

**THE IMPACT OF FEDERAL-STATES INTERGOVERNMENTAL
RELATIONS ON REGIONAL STATES AUTONOMY IN ETHIOPIA**

**ADDIS ABABA UNIVERSITY
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**JUNE, 2014
ADDIS ABABA, ETHIOPIA**

**THE IMPACT OF FEDERAL-STATES INTERGOVERNMENTAL
RELATIONS ON REGIONAL STATES AUTONOMY IN ETHIOPIA**

A THESIS

**SUBMITTED TO POST GRADUATE STUDIES OF ADDIS ABABA UNIVERSITY
IN PARTIAL FULFILMENT OF THE REQUIRMENTS FOR THE DEGREE OF
MASTER OF ARTS IN FEDERAL STUDIES.**

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JUNE, 2014

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Declaration

I, **Kenna Deme**, hereby declare that this thesis is my original work and has never been presented in any other institution. To the best of my knowledge and belief, I also declare that any information used has been duly acknowledged and submitted for the partial fulfillment of the requirements for the Master of Art in Federal Studies, Addis Ababa University.

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Acknowledgment

Next to the almighty God, many people have assisted my work. The preparation of this thesis becomes possible through the help of my advisor, Dr. Assefa Fiseha, who tirelessly provided insightful comments. I am deeply indebted to thank him for understanding my interest and giving shape from the beginning to the end. It would be difficult to list all but I am most grateful for all respondents found at different offices, political parties and academicians who provided me information when I needed.

I am most grateful to my uncle Hailu Negero who sponsored me financially during my study and it is due to him that I came to world of education. Finally, I am grateful to Kuraz Mekonnen and his family for providing me a house where I stayed during my study. Thank you all who made the road easier.

However, errors, points of view and omissions of the findings and analysis rest solely on me.

Kenna Deme

June, 2014

Table of Content

| Content | page |
|---|-------------|
| Declaration..... | i |
| Acknowledgment..... | ii |
| Table of Content..... | iii |
| Acronyms..... | v |
| Abstract..... | vi |
| | |
| CHAPTER ONE: Background of the study | |
| 1.1 Introduction..... | 1 |
| 1.2 Statement of the Problem..... | 3 |
| 1.3 Research Questions..... | 5 |
| 1.4 Objective of the Study..... | 6 |
| 1.5 Methodology of the Study..... | 6 |
| 1.6 Scope of the Study..... | 8 |
| 1.7 Significance of the Study..... | 9 |
| 1.8 Limitations of the Study..... | 10 |
| 1.8 Organizations of the Study..... | 10 |
| | |
| Chapter Two: Notions and Comparative Overview of Federal-States IGR | |
| 2.1 Introduction..... | 11 |
| 2.2 Conceptual Definitions of Federal-State Intergovernmental Relations..... | 11 |
| 2.3 Determinant Factors of Federal-States Intergovernmental Relations..... | 14 |
| 2.4 Notions of Intergovernmental Relation Dimensions, Channels and Principles..... | 20 |
| 2.5 Federal-States Intergovernmental Relations vis-à-vis State Autonomy..... | 25 |
| 2.6 Comparative Overview of Federal-States Relations among Selected Federations..... | 29 |
| 2.7 Conclusion..... | 39 |
| | |
| Chapter Three: Federal-States IGR Impact on State Autonomy in Ethiopian Federal System | |
| 3.1 Introduction..... | 40 |
| 3.2 Overview of Ethiopian Federal System and Federal-states IGR..... | 41 |

| | |
|---|----|
| 3.3 Constitutional Basis of Federal-States Intergovernmental Relations..... | 43 |
| 3.4 Institution of Federal-States Intergovernmental Relations: Appraisal of its Practice..... | 48 |
| 3.5 Federal-State Relations under Dominant Party System | 57 |
| 3.6 Informal Federal-States Relation and State Autonomy | 63 |
| 3.7 De facto Nature and Political Culture of Federal-States Relations..... | 66 |
| 3.8 Federal-States IGR Influences State Autonomy: Does it Convincing Ethiopian Case...69 | |
| 3.8.1 Federal-State Relations and State Legislative Autonomy..... | 70 |
| 3.8.2 Federal-State Relations and State Executive Autonomy | 74 |
| 3.9 Problems and Prospects of Federal-State Relations in Ethiopia..... | 78 |
| 3.10 Conclusion..... | 83 |

Chapter Four: Conclusion of Discussions and Recommendations

| | |
|--------------------------|----|
| 4.1 Conclusion..... | 85 |
| 4.2 Recommendations..... | 88 |

References

| | |
|-----------------------------------|----|
| Books, Journals and Articles..... | 91 |
| Constitutions..... | 93 |
| Proclamations and Documents..... | 94 |
| Appendix of Interview Guide..... | 95 |
| Appendix of Informants List..... | 97 |

Acronyms and Glossary

| | |
|---------------|--|
| ANDF | Afar National Democratic Front |
| ANDM | Amhara National Democratic Movement |
| ANC | African National Congress |
| BGPDUF | Benshangul Gumuz Peoples Democratic Unity Front |
| CoAG | Council of Australian Governments |
| <i>Coffee</i> | Oromia National Regional State Council |
| EPRDF | Ethiopian People’s Revolutionary Democratic Front |
| FDRE | Federal Democratic Republic of Ethiopia |
| GPDF | Gambela People’s Democratic Front |
| GTP | Growth and Transformation Plan |
| FFC | Financial and Fiscal Commission of South Africa |
| HNL | Harari National League |
| HoF | House of Federations |
| HPR | House of People’s Representative |
| ICS | Intergovernmental Conference Secretariat |
| IGR | Intergovernmental Relations |
| MoFA | Ministry of Federal Affairs |
| OFDP | Oromo Federalist Democratic Party |
| ONRS | Oromia National Regional State |
| OPDO | Oromo Peoples’ Democratic Organization |
| ORA | Organization for Regional Affairs |
| SNNPR | Southern Nations, Nationalities and Peoples Region |
| SPDF | Somali Peoples Democratic Front |
| TPLF | Tigray Peoples Liberation Front |

Abstract

*F*ederal-states intergovernmental relations have direct impact on the operation of the federal system and 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. This is so, because intergovernmental relations are inherent in federations which give life to the federal system through practice after the constitution divide powers between orders of government. Some federations deal it in their constitution while others develop through legislation. Some relies on institution that manages these relations. In Ethiopia, the constitution is not adequate in providing some hint how to manage. Nor it provided institution that does this. The federal government established organization of regional affairs in 1994 that later devolved to ministry of federal affairs in 2001. As the assessment of this institution is made by this thesis, it is limited to some extent, if not invisible in coordinating the relations between federal government institution and states institution. This thesis is aimed to analysis the impact that federal-states intergovernmental relations operate in the absence of adequate constitution and practical institution, in the dominant ruling party and infant-stage federal system has on the autonomy of states. To come to this objective, it firstly provided conceptual framework from existing literatures and then captured federations' experiences. It also used interview conducted on four groups; namely, government official at state, government official at federal, academicians group who are familiar to the study and political party both ruling and opposition party. Using all these mechanisms, the result shows that in Ethiopia, federal-states intergovernmental relations influences the constitutionally given state autonomy and the federal government and its executive institutions dominates the process of Ethiopian federal-state intergovernmental relations. Specifically speaking, the party politics in Ethiopia subordinates the regional states to the federal government in which states ruling party are used as a puppet and only central party TPLF/EPRDF controlled the system that leads to centralized federalism in Ethiopia.

Chapter One

Background of the study

1.1 Introduction

The concept of federal-states intergovernmental relations 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. It is originated in United States in 1930's, motivated by a strong concern for the effective delivery of public services to clients. It is an omnipresent, if sometimes underestimated, inherent and dimension of any federation. This is the case, whether the federal system is the result of a process of unification or of devolution, holding together or coming together, dualist or integrated, coupled with a parliamentary or a presidential system, regardless of the legal tradition in which it is grounded.¹ Ethiopia, since 1991 started a process of devolving considerable power, resource and responsibilities to the states and lower levels of government in an attempt to ensure good governance, democratization and development. The 1995 federal constitution apportions powers and authority between the federal government and nine regional states government and the two administrative cities of Addis Ababa and Dire dawa, though the latter is not mentioned in the constitution but through federal proclamation.

The scholar(s) of the field of intergovernmental relations argue that the achievement of the objectives of Intergovernmental Relation is dependent on social, political and economical factors of that particular federal state.² The goals of intergovernmental relations are to promote peace and harmony, minimize (avoid) inter-jurisdictional conflicts among federal and states orders of government, improve greater natural economic integration and enhance effective and efficient utilization of available human and material resources. On the other hand, the inherent and inevitable intergovernmental relations within federations often give rise to ineffective governance, influence autonomy of one another, competition and conflicts between orders of government.³ According to Ethiopian constitution, each regional states government has a sovereign status and has been given considerable powers and authority,

¹ R. L. Watts, 'Comparing Federal Systems,' 2nd ed.; Montreal & Kingston: School of Policy Studies, Queen's University, 2008 at 116-120

² J. Peter Meekison, 'Intergovernmental Relations in Federal Countries': A Series of Essays on the Practice of Federal Governance, Ottawa, Forum of Federations, 2009 at 31

³ Ibid

including a separate regional constitution, an elected regional assembly, and the right to use own national language and public administration and courts. In addition, the federal constitution gave the right to establish their administrative tier of government and each tier established will be autonomous. However, there are significant gaps in institutional and administrative capacity among the different states of the country, particularly in terms of size of population, land area, socio-economic development, administrative capacity and level of infrastructure and services which has its own impact on democratic and effective intergovernmental relation between federal and states orders of government.

Intergovernmental relations between two or more levels of government especially, vertical relation between federal and states has significant impact on the autonomy of states government.⁴ Since intergovernmental relations are basically based on federal and states relations, come to look at that, the federal government might have more autonomy than the latter due to the reason that the states are the last order of government in this context. The states government may depend on the federal government in their relations.⁵ This is especially true in an excessively cooperative federalism and dominant ruling party where states authorities accept everything almost in an invariable fashion and forget to account to their constituencies.

The manner of regulating intergovernmental relation depends on the nature of the relationship between the bodies intending to regulate it.⁶ If the document governing the relationship between these bodies is crafted in a way that enable one level of government to dominate the other, or if the political system is inclined in that direction, then federal-states intergovernmental relation is regulated in a manner that favors the domination of one order of government, which affects the constitutionally given autonomy of the other. When we fit this in to a state autonomy view, if states are taken as an extension of the federal government and its institution, the relationship is that of trickling down one. In other words, the states

⁴ Deil S.Wright, 'Intergovernmental Relations: An Analytical Overview', *Annals of the American Academy of Political and Social Science*, --, at 4-5. See also David Cameron, 'The Structures of Intergovernmental Relations', Blackwell Publishers, 2001 at 122

⁵ *Ibid* at 112

⁶ Lijphart, A. 'Patterns of Democracy: Government forms and performance in thirty-six countries'. New Haven, CT: Yale University Press, 1999 captured in *Ibid* at 19-21.

and their institutions will have the responsibility of enforcing federal programs and decisions.

Federal-States intergovernmental relations which are a continuous activity carried out on a daily basis as depicted above would continuously undermine the autonomy of the states government.⁷ Due to the dominant position of the federal government and its institutions by different methods, the states autonomy may possibly erode and ultimately fall under the auspices of the federal government and its institution. Therefore, it is wise to analyze this issue in the Ethiopian federal system through this thesis.

1.2 Statement of the Problem

The structure of Intergovernmental Relations has impact(s) on the efficiency and equity of service delivery, the social safety net, and poverty alleviation programs to the development of the financial sector and macroeconomic stability.⁸ Depending on the nature of the federation, federal-states Intergovernmental relation may be conducted on a cooperative, competitive, coercive and conflicting basis. When the federation is a decentralized one and is a coming together one, the tendency is towards competition and when it is a centralized and holding together one, the relationship takes the form of cooperation and the issue of autonomy comes to the scene at this point.⁹

The links between the excessive cooperation between the two layers of governments will result in centralized federalism.¹⁰ The constitutional grant of autonomy and power to the states can either be reduced or the federal through its institution and power may make them non-existent or invisible to describe. Thus, complexity is inherent and persistent features of intergovernmental relations and accomplishments of the federal-states intergovernmental relations objectives depend on the successful management of these complexities.

⁷ Ayana Simachew, 'Intergovernmental Relations in Ethiopian Federalism: The Role of Ministry of Federal Affairs in Facilitating Intergovernmental Relations, Lambert Academic Publishing, 2011 at 5

⁸ Litvack and Jessica Seddon, 'Decentralization Briefing Notes', WBI Working Papers in Collaboration with PREM Netwo, World Bank, - at foreword at <http://siteresources.worldbank.org/WBI/Resources/wbi37142.pdf> as visited on 21 Nov, 2013

⁹ Brunetta Baldi, 'Beyond the Federal-Unitary Dichotomy,' Institute of Governmental Studies, University of California Press, 2009 at 2

¹⁰ Merera Gudina, 'Ethnicity, Democratization and Decentralization in Ethiopia: Eastern Africa Social Science Research Review, Volume 23, Number 1, 2007 at 23

In Ethiopia, FDRE constitution (Art47/4) declares that all units of federation shall have equal rights and powers and Article (50/4) states that adequate power shall be granted to the lowest units of government to enable the people to participate directly in the administration of such unit. However, in the inevitable relations between the federal and states orders of government, the FDRE constitution has not adequately provided common forum of cooperation nor explicitly gives evidence how to manage and shape the fundamental principle of co-existence between the two spheres. Hence, the relationships between the federal government and states as well as states and lower orders (levels) of government are not adequately and clearly defined in the constitution.¹¹

Institutionally, the key federal institution in federal-states intergovernmental relations has been the Office for Regional Affairs (ORA) within the prime minister office that later devolved to Ministry of Federal Affairs (MoFA) in 2001. The role of this ministry as an institution for co-ordination of federal-states relation is obviously stated under proclamation 471/2005.¹² However, there is a critic that practically there is no institution for federal-states intergovernmental relations than the political party mechanism in Ethiopia.¹³

In federal-states intergovernmental relations, dominant homogeneous ruling party have impact on states autonomy, that the ruling party controls the institution of both federal and states either directly through its member parties or indirectly through joined parties that appear to be autonomous, but have strong links with the ruling party.¹⁴ Through the standard of cooperation, the center influences the states and takes the whole federation under its control by adopting uniform party structure and policy making system. In such situations, state governments lose their autonomy based on their consent for cooperation or because of influence of the federal government and its institution which affects not only autonomy of states but also the federal system itself as it leads to centralized federalism in practice.¹⁵

¹¹ UN-HABITAT, 'Local Democracy and Decentralization in East and South Africa', with support from the Rockefeller Foundation; Experience from Uganda, Kenya, Botswana, Tanzania and Ethiopia, (), 2002 at 89-95

¹² Proclamation No. 471/2005 established to provide for the 'Definition of Powers and Duties of the Executive Organs of the Federal Democratic Republic of Ethiopia', 12th year No.1, Addis Ababa, Federal Negarit Gazeta, 17th November 2005

¹³ Assefa Fiseha 'Ethiopia's Experiment in Accommodating Diversity; A Twenty Years Balance Sheet; Ethiopian Journal of Federal Studies; Centre for Federal Studies; Addis Ababa University Press, Vol.1, No.1, 2013 at 125

¹⁴ Lovise Aalen 'Ethnic Federalism in a Dominant Party State: The Ethiopian Experience 1991-2000' Report R 2002 Michelsen Institute Bergen, Norway, 2002 at 89, see also Asnake supra note 12 at 241 and Merera supra note 29 at 88

¹⁵ William M. Chandler and Christian W. Zollner 'Challenges to Federalism: Policy Making in Canada and Federal Republic of Germany, Institute of IGR, Kingston; Queens's University Press, 2006 at 23

Putting in a simple word, there is no doubt that the states or ethno-national groups are recognized as the major actors¹⁶ in the federal system of Ethiopia based on the pages of the constitution; however the argument is based on their role and the authority to reflect their autonomous existence given constitutionally. Thus, the constitutional division of power in Ethiopia does not matter to maintain the federal system and the notion that the states are the superior actors in the Ethiopian federal system seems an argument from the constitutional eye, but the issue that remains unsettled is whether the states are in a position to use some of their powers that the constitution gives them freely without any implicit and explicit pressure from the center. In other words, in the absence of adequate constitutional provisions or legislation principles and practical institution of federal-states intergovernmental relations and existence of dominant ruling party, states autonomy in the cover of federal-states intergovernmental relations need practical assessment. On the other hand, intergovernmental relation cannot be stable if the ruling party loses its position in states in the future. This is because if there are two different political parties in both the federal government and the states, there might be intergovernmental conflict in the existence of constitutional and institutional gaps.

As academic evidences and survey of the existing literatures reveal, research of the impact of federal-states intergovernmental relations on states autonomy are not adequately conducted. So, by taking into consideration all the above points, the need to conduct an assessment on the area is firmly believed.

1.3 Research Questions

Based on the above stated problem, the following research questions are provided to be answered.

1. What are the constitutional basis or *de jure* principles of federal-states Intergovernmental Relations in Ethiopian federal system?

¹⁶ Hashim Tewfik; 'Transition to Federalism: The Ethiopian Experience'; Forum of Federations, 2010 at 3-6

2. How is the effectiveness of Intergovernmental Relations institution, Ministry of Federal Affairs established to coordinate and manage the federal-states intergovernmental relations?
3. What impact does federal-states Intergovernmental Relations has on regional states autonomy in Ethiopian federation?
4. What will be the alternative institutional design (mechanisms) for bringing effective federal-states Intergovernmental Relations in Ethiopia based on the study?

1.4 Objective of the Study

The main objective of the study is to assess the impact of federal-states Intergovernmental Relations on regional states autonomy in Ethiopia.

1.4.1 Specific Objectives

Other objectives of the study include:

1. To identify the constitutional basis of federal-states Intergovernmental Relations of Ethiopian constitutional aspect.
2. To assess the effectiveness of institution of Intergovernmental Relations in managing federal-states relation in Ethiopian federal system.
3. To identify problems and prospects of federal-states intergovernmental relations in Ethiopia.
4. To recommend measures required for an improved federal-states Intergovernmental Relations in Ethiopia based on the study made.

1.5 Research Methodology

This section deals with the methodological considerations of data collection. The aim of this section is to ensure the validity and reliability of the analysis by describing how the data are collected and interpreted. Methodologically, it is based on qualitative method. A qualitative phenomenon, phenomena related to or involving quality or kind is described qualitatively. It relied on both primary and secondary sources.

1.5.1 Secondary Sources

This research employed literature and document analysis as one data collection procedure. Therefore, books, journals, constitution of Ethiopia and other federations as well as Ethiopian states, reports and article are consulted. Proclamations, programmes and official documents with relevant ideas were also parts of secondary data for this study.

1.5.2 Primary Source

Back up by secondary sources mentioned above, this study also depended on data gathered from primary source. The primary source of data is obtained through the use of interview with government officials and experts at federal and state orders of government, academicians and political parties. It strategically and structurally conducted interview so that outputs depended up on the ability of interviewer to avoid bias from every sides.

1.5.3 Sample Technique

This study is drawn by purposeful (non-probability) sampling technique. Key respondents are selected based on purposeful sampling method. This technique is used to get authorities, knowledgeable persons and experts in the desired information. As discussed under sample size following this sub-section, before I started the actual data collection, I had purposefully selected respondent from decided group lists.

1.5.4 Sample Size

The interviewees are selected to ensure variety of opinion, but not statistical representation, as my aim is to understand and not to measure opinions on the issue under discussion. As the list of informants shows, I have deliberately chosen respondents from the concerned government officials, academicians and political party, both ruling and opposition. Before, I started the actual data collection, I had already defined which groups and peoples that I wanted to obtain information from for a couple of reasons. These are; the primary source of this study is limited to only interview and it is decided to ensure its adequacy using different groups while the other is for triangulation purpose. Thus, the interviewees can be categorized in to four predetermined groups. Firstly, Government officials found at the state (Oromia National Regional State), including regional state council (*Caffee*). Secondly,

Ethiopian Academic group who are familiar to the issues by taking careful procedure and telling them they are purposefully selected representing academicians and the required response has to be from academic view only. Thirdly, government officials at federal level and ministry of federal affairs Intergovernmental Relations strengthening Directorate and Finally political party group which include ruling political party and opposition political party. In doing so, the interviews include discussions with 12 peoples, each lasting a minimum of 15 and a maximum of 40 minutes. I used hand written notes through face to face communication, despite the fact that the use of tape recorder would give more accurate information, some informants refused to use tape recorder at the beginning day of interview collection. It is clear that most important of all, to make notes does not make the informant as suspicious and uncomfortable as the use of a tape recorder might do. Some names are kept confidential due to the sensitivity of the matters discussed and not willingness of respondent except those of people who have expressed their name to use visibly.

1.5.5 Data Analysis

The information value of each discussion varies but close to each other to some extent. Some of the interviewees provided substantial and essential information, while others were unwilling to give their information. Some informants manipulate the reality and present it as it best serves their interests while some give information for the question which they are not asked that repeatedly faced me especially, some of government officials found at centre and regional state. When different informants give contradictory versions of information or processes, I am forced to interpret what is the most likely to have happened depending on the conceptual facts discussed under conceptual framework chapter. In such situations, it is particularly important to be aware of my own impact on the interpretation although I have tried to make all sides heard. Finally, similar values and opinions are systematically grouped under one category for better understandings and analysis.

1.6 Scope of the Study

This study is conducted by taking one national regional state as sample study to see the practical context of federal-states intergovernmental relations in Ethiopia. Due to the fact that there are nine national regional state governments and two city administrations in Ethiopia, I decided to center

the research at Oromia national regional state. The Oromia regional state is populous, relatively among constituent states of Ethiopia and covers over the largest part of the country. According to the census published in 2007, this regional state has 27,158,471 populations, of which 13,676,159 male and 13,482,312 female. The council of the state of Oromia is the highest body of its administration and its capital city is currently, Addis Ababa. The borders of this state are Afar, Amhara and Benishangul/Gumuz in the north, Kenya in the south, Somali of Ethiopia in the east, Sudan and the state of Benishangul/Gumuz in the west, Southern Nations, Nationalities and Peoples' and Gambella in the south. The major ethnic groups within this state are Oromo, Amhara and Gurage and the religious compositions of the population are Orthodox Christians, Protestants, Muslims, and followers other religions. Afan Oromiffa, inscribed with Latin characters, is the official language of this regional state.

Federal-states intergovernmental relations has different objectives as well as impact such as improving local service and infrastructure, ensuring sustainable development and others which can not be boiled here all in all. However, this study is limited to its impact on the constitutionally given states autonomy. Specifically, it assesses its impact on states autonomy given constitutionally to make their own plans and policies as well as implement their own affairs within their own jurisdiction. Additionally, as discussed in next chapter, Intergovernmental relations can be both vertical from top to down and horizontal of the same sphere of governments. For this study, it is limited to the vertical (federal-states) one.

1.7 Significance of the Study

Even though some studies have been done on the area of intergovernmental relations, the existing literature of its impact on autonomy of states is rare. So, it reduces the literature gap and adds to the existing one. It has significance to the researchers by making them aware of problems that have been uncovered by them in their subsequent research work in the area of federal-state relations and state autonomy in Ethiopia. It provides issues on the study of federal-states intergovernmental relations in particular and intergovernmental relations of federal system in general and state autonomy so that it will be included by academicians and researcher who works in these areas in their future studies. After its findings, it will tend to provide some recommendations or implications.

1.8 Limitations of the study

Choosing the right regional government for sample study was a challenge that it is not easy to get state government that could give out accurate and detailed information needed. It is due to financial and time constraints that this thesis limited its studies to only one regional state, Oromia national regional state. The extreme financial problem to use different methods of data collection like questionnaire during the course of this thesis is other limitation. Additionally, during the course of data collection, informants' reluctance to respond for the question they are asked and giving views for the question which they are not asked, delegating the task to other peoples and giving too much appointment, especially from officials groups are major limitations faced in this study. Some of those officials whom I move toward were willing to share their views. However, higher officials were harder to get. Some of them did not bother to reply to my requests, while others delegated the task to deputies or other lower officials. In these cases, I depend on other sources, such as academic literature discussed in conceptual issue and information provided by other interviewees and based on this, make interpretations.

