africa or statutory provisions (ordinary legislations) like Germany or through practice like Canada.¹⁵⁷ However, many agree that effective IGR between orders of government may necessitate legal frameworks, structures, and processes.

Most federations are characterized by dense network of relationships between governments either horizontal or vertical dimensions. For effective IGR well established institutional mechanisms are crucial. Some of the commonly identified institutions for smooth cooperation of governmental branches are the second chamber of the parliament, party leader's forum, legislative cooperation, and presidential cooperative council, to mention some.

In Ethiopia, the FDRE constitution does not have provisions as to how IGR cooperation and conflict resolution facilitated. However there are shared and other form of powers given to the federal and the states that may be used as corner stone to establish statutory provisions for IGR. However, Intergovernmental relation in Ethiopia has to be considered from the perspective of both the formal and informal relationship mechanisms that are now in practice. Intergovernmental relationship now in practice is a process almost fully dependent on either of the semiformal or informal tools of cooperation without any convenient, transparent and predetermined arrangements.

¹⁵⁵ Solomon (2007), supra note at 100

¹⁵⁶ Assefa Fiseha

¹⁵⁷ Watts p.38

4.5.1. The Ministry of Federal Affairs (MoFA)

In constitutional terms except with regard to the relation between Oromia regional state, the federal government and Addis Ababa administration, all constituent units of the federation have equal rights and powers.¹⁵⁸ Nonetheless, in practice there is de facto asymmetry among the regional states as the federal government has more powers with respect to some regional states than others.¹⁵⁹ In practice there is a de facto asymmetry between emerging regions and relatively ‘developed’ regions.

Ministry of Federal Affairs (MoFA), formerly named Regional Affairs office (*yekilil Guday Zerf*) in the Prime minister office is associated with securing the willingness of the regional governments to be part of the political process at the center and to assist some of the regions in terms of capacity building and good governance which also continued to date as its primary concern. Meaning, the issue of dealing with IGR proper is a latter development in the history of this organ of government and was limited to a directorate level until recently. Now Intergovernmental relations and Conflict prevention section is headed by State Minister level. The Ministry established to bring equitable development in the less developed regions, to prevent and resolve conflicts, to strength federal system, to uphold Federal Regional relations in the country, and maintain good relations.¹⁶⁰

On the same vein, the states are not in a position to take part in the process as part of it rather they consider the Ministry’s role as another avenue of the center's dominance. IGR even conceptually is linked with a common forum of cooperation and coordination. Whenever a political party with a different program and ideological orientation takes control of one or more of the state/s or the center for that matter, the necessity for common forum of cooperation becomes visible. For obvious reasons mentioned earlier, such a political party will not accept any invitation from the MoFA and may not be willing to be part of the shared rule or the political process of the center. In addition to this, as Assefa remarked, MoFA assures its lack of effective political

¹⁵⁸ Article 47(4) of FDRE constitution

¹⁵⁹ Assefa Fiseha (2011) note 7 at 119

¹⁶⁰ Ministry of Federal Affairs available at: <http://www.mofa.gov.et/files/Document/Organization%20Profile.pdf>, last visited on March 15/2014

leadership to coordinate nationwide IGR activities. The powers and functions of MOFA have increased by proclamation no.691/2010.

4.5.2. The House of Federation (HOF)

The HOF that is designated as a ‘Council of Nationalities’ is allegedly composed of representatives of all ethnic groups of the country. The house is composed of representatives of Nations, Nationalities and Peoples. The Constitution provides that at least one delegate represents each ethnic group in the HF. Moreover, an additional one representative will be included for each one million people of a given ethnic group in the HOF.¹⁶¹ Members of the HF are elected either by regional councils (legislatures) or through direct votes of the peoples of the regions. The HOF is constitutionally vested with powers to decide on matters of federal and regional revenue sources, litigations relating to constitutional matters (judicial review), the rights of ethnic groups to self-determination, and preservation of the constitutional order.

The second chamber in federations serve as intra jurisdictional IGR institutions by which state interests maintained at the center. In this regard, even though the HOF could not serve as legislative IGR mechanism, in addition to its crucial power of interpreting the constitution has a role in some areas of IGR cooperation such as determining the division of joint revenue and subsidies between the federal and the state governments, resolving conflict that arise among the regional states, ordering federal intervention, promoting equality of the people and consolidating their unity based on their mutual consent.¹⁶²

The second house, in most federations, serves as intra-jurisdictional IGR institutions through which state interests maintained at the center. In this respect, even though the HOF could not serve as legislative IGR mechanism, it has roles on IGR such as in determining the division of joint revenue and subsidies between federal and state governments, resolving conflicts that arise among regional states, ordering federal intervention, promoting the equality of peoples and consolidating their unity based on their mutual consent.¹⁶³ HOF is the only constitutional institutional IGR mechanism that helps to facilitate interaction between units of the federation. And practically it played some roles like solving border disputes between different regions and also gave solutions

¹⁶¹ FDRE Constitution Article 61/2

¹⁶²Ibid

¹⁶³ FDRE constitution Article 62

to the Siltie demand for self-administration. Particularly it exercises its constitutional power by determining the share of joint revenue between the federal and state governments and allocation of grants to the states. But interims of facilitating IGRs some functions are seen not yet exercised.¹⁶⁴

4.5.3. The Federal Executive

In parliamentary system in particular, ‘executive federalism’ dominates with most IGR taking place between the executives of respective governments including both political office bearers and public servants.¹⁶⁵ Interaction generally involves a range of standing and ad hoc councils and committees as well as ongoing discussions between officials dominate with most IGRs.

The federal executive is organized by instituting various line ministries, authorities, and agencies and commissions whose roles and responsibilities are specified in Proclamation No. 691/2010 that defines the powers and duties of the central executive organs. The Prime Minister appoints high ranking federal officials mainly on the basis of political allegiance and loyalty as the major criteria. The federal executive poses as a dominant branch of the government, which could be understood by looking at its relations with the legislative and judicial branches. Parliament, which is constitutionally empowered to play the role of supervising and overseeing the performance of the executive and charged with the task of undertaking oversight functions, is noted for its subservience to the whims and wills of the latter. This is owing to the fact that the overwhelming majority of the law makers in the federal, regional and local legislatures belong to the ruling party. In terms of making laws, parliament has steadfastly continued to be subservient to the executive as evidenced by its role that was largely limited to rubberstamping proposed bills submitted by the latter.

To date, there is no single instance when bills proposed by the executive have failed to be endorsed in parliament. The judiciary is noted for its marginal role in adjudicating on issues of constitutional violations on the part of the executive owing to its lack of the power of judicial review, which is

¹⁶⁴ Tesfaye Abera supra note 96 at 57

¹⁶⁵ John Philimore supra note at 232

the prerogative of the upper house of parliament mainly composed of members and sympathizers of the ruling party.

