Decentralisation, development and accommodation of ethnic minorities: The case of Ethiopia

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Faculty of law
University of the Western Cape
4 June 2012
**Declaration**
I declare that ‘**Decentralisation, development and accommodation of ethnic minorities: The case of Ethiopia**’ is my work and has not been submitted for any degree or examination in any other university or academic institution. All sources and materials used are duly acknowledged and are properly referenced.

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Signature        Date

**Abstract**
Decentralisation of political, financial, and administrative powers to sub-national units has been, and remains to be, a major trend in both developing and developed states. Very often decentralisation is not optional for a state. However, a state has the option to choose what to achieve through its decentralisation programme.
After choosing what it intends to achieve through its decentralisation programme, a state may design it in such a way that it may attain the intended purpose.

Many countries design their decentralisation programmes with the purpose of ‘deepening’ democracy and empowering their citizens. Other states decentralise power with the purpose of achieving development. They do so based on the postulate that development is preferable when it is achieved through the participation of those who benefit from it and that decentralisation enhances the extent and quality of citizen’s direct and indirect participation. States also decentralise powers based on the assumption that decentralisation brings efficiency in planning and implementing development projects. Several states also use their decentralisation programme to respond to the ethnic, religious, or other diversities of their people. They use territorial and non-territorial arrangement to accommodate the diversity of their people. Therefore, in some cases they create ethnically structured regional and local units and transfer to such unit political powers including the power to decide on cultural matters.

Like in so many countries, the wind of decentralisation has blown over Ethiopia. The country has been implementing a decentralisation programme starting from 1991. Ethiopia has selected to achieve two principal purposes through its decentralisation programme namely, to achieve development and to respond to the ethnic diversity of its people. It is axiomatic that the success of a decentralisation programme, whether for achieving development or accommodating ethnic diversity, is greatly impacted on by its institutional design. This thesis, therefore, examines whether Ethiopia’s decentralisation programme
incorporates the institutional features that are likely to impact the success of the
decentralisation programme for achieving its intended purposes.

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Acronyms

ADLI          Agricultural development led industrialisation
AEPA         All Ethiopian Peasants’ Association
ANC           African National Congress
ANDM       Amhara National Democratic Movement
ANDP        Afar National Democratic Party
BV             Block Voting
BPDUF      Benishangul Gumuz Peoples Democratic Unity Front
CIC    Constitutional Interpretation Commission
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<td>CIDA</td>
<td>Canadian International Development Agency</td>
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<td>CoN</td>
<td>Council of Nationalities</td>
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<td>CSCE</td>
<td>Commission on Security and Co-operation in Europe</td>
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<td>CUDA</td>
<td>Central Urban Dwellers’ Association</td>
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<td>DLDP</td>
<td>District Level Decentralisation Programme</td>
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<td>EDAG</td>
<td>Ethiopian Democratic Action Group</td>
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<td>EPDM</td>
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<td>IPRS</td>
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</tr>
<tr>
<td>IULA</td>
<td>International Union of Local Authorities</td>
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<tr>
<td>MDGs</td>
<td>Millennium Development Goals</td>
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<tr>
<td>MMS</td>
<td>Manager of Municipal Services</td>
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<tr>
<td>MoCB</td>
<td>Ministry Capacity Building</td>
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<tr>
<td>MoFED</td>
<td>Ministry of Finance and Economic Development</td>
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<tr>
<td>MoUDC</td>
<td>Ministry of Urban Development and Construction</td>
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<tr>
<td>MoWUD</td>
<td>Ministry of Works and Urban Development</td>
</tr>
<tr>
<td>NCOP</td>
<td>National Council of Provinces</td>
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<tr>
<td>Acronym</td>
<td>Description</td>
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<tr>
<td>NEBE</td>
<td>National Electoral Board of Ethiopia</td>
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<tr>
<td>NRM</td>
<td>National Revolutionary Movement</td>
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<tr>
<td>OAPO</td>
<td>All Amhara People Organisation</td>
</tr>
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<td>OLF</td>
<td>Oromo Liberation Front</td>
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<tr>
<td>OPDO</td>
<td>The Oromo People Democratic Organisation</td>
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<tr>
<td>PA</td>
<td>Peasant Association</td>
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<tr>
<td>PBS</td>
<td>Protection of Basic Services</td>
</tr>
<tr>
<td>PASDEP</td>
<td>Plan for Accelerated and Sustained Development to End Poverty</td>
</tr>
<tr>
<td>PDOs</td>
<td>Peoples Democratic Organisations</td>
</tr>
<tr>
<td>PDRE</td>
<td>The People’s Democratic Republic of Ethiopia</td>
</tr>
<tr>
<td>PM</td>
<td>Prime Minister</td>
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<td>PMAC</td>
<td>Provisional Military Administrative Council</td>
</tr>
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<td>PR</td>
<td>Proportional Representation</td>
</tr>
<tr>
<td>RADC</td>
<td>Revolutionary Administrative and Development Committees</td>
</tr>
<tr>
<td>SALGA</td>
<td>South African Local Government Association</td>
</tr>
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<td>SAP</td>
<td>Structural Adjustment Programmes</td>
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<tr>
<td>SEPDC</td>
<td>Southern Ethiopia Peoples’ Democratic Coalition</td>
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<tr>
<td>SNNPR</td>
<td>Southern Nations, Nationalities and Peoples Region</td>
</tr>
<tr>
<td>SPDP</td>
<td>Somali People Democratic Party</td>
</tr>
<tr>
<td>SPG</td>
<td>Special Purpose Grants</td>
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<tr>
<td>SDPRP</td>
<td>Sustainable Development and Poverty Reduction Program</td>
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<td>TGE</td>
<td>Transitional Government of Ethiopia</td>
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<td>TPC</td>
<td>Transitional Period Charter</td>
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<tr>
<td>TPLF</td>
<td>Tigray People’s Liberation Front</td>
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<tr>
<td>UDA</td>
<td>Urban Dwellers Associations</td>
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</table>
A glossary of local terms

*Abegaz or azmach* - Clan leader in Gurage ethnic community

*Affessa* - A process of forceful military conscription during the *Derg* in which local officials went door to door in search of young men to be conscripted

*Agar, Samugnet, yejoka* – Clan level traditional governance institutions of the Gurage community

*Awraja* - The Amharic name of a province between 1942-1946 and of sub-province between 1946-1991
Balabbat- Traditional local administrators of Southern regions who served under centrally appointed provincial and local administrators

Birr- Ethiopian currency. One Dollar is exchanged for approximately 17 Ethiopian Birr

Chiqa shum- Village level local unit and the administrator of such local unit

Derg- The military junta which ruled Ethiopia from 1974 to 1991

Enderase - A title of a provincial governor between 1942 and 1974

Etyopiya-Tikdem - The literal translation of the term is ‘Ethiopia first’. It was the leading slogan of the Derg

Gada- A socio-political system of the Oromos which consisted of ‘age grade classes that succeed each other every eight years in assuming economic, political, and social responsibilities’

Gebar - The literal translation of the term is ‘tax payer’. Historically it refers to rist land holding peasants

Ghizat - The literal translation of the term is ‘governorate’. This was the designation that a province between 1890s to 1942

Kebele - The smallest constitutionally recognised local unit first created by the Derg

Kefitegna - A structure established over two or more urban kebeles during the Derg

Kistane & Sebat bet - The two clans of the Gurage ethnic community

Manok, nao and sewo - Districts of the ancient Kaffa Kingdom
*Meison - The Amharic acronym of the ‘All Ethiopian Socialist Movement’*

*Meredaja mahiber or lemat mahiber - Associations which were established by natives of a certain province or locality with the purpose of undertaking development projects*

*Misle’ene and Mikitl mislene - A sub-district and village level local unit respectively until 1946. The administrators of these units also took the same designation*

*Melkegna, Abegaz, Gult-gejzi - Traditional district level administrators of the northern Ethiopian regions*

*Liyu woreda - A local unit which, while equivalent to a regular woreda in terms of population and territorial size, is organised based on ethnic criteria*

*Neftegna - A direct control and militaristic administration in the southern regions which was introduced during the reign of Emperor Menilik*

*Niguse-Negest- The literal translation of the term is ‘King of Kings’. This was the title of Ethiopian Emperor holding the central throne*

*Nigus/Ras - A title of a provincial ruler before 1942*

*Rist - A communal land holding system of northern Ethiopia which was based on ‘ancestral descent claim and effective possession of land’*

*Shengo – A local, provincial, or national representative council during the Derg*

*Teklay Ghizat - The designation that a provincial administrative unit took from 1946 to 1974*

*Werabe rasheras or waraki - District administrators in ancient Kafa Kingdom*
Worafo, rashe-showo, gudo and gafo - Provincial sub-divisions of the ancient Kaffa Kingdom

Woreda- The basic local government unit which is equivalent to a district

Zemene Mesafint - The period between 1769-1855 during which the Ethiopian central throne was extremely weak and had little control over provincial rulers
Chapter 1
Introduction

1. BACKGROUND TO THE THESIS

Until the 1970s, centralisation of political power was a major trend. 1 This trend was motivated by several factors. Central management of the economy was one of the key motives for the tendency towards incremental centralisation. A centralised system was deemed economically efficient and, therefore, the most appropriate means of planning and implementing a sound and equitable use of resources. 2 The economic justification for centralisation gained impetus as the economic role of the state grew. Especially after World War II (WWII) the economic role of the state was recognised along the Keynesian economic theory which remained dominant for several decades after WWII. 3 The failure of the market system from the 1950s to the 1970s also added force to the economic relevance of the state. 4 Moreover, the economic justification of centralisation found ideological support with the rise of socialism which sought to create a national economic system which was primarily, if not fully, controlled and run by the state. Decentralisation was, in contrast, viewed as wasteful, and liable to cause or exacerbate inefficiency and an inequitable distribution of resources. 5

Centralisation was also necessitated by yet another policy rationale, viz. nation building. With the birth of the concept of nation-state and sovereignty after the

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signing of the Westphalia treaty in 1648, the quest began for nation-building.\textsuperscript{6} At the core of nation-building and the notion of a nation-state was the ‘ideal’ to create a common national identity. This ideal was underpinned either by a denial of the existence of the diversity of any form or by a conviction that diversity was inherently harmful to the security of the state and, thus, should be eliminated.\textsuperscript{7} Diversity was, therefore, associated with ‘sectarianism, parochialism, narrow-mindedness, and chauvinist bigotry’.\textsuperscript{8} States implemented various mechanisms, including centralisation, to eliminate diversity.\textsuperscript{9} Decentralisation, in contrast, was feared to augment ethnic, religious or other social divides, leading to conflict and, ultimately, to the disintegration of the state.

Starting from the 1970s, however, the economic role of the state began to be reconsidered. With the rise of neo-liberalism, a new trend, restricting the economic role of the state, emerged.\textsuperscript{10} Unfettered state interference in the economy, coupled with a centralised system of decision making, was blamed for the economic crisis and stagnation in many countries.\textsuperscript{11} Nonetheless, the role of the state in economic and developmental matters was not entirely discarded. It was rather discovered that the state can play its role as agent of economic development efficiently at sub-national level.\textsuperscript{12} This, therefore, required a measure of decentralisation.

\textsuperscript{6} Töpperwien (2001) 67 & 195.
\textsuperscript{7} Réaume (1995) 121.
\textsuperscript{8} McGarry and O’Leary (1994) 103.
\textsuperscript{10} Sharma (2004).
\textsuperscript{11} Litvack, Ahmad, & Bird (1998) 7.
\textsuperscript{12} Sharma (2004); Litvack, Ahmad, & Bird (1998) 7.
In addition, globalisation diminished the economic significance of the national government.\textsuperscript{13} Technological advancement in communication and the ‘global integration of market factors’ reduced the size of government required to manage certain economic activities.\textsuperscript{14} Consequently, services and infrastructures that were essential for economic development could be efficiently delivered by smaller sub-national political units, not necessarily by national government. Globalisation, by enhancing the economic role of sub-national political units further encouraged decentralisation.\textsuperscript{15} Moreover, global financial institutions, such as, the World Bank and the International Monetary Fund (IMF), encouraged, even pressurised, developing states to undertake Structural Adjustment Programmes (SAP) in order to receive loans and aids. Decentralisation was one of the central components of SAP.\textsuperscript{16} Furthermore, several inter-governmental treaties including free trade and loan agreements included clauses that required a certain forms of decentralisation.\textsuperscript{17} In this manner globalisation led to localisation creating a phenomenon called ‘glocalisation’.\textsuperscript{18}

States also began to reconsider their stance on the question of diversity. Efforts to eliminate ethnic or any other social diversity proved to be unsuccessful. Almost all states remained multi-ethnic, multi-lingual, or multi-religious. Not only did the attempt to suppress ethnic diversity fail, it also led to appalling identity related

\textsuperscript{13} Sharma (2004) 5.
\textsuperscript{14} Litvack, Ahmad, & Bird (1998) 7.
\textsuperscript{15} Litvack, Ahmad, & Bird (1998) 7.
\textsuperscript{16} see Gore (2000).
\textsuperscript{17} Sharma (2004) 5.
\textsuperscript{18} Sharma (2004) 5.
conflicts in many countries.\textsuperscript{19} Therefore, states were forced to review their policies on diversity. Moreover, there was a change in outlook towards diversity. Diversity was no longer viewed as an inescapable vice, but as a desirable virtue. It was viewed as something which enriches the lives of individuals and which, therefore, should be preserved and promoted, not necessarily eliminated.\textsuperscript{20} Accordingly, many states embraced the multi-cultural paradigm and began re-structuring their territorial and government organisation to respond to the ethnic diversity of their people. Decentralisation emerged as one of the mechanisms adopted by states for managing diversity.\textsuperscript{21}

Decentralisation has now become a dominant, inevitable, and unstoppable trend.\textsuperscript{22} It increasingly attracts the attention of academicians, professionals, and policy makers. There is barely any country now that has not implemented some form of decentralisation. As Bird and Ebel remark:

‘Developed countries, developing countries, transitional countries, federal countries, and unitary countries—wherever one looks, some kind of decentralization is to be taking place, or is at least being discussed.’\textsuperscript{23}

Decentralisation of powers, functions and resources from the central government to sub-national governments and the growing influence of sub-national

\textsuperscript{19} Kymlicka (1995); Addis (2001); Yonatan (2010 a) 10.
\textsuperscript{20} Kymlicka (1995).
\textsuperscript{21} Kymlicka (2007).
\textsuperscript{22} World Bank (1999) 124.
\textsuperscript{23} Bird & Ebel (2005) 3.
governments in economic and political matters are seen as major trends of the 21st century.24

1.1. Decentralisation in Ethiopia

Ethiopia is no exception to the trend towards decentralisation. Ethiopia has been incrementally centralised for over a century. The centralised system is believed to have caused, or at least exacerbated, the prevalence of poverty in the country.25 It is also alleged that it resulted in the concentration of political and economic powers in a single ethnic community resulting in political, economic, and cultural marginalisation of the scores of minority ethnic communities of the country.26 This in turn led to decades of gruesome civil war which came to an end only in 1991 when the Ethiopian Peoples’ Revolutionary Democratic Front (EPRDF) assumed power.

Since 1991, Ethiopia has been implementing a decentralisation programme. The decentralisation programme was implemented in two phases. Ethiopia, a hitherto unitary state, became a federal state in the first phase of the decentralisation process.27 As the federal system of the country was principally meant to respond to the ethnic question, the nine regional states, constituent units of the federation, were chiefly organised on the basis of ethnic criteria. Yet none of the constituent units were ethnically homogenous. Therefore, it was imperative to accommodate intra-regional minority ethnic communities. This entailed the need to consider

25 See chapter 4; § 5.3.4.
26 See the discussion in chapter 2.
27 See chapter 4; § 5.
local government as an alternative mechanism for accommodating these communities.

The second phase of decentralisation began in 2001. This phase of the decentralisation process was meant to respond to the development question. The decentralisation process began when the federal government adopted a plan for poverty reduction which sought to use decentralisation as a strategy to achieve poverty reduction.

2. RESEARCH QUESTION

Ethiopia seeks to achieve two principal purposes through its decentralisation programme. It seeks to accommodate intra-regional minority ethnic communities that are found almost in every region of the country. It also aspires to use decentralisation as a strategy to reduce the prevalence of poverty. Several studies show that the institutional design of a decentralisation programme impacts on whether such programme can achieve a particular purpose. The research question that this thesis seeks to answer, therefore, is whether Ethiopia’s local government system demonstrates the institutional features that are likely to enhance the prospect of a decentralisation programme to achieve development and accommodate ethnic minorities. With a view to answering this question, the thesis defines concepts such as decentralisation, development, ethnic community, ethnic minority and the like. It also raises and answers related questions including:

28 See chapter 4; § 5.
29 See chapter 4; § 5.
• How does decentralisation impact development or accommodation of minorities?
• What are the institutional features that are likely to impact on the success of decentralisation to achieve development?
• What are the institutional features that are likely to impact on the success of decentralisation to accommodate ethnic minorities?

3. SCOPE OF THE STUDY

Ethiopia is a federal state composed of nine regional states and two autonomous federal cities. Local government, under Ethiopia’s federal system, is the competence of the regional states. This study will cover the local government system of eight of the nine regional states. The federal cities will also be part of the discussion.

4. SIGNIFICANCE OF THE STUDY

Decades have passed since Ethiopia has begun implementing its decentralisation programme. Yet, there is barely any academic work which comprehensively deals with the legal and constitutional principles governing the country’s local governance system. This thesis provides a comprehensive description of Ethiopia’s local government system. Moreover, poverty and ethnic diversity, the two challenges that Ethiopia seeks to tackle through decentralisation, are not unique to Ethiopia. Almost all African countries face these challenges. It is believed that important lessons can be drawn from the excellence and mediocrity

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30 The regional states are Afar, Amhara, Benishagul-Gumuz, Gambella, Hareir, Oromia, Somali, Southern Nations, Nationalities and Peoples (SNNP), and Tigray.
31 Harer, one of the nine regional states, is a small city state whose Constitution does not provide for a local government system. Therefore, the discussion in this thesis will not include the Harer regional state.
of Ethiopia’s decentralisation programme as an institutional arrangement both for achieving development and accommodating ethnic minorities.

5. ARGUMENT

The argument of the thesis is developed in the following manner

5.1. **Decentralisation and development**

Development scholars and global development institutions claim, based on experience of the past several decades, that decentralisation has the potential to achieve development. They also warn that decentralisation may in fact result in inequity, corruption, and in the exclusion of the poor. However, a correct institutional design may optimise the developmental benefits of decentralisation and minimise the dangers it poses.

5.1.1. **Institutional features**

The study argues that what is considered to be a correct institutional design of decentralisation may vary depending on the particular circumstances of each state. However, there are certain institutional features that are critical to optimise the potential of decentralisation to achieve development. These institutional features are political, financial, and administrative autonomy and institutional arrangements for central supervision and inter-governmental co-operation.

5.1.1.1. **Political, financial, and administrative autonomy**

Political autonomy has four critical elements. The first element of political autonomy is the certainty of the existence of local government. The existence of local government in turn involves three interrelated matters *viz.* the existence of local government as an order of government, the establishment of local government units in every part of a country, and the protection of the institutional integrity of each unit of local government. The second element of political
autonomy is the establishment of political structures which are democratically constituted. The political structure may include legislative and executive organs. The third element of political autonomy involves transferring to local government of original, clearly defined, and relevant functions. The fourth element of political autonomy is political power which may include policy making, planning, legislative, executive powers. Financial autonomy pertains to local government’s revenue raising and expenditure powers. An administrative autonomy has two elements: the power of local government to determine the structure of its administrative organs and a personnel system that allows local government to hire and fire its own staff. Against the backdrop of these institutional features, the thesis examines whether Ethiopia’s local government units have political, financial and administrative autonomy.

5.1.1.2. Central supervision and inter-governmental co-operation

Local political, financial and administrative autonomy is critical for decentralised development. Unfettered local autonomy, however, is likely to cause several problems. It is therefore important to complement local autonomy with central supervision. Central government may supervise local government’s activities through regulation, oversight, and intervention.

In addition, development related functions cannot be neatly divided among different levels of government. There are likely to be grey areas and overlaps. Inter-governmental co-operation is therefore important in order to deal with such grey areas and overlaps. Inter-governmental co-operation may involve co-operation among local government units (horizontal co-operation) and co-
operation between local government units and senior levels of government (vertical co-operation).

Against the backdrop of the above institutional features, the thesis will examine whether the necessary institutional feature for central supervision and inter-governmental co-operation are existing in Ethiopia.

5.2. Decentralisation and accommodation of ethnic minorities

An examination of international literature shows territorial and non-territorial means of accommodation of ethnic minorities which may be implemented through a scheme of decentralisation.

5.2.1. Territorial autonomy at local level

One of the principal means of accommodating an ethnic minority community is providing it with territorial autonomy. The most common way to provide an ethnic community with territorial autonomy is through regionalisation or some form of federal arrangement. However, the thesis argues that territorial autonomy may also be exercised at local level. This territorial autonomy may have elements of self-rule and shared-rule.

5.2.1.1. Self-rule

Territorial autonomy, by definition, allows the relevant ethnic minority community to exercise self-rule. Self-rule first and foremost entails the creation of a local unit which is demarcated along the settlement structure of the relevant minority ethnic community. It involves the establishment of a political structure in the autonomous locality. It also requires devolving functions which are relevant for the promotion and protection of the identity of the relevant ethnic community.
Against the backdrop of these institutional features, the thesis examines whether there are local territorial unit that are designed to provide a minority ethnic community territorial autonomy and allow it to exercise self-rule.

5.2.1.2. Shared-rule

Shared rule is an institutional principle often associated with federal systems. Shared-rule aims to ensure that the constituting units of a federation are represented in a central government. Conceptually, territorial autonomy does not entail shared-rule. It does not, therefore, demand that local units be represented in the sub-national and national government organs. However, the thesis argues, a scheme of decentralisation, which provides minority ethnic community with self-rule, must also be complemented with shared-rule. The thesis then examines the constitutional principles allowing for the representation ethnic minorities or ethnic-based local territories at regional and federal level of government.

5.2.2. Non-territorial means of accommodating ethnic minorities

Territorial autonomy can only be used to accommodate territorially concentrated ethnic communities. When an ethnic community is territorially dispersed or when its size does not permit using territorial options, non-territorial arrangements should be considered. These may take the form of power-sharing or cultural autonomy. The thesis argues that decentralisation may create an environment that is conducive for accommodating minority ethnic communities on non-territorial basis. Then it will examine whether ethnic migrants and other territorially dispersed communities in Ethiopia are accommodated at local level through non-territorial arrangements.
6. STRUCTURE

The thesis is divided into eight chapters including this introductory chapter. Chapter two has three main sections. The first section discusses different forms and types of decentralisation and identifies the working definition of decentralisation of the thesis. This section will also discuss the evolution in the conceptualisation of ‘development’ with a view to formulate a working definition of development of this thesis. Then it will discuss the advantages and disadvantages of decentralisation as a strategy for achieving development. It will then identify the institutional features that are claimed to optimise the potential of a decentralisation scheme to achieve development.

The second section of chapter two will turn to the issue of accommodation of ethnic minorities. It will define the concepts of ethnicity and ethnic minority. It discusses why it is imperative to accommodate ethnic minorities and how decentralisation may serve as an institutional mechanism for doing so. It examines territorial and non-territorial schemes and the corresponding institutional design of decentralisation to accommodate ethnic minorities.

Chapter three explores the history of local governance in Ethiopia with a view to identifying the historical factors that necessitated a scheme of decentralisation in Ethiopia. This chapter briefly describes the traditional local administrative authorities and institutions that existed before the emergence of ‘Modern Ethiopia’ in the 1850s. It then discusses how the country became increasingly centralised. The chapter will also assess the impact of the centralisation of political power on development and ethnic minorities. Finally the chapter
describes the historical factors and processes leading to the decentralisation programme being implemented.

Chapter four has four sections. The first section will provide an overview of the federal and state governments’ structure, functions, and powers. The second section will identify the place and status of local government in the federal system. The third section will deal with the policy rationales behind decentralisation in Ethiopia. The fourth section will provide an overview of Ethiopia’s local government structure.

Chapter five and six will deal with the issue of decentralisation and development in Ethiopia. The two chapters evaluate Ethiopia’s local governance system against the institutional features identified in chapter two. Chapter five will, therefore, examine whether Ethiopia’s local government has political, financial, and administrative autonomy. Chapter six will discuss the institutional features of central supervision and inter-governmental co-operation in Ethiopia.

Chapter seven will deal with the issue accommodation of intra-regional ethnic minorities. It will discuss the territorial arrangements employed to accommodate territorially structured intra-regional minority ethnic communities and the role that local government plays in this respect. It also examines whether non-territorial schemes are used to accommodate territorially dispersed ethnic communities.
Chapter 8 will summarise the findings of the thesis. It also provides an overall conclusion and recommendations.

7. METHODOLOGY

Chapter two of the thesis is based on the review of relevant literature from books, journal articles, and other materials. Ethiopia’s national and sub-national constitutions and laws are also consulted for the discussion in chapter three to seven. Moreover, government policy papers, reports, and other relevant materials are consulted.

As the discussions in chapter four to seven show, the local government structure, functions, powers, sources of revenue, and administrative structure of the eight regional states under consideration are very similar. Hence, the discussion will be conducted in general terms and the relevant constitutions and proclamations will be cited. Where there are differences in local government system among the regions, those differences will be specifically mentioned and the provisions of the specific proclamations and constitutions will be cited.

As indicated above, national and sub-national constitutions and laws are used as the main sources of information for writing this thesis. However, accessing sub-regional laws has been extremely difficult for the author. They are not available on the internet. Hence, it was imperative to find the hard copies of the regional laws and constitutions by visiting each region. Even then, the regional laws might not be available as they might not be published immediately upon approval by the relevant regional council. Several years pass before some of the regional laws are published. There are even instances where regional laws are amended before they
are published. The regional laws are not made available to the public even when they are published. They are generally kept in government offices. As a result, despite the effort made to find all relevant regional laws, there still might be relevant laws which are duly passed by a regional council and yet are not included the discussion in this thesis.
Chapter 2
Decentralisation, development, and accommodation of diversity: A theoretical exposition

1. INTRODUCTION

As indicated in the previous chapter, this study aims to examine the suitability of the institutional framework of Ethiopia’s local governance system for achieving development and accommodation of minorities. This undertaking requires a clear understanding of the concepts of ‘decentralisation’, ‘development’ ‘ethnic community’ and ‘ethnic minority’. It also entails establishing the link between decentralisation and development and accommodation of minorities.

To that effect, § 2 defines decentralisation and discusses the various features and forms of decentralisation. § 3 offers a definition of development and shows the link between decentralisation and development. It identifies the prerequisite institutional features for decentralised development. Next § 4 will deal with the issue of accommodating ethnic minorities and links the issue with decentralisation. Finally, § 5 will synthesise the whole discussion in this chapter.

2. DECENTRALISATION DEFINED

Decentralisation is generally considered to involve a transfer of political, administrative, and/or fiscal powers, functions, and resources from a political centre to another sphere/level of government.32 The ‘centre’ may be a national or a sub-national government. A national government is viewed as a centre vis-a-vis federating states where federalism is considered as a form of decentralisation.33

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33 Gillette (1997)1352. Federalism is not always a result of decentralisation. It may also be a result of centralisation. See Stepan (1999)
Each of the federating states may also be regarded as a centre in relation to local government. In a unitary state, the national government is often taken as the only centre from which power and resources are decentralised to localities.

2.1. Features of decentralisation

Decentralisation has three key features; political, administrative, and fiscal. Political decentralisation seeks to empower local communities and enhance their role in decision making processes. It is, therefore, directed at transferring political powers to citizens at grassroots level and/or their representatives. It is also often associated with ‘political pluralism’ and democratic governance. The administrative aspect of decentralisation pertains to transferring to local government the power to ‘hire and fire local staff without reference to higher level of government’. The fiscal aspect of decentralisation relates to providing local government with ‘clear expenditure assignments and budget autonomy’. Decentralisation, for the purpose of this thesis, includes all of these three features.

2.2. Forms of decentralisation

Decentralisation takes various forms. The most common forms of decentralisation are deconcentration, delegation and devolution.

2.2.1. Deconcentration

34 Gillette (1997) 1352.
Deconcentration is not decentralisation *per se*. It is rather a transfer of powers from ‘the central government and its agencies to field units of government agencies, subordinate units of government’.\(^{43}\) It is, therefore, an intragovernmental ‘technocratic’ power transfer.\(^{44}\) The lower units to which powers and resources are transferred are considered parts of, and accountable to, the centre, and not autonomous units as such.\(^{45}\) Deconcentration is often referred to as ‘administrative decentralisation’ as it is meant to create administrative expediency.\(^{46}\) Deconcentration may be either general or functional. In the first case multiple tasks are deconcentrated to local units\(^ {47}\) while in the latter case specifically selected tasks are deconcentrated to local units of the centre.\(^ {48}\)

### 2.2.2. Delegation

Delegation, unlike deconcentration, is an inter-governmental decentralisation in which powers and functions are transferred from a centre to lower levels of government.\(^ {49}\) Specific responsibilities are transferred through delegation for a specific time and under specific conditions as fixed by the centre.\(^ {50}\) The centre remains the principal holder of authority. Hence, it is entitled to withdraw the responsibilities it has so transferred through delegation when it so chooses. Nonetheless, the local unit enjoys a wide range of discretion regarding how it

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\(^{43}\) Rondinelli & Nellis (1986) 5.  
\(^{49}\) De Visser (2005) 14.  
\(^{50}\) De Visser (2005) 14.
exercises the delegated powers and functions during the validity of the delegation.\textsuperscript{51}

Delegation may also be functional. This happens when a government creates ‘special-purpose agencies’ and provide them with functions appropriate to them.\textsuperscript{52} Such entities may include library boards, special service districts, autonomous school districts and the like.\textsuperscript{53} Such entities may also be allowed to collect fees for their services, and are often permitted to enjoy a certain degree of autonomy.\textsuperscript{54}

\subsection*{2.2.3. Devolution}

Devolution, also known as democratic decentralisation, is the most ‘genuine’ form of decentralisation.\textsuperscript{55} Devolution involves a transfer of political, administrative, and financial authorities to a lower level/sphere of government for an undetermined period of time through a constitution or other legislative instruments.\textsuperscript{56} Devolution also entails the creation of an autonomous level of government at local level with clearly demarcated geographical areas over which local government authorities exercise full political, administrative, and financial powers.\textsuperscript{57} The role of the central government becomes limited to standard setting and monitoring once powers are devolved to a lower level government. The lower

\begin{flushright}
\textsuperscript{51} De Visser (2005) 14.
\textsuperscript{52} Shah (2006) 7; Rondinelli (1999) 3.
\textsuperscript{54} Rondinelli (1999) 3.
\textsuperscript{55} Manor (1999) 6-7; De Visser (2005) 15.
\textsuperscript{56} Manor (1999) 6-7; De Visser (2005) 15.
\textsuperscript{57} Rondinelli (1999) 2.
\end{flushright}
level government becomes accountable to the community within its territorial jurisdiction.\textsuperscript{58}

For the purpose of this thesis, decentralisation will be considered as devolution and is assumed to involve the transfer of political, financial and administrative functions and powers to local government units.

3. **DECENTRALISATION FOR DEVELOPMENT**

3.1. **Introduction**

As indicated earlier, one of the aims this thesis is to examine whether the institutional design of Ethiopia’s decentralisation programme is suitable for development. This chapter, therefore, enquires into whether, how, and when decentralisation becomes an appropriate strategy for development. To this effect, the following sections will first create conceptual clarity on what development is. The subsequent sections will continue to examine the link, if any, between decentralisation and development.

3.2. **Conceptualising development**

The meaning of development has been discussed in various contexts for several decades. The industrial revolution was, for instance, viewed as a form of development.\textsuperscript{59} ‘Developing’ the colonies was also invoked to justify colonial occupation during the colonial era.\textsuperscript{60} Even the South African apartheid policy of racial segregation was embellished with a notion of development.\textsuperscript{61} However, serious attempts to conceptualise development and to determine the role that the

\textsuperscript{58} Manor (1999) 6-7; De Visser (2005) 15
\textsuperscript{59} Anand (2009) 11.2.
\textsuperscript{60} Pieterse (2001) 5-6.
\textsuperscript{61} De Visser (2005) 10.
state can or should play in achieving development began only during the last days of World War II (WWII).\textsuperscript{62} Even then, the initial discourse on development was restricted to rebuilding the then war-ravaged Europe.\textsuperscript{63}

The discourse on development found a new thrust in the 1950s when a growing number of so called third world countries declared their political independence from colonial rule.\textsuperscript{64} These countries were generally typified by rampant poverty, manifested in low per capita income, short life expectancy, high rate of infant mortality, illiteracy, and other social ills.\textsuperscript{65} The discourse on development, therefore, began to focus on finding solutions to the social and economic quandaries of these countries.