1.9 Organization of the Study

This thesis is organized in four chapters that each chapter has its own contributions and sub-topics. Chapter two provides conceptual frameworks of the study and experiences of other federations of the world that helps us to provide where and how to begin. This chapter deals issues through lenses of constitution, legal and institutional framework, structures and process aspects of federal-states intergovernmental relations. Chapter three is the continuity of the preceding chapter and main parts that discusses the constitutional basis, institutional effectiveness, appraises impact of federal-state relations on state autonomy, clearly shows autonomy of state influenced/enhanced because of both orders intergovernmental relations and finally, identifies the overall problems and prospects of federal-state relations in Ethiopian context. In doing so, it is based on conceptual frameworks discussed, review of literatures made and data collected through interview. The final chapter concludes the discussions and provide some recommendations for the future improved federal-states intergovernmental relations based on the study made through different mechanisms stated earlier.

Chapter Two

Notions and comparative overview of Federal-States IGR: Conceptual Frameworks

2.1 Introduction

This chapter focuses on conceptual frameworks of this thesis through review of existing literature that is relevant to the study. Having explained the conceptual definitions and factors that determines and varies federal-states¹⁷ Intergovernmental Relations firstly, it discusses the federal-states intergovernmental relations dimension, channel and principles. Following this, it provides the notion and nexus between federal-states Intergovernmental Relations and states autonomy to discuss how autonomy of states can influenced in both orders intergovernmental relations. Finally, it provides the comparative overview of some federations based on the discussed conceptual issues to capture the relevant experiences for the objective of this thesis. In this kind of journey, it discusses the Ethiopian context under each section. In doing so, the contribution of this chapter is providing conceptual frameworks of this thesis to the study of federal-states Intergovernmental Relations impact on states autonomy.

2.2 Federal-States Intergovernmental Relations: Conceptual Definitions

The concept of Intergovernmental Relations is originated in 1930s in United States of America and by 1950s; it gained widespread currency following the creation of the Advisory Commission on Intergovernmental Relations. This evolution came to the forefront following the beginning of the significant economic and social development programs by the existing federal government that began to have greater impact on one another levels of government. One scholar asserted that ‘federalism old is dead, yet federalism new style is alive and well and living in the United States, its name is Intergovernmental Relations’¹⁸ to explain the intergovernmental relations concept. In federations, constitution allocates power and responsibilities among levels of government; Intergovernmental Relations give life to that federal system established by the constitution.¹⁹ Having saying this, it is a series of legal, political and administrative relationship established among units of government which

¹⁷ After this, unless and other wise mentioned, States represents Cantons of Swiss, Provinces of Canada and South Africa, Lander of Germany and States of United States while Federal is central government of federations.

¹⁸ Banovetz, 1980, p.141 cited in (--) ‘Politics of Intergovernmental Relations: An Appraisal of Current Issues;’ International Journal of Asian Social Science; accessed on 2/11/2013 from <http://www.aessweb.com/pdf-files/ijass-pp.1892-1905.pdf>.

¹⁹ The Necessity of Intergovernmental Relations in Federal Ethiopia; A concept paper for Discussion, Nov, 2011 at 10

posses varying degrees of authority and jurisdictional autonomy.²⁰ Intergovernmental Relations connects governments and deals with the activities and interactions between governments at different levels. It involves communication, coordination and cooperation, all directed to achieving common or mutually acceptable goals. Intergovernmental Relations is also a term that some use to describe the detailed governance of managing interdependence among nation states.²¹ Intergovernmental Relations can be seen as relationship between all levels of governments within a political system. The result, then, is that a full analysis of intergovernmental relations within a federal system can be federal-state, federal-state-local, federal-local, and inter-state, state-local and inter-local relations.²² The United Nations and its many allied agencies are essentially Intergovernmental, in that they depend on the agreement and funding of their constituent members to get things done. In the past twenty years, there are also the developments of major supranational institutions, most notably the European Union, that have raised the standard for how nation-states can pool their sovereignty to achieve joint goals through Intergovernmental Relations.

In a public policy context, it is the complex and interdependent relations among spheres of the national, provincial and local governments in coordination of public policies.²³ The implication of writers definition is that Intergovernmental Relations suggest cordial or harmonious relationship among the various levels of government and their agencies while in case of this discussion it is between the federal and states government levels. If we reduce our analysis squarely to this, we will at once see that intergovernmental relationship is dominated by the association between the federal government and its federating units, states. Although, the emphasis in the analysis of intergovernmental relations is on federal-states relations, the full picture also includes how both levels relate to the local government units established within each state.

²⁰ Ronald defined Intergovernmental Relations as a system of transactions among structured levels of government in a state. For him, IGRs are the relationship that takes place among the different levels of government within a given state that are autonomous constitutionally and legally. See R. L. Watt, 'Comparing Federal Systems of 1990s', McGill: Kingston, Queens University Press, 1996 at 52-56

²¹ See Deil wright, 'Understanding Intergovernmental Relations', 3rd edition (pacific grove, CA;Brooks/cole publication, 1988). He defines Intergovernmental Relations as conventionally important interactions between government units of all types and levels within political system and it is not synonymous with the study of federalism- in that it is narrower and one of the many aspects of federal system.

²² For instance, Ralph noted that Intergovernmental Relations admit that the constitution cannot spell out all relations in a federal system and that division of duties and responsibilities cannot be absolute. He also believes that IGR refer to the whole array of activities intended to iron out the conflict inherent in a federal arrangements and that it stands on the premises that force, coercion or confrontation may be counterproductive. See Ralph supra note 174 at 2004

²³ For public policy analysis's it concerns the relationship between policy adoption and implementation. For more see DPLG, Inaugural Report, South Africa, and 2005 Cited in MoFA, Intergovernmental Relation Strengthening Directorate Report, January, 2011, Ethiopia.

Intergovernmental Relations is commonly associated with a federal system of government, it is system of transactions among structured levels of government in a state,²⁴ which does not mean that in a unitary system of government we do not have measures of intergovernmental relations, but a basic point to note here is that such subordinate government does not have the same attitude of freedom as a federal system would offer. Although applied in a unitary state, it referred to as the interactions between the national government units and levels of government without constitutionally divide powers and autonomy. On the other hand, in the concept of intergovernmental relations, as earlier stated, is not the same thing as federalism. While no single definition of federalism is generally accepted, it can be described as the contractual and legal status of power and sovereignty between the centre government and the states and to some extent between both the national and state governments and localities. Intergovernmental relations however involved the wide range of interactions among all types land levels of government.

In Ethiopia, federal-states intergovernmental relations refers to the political, economical and social interactions that exist between the federal government and nine ethno-linguistic based national regional states and two city administrations. Thus, for this study however, the focus is the day to day activities and interactions of all aspects including public policy and laws between federal government and Oromia regional state.

The 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. However, there are numerous variations in the nature, structure and patterns of Intergovernmental Relation's from one country to another which arises principally from the differences in culture, tradition, history, origin of the state, party system, institutions and system of state organization of the different societies. It is advisable to be country specific in the analysis of structure, system, process, and effectiveness of federal-states Intergovernmental Relations. The outcome therefore, is

²⁴ Because, the constitutional allocation of governmental functions between federal and regional governments in a federal system is absent in unitary. It is the central government that determines which functions to allocated to the sub-national governments. It can also decide to modify the functional allocations without consulting the lower units. It also unilaterally even determines both the substance and the style of intergovernmental relations, itself.

that there is no best system of federal-states Intergovernmental Relations for all countries rather it all depends on the peculiar circumstances of each federation. Indeed, even within a particular country, the system of federal-states Intergovernmental 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 cooperative.²⁵ This will lead to identify what factors determine and varies federal-states Intergovernmental Relations in the next section.

2.3 Determinant Factors of Federal-States Intergovernmental Relations

The inevitability within federations of overlaps in exercise of the powers distributed to spheres of governments has generally required the different orders of government to treat each other. This has necessitated Intergovernmental Relations of extensive consultation, cooperation and coordination between government units.²⁶ However, there are a number of factors that affect and vary a character of federal-states Intergovernmental Relations. Some of these factors relevant to this study are discussed under this section.

The constitutional allocation of powers to each levels of government is a factor that affects Intergovernmental Relations. This is important element because the constitution defines the scope and the kind of Intergovernmental Relations, and provides basis of intergovernmental relations.²⁷ The constitution may clearly envisage the nature of allocation of power to each government i.e. the extent of concurrent and frame works powers for both the federal and the states. Besides the constitution also inform what exclusive, shared and residue powers are granted to the federal government and the constituent units that determine the nature of Intergovernmental coordination and cooperation between federal and the states.²⁸ The concurrent powers listed or overlap of power in the constitution requires the federal-states relations to be existing which varies from country to country.

²⁵ See Timothy J. Conlan and Paul L., 'Intergovernmental Management for the 21st century', Brookings Institution Press, 2008 at 234

²⁶ See K. Le Roy and C. Saunders, eds., Legislative, Executive and Judicial Governance in Federal Countries: Forums of Federations and International Association of Centers for Federal Studies: A Global Dialogue on federalism, Vol, 3 Montreal & Kingston: McGill-Queen's university press, 2005 at 9. See also R. L. Watts, 'Executive Federalism: A Comparative Analysis'; Kingston: Institute of Intergovernmental Relations, Queen's University, 1989 at 56

²⁷ Ronald Watts; 'Federalism, Federal Political Systems and Federations'; Kingston, Institute of Intergovernmental Relations, Queens University, 2001 at 113

²⁸ Ibid at 115-116

Additionally, the constitution establishes either executive or dual federalism in the constitutional power division²⁹ as a major indicator of intergovernmental relationship aspect. In dual federalism, each level of governments is supreme within its areas of responsibility and one level of government is not dominant and should not interfere in the affairs of the other³⁰ which does not give responsibility for the state machineries to enforce federal laws and policies rather it sets up its own institutions in all states to discharge the task of enforcing federal laws. Thus, it determines the relations between federal and states orders of government.

Executive federalism, on the other hand, is one aspect of intergovernmental relations that is applicable in European federations' particularly in Swiss, Germany and to some extent India. It holds that administrative responsibility does not coincide with legislative authority; administration for many areas of federal legislative authority is assigned by the constitution to the governments of the constituent units. The idea is that federal government is responsible for the enactment of federal laws and policies where as the states are entrusted mainly for implementation of such laws and policies that requires extensive collaboration and coordination between the federal and states orders of government.³¹ These factors highly affect the nature of federal-states intergovernmental relations. This is because both systems follow different systems and arrangements for coordination and cooperation. As it will elaborated in next chapter, in the former case both the executive and legislative have relative roles in Intergovernmental Relations. However in the latter the executive usually dominates Intergovernmental Relations as its name indicates. It is also important to distinguish the constitutional provisions that shape the overall structure and character of intergovernmental relations in some federations.³²

²⁹ Division of power is recognized here, it is an aspect of intergovernmental relations and its overlap and interdependence necessitate IGR. Additionally, it is feature of all federations, which give rise to complex set of relationships among different spheres. Deil wright, 'Understanding Intergovernmental Relations', 3rd edition, Pacific Grove, ca;Brooks/cole Publication, 2002 at 39. David Nice, 'The Politics of Intergovernmental Relations', Chicago: Nelson Hall Publishers, 2nd edition, 1995 at 122-145

³⁰ David Nice, Patricia Fredericksen, 'The Politics of Intergovernmental Relations', Chicago: Nelson Hall Publishers, 1995 at 6-7

³¹ Ronald Watts, 'Comparative Federal Systems,' 2nd edition; Kingston, Queens University Press, 1999 at 90

³² Not all groups of federations build intergovernmental relations provision formally into their constitution especially; older federations' b/c there is thinking that they born in an era of limited government, so that their founders saw little need for formal mechanisms to manage interdependence. In era of complex, all pervasive governance, interdependencies and spillovers grow exponentially, with the attendant risks of contradiction and duplication; it requires the development of extensive mechanisms of Intergovernmental Relations.

In addition, the nature of federal system established through constitution as cooperative or competitive has influences on federal-states intergovernmental relations.³³ This is so because if it is cooperative federalism, it contributes for the reduction of intergovernmental conflict and enables coordination between orders of government. However, if it is competitive federalism it leads to the inverse. As it will be discussed in federations experiences, in both approach of federal-states intergovernmental relations, there are benefits as well as costs. For instances, competitive federal-states intergovernmental relation has democratic value in serving citizens better, but its excess is harmful. On the other hand, cooperative federal-states intergovernmental relations enhance coordination and cooperation, but it influences state autonomy as discussed under federal-state relations vis-à-vis state autonomy, following the next section.

An important factor that affects the character of Intergovernmental Relations within a federation is a character of the political party system.³⁴ As it is discussed under comparative overview of federal-states intergovernmental relations, obviously political factors hugely affect the nature of intergovernmental relations in federations. Concerning the experience of federations, Assefa Fiseha noted that in federations there are two extreme situations with so many other options in between and if homogeneous political party control all governments both federal and the state, there would be no occasion for intergovernmental conflict and if all constituent governments are controlled by one homogeneous political party and the federal government by the other, the degree of federal conflict would be tense and all existing federations are found between the two extremes.³⁵

Additionally, William Riker states that the structure of the system of political parties is what encourages or discourages the maintenance of the federal bargaining and autonomy of orders of government.³⁶ In his conclusion George Anderson stated political parties are basic to the functioning of federations. Thus, if both the states and the federal are controlled by

³³ R. L. Watts, 'Comparing Federal Systems in the 1990s', Institute of Intergovernmental Relations, Queen's University Kingston, Ontario Canada, 1996 at 54-56

³⁴ Ronald watts, 'Intergovernmental Relations: Conceptual Issues' in normal levy and charis tap scott, IGR in South Africa: The Challenges of Cooperative Government in South Africa; University of Western Cape, 2001 at 26-28

³⁵ Assefa Fiseha; 'Federalism and Accommodation of Diversity in Ethiopia: A Comparative Study'; Nijmegen: Wolf Legal Publishers, 2007 at 384-385

³⁶ William H.Riker, 'Federalism, Origin, Operation and Significance', Boston: Kluwer Academic Publishers 1988 at 187

one homogenous political party, it avoids situation of federal-states intergovernmental conflicts because in this system, party line can be used as an effective instrument to facilitate the relation between the federal and the states. This has been the major factors contributing to the interlocked federalism for which Germany is especially, noted.³⁷

As it will discussed in the future, EPRDF, a centralized ruling party, in case of Ethiopia affects the nature of intergovernmental Relations in Ethiopian federalism and African National Congress (ANC) has been serving as a mediation body for IGR in South Africa.³⁸ On the other hand, if all states are controlled by one homogenous political party and the federal government by another, there might be conflict. In federation where different parties predominate with in different levels, the formal intergovernmental process and institutions have been the major channels for negotiating cooperative arrangements.

In almost all federations, institutions established to manage and enhance effective relations are other determinant factor of federal-states Intergovernmental Relations. Federations, either directly through their constitution or indirectly through legislation establish the institutions that manage and coordinate intergovernmental relations between different spheres. Institutions of Intergovernmental Relations built in formal governing structures and the extent that the operations of these institutions themselves governed by explicit procedures and formal decision rules, or fluid and ad hoc, developing and changing according to the political needs of the participating governments plays crucial role in determining federal-states Intergovernmental Relations.

The second chamber of federal government in some federations also influences intergovernmental cooperation and coordination through its composition, election and nature.³⁹ This is so because of the second chamber represents states or provinces in the federation in the national parliament and thus provides a forum of representing and

³⁷ Ronald L.Watts, 'Comparing Federal Systems', Institute of Intergovernmental Relations, 3rd edition, Kingston; Queens University Press, 2008 at 118-119

³⁸ Ronald watts, 'Intergovernmental Councils in Federations', Council of the Federation Series,--at-- accessed on 12/11/2013 from http://www.policy.ca/policy_directory/Detailed/Intergovernmental-Councils-in-Federations-898.html

³⁹ The character of the central second legislative chamber whether it has constituted to serve as a good forum for representatives of states or not and between the centre and states is another factor. The national council of provinces (NCoP) in South Africa is a key forum of cooperative government in which the provinces are represented.

advocating states or provinces interest in the national legislature. Additionally, the task of dispute resolution and determining fiscal transfer requires managing and organizing the intergovernmental relations in which it is a mandate of second chamber in some federations. As it will be elaborated more in section 2.9, South Africa and Germany are good examples.

In South Africa, the constitution sets out the main function of the National Council of Provinces to participate in the national law making process and provide a national forum for public debate of provincial issues. This gives the chamber a special representative role in the context of a system of federal-provinces intergovernmental relations. Additionally, the composition of the second chamber in South Africa is to facilitate close cooperation between the provincial legislature and the provincial executives and decide on matters that affect the national and provincial governments in their relations.⁴⁰

The German Bundesrat provides a key role in federal-Lander intergovernmental relations. 'Members of Bundesrat are delegates of their Lander cabinets, holding office in the federal second chamber ex officio as members of their land executive and voting in the house in a block on the instruction of their land governments.'⁴¹ Each land government has members of its cabinet to represents the interest of the land in the Bundesrat.⁴² Since these representatives are delegates of the Bundesrat and officials of the Lander government, they can be ordered and recalled by the land government.⁴³ The Bundesrat, is both legislative organ of the states within the federal state and at the same time federal administration organ in the whole state.⁴⁴ All federal laws which affect the role of the states in implementation of these laws should get the consent of Bundesrat. German federalism is known in that federal government is responsible for law making and the states are responsible for executing such laws. Therefore the Bundesrat plays two important roles. It serves as co-legislature with the lower house and representative of the Lander in administration of federal laws. In Ethiopia,

⁴⁰ This second chamber of parliament is unique in its composition, comprising 90 members- 10 per province- of the 10, six are permanent and four are special members. The permanent members are designated by the provincial legislative on a proportional basis, while the special members comprise the premier and three other members of the legislature. Thus, it is aimed to facilitate close cooperation among them. See Betrus de Villiers, "The Future of Provinces in South Africa" policy paper, Johannesburg: Konard Adenaer-Stiftung, 2007 at 12

⁴¹ Article 51 of the Basic Law

⁴² I give due attention on Bundesrat of Germany here, because in federations Germany has strong second upper chamber, executive federalism that allows Lander to execute federal laws which is one aspect of Intergovernmental Relations and thus, to discuss how this second upper chamber protects the latter's interests in this aspect.

⁴³ Watts, 'Comparing Federal Systems', 3rd edition, 2008, supra note 6 at 95

⁴⁴ Uwe Leonardy, 'The Working Relationship between Bund and Lander in the Federal Republic of Germany in Charlie Jeffery and peter savigear, eds, 'German Federalism Today', New York: Saint Martin's Press, 1991 at 45

House of Federation enters in federal-states relation in fiscal intergovernmental relations and interstates relations and dispute resolution.

In some federations, the judiciary and the extent to which it resolve intergovernmental conflict is also another factor that affects Intergovernmental Relations. In most federations the judiciary is mainly an arbitrator of intergovernmental conflicts and disputes.⁴⁵ Thus, the issue whether intergovernmental disputes are resolved through ordinary court, legislative body as of Ethiopia, or constitutional court as of Germany and south Africa, or other tribunals have its own impacts on the nature of Intergovernmental Relations.

The foregoing paragraphs put forward that intergovernmental relation is varying and affecting by different factors. A more focused look at previous discussions can suggest the fundamental conditions for federal-states intergovernmental relations. The practices in federations although demonstrates that the establishment of the provisions, guiding principle and institution of intergovernmental relations by constitution, legislation, statutory, Act and convention, it is not always true that in such condition effective and democratic federal-states relation exist.⁴⁶ There are other fundamentals more important as the legal instruments. For instance, the establishment of political culture of co-operation, mutual respect and trust are important with legal structures and procedures provided by a constitution or legislation.

One writer has pointed out that to develop trust and respect between governments it needs to have tolerance towards diversity and autonomous experimentation and a willingness to consult and consider the concerns of other governments before decisions are made.⁴⁷ Additionally, as stated earlier political forces of officials actions are as likely to be political as they are economic, and administrative. Thus, the action and political culture of officials,

⁴⁵ In India for example such conflict are resolved by federal supreme court and the federal Supreme Court in its original jurisdiction adjudicates purely federal disputes or Intergovernmental Disputes. In Germany and South Africa Intergovernmental Dispute are resolved through Constitutional Court. See article 231 constitution of India and Basic law of Germany Article 93(4). See also Donald Komers, 'Constitutional Jurisprudence of the Federal Republic of Germany', 2nd ed, Durham: Duke University Press 1997 at 13

⁴⁶ Brian Opeskin; 'Mechanisms for Intergovernmental Relations in Federations', The Australian Law Reform Commission, accessed on 02, Jan, 2014 from <http://onlinelibrary.wiley.com/doi/10.1111/1468-2451.00301/pdf>

⁴⁷ See Timothy Layman supra note 29 at 15. According to this scholar in order to enhance cooperation and coordination, a political culture must recognize the need for intergovernmental consultation and interaction between different levels of government. It should also give mutual assistance and support and exchange of information in common problems and concerns. To be effective such relations should be managed by accepted procedures.

bureaucrats and peoples involved in intergovernmental relations has to be democratic and not in a manner that danger the system of federal-states relations.

Governmental structures⁴⁸ with institutions are important for structuring patterns of interaction in federal-states relation. As a result, the structures of institutional environment, social, political and economic characteristics have to be examined. The capacity of states units especially in emerging and developing federations to run all affairs by their own is also necessary because if the states are too weak in financial, political, economic and administrative, it will necessarily require the involvement of the federal government and its institution and thus, it determines the relations between the two orders of government.

Generally, constitutional provision and division of power, institution(s) of federal-states relations, political party, second house role in some federations, political culture of officials and peoples participate in intergovernmental relations task and finally the capacity of states are determining the nature, varying and affecting intergovernmental relations between federal and states orders of government. And this will lead us to understand these factors in relations with autonomy of states as well as in federation experiences, respectively following the next section.

2.4 Notions of Dimensions, Channels and Principles of Federal-States IGR

There are many ways in which one can describe, organize, and classify systems, structure and process of federal-states intergovernmental relations. As it is discussed under first section of this chapter, no single system of classification can capture all the detail and nuance in the intergovernmental relation analysis. Under this section the notion of intergovernmental relations dimension, channels of relations and principles that guide intergovernmental relations, though it varies among federations are discussed. In any federation, intergovernmental relations can be examined from vertical or horizontal dimension and formal or informal.⁴⁹ The legislative, executive and administrative, fiscal and

⁴⁸ Ibid

⁴⁹ R. L. Watts, 'Comparing Federal Systems in the 1990s', Institute of Intergovernmental Relations, Queen's University Kingston, Ontario Canada, 1996 at 53-54

judicial and non-judicial relations are also size of intergovernmental relations which will be discussed in this section.

First, there are vertical relations between governments of different orders, i.e. federal-states relations. Though the focus in this study is federal-states which is vertical dimension, increasingly vertical relationships within federations may also involve supra federation organizations or other countries. Second dimension is horizontal relationships of different governments within the same sphere, such as interstates or inter-local relations. Typically, in federations both kinds of intergovernmental relations have been important. Within each of these two dimensions, intergovernmental relations may involve all the governmental units within a federation, regional groupings of governments, or be bilateral. In this context, all federations, both old and new, come to terms with the changing scope, character and varied dimensions of interdependence among governments.

An important instrument in most federations has been the establishment of both formal and informal councils, committees and conferences between federal and states orders of government.⁵⁰ In most federal polities such formal councils, committees, conferences and agencies have become numerous.⁵¹ Informal federal-states intergovernmental relations assume less organized and less regulated mold which is conducted via telephones, e-mails, letters and memos. Thus, according to some writer this kind of Informal intergovernmental relation is susceptible to connivance.⁵² As it is carried out mostly between executives and behind closed doors, the legislature and the people are alienated from the process. Formal intergovernmental relation requires formally established institutions that are designated to facilitate federal-states intergovernmental relations.⁵³ Negotiations, delegations and other adjustments are carried out through institutions of federal-states intergovernmental relations.

⁵⁰ For example in Canada meeting and conferences of ministers called first ministerial conferences as well as in Australia

⁵¹ These are usually held frequently enough to enable representatives of the different governments - first ministers, ministers, officials and legislators - to share information, discuss common problems, contemplate coordinated or even joint action and where appropriate establish joint bodies or agencies.