4.5.4. Cooperation through Party Channels

Measures of decentralization-via vise -devolution introduced in the immediate aftermath of the May 1991 regime change brought about a situation whereby two-levels of government, namely federal and regional became operational. For nearly a decade the decentralization-cum-devolution initiative was limited to the self-governing regions in the sense of exercising devolved powers and functions as stipulated in the pertinent provisions of the federal constitution and other laws. This was expressed by the establishment of elected bodies of governance like regional unicameral legislatures (councils), executive organs (cabinets), and judicial units in a manner that resembles structuring and organization of government at the federal level. Further decentralization of local government was introduced in 2001/2002. Regional state governments are also legally empowered to promulgate their own constitutions without violating the provisions of the federal constitution. Similar branches of government were also instituted at the district and grassroots levels with specified powers and functions. As mentioned earlier, the EPRDF has ensured the total control of regional administration through the agency of its member organizations and the so-called “friendly” parties all of which have remained in power in their respective regions and local constituencies right from the start.

The constitutional rights for the regions to formulate and implement plans and policies are severely diminished by the fact that regional governments, which are under EPRDF’s hegemony, follow the centrally designed policies and five-year plans. ... in the Ethiopian case, the party structures are centralized, and when the party and the state are the same this leads inevitably to a centralized division of state power.

4.6. Cooperation between Amhara and Benishangul Gumuz Regional States

4.6.1. Sketches of the Two Regional States

Demarcation should be prioritized in most areas, irrespective of the need for a number of locally negotiated agreements on joint use of border lands. Encouraging neighboring communities simply to live peacefully together is not sufficient to resolve conflict, in a context where migration and

encroachment on land is continually in one direction. Amhara regional state shares a common boundary estimated as stretching hundreds of kilometers with Benishangul Gumuz region.¹⁶⁶

Self-governing units that fulfilled the laid down criteria in terms of ethno linguistic considerations qualified to form regional state governments by virtue of which they were entitled to also participate in the central government. Concurrently, they were empowered to run administrative and other developmental undertakings in areas under their respective jurisdictions. A federal arrangement stipulating the need for sharing of powers and functions as an expression of regional and local self-rule was deemed essential owing to its presumed ramifications in terms of enhancing socio-economic development, entrenching peace and stability, and forging national unity and cohesion.

4.6.1.1. Benishangul Gumuz Regional State

According Article 47 of the 1994 FDRE Constitution the state of Benishangul Gumuz is one of the 9 regional states of the Federal Democratic Republic of Ethiopia. The constitution enabled the indigenous ethnic groups of Benishangul Gumuz regional state to be represented in the federal government's political institutions and administer themselves. The Regional State enacted its own constitution in 2001 and amends it in 2002.

Benishangul Gumuz Regional State is located in located in South Western part of Ethiopia. The region shares boundaries in the north and northeast with the regional state of Amhara, in the south and southeast with the regional state of Oromia, and in the west with Sudan and South Sudan. The region has a land area of about 50,380 square kilometers. The Blue Nile River splits the region into two. The region is divided into three zones, two special woredas and 20 woredas (two of them special woredas) and 474 kebeles, (the lowest administration unit). The Woredas in each of the three zones have their own councils. There are sector bureaus at the regional level who execute their own budget after approval by the regional council. Likewise, at the Woreda level the Woreda offices execute their own budget after approval by the Woreda council.¹⁶⁷

As per the 2007 census, the population of the region was 670,847 of which (50.7% are male and 49.3% female). The annual population growth rate is estimated at 3% per annum with 13.5% and

¹⁶⁶Asnake Keefele at .216

¹⁶⁷ Constitution of December 2002 of Benshangul Gumuz Regional State (35/2002)

86.5% living in urban and rural areas respectively. The major ethnic groups in the region are Berta (28.79%), Gumuz (22.98%), Amhara (18.48%), Oromo (11.87%), Shinasha (7.55%) and Agew-Awi (3.96%)¹⁶⁸

Benishangul Gumuz National Regional State was carved from areas which had formed parts of Gojjam and Wellega Provinces, to the north and south of the Blue Nile, respectively. Its borders were (and continue to be) matters of contention: much of what is now Assosa zone and Mao Komo Special Wereda was originally claimed by Oromia; meanwhile Gumuz claims on borderlands as far north as Tigray (and even the Eritrea border) were eventually settled in favour of Amhara National Regional State. BG was administered, for much of the TGE period by the Benishangul People's Liberation Movement (BPLM, or *behenen* in its Amharic acronym).

The BPLM originated amongst Berta dissidents in Khartoum in the late 1970s. The *Dergue* government of the time had quickly defeated Berta attempts at opposition activity in the towns, and the survivors sought support and alliances in the Sudan.

The BG constitution is drafted in the name of 'we the nationalities of Berta, Gumuz, Shinasha, Mao and Como and other peoples residing in the region'.¹⁶⁹ This neat categorization of five discrete indigenous groups, however, serves only as a loose approximation of a much more complex reality. The movement of populations into this area is an ongoing process, as the prominence in this report of issues to do with immigration suggests. The arrival of many groups and communities now considered to be both 'coherent' ethnicities, and 'indigenous' to the areas in which they now live, has in fact been fluid, fragmented and recent.

Metekel zone shares borders with Simien Gondar zone to the north, AgawAwi Special zone to the west (both ANRS), the Zone consists of six woredas (Guba, Dangur, Mandura, Dibate, Bullen and Wembera). A seventh, Pawe, is now a special woreda, directly responsible to the regional state, and representing the settler community residing there.¹⁷⁰

¹⁶⁸2007 Census, Central Statistics Agency

¹⁶⁹ Preamble, BGNRS constitution 2002

¹⁷⁰ Sarah Vaughan (2007), Conflict & Conflict Management in & around Benishangul-Gumuz National Regional State, FDRE Ministry of Federal Affairs (MoFA), Report produced under the MoFA/ISP Institutional Support Project

Five ethnic groups are recognized by the regional constitution as indigenous while the state is largely shared between two historically rival groups. There is a significant number of non-indigenous groups called Habesha.

4.6.1.2. Amhara Regional State

The State of Amhara is located in the north western and north central part of Ethiopia. The State shares common borders with the state of Tigray in the north, Afar in the east, Oromia in the south, Benishangul/Gumuz in the south west, and the Republic of North Sudan in the west. Based on the 2007 Census conducted by the Central Statistical Agency of Ethiopia (CSA), the Amhara Region has a population of 17,221,976, with an estimated area of 159,173.66 square kilometers.