There was a general concurrence among developmental economists at the time that the social problems of the developing countries were rooted in their poor economic situation.\textsuperscript{66} The low level of industrialisation in these countries was in turn thought to be the main cause for their poor economic situation. From the 1950s and for about three decades, therefore, the discourse on development centred primarily on whether and how the west should assist the developing states to achieve economic growth.\textsuperscript{67} The modernisation and dependencia development theories, the two most influential development paradigms until the 1970s, accentuated the need to achieve economic growth through rapid industrialisation

\begin{itemize}
\item \textsuperscript{62} Dube (1988) 1-3.
\item \textsuperscript{63} Dube (1988) 1-3; Rapley (2002) 5-6.
\item \textsuperscript{64} Rapley (2002) 5-6. See also Pieterse (2000); Coetzee (1989); Slater (1993); Carmen (1996).
\item \textsuperscript{65} Rapley (2002) 10.
\item \textsuperscript{66} Rapley (2002) 7.
\item \textsuperscript{67} Rapley (2002) 7.
\end{itemize}
as sole solution for the social problems of developing nations. These two
development theories also recognised that the state has a critical role to play in
achieving economic growth in these countries. However, they diverged on
whether the western countries should play any role in bringing about economic
development in the developing countries. 68

The above development paradigms paid little attention to the implications of the
economic growth for the ordinary people. 69 Rather, the theorists assumed that
economic growth, if realised, will eventually and naturally bring social benefits to
the people in these countries in the form of access to education, adequate food,
better health care, and the like. The positive impact of economic growth on
human lives, if at all, was, therefore, to be an unintended offshoot of the
economic growth. 70

Beginning from the 1970s scholars began to question the wisdom of
conceptualising development solely in terms of economic growth. The proponents
of the ‘alternative development’ paradigm, for instance, began to argue that
development should be measured in light of human welfare it advances, and not

68 Modernisation theorists argued that the West should serve as a model and play central role in
bringing about economic development in the developing countries by using its capital,
‘entrepreneurial culture, and values’. Dependencia, on the other hand, blaming the west itself for
the economic situation of the developing countries, maintained that the developing states should
delink their economy from the west. They rather should formulate ‘autonomous national-
69 Matunhu (2011) 67 & 70.
70 Matunhu (2011) 67 & 70.
solely based on economic growth. They maintained that the effort rather should be ‘geared to the satisfaction of needs endogenous and self-reliant and in harmony with the environment’. Alternative development advocated community centred and participatory development; hence it was dubbed ‘development from below’.

It was, however, in the 1990s that the discourse on development took another turn from advocating mere economic growth to promoting the need to ensure the betterment of human lives. It was well recognised at this time that the economic growth, though important, was not enough. It became increasingly accepted that the appropriate ‘goal and measure’ of development is human development which finds expression in improved living conditions of the citizens of a state. The ‘human development’ paradigm was among the first development paradigms that rejected the idea of development as being exclusively economic growth. The premise of this paradigm is that economic growth, in terms of a rise in GNP and the amassing of commodities and wealth, on its own cannot be viewed as development. Rather, development should be measured against the ‘human goods’ that it advances. Economic growth, therefore, should promote:-

‘better nutrition and health service, greater access to knowledge, more secure livelihood, better working condition, security against crime and physical violence,'

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71 Pieterse (2001) 75.
72 Pieterse (2001) 75.
73 Pieterse (2001) 75.
75 UNDP (1990) 9-16.
76 UNDP (1990) 9.
satisfying leisure hours, and a sense of participating in the economic, cultural and political activities of their communities’. 77

It is necessary to note that the concept of development as advancing human good recognises the value of national economic growth and increased per capita income. It, however, considers all these to have little worth unless translated into improved living conditions for the people. It was based on this perception that development or human development was defined as ‘a process of enlarging people’s choice’.78 The choices include a long and healthy life, education, and a decent living standard. The human choices are, however, not to be limited to the above. They may include a whole range of other choices which may be attained through time.79

With a shift in the conception of development from mere economic growth to betterment of human lives, development is also articulated within the human rights discourse. From a human right perspective development is defined as:

‘[A] comprehensive economic, social, cultural and political process, which aims at the constant improvement of the well-being of the entire population and of all individuals on the basis of their active, free and meaningful participation in development and in the fair distribution of benefits resulting therefrom’.80

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77 UNDP (1990) 9.
78 UNDP (1990) 9-10.
After experimenting with several economic theories in the developing countries with a declared intention to bring about economic development, the World Bank also changed its approach to development in the 1990s. The 1999 World Development Report defined development as ‘sustainable improvements in the quality of life for all people...by reducing poverty, expanding access to health services, and increasing educational levels’.\(^8\) In short, development was defined as the opposite of poverty, poverty being a ‘pronounced deprivation in well-being’.\(^2\) What is considered as poverty is not merely an economic deprivation in the form of low income and consumption. It also encompasses lack of education, poor health, ‘voicelessness’, and ‘powerlessness’.\(^3\)

Furthermore, several writers have approached the concept of development from the point of view of human welfare. Amartya Sen rejects the conceptualisation of development exclusively in terms of economic growth, even though he admits that economic growth can be used to remove all ‘sources of unfreedom’.\(^4\) Sources of ‘unfreedom’, according to Sen, include ‘poverty, tyranny, poor economic opportunities as well as systematic social deprivation, neglect of public facilities as well as intolerance or over-activity or repression’.\(^5\)

De Visser also writes that development is more than mere economic growth. He contends:

\(^3\) World Bank (1999) 15.
‘The argument that [economic] growth brings jobs, which expands the tax base, which then pays for service delivery misses the inevitability of the eschewed distribution of life chances.’\textsuperscript{86}

He then defines development as a ‘material wellbeing’ of the people which is achieved based on their ‘choices’ and on ‘equitable’ basis.\textsuperscript{87}

3.3. Working definition of development

As can be gathered from the above discussion, with a shift in the conceptualisation of development from mere economic growth to the betterment of human lives, certain elements stand out almost in all definitions of development. These are: the advancement of human good or welfare, fairness, the central importance of public participation in development, and sustainability. It should be stressed that no definition of development detracts from the significance of economic growth for development. However, the focus now has been on whether and how a state should use existing resources, no matter how little, to improve the lives of its people. This study will, therefore, take the above as the core elements of development.

3.4. Why decentralisation for development?

The discussion above has briefly depicted the evolution in the conceptualisation of development from mere economic growth to human good and welfare. The elements of development which will inform the discussion in this study also have been identified. The next task is to examine the link between development and decentralisation.

\textsuperscript{86} De Visser (2005) 12.

Many scholars and global institutions, such as the World Bank, claim that decentralisation is an appropriate strategy for development. The case for decentralised development rests on the claim that decentralisation brings efficiency and institutional responsiveness in service delivery.\footnote{It is not clear whether decentralisation results in economic growth, especially in developing countries. There is no empirical evidence which either conclusively demonstrates or refutes the claim that decentralisation brings economic growth. Akai and Sakata, based on studies conducted in the USA, conclude that decentralisation results in economic growth. Conversely, other scholars such as Prud’homme, Zhang and Zou are sceptical about the suggestion that decentralisation brings economic growth in developing states. Martinez-Vazquez and McNab could not find conclusive empirical evidence that supports the argument that decentralisation brings economic growth. Iimi, on the other hand, in a study conducted based on the macro-economic data of 51 developed and developing states and using the analytical framework of Xie, Davoodi and Zou, who found in their studies that in developing countries decentralisation hampers economic growth and it had no relation with economic growth in developed states, found out that fiscal decentralisation has an optimistic impact on per capita GDP growth. Akai & Sakata (2002); Prud’homme (1995); Martinez-Vazquez & McNab (2005) 25ff; Iimi (2005) 450; Xie, Zou & Davoodi (1999).} It is also claimed that decentralisation enhances democracy and public participation which is a critical element of development. The following sections will discuss these and other justifications for decentralised development. The dissensions against these claims will also be considered.

3.4.1. ‘Deepening’ democracy

Several scholars maintain that a genuine development can be achieved only through a democratic process which involves the direct and indirect participation of the people. As Botchway notes, development ‘is more visible in countries with a history of democratic governance’.\footnote{Botchway (2001) 195.} Bahl also maintains that democracy is a ‘necessary condition’ – and not merely a ‘desirable condition’– for successful
development. Crook and Sverrisson note that competitive and representative elections are the most preferable mechanisms to identify a community’s developmental preference. In addition, ‘voicelessness’ and ‘powerlessness’ themselves are forms of deprivation which result from a lack of democracy.

Based on these premises, scholars argue that decentralisation augments democracy and enhances the extent of public participation which is a condition for, and a central element of, development.

3.4.1.1. Decentralisation, representative democracy, and development

Crook and Sverrisson maintain that electoral democracy that aims to enhance development should be both representative and competitive. Representativeness is about ensuring that all opinions and political forces are somehow represented in local government. Competitiveness presupposes a ‘possibility of alternation’ in leadership which avails to ‘all political forces a real chance of winning’. Competitiveness is critical since an unrelenting electoral triumph of one party is likely to lead to authoritarianism while an ever certainty of defeat creates apathy in community matters. It may even lead to violence. Hence, democratic competition should provide for a possibility of change in leadership.

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96 Sisk (2001) 120.
motivates local authorities to be responsive to the public choices and to invest in pro-poor public services.\textsuperscript{98}

Several scholars argue that decentralisation augments the quality of representation.\textsuperscript{99} This assertion is founded on the assumption that the existence of numerous electoral positions at multiple levels of government enhances the quality of representation.\textsuperscript{100} This, in turn, enhances the extent of public influence on developmental policies of a government.\textsuperscript{101} Therefore, as Crook notes, the existence of multiple representative institutions that results from decentralisation enlarges the degree of social representation.\textsuperscript{102} By so doing, it improves the effectiveness of elections as an expression of the kind of development members of a local community desire. Manor also maintains that decentralisation enhances the quality of electoral participation by creating multiple representative institutions.\textsuperscript{103} Furthermore, as Lindberg notes, the very act of holding repeated elections ‘promotes and breeds democratic qualities: The more successive elections, the more democratic a nation becomes’.\textsuperscript{104} According to Lindberg, this is true even in African states where the most critical conditions for democratisation are seldom all to be present together.\textsuperscript{105}

\textsuperscript{98} Gorden (2008) 238.
\textsuperscript{100} Chhatre (2008) 15; Crook (2003) 79.
\textsuperscript{101} Chhatre (2008) 15.
\textsuperscript{102} Crook (undated) 408.
\textsuperscript{103} Manor (1999) 8.
\textsuperscript{104} Lindberg (2006) 149.
\textsuperscript{105} Lindberg (2006) 149.
Crook also argues that decentralisation injects an element of competitiveness in elections even in countries where there are dominant political parties.\textsuperscript{106} The assumption here is that the policies, plans, and programmes of a single party are unlikely to satisfy all groups of the society in a country, even if they suit the majority of the people. Decentralisation affords minority parties opportunities to adapt their developmental agenda to suit the minority groups.\textsuperscript{107} This, in turn, increases the competitiveness of democratic elections in a country and provides small parties the opportunity to govern at local level. Crook invokes as examples South Africa, Uganda, Cote d’Ivoire, and Mexico where decentralisation enhanced electoral competitiveness.\textsuperscript{108} The South Africa’s African National Congress (ANC) and the Ugandan National Revolutionary Movement (NRM) are dominant parties at national level in their respective countries. Yet a number of municipalities, including the City of Cape Town in South Africa and Kampala, the capital of Uganda, have been under the control of opposition parties.

However, many writers, including those who advocate decentralised development, let alone its critics, confess that the significance of decentralisation for deepening democracy and, therefore, for development, may not be as rosy as depicted above; especially not in developing African and other states.\textsuperscript{109} Prud’homme, in particular, critically questions the validity of the democratic argument along with the assumptions on which the argument is founded. He is

\textsuperscript{106} Crook (undated) 408.
\textsuperscript{107} Crook (undated) 408.
\textsuperscript{108} Crook (undated) 408.
\textsuperscript{109} Hiskey & Seligson (2003); Bardhan (2002) 188; Prud’homme (1995).
especially sceptical about the soundness of this argument so far as it relates to developing countries.110

Prud’homme maintains that the above argument is founded on two flawed assumptions. Firstly, the democratic argument erroneously assumes that local citizens express their preferences through democratic elections and direct participation.111 Prud’homme contends that in developing countries voters seldom cast their votes based on issues. They rather vote by considering their ‘personal, tribal, or political party loyalties’.112 Besides, in many developing countries local elections are mere repetitions of national elections and hardly reflect local choices.113 Moreover, elections are not likely to be competitive in these countries as voters have no alternative choices.114

An empirical study in South Africa by Susan Booysen confirms this contention of Prud’homme for South African context.115 According to this study, the African National Council (ANC) retained great support in local elections despite the fact that communities, in several ANC-run municipalities, were unhappy about the scale and quality of services they received. The communities rather opted to vote

114 Alberto Porto and Natalia Porto refute this argument of Prud’homme based on their study in Argentina where voters replaced municipal officials of incumbent parties with that of the opposition parties as they were unhappy with the performance of the former. Their study also shows that the probability of a local official who performs poorly being replaced is greater in smaller communities. See Porto & Porto (2000) 145.
for the ANC but, at the same time, compel it through other mechanisms to improve service delivery.

Second, Prud’homme argues, the democratic argument incorrectly assumes that elected officials would work to fulfil local preferences for they would lose their positions unless they do so. Prud’homme says this is not necessarily true. In developing states elected officials are likely to retain their position even if they perform badly. Besides, they do not have the required resources to meet local preferences even if they desired to do so.

In addition, the claim that democratic competition translates to development is not supported with adequate empirical evidence. On the contrary, several empirical studies show that countries, which have little or no political competition, provide better services than those with competitive local democracy. As a UNDP report indicates the ineffectiveness of democratic countries, such as USA, in providing public health services attests to the fact that democracy does not necessarily translate to development. Likewise, Keefer and Khemani argue that in India the poor tend to vote in local elections than the middle class or the rich. Yet the poor often end up receiving poor services as politicians redirect resources to satisfy special interests of the rich.

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118 UNDP (2010).
119 UNDP (2010).
120 See Keefer & Khemani (2004).
3.4.1.2. Decentralisation, public participation, and development

Many scholars maintain that decentralisation enhances the scope of public participation which is, as indicated before, a key element of development. This is based on two assumptions. The first is that communities prefer the decisions they make for themselves to those that are passed by another on their behalf. The second assumption is that the ‘degree of opportunity’ for participation is ‘inversely proportional’ to the territorial and population sizes of a political unit. This is so because direct participation entails direct and indirect personal contact between the people, the political institutions, and public authorities, which become possible only when a political unit is small in sizes. In a large community, as Blair maintains, a citizen’s voice is less likely to be heard. Therefore, the role of the citizens will be limited to rubber-stamping decisions made for them by others.

Based on the above premises, Briffault claims that decentralisation, by establishing small political units, enhances the extent of people’s participation. As argued by several authors, decentralisation, by reducing the size of a state,

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121 See above § 3.4.1.2.
122 Schiller states while representative democracy is justified on the basis of efficiency, direct participation is justified because it realises political equality and actualises the claim that the people are the ‘final sources of legitimation for political decisions’. Schiller (undated) 4. See also Loughlin (2001) 19.
‘brings government closer to the people’.

Local political institutions, in turn, amplify the chances of citizens to participate in political dialogues and debates.

As Agrawal and Ribot note, ‘at its most basic’ decentralisation seeks to satisfy one’s desire to have a say in one’s own affairs by transferring ‘power closer to those who are most affected by the exercise of power’.

Frug states that ‘individual involvement in decision-making is impossible except on a small scale’ which results from decentralisation.

Moreover, within the context of the public-participation argument, several writers maintain that decentralisation by enhancing direct participation provides a platform for public accountability. This argument is premised on the assumption that public control and accountability entail ease of access which in turn presupposes a physical proximity. Decentralisation establishes that close proximity between the citizens and their officials.

Agrawal and Ribot maintain that by bringing government decisions to the people decentralisation enhances public accountability.

Furthermore, as Beetham argues, decentralisation not only increases one’s opportunity to participate, but also provides one with the incentive to

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participate. Blair also argues that the many opportunities for participation at local level create a sense of common interest in community affairs. The immediacy of the effect of local decisions, according to Sisk, motivates the local community to play a part in the decisions. Thus, decentralisation provides the people not only with opportunities to participate in government but also with reasons and motivations to do so.

However, several writers critically question the above arguments. Parry and Moyser fear that participation may even reinforce inequality because the advantaged in a community may dominate the process. They also say that the most active participants do not necessarily represent the concerns of the majority of the people. Goetz and Jenkins also note:

‘Poorer people usually have as little influence in their local settings as they do in the national political arena, and sometimes substantially less.....largely obscured from scrutiny of either the media or public advocacy groups, local political environment frequently reduce the incentive for elites to reorient their priorities.’

138 Besides, frequent participation that results from decentralisation builds people’s skill to participate. As Briffault maintains, direct participation allows the public to learn ‘about the issues, processes and institutions of government’ and how to use and control them. Therefore, it affords the people the opportunity to build their ‘democratic skills’. Pateman (1985); Briffault (1990) 395.
139 Parry & Moyser (1994) 54.
140 Parry & Moyser (1994) 57.
The issues of ‘elite capture’ and corruption are also often raised as counter-arguments against the argument that decentralisation enhances public participation.\textsuperscript{142} The 2011 World Development Report states:

‘Devolution can ... lead to a lack of local accountability and significant opportunities for corruption and reinforce or create elites who can use devolved power to pursue their own interests—to the detriment of both local and national interests.’\textsuperscript{143}

The ‘disadvantaged’, therefore, ‘may remain disadvantaged’ even in a decentralised system in spite of the enhanced representation and augmented opportunity for participation that decentralisation offers. Rather, local elites will use their ‘superior knowledge’ and connections to dominate and use local agendas for their own interest than for communal preferences.\textsuperscript{144} Veron and William argue that it is unlikely that the ordinary citizens will effectively participate if there is no developed tradition of political participation.\textsuperscript{145} It is much less likely where there is pervasive illiteracy, unfair distribution of economic power, lack of transparency in decision making, and the like.\textsuperscript{146}

3.4.2. Efficiency and institutional responsiveness

The other argument in favour of decentralised development rests on the claim that decentralisation results in efficiency and institutional responsiveness in identifying and implementing development projects.\textsuperscript{147} The premise of this argument is that development, as a human good, entails the creation of efficient


\textsuperscript{143} World Bank (2011) 166.


\textsuperscript{145} Veron & Williams (2006) 1925-1926.

\textsuperscript{146} Veron & Williams (2006) 1925-1926.

and appropriate means of formulating and implementing development projects.\textsuperscript{148} It also requires prompt response by a government to meet articulated priorities of the people.\textsuperscript{149}

Based on the above assumptions, scholars maintain that decentralisation enhances efficiency in a sense that it responds to people’s needs by creating ‘congruence’ between ‘community preferences’ and ‘public policies’.\textsuperscript{150} This argument either explicitly or implicitly assumes that decentralisation enhances democracy and public participation.\textsuperscript{151} Democracy and public participation are, in turn, assumed to allow a smooth flow of information from the citizens to government and \textit{vice versa}. The smooth information flow, in turn, is expected to make development programmes cost effective, efficient, and ‘responsive’ to the needs of the poor.\textsuperscript{152} Shah states that ‘[l]ocal governments understand the concerns of local residents’.\textsuperscript{153} Bardhan also maintains that self-governing local communities have a superior mechanism of co-ordination and enforcement.\textsuperscript{154}

Within the context of efficiency and institutional responsiveness, it is claimed that decentralisation allows a simultaneous satisfaction of varied preferences.\textsuperscript{155} This argument is anchored in a postulate that communities in different localities are

\textsuperscript{148} Barankey & Lockwood (2007) 1198; Bardhan (1996) 140.
\textsuperscript{149} Bardhan (1996) 140; Shah (1994) 7.
\textsuperscript{153} Shah (1994) 16.
\textsuperscript{154} Bardhan (1996) 141.
likely to have different priorities. As Botchway argues, in a centralised system these priorities are liable to remain ‘unaddressed’.\(^{156}\) A decentralised formulation and implementation of development programmes, in contrast, allows the various choices of the people of different localities to be observed.\(^{157}\) In addition, decentralisation allows the innovation of wide-ranging methods of tackling development related problems through trialling.\(^{158}\) As De Visser notes, ‘constitutional scope for sub-national ‘dissent’ and a degree of competition with the central state is a fertile ground for innovative policies that benefit the entire state’.\(^{159}\)

Again within the efficiency argument, scholars maintain that decentralisation boosts constructive competition among local units. This is based on the postulate that individuals consider the variety and quality of services they will receive and the costs they will incur when choosing where to reside. Hence, they ‘vote with their feet’ by relocating themselves and their businesses to localities where there is efficient service delivery.\(^{160}\) In a decentralised system, therefore, localities would strive to provide services efficiently in order to attract and retain investment and enlarge their tax bases.\(^{161}\)

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\(^{156}\) Botchway (2001) 208.


Related factor is political accountability that decentralisation is claimed to promote.\textsuperscript{162} This, according to Bardhan, makes the most important difference between an inefficient centralised system of service delivery and an efficient system of decentralised service delivery.\textsuperscript{163} Bardhan states that local politicians have a greater incentive to respond to local needs than politicians at national level since the former are accountable to small communities while the latter have ‘wider constituencies’.\textsuperscript{164} In centralised systems, therefore, local communities are seldom able to correct the inefficiency of public authorities, even though they may be aware of it. A decentralised system, on the other hand, provides local communities with the institutional mechanism to correct such inefficiencies.\textsuperscript{165}

The efficiency argument is, however, critically questioned by several writers, especially to the extent that it relates to developing countries.\textsuperscript{166} Writers, such as, Prud’homme and Adamolekun argue that the efficiency and institutional responsiveness argument is based on an incorrect assumption that there are significant differences in the development choices of various localities of developing states.\textsuperscript{167} In developing countries the concern is not about satisfying ‘thinly differentiated tests’ of various localities. It is rather delivering basic services to all localities.\textsuperscript{168}

\textsuperscript{162} Bardhan (1996) 141.
\textsuperscript{163} Bardhan (1996) 141.
\textsuperscript{164} Bardhan (1996) 141.
\textsuperscript{165} Bardhan (1996) 141.
\textsuperscript{166} Bardhan (1996) 189; Prud’homme (1995) 208.
Olowu, although in principle supportive of the efficiency argument, cautions that decentralisation may be too costly and administratively complex for African states as it involves institutional transformation.\textsuperscript{169} Prud’homme also states ‘[t]he poorer a country is, the less attractive decentralisation is’.\textsuperscript{170} The reason is that the creation and operation of a level of government entails several expenses which are only indirectly linked to development.\textsuperscript{171}

Shah and others, while generally accepting the efficiency argument, maintain that decentralisation may result in ‘financial perversity’ harmfully affecting the national economy.\textsuperscript{172} The policy making power of lower level governments may hinder the power of the central government to use monetary and fiscal policies to ensure macro-economic stability (recession, inflation, balance of payments), equity (income distribution), and efficient resource allocation.\textsuperscript{173}

In addition, despite the theoretical elegance of the efficiency argument, several scholars who conducted empirical studies on the impact of ‘decentralisation’ on development maintain, decentralisation has little positive impact on development.\textsuperscript{174} Crawford, based on an empirical study in Ghana, maintains that

\textsuperscript{170} Prud’homme (2003) 23.
\textsuperscript{173} Prud’homme (2003) 20; Sharma (2007) 38. On the other hand, some authors argue that decentralisation does not necessarily bring macro-economic instability. To the contrary, the countries with most stable macro-economy are the most decentralised countries such as Switzerland. Ebel & Ylmaz (2002) 152.
\textsuperscript{174} See Scott (2009).
the success of ‘decentralisation’ in terms of reducing poverty is at best limited’.175

Based on an empirical study in selected African, Asian and Latin American countries, Crook and Sverrisson observed that:

‘The notion that there is a predictable or general link between decentralization of government and the development of more ‘pro-poor’ policies or poverty alleviating outcomes clearly lacks any convincing evidence.’176

The study also found that ‘decentralisation' could not bring development in several countries. Rather, as another study by Crook shows, local units are used by the incumbent parties of many African countries, including Kenya, Tanzania and Uganda, to ‘create and sustain’ power bases at local level and in the countryside.177

‘In most of the African cases, by contrast, the linkage between the central government’s decentralisation scheme and local leaders had an entirely different purpose. Here, central governments were using funding either to create ab initio dependent local elite or to consolidate an alliance with local elites based on availability of patronage opportunities.’178

In spite of the prevailing cynicism about the significance of decentralisation for development, many writers, including those who failed to find any positive factual connection between decentralisation and development, insist that decentralisation can deliver. Besides, it is unclear whether the institutional

176 Crook & Sverrisson (2001) 52.
177 Crook (2003) 85.
features that are deemed critical for decentralised development existed in the countries whose decentralisation programmes were alleged to have been unsuccessful. The existence of local authorities in a particular country does not mean the country is decentralised so long as the local authorities are unable to decide autonomously. 179 As some studies show, some elements which are critical for a successful decentralisation were lacking in the countries where decentralisation was allegedly failed to bring development. 180 One such critical element is central government commitment. As Crook maintains, political commitment of the central government determines the institutional responsiveness of local government. 181 According to Gordon, the major reason for the failure of decentralisation to bring development in Ghana was the national government’s lack of commitment to allow some measure of autonomy to local government. 182 Measures that are taken by central governments to stifle local democracy, civil society engagement, public participation, accountability, and public discourses on poverty, are also considered factors harmfully affecting the success of decentralisation as a strategy for bringing about development. 183

3.4.3. Decentralisation and sustainable development

As was stated above, sustainability is a critical element of development. Sustainable development bears the notion of preserving natural resources while,
simultaneously, ensuring the welfare of the people.\textsuperscript{184} It, therefore, bears a notion of inter-generational equity. As De Visser notes, the present generation has to take into account the rights of the generations-to-come while exploiting natural resources.\textsuperscript{185}

Scholars argue that decentralisation is a strategy preferable to a centralised one for implementing development projects while still conserving natural resources.\textsuperscript{186} This claim is based on another assumption that decentralisation enhances public participation which is in turn assumed to allow the implementation of development projects without harming natural resources. As Porras states, due to the fact that decentralised decision making is participatory, conservation of natural resources has increasingly become a local matter.\textsuperscript{187} Westerland also argues that, in developing countries, decentralising control over environmental matters to local units is preferable as these countries lack capacity to implement a centralised and effective system of environmental conservation.\textsuperscript{188}

Bardhan maintains that communities in rural areas have more incentive to preserve the environment than national politicians,\textsuperscript{189} as their daily livelihood depends fundamentally on the local environmental resources.\textsuperscript{190} Central management of natural resources, he argues, not only is inefficient and

\textsuperscript{184} Gro Harlem Brundtland, Norway’s Prime Minister, defined sustainable development as ‘a development in which present generations find ways to satisfy their needs without compromising the chances of future generations to satisfy their needs’. Adam (2009) 6.


\textsuperscript{187} Porras (2009) 542.

\textsuperscript{188} Westerland (2007) 201.

\textsuperscript{189} Bardhan (1996) 144. See also Westerland (2007) 201.

\textsuperscript{190} Bardhan (1996) 144. See also Westerland (2007) 201
ineffective, but also takes away the incentive for a local community to protect the environment.\textsuperscript{191}

Critics, however, maintain that a centralised system is economically efficient and, therefore, most appropriate means for planning and implementing a rational and an equitable use of natural resources.\textsuperscript{192} A decentralised system, on the other hand, is likely to be an impediment to efficient and rational use of natural resources.\textsuperscript{193} This is because conservation of natural resources and the interests of local communities are in conflict.\textsuperscript{194} Local communities are likely to destroy natural resources due to ‘ignorance’, ‘greed’, or ‘need’.\textsuperscript{195}

\subsection*{3.4.4. The danger of inequity}

As indicated above, equity or fairness in the distribution of resources and services is a central element of the notion of development. Some scholarly works show that decentralisation may result in inter-local inequity (also called vertical inequity)

\textsuperscript{191} Some empirical studies also demonstrate that democratic local institutions are effective in natural resource conservation. In India, a ‘Joint Forest Management Programme’ which enabled the government to put more than two million hectare of forest under local community protection, is found to be a less costly and more effective scheme of forest protection. There are also other similar initiatives in other countries including CAMPFIRE in Zimbabwe and the \textit{Gestion des Terroirs} of Mali. Having recognised the importance of participatory natural resource conservation, Local Agenda 21 which stemmed from the Rio de Janeiro Earth Summit recognises the need for the involvement of local communities. It thus, requires states to ‘promote and provide opportunities for the participation of interested parties, including local communities and indigenous people in the development, implementation and planning of national forest policies’. Johns & Carswell (2004) 143ff; Ribot (2000) 456; World Bank (1997) 118; Brugman (2002) 40-48; Bardhan (1996) 144.

\textsuperscript{192} Sharma (2004) 2.


\textsuperscript{194} Agrawl & Gibson (2004) 153.

\textsuperscript{195} Ribot (2000) 456.
inequity) and intra-local inequity (horizontal, personal, or household inequity). Intra-local inequity (horizontal inequity) is expected to arise for local units might be unwilling or unable to ensure equitable resource distribution among their residents. The argument that pertains to vertical inequity is predicated on the supposition of the existence of disparity in resources and tax bases among localities. Such disparity is liable to exist because ‘[i]ncome is often geographically concentrated, both because of agglomeration economies and initial endowments of natural resources and infrastructural facilities’. These variances, coupled with exclusionary use of resources, are feared to cause or exacerbate inequitable distribution of wealth which, in turn, is feared to extend the ‘intra-national’ poverty gaps. This is one of the strongest arguments levelled against decentralisation.

Many scholars agree that the above concerns are not baseless. However some still maintain that equity should not be confused with uniformity: A certain variation in the kind and extent of services that are delivered by different local units should be tolerated. Others argue, local government, in particular metropolitan cities may ensure equity through redistribution. Most importantly, it is incorrect to

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201 See McKinlay (2006) 60.
Inequitable distribution of resources is likely to occur where an institutional device for redistribution does not exist. Redistribution has two dimensions; inter-local equity and intra-locality equity. Horizontal equity is related to ensuring equivalent service delivery in all localities while intra-local equity refers to equivalent income distribution among local citizens. The central government is expected to play a critical role maintaining horizontal equity through redistributive policies. As Shah argues, it is not preferable to put local governments in charge of re-distribution since they have limited resources and expenditure and re-distributional capacity. ‘Equalisation grants’, conditional and unconditional grants should rather be used by the central government to maintain horizontal equity. In maintaining intra-local equity, even though local government may play a role, still needs the assistance of the central government.

3.4.5. Concluding remarks

The foregoing discussion shows that decentralisation may potentially bring about participatory, equitable, and sustainable development. It may, however, result in marginalisation of the poor and the uneducated, unfair distribution of resources, and environmental degradation. On The other hand, as indicated in the

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204 De Visser (2005) 45; Seer (1979) 11.
introductory chapter, \textsuperscript{211} decentralisation is not an option that a state can disregard. Global economic and local political forces push countries to undertake some form of decentralisation, sometimes even if unwillingly. The question, therefore, is not whether a country should implement some form of decentralisation programme. It is rather how a state can design its decentralised system of governance in such a way that the developmental potential of local units can be utilised. The following sections will discuss the institutional features that are claimed by development scholars and institutions to be important for decentralised development.

\textbf{3.5. Institutional features of a decentralised development}

Decentralisation on its own is ‘neither good nor bad’: its success or failure hinges on the nature or design of the decentralisation process.\textsuperscript{212} Moreover, there is no specific institutional design of decentralisation that brings development under all circumstances.\textsuperscript{213} The design of a decentralised system, therefore, needs to be country-specific and contextualised.\textsuperscript{214} Yet, international development institutions, such as the World Bank, as well as development scholars maintain that there are certain institutional features that are likely to impact the success of a decentralisation programme. This claim is based on international practice and the experience of the past several decades.\textsuperscript{215} These institutional features are political autonomy, fiscal autonomy, administrative autonomy, and central supervision and co-operation.

