“Who’s the Boss?” Questioning the Constitutional Authority of Federal Regulation of Local Government

Yonotan Tesfaye Fessha[*] *and Zemelak Ayitenew Ayele* [**]

Abstract

Regulation of local government in federal systems is in the main the competence of subnational governments. This relates largely to the fact that local government itself is often the exclusive competence of subnational units. However, it hardly escapes from being impacted on directly or indirectly by the regulatory powers of the federal government. Under Ethiopia's dual federal system, local government is the exclusive competence of state governments, yet the federal government is often seen directly regulating the activities of local government through its policies and legislation. This article seeks to investigate whether the federal government's exercise of regulatory power over local government is constitutionally permissible.

Key words: *Local government; supervision, intervention, federal government*

1. Introduction

In January 2014, draft legislation dealing with the registration of urban landwas tabled before the House of People Representatives (HoPRs), the lower house of the Ethiopian federal parliament. Apparently, members of the HoPRs were not sure if they, as federal lawmakers, have the constitutional power to pass the draft legislation, since land administration, according to the Ethiopian federal Constitution, is within the exclusive competence of state

* LL.B (Addis Ababa University), LL.M (University of Pretoria) and Ph.D (University of the Western Cape (UWC)); Associate Professor (UWC).

* LL.B (Addis Ababa University), LL.M and LL.D (University of the Western Cape (UWC)); Assistant Professor at the Centre for Federal Studies, Addis Ababa University; Previously a National Research Foundation (NRF), Post-doctoral fellow of the at the Multi-Level Government Initiative (MLGI), Dullah Omar Institute (DOI), UWC, South Africa.

governments. Members of HoPRs thus sought guidance from the House of Federation (HoF), the body that, vested with the power of interpreting the Constitution, found the draft proclamation to be constitutionally unproblematic. The HoPRs enacted the bill as Proclamation 818 (2014).[1]

The focus of this article, however, is the constitutional issue that did *not* attract the attention of members of the lower house, namely the nature of the relationship the proclamation envisages between the federal government and local government. The proclamation regulates in detail how both federal and regional cities should perform the registration of urban lands. It also makes the city organs that are responsible for land registration directly accountable to a federal agency and, thereby, creates a direct legal relation between the federal government and cities. In short, not only does the federal government, through this legislation, directly and explicitly regulate the activities of local government, but it also assumes the power to exercise oversight over local government. Nevertheless, cities, other than the federal ones, form part of the local government structure and fall under the jurisdictions of state governments.

Indeed, instances of the federal government seeking to regulate local government abound. Although there is no a "federal local government policy" per se, there are, for example, several federal policy papers, which, directly or indirectly, have the effect of regulating local government. In this regard, the three policy documents that together constitute the national poverty reduction policy can be cited as good examples of a federal document regulating local government.[2] In fact, to claim that local government represents a core element of the poverty reduction policies would not be an exaggeration. The policy papers clearly state that local government would be a key player in poverty reduction efforts, and outline in detail the role that *woredas* (the main

1 The HoF reasoned that the powers of the federal government are not limited to those explicitly listed in the Constitution. According to Articles 55(6) and 62(8) of the Federal Democratic Republic of Ethiopia (FDRE) Constitution, the federal government can also legislate on matters that are necessary for the creation and sustenance of one economic community. The bill on land administration, according to the HOF, is one such bill. Ethiopian Federal Democratic Republic House of Federation First Emergency Meeting (Tahisas 24 2006, Ethiopian Calendar).

2 These are the *Interim Poverty Reduction Strategy Paper* (2000), the *Sustainable Development and Poverty Reduction Program* (2002), and the *Plan for Accelerated and Sustained Development to End Poverty* (2005), all of which developed by the FDRE Ministry of Finance and Economic Development.

local government units) are expected to play in terms of service delivery.[3] The papers envisage *woredas* as exercising functional competences in the areas of education, agriculture, public health and the like (MoFED, 2002, pp. 138-139).

The federal sectoral policies and "multi-sectoral, inter-governmental programme" of capacity-building that complemented the poverty reduction policies have further intensified the regulation of local government by the federal government (Spielman et al., 2008, p. 6). The policies in education, health care, urban development specify, in detail, what *woredas* ought to do in order to achieve the goals set at the national level.[4] It was on the basis of these federal policies that an extensive constitutional reform transferring some decision-making powers from the regional states to local government was introduced (MoFED, 2000, p. 13). The regional constitutions were revised with the purpose of providing local government with more power and resources.[5] Furthermore, the state legislatures issued regional proclamations outlining the institutional organization, powers and functions of cities and *woredas*. It was also shortly afterwards that the states began experimenting with various formulae for transferring block grants to local governments (Ayele, 2014, pp. 137-139).

The federal government does not confine itself only to regulating local government. A number of federal laws envisage the federal government monitoring local government and providing support, where needed.[6] Practice also shows that it provides technical

3 The central role that local government is expected to play in the realization of the objectives of the policy papers is evident from the fact that decentralization of power to the *woredas* was considered to be one of the four "pillars" on which the whole scheme of poverty reduction and development plan rests. It was in these policy papers that the District Level Decentralisation Programme (DLDP), the programme that aimed at empowering *woredas*-politically and financially, was launched.

4 For instance, the policy on urban development, adopted in 2007, discusses issues related to urban governance, infrastructure development, housing, land management, the creation of employment opportunities, and protecting the urban environment. It also explicitly states measures that have to be taken to harmonize the activities of *woredas* and urban local government. The policies were followed by elaborate guidelines prepared by the federal government, in particular the MoFED and MoCB. See the *Plan for accelerated and sustained development to end poverty (2005/06-2009/10): Plan for urban development and urban good governance (2007)* of the FDRE Ministry of Works and Urban Development, which is responsible for the implementation of the decentralization programme.

5 It has been alleged that there were other political motivations for the revision of the state constitution, ones linked to political divisions in the Tigrai People's Liberation Front (TPLF) around the time the constitutional revision was undertaken. For more detail, see Ayele (2014), pp. 137-139.