Definitely, the Amhara National Regional State is one of the nine constituent units of the FDRE as specifically mentioned under the FDRE constitution.¹⁷¹ With the exception of the Urban Administrations of Municipal jurisdiction which has been established by the grand proclamation separately enacted by the Regional Legislature in 2003, all the three interdependent tiers (Regional, Woreda and Kebele) are constitutional creations along with their respective shares of substantive powers and responsibilities listed therein.¹⁷² Hence, the state has a multi-level governance structure consisting of the regional, Woreda/Urban and Kebele Administrations as are elaborated under its Constitution.¹⁷³ Furthermore, the Regional Constitution establishes the Awi, Himra and Oromo Nationality Administrations in three specific areas pursuant to Art. 45 Sub-Art. (2) of the Constitution as additional decision-making tiers between the Regional and Woreda structures. In its present territorial setup, the region comprises 166 woredas, 38 of which are city administrations. Below them are also structured 3,500 kebele administrations which are the lowest levels of local governance capable of exercising self-rule at the grassroots level.¹⁷⁴

The Regional State has made an agreement of cooperation with Afar, Tigary, Oromia and Benishangul Gumuz regional starts. The main concern of this sub-topic however, is limited to see

¹⁷¹ Art. 47 (1(3)) of the Federal Constitution of 1995

¹⁷² Amhara Regional State constitution

¹⁷³ Art. 45 Sub-Art. (1) of Amhara revised 2001

¹⁷⁴ Interview with Ato Merhatsidik Mekonnen, Office of the Head and Council in Amhara National Regional State, Chief Legal Advisor to the Head of Government (with the Rank of Bureau Head), and member of the Technical Team Established to study IGR in Ethiopia, held on June 2014, Bahir Dar.

its relation with Benishangul Gumuz Regional State which can relatively used as a lesson for other horizontal co-operations in Ethiopian federal structure though by any rate it does not mean that the relation reaches at its advanced stage.

4.6.2. Development Cooperative Agreement between the Two Regional States

All government programmes are expected to be developed based on the laws and policies that are made by Parliament or State Councils as the case justifies. In many development projects, more than one sphere of government may be involved in implementation. Where necessary, the different organs of state may enter into an implementation protocol that describes the role and responsibility of each organ of state; outlines priorities and desired outcomes; and provides for monitoring, evaluation, resource allocation and dispute settlement procedures.

It aims to co-ordinate the work of different governmental administrations in a coherent plan to improve the quality of life for all the people living in an area. It should take into account the existing conditions and problems and resources available for development. There has to be a plan that should look at economic and social development for the area which is subject of cooperation.

Benishangul Gumuz region shares a common boundary stretching hundreds of kilometers with the Amhara region.¹⁷⁵ In the pre-federal era Amhara dominance was reflected in Benishangul Gumuz region, though it has been changed to some extent after in several ways. These two regional states have boundaries which are not clearly marked.¹⁷⁶

Regional states in the exercise of their responsibilities and by virtue of their constitutional mandate have been building and upholding horizontal ties. A most formal like relationship has been exercising between Amhara and Benishangul Gumuz regional states. They started cooperation on the basis of federal constitution's promises and responsibilities it entail on states to be more cooperative than competitive and the need of the constitution to has one economic and political community accepting all the differences recognized.¹⁷⁷

¹⁷⁵Asnake Kefele at 216

¹⁷⁶ Interview with Ato Ayeru Abebe Planing and Coordinating core process owner at BGNRS Administration and Security Affairs Bureau, made on February 5, 2014, Assossa.

¹⁷⁷ Interview with Ato Belay Wedisha

The preamble of the FDRE constitution recognizes the need for intergovernmental relations: ...the nations, nationalities and peoples of Ethiopia are; strongly committed, in full and free exercise of our right to self-determination ... continuing to live with our rich and proud cultural legacies ... through continuous interaction on various levels ... by further promoting our shared interests: ... as to live one economic community is necessary in order to create sustainable and mutually supportive conditions for ensuring respect for the collective Promotion of our interests... This indicates that the constitution gives a clue at least as to its necessity. But as Assefa precisely noted Intergovernmental relations are less treated concept under the constitution and other laws.¹⁷⁸

Regional states constitutions also give to the Regional council the power to ratify agreements concluded with the neighboring national regional states.¹⁷⁹ In view of the fact that intergovernmental relations are the responses that have been developed to facilitate cooperative policy making among divided governments within a federal system, these two regional states had begun cooperation in 1997 though, according to the assessments of the two regional state governments, it became more effective in the recent years.¹⁸⁰

The Cooperation agreement requires states to ratify by the respective state councils to make it formal negotiation and to consider it as a part of their regular responsibilities.¹⁸¹ Benishangul Gumuz regional state ratified the 2005 Agreements between itself and Amhara and Benishangul Gumuz regional states.

Most agreements made between them claimed assistance by one party, instead of mutual cooperation. One state, Amhara committed to give the support and the other, Benishangul Gumuz to receive and facilitate it. According to Ato Belay the problem in Ethiopia as regards to horizontal cooperation lays on the conceptualization that relatively developed states ponder themselves as responsible to support others and less advanced states on the other hand, make themselves ready to obtain assistance rather than seeing the cooperation mutual beneficiary. The plans prepared by responsible sectors of both regions divulge this idea in a more concrete mode. Ato Merhatsidik

¹⁷⁸Proclamation No. 49/2005 Proclamation to Ratify A Reciprocity Agreement On Basic Development Cooperation Between Benishangul Gumuz Regional State And Amhara Regional State and Proclamation No 50/2005 to Ratify the Basic Development Cooperation Agreement Between The Benishangul Gumuz Regional State And Oromia Regional State

¹⁷⁹ Article 49 {(3)3} of Amhara, Benishangul Regional States constitutions

¹⁸⁰ The new agreement of the two regional states and interview at Getwa MoFA

¹⁸¹ The agreement under the introductory part at 2

Mekonnen¹⁸² adds another factor in addition to those stated above. The federal ministry of Justice made directions that require relatively advanced states, in which Amhara is among them, to support the less Advanced Counterparts.