\textsuperscript{211} See chapter 1; § 1.
\textsuperscript{213} Sharma (2005) 43.
\textsuperscript{215} See World Bank (1999).
3.5.1. Political autonomy

Political autonomy is inherent in the notion of devolution.\textsuperscript{216} Moreover, according to Bahl, political autonomy is ‘the most crucial element’ of decentralised development.\textsuperscript{217} Political autonomy is fundamentally about the existence of local government that regulate its own affairs without interference from the centre. It, therefore, implies the certainty of the existence of local government. It also implies the establishment of local political structures Moreover, it implies devolving suitable functions and powers to local government.\textsuperscript{218}

3.5.1.1. ‘Certainty of existence’

The continuous existence of local government is the foundation of local government political autonomy.\textsuperscript{219} Local government cannot be considered politically autonomous if it can be freely abolished by a central government. Certainty of existence of local government involves three interrelated matters: The first element of certainty of existence relates to a secure and continued existence of local government as a sphere or level of government.\textsuperscript{220} Local government, as a level of government, should neither be created nor abolished at the caprice of the centre. An unrestrained central discretion in this regard puts local government under a constant threat of abolition and hinders its ability to formulate a long-term development plans.\textsuperscript{221} As the World Bank accentuates, a certain measure of permanency in a decentralisation programme ‘reduces

\begin{itemize}
\item \textsuperscript{216} Rondinelli (1999) 2.
\item \textsuperscript{217} Bahl (1999) 5.
\item \textsuperscript{218} Kalin (1999) 1; De Visser (2005) 35-42.
\item \textsuperscript{219} Kälin (1999) 1.
\item \textsuperscript{220} Kälin (1999) 1.
\item \textsuperscript{221} Kälin (1999) 1.
\end{itemize}
uncertainty’ and ‘provides a common ground for all players in the political processes’. 222

The question, therefore, is how the existence of local government can be ensured. Undoubtedly, the ultimate guarantee for the continued existence of local government emanates from a genuine conviction of the centre in the developmental merits of local government. As the earlier discussion shows, a lack of such conviction is the main cause of the failure of decentralisation programmes in several countries. 223 The formal mechanism for ensuring the existence of local government is its being recognised as a sphere/level of government in a national constitution. 224 This is why various international instruments, including, the Aberdeen Agenda 225 and the European Charter of Local Self-Government, and the 1993 International Union of Local Authorities (IULA) World Wide Toronto Declaration of Local Self-government, call for the constitutional recognition of local government as ‘a sphere of government’. 226

The constitutional recognition of local government as an autonomous level of government is also in keeping with the increasing political and economic role that local government units are playing. Local government units, especially

223 See above at § 3.4.2.
224 Steytler (undated) 14.
225 The ‘Aberdeen: Commonwealth principles on good practice for local democracy and good governance’ was passed in the conference of the Common Wealth Local Government Conference that was held in Aberdeen, Scotland.
international mega-cities, play central role in economic and political affairs.\textsuperscript{227} Their growing social and economic role calls for corresponding constitutional recognition to local government.\textsuperscript{228} This is why countries such as Germany, India, and South Africa, have constitutionally recognised local governments ‘as autonomous political [entity]’.\textsuperscript{229}

The second element of certainty of existence pertains to ensuring that local government is established in every part of a country on a wall-to-wall basis.\textsuperscript{230} As De Visser argues, developmental local government is not needed only in certain parts of a country. Fairness dictates that, if decentralisation brings development, all people, regardless of where they live, should be able to share from its benefits.\textsuperscript{231} This does not, however, mean that all local units across a country should assume an identical structure or function. Localities with different social and economic realities may require different structures. For instance, rural and urban local government units may have different structures.\textsuperscript{232} According to the World Bank, it may be necessary to establish a local government structure with different tiers and jurisdictions depending on a country’s ‘physical characteristics, its ethnic and political makeup, and possibly its income level’.\textsuperscript{233}

\begin{footnotesize}
\begin{enumerate}
\item\textsuperscript{227} Watts (2000) 947.
\item\textsuperscript{228} Watts (2000) 947.
\item\textsuperscript{229} Watts (2000) 947.
\item\textsuperscript{230} De Visser (2005) 270.
\item\textsuperscript{231} De Visser (2005) 270.
\item\textsuperscript{233} World Bank (1999) 115.
\end{enumerate}
\end{footnotesize}
The third element of certainty of existence relates to ensuring the continued existence of each individual unit of local government. This does not, however, mean that no change may be introduced to the boundaries of local government. Rather, it means that it is useful to have clear criteria and transparent procedures, which involves the community, for so doing. The World Bank, therefore, accentuates that it is important to take into consideration, in demarcating local boundaries, factors such as, territorial and population sizes, resources, developmental level and rural-urban differences.\textsuperscript{234} It is also important to consult the relevant community in the process altering local boundaries.\textsuperscript{235} Once established, the territorial boundaries of individual local unit should not be haphazardly altered. The central government should, therefore, be restrained from randomly altering local boundaries through, for instance, division or amalgamation.

3.5.1.2. Political structure and local democracy

The other institutional feature of political autonomy is the establishment of a political structure at local level. As was indicated above the establishment of political organs such as representative councils and other political organs is a defining element of devolution.\textsuperscript{236} The notion of political autonomy implies that the political organs, in particular the representative councils, are democratically constituted.\textsuperscript{237} This is especially important because the efficiency and

\textsuperscript{234} World Bank (1999) 115.


\textsuperscript{236} See above at § 2.2.3.

\textsuperscript{237} Rondinelli (1999) 2; Bahl (1999) 5.
responsiveness of decentralised development depends on the success of local
government as a democratic institution.\textsuperscript{238} Local democracy is also critical for
development, not to be an imposition from above but to be achieved through the
‘active, free and meaningful’ participation of the people.\textsuperscript{239} A representative and
competitive local democracy is, therefore, considered an important feature of
political autonomy and a crucial prerequisite for decentralised development.

Local democracy, in turn, implies conducting regular, free, and fair elections.
This, in turn, depends on several institutional requirements. These may include: a
suitable electoral system, constituency delimitation, political parties, an
independent or balanced election administration organ, dispute settlement
mechanism and the like.\textsuperscript{240} However, one issue persist as far as local elections
and decentralised development are concerned. This is whether local elections
should involve political parties.

\textit{Political parties}

There is a disagreement among some writers on whether local elections should be
partisan or non-partisan. There are arguments both for and against the
involvement of political parties in local elections. Those who oppose partisan
local elections maintain that local government deals with ‘bread and butter’ issues
and no division along party lines should exist regarding these matters.\textsuperscript{241} Besides,
partisan local elections are likely to contaminate policy with patronage,
clientelism, and temporary political gains, thereby diverting the focus from the

\textsuperscript{238} See above at § 3.4.1 & 3.4.2.
\textsuperscript{239} See above at § 3.3.
\textsuperscript{240} See Goodwin-Gill (2006).
\textsuperscript{241} Packel (2008) 3.
essential issues. Furthermore, party politics discourages openness, stifles debate, and takes decisions away from the local community.

Supporters of partisan local elections, on the other hand, maintain that partisan local elections facilitate the link between local government and the central government. It also signifies the recognition of the key role that local government plays in a democratic process. In addition, the ‘butter and bread’ argument does not hold water given the growing political and economic role of local government. Moreover, excluding the involvement of political parties would take away from small parties the opportunity that results from decentralisation. Moreover, according to Koryakov and Sisk, political parties can formulate comprehensive policies that articulate and combine public interests and preferences on a wide range of issues unlike other organisations which deal with specific issues. In addition, political parties train political leaders and educate and mobilise citizens to be a politically active society.

In any case, political parties would not refrain from influencing local politics by instilling people amenable to them even if they are formally excluded from local elections. In the USA, for instance, where local elections are mostly held on non-partisan basis, political parties often interfere by endorsing and campaigning on

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243 This was more or less the finding of the New York City Charter Revision Commission. Staff Report to the New York City Charter Revision Commission (2003).
244 Packel (2008) 3.
245 Koryakov & Sisk (undated) 23.
246 Koryakov & Sisk (undated) 23.
behalf of certain candidates. In South Africa it is alleged that political parties often interfere in the work of ward committees which are legally designed to be non-partisan. Such practices allow a backdoor deal and veil transparency. The above controversy aside, practice shows that in many countries, local elections are conducted on multi-party basis.

Institutional framework for direct public participation

As was pointed out above, public participation is a key element of decentralised development. Public participation is a process ‘continuum’ that takes place at different ‘levels’ and may bring various outcomes. The various levels of public participation may need various institutional arrangements. As a minimum, local government should be transparent about its works and allow the local community to access information. In addition, local government may take active measures to publicise its performances. To this effect, a legal framework may require that local government to be transparent and publicise how it works. Public participation may also require an institutional system for public consultation and lodging petitions which should involve local communities both in their individual and collective capacities through civic society organisations (CSO).
3.5.1.3. Devolution of original, relevant, suitable, and clearly defined functions

Devolution of functions to local government is another key element of political autonomy. Scholars argue that local government should have original, suitable, and clearly defined developmental mandates. ²⁵³

*Original functions*

De Visser argues that local government’s functions should be ‘original’ on which it is a ‘primary decision maker’. The way to do so is to define local government’s functions in a national constitution. ²⁵⁴ This is in line with the international trend. ²⁵⁵ The constitutions of several countries contain a list of local government functions. For instance, local government competences are listed in Schedule 4B and 5B of the South African Constitution. ²⁵⁶ The Nigerian Constitution also contains a list of functions from which the states may select and transfer to local government. ²⁵⁷

*Relevant for development and suitable for local government*

De Visser stresses that it is important to ensure that the functions that are transferred to local government are relevant for decentralised development. A function is considered relevant for development if it is useful for enhancing the welfare of local communities. ²⁵⁸ Functions relating to public health, education, housing, drinking water etc are considered relevant for development.

²⁵⁵ See Watts (2000).
As stated above, the functions are devolved to local government should be not only relevant for development but also suitable for local government. ‘Suitability’ has to do with the human and institutional capacity of a local government unit to effectively and efficiently exercise a particular function.²⁵⁹ According to Manor, it is not prudent to devolve complex functions which are beyond the human and institutional capabilities of local government.²⁶⁰ It is not also sensible to devolve functions that extend beyond a geographical jurisdiction of a local unit.²⁶¹ According to Shah, in determining the suitability of a function to local government, an asymmetrical approach, rather than ‘one-size-fits-all’, is preferable which takes into account the nature, size, capacity, and financial resources of local units.²⁶² For instance, it is necessary to consider whether the particular local unit is an urban or rural to determine the appropriateness of a particular function to it.²⁶³ There are different theories regarding the best way to determine functions that may be devolved to local government units.²⁶⁴ In general, the principle of subsidiarity is proposed as the most preferred approach for determining local government functions.²⁶⁵

²⁶⁴ These include the fiscal equivalency theory, the decentralisation theorem, the correspondence principle, and the principle of subsidiarity. Shah (2006) 3-4.
The principle of subsidiarity

The principle of subsidiarity is a complex concept with multitude of features. The feature of subsidiarity that is relevant for this discussion, however, is what is called ‘institutional subsidiarity’:

‘Institutional subsidiarity, as a force in societal life, constrains any more encompassing or superordinate institution (or body or community) to refrain from taking for its account matters which a more particular, subordinate institution (or body or community) can appropriately dispose of, irrespective of whether the latter is an organ of State or of civil society.’

The principle of institutional subsidiarity, in its classical sense, regulates the centralisation of competences rather than their decentralisation. Under institutional subsidiarity a decentralised exercise of power is the norm. It does not assume the existence of a centre with original powers from which power streams down to the local units like decentralisation does. On the contrary, it views the local units as the original custodians of political power and regulates when and how the centre can justifiably assume some of these powers and functions.

The principle of institutional subsidiarity has certain philosophical underpinnings. The liberal conception of individual sovereignty is one of the

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266 There are also similar concepts such as strategic subsidiarity, jurisdictional subsidiarity, adjudicative subsidiarity etc. For a detailed discussion see De Visser (2010) 91. See also Du Plessis (2006) 209-218.
269 De Visser (2010)104
270 For detailed discussion of these justifications see Føllesdal (1998).
philosophical bases of subsidiarity.\textsuperscript{271} The reasoning is that associations of a family, communal or cultural nature are essential for the development of the individual, and that government should not assume the role of these associations.\textsuperscript{272} Similarly, the Catholic religious conception of social philosophy, as espoused initially by Pope Pius XI and later by Pope Leo XIII, emphasises the importance of family and civic associations for the individual.\textsuperscript{273} Thus, it rules out any government interference with these bodies except where justified by a ‘common good’.\textsuperscript{274} Subsidiarity is also linked to the efficiency argument that was discussed above;\textsuperscript{275} Within the context of development this argument is based on the premise that developmental preferences vary depending on ‘external or internal parameters such as geography and tastes and values’.\textsuperscript{276} Local decisions should be left to local decision makers as they ‘have a better grasp of affected preferences and alternatives, making for better service’.\textsuperscript{277} The principle is also defended on democratic principles. The argument in this respect is that only those who have a direct interest in a particular public service should be allowed to deliberate on its delivery.\textsuperscript{278}

The principle of subsidiarity is, thus, in a sense ‘proscriptive’ or ‘protective’ as it restricts the central government from assuming a particular task unless it is justified

\textsuperscript{271} Føllesdal (1998) 200-205
\textsuperscript{272} Føllesdal (1998) 208.
\textsuperscript{274} Føllesdal (1998) 208.
\textsuperscript{275} See above at § 3.4.2. Føllesdal (1998) 205.
\textsuperscript{276} Føllesdal (1998) 205-206.
\textsuperscript{277} Føllesdal (1998) 206.
\textsuperscript{278} De Visser (2010) 93.
Subsidiarity protects local units from undue intrusion by the centre. Subsidiarity may also be considered as ‘prescriptive’ for it enjoins the centre to assume a particular task when its assumption of the task is justified by ‘comparative efficiency’ and/or dictated by ‘necessity’. Moreover, the principle of subsidiarity both as a proscriptive and prescriptive principle is ‘biased’ in favour of local units. It thus presupposes that power ‘originally rests with the subnational units and is delegated upward at [their] discretion and not at the discretion of the central authority’.

Even though initially the principle of subsidiarity is conceptualised with an ‘automatic bias’ in favour of sub-national units in the allocation of competencies, now, however, it is given a rather toned down meaning in different constitutional and legal instruments. De Visser, for instance, argues that there is no automatic assumption under the European Charter on Local Government that power belongs to local units. However, there is a ‘preference’ in their favour in the allocation of competencies. De Visser also argues that the approach to the subsidiarity principle which has been infused in the South African Constitution is that of ‘functionality’.

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283 The principle of subsidiarity as provided under section 156(4) of the South African Constitution requires the assignments functional competences to local government to be based on the principle of ‘functionality’ which embodies both ‘efficiency’ and ‘effectiveness’. De Visser (2010) 102.
Clearly defined functions

Clarity in the definition of local government functions is an important consideration in devolving functions to local government. \(^{284}\) This prevents uncertainty about who does what. It also helps ensure that locally identified priorities are implemented at local level as opposed to ‘populist’ projects with no or transient benefits or ‘centrally determined programmes’. \(^{285}\) Moreover, clarity is a key for ensuring downward accountability. \(^{286}\) Based on an empirical study in seven African countries, Olowu and Smoke maintain that clearly defined local government function is a precondition for a successful decentralisation programme. \(^{287}\) Lack of clarity, in the division of competences among different levels of government, results ‘in wasteful redundancy in service provision’. \(^{288}\) It also creates confusion about which level government is responsible for the provision of certain service. \(^{289}\) Moreover, it makes holding local authorities accountable difficult, if not impossible, as local citizens will not be able to know the kinds and extent of services that they may justifiably expect from local government. \(^{290}\) McLure and Martinez-Vazquez maintain that one of the critical errors in the design of decentralisation in some Latin American countries was the transferring of revenue to local government without clearly defining its

\(^{287}\) Olowu & Smoke (1999) 8.
\(^{289}\) Olowu & Smoke (1992) 8.
\(^{290}\) Steytler & Fessha (2007) 324.
competences. The lack of clarity in functional competences resulted in a ‘weak decentralised system’ and financially ‘overburdened’ centre.

Yet, the definition of local government competences should not be too detailed. As Botchway argues it is important to afford local government a certain measure of discretion. ‘Extreme formalism’ discourages creativity in tackling social problems. Moreover, it counters local autonomy by allowing the centre to decide developmental projects that should be undertaken at local level under the pretext of defining the functional competences of local government.

3.5.1.4. Political Power

The notion of political autonomy implies the transfer to local government of full and exclusive political powers in certain functional areas. Political power may include the power to formulate policies, to legislate, and to execute local legislation and decisions. Thus, political power embodies the power of local government to have a ‘final say’ on its functions to the exclusion of any other level of government. As De Visser notes if development is to be based on the preferences of the local community, local government should be able to ‘translate locally generated [policies] into [laws]’. The legislative powers of local government should be original and emanate directly from a constitution. Thus,

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291 McLure and Martinez-Vazquez (undated) 1.
292 McLure and Martinez-Vazquez (undated) 1.
293 Botchway (2001) 201.
local government should be ‘the first entity to fill legislative space with regulation’.  

3.5.2. Financial autonomy

Financial autonomy is a defining element of devolution.  It is also among the most critical institutional features of a successful decentralisation programme that achieves development. The World Bank states ‘independent tax bases and sources of credit’ directly affect the political and administrative autonomy of local government.

3.5.2.1. Taxes and fees

Financial autonomy implies revenue raising and expenditure powers. The revenue raising power of local government involves taxing and borrowing powers. The taxing powers of local governments include the power to determine the tax rates, to collect the taxes, and to spend the revenues collected from the taxes. This will help local government preserve its political and administrative autonomy and render it responsive to the preference of, and accountable to, local citizens. It is stressed in many scholarly works that it is important to maintain a balance between the revenue raising powers of local government and its developmental responsibilities and expenditure needs. This is, according to Shah, critical for shielding local government’s political and public

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administrative autonomy from central intrusion and to maintain its downward accountability. McLure states:-

‘Subnational governments that lack independent sources of revenue can never truly enjoy fiscal autonomy; they may be— and probably are – under the financial thumb of the central government.’

The taxes that are considered suitable to local government are direct taxes such as user charges, property taxes, and personal incomes taxes. However, local government’s taxing and expenditure power should not be totally unfettered. Unfettered local taxing power has the potential to harmfully impact on the capacity of the central government to maintain equity and regulate national macro-economy.

3.5.2.2. Borrowing

There is a prevailing apprehension about local borrowing. Many fear that local borrowing has the potential to destabilise the national macro-economy. This is based on the assumption that local borrowing often presupposes an explicit or implicit guarantee by the central government which encourages lenders to extend unwarranted loans to local government. It also allows local government to

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310 Ahmad (1999) 32.
311 Ahmad (1999) 32.
spend excessively. 312 In the end, the central government will be faced with ‘unplanned fiscal liabilities’. 313

The World Bank, therefore, stresses that the central government should use its regulatory power to control local government borrowing, if local borrowing is at all permitted. 314 It may, for instance, impose a limit on the amount that local government may borrow annually. 315 It may also require a local government to secure prior authorisation before borrowing, especially borrowing from foreign sources. The World Bank also accentuates that the central government should consistently refrain from guaranteeing local government’s loan or from bailing out local government units if the latter default. 316 This will encourage lenders to take extra care before extending loans to local government units.

3.5.2.3. Inter-governmental transfers

Whilst internally raised revenue is inherent in local autonomy and vital for downward accountability, the reality is that local government is rarely able to raise sufficient own revenue. 317 This is especially true in Africa where local government, save for a few urban areas, suffers from severe financial limitations. Moreover, there is almost always a disparity in resources and tax-bases among localities. This necessitates a scheme of revenue transfer from the central

312 Ahmad (1999) 32.
313 This was the case in countries such as Brazil and Argentina where uncontrolled sub-national borrowing led to inflation destabilising the macro-economy of these countries. Ahmad (1999) 32. See also Hoffman (1999) 89.
314 World Bank (1999) 120.
315 World Bank (1999) 120.
government to local government. It may also require financial equalisation scheme that favours local units with weaker financial sources in order to maintain horizontal equity.318

Shah argues it is preferable to use formula-based general purpose grants to transfer revenues to local government units, rather than those that are determined on discretionary basis.319 Such grants, he maintains, are expected to ‘augment the budget resources’ of local government without compromising its autonomy.320 General purpose grants are also in keeping with the assumption that local government is better informed of the preference of a local community than the central government.321 A grant made on a discretionary basis, on the other hand, is prone to ‘political manipulation’ which would lead to uncertainties and, therefore, discourage local ‘fiscal planning and effective budgeting’.322

Moreover, the central government should cover the financial costs of functions which local government discharges on the central government’s behalf.323 It may also use financial transfers to ensure that a particular sector is given special attention by local government.

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The World Bank warns that grants should not replace local internal revenue nor should they be excessively large.\textsuperscript{324} Local taxes are necessary to ‘ensure that subnational governments face, at least to some degree, the political consequences of their spending decisions’.\textsuperscript{325}

3.5.3. Administrative autonomy

Administrative autonomy is a defining element of devolution.\textsuperscript{326} Administrative autonomy is essentially about local government being able to implement its own policies, by-laws, and decisions using its own administrative structure and personnel. Administrative autonomy, therefore, has two elements. The first element is the power of local government to determine the structure of its administrative.\textsuperscript{327} The power of local government to determine its own administrative structure provides it a certain degree of flexibility to respond to local situation. The second element of administrative autonomy relates to whether local government may hire and fire its own personnel, and to hold them accountable.\textsuperscript{328} This is important because, as Olowu and Smoke state, in many African countries the central government is in charge of hiring and firing local personnel. The local personnel are, therefore, controlled by the line ministries at national or state level rather than to the political organs of the local government. They maintain that the ‘stifling’ effect of such control is among the critical reasons for the failure of decentralisation to bring development in many of these

\textsuperscript{324} World Bank (1999) 117.
\textsuperscript{325} World Bank (1999) 117. See also Shah (2010) 3.
\textsuperscript{327} These two elements are visible in the European Charter of Local government (1987) 6 (1). See also the World Wide Declaration of Local Self-Government (1993) Art 5 (1).
3.5.4. **Central supervision and inter-governmental co-operation**

Devolution is by definition only about local political, financial and administrative autonomy. However, as was discussed above unfettered local autonomy has several negative effects including inequity, corruption, elite capture and the like. In order to ensure the success of decentralisation as a strategy for development, while at the same time mitigating its harmful consequences, many scholars suggest that it is important to complement local autonomy with central supervision and inter-governmental co-operation.

Supervision is meant to allow a senior level of government to harmonise the activities of local government with national/sub-national developmental policies. It is, therefore, conducted on the basis of seniority of the national level of government. Many scholars and development institutions, including the World Bank, accentuate the importance of supervision.

In addition, based on the South African Constitution and practice, De Visser argues that decentralised development requires inter-governmental co-operation. Inter-governmental co-operation is conducted on the basis of equality of local and national government. It is predicated on the assumption that it is unattainable.

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330 See above at § 3.3.1- 3.3.4 .
to neatly divide powers and functions among different tiers of government as there is always ‘interdependence and interpenetration’ among the different tiers of government.\textsuperscript{335} The main objective of inter-governmental co-operation in general is to ‘avoid unnecessary overlaps’. Inter-governmental co-operation is, therefore, important wherever there is a multi-level or multi-tiered government, for example, in federal states and decentralised unitary states.\textsuperscript{336}

\textbf{3.5.4.1.Central supervision}

As stated above, there is a general consensus that unchecked local autonomy is as harmful as its total absence. The World Bank states that decentralisation, in the absence of certain rules that restrain local government, will simply pass down to a lower level the crisis that troubles centralised governments.\textsuperscript{337} De Visser notes that the success of decentralised development depends on the ‘correct balancing’ of local autonomy with central co-ordination.\textsuperscript{338} Sharma also stresses the importance of ‘central regulatory powers’ for solving decentralisation related problems.\textsuperscript{339} Supervision is, therefore, necessary to maintain a certain degree of uniformity across a country. It is also important to ensure that ‘national priorities are not undermined’ by local units.\textsuperscript{340} Moreover, the central government has an interest in ensuring that local government functions properly and within its mandates and means. Or else, the crisis that arises from unrestrained local autonomy will creep back to the centre, for instance, as a request for ‘bailout’.\textsuperscript{341}

\begin{footnotesize}
\textsuperscript{335} Watts (2001) 22.
\textsuperscript{336} Watts (2001) 22.
\textsuperscript{337} World Bank (1997) 120.
\textsuperscript{338} De Visser (2005) 34.
\textsuperscript{339} Sharma (2005) 42.
\textsuperscript{340} Olowu & Smoke (1992) 11.
\textsuperscript{341} World Bank (1999) 117.
\end{footnotesize}
Furthermore, central co-ordination can serve as a ‘safeguard’ against ‘elite capture’ and the alienation of the poor in the process of decision making.\textsuperscript{342}

There are four recognised mechanisms of supervision; regulation (standard setting), monitoring, support, and intervention.\textsuperscript{343} Regulations aim to set a minimum standard that ought to be met by local government in its public service delivery.\textsuperscript{344} The involvement of the centre by way of setting minimum standards is justified by the need to ensure ‘horizontal equity’ and minimum standards of service in all jurisdictions.\textsuperscript{345} However, the importance of balancing the regulatory power of the centre with the autonomy of local units should be given due consideration.\textsuperscript{346} The centre should refrain from imposing a requirement of absolute homogeneity on all local units under the pretext of standard setting, as it will compromise local autonomy.\textsuperscript{347} De Visser accentuates the need to make regulatory frameworks ‘reasonably permanent’, since ‘a continuously changing institutional environment is harmful for the local government’s ability to achieve optimal service delivery and development results’.\textsuperscript{348}

The other interrelated elements of supervision are oversight (monitoring), support and intervention.\textsuperscript{349} The World Bank stresses the importance of central oversight

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\textsuperscript{342} World Bank 2000 (106); World Bank (2011) 166-67; Smoke (2001) 18.
\textsuperscript{343} De Visser (2005).
\textsuperscript{344} De Visser (2005).
\textsuperscript{345} Shah (1994) 18.
\textsuperscript{346} De Visser (2005) 44.
\textsuperscript{347} McKinlay (2006) 61; De Visser (2005) 44.
\textsuperscript{348} De Visser (2005) 44.
\textsuperscript{349} Olowu & Smoke (1992) 11; Smoke (2001) 26; De Visser (2005) 44.
over whether the local units are performing up to the required standard.\textsuperscript{350} If the oversight reveals a notable deficiency in performance on the part of local government, the centre should attempt to rectify the problem by extending support to that particular local government. Where support does not resolve the problem, the centre will be justified to intervene in local matters.\textsuperscript{351} De Visser argues that local autonomy and central interventions are ‘complimentary’ though may appear to be in utter conflict with each other.\textsuperscript{352} He argues that the power to observe and intervene provides incentives to central government to hand over more power and autonomy to local government.\textsuperscript{353}

Nevertheless, it is crucial to ensure that supervision does not stifle the smooth functioning of local government.\textsuperscript{354} As Smoke and Olowu write:

‘There is...a delicate balance to be maintained between ensuring that national priorities are being met and protecting as great a degree of local autonomy as possible. Too much control is likely to undermine administrative and economic efficiency, particularly if it is exercised arbitrarily or under excessive political manipulation.’\textsuperscript{355}

\textsuperscript{350} World Bank (1999) 117.
\textsuperscript{351} Olowu & Smoke (1992) 11; Smoke (2001) 26; De Visser (2005) 44.
\textsuperscript{352} De Visser (2005) 45
\textsuperscript{353} De Visser (2005) 45.
\textsuperscript{354} Smoke & Olowu (2001) 11.
\textsuperscript{355} Smoke & Olowu (2001) 11.
Therefore, it is important to create a mechanism of ensuring compliance with national (state) laws and standards without compromising local government’s autonomy.\textsuperscript{356}

\subsection*{3.5.4.2. Inter-governmental co-operation}

As was explained above, the importance of central supervision for decentralised development is emphasised in many scholarly works and reports of the World Bank.\textsuperscript{357} Inter-governmental co-operation is mainly discussed in the context of federal system and in terms of co-operation between federal and state governments.\textsuperscript{358} Little is said about the importance of involving local government in inter-governmental co-operation for development. Trench maintains that inter-governmental co-operation is not limited to federal systems.\textsuperscript{359} De Visser also based on the South African Constitution, maintains that a decentralised system which aims to be developmental must have an institutional arrangement for co-operation among the various orders of government: including local government.\textsuperscript{360} He provides three justifications for his submission. First, co-operation is necessary because it provides the central government with the incentive to ‘genuinely relinquish power to local government’.\textsuperscript{361} It also mitigates the danger of promoting narrow local interests at the expense of national development. Secondly, the impracticability of neatly demarcating competences among the different orders of government necessitates co-operation among the

\begin{itemize}
\item \textsuperscript{357} World Bank (1999); Sharma (2005); Shah (2004).
\item \textsuperscript{358} See for instance Conlan (2006); Wright (2003); Kinckaid (1990); Watts (2006).
\item \textsuperscript{359} Trench (2006) 226.
\item \textsuperscript{360} De Visser (2005) 210.
\item \textsuperscript{361} De Visser (2005) 210
\end{itemize}
various levels of government. Thirdly, the need to communicate local needs, which cannot be addressed by local government, to senior level of government requires an institutional device of co-operation.

According to De Visser inter-governmental co-operation has three elements. The first element is a normative framework of co-operation. Inter-governmental co-operation must be based on a relationship of ‘equality’; not on subordination. Hence, there must be a principle that requires the various levels of government to co-operate based on ‘mutual respect’ and ‘recognition’ of each other’s ‘institutional statuses’. The second element is horizontal co-operation. The trans-boundary effects of most local government developmental activities require co-operation among local governments. The third element is institutional framework for vertical co-operation. Local government activities should be harmonised with those of the national and state governments. This entails not only that the activities of local government be in line with national policies and strategies but that also national policies take into account the interests of local government. This in turn requires the institutionalisation, through a legal framework of vertical co-operation.

364 De Visser (2005) 211.
368 De Visser (2005) 212.
It is debatable whether inter-governmental co-operation should be institutionalised, especially at the initial stage of a decentralisation process. Watts writes that there is a risk of rigidity in institutionalising inter-governmental co-operation which prevents purposeful and evolutionary development of IGR structures.369 De Visser is also in favour of an IGR structure that evolves from practice. However, he acknowledges that the need to ensure inclusivity, better attendance, transparency, and to increase the structure’s political significance may entail a certain degree of institutionalisation from the outset.370

3.5.5. Concluding remarks

The above sections have outlined the institutional features that are likely to optimise the success of decentralisation in achieving development. It is important to note that the above discussion does not attempt to formulate a model institutional design for a decentralised development. It was rather meant to identify those institutional features that are likely to impact on decentralised development. It is against these institutional features that Ethiopia’s local governance and its efficacy for development will be examined. Before that, the next section will deal with the second central issue of the study, namely whether and how local government may be of use for accommodating ethnic minorities.

4. DECENTRALISATION AND ACCOMMODATING ETHNIC MINORITIES

4.1. Introduction

As indicated earlier, the second principal purpose of the decentralisation programme in Ethiopia is to accommodate ethnic minorities. It is also one of the

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two main aims of this thesis to examine the suitability of the institutional design of Ethiopia’s local governance system for this purpose.

To this effect, the next sections will first define concepts such as ‘ethnic community’, ‘ethnicity’, and ‘minority’. Next, the justifications for accommodating ethnic minorities will be discussed. A discussion of the various institutional forms of accommodating ethnic minorities will follow along with a discussion on how local government features in this.

4.2. Ethnic groups and ethnicity

There is little agreement on the meaning of the terms ‘ethnic group’ or ‘ethnic community’. Different meanings are attached to the term ‘ethnic’ in different disciplines. Most commonly, a group of people is considered as an ‘ethnic community’ when it differs from others in terms of ‘cultural criteria’. The ‘ostensible’ cultural ‘markers’ of ethnicity are language, tradition, beliefs, values, religion, and history. Some writers maintain it is critical for a group of people to have a real or mythical affinity in the form of common ancestor in order to be considered an ethnic community. Still others argue that the particular group of people must occupy a certain identifiable territorial area which members of the

371 The lexical origin of the term ‘ethnic’ is a Greek word ‘ethnos’ which is translated as a ‘nation’. However, the lexical origin of the term provides no clue as to what ‘ethnic group’ is as it has evolved throughout the ages to denote several meanings. From a sociological perspective, some equate ethnicity with race. Still others consider as an ethnic group those racial or religious or linguistic ‘subgroups’ that live amidst a dominant group. For instance blacks, Hispanics and Jews in USA are considered as ethnic groups while the dominant whites are not considered so. This notion of ethnic group however creates another conceptual confusion by incorrectly equating ‘ethnicity’ with the status of being a minority. Pieterse (1996) 25; Le Vine (1997) 46.
374 Johnson (1997).
group consider as their ‘homeland’ while others maintain that territory is not a necessary element of ethnic identity even though it may reinforce it.\textsuperscript{375}

For the purpose of this study, a group of people that demonstrate cultural markers, such as, language, beliefs and values, religion, or history will be considered an ethnic community.

