

Institutionalization of IGR in the Ethiopian Federation: Towards Cooperative or Coercive Federalism?

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Abstract

Academics and practitioners agree that intergovernmental relations (IGR) in the Ethiopian federation are in need of some level of formal institutionalization. Constitutional principles, current IGR practices in the federation, and comparative studies in federalism lend support to advocacy of strong institutionalization. Recently, collaborative work by the responsible federal institutions, the House of Federation and Ministry of Federal Affairs, has been moving towards institutionalization of IGR. Moreover, achieving genuine federalism and its implementation requires coherent IGR principles and practices. The argument for the institutionalization of IGR generally aims to ensure that regional states participate and make their voices heard in federal legislation and policies, since IGR is a mechanism for consultation with and inclusion of regional interests in federal legislation and policy formulation prior to their implementation. That being said, the proposed institutionalization would have to address key factors that so far have obscured the role and outcomes of IGR. These include a hierarchical political culture; a high degree of ruling-party influence; the insignificance of the role assigned to professionals; trade-offs between formal rule and informal norms; and an incoherent vision of federalism. As such, the success of IGR schemes in Ethiopia would depend on the extent to which these challenges can be surmounted. Beyond seeking the establishment of institutions, the institutionalization proposal should keep the federal spirit alive and develop a clear model of federalism.

1. Introduction

The system of intergovernmental relations (IGR) in place in Ethi-

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opia for the last two decades is one in which the federal government is predominant and relationships between levels of government are largely informal. The federation has lacked coherent principles, guidelines and institutional systems for governing IGR schemes (Fiseha, 2009) and has been operating as if it could keep pursuing the same IGR schemes across vertical and/or horizontal dimensions of government under all circumstances and despite changing realities.

Nowadays, the federation's constitutional principles and extant IGR practices, along with the comparative IGR lessons learnt in other federal systems, lend support to the proposal for a move towards strong institutionalization. In particular, federal institutions with mandates relating to IGR, such as the House of Federation (HoF) and Ministry of Federal Affairs and Pastoral Development, have underlined the need for institutional and policy frameworks. Hence, academics and practitioners alike agree that Ethiopia's IGR system needs some level of formal institutionalization. On the basis that IGR can no longer be relegated to secondary importance in the operation of the system, the debate has therefore shifted to what level of institutionalization of IGR would be necessary and adequate.

This article evaluates the institutional proposition regarding Ethiopia's IGR system. It not only analyzes the rationales of the arguments for developing rigorous IGR institutions, but also identifies challenges to the processes and effectiveness of institutionalization. Specifically, the article answers the following questions: What explains the status and institutional design of IGR in Ethiopia? What are the bases for the institutionalization of IGR in this system? Would the institutional proposal resolve the predicaments that IGR schemes face? Proceeding from the viewpoint that IGR does matter in the federal system of Ethiopia, the article argues that the formal institutionalization of IGR, along with the development of coherent guidelines and principles, would demonstrate both the utility of federalism as well as the federality of the federal system of Ethiopia.

To this end, the article is made up of five sections. The first is this introduction; the second section discusses the place of IGR in federalism. In particular, it elaborates on why IGR matters in understanding federalism and its operationalization. This section also discusses the various rationales for institutionalizing IGR and

the factors that influence the level of institutionalization within a given federation. The third section examines the arguments that underlie the proposal to institutionalise IGR in the federal system of Ethiopia. The fourth identifies the challenges facing the institutionalization of IGR in the Ethiopian federation. The last section provides concluding remarks.

2. The Place of IGR in Federalism

Though IGR is as old as the Republics (Agranoff, 2012), its place in the study of federalism was initially not adequately recognised. In the nineteenth century, scholars of federalism focused on legal structures, understanding federalism primarily in terms of a dualism of two levels of government conceived as autonomous, independent and separate of each other (Wheare, 1964). Theoretically, the dual model of federalism envisages parallel sets of institutions and functions for the federal and constituent units (Agranoff, 2012) and consequently allots little room for IGR.

However, in the post-war era, intergovernmental cooperation became a requirement in all federal systems, despite variation in the degree of such cooperation (Watts, 2006). This cooperative theory of federalism concerns the mutually interdependent relationships between tiers of governments. In federal political systems such as the USA, where modern federalism originated, cooperative federalism began in the 1890s, gained a stronger foothold in the 1930s, and culminated in the 1960s (Agranoff, 2012; Kincaid, 2011). It was basically advanced as a remedy for social problems, with the principal aim being to build social equity. That is why scholars like Kincaid (2011) underscore that the cooperative or partnership-oriented spirit of federalism has helped in the transformation of American society.

From this perspective, there are a number of reasons for intergovernmental cooperation, including: 1) expansion of the information base for better decision-making and reconciliation of policy differences; 2) coordination of policies in areas where jurisdiction is shared and complementary; 3) achievement of national objectives; 4) coordination of public service provisions; 5) accommodation of differences by way of a reduction of fiscal disparity, improvements in policy capacity, and so on; 6) avoiding

complexity and rigidity and ensuring flexibility and adaptation; and 7) management of collisions and conflicts without necessarily eliminating competition (Watts, 2006; Trench, 2006).

Comparative studies of IGR and federalism reveal a diversity of cooperative federalisms across federations. At the one end of the spectrum is a form of cooperative federalism with intricate and interwoven patterns of cooperation. This is described as an “interlocking” relation, as illustrated by the case of Germany where the enactment and implementation of laws are formally conducted by separate bodies (Kübler et al., 2003; Scharpf, 1998; Watts, 2006). At the other end of the spectrum is “arm’s-length” cooperative federalism. Unlike interlocking relations, it assumes that constituent units are relatively autonomous and competitive in making policies and passing legislation. This is illustrated by the USA, where dual federalism originally took strong root (Kincaid, 1990; Watts, 2006).

Between the poles of “interlocking” and “arm’s-length” relations is “voluntary collaboration,” which is a form of IGR based on consensus and the goodwill of those involved (Watts, 2006; Bullard, 2005). In Switzerland, proportional representation and coalition government tend to favour this cooperative arrangement. The obligation to implement federal laws cannot simply be imposed on the cantons; rather, as a requirement for the successful implementation of federal laws and policies, cantonal interests are taken into account in the consultation processes that precede federal legislation. The Swiss federation has an ingrained culture of discussion, negotiation and compromise that favors cooperative federal solution (Ladner, 2007; Kübler et al, 2003; Andreas, 2007).

Kincaid (2011) notes that, under the guise of cooperative federalism, another unintended model of federalism—namely, coercive federalism—has emerged as a means of expanding national powers. He argues that, through coercive federalism, the federal government increases its reliance on regulatory tools or “unfunded mandates.” According to Kincaid (2002), the IGR system of the USA has become significantly coercive since the late 1960s, given that Congress has enacted numerous mandates, preemptions, conditions of aid and other regulations affecting states and local governments; in contrast, the states and local governments lack sufficient constitutional or political leverage to alter the system

of federal pre-emption and the burden of “unfunded mandates.”

In fact, intergovernmental relations in federalism entail both cooperation and competition. Hence, the place and role of IGR in federalism should center on how much cooperation, and how much competition, are needed, but not on eliminating the former for the latter. In a nutshell, it has been the device of the IGR that gave rise to different models of federalism- ranging from dual, cooperative, coercive to competitive. On the one hand, dual federalism is not an obsolete model of federalism, inasmuch as it is the original intent of the federal idea (Breton, 2011; Watts, 2006; Kincaid, 2011); on the other hand, cooperative federalism need not preclude the competitive elements of IGR. Healthy IGR in a federation, however, does not depend on whether the federal model is dualistic, cooperative or competitive: it depends on the existence of a balance.

2.1 Rationales for Institutionalization of IGR

Simply put, institutions are rules or norms that “structure,” “govern” or “constrain” human action (Helmke & Levitsky, 2004). An institution is a relatively enduring collection of rules and organized practices embedded in structures of meaning and resources that are relatively invariant in the face of turnover of individuals and relatively resilient to the idiosyncratic preferences and expectations of individuals and changing external circumstances (March & Olsen, 1989). It is a humanly crafted device that provides codes of appropriate behavior, affective ties and fosters a belief in a legitimate order.

The institutions of IGR are of two kinds: formal and informal. Formal IGR encompasses the written agreements between governments, and all norms, rules and regulations codified in constitutions or laws. Elazar (1965, p. 18) sees formal IGR agreements as extending the initial compact of federalism and as devices that affect the functioning of governments. Formal institutions are official rules that are usually written, created, communicated, and enforced through officially sanctioned channels.

In contrast, Informal institutions are socially shared rules, usually unwritten, that are created, communicated, and enforced outside of officially sanctioned channels (Elazar, 1965). As accurately described by Watts (2006), informality comprises the day-to-day

contacts between ministers, officials, or legislators at different government levels. These contacts may be by letter, by telephone or face-to face, and directed at exchanging views and information, sustaining relationships and implementing programs. Informal activities do not have full official recognition, procedures and rules (Wright 1988; Boyeller 2009). Informality does not mean the absence of an institution, though; it refers instead to the absence of an explicit constitutional or legal obligation to conduct intergovernmental relations (De Villiers, 2012, p. 674). Both formal and informal institutions exist in a federation; and each contributes to the institutionalization of IGR within it. As such, the notion “institutionalization” as utilized in this study connotes the degree to which formal and informal IGR exist individually or in combination in a federation.