4.6.2.1. The Objectives of the cooperation

The cooperation has made for some specific objectives in which the two regional state governments by their respective responsible sectors are going to achieve.¹⁸³ The lists in the agreement fail to bear meaning that the work is mutual advantageous. The agreement put some objectives like: by balancing development discrepancies between the two regional states make the public beneficial on the process; by using common culture to make the people; food security in Benishangul Gumuz and advance valorization; to strength; People to people relations; Ensure the rights enshrined in the constitution and providing joint development activities for communities of both regions; Prevention and Resolving when arise, conflicts between the two regional states and Jointly controlling criminal activities and other security issues along border areas¹⁸⁴

Governmental cooperation made to play a number of purposes. They put some guiding objectives like; to make the people live together peacefully; narrow the development disparities between the regional states; implementation of good governance; develop friendship between the people of the two regional states;

How much this objective implemented remains questionable. After they make cooperation we saw the two people conflicting and Amharas evicted from the some Benishangul Gumuz regional state territories though they reallocated to their community.¹⁸⁵

As Assefa depicted in his article, Horizontal IGR, among other things, grant opportunities for securing consensus or help develop common understanding among actors representing the governments before facing the federal government on specific policy issue and used as an avenue

¹⁸² Interview with Merhatsidik Mekonnen, Legal Advisor(with the rank of Bureau head) to the Head of State of ANRS

¹⁸³ Memorandum of understanding (Development Cooperative Agreement) page 2, translation is mine

¹⁸⁴ Cooperation Development Agreement

¹⁸⁵ In this regard Ato Belay said the displacement of Amaharas from their long lived community is not as a result of the actions of either of the regions, rather some rent seekers act and interest. He added, the regional government condemned their actions and take measures to rectify it. For him it did not affect and deviate from the objectives of the cooperation.

for sharing and learning experiences or for dealing with specific issues among all or some of the constituent units.¹⁸⁶

4.6.2.2. Main Areas of Cooperation

As stated on different parts of this paper, all complex multi-level constitutional systems have had to develop tools to coordinate the exercise of powers distributed among various decision making entities. The public service is crucial to the conduct of IGR in all countries. It is the ‘engine room’ where detailed work is done both through formal and informal interactions. It is the job of the public service to maintain relations and dialogue with other governments even during time of political tension. But all governments are not equally capable or interested in IGR.

In most federations some areas like, Constitutional ambiguity, fiscal relations, public policy interdependence, investment and trade, infrastructure management, environmental protection, policing and security, and the sharing of resources would be the major issues that necessitate the forum of cooperation in federations. It facilitates the attainment of common goals through cooperation and used in this sense, mechanisms for intergovernmental relations may be seen as employing consensual tools for the mutual benefit of the constituent units of the state.

The Agreement between Benishangul Gumuz and Amhara shares these general arrangements in determining issues of cooperation, however, it is still very broad that contains 17 sectors tasks as points of cooperation.¹⁸⁷ The joint development program is a bilateral development. States choose areas that needed to be the subject of cooperation. IGR are more like diplomatic relations than contractual or legal relations. The following are some specific areas:

A. Administration and Security Affairs

The memorandum of understanding made by two regional states focused among other things, on security and administrative affairs. This was owing to the long time conflict around the bordering areas of the regions due to historical, cultural, resource and territory based factors. Traditional and

¹⁸⁶ Assefa Fiseha (2009), note 7 at 114

¹⁸⁷ Development Cooperative Agreement Document

formal measures, like multi-ethnic Council of Elders along the neighboring woredas of Amhara and Benishangul-Gumuz regions were used.¹⁸⁸

Like on other issues, Security affairs concern between the two regional states started in 2005¹⁸⁹, though it developed recently. The agreements mainly focused on establishing common peace committee to solve security problems around border areas.

B. Justice Bureau

Justice Bureaus other areas of cooperation on issues of drafting laws, training to Advocates and Associations, crime prevention works. In the Amhara Regional State plan the title is ‘Support to be given the Neighboring Regions’, and my interview with justice Bureau officer also confirmed that they assume the cooperation with Benishangul Gumuz region as their duty to support so to bring the Regions in equal footing.¹⁹⁰ Amhara Region appear to take for granted certain powers within the inherent affairs of Benishangul Gumuz.

C. Agriculture

In Agricultural sectors too Amhara regional State is committed to develop some irrigation channels to Benishangul Gumuz. There are also collaboration on increasing animal and crop production, on prevention deforestation of forests around border areas, are among the issue on this part.

There are also agreements on other sectors like; Environmental Protection, Land Administration and Use Bureau, Health Bureau Education Bureau, Civil Service/Capacity Building Bureau, Women, Children and Youth Affairs Bureau, Labor and Social Affairs Bureau, Water Resource Development, Industry and Urban Development Bureau, Trade and transport Bureau, Culture, Tourism and Parks Development Bureau, Technical and Vocational Bureau, Government Communication and Mass Media, Tax Collection, Business and Economic Development Bureau, and Regional Administration Council given different tasks in the agreement.¹⁹¹

¹⁸⁸Mesfin Ghebremichael, Federalism and Inter-regional conflict Management between the Benishangul-Gumuz and the Amhara Regional States of Ethiopia, 5th International Conference on Federalism, Volume 5, p.8

¹⁸⁹ Interview with Ayeru Abebe

¹⁹⁰ Ato Assefa Bekele Planing Expert at ANRS Justice Bureau made on January 29, 2014, Bahir Dar

¹⁹¹For detail look the common Development cooperative Agreement between Benishangul Gumuz and Amhara Regional States attached on this paper.

The Regional Legislature plays the profound role of the House of Federation in the Regional State in the area of balancing fair allocation and equitable distribution of resources necessary for the normal functioning of the regional executive branch and those of the Woredas on account of their objective requirements and revenue-raising capacities. Like it happens at the federal level, this is inevitably done with the systematic backup of the Regional Finance and Economic Development Bureau, usually to the displeasure of the Woredas allegedly for lack of greater participation in the actual making of the budget sharing formula. But it is difficult when we assume its IGR power due to its impartiality.

Municipal areas are large and within each municipality there are many different communities with different needs. Municipal services cannot be delivered in bits and pieces: for example, if a new housing settlement is planned it has to be supplied with roads, sewage, schools, houses, water, electricity, parks, waste removal, streetlights, public transport, health services, etc. Each of these come from a different department and sometimes even a different sphere of government and each of these have to be paid for out of some department's budget.

4.6.2.3. The Principles of Relations between the two Regional States

Intergovernmental relations represent formal mechanism of cooperation. Agreements are central to most fields of public activities in egalitarian states. As stated earlier, Ethiopian constitution guarantees all states equal power and recognition. The relationship of two sets of governments must be based on the principle of independence- cooperation, i.e. the two entities must be autonomous in their field of jurisdiction as provided under federal compact.

In Ethiopia, under Art.9 of the FDRE Constitution each level of government is required to respect the Constitution. Art. 50(8) of the same law expressly provide that each sets of government are required to respect the power of the other, i.e. no superior or subordinate relationship existed at least constitutionally. It is very important for the principles of cooperative government, as contained in the Constitution, to be respected and observed by all stages of government. It is highly undesirable for different levels of government to take each other to court. The Inter-governmental Relations Act is needed in countries like South Africa to facilitate cooperation and avoid legal proceedings between different spheres of government.