\subsection*{4.2.1. Ethnic identity as a political identity}

Accommodation of ethnic minorities and the relevance of decentralisation in this respect become important only when ethnic identity becomes a political identity. Ethnic identity becomes a political identity when the above mentioned cultural markers, rather than being viewed as mere social peculiarities, are used to further a particular political cause.\textsuperscript{376} Even though the how and the whys of this transformation are far from clear, there are two generally accepted lines of explanation to this transformation. The first line of explanation is known as a primordialist explanation.\textsuperscript{377} Primordialism explains the transformation of an ethnic identity to political identity as a natural (biological or genetic) phenomenon.\textsuperscript{378} The primordialists maintain that people naturally identify with, and emotionally attach themselves to, the community to which they biologically relate.\textsuperscript{379} They do so not rationally, but they are forced by ‘socio-psychological forces internal to [them] and related to primordial human needs for security and, more importantly, survival.’\textsuperscript{380} This emotional and biological tie, which

\textsuperscript{375} Le Vine (1997) 46.
\textsuperscript{376} Ghai (2000) 4.
\textsuperscript{377} Ghai (2000) 4.
\textsuperscript{378} Ghai (2000) 4.
\textsuperscript{379} Harvey (2000) 40.
\textsuperscript{380} Harvey (2000) 40.
primordialists assume to be ‘durable’, if not unchanging, naturally and necessarily leads to a political demand.  

The other line of explanation is called the instrumentalist (also circumstantialist) approach. For the instrumentalists, ethnic communities themselves are ‘rational associations of self-interested actors’ not, as the primordialists claim, ‘irrational...groupings governed by emotional attachments’.

Ethnicity for an instrumentalist is ‘artificial’ not natural, and changing not static. The transformation of ethnic distinction to political identity has, therefore, little to do with nature. The transformation is rather ‘rational’, ‘situational’ or ‘instrumental’. This is so since the transformation is driven by rational individuals who seek to advance their own political, social, and economic goals by using ethnicity as an instrument of political mobilisation.

Several scholars are of the view that neither primordialism nor instrumentalism in itself fully explains the transformation of an ethnic identity to a political identity. Ethnic identity is not unchanging as the primordialists claim, since the aforementioned objective cultural markers are not the only drivers for the transformation of ethnic identity to political identity. Ethnic identity has also subjective elements. The manner in which members of a certain group view themselves is equally important. The subjective element of ethnic identity is

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382 Gil-White (1999) 792.
384 Nagel (1994) 152ff; Henders (20) 33.
liable to change depending on the benefits that the transformation of the ethnic identity to a political identity is likely to bring to members of the relevant ethnic group. On the other hand, the subjective attitude of individuals towards their ethnic identity and its relevance as a political identity cannot be totally devoid of certain objective cultural markers. Therefore, unlike the claim of the instrumentalists, the political relevance of ethnic identity is not purely artificial.  

4.2.2. Ethnic minorities

The majority-minority distinction, be it ethnic or otherwise, is principally based on two important considerations; namely numerical size and political weight. In general, a group of people which constitutes more than 50 percent of a country’s nationals is considered a majority. The rest of the groups are regarded as minority groups. A numerically minority group, however, might be considered a majority if it has a political ascendancy. A case in point is the status of South African whites during the apartheid era. Therefore, the simultaneous existence of both elements (numerical inferiority and political lowliness) is essential for an ethnic community to be considered a minority.

The above is even true in a state which is composed of minority ethnic communities with no particular dominant ethnic community. In such

388 The most accepted definition of a minority is that of Capotorti who defines minority groups as ‘[a] group numerically inferior to the rest of the population of a state, in a non-dominant position, whose members – being nationals of the state – possess ethnic, religious or linguistic characteristics different from those of the rest of the population and show, if only implicitly, a sense of solidarity directed towards perceiving their culture, tradition, religion or language.’ Capotorti quoted in Henrard (2000) 22; see also Wheatley (2005) 19; Casals (2006) 20f.
circumstances (this is the case in many African countries) each ethnic community is considered a minority. This, however, is subject to the proviso that none of the numerically minority groups should have political control.

In addition, intra-substate (also intra-provincial or intra-regional) ethnic minority communities may be considered as minorities when and to the extent the sub-state government has the power to make decisions impacting on them. Two types of intra-substate minorities can be considered here. First, some members of an ethnic community, which is dominant either nationally or in a particular region or province of a country, may find themselves in a minority in another region, state, or province of the country where another minority ethnic community is dominant. Cases in point are: English speakers in Quebec, Spanish speakers in Catalonia, and the Dutch speakers in Wallonia. Secondly, there may be an ethnic

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394 The definition of a minority under international law did not include an intra-substate minority. For instance, the United Nations Human Right Commission was of the view that minorities that are referred to under Article 27 of ICCPR are ‘minorities within a state not minorities within any province’. Henrard, however, argues that, if members of a nationality dominant ethnic community are found in the minority in a particular region or province wherein a national minority constitute a majority, the former may be considered a minority if the sub-national government is autonomous and can pass laws affecting intra-substate minorities. The European Commission for Democracy through Law (also known as the Venice Commission), with respect to Belgium, stated that whether an ethnic community is a minority may need to be assessed both at national and sub-national level. In India the Court ruled that when a state law affects the interests of a group of people, the group may be considered a minority if it is numerically inferior to the population of the state (not necessarily to the whole nation of India). Henrard (2001); Wheatley (2005) 108; Toggenburg (2003) 282; Ramaga (1992) 108.
395 The English speakers and Spanish speakers are nationally dominant groups in Canada and Spain, respectively. The Dutch speakers are dominant in the Flemish region of Belgium while French speakers are dominant in the Wallonia region. Many English speakers are found in Quebec which is an autonomous homeland of the French speaking Canadians. Spanish speaking
community which is dominant neither nationally nor regionally. Such community, also known as ‘double minority’, may be found in a minority in a particular region, state, canton, or province, amidst another national minority which is however dominant in the particular area.\textsuperscript{396} Two examples are Cree-speakers in Quebec and Aran-speakers in Catalonia. These intra-regional minorities are considered as minorities.

The central issue here is whether and how local government can be used as an institutional mechanism for accommodating ethnic minorities. Before discussing this issue, it is necessary to raises yet another and broader issue: why is accommodation of an ethnic minority, be it national or intra-subnational ethnic minority, a matter of concern in the first place?

\textbf{4.3. Managing ethnic diversity}

Countries have experimented with different methods to respond to challenges that are associated with the ethnic, racial, religious, or other diversity of their people. The methods that are used to this effect have been underpinned by different rationales. Depending on the particular objective they sought to achieve, states used eliminating diversity itself, protecting individual rights of members of minority communities, integration, and/or accommodation to deal with the ethnic diversity of their people.

\textsuperscript{396} Patten (2004) 138.
4.3.1. Eliminating diversity

The first method that was used by many states to ‘manage’ diversity, ethnic or otherwise, was to eliminate diversity itself. States sought to eliminate diversity and to build an ethnically, linguistically, and religiously homogenous or homogenised nation-state.\(^{397}\) They sought to do so for either or both of two major reasons. The first major reason is a conviction that human beings would be better off if they have ‘more common values and avoid or minimise those values and beliefs that divide them.’\(^{398}\) Those with such conviction, the best example being France, associated diversity with ‘sectarianism, parochialism, narrow-mindedness, and chauvinist bigotry’.\(^{399}\) In order to achieve the ideal of nation building, states took measures which were meant to remove all cultural practices failing to conform to dominant cultural practices. States coerced minority ethnic and cultural groups to assimilate into the culture of the dominant group. A refusal to assimilate resulted in minorities being politically, socially, and/or economically marginalised.\(^{400}\)

The second key reason for the quest to eliminate diversity was a belief that humankind is naturally divided into different nations: Each person belongs to one nation and each nation to one state.\(^{401}\) This required keeping ethnic or cultural groups apart. In this scenario even assimilation was not an option for minorities. To achieve this ideal, as was the case in South Africa during the apartheid era,


\(^{398}\) Réaume (1995) 121.

\(^{399}\) McGarry and O’Leary (1994) 103.


\(^{401}\) Réaume (1995) 121.
states forced ethnic minorities to migrate to the states where those who look like them were found. As was done by Turkey and Greece after the conclusion of World War I, states also exchanged populations with other states. In some extreme cases, they engaged in the act of ethnic cleansing.

The above efforts of the states to eliminate ethnic differences, however, have not succeeded since there is hardly a single state which has ethnically or culturally homogenous population.

4.3.2. Neutrality

The second method that was used by several states for managing diversity was declaring a state’s neutrality on cultural matters. This approach, which is also known as the ‘individual liberal approach’ seeks to be indifferent towards ethnic diversity. It rather assumes that ‘identity’ is a private matter; not a public matter. An attempt by the state to protect minority group rights will lead to the violation of individual rights. The state therefore should not be obliged to provide institutional recognition to identity groups. It suffices for the state to recognise the basic human rights of the individual members of any identity group. The individual approach assumes that the rights of minorities and minority cultures can be protected by providing citizenship to the individual

405 Kymlicka (1995); Addis (2001); Yonatan (2010 a) 10.
members of the communities and by recognising the basic civil, political and cultural rights of same. It was, otherwise, unnecessary to confer any institutional recognition on any specific identity group so long as the rights of the individual members of the group were protected.\textsuperscript{410} Besides, to do so was considered to be against the principle of equality.\textsuperscript{411} This approach assumes that the state has no obligation to promote the culture of any particular group. Its sole obligation rather is, or should be, to simply be indifferent to cultural differences and refrain from interfering in the enjoyment of cultural rights.\textsuperscript{412} If a group’s rights are to be recognised, it will augment the political relevance of ethnicity and inevitably lead to perennial conflicts\textsuperscript{413} and ‘prejudice, intolerance and stereotypes’.\textsuperscript{414} Ethnic minorities therefore, cannot and, in fact, should not be entitled to or granted special rights.\textsuperscript{415}

However, as many scholars point out, this approach is inherently self-contradictory. The critical problem with the approach is that states simply cannot be neutral on ethnic issues.\textsuperscript{416} They lose their neutrality the moment they select and use a particular language for official purposes.\textsuperscript{417} Moreover, equal opportunity for individual members of minority communities does not always translate into equal access to ‘cultural goods’ and the ‘protection of minorities’.

\textsuperscript{410} Kymlicka (1995) 3.
\textsuperscript{414} Yonatan (2010a) 16.
Rather the ‘majority rule’ results in ‘demographic and political dominance’ of minority communities by the majority community, leading to cultural assimilation.\textsuperscript{418} Therefore, the institutional recognition of group rights is indispensable.\textsuperscript{419}

Now the trend is in general towards multiculturalism. The attempt to eliminate diversity and to be neutral on the issue of diversity are losing acceptance. There is still, however, a disagreement on the best strategy to institutionally recognise minorities. The two most commonly proposed methods are integration and accommodation.

4.3.3. Integrationist approach

The integrationists argue that minorities and their culture should be given institutional recognition. Yet, they maintain, majorities and minorities should be prevented from ‘from breaking perfectly along ethnic lines’.\textsuperscript{420} The integrationists, therefore, aim to eliminate the political relevance of ethnicity by promoting integration amongst the various ethnic communities of a state.\textsuperscript{421} Horowitz, for instance maintains that there should be institutional arrangements that ‘encourage moderate behaviour’, reward ‘conciliation’, and ‘compromises’ among members various ethnic communities.\textsuperscript{422} Among such institutional arrangements is an electoral system that ‘induces political parties to rely for their margin of victory on the votes of members of groups other than their own’.\textsuperscript{423}

\textsuperscript{418} Deets & Stroschein (2005) 287
\textsuperscript{419} Deets & Stroschein (2005) 287
\textsuperscript{420} Horowitz (2001) 92.
\textsuperscript{421} Hadden (2005) 34.
\textsuperscript{422} Horowitz (2001) 92.
\textsuperscript{423} Horowitz (2001) 94.
Horowitz suggests the ‘alternative vote’ as the best electoral system for this purpose.\textsuperscript{424} The integrationists also seek to create an executive system which is composed of individuals ‘who rise above religious, linguistic, and ethnic factions’.\textsuperscript{425}

The integrationist approach is however criticised for providing no room for accommodating minorities. It rejects all institutional arrangements of accommodation including proportional representation, territorial and non-territorial arrangements.\textsuperscript{426} By so doing, as Lijphart notes, the integrationists permanently deprive minorities of any form political representation.\textsuperscript{427}

\textbf{4.3.4. Accommodation approach}

Accommodation of minority groups is a method of conferring institutional recognition on ethnic minorities. Accommodation recognises and aims to preserve a minority’s identity by adjusting a state structure, territorial or otherwise, and by providing ‘formal recognition [to] the cultural or ethnic diversity of [a state’s people]’\textsuperscript{428} Many scholars, including some of those within the liberal school, argue that diversity, at least to some extent, must be given institutional recognition and be accommodated.\textsuperscript{429} The normative argument for the accommodation of diversity is based on the supposition that an individual’s rights and dignity are interwoven with the dignity of the group to which he/she

\textsuperscript{424} Horowitz (2001) 94.
\textsuperscript{426} McGarry & O’Leary (2007).
\textsuperscript{427} Lijphart (2006) 43f.
\textsuperscript{428} Coakley (1992) 7.
Scholars, such as Kymlicka, maintain that a failure to protect a group’s rights will necessarily result in a failure to protect the rights of the individual members of the group. One’s dignity will, therefore, be violated if the group of which one is a member is held in a low regard. As Magnet maintains, ‘individuals can only find fulfilment by being members of a social group’. Kaplan also argues that there is a difference in the value that different societies attach to individual rights and group rights. While western states value individual freedom, in other societies people do not desire personal freedom in isolation from their collective freedom. They rather yearn ‘for the sense of belonging that comes from seeing their ethnic, religious, tribal or other sectarian group actualise its many beliefs and govern its own affairs’.

In the human rights sphere the link between group rights and individual human rights is also increasingly recognised. Former international human rights instruments, which were underpinned by the individualist approach, are now re-interpreted to require accommodation of diversity and positive measure for the protection of minorities as part of the protection of the rights of their individual members. In addition, new declarations and conventions which seek to

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433 Magnet (1986) 32.
436 See Kymlicka (2007).
437 It was based on the individualist approach that all major international human right instruments including were drafted. These include the Universal Declaration of Human Rights (UDHR), International Convention on Civil and Political Rights (ICCPR) and other human right instruments were drafted. Therefore these instruments recognise the rights of individuals who
preserve minorities’ identity have been adopted by international, regional and sub-regional organisations including the specialised agencies of the UN.438

Therefore, the issue now is how ethnic minorities can be protected and accommodated, and the obligation that the state has in this respect.439 At the centre of this issue is what positive measures should a state take to accommodate ethnic minorities. For the purpose of this thesis the issue include the role that local government is expected to play in this respect.

4.4. Local government and accommodation of minorities

4.4.1. Introduction

Coakley identifies four principles of accommodating ethnic minorities that can be achieved at different levels depending on the demands of a particular minority ethnic community.440 At the first level, members of an ethnic minority community may demand simple equal social and economic opportunities.441 In such cases, the individual approach suffices to ensure that members of ethnic minorities are not discriminated against.442 At the second level, ethnic minorities may demand non-territorial cultural autonomy through the use of their languages

belong to minority groups not that of the groups per se. This was also the reason why no mention of minority rights was made in the UN Charter. See Kymlicka (2007); Hadden (2005) 31.


in educational and other public institutions.\textsuperscript{443} This calls for a system that protects and promotes the language, culture, and religion of ethnic minority communities through non-political institutions such as special schools or other institutions.\textsuperscript{444} At the third level, minorities may be politically mobilised to demand ‘institutional political recognition’ in the form of internal self-determination through territorial autonomy and the establishment of local or regional governments. Their demand may also extend to a power sharing scheme at central government level, which is known as consociationalism.\textsuperscript{445} At the fourth level, ethnic minorities may demand secession.\textsuperscript{446} This study principally focuses on accommodation ethnic minorities at the third level and, to some extent at the second level. The following sections, therefore, considers whether and how local government can be of use to accommodate ethnic minorities.

### 4.4.2. Territorial autonomy at local level

There is a little agreement among scholars on the exact meaning of territorial autonomy. Hechter defines territorial autonomy\textsuperscript{447} as any territorial arrangement ‘falling short of sovereignty’.\textsuperscript{448} According to Gurr territorial autonomy is a territorial scheme that provides a minority community ‘a collective power base, usually a regional one, in a plural society’\textsuperscript{449}. Nordquist defines an autonomous

\textsuperscript{443} Coakley (2003) 7.
\textsuperscript{446} Coakley (2003) 7.
\textsuperscript{447} The term ‘autonomy’ originated from two Greek words ‘\textit{auto}’ which means ‘self’ and ‘\textit{nomos}’ which means ‘law’ or ‘rule’. The original meaning of autonomy is the right to make one’s own law. Lapidoth (1994) 276.
territory as ‘a territory with a higher degree of self-rule than any comparable territory of a state’. 450 For Palley territorial autonomy may range from ‘devolution of power to small communities, through regionalism, to federal government’. 451 Territorial autonomy is also understood as ‘an arrangement which grants a certain degree of self-determination’ 452 to a distinct minority group which constitutes the majority in a specific region or locality. 453

There are certain common elements that resonate in almost every definition of territorial autonomy. First and foremost, territorial autonomy involves a carving out of a certain territorial entity primarily on the basis of ethnic criteria, in contrast to on the basis of administrative, economic, or geographic criteria. 454 Secondly, territorial autonomy entails the transfer, and not a mere delegation, of certain political power to the autonomous territorial entity. The political powers necessarily include legislative and executive powers. 455 The territorial entity must be allowed to exercise these powers with a certain measure of autonomy. 456

452 The right to self-determination has internal and external aspects. The external aspect of self-determination pertains to determining the ‘international status of [a] territory’. The internal aspects of the right to self-determination, in contrast, relates to ‘the right of all people to pursue freely their economic, social and cultural development’. Wheatley (2005) 107.
Thirdly, territorial autonomy entails the transfer of specific, mainly culture-related, governance areas to the particular territorial entity.\textsuperscript{457} Territorial autonomy does not imply independence nor does it allow secession.\textsuperscript{458} Moreover, unlike federalism or simple devolution, territorial autonomy may not cover an entire territorial area of a country. An autonomous area, therefore, may be established only in specific area/s where ethnic minority community/communities are found.\textsuperscript{459}

It is only when members of ethnic community are found to be geographically concentrated that territorial autonomy serves as a means to accommodate a minority ethnic community. In the main, multi-ethnic states use federalism or regionalism to provide territorial autonomy to ethnic minority communities within their territory.\textsuperscript{460} For instance, Nigeria has adopted what is often described as ethnic federalism since the boundaries of the constituent units of Nigeria’s federation are demarcated largely on the basis of ethnic criteria.\textsuperscript{461} The federation of Switzerland is a classic example of a federation designed to accommodate diverse linguistic and religious communities.\textsuperscript{462} The Belgian federation also aims to accommodate the French and the Dutch speaking communities.\textsuperscript{463} In Canada, Quebec is viewed as the homeland of the French speaking communities while Spain has used regionalisation to empower the Catalan, the Basque, and the

\textsuperscript{458} Benedikter (2009).
\textsuperscript{459} Wolff (2010) 10; Benedikter (2009).
\textsuperscript{460} See Gurr (1993) 229; Kymlicka (2000); Cornell (2002); Steiner (1997); Erk & Anderson (2010); Benedikter (2009).
\textsuperscript{462} See Fleiner & Fleiner (2009).
\textsuperscript{463} Deschouver (2005) 49f.
Galicia.464 Puerto Rico in the USA, Aland Islands in Finland, Zanzibar in Tanzania, South Tyrol in Italy, Nagas in India, and Miskitos in Nicaragua are also autonomous regions.465

Regional structure, nevertheless, may not be sufficient to accommodate ethnic minorities. First, a territorial unit that is occupied by a particular ethnic community that demands territorial autonomy may not be as large as a territorial area that is considered as a region. Second, a region, that is structured to empower a minority ethnic community, may not be ethnically homogenous. Other intra-substate minorities may still be found amongst the regionally empowered ethnic community. The regional dominant ethnic community may deal with the intra-regional minority communities in the same way that the national majority group have dealt with the former.466 As a result the majority-minority tension may still continue at intra-regional level.

Thirdly, and most importantly, regionalisation is not the only mechanism of providing ethnic minorities with territorial autonomy even if in most cases autonomous regimes are created though regionalisation. As indicated above, the most critical element of territorial autonomy is the constitutional transfer of full political power, chiefly legislative and executive powers, to an ethnically organised territorial unit.467 Otherwise, there is no hard and fast rule that requires territorial autonomous regimes to be established only through regionalisation. As

466 Yonatan (2011) 17.
Lapidoth writes, autonomy is ‘a flexible concept’. 468 As Gilbert also notes ‘autonomy is a continuum’. 469 Elazar states territorial autonomy may range ‘from classic federation to various forms of cultural home rules’. 470 The creation of regional units is, therefore, only one of the many territorial options available to accommodate minorities. Therefore, Wheatley writes, local government can be considered as territorial autonomy where it is established based on ethnic criteria and if it allows a particular ethnic community to exercise sufficient political powers. 471 Frankovits states that self-determination may include local autonomy. 472 Lapidoth also seems to suggest that the establishment of local government through decentralisation may be considered as territorial autonomy if it is accompanied by a transfer (as opposed to mere delegation) of relevant powers to the local level government. 473 Buchsbaum observes that ‘the problems of minorities can be solved through greater autonomy at local or regional level’. 474 Likewise, Crook argues that local government, by creating ‘an autonomous sphere of political power or community’ may serve as a ‘strategy that addresses the issue of exclusion or subordination of a mobilised minority’. 475

In addition, various international instruments provide for the accommodation of ethnic minorities through the establishment of ethnic-based local government units. Recommendation 1201 (1993) of Experts of Commission on Security and

470 Elazar (undated).
Co-operation in Europe (CSCE) provides that minorities ‘shall have the right to have at their disposal appropriate local or autonomous authorities or to have a special status, matching the specific historical and territorial situation’.\(^{476}\) Likewise, the Document of the Copenhagen Meeting on the Human Dimension of the CSCE, 29 June 1990, states that local self-government could be used ‘to create conditions for the promotion of ethnic, cultural, linguistic and religious identity of certain minorities’.\(^{477}\) Similarly, the Congress of Local and Regional Authorities in its resolution declared that territorial autonomy may be effective for accommodating minorities where they are found concentrated in a certain municipality.\(^{478}\) The Congress further expressed ‘its conviction that territorial autonomy for minorities should not be restricted to States having federal or regional structures’.\(^{479}\) Thus, local government units, such as, districts and municipalities, may serve as autonomous territorial units of minority groups. A local government unit can be considered as an autonomous area of a particular ethnic community if it is organised on the basis of ethnic criteria and if it has the prerequisite (legislative and executive) political powers.

Practice in some countries, though very limited, also show that local territorial units, such as municipalities, serve to manage ethnic diversity both in unitary and federal states. For instance in the ‘inter-war’ period the Free City of Danzig, the

\(^{476}\) Recommendation 1201 (1993)


\(^{478}\) The Congress of Local and Regional Authorities Resolution 52 (1997) Para 10.

majority of whose residents were Germans, became part of Poland as a result of the Versailles Treaty of 1918.\textsuperscript{480} As part of the agreement, the City became an autonomous area of the German minority. \textsuperscript{481} In Hungary Act LXXVII of 1993 allows ethnic minorities to establish self-government and enjoy territorial autonomy at local level.\textsuperscript{482} Therefore, a local unit is considered a ‘minority local government’ if the majority of the residents of a local unit belong to a particular minority ethnic community.\textsuperscript{483} This is viewed, Teller writes, as ‘a form of territorial autonomy’ at local level.\textsuperscript{484} Likewise, in Macedonia minorities, such as, ethnic Albanians, Serbs, and Turks, enjoy local territorial autonomy where they are found in majority.\textsuperscript{485} Local government is also used for accommodating Serb minorities in Kosovo.\textsuperscript{486} In Russia, there are territorial units known as oblast and autonomous okrug. These units, according to Welhengama, are found at the lowest level of the federal structure\textsuperscript{487} and are meant to accommodate sub-regional minorities.\textsuperscript{488} In Belgium, local government is used to accommodate minority ethnic Germans,\textsuperscript{489} while in Finland it is used to accommodate ethnic Swedes.\textsuperscript{490} According to Benedikter ‘the German Community forms an autonomous entity ... within a precisely defined territory’.\textsuperscript{491} Moreover in

\textsuperscript{481} Hungarian Act LXXVII of (1993) on the Rights of National and Ethnic Minorities, Art 5 (91).
\textsuperscript{482} Hungarian Act LXXVII of (1993) on the Rights of National and Ethnic Minorities, Art 5 (91).
\textsuperscript{483} Teller (2002) 74.
\textsuperscript{484} Teller (2002) 74.
\textsuperscript{485} Todorovski (2002) 40.
\textsuperscript{486} See Tahiri (2009); Monteux (2006) 177ff.
\textsuperscript{489} Deschouwer (2005) 49f.
\textsuperscript{490} Kymlicka (1995) 119.
\textsuperscript{491} Benedikter (2009) 119.
Switzerland local units are used to accommodate ethnic minorities. Fleiner and Basta Fleiner note that local government units in Switzerland are structured in the form of small municipalities. This has allowed the territorial management of ethnic diversity at local level in multi-ethnic or multi-lingual cantons. A typical example is the ‘tri-lingual’ canton of Garison where one finds ‘small Romansh-speaking Protestant as well as Catholic municipalities and German speaking Protestant as well as Catholic municipalities side by side within a small area’. The municipalities have the power to decide on cultural matters and on matters relating to education. As they have tax revenue to implement their decisions, the communities ‘do not fall into conflicts’.

4.4.2.1. Concluding remarks

The above discussion shows that one approach to accommodating politically mobilised minority ethnic community is providing the community with territorial autonomy. The discussion also shows that territorial autonomous regimes are in the main created though regionalisation. However, if local territorial units are ethnically organised, and if they have sufficient and relevant political powers, they may also be considered as autonomous territorial units of the relevant ethnic community. This raises another question i.e. what are the benefits of providing an ethnic community with territorial autonomy? What are the dangers it poses, if any? The following section will answer these questions.

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4.4.2.2. The advantages and disadvantages of territorial autonomy

Advantages

Territorial autonomy, whether it is established at regional or local level, has several benefits both for the relevant minority ethnic community and the state as a whole. The most evident advantage of territorial autonomy is that it provides the relevant ethnic minority with the necessary territorial space to preserve its identity, culture, and language. This is based on the premise that preserving ethnic and cultural differences is an ‘ideal’ which ‘[enriches] human experience and [expands] human potential’. Based on this premise scholars argue that territorial autonomy counters homogenisation. By so doing autonomy not only ensures the ‘survival’ but also a ‘complete development’, of the cultures and languages of minority ethnic communities. As Cornell argues, territorial autonomy sustains, promotes, and enhances identity.

It is also claimed that territorial autonomy allows minorities, who are often not included in the political process at national level, to participate in the process in their ‘immediate environment’. It also strengthens self-determination and self-rule of minority groups. This provides the state as a whole a measure of legitimacy. Such arrangement also introduces a certain degree of ‘constitutionalism’ by distributing power to different levels of government.

Scholars also argue that autonomy has the potential to prevent an imminent conflict or to resolve an on-going one. This argument is based on the assumption that ethnic conflicts often have a territorial dimension. 502 Braathen and Hellevik maintain that in many African countries, conflicts are caused when claims for territorial autonomy are rebuffed. 503 A promise of some form of territorial autonomy is, therefore, often seen as a condition for conflict resolution. Most of successfully settled conflicts have also involved some form of territorial autonomy. 504

Territorial autonomy also allows minorities to exercise a certain measure of control over natural resources within the territorial entity. 505 This also impacts on peace since ethnic conflicts are caused by real and perceived discriminatory resource distributions and violations of rights of a particular group occupying a particular territory.

Disadvantages

The idea of creating ethnic-based autonomous territorial units also causes immense practical challenges and poses serious risks, particularly in Africa. As has been discussed above, some European and other states have attempted, and to some extent succeeded, to accommodate ethnic minorities by establishing autonomous regimes at regional or local level. However, most of these states have only one or a few more ethnic minority communities. Therefore, in these

countries, the use of territorial schemes to accommodate minorities was undertaken fairly easily. It is debatable, however, whether this can be achieved with same ease in the African context. Most of the sub-Saharan African states are so ethnically diverse that many of them do not have even an ethnic community which constitutes a national majority. It is controversial whether it is feasible or even desirable to afford either regional or local autonomy for each ethnic community in such contexts.

In addition, it is not an ‘ideal’ in a state with many ethnic communities, to create a territorial unit for each ethnic community, even if it could be achieved. As Seiner maintains, it rather constitutes ‘a counter ideal of locking into place the historical differences among groups’. Such measure renders a state ‘a museum of social and cultural antiquities’. It accentuates division, legitimises separateness, alienates groups from one another, makes social cohesion unattainable, and enfeebles a ‘sense of common humanity’. Hence, by restricting interaction among groups, territorial autonomy destroys all unifying elements.

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506 Mozaffar and Scarritt write that there are more than 1, 200 ethnic communities in Africa. Many of these ethnic communities are also divided into several tribes and clans. Moreover, most of the ethnic communities are too small to exercise territorial autonomy. Mozaffar and Scarritt (1999) 236.


508 Steiner (1991) 1552.


511 Steiner (1991) 1554.

In addition, the territorial approach cannot be implemented to the satisfaction of every ethnic community, especially in Africa. This is because, even if local territorial units are established based on ethnic criteria, it is not likely that such local units will be ethnically homogenous. This is likely to create new minorities, within the minority regime, who may be subjected to domination. Thus, this may ‘simply reproduce and [entrench] the problems of the national level’. Furthermore, territorial autonomy puts all individuals who reside in the autonomous local territorial unit under the jurisdiction of the local unit. This is despite the fact that there may be internal migrants who do not belong to the minority community which is meant to enjoy territorial autonomy in the territorial unit. This often creates minorities within minorities that are vulnerable to discrimination or assimilation.

Concluding remarks

As the above discussion shows, territorial autonomy as a means of accommodating minority ethnic communities has several shortcomings. However, even if territorial autonomy is not an ‘ideal’ solution, in some contexts, the need to resolve on-going conflicts or to prevent conflicts may justify the establishment of autonomous regimes either at regional or local level. Hence, the usefulness or otherwise of local territorial autonomy should be evaluated in context. One thing is clear though: territorial autonomy can be a risky project unless ‘designed, created, and maintained with necessary safeguards’.

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514 Cook (undated) 405; Monteux (2006) 165.
then the institutional features of a workable territorial autonomous regime? The following section will deal with this matter.

4.4.2.3. Institutional features of territorial autonomy at local level

Introduction

As the preceding discussion shows, ethnic minorities may justifiably demand territorial autonomy. Local government units, such as, municipalities and districts, with sufficient political power, may also be used to provide a certain measure of territorial autonomy to ethnic minorities (both national and intra-regional minorities). The most obvious objective of providing territorial autonomy to an ethnic community is to allow it to exercise self-rule.\textsuperscript{519} As the discussion below shows, territorial autonomy may also be complimented with shared-rule.

Self-rule

Self-rule embodies the idea of political autonomy.\textsuperscript{520} Political autonomy in turn implies ‘the exercise of final responsibility by the sub-national governments on a range of matters’.\textsuperscript{521} Therefore, self-rule embodies the idea of ‘constitutionally entrenched powers ...to exercise control over some or all of ... own economic, political, social and cultural affairs’.\textsuperscript{522} Self-rule has a territorial dimension which entails that local boundaries be demarcated based on the settlement structure of the ethnic group which seeks to exercise territorial autonomy.\textsuperscript{523} It also entails the establishment of government institutions, including political and

\textsuperscript{519} Henders (2010) 12.
\textsuperscript{520} Watts (2008) 8.
\textsuperscript{521} Watts (2000) 948.
\textsuperscript{522} Yonatan (2010 a) 41.
\textsuperscript{523} Benedikter (2009) 19.
administrative organs, which are necessary for exercising self-rule.\(^{524}\) Moreover, it entails the division of functions and powers, and resources.\(^{525}\) The above three elements are enshrined in a national and, where applicable in sub-national constitutions, as constitutional principles.

*Constitutional principle*

One of the central elements of territorial autonomy, whether it is established at regional or local level, is that the central government has limited power to revoke the autonomous regime.\(^{526}\) The abrogation of the autonomous regime can take place only in accordance with constitutionally defined procedures and often with the consent of the minority community enjoying territorial autonomy at local level.\(^{527}\) To this end, a national constitution provides a general principle recognising the right to self-determination or territorial autonomy of a minority ethnic community in a country.\(^{528}\) It may also specifically refer to the particular autonomous areas.