6 FDRE Proclamation 574 (2008), which deals with urban planning, provides the

support to *woredas* either directly or through regional sectoral offices. The Ministry of Finance and Economic Development and, previously, the now-defunct Ministry of Capacity Building, were principally involved in providing support to *woredas*. The latter had the mandate, inter alia, to monitor the implementation of the decentralization programme. Accordingly, the Ministry, with its counterpart at regional level, took various measures to implement the decentralization programme and build the capacity of *woredas*, among them preparing manuals, general guidelines and so on.[7]

From the foregoing, it is clear that the federal government engages extensively in supervision of local government. In some cases, that supervision comes in the form of regulation; in others, it has taken the form of monitoring and support. The federal supervision of Addis Ababa and Dire Dawa may not be problematic, as they are federal cities directly accountable to the federal government.[8] The question is whether, and to what extent, the federal government may bypass the subnational governments to exercise direct supervisory power over local government that, according to the Constitution, is within the exclusive competence of the states. The supervisory power of the federal government over local government is, thus, the issue which this article seeks to examine.

The next section looks, by means of a comparative perspective,

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Ministry of Urban Development and Construction (MoUDC) with the power to monitor and follow up on the compliance of urban structural plans with the national standard. See FDRE Proclamation 574 (2008) Article 55(2), according to which the federal government is authorized to "follow up, evaluate and ensure the proper implementation of urban plans" by all cities, including non-federal cities. Other federal laws also require federal ministries to support local government directly. For instance, Proclamation 691 (2010) Article 25(1)(b) requires the Ministry concerned with urban local government to "provide all-round and co-ordinated support to urban centers to make them development centers capable of influencing their surroundings." In Article 25(1)(c), the Proclamation further provides that the Ministry has the duty to "provide capacity building support to urban centres for improving their service delivery; and where necessary, organize training and research centres in the field of urban development."

7 See, for instance, *Planning guideline for woredas and kebeles in Ethiopia* (2010, FDRE: Ministry of Finance and Economic Development); *Local government development planning guide* (April 2010, FDRE: Ministry of Finance and Economic Development); *Public Sector Capacity Building Program: District level decentralization sub– program Woreda planning and budgeting manual* (July 2007, FDRE: Ministry of Capacity Building).

8 FDRE Proclamation 416 (2004) Article 51(1); FDRE Proclamation 361 (2003) Article 61(1&2); FDRE Proclamation 471 (2005) Article 18(1)(m). The latter is charged with monitoring the overall activities of the federal cities. See also FDRE Proclamation 361 (2003) Article 61(5).

at the position of federal constitutions on intergovernmental supervision, with the focus placed on the supervision of local government by federal governments: the aim is to see the phenomenon of federal government supervision of local government in a broader perspective. After having outlined the constitutional status and role of local government in the scheme of the Ethiopian federal system, the discussion then moves on to its main business. This is to investigate whether there is any constitutional basis to the federal government's pervasive practice of bypassing the state government and supervising local government.

2. Supervision of Local Government in Federal States

Institutional interactions that take place between junior and senior levels of government may take two forms: inter-governmental cooperation and/or intergovernmental supervision (Steytler, 2011, p. 413). Inter-governmental cooperation is an aspect of intergovernmental relations which is conducted on the basis of"equality" between different levels of government (Steytler, 2011, p. 413). Intergovernmental supervision, by contrast, refers to a procedure through which a "superior" level of government seeks to check the autonomy of local government (De Visser, 2005, p. 43). It is conducted on the basis of the seniority of the national or state government and the 'junior status' of local government.

The main purpose of intergovernmental supervision is preventing the harmful effects of unfettered local autonomy, such as corruption and capture of resources by local elites. The upper levels of government use supervision for ensuring that local government functions properly and legally (that is, within its mandates and means), lest the crisis that arises from unrestricted local autonomy creep back to it in the form of, for example, a request for "bailout" (World Bank, 1999, p. 117). Supervision is also deemed necessary for ensuring equitable distribution of services and maintaining a degree of uniformity of service delivery across a country. In addition, it can be used to ensure that "national priorities are not undermined [by local units]" (Olowu& Smoke, 1992, p. 11).

Generally speaking, four instruments of supervision are recog-

nized: regulation (standard-setting), monitoring (oversight), support, and intervention (Olowu& Smoke, 1992, pp. 43-45). Regulations aims at setting a minimum standard that ought to be met by local government in its public service delivery. Monitoring or oversight is used to detect any notable deficiency in the performance of local government and to determine whether the latter is acting within its mandate and means. If deficiencies or illegalities are detected, the center is expected to rectify these problems by extending support to the relevant local government unit, and where support does not resolve the problem, by intervening in that particular local government unit (Olowu& Smoke, 1992, pp. 43-45).

Supervision of local government in federal systems is in the main the competence of subnational government. This relates largely to the fact that local government itself is, in many federations, the competence of the subnational units (Steytler, 2009, pp. 425-427). However, local government is not completely shielded from the extended arms of federal government. For instance, it hardly escapes from being directly or indirectly impacted on by the regulatory powers of the federal government (Steytler, 2009, pp. 425-427).

In most cases, the policies and legislation of the federal government affect local government indirectly. In the United States, for example, federal laws regulating the environment, health, education, welfare, transportation and the like also indirectly regulate the activities of local government (Pagano, 2009, p. 378). In Germany, the regulation of local government is within the exclusive competence of the *Landers* and the federal government cannot directly impose obligation on local government (Schefold, 2012, p. 238). Nevertheless, the federal government has wide-ranging legislative powers over land, public welfare, and so on, powers which, if and when exercised, are likely to regulate local government since the latter has the duty to implement the legislation of the federal government and the *Lander*.[9]

However, in certain other federal systems, such as South Africa, the national government has the explicitly stated constitutional authority and responsibility to adopt policies and issue legisla-

9 Basic Law for the Federal Republic of Germany, Article 72(2). See also Burgi (2009), p. 154.

tive acts directly regulating local government.[10] The national government of South Africa has accordingly adopted several policy documents on local government, including the White Paper on Local Government (1998), and passed several Acts directly regulating local government, including the Local Government System Act (32/ 2000), the Local Government Structure Act (117/1998), and the Local Government: Municipal Financial Management Act (56/2000).

Although in many jurisdictions federal governments may regulate local government directly or indirectly, as a rule monitoring and intervening in local government are matters left to the subnational governments. In Switzerland, the US and Canada, for instance, the subnational units are exclusively responsible for monitoring the performance and financial management of local government.[11] In Canada, the provinces are legally required to provide support to, and bail out, municipalities facing bankruptcy (Lazar & Seal, 2005, p. 39). In Austria, the *Landers* monitor local government units for the purpose of ensuring the legality of their actions; the *Landers,* in particular, are exclusively responsible for monitoring the financial management of local government (Pernthale&Gamper, 2005, p. 70). It is only in respect of mandates it has delegated to local government that the federal government has the authority to monitor the former; other than that, the federal government does not have the constitutional authority to monitor local government (Pernthale&Gamper, 2005, p. 70).