While making interacting states follow certain principles and Guidelines. Some may provide it in the constitution and other laws entrusted to govern the issue. For instance as Assefa noted older federations like USA left IGR to evolve on its own, but younger federations like Germany and South Africa stipulated broad principles and guidelines under the constitution.¹⁹² Effectiveness, transparency, accountability, efficiency, independence, partnership, political tolerance and consensus and consultative process are the major guidelines states used. Still some of these remain as defies since the concepts are illusive, and broad.

Governmental Cooperation requires following some basic agreed principles. These are the principles of Trust and mutual respect, the principle of consensual decision making, the principle of negotiation, in good faith, federal comity and adherence to the agreed procedure. In addition to these, it involves the principle of effectiveness, transparency, accountability, efficiency and autonomy.

Under the development Cooperative Agreement no attempt was made to list the guiding principles of governmental cooperation though it tried to outline the objective of cooperation and the reasons for having and doing it. Among my interviewees Ato Belay and Ato Merhatsidik told me that the general principles used in other federations like mutual trust, effectiveness and accountability are considered. But they did not make assurance for the effective implementations partly owing to the absence of independent organ delegated to it.

4.6.2.4. Channels of IGR between the two Regional States

Though the cooperation between Amhara and Benishangul Gumuz Regional states mainly concerns on economic development it also take account of other issues in addition. Like the vertical one, there is no single separate institution responsible to implement the cooperation between them. Instead tasks are given to sectors separately. Intergovernmental experiences of existing federations' displays reach array of structures, processes, institutions and mechanisms for coping the inevitable overlap and interdependence that are features of modern life.

Apart from the limitations on the constitution of FRDE, Regional State's constitutions and other Legislations as regards to recognizing IGR as a fundamental instrument to facilitate cooperation

¹⁹²Assefa , supra note 12, at.108

in their provisions, it seems worthwhile to discuss how much these institutions interact. The relation is more on the executive branch though not in exclusion of other branches' ties.

Both regional States Finance and Economic Development Bureaus used as a secretariat, below regional state heads, responsible for the implementation of plans of actions. Other Bureaus are required to submit plans, and reports to it. ¹⁹³

4.6.2.5. Opportunities and Challenges for improved horizontal Relations Between the two Regional States

A. Opportunities

Intergovernmental relation is bound to exist in every system of governments and, inter alia, in federation whatever the models may be, co-coordinative authority, inclusive authority, or bargaining authority. Interdependence and cooperation are inevitable and needed in every federation despite the difference in structure and nature.

Most of my interviews from the two regional states and MOFA ¹⁹⁴ stated the following as major opportunities of horizontal cooperation in Ethiopia in general and these two regional states in particular.

- Used as Experience Sharing
- Local Governments as Learning Organization
- Reducing the intensity of conflicts
- Contribute for joint development between the regions
- Creating good relationship, respect and unity for common values and accommodating diversities

B. Challenges

The first challenge of IGR between Amhara and Benishangul Gumuz Regional states relates to the concern of financing relations. Perceptibly the presence of multilevel of governments within a federal system necessarily raises the question of which jurisdiction is responsible for the provision of and payment for particular public goods and services. In most cases, issues of provision and

¹⁹³ Common development Cooperation Agreement at 8.

¹⁹⁴ Interviews Ayeru, Belay, Chanie, and Merhatsidik

payment are considered together; the boundaries best coincide with the effects of a proposed service decides whether to provide it, and also impose taxes or fees to pay for the service.¹⁹⁵

Basically the general framework agreement is silent about the sources of funds required to perform duties of both regional states. The plans made by specific sectors from both regional states put source of funds. Most tasks in the agreement are supports that would be given to Benishangul Gumuz regional state, in return much of the funds are expected to born from it.

The second challenge of IGR between these two regional states is lack of genuine institutionalization. Institutionalization of IGR brings continuity stability and predictability. Formal effective mechanisms allow for clear cut action enabling smoother functioning and shape the pattern of interaction.

Source of fund to put into effect the activities is the third challenge of IGR between the two regions. Power is at the center of any system of IGR – and is closely linked to the relative fiscal capacity of the various governments. The development cooperation agreement is silent about the source of revenue required to finance the responsibilities. The plan of actions however allocates finance to do the activities though most are expected to be born from Benishangul Gumuz Regional State. In addition to the above, absence of creating transparent and Accountable body, lack of institutionalized organ on IGR, can be considered as other challenges of IGR in Ethiopia.

Disparities between the two regions, in legal theory all Ethiopian regional states have equal recognition of rights and powers.¹⁹⁶ But there are significant asymmetries.

The agreement is slim on procedural cooperation. It dealt with substantive issues telling who does what but without identifying procedural aspects of consultation and dispute resolution mechanisms.

4.6.2.6. Source of Fund for Relations between Amhara and Benishangul Gumuz Regional States

It is common among federations around the world for the national government to distribute funds to the states, and it is also common for equalization across states to occur. Horizontal Fiscal Equalization (HFE) occurs when funds are transferred from one sub-national region to another to

¹⁹⁵ Clayton P. Gillette (2001), Funding Versus Control in Intergovernmental Relations, New York University school of Law at 123

¹⁹⁶ FDRE Constitution Article 47(5)

ensure that some form of uniformity of service provision occurs. Investing in IGR capacity is crucial to achieving better outcomes, both for each level of government and for the system as a whole.

Resources sharing must address the necessity for rapid development at the grassroots levels. As development gets entrenched at the grassroots levels, the Federal level will invariably relinquish some of its activities. This will necessitate reorganizing the resource sharing structure. For development to take place at the grassroots levels, horizontal distribution is very crucial, increasingly monitored and effected in order to move the nation forward.

The way intergovernmental fiscal systems are organized varies from country to country. These differences partly reflect historical and geographical characteristics of each country, the degree of heterogeneity of the population and the extent of government intervention in the economy. Given this diversity, how questions of inter-governmental structures and functions are resolved in practice will often differ from country to country.