In addition, as indicated earlier an ethnic minority community may be an intra-regional or intra-provincial minority which is found among other ethnic community which is constitutionally empowered to exercise self-rule at regional level. Often when an ethnic community enjoys territorial autonomy at regional level through regionalisation or some form federal arrangement, it is also


\(^{528}\) The Spanish Constitution (1978) Art 143 (1) provides a general right to establish autonomous communities to those with ‘common historic, cultural and economic characteristics, island territories and provinces with historic regional status’.
empowered to decide on its internal affairs and to determine its political structure by adopting its own constitution or a legislative instrument with similar content, purpose, and status.\textsuperscript{529} Through the sub-national constitution, the regional unit, among other things, is entitled to set its ‘social and political goals’ and define the rights it seeks to protect. It is also entitled to determine the structure of its governmental institutions, to decide on its official language, to create and structure local government, and to determine who its citizens are.\textsuperscript{530} In effect, matters relating to intra-regional minority communities become the competence of the autonomous regional unit. In such cases, a regional constitution may also provide a safeguard for the autonomous territorial regime which is created at local level within such autonomous region.

\textit{Ethnically organised territorial entity}

\textsuperscript{529} This is the case, for example, in most federal and quasi-federal systems, including Switzerland, South Africa, Canada, and the USA, where the constituent units are allowed to adopt their own constitutions. The autonomous communities of Spain also have the power to determine their internal structure including local government. Thus, Catalonia and Basque have a quasi-constitutional instrument called ‘the Statute of Autonomy of Catalonia’ and ‘Statute of the Basque Country’, respectively. Quebec has a set of legal rules which together constitute the Constitution of that province. Watts (2000); Tarr (2008). See also the Constitution of the Republic of South Africa (1996) S 104(a); Spanish Constitution (1978) S 146.

\textsuperscript{530} Tarr (2008) 192.

\textsuperscript{531} Watts (2000) 946; Tarr (2008) 192. Yonatan suggests that the national constitution should not deal with intra-substate matters; matters relating to sub-regional governance included. Local matters should be left to the sub-national units; a contrary arrangement would allow the national government to undermine the autonomy of the regional unit under the pretext of protecting intra-substate ethnic minorities. Nevertheless, the regional unit cannot be fully entrusted with the protection of intra-substate ethnic minorities. To balance regional autonomy with the need to protect intra-subregional ethnic minorities, the national constitution should provide a general normative principle which requires the regional units to guarantee the right to self-rule of intra-substate ethnic minorities. The details should be provided in sub-national constitutions. Yonatan (2010 b) 12ff.
As was mentioned above, territorial regimes serve the purpose of accommodating ethnic minorities when the latter are found concentrated in a particular geographical area. In order for an ethnic minority group to be able to exercise self-rule at local level, therefore, members of the minority group must be found geographically concentrated in a particular locality, constituting a majority in that locality. Local self-rule, therefore, involves the creation of a territorial unit which is organised chiefly based on ethnic criteria. A clear demarcation of the boundaries of such territorial unit is critical to territorial autonomy since boundaries determine the territorial space where the benefit of autonomy is enjoyed. Moreover, the territorial space where the local government unit may legitimately exercise its political powers is determined through boundary demarcation. Boundaries also determine the territory based resources over which the local self-government may exercise a certain measure of control. Besides, a clear demarcation of local boundaries also helps prevent conflicts and maintain peace and stability as boundary related disputes often lead to violent conflicts.

**Governance structure and democracy**

As indicated above, one of the most critical elements of territorial autonomy is the power to exercise legislative and executive powers over certain cultural matters are among. This in turn entails the establishment of government institutions through which an ethnic minority may exercise these political powers. The government institutions which need to be established must include representative assemblies, and executive and administrative organs. As Cornell writes, ethnic-based autonomous units ‘typically’ have representative council and executive organs ‘that act as legitimate representatives of their ethnic

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constituencies and constitute legitimate decision-making bodies’. Benedikter also argues that an autonomous territorial unit by definition has a ‘locally elected legislative assembly...with a minimum power to legislate in some basic domain’. It must also have an executive which is elected either directly by the voters or by the local council. The executive organ should be responsible for implementing the decisions of the former.

The establishment of representative institutions, in turn, entails conducting regular democratic elections which is a vital component of self-rule. As Loper argues, the notion of the right to internal self-determination implies a representative democracy. Democracy is essential for the enjoyment of local territorial autonomy. First, democracy mitigates the possibility of the central government (whether the regional or national government) undermining the autonomy of the intra-substate unit and tramping on local decisions. Secondly, competitive democracy prevents the possibility of the central government playing a role of ‘patronage’ by appointing loyalists from among the members of the ethnic minority groups. As Ghai states, democracy not only ‘compels’ local leaders to protect the autonomy of the local units but also ‘empowers them to do so’. Thus, as Tranchant notes, democracy should be ‘a perquisite for local

537 Benedikter (2009) 49.
541 Ghai (2000) 22.
empowerment’.

Without democracy the establishment of local self-government will result in the location of the oppression being shifted from the centre to the local level; which may be even worse.

Electoral system

An issue related to local democracy is whether there is any particular electoral system that is particularly suitable where an autonomous area is created for a particular ethnic community at local level. In general there are two options as far electoral system is concerned; a plurality system and a proportional representation system. The plurality electoral system, which uses electoral constituencies, aims to identify a winner in elections. Representativeness of electoral outcomes is of secondary consideration, if at all. The proportional representation system, in contrast, principally seeks to ensure representativeness. The strength of the PR system, therefore, is that it prevents unfair and exclusionary distribution of seats in representative assemblies.

Clearly, the electoral system should allow the ethnic community on whose behalf a local territorial unit is established, to be in control of the council of the territorial unit. Otherwise the whole purpose of the establishment of an autonomous area for an ethnic community would be defeated. Territorial

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543 Plurality-majority electoral system (in short plurality system) has different variations. The plurality system is called First-past-the–post (FPTP or FPP) when it uses a single member district and block -voting system when it uses multi-member districts. The PR system also may take the form of Mixed Members Proportional (MMP), list PR or Single Transferable Vote (STV) systems of which the list PR is the most known. Reynolds, Reilly, & Ellis (2005) 28.
544 Reynolds (1999) 94.
545 Sartori (1994) 3.
autonomy at local level presupposes carving out a territorial area wherein an
ethnic minority group is found to be in the majority. It can be, therefore, safely
assumed that a proportional representation electoral system would result in a sub-
regional council which is largely dominated by the particular ethnic community
on whose behalf the sub-regional territorial unit is created. A plurality electoral
system may also have similar results if the ethnic community is found in the
majority in most of the electoral districts of the autonomous territorial unit. It is
nonetheless likely that there will still be other minorities amid the ethnic minority
groups which is provided with territorial autonomy. The need to ensure the
accommodation of these communities without compromising the interests of the
ethnic community which is meant to enjoy territorial autonomy at local level may
necessitate a proportional representation electoral system. Moreover, members of
the ethnic community on whose behalf the local territorial unit is created cannot
be expected to hold a single political view. A political competition is, therefore,
liable to occur within the ethnic community. In such cases, the plurality system
may allow the representation of the relevant ethnic community. It may not,
however, ensure the representation of all ‘significant’ political views within the
ethnic community. Therefore, for the purpose of ensuring that various political
views within a minority ethnic community are adequately represented, Wolff that
maintains proportional representation is the preferable electoral system.

Competences

The other element of self-rule is transferring powers and functions to the government of the sub-regional territorial unit. The competences that are to be so transferred may depend on whether the local unit is meant to address only cultural issues or, additionally, other social, economic and developmental matters. As Henders states the competences so transferred may include matters relating to ‘economic development, environmental protection, and social policy’. These may include local planning, natural resources, economic development, housing, health, and other social services. These governance areas are ‘important to the ability of a community to protect its values and way of life’.

There are, however, certain culture-related functions that should in any event be transferred to ethnic-based local territorial units. The first in this respect is a competence in respect of language. It is axiomatic that language is central to ethnic identity. As Smith argues, language is not only mere speech but ‘also a carrier of culture, of individual, community and even national identity’. Hence, it is important to provide some form of official status to the minority language in the autonomous locality. This may include using the language of the ethnic minority group in schools, as a means of instruction, and as the working language of the legislative, executive, administrative, and judicial organs of the local self-government. Therefore, legislative and administrative acts of local government may be published in the language of the ethnic group. Documents, such as,

identification cards, birth, death and marriage certificates may also be issued in the language of the ethnic group. Moreover, street signs and other adverts may be written in the official language of the local self-government. In Macedonian, for instance, a municipality may adopt as its official language the language which is spoken by 20 percent of the local community.\textsuperscript{557} Therefore Albanian, Turkish, Serbian and Romani languages are used for official purpose in various localities.\textsuperscript{558}

Education is also an important function that needs to be transferred to local self-government.\textsuperscript{559} Control over education is critical for minority ethnic groups because education ‘is central vehicle of cultural transmission’.\textsuperscript{560} Moreover, schools have been used to discriminate against ethnic minority groups by excluding them as ‘uneducable’.\textsuperscript{561} Public schools also exclude the history and culture of ethnic minority groups from their curricula ‘leading minorities to feelings of invisibility, inferiority and second-class citizenship’.\textsuperscript{562}

There are also other culture-related functions which may be transferred to local self-government, including, radio, television, public libraries, cultural centres, and the like.\textsuperscript{563}

\begin{itemize}
\item \textsuperscript{557} Lyon (2011) 34.
\item \textsuperscript{558} Lyon (2011) 34.
\item \textsuperscript{560} Riech (2004) 210; Cornell (2002) 254.
\item \textsuperscript{561} Yi (2007).
\item \textsuperscript{562} Riech (2005) 210.
\item \textsuperscript{563} Benedikter (2009) 52; Cornell (2002) 255.
\end{itemize}
Henders argues that fiscal autonomy is critical for a political autonomy of an autonomous territorial unit. Fiscal autonomy is also likely to impact on the effectiveness of the local self-government in promoting and developing the culture and language of the ethnic group for which it is established. Building schools, publishing books in the language of the ethnic minority, hiring teachers, and establishing other cultural centres, all require adequate funds. In addition, it impacts on peace given that ethnic conflicts are often caused or exacerbated by unjust resource distributions. Therefore, it is essential that there is some form financial sources over which the ethnic based local territorial unit has unhindered control.

In order to ensure the financial autonomy of an autonomous regime, Henders suggests that such territorial units must be able to ‘raise and keep locally generated tax revenue, set tax rates, and determine how revenue is spent’. Bird and Ebel also argue that internal revenue may be complemented with inter-governmental transfer. They argue a system of inter-governmental revenue transfer may help create a ‘sense of national-solidarity’.

### 4.4.2.4. Shared-rule?

Shared rule is an institutional principle which is often associated with a federal system and aims to ensure that the constituting units of a federation are
represented in a central government.\textsuperscript{569} Territorial autonomy conceptually does not entail shared-rule so as to allow local units to be represented in the sub-national and national government organs.\textsuperscript{570} However scholars argue that territorial autonomy, whether exercised at regional or local level, should be complimented with shared rule. As Henders writes:

‘Regardless of form or degree, territorial autonomy is not independence, and it cannot do away with interdependence. Autonomous territories are subject to the authority of state-wide governments in some policy areas. Its people also have common citizenship rights with the population of the state as a whole, even if they also possess distinctive rights connected with the substate territory. Moreover, territorial autonomy is not only about separation, in the sense of protecting the minority territorial community from external preferences that can harm its distinctive values. Territorial autonomy is necessarily also a means of organizing relations of interdependence with the wider state and other political communities within and beyond. As such, territorial autonomy arrangements often include the sharing of some competencies with state or other substate authorities.’\textsuperscript{571}

In general shared-rule is considered to be important for three reasons. First, it is essential to protect the autonomy of an autonomous unit (whether regional or local) from undue interference by national and sub-national governments. The decisions of national and sub-national governments are likely to affect the autonomy of a local or regional autonomous entity. Therefore, the representation of ethnic minorities or the autonomous local units in sub-national and national institution allows them to influence the policies and decisions that have a bearing on their autonomy.\textsuperscript{572} Secondly, the representation of ethnic minorities in sub-

\textsuperscript{569} Watts (2008) 136.
\textsuperscript{570} Benedikter (2009).
\textsuperscript{572} This is central justification of shared rule in federal systems.
national and national institutions is an integrative institutional arrangement which promotes unity. 573 Thirdly, shared rule helps harmonise local preferences with national and sub-national priorities. This is especially important because, even if territorial autonomy is accompanied by devolved power which is carefully defined, the lack of clarity which is liable to arise from the practical application of devolved powers and competences requires co-operation among the various levels of government for it to be resolved. 574

Concluding remarks

The discussion in the above sections shows that in certain instances establishing autonomous territorial units at the local level may be a suitable method of accommodating a minority ethnic community. Territorial autonomy first and foremost allows ethnic minority to exercise self-rule. Self-rule in turn allows ethnic a minority ethnic community to enjoy political autonomy. Hence it involves a constitutional principle recognising the right to self-rule of an ethnic community, an ethnically organised territorial unit, governance structures (including legislative and executive organs) and sufficient sources of revenue. Self-rule should be complemented by shared-rule. Shred-rule is about the representation of the autonomous local unit, or the ethnic community for whom such unit is established, in regional and national government organs.

As indicated earlier, a minority ethnic community may be accommodated through schemes of power sharing or by providing it cultural autonomy depending on its demand. 575 The following sections will examine these two methods of

573 See Assefa (2007a) 141.
575 See above at § 4.4.2.
accommodating ethnic minorities and the relevance of local government in this regard.

4.4.3. Consociationalism for accommodating minorities at local level

Consociationalism, also known as power-sharing or consociational democracy, is an institutional arrangement that seeks to ensure that political power is shared among various ethnic, religious, racial, or any other social groups of a country depending on the social divide in a particular country.\(^{576}\) Power-sharing, as formulated by Lijphart, takes place through the co-operation of the leaders of the various social groups.\(^{577}\) In a country where society is divided along ethnic line, consociation democracy advocates power sharing and co-operation among the leaders of key ethnic communities of the country.

Consociationalism is considered to be a workable arrangement in a society which is segmented by social divides and where ‘overarching loyalty’ and ‘social mobility’ between the social segments is absent.\(^{578}\) Therefore, it aims to maintain a political ‘equilibrium’ by preventing a ‘permanent exclusion’ from power of any ethnic or other social group. This is based on the premise that majoritarian democracy does not work in divided societies as it allows state power to be concentrated into a particular social group. This, in turn, relegates others to a ‘permanent minority position’.\(^{579}\) Consociationalism, therefore, seeks to prevent decision making on a majoritarian basis and seeks to accommodate various

\(^{577}\) Lijphart (2006).
\(^{578}\) Andeweg (2000) 511.
political interests ‘through compromise or amicable agreement’ among the political elites.\(^{580}\)

Consociational democracy or a power-sharing is in the main implemented at national government level. Several states, including the Netherlands, Lebanon, Belgium, Bosnia, the former Czechoslovakia, Northern Ireland, and South Africa, have implemented consociational democracy at a particular point in time.\(^{581}\) Recently, some form of power-sharing scheme has become the most preferred arrangement in post-conflict countries such as Kosovo, Cyprus, Bosnia-Herzegovina, and Macedonia.\(^{582}\)

Some scholars, however, argue that the usefulness power-sharing is not limited to ‘national politicking’; it may also take place at local level.\(^{583}\) Power sharing might be even more useful in ethnically heterogeneous localities to ensure the representation of minorities in local councils, local executive bodies, and administrative offices.\(^{584}\) Such kind of special representation at local level is important because minorities are affected more by ‘local situations’ than at national level. A scheme of power sharing at local level has the potential to enhance the prospect of maintaining ‘inter-ethnic power equilibrium’ even where it is unbalanced at the national level.\(^{585}\) Hence, through decentralisation and the

\(^{580}\) Andeweg (2000) 511.
\(^{581}\) Bieber (2005) 107.
\(^{582}\) Bieber (2005) 107.
\(^{583}\) Wolff (2009) 30; Daskalovski (2000).
\(^{585}\) Daskalovski (2000) 129.
creation of autonomous local government, the representation and accommodation of diverse segment of a community can be ensured.

There are certain examples, though limited, of accommodating ethnic minorities in local government through power sharing schemes with a degree of success. In Slovenia, for instance, the autochthonous communities of Hungarian and Italian origin are guaranteed representation based on a power sharing scheme in local councils. In local councils these communities are represented by one or more councillors.\(^{586}\) In Macedonia, not only are the various ethnic communities proportionately represented in local councils, special voting procedure is also used for passing certain decisions with a view to ‘ensure greater consensus’.\(^{587}\) Hence certain decision ‘cannot be approved without a qualified majority of two-thirds of votes, within which there must be a majority of the votes from those claiming to belong to non-majority communities.’\(^{588}\)

4.4.3.1. Deficiencies of consociational democracy

As some scholars point out, power sharing arrangements have a number of shortcomings. The most critical deficiency of such a scheme is that it goes against democratic principle as it shuns the participation of the relevant ethnic community and encourages backdoor deals among the elites.\(^{589}\) Moreover, power-sharing does not strive to create social cohesion. It rather aims to prevent contact among ethnic communities and thereby not only maintaining ethnic divisions but

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also reinforcing them. Many authors agree that in a post conflict period, power sharing arrangements may create some calm and provide a window of opportunity for formulating more democratic and permanent political arrangements. However they maintain that it cannot be a long-lasting solution.

4.4.3.2. Institutional features consociationalism

There are three institutional features of consociational democracy. The first is ‘segmented’ or ‘group’ autonomy. This aims to allow each ethnic community to autonomously decide on its own affairs. Matters relating to education and culture fall in this category. The autonomy may take territorial or non-territorial form. The second is proportional representation. This entails the establishment of an executive coalition with the representation in the executive of the leaders of each ethnic community. It also requires the proportional representation of the main ethnic communities in representative assemblies. To this effect, consociational democracy requires proportional representation electoral system. Consociational democracy also requires the equitable distribution of public offices among members of the various ethnic communities. The third element is mutual veto. Decisions are passed with consensus and minorities should be able to veto decisions that most directly affect them.

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4.4.4. Cultural autonomy

Cultural (also personal) autonomy\textsuperscript{599} is a non-territorial form of autonomy which aims to protect territorially dispersed ethnic, cultural or religious groups in heterogonous countries or regions.\textsuperscript{600} Cultural autonomy aims at protecting and promoting the language, culture, and religion of ethnic minority communities through non-political institutions such special schools for ethnic or religious minorities.\textsuperscript{601}

The earliest form of cultural autonomy can be traced back to the 18\textsuperscript{th} century in the Polish-Lithuanian Commonwealth which provided cultural autonomy to the Jewish community. The Jewish community had a local council which decided on cultural matters and which was also represented at regional council (kahal), and national council (vaal).\textsuperscript{602} These institutions decided on religious, cultural and even economic issues of the Jewish community in the Commonwealth. Cultural autonomy was also used in the Ottoman Empire to accommodate non-Muslim minorities such as the Jews and the faithful of Greek Orthodox Church.\textsuperscript{603} With the dismemberment of the Austro-Hungary Empire after WWI, the newly created countries such as the former Czechoslovakia, Estonia, and Latvia attempted to accommodate their territorially dispersed ethnic minorities through non-territorial mechanism. In Finland the Swedish minorities run their own school while in Estonia an ethnic community, with 3000 and more members who voluntarily


\textsuperscript{600} Cornell (2002) 249.


\textsuperscript{602} Coakley (1994) 299.

\textsuperscript{603} Coakley (1994) 299; Lapidoth (1993) 280.
identified themselves as members of the group, was given a legal personality. Once given a legal personality, the group could have its own cultural council which had the power to levy taxes on its member and decide on matters such as ‘[e]ducation, culture, libraries, theatres, museums, sports and youth affairs’. More recently, a tri-cameral parliament was established in South Africa for the Whites, Asian and Coloured communities whose members were elected on non-territorial basis. Despite its racist underpinnings this arrangement was considered as a form of cultural autonomy.  

Even now, certain countries attempt to accommodate minorities on non-territorial basis. In New Zealand the Maoris, in Canada the Indians, and in Norway the Saamis are accommodated on non-territorial basis.

4.4.5. Concluding remarks

The discussion in the preceding sections has outlined the institutional principles that can be employed for accommodating intra-substate ethnic minorities through territorial and non-territorial arrangements. The following section will bring together and synthesises the entire discussion of this chapter.

5. DECENTRALISATION, DEVELOPMENT, AND ACCOMMODATION OF MINORITIES: A SYNTHESIS

The §.3 and § 4 have separately analysed whether, how, and when decentralisation can serve as an institutional arrangement to achieve development and accommodate ethnic minorities. The discussion has

\[^{604}\text{Coakley (1994) 307.}\]
\[^{605}\text{Coakley (1994) 307.}\]
\[^{606}\text{Coakley (1994) 307.}\]
\[^{607}\text{Coakley (1994) 307.}\]
identified the strengths and deficiencies of decentralisation as an institutional device for development. It has also shown how local government can serve as an institutional response to the challenge of accommodating minority ethnic communities. The institutional prerequisites which are likely to optimise the effectiveness of local government in achieving these two objectives have been identified.

Achieving development and accommodating minorities is not an either-or matter. An ethnic minority is sure to be disgruntled unless its developmental needs are not fulfilled even if it is allowed to decide on its cultural matters. Achieving both objectives is therefore critical. Moreover, as the summary in the table below shows, the institutional principles that have to be employed for achieving the two objectives are not necessarily mutually exclusive even though they may not be identical.

Table 1 A summary the institutional principles for decentralised development and accommodation of minorities

<table>
<thead>
<tr>
<th>Institutional features</th>
<th>Development</th>
<th>Accommodating minorities</th>
</tr>
</thead>
<tbody>
<tr>
<td>Constitutional recognition</td>
<td>Constitutional recognition of local government as a level/sphere of government</td>
<td>Constitutional recognition of the right to self-rule of ethnic communities</td>
</tr>
<tr>
<td>Area of establishment</td>
<td>On wall-to-wall basis</td>
<td>Only in a specific geographical area where a minority ethnic</td>
</tr>
</tbody>
</table>

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Therefore, a well-considered harmonisation of these institutional features will be necessary. This chapter does not seek to discuss on how these institutional principles can be harmonised. Rather based on these institutional principles, the successive chapters will examine Ethiopia’s local governance system.

6. CONCLUSION
This chapter has discussed whether, how, and when decentralisation may serve as an effective institutional device for achieving development and accommodating ethnic minorities. It has also outlined the various institutional principles that are
suggested by scholars and institutions that a decentralisation programme should fulfil in order to effectively achieve either of these two objectives.

Against these institutional principles, the succeeding chapters will evaluate Ethiopia’s decentralisation programme and its appropriateness to the objective that it has set out to achieve, namely realising development and accommodating intra-substate ethnic minority communities. To this effect, the next chapter will provide a historical background on Ethiopia’s previous local governance system. The historical discussion is necessary as the decentralisation programme aims to correct problems allegedly caused by previous centralised system of governance.
Chapter 3
Local administration, development, and ethnicity in Ethiopia: A historical perspective

1. INTRODUCTION

The appropriateness of Ethiopia’s local government system for achieving development and accommodating minorities cannot be fully explained or fairly evaluated without reference to the country’s political, social, and legal history. The historical discussion is especially important because the new local governance system was introduced based on an explicit or implicit supposition that the previous centralised system of governance either caused or exacerbated the prevalence of poverty and in the country. 608 It is also based on an allegation that the former system has caused or resulted in the political, economic, and cultural marginalisation of scores of ethnic communities of the country.

This chapter, therefore, provides a brief account of Ethiopia’s previous system of local of governance. In view of that, § 2 briefly describes Ethiopia’s geography, demography and economic system. §3 will briefly describe the system of local governance that existed since the emergence Ethiopia as a state until the emergence of ‘Modern Ethiopia’ in the 1850s. This section also briefly explains the various traditional authorities that existed in Ethiopia and their role. § 4 and § 5 will look at the emergence of ‘Modern’ Ethiopia and the gradual centralisation of power and bureaucratisation of local administration of the country. These sections will also assess the impact of centralisation on development and management of the ethnic diversity the Ethiopian people. The factors and

608 See the discussion in chapter 4 § 5.
processes that led to the current process of decentralisation will be highlighted in § 6 and 7.

2. GENERAL FACTS ABOUT ETHIOPIA

Ethiopia is found in the Eastern African Region which is commonly referred to as the Horn of Africa. The country shares borders with Djibouti, Eritrea, Somalia, Kenya, the Sudan, and South Sudan. With a total area of 1 104 300 sq. km. Ethiopia is among the largest countries in Africa. 609 Ethiopia’s elevation ranges between -125m below sea level at Danakil depression to 5,620 at Ras Dejen (Dashen) Mountain in the north. The landscape of the country is principally a high plateau, with chains of mountains in the east and west, running parallel from north to south, with the Great East African Rift Valley cutting through the mountain ranges from north to south. 610 The country also has a wide expanse of lowlands in the south-east and north-east. 611

The population of the country is estimated at 80 million. 612 The majority of the people (62 %) are Christians (Orthodox, Catholic and Protestant). 613 Muslims account for 34 % of the population. 614 There are approximately 80 ethnic communities in Ethiopia. The Oromos constitute the largest ethnic community in

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Ethiopia, accounting for 34.5 percent of the total population, followed by the Amharas 26.9 percent, the Somali 6.2 percent and the Tigre 6.1 percent.\footnote{See chapter 4 at Table 2.}

Ethiopia’s economy has traditionally been based on agriculture which contributed up to 90 percent to the country’s GDP. There are, however, some reports that show that the service sector has overtaken the agriculture sector as the leading economic sector.\footnote{MoFED (2010) 4-5.} In 2009/2010, for instance, the average contributions to the national GDP of the agriculture, the industry, and the service sector were 41.6 percent, 12.9 and 45.5 percent respectively.\footnote{MoFED (2010) 4-5.}

3. **LOCAL GOVERNANCE FROM AXUM TO THE EMERGENCE OF ‘MODERN ETHIOPIA’**

Historian claim that Ethiopia has a more than 2000 years of existence as a state tracing the country’s origin to the Axumite Civilisation (Axumite Kingdom) which arose in the northern part of the country around the 10th Century B.C.\footnote{Markakis (1975) 1; Bahru (2002) Teshale (1994).} They maintain that the Axumite Kingdom was one of the most powerful, rich, and well known civilisations in the world and demonstrate as evidence for their claim relics of stelae, ruins of palaces, and other artefacts.\footnote{Bahru (2002) 8.} There is no concurrence among historians concerning the territorial extent of the Axumite Kingdom, in particular its southern boundaries.\footnote{Bahru (2002) 8; Teshale (1995); 41.} There is a general agreement
though that the present day the State of Eritrea, Tigray, and Amhara were within the domain of Axume.  

From the time of the Axumite Kingdom until the emergence of ‘Modern Ethiopia’ in the 1850s, decentralised rule was the dominant feature of the country’s political structure in which ‘triple layers of authority’ co-existed. At the centre was an emperor who exercised a central authority. Regional or provincial and local authorities also exercised power autonomously within their respective territorial domains. Some scholars maintain that the country’s governance system was characterised by the co-existence of ‘double’ authorities; regional lords and a central throne. It is important, however, to note that local authorities were equally autonomous within their realm. Hence, Ethiopia’s decentralised system can be characterised as a co-existence of triple authorities; local, regional, and central. Ethiopia was a decentralised state primarily due to its colossal territorial size, its rugged and broken landscape, the economic and cultural diversity of the people, and the absence of infrastructure, especially roads connecting the various regions. These factors hindered centralised rules and led to the creation of historical regional and local boundaries which, in turn, reinforced the social and economic diversity of the people. Thus, localities had significance in the lives

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of the Ethiopian people. In fact localities often had a more prominent impact on the people’s life than the regions.\textsuperscript{627} As Teshale notes, in Ethiopia ‘the parish... defined one’s identity’ even though ‘Ethiopian nationalism’ was felt strongly at a time of foreign aggression.\textsuperscript{628} Even now people tend to identify themselves with the localities of their birth. It is common to hear people say that ‘I am Manzé, she is Yifaté, or he is Agamé’.\textsuperscript{629} Manze, Yifat and Agame are, but small localities in the present day Amhara and Tigray regions. Most of the current local government boundaries are also drawn based on these historical boundaries.\textsuperscript{630}

3.1. Traditional institutions of local governance

3.1.1. Introduction

Ethiopia’s territorial enormity and the rough terrain together with the social, economic, and cultural diversity of the people had resulted in the emergence of diverse endogenous local administrative institutions throughout the country. A detailed discussion of each of the traditional institutions local administration is beyond the scope this thesis. The following section will, therefore, provide a brief depiction of some of the traditional local authorities and institutions of local administration of northern and southern Ethiopia.

3.1.2. Traditional local administrative institutions of northern Ethiopia

The area which is referred to as the ‘northern Ethiopia’ is that part of Ethiopia which was within the domain of the Axumite Kingdom. This included, as

\textsuperscript{627} Gebru (1991) 36.
\textsuperscript{629} Gebru (1991) 10.
\textsuperscript{630} Kinfe (1994) 26.
indicated above, the area of the present day State of Eritrea, Tigray and Amhara region.\textsuperscript{631} This part of Ethiopia was also known as the Abyssinian Empire.\textsuperscript{632}

The Abyssinian Empire had five provinces or regions: The Tigre (which includes the present Tigray and Eritrea), Gojam, Wollo, Gonder (Begemidir), and Showa.\textsuperscript{633} Each of these regions was ruled either by a \textit{Ras} (head) or a \textit{Nigus} (king).\textsuperscript{634} At the centre was the \textit{Niguse-Negest} (King of Kings or Emperor) whose central authority was recognised by the regional rulers. The regional rulers exercised power autonomously even though the extent of their autonomy depended on the strength of the Emperor at the centre.\textsuperscript{635}

\textsuperscript{631} Solomon (2006) 11.

\textsuperscript{632} It was also in this part of Ethiopia where Christianity was first introduced in the 4\textsuperscript{th} century. The Abyssinian Empire is also called the ‘Christian Kingdom’. The Abyssinian Empire was first ruled by emperors belonging to the Axumite dynasty. With the decline of Axume in the 7\textsuperscript{th} century, mainly due to the rise of Islam, power shifted to the Zagwe dynasty of the Agaw people who ruled the Empire until they were ousted in 1270 by Yikuno Amlak who established the Solomonic dynasty. Emperors from the Solomonic dynasty ruled the country until Emperor Haile Selassie I, the last Ethiopian monarch, was dethroned in 1974. Assefa (2007a) 22.

\textsuperscript{633} Abbera (2000) 222.

\textsuperscript{634} Abbera (2000) 222.

\textsuperscript{635} When the centre was weak, the regions enjoyed unhindered autonomy. For instance, the regional rulers enjoyed unfettered autonomy during Ethiopia’s historical epoch known as \textit{Zemene Mesafint} (The Age Princes) (1769-1855) in which the central throne was extremely weakened. The provincial leaders also attempted to control the central throne whenever one of them felt militarily strong. Therefore, the seat of the central throne moved from one region to the other depending on the regional ruler who asserted power. For instance, Gonder was the seat of the throne until power shifted to Showa when Emperor Menilik II ascended to the throne. What is remarkable is that the provincial ruler sought to control the centre; hardly ever did they seek to break away from it. Assefa (2007a) 20-21; Bahru (2002) 11; Keller (1981) 316.
Each of the five regions or provinces was further divided into several districts. A district governed by a district level authority who took the designation of either melkegna or abegaz or gult-gez. The districts were divided into sub-districts and each of the sub-districts was ruled by a local authority known as misle’ene. There was also a village level authority called chiqa shum below the misle’ene. In most cases, the offices of traditional provincial and local authorities in northern Ethiopia were hereditary while in a few cases the positions rotated among the rist land holders.