At a theoretical level, studies by Parker (2010, 2014) and De Villiers (2012) unpack the various rationales for the move towards institutionalizing IGR in a federation. Parker (2010, pp.7-9) identifies at least six reasons for institutionalization: 1) it constructs an enduring interaction by creating structures which can be sustained beyond the individual participants; 2) it may strengthen norms by providing clarity by creating explicit rules and providing a means of enforcement; 3) it reduces the risk of short-lived and ineffective cooperation; 4) it resolves conflicts of a substantive nature; 5) it provides tangible procedures that politicians and bureaucrats alike can refer to; and 6) it synergizes jurisdictional resources and expertise for specific policy implementation.

Likewise, De Villiers (2012, pp. 689-94) succinctly identifies the significance of codification of IGR: 1) it spells out the aims and purposes of IGR; 2) it makes convening intergovernmental meetings a statutory obligation rather than an occasional practice dependent on the discretion of a political functionary; 3) it sets out the basic philosophy intergovernmental cooperation, consultation and coordination; 4) it affirms that IGR is a constant feature of multilevel government, not something to be recognized only in times of crisis; 5) it is a reminder that IGR is the normal business of a government structure and as such takes place consistently and regularly rather than ad hoc; 6) it makes the entire civil service aware of the processes and purposes of IGR; 7) it makes IGR part of political and administrative cultures; 8) it builds team spirit and facilitates training; and 9) it ensures the continuity of the informality by shaping and regularizing its patterns.

2.2 Factors Affecting the Level of Institutionalization of IGR

A number of scholars concur with what Richard Simeon identifies as the key factors that account for IGR (Simeon, 2002; Trench, 2006; Bolleyer, 2009; Watts, 2006). The first factor is related to the federal design. Simeon (2002, p. 102) broadly distinguishes two principles in the design of federations. First, federalism is based on the dualist principle according to which each tier of government is responsible for legislation and implementation regarding specified list of powers. The older federations like the USA and Australia have followed this design, but the emergence of de facto concurrency makes IGR necessary in such systems too. Secondly, federations designed on integrationist lines, such as Germany and South Africa, have been built on the principle of concurrency and shared responsibilities among different levels. In such systems, IGR is already integral to the federal design at the outset.

The propensity for formalizing IGR varies according to whether the system is modelled on “coming-together” or “holding-together” federalism. By comparison to “coming-together” federal systems, “holding-together” ones tend to codify the terms of IGR because, in “holding-together” federation, the constituent units need to trust the center with the constitutional devolution of power to the federating units (Poirier, Saunders & Kincaid, 2015). Moreover, the extent to which IGR is built into formal governing structures and the mechanisms by which this achieved are mandated by the constitution. The level of formality can be established by looking into both the constitutional provisions that shape the overall structure and character of the federal system as well as the specific institutions that have been developed to conduct intergovernmental activities. Equally, one needs to consider whether the institutions are fluid and ad hoc, in the sense they come and go as circumstances change. For example, IGR in Canada and Australia remains ad hoc and fluid (Simeon, 2002, p. 93).

The second factor that accounts for the existence of IGR is whether states are represented equally in the second chamber. In this case, if states are not equally represented in it, both policy coordination and political accommodation fall to the executive (Simeon, 2002). Although IGR is performed mainly by the executive branch (for instance, the president, prime minister, premiers, governors, and officials in the bureaucracy), legislative IGR needs

to check executive IGR.

The third factor is related to the party-political system. Federalism affects the nature of this system, which in turn affects IGR in the federation. In the case of Canada, for instance, the Conservative Party's discourse of "open federalism" is one that rejects institutionalized intergovernmental collaboration, whereas the liberal government's focus on "deep federalism" calls for the institutionalization of intergovernmental collaboration and cooperation (Doberstein, 2011). Integration in the federation can be accomplished by party channels. If parties are regionally divided, the integration of the national party will be weak; if the party at the center has the same ideology as, and is supported by, parties across the federation, the party channel accomplishes integrative tasks (Frederickson & Nice, 1995; Watts, 2001; Simeon, 2007).

The fourth factor is whether there is an intergovernmental institution acting as a decision-making body. In this regard, comparative studies on IGR reveal different modalities of intergovernmental decision-making practice. Accordingly, at one end of the spectrum is the informal intergovernmental institution which largely involves a mere exchange of information and provides a forum for discussion. In the middle of the spectrum are intergovernmental processes that emphasize bargaining, negotiation and persuasion but in which the participating institutions or actors remain responsible for their respective legislatures and electorates. At the other end of the spectrum is an intergovernmental institution that can pass formal decisions binding on all the partners (Bolleyer, 2009; Parker, 2014; Watts, 2006).

Last but not least of the factors is the nature of the society in which institutions are embedded. In relatively homogeneous and mono-national federations such as the USA, Australia and Germany, IGR is relatively free of conflict and public controversy. In such contexts, it is about administrative coordination and resolving problems in the public realm. By contrast, in contexts where territorially based ethnic or linguistic divisions are deeply entrenched, IGR is prone to conflict due to competing visions and aspirations (Simeon, 2002, p. 102). Here, IGR goes beyond simple administrative collaboration and entails accommodating competing visions.

3. The State of Institutionalization of IGR under the Federal System of Ethiopia

This section discusses IGR schemes under the Ethiopian federal system. It first sets out arguments that are made in favour of institutionalizing IGR in Ethiopia, after which it examines whether they address a number of key factors that have emerged in similar arguments for strong institutionalization of IGR elsewhere in the world.

3.1 Arguments for Institutionalization of IGR

The technical committee on the study of the institutionalization of IGR in the Ethiopian federation has identified a number of the rationales underpinning the move towards having some form of institutional or policy framework for conducting IGR.¹ Among the reasons given for institutionalizing IGR are, first, that it is beneficial to identify a coherent underlying philosophy of intergovernmental partnership. Secondly, the IGR Policy and/ or institutional framework provides the objectives of IGR forums and the participants of the forum and sets up an institution that can run IGR forums. The framework would not only identify the roles and responsibilities of IGR forums, but also prescribe the formality of these forums and the regularity with which they convene. Thirdly, formalization entrenches IGR rules and norms for overlapping and concurrent responsibilities. Fourthly, formal and sustainable IGR forums foster team spirit, partnership and cooperation among the intergovernmental decision-makers. Fifthly, it lays the basis for the participating units to undertake integrated strategic planning. Sixthly, formalizing IGR through legal or policy frameworks helps to ensure continuity in the event of a change of government or ruling party. In this regard, it contributes to the development of democratic institutions that transcend the life of a given political party or administration and thereby creates peaceful environments for intergovernmental dispute-resolution.

Studies on Ethiopia's IGR system primarily examine the vertical relationship between federal and regional state governments. These studies converge in making the same suggestion, namely

1 Draft Report on the national consultation workshop on intergovernmental policy formulation in Ethiopia, prepared by the House of Federation in collaboration with the Ministry of Federal Affairs and with the support of the Forum of Federations. The workshop was held on 4 March, 2015, in Dire Dawa, Ethiopia.

that there is an urgent need to formalize the legal and institutional framework of the IGR system (Fiseha, 2009; Taye, 2014).² In view of this, the emerging debate on the IGR system appears to have reached consensus on the need for certain level of institutionalization. The extant institution of IGR that is restricted to the executive branch of government and dominated by the ruling party does not meet the basic condition for being a robust institution of interaction. First, the IGR system lacks durability over time and structures do not outlast individuals: given that the system relies for its existence on party and personal networks of actors, the risk of over-dependence on particular individuals has not been countered by institutionalization. Secondly, party discipline has influenced the behaviour of the IGR actors, and had it not been for the dominant-party system, there would not be smooth relations between the federal and regional governments. Hence, the question arises: Are there adequate constitutional and practical bases for the move towards stronger institutionalization of the IGR system in Ethiopia? The sections below consider the answers to this fundamental question.

3.2 The Bases for Institutionalization of IGR

3.2.1 *Respecting Constitutional Provisions*

The federal constitution neither explicitly stipulates the principles that govern the IGR systems nor grants the power to enact national legislation on IGR to any clearly identifiable structure of government. However, there are important constitutional principles that can serve as the bases for the move towards strong institutionalization of IGR. In this regard, a number of constitutional provisions point to the need for developing an institutional and policy framework for IGR in Ethiopia. The starting-point is the preamble of the Federal Constitution, which states that the nations, nationalities and peoples of Ethiopia have entered into an agreement to rectify the “historically unjust relationships” between them, promote their shared interests, ensure democracy, peace and sustainable development, and to live as “one economic and political community” in order to create sustainable and mu-

2 Draft Report on the national consultation workshop on intergovernmental policy formulation in Ethiopia, prepared by the House of Federation in collaboration with the Ministry of Federal Affairs and with the support of the Forum of Federations. The workshop was held on 22 March, 2015, at the Ghion Hotel, Addis Ababa, Ethiopia.

tually supportive conditions for ensuring respect for their rights and freedoms and for the collective promotion of their interests.³

In the Ethiopian context, IGR has the double task of serving as a mechanism for both governmental and inter-ethnic relations. The ground for the argument of institutionalizing IGR centers on how to ensure and enhance the voices of the ethnic groups.⁴ Here, it is important to underscore that Article 8 of the Constitution provides that “all sovereign power resides in the nations, nationalities and peoples of Ethiopia.” In accordance with this article, the Constitution itself is not only the expression of the will of the ethnic groups but also the basis on which they shall establish their self-government through their representative as well as direct democratic participation.⁵

In particular, Article 39 of the Constitution confers the unconditional right to self-determination, including the right to secession, to each nation, nationality and people in Ethiopia. Under Article 88(1) and (2), the levels of government – that is, federal and regional state governments – have the duty to promote and support the people’s self-rule in accordance with democratic principles. At the same time, the government – again, both federal and regional – has the duty not only to respect the identities of nations, nationalities and peoples but to strengthen ties of equality, unity and fraternity between them. In addition to enhancing governments’ functional relationships, the proposed institutionalization of IGR can be used as a means for ensuring commitment to accommodating ethnic diversity and promoting unity.