Fiscal federalism is a form of multi-level organization of the government system and of the financial relations between institutions different from simple administrative decentralization. Federalism implies decentralization, but assumes as distinctive feature that the local government institution has its decision-taking autonomy in establishing and managing the resources – particularly proceeds from taxes – to fund its government actions.¹⁹⁷ If successfully implemented, fiscal decentralization will not only improve welfare directly but also contribute to alleviating several key problems facing most developing countries: economic development, revenue mobilization, innovation in public service delivery, accountability of elected officials, capacity development at the local government level, and grassroots participation in governance.¹⁹⁸

FDRE Constitution provides that the Federal Government and the States all collect taxes and shall share revenue, taking the federal arrangement into account.¹⁹⁹ Thus in sharing of revenues, taxes are grouped into three: central (that of the Federal Government), regional and joint. Thus revenue

¹⁹⁷ Raffaele Malizia and Emanuela Tassa, Administrative Decentralization versus Fiscal Federalism. Some remarks based on the Italian and European Countries' evidence

¹⁹⁸ Richard M. Bird (2008), Sub national Taxes in Developing Countries: The Way Forward, Institute for International Business Working Paper Series.

¹⁹⁹ Article 95, FDRE Constitution.

assignments under the FDRE constitution, it categorizes the taxation powers in to exclusive federal power, exclusive state power and concurrent power of taxation. In general, it could be said that the constitution mostly divides the taxation power between the federal and state governments based on the category of tax payers which may result in allocating single income type both to the federal and state governments. That is to say, the exclusive domain of each government is not the tax bases but is the tax source.

Thus, it does not result in taxing the same income, transaction, or thing by both levels of government. However, customs duties including import/export taxes are exclusively reserved for the federal government (article 96 (1)). Accordingly, the revenues of the Federal Government include customs duties, taxes and other charges levied on the importation and exportation of goods; income tax collected from employees of the Federal Government and international organizations; income, profit, sales and excise taxes collected from Federal Government owned enterprises; taxes collected from national lotteries and other games of chance; taxes collected from income generated through air, rail, and sea transport services; taxes collected from rent of houses and Federal Government owned properties; charges and fees on licenses issued and services rendered by the Federal Government; taxes on monopolies; and Federal stamp duties.²⁰⁰

Inter-governmental relation requires consultation in the budgeting and planning process. Getwa said, the federal government allocates finance considering IGR at times of federal grant. For him conflict is predictable when there is unequal development between regional states. That was why Ministry of Federal Affairs, to bring less advanced regions to National standards,²⁰¹ set an office in some regions among these Benishangul Gumuz is one of them. He added the office assists and facilitates the relationship as a gap filling role. But the powers to determine the subject matter of cooperation, implementation of the agreements are left to the respective regional states.

Their agreement fails to discuss source of finance to run the cooperation but some are listed on the plans of actions most of which are going to covered by the BGNRS. Interview with Ato Getnet,

²⁰⁰ Article 96, FDRE Constitution

²⁰¹ The national standard is not clear but for him he four regions Amhara, Tigray, Oromia and SNNP regions have duties to support their neighboring regions to bring them to the standard.

Ato Ayeru, and Ato Awoke told me that the region that obtains the service is required to cover the cost.

4.7. Current Developments of Horizontal IGR in Ethiopia

Appreciating the less effort given to IGR in Ethiopia during constitutional making, the government takes some steps to formulate IGR policy and laws. A project aiming to develop and propose alternative IGR policy or legal frameworks that depicts what IGR in Ethiopia should look like and how intergovernmental relations among the levels of governments (both vertical and horizontal dimensions)²⁰² should be facilitated and managed after creating common understanding and consensus on the need.

Horizontal and vertical Intergovernmental Relation is crucial in facilitating development; in preventing, managing and resolving conflicts; and used as a foundation to people-to people communication and cooperation. In consequence it is indispensable to codify the basic framework of IGR by way of legislation or policy document. The current national committee (both Steering and Technical) established to bring these objectives realistic.

The first team is a Steering committee composed of; House of Federation, House of Peoples Representative, Ministry of Federal Affairs, Supreme Court, Regional Presidents and Speakers and Office of the Prime Minister which is a political like combination that has the role of guiding, monitoring, evaluating the tasks and ensuring availability of both human and financial resources. Under the steering committee, there is a technical team composed of two members each from HOF, MOFA, Forum of Federations, Addis Ababa University (AAU) and Ethiopian Civil Service University (ECSU); one member from HPR, One Member from each regional state; and one member from institute of legal research and studies; has given the responsibilities of creating the system of IGR, after going through specific tasks relating to it.²⁰³

It is appreciable beginning to have to support the less strong and less effective and now and again considered federally dominated practice of IGR in Ethiopia due to demanding detailed legal or

²⁰² As Ato Merhatsidik told me the committee includes personnel and political representatives from Regional governments and the federal government bearing in mind both interests.

²⁰³ Interview with Ato Merhatsidik and reading from Intergovernmental Relations Development Framework: Concept Note at 6-7

policy frameworks for its overall conduct and management. Still the HOF and MoFA have given the mandate to tutor the both the steering committee and the Technical Team, it may be difficult for these institutions to transfer some of their powers to other institution that is expected to be established following the recommendations from the new project. Long run plans and institutional mechanism of managing IGR in civilized tendencies of working towards prolific outcomes remains untouched issue so far.

4.8. Interim Conclusion

Intergovernmental relations pageant one feature of established federations. The existence of intergovernmental relations over shared or overlapping powers is one of the most common characteristics of federal systems. Some federal states setup these mechanisms either by creating the context by IGRs or by specifically setting out structures or procedures for relations between different spheres of government in their constitutions. In other states actual provisions for IGRs is established through practice or convention, owing to its adoptability and flexibility.

In this regard Ethiopian constitution offers little guidance on how intergovernmental relations are conducted or managed except in case of intergovernmental financial relations and conflict resolution wherein established structure and process are apparently specified. Otherwise the constitution keeps silent regarding the mechanism of intergovernmental executive and legislative collaborations though there are a number of provisions in the constitution that invite intergovernmental cooperation. Shared powers are among those that require cooperation between levels of governments. Besides to the legal lacuna that existed in the constitution and other subsidiary laws, there has been so far poor implementation of IGRs. HoF and MOFA, with some overlapping functions, are the institutional mechanisms to facilitate IGRs.

CHAPTER FIVE

CONCLUSION AND RECOMMENDATIONS

5.1. General Conclusions

Intergovernmental relation is an important source for (in realizing synergy among different levels of government and within specific levels for stability of entire government.) It is an ever-present concept though sometimes underestimated dimension of any federation, whether it is a result of devolution; and whether it is dualist or integrated type. Then, it is a decent proposition that the crux of intergovernmental relation is a mechanism by which different levels and branches of government interact with one another to satisfy public interest.²⁰⁴ It connotes the interactions that take place among the different levels of government within a state. Usually, the concept is associated with states having a Federal administration system where the relationships between the Federal, Central or National Government and the major sub-national unit (province, region or state). A full exploration of inter-governmental Relations within a Federal administration system, however, covers the following: Federal-State, Federal-State-Local, Federal-Local, Inter-State, State-Local and Inter-Local Relations.²⁰⁵ The focus of this research however, was interstate interactions.