The traditional local authorities at all levels exercised both administrative and judicial functions. They, therefore, had the duty to maintain peace and order, resolve disputes, collect taxes, and implement orders of the Niguse-Negest as well as the regional rulers. The traditional local authorities in northern Ethiopia were hierarchically organised in that the administrative and judicial decisions of a lower level local authority were reviewed by a higher level local authority. For instance, a chiqa-shum’s administrative and judicial decisions were reviewed by misle’ene or melkegna. As part of their administrative functions, local

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638 A rist is a land holding system which was practiced in the northern Ethiopia. It was based on an ‘ancestral descent claim and effective possession of land’. A rist was a communal ownership of land which was not measured and the possessor of which had no right to depose it by sale or by any other means. Being a rist holder brought to the holder not only economic benefit but also social prestige among them being holding administrative office. In practice all of the peasants in the northern part were rist holders. Teshale (1995) 73; Abbera (2000) 134-135; Markakis (1975) 99-104.
authorities also served as liaisons between a higher level of administration and the people at local level. Accordingly, they communicated government decisions and laws to the people and the people’s grievances and wishes to the senior rulers.642

In return for their services, local authorities were entitled to retain a certain percentage of the taxes they collected from within their jurisdiction. For instance, a *chiqa shum* was entitled to retain up to 3 percent of the taxes that he collected from the village under his chieftainship.643 A *gult-gejzi* or *melkegna* was also permitted to collect tribute, which could amount to a fifth of the produce of each *rist* holder or from the *gebars* who were *rist* holding peasants in his *gult*.644

3.1.3. Traditional administrative institutions of southern Ethiopia

‘Southern Ethiopia’ is that part of Ethiopia which, arguably, did not form part of the Abyssinian Empire even though it had commercial relation with it.645 The southern regions were fully incorporated into the Ethiopian Empire only in the second half of the 19th Century following the expansion of the latter. In the southern part of Ethiopia there were (still are) numerous ethnic communities whose political ‘organisations ranged from communal societies to states with powerful kings and elaborate mechanisms for the exercise of authority’.646 Each of these ethnic communities had its own traditional local authorities and administrative institutions.647 The Oromos, for instance, had a socio-political system known as *gada* which consisted of ‘age grade classes that succeed each

644 Markakis (1975) 107.
645 Bahru (2002); Assefa (2007a) 17-18.
647 Assefa (2007a) 17.
other every eight years in assuming economic, political, and social responsibilities. There were also strong kingdoms in the southern part of Ethiopia, including, the kingdoms of Kaffa and Wolyita which had various local level administrative institutions. The Gurage, also an ethnic community of Southern Ethiopia, had well developed traditional local administrative institutions at village, clan and regional level which were known as yejoka (gordana), agar and samugnet respectively. In the east and north east, there were the Sultanate of Afar, the Emirate of Harer and the Somalis with their own regional and local administrative institutions.

3.1.4. Assessment

The institutions of the Ethiopian traditional local authorities were numerous and diverse. Hence, a general assessment of their excellence or mediocrity as institutions of development and accommodation of ethnic diversity is simply impossible. It is safe however to say that the traditional local institutions and authorities enjoyed legitimacy in the eyes of the relevant community. They were home-grown and the local authorities often held power with the ‘explicit or implicit consent of the relevant community’, and derived their authorities mainly from the ‘respect and support’ of their community.

649 The kingdom of Kaffa, for instance, had provincial sub-divisions known as worafo, rashe-showo, gudo and gafo which were administered by sub-kings. It also had three autonomous districts, manok, nao and sewo, which were administered by local authorities called werabe rasheras or waraki. Bahru (2002) 16; Bekele (2005) 15.
652 Markakis (1975).
There were also democratic local institutions in southern Ethiopia, such as, the gada of the Oromo. In the gada system the local authorities held power with the consent of the people and for a limited period of time, which is a key feature of a democratic system. The yejoka and samugnet of the Gurage people also had features which were democratic. The legitimacy of the local authorities in the eyes of the people is self-evident even in the instances where local administrative positions were hereditary.

Development and service delivery were foreign concepts to Ethiopia’s traditional local authorities. The local authorities viewed their responsibility to be limited to maintaining law and order, administering justice, and collecting taxes. However, local officials, such as the chiqa shum, mobilised the local people to engage in what could be viewed as developmental activities, such as building roads. The role of the samugnet of the Gurage in maintaining an equitable use of resources such as grazing land, among members of a clan can be considered a developmental function. The developmental significance of the local officials’ role in maintaining peace and order and amicably settling disputes in the localities, and in administering justice is also self-evident.

A further, and perhaps the strongest, aspect of the decentralised structure of the Ethiopian state was its accommodation of diversity. The system allowed each ethnic and cultural group, starting from village level, to administer itself in accordance with its tradition and culture.

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However, the traditional institutions and authorities were not flawless. In particular, the traditional local authorities of the northern regions with their feudalistic character were not only undemocratic but also exploitative. In the past the only productive section of the Ethiopian society was the peasantry also known as in Amharic *gebar*, which literally means a tax payer.\(^{656}\) The government and the nobility depended on the *gebar* for their sustenance. In order to sustain itself, the government, with the help of local authorities, exacted excessive taxes, tributes and other dues from the *gebars*.\(^{657}\) The local officials were particularly hard-hearted towards the peasants since what accrued to them depended on the amount they could collect in the form of taxes and tributes. By so doing, local authorities were ruining the only productive section of the society instead of bringing about development to it.

4. THE BIRTH OF ‘MODERN ETHIOPIA’: ‘CREEPING CENTRALISATION’ (1855-1930)

The emergence of ‘modern Ethiopia’ is associated with the beginning of processes of territorial expansion and centralisation of political power.\(^{658}\) These two processes, undertaken in the name of nation building, were first initiated by Emperor Tewodros II (1855-1868) in 1855.\(^{659}\) The process of territorial expansion, which also continued during Emperor Yohannes IV (1872-1889),

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\(^{656}\) Bahru (2002) 87.

\(^{657}\) Bahru (2002); Tehsale (1995); Tekle-Hawariat (1998 Ethiopian Calendar) 362.


reached its climax under Emperor Menilik II (1989-1913) in the late 1890s resulting in Ethiopia taking its current shape.\(^{660}\)

Emperor Menilik II, who was a Showan King until he assumed the Emperorship after the death of Emperor Yohannes IV, expanded the Ethiopian Empire mainly to the southern and south-eastern Ethiopia using both diplomacy and military force.\(^{661}\) Following the incorporation of the southern regions into the Ethiopian Empire, the various ethnic communities of the southern regions became politically, economically, and culturally marginalised.\(^{662}\)

### 4.1. Political marginalisation

As stated above Menilik used both diplomacy and military to expand his empire. In some cases Menelik’s diplomatic effort secured him the peaceful submission of some regional and local rulers to his authority. As a reward for their peaceful submission, he allowed them to retain their positions. He also left the local administrative institutions in the areas largely unaltered.\(^{663}\) However, he expected the regional and local leaders who so submitted to him to serve him as ‘vassals’.\(^{664}\) Menilik persuaded, even coerced, these rulers to convert to Orthodox Christianity, the official religion until 1974 and to learn the Amharic language, the language of the Amhara ethnic community to which Menilik belonged.\(^{665}\)

\(^{660}\) Bahru (2002) 60-68.
\(^{661}\) Teshale (1995) 42.
\(^{662}\) Yonatan (2010 a) 161.
\(^{663}\) Teshale (1995) 42.
\(^{664}\) Among the kingdoms in this category were Jimma Abba Jiffar, Leqa Nagamte, Leqa Qellam, Assosa and Bella Shawgul, Aawsa of Afar and Gubba of western Gojjam. Markakis (1975) 132; Teshale (1995) 42
\(^{665}\) Mekruia (1997) 325 ff.
The regions that resisted Menilik’s authority were militarily overpowered and put under Menilik’s direct rule. The Emperor personally appointed each regional administrator to these areas thereby abolishing the traditional rulers and institutions of the southern regions.666 This was the case, for instance, in the Kaffa, the Gibe, the Sidama, and the Emirate of Harer. Menilik appointed the military leaders who led his military campaign as administrators of these regions.667 The military leaders, who were in most cases Showan-Amharas, in turn, subdivided the conquered regions into different localities and appointed their subordinates as administrators of the localities.668

The traditional regional and local institutions of administration of the southern regions were virtually abolished altogether. In their place, the local institutions of northern Ethiopia such as *chiqa shum, gult gedzi* and the like were imposed in these regions along with northern rulers.669 The endogenous institutions of the southern regions were allowed to exist only where they were found to be useful for exerting control over the local population. Even in such cases they were subordinated to the northern local institutions which were ‘superimposed’ in the southern regions.670

However, the traditional leaders of the southern localities were indispensable for exerting certain control over the local population. They were, therefore, placed

667 Markakis (1975) 133.
668 Markakis (1975) 133.
669 Abbink (1997) 323.
670 Abbink (1997) 323.
under the northern provincial and local rulers to serve as ‘liaison-men’. The traditional local authorities of the southern regions, commonly known as balabbats, did not however have formal administrative authority. Their function was limited to maintaining security and assisting the centrally appointed local rulers in collecting taxes and tributes. They also mobilised local communities whenever their services were needed by the central government. In return for their services, the balabbats were allowed to retain their lands when, as will be shown below, the land in the southern regions were expropriated.

In the north-eastern and south-eastern lowland areas of the country where the pastoral people of the Somali and Afar ethnic communities are found, the direct control of the central government was minimal. Direct control of these communities by the central government was impossible as they were in constant movement in search of grazing land and water. Therefore, the central government had to rely on the clan and tribal leaders of these communities to exert indirect control.

4.2. Economic marginalisation

Two-thirds of the southern regions was expropriated by Menilik and was given to settlers who moved from northern Ethiopia. Settlement sites and military garrisons were established as a large number of Amhara settlers moved to the southern regions as soldiers, administrators, and priests. The settlers suppressed

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672 Abbink (1997) 323.
673 Markakis (1975) 134.
any resistance against the Emperor, and ensured security and ‘the smooth flow of tribute’ to Menilik’s ‘imperial treasury’.  

4.3. Cultural marginalisation
Amharic was imposed as the sole official language of the Ethiopia Empire. The ethnic communities of the southern regions were therefore, encouraged, if not coerced, to abandon their languages and to adopt Amharic as their language. Their cultures and traditions were viewed as inferior to the Amhara culture. They were also required to convert to Orthodox Christianity which was then a state religion.

4.4. Assessment
The southward territorial expansion that was carried out by Emperor Menilik is of critical significance in the Ethiopian history. The territorial expansion is given conflicting interpretation by different historians. For some, Menilik’s expansion was a mission of nation building and a process of re-unifying hitherto lost territories to the Ethiopian Empire. For others, it was an undertaking of colonial subjugation. It is not the purpose or within the scope of this thesis to provide ‘the correct interpretation’ to this epoch in Ethiopia’s history. However it cannot be gainsaid that the process of territorial expansion and administrative centralisation that Menilik undertook resulted in the political and cultural marginalisation of scores of ethnic communities of the country. The ethnic

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678 This direct control and militaristic administration of the southern regions came later to be disreputably known as the ‘neftegna system’. ‘Neftegna’ means ‘one with a gun’ and it implies the militaristic nature of the local administration in the southern part of the Ethiopia. Markakis (1975); Abbink (1997); 322; Bahru (2002); Keller (1981) 313; Teshale (1995) 46.
conflicts that plagued the country for more than a century are one way or the other related to this era. This is why one of the alleged purposes of the decentralisation process is to curtail the more than a century long inter-ethnic hostility.

5. **FORMAL CENTRALISATION UNDER EMPEROR HAILE SELASSIE I  
(1930-1974)**

The political and administrative centralisation process continued even after Emperor Menilik. Emperor Haile Selassie I took the centralisation process to its extreme. Haile Selassie, who reigned for over five decades, is best known for his use of formal constitutional and legal means to centralise power.

Haile Selassie began his part of the centralisation process in 1931 when he promulgated the first written Constitution of the country.\(^683\) The Constitution was intended to serve three objectives. The first objective was to provide a constitutional foundation for the authority of the Emperor which was hitherto founded on a ‘convention based on “divine kingship”’.\(^684\) The second was to define the line of succession to the throne.\(^685\) The third objective, which is most relevant here, was to ‘define’ the relationship between the Emperor and the nobility.\(^686\) This, in effect meant to centralise all powers in the Emperor through constitutional means and to strip provincial and local rulers of their traditional hereditary claims to provincial or local leadership.\(^687\) In other words, the Emperor used the Constitution to exclude ‘the nobility from any political position not

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derived directly’ from him. The Constitution, therefore, served as a starting point towards formal centralisation of political power. The Emperor took the most critical formal and practical measure of centralisation in 1942 when he reclaimed the throne after the Italian occupying forces had been ousted from the country.

The five year occupation of the country by the Italian forces had facilitated Haile Selassie’s subsequent centralisation in various ways. The Italians built roads linking each province with Addis Ababa, which later helped overcome the difficulty that the topography of the country posed for a centralised administration. Furthermore, hoping to smoothly run the administration of their East African colonies, the Italians had introduced a hierarchical, centralised and bureaucratised administrative structure which Haile Selassie used as a model. These factors facilitated Haile Selassie’s post-Italian occupation centralisation which was put into effect with the 1942 local and provincial administrative reform. The centralisation that was carried out by Haile Selassie had military, administrative, and judicial aspects. Only the administrative aspect is discussed here.

689 From 1931 until 1935 the Emperor was in exile as the country was under Italian occupation. He began the 1942 provincial and local reforms a few years after the expulsion of the Italian forces.
5.1. The 1942 administrative reform

In 1942 Haile Selassie issued Decree 1 (1942) in order to reform and modernise the country’s administrative structure. The 1942 local administrative reform involved three measures: redrawing provincial and local boundaries, centralising the appointment of provincial and local administrators, and deconcentrating ‘central ministries through the establishment of subordinate field offices staffed by appointed officials’. 694 Each of these measures was intended and contributed to the centralisation of powers in the person of the Emperor.

5.1.1. Re-drawing provincial boundaries

After the completion of the territorial expansion during Emperor Menilik and until Italian occupation in 1930, Ethiopia was divided into 32 ghizats (governorates). 695 Until Decree 1 (1942) was promulgated, the ghizats, in particular those in northern Ethiopia, enjoyed a wide range of autonomy from the centre. As Teshale notes, each territorial unit was ‘a kind of a state within a state’ despite the fact that the Emperor exercised overall authority. 697 The boundaries of the ghizats were re-drawn after the enactment of the Decree and the 32 ghizats were reduced to 12 awrajas (provinces). 698 In the process, some

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695 Danie (1994) 97.
696 Under Emperor Menilik the hereditary and semi-hereditary system of local administration was maintained in northern Ethiopia. In the southern part however, new governors were sent from the centre. The traditional leaders of the southern part played only complimentary role to the centrally installed administration. Teshale (1995) 128.
698 Daniel (1994) 98. Latter, the number of the provinces increased to 14. The 14 provinces were Arusi, Balé, Begemider (Gonder), Eretria, Gamo-Gofa, Gojjam, Harergé, Illubabor, Keffa, Showa, Sidamo, Tigray, Wollega, and Wollo.
provinces were amalgamated while others were dissected or reduced in size.\textsuperscript{699} It should be stressed that the main aim of this re-drawing of provincial boundaries and the standardisation of provincial administration was to weaken the hitherto autonomous provincial or regional rulers, especially those of northern Ethiopia.\textsuperscript{700} As Teshale notes, ‘[b]y redrawing the internal territorial boundaries of Ethiopia, Haile Selassie destroyed the traditional power base of the nobility’.\textsuperscript{701}

\subsection*{5.1.2. Centralising the appointment of provincial administrators}

The 1942 reform centralised the appointment of provincial and local governors in the person of the Emperor.\textsuperscript{702} The centralisation of the appointment of provincial governors formally abolished any hereditary provincial governorship. It also reduced the status of provincial governors to the agents of the Emperor. A provincial governor was expected to exercise government power in the name and on behalf of the Emperor.\textsuperscript{703}

Provincial governors were prohibited from demanding taxes and tributes for themselves.\textsuperscript{704} They were instead required to collect taxes and dues on behalf of the Emperor and to transfer the revenue so collected to the Government Treasury.\textsuperscript{705} For their services, they were paid salaries from the central

\begin{footnotesize}
\begin{enumerate}
\item Teshale (1995) 115.
\item Decree 1 (1942) Art 1.
\item Hess (1970) 131; Cohen & Koehn (1980) 8-9; Decree 1 (1942); Art 1 &2. This was even reflected in the governor’s title which became ‘\textit{enderase},’ the literal translation of which is ‘like myself’ or ‘on my behalf’. This title was in contrast to the former title of provincial governors which was either \textit{Negus} (king) or \textit{Ras} (head) both of which signify a certain level of autonomy. Teshale (1995)
\item Decree 1 (1942) Art 6.
\item Decree 1 (1942) Art 6.
\end{enumerate}
\end{footnotesize}
government treasury. Provincial governors, therefore, became simply salaried employees of the state.  

The Amhara and, to some extent, the Tigray nobilities remained the ‘main pool of recruitment’ and appointment for provincial governorship even if they lost their autonomy as a result of the reform.  The Emperor also used ‘traditional criteria’ for recruiting provincial governors, the most important criterion being strong loyalty to him. Therefore, in the northern regions one of the sons of a provincial governor was allowed to inherit the position so long as the latter showed loyalty to the Emperor. The governors of the southern regions were, however, almost exclusively Amharas even though in some cases one from among the balabbats was appointed as deputy to the Amhara governor. In this way Haile Selassie continued the political marginalisation of the various ethnic communities of the southern regions which began during Menilik.

5.1.3. Local administration after the 1942 reform

The 1942 reform created a three tiered local administrative structure throughout the country. The 12 awrajas (provinces) were sub-divided into 60 woredas (districts). The woredas were in turn divided into 339 sub-districts (mislene).  

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707 Markakis (1975) 277ff.
708 Markakis (1975) 278.
709 Markakis (1975) 278.
710 Markakis (1975) 278.
713 Daniel (1994) 98.
and the sub-districts into 1176 village level administrative units (*mikitl mislene*).\(^{714}\)

### 5.1.3.1. Centralising the appointment of local authorities

The Decree also centralised the appointment of *woreda* administrators and *mislenes* in the person of the Emperor: The Emperor appointed administrators up on the recommendation of the Ministry of the Interior.\(^{715}\) In effect, all forms of traditional hereditary and semi-hereditary local administrative positions were formally abolished. The Decree further provided that the governors at each level would act as the agents of the Emperor.\(^{716}\)

### 5.1.3.2. Functions of local authorities

The functions of local administrators were left without any significant change despite centralising the appointment and removal the administrators. Provincial and local administrators retained their traditional functions of maintaining security and order and collecting taxes.\(^{717}\)

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\(^{714}\) In 1946 slight adjustments were made to local level administration, which were basically limited to re-naming the administrative unit without any change on its territorial size. The three tiered local administration was maintained. Thus, the provincial administrative unit that up until then was called *awraja* became *teklay ghizat* (Governorate General). The sub-provincial administrative unit that was referred to as *woreda* under the 1942 Decree was renamed *awraja ghizat*. The *mislene* became ‘*woreda ghizat*’ and the sub-district level unit which had been *mikitil mislene* became *mikitl woreda*. Following the incorporation of Ogaden in 1954 into Ethiopia and the unification of Ethiopia and Eritrea in 1962, the number of the *teklay ghizats* in the country grew from 12 to 14. The country was also divided into 103 *awrajas* (sub-provinces), 505 *woredas* (districts) and 949 *mikit woredawoch* (sub-districts). Daniel (1994); Cohen & Koehn (1980) 9.

\(^{715}\) Decree 1 (1942) Art 36.

\(^{716}\) Decree 1 (1942) Art 2.

\(^{717}\) Decree 1 (1942) Art 6-20.
The notion of development and service delivery hardly featured at the time. Prior to 1974, therefore, the great majority of Ethiopians, especially those in the rural area, did not expect to receive any service either from the local administrative units or the field agents of the various ministries of the central government. As Cohen and Koehn note;

‘A number of people used roads and the courts, but few could take advantage of education or health stations, and rarely did rural people see agricultural extension officers, much less a telephone or postal service. What did touch the lives of rural people was the tax collector of the Ministry of Finance and the policemen of the Ministry of the Interior.’

The people, therefore, had to organise themselves to raise funds to finance certain development projects, such as building roads, bridges, schools, clinics and other facilities. A number of self-help organisations, which were known as *meredaja mahiber* or *lemat mahiber* were formed. These associations were established in Addis Ababa and other towns by the ‘natives’ of a given district or province and bore the name of the area or ethnic community for whose benefit the development associations were organised. However, these associations were accused of engaging in ‘subversive action’ against the government and were banned.

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720 Markakis (1975) 212.
721 Markakis (1975) 212.
5.1.3.3. Central supervision

As indicated, above third element of Haile Selassie’s centralisation scheme was the deconcentration of central ministries at local level. In order to supervise the provincial and local administrative units, therefore, the ministries stationed field agents in all provinces and localities. Each awraja, woreda or mislene administrator was under the administrative supervision of the Ministry of the Interior. It was also under the technical supervision of the Ministry of Finance pertaining to financial matters. Whether a decision was technical or administrative was a source of incessant controversy among the field agents of the various ministries of the central government. The directives of the different units of the central government often contradicted each other. Such disputes had to be taken to the Emperor for final decision, which clearly meant ‘delay in or abandonment’ of the implementation of local development projects. In short, the Decree established an extremely centralised, complex, inefficient, and highly bureaucratised local administrative system.

5.1.3.4. Urban administrations in the 1942 administrative reform

The 1942 Decree regulated the establishment and administration of urban areas separately. It was, however, Proclamation 74 (1945) that in detailed regulated urban administrations. Proclamation 74 (1945) categorised urban areas into municipalities and towns. Addis Ababa, Gondar, Harar, Jimma, Dessie and

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724 Decree 1 (1942) Art 2.
727 Decree 1(1942) Art 71.
728 Proclamation 74 (1945) Art 6 (1) & Schedule A and B.
Dire Dawa became municipalities. Asmara also joined this category after the unification of Ethiopia and Eritrea in 1963. The Proclamation also provided 100 urban areas with the status of towns. The towns were, in turn, divided into first, second and third class towns, even though the distinction between the different classes of the towns was unclear.

_Municipal councils_

Proclamation 75/1945 provided for the establishment of a municipal council in each urban area. The councils consisted of seven elected representatives of the residents of a town and the representatives of the ministries of the central government. Only a resident of a municipality or a town who had immovable property could vote for and be elected to the municipal councils. Moreover, the Emperor personally appointed mayors for the municipalities and city officers for the towns upon the recommendation of the Ministry of the Interior. In many cases the provincial governors assumed the office of mayors or town officers of some or all of the cities in the provinces under their authority.

In 1954 Addis Ababa became a chartered city with the power to prepare and adopt laws of local scope, and by-laws which were necessary for the

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729 Proclamation 74 (1945) Schedule A.
730 The Proclamation gave the power to create new municipalities and townships and to change the category of an urban area to the Ministry of Interior. After the issuance of Proclamation 74/1945 the Ministry created more than one hundred townships. However the number of municipalities remained the same. Proclamation 74 (1945) Art 6 (1) (a) & Schedule B.
731 Proclamation 74 (1945) Art 6 (1).
732 Proclamation 74 (1945) Art 3 (2).
733 Proclamation 74 (1945) Art 3(2).
734 Cohen & Koehn (1980).
734 Cohen & Koehn (1980).
implementation of national laws. The autonomy of the city was, however, undercut as the Mayor of the City was accountable to the Emperor and the City’s Council needed approval of the Ministry of the Interior for every decision.

Functions of urban administrations

Proclamation 74(1945) contained a list of municipal functions including streets, squares, bridges, public gardens, sewerage, and alignment of buildings. A municipal council had the power to decide on municipal services, such as, water, electricity, market areas, cemeteries, abattoirs, fire fighting, municipal welfare institutions, municipal health services, and the like. Finance and capacity related constraints, however, rendered most of the towns and municipalities unable to provide basic services. Furthermore, as indicated above any decision that was adopted by a municipal council had to be submitted to the Ministry of the Interior for approval. This long and often ‘politicised’ process of seeking approval hindered the prompt implementation of locally adopted development programmes.

Financial sources of urban administration

Proclamation 74 (1945) authorised a municipal council to impose certain taxes and to decide on the municipal or town budget. A municipality or a town could impose and collect property rates, trade, and professional licence fees, market

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737 Proclamation 74 (1945) Art 4 (1-3).
738 Proclamation 74 (1945) Art 4 (3) (a-f).
740 Proclamation 74 (1945) Art 4.
741 Proclamation 74 (1945) Art 4 (i).
fees, and municipal service fees.\textsuperscript{742} In addition, municipalities and towns received funds from the central government.\textsuperscript{743} The revenue that was collected from the aforementioned taxes was not sufficient to allow the municipalities and the towns to undertake any significant development project. First, a municipal council’s decision to adopt a budget or to impose rates, fees, or dues had to be submitted to the Ministry of the Interior for approval.\textsuperscript{744} The lengthy process of approval in the Ministry of the Interior hindered the municipalities from effectively utilising these sources of revenue. Second, the city councillors were not willing to impose considerable taxes. To do so was against their personal interest as all of them were property owners. They, therefore, levied ‘flat, nominal, and static land tax rates’ out of self-interest.\textsuperscript{745} Third, there were large tracts of church and government land which was exempted from taxation. Fourth, the absence of competent staff and the limited economic base of the cities and the towns put further limitations on the revenue raising capacity of the urban areas.\textsuperscript{746}

5.1.4. The ‘attempted decentralisation’ of 1966

By Decree No. 43, 1966, the Emperor attempted to decentralise power to the local level administration, in particular to the awraja (sub-provincial level) administration. This move was prompted by development experts who argued that the centralised system had thwarted ‘local innovation’.\textsuperscript{747} Some provincial

\textsuperscript{742} Proclamation 74 (1945) Art 11 (1-4).
\textsuperscript{743} Cohen & Koehn (1980) 135.
\textsuperscript{744} Cohen and Koehn state that prior to submitting municipally adopted budget to the Ministry of Interior for approval, the approval of the provincial administrator was sought. Cohen & Koehn (1980) 141; Proclamation 74 (1945) Art 11(5).
\textsuperscript{745} Cohen & Koehn (1980) 135.
\textsuperscript{746} Cohen & Koehn (1980) 135
\textsuperscript{747} Cohen & Koehn (1980) 52.
administrators, in support of this proposal, argued that the inefficiency in the Ministry of the Interior, which had an extensive supervisory role over the provinces, made provinces unresponsive to local needs.\textsuperscript{748} The decentralisation attempt sought to make \textit{awraja} administration autonomous administrative units. However, the plan was rejected by Parliament and the decentralisation scheme was applied only in 17 selected \textit{awraja} administrations on an experimental basis.\textsuperscript{749}

\subsection*{5.1.5. Local administration and ethnic minorities of southern Ethiopia}

The political, cultural and economic marginalisation of the southern population, which began during Menilik, continued during the reign of Haile Selassie I.\textsuperscript{750} As was indicated above, in Southern Ethiopia, \textit{awraja} and \textit{woreda} governors were appointed, almost always from among the Amhara settler community who had moved southward from the north.\textsuperscript{751} The local communities therefore had no say in the appointment of the governors of their localities. Their traditional institutions were abolished. Their traditional local leaders were allowed to exist but only to serve as auxiliary to the centrally appointed local officials. As was the case under Menilik, the \textit{balabbats} were allowed to exercise some form of quasi-administrative functions.\textsuperscript{752} Below the \textit{balabbat}, the institution of \textit{chiqa shum} - which was essentially a local institution of northern Ethiopia - was installed in the region.\textsuperscript{753} Even where the office bearers were among the original inhabitants of

\begin{footnotesize}
\textsuperscript{748} Cohen & Koehn (1980) 52.
\textsuperscript{749} Cohen & Koehn (1980) 52.
\textsuperscript{750} Keller (1981) 322.
\textsuperscript{751} Clapham (1975) 75.
\textsuperscript{752} Abbink (1997) 322.
\textsuperscript{753} Abbink (1997) 322.
\end{footnotesize}
the southern region, the institutions of balabbat and chiqa shum were at odds ‘the local leadership pattern based on indigenous socio-cultural ranking’.\textsuperscript{754}

The land that was expropriated during Menilik remained in the hands of the Showan-Amhara nobility. Hence the economic marginalisation of the communities of the southern regions was perpetuated. The cultural marginalisation also continued. The southern population were encouraged, if not coerced, to learn Amharic and abandon their own languages.\textsuperscript{755} Whenever the local residents wanted to lodge petition to the local rulers or judges, they had to do so in Amharic or take an interpreter with them.\textsuperscript{756} Moreover, Amharic became the sole language of instruction in primary schools.\textsuperscript{757}

The reach of the central government remained minimal with respect to the north-eastern and south-eastern lowland areas of the country, where the pastoral Somali and Afar ethnic groups were found.\textsuperscript{758} The central government, therefore, had to rely on clan and tribal leaders of these communities in order to exert some level of control.\textsuperscript{759}

\textbf{5.1.6. Assessment}

It is submitted that the local governance system which was created by the 1942 Decree and the subsequent legislation was, non-developmental and un-accommodative of the ethnic diversity of the Ethiopian people.

\textsuperscript{754} Abbink (1997) 323.  
\textsuperscript{756} Markakis (2004) 12.  
\textsuperscript{757} Markakis (2004) 12.  
\textsuperscript{758} Hess (1970) 132.  
\textsuperscript{759} Hess (1970) 132.
5.1.6.1. Non-developmental

The local administrative system that was put in place through the 1942 reform did not create a local institutional structure conducive for development. To the contrary, the reform was a hindrance to development. Several reasons can be given for this submission. Firstly, as was seen above, it was with a declared motive of modernising local administration that the 1942 reform was introduced. The reform however did little to modernise the local administration of the country. Local and provincial administrative structures and the manner in which local administrators were recruited and appointed remained traditional. As Markakis states:

‘Provincial administration remains the preserve of the traditional ruling group. Recruitment methods have not changed greatly, except the process has become more closely controlled by the Emperor, and the nobility’s ancient privilege to office in its home province has been somewhat circumscribed.’

Local administrators were appointed on the basis of loyalty, connections, and favouritism rather than competence. The appointment to a local administrative position was often regarded as an ‘apprenticeship’ for members of the royal family and the nobility to prepare themselves for higher appointments. In some cases the appointment to a particular local administrative position was used as a form of punishment of one who had fallen from grace in the eyes of the Emperor.

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760 Markakis (1975) 352.
761 Markakis (1975) 354.
Second, democratic representative institutions, which are critical for local development, were virtually non-existent in the rural areas both at provincial and at local levels. Even if in some municipalities representative institutions were established, as was seen above, only property owners could vote for and be elected to these councils. In short, municipal councils were councils of the rich few. Public participation in decision making was unknown. Thus, the post-1942 reform of local government was far from democratic. On the contrary, the reform did away with all traces of the democratic elements of the pre-1942 traditional institutions of local administration.

Third, local authorities were not intended to be agents of development. Rather, they were meant to serve as instruments of control. This can be inferred from their functions which were focused on maintaining security and collecting taxes. In fact, the concept of public services was barely known. As a consequence, very few people had access to education, primary health care, clean water, and electricity. That is why the rate of illiteracy was soaring at 96 percent when Haile Selassie was removed from power.763

Fourth, no development related mandates were devolved to local units. Local administrators were left with their traditional functions of tax collection and maintenance of law and order. As Melakou notes, development was not the regime’s agenda.764 Moreover, the reform did not provide a clear functional division between the provincial and local levels of administrative units. The vagueness in power division caused perennial jurisdictional conflicts between

763 Gilkes (1979) xvi.
provincial units, local units, and the field agents of the Ministries of the central government. A complex and bureaucratic system of central control was imposed on the local administrative units which hindered independent local developmental actions unattainable.

The formally deconcentrated, loosely defined system provided a fertile context for conflicts over centralisation, local autonomy, resource exploitation, and administrative co-ordination. Moreover structural constraints and persistent conflict reinforced independent, security conscious, rather than development oriented behaviour on the part of local officials. Under Emperor Haile Selassie, the national center never seriously attempted to use municipal government units as vehicles of social and economic change or political mobilisation and support.

5.1.6.2. Repressive of ethnic minorities

The political, economic, and cultural marginalisation of the communities of the southern regions worsened after the 1942 reform. They were not allowed to administer themselves according to their custom and tradition. Their traditional rulers and institutions were abolished. Where the traditional rulers were allowed to exist, they played an informal support role only. Moreover, all local government institutions in the southern regions were staffed and run by settlers who came from the north. As Clapham notes, in 1967, two of the six provinces in southern Ethiopia were governed by army generals, the other four provinces by Amhara or Tigray noblemen. Almost all of the local governors, the clerks, judges and police officers were from the north.

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766 Clapham (1975) 75.
767 Clapham (1975) 76.
In brief, the 1942 provincial and local government reform and subsequent legislative measures created a system of local administration which was non-developmental, and repressive of ethnic and cultural minorities.


Starting from his early days in power, Haile Selassie had been facing sporadic public rebellions from different sections of the public. The rebellions were mainly due to his never-ending centralisation and the inefficiency and corruption that ensued from it. The opposition against the Emperor intensified in the 1970s. Several uprisings took place in various urban areas, in which every section of the public took part, including the teachers, peasants, solders, students, taxi drivers, and trade unions. Prolonged strikes, boycotts, and mutinies were widespread during the last days of Haile Selassie.

The public protests revolved around two issues: development and the ethnic question. The demand for development was advanced under the revolutionary motto ‘land to the tiller’. The ethnic question was mainly raised by the Addis Ababa University (then Haile Selassie I University) students and their political groups.

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768 The 1940 Woyanne rebellion of the Tigray province, the peasant rebellion of the Bale province, and the military insurrection in Eritrea are among the recorded uprisings against the Emperor. McCann (1985); Gebru (1984); Andargachew (1994) 18; Solomon (2006) 17-18.