The same is true of Germany, where monitoring municipalities is the exclusive competence of the *Landers*. Although the federal government often influences the municipalities' activities through its policies, there is no direct relationship between municipalities and the federal government (Kramer, 2005, p. 85). Moreover, although the federal government can "compel" the *Landers* to intervene, it cannot directly intervene in malfunctioning municipalities unless a *Lander*, in the case of unrest, requests the federal government to do so (Kramer, 2005, p. 85). In South Africa, monitoring of and intervention in local government are primarily provincial competences. It is only when a provincial government fails to discharge its responsibilities of monitoring and intervention that the national government is authorized to intervene in local government (De Visser, 2005, p. 186).

10 South African Constitution, section 154(1).

11 See Bulliard (2005), p. 129; Lazar & Seal (2005), p. 39.

It is clear, then, that local government may not necessarily avoid the regulatory impact of federal policies or legislation. However, in many federal systems the task of supervising local government – in particular, of monitoring the activities of local government and intervening in malfunctioning local government units – is the responsibility of subnational governments. What is the position under the Ethiopian Constitution? Does the federal constitution envisage a federal government that bypasses the states and regulates, monitors, supports and intervenes in local government? That is the focus of the next section, which begins by outlining the place of local government within the federal matrix.

3. Local Government under the Ethiopian Constitution

The Constitution of the Federal Democratic Republic of Ethiopia (FDRE), like the national constitutions of many other federal states, does not expressly recognize local government as an autonomous level of government,[12] nor does it define the structure, powers, functions, and financial sources of local government. Instead, it leaves it for each regional state to decide on the establishment of local government and define the powers and functions thereof through its constitution or other pieces of legislation. The Constitution is not, however, completely silent on the matter: a number of constitutional provisions imply that the establishment of local government is a mandatory act to be carried out by the states.

In this regard, we have referred elsewhere to the two types of local government for which the Constitution arguably makes provision (Ayele&Fessha, 2004). On the one hand, its Article 50(4) requires all regional states to create a regular type of local government unit for the purpose of enhancing public participation in local developmental matters. Article 39(3) of the Constitution, on the other hand, recognizes the right to territorial autonomy of all ethnic communities in the country. This right is to be given effect through the establishment of ethnically defined regional states and local government units.[13]

12 For a comparative discussion of the constitutional status of local government in federal countries, see Steytler (2009).

13 For more on the two types of local government the Constitution envisages, see Ayele&Fessha (2004), p. 92.

As envisaged in the FDRE Constitution, every regional state has established the regular local government on a wall-to-wall basis: a w*oreda*is established in rural areas, whereas a city administration is established in urban areas. A number of ethnic local government units have also been established in five ethnically heterogonous regional states. The ethnic local government units are called *liyuworedas* and nationality zones. A *liyuworeda*is made up ofasingle *woreda*. It is called *liyu*(special)*woredas*, as opposed to simply *woreda*, because its boundaries are demarcated along ethnic lines and it is meant to serve as a territorial area wherein the relevant ethnic community exercises self-government. A nationality zone, like a *liyuworeda*, is established along ethnic lines and meant to serve the same purpose as the *liyuworeda.* The only difference is that it is larger than the *liyuworeda* in territorial size and population, since it is composed of two or more *woredas* that are inhabited by a particular ethnic community.[14]

Both types of local government units have a local council that, save for members of the nationality zone council, are composed of directly elected councillors. Each *woreda, liyuworeda* and nationality zone has an executive council which is chaired by a "chief administrator" elected from amongst members of the local council. A city administration, on the other hand, has a mayor(who is elected by and from among members of the city council) and a mayoral committee as its executive organ.

Local government has no clearly defined powers and functions. The state constitution merely provides *woredas* with the power to plan and implement developmental works, without, however, defining the specific functions of the *woredas*. In general, *woredas* and cities exercise functions relating to the delivery of basic services, such as education, water, health care, agriculture, sewerage and garbage collection. Ethnic local government units are generally responsible for promoting the culture of the relevant ethnic communities. Not much is provided for by way of explaining how they may go about promoting the culture of the respective ethnic groups on whose behalf these local governments are established. What is clear is that they are, under a number of regional constitutions, authorized to choose their own working language and

14 A nationality zone or a *liyuworeda* is not only an autonomous local unit: should the ethnic community for whom it is established so prefer, it may also secede from the region where it is located and become a separate regional state. Article 47(2) of theFDRE Constitution recognizes the right to secession from a region, and provides that ethnic communities within the existing regions have the right to establish their own regional state.

the language which is to be used as languages of instruction in primary schools. In addition, ethnic local government units must be consulted in the appointment of judges of regional first instant courts presiding within their territorial jurisdictions. They also elect individuals representing their ethnic community (or communities) in the HoF, which is the upper house of the Ethiopian federal parliament.

4. Supervision of Local Government under the FDRE Constitution

As pointed out earlier, the federal government has been exercising direct supervision over local government, especially the regular local government.[15] The question is whether this practice has a constitutional basis. Does the federal government have a constitutional power and responsibility to regulate, monitor and support local government and intervene in a malfunctioning local government unit?

The practice of federal supervision of local government raises eyebrows partly because of the dual nature of the federal system provided for by the Ethiopian Constitution. Under this dual system, local government is an exclusive competence of the regional states.[16] As a rule, the federal government cannot side-

15 The relationship between the ethnic local government and the federal government seems to fall under the category of cooperation rather than supervision. For instance, nationality zones and *liyuworedas* are authorized to select the individuals who represent the ethnic community in the HoF. Clearly it is not the *liyuworedas* and nationality zones which the individuals represent but the ethnic communities. However, their power to select the representatives of the ethnic communities puts closer to the federal government than the regular local government those units that have neither direct nor indirect representation in the national government.