It is now more than two decades that the Ethiopian federal system has been put into practical reality. The 1995 constitution, which is the turning point from the traditionally dominant centralization trend of nation building, has officially endorsed the federal re-structuring in the country by declaring the establishment of a federal and democratic republic and establishment of nine regional states thereby affirming that, some powers to Regional States.

Federal arrangements often involve only two autonomous orders of government: national and subnational levels of government. The concept of autonomous local government is alien to the design of most federal systems. Local government, or rather administration, is viewed as a

²⁰⁴ Graham Hassall, Challenges and opportunities for improved intergovernmental relations in the Pacific, Victoria University of Wellington, accessed at:

www.clgfpacific.org/.../Professor%20Graham%20Hassall_%20Presentation.pdf last visited on 13/10/20013

²⁰⁵Nwokedi, Ralph Chiemeka (2004), Power Sharing in Nigeria Federation. Enugu: Snaap Press. Pp.174.

competence of subnational governments. In the last few decades, however, the value of local government as an institution of democracy and development is gaining recognition. As a result, many states, both federal and unitary, have started to embrace some form of local decentralization, a process that has seen the transfer of power to democratically elected local authorities.

As conferred before, Federalism generally, can be described as the contractual and Legal Status between the national (Central) government and the states and to some extent between both the national and state governments and localities.

Intergovernmental relations however, involved the whole range of interactions among all levels of government. All federations have considerable interdependence between governments. How politicians, civil servants, citizens and other stake holders try to influence outcomes in jurisdictions other than their own goes to the heart of federations political life.

Interdependence is inevitable and significant in all federations may the interaction be formal or informal. Intergovernmental relations are the responses that have been developed to facilitate cooperative policy making among divided governments within a federal system. Intergovernmental relations are supposed to play a 'bridge-building' role to bring a degree of coordination and cooperation to divided powers. Then, IGR is the complex patterns of interactions, co-operations and inter- dependence between two or more levels of government. It is further described as a plethora of formal and informal relationships and transactions that develop among levels of government within a nation state. In Nigeria, for example, it refers to the interactions that exist among the Federal (Central or National) states and local governments, state and state interactions, state and local interactions or local and local interactions. IGR is more like diplomatic relations than contractual or legal relations.

IGR have both horizontal and vertical dimensions. That is vertically between the federal and constituent level and horizontally between constituent states in a federal system. But the two are not equally developed in study. The main focus of IGR yet is vertical relationship between the central government and the constituent units. Horizontal intergovernmental relations tend to be less important and less developed.

The more vital point to note is that inter-governmental relations are described for the overall efficient performance of the entire system, for the mechanisms of checks and balances and to avoid crisis of

confidence in the process of governance. Again, there are numerous variations in the nature, structure and/or patterns of inter-governmental relations from one country to another – a state of affairs which arises principally from the differences in culture, tradition, history, origin of the state, party system and system of state organization of the different societies. The outcome therefore, is that there does not exist any one best system of inter-governmental relations for all countries and for all time, rather it all depends on the peculiar circumstances of each society. Indeed, even within a particular country, the system of inter-governmental relations is not static but varies from one period to another. Besides, even the transactional processes among units of government are not always smooth and co-operative. Effectiveness of the system to address these issues and peaceable mode of resolving conflicts remains the question to be talked.

The Ethiopian constitution offers little guidance on managing intergovernmental relations nor do state constitutions. All states stand on equal legal footing, enjoying the same legal relationships with the national government regardless of location and size. States have the jury symmetry. However, de facto asymmetries exist among states such that such relative influence within the federal structure varies.²⁰⁶ Federal law enforcement agents have not yet been established throughout the country except for exclusive federal matters, nor are state organs there in other states or at the federal capital. Hence, there is no a well-organized institution to work as good intergovernmental relations to coordinate shared policy programs. The Ministry of Federal Affairs has been formally established to facilitate the relations of governments. Due to many problems, however, this institution has not successfully discharged its huge tasks as it is given in the proclamation No. 691/2010. Still as regards to horizontal communication this apparatus continues ineffective.

The House of Federation is another formally established forum of cooperation in the Ethiopian federal framework though its mandate is limited only to the financial matters and in settling misunderstandings and conflicts among the states. Its role in promoting the intergovernmental cooperation aspect of the federation is severely limited due to the absence of legislative function and the un-clarity of some of its powers and mandates.²⁰⁷

²⁰⁶The Ethiopian constitution (Article 47/4) declares that all units of the federation shall have equal rights and powers. Despite such a declaration, however, the federal government has more powers with respect to some regional states than others.

²⁰⁷FDRE Constitution Article 62.

While making interacting states follow certain principles and Guidelines. Some may provide it in the constitution and other laws entrusted to govern the issue. Older federations left IGR to evolve on its own, but younger federations stipulated broad principles and guidelines under the constitution.²⁰⁸

Effectiveness, transparency, accountability, efficiency, independence, partnership, political tolerance and consensus and consultative process are the major guidelines states used. Still some of these remain as defies since the concepts are illusive, and broad. But Ethiopian IGR experience in applying these principles is depends on the awareness and willingness of actors due to the absence of law or policy that guides them.

Three countries experiences have been discussed. The Nigerian experience was reviewed because it is Africa's longest standing example of a federal system of governance and there are also stiff challenges on its IGR system-a challenge which may even exceed than the same that Ethiopia faces.²⁰⁹ Canadian system of intergovernmental relations is also going to be studied where basic changes have made. There is development of collaborative federalism, the process by which national goals are achieved, not by the federal government alone or by the federal government shaping provincial behavior through the exercise of its spending power, but by some or all the State governments and the territories acting collectively.²¹⁰ The experience of South Africa, a historical federal country with well-defined intergovernmental systems of the three levels of governments which spent one chapter under its constitution²¹¹, have evolving intergovernmental relations, will also considered.

Coming back to Ethiopia, FDRE Constitution allocates sovereign power along two dimensions: a vertical plane that establishes a hierarchy and boundaries between federal and state authority, and a horizontal plane that attempts to coordinate nine coequal states that must peaceably coexist. Both vertical and horizontal federalism are fundamental elements of federal state structured government. Yet most scholarship about Ethiopian federalism focuses on vertical federal-state interactions

²⁰⁸Assefa , supra note 12, at 10.