After several months of protracted protest and urban uprising, on 12 September 1974 a committee of 120 military officers called the Derg, which was formed by representatives of the various divisions of the imperial army, carried out a coup and dethroned the Emperor. Soon after ousting the Emperor, the Derg established itself as a military government.

6.1. The Derg on the ethnic question

A few months after deposing the Emperor, the Derg formulated a ‘Ten Point Programme’ on a range of issues, including development and ethnicity. The initial position of the Derg on the issue of ethnicity was ‘denying the existence of ethnic and related differences’. The Derg made it clear that maintaining the territorial integrity of the country was its main concern. Hence, it adopted ‘Ethiopia Tikdem (Ethiopia first)’ as its main slogan. It also averred in the first paragraph of the programme that ‘Ethiopia shall remain a united country, without ethnic, religious, linguistic and cultural differences’.

On 20 April 1976 the Derg adopted another programme known as ‘Programme of the National Democratic Revolution of Ethiopia’ (frequently referred to as the NDR). In this programme the Derg made a turnaround in its policy direction on the ethnic question. The shift in the Derg’s policy on the ethnic question was a ‘concession’ that the Derg made to Meison, a leftist political group, when the

latter joined the *Derg’s* government. The NDR not only acknowledged the past injustices that the various ethnic communities of the country had suffered, but also recognised the right to self-determination of the ethnic communities of the country. The right to self-determination was meant to be enjoyed ‘on the basis of equality and within the framework of local self-government’.

The *Derg*, however, took no significant practical measure to implement this programme. The territorial structure of the provincial and local administration remained unchanged. The *Derg* retained Amharic as the only working language of the country. In fact the ethnic question was ignored for almost 10 years as the government was preoccupied with countering other challenges. Only in the 1980s did the ethnic question became an issue among the *Derg* officials and this was mainly because the regime was facing sustained military assaults from several ethnic-based rebellious groups including the Eritrean People’s Liberation Front (EPLF) and the Tigray People’s Liberation Front (TPLF). To appease these

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781 ‘The right to self-determination of all nationalities will be recognized and fully respected. No nationality will dominate another one since the history, culture, language and religion of each nationality will have equal recognition in accordance with the spirit of socialism. Given Ethiopia’s existing situation, the problem of nationalities can be solved if each nationality is accorded full right to self-government. This means that each nationality will have regional autonomy to decide on matters concerning its internal affairs. Within its environs, it has the right to determine the contents of its political, economic and social life use its own language and elect its own leaders and administrators to head its internal organs.’ Quoted in Clapham (1988) 199 & Cohen & Koehn (1980) 278-279; Teshome (1999) 81.
784 From within the country, the EPRP and other political groups were engaged in urban armed struggle against the *Derg*. And from without the country, Said Bare of Somalia, with an eye to establish his ‘Greater Somalia’, had launched offensive against Ethiopia and had invaded much of south-eastern part of Ethiopia.
rebellious groups, the *Derg* established the Institute of Nationalities with mandates to study the ethnic composition of the country, to draft a new constitution, and to propose on how the administrative units of the country could be re-designed to respond to the ethnic question.\(^{785}\) As will be discussed below, it was based on the proposal of the Institute that the *Derg* attempted to re-organise the boundaries of the provincial administrative units of the country in 1987.\(^{786}\)

### 6.2. The debate on local administration: Addressing the development question

The ‘Ten Point Programme’ stated that ‘every regional administration and every village shall manage its own affairs and be self-sufficient’.\(^{787}\) This was an indication of the *Derg*’s initial intention to decentralise power. The programme also gave an indication that an economic transformation would take place in the country which included nationalisation of lands and industries. This was also reiterated in the NRD. This economic transformation in fact took place when the *Derg* nationalised rural and urban lands, urban extra-houses, private industries, banks, insurance companies, and other financial institutions.\(^{788}\)

The *Derg* also began transforming the provincial administration. It changed the title of the provinces from *tekaly ghizat* to *kifle hager* (sub-state unit) and the title of a provincial governor from ‘*enderase*’ to a ‘chief administrator’. This was meant to symbolise the fact that a provincial administrator no longer was a ‘ruler

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\(^{785}\) Yonatan (2010a) 174-175.

\(^{786}\) See below § 6.2.4.

\(^{787}\) The ten-point programme quoted in Clapham (1988) 46.

\(^{788}\) Clapham (1988).
or a governor of a passive population’. The Derg also abolished the institutions of balabbat and replaced the previous woreda and awraja administrators with new ones.

At the same time, a debate began within the Derg about what the future local government system should look like, what role it should play in terms of development, and how it should involve the people in the planning and implementation of development projects. There was an agreement among the Derg officials on the need to decentralise power and to ensure public participation.

‘As far as possible, the participation of the people in administration has to be encouraged. For all cases solely affecting their localities, the people, of necessity, should be authorized to take part in the decision making. Local development programs can easily be realized when there is a wide participation of the people in the administration mechanism.’

The form the decentralisation was supposed to take was however unclear. Some officials of the Derg were of the view that service delivery functions should be devolved to woreda while others opted for ‘the wholesale implementation of self-administration at awraja level’.

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In the end, the *Derg* opted to establish two institutions of local administration; the Urban Dwellers Associations (UDAs)\(^794\) and Peasant Associations (PAs) in the rural and urban areas respectively.\(^795\) The purpose of the establishment of these associations was to organise and enable urban dwellers and peasants at each level to run their own affairs, solve their own problems, and directly participate in political, economic, and social activities of the country.\(^796\)

### 6.2.1. The UDA

#### 6.2.1.1. Institutional structure

UDAs were established in urban areas at *kebele* (neighbourhood), *kefitegna*, and depending on the size of a city, at city levels.\(^797\) Each *kebele* had a general assembly consisting of all the residents of the *kebele*.\(^798\) The general assembly elected a ‘policy committee’.\(^799\) The policy committee, which had around 15 members, was divided into an executive committee, financial inspection committee, and judicial tribunal.\(^800\) In towns and cities with more than two *kebeles*, there was a higher UDA, commonly known as *kefitegna*.\(^801\) A *kefitegna*

\(^794\) It was also called co-operative society of urban dwellers.

\(^795\) *Derg* also issued the Urban Dwellers Association Consolidation and Municipalities Proclamation No 104 (1976) and the Peasant Association Organisation and Consolidation Proclamation No. 71 (1975) in which the organisational structures and functions of UDAs and PAs were provided for in detail. Proclamation 47 (1975) Art 22; Proclamation 31 (1975) Art 8.

\(^796\) Proclamation 104 (1976) Preamble; Proclamation 71 (1975) Preamble.

\(^797\) Proclamation 104 (1976) Arts 2(3), 2(4) & 2(5).


\(^799\) Proclamation 104 (1976) Art 2 (8).

\(^800\) Proclamation 104 (1976) Art 2 (8).

\(^801\) Proclamation 47 (1975) Art 25 (1); Proclamation No. 104 (1976) Art 13 (1).
had a Council in which each *kebele* was represented.\textsuperscript{802} For the towns with more than two *kefitegnas* a city council which was called a Central Urban Dwellers’ Association (CUDA) was established.\textsuperscript{803} The CUDA had a congress in which each *kefitegna* was represented by two persons. Furthermore, each of the ministries and offices of the central government was also represented on the city councils, but without vote.\textsuperscript{804} The two largest cities, Addis Ababa and Asmara, which at the time had more than four *kefitengnas*, had another intermediary administrative institution above the *kefitengas* and below the CUDA which was called a zone. Addis Ababa had five zones while Asmara had two.\textsuperscript{805} In this hierarchical administrative system the zones (where they existed) supervised the *kefitegnas*, and the *kefitegnas*, in turn, supervised the *kebeles*.

6.2.1.2. Powers and functions of UDAs

The *kebeles* in the urban areas were given a number of developmental mandates. They were, for instance, authorised to build roads, markets, low cost houses, and other facilities, and to provide primary health services, and education, to preserve forests, to register houses, residents, births, deaths and marriages, and to maintain peace and security.\textsuperscript{806}

The *kefitegna* had the power to co-ordinate and supervise the *kebeles*.\textsuperscript{807} The *kefitegna* was also responsible for maintaining an equitable income distribution.

\begin{footnotes}
\item[802] Proclamation 104 (1976) Art 15 (1).
\item[803] Proclamation 104 (1976) Art 19 (1).
\item[804] Proclamation 104 (1976) Art 21 (2).
\item[805] Clapham (1988).
\item[806] Proclamation 104 (1976) Art 9.
\item[807] Proclamation 104 (1976) Art 17.
\end{footnotes}
among its *kebeles*. It discharged this responsibility by using contributions from the *kebeles* within it. It also received funds from a city council where such council existed. Moreover, the *kefitegna* liaised between the *kebeles* and the CUDA in the provision of social services. A CUDA had the competence to provide municipal services including streets, squares, bridges, resorts, parks, sewerages, abattoirs, water and electric supplies, and markets. Organising and maintaining urban transportation, fire brigades, and ambulance services were also within the competences of the CUDA.

### 6.2.1.3. Financial sources of UDAs

Proclamation 104 (1976) authorised the *kebeles* to collect urban land and house rents. The *kebeles* were allowed to retain and use the revenue they collected from house rents and other sources. However, they were required to transfer 15 percent of the revenue they collected to *kefitegna*. A *kefitenga* financed itself by using the contribution that it received from the *kebels*. It also received funds from the CUDA.

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808 Proclamation 104 (1976) Art 17 (1).
809 Each *kebele* contributed 15% of its income to the higher or *kefitegna* level UDAs, Proclamation 104 (1976) Art 9 (18).
810 Proclamation 104 (1976) Art 17 (9).
811 Proclamation 104 (1976) Art 17 (10).
812 Proclamation 104 (1976) Art 23 (2).
813 Where there was no CUDA, those responsibilities were discharged by the *kefitenga* level UDA. Where there was no *kefitegna*, the *kebeles* discharged the responsibilities of both the *kefitegna* and the CUDAs. Proclamation 104 (1976) Art 23 (4) & Proclamation 104 (1976) Art 40(1) (b).
6.2.2. The Peasant Associations (PAs)

6.2.2.1. Institutional structure

In the rural areas, PAs were established at kebele, woreda, and awraja level. The territorial jurisdiction of the chiqa shum was taken as the basis for delimiting the territory of each PA at kebele level. A PA at kebele level had an average membership of 281 households. It had a general assembly which consisted of all peasants in the PA and an executive committee which was elected by the general assembly.

6.2.2.2. Powers and functions PAs

The kebele level PAs were responsible for effecting land re-distribution as per the nationalisation and redistribution policy of the Derg. In addition, they were authorised to administer and conserve public property, establish market centres, credit and other co-operatives, build schools, clinics and other similar institutions, cultivate the lands of elders, minors and widows, and undertake villagisation.

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816 Proclamation 31 (1975) Art 8 read with Proclamation 71 (1975) Art 2(4)
820 Proclamation 71 (1975) Arts 12 & 15. Proclamation 71 (1975) established a Revolutionary, Administrative and Development Committees (RADC) at awraja and kifle hager and at central levels in which woreda level PA was represented. The RADCs were, however, replaced in 1977 with the establishment of the All Ethiopian Peasants Association (AEPA) which was set up with a structure similar to that of the RADC. Clapham (1988) 157
821 Proclamation 31 (1975) Art 10 (1).
822 Proclamation 31 (1975) Art 10 (2-9). A villagisation program involved the re-settlement of scattered peasants into centralised villages. Making service delivery to the peasants convenient was the declared reason for the villagisation program. Clapham (1988) 175.
6.2.3. Re-centralisation and the weakening of UDAs and PAs

In the 1980s, the Dreg centralised the UDAs and PAs under the pretext of providing them ‘guidance’.\textsuperscript{823} The kebele was deprived of its power to collect and use certain taxes. It was required to transfer all revenue it collected to the CUDA\textsuperscript{824} thereby making it dependent on grants. Furthermore, all kebele projects were required to be submitted to the CUDA for approval and funding which, needless to say, caused delay and even neglect of development projects.\textsuperscript{825} The PAs, likewise, came under the control of central government and began to act as administrative arms of the central government rather than as institutions of self-administration.\textsuperscript{826} The central government began using the PAs for enforcing its socialist policies in the rural areas.

6.2.4. The formation of the Peoples Democratic Republic of Ethiopia

After ruling the country without a constitution and on a provisional basis for 13 years the military government issued a new Constitution in 1987. The Constitution established the country on the basis of Marxist-Leninist ideology, structure, and operation at the heart of which was the principle of ‘democratic-centralism’.\textsuperscript{828} A one party system was introduced with the establishment of the Workers’ Party of Ethiopia (WEP). Ethiopia formally became a republic (The People’s Democratic Republic of Ethiopia (the PDRE)).\textsuperscript{829} The Constitution also provided that Ethiopia was a unitary state with hierarchically structured

\textsuperscript{823} Proclamation 206 (1981) Preamble. See also Clapham (1988) 133
\textsuperscript{824} Proclamation 206 (1981) Art 13 (1-4).
\textsuperscript{825} Proclamation 206 (1981) Art 13 (6-10); Clapham (1988) 134.
\textsuperscript{826} Clapham (1988) 161.
\textsuperscript{827} Clapham (1988) 161.
\textsuperscript{828} Clapham (1988) 92.
\textsuperscript{829} Clapham (1988) 92-100.
administrative areas and autonomous regions in line with the principle of democratic-centralism. With this Constitution, the military government transformed itself into a civil government. Colonel Mengistu Haile-Mariam, the chairman of the provisional military government since 1974, was ‘elected’ President of the PDRE.

With the establishment of the PDRE, the administrative boundaries of the country, which were maintained without any significant change since 1942, were re-drawn. This change was made, as indicated before, based on the recommendation of the Institute of Nationalities. Ethiopia was accordingly divided into 25 ‘administrative areas’ and 5 ‘autonomous regions’. In spite of what their name, the ‘autonomous regions’ were not actually autonomous. Both the administrative regions and the autonomous regions had similar administrative structures, functions, and powers under the Constitution.

Every administrative area and autonomous region was further divided into 354 awrajas. The kebele level UDAs and PAs were retained. The woreda was abolished. A representative assembly, which was known as ‘shengo’, an executive committee, various commissions, and sectoral offices were established.

831 The administrative regions were North Gondar, South Gondar, North Wollo, South Wollo, East Gojam, West Gojam, Metekel, Assossa, Wollega, North Showa, Addis Ababa, West Showa, South Showa, West Hararge, East Hararge, Arsi, Bale, Gambella, Illubabor, Keffa, Gamu Gofa, Sidamo, Omo, and Borena.
832 Eritrea, Assab, Tigray, Dire Dawa and Ogaden were declared autonomous regions.
834 Eritrea was first divided into a number of special administrative regions and each administrative region was further divided into awrajas. Proclamation 14 (1987) Art 4 (1).
in each of the administrative and autonomous regions and their awrajas. The shengo was directly elected by the people while the executive committee, which ran regional and local administration, was elected by the shengo.

6.2.5. Assessment

Its true political and ideological motive aside, the Derg’s initial programmes and measures were promising, even though lamentably short-lived, in terms of introducing democratic processes, articulating the need for development, and recognising the plight the ethnic minorities. As was explained in the previous sections, prior to 1974, virtually no representative institutions existed in the country other than Parliament and a few municipal councils. Parliament was the domain of the nobility. Even if in some urban areas municipal councils were established, democratic practice was limited to property owners. On the other hand with the establishment of UDAs and PAs people were afforded the opportunity to directly deliberate on their own affairs. They were also given the chance to elect their representatives at local level which was a democratic exercise unprecedented in the country’s history. The significance of public participation for the purpose of realising development was clearly articulated in the Derg’s programme. The establishment of the UDAs and PAs, even if short-lived, was a significant stride towards democratisation.

Furthermore, the Derg stated in its programme that local administrative units would serve as development agents. It was with this objective that the UDAs and PAs were initially established and given with development oriented functions. This was a noteworthy departure from the past in which local authorities’ main

purpose was to collect taxes and suppress resistance against the Emperor. Moreover, as result of this measure, a significant improvement was recorded in expanding the provision of social services such as health care and education. The number of students with access to primary education in 1974 was only 811,114. This number quadrupled to 3, 076 948 in 1984, presumably, due to the role that the UDAs and PAs played. The UDAs and PAs are also credited for implementing the adult literacy programme, which is claimed to have halved illiteracy in the country. In short, as Andargachew points out, ‘the establishment of UDAs and the granting to them of such powers and responsibilities was an admirable exercise of devolution of power’.

On the ethnic question, as was seen above, the NRD of the Derg recognised the political, economic, and cultural marginalisation of ethnic minorities. It also pledged to use the establishment of regional and local self-government as a means to accommodate ethnic minorities. As indicated previously this move was a political manoeuvre by the Derg to win over the Meison to join the government. It cannot be gainsaid, however, that the recognition of the plight of ethnic minorities was another important ‘departure’ from the past. A pledge to allow each ethnic community to administer itself, to determine its political destiny, and to use its own language was unheard of in the past 100 years of the country’s history.

Despite the Derg’s promising start, the reforms were short-lived and the promises were reneged upon. The Derg quickly recoiled back to authoritarianism. The

focus of the regime became on how to maintain power. Development became, if at all, secondary to protecting the political power of Colonel Mengistu and his cronies. The UDAs and PAs began serving, as was previously the tradition, as instruments of control. They were effectively used for eliminating the Derg’s arch-rival, the EPRP, in the so called Red Terror campaign. They were used for implementing the villagisation programme of the Derg. UDAs and PAs also helped the Derg’s war effort against the TPLF and other rebel groups through forceful conscription which was known in Amharic as affessa.

The status quo was maintained with regard to the right to self-determination of the various ethnic groups of the country. Amharic was still the only language of work and academic instruction. The cultures of the various ethnic communities, which were regarded as backward and anti-revolutionary, were displaced.

Even if there was an endeavour to reform the provincial and local administration by providing formal autonomy to certain areas, it was not done out of a genuine

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839 The EPRP, having declared urban armed struggle against the Derg, began assassinating several Derg officials. It even made an attempt to assassinate Colonel Mengistu himself, wounding him in the process. EPRP’s attack against the Derg was named ‘white-terror’. The Derg immediately set out to eliminate EPRP in an operation that it termed ‘Red Terror’. The UDAs and PAs played a central role in carrying out the ‘Red Terror’ operation. Andargachew (1994) 209; Bahru (2008) 428-444; Kinfe (1994). See also Kissi (2003).

840 The Derg’s villagisation programme involved the resettlement of scattered peasants into centralised villages. The programme necessitated the forceful removal of peasants from their localities to other areas. The declared policy reason of the Derg for the villagisation programme was creating convenience for service delivery to the peasants. The true motive was, however, to create a convenient way of controlling the peasants. Once again, local officials were instrumental in the implementation of this programme. Clapham (1988) 161.


842 See Dereje (2006).
intent to devolve power. It was rather to appease the ethno-national insurgent
groups who were intensifying their attacks on the government.\textsuperscript{843} Moreover,
practical measures were not implemented to allow the autonomous regions to
make use of their ‘autonomy’.

7. THE END OF THE DERG AND THE BEGINNING OF RE-

7.1. Introduction

From the day it assumed power, the \textit{Derg} was confronted with multitudes of
challenges, its biggest challenge being ethnic-based armed insurrections in
different parts of the country. The armed insurrection in Eritrea that was led by
the EPLF since the 1960s further escalated.\textsuperscript{844} The TPLF also intensified its
attack against the \textit{Derg} in northern Ethiopia.\textsuperscript{845} Other armed groups, including,
the Oromo Liberation Front (OLF), the Ethiopian People Democratic Movement
((EPDM) which later became the Amhara National Democratic Movement
(ANDM)), and the Oromo People Democratic Organisation (OPDO), were also
formed and began waging war against the regime. In the late 1980s the TPLF,
EPDF (ANDM), OPDO, and other rebellion organisations came together and
formed an umbrella organisation called the Ethiopian People’s Revolutionary
Democratic Front (EPRDF) and intensified their co-ordinated military attack
against the \textit{Derg}.\textsuperscript{846} The 1984-87 famine and the mishandling of the disaster by

\textsuperscript{843} Keller (1995) 130.
\textsuperscript{844} This rebellion began following the 1962 termination of the federation between Ethiopia and
Eritrea which was established in the 1950s by the United Nations. Young (2004) 25. See also UN
General Assembly Resolution 390 (V) (1950).
\textsuperscript{845} Young (1996) 534f.
\textsuperscript{846} Young (1996) 534f; Vestal (1999) 3.
the Derg farther sharpened the conflict. The Derg also lost a ‘powerful ally’ and its ‘only source of arms’ when the U.S.S.R. fell into its own crisis. As a consequence, the Derg began to lose one battle after the other. Finally, on 21 May 1991 Colonel Mengistu fled the country to seek asylum in Zimbabwe. Eight days after Mengistu’s flight, the EPRDF forces took control of Addis Ababa. Almost at the same time the Eritrean People Liberation Front captured Asmara. With that the 17 year gruesome civil war, which claimed the lives of more than a million Ethiopians, came to an end.

7.2. The formation of the Transitional Government of Ethiopia

After one month of interim rule, on 1 July 1991, the EPRDF convened ‘the Peaceful and Democratic Transitional Conference of Ethiopia’. The Conference was attended by delegations from 24 ethnic-based movements, representatives of international organisations, and religious organisations. This Conference debated and discussed the future of the country and on 22 July 1991, adopted a ‘Transitional Period Charter (TPC)’ which served as a Constitution until the promulgation of the 1995 Constitution.

7.2.1. The TPC on the ethnic question

The TPC laid down the groundwork for the first phase of the decentralisation process in Ethiopia. This phase of the decentralisation process was aimed primarily at responding to the ethnic question. The TPC recognised the right to self-determination for ‘each nation, nationality and people’ of Ethiopia. The

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848 Kinfe (1994) xx.
right to self-determination of each ethnic community became the ‘governing political principle’ of the country.\footnote{Transitional Period Charter (TPC) (1991) Preamble 2\textsuperscript{nd} paragraph.} This principle was to find expression in the right of each ethnic community to administer its own affairs within the territory it inhabited, and to participate in the central government.\footnote{TPC (1991) Art 2 (b).} The right to self-determination also included the right of each ethnic community to secede from the country and declare its own independence, if it so chose.\footnote{TPC (1991) Art 2 (c).} The TPC, therefore, established a \textit{de-facto} ethnic federal system.

The TPC also provided for the establishment of a central transitional government which had a ‘multinational council’ called ‘the Representative Council’ and an executive body.\footnote{TPC (1991) Art 6.} The Representative Council was composed of the representatives of the ethnic-based movements that participated in the conference and other ‘prominent individuals’.\footnote{TPC (1991) Art 7.} The Representative Council served as Parliament until 1995. Meles Zenawi was elected the Chairperson of the Council and the President of the Transitional Government of Ethiopia (TGE).\footnote{The Representative Council had the power to elect its own chairman. According to the TPC, the chairman of the Council would be the Head of State of the country.\footnote{TPC (1991) Art 7.} TPC (1991) Art 7.}

\textit{Ethnic-based regional and local units under the TGE}

\footnote{The right was conditional which could be exercised only if an ethnic community was convinced that its right to self-government was denied, abridged or abrogated. In addition, the right could be exercised if a nation and nationality’s right to participation in the central government freely and on an equal basis was ‘denied, abridged or abrogated’. As will be discussed in the subsequent chapters, this was changed under the 1995 Constitution which recognises each ethnic community’s right to an unconditional secession.}
The TPC provided that a law would be issued to establish transitional local and regional councils. The TPC also provided that the boundaries of the regional and local units would be demarcated based on the geographical settlement structures of the ethnic communities of the country. In view of that, the Representative Council issued Proclamation No 7 (1992). The Proclamation identified 63 territorially concentrated ethnic communities. Forty-seven out of the 63 ethnic communities were declared capable of establishing their own self-government, starting from woreda level. The boundaries of each ethnic-based self-government area were demarcated based on the pre-1974 woreda boundaries. Hence, woredas, the majority of whose residents belong to a specific ethnic community were brought together to form a regional or a sub-regional self-governing area of the particular ethnic community.

In the manner described above, 14 self-governing regions were established: The regions were Amhara, Afar, Harari, Benishangul, Kambata, Gambella, Gurage, Hadiya, Keffa, Addis Ababa, Oromia, Sidama, Tigray and Somali. Under
Proclamation 7 (1992) smaller ethnic communities could by agreement join together to create a larger unit. Accordingly, Gurage, Kambata, Hadiya, Sidama, and Kaffa ‘opted’ to unite and create the region now known as the Southern Nations, Nationalities and Peoples region. The other 17 ethnic communities (also called ‘minority nationalities’) were found to be too small in size to exercise self-governance even at the woreda level. The Proclamation, nevertheless, guaranteed them fair representation in the woreda and other councils.

7.2.2. Local government and development under the TGE

The woreda became the ‘basic’ unit in the hierarchy of national, regional and local transitional self-governments. As indicated above, the pre-1974 territorial boundaries of woreda were adopted as the boundaries of the woreda administrations under the new dispensation. Proclamation 7 (1992) provided for the establishment of a representative council (woreda council) and an executive committee in each woreda. The Proclamation also provided that members of a woreda council would be directly elected. It also provided that minority nationalities in a woreda would be represented in a woreda council.

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865 Proclamation 7 (1992) Art 3(2) (b).
regardless of their numerical size.\textsuperscript{871} The _kebele_ was retained by the Proclamation as the lowest administrative unit.\textsuperscript{872}

**Local elections**

The TPC provided that regional and local elections would be held within three months of the establishment of the Central Transitional Government.\textsuperscript{873} However, the elections could not be held as was planned and were postponed to June (1992). In order to administer the June (1992) local elections, provisional local administrations were established in each district (_woreda_) and sub-district (_kebele_).\textsuperscript{874} The elections (called ‘snap elections’) were held at public meetings on non-partisan basis. These _kebele_ and _woreda_ committees administered the 21 June 1992 regional and _woreda_ elections in which EPRDF claimed to have won 96 percent of the seats in the regional and _woreda_ councils.\textsuperscript{875}

**Powers and functions of local government**

Proclamation 7 (1992) states that a _woreda_ administration could exercise both legislative and executive powers with a view to planning and implementing social services and economic development programmes for the _woreda_.\textsuperscript{876} The _woreda_ administration was also entrusted with the responsibility of implementing the laws, policies and directives of the Central Transitional Government.\textsuperscript{877} In addition, it was authorised to establish security and police forces for the area, to

\textsuperscript{871} Proclamation 7 (1992) Art 5(3).
\textsuperscript{872} Proclamation 7 (1992) Art 5(1).
\textsuperscript{874} Proclamation 9 (1992) Preamble & Art 3(1).
\textsuperscript{875} Keller (1995) 136.
\textsuperscript{876} Proclamation 7 (1992) Art 40 (1) read with 42.
\textsuperscript{877} Proclamation 7 (1992) Art 40(1).
appoint the heads of judicial organs, and to establish public prosecution offices, audit offices, and a police force for the *woreda*.\(^{878}\)

*Local finances under the TGE*

The Proclamation did not provide any clear source of income of the *woreda* administration. However, it put the responsibility of identifying the source of income on the *woreda* itself, and of preparing and approving the *woreda* budget, on the *woreda* administration.\(^{879}\)

7.2.1. **Assessment**

The TGE invested all its energy during the transitional period in responding to the ethnic question. The TPC and Proclamation 7 (1992) also went a long way to responding to the ethnic question. Local government’s role in this regard was also clearly articulated. Important practical measures were taken to respond to the ethnic question. The right to self-determination of each ethnic community was recognised. Local and regional boundaries were reorganised along ethnic line. This is a great departure from the past.

However, the TGE was so preoccupied with the ethnic question that the development question was not given as much attention. The developmental role of local government was not clearly articulated. Neither the TPC nor Proclamation 7(1992) clearly defined the precise developmental functions of *woredas*. The TPC merely provided that local government could decide on local socio-economic matters. It did not spell out the socio-economic matters that could be decided at *woreda* level. Moreover, the Proclamation 7 (1992) provided that the regional and local governments were ‘in every respect, entities subordinate to

\(^{878}\) Proclamation 7 (1992) Art 43(1)

\(^{879}\) Proclamation 7 (1992) Art 43(1) (d).
the Central Transitional Government’.\textsuperscript{880} By so doing it maintained the pre-1991 hierarchical government structure.

Furthermore, the June 1992 woreda elections were far from competitive. They were marred by controversies and irregularities. The independence of the provisional local administrators, who administered the June 1992 elections, was contested. As indicated above, the provisional administrators were supposed to be elected on a non-partisan basis, in public meetings. However, it is alleged that the EPRDF ensured that individuals who were loyal to it were installed in each woreda and kebele. As Pausewang, Tronvoll and Aalen write:

\begin{quote}
These public meetings were orchestrated to elect the representatives of the EPRDF. Where the public did not comply with wishes of the EPRDF, election results were declared invalid on formal grounds and the elections were repeated, in some places up to three times, until the EPRDF candidates were installed. In few places, the results of the snap elections were simply disallowed and EPRDEF cadres were appointed.\textsuperscript{881}
\end{quote}

This ‘allowed [the EPRDF] to determine when and to whom voter registration materials were distributed’.\textsuperscript{882} Alleging such irregularities, the major political parties and other small parties withdrew from the elections.\textsuperscript{883} The withdrawal of the opposition parties from the elections undermined the representativeness of the result. As Keller states, due to the withdrawal of these parties from the elections,

\begin{itemize}
\item \textsuperscript{880} Proclamation 7 (1992) Art 3(3).
\item \textsuperscript{881} Pausewang, Tronvoll & Aalen (2002) 31.
\item \textsuperscript{882} Lyons (1996) 127.
\item \textsuperscript{883} These included OLF, the All Amhara People Organisation (OAPO), the Ethiopian Democratic Action Group (EDAG), Joireman (1997) 402.
\end{itemize}
an estimated 50-60% of those who were eligible to vote were left unrepresented.  

7.3. The FDRE Constitution: the groundwork for local level decentralisation 1995-

In 1995 a new Constitution was promulgated. The promulgation of the Constitution formalised the de facto ethnic federal system that had already been formed under the TPC. The establishment of Ethiopia on a federal basis completed the first phase decentralisation process. The nine regional states which were already established during the transitional period were confirmed to be the constituting units of the federation. Addis Ababa, the capital of the country, became a self-governing city.

8. CONCLUDING REMARKS

The discussion in this chapter shows that historically, Ethiopia was a decentralised state in which local, regional and central authorities co-existed and exercised government powers autonomously. This decentralised system was the result of Ethiopia’s rugged topographical landscape and the absence of modern means of communication, which rendered centralised rule impracticable. The diversity of the socio-economic systems and cultures of the people led to the creation of a variety of traditional local governance institutions. In many respects these institutions were democratic, legitimate and even to a great extent developmental.

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Nevertheless, a process of centralisation began in the second half of the 19th century and continued until 1991. The centralisation of political powers and the bureaucratisation of local administration resulted in inefficiency and corruption which in turn led to a pervasive and multi-faceted poverty. The centralisation also led to the concentration of political power within members of a single ethnic community and the marginalisation of the rest of the ethnic communities of the country. In short, the centralised system of administration which existed in the country prior to 1991 was undemocratic, non-developmental, and repressive of ethnic and cultural differences. It was merely a system for central control.

Subsequent to the demise of the Derg, Ethiopia was formally re-decentralised through the TPC. However, while the TPC succeeded in providing a constitutional ground for the establishment of a local governance system which was democratic and accommodative of the interest of minority ethnic groups, it fell short of clearly articulating the developmental role of local government.

With the promulgation of 1995 Constitution, Ethiopia formally became a federal state. Now, the questions remain: what kind of local government is envisaged in the Constitution? Does the Constitution require the establishment of autonomous local government in Ethiopia? What are the measures taken in establishing local government? What are the policy considerations behind the creation of local government that exists in Ethiopia? The following chapter will provide answers to these and other related questions.
Chapter 4

Ethiopia: From federalism towards local level decentralisation

1. INTRODUCTION

As indicated in the preceding chapter, Ethiopia is a federal state. Decentralisation within a federal system involves the formation of an autonomous level of government within an autonomous sub-national unit. The constitutional status of local government in a federal dispensation is likely to impact on its significance for development and for management of ethnic diversity. Therefore, it is crucial to provide a brief overview of Ethiopia’s federal system and to locate the place of
local government within the federal milieu in order to better address the central issues of the thesis. It is also necessary to provide an overview of the political rationales that underpin the decentralisation programme, since these are crucial in understanding the design of the country’s local government system. This chapter, therefore, provides such a background.

This chapter has four main sections. First, § 2 and 3 will provide an overview of Ethiopia’s federal system and the governance structures of the federal and regional governments. § 4 will discuss the type of local government envisaged by the FDRE Constitution. This section identifies the place and status of local government in the federal structure. § 5 then will discuss the political process and motives that led to decentralisation and the establishment of local government. Finally, § 6 will provide an overview of the local government structure with a view to making subsequent discussion more comprehensible.