⁵² Ronald L. Watts 'Intergovernmental Councils in Federations: A Series of Commentaries on the Council of the Federations', Institute of Intergovernmental Relations, Queens University press, (--) at 5-6

⁵³ David Cameron, 'Structures Of Intergovernmental Relations, International Conference on Federalism', University of Toronto, October 1999 accessed on 04/01/2014 from <http://26772.vws.magma.ca/en/libdocs/IntConfFedBk99/ICFE9911-int-Cameron-bg.htm>

It has the advantage of informing the legislature and the people about the activities of the executive and other organs involving in intergovernmental relations.⁵⁴

Federal-states Intergovernmental relation contains different channels that require cooperation and coordination of both orders of government in federations.⁵⁵ One is executive and administrative interaction involving ministers or officials of each government consulting, coordinating and deciding on common agendas with each other which is the most common channel that dominates intergovernmental cooperation and coordination in federations. The second channel is through legislative channels which involves the legislator in each of the governments to perform legislative responsibilities. The crucial channel in most federations and decentralized political system is intergovernmental financial relations that involve financial transfers between governments. Judicial and non-judicial processes to settle intergovernmental disputes and conflicts are the last channels of relations in federations.⁵⁶ Thus, there are different dimensions, structural and channels of intergovernmental relations in federation and more recent decades have seen significant developments and reforms, including a number of innovations in coming to terms with the changing and increasing demands of federal-states intergovernmental relations among governments within federations.

The other notion in the study of federal-states relations is that though Intergovernmental relations are so much interesting in the day to day activities of different levels of government; it is also necessary to be guided through principle to achieve its goals. In federations, there are ideal principles that guide intergovernmental relations which applied for formal, informal, institutionalized or ad hoc systems that can provided in the constitutions or through other laws. South Africa, for instance has three basic principles of cooperative government which is provided under the constitution.⁵⁷ These are firstly; principle of distinctiveness which holds that the constitutional status, institutions, powers

⁵⁴ Ibid

⁵⁵ For more details see Ronald Watts, Intergovernmental Relations: conceptual issues supra note 46 at 29. He identifies the channels of communication in federation through dividing in to executive, legislative, judicial and non-judicial, fiscal and administrative Intergovernmental Relations.

⁵⁶ Ibid at 29-30

⁵⁷ See Article 41 of the 1996 South African constitution. These principles are also provided in the Preamble of Intergovernmental Relations Framework Act which enacted in August 10,2005

and functions of the three spheres of government must be protected and activities must be not in the manner that affects the geographical, functional or institutional integrity of another sphere.⁵⁸ Secondly, the principle of interrelatedness of the three spheres of government which give duty of each to cooperate with one another in mutual trust and good faith that reflect common loyalty to the republic as a whole.⁵⁹ The other principle is interdependence of spheres which is the degree to which one sphere of government depends on another for proper fulfillment of its constitutional functions. Both the provincial and local governments have the right to get assistance from the national and provincial government, respectively to discharge their constitutional responsibilities, on one hand and both the national and provincial governments have the duty to oversee the provincial and local governments, on the other hand.⁶⁰

In Australian federation, there are guiding principles of intergovernmental relations provided under intergovernmental agreement of 2006. These are transparency, accountability and effectiveness.⁶¹ Transparency principle requires that effective information about policy objectives and decisions, outcome of negotiation between the different levels of the government made by political leaders should be known to the people⁶² while accountability refers to intergovernmental coordination and cooperation should not defeat the democratic accountability of each levels of government to its own electorate and actions of political leaders must be subject to appropriate checks and balance to discharge their obligations effectively. Effectiveness principle is the main objectives of establishing intergovernmental agreement and is to achieve policy objective which are common for both federal government and the states because if intergovernmental relations are informal and complex, there will not be effectiveness in achieving policy objectives among the different levels of government.⁶³

⁵⁸ Janis Vander Westhuizen; 'South Africa' in Ann Griffith's ed, handbook of Federal Systems, Montreal and Kingston ;McGill, Queen's University Press, 2005 at 313-316

⁵⁹ South African Constitution of 1996, Article 41 (1), (h)

⁶⁰ Ibid. The national government has the duty to intervene when the provincial governments are unable to discharge their constitutional responsibilities and similar mandate for provincial to intervene in locals if failed.

⁶¹ These principles are provided under an Intergovernmental Agreement Document that was signed between the Commonwealth of Australia and eight member states on 12th April 2006

⁶² Ibid, part II

⁶³ Timothy Layman; 'Intergovernmental Relations and Service Delivery in South Africa'; A Ten Year Review Commissioned, 2004 at --, visited from <http://www.sarpn-org.za/document> on 24 December 2014

In addition to the experiences of federations discussed above, there are also other principles of federal-states intergovernmental relations developed by different writers. For instance, Ronald Watts⁶⁴ identified that federalism, self governance and constitutionalism and good faith are the guiding principles. Federal-states Intergovernmental relations need to operate in a federal system inspired by the ideology of federalism. Governments should not undermine an already established division of power across levels of government under the excuse of relations. In addition to maintaining the status quo created by federalism, promoting peoples' self governance and protecting autonomy of the other sphere is important. It must not be conducted in a manner compromising autonomy.

Constitution that established federal system is another principle. Governments must be limited not only in their actions against their people but also in their day to day conducts with each other. Other scholar, Stephen Dion, has identified other principles including what is discussed by the former scholar. According to him, cooperation is essential which require flexibility of federations to take in to account the diversity of the country in striving for joint action. He stated that federations are expected to be fair so that fair redistribution of wealth and resources among constituent units is possible and public can aware respective contributions of the different governments to each other. In doing so, there will be effective and democratic relations among federal and states spheres of government.

In Ethiopia, both the constitution and the proclamation that establishes institution of federal-states relation, Ministry of Federal Affairs is not adequately provided basic guiding principle(s) to facilitate the relations between federal and states orders of government. However, the constitution mandate both federal and states to respect the power of each other in their own jurisdiction that one can argue mutual respect can be taken as one principle.

Generally, under this section, dimensions of intergovernmental relations vertical and horizontal, formal and informal, and its channels of communication have discussed. It can be vertical top to down and horizontal the same sphere of intergovernmental relations dimensions. It is also legislative, executive, fiscal, administrative, legal and judicial as well

⁶⁴ Ronald Watts's Article of Intergovernmental Councils in Federations' edited by Douglas Brown at Queen's University: The Institute of Intergovernmental Relations and for Research on Public Policy in Montreal, (-) at 12-16

as political and economical relations. The principles that guide intergovernmental relations vary across federations and some federations like South Africa and Australia has expressed basic guiding principles in their constitution or through legislation. And some scholarly written principles and preconditions are discussed. Thus, it can be guided through, but not limited to only these mentioned above. In next section the nexus between intergovernmental relations and autonomy of state government will discussed to understand how autonomy of states can influenced in both orders intergovernmental relations.

2.5 Federal-States Intergovernmental Relations Vis-à-Vis States Autonomy

This section provides discussions of how autonomy of states can be affected in federal-states intergovernmental relations. It identifies the nature and nexus between federal-states intergovernmental relations and states autonomy through showing how determinant factors of federal-states relations discussed under previous section have influence on autonomy of states. The main methodological assessments of states autonomy can be focused on the actual working of federal-state relations instead of its formal specification.⁶⁵

In federal system, federal-states intergovernmental relation has influence on autonomy of states that is constitutionally given due to different factors discussed and others. However, among federations in the process of federal-state relations, there are significant differences of respecting states autonomy through institutions and underlying culture of federal-states intergovernmental relations for both formal and informal. In any case however, writers of the field suggests that at one stick state governments maintain their autonomy and interact in a competitive way and if coordination occurs at all, it is through the hidden hand of political market which at the other sticks affects state autonomy.⁶⁶ Thus, the discussion here is the case of the latter that occur in a vertical arrangement with states doing what the federal

⁶⁵ Frederik Fleurke and R. Willemsse, 'Approaches to Decentralization and local Autonomy': A critical appraisal; M. E. Sharpe press, 2008 at 8. For these scholars the criteria to analysis local autonomy from constitutional and financial indicator leads to wrong conclusions. As far as constitutional indicator is concerned the principle of general competence (i.e. whether local authorities have the right to decide on all matters by themselves) and the latter is the way local governments activities are financed through attaching weight to the existence of a grant system as indicator of centralism. In the federal-state relations, the autonomy of states can be influenced b/c explicitly or implicitly the centre can pressure power of them.

⁶⁶ Ronald L. Watts, 'Comparing Federal systems', Institute of Intergovernmental Relations, 3rd edition, Kingston; Queens University Press, 2008 at 116-123

government demands because they have no choice or there can be a more horizontal joint decision trap⁶⁷ where no government can act unless all of them agree to do so.⁶⁸

The above stated concept provides a question of ‘How federal-states intergovernmental relation has to be regulated.’ The manner of regulating intergovernmental relation depends on the nature of the relationship between the bodies intending to regulate it.⁶⁹ If the document governing the relationship between these bodies is crafted in a way that enable one level of government to dominate the other, or if the political system is inclined in that direction, then federal-states intergovernmental relation is regulated in a manner that favors the domination of one order of government, which affects the constitutionally given autonomy of the other. When we fit this in to a state autonomy view, if states are taken as an extension of the federal government and its institution, the relationship is that of trickling down one. In other words, the states and their institutions will have the responsibility of enforcing federal programs and decisions.

One of the nexus between federal-states relations and autonomy of states is through political party. Political parties play a significant role in determining the autonomy and even, how a written constitution operates in practice itself.⁷⁰ In federal-states relations, if the official of both orders of government are adherents of the same ideology or followers of the same leader or leaders, then they pursue harmonious policies which can affects autonomy of states. Additionally, where a single party or alliance has dominated politics with in both orders of government, federal party leaders had great influence over the party leaders and organizations in the constituent units.⁷¹ In these cases, many of the intergovernmental issues have been virtually dictated by the federal government and its executive institutions or have been resolved through party channels. Here, it helps to avoid intergovernmental conflict due

⁶⁷ A phrase used by German political scientist Fritz Scharpf to describe the rules for some policy fields in which one or some Lander agree while one or other disagree in the German federal system cited in *Ibid*, first edition, 1996 at 165

⁶⁸ See Donald J. Savoie, ‘Governing from the Centre: The Concentration of Power in Canadian Politics’; Toronto: University of Toronto Press, 1999 at 9-12

⁶⁹ Lijphart, A. ‘Patterns of Democracy: Government forms and performance in thirty-six countries’. New Haven, CT: Yale University Press, 1999 captured in *Ibid* at 19-21.

⁷⁰ George Anderson ‘Federalism: An Introduction’; Ottawa, Forum of Federation, 2008 at 49

⁷¹ Aalen, ‘Ethnic Federalism in a Dominant Party State: The Ethiopian Experience’ 1991-2000, Bergen: Chr. Michelse, Institut Development Studies and Human Rights, 2002 at 89. See also Assefa Fiseha; ‘Federalism and Accommodation of Diversity in Ethiopia: A Comparative Study’; Nijmegen: Wolf Legal Publishers, 2007 at 345.

to existences of homogeneous party at both federal and state, but autonomy of states can be influenced.⁷²

The other factor discussed under previous section is the constitutional provision of federal-states intergovernmental relations as well as constitutionally established institutional framework that guide and manage the intergovernmental relations in one hand and protects state interest and autonomy on the other. As far as the former is concerned it provides provision and the way to manage federal-states relations and the relations will takes that direction to protect states autonomy.⁷³ Theoretically, the constitution establish either executive or dual; in the case of dual division of power the constitution mandates the federal government to establish its own institutions in states for the execution of its own laws and policies on one hand and gives the power of legislation to states in their own jurisdiction.⁷⁴ However, in the cover of federal-states intergovernmental relations, states can execute and administer federal laws and policies which can affects their constitutionally given power of execution of laws and policies.

The other factor discussed elsewhere is that the institution established through constitution or legislation to manage and shape the relations between states and federal government. The institution of federal-states intergovernmental relations established is expected to manage the relations between two orders of government and if this is not in practice, the relations between federal and states will take one side, organized usually by the federal and its institution that will influence the autonomy and interest of states.⁷⁵ Additionally, the institution can be influenced by one side that is federal through its representations or officials. Thus, both state and federal governments are expected to be represented to protect both orders of government interest unless it affects autonomy of states. Thus, to what extent states are represented and this institution is effective and strong to protect the interest of states play vital role. If this is not, autonomy of states can be affected in the cover of federal-states intergovernmental relations institution.

⁷² Watts, 'Comparing Federal systems in the 1990s', Institute of Intergovernmental Relations, Queen's University Kingston, 1996 at 56

⁷³ Not all federations provide provisions in their constitution. See comparative overview of federal-states IGR, section 3.9

⁷⁴ Ronald Watts; 'Federalism, Federal Political Systems and Federations'; Kingston, Institute of Intergovernmental Relations, Queens university, 2001 at 113

⁷⁵ Brian Opeskin 'Mechanisms for Intergovernmental Relations in Federations,' University of Sydney Press, 2000 at 131_visited from <http://onlinelibrary.wiley.com/doi/10.1111/1468-2451.00301/pdf> on 23 January 2014

The other discussion in which federal-state relations influence autonomy of states is that through the intense cooperation based intergovernmental relations. It threatens the autonomy of states government, making the intervention of federal government and its institution more and more invasive.⁷⁶ Excessive cooperation between federal and states orders of government reduces the autonomy and freedom of action of governments especially, where executive federalism predominates and limit the role of legislature.⁷⁷ Through the standard of cooperation, the center and its institution can influence the states and take the whole federation under its control by adopting uniform plans structure and policy making system.

Ronald Watts argues that state units of government relations with the federal government based on extreme mutual respect influences state autonomy through hidden agenda.⁷⁸ Practically, in the excessive cooperation, the federal government takes the upper hand and the federation turns out to be a centralized one, the states will be dictated by the terms of the federal that would affects the states autonomy. Additionally, in the informal federal-states relations, the autonomy of states can be affected, because as its name indicates it operates informally without legal framework and institution of both orders of governmental relations, organized by one sphere of government that require the other to follow.⁷⁹ It can be both downward and upward, but the focus here is the former one in which the federal government and its institution alone organize and manage meetings, send letter to states and other ways of communications in the absence of formal institutions in which states can express their interest.⁸⁰

Lastly, due to the states capacity that emerges from different factors such as political, financial, social and others to do or undo things, their relations with federal government

⁷⁶ Brunetta Baldi, 'Beyond the Federal-Unitary Dichotomy,' Institute of Governmental Studies, University of California Press, 2009 at 2. The development of cooperative federalism has come along with an increasing federal intervention. See also Kincaid, 1993:56, Anton, 2003:297 cited in Ibid at 4-5

⁷⁷ F. Scharpf, 'The Joint Decision Trap: Lessons from German Federalism and European Integration,' Public Administration, 1988 at 238-78 cited in Watts, 'Comparing Federal Systems in the 1990s; Institute of Intergovernmental Relations, Queen's University, Kingston, Ontario, 1996 at 54

⁷⁸ R. L. Watts, 'Comparing Federal systems in the 1990s', Institute of Intergovernmental Relations, Queen's University Kingston, Ontario Canada, 1996 at 54-56 as well as Ibid, 3rd edition, Kingston; Queens University Press, 2008 at 116-123

⁷⁹ Ronald Watts, 'Intergovernmental Councils in Federations': Council of the Federation Series, Institute for research on public policy, 2003 at (-) accessed on 27/01/2014 from http://www.policy.ca/policy_directory/Detailed/Intergovernmental-Councils-in-Federations-898.html. It leads to Picket fence; the concept that bureaucratic specialists at the various levels of government exercise considerable power over the nature of intergovernmental relations

⁸⁰ For the purpose of this study, formal federal-states intergovernmental relations and institutions refers to those interactions and institutions between the tiers of the government based on predetermined laws including the constitution as opposed to the incidental mechanisms or party based relationships without viable legislative guidelines.

open a possibility for the federal government and its institution to play crucial point in the states own jurisdictional power.⁸¹ Here, it is necessary to note that the pattern, capacity and structure of states determine the system of intergovernmental relations existing between states and federal government. If the states government is too weak to run everything, it requires the intervention from higher levels, especially in the infant and emerging federations.⁸² In such situation, it is not the intergovernmental relation that affects autonomy of states, but states capacity. Thus, it requires due attention when analysis of impact of intergovernmental relation on autonomy of spheres of government is made and it shall take into account long term historical or political evolutions and perceptions that are essential dimensions.

Generally, in the cover of federal-states intergovernmental relations the autonomy of the latter can be influenced because of institutions of both orders relation, ruling political party, states capacity, informal relations with each other, excessive cooperation and others not discussed in this section. Now, if the federal-state relations can have influence on state autonomy in such discussed ways, how federations respond to these circumstances is the other analysis of this thesis through capturing experiences of federations of the world.

2.6 Federal-States IGRs Comparative Overview in Some Selected Federations

This section is aimed to analysis the conceptual framework of federal-states Intergovernmental Relations discussed earlier in federations' context. It provides comparative overview among selected federations, both young and old or developing and developed in managing and regulating federal-states Intergovernmental Relations to gather relevant experience to the Ethiopian case. In today's world about 40 percent⁸³ of the populations are under federal system.

There are many variations among the federations in their institutional design, the character of the diversity within their societies, their degree of economic development, and their

⁸¹ Donald Savoie, 'Governing from the Centre: The Concentration of Power in Canadian Politics'; University of Toronto Press, 1999 at 234

⁸² David Cameron, 'Structures Of Intergovernmental Relations', International Conference on Federalism, university of Toronto, October 1999 accessed on 04/01/2014 from <http://26772.vws.magma.ca/en/libdocs/IntConfFedBk99/ICFE9911-int-Cameron-bg.htm>

⁸³ George Anderson; "Federalism: An Introduction", Oxford University Press, 2008 at 1

policy agendas. Nevertheless, there are also common features which among them have been the need of effective federal-states⁸⁴ Intergovernmental Relations. It is true that the experience of other countries will suggest many possibilities for cross learning, and provide a useful starting point for assessing one's particular federal state institution and practices, which is in the case of this thesis, Ethiopia. There is no single 'pure model of federation' that is applicable and comparisons of these federations help to learn not only successes and failures but draw lessons.⁸⁵ Thus, even though there is no single federal model that is applicable everywhere, there is much to be gained from examining the similarities and differences in their approaches of facilitating and managing federal-states cooperation and coordination.

In doing so, the comparative method will be based on the criteria of determinant factors varying and affecting federal-states Intergovernmental Relations discussed under previous sections, while its scope selects the most relevant and significant federations purposefully, among both old and young, emerging, developed and developing. Among mature federations, Australia, which combines parliamentary institutions and United States, presidential system are chosen. South Africa's constitution of 1996 is a very recent federation, attempt to establish Act and institutions of the Intergovernmental Relation. Germany has highly institutionalized second chamber arrangements. Canada is known through informal intergovernmental relations of ministerial and officials' meetings, First ministers' conferences and Intergovernmental conference secretariat (ICS). Under each factors used as criteria and federations, Ethiopian context is discussed briefly.

The first determinant factor is constitutional provision of federal-states intergovernmental relations. It is twofold; firstly to identify some federations' constitution that recognizes provision and guiding principles of federal-states intergovernmental relations and the division of power that necessitates federal-states intergovernmental relations. In the common understanding it is concurrent power that needs federal and states relations, but as it is

⁸⁴ Hereafter, I use the term states which is to mean Lander of Germany, States of US, Provinces of South Africa and Canada, Cantons of Swiss and- Regions and States, Centre and Federal interchangeably.

⁸⁵ Ronald L. Watts, 'Comparing Federal Systems in the 1990s'; Institute of IGR, Queens University, Kingston; Ontario Canada; 1996 at 1

discussed under previous section the kind of dual or executive federalism established has also its suggestions.

The major issue in federations is the adequate constitutional or legal provisions of Intergovernmental Relations and distribution of powers between different levels of government. Newer federations⁸⁶ such as Germany and South Africa have incorporated into their constitution provisions and specific institutions to deal with Intergovernmental Relations. South Africa differs from the other federations in having a hybrid system⁸⁷ and including intergovernmental relations provision in their constitution which explicitly enunciates that intergovernmental cooperation is to be the underlying values for the conduct of government and the relations between the different spheres to be cooperative government.⁸⁸

Furthermore, to encourage intergovernmental cooperation, the constitution empowers the constitutional court, to settle a dispute by intergovernmental negotiation.⁸⁹ In South Africa there are basic principles of cooperative government and intergovernmental relations principles which are also provided under constitution.⁹⁰ But Canada and Australia's much older constitutions, and like some other federations on the other hand, has not formally anchored their intergovernmental relations structure and processes in to their constitutions. Rather, their intergovernmental mechanisms have tended to evolve in response to changing political dynamics. Canada has had a more gradual evolution of institutions and processes that are ad-hoc and informal to deal with intergovernmental relations. In fact, Canada today has among the least formalized intergovernmental relations of all the federations.⁹¹

⁸⁶ There is assumption that the older federations such as United States, Canada and Australia were born in an era of limited governments, so their founders saw little need for formal mechanisms to manage relations. But in an era of spillovers, complex, interdependencies, pervasive governance with the attendant risks of contradiction requires new federations to develop extensive mechanisms of intergovernmental relations in their constitutions.

⁸⁷ Hybrid system refers to presidential- parliamentary, integrated federal structure which was largely modeled on that of Germany, see Watts supra note 17 at 162

⁸⁸ See 1996 constitution of South Africa, chapter 3, Articles 40-41

⁸⁹ Ibid, Article 41(4)

⁹⁰ See Article 41(1) (e) of the 1996 South African constitution; These principles are also provided in the preamble of IGR frame work Act which was enacted in August 10,2005

⁹¹ Douglas M. Brown; 'Constructive and Cooperative Federalism': A Series of Commentaries on the Council of Federation Institute of Intergovernmental Relations; Oct, 2003 at 4-5

In Australia, a federation of Westminster style parliamentary system,⁹² rather than being part of the fundamental constitutional design, intergovernmental mechanisms are additions responding to the reality of interdependence, but with little or no legal or constitutional status. With the exception of the loan council, intergovernmental relations are not referred in the constitution and have established a number of major formal councils to deal with policy issues that have intergovernmental implications.

However, in Ethiopian federal system the constitution and the proclamation that established the formal institution of federal-states relation, ministry of federal affairs have not explicitly provided basic guiding principle or provision of federal-states relations. It is the least treated in the constitution. This does not mean that there is no overlap of power and responsibilities which require excessive relations and interdependence, or no basis of intergovernmental relations which is one pillar of this thesis that is discussed in next chapter. Concerning the division of power the constitution establishes dual federalism that both federal and states has their own legislative, executive and judiciary organs and however, it neither gives mandate to the states to execute federal laws in their jurisdiction nor institutionally established organ to this goal with having branches in these states as it is discussed further in the future.

Division of power in federations' constitution has role in determining Intergovernmental Relations.⁹³ As it is stated under previous section, the purpose of exploring the models of power division of federations is because it is one aspect of intergovernmental relations, determines nature and basis of intergovernmental relations and how federal system implement federal laws in states which necessitate the autonomy to be a wonder. In United States federation, dual federalism is represented where the allocation of the executive authority is in principle considered co-extensive with the distribution of legislative responsibilities. This is so to the fact that, if the federal and state governments remain autonomous, then each must act directly towards the people in the process of enforcing its laws.⁹⁴

⁹² The model is a dualist one, with separate lists of powers that each order of government equipped with a full set of powers both to legislate and to implement its legislation.

⁹³ See previous discussion of section 2.3 of this thesis

⁹⁴ Assefa Fiseha, 'Federalism and Accommodation of Diversity in Ethiopia': A Comparative Study; Nijmegen Wolf Legal Publishers, 2007 at 358

The experience of German and Swiss federation is very much helpful in understanding the feature of executive federalism, that it give the mandate of implementation and administration of the federally legislated laws and policies to states. In executive federalism, as it is discussed under previous section the role of federal executive in intergovernmental relation is stronger than legislative while in dual federalism, the role of legislature will greater than executive. Thus, parliamentary government has usually stronger executives than presidential-congressional. However, as of George Anderson the role and strength of executives or legislatures can change significantly because of changes in political party but not change of federation itself.⁹⁵ As in Canada, therefore, intergovernmental institutions respect the overriding principle of accountability of executives to their respective legislatures while in US, the constitution establish dual federalism and presidential system which establish institution for execution of federal laws in to constituent units and Germany is parliamentary with executive federalism that it gives the mandate of executing federal laws in constituent units to the states themselves. Both have created a wide variety of federal-states intergovernmental relations mechanisms.

Coming to Ethiopia, the constitution explicitly establish that the central government and the states shall have legislative, executive and judicial powers which suggest dual structure, that there will be a federal executive in charge of enforcing federal laws in each state. For that reason in Ethiopia, federal laws are to be implemented through the federal executive not by the states governments. This is so, because the constitution gives executive responsibility to each level of government on matters in which they exercise the legislative power and its practical reality is discussed in next chapter.