16 A "dual federal system," also referred to as "a layered-cake" federation, is a system in which both national and state governments co-exist as equals and exercise "mutually exclusive" and "reciprocally limiting" functional competences. The emphasis in dual federal system is, therefore, on preventing one level of government's encroachment into the competences of the other. A dual federal system is contrasted with a cooperative federal system, also known as the "marble-cake" federation, which eschews the notion of exclusive competences and emphasizes the need for cooperation between the two levels of government in the exercise of a certain function. The assumption here is that it is impossible to curtail the involvement of any of the two levels of government in the exercise of a functional competence. Scholars argue that, in terms of the Constitution, Ethiopia's federation is more of a dual federation despite its having some elements of cooperative federalism. Both levels of government have exclusive competences in relation to which they are authorized to exercise both legislative and executive powers. The FDRE Constitution further requires the two levels

step the regional states and directly supervise the activities of local government. Clearly, the federal government does not have, for example, the power to directly regulate the activities of local government under the FDRE Constitution. Constitutionally speaking, it cannot, formulate and adopt a policy or a proclamation directly regulating local government. It cannot, for example, adopt the equivalent of the South Africa's White Paper on Local Government (1998). Neither can it enact proclamations that are the equivalent of the South African Local Government Systems Act, as these would directly regulate the system and structure of local government. This, again, is because local government is the exclusive jurisdiction of the states.[17]

As already mentioned, the exclusion of the federal government from directly regulating local government does not necessarily rule out the possibility of that local government can be impacted upon indirectly by the regulatory power of the federal government. In the case of Ethiopia, three broad arguments can be put forth justifying the practice of federal supervision over local government. First, the practice may be justified to an extent by making reference to the extensive policy-making power of the federal government. Secondly, the federal regulation of local government can be considered as incidental to the effective exercise of constitutionally allocated federal powers. Thirdly, the federal government may draw authority to regulate local government from the constitutional provisions that authorize it to legislate on civil matters that are deemed necessary for the economic unity of the country. None of these, however, allows the federal government to determine the competences of local government and thereby unilaterally alter the constitutional division of power. Each argument is examined in the depth in the sections below.

4.1 The Argument Based on the Federal Government's Policy-Making Power

The first constitutional argument that can be advanced as a justification of the federal regulation of local government relates to the policy-making power of the federal government. The latter has important policy-making and legislative powers that it may

of government to respect each other's powers and functions. In practice, however, the country's federation is more "cooperative" than it is "dual." See Fiseha (2007), pp. 354-55. See also FDRE Constitution, Article 50(8).

17 See, for instance, South African Constitution 1996, Article 155(2). See also Local Government: Municipal Systems Act 2000.

use to influence the activities of local government. Under the Constitution it has the power to "formulate and implement the country's policies, strategies, and plans in respect of the overall economic, social, and development matters."[18] Furthermore, it has the power to "establish and implement national standards and basic policy criteria for public health, education, science and technology as well as for the protection and preservation of cultural and historical legacies."[19] In addition, it has the power to "formulate and execute the country's financial, monetary and foreign investment policies and strategies."[20]

Obviously, the above constitutional provision does not authorize the federal government to adopt a "local government policy" per se. The argument is rather that it allows the federal government to regulate local government, albeit indirectly. Local government may feature in federal policy papers that require it to play a particular role or assume a particular responsibility. When formulating and implementing a particular sectoral policy, the federal government may end up regulating certain matters that are within the competence of local government. The poverty alleviation policies that regulate local government have their basis in these policy-making powers of the federal government.

The question is: What are the limitations on the power of the federal government to regulate local government by way of making and enforcing policies on social and economic matters? Answering it requires one to delineate the scope and ambit of the federal policy-making powers outlined in Article 51 of the Constitution. This article points to two areas of federal authority: the power to formulate socio-economic and development policies, and the power to establish and implement national standards. Let us begin with the latter.

The Constitution, as mentioned earlier, allows the federal government to "establish and monitor" national standards in the areas of public health, education, science and technology. This allows the federal government to limit the minimum floor beyond which the provision of service delivery cannot be expected to fall. It does not, however, allow the federal government to dictate to state and local governments how they should go about achieving

18 FDRE Constitution, Article 51(2).
19 FDRE Constitution, Article 51(3).
20 FDRE Constitution, Article 51(4).

the national standards. It is up to the state and local governments to put in place policies, laws and programmes to ensure that their provision of service delivery does not fall beyond the minimum core that the federal government has established. As is the case in other federal systems, the federal government may indeed nudge the state and local governments closer to the national standards by using, inter alia, financial incentives.[21] It cannot, however, rely on its power of establishing national standards to determine the powers and functions of local government.

The federal government has also the power to "formulate and implement" socio-economic and developmental policies. The Constitution provides the federal government with extensive powers in areas of social and economic development. It allows the federal government to introduce policies on a wide range of matters, including health and education. As noted by Fisheha and Habib (2010), the provision places "primary responsibility on the federal government to determine major policy directions and standards" (p. 144).

It might also appear that these seemingly wide-ranging powers of the federal government leave no area of regulation for the state governments. However, that does not look to be the case. Using almost the same words as it does in respect of the federal government, the Constitution vests the states with wide policy-making powers over economic, social and development matters. Its Article 52(c) authorizes the states to "formulate and execute" their own "economic, social and developmental policies, strategies and plans." Both levels of government, it seems, are vested with extensive powers in similar policy areas; what is clear at least is that neither of the two levels of government can "exhaustively and exclusively legislate" on these matters. They must find a way to divide the powers appropriately between themselves and avoid "conflicts emanating from the potential overlap of power."[22]

An indication of how to manage the overlap of powers comes

21 It is common among federal systems to influence the policies of local government by using financial incentives. For instance, the American federal government uses grants to push the state and local government policies in the direction it deems fit in matters such as education and health. See Congressional Budget Office (2013).

22 See Fiseha (2007), pp. 354-355. This obviously creates an overlap between federal and state government powers. The overlap is complicated by the fact that the Constitution uses the same wording with regard to each of the levels; moreover, it fails to delineate boundaries between them by way of qualifications that would have helped in determining where the power of the federal government ends and where that of the regional government begins.

from the provisions of the Constitution that outline the respective powers and functions of the federal and state governments. A brief survey of the Constitution reveals that the power of the federal government is circumscribed with regard to issues of territoriality. The territorial principle is evident in the manner in which a number of competencies are divided between the federal and state government. For example, the federal government is empowered to regulate inter-state trade, which suggests that *intra*-state trade is the exclusive jurisdiction of state governments.[23] The federal government is authorized "to determine and administer the utilization of the waters of rivers and lakes linking two or more states."[24] The waters of rivers and lakes that begin and end *within* a state are, by implication, the competences of state governments. The same applies to roads. Roads linking two or more states are allocated to the federal government, leaving roads that merely serve the inhabitants of a state to the responsibility of state governments.[25]

It is submitted that the same principle of territoriality should be applied to manage the overlap between the two spheres of government. Indeed, the territorial dimension is also evident in the fact that the federal government is expected to "formulate *the country's* policies, strategies and plans," whereas the state government is authorized to "formulate and execute … policies, strategies and plans *of the state*[emphases added]."