2. ETHIOPIA AND ITS ETHNIC-BASED FEDERAL SYSTEM

As was indicated in the preceding chapter, Ethiopia formally became a federal country with the promulgation of the 1995 Constitution.\textsuperscript{887} Ethiopia’s federation is conceptualised as a ‘federation of ethnic groups’ in which the various ethnic groups are ‘joined together in a federal union’.\textsuperscript{888} This is reflected in various parts of the 1995 Constitution. The Preamble to the Constitution states that the federal

\textsuperscript{887} The fact that Ethiopia is a federal country is clearly depicted in the various parts of the Constitution. The Constitution itself is titled ‘Constitution of the Federal Democratic Republic of Ethiopia’. The very first provision of the Constitution provides that ‘[t]his Constitution establishes a Federal and Democratic State structure’. The provision goes on to state that ‘the Ethiopian state shall be known as the Federal Democratic Republic of Ethiopia’. FDRE Constitution (1995) Art 1. See also Assefa (2007a) 236-237.

system is a result of a concurrence among the ‘the nations, nationalities and peoples’ of the country. The Constitution also provides that ‘sovereign power resides in the nations, nationalities and peoples’ of the country. This departs from the commonly held conceptualisation of ‘popular sovereignty...based on “a body of citizens” acting in their capacities as individuals’. Ethiopian citizens, therefore, are no longer viewed as ‘a people’. The Constitution, in addition, recognises the unconditional right of each ethnic community to self-determination which also includes the right to secession. Under the federal dispensation, therefore, Ethiopia is seen as a state which is ‘founded by and belongs to all ethnic groups’.

Within the federation the right to self-determination of the ethnic communities finds expression in their ability to exercise self-rule. Hence, the Constitution provides that the boundaries of the constituent units of the federation would be demarcated ‘on the basis of the settlement patterns, language, identity and consent of the people’. It is based on this constitutional principle that, as was

889 FDRE Constitution (1995) Preamble. The Constitution defines nation, nationality and people as: ‘[A] group of people who have or share a large measure of a common culture or similar customs, mutual intelligibility of language, belief in a common or related identities, a common psychological make-up, and who inhabit an identifiable, predominantly contiguous territory.’ FDRE Constitution (1995) Art 39 (5).
indicated in chapter three, the nine ethnically organised regional states were created. 897

2.1. Intra-regional ethnic diversity

The federal Constitution recognises the right to self-government of each ethnic community in the country. 898 However, as is indicated in the table below, the ethnic federal system has not created a single ethnically homogenous regional state. Each regional state hosts several ethnic communities. The Amhara, Oromia, Tigray, Afar, and Somali regional states have a dominant ethnic community each. For instance the Amhara constitute 91 percent of the population of the Amhara region while Tigrawiyans constitute 96 percent of the Tigray region. Each of these five regions actually bears the name of the dominant ethnic community on whose behalf it is established. These regions are also considered the ‘mother state’ or ‘homeland’ of the ethnic communities whose name they bear. 899

Table 2 Intra-regional ethnic diversity

<table>
<thead>
<tr>
<th>Region</th>
<th>Ethnic groups</th>
</tr>
</thead>
<tbody>
<tr>
<td>Amhara</td>
<td>Amhara (91%), Agew (5%), Oromo (3%) others (2%)</td>
</tr>
<tr>
<td>Oromia</td>
<td>Oromo (87%), Amhara (7 %), Ghurage (1 %) Somai (1%) others (4 %)</td>
</tr>
<tr>
<td>Tigray</td>
<td>Tigrawi (96.55%), Kunama (0.7%) (, Irob/Saho (0.71%) Others (2.4 %)</td>
</tr>
<tr>
<td>SNNPR</td>
<td>Surma (0.17%), Zeyise (0.10), Gidecho (0.03%), Arbore (0.04%), Geleb (1.01%), Kore (0.17%)</td>
</tr>
<tr>
<td></td>
<td>Gurage (7.52%), Hamer (0.31), Gewada (0.43%), Basketo (0.52%), Burji (0.37%), Alaba (1.35%)</td>
</tr>
<tr>
<td></td>
<td>Kambata (3.81%), Shinasha (0.01%), Dawro (3%), Bumi (4%), Dime (0.64), Tembaro (0.44%), Shekicho</td>
</tr>
</tbody>
</table>

The rest of the regional states do not have even a dominant ethnic community, let alone being ethnically homogenous. As can be seen from the table above, for instance, the Sidama, the ethnic community with the largest population in SNNPR, does not even constitute 20 percent of the region’s population.

In addition, there are hundreds of thousands of ethnic migrants in many urban areas of most of the regional states. For instance, more than 3 million ethnic migrants live in many cities of Oromia. It is this intra-regional ethnic heterogeneity that brings to the fore one of the two central questions that this thesis aims to address, namely whether local government plays a role in managing diversity at intra-regional level.

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2.2. Territorial, social, and economic variations among the regional states

The regional states exhibit wide variations in terms of territorial and population sizes, and political and socio-economic development levels even if they have identical functions and powers under the federal Constitution. Oromia, containing more than 30 percent of the country’s population, stands out as the largest region followed by the Amhara regional state. At the other extreme there is Hareri, a small city-state with just more than 150,000 inhabitants.

There is also variation in terms of the level of social and economic development each of the regional states has attained. Evidently, all of the regional states have attained low level social and economic development as Ethiopia itself is one of the least developed African countries. Yet, the so called ‘low land’, ‘emerging’, or ‘least developed’ regions, which include the Afar, Somali, Gambella and Benishangul-Gumiz regions, have even lower economic development, due to historical reasons. The low level of economic and infrastructure development in these regions is attributed to the neglect and marginalisation of the regions by the previous regimes. The pastoralist livelihood of the communities in these regions which requires them to constantly move from one place to the other has also hampered the establishment of an ‘indigenous settled administration’. Therefore, as Assefa writes, the lowland regions are still unable to articulate their own interests and ‘to evolve into viable

906 Young (1999) 342.
As will be discussed in the subsequent chapters, the difference in socio-economic development among the regional states has a direct impact on the design and effectiveness of the local government system of each regional state.

3. FEDERAL AND STATE GOVERNMENT STRUCTURES
3.1. Introduction
The FDRE Constitution, true to Ethiopia’s federal dispensation, provides for the establishment of two orders of government that are structured at federal and state level. The federal government and the regional governments have three branches: legislative, executive, and judicial.

3.2. Federal government
The federal government has two federal houses, the House of Peoples Representatives (HoPR) and the House of Federation (HoF), a parliamentary executive, and a judiciary.

3.2.1. Federal legislature
3.2.1.1. HoPR
The HoPR is the lower house of Parliament. It has a maximum of 550 seats which are held by parliamentarians who are directly elected for a five year term. The electoral system that is used in general elections is first-past-the-post (FPTP). The woredas, which have approximately 100,000 residents, are used as electoral

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907 Asséfa (undated) 22.
districts in national elections. 915 Around 20 of the 550 seats are reserved for minority ethnic groups.916

Political parties

There are more than 79 registered political parties in Ethiopia which contest in national elections.917 These political parties, most of which are organised along ethnic lines, operate alone or in coalition. The political parties, based on their political standing, are divided into three categories: the first category comprises ethnic-based political parties which are members of the ruling party. In the second category are those that are affiliates to the EPRDF and in the third category are opposition parties.918

The EPRDF itself is composed of four political parties which are organised along ethnic lines.919 These are the Tigray Peoples Liberation Front (TPLF), the Amhara National Democratic Movement (ANDM), and the Oromo People Democratic Organisation (OPDO), and, the Southern Ethiopia Democratic Movement (SEPDM). SEPDM is a coalition of 20 small ethnic-based political parties.920

917 The official website of the National Electoral Board of Ethiopia http://www.electionethiopia.org/en/ (last accessed on 28 February 2012).
Political parties which are affiliate to EPRDF are those parties which are organised along ethnic lines and are considered allies of the ruling party, without formally being members of it. 921 These are the Somali People Democratic Party (SPDP), the Afar National Democratic Party (ANDP), the Benishangul-Gumuz Peoples Democratic Unity Front (BPDUF), the Gambella Peoples’ Unity Democratic Movement (GPUDM), and Hareri National League.922 Each BPDUF and GPUDM is a coalition of two ethnic-based political parties. The affiliate parties are allegedly created by the EPRDF itself and not opposition parties per se.923

There are also opposition parties which supposedly have policies and programmes that differ from the EPRDF and its affiliate parties.924 Most of the opposition parties are ethnic-based and operate alone or in coalition with other ethnic-based parties. Almost for every ethnic-based party which is a member of, or an affiliate to, the EPRDF, there is a counterpart in the opposition camp.925

National elections

Since 1995, four national elections have been held. In all of these elections, EPRDF came out victorious. Opposition parties registered their major success in the 2005 general elections, the most contested elections in Ethiopia’s history, by

925 For instance the Ethiopia Federal Democratic Unity Forum (in short FORUM) is composed of a number of ethnic-based opposition political parties. The Southern Ethiopia Peoples’ Democratic Coalition (SEPDC) which is one of the members of the FORUM is a coalition of a number of ethnic-based parties which claim to represent certain ethnic communities in SNNPR. The SEPDC can be considered as the counterpart of the SEPDM in the opposition camp. See Wondwosen (2009).
winning more than 170 seats in the HoPRs along with all the seats in Addis Ababa City Council. \textsuperscript{926} However the post-election dispute which arose when leaders of the opposition parties accused EPRDF of vote rigging and refused to join Parliament led to violence in many parts of the country. All the leaders of the opposition parties were accused of inciting violence and were arrested, tried and sentenced to life imprisonment, even though they were released latter as a result of a Presidential Pardon. \textsuperscript{927} In the 2010 elections EPRDF and its affiliates claimed to have won 99.6 percent of the seats in HoPRs. \textsuperscript{928}

3.2.1.2. HoF

The HoF, the upper house of the federal government, is composed of one or more representatives of each ethnic community in the country\textsuperscript{929} depending on the size of the population of the particular ethnic group. \textsuperscript{930} Each ethnic group is represented by one representative in this House. An ethnic community with a population of more than a million is represented by one additional representative for each extra one million people belonging to it. \textsuperscript{931}

Only the HoPR has legislative power. \textsuperscript{932} The HoPR issues proclamations on all federal matters that are listed under Article 51 of the Constitution. The proclamation is the highest statutory law that the highest federal or regional

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\textsuperscript{926} International Crisis Group (ICG) (2009) 8-10; See also Wondwosen (2009).
\textsuperscript{927} ICG (2009) 10.
legislative council issues. The HoPRs also has the power to approve the country’s fiscal and monetary policies as well as policies on social and economic development. The HoF deals only with non-legislative matters pertaining to, among other things, self-determination of ethnic communities, inter-state disputes, division of revenue, and the like. In addition, the HoF has a final say on disputes involving the interpretation of the federal Constitution.

3.2.2. Federal executive

The Council of Ministers, which is composed of a Prime Minister (PM) and other ministers, forms the highest executive organ of the federal government. The PM, who heads the executive council, is elected by and from among the members of the HoPRs. The other members of the Council of Ministers, which includes the deputy PM, ministers, and others, are nominated by the PM and appointed by the HoPR. The Council of Ministers has subsidiary legislative powers over and

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933 Fasil (1997) 82
936 It was believed that there was no other federal organ other than the HoF that was better suited for interpreting the Constitution considering the fact that the Constitution is ‘a political contract’ among the ethnic communities that the HoF is composed of the representatives of the ethnic communities, ‘the authors’ of the Constitution. Moreover, if the power to interpret the Constitution was to be given to the judiciary, there was a fear that judges, while interpreting the Constitution, might indulge in ‘judicial adventurism’; ‘in the process of interpreting vague clauses of the Constitution, [the judges would] put their own preferences and policy choices. [T]his might result in hijacking the very document that contains the ‘compact between the nationalities’ to the judges’ own personal philosophies’. Assefa (2007a). FDRE Constitution (1995) Art 62 (1).
939 FDRE Constitution (1995) Art 72 (1), 76 (1) & 74 (2). Meles Zenawi, the Chairman of the EPRDF, has been serving as the Prime Minister of the Country since 1995. He was also the President of the Transitional Government of Ethiopia from 1991 to 1995. Following the 2005
above its executive powers: It issues executive regulations based on the proclamations enacted by the HoPR.940

3.2.3. Federal courts

The Federal Supreme Court is the highest judicial organ at the federal level.941 Several benches of the Federal High Court and a Federal first Instance Court are also established in Addis Ababa and Dire Dawa. In the regional states, the powers of the federal First Instance and High Courts are delegated to and exercised by the state High Courts and State Supreme Courts, respectively.942 However, the federal government is busy establishing benches of federal First Instance and High Courts in some of the regions. Federal courts apply federal laws in deciding cases.943 It is unclear though whether they may apply the Constitution in deciding cases as the power to interpret the federal Constitution is given to the HoF.944

national elections Meles declared his intention not to seek office of the PM of the country after serving until 2010. However, sometime in 2009 it was declared that the EPRDF has set a procedure of alternation (kibibilosh) in which the leadership of the party which took part in the war against the Derg would retire one after the other, leaving the leadership position to the new generation. The alternation is to take place at different stages. In the first stage some of EPRDF’s heavy weight politicians including Siyum Mesfin, the former Minister of Foreign Affairs, Addisu Legesse the former deputy chairman of the EPRDF and Deputy Prime Minister have left their ministerial post. They did not also participate in the 2010 elections. Meles, according to the rule of kibibilosh, will be the last to retire, which is expected to take place in 2015.

944 Assefa argues that despite the fact that the HoF has a final say on constitutional issues, federal courts may still interpret and apply the Constitution to decide cases. Yonatan, in contrast, argues whenever a resolution of a particular case involves the interpretation of the Constitution, the Court must transfer the case to the HoF. See Assefa (2007 b) & Yonatan (2008)
3.3. The regional governments

A state government that is established in each regional state has legislative, executive, and judicial branches. 945

3.3.1. State legislature

All of the regional states, except SNNPR, have a unicameral legislative house called a State/Regional Council. 946 In SNNPR there is an upper house which is called the Council of Nationalities (CoN). It has a structural organisation and function that is similar to the HoF. 947 The Regional Council is the highest regional political organ. 948 It has the power to draft, adopt and enact a regional constitution as well as proclamations on state matters. 949

3.3.2. Regional executive

Each regional state has an Executive Council which is headed by a regional chief administrator or president. The regional states have structured their governments based on the parliamentary system. Members of a regional council, therefore, elect a regional chief administrator (also called regional President) from among themselves. 951 The regional chief administrator is nominated from a

945 FDRE Constitution (1995) 50 (3, 6, &7).
party or coalition of parties’ occupying the majority of the seats of the regional
council.

The regional executive council is responsible for executing regional laws. It is
charged with formulating regional economic and social policies.\textsuperscript{952} It is also
responsible for implementing the policies when approved by the regional
council.\textsuperscript{953} Under the regional constitutions, the executive council exercises
subsidiary legislative power. Hence, it issues regulations based on a regional
proclamation.\textsuperscript{954}

\textbf{3.3.3. State judiciary}

State judicial power is entrusted to the states courts. All of the regional states
have state First Instance, High, and Supreme Courts which have first instance
and/or appellate jurisdiction.\textsuperscript{955} State courts apply state laws to decide cases
except when they act as federal courts. It is not clear whether they may apply
state constitutions in deciding cases.\textsuperscript{956}

\begin{itemize}
\item \textsuperscript{954} ARS Constitution (2001) Art 58 (7); AfRS Constitution (2001) Art 56 (5); BGRS Constitution
      (2002) Art 59(7); SRS Constitution (2001) 59 (7); GRS Constitution (2001) 62 (7); ORS
      Art 56(7).
\item \textsuperscript{955} FDRE Constitution (1995) Art 50 (7). See also chapter 7; § 2.3.2.2.
\item \textsuperscript{956} In all regions, the power to interpret the regional constitution is given to a constitutional
      interpretation commission (CIC) which is composed of representatives of woredas, regional
      states, and where applicable, nationality zones. In the SNNPR, the CoN has the final say on the
      interpretation of the state’s Constitution. The CIC or the CoN interprets the state Constitution
\end{itemize}
3.4. Division of functions

The Constitution divides government functions between the federal and regional governments. Article 51 of the Constitution contains a list of exclusive federal competences.957 The Constitution provides that all residuary powers (i.e. those neither exclusive to the federal government nor concurrent state-federal competences) exclusively to the regional states.958 Besides, the Constitution explicitly authorises the regional states to formulate and approve policies on regional economic and social matters.959 The Constitution also authorises the regions to administer land and other natural resources.960

Scholars disagree on whether the FDRE Constitution provides sufficient powers to the regional states. Abbera and Andreas are of the opinion that the division of government functions favours the federal government.961 Andreas even suggests that the federal system is an ‘administrative decentralisation’ as the regional

Based on the opinion of a constitutional inquiry commission which is composed of judges and lawyers. See chapter 7; § 2.3.2.2.

957 According to Assefa, the exclusive competences of the federal government are not, however, limited to those listed under Article 51. The Constitution mentions additional exclusive federal powers which are not listed under Article 51 in the provisions that deal with the powers of the different branches of the federal government. For instance under Article 55 the Constitution authorises the House of People’s Representatives to enact labour law, a commercial code and a penal code and to approve the appointment of federal judges, ministers, commissioners, the auditor general and other appointees. As Assefa notes, the powers of the regional government can be ascertained only after deducting the federal powers which are mentioned throughout the Constitution. Assefa (2007a) 337.


states have little powers. Assefa and Yonatan conversely argue that the regions have significant functions. Yonatan, for instance, argues that there are many areas that are not within the list of federal competences on which the states may exercise legislative power. These include ‘intra-state transport, state roads, state tourism, health services, agriculture, disaster management, housing, intra-state trade, vehicle license, firefighting services, traffic regulation, electricity, liquor license’. There is an agreement though that the Constitution is generous to the regional states so far as matters pertaining to ethnic and cultural identities are concerned.

In practice the federal government plays a dominant role. It makes excessive use of its power to formulate policies on matters relating to social and economic development. The federal policies and strategies relating to social and economic matters are so detailed that they leave little room for regional action. According to Assefa, the centralisation of policy formulation is the upshot of the centralised structure and operation of the ruling party. Most of the policy papers ‘originate’ as ‘party documents’. After being discussed by the party leaders at the federal and state government levels, the documents are tabled for approval by Parliament and published as government policy papers. As the discussion in

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964 Yonatan (2010) 212.
967 Assefa (2006) 139.
969 Assefa (2007a) 395.
970 Assefa (2007a) 395.
chapter five and chapter six shows, the dominant role that the federal government plays in policy making impacts on local government.  

3.5. Financial powers

The allocation of financial sources between the state and federal governments is likely to have bearing on the financial autonomy of local government. As will be argued below, whatever taxing power is devolved to local government must be deducted from the taxing power of the regional governments. The financial powers of the federal and state governments are therefore, briefly discussed below.

3.5.1. Taxes

The federal Constitution provides for four categories of taxes; exclusive federal taxes, exclusive state taxes, concurrent taxes, and undesignated taxes. The first two categories of taxes are imposed and collected by federal and state governments, respectively. Article 96 lists federal taxes which include custom duties, import and export taxes, and income taxes from federal employees and employees of international organisations. Article 97 of the Constitution contains a list of regional taxes which includes land taxes, agriculture income taxes, and income tax from regional government employees as well as from employees of private enterprises which are licensed by and operate in a regional state.

The concurrent taxes are levied and administered by the federal government and the proceeds are shared by the federal government and the relevant regional
These taxes include taxes on profit, sales, excise and personal income of enterprises which are jointly owned by federal and state governments. An undesignated tax becomes either a federal, regional, or concurrent tax when so decided in a joint session of the two federal Houses.

3.5.2. Federal grants

The federal Constitution provides that the federal government may grant to the regions certain financial assistance. The HoF is charged with the responsibility to determine the manner in which the federal grants would be divided among the regional states. The Constitution further enjoins the federal government to cover the costs of discharging functions that it has delegated to the regional states. In practice, the federal government transfers two types of federal grants to the regions: unconditional block grants and specific purpose grants. The bulk of the federal grant takes the form of formula-based unconditional block

974 The Constitution provides that the concurrent taxes shall be levied and collected jointly by both the federal government and a regional government. However this provision was interpreted to mean that concurrent taxes are levied and administered by the federal government and the proceeds are shared between the federal government and the region. Solomon (2006) 141; FDRE Constitution (1995) 98.
975 FDRE Constitution (1995) 98 (1).
976 FDRE Constitution (1995) Art 99. However, the Constitution seems to assume that there will be an agreement on whether or not a particular tax is undesignated or otherwise. What if there is a dispute regarding whether a particular tax is designated or not? The Constitution is silent in this respect. Should such a dispute arise, as it raises the interpretation of the Constitution, it seems that the House of Federation will have the power to decide whether or not the tax in question is designated. If it is not designated, the level of government which has the power to collect the tax would be decided by the two houses in accordance with the above procedure.
grants over which the regional states have unrestricted expenditure autonomy.  

On the other hand, programmes that are mandated by the federal government and executed by regional and local governments are funded through Special Purpose Grants (SPG). The SPGs are conditional grants which the regions may spend only for the purpose of executing federal programmes.

3.5.3. Financial power; fairly divided?

The federal government is superior as far as financial power is concerned since the most buoyant categories of taxes, such as import and export taxes, are within its control. The regional taxes are far from buoyant since very little revenue is collected from rural land use tax and agriculture income tax. Moreover, the regional states have poor tax bases. In addition, tax administration of the regional states is inefficient. In effect, the states are dependent on federal grants. According to some studies, between 70 to 80 percent of the regional states’ budgets is covered by federal grants.

As will be discussed in chapter five, the inadequacy of the taxing power of the regional states directly impacts on the revenue raising capacity of local government.

3.5.4. Concluding remarks

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983 Over and above that, the federal government owns almost all major public enterprises including banks and insurance companies. In addition, the federal government has a monopoly on telecommunication, electricity, and water. These enterprises, as Solomon states, ‘are not only a major sources of income to the [federal] government but also...the primary sources of personal income tax, excise tax, and business profit tax’. Solomon (2006) 155.
986 See chapter 5; 3.
The above sections have briefly described the structure, functions, powers, and financial sources of the federal and state governments. The next crucial issue to be discussed here is whether the FDRE Constitution envisions the establishment of local government. If it does, what are the features of local government that it envisions to be established? Related to this issue is the question where the FDRE Constitution positions local government in the federal arrangement. The following section addresses these issues.

4. LOCAL GOVERNMENT AS ENVISIONED IN THE FDRE CONSTITUTION

4.1. General

The constitutional status of local government is contentious in many federal systems. The idea of creating constitutionally entrenched local government is often perceived by the constituent units of a federation as a threat that may upset the federal equilibrium.\textsuperscript{987} This does not, however, mean that federal countries do not have autonomous local government. In fact, most federal states have three levels of government: at federal, state/regional, and local.\textsuperscript{988} The disagreement is rather about the constitutional status of local government.\textsuperscript{989}

\textsuperscript{987} In the classical federal systems of the USA, Canada, and Australia local government is established as an institution of service delivery, not as a level of government with a democratic pertinence (Steytler (2005) 2; Steytler (2009) 40). In USA and Australia local government is not even mentioned in their constitutions. In federal countries, such as Canada, where local government is mentioned in the national constitution, it is unambiguously stated that local government is states’ competence. Young (2009) 113; Steytler (2009) 406.

\textsuperscript{988} Steytler (2005) 1.

\textsuperscript{989} In Australia, for instance, the referenda which were conducted on two different occasions with the intention of providing local government a constitutional recognition failed to achieve their purpose (Sansom (2009) 12). This was, among other things, because the move was seen by the states as the central government’s plan to marginalise them and to centralise power (Saunders (2005) 51). Furthermore, the constitutional entrenchment of local government was seen as...
The constitution of a federal state is viewed as a covenant that is entered into by the constituent units of the federation. In a federal system, therefore, the constitution is a supreme law to which all levels of government are expected to adhere.\textsuperscript{990} The constitution guarantees undisrupted existence and broad autonomy to each sphere/level of government in exercising the power allocated to it.\textsuperscript{991} The main distinction between a unitary system - where sub-national units may be eliminated by national government at any given time - and a federal system is the constitutional protection that is afforded to all spheres/levels of government.\textsuperscript{992}

As Anton states, in a federal system ‘[a]ll constituent units…are guaranteed existence so long as the system exists because they are the system’.\textsuperscript{993} In short, the constitution is a defining element of a federal system. The constitution is such an important document in a federal system that, as Saunders maintains, it is the ‘ultimate goal’ of local government of a federal state to be recognised in a federal constitution.\textsuperscript{994} Providing local government with a constitutional status is a manifestation of its significance. It is also important since, as was stated in chapter two, the recognition of local government in a national constitution is related to the very existence of local government as an order of government.\textsuperscript{995}

\begin{footnotes}
\item[990] Assefa (2007a) 121.
\item[993] Anton (1989) 3.
\item[994] Saunders (2005) 47.
\item[995] See chapter 2; § 3.5.1.1.
\end{footnotes}
Ethiopia is a federal state. The fact that Ethiopia is a federal state raises the question: what are the place and status of local government under the FDRE Constitution? Does the Constitution provide for the establishment of local government? What type of local government does it envisage?

It will be argued in the following section that the FDRE Constitution envisions the establishment of two different systems of local government. The two systems of local government will be referred to in this thesis as Article 39 local government and Article 50 (4) local government based on the Articles in the FDRE Constitution that refers to each of them. These two categories of local government envisaged by the Constitution differ from each other both in structure and purposes.  

4.2. Article 39 local government

As was mentioned earlier, the Ethiopian federal system is viewed as a ‘federation of ethnic groups’. It is assumed to be a federation which came to be when various ethnic communities came together in a federal union. The federal Constitution is also regarded as a confirmation of the covenant that was entered into by and among the ethnic groups of the country based on their right to self-determination. The covenant is not assumed to have been entered into only by the major ethnic communities that are given their own regional states. Rather it is assumed to be a covenant of and for all ethnic groups of the country; including the ethnic minority communities that are found within each regional state. 

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996 For more on this see Zemelak & Yonatan (2012).
997 See above at § 2.
type of local government that is envisaged under Article 39 of the Constitution is, therefore, linked to the right to self-determination of the ethnic communities of the country; a principle which serves as the foundation of Ethiopia’s federal system.  

Article 39(3) of the Constitution provides that:

‘Every Nation, Nationality and People in Ethiopia has the right to a full measure of self-government which includes the right to establish institutions of government in the territory that it inhabits and to equitable representation in state and Federal governments.’

The above provision clearly provides that each ethnic community in the country has the right to establish self-government in its own territory. Evidently, the right to self-government is not a right which is exercisable only by those ethnic communities that have their own regional states. Rather, it is a right which is constitutionally entrenched for all ethnic communities of the country. Moreover, the right to a full measure of self-government is not necessarily to be effected through the establishment of a regional state for every ethnic community. The Constitution could not have sought to provide each ethnic community with its own regional government; to do so would have resulted in the establishment of 80 or so ethnically defined regional states. This would have simply been unfeasible. On the other hand, the Constitution could not have merely recognised the right to self-government of each ethnic community without the intention to somehow give it effect. The Constitution, thus, implies that self-government

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1000 See Assefa (2007a) 237.
1002 See Assefa (2007a) 237.
might be established at local level or sub-regional level in order to give effect to the right to self-government of each ethnic community.\textsuperscript{1003}

What is envisaged under Article 39 (3) is a special type of local government. It is not a regular system of local government that is established in every part of the country. It is rather constitutionally envisaged to be established only in those parts of the country where territorially concentrated intra-regional minority ethnic communities are present. This can be inferred from the Constitution itself which provides that each ethnic community would establish self-government ‘in the territory it inhabits’. Therefore, the boundaries of Article 39 local government are to be demarcated based on the geographical settlement structure of a sub-regional ethnic minority group.

Secondly, ‘self-determination’, as per Article 39 (3) of the FDRE Constitution, evidently, implies political autonomy. Political autonomy in turn implies a final say on certain matters.\textsuperscript{1004} Political autonomy, therefore, of necessity entails the establishment of a devolved local government; not a deconcentrated administrative unit of the regional states. Moreover, a ‘full measure of self-government’ implies the establishment of a government which has all political (legislative and executive), administrative, and even possibly, some judicial powers, and one which can autonomously exercise these powers. Therefore, Article 39 (3) local government is meant to be an autonomous sub-regional


\textsuperscript{1004} Watts (2000) 948.
government which has devolved powers. It certainly is not intended to be an administrative structure of the regional states with deconcentrated power.  

4.3. Article 50(4) local government

The second system of local government envisioned by the Constitution is mentioned in Article 50(4) of the Constitution. In this study this type of local government will be referred to as Article 50(4) local government. Article 50(4) of the 1995 Constitution provides that-

> ‘State government shall be established at State and other administrative levels that they find necessary. Adequate power shall be granted to the lowest units of government to enable the People to participate directly in the administration of such units’.

Clearly, local government is what the Constitution refers to as ‘other administrative levels’ or ‘lowest unit of government’. Here the Constitution noticeably makes Article 50(4) local government the creation of the regional states. The Constitution also provides that the regional states may establish ‘other administrative levels’ where and when they ‘find [it] necessary’. This suggests that the regional states have the option not to establish Article 50(4) local government. Moreover, the Constitution refers to local government as ‘administrative levels’ or ‘lowest units of government’ and not as a level of ‘government’. This may be interpreted to mean that the regional states may establish their own deconcentrated administrative apparatus; not necessarily autonomous local government. It is submitted here that the above is not what the Constitution envisages. It is argued below that, when Article 50 (4) is read with

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1005 For a discussion on deconcentration see chapter 2 § 2.2.1.
other related parts of the Constitution, it leads to the conclusion that the Constitution envisages Article 50 (4) local government to be an autonomous level of government. The drafting history of Article 50 (4) also shows that the framers of the Constitution intended Article 50 (4) local government to be an autonomous level of government.

4.3.1. A logical interpretation of Article 50 (4)

A careful perusal of the Constitution reveals that the Constitution envisages an autonomous local government; and not a mere structure of local administration. To begin with, the second sentence of Article 50 (4) provides that ‘[a]dequate power shall be granted to the lowest units of government to enable the [p]eople to participate directly in the administration of such units’. As indicated earlier, it is unambiguous that local government is what the Constitution refers to as the ‘lowest unit of government’. Here the Constitution imposes a binding obligation on the states to transfer ‘adequate’ powers to local government. Impliedly, it enjoins the states to create a system of local government that has ‘adequate powers’. It can be argued that, under the Constitution, the regional states have the options to determine the number of tiers of local government they may establish. They have also the discretion to determine the number of local government units they may create. It is, however, not logical to maintain that the creation of local government itself is optional, and, at the same time, to maintain that the regional states are subject to an obligation to transfer adequate powers to local government units.

4.3.2. Local government and self-rule

The establishment of Article 50 (4) local government can be linked to the right to self-rule as enshrined under Article 88 (1) of the Constitution. Article 88 (1) of the Constitution provides that the promotion of the people’s right to democratic ‘self-rule at all levels’ is one of the political objectives of Ethiopia’s constitutional system that must guide the interpretation and implementation of the Constitution and other laws. The right of the people to self-rule, as the Constitution clearly states, should be exercised at all levels. This includes the local level of government. Therefore, the establishment of local government must be informed by the need to promote the citizens’ right to self-rule. The right to self-rule as provided under Article 88 (1) is a principle that is broader than the principle of the right to self-government that was discussed above in relation to the right to self-determination of ethnic communities within the framework of Ethiopia’s ethnic federal system. The right to self-rule, as provided in Article 88 of the Constitution, is based on the notion of democracy as a self-rule. This is clearly indicated in Article 88 (1) which provides that ‘guided by democratic principles, Government shall promote the people’s right to self-rule at all level’. Self-rule as a democratic principle embodies the idea of communal control over collective decisions. Community control over collective decisions is exercised either indirectly through elected representatives or through direct personal participation. This principle requires Article 50 (4) local government to be structured in such a way that it enhances the communities’ right to democratic self-rule.

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4.3.3. Local government and public participation

It is clear from the Constitution that the need to enhance direct public participation is one of the constitutional objectives that underpin the establishment of Article 50 (4) local government. The assumption behind this constitutional objective appears to be that the establishment of autonomous local government will best promote direct public participation. This line of interpretation of the Constitution is also consistent with the general view at international level that local government is ‘the terrain most amenable to effective public participation’.\(^\text{1012}\) The European Charter of Local Self-Government, for instance, provides that ‘it is at local level that [the people’s right to participate] can be most directly exercised’.\(^\text{1013}\) Shah also argues that the current trend in governance is a steady change from a ‘bureaucratic to a participatory mode of operation