The second factor noted under previous sections is institution(s) for federal-states intergovernmental relations in general and financial relations⁹⁶ in particular. Effective federal-states intergovernmental relations are possible when intergovernmental institutions become effectively operative. Thus, to achieve this, it does not have to depend on other

⁹⁵ George Anderson, 'Federalism; An Introduction', Oxford University Press, 2008 at 64-67

⁹⁶ Financial Intergovernmental Relations require due attention because it might lead to intergovernmental conflict between two tiers as in Nigeria on resource distribution as one aspects of intergovernmental relations. See Elaigwu 'Fiscal Federalism in Nigeria; Facing the Challenges of the Future', Jos Aha Publishing House; 2007, at 23-3

executive organizations for getting its decisions implemented.⁹⁷ In some federations there are more formal institutions to facilitate intergovernmental relations, especially relating to financial relations.

In practice, all federations, but most notably Australia, India, South Africa, Germany and Canada has a variety of intergovernmental councils, commissions and committees to facilitate intergovernmental relations. Australia established council of Australian governments (CAG) to develop the collaborative processes and the function of their economic union more effective and institutions like the premier's council, loan council and common wealth grants commission were established for financial arrangements. In the absence of adequate provisions of intergovernmental relations in their constitution, federations rely on well, strong and effective institution established to manage and coordinate relations between different spheres of government through constitution or legislation. Canadians established a new council of the federation to better manage their relations and build more constructive and cooperative relationship with the federal government.⁹⁸

As already noted under constitutional provisions of intergovernmental relation in federations, South Africa has enacted an Intergovernmental Relations Act (Act No. 13 of 2005) and established an independent financial and fiscal commission (FFC) of 22 members, of whom 9 are appointed by provinces and 2 by local governments. In Australia, Council of Australian Governments (CoAG) originated in 1990 and designed to promote national cooperation, to facilitate cooperation between all levels of government on policy areas that have national significance Ministerial Councils is a formal meeting of Ministers of the Crown usually including the Commonwealth, the States and Territories of the Australian Federation that meets on a regular basis. Swiss and Australia manages and coordinate not only vertical but horizontal Intergovernmental Relations through establishing institutions. The Swiss cantons have created a cantonal council to deal with issues between themselves and also to coordinate their positions with the federal government. In Australia

⁹⁷ Akhtar Majeed 'Mechanisms of Intergovernmental Relations in India': Institute of Social Sciences, Centre for Federal Studies; Hamdard University, New Delhi; 2002 at 8

⁹⁸ In 2003, the federal government and provinces established Intergovernmental Cooperative Framework in the form of 'the framework that improves social union for Canadians'. See R. L. Watts; 'Comparing Federal System', Kingston; Queens University Press, 2008 at 119-120

on the other hand, there are mechanisms for horizontal relations and institutions like Council for the Australian Federation (CAF), Australian Local Government Association (ALGA) and Regional Organizations of Councils (ROC) were established.⁹⁹

In Canada, premiers established a formal interprovincial council of the federations comprising 13 premiers of the ten provinces and three territories for fostering both interprovincial cooperation and negotiation with the federal government. However, as it is discussed in previous section, the success of any standing institutions is dependent on the context of politics and issues in which they operate.

Coming to Ethiopia, at the federal level, Organization for regional affairs (ORA) was established in 1994 as part of the prime minister office for intergovernmental collaboration which later devolved to the Ministry of Federal Affairs. Due to critics, this organization is failed to achieve its goal.¹⁰⁰ In 2001, the role of the organization for regional affairs was taken over by a newly established ministry, the ministry of federal affairs. The ministry was empowered to ensure cooperation of federal government with the states government, to facilitate the resolution of misunderstandings arising between states and to give assistance to the regions with particular emphasis to the less developed ones. On the other hand, it is specifically responsible to coordinate the assistance that the federal government provides to the less developed regions (Gambella, Afar, Benishangul-Gumuz and Somali) of the country. Thus, MOFA is formal and legalized institution organized to serve as focal point in creating good federal-states intergovernmental relationship and cooperation based on mutual understanding and partnerships¹⁰¹ that its effectiveness towards this mandate is assessed in next chapter.

The other important factor that determine, varying and affecting federal-states intergovernmental relation is character of party politics. Concerning this, previously some scholar's view towards the nexus between political party and intergovernmental relations is

⁹⁹ CAF is an institutional forum emerged in October 2006 for state and territory leaders', comprising premiers and chief ministers, ALGA is a federation of 560 Australian local government bodies that represents the interests of local government to other levels of government while ROC are voluntary collaborations between local government bodies which come together on matters of common interest.

¹⁰⁰ For more details of the reason that brings the devolution of the old institution see Lovise Aalen, 'Ethnic Federalism in a Dominant party State: Ethiopian Experience 1991-2000 Report', Bergen, chr, michelsea Institute, Development Studies and Human Rights 2002 at 81-85

¹⁰¹ Ibid

stated. For instance, William Riker states that the structure of the system of political parties is what encourages or discourages the maintenance of the federal bargaining and autonomy of orders of government.¹⁰² As it is already noted in section 2.5, in a dominated single or alliance of party with in both orders of government, the centre party leaders have a great influence over the party leaders and institutions of constituent units and this lead to the dictation of intergovernmental relations by the centre and through party channels.¹⁰³

In federations, where different parties dominate different spheres of government, the formal institutions and legislations helps to cooperative intergovernmental process and if not conflict will have place. India when with congress party, and South Africa of ANC dominated both orders of government by similar party. On the other hand, in Canada, Australia and recent years in India the intergovernmental relation is characterized by different party at different levels. Nigeria was for the third type of conflict intergovernmental relations due to difference in party though there is provision of intergovernmental relations in their constitution with no strong institution.¹⁰⁴

Now, when we come back to Ethiopia, we found in dominant ruling party, EPRDF, a coalition of four ethno-territorial parties, namely, Tigray People Liberation Front, Oromo Peoples Democratic Organization, Amhara National Democratic Movement and Southern Ethiopian People's Democratic Movement and affiliated ethno-territorial parties, namely, Somali Peoples Democratic Front in Somalia, Gambella Peoples Democratic Front in Gambella, Benishangul Gumuz Peoples Democratic Unity Party Front in Benishangul Gumuz and the Harari National League in Harar. Although the latter are formally outside the EPRDF coalition, they all have been the permanent supporters of its social, economic and political program.¹⁰⁵ The impact of this party on autonomy of states in the cover of both orders of intergovernmental relations is discussed in next chapter.

In addition to the above discussed factors, the role of second chamber in managing federal-states Intergovernmental relations, even though varies across federation is a critical criteria.

¹⁰² William H.Riker, 'Federalism, Origin, Operation and Significance'; Boston: Kluwer Academic Publishers 1988, at 187

¹⁰³ See R. L. Watts 'Comparing Federal Systems'; Institute of IGR, McGill-Queens University Press, 2008 at 118-122

¹⁰⁴ Elaigwu 'Fiscal Federalism in Nigeria; Facing the Challenges of the Future', Jos Aha Publishing House; 2007, at 45-47

¹⁰⁵ Hashim Tewfik 'Transition to Federalism: The Ethiopian Experience; Forum of Federations, 2010 supra note 10 at 10

As it is stated earlier, second chamber of some federations' affect intergovernmental relations because it has the power of national policy making that serve as a context of intergovernmental relations or given the mandate of intergovernmental fiscal relations or intergovernmental relations dispute. This is so because the character of the central second legislative chamber whether it has constituted to serve as a good forum for representatives of states or not and between the centre and states is a crucial.

In South Africa modeled on Germany forms, the constitution sets out the main function of the National Council of Provinces to participate in the national law making process and provide a national forum for public debate of provincial issues. This gives the chamber a special representative role in the context of a system of intergovernmental relations. In federation where the task of coordinating and managing relations, resolving intergovernmental dispute and determining fiscal transfer issue is given to second chamber, it demand to carefully analysis the composition, political position and process of this legislative body. Thus, in federal systems were strong second chambers representing states exist; it will be the primary arena that shapes the intergovernmental relationship and creates conducive environment for effective relations between the two spheres. The evidence suggests that this is rarely the case. In Canada, for instance, the appointment of senators is by the federal government and Senate plays virtually no role in mediating between the two orders of government.

In Australia and India the role of senate and council of states, respectively became partisan body and not effective due to political position.¹⁰⁶ In India too, the upper chamber was fractured along party lines and the dominance of a single party at the national and provincial levels for many years following independence created intergovernmental issues to often sort out by party, rather than governmental forums without formal mechanisms. On the contrary, in Germany, Bundesrat is a powerful body that speaks directly to the interests of the Lander in national policy making, serve as a co-legislature with lower house and representatives of the Lander in administration of federal laws, facilitate the coordination of federal system. In

¹⁰⁶ Ronald L. Watts; 'Comparing Federal Systems', 3rd edition, Kingston; Queens University Press, 2008 at 116-123

South Africa too, the National Council of the Provinces (NCOP) is formed strongly¹⁰⁷ on the German model and its members are nominated representatives of the provincial governments. It plays important role in national legislation and federal-provinces relations.

Coming back to Ethiopia, the second chamber, House of Federation is composed of representatives of Nation, Nationality and Peoples of Ethiopia.¹⁰⁸ It enters in federal-states intergovernmental relations through fiscal relations and transfers. According to the federal constitution, it determines the division of revenues derived from joint federal and state tax sources and the subsidies that the federal government may provide to the states.¹⁰⁹ Members may be elected indirectly by the state council or the state council may decide the members to be elected directly by the people.¹¹⁰ However, practice indicates that all members are indirectly elected by the state, which brings the House a political body¹¹¹ and ‘politically figured’¹¹² members who are elected from the states by the state legislature.¹¹³ House of Federation has a mandate of determining fiscal transfer for the states and criteria and intergovernmental dispute of interstates resolution. Generally speaking, it enters in federal-states intergovernmental relations in three major ways¹¹⁴; constitutional interpretation, conflict management and deciding the formula for federal subsidy.

2.8 Conclusion

This chapter was aimed to find answers for what, why and how questions of federal-states intergovernmental relations discussion of this thesis. It started by outlining the conceptual definition of intergovernmental relations and determining factors that are varying and affecting federal-states intergovernmental relations. As it is stated, factor such as constitution, political party and institutions are varying intergovernmental relations from

¹⁰⁷ Robert Agranoff, ‘Comparative Intergovernmental Relations’, visited on November 12, 2013 at (–) from <http://scholarship.law.berkeley.edu/cgi/viewcontent.cgi?article=1179&context=facpubs>

¹⁰⁸ Article 62 of FDRE constitution

¹⁰⁹ It determines the criteria for the allocation of concurrent tax and the subsidies that the states receive from the federal government. See Article 62(7) and Art (98), of FDRE constitution.

¹¹⁰ FDRE Constitution Art 61(3)

¹¹¹ A term taken from Assefa Fiseha ‘Federalism and Accommodation of Diversity in Ethiopia: A comparative study (Nijmegen Wolf Legal Publishers, 2007) at 194

¹¹² From the beginning, members of HoF are elected by electorate at regional level not by the people of regions and this brought a notion of a political organ. It is composed of important figures coming from the states. See Ibid at 437 which is used to describe the members are, active members within the states government at the same time.

¹¹³ For more of HoF see Assefa Fiseha ‘Federalism and Accommodation of Diversity in Ethiopia’: A comparative study (Nijmegen Wolf Legal Publishers, 2007) at chapter three pp 163-204

¹¹⁴ Asnake Kefale; ‘Federalism and Conflict in Ethiopia: A Comparative Regional Study of the Somali and Benishangul –Gumuz Regions’, University of Leiden, 2009 at 245-248

federations to federations. It was stated that party politics has influence for the functioning of intergovernmental relations. Federal-states relations have dimensions, channels and guiding principle that can be developed in the constitution or through legislations. Even though there are many objectives, unmanaged and undemocratic intergovernmental relations have impacts which among them are conflict and barrier to autonomy of states. To this aim, it tried to discuss how federal-state intergovernmental relations influence autonomy of states by identifying their nexus through discussed determinant factors.

The federal-states intergovernmental relations experience of existing federations demonstrates that there is a rich array of structures, processes, institutions, and mechanisms for the inevitable federal-states intergovernmental relations. By using factors affecting and varies intergovernmental relations discussed under conceptual framework as criteria of comparison, the experiences of federation is analyzed. The result shows variation as well as similarities to some extent and it can be concluded through the reality that there is 'no single pure model'¹¹⁵ of federation that is applicable for all.

Some federations include provisions and guiding principle of intergovernmental relations in their constitution while others develop it through legislation and some develop institution that manage intergovernmental relations. While each federation has followed a distinctive path, based on its own particular circumstances and conditions, all are responding to the same functional requirement which is to find effective ways of managing the federal-states intergovernmental relations. So far, there is neither an equivalent concept nor equivalent institutions that would permit us to speak comfortably about democratic intergovernmental relations and it is very difficult to conclude that one particular country is better or bad. However, as one writer noted, democratizing Intergovernmental relations is one of the central challenges confronting governance at the end of the century. Yet Intergovernmental relation is a central fact of modern political life in federations and it is likely to become more so in the future. In any way, this chapter has showed to be country specific in dealing intergovernmental relations which is the next journey of this thesis, in case of Ethiopia.

¹¹⁵ It is a term Coined by Watts to show Variation in Structure, Processes and Institutions of Managing Intergovernmental Relations among Federations. See Ronald L. Watts, 'Comparing Federal Systems in the 1990s'; Institute of IGR, Queens University, Kingston; Ontario Canada; 1996 at 1

CHAPTER THREE

Federal-States IGR Impact on States Autonomy in Ethiopian Federal System

3.1 Introduction

This chapter is the continuity of the previous chapter and as its title indicates, it is a major part of this thesis. It uses conceptual frameworks of federal-states intergovernmental relations and experiences of other federations discussed in chapter two, to come to its matter. In previous chapter of each section, the context of Ethiopia is discussed through its own paragraphs and it is cautious to deal the objective of this thesis under this chapter. After briefly discussing some of the factors contributed to the establishment of federal system and federal structure in Ethiopia and case study of this thesis, about oromia regional state, it comes towards the specific objectives of this thesis that are identifying the constitutional basis of federal-states intergovernmental relations from constitutional aspect and assess the effectiveness of institution of federal-states intergovernmental relations, about Ministry of Federal Affairs towards its mandate of ensuring partnership relations between federal and states orders of governments¹¹⁶ from institutional aspect.

Ethiopian Federal-States intergovernmental relations are dominated by the federal government and its executive institution because of several factors which has influence on constitutionally given state autonomy. Thus, the other section appraise the impact of federal-states intergovernmental relations on latter's autonomy based on data collected through interview from diversified groups of informants, where necessary and relating with previously discussed conceptual frameworks. This discussion is followed by section that shows instance of state autonomy influenced because of federal-state intergovernmental relations. Finally, it provides the overall problems and better areas of federal-state intergovernmental relations in Ethiopia. The main contribution of this chapter is to answer

¹¹⁶ Proclamation No. 471/2005 established to provide for the 'Definition of Powers and Duties of the Executive Organs of the Federal Democratic Republic of Ethiopia', 12th year No.1, Addis Ababa, Federal Negarit Gazeta, 17th November 2005. It mandates MoFA to 'Serve as a focal point in creating good federal-regional relationship and cooperation based on mutual understanding and partnership and thereby strengthen the federal system.' Here, my assessment will be limited to this statement only because as far as the overall Article is concerned there are other mandates given to this institution including cooperating, integrating and following up of the special assistance given by federal government to least developed regional states which is one aspect of intergovernmental relations, facilitate the resolution of disputes arising between regional states without prejudice of federal constitution 48, 62(2), and ensure the proper execution of functions relating to federal police, federal prisoners and mine sweeping at the federal.

research questions of this thesis through methods discussed somewhere on one hand and address the major objective of this thesis on the other.

3.2 Overview of Ethiopian Federal Structure and Federal-States IGR

As a result of conquests and expansion made by Menelik, modern Ethiopia was created and emerged as a unitary state in the closing years of the 19th century.¹¹⁷ In history, Ethiopia is characterized by diversity of language, culture and religion and never colonized contrary to the rest of Africa but, not an exception to the experience of creating a nation-state as most other countries has done. All diversities did not get recognition and only ‘one nation, one language and one religion’ was practical during both imperial and military regime. As a result of the culmination of national liberation movements, spearheaded by the Ethiopian People’s Revolutionary Democratic Front (EPRDF), the military dictatorship, called Derg, was overthrown on May 28, 1991. The defeats of the Derg paved the way and create the opportunity to undertake political, economical and constitutional transformation and to ‘devolve power’¹¹⁸ along ethno-linguistic lines which gave an end to unitary and birth to federal system in Ethiopia. Since post-1991s, a policy of decentralization that divides power and responsibilities between the federal and states governments has been put in place. The constitution has declared a federal state containing nine regional states based on ethno-linguistic considerations with the aim to solve or prevent ethnic tensions¹¹⁹ and two city administrations¹²⁰ with adequate power and authority to exercise their autonomy.

The federal government structure¹²¹ consists of the House of People’s Representatives, the House of Federation, and the Council of Ministers, which are the supreme legislative and executive organs, respectively. Members of the House of people’s representatives are elected directly, while Federations elected by the respective state councils in which nation, nationality and people have at least one representative. The council of Ministers is the highest executive and administrative body

¹¹⁷ Bahru notes that the creation of modern Ethiopia started by Tewodoros, incorporated by Yohanis, consolidated by Menelik and completed by Haile Sellassie. Bahru Zewde, ‘A History of Modern Ethiopia, 1855-1991’, 2nd ed., Ohio University Press, 2001 at 88-110

¹¹⁸ Hashim Tewfik; ‘Transition to Federalism: The Ethiopian Experience’, Forum of Federations, 2010 at 3-4

¹¹⁹ There are arguments for and against the Ethiopian federal arrangement in its potential and capability to resolve conflicts. EPRDF as ruling party argues that recognition of the rights of Nations, Nationalities and Peoples to self-determination and self-rule has resolved the long standing national question. Critics argue that it has not yet solved conflicts as it was hoped in the early 1990s and hasn’t deterred political forces from demanding independence such as OLF and ONLF.

¹²⁰ The two cities are Addis Ababa and Dire Dawa that the latter is recognized by the Federal Proclamation.

¹²¹ It is wise to discuss the structure here, because Intergovernmental relations is multidimensional not only at specific tier(s), and one preconditions even for effective relations is the structure and capacity of levels of government from higher to lower. See conceptual framework, chapter two of this thesis.

and is accountable to the House of Representatives. The federal Supreme Court has the highest judicial power.

These states are vested with legislative, executive and judicial powers within their geographic areas and powers of all matters that were not expressly assigned to the federal government.¹²² The states establish, depending on their specific administrative needs, sub-states administrative units with full power and authority. Thus, next to states, there are zone or special zone administrative unit.¹²³ There is no mention of zonal administrations as recognized levels of local government in most state constitutions. An exception to this observation has to be made in the SNNP state where zones have been designated as separate tiers of administration because of the wide ethnic and nation's diversity made it necessary to create constituted zonal administrative and governance structures with elected councils and administrative structures that can conduct autonomy. The basic administrative unit in the structure of the states autonomy is woreda or special woreda.¹²⁴ The woreda entities have functional organs, such as a council, executive and judicial organ.¹²⁵ Below woreda there is the last administrative tier called kebele or special kebele in some states.¹²⁶ There are significant gaps in institutional and administrative capacity among the different states of the country, particularly in terms of size of population, land area, socio-economic development, administrative capacity and level of infrastructure and services which had effect on democratic intergovernmental relation between federal and states that will be discussed later on.

This study is conducted as stated in chapter one, at one national regional state for sample, called Oromia national regional state, Ethiopia. This state requires relations with the federal government like the other states. Its proximity to federal government is the unique feature that require cooperation and coordination in their day to day activities and because the capital city Addis Ababa is found in this state, which the constitution gives the right of special interest protection.¹²⁷ For instance, as one respondent stated, the current proposed and on-going plan of connecting

¹²² FDRE constitution Art-50

¹²³ Zone is an administrative division found immediately below the regions. It is usually responsible for coordination and oversees the activities of the woreda and the regional executive as a subsidiary organ. Except the SNNPR, the regional executive appoints the officials of zones.

¹²⁴ Special woreda have been established largely in the Southern National Regional State for minority ethnic groups, which cannot constitute either a zone or a regular woreda because of their small population size.

¹²⁵ Woreda is Amharic and refers to district found below the zone.

¹²⁶ Kebele was introduced as the lowest tier of local government by the military regime in 1975. It refers to neighborhood associations. In the present local and regional government system, kebele serves as the lowest tier of local government below the woreda.

¹²⁷ See Solomon Negussie 'Intergovernmental Relations and Fiscal Issues in Federations: The Situation in Ethiopia and its implications to the Horn, Conference on Constitutionalism & Human Security in the Horn of Africa', August 2008, Addis Ababa. He enunciates the need for cooperation between the federal government and Oromia regional state as regards the administration of Addis Ababa is concerned (*supra note 132*). See also Article 49(5) of the constitution.

Addis Ababa city with Oromia special zone surrounding Finfine through master plan for development and mutual benefit takes not only horizontal relations with Addis Ababa city administration but also required the federal government and concerned executive institution.

Generally, since the federal system established after long lived unitary system, there are extensive intergovernmental relations cooperation and coordination between federal and states in general and federal and Oromia regional state in particular both formally and informally. Even if there is no basic formal guideline for federal-states Intergovernmental relations, every branch of the government, both in the state and the federal is doing it. The various federal executive institutions such as the ministries and agencies engage themselves in a cooperative discussions and meetings with their state counterparts such as bureaus and offices or agencies. To see the impact of these relations on state autonomy, this chapter starts from theory to practice and thus, the next section identifies the constitutional basis of both orders intergovernmental relations as constitutional aspect of intergovernmental relations discussion in Ethiopian context.

3.3 Constitutional Basis¹²⁸ of Federal-States Relation in Ethiopia: *De jure* principles

Under conceptual framework, it is stated that the constitutional provision and basis of federal-states intergovernmental relations are one determinant factor and varying nature of intergovernmental relations because it provides the extent and areas of relations between the two orders of government. Additionally, under the experiences of federation, it showed that the constitutional basis of intergovernmental relations varies from federation to federation while from its nature, federal system not only stands for the distribution of powers between federal and state governments, but also requests relations between the two in order to ensure coordination and effective achievements of powers and responsibility divided. In such situation, some federations develop the basis and principles that govern the intergovernmental relations in their constitution while others develop through legislation.¹²⁹ Some constitutions include relatively detailed provisions concerning the interactions between orders of government, while informal and other factors discussed in chapter two,

¹²⁸ It is twofold aimed section. First, to assess the articles that necessitates centre- states relation in the constitution and secondly, the provision that recognizes this necessity or the centre-states relation explicitly and implicitly (if any).

¹²⁹ See chapter two of this thesis, comparative overview section. South Africa, for instance has provisions, principles and Intergovernmental Relations Framework Act enacted in 2005. It has recognized cooperative relations of both orders intergovernmental relations. Based on this constitutional provision a number of informal relations have been established that deal in coordinate policy development and the implementation of policies and legislation.

like party machinery also play a critical role. The common thing according to writers is that rather than leaving the issue totally to the informal tools, it is better to take the middle meaning that there should be some room for evolution from informal practice and some general guidelines in the constitution.¹³⁰

The common understanding in Ethiopia is however, the constitution or other legislations are not adequate concerning the issue of intergovernmental relations and there is little guidance on how to manage federal-states relations.¹³¹ It is the less treated subject in the federal setup of the country.¹³² The constitution tries to highlight under Article 50 (8) about the co-existence of the two levels of governments by placing the federal comity principle that seems cooperative kind of federal-states relation. But this should not be taken as a guiding rule for the existence of cooperative relation in achieving the national goals and programs because; at least there must be some formal systems that shape the cooperation. Otherwise, as I will discuss later, it will be unfairly manipulated by one of the parties, usually by the federal and its institution in setting an agenda or coercing the partakers. However, though the relationships between the federal government and the states are fairly regulated by the constitution and not adequately stated constitutionally, there are many provisions that require both federal and states intergovernmental relations. The subsequent paragraph tries to assess the formal or legal basis or provisions that require relations of both orders from the four corners of the constitution. The focus here is the federal-state relations.