What does this mean for the federal government's supervisory power? Several important consequences follow from circumscription of the federal government's policy-making power by way of the territorial principle. First, this indicates that the powers of the federal government in areas of policy-making are not unlimited. The territorial principle circumscribes the nature and scope of federal policies by suggesting that only matters that cannot be fully regulated by the states may be the subject matter of federal policies: social, economic and developmental matters that can be regulated appropriately within the state must be left in the domain of state governments. This means the state can develop and adopt policies on economic, social and development matters as long as those matters do not have an extra-state dimension. A policy on urban planning, for example, would not have such a di-

23 FDRE Constitution, Artice 51(12).
24 FDRE Constitution, Article 51(11).
25 FDRE Constitution, Article 51(9).

mension; it is a matter that can be regulated within a state, hence making it a subject of state policy.

Following on from this, the second – and, for our purpose, more important – observation is that the territorial principle thus equally limits the sphere of activities in regard to which the federal government may formulate and implement policies. As such, questions are raised about the appropriacy, for instance, of the federal policy papers on poverty reduction that expressly require the decentralization to *woredas* of functional competences such as primary education, primary health care, rural water supply, rural roads and agricultural extension (MoFED, 2002, p. 40).

The determination of local government competencesunder the aegis of federal policies is constitutionally suspect. Although the federal government might have the authority to adopt a policy on a particular matter affecting the entire country, it does not have the power to use the policies to alter unilaterally the constitutional division of powers between the different levels of government and determine the functions and powers of local government. It cannot, in the name of federal policies, intrude into the sphere of state governments. In terms of the Constitution, local government is the competence of the states. It is the states that can determine the powers and functions of local governments.[26]

This is not to say that the federal government cannot use the service of state and local government institutions to realize its policy objectives. It can do so through the instruments of proper delegation to the state, which in turn may delegate the matters to local government or decide to pursue the matter through its field offices.

4.2 The Argument Based on Local Government as an "Incidental" Matter

The second argument that can be advanced to justify the supervision of local government by federal government points to the fact that local government is not the principal focus of most of the laws that are accused of regulating local government. The federal proclamations mentioned in the introductory section of this article do not have local government as their primary focus. In

26 The contention that the regulation of local government is not the primary objective of the policies does not help much either. The net result of many of the federal policies mentioned in the introductory section of this contribution is, in any case, the extensive regulation of local government.

other words, if federal laws regulate local government, it is only as incidental matter.

Proclamation 721/2011, for example, includes provisions regulating how local government, cities in particular (both federal and regional), should allocate urban land on lease for "developmental activities." While this could be construed as intrusion into the domain of state governments, the intrusion is incidental to the primary objective of the proclamation, which is to regulate the use of land. Similarly, Proclamation 455 (2005) defines the role that *woredas*and cities playin the expropriation of urban and rural land,[27] but the declared objective of the Proclamation is regulating the expropriation of rural and urban land for "public purposes."

The argument is that federal government is regulating local government incidentally in the course of discharging its competence of regulating the expropriation of lands for public use. There is hence no denying that it is intervening in what is an exclusive jurisdiction of state governments, namely local government; however, the conceivable justification of this is that the regulation of local government is incidental to or necessary for the exercise of the relevant constitutionally allocated federal powers. When the federal government regulates a competence that is exclusively left to state governments, including local ones, it is therefore within its constitutional powers to the extent that the regulation is incidental to or necessary for the exercise of the 21 federal functional competences listed under Article 51 of the Constitution.[28]

It is important to note that the situation is similar in many other federations, namely that an intrusion by one level of government into the competences of another is considered acceptable on the proviso that it is "necessary" for or "incidental" to the exercise of

27 FDRE Proclamation No. 455 (2005), Article 3.

28 In fact, many of the proclamations do not include local government as their objective. The preamble of Proclamation 272/2002, which regulates how cities (federal and regional) may allocate urban land on lease for "developmental activities," indicates that the piece of legislation was enacted on the basis of the federal government's power to regulate the use of land. Likewise, Proclamation 455 (2005), which regulates the expropriation of rural and urban land for "public purposes" and which defines the role that *woredas*and cities playin this respect, is enacted on a similar constitutional basis. The implication is that local government appears in these federal proclamations as incidental matter, not the core subject. The intrusion of the federal government into the competences of the regional state by way of regulating local government can hence be considered as incidental or necessary for the exercise of its constitutionally allocated functional competences.

a constitutionally allocated power and undertaken with a certain degree of "reasonableness."

The 1996 Constitution of South Africa, for example, provides that the national or a provincial government may exercise legislative competence on matters that are necessary for or incidental to the effective exercise of matters that are allocated to them.[29] In *DVB Behuising (Pty) Limited v the North West provincial government and others*, the Constitutional Court held that provisions in a provincial law dealing with land tenure – a matter falling under the exclusive jurisdiction of the national government – were "inextricably linked to" the other matters which were being regulated by the provincial law, namely "regional planning, rural and urban development and local government" – matters in turn falling under the functional competences of the provinces.[30]

As a result, the Court ruled that the province's intrusion of the legislative sphere of the national government is constitutionally permissible. The same applies in Canada, where an intrusion by one level of government into the competences of another is not constitutionally problematic if it is deemed reasonable.[31]

The question that needs to be asked is: When is it that a regulation of a particular activity or matter regarded as incidental to the power of a federal or state government, as the case may be? This is about delineating incidental powers. Since such discussions are not available in the literature on Ethiopian federalism, one has to seek guidance from the laws and practice of other federations.

29 South African Constitution, section 44(3).

30 *DVB Behuising (Pty) Limited v North West Provincial Government and another* 2001 (1) SA 500 (CC), 2000 (4) BCLR 347(CC).

31 In Canada, a piece of legislation of a level of government that encroaches into the competences of another may pass a constitutional muster if the intrusion is found reasonable. The reasonableness of the intrusion is determined by "the pith and substance test." This was the issue in *in Kitkatla Band v British Columbia (Minister of Small Business, Tourism and Culture)*. The Minister of Small Businesses, Tourism and Culture of the province of British Columbia authorized the cutting down of "culturally modified trees." Yet the Heritage Conservation Act of the province considers these trees as significant to Indians. This Act – issued by the province on the basis of its competence to regulate "civil rights and properties" – provides administrative discretion to the Minister to authorize the "distraction" of heritage objects. The constitutionality of the authorization of the Minister, along with that of the aforementioned Act, was challenged on the basis that regulating matters relating to "Indians and land reserved for Indians" was within the competence of the national government. The province contended that the intrusion of the Act into the federal competences to the extent it did so was "simply incidental and constitutionally permissible," to which the Court agreed.