The other constitutional base for IGR is already in place in terms of the power given to the HoF. By virtue of Articles 62 and 48 of the Constitution, the HoF is mandated to conduct at least some aspects of IGR. According to Article 61(2) of the Constitution, it is composed of the nations, nationalities and peoples, or ethnic groups, not regional states, and provides one representative for each of the ethnic groups of the country, irrespective of their size,

3 Preamble of the Constitution of the Federal Democratic Republic of Ethiopia (FDRE).

4 The constituent units are designed for the self-governance of the ethnic groups. This is guaranteed by Article 46(2) of the FDRE Constitution, which stipulates that “states shall be delimited on the basis of the settlement patterns, language, identity and consent of the peoples concerned.”

5 Article 8(3) of the FDRE Constitution.

while the bigger ethnic groups would have one additional representative for each one million of their populations.⁶ The HoF, as the representative of the ethno-national groups with a mandate to, among other things, allocate subsidies to regional states and forums for resolving intergovernmental and interstate disputes, is established as the intergovernmental institution of sub-national governments.

The HoF wields important powers⁷ for making decisions regarding the self-rule of ethnic groups as well as for promoting the equality of the people and “consolidat[ing] their unity based on their mutual consent.” The House finds solutions to disputes or misunderstandings that may arise between regional states.⁸ Moreover, Article 48(1) of the Constitution provides a ground for regional states to enter into horizontal relationships with each other to resolve any state border disputes that may arise. If the disputant regional states fail to reach agreement, the HoF as a federal institution has the power to decide on such horizontal disputes on the basis of “settlement patterns and the wishes of the peoples concerned.” Furthermore, the HoF determines the division of revenues derived from joint federal and state tax sources and the subsidies which the federal government provides to the regional states.⁹ The House can also order federal intervention if any state, in violation of the Constitution, endangers the constitutional order.¹⁰

In practice, the House has employed both formal and informal IGR forums. The formal forums are of two kinds: a forum of speakers, and a joint forum of the federation and regional states. The forum of speakers is composed of speakers of both the federal houses and Regional State Councils; the joint forum of the federation and regional states include participants from the federal and regional states as well as other stakeholders such as intellectuals, invited guests and so on. In this forum, any of the participants can articulate their views as legitimate members of the forum. Most of the forums are chaired by the federal officials while the role of participants from the regions is restricted to giving reflections on each agenda.

6 Article 61(2) of the FDRE Constitution.

7 Article 62(2) and (3) of the FDRE Constitution.

8 Articles 48(1) and 62(2) and (3) of the FDRE Constitution.

9 Article 62(7) of the FDRE Constitution.

10 Article 62(9) of the FDRE Constitution.

Nonetheless, scholars have already come to the conclusion that the HoF's IGR forums are merely general meetings rather than appropriately consultative IGR forums. The forums appear to allow for different viewpoints to be raised, but dissenting opinion is discouraged and regional states are therefore recipients of messages than senders or originators. Adherence to the party line restricts dissenting opinion; failure to attend the forums does not entrain any consequences; and the decisions are not binding. Thus, the HoF cannot be a sole coordinator and facilitator of IGR as it does not reflect the regional states' interests.

Convincingly, the basis for which IGR is argued to be fairly treated in the federal system of Ethiopia points to the constitutional division of powers. The power-division method follows the exclusive,¹¹ residual¹² and concurrent¹³ strategies. The Constitution clearly establishes two levels of government,¹⁴ and obliges each level to respect the other's constitutional powers.¹⁵ It establishes a symmetrical federalism in that the powers, functions and prerogatives given to the constituent units are uniform. The Constitution has followed a dualist approach to power division, as the approach overlooks the constitutional position of IGR. In this regard, Article 51 lists the exclusive powers of the federal government, while Article 52 assigns a number of exclusive competencies to the regional states. Both the federal government and regional states have legislative, executive and judicial powers within their respective jurisdictional limits. However, as per Articles 50(9) and 94(1), the federal government can delegate its powers to the regional states as may be necessary, and "unless otherwise agreed upon, the financial expenditures required for the carrying out of any delegated function by a State shall be borne by the delegating party." Furthermore, the concurrent and undesignated powers of taxation¹⁶ are constitutional bases providing some grounds for the argument for the institutionalization of IGR.

11 See Articles 51 and 52 for lists of exclusive federal and regional state powers, respectively.

12 Residual powers – that is to say, powers which are not explicitly given to the federal government and are not concurrent – are reserved for the regional states. See Article 52(2) of the FDRE Constitution

13 Article 98 of the FDRE Constitution.

14 Article 50(1) of the FDRE Constitution.

15 Article 50(8) of the FDRE Constitution.

16 Articles 98(1)-(3) and 100 of the FDRE Constitution.

Constitutionally, the country's broad economic, social and development policy, strategy and plan are the competence of the federal government.¹⁷ In addition, it is the federal government's responsibility to carry out "the establishment and implementation of 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"; by contrast, the jurisdiction of the regional states is limited to specific policies and strategies.¹⁸ The Constitution, however, does not clearly stipulate the extent of the power of the federal government and the areas of power that should be left to the regional states.

But what is clear is that the economic, political, social cultural and environmental objectives outlined by the Federal Constitution make intergovernmental cooperation inevitable between the federal and regional states,¹⁹ as the relevant policies unite what the Constitution does not cleanly divide. The federal government has policy competence over the broader issues, which gives it the dominant role in policy-making; yet this fact at the same time lends support to one of the key rationales for the institutionalization of IGR, inasmuch as the extent, and correlative limits, of federal government power in policy formulation remain ambiguous and, additionally, inasmuch as the logic of policy implementation requires the participation of regional and local governments. It has to be noted, furthermore, that meaningful IGR cannot be developed without a coherent jurisdictional division accompanied by the identification of areas of coordination.

Articles 1 and 45 of the Constitution provide that Ethiopia's form of government is federal and a parliamentary democracy. Such a form of government fuses the legislature with the executive, with the implication that the same key actors participate in both law-making and enforcement. Consequently, the executive branch dominates in IGR in parliamentary democracies, relegating the legislature to a weaker role in IGR schemes. For this reason, the rationale of IGR would be to ensure the participation of and voice of regions in federal legislation and policies, given that IGR is a mechanism for consulting and including regional views and interests in federal legislation and the policies which precede the latter's formulation and implementation.

17 Article 52(2) of the FDRE Constitution.

18 Articles 51(2) and 52(1)(c) of the FDRE Constitution.

19 Articles 88-92 of the FDRE Constitution.

For instance, in terms of Article 40(3) of the Constitution, land is declared the “common property” of the nations, nationalities and peoples of Ethiopia and the Ethiopian state. Further to this, the Constitution makes the power over land a concurrent power situated at the intersection of two levels, the federal government and the regional states. On the one hand, then, policy-making power over all land (both rural and urban) is granted to the federal government: according to Article 51(5), the federal government can “enact laws for the utilization and conservation of land and other natural resources, historical sites and objects.” On the other hand, according to Article 52(2)(d), the regional states have the power to “administer land and other natural resources in accordance with Federal laws.” Here, the issue of land affects all tiers of government in that the federal government has policy and legislative power over land, while the (ethnic) regional states are given the power to administer it.

Remarkably, Article 39 guarantees the inextricable association of territory and ethnicity. Symbolically, the issue of land is inseparable from ethnic identity and autonomy; materially, land is also a tangible but scarce resource that determines the economic, political and social well-being of an ethnic group. Equally, Article 40 guarantees access to land use as a right of any citizen of Ethiopia. The same article confers land ownership to Ethiopia’s nations, nationalities and peoples and the state. These provisions show that land has both individual-rights and group-rights dimensions. Article 40 appears to have established different land regimes in respect of either urban areas (a lease system) or rural areas (a permit system). Along with the dominant-party system, the institutional arrangements regarding public and state land ownership have afforded the federal government a dominant position both in determining land policy and using its legislative powers to develop corresponding laws. Consequently, clear and strong IGR institutions could play a significant role in ensuring both the fair utilization of land as a main source of wealth and respect for the land ownership of the ethnic groups, including the latter’s rights not to be arbitrarily evicted from their land or have it expropriated.