The constitution explicitly lists down the federal powers, the state powers, concurrent powers, and leaves residual powers to the states (Articles 51-52 and 97). The principle of mutual respect between federal and state governments is explicitly stated. Mutual non-interference in one another's affairs in matters that is exclusively under the jurisdictional competence of each other is recognized (Article 50(8)). Interstate equality in terms of rights and powers is clearly stipulated (Article 47(4)). The fact that the states have legislative, executive, and judicial competence is readily recognized (Article 50(2)). As it discussed previously, in general principle constitutional ambiguity, fiscal relations, public policy interdependence, investment and trade, infrastructure

¹³⁰ Assefa Fiseha; 'Federalism and Accommodation of Diversity in Ethiopia: A Comparative Study'; Nijmegen: Wolf Legal Publishers, 2007 at 386

¹³¹ Alem Habtu, 'Ethnic Federalism in Ethiopia: Background, Present Conditions and Future prospects', Paper Submitted to the Second EAF International Symposium on Contemporary Development Issues in Ethiopia, Queen's College/CUNY, 2003 at 21

¹³² Tsegaye Regassa, 'State constitutions in Ethiopia: A Preliminary observation', A summary for the Bellagio Conference, University of Amsterdam, March 22-27, 2004 at 4

management, environmental protection, policing and security, spillover effects and the sharing of resources are some of the issues that necessitate the forum of federal-states intergovernmental relations. The inevitable in overlap of division of power also necessitates intergovernmental relations.

The provision that deal with delegation of some administrative like authority to the states is the one way of cooperation and basis of intergovernmental relations between the federal and states.¹³³ 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 which is the federal government in this case.

According to the preamble of the constitution that is aimed to express ‘building one political as well as economic community’, it is possible to argue as a basis of federal-states relations. It reads ‘We, the Nations, Nationalities and Peoples of Ethiopia strongly committed, in full and free exercise of our right to self-determination, to build a political community founded on the rule of law and convinced that to live as one economic community is necessary in order to create sustainable..’. As Solomon noted,¹³⁴ this assertion is more of an assignment of responsibility to the federal as a facilitator of common destiny and unity with the view of realizing the creation of one economic community on between the various nationalities. In this regard one can also mention the federal government’s responsibility of strengthening equality, unity and fraternity among the nations, nationalities and peoples which require an entrenchment of cooperative relations between both orders of government.

One expert who purposefully selected¹³⁵ for this issue stated that the principle of federalism itself describes unity through self-rule and shared rule and the preamble of the constitution is a starting point that require both spheres intergovernmental cooperative relations. Thus, the

¹³³ See Article 50(9) of the FDRE constitution that adopts the possibility of downward delegation- by which the federal may expressly when necessary, delegate to states, powers and functions granted to it by Article 51

¹³⁴ See Solomon Negussie, *supra* note 132 at 57.

¹³⁵ Interview; confident respondent, March, 2014, Addis Ababa University

phrases in preamble¹³⁶ of the constitution can represent a constitutional basis of the intergovernmental relations. It expresses unity through self-rule and shared rule which necessitates the relations between federal and states. One can also argue that from its nature divisions of power made in the constitution highly necessitate the relations even if it is difficult to decide the extent of relations.

It also appears that, the constitutional provisions that deal with the issue of finances or fiscal explicitly recognize the inevitability of federal-state relations. For instance, the allocation of federal grants to states emergency, rehabilitation and development assistances and loans as stated by Article 94 is clear provision of the issue under consideration. More significantly, the federal subsidies or the equalization grants as indicated in the powers and duties of the House of the Federation¹³⁷ are also another possibility of federal-states relations in Ethiopia.

Coming to the concurrent power, in any way it is mandatory that it requires both states and federal government relations. The experiences of other federations also show that, it is one aspect that requires the recognition of intergovernmental relations if possible in the constitution that establish federal system if not through legislation or Act or regular and effective mechanisms of discussions. In Ethiopia, only tax power is explicitly¹³⁸ recognized as concurrent power in the constitution (Art-97). However, Article 51 and 52, the power to formulate and implement the country's policies, strategies and plans of overall economic, social and development such as education, health and science and technology are given to the centre (Article 51(2, 3)) on one hand and Article 52 (2) (c)) gives states power to formulate and execute in their own, on the other hand. Concerning the practice however, the discussion will come later under legislative autonomy section; but here it can pointed as concurrent power of federal and states. If it is so, it is possible to recognize this provision as a basis of federal-states intergovernmental relations from the constitutional eye.

¹³⁶ Although Ethiopia is a multiethnic state, the preamble affirms that the Ethiopian peoples, 'in full and free exercise of their right to self-determination,' strongly commit themselves to build 'one political community' and 'one economic community' based on their 'common interests, common outlook and common destiny.'

¹³⁷ See chapter two of this thesis. The House of Federation is formally established institution of financial matters and settling misunderstandings and conflicts among the states in the Ethiopian federal framework.

¹³⁸ Lovise Aalen, *Ethnic Federalism in a Dominant Party State: The Ethiopian Experience 1991-2000* (Bergen: Chr. Michelsea Institut 2002) at 56; see Article 98 on the concurrent power of taxation. It is true that only in the field of taxation under Art. 98 which is distinct from Art. 51 and 52 because the constitution expressly incorporates concurrent power

It is said somewhere that, it is very difficult to clearly divide powers between spheres of government and this reality requires the existence of overlap and ambiguity of power and responsibility in federations and the only mechanism to deal such issue is through effective federal-states intergovernmental relations. In Ethiopian constitution, this reality is also viable. For instance, one expert respondent from academician group¹³⁹ has identified areas where overlap and ambiguity of power exist in Ethiopia. For instance, road service between two or more states, building higher institution such as university, water supply service between two or more states can be mentioned as basis of federal-states relation. If this is so, here it is possible to identify the above listed provisions Art 51 (9 and13) as basis of both orders intergovernmental relations.

Finally, there is Article that recognizes the basis of federal-states intergovernmental relations in Ethiopian constitution. Article 89 that talks about the responsibility of the federal government in ensuring equitable development among the people and the states. Even, for my point of view, in addition to the preamble of the constitution stated, one can argue this article as the constitutional recognition of intergovernmental cooperation in the Ethiopian federal construction. Thus, it is possible to conclude that the Ethiopian constitution has articles that demand the relation between the federal and states with almost no explicitly recognized provision of this necessity or federal-states intergovernmental relations. The preamble, Article 50-52, 55, 77, 89, 97 are the major basis that require extensive relations between the federal and states and there is no Article that either give hint or affirm necessity or guiding principle for federal-states intergovernmental relations in the constitution. Thus, Ethiopian constitution offers little guidance on managing federal-state relations relative to its basis and there is no study of how the relationship between the federal government and the states will be managed on a sector-by-sector basis.¹⁴⁰

Now, the wonder before closing this section is that, constitutionally, there are areas that necessitate states and federal intergovernmental relations discussed, the Ethiopian

¹³⁹ Personal discussion made with Anonymous Academician Informant from Academic group made on 12/March/2014, Addis Ababa University. The respondent is purposefully selected to share his view on existence of overlaps of power in FDRE constitution because as discussed, overlap of power is a one necessity of IGR.

¹⁴⁰ Assefa Fiseha; 'Federalism and Accommodation of Diversity in Ethiopia: A Comparative Study'; Nijmegen: Wolf Legal Publishers, 2007 at 373

constitution does not provide adequate hint on how to manage these relations. Nor, does the constitution provide institutional framework or guiding principle that show the way for managing federal-states relations. This leads a federal-states intergovernmental relation to exist through different means such as party channel and informal which hinders the autonomy of states as it is discussed following the next section. The absence of adequate guiding rule of the constitution for federal-states intergovernmental relations forums in the achievement of national goals and programs creates its own influence on states autonomy. As it is stated under chapter two, principally speaking, there has to be at least some formal systems that shape the cooperation phases. Otherwise, it will be unfairly manipulated by one order of government which is usually by the federal government and its institution in setting an agenda that influence state institution to implement which is also visible in Ethiopian context. Thus, reader has to note that it is one gap that leads Ethiopian federal-states relations to be informal than formal. Under chapter two of federations' experiences, it was stated that federations that have not adequately recognized intergovernmental relations in their constitution, either developed it through legislation or relied on institution of intergovernmental relations.¹⁴¹

In Ethiopia, the recognition of the institution of federal-state relation is made through proclamation and as discussed in chapter two, currently, ministry of federal affairs is the responsible institution for creating federal-states relation based on mutual understanding and partnership. Thus, because of this and others discussed earlier, too much is expected from this institution established to coordinate federal-states intergovernmental relations in giving its shape unless and otherwise, state autonomy will be affected as discussed under conceptual frameworks. Thus, the subsequent section discusses the institutional practice of federal-states intergovernmental relations established through proclamation towards its mandate.

3.3 Institution of Federal-State Relations: Appraisal of its Practice¹⁴²

Almost with no exception, all federation either directly through their constitution or indirectly through legislation establishes the institution that manages and coordinates

¹⁴¹ See Chapter two of this thesis, comparative overview section. For instance, Australia has no provision of IGR in their constitution but developed different institution (CAF, CoAG, ALGA) separately for different issues including fiscal deal.

¹⁴² Under this section, my discussion covers the assessment of MoFA through criteria of general principles of institution(s) discussed elsewhere including its practice. In doing so, it identifies its weakness, achievements and problems.

intergovernmental relations between different spheres. The general principles and common understandings as discussed earlier is that institutions of Intergovernmental relations are basically formed to achieve the purpose of the relations between the centre and constituent units and to carry out common or shared programs. The intergovernmental institutions will need to be genuinely collaborative in character, rather than instruments for intergovernmental imposition. At the same time, in establishing formal institutions to improve intergovernmental collaboration, it will be essential to ensure that it is open, transparent, accessible and responsive in order to avoid any public sense that will contribute to a democratic deficit. This would involve establishing an institution made up of individuals with policy expertise that are not influenced by political views and other factors. This section is going to assess the practices of current institution of federal-states relations, about Ministry of Federal Affairs towards the above generally accepted principles.

In Ethiopia, in addition to the above stated principle on necessity of institution, due to different reasons discussed such as absence of adequate provision of federal-states relations, formal distribution of powers that follows the dual arrangement and not empower the states to implement federally deliberated policies and others, the institution of relations between the states and the federal is more than ever significant. After federal system launched in 1995, Organization for Regional Affairs is established in Prime Minister Office and due to critics,¹⁴³ this institution was dissolved in 2001 and its task is taken over by Ministry of Federal Affairs which is established as a branch of federal executive institution through federal proclamation. In the proliferation of proclamations No. 417/2005 and 691/2010, the power and functions of the ministry have been amended. Theoretically speaking, MOFA became more formal and legalized institution organized to serve as focal point in creating good federal-states relationship and cooperation based on mutual understanding and partnership.¹⁴⁴ Now, the subsequent paragraphs analyze its practical effectiveness towards this mandate as institution of federal-states intergovernmental relations in Ethiopia.

¹⁴³ ORA had no clearly outlined mandates. The federal government used direct control over the states through the advisors of this institution. The members of this institution were cadres of the ruling party and they participated in advising officials and presidents of the states. See Aalen 2002: 91; Merera supra note 124 at 256; Assefa supra note 15 at 378; Asnake supra note 17 at 237

¹⁴⁴ It is established through 'Reorganization of the Executive Organs of Federal Democratic of Ethiopia Proclamation' Proclamation No.256/2001, Federal Negarit Gazeta 8thYear No.2 Addis Ababa 12th October 2001. According to Art, 21 of Proclamation 417/2005 'Definition of Powers and Duties of the Executive Organs of the Federal Democratic Republic of Ethiopia, 12th year No.1, Addis Ababa, Federal Negarit Gazeta, 17th November 2005; it is a formal institution of IGR.

The Ministry of Federal Affairs (MOFA) has been formally established to facilitate the relations between levels of governments. However, it showed little change from the Organization for Regional Affairs. There are critics even from its nature. As stated under the general principle and chapter two, the institution of intergovernmental relation is expected more or less to be neutral, meaning that not to be influenced by any side and not to be a branch of any spheres body. However, here in Ethiopia formal institution is established as one branch of federal executive and it is not separate institution that from its nature it lacks neutrality and this nullify the principle. For instance, as Assefa noticed, the activity of the Ministry of Federal Affairs in the states is one of the semi-formalized practices that have an impact on the overall federal-state relations because it is an executive institution of the federal government by which the Prime minister exercises a leading role.¹⁴⁵ The attachment of the constituent units in this organ is highly unlikely and also unfeasible if we argue from the general principle point of view. Therefore, from the concept of Intergovernmental Relations institution principle itself, MoFA should not be the appropriate institution. The current design through MoFA provided the federal government a dominant role in determining how the relations aspect should look like. From the very foundation, it seems as a mechanism of controlling the states by the federal government through this institution.

As pointed out, the experience of some federations reveal that the federal and constituent units are represented in intergovernmental relations institutions so that decisions passed takes in to account the interest of both orders of government, states and federal.¹⁴⁶ In Ethiopia, there is no way in which states can be represented in ministry of federal affairs institution because it has been originally established as a federal executive. Thus, the issue is that to what extent the interest of states can be protected in this institution, being a federal executive. Additionally, unlike some other federations, the task of practicing nationwide intergovernmental relations is assigned to a department (directorate) within the Ministry

¹⁴⁵ Assefa Fiseha; 'Federalism and Accommodation of Diversity in Ethiopia: A Comparative Study'; Nijmegen: Wolf Legal Publishers, 2007 at 2007 at 376

¹⁴⁶ Ronald L. Watts, A Comparative Perspective on Asymmetry in Federation; Institute of Intergovernmental Relations, Queen's University press, 2005 at 5

which vividly shows lack of political commitment to have a significant process of intergovernmental coordination and collaboration from the side of the government.

In 2003, the federal government passed a new law that provided a system for federal intervention in the states and the task of facilitating this intervention¹⁴⁷ is given to this ministry. Critics argue that the proclamation endangers the notion of federalism by providing loophole for the federal executive to intervene in the regions on one hand and giving this mandate to this institution on the other hand.¹⁴⁸ Assefa Fishea, for instance, notes the proclamation gives a wide legal framework for federal action that seems to go against the tone of the federal system itself.¹⁴⁹ In addition to the function of coordinating the implementation of decisions, authorizing the intervention of the federal government in the affairs of regional states was given to ministry of federal affairs.¹⁵⁰ This leads to the critics in the role of this ministry to enhance democratic intergovernmental relations in Ethiopia. In previous chapter it is explained that the institution that manage intergovernmental relation is expected to be strong and neutral from any, including its official. Here in Ethiopia however, the proclamation even gives the power of authorizing federal intervention in states affairs to this institution which is other track.

For some writer, there is a wide variation in applying its mandate towards all states found in Ethiopia. For instance, one writer noted that the general mandate of the Ministry of federal affairs applicable to all the regions appears to be primarily one of coordination. However, its task towards the four peripheral regions (i.e. Gambella, Afar, Benishangul-Gumuz and Somali) is supervisory and it appears an intrusive ministry of central with wide powers of intervention in local and regional councils than a ministry in charge of ordinary coordination.¹⁵¹ This clearly affirms that there is disparity in its mandate function. During my personal observation of organizational structure of this institution, I could able to see that State Minister has four coordination departments established to deal with Afar, Somali,

¹⁴⁷ The System for the *Intervention* of the Federal Government in the Regions, Proclamation No. 359/2003, *Federal Negarit Gazeta* 9th Year No. 80 Addis Ababa, 10 July, 2003.

¹⁴⁸ Asnake Kefale, 'Federalism and Ethnic Conflict in Ethiopia: A Comparative Study of the Somali and Benishangul-Gumuz Regions', (Lidein University, the Netherlands, 2009.) at 243

¹⁴⁹ Assefa Fiseha; 'Federalism and Accommodation of Diversity in Ethiopia: A Comparative Study'; Nijmegen: Wolf Legal Publishers, 2007 at 351

¹⁵⁰ Article 21 of proclamation No 471/2005; 'A Proclamation to Provide for the Definition of Powers and Duties of the Executive Organs of the FDRE, 12th year No.1, Addis Ababa, federal Negarit Gazeta, 17th November 2005

¹⁵¹ Asnake Kefale, 'Federalism and Ethnic Conflict in Ethiopia: A Comparative Study of the Somali and Benishangul-Gumuz Regions', (PhD Dissertation, Lidein University, the Netherlands, 2009) at 240. Personal interview with Tsegabrhan Tadesse: MoFA, IGR General Director; Mar, 2013: Addis Ababa. He stated that the role of this institution is very high in these than others.

Benishangul Gumuz, and Gambella regions. The four periphery states are established to the aim of article 89 of the constitution that give the central government responsibility of help for least disadvantaged state and proclamations that give this institution responsibility to provide assistance to states particularly to those deserving special support listed above. The point here is that the special support stated does not mean intervention and supervision of this institution in the affairs of those states as the above author also criticize. On the other hand some authors state that the capacity of this periphery states are too weak and it requires this ministry to intervene. For instance, Young argues¹⁵² that the involvement of this institution in periphery states affairs through different mechanism is highly necessary because these states need the assistance of the central government to fill the gap for expertise and human resources that is promised by the constitution.

One respondent from this ministry was asked to give a view on the effectiveness of this institution towards its mandate of creating effective and partnerships relations between federal and states. The respondent stated that MOFA has a mandate to facilitate relations between federal and states levels of governments, but it is obvious that due to problems, this institution's function is limited to enhancing the capacity of less developed states and it has not effectively discharged its tasks as it is given in the proclamation. The respondent added that, like other federal and regional institutions, MOFA is recently engaged in assessing its mandate and achievements. In its findings, promoting IGR is a less emphasized in relation to support for less developed regions.¹⁵³ From this informant view, it is clear that for the past many years this institution is not effective in its mandate of facilitating federal-state relations. Currently, however there is a situation of engaging itself in this task. Additionally, practically as MoFA is not involved in the federal and states relations is underlined by one state bureau official. The respondent assert as 'until now, in our relationship with the federal Ministry, there is no role of Ministry of Federal Affairs',¹⁵⁴

In Ethiopia, there is a cooperation and coordination between the institution of states or

¹⁵² John Young 'A Long Ethiopia's Western Frontier: Gambella and Benishangul Gumuz in Transition', *Journal of Modern African Studies*, 1999 at 321-323

¹⁵³ Personal interview with Tsegabrhan Tadesse: MoFA, IGR General Director; March, 2013: Addis Ababa

¹⁵⁴ Interview; Letibelu Motuma, Oromia Regional State Education Bureau: March, 2014, Addis Ababa. Additionally, Interview with Official of Oromia Regional Health Bureau, March, 2014, Addis Ababa

bureaus and federal government through their respective offices. The above informant view also support this idea that in the absence of practical institution that coordinate the relations between the two, central ministries often hold consultations and meetings with their respective bureaus with a view to execute their respective roles. Theoretically, similar regular relations between the central parliament and states councils are expected. The coordination of such relations is the main responsibilities of Ministry of federal affairs as of that proclamation and principle; however existing practices demonstrate that these relations are not facilitated and coordinated by this institution.

Coming to the achievement of Ministry of Federal Affairs, there are issues in relation to the overall mandate as given through proclamation 471/2005. For instance, the followings can raised but it may not be limited to these only. Firstly, in the task of conflict managing and resolution,¹⁵⁵ this institution is doing its level better in facilitating favorable climate of relations and meetings so as to solve misunderstandings and conflicts that arise between states. If it is beyond the political and administrative capacity of this institution, it will solve in collaboration with the House of federation.¹⁵⁶

The informant repeatedly elaborated that if conflict occurs between states, wide-ranging dialogue between two parties is held by this institution after the federal police force takes place between these states. It is clear that this institution also has a mandate in federal police because it ensures the proper carrying out of it according to proclamation 471/2005(h). It was stated in chapter two that federations employ different mechanisms, both formal and informal to resolve disputes between states and for instance, Canada held regular inter-provincial conferences and India interstate council. However, here in Ethiopia, as stated by the above informant, it is one room that Ministry of Federal Affairs is engaged in.

During personal observation of this institutional structure made, there is department of conflict prevention and security affairs coordination established towards this issue. Secondly, the special support process of carrying out capacity building for less developed

¹⁵⁵ Personal Interview with Head of MoFA, IGR Strengthening Directorate General, 14 March 2014, Addis Ababa

¹⁵⁶ Under chapter two it was stated that according to Art, 48 and 62(6), HoF has a mandate to find solutions to disputes or misunderstandings that arise between states and similarly, proclamation 471/2005, give the same task to MoFA.

states and areas is the other good achievement of this institution according to some informant. One instance is that it played vital role in facilitating special support for the pastoralist areas of the country, implementing federally funded conditional grants to help the marginalized areas and bring proportional development through being with federal board consist of other ministries like ministry of agriculture, ministry of health, ministry of education and others, for the past many years. Thus, the response from this institutions side is that MoFA is active as far as creating partnership intergovernmental relations between federal and states of least developed states such as Afar, Somali, Gambella and Benishangul Gumuz and pastoralist areas of the country is concerned but for other states there is little progress.¹⁵⁷

One has to bear in mind that these achievements part is supposed by this institution respondent and it is one group based result that there may be opposite view from other side. For instance, as stated at the beginning of this section, there are groups, who argue that Ministry of federal affairs' activity towards periphery states is supervising, while this institution responds as it is the area where it achieved success in creating partnership federal-states intergovernmental relationship and claims better achievements in assisting the less developed states.

In any case, the dilemma still need to be clear is that has MoFA been engaged in administration of federal laws and policies in less developed states and pastoral areas or does it engaged to implement special support or coordinating common agendas and intergovernmental relations of both federal and least developed states. Even, its mandate is limited to capacity building and giving support by being centre without having its offices in these states. Here, its mandate has not to be limited only to least developed states and pastoral areas on one hand and giving special support stated by constitution and proclamations, on the other. Yet, there is little progress in the other states relations with the federal government through this institution which is also affirmed by this institution respondent repeatedly.

¹⁵⁷ Interview, Tsegaberhan Tadesse; Ministry of Federal Affairs, IGR Strengthening Directorate General; March, 2014, Addis Ababa

The proclamation itself puts the power of federal-states intergovernmental relations to this institution in broad terms. Its role to manage the implementation of federal laws and policies is limited to federal police, prison administration and mine action activities. As stated in chapter two implementation and execution of federal policies in to states are one aspect of federal-states intergovernmental relations and it can be through either giving this mandate to states or establishing federal institution in states that holds this mandate. The Ethiopian reality is neither the former nor the latter. Except what is listed above, in both proclamations of 256/2001 of its establishment and 471/2005, no clear mandate of Ministry of federal affairs is stated in implementation of laws and policies which is one aspect of federal-states intergovernmental relations. Even, the three listed mandate; federal police, prison administration and mine action activities implementation in states have no designed mechanism but through meetings and report communication.¹⁵⁸

Intergovernmental relations and its institution requires to be based on transparent and clarity as one guiding principles. Institutional clarity does not only include activates but also enough capacity to run the mandate in democratic manner. This is because of it demands the institution of intergovernmental relations established formally to create channels of communication and effective dialogue between both institutions of the federal and states. In ministry of federal affairs all these are not developed.¹⁵⁹ Even, its mandate is not adequately known by others and there is some perceive concerning this institution in which some still consider it as previously dissolved institution, ORA. The respondent had clarified that this institution role and mandate is not well known by some public officials of periphery states and there are officials who does not have a good attitude towards it.¹⁶⁰ There are also some writers who validate this respondent argument by stating that some perceive this institution through which federal government sends officials to control their activities and that seems to legitimize the greater intervention of federal government in the less developed states than in the other states.¹⁶¹

¹⁵⁸ Interview: Confidential Respondent, Ministry of federal Affairs, March/2014, Addis Ababa

¹⁵⁹ Interview: Tsegabrhan Tadesse: MoFA, IGR General Director; March, 2013: Addis Ababa

¹⁶⁰ Ibid; My respondent mentioned this as one obstacle of this institution towards what it is mandated

¹⁶¹ Assefa Fiseha 'Ethiopia's Experiment in Accommodating Diversity; A Twenty Years Balance Sheet; Ethiopian Journal of Federal Studies; Centre for Federal Studies; The Addis Ababa University Press, vol.1, No.1, 2013 at 125

Additionally, this institution has not as such well developed relations between other central executive and states executive though due emphasis is given currently as stated by Intergovernmental Relations Strengthening General Director Head. During the past years, there were problems of identifying activities that should be accomplished in collaboration with states. The respondent has also stated that currently, more than any time, this institution gives its emphasis on enhancing these tasks. More recently, there is a committee established in collaboration with House of federations in December, 2013 that contain presidents of all regional states.¹⁶² It has technical committees that prepare report on weaknesses, strengths and existing gaps including the study of experiences of other federations.¹⁶³ There is a purpose of including enough experts and academicians in this task.

Generally, it is stated that the effectiveness of this institution is at infant stage, if not limited to some extent. There are critics that revolve around this institution from its nature, representation system and overall clarity in its objectives that hinders to enhance effective federal-states intergovernmental relation based on mutual understandings and partnership as stated in the proclamation and there is little progress in the issue of under discussions.