In this regard, Canada's jurisprudence is instructive. The process in Canada begins with determining whether the challenged provision is regulating or dealing with matters that fall under the exclusive jurisdiction of another level of government. Once an intrusion is established, the next step is "to establish the extent of the incursion." This requires one to determine the broader legislative scheme of the legislation in question and examine "the relationship between the particular impugned provision and the 'scheme'." "The court then asks '[h]ow well the provision [is] integrated into the scheme of the legislation and how important [it is] for the efficacy of the legislation'." According to Bronstein,

> [t]he more the provision encroaches, the more essential the provision must be to an otherwise valid legislative scheme in order to be considered incidental. The less it intrudes, the easier it will be to persuade a court that it should survive. (pp. 15-19)

In Ethiopia's case, it is clear that local government is the jurisdiction of state governments. Each state has "the authority to decide on the organization of administrative structures within its territory." This includes the establishment and operation of local government. The state decides on the structure, including the type and number of local governments within its jurisdictions. More importantly for our purpose, this includes the nature and scope of autonomy enjoyed by local governments. Units of local government exercise their autonomy within the framework stipulated by the state government. This means that federal government has little or no power to interfere in matters of local government. The national government cannot use local government as backdoor to interfere with the autonomy of subnational units. Thus, national proclamations that, for instance, instruct cities on how to collect solid wastes, or outline the responsibilities of cities with respect to the expropriation of lands, are clearly intruding in the legislative sphere of the regional state.

Still applying the Canadian reasoning to Ethiopia, the next question is whether these provisions intrude "into the scheme of the legislation and how important [the intrusion then is] for the efficacy of the legislation." Answering this is clearly something that can be done only on a case-by-case basis: no *a priori* response can be given about the intrusive nature of any federal legislation which is in effect regulating local government. One can, howev-

er, draw a tentative generalization from the pattern of behaviour evident in the series of federal proclamations mentioned in the introduction of this article. Here, we are not dealing with federal laws that regulate an activity, nor with ones regulating specific subject matter; rather, we are dealing with legislation that intrudes into the jurisdiction of another level of government by mandating yet another level of government to discharge a particular responsibility. The case here, in other words, is one where legislation assigns responsibilities to another level of government.

That being so, it very difficult to contend that allocating a responsibility to another level of government is essential to a legislative scheme. This is not to say that the *involvement* per se of local government is not essential to the scheme of the legislation; the point instead is that, to secure this involvement, it is not essential to make an *incursion* into another sphere of government. The involvement of local government could have been secured without it and rather by using the proper instruments of delegation. Given the availability of this option, it is – as mentioned – thus problematic to argue that the intrusion into the jurisdictions of state governments was essential to the legislative scheme.

4.3 The Argument Based on Developing "One Economic Community"

As indicated above, Article 51 of the Constitution lists the matters that are within the exclusive legislative competences of the federal government. The latter's legislative power is not limited, however, to what is contained there. The federal government has additional legislative powers that include the power to enact civil laws the HoF deems necessary for establishing and sustaining "one economic community."[32] This means the federal government may legislate directly on a matter which is otherwise within the exclusive competence of the state governments if it can show that the federal regulation of the "civil matter" is necessary for the country's economic unity.

When is it that a law is deemed necessary for creating and maintaining "one economic community"? The Constitution gives little insight into the concept of "one economic community." This again prompts us to look for guidance in comparative constitutional law

32 FDRE Constitution, Article 55(6).

and, more specifically, the jurisprudence of other federations.[33]

The question is whether the federal government may intrude into the jurisdiction of the regional states by directly regulating certain activities of local government and then justify its actions by making reference to the constitutional objective of establishing and sustaining "one economic community." This raises other related questions: Are the proclamations the federal government has enacted to regulate local government "civil laws"? Moreover, are they "necessary for establishing and sustaining one economic community"?

The need to create or maintain economic union is an implicit, if not explicit, ground that, in many federations, allows the federal government to legislate on matters normally falling under the domain of subnational governments. Such federal constitutions thus contain clauses empowering the federal government to legislate on matters outside its jurisdiction when doing so is deemed necessary for maintaining a country's "economic unity."

For instance, Article 72(2) the German Basic Law authorizes the federal government to enact laws on certain concurrent competences of the federation and the *Landers* if and when this is necessary for, among other things, preserving the "economic unity" of the country. The relevant matters include mining, industry, energy, crafts, trades, commerce, banking, stock exchanges and private insurance. However, the Basic Law expressly precludes the federal government from legislatively regulating local economic matters such as shops' closing hours, restaurants, game halls, the display of individual persons, trade fairs, exhibitions and mar-

33 The HoF has an implied constitutional obligation to provide reasons as to why it deems that the federal regulation of an activity otherwise falling under the jurisdiction of subnational government is relevant for the economic unity of the country; in other words, it is not sufficient for the HoF merely to state or declare that the activity in question has an impact on economic unity. Nevertheless, practice shows that the HoF does not always provide clear, specific and convincing reasons in this regard. For instance, as mentioned in the introduction of this article, the HoPRs approached the HoF to determine the constitutionality of four specific provisions in draft legislation dealing with urban land registration: these were Articles 42, 47, 49 and 56. The HoF, however, did not so much as even mention them in its two-page decision, except by way of summarising the request of the HoPRs, nor it did give specific reasons why it deemed the enactment of the proclamation necessary for the said constitutional objective. It merely referred to provisions in the Constitution dealing with matters relating to land and to its own constitutional power to determine whether the enactment of a certain civil law was necessary for the economic unity of the country; thereafter, the HoF stated that on this basis the HoPRs could enact the proclamation. Ethiopian Federal Democratic Republic House of Federation First Emergency Meeting (Tahisas 24 2006, Ethiopian Calendar).

kets: the*Landers* have exclusive competence in regulating these matters. Obviously, economic matters that do not have a national impact and which can be regulated effectively by the *Landers* are not deemed to have an effect on the country's economic unity.