²⁰⁹Edmond J. Keller, Ethnic Federalism, Fiscal reform, Development and Democracy in Ethiopia, available at www.archive.lib.msu.edu/omc/.../pdfs/.../ajps007001003.pdf , last visited on 15/10/2013

²¹⁰ David Cameron and Richard Simeon, Intergovernmental Relations in Canada: The Emergence Of Collaborative Federalism, University of Toronto, Public Vol. 32, No.2, The Global Review of Federalism (Spring, 2002), pp.54

²¹¹Chapter three of 1996 the Republic of South African Constitution

while neglecting horizontal state-state interactions. Trying to understand IGR in Ethiopia the reading of FRDE constitution did not provide a full picture, nor Regional State Constitutions deal on issues of intergovernmental agreements in a comprehensive approach. It is necessary to go beyond the formal rules, regulations and institutions of IGR to understand their substance.

Five Eastern Ethiopian regions intergovernmental relations; Oromia and Somali regional states collaboration forum; Afar and Tigray regional states collaboration; Afar and Amhara; Amhara and Benshangul Gumuz; Benishangul Gumuz and Oromia cooperation agreements; and SNNP and Gambella regional States forums are practical horizontal relationships with in federal Ethiopia aimed at several responsibilities. Some other informal communications are developed across regional states. Some observed facts which are results of the agreements of the two regional state governments (Amhara and Benshangul Gumuz), on issues of security, agricultural development, civil service, health, education, trade and transport related, have carefully discussed as part of the study. Its effectiveness in controlling the problem and facilitating the cooperation will also be evaluated.

IGR in Ethiopia has been dependent on the strength and direction of political winds. The success and failure of IGR has been determined by situational elements and the current orientation of the political actors. Actors of IGR are politicians.

5.2. Recommendation

Based on my findings, I recommend the following:

- No common body of an intergovernmental apparatus to do the activities in a neutral fashion is recognized as responsible for the exercise of intergovernmental cooperation between regional states of Ethiopia today, thus for effective implementation of IGR, there has to be a move to establish regular independent organ entrusted with power of governmental dealings. Regional States themselves can create forum of horizontal cooperation among them without even consulting the central government for issues outlined exclusively under their jurisdiction. So they could have responsible and accountable body of IGR.
- The two regional states have agreements but they do not have strong formal institutional mechanism to make the agreements effective. Instead they give additional burdens to

Regional Bureaus. Thus, these Regions to facilitate cooperation between them must establish at least ad hoc institution doing the business of integration.

- The Relation between Amhara and Benishangul Gumuz, as can be inferred from documents and interviews, seems giving aid rather than cooperation, Amhara regional state in all spheres of agreements with Benishangul Gumuz and Afar assumes that the region is committed to give assistance rather considering it mutually beneficial. In our case Benishangul Gumuz Regional State lacks equal haggle powers, which if necessary care is not made, is just like that the region gives some of its powers to the neighboring region. Thus cooperation must design in away to give the two Regional states equal bargaining power.
- The horizontal relationship between Amhara and Benishangul Gumuz Regions should be formally strengthened. To replace some ad hoc and informal interactions, it seems due time to look for formal autonomous institutions of intergovernmental relations at all levels of Government. To perform fully as its name, the focal Federal institutions responsible in creating unity from diversity and to strengthen the federal system in Ethiopia, particularly, powers given to Ministry of Federal Affairs should be revised so as to include horizontal intergovernmental relations. Accordingly, Directorate of Intergovernmental Relations in the Ministry should also have a division devoted to facilitate horizontal intergovernmental relations among the members of federation.
- Currently, there is a move to codify the basic framework of Intergovernmental Relations. The HOF and MOFA as coordinators of the committee has to support and do for strengthening the Committee's over all functions.
- Regional States has to be confident enough to exercise powers by their own to establish intergovernmental institutions, Regional states must give plenty heed for collaboration by making them part of their laws as their constitutions promised, and increase bargaining powers.
- The absence of formal, institutionalized, politically committed intergovernmental relation institution which results in the total dependence on the informal devices such as party channel should be considered seriously in the first place. As argued elsewhere, an institutionalized, accountable, impartial and transparent IGR system is the preeminent instrument of ensuring the continuation of the federal framework enunciated by the

constitution beyond the life span of the regime that authored it (in our case EPRDF). It is undeniably considered as a device which can contribute towards the efforts of making the federal setup as well as the constitution a permanent institution and feature of Ethiopian political life. In turn, as some suggests, institutional mechanisms for intergovernmental relations should be permitted to evolve in the form of autonomous government bodies which will survive regardless of party bickering.

- The MoFA, under its current conditions, lacks all the attributes to be a robust institution of IGR-not only in terms of its competence and unmanned character, but also its very nature of being a federal executive wing established to deal with issues of federalism and other administrative duties from the perspective of the federal government. Since it is a federal executive institution, it considers establishing independent organ of IGR as an act against its continued existence.
- No law that characterize IGR in Ethiopia, there is no clarity among officials and the people as to the type and nature of activities that can be under the realm of IGR. Due to this there are a number of actors especially in horizontal IGR. The increase in the number and range of actors involved in IGR adds complexity and hence, potentially, inefficiency to their operation. Thus, a guiding law of IGR must be enacted by both the federal and Regional governments keeping their constitutional power in to consideration to fill the legal loop holes.

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- Interview with Ato Awoke Aysheshim, BGNRS Finance and Economic Development Bureau Head, made on February 6/2014, Assossa.
- Interview with Ato Ayeru Abebe Planing and Coordinating core process owner at BGNRS Administration and Security Affairs Bureau, made on February 5, 2014, Assossa.
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Appendix: Interview Guide

1. What are the areas you frequently made horizontal intergovernmental agreements with Amhara/ Benishangul Gumuz regional state? (since there are facts showing that certain agreements are made)
2. What is/are the Actor/s that made the agreement on behalf of the regional governments?
3. What Formal and Informal Mechanisms are available in Regional States to implement IGR?
4. Who Chairs the Communication? And what is the Implication?
5. What the Decision Making Process looks like?
6. Which Law or Guiding Principle Regulates the Issue of Horizontal IGR?
7. Who cover Budget/costs of implementation of IGR between Amhara and Benishangul Gumuz Regional States?
8. How much these agreements come to settle the purpose assigned to serve?
9. The role of HOF in regulating IGR, don't you think that there is overlap on power between HOF and MoFA?
10. How do you see the Bargaining process among these two regional states during the cooperative agreement making? Do you think that the Ethiopia states are equally powerful enough to challenge one other?
11. What do you perceive as the major strengths and weaknesses with the IGR framework for the federal arrangements?
12. In general what do you feel about the current Intergovernmental relationship between the states and the federation?
13. What is the major role of the Ministry of Federal Affairs in general and the IGR Directorate in particular? Do you think that MOFA can properly handle its mandate as IGR forum?