Now, as stated in chapter two, if the constitution is not adequate concerning both provision and institution(s) of federal-states intergovernmental relations, there is recognition of such failures through different means such as legislation, Agreements, Act and Proclamation. Thus, coming back to the link between institution of intergovernmental relations and state autonomy, as explained and later analyzed in federations experiences, institution(s) established through constitution or legislation to manage and give shape for federal-states intergovernmental relations play vital role in determining the relations, protecting the autonomy of states in the activity of relations between orders of government. This is so because of it is separate institution in which both orders of government are represented and cannot be influenced by either level of government. It also protects the interest of states and federal government. If this is not, federal-states intergovernmental relations will influence autonomy of states in the cover of institution that is established to manage these relations.

¹⁶² Personal interview with Tsegabrhan Tadesse: MoFA, IGR General Director; March, 2013: Addis Ababa

¹⁶³ Ibid

In Ethiopia, because of the constitution is not enough and institution of federal-states intergovernmental relations is necessary, Ministry of Federal Affairs is established. And the assessment of this institutional effectiveness through mentioned principles starting from its nature to practice shows that it is not adequately effective, if not limited to some states as far as its mandate of coordinating and creating partnership intergovernmental relations between federal and states are concerned.

Generally speaking, there is no practical institution of federal-states intergovernmental relations in Ethiopia.¹⁶⁴ As stated in chapter two federal-states intergovernmental relations are inevitable and it is true also in Ethiopia. Now, it is prudent to determine to what extent the constitutionally given autonomy of states can be protected in the absence of effective institution that shape and manage these relations. To put in simple words, the absence of effective institution of federal-states intergovernmental relations leads the inherent federal-states intergovernmental relations to be informal than formal, party channel than institutional. And if all these are so, in the existence of federal-states intergovernmental relations which takes place in vacuum, meaning that in the absence of practical institution, the constitutionally given autonomy of states is influenced in the cover of both orders relations. There are federal executive institutions dominations over state bureaus which can be validated through the practice in which federal ministry plan and organize meetings as well as conferences by their own and latter let states to participate on it for its implementation.¹⁶⁵ Thus, reader has to know that the existence of institutional gap in federal-states relations that has its own contribution in weakening autonomy of states. This is so, because, it is due to lack of institution that states could not able to establish forums for negotiation as well as bargaining with the federal government.¹⁶⁶

3.5 Federal-State Relations under Dominant Party System

Political party is one determinant factor of federal-states intergovernmental relations nature and discussion of political parties exert significant influence on the ability of state

¹⁶⁴ Assefa Fiseha 'Ethiopia's Experiment in Accommodating Diversity; A Twenty Years Balance Sheet; Ethiopian Journal of Federal Studies; Centre for Federal Studies; The Addis Ababa University Press, vol.1, No.1, 2013 at 125

¹⁶⁵ Interview: Heads and vice Head of Oromia Regional State Education and Health Bureau, respectively; March, 2014, Addis Ababa. See section 3.5 of this chapter and chapter two of this thesis for its influence on state autonomy

¹⁶⁶ Assefa Fiseha 'Ethiopia's Experiment in Accommodating Diversity; A Twenty Years Balance Sheet; Ethiopian Journal of Federal Studies; Centre for Federal Studies; The Addis Ababa University Press, vol.1, No.1, 2013 at 137

governments in federal systems to shape their own destinies in the process of their relations with federal government is clearly made. Whether the party organization is centralized or decentralized have crucial effects on the relationship between federal and state orders of government. There are writers¹⁶⁷ who argue that the federal relationship is centralized according to the degree to which the parties organized to operate the federal government control the parties organized to operate the constituent governments and this amounts to the assertion that the proximate cause of variations in the degree of centralization in the constitutional structure of federalism is the variation in degree of party centralization.

In Ethiopia, except the party channel, there are hardly any institutionalized federal-states inter-governmental relations mechanisms comparing to other federations.¹⁶⁸ And centralized party rule and genuine federalism are incompatible because the presence of an all powerful party inevitably centralizes power and undermines states autonomy on the other.¹⁶⁹ As stated in previous chapter Ethiopia's federal arrangement is one dominant ruling party in which ethnic organizations are satellites of one front line political party; Ethiopian People's Revolutionary Democratic Front (EPRDF), a multi-ethnic ruling coalition not a monolithic party.¹⁷⁰ From most of contemporary conflicts that challenge the federal system, the intergovernmental conflicts are rare, if not absent, due to the fact that federal-states intergovernmental relations is through party channel. However, in the same party organization that controls both federal and state orders of governments and has a centralized structure, it weakens the power of the state governments in a way that undermine states autonomy in the goings-on of both orders of intergovernmental relations.

In Ethiopia, the existence of a coalition ruling party dominance in all the states brings less or no, if not invisible states autonomy. Since the EPRDF exercises hegemonic control in all the regional states through its member and affiliated parties, absorption of power in the hands of

¹⁶⁷ Riker William H. 'Federalism: Origin, Operation and Significance'; Boston, Little Brown Press, 1964 at 164

¹⁶⁸ Assefa Fiseha; 'Federalism and Accommodation of Diversity in Ethiopia: A Comparative Study'; Nijmegen: Wolf Legal Publishers, 2007 at 388-392

¹⁶⁹ See Fundamental federal theory of Elazar. Elazar Daniel 'Exploring federalism' Tuscaloosa, AL: Alabama University Press; 1987 at 178 and Duchacek, I.D. 'Comparative Federalism: The Territorial Dimension of Politics'; Lanham, Md: University Press of America; 1987 at 330 cited in Aalen, 'Ethnic Federalism in a Dominant Party State: The Ethiopian Experience 1991-2000' Chr. Michelsen Institute, 2002 at 1

¹⁷⁰ See Alem Habtu, Multiethnic Federalism in Ethiopia: A study of the Secession Clause in the Constitution, Oxford University Press, Published by Publius/Spring 2005 at 313-335, Kidane Mengisteab, Ethiopia's Ethnic Based Federalism: 10 Years after, African Issues, Vol. 29, No. 1-2, African Studies Association, 2001, at 20-25.

the federal is evident. Some writers affirm that party structure in Ethiopia undermines the federal division of power and subordinates states governments to the federal government. Aalen, for instance expressed that practically, the EPRDF is controlling all the regional state governments in the Ethiopian federation, either directly through the member parties or indirectly through affiliate parties, in which the largely centralized party structures appear to contradict with the devolved power structures of a federal system.¹⁷¹

In the absence of well organized institutions to facilitate federal-states relations, party line is used as option to accomplish tasks because the party line is well organized. The prevalent political role of EPRDF at federal level and its partner at states level have created favorable and supportive political environments for building positive federal-states relations. Members of the ruling party are used as good models to implement new policies and strategies adopted at centre in their state. In an interview with one member of the Oromia regional council, I understand the fact that, everything which is proposed by the centre is endorsed by the respective regional party which shows the commitment of every member to its parent political organization, EPRDF.¹⁷² This creates a chance for the centre to enjoy the right to do things in the affairs of states. According to this respondent this is because of things proposed at the federal, whether it is in line with the states priority or not, is respected though there is examining to what extent it matches the interest of state.

It is the party structure; subordination of states to federal government along with its impact on the process of policy making that explains the centralizing trend in the Ethiopian federal system.¹⁷³ Thus, as argued above, in federal-state relations one of the reasons that create impact on autonomy of state is the EPRDF conception of satellite parties, which run the regional governments under the supervision of the central committee of the ruling coalition. Through this channel, the federal government enjoys the right to do or undo things in the state.¹⁷⁴

¹⁷¹ Lovise Aalen 'Ethnic Federalism in a Dominant Party State: The Ethiopian Experience 1991-2000' Report R 2002: 2 Chr. Michelsen Institute Development Studies and Human Rights Chr. Michelsen Institute Bergen, Norway at 81

¹⁷² Interview with confident Oromia Regional Council Member, March 2014, Addis Ababa

¹⁷³ Assefa Fiseha; 'Federalism and Accommodation of Diversity in Ethiopia: A Comparative Study'; Nijmegen: Wolf Legal Publishers, 2007 at 388

¹⁷⁴ A central committee leads the ruling coalition. The central committee generates specific plans of action which are the basis of EPRDFs' plans that are expected to be implemented nationwide. See Ibid at 387, Aalen, *supra* note 138 at 82.

The constitutional rights for the states to formulate and implement plans and policies are severely diminished by the fact that state governments, which are under EPRDF's hegemony, follow the federally designed policies and plans. Although the states in Ethiopia are both financially weak, it is first of all the centralized party structures which undermine the state's ability to act independently from the federal. The country's overall policy is designed at the federal by different formats and its direct implementation is through ruling political party. Among others, the five years development plan, Grand Renaissance Dam Project and its process, the Business process reengineering package, Development and Transformation Plan, the Millennium Development Goals, usually comes from the center.

Here, the issue is not why these policies are legislated at the centre because it is due to Art-51 of constitutional power division or others, but the risk is how does the federal government implement or execute and administer these overall strategies and policies with in states and whether states have a role in the design of the policies. The reality is that through active ruling party that opens a loophole for the federal to stretch its hands in the state units of government. There are a number of policy documents prepared at the federal EPRDF level and uniformly applicable down to the states. For instance, one writer noted that the growth and transformation plan (GTP), Ethiopia's five year plan was discussed through party before presented and approved by the federal parliament and state councils.¹⁷⁵ Thus, the apparatus of implementing all plans is the party channel rather than organizing formal negotiation forums.

There are arguments that states ruling party follow the line dictates of the federal ruling party and lacks autonomy of states given constitutionally. For instance, at Oromia regional state, Oromo Peoples Democratic Organization party is dominant ruling party and one member of the EPRDF. Concerning this, there are two arguments. First argument is that opposition parties criticize this party that it influences the constitutionally given autonomy and subordinate Oromia regional state to federal government because it is not independent, has no own plans but implements the EPRDF.¹⁷⁶ In addition to opposition parties, there are

¹⁷⁵ Assefa Fiseha 'Ethiopia's Experiment in Accommodating Diversity; A Twenty Years Balance Sheet; Ethiopian Journal of Federal Studies; Centre for Federal Studies; The Addis Ababa University Press, vol.1, No.1, 2013 at 137

¹⁷⁶ Interview; Gebru Gebremariyam, Oromo Democratic Congress (ODC/MEDREC) Gen. Secretariat, March, 2014, Addis Ababa

some writers who note that OPDO is less influential and autonomous which has internal problems.¹⁷⁷ The second argument is that from the ruling party of this regional state, OPDO itself.¹⁷⁸ According to this argument, ‘starting from its nature, it is a party established for democratic development of the country and within more than 20 years it had improved state autonomy and self-administration by being with other party. However, concerning its autonomy, because the coalition of party established at federal, EPRDF is built on democratic line, it is autonomous to decide its affairs at any time without any influence and the more focused agenda is one and one that is the development of the country’.¹⁷⁹ Thus, the respondent stated that it has its own congress to discuss on its issue and to improve cooperation and coordination relations with federal government.

Now, in chapter two and beginning of this section, it is discussed that federal-state relationship is centralized or decentralized according to the degree to which the parties organized to operate the federal government control the parties organized to operate the constituent governments. This party has members in central committee of EPRDF that brings the rule and regulation of this central party to states. In this centralized structure of EPRDF party, what is proposed at centre goes down to the state ruling party through top-down approach. The federal party as well as this regional party uses different mechanisms to know to what extent the centrally legislated plans are implemented at all levels. Among these, criticism or *gimgema*¹⁸⁰ can be mentioned.

One respondent stated that *chephoo* [Oromiffa which mean criticism] and one-five cooperative union has advantages in improving good governance but also affecting employees and officials of this party and bureaus from top to down.¹⁸¹ If there is some one that oppose or does not support the plans and activity of EPRDF or fail to achieve his/her own plans as well as bureau, he/she provide reasons for that and will be reduced from

¹⁷⁷ Sarah Vaughan and Kjetil Tronvoll ‘Structures and Relations of Power Ethiopia’: Country Strategy 2003–2007, Swedish international Development Cooperation Agency; Stockholm Sweden at 29 and 30 as accessed on 02 march 2014 on <http://www.addisvoice.com/wp-content/uploads/2010/03/Structure-of-power.pdf>

¹⁷⁸ Interview for OPDO Central Office Organizational and Political Affairs Head; Ato Gemechis Guteta, March/2014, Addis Ababa

¹⁷⁹ Ibid

¹⁸⁰ Gimgema was widely used by the TPLF/EPRDF during the armed struggle as a way of critically evaluating the performance of its leadership and the general membership. It is a way of monitoring the activities of regional officials, used to keep officials always on guard by making them to admit mistakes publicly and openly and to weed out officials and ordinary members of party suspected of not following the official line. (Young 1998b: 43-4 cited in Asnake Kefale, ‘Federalism and Ethnic Conflict in Ethiopia: A Comparative Study of the Somali and Benishangul-Gumuz Regions’, (PhD Dissertation, Lidein University, the Netherlands, 2009.) at 251.

¹⁸¹ Interview; Confident Official Respondent of Oromia National Regional State; March, 2014; Addis Ababa

his/her position or remove from power. Here, one may argue that it has advantage in one or other, but the point is that using it as mechanism and preferred instrument to discern state and federal officials who fell out with the EPRDF has its influence on state autonomy.

There are writers who criticize this system as dictating government activities by party.¹⁸² Such mechanism shows to what extent Oromia regional state ruling party is independent and autonomous from the federal ruling party in one hand and gives autonomy to the state it is ruling in the other.¹⁸³ This is because of the links between the state and its ruling party, in which government business is discussed and decisions are made in party meetings that precede meetings of state bodies. The Oromo elites consider the ruling party of this regional state called Oromo Peoples Democratic Organization (OPDO) as a marionette of the country's ruling party, Ethiopian People's Revolutionary Democratic Front (EPRDF) that it lacks the autonomy for issue of the state it is ruling due to the pressure from federal government, regarding as centralized federalism.¹⁸⁴ For these elites, the informal relation with the centre through party channel brings lack of autonomy because the ruling party of this state follows the dictates of the federal party which is EPRDF.

On the other hand, as discussed in the previous paragraph, OPDO/EPRDF argues with reason that it is autonomous as other member parties to decide its affairs because it has equal number of central and executive committee of 45 and 9 respectively in EPRDF that is equal number with other member parties.¹⁸⁵ According to this group respondent, plans and strategies established at EPRDF go downward to OPDO to improve 'development, democracy and enhance peace and stability' of the country and has no influence on their autonomy as well as state that this party is ruling. Aalen on the other hand noted that EPRDF is essentially a centralized party, where party officials at all levels promotes upward accountability to the party organs above rather than downward accountability to the people and borders between the party and the state bureaucracy are blurred, and this enables the party to

¹⁸² Kjetil Tronvoll and Sarah Vaughan, 'Structures and Relations of Power Ethiopia': A Country strategy of 2004-2007: A paper submitted for policy dialogue; Sweden, Stockholm in August, 2002 as accessed on 15th February, 2014 from <http://www.addisvoice.com/wp-content/uploads/2010/03/Structure-of-power.pdf>

¹⁸³ Ibid at 29 and the paper reads 'OPDO and SEPDF have been widely considered less influential and autonomous; characterizations which continuing purges of members would do little to reverse' at 30.

¹⁸⁴ See Merera Gudina, *The Ethiopian State and the Future of the Oromos: The Struggle for 'Self-Rule and Shared-Rule'*; A paper presented to OSA Annual Conference ; July 29 – 30, Minneapolis, USA

¹⁸⁵ Interview; Gemechis Guteta; Head of Political and Organizational Affairs at Central Office of OPDO; Mar/2014, Addis Ababa

utilize the state administration for its own purposes.¹⁸⁶ In view of the party-state merger, it is understandable that Ethiopia has difficulty in distinguishing between them.

Generally, the party structure based federal-states relations in Ethiopia undermines the federal division of power and subordinates the state governments to the federal government which affects the latter's autonomy. This is so, because the party structures are centralized, and when the same party at federal and state have strong links, the federal-state relations leads inevitably to a centralized division of power which affects the constitutionally given autonomy of states.

3.6 Informal Federal-States relations¹⁸⁷ and States autonomy

In Ethiopia, the formal federal-state intergovernmental relation through institution and regular basis is at its inception stage and characterized by the informal channels. Critics indicate that, many of the intergovernmental issues are virtually dictated by the federal government and through the informal technique of ruling party. The focal point remains to be the non-formal means which perhaps open the door for the federal government and its institution to take all the initiatives and in that way establish centrally adopted agendas.

In Ethiopia, due to existence of constitutional and institutional gaps and other reasons discussed earlier, the federal executive and the EPRDF party dominates relationships between the federal and states orders of government.¹⁸⁸ As discussed earlier, the relationships between federal and states are more through party channel¹⁸⁹ without constitutional, institutional or legal framework and due to this the federal executive and party channel dominates the federal-states intergovernmental relations. Concerning this, Ethiopian late PM noted as follows:

¹⁸⁶ Aalen, 'Ethnic Federalism in a Dominant Party State: The Ethiopian Experience' 1991-2000, Bergen: Chr. Michelse, Institut Development Studies and Human Rights, 2002 at 99 see also Kassahun, Alemo 'The Ethiopian Transition in Regional Perspective Election processes, Liberation movements and Democratic change in Africa': Conference Maputo 8-11 April 2010 at 10.

¹⁸⁷ As pointed out, informal intergovernmental relations, for the purpose of this study includes the meetings, discussions, workshops and other dialogues between the federal governments and their specific departments without prearranged institutionally, regular and legal frameworks including in fact the party channels. It include letter, e-mail, personal communication, through different means, that states alone or jointly can't express their autonomy b/c it is already one side, top-down approach.

¹⁸⁸ Asnake kefale; 'Federalism and Ethnic Conflict in Ethiopia: A Comparative Regional Study: Leiden university, 2009 at 236 at books.google.com.et/books?isbn=1135017980 as visited on feb.12, 2014

¹⁸⁹ Aalen, 'Ethnic Federalism in a Dominant Party State: The Ethiopian Experience' 1991-2000, Bergen: Chr. Michelse, Institut Development Studies and Human Rights, 2002 at 81. See also Assefa Fiseha; 'Federalism and Accommodation of Diversity in Ethiopia: A Comparative Study'; Nijmegen: Wolf Legal Publishers, 2007 at 357

The collaboration between the regional governments and the federal government was happening because of their [*state*] willingness to cooperate. The cooperation was not happening because of a law, which sanctions their relationship. Even if the cooperation between the regions and the federal government should continue in the future, it is anticipated that the lack of a legal framework, which sanctions/regulates their relationship, might engender problems.¹⁹⁰

From this statement it can be argued that the federal-states intergovernmental relations in Ethiopia have impact on the latter's autonomy in the absence of legal framework and basic guidelines though it is based on their consent which can emerge from different factors. From my point of view, Ethiopian federalism is relatively infant, comparing with these account more than century in one hand, and the variety in states capacity and resource will require states to show their willingness for cooperation that gives opportunity for the federal government and its institution to dominate intergovernmental relations.

In previous chapter, it was stated that Intergovernmental relations dimension can be formal or informal and the latter is developed through post-constitution. Informal intergovernmental relations assume less organized and less regulated to shape, conducted via telephones, e-mails, letters and communication, and it is susceptible to connivance.¹⁹¹ The informal relations within the federal framework can also take the form of conferences held to discuss common problems, states and federal officials meetings, workshops, ministerial meetings with state sectors to share information, or the initiation of policy at one level of government which encourages or promotes similar policies to be adopted at other levels of government.¹⁹² As it is carried out mostly between executives and behind closed doors, the legislature and the people are alienated from the process. It is stated that in such situation the extent in which autonomy of state affected is high because of absence of formal mechanisms that guide it.¹⁹³

¹⁹⁰ Meles 2003:7 cited in Asnake Kefale; 'Federalism and Ethnic Conflict in Ethiopia: A Comparative Regional Study: Netherlands, Leiden university, at 239 as accessed on 12/February/2014, visited at <https://openaccess.leidenuniv.nl/bitstream/handle/1887/13839/chapter%20ten.pdf?sequence=5>

¹⁹¹ JP Meekison (ed.), *Intergovernmental Relations in Federal Countries*, A Series of Essays on the Practice of Federal Governance, Forum of Federations, 2002 at 67.

¹⁹² Ibid 67-73

¹⁹³ See conceptual frameworks, chapter two of this thesis

Here, the focus is the relationships that exist between institution of federal ministry and respective state bureau in the absence of institution that manage these relations and which are not based on regular basis. As pointed out in comparative overview chapter, the practices of South Africa and Germany have showed that national ministries conduct several meetings and discussions with respective Provincial/Lander ministries. In Ethiopia it is similar trends that various ministries of the federal have direct and close contacts with their corresponding bureaus in state governments. In addition to this, in south Africa, using the Presidents Coordinating Council(PCC), forums are conducted twice a year between the president and the premiers of the provincial governments in a view to discuss on the implementation of national policies, dispute resolutions and other related issues. Similarly in Germany, regular conferences are held between the federal chancellor and the minister presidents of the Lander in every four months. These conferences are used to evaluate whether the national laws and policies are executed in the Lander governments.¹⁹⁴

In Ethiopia similar forums has not yet started. There are no institutionalized meetings¹⁹⁵ between respective heads of health, education and agriculture, of the federal government and the states. The prime minster does not usually conduct regular meetings and conferences with the presidents of states governments except in party meetings and conferences where the prime minster and most presidents of the states government meet.

There are no formal meetings at governmental level between federal ministers and state governments. Nor are there any such meetings among representatives of legislative bodies of the federal and state governments. In such kind of intergovernmental relations, federal-state relation takes one side direction which is often a top down approach and brings the states to serve as an administrative agent of the federal rather than being independent entities created by the constitution. What is collected from data also supports this statement. For instance there was informant stated that there is communication with federal through meetings, conferences, workshops and sending letter to each other. But this is not on regular basis; communication occurs with respective federal sectors if the need arises and the federal sectors directly contact respective

¹⁹⁴ See Chapter two of this thesis for both south Africa and Germany

¹⁹⁵ Assefa Fiseha; 'Federalism and Accommodation of Diversity in Ethiopia: A Comparative Study'; Nijmegen: Wolf Legal Publishers, 2007 at 359

bureaus of states.¹⁹⁶ Now, the issue is that to what extent the informal form of relations between the federal and states takes into account the autonomy of the latter.

Ultimately, the federal government becomes the major player of the political scene by letting the states to be mere implementers of the federally deliberated ideas, policies and strategies. For instance, the execution of exclusive federal policy and laws in states in which many of the federal Ministries do not have branch offices outside Addis Ababa nor there is any express delegation of power to the state executive to enforce exclusive federal powers.¹⁹⁷ As it will be elaborated more in its own section, the duality implied under Article 50(2) implies existence of institutions to cover the whole field of federal powers enumerated in the federal constitution but in many fields, the federal government has not yet organized institutions to enforce its laws. In practice however, states executive organs implement as well as administer exclusive federal powers without expressed delegation and authorization due to informal as well as infant stage federal-state intergovernmental relations. Thus, it shall take into account long term historical or political evolutions and perceptions, which are essential dimensions.

3.8 De facto Nature and Political Culture of Federal-States Relations¹⁹⁸

In Ethiopia, the constitution is clear that it establishes dual and as far as dual is taken place one can determine competitive federal-states intergovernmental relations. Practically, however, there is a wide ranging intergovernmental cooperation by which the federal government and its executive institution proposes some projects and plans and the states retains the authority to implement or to follow up the implementation of these projects in their own jurisdiction.¹⁹⁹ Incidentally, the cooperation between both orders of government is usually dominated by the federal and its institution owing to several factors which results the concentration of powers in the hands of the federal government and its executive institutions. My discussion here is that the cooperation at the cost of autonomy that states

¹⁹⁶ Interview; Confident Bureau Official of Oromia Regional State; March 2013; Addis Ababa

¹⁹⁷ Assefa Fiseha; 'Federalism and Accommodation of Diversity in Ethiopia: A Comparative Study'; Nijmegen: Wolf Legal Publishers, 2007 at 354

¹⁹⁸ Political culture emphasizes a strict hierarchical understanding of federal-states orders of government. The situation when and where states fail both intentionally and unintentionally to say no for the activity that affects their autonomy. See Mehari Taddele, 'Devolution of Power in Ethiopia: Legal and Political Aspects': An Abridgment of papers Submitted to the University of Oxford and Harvard: UN Conference Center, Addis Ababa; 2008 at ().