Similarly, the South African Constitution authorizes the national government to legislate on matters that are within the exclusive competences of provinces when doing so is necessary for the preservation of economic unity.[34] According to the South African Constitutional Court, legislation that "[protects] the common market in respect of the mobility of goods, services, capital and labour," that promotes "economic activities across provincial boundaries" as well as "equal opportunity or equal access to government services," or which serves "the protection of the environment" can be deemed necessary for the preservation of an economic unity of the country.[35]

From this it is clear that an activity of an economic nature and with national impact can indeed be regulated by the national government, notwithstanding that it is originally within the competence of the subnational government. A piece of legislation regarded as necessary for preserving the economic unity of the country is hence justified in causing an incursion by national government into the domain of subnational government if, and only to the extent that, it regulates a matter impacting on economic activities that cross subnational boundaries. The national government thus cannot justify the regulation of economic activities with only intra-provincial impacts by claiming that doing so is necessary for sustaining the country's economic unity.

The corresponding clause in the American constitution is what is commonly known as the commerce clause. It authorizes the federal government "to regulate [c]ommerce with foreign Nations, and among the several States, and with the Indian Tribes."[36] The objective of the clause is to create economic unity and prevent "economic warfare" among the states, a contingency which was considered a threat for "national unity"; the Constitution seeks to achieve this objective by limiting the power of the state to regulate commercial matters that cross state boundaries (Hinshaw,

34 South African Constitution, Article 44(2).

35 *Ex Parte President of the Republic of South Africa: In re Constitutionality of the Liquor Bill (CCT12/99) [1999] ZACC 15; 2000 (1) SA 732; 2000 (1) BCLR 1 (11 November 1999), Para. 51.*

36 The US Constitution, section 8.

1992, p. 520.

The term "commerce," however, is not defined in the American constitution. Initially, the Supreme Court interpreted it restrictively by referring to "commercial intercourse between nations or parts of the nation." Hence, something had to cross a state's border by way of commercial intercourse in order for Congress to be able to regulate it. In the 1930s the Supreme Court came up with a much broader interpretation of the commercial clause, one that allowed Congress to legislate on a purely local matter if there were a "rational basis" for it to conclude that the regulated activity impacts on inter-state commerce. This interpretation enabled the federal government to use the commercial clause for extending its legislative authority to encompass "personal and commercial, local and national, civil and criminal" matters (Wilmering, 2005, p. 1,189).

More recently, though, the Supreme Court reverted to its more restrictive interpretation of the clause. In *United States v Lopez* it stated that the commercial clause could apply only when the regulated activity involves "the use of the channels of interstate commerce" and "the instrumentalities of interstate commerce, or persons or things in interstate commerce," and where, in addition, such activity has "a substantial relation to interstate commerce."[37]

It is clear, then, that while a number of federations permit the federal government to regulate matters falling under the jurisdiction of subnational governments on the basis of their impact on economic unity, these federations differ from each other in terms of the matters to which this applies. There are, however, some minimum elements that must characterize such matters. First, the matters regulated must be of an economic or commercial nature.[38] Secondly, and more importantly, the activities must have national impact, or, alternatively, the regulation of the matters must have the impact of regulating or facilitating the operation of the "common market" or the realization of socio-economic equal-

37 *United States v Lopez*, 514 U.S. 549 (1995); Warner (1997), pp. 329-330).The Court also stated that Congress has to show how the regulated activity involves any of these three elements; it is not sufficient merely to claim that the regulated activity impacts on inter-state commercial activities.

38 The American "commercial clause" is limited to commercial activities, thereby excluding other kinds of economic activity. Manufacturing, for instance, is not considered a commercial activity, and is deemed to be purely local and within the realm of the states' competence, even where the produce is intended for consignment to another state.

ity across the country.

When one looks at Article 55(6) of the Ethiopian Constitution, what is immediately apparent is that the matters it foresees as having an impact on the country's economic unity – and hence as justifying federal regulation – are not strictly of a commercial nature. The Constitution allows federal incursion into the broad area of "civil law."[39] This, when compared with Article 72(2) of the German Basic Law and the American "commercial clause, opens a far wider field of regulation for the federal government. It seems to be based on the view that activities that are not necessarily of commercial nature too can have an impact on the economic unity of the country.

This is, of course, circumscribed by the second prong of the requirement, which is also common to the federations discussed above, namely that the law must be deemed necessary for establishing and sustaining "one economic community." The federally regulated activity hence should have an economic impact beyond the boundaries of a state. Finally, as previously footnoted, the HoF has a constitutional obligation to provide reasons as to why it deems that the federal regulation of an activity otherwise falling under the jurisdiction of subnational government is relevant for the economic unity of the country.In other words, it is not sufficient for the HoF merely to state or declare that the activity in question has an impact on economic unity.

The impugned federal proclamations, as mentioned repeatedly, regulate local government, which is a competence of state governments. The first question is whether a law regulating local government can be regarded as "civil law," which is concerned primarily with "the rights and duties of individuals amongst themselves." The "civil laws" the Ethiopian Constitution has in mind are thus those impacting on "the operation of the common market," including contract law, property law, succession law, commercial law and the like.

However, most of the federal proclamations at issue are aimed at regulating not the right and duties of individuals but the activities of local government, further to which they also regulate the relationship between the state and individuals (rather than,

39 The power of the federal government to regulate inter-state and foreign commerce is provided for separately in Article 55(2)(b) of the FDRE Constitution.

as above, "the rights and duties of individuals amongst themselves"). For instance, Proclamation 574/2008, the one dealing with urban planning, regulates how states and local government units should undertake urban planning. Proclamation 455 (2005), dealing with land expropriation, regulates relations between state/local government and individual land users. Many of the impugned proclamations thus do not fall within the domain of "civil laws." As laws governing the relations of two or more state organs or the relation of the state and individuals, most of the proclamations belong to the family of public law or administrative law – and hence fail the test of economic unity at the first stage of the enquiry.

Even if we were to assume nonetheless that most of the legislation in question belongs to the domain of civil law, it is doubtful if many of the laws would satisfy the second aspect of the requirement, namely that the regulation be necessary to sustain economic unity. It is not clear if the activities that many of the proclamations in question regulate have a national impact. Neither is it clear that many of the federal proclamations in question have the impact of regulating or facilitating the operation of the "common market" or the realization of socio-economic equality across the country. It is not apparent, for example, how Proclamation No. 513/2007, which deals with the management of solid waste by a city, can be regarded as regulating a civil matter with sufficient national impact to warrant federal legislation that stipulates where, when and how cities should manage the disposal of solid wastes.

5. Conclusion

Ethiopia has what is often described as a dual federal system. In this system of federalism, local government is placed under the exclusive competence of state governments. The supervision of local government is thus constitutionally left for the regional states. Indeed, there is a possibility that the federal government may indirectly regulate local government while adopting policies on national social and economic matters. It may also incidentally regulate local government when legislating on its constitutionally assigned exclusive competences to the extent it is necessary to do so. Moreover, it may regulate local government while enacting

laws that are relevant for the creation of a single economic community in the country.