Though the horizontal inter-state equality of the regional states is stipulated by Article 47(4) of the Constitution, the design of the federal system has given rise to incongruent regional states.²⁰

²⁰ Article 46(2) establishes that the regional “states shall be delimited on

The federating units are asymmetrical in population size, territorial area, wealth, climatic conditions, levels of urbanization, and the like. In this line, Article 94(2) grants the federal government the “power to audit and inspect the proportionate development of states.” More so, Article 89(4) provides a guarantee for extending special assistance to the nations, nationalities, and peoples that are least advantaged in terms of social and economic development. In this case, the Ministry of Federal Affairs and Pastoral Area Development (MoFAPAD) has been shouldering the task of assisting less developed regional states, with the commitment to equitable development and the mechanisms of bridging regional disparities originating in a political decision at the center. The variation of the constituent units, that is, of *de facto* asymmetry, is thus arguably another reason for the institutionalization of IGR. This is why Taye (2014) argues that the only solution for dealing with the challenge of *de facto* asymmetry is through appropriate IGR mechanisms and institutions. In short, coherent institutions and processes in respect of IGR could pave the way for a political culture of cooperation because they have the potential for bringing about jurisdictional understanding of how the federal system functions and addressing unanticipated challenges.

3.2.2 *The MoFPADA: A Formal Vertical IGR Institution?*

Before the establishment of the MoFA in 2001, the Regional Affairs Office was an *ad hoc* institute that sought to ensure that regional governments were willing to be part of political processes at the center and to support some of the regions, particularly the relatively new ones, in the areas of capacity-building and good governance. The constitutional base for the creation of the obsolete Regional Affairs office (1992-2001) under the prime minister’s office was eroded. Following the internal crises of the Tigrayan Peoples Liberation Front (TPLF) in 2001, a new institution was established to facilitate the federal government’s relations with regional states (Kefale, 2009; Fiseha, 2009). This came about through an official proclamation outlining the responsibilities and duties of the federal institutions.²¹

the basis of the settlement patterns, language, identity and consent of the people’s concerned.”

21 Proclamation No. 256/2001, A Proclamation to Provide for Definition of Powers and Duties of the Executive Organs of the Federal Democratic Republic of Ethiopia, No. 2 *Federal Negarit Gazeta*, Addis Ababa.

Though the Federal Constitution fails to establish a clear institutional framework and guiding principles for IGR, the federal government has attempted to set up such a legal and institutional framework with regard to the federal and regional state relationship. This has been undertaken through the MoFA. According to the proclamation by which it was first established, Proclamation 256/2001, the MoFA is generally responsible for all the operations of the federal police, the setting of national standards for urban planning; finding solutions to inter-regional conflicts; and coordinating federal intervention in the regions and others. In addition, it is responsible for coordinating federal government assistance to the country's four peripheral regions (Gambella, Afar, Benishangul-Gumuz and Somali). In this sense, the MoFA has the objective of addressing de facto asymmetries between the regional states (Nigusse, 2008, p. 99). The MoFA appears to bear the responsibility for special support to the emerging regions in line with Article 89(2) of the Constitution²². The first proclamation on the power of the MoFA, along with subsequent proclamations,²³ states that the MoFA provides assistance to regional states.²⁴ Its role however is particularly to coordinate and integrate support by the federal organ to emerging regions that include Somali, Afar, Gambella and Benishangul Gumuz.²⁵

Under Proclamations No. 471/2006 and 691/2010, the MoFA commits itself to facilitating effective relationships between the federal and regional states. Proclamation 691/2010 increases the MoFA's power and functions with regard to IGR, giving it the mandate to serve as the focal point for developing sound federal-regional relationships and cooperation based on mutual understanding and partnership. The mandate to facilitate IGR in the MoFA is assigned to the department under the IGR General

22 The Article states: "Government shall provide special assistance to Nations, Nationalities, and Peoples least advantaged in economic and social development."

23 See Proclamation No. 251/2001; Proclamations No. 691/2010, Article 14(1)(f) and (g); and Proclamation No.916/2015.

24 The relatively developed regions include Oromia, Amhara, Tigray, SNNPR and Harari, whereas the remaining four regions are often termed as emerging regions.

25 Article 21(5) of the Proclamation No.471/2005 is entitled "Definition of Powers and Duties of the Executive Organs of FDRE," *Federal Negarit Gazeta*, 12th year, No.1, Addis Ababa; Article 11(1)(c) of Proclamation No.256/2001 is entitled "Re-organization of the Executive Organs of the FDRE," *Federal Negarit Gazeta*, 8th Year, No.2, Addis Ababa.

Director, which is tasked with conducting research on IGR and bridging gaps; supporting the development of IGR based on the mutual consent of, and mutual benefit to, the different regional states; developing guidelines for the interaction between the governments; providing advice and support for the realization of harmonious policies, strategies and plans; supporting and advising on the establishment of institutions that facilitate IGR between federal and regional states; and facilitating the creation of forums for IGR.

Notably, the power granted to the MoFA as an IGR institution has been criticized in that empowering the federal executive organ to coordinate IGR between the federal and regional states in the absence of any constitutional principle that directs this is paradoxical. Instead, the MoFA has been regarded as another avenue for consolidating the center's dominance over the sub-national governments (Kefale, 2009); it is also said to lack effective political leadership for coordinating IGR nationwide (Fiseha, 2009). This is why Fiseha (2009) observes that even the name MoFA "appears to be a misnomer," as the Ministry's conduct so far has had little to do with IGR in the proper sense.

The Ministry of Federal and Pastoral Area Development Affairs (MoFPADA) has been given the mandate, as a federal institution, to coordinate IGR between the federal and regional states. It has been criticized, however, for not working in a spirit of partnership, mutual interdependence, equality and consultation between the federal government and regional state governments. Instead, the MoFPADA has been obeying the dictates of party solidarity and maintaining the dominance of the federal government; it affords scarcely any opportunity for the voices of the regional states to be heard, as there is no clear regional representation in this institution. The IGR functions of the MoFA/MoFPADA are therefore not only envisioned as toeing the ruling-party line but appears to be confined to the life of the EPRDF: it remains uncertain whether the same institution would continue to exist at times the partisanship changes and formal institutionalization of IGR takes root.

3.2.3 Horizontal IGR between Regional States

Article 48(1) of the Federal Constitution lays down the constitutional bases for horizontal IGR between regional states. It states:

All State border disputes shall be settled by agreement of the concerned States. Where the concerned States fail to reach agreement, the House of the Federation shall decide such disputes on the basis of settlement patterns and the wishes of the peoples concerned.

Nonetheless, this provision has anticipated the horizontal relationship between the regions in terms of resolving disputes about borders.

In practice, some horizontal IGR, such as that between the five eastern Ethiopian neighbouring regional states – Afar, Harari, Somali and Oromia, including the Dire Dawa Administration – are good examples of IGR that goes further than what is provided under Article 48(1) of the Constitution. Intergovernmental cooperation among these units was necessitated by several contextual factors, including economic, socio-cultural, inter- and intra-ethnic relations as well as security and developmental considerations.²⁶ These horizontal relations have led to both success stories and failures. On the positive side, the participant regions developed a memorandum of understanding. They have had a clear vision for synergizing their efforts to address shared challenges such as controlling illegal trading and the movement of contraband; in addition, they have collaborated in responding to cross-border environmental hazards, including flooding and droughts. They also established committees and sub-committees to enable representatives of sectors such as health, education, agriculture and trade to share information and experiences. In the heyday of these IGR arrangements, meetings were conducted four times a week, with the place of meeting determined on a rotational basis. In general, there was effective communication among the participant states including the Dire Dawa Administration.

Nonetheless, horizontal IGR is now dysfunctional. As participants at the Consultation Workshop²⁷ pointed out, the main reasons for its failure include lack of ownership and accountability; lack of a clear legal, institutional or policy framework to guide the interaction; and the fact that the interactions took place on the basis of officials' personal willingness to facilitate them. IGR

26 The Technical Committee's Draft Report on IGR Policy study, the Project under the joint work of HoF and MoFA, and supported by FOF 2015.

27 Report on the national consultation workshop on intergovernmental policy for-

relied on individuals rather than institutions, and when it happened that particular officials moved on from their positions at the time, this was tantamount to dissolving intergovernmental communication.

Moreover, the IGR was largely informal and scattered here and there: it lacked consistency and sustainability. There was no leadership and/or institution that could evaluate and calibrate the outcomes of the IGR. The IGR meetings did not dwell on substantive terms of cooperation; they were instead intersection points for sharing information, yet, even so, without addressing any significant areas of cooperation and agreement. In addition, the participants at these meetings were, by and large, not senior or high-ranking decision-makers. This indicates there was a lack of political commitment on the part of top officials to promoting the horizontal IGR and giving it meaningful institutional status.

3.2.4 Sector Line Practices

Most of the extant IGR practices are sector- or policy-oriented than system-based. The sector- oriented IGR has no clear guidelines and principles that are in consonance with federalism or that enhance/concretize the federal idea. There is no independent institution that follows and evaluates the outcomes, successes and failures of the sectoral intergovernmental forums and meetings. In addition, no systematic discussion and consultation took place on issues that cut across sectoral lines. While there have been several sector-based forums, including joint forums for educational practitioners and public prosecutors,²⁸ they were characterized by irregular and disorganized intergovernmental practices as well as a lack of clear guidelines and rules, a lack of adequate awareness among stakeholders, and a lack of accountability and responsiveness.