¹⁹⁹ Personal Interview with Dr. Hashim Tewfik; Requested to present his view from Academic point on 03/April/2014, Addis Ababa university

shows to the federal government because of different reasons such as the same ruling political party at federal and states orders of government, political legitimacy of the power holders, capacity gap of states and others.

On the other hand, the states should have the political culture of challenging the federal government for their constitutionally given power in their relations with federal government. However, the state officials in Ethiopia exercise less authority against the federal government compared to other countries.²⁰⁰ Even though, it emerges from different reasons, it is clear that it influences the autonomy of state governments. Federal-state excessive cooperative relations and political culture weakens states to defend their autonomy. It is clear that extensive strict hierarchical cooperation contributes to the reduction of conflict, but it also reduces the autonomy and freedom of action of states because it can taken as an instrument by which the federal will take the front hands in designing policies and initiatives and the states follow the federal guidelines.²⁰¹

In the constitution, generally speaking to say explicitly about federal-state intergovernmental cooperation or competition seems difficult. However, from the reading of the four corners of the constitution, as dual federalism is put in place, one can conclude that, competition has been taken as a norm. Keeping this line of argument, there is a provision that affirm about the respective duty of both federal and states towards respecting the areal jurisdictions of each other, what federal writers labeled as the rule of federal comity and the preamble on the other affirm the creation of one political and economical state.²⁰²

From this provision one may argue that, the autonomous existence of the two levels is by itself an analytic of their mutuality and undeniably results in cooperative arrangements. Now, under chapter two and beginning of this section, it was stated that in extreme cooperative government the autonomy became a matter than competitive as its name also

²⁰⁰ Mehari Taddele, 'Devolution of Power in Ethiopia: Legal and Political Aspects': An Abridgment of papers Submitted to the University of Oxford and Harvard: UN Conference Center, Addis Ababa; 2008 from <http://meharitaddele.info/wp-content/uploads/2012/11/devolution-of-power-mehari-taddele-maru.pdf> visited on 10/3/2014

²⁰¹ Ronald L. Watts, 'Comparative Federal System': 3rd edition, Institute of Intergovernmental Relations: McGill-Queen's University Press 2008 at 121

²⁰² See FDRE Constitution preamble and Article 59, respectively

indicates, states act in case of competitive through retaining their autonomy while in cooperative states lose their autonomy.

In Ethiopia, though, the clear constitutional recognition of cooperative federal system is not adequate, the practice however is obvious; everything is going on through the cooperative forms either arranged in consultation with the respective states or by the exclusive initiatives of the federal government institutions.²⁰³ Incidentally however, such cooperation is dominated by the center owing to several factors and results the concentration of powers in the hands of the federal government. In this wide ranging intergovernmental cooperation forum, as stated earlier, the federal government proposes some projects and the states retain the authority to implement or to follow up the implementation of these projects. The vast areas of socio-economic policies such as education, health, trade and investment are issues arrangement with the cooperation activities in Ethiopia. However, it is a top-down approach in which the state is not initiating to establish forums for expression of their common agenda in their relations with the federal government that ultimately creates favorable climate for the federal government in the enjoyment of political powers. Here, the extreme cooperation that states shows towards federal government can be validated through implementation of federal policies and laws by states institution without authorization of constitution.

Additionally, as it will be elaborated following the next section, differences from the federal laws and policies are not visible except change of language. For instance, state directly use motto made at federal through translating language only. Some officials whom I interviewed for these issues limit autonomy of state to use of language, culture and religion only. For one respondent whom I would not like to proceed before presenting his/her view is presented as it is as follows:

The right to use and develop language, religion, and culture is completely protected within the past two decades. EPRDF as ruling party of Ethiopia and OPDO as ruling party of this state is still working further and [...], I think things discussed at federal is enough as far as we are not different from other states found in Ethiopia.²⁰⁴

²⁰³ Personal interview made with academician group, March/2014, Addis Ababa University: Addis Ababa

²⁰⁴ Interview with Confident Official of Oromia National Regional State; March,2014, Addis Ababa

From my point of view, this issue is due to political culture of couple interrelated reasons. First, the situation of Ethiopia before birth of federal system was extreme unitary of 'one nation, one language and one religion'. Once, these diversities are recognized at infant stage federal system as well as federal-state intergovernmental relations it leads to evaluate today through yesterday rather than through constitutional principles. The second reason is that political culture that emphasizes a strict hierarchical understanding of orders of government and excessive faithfulness of state officials towards federal government. In any cases, Ethiopian federal system as well as federal-states intergovernmental relations is at newborn age comparing to these federation that count up almost more than a century. For this reason, Ethiopian federal-state relations should be seen as a continuous and dynamic process rather than a constant and fixed system.

Before closing this section, it is possible to show important instance in which states fail to retain their constitutional right because of *de jure* cooperation they show towards federal government. Under previous section delegation is stated as a one basis of federal-states intergovernmental relations. In Ethiopian constitution, there is only downward delegation which the federal government, when necessary, delegate to the states powers and functions granted to it by Article 51 of the constitution. However, there is a practice of upward delegation in which states give some of their constitutional rights to federal government. For instance, Assefa noted the case of land administration in which the federal government encourages states to delegate the power to administer land in states respective territories to the federal government in 2010/2011.²⁰⁵ Thus, such unconstitutional practices influence constitutional division of power as well as constitutionally given autonomy of states.

3.9 Federal-states IGR hinder state autonomy: Is the argument convincing Ethiopian case?

In Ethiopia, the federal-state intergovernmental relations has influence as stated earlier on the autonomy of states because of its party structure based relations, informal relations, and political culture of extreme cooperation and absence of practical institution that manages intergovernmental relations between the two spheres. Thus, due to the dominant position of

²⁰⁵ Constitutionally speaking, According to Art, 52(2(d)) states have the right to administer land and natural resources in accordance with the federal laws. See Assefa Fiseha 'Ethiopia's Experiment in Accommodating Diversity'; A Twenty Years Balance Sheet; Ethiopian Journal of Federal Studies; Centre for Federal Studies; The Addis Ababa University Press, vol.1, No.1, 2013 at 121

the federal government and its institutions by different methods, the states autonomy is undermined and seems to be checked by a centralized party structure, centralized policy making and implementation and administration of federal laws and policies by states. We have seen how Ethiopian federal-states IGR influences autonomy of state in preceding sections, this section tries to briefly develop this argument through showing some autonomy of states affected because of federal-states relations. In doing so, it is limited to legislative and executive autonomy of states since my objective is not assessment of states autonomy which is further than these two dimensions.

3.9.1 Federal-State Relations and State Legislative Autonomy

The constitution is clear that it authorize the states to formulate and execute social and development policies, strategies and plans of the state within the overall federal framework. As a result, formally speaking the states has wide powers of policy making. In federal-states intergovernmental relations, one mechanism in which the federal government uses to influence states autonomy is through the use of policy making. The states copy the federal policies and harmonization of federal laws and policy by the state is widespread, mainly due to the party congruence and decision making structure and states capacity and expertise to bring their own that is different from the federal. The operation of state legislative autonomy is affected by the fact that laws and policies process has been mainly channelled by the EPRDF as dominant ruling political party, in practice making the political processes much more centralized than its constitutional form.²⁰⁶

Under chapter two, political party is discussed as one determinant factor of federal-states intergovernmental relations and in the previous section it is clearly stated that Ethiopian federal-states relations is through party channel in which its party structure undermined autonomy of states. In Ethiopian federal-states relations, the EPRDF dominance strengthens the dominance of the federal government in law making as well as social, political and economical policies.²⁰⁷ It is said earlier that different policy and laws are prepared at the

²⁰⁶ Ronald L. Watts, 'Comparative Federal System': 3rd edition, Institution of Intergovernmental Relations: McGill-Queen's University Press, 2008 at 48. See also Assefa Fischea; 'Federalism and Accommodation of Diversity in Ethiopia: A Comparative Study'; Nijmegen: Wolf Legal Publishers, 2007 at 450

²⁰⁷ Anderas Eshete: 'Federalism: New Frontiers in Ethiopian politics'; Ethiopian Journal of Federal Studies; Centre for Federal Studies; The Addis Ababa University Press, vol.1, No.1, 2013 at 97

central EPRDF level and uniformly applicable down to the states before presented and approved in the federal parliament without taking interest of states.²⁰⁸ The members of EPRDF found at states influences for direct use and duplication of policies and laws made at the centre. Thus, in practice policies, plans, laws as well as constitutions of states government shows no (few) signs of divergences from policy and laws of federal government.²⁰⁹ For instance, the constitution of Oromia regional state itself is just a copy of the federal constitution in different aspects. One instance that I would like to mention for this argument is that in connection with the right to secession, the Oromia constitution Article 39, like the federal constitution affirms the unconditional right of the Oromo people to self-administration, including the right to secession by stating similar preconditions as it is stated in the federal constitution for realizing the right to secession (The Oromia constitution 2001, Art.39 (5)).²¹⁰

Legislative autonomy of states at federal level is protected through second chamber as discussed in previous chapter. For instance, in South Africa, the National Council of Provinces is the second chamber of South Africa's national parliament and a concrete expression of the principles of cooperative government that are central to their Constitution. The role of this chamber is representing the provincial perspective within the national Parliament and giving the provinces a collective say in national legislation, providing the entree for provinces in to national policy-making as a bridge between the provincial and national governments.

In Ethiopia, states have no (less) control over law legislated by the federal government and this is because Ethiopia has no second chamber law making function in the areas of shared policy making. There is a huge academic and political debate on the lack of real legislative power to the House of the Federation that the system is an exclusion of states interest at the federal level in policy making. It is possible to argue that the arrangement may have unenthusiastic consequence in preserving the interest of the states especially where there is

²⁰⁸ Assefa Fiseha 'Ethiopia's Experiment in Accommodating Diversity; A Twenty Years Balance Sheet; Ethiopian Journal of Federal Studies; Centre for Federal Studies; The Addis Ababa University Press, vol.1, No.1, 2013 at 137

²⁰⁹ Ibid at 98

²¹⁰ Additionally, Tsegaye Regassa has noted that state constitutions are similar with federal constitution especially in their Form, legal and political vocabulary, functions as well as content. See Tsegaye Regassa, 'State constitutions in Ethiopia: A Preliminary observation', A summary for the Bellagio Conference, University of Amsterdam, March 22-27, 2004 at 6-8

unmitigated party competition in the two orders of government because of absence of institutional forums in which states reflect their interest in national policy making. Evidently the Ethiopian federal set up is among the exceptions with respect to comprising constituent units with no role in the law making process at the central level. It is obvious that the political process provide a better alternative when both the federal and state governments actively involved in the federal legislative process. In the absence of the states say at the central policy making process, undoubtedly, one may imagine the existence of institutional based cooperative forums as the states are not well informed of the laws exclusively made at the federal. However, the reality is as stated above there is lack of institution in which states establish forums for negotiation as well as bargain with the federal government.

There are indicators that states government fails to use their real autonomy of policy making as opposed to the constitutional framework. There is policy power centralization not only in areas exclusively given to the federal but also states which resulted in the moderate autonomy of member states.²¹¹ Here, this argument can be validated by the reality that we found similar policies across state and federal in different aspects. In the area of federal law-making, the federal principle is undermined and autonomy of states seems to be checked by a centralized party structure and centralized policy making.²¹²

Coming to state's law and policy making in their jurisdiction, due to close and party channel based, in the absence of well organized institution, federal-states intergovernmental relations leads states to directly apply federal laws and policies. Concerning this, one state official respondent is invited to share his/her view that the constitution gives states the right to make their own polices and regulation in their own jurisdiction and how this constitutionally given autonomy is going. Practically, they are not trying to fit in their context as far as formulation and execution of economical, social and developmental policies, strategies and plans of their state (Art, 52(3)) is concerned but implementing similar policies from the federal to down through sector.²¹³ The respondent also suggest that state council has a power to make rule

²¹¹ Lovise Aalen, *Ethnic Federalism in a Dominant Party State: The Ethiopian Experience 1991-2000* (Bergen: Chr. Michelsea Institut 2002) at 60

²¹² Assefa Fiseha; 'Federalism and Accommodation of Diversity in Ethiopia: A Comparative Study'; Nijmegen: Wolf Legal Publishers, 2007 at 349

²¹³ Personal Interview; Anima Kedir: Oromia National Regional Council (Caffee), March, 2014, Addis Ababa

and regulation within this state jurisdiction, but in practice it is limited to only assessing what is federally adopted. However, there are no instances that can be mentioned in which regional council has changed what is adopted at federal though it participated in examining its laws and regulations at different times.²¹⁴ Additionally, there are scholars who support this idea and suggest that it is fiscal dependence of states on federal government coupled with constitutional commitment to a single economic community that affects the constitutional autonomy of state's law and policy making and created uniformity in planning and policy-making.²¹⁵

As stated under chapter two, the pattern, capacity and structure of state governments determine the system and extent of Intergovernmental Relations existing between federal and states. If the state is too weak to run everything, it requires the intervention from federal. In such situation, it is not the intergovernmental relation itself or the federal government that brings the ineffective autonomy of states. From this view, the point that can be raised is that Ethiopian federalism is young compared to other federations that almost account more than century. This leads to say none of all states are self-sufficient and each requires daily assistance from the centre. From this one can draw a conclusion that legally speaking, the legislative autonomy of states are cannot influenced because of the intergovernmental relation exist between two spheres but because of the states weakness to run activities by their own due to their capacity and policy expertise.

The wonder here is that how much the constitution provides a space for the states to put in to practice these powers,²¹⁶ and the states are using these powers and reflecting their autonomy through different mechanisms at the federal. For instance, in the exclusive federal powers the federal is entitled with the major policy making roles and in the most substantial affairs of the country. It is practically difficult for the states to make a law in the major areas of socio-economic sphere and due to informal federal-states relations exist between them; they have some administration and implementation powers than policy making. This argument

²¹⁴ Ibid

²¹⁵ Andreas Eshete 'Federalism: New Frontiers in Ethiopian Politics'; Ethiopian Journal of Federal Studies; Centre for Federal Studies; The Addis Ababa University Press, vol.1, No.1, 2013 at 95-96

²¹⁶ The constitution itself has centralized feature of policy making. See *ibid* at 96 and Aalen, *supra* note 165: 59-61; Andreas Eshete, *supra* note 225: 166-167 captured in Assefa Fiseha; 'Federalism and Accommodation of Diversity in Ethiopia: A Comparative Study'; Nijmegen: Wolf Legal Publishers, 2007 at 337

here can be validated through absence of enough federal institutions in states for all bulk of policy areas through which the federal execute its exclusive power of policy making that will discussed following this section. State and federal government has close relations which is based on mutual understanding and party structure that is well organized and active to harmonize federal policy in the states.

Generally, in practice, the states accept the economic, social and development policy and laws as well as policy issued by the federal government. The five-year plans to be implemented are adopted at federal level and become the basis for state government plans and policies.²¹⁷ In theory, they can adapt the policies that can fit their own circumstances but the federal government plays a key role in influencing through both orders intergovernmental relations which is based mainly through party channel and informal in the absence of practical institution that manage these relations and because the states lack the required expertise to bring alternative policies.

3.9.2 Federal-State Relations and State Executive Autonomy

In order to create a smooth implementation of policy frameworks, the institutionalization of federal-states intergovernmental relation forums is appropriate; if not however, it will be odd thought if the federal government requires the states to execute laws exclusively made by the federal government without establishing institution.

In Ethiopia, the conceptual ambiguity is the implementation of federal laws and policies in the constituent states as the one field of federal-states Intergovernmental Relations. As it is pointed out under chapter two, federal systems enforce their laws and policies by setting up dual structures, federal and state institutions for dual federalism, or by assigning the state machinery with the power to enforce both federal and state laws for executive federalism. The Constitution appears to propose dual structure²¹⁸ that it states: ‘The federal government and the states shall have legislative, executive and judicial powers.’ This shows that there

²¹⁷ Aalen, ‘Ethnic Federalism in a Dominant Party State: The Ethiopian Experience 1991-2000’, (Bergen: Chr. Michelse, Institut Development Studies and Human Rights, 2002 *supra note* 138 at 82. See also Assefa Fiseha, ‘Accommodation of Diversity in Ethiopia: A Comparative Study’; Nijmegen: Wolf Legal Publishers, 2007 at 387-388

²¹⁸ FDRE Constitution, Article 50(2) 1

will be parallel federal and state executive organs in charge of enforcing federal and state laws, respectively.²¹⁹ Based on this, one may argue that states in Ethiopia are acknowledged as far as the responsibility to execute and administer federally legislated policies and laws are not given to them from the principle. The reality is however, due to infant stage of federal-states intergovernmental relations, state machinery directly executes federal laws and the state governments take over the responsibility of enforcing and administering federal laws and policies regardless of the absence of this mandate. Here, in the absence of well-organized institutional set-up for the enforcement of federal laws in states, the federal government uses system of federal-states intergovernmental relations through informal contacts between the respective offices and party channels.

However, there are some²²⁰ federal executive organs organized throughout the states to enforce federal laws, practice indicates that there is a gap in enforcing all other federal laws. As far as other areas are concerned, as mentioned earlier the federal government has not organized institutions to enforce its laws, states implement without any authorization because of informal based federal-state intergovernmental relations exist; that hinders their executive autonomy constitutionally given. In addition to their task of implementing, administering and executing their own laws and policies, states involved themselves in the task of implementing and administrating exclusive federal powers.

According to Article 55, the federal government shall have exclusive power to legislate with respect to ‘foreign affairs and defense, citizenship, freedom of movement, passports, immigration, emigration, and extradition; currency, money and coinage, weight and measures and the determination of standards of time; air transport; federal rail ways; postal and telecommunications services; industrial property rights, copy rights and publishing; statistics; regulation of federal employees’. If it is in accordance of the principle and existing experience system, the federal government is expected to have its institution in states for implementation of policies and laws in these mentioned areas. Again, the reality is except in

219 Even, in Germany and Switzerland, where relied on state executive organs for the enforcement of federal legislation, the federal government in each of them has federal institutions to enforce exclusive federal powers. See Assefa Fiseha, ‘Accommodation of Diversity in Ethiopia: A Comparative Study’; Nijmegen: Wolf Legal Publishers, 2007 at 353

220 The federal government maintains federal institutions only in a few areas of exclusive federal matters such as Telecommunications, Postal Services, Federal Public Prosecution, Federal Inland Revenue and Insurance and Banking

some that are mentioned earlier, the federal government has no institutions in states. Here more than affecting the autonomy of states, this situation creates difficulty even for the citizens of the country as a whole. For instance, one can mention the issue of passports²²¹ which requires every people to come to the capital city of the country, Addis Ababa from each corner of the country since there is no established institution for this exclusive federal power implementation in states.

Although the constitution does not provide comprehensive regime of concurrent powers except tax²²², it can be said that according to art-51 and 52, the bulk of social, education, economic and health affairs are shared between the federal government and the states. However, there are no institutionalized meetings, for instance, between respective heads of health, education and agriculture, of the federal government and the states for the execution and administration of policies and laws. There is no institution of federal government for implementation of policies and laws of these areas in states too. The reality is that due to close, infant stage and informal federal-states intergovernmental relations, states participate in administration of these policies through their respective sectors. Ethiopian academic scholar, Assefa concluded this situation as ‘There is neither a comprehensive dual structure nor executive federalism at work. The institution of co-operative federalism too is not well-known’.²²³

From my point of view, the above statement holds true because as far as the constitution is concerned, it is dual federalism (Article-50(2)) and it does not give a mandate of implementing federal laws to states unlike Swiss constitution (Art. 46 (1)) and Germany (Article 83 of the Basic Law). But as far as practice is concerned, it shows that as it discussed, enforcement of federal laws and policies in the states is undertaken by informal contacts between the respective offices and party channels which affects autonomy of states from this eye. Thus, in Ethiopia, the constitution

²²¹ This instance is taken from Assefa Fiseha; ‘Accommodation of Diversity in Ethiopia: A Comparative Study’; Nijmegen: Wolf Legal Publishers, 2007 at 353-355

²²² The FDRE constitution recognizes tax as concurrent power. Except this, there is no explicitly recognized concurrent power of both federal and states by the constitution. See Aalen, ‘Ethnic Federalism in a Dominant Party State: The Ethiopian Experience’ 1991-2000, Bergen: Chr. Michelse, Institut Development Studies and Human Rights, 2002 at 89, Assefa Fiseha, ‘Federalism and the Accommodation of Diversity in Ethiopia, A comparative Study’, Wolf Legal Publishers, the Netherlands 2007 at 356. See also Article 97 of FDRE constitution.

²²³ Assefa Fiseha; ‘Federalism and Accommodation of Diversity in Ethiopia: A Comparative Study’; Nijmegen: Wolf Legal Publishers, 2007 at 384

has tried to set a dual system of division of executive power, in practice there is no proper observance. There is a gap to put in practice this constitutional ambition and the federal government uses federal-states relations as mechanism for implementation of its policies and laws in states.

As stated in previous section, one mechanism in which federal-state intergovernmental relations is influencing state autonomy is through the extensive cooperation that state shows towards the federal government and its executive institution, literally. Bringing this argument to state executive autonomy, more than other things, some of the state constitutions itself stipulate that ‘without prejudice to the provision of the federal constitution, the state executive shall have the power and function to ensure the implementation of laws and decisions issued by the state council and *the federal government*.’²²⁴ For instance, Article 55 of Oromia regional state constitution stipulates for direct enforces of laws of the federal government even if there is neither express delegation nor any federal body at state.

Before closing this discussion, there is current new evidence of unconstitutional practices that influences executive autonomy of states of land administration as it is discussed earlier. According to the constitution, the federal government has the power of adopting rules and regulations while states have a mandate of execution and administration of land. However, according to urban lands lease holding proclamation No. 721/2011, Article 32 gives federal executive institution, Ministry of urban development and construction, the power to prepare regulations and directives of land lease holding administration. There are regulations and directives adopted by this federal executive institution and implemented and administered by states and both city administrations, vested with the power to administer land. For instance, urban land administration through lease established by urban land development and management bureau of ministry of urban development and construction that the states are administering now can be mentioned.²²⁵ This and other regulations, manuals and operations

²²⁴ Some state constitutions intentionally give the mandate of enforcing federal laws by state executive institutions which the federal constitution doesn’t mandate. For instance, Art, 55 of Oromia regional state; Art, 58 of Amhara regional state and Art, 56 of Tigray regional state cited in Ibid at 356

²²⁵ According to this document, corruption as well as existence of gaps among states in administration of land needed to establish plans, strategy and regulations by this federal executive institution. See document established for the ‘*Administration of Urban Land* through

continues to be established in the future by this federal executive institution on one hand and states and city administration will also continue their administration and execution of what is established unless that proclamation is repealed by other proclamation.

Generally, it can be argued that as far as the constitution, the system and principle is concerned states of Ethiopia has no mandate and responsibility to implement or execute and administer both exclusive federal power in their jurisdiction because there has to be federal institution in states that do this business. Additionally, states have no mandate of implementing and administering regulations established by the federal executive institutions. In reality however, states are doing this because of informal based and infant stage federal-state intergovernmental relations.

3.10 Problems and Prospects of Federal-States Relations

In Ethiopia, though until now the federal-states intergovernmental relations are going on, a close look at can identify the problems as well as identifies better areas or experiences in which it is operating. This section identifies briefly the overall problems of federal-states intergovernmental relations discussed in this study, thinking it suggests some direction for future improved federal-states intergovernmental relations to fill the existing gaps.

In Ethiopia, there are new trends and positive experiences that characterize federal-states intergovernmental relations. Firstly, among conflicts that are hindering federation is intergovernmental relations conflict that emerges due to different reasons. In Ethiopia, however, as mentioned elsewhere there is no, if not less intergovernmental relations conflict between federal and states order of government. There is excessive mutual understanding and cooperation based relations between bureau of states and institution of federal executive. One have to bear in mind that all these result are dependent on current situation of understanding each other and existence of dominant ruling party however, in the future it is questionable. Secondly, some months before this study is undertaken, there was a committee established by ministry of federal affairs being with House of Federation to encourage

Lease', December 2013, Addis Ababa: Urban Land Development and Management Bureau: Ministry of Urban Development and Construction. Here, the constitutionally given land administration given to states by the constitution is given to federal government executive institution by this proclamation. Some writer criticizes this as upward delegation which the constitution does not allow in Ethiopian case. Assefa Fiseha, "Ethiopia's Experiment in Accommodating Diversity"; A Twenty Years Balance Sheet; Ethiopian Journal of Federal Studies; Centre for Federal Studies; The Addis Ababa University Press, Vol.1, No.1, 2013 at 121

federal-states relations and to beef up the existing institution as it is also exercised in other federations.²²⁶ It contains presidents of all regional states, technical committee and there is plan to include academicians and experts based on other federation experiences.