However, this by no means allows the federal government to assign specific functions to local government and thereby alter the constitutional division of power. In practice, though, the federal government is seen regulating local government extensively through its policy-making and legislative powers. The federal regulation of local government is so thoroughgoing that in many cases it prescribes what local government can and cannot do, sidestepping the regional states altogether.

Nevertheless, neither the regional states nor local governments have protested at the federal government's undue encroachment into what are clearly subnational competences. No constitutional dispute has arisen over this: the HOF, the body tasked with interpreting the Constitution, has not been approached to settle intergovernmental disputes. This is the case in spite of clear constitutional provisions dividing political powers between the federal and state governments, requiring both levels of government to respect each other's powers functions, and allowing state governments to challenge the exercise of powers by the federal government.[40] This is also despite the fact that there is no constitutional provision prohibiting a local government unit, be it a *woreda* or a city, from challenging unconstitutional federal supervisory acts.

The absence of constitutional challenge to the pervasive practice of federal supervision of local government – and hence the lack of intergovernmental disputes – perhaps can be explained by the absence of political pluralism in the country. Essentially, a single political party, the Ethiopian People's Revolutionary Democratic Front (EPRDF), controls all levels of government and dominates the political system. The principle of democratic centralism that guides the EPRDF's internal decision-making procedures ensures that intergovernmental disputes are attended to within the

40 It is, however, uncertain whether a regional state or a local government unit may approach federal courts challenging the exercise of federal supervisory powers. There are uncertainties regarding whether federal courts can resolve constitutional disputes by interpreting the federal Constitution. Some argue that federal courts may interpret and apply the Constitution to decide cases despite the fact that the HoF has the final word on constitutional issues. Others, conversely, maintain that whenever a resolution of a particular case involves the interpretation of the Constitution, the courts must not try to resolve the case, but transfer it to the HoF.

party system.

References

Ayele, Z. (2014). *Local government in Ethiopia: Advancing development and accommodating ethnic minorities.* Baden-Baden, Germany: Nomos.

Ayele, Z., &Fessha, Y. (2004). The constitutional status of local government in federal systems: The case of Ethiopia. *Africa Today, 50*(4).

Bulliard, P. (2005). Local government in Switzerland. In N. Steytler (Ed.), *The place and role of local government in federal systems.* Johannesburg: Konard-Adenaur-Stiftung Occasional Papers.

Burgi, M. (2009). Federal Republic of Germany. In N. Steytler (Ed.), *Local government and metropolitan regions in federal systems: A global dialogue on federalism*. Montreal: McGill-Queen's University Press.

Congressional Budget Office (2013). *Federal grants to state and local governments*. Congress of the United States. Retrieved February 9, 2016 from https://www.cbo.gov/sites/default/files/113th-congress-2013-2014/reports/43967_FederalGrants.pdf

De Visser, J. (2005). *Developmental local government: A case study of South Africa.* Antwerp: Intersentia.

Fiseha, A. (2007). *Federalism and the accommodation of diversity in Ethiopia: A comparative study.* Nijmegen: Wolf Legal Publishers.

Fiseha, A., & Habib, M. (2010). Ethiopia. In L. Moreno & C. Colino (Eds.), *A global dialogue on federalism: Diversity and unity in federal countries.* Ontario: McGill-Queens University Press.

Hinshaw, J. (1992). The dormant Commerce Clause after Garcia: An application to the interstate commerce of sanitary landfill space. *Indiana Law Journal, 67*(2).

Kramer, J. (2005). Local government and city states in Germany. In N.

Steytler (Ed.), *The place and role of local government in federal systems.* Johannesburg: Konard-Adenaur-Stiftung Occasional Papers.

Lazar, H., & Seal, A. (2005). Local government: Still a junior government? The place of municipalities within the Canadian Federation. In N. Steytler (Ed.), *The place and role of local government in federal systems.* Johannesburg: Konard-Adenaur-Stiftung Occasional Papers.

Ministry of Finance and Economic Development (MoFED) (2000). *Interim Poverty Reduction Strategy Paper.* Addis Ababa: Federal Democratic Republic of Ethiopia.

Ministry of Finance and Economic Development (MoFED) (2002). *Sustainable Development and Poverty Reduction Program.* Addis Ababa: Federal Democratic Republic of Ethiopia.

Ministry of Finance and Economic Development (MoFED) (2005). *Plan for Accelerated and Sustained Development to End Poverty.* Addis Ababa: Federal Democratic Republic of Ethiopia.

Olowu, D., & Smoke, P. (1992). Determinants of success in African local governments: An overview. *Public Administration and Development, 12*(1).

Pagano, M. A. (2009). United States of America. In N. Steytler (Ed.), *Local government and metropolitan regions in federal systems: A global dialogue on federalism*. Montreal: McGill-Queen's University Press.

Pernthaler, P., &Gamper, A. (2005). Local government in Austria. In N. Steytler (Ed.), *The place and role of local government in federal systems.* Johannesburg: Konard-Adenaur-Stiftung Occasional Papers.

Schefold, D. (2012). Local government in Germany. In A. Moreno (Ed.), *Local government in member states of the European Union: A comparative legal perspective.* Madrid: Instituto Nacional de AdministracionPublica.

Spielman, D.J., Cohen, M. J., &Tewodaj, M. (2008). Mobilizing rural institutions for sustainable livelihoods and equitable development: A case study of local governance and smallholder cooperatives in Ethiopia. Washington, D.C.: International Food Policy Research Institute.

Steytler, N. (2009). Comparative conclusion. In N. Steytler (Ed.), *Local government and metropolitan regions in federal systems: A global dialogue on federalism*. Montreal: McGill-Queen's University Press.

Steytler, N. (2011). Cooperative and coercive models of intergovernmental relations: A South African case study. In J. Courchene, J. R. Allan, C. Leuprecht& N. Verrelli (Eds.), *The federal idea: Essays in honour of Ronald L Watts*. Ontario: McGill University Press.

Warner, J. L. (1997). The potential impact of United States v. Lopez on environmental regulation. *Duke Environmental Law & Policy Forum, 7*.

Wilmering, R. R. (2005). Federalism, the Commerce Clause, and the constitutionality of the Unborn Victims of Violence Act of 2004. *Indiana Law Journal, 80*(4).

World Bank, (1999). *World development report 1999/2000: Entering the 21st century.* World Bank Oxford: Oxford University Press.