The situation has opened a loophole for the federal government to maintain its dominance over regional bureaus under the guise of coordinating shared policies and programs. IGR schemes in Ethiopia fit the description of what Wright (1988) terms the hierarchic model of IGR, as they serve to perpetuate the notion of

mulation in Ethiopia, prepared by the House of Federation in collaboration with the Ministry of Federal Affairs and with the support of the Forum of Federations. The workshop was held on 4 March, 2015, in Dire Dawa, Ethiopia.

28 The Technical Committee's Report on IGR study, the Project under the joint work of HOF and MoFA, and supported by FOF 2015.

a hierarchy between sectors at federal and regional levels and thereby reinforce the dominant position of the federal government and the influence of federal actors.

3.2.5 *The Dominant Party Networks*

Given that Ethiopia is a parliamentary federation, the federal government's dominance in IGR systems is understandable to some extent. This is because, apart from setting national priorities, it has greater financial resources than sub-national units, in addition to broad policy powers, elastic legislative powers, qualified staff and expertise, and stronger grounds than other role-players for initiating IGR agendas. Nonetheless, the dominance of the party channel in IGR across the board has exposed the federality of the federation to wide spread criticism.

By and large, intergovernmental relations have been smooth in Ethiopia because the EPRDF and its affiliated ethnic parties enjoy a monopoly of power at all levels of government (Alem, 2005). Armed with the mandate of the MoFA to coordinate IGR, the party channel has ensured the uniformity of policies across the federation (Fiseha, 2009). The EPRDF and its affiliates have hierarchical structures from the village level to the top level. In addition, those in charge of a particular level of government are also in control of the party structure at that level.

The dominant-party system works to suppress the intergovernmental disputes that could arise in the event of shifts in party loyalties and support. The danger posed by party-channel IGR was particularly imminent during the 2005 elections and subsequent triumph of opposition candidates representing the Coalition for Unity and Democracy (CUD), given that the defeat of the EPRDF and other ruling parties in major cities like Addis Ababa threatened to alter the political ties that had developed between the federal and regional states. The lesson this holds is that the mechanism and practice of IGR have to be transformed from ones based on party politics to ones founded on formal institutions and laws to ensure the effectiveness, stability and sustainability of the federation. Because Ethiopia is predominantly a holding-together federation,²⁹ there is a potential danger of (re)centralization- and

²⁹ Most federations, be they coming-together or holding-together ones, have shown an increasing trend toward institutionalization of IGR. However, holding-together federations tend to favor more structured, legalized, or even constitutionalized, forms of interaction. See Poirier & Saunders (2010), p.4.

hence a need to build trust between the center and the regional states by reducing reliance on party-channel IGR and instituting a more structured and legally regulated form of IGR.

3.2.6 Strengthening Cooperative practices in the Federation?

According to the official narrative, a further reason for institutionalizing IGR is to strengthen cooperative practices in the federation. From this perspective,³⁰ Ethiopian federalism is seen as cooperative federalism. As the research report by the Technical Committee on the institutionalization of IGR finds, there are a number of practices that reflect the cooperative nature of Ethiopian federalism.

First, the federal and regional state governments have been amenable to coordinated policy formulation as well as implementation of policy developed by the federal level. Despite having the exclusive power to develop their own policies, the regional states have opted so far for harmonized policy rather than asserting their own idiosyncratic character. Secondly, the regional states have not disputed the grant formula or the amount of grant they receive from the HoF, the federal institution which “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.”³¹ This does not mean there is complete satisfaction with the formula on the part of certain regional states with greater revenue capacity than others. But, according to report by the Technical Committee, the regional states are committed to equitable regional development.

Whether Ethiopian federalism is indeed as cooperative as described above is, however, a subject of further debate under section 4.4 further below.

3.2.7 Contemporary Factors: Calling for Institutionalization of IGR?

The gap in the IGR system of Ethiopia has been exposed often since protests in April 2014 against the so-called “Addis Ababa

³⁰ Report on the national consultation workshop on intergovernmental policy formulation in Ethiopia, prepared by the House of Federation in collaboration with the Ministry of Federal Affairs and with the support of the Forum of Federations. The workshop was held on 22 March, 2015, at the Ghion Hotel, Addis Ababa, Ethiopia.

³¹ Article 62(7) of the FDRE Constitution.

Master Plan.” In the wake of the protests and the cancellation of the “Master Plan” in January 2016, a document made available on social media was said to be a draft proclamation law, approved by the Council of Ministers, for determining Oromia’s “special interest” in Addis Ababa/Finfinnee city, which was completely relegated over the last two decades.

In addition, following EPRDF’s reform in September 2016, the Oromia regional ruling party, the Oromo Peoples’ Democratic Organization (OPDO), proclaimed itself as *Abbaa Biyyaa*- ultimate regional self ruler- seeking to control the region and its resources and getting rid of intervention and control from above exercised under the guise of developmentalism. For example, speaking at a Youth League event in Shashamane in 2017, Lemma Megersa, the chairman of the OPDO and President of Oromia National Regional State, declared, “*Gooftaan keenya uummata keenya. Gooftaa biraa hin qabnu,*” which literally means, “The Oromo people, not anybody else other than Oromo, is the maker and breaker of the regional government of Oromia.” The implication is that the regional cabinet is accountable to the electorate, not to anyone else above, and the decisions it takes express the voices and interest of the region.

This marks a shift in the regional actors’ position from subservience towards central policy-making and planning to assertiveness about regional self-rule and autonomy. In this vein, we are even witnessing attempts by members of the dominant EPRDF coalition to pursue new, uncharted courses of action that not only affect the established party-channel-based IGR but are guided by the aim of setting clear rules and norms for the federation’s IGR schemes.

Recently in 2017, we also witnessed a number of remarkable joint inter-regional conferences, which included participation by the Amhara, Tigray, Oromia and Benishangul-Gumuz regional states. These events have been termed *yezib leyezib tisisir* (public forums) rather than portrayed as horizontal IGR in the strict sense. Of course, the center may not trust horizontal IGR, as it is often conducted without the center yet has implications for the center’s hold on power and centralized decision-making. Nonetheless, developing an overall framework to guide these forums and ensure their sustainability forums may, at the end of the day, complement the process of institutionalizing IGR.

The other contemporary factor that reveals the gap in the IGR system of the Ethiopian federation is the undergoing conflict between the Oromia and Somali regions. Far from mitigating this conflict, the IGR implemented during the two last decades has generated conflicting interests over control of territorial jurisdictions and boundary expansion. Horizontal IGR has neither prevented nor regulated the conflict between the two regional states, but at a minimum could have helped the two regional states to meet and discuss their cases in the same forum, even in the absence of the center.

The federal government has been severely criticized for not regulating the conflict between the two regions, which has led to several crises including the displacement of over half a million Oromos from the Somali region.³² For example, a referendum conducted before a decade from now to decide on the conflicting territorial jurisdictions between the two regions has not been implemented effectively, as a result of which this overdue matter has reinforced the conflict. The HoF, as a federal institution, has the mandate to settle conflicts such as these that involve referendums, but it has not met its responsibilities in this regard. Moreover, certain federal actors are implicated in the escalation of the conflict rather than its regulation, a situation which undermines the role of federal institutions in resolving the dispute.

No doubt, these contemporary political factors have become a predicament for intergovernmental networks founded largely on solidarity to the EPRDF ruling coalition. Henceforth, IGR between regional states and the federal government needs to be based on coherent principles, including respect for each other's exclusive powers, the devolution of powers, and cooperation in matters where jurisdictions or policies intersect with each other.

4. The Challenges of Strong Institutionalization of IGR Frameworks in Ethiopia

While there are practical reasons and constitutional warrants for strong institutionalization of IGR in Ethiopia, there are also factors constraining it. Among them are the following considerations: Why was the federal system reluctant to develop a coher-

³² Reports of the Oromia Regional State, OBN, November 2017.

ent level of institutionalization for the past two decades? Are all the levels of government on the same page about the utility of formal IGR in federal governance? Does the move towards institutionalization have a clear vision of federalism? Is there an enabling political environment for designing the institutional or policy frameworks of IGR? Guided by these questions, the sections below examine the factors challenging the institutionalization of IGR in the federal system of Ethiopia.

4.1 Institutionalization of IGR under a Dominant Party and Developmental State Ideology

Many scholars, such as Watts (2006), Trench (2006) and Agronoff (2004, note that the model of IGR has to be represented by the practice on the ground, and the practice is largely reflective of the political culture and orientation of the political actors than the institutional design. A number of factors have contributed to the dominance of the federal executive in the IGR system of Ethiopia. Broadly, as comparative works on IGR reveal, the parliamentary system of government facilitates executive dominance in the IGR schemes of federal countries. Accordingly, the executive branch of government dominates IGR in the parliamentary system of the Ethiopian federation. Many observers, however, regard the structure of the leading political party, the EPRDF, as the key factor in determining the operation of IGR and hence federalism (Chanie, 2007; Vaughan, 2003; Lovise, 2002). The party system, along with the federal competence over the legislative and national policy frameworks, has led the regional states into serving as agents of the center because it is the center that has been providing them with strategic direction, standards, policies and funds. Meanwhile, the constituent units are unable to assert their individuality in federal policy.

Moreover, the effect of the dominant-party system is reflected in the intermixing of party activities in the realm of public administration and service delivery, which makes governmental functions and party business inseparable from each other (Lovise, 2001, p. 104) and weakens the accountability of party-member public officials to the public.³³ A study by Trench (2006), for instance, notes that, in many countries around the world, party affiliation

³³ In centralized party systems, the tendency is for party members to pursue their private interests, which in turn undermines the party's ability to control its members. See Elazar (1987), p.218.

has little impact on intergovernmental interactions because what matters chiefly to parties is the electorate, not other parties. In Ethiopia, party affiliation has quite a different place in the IGR system, contrary to what Trench (2006) sought elsewhere.

The fact that there has been lack of strong IGR institutions implies that the key political actors are comfortable with party-based IGR. The same party that wanted IGR to be carried out through party channels, as has been the case for the past two and a half decades, may still prefer the status quo. In such a context, would the party be willing to move forward and institutionalize IGR outside of the current framework over which it has full control? Would the voices of opposition political parties and other stakeholders be included? The argument for institutionalization should not merely stem from anticipation of the intergovernmental conflict that is likely to arise if another party with a different ideology win the elections; it should also seek to regulate the problem of intra-dominant-party cooperation or conflict. Conversely, the efforts towards institutionalization of IGR have not seen any bold commitments being made to ensuring the independence of the IGR institutions that would need to be designed. One should not be overly optimistic about the prospects for highly formalised IGR institutions under a dominant-party system, as arrangements of this kind would instead require multiparty democracy in the Ethiopian context. Thus, there is still uncertainty as to whether the institutionalization of IGR is a reform that could make headway in spite of the existence of the dominant-party system.

Undoubtedly, the interests of the center are served both by the ideology of the developmental state and by IGR conducted through the structures and channels of the dominant party. Would strong institutionalization of IGR work under the dominant-party EPRDF? The latter is committed, even if only rhetorically, to the ideology of the development state, which extols the dominant role of the national order in the operation of IGR. According to this ideology, the ruling party and the state are intimately interconnected, with the regional states and layers of governance under the sub-national governments serving as implementing agencies of the national order and the center's control over developmental policy being exercised through the EPRDF structures that have been imposed across the country's formal jurisdictional boundaries. The party sees the state as developmental and interventionist in driving socio-economic growth and eradicating poverty

and unemployment.³⁴

The implication of the EPRDF's approach to the states, however, is that, under the guise of promoting development, it detrimentally affects not only the principles inherent in the Federal Constitution— including those regarding the dualist model of federalism, equality between levels of government, and their mutual respect for each other's constitutional powers – but also the constitutionally guaranteed autonomy of the regional states to formulate and execute economic, social and development policies, strategies and plans.³⁵ Hence, the move towards strong institutionalization of IGR needs to find an appropriate balance between, on the one hand, preserving the autonomy of the regional states and, on the other, strengthening their role in the implementation of national development policy.

The critical question is how the EPRDF could develop a form of IGR which is sustainable irrespective of the dominant-party system. Should the institutionalization of IGR emerge out of the fear of political and electoral contingencies? This question points to the need to involve the main opposition parties in the relevant processes so that the framework which is developed is one capable of addressing issues unforeseeable by any single party. Since one of the rationales for stronger institutionalization of IGR is to establish IGR schemes that can transcend the party system, the processes of institutionalization should not be restricted by leaving it exclusively to the EPRDF to make and unmake IGR as its needs require. As matters currently stand, the formal institutionalization of IGR should anticipate the eventuality of having to withstand external shocks such as a change of governing coalitions and beyond.

4.2 Political Culture and the Concept of Institutionalizing IGR

The legacy of the unitary state has influenced the political culture and orientation of political actors in Ethiopia. The idea of the state as the institution under unitarism lingers residually in the attitudes and mindsets of the actors who were alive at the time

34 EPRDF officials have frequently stated that poverty is the sole and primary enemy of the people of Ethiopia and that hence that any and every level of policy intervention should be undertaken in a bid to eradicate it.

35 Article 52(2)C of the FDRE Constitution.

and grew up under that state structure. Broadly speaking, a political culture (both within the EPRDF and outside) supportive of the strong institutionalization of IGR and cooperative federalism is a foundationally important ingredient for effective IGR. In this regard, a misconception still exists about the nexus between IGR and federalism. The key decision-makers do not see IGR as a necessary component of the federal system per se and as means for developing the appropriate political culture for federal democracy.

That is why some observers³⁶ go so far as to state that if IGR proceeds as it works now, there will be a propensity to forget federalism and the way in which governments should interact under the constitutional framework of the federal polity. The spirit of “partnership” in the federal polity is expected to have taken root. Yet, leaving aside the recent ongoing matters in this regard, the regional officers have been viewing themselves as functionaries of the national government and the EPRDF rather than genuine representatives of state governments. Of course, this should not be the case after 25 years of federalism. The effort is about how to jettison the earlier center-periphery relationship that obtained in pre-federal Ethiopia and replace it with IGR between the federal and regional states in a formally federal democratic system. Here, IGR under the federal system of Ethiopia has to be evaluated in terms of its capacity to alter the hitherto center-periphery model of interaction under the unitary state of Ethiopia to the mode of interaction that is consistent with the spirit of federalism.

Another key political-cultural factor is commitment to the accommodation of diversity. Arguably, unlike the case in most other federations, the task of IGR in the federal system of Ethiopia is unique in certain respects. It entails not merely an intergovernmental relation but an inter- and/or intra-ethnic one in so far as the governmental arrangement fundamentally also concerns the factor of ethnicity. In this sense, ethnic groups must be understood as institutions of IGR. Thus, under the ethnic-based federalism of Ethiopia, IGR has to perform a double task: coordinating a governmental function and facilitating ethnic interactions.

36 Technical committees' research report on the national consultation workshop on intergovernmental policy formulation in Ethiopia, prepared by the House of Federation in collaboration with the Ministry of Federal Affairs and the support of the Forum of Federations. The workshop was held on December 22-24, 2014, at Dire Hotel, Adama, Ethiopia.

For example, the case of South Africa reveals that the system constitutionally commits itself to building cooperative governance.³⁷ However, as Steytler (2010) shows, the codification of IGR has gone beyond constitutional provisions on cooperative governance into coercive ones. In this regard, the hierarchical political culture and orientation of the actors and the dominant-party system have given rise to constitutionally unintended intergovernmental relations. Here, the commitment of the political actor and the underlying governance culture influence the kind of IGR in context. The codification or design of IGR policy will not, therefore, yield any fruit unless and otherwise supported by the necessary political culture of cooperation and commitment among the actors.

4.3 What Level of Institutionalization of IGR? Balancing Formality and Informality

As already hinted, the level of institutionalization of IGR is about the degree of formality and informality of the IGR institutions. Helmeke and Levitsky (2004, p. 726) note that a “good institutional analysis requires rigorous attention to both formal and informal rules.” They identify four types of informal institutions vis-à-vis the formal rules of the game: complementary, accommodating, substitutive and competing. The complementary and accommodating informal institutions coexist with effective formal institutions to produce convergent and divergent outcomes, respectively. By contrast, substitutive and competing informal institutions prevail where there are ineffective formal institutions but lead to convergent and divergent goals, respectively.

From this perspective, it is fair to ask how the nexus between formal and informal IGR has been understood in Ethiopia’s ongoing efforts to institutionalize IGR. Notably, the chief political actors have been ambiguous in their commitment to strong institutionalization of IGR. If the formalization of IGR aims to develop a framework on two and half decades of practices within a hierarchical federal political culture, one should not expect the effort towards institutionalization to bring about meaningful IGR in the system. The only distinction under such circumstances would be that what was experienced through informality and the party channel would be converted into formal governmental structures and written rules and procedures. If things carry on as they have been and the reform effort sticks to relying on modes of informal IGR as well as the dominance of federal executive, the only gain

37 Article 41 of the 1996 Constitution of the Republic of South Africa.

will be to inscribe existing IGR practices in a statutory or policy framework. In comparative terms, the important lesson from the codification of IGR in South Africa is that IGR between the country's three spheres of government is highly formalized but centralized and hierarchical (Powell 2015), as the formalization of IGR has not enabled the degree of devolution and inclusiveness that the system requires.

Furthermore, the tendency of the current proposal, though not yet finalized, is to concentrate on the thinking that the institution of and guidelines for IGR could serve to constrain the behavior of actors in the context of the dominant-party system. It must be noted, however, that the effort to formalize IGR should not delegitimize the informal machinery of IGR. IGR has to be understood as both an institutional-cum-legal and pragmatic tool for bringing about the interaction of multiple institutions and actors across sectors and jurisdictional boundaries. Whether, on the one hand, legislation should be enacted to provide for a formal framework for the conduct of IGR, or, on the other, intergovernmental institutions, policies and processes should be allowed to develop spontaneously over time, is a point of contention.³⁸

IGR is dynamic and evolves to accommodate changing social, economic and political relations. Certain scholars, such as Trench (2006), Agranoff (1994) and Wright (1988), note that a constitution is not a major driving force of IGR. Without depreciating the importance of constitutional principles, this view stresses that the question of practice broadens the utility of IGR in federal systems. Moreover, the constitutional recognition and provision of IGR may not lead necessarily to improvement in performed interactions. This is why Levy and Tascott (2001, p.19) argue that poor intergovernmental coordination and integration are frequently a problem of capacity and efficiency rather than a problem of procedures.

Therefore, the attempt to codify intergovernmental relations will not necessarily relieve intergovernmental tensions. It may even

38 Technical committees' research report on the national consultation workshop on intergovernmental policy formulation in Ethiopia, prepared by the House of Federation in collaboration with the Ministry of Federal Affairs and the support of the Forum of Federations. The workshop was held on December 22-24, 2014, at Dire Hotel, Adama, Ethiopia.

aggravate undesirable practices, given that the most contentious issues in IGR are generally of a political and technical nature. Policy designed to support intergovernmental relations should maintain a flexible framework for promoting greater cooperation between spheres of government. IGR needs a constitutional basis, but it would not be possible to set the legal base for every instance of IGR. As Helmeke and Levitsky (2004, pp. 726-33) note, “[A] good institutional analysis requires rigorous attention to both formal and informal rules.” The deciding factor for effective IGR in any government institution will therefore be directly influenced by the way formal and informal institutions, mechanisms and processes are combined and put into practice.

The recent effort towards institutionalization lacks clarity on the level of institutionalization required: weak, medium or strong? To make it a move towards strong institutionalization, what is needed, as a comparative study on IGR by Bolleyer (2009) shows, are major rules and specifications regarding offices, giving legal status to agreements, and precision in agreements. The proposed institutionalization is even more ambiguous if further questions are raised, *inter alia*: Is there adequate attention to making the institutions representative of the regional states? What IGR decision-making modalities are put in place to speak to the idiosyncrasies of the member states? What is the place of local government in the IGR schemes – would they be integral to the IGR system?

4.4 An Ambivalent Vision of Federalism?

The debate on the formalization of IGR suffers from a lack of consensus on the design of federalism in Ethiopia. This dissonance starts with the characterization of the federation. Some say the federal system of Ethiopia is an ethnic federation because it is established for and by all ethnic communities in the state, with sovereignty inhering in them. The apparently official view employs the terms “nations, nationalities and peoples” and calls the federation a multinational federation. In this regard, describing the federation as a form of ethnic federalism opens it to unnecessary criticism from those who want to compare it with the defunct socialist federations of the former Yugoslavia and Soviet Union.

The key point of contention here is whether Ethiopian federalism is dual or cooperative federalism. The broader theoretical

views on federalism by Kincaid (2011) and Watts (2006) underscore that the twenty-first-century understanding of federalism and federal democratic theory has to reach a consensus on how much of it should contain dualist, cooperative and competitive elements of IGR. Both cooperative federalism and competitive federalism presuppose duality as the original idea of federalism (Kincaid 2011). In this light, a comprehensive understanding of federalism and how IGR operates within the federal system falls at the intersection points between the notions of independence, interdependence and competitiveness. Under such a theory, the formalization or institutionalization of IGR need not predominantly favor one of these elements, inasmuch as each of them performs different IGR functions.

Do IGR practices in Ethiopia and the arguments for formalization of IGR in the federal system works towards collectively fostering these virtues of duality, cooperation and competition? Arguably, intergovernmental relations have not been competitive, seeing as the constituent units have seldom innovated policies that reflect their individual characters. To this extent, the party system and the political culture have not facilitated the competitive aspect of federalism.

However, the situation in Ethiopia does not squarely qualify as cooperative federalism either. IGR can be called cooperative when the system is based on: 1) a political culture of cooperation, mutual respect and trust; 2) a non-hierarchical relation of equals; and 3) each unit in its domain having scope for innovation and experimentation. Cooperative federalism operates from the premise that a relationship between levels of government is grounded on the principle of equality and a spirit of partnership (Watts, 2001, 2006). Conversely, IGR can be termed coercive if: 1) the relationships between levels of governments are hierarchically oriented; 2) it has been devised to meet “national priorities” by imagining the units as un-equals; 3) the sub-national and local governments are principally implementers of the national legislation and policies, which is a typical feature of administrative federalism; 4) the federal government treats IGR forums as objects to be monitored rather than consulted; 5) there is a focus on structure rather than the general “principles of cooperative government”; and 6) there is dominance of the national government in regulating and steering (Steytler 2010; Kincaid 1990).

The official narrative regarding IGR in Ethiopia is that the federation entails cooperative federalism in which interactions between the different levels of governments and ethnic groups are predicated on equality and mutual respect. This is debatable, given that essential dimensions of cooperative federalism, such as a spirit of partnership, equality, the non-hierarchical orientation of actors and a political culture of cooperation, are barely observable in governmental interactions. Moreover, it is unclear whether institutionalization of IGR has the aim of curbing the trend toward centralization, instilling a culture of negotiation between the federal government and the states, and enhancing the bargaining power of the states.

The test for the cooperative understanding of IGR, however, came in the 2005 national elections. Here, the victory of the key opposition party in several seats of parliament dismantled this notion; the view that party-line cooperative IGR is constantly in operation was also refuted at the same time. Thus, describing the Ethiopian federation as “cooperative federalism” – and regarding its IGR in the same light – remains at best an exercise in speculation.

5. Conclusion

Comparative IGR studies show that the federations that already have constitutional bases for IGR schemes have been criticized for being guided by political factors rather than formally entrenched rules. Conversely, federal systems which have good IGR practices yet insufficient constitutional bases tend to develop a stronger institutionalization of IGR. What is common to all federations, though, is that IGR has become increasingly necessary as a means to ensure the utility of federalism. With regard to Ethiopia, both academics and practitioners agree that it needs clearer and stronger institutions. To this end, the predominately holding-together nature of the Ethiopian federation, the constitutional principles related to this, existing IGR practices, and emerging comparative IGR studies on federations all serve to augment the institutionalization proposal. Proponents of having institutional and policy frameworks for an IGR system in Ethiopia argue that institutionalization can give IGR schemes and processes consistency, regularity, sustainability and predictability.

As it stands now, after a lapse of 25 years, the federal government

is at long last developing such an IGR policy framework. One important task that lies ahead, though, is to reduce the influence of and reliance on the party channel and constrain the behavior of political actors so that it fits in with federal governance. If institutionalization focuses on regularizing extant intergovernmental relations without, however, granting IGR institutions and forums some level of independence from party-political networks, one cannot anticipate that the institutional and policy framework will make any substantive contribution. Indeed, the framework so designed needs to secure the resilience of IGR institutions and mechanisms to enable them to continue to function beyond the life-span of the party.

The second key role of institutionalized IGR is to develop a federal political culture of cooperation, mutual trust and partnership. The hitherto unitary-state political culture and the center-periphery model of relationship have remained a hindrance to the federal governance system. But the effort of institutionalizing IGR in the federal system of Ethiopia should aim at building a political culture consistent with the federal governance system. The institutionalization of IGR in the federation may help in not only delivering on the promises of federalism but also inaugurating an alternative institutional solution to improve the concrete outcomes of federalism and/ or decentralization system of the Ethiopian federation.

No doubt, the move towards stronger institutionalization of IGR – meaning, in essence, clear rules and norms of the game– requires a coherent vision and model of federalism. Over the last two decades, the IGR system of Ethiopia was hardly competitive and innovative. Although the official narrative epitomizes it as cooperative federalism, the hierarchical political culture and dominant-party system have been driving coercive rather than cooperative federalism. Yet, it remains to be seen whether the institutional and policy frameworks for IGR can aptly balance the competitive and cooperative aspects with each other and thereby to prove the federality of the federation.

References

Abraham, A. (2005). Ethnicity and dilemmas of state making: Ethnic

federalism and instructional reforms in Ethiopia. *International Journal of Ethiopian Studies*, 2(1-2), 77-119.

Agranoff, R. & Radin, B. (2014). Deil Wright's overlapping model of intergovernmental relations: The basis for contemporary intergovernmental relationships. Paper prepared for the Deil S. Wright Symposium.

Agranoff, R. (1994). Comparative intergovernmental relations. In R. Baker (Ed.), *Comparative public management*. New York: Praeger.

Agranoff, R. (2004). Autonomy, devolution, and intergovernmental relations. *Regional and Federal Studies*, 14, 26–65.

Agranoff, R. (2011). Federalist No. 44: What is the role of intergovernmental relations in federalism? *Public Administration Review*, 77(1).

Agranoff, R. (2012). Local governments in federal systems: Intergovernmental relations in the governance era. Paper prepared for Panel on Territorial Choice, Multilevel and Governance and Local Democratic Accountability, 22nd IPSA World Congress, Madrid, July 8-12, 2012, Universidad Complutense-Moncloa.

Andreas, L. (2007), 'Local Government and Metropolitan Regions: Switzerland', Working paper de l'IDHEAP 2, Paper prepared for the international roundtable on *Local Government and Metropolitan Regions in Federal Countries*, Johannesburg, April 19-22.

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

Bolleyer, N. (2006). Intergovernmental arrangements in Spanish and Swiss federalism: The impact of power-concentrating and power-sharing executives on intergovernmental institutionalization. *Regional and Federal Studies*, 16, 385–408.

Bolleyer, N. (2009). *Intergovernmental cooperation: Rational choices in federal systems and beyond*. Oxford, England: Oxford University Press.

Breton, A. (2011). *The existence and stability of inter-jurisdictional competition in federalism*. United Kingdom: SAGE.

- Bryan, K. (2007). Non-territorial federalism: A panacea for our times? In R. Edrisinha & A. Welikala (Eds.), *Essays on federalism in Sri Lanka*. Colombo, Sri Lanka: Centre for Policy Alternatives.
- Bulliard, P. (2005), 'Local government in Switzerland' in Steytler, & K. Adenauer-Stiftung (Eds), *the Role of Local Governments in Federal Systems*, Pp.123-148, Johannesburg, South Africa.
- Chanie, P. (2007). *What one hand giveth, the other hand taketh away: Ethiopia's post-1991 decentralization reform under neo-patrimonialism*. The Hague: Shaker Publishing BV.
- De Villiers, B. (2012). Codification of "intergovernmental relations" by way of legislation: The experiences of South Africa and potential lessons for young multitiered systems. *ZaöRV*, 72, 671-694.
- Dikshit, R. D. (1971). Geography and federalism. *Annals of the Association of American Geographers*, 61(1), 97-115.
- Doberstein, C. (2011). Institutional creation and death: Urban development agreements in Canada. *Journal of Urban Affairs*, 33(5), 529-547.
- Elazar, D. (1965). The shaping of intergovernmental relations in the twentieth century. *Annals of the Academy of American Political and Social Science*, 359, 10-22.
- Elazar, D. (1987). *Exploring federalism*. Tuscaloosa, Ala.: University of Alabama Press.
- Fessha, Y. (2012). Federalism, Territorial autonomy and the management of ethnic diversity. In Bolzano and Bozen (Eds.), *Africa: Reading the Balance Sheet*. L'Europe en formation No. 363.
- Feyissa, D. (2011). *Playing different games: The paradox of Anywaa and Nuer identification strategies in the Gambella region, Ethiopia*. Max Planck Institute for Social Anthropology: Berghahn Books.
- Fiseha, A. (2009). The system of intergovernmental relations (IGR) in Ethiopia: In search of institutions and guidelines. *Journal of Ethiopian Law*, 23(1), 96-131.
- Frederickson, P. & Nice, D. (1995). *The politics of intergovernmental*

- relations* (2nd ed.). Chicago: Nelson Hall.
- Gutema, B. (2007). *Constitutionalism in the Horn of Africa: Lessons from the new constitution of Ethiopia*. Aalborg University, Denmark: PhD thesis.
- Habtu, A. (2005). Multiethnic federalism in Ethiopia: A study of the secession clause in the Constitution. *Publius: The Journal of Federalism*, 35(2), 313-335.
- Helmke, G. & Levitsky, S. (2004). Informal institutions and comparative politics: A research agenda. *Perspectives on Politics*, 2(4), 725-740.
- Jackson, G. (2009). *Actors and institutions. Oxford handbook of comparative institutional analysis*. Oxford, England: Oxford University Press.
- Kefale, A. (2009). *Federalism and ethnic conflict in Ethiopia: A comparative study of the Somali and Benishangul Gumuz*. Leiden University: PhD thesis.
- Kincaid, J. (1990). From cooperative to coercive federalism. *Annals of the American Academy of Political and Social Science*, 509, 139-152.
- Kincaid, J. (2002). Intergovernmental relations in the USA. In I. Meekison (Ed.), *Intergovernmental relations in federal countries: A series of essays on the practice of federal governance*. Ottawa, Canada: Forum of Federations.
- Kincaid, J. (2011). Introduction: Historical and theoretical foundations of federalism. In J. Kincaid (Ed.), *Federalism*, Vol. 1. United Kingdom: SAGE.
- Kübler, D., Schenkel, W. & Leresche, J.-P. (2003). Bright lights, big cities? Metropolization, intergovernmental relations and the new federal urban policy in Switzerland. *Swiss Political Science Review*, 9(1), 261-282.
- Lovise, A. (2002). *Ethnic federalism in a dominant party system: The Ethiopian experience 1991-2000*. University of Bergen: Institute of Development Studies and Human Rights.
- March, J.G. & J.P. Olsen. (1989). *Rediscovering Institutions*. New York: Free Press.
- Meekison, I. (Ed.). (2002). *Intergovernmental relations in federal countries: A series of essays on the practice of federal governance*. Ottawa, Canada: Forum of Federations.

- Nigusse, S. (2008). *Fiscal federalism in the Ethiopian ethnic-based federal system*. The Netherlands: Wolf Legal Publishers.
- Parker, J. (2010). Constructing a theory of intergovernmental agreements: An institutional approach. Paper prepared for annual meeting of the Canadian Political Science Association, Montreal, Quebec.
- Parker, J. (2014). *Comparative federalism and intergovernmental agreements: Analyzing Australia, Canada, Germany, South Africa and the United States of America*. London: Routledge.
- Peters, G. & Pierre. J. (2000). Developments in intergovernmental relations: Towards multi-level governance. *Policy & Politics*, 29(2), 131-5.
- Poirier, J., Saunders, C. & Kincaid, J. (2015). *Intergovernmental Relations in Federal Systems: Comparative Structures and Dynamics*, Forum of Federations (FOF) and International Associations of Centers for Federal Studies (IACFS).
- Poirier, J. & Saunders, C. (2010). Cooperative mechanisms and intergovernmental relations in federal regimes. In R. Chattopadhyay & K. Nerenberg (Eds.), *Intergovernmental relations in federal systems*. Ottawa, Canada: Forum of Federations.
- Poirier, J., Kincaid, C. & Kincaid, J. (2015). *Intergovernmental relations in federal systems: Comparative structures and dynamics*. Forum of Federations & International Association of Centers for Federal Studies.
- Regassa, T. (2009). *Issues of federalism in Ethiopia: Towards an inventory*. Addis Ababa University: Ethiopian Constitutional Law Series 2.
- Rhodes, R. (1999). *Control and power in central and local government relations* (2nd ed.). Farnham: Ashgate.
- Saunders, C. (2003). Formal and informal institutions and mechanisms of IGRs in Australia. Paper presented at Mechanisms of IGRs: International Experiences and Challenges for Brazil, 17-18 September 2003.
- Scharpf, F. W. (1988). The joint-decision trap: Lessons from German federalism and European integration. *Public Administration*, 66, 239-78.
- Selassie, A. (2003). Ethnic federalism: Its promise and pitfalls for

Africa. *Yale Journal of International Law*, 28(55), 51-107.

Simeon, R. (2002). Conclusion. In *Intergovernmental Relations in Federal Countries*. Quebec: Gauvin Press.

Simeon, R. (2007). *Intergovernmental Relations in Federal Countries*. Quebec: Gauvin Press.

Steytler, N. (2011). Cooperative and coercive models of intergovernmental relations: A South African case study. In T. Courchene, J. R. Allen, C. Leuprecht & N. Verrelli (Eds.), *The federal idea: Essays in honour of Ronald L. Watts*. Montreal and Kingston: McGill Queen's University Press.

Taye, H. (2014). *The mechanisms of intergovernmental relations in the Ethiopian Federation*. Center for Federal Studies, Addis Ababa University: PhD thesis.

Teshome, W. & Zahorik, J. (2008). Federalism in Africa: The case of ethnic-based federalism in Ethiopia. *International Journal of Human Sciences*, 5(2).

Tolley, M. & Wallin, B. (1995) Coercive federalism and the search for constitutional limits. *Publius: The Journal of Federalism*, 25(4).

Trench, A. (2006). Intergovernmental relations: In search of a theory. In S. Greer (Ed.), *Territory, Democracy and Justice: Regionalism and Federalism in Western Democracies*. New York: Palgrave Macmillan.

Turton, D. (2006). *Ethnic federalism: The Ethiopian experience in comparative perspective*. Athens, Ohio & Addis Ababa: Ohio University Press & Addis Ababa University Press.

Van der Beken, C. & Fessha, Y. (2013). Ethnic federalism and internal minorities: The legal protection of internal minorities in Ethiopia. *African Journal of International and Comparative Law*, 21(1), 32-49.

Van der Beken, C. (2009). Ethiopian constitutions and the accommodation of ethnic diversity: The limits of the territorial approach. In T. Regassa (Ed.), *Issues of federalism in Ethiopia: Towards an inventory*. Addis Ababa University: Ethiopian Constitutional Law Series 2.

Vaughan, S. (2003). *Ethnicity and power in Ethiopia*. University of Edinburgh: Phd thesis.

Vaughan, S. (2007). Ethiopia: Constitutional protection of ethnic mi-

norities at the regional level. *Africa Focus*, 20(1-2), 105-151.

Watts, R. (1989). *Executive federalism: A comparative analysis*. Kingston, Ontario: Institute of Intergovernmental Relations.

Watts, R. (2001). Intergovernmental relations: Conceptual issues. In N. Levey & C. Topscott (Eds.), *Intergovernmental relations in South Africa: The Challenges of cooperative government*. Cape Town: University of the Western Cape.

Watts, R. (2006). Origins of cooperative and competitive federalism. In S. Greer (Ed.), *Territory, Democracy and Justice: Regionalism and Federalism in Western Democracies*. New York: Palgrave Macmillan.

Watts, R. (2008). *Comparing federal systems*. Montreal: McGill-Queen's University Press.

Wheare, K. (1964). *Federal government* (4th ed.). Oxford, England: Oxford University Press.

Wright, D. (1972). Intergovernmental relations: An analytical overview. *Annals of the American Academy of Political and Social Science*, 416 (1), 1-16.

Wright, D. (1988). *Understanding intergovernmental relations* (3rd ed.). Pacific Grove, CA: Brooks/Cole.

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