Thirdly, currently, there is intention to establish plans and policies of creating regular basis of meetings²²⁷ between sectors of states with federal executive institutions which was not regular, managed and organized by federal institutions only. Additionally, there are regular meetings started in some sectors between federal executive institution and regional states institution. For instance, there is once meeting within three months between Ministry of education and regional states education bureau that started before some years which helps to share experiences from each other and review the implementation of quality of education as well as federal education plans even though it is only organized by federal institution, Ministry of Education alone.²²⁸ On this meetings regional states education bureau provide a report on their achievements and challenges faced so that they learn from each other.

Additionally, as stated by some respondent the intergovernmental relation between federal government and states has enhanced autonomy of some states as well as the use and development of their own language, culture and religion. For instance, the intergovernmental relation between federal executive institution, ministry of education and regional states education bureau has helped some periphery and least developed states to use and develop their language in education at school through preparing necessary materials such as text books by their own language by being with their education bureau.²²⁹

When we come to problems existing in Ethiopian federal-states relations; constitutional, institutional, practical as well as political party challenges can be observed. As stated elsewhere, constitutionally it is not adequate how to guide federal-states intergovernmental relations. Not only the constitution, but also proclamations established yet do not provide the guiding principle on how to manage federal-states intergovernmental relations in the

²²⁶ Personal interview with Tsegabrhan Tadesse; MoFA, IGR General Director; March, 2013; Addis Ababa

²²⁷ Interview with Letibelu Motuma; Vice Head of Oromia Regional State Education Bureau, March, 2014; Addis Ababa

²²⁸ Ibid, There is regular meeting started this year (Sept, 2006 E.C) between Ministry of Education and Education Bureau of states and two city administrations.

²²⁹ Interview; Desalegn Samuel, Communications Affairs Directorate Director, Ministry of Education, March 2014, Addis Ababa

existence of different provisions that require relations of both orders of government.²³⁰ In addition to this, the constitution does not provide the institutional framework that manages federal-states intergovernmental relations. However, to fill the constitutional gap, the federal government proclamation as discussed in previous section, proclamation 471/2005 gives Ministry of Federal Affairs, the power of creating partnership intergovernmental relations between states and federal government. Federal-states Intergovernmental relations require states and federal government negotiation, and thus, the federal government proclamation alone is not enough. As it is discussed under chapter two, if cooperation, consultation and mutual respect between orders of government are required in the name of federal-states intergovernmental relations, it has to include both orders of government.

In federal-states institution of intergovernmental relations; the policies, strategies and laws are national and it concerns both levels; it requires states and federal government interest and negotiation to establish structures and process including its officials. Unless and otherwise, the federal government alone or the ministry of federal affairs by being the federal executive at department (directorate), institutionally cannot bring expected results as its practice also indicates.²³¹ In theory, it is one formal institutional mechanisms of Intergovernmental cooperation in Ethiopia. But as the track record of this institution suggests, there is institutional gap in federal-state relations in Ethiopia which goes back to its nature and rationale of its establishment to provide the less developed regional states technical assistance not managing intergovernmental relations between federal and states orders of government.

The other problem that one can mention in Ethiopian federal-state intergovernmental relation is its dependence on party channel. The federal government relies on party channel than institution of federal-states intergovernmental relations²³² because, for now there is well-organized party that EPRDF's network of partner organizations and affiliates controls

²³⁰ For instance, Art, 50(9) delegation of power from federal to states, Art, 50(8) duty of states and federal government to respect power of each other, Art,88-92 political, economical, social, cultural and environmental protection objectives, intervention of federal government in states that is recognized by constitution and federal proclamation and different proclamations established requires federal-states intergovernmental relations. For More, see section 3.3 of this chapter

²³¹ See institutional aspect of federal-states intergovernmental relations practical appraisal of section 3.4 in this chapter

²³² Assefa Fiseha; 'Federalism and Accommodation of Diversity in Ethiopia: A Comparative Study'; Nijmegen: Wolf Legal Publishers, 2007 at 378

the governments in all the states. However, it is very difficult to guess the health of federal-state intergovernmental relations if the situation in which two different parties rule the state and federal government happens in the future.

The other most problems to the democratic and successful construction of federal-states intergovernmental relations is state governments and their institutions basic capacity especially least developed regional states.²³³ Such states government weaknesses lead the federal government and its executive institutions to intervene that eventually undermine state autonomy and bring variations in degree of relations between all states and federal government. Federal-states intergovernmental relations in Ethiopia is operating at infant age in relative with those federation accounts more than a century on one hand and at less capacity of states to make their own laws and policies that is different from the federal on the other. Here it is possible to go back to previous discussions that some respondent at both state and federal stated states has low capacity in expertise and finance that leads to literally follows the federal government. State loses their autonomy because of their interest for cooperation with the federal on one hand and because of their capacity to use their real autonomy on the other. As stated, no states are self sufficient and each requires the help from the federal government. From here, reader has to note that the inevitable relations between both orders can't affect autonomy of states but due to determining factors discussed in previous chapters, the structure and absence of practical institution that guide these relations, domination of these relations by ruling party, low capacity of states to exercise their autonomy and others that are not discussed in this thesis.

In addition to constitutional, institutional gaps, state capacity as well as political party reliance problem, there are also general problems that have been studied through different documents including ministry of federal affairs as institution, itself. Among, general problems of federal-states intergovernmental relations in Ethiopia, some are discussed as follows.²³⁴ Firstly, there is giving low concern or attitude towards federal-state

²³³ Andereas Eshete, Federalism: New Frontiers in Ethiopian politics; Journal of Ethiopian Federal Studies; Addis Ababa University Press, vol.1, No.1, (2013): 57-101

²³⁴ These problems are studied by Ministry of Federal Affairs, Intergovernmental Relations Strengthening Directorate General on necessity of Intergovernmental Relations in federal Ethiopia: A concept paper for discussion; December, 2010. Only issues that are relevant to the study are presented here through Translating from Amharic to English and thus, incase errors exist, it is mine.

intergovernmental relations that can be validated through different mechanisms. For instance, giving the duty of national or nationwide federal-states intergovernmental relations to one department in ministry of federal affairs and low officials' attitude and knowledge towards intergovernmental relations can be mentioned.²³⁵ Thus, in the federal-states intergovernmental relations, the situation in which both orders of government alone or together open to the public their relations, 'who does what and who does not what' based on transparency and accountability is not observable. Secondly, the relationship between federal and states, through respective sectors are not for the sake of necessity of federal-states intergovernmental relations or not for the structure and process of relations between federal and states but to deal only the reason for their relations or meeting.

Currently, there is domination of sector to sector relations between federal ministry and bureaus of state which is not regular on one hand and does not involve institution of federal-state relations on the other rather organized by one order of government, usually federal ministries that seems giving technocratic discussion.²³⁶ Yet, there is no governmental structure connecting the respective federal and state offices.²³⁷ The meetings, conferences and workshops between the federal sectors and states bureaus are usually organized by federal alone which shows lack of dealing issues of common concern on equal balance. It is due to the dominant position of the federal government and its institutions, by different methods, as discussed earlier that the states autonomy eroded and falls under the auspices of the federal government. Unless formal systems shape the relation phases, it will continue unfairly manipulated by one sphere, usually by the federal government and its executive institutions in setting an agenda.

It is a century or more for other federations to resolve such gaps in different mechanisms through legislations, agreement and litigation.²³⁸ In case of Ethiopia, though it is recommended by some writers²³⁹ to settle these existing gaps, it is not adequately addressed

²³⁵ Interview with some regional state officials, March 2014, Addis Ababa

²³⁶ MoFA Report concerning Intergovernmental Relations in Ethiopia. See the necessity of IGR in federal Ethiopia: A concept paper for discussion, MoF; IGR strengthening Directorate General, December 2011, Addis Ababa

²³⁷ Assefa Fiseha; 'Federalism and Accommodation of Diversity in Ethiopia: A Comparative Study'; Nijmegen: Wolf Legal Publishers, 2007 at 394

²³⁸ Ibid at 384

²³⁹ Ibid

yet which is because of giving less attention from government. However, Ethiopian federal-states intergovernmental relations should be seen as a continuous and dynamic process rather than a constant and fixed system on one hand and it shall take into account long term historical or political evolutions and perceptions which are essential dimensions on the other. Thus, it is clear that the practice of Intergovernmental relations and its relationship to the practice and evolution of federalism in Ethiopia is just at a starting point; account must be taken for the informal practices that take place in informal such as within the channels of the ruling party and others. Finally, it's suggested that further research and studies has to be done on the impact of federal-states intergovernmental relations on autonomy of states through different dimensions and mechanisms in a manner that have influence voice for the future.

3.11 Conclusion

This chapter is aimed to analysis impact of federal-states intergovernmental relations on states autonomy of Ethiopian federation. Like some other federations, Ethiopia was in centralized unitary system that later brings establishment of federal system. It is identified that power is divided between federal and states governments with less regulated intergovernmental relations provisions. However, in addition to concurrent power of the division of power, the constitutional basis of both orders intergovernmental relation is discussed. Ethiopian constitution offers little guidance on managing federal-state relations relative to its basis and there is no study of how the relationship between the federal government and the states will be managed on a sector-by-sector basis. It affirmed that organization of regional affairs established as institution for federal-states intergovernmental relation later devolved to Ministry of Federal affairs through proclamation in 2001. The mandate of enhancing effective and coordinate federal-states intergovernmental relation is given to it as institution of intergovernmental relation. However, its effectiveness towards this mandate is not viable due to discussed reasons, if not limited to some state. Practically, there is no institution of federal-states intergovernmental relations.

Under Ethiopian federal-states relation the issue of autonomy and factors discussed in previous chapter was also analyzed in this chapter. Thus, intergovernmental relations are

informal and party channel which leads to federal government and its executive institution domination. Federal executive institution such as Ministerial and agency relation to respective states bureau and agencies, party channel relation, informal relation through conferences and workshops organized by federal alone characterizes Ethiopian current intergovernmental relations. This clearly stated the fact that federal-states relations organized by federal executive institution and party channel have influence on the latter's autonomy which was a major journey of this thesis. To validate this argument, how legislative and executive autonomy of states are influenced because of both orders intergovernmental relations was discussed. In practice, states executive organs implement as well as administer exclusive federal powers without expressed delegation and authorization due to informal as well as infant stage federal-state intergovernmental relations. Thus, this showed us that federal-states intergovernmental relation which is more informal through party channel, excessive cooperation of states towards federal government and infant stage influences state autonomy.

CHAPTER FOUR

Conclusion of Discussions and Recommendations

In the previous chapters, this thesis aimed to assess the impact of federal-states relations on states autonomy in Ethiopia, through providing conceptual framework, drawing experiences of other federations and collecting data from practical context to come to its major objective. Using this as a landmark, the first section of this chapter is intended to provide conclusions from the previous discussions. Following this, the second section provides some implications for future improved federal-states intergovernmental relations in Ethiopia.

4.1 Conclusion of Discussions

In chapter one, it provided some beginnings through what problem, why of this thesis and how to do this thesis. Under statement of the problem it is stated that in Ethiopia, constitutionally, the states or the ethno-national groups are the major actors in the federal system of Ethiopia. Federal-states intergovernmental relations are inevitable and help federations to pursue a wide variety of objectives from information sharing to policy coordination, from the elaboration of joint projects to coordinate laws and policy making, from the setting up of joint bodies to establishment of mechanisms for dispute resolution. In such kind, it is stated that the Ethiopian constitution has not provided enough guide how to manage the inevitable relations nor institution that manage the relations between states and federal orders of government. This showed us the necessity to appraise the impact of informally developed federal-states relations on autonomy of states. To achieve this it provided some research questions as well as methodology how it has done.

In chapter two, it provided conceptual framework for this thesis. After discussing some conceptual definition of federal-states relation from general to specific of this study, it provided what factors are determining, affecting and varying it from federation to federations and analyzed these factors in linkage with autonomy of states. Following this, it provided the necessity and objective of federal and states orders of government relations in federations and Ethiopia. Finally, it analyzed the conceptual framework of previous sections in some purposefully selected federations to the aim of capturing the relevant experiences

for Ethiopia. The result shows that there is variation among federations on the managing as well as protecting autonomy of states in their activity of intergovernmental relations. Thus, it can be concluded that there is no single system of analysis that can capture all the detail and nuance of federal-states relations because of ‘no pure model that fits for all’.²⁴⁰

In chapter three, it used conceptual frameworks discussed in chapter two to analyze impact of federal-states intergovernmental relations on autonomy of states in Ethiopia which was the main objective of this thesis. Before doing this, careful analysis of the four corner of the constitution to identify basis of relations is made and it suggests the inclusion of formal basis of federal-states intergovernmental relations from the words of the constitution. Following this, it assessed the effectiveness of institution of federal-states relations established through proclamation, ministry of federal affairs. After doing this, it comes towards analyzing the impact of federal-states relations on autonomy of the latter. Finally, it identified the overall problem(s) of federal-states intergovernmental relations that will help to give some direction for improved relations in the future. It is identified that in the constitutional as well as institutional gap, federal-states relations in Ethiopia is party channel, informal, characterized by excessive cooperation and infant stage that its impact on states autonomy is summarized in next sub-section.

4.1.1 Finding Conclusion

To conclude the findings of this thesis, when go back to the conceptual framework of intergovernmental relations and experiences of federations’ discussed in chapter two, the situation where there is no adequate provision of federal-states relations in the constitution, there is strong institution that manage these relations. However, if it is not institutional but constitutional, that constitution necessarily manages it. It is not enough to rely on informal relation through different channel. Coming back to Ethiopia, as it is already stated, there is no enough/adequate provision constitutionally and the established institution is not effective. In the absence of adequate provisions in the constitution and practical institution of federal-states relation, there is extensive every day relations among federal-states governments, occurring in meetings (e.g. health, finance, social services, agriculture, etc.), and in an

²⁴⁰ A term taken from R.L.Watts, ‘Comparing Federal Systems in the 1990s’, Institute of Intergovernmental Relations, Kingston, Queens University Press, 1996 at 1

elaborate substructure of presidents, deputy-sector officers, sub-committees, task forces and the like. There is also constant communication by phone, email, and formal correspondence. For the most part all of this activity has a useful purpose and achieves its goals of relatively high level cooperation: exchange of views and information and much mutual attempt of cooperation. However, its impact on the latter's autonomy can be concluded as it influence which is explained in the subsequent paragraph.

The federal-states intergovernmental relations in Ethiopian context affect the constitutionally given autonomy of states. For now, the role of states as a policy makers and their authority to reflect their autonomous existence through the clear machinery of policy discussions at the federal is less, if not, not feasible. Policies and laws are legislated at federal and states take the duty of implementation and administrations of this legislation which the constitution does not give mandate to do but because of the informal and party based federal-state intergovernmental relations. In Ethiopia, the states implement policies set by the federal without authorization of the constitution to do so. The formal division of power in Ethiopia does not matter to maintain the federal balance power and the impression that the states are the superior actors in the Ethiopian federal makeup seems an argument based on the motives and aspirations of the front pages of the constitution, however, states are not in a position of using their constitutionally given power of policy making in their areas of jurisdiction. Additionally, states execute and administer federal laws, plans and policies, because of close intergovernmental relation exist, which is based on informal through party channel and due to what scholars call excessive cooperation on the other. If not, their autonomy is limited self-administration such as autonomy to use and develop their diversity of culture, religion and language. Thus, in Ethiopia, federal-states intergovernmental relations in the absence of practical institution and existence of dominant ruling party, affected autonomy of states of policy making and implementation. But for the future, if the ruling party losses its position from one or some states, meaning the situation in which ruling party found at the federal and state(s) is different, it can be doubt that the relation between federal and states will be intergovernmental conflict in the absence of practical institution that manages these relations. Following this, the next section suggests on how the improved federal-states intergovernmental relations could take place through

providing some implications or recommendations for this thesis based on discussions made yet.

4.2 Recommendations

By making the data collected, review of existing literature and documents, constitutions, proclamations, analysis of experiences of other federation as a basis, the following points are provided as recommendations for this thesis.

- It is essential to institutionalize federal-state intergovernmental relations and replace the *de facto* heavy reliance on party structure so that institutionalizing federal-state intergovernmental relations could further facilitate resolving probable federal-state conflicts. Additionally, the institution of both orders relations as well as officials will have to work on the basis of the principle of intergovernmental relations and rule of law, more than on the basis of a common party consideration.
- The assessment on institution of federal-states intergovernmental relations in Ethiopia made affirmed that the formal institution established through proclamation, ministry of federal affairs is not effective from its nature. It is expected to transform in to separate institution of intergovernmental relations as it widely practiced in other federations. Before the establishment of the institution, the kind as well as clear mandate with capacity to achieve has to be debated. The experiences of federations that have institution for managing the intergovernmental relation expresses that it is expected to be free from both sides as well as out of executives and legislative. An effective institutional mechanism for intergovernmental relation can succeed if it does not have to depend on other executive organizations for getting its decisions implemented.
- To maintain the federal system in federal-states intergovernmental relations the task of facilitating the relations between the federal and states should be given to separate institution that can be established in the form of council or commission through federal proclamation. In addition to this, as it is provided in other federations like

South Africa, principles guiding these relations can be also described through that proclamation. If not, however, there must be plan to beef up existing institutions and develop new ground rules for intergovernmental relations. These changes will hold the promise of substantial improvement of relations among the states, and the federal government. Whether the promise is met depends on how much real reform is achieved. Once, beefing up the existing one or establishing new institution is made, democratic federal-states intergovernmental relations are possible when intergovernmental institutions become effectively operative.²⁴¹

- Effective federal-states intergovernmental relations will be result oriented if the relevant political actors will be willing to allow their actions to be guided by the spirit of constitution. The officials and peoples who work as intergovernmental relations instrument are expected to improve their political culture and give themselves to the law, regulation, policy and strategy of the country in addition to the constitution in their task of relations. The political culture²⁴² plays effective and crucial role in federal-states intergovernmental relations. The states government's officers should not be impressed by collaboration unless it produces better performance or lower costs.²⁴³ However, for democratic federal-states governmental relations, it must involve a pattern of cooperative relationship between the two levels of governments. This pattern of relationship helps to promote harmony among the levels rather than competitive, which engenders conflict. This is because the key term in the study of intergovernmental relations is cooperation and coordination. Cooperative federal-states intergovernmental relations can succeed when a fair balance is maintained between the maintaining autonomy of states and the necessities of unity. As it is discussed in previous chapter, it is through excessive cooperation that states shows towards the federal government and its executive institution and their political culture in which states autonomy undermines. If that

²⁴¹ For more details of the link between intergovernmental relation institution and successful federalism see Professor Akhtar Majeed 'Mechanisms of Intergovernmental Relations in India' Director, Centre for Federal Studies; pp9-10; forum of federation; Hamdard University, 2002

²⁴² It is party politics game. Officials, peoples, employees and concerned government office, bureau and even ministry who work as machinery or instrument of centre-state relations have to develop the culture of working through laws and regulations and constitutions than giving precedence to party. If the issue hinders the states autonomy, both centre and states are a duty to understand the game to where it takes. see interview made under 4.3 and fundamental conditions of democratic centre-states IGR discussed under 2.8 section

²⁴³ The Federalist Papers Revised for Twenty-First-Century Reality Edited by Paul C. Light of the Robert Wagner School of Public Service at New York University, 2006 at 45-46

balance is absent, whatever mechanisms of intergovernmental relations are devised would remain non-functional and ineffective because at this situation autonomy became a question, especially at the unity requirement.

- Federal-state relations in Ethiopia are more characterized by Informal form of meeting, conferences and workshops. A regular basis form of communication has to be established between federal ministries with their respective bureau of states or agency as it also started in some sectors. Such have not to be organized by one orders of government which is usually by the federal institutions that seems giving training for the other order of government but through institution in which both orders of government interest can be protected.
- Due attention has to be given to federal-states intergovernmental relations and its importance in Ethiopia. As it stands now, there is low, if not no attention to have effective relation between both orders of government which can be validated by the reality that there is no activity between both orders for the sake of intergovernmental relations but to address the objective of their relations only. Additionally, giving nation-wide issue of intergovernmental relations to department or directorate at institutional level shows low concern of the government towards its necessity. This may be due to existence of well organized federal-states relations through well organized ruling party and mutual understandings, though it is undermining states autonomy but the future is uncertain.

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Appendix 1: Interview Guide

1.1 An Interview for Government Officials of state

The information you are asked to provide is required for research purpose only and any information that you will provide will be kept in strict confidence and used solely for the purpose of this study. Your cooperation is greatly appreciated.

Interviewee: _____ Date of Interview: _____ Place: _____

Time of Interview: _____ Gender: _____ Age _____ Social
Status _____ Educational Level _____

1. Does your office have a relationship with federal government or federal ministry?
What exactly does the relationship between your office and federal ministry look like?
2. Are there formal, principled and periodic meeting or conferences between your office and federal ministry? Does it respect your autonomy status?
3. How do you explain the role of Ministry of Federal Affairs (MoFA) in coordinating the partnership relations between states and federal government according to proclamation 471/2005?
4. Have you so far taken executive powers and functions from the federal government? How do you implementing federal policies and laws in your own jurisdiction (*for concerned only*)?
5. Can you cite anything that you consider endangering autonomy status of oromia regional state in the process of federal-oromia relations?
6. Generally, in evaluating the performance of the current Federal-States IGR, would you say that it affects the States autonomy given through constitution? If yes, How? If not, why? Give examples! May you add anything(s) else or comments, etc?

1.2 An Interview for Ministry of Federal Affairs (MOFA)

1. How do you explain your success towards your mandate of creating good federal-regional relationship and cooperation based on mutual understanding and partnership as stated by proclamation 471/2005 and 619/2010(e)

2. What are the obstacle(s) towards achieving your effective goals in creating democratic relations between federal government and states, if any?
3. How do you explain the implementation of states autonomy in current Ethiopian federal system?
4. Generally, do you think that the overall system of federal-states intergovernmental relation in Ethiopia affect the constitutionally given states autonomy? If yes, how? If not, why?

1.3 An Interview for Ruling and Opposition Political Party Group

1. What do you think the role of the OPDO/EPRDF in the overall Federal-Oromia regional State Relationship?
2. Is the ruling party of oromia regional state and member parties to the EPRDF, OPDO autonomous to decide on behalf of its regional state concern?
3. How do you consider the implementation of the constitutionally given autonomy of Oromia national regional state?
4. Generally, in the current Federal-Oromia regional state Intergovernmental Relations and oromia regional state autonomy, may you add anything(s) else or comments, etc?

1.3 An Interview for Academician Group

You are *purposefully selected representing academician group informant* for this study as far as you are familiar to the issue and I would like to ask you to give the information from academic point of view only. Your Cooperation is greatly appreciated.

1. What are the constitutional basis of federal and states intergovernmental relations?
2. The overlap and concurrent power and responsibility in the constitution that divide powers between orders of government requires IGR. Do you think that there is/are such circumstance in Ethiopian case?

3. What is the status of federally initiated policies and projects in the states government levels? How such programs are implemented?
4. From academic point of view, do you think that the current federal-state IGR influence the constitutionally given states autonomy? Can you cite anything that you consider endangering autonomy status of states in the process of federal-states intergovernmental relations? Or May you add anything(s) else or comments, etc?

Appendix-2 List of interviewees

1. Ato Tsegaberhan Tadesse, Ministry of Federal Affairs, Intergovernmental Relations strengthening Directorate General, March 2014, Addis Ababa
2. W/ro Anima Kedir, Oromia National Regional State Council (*Caffee*), March 2014, Addis Ababa
3. Ato Gebru Gebremariyam, Oromo Democratic Congress/MEDRC, March 2014, Addis Ababa
4. Ato Desalegn Samuel, Communications Affairs Directorate Director, Ministry of Education, March 2014, Addis Ababa
5. Hashim Tewfik (Associate Professor), Academic group; March 2014, Addis Ababa University, Addis Ababa
6. Confident Respondent (PhD candidate), for Academic group; March 2014, Addis Ababa University, Addis Ababa
7. Ato Gemechis Guteta, OPDO/EPRDF Organizational and Political Affairs Head, OPDO Central Office, March 2014, Addis Ababa
8. Confident Member of Oromia National Regional State Council, March 2014, Addis Ababa
9. Confident Respondent, Ministry of Health, March 2014, Addis Ababa
10. Ato Letibelu Motuma, Oromia National Regional State Education Bureau, March 2014, Addis Ababa
11. Ato Zelalem Jamaneh, Oromia National Regional State Health Bureau, March 2014, Addis Ababa
12. Confidential Expert; Ministry of Federal Affairs, March 2014, Addis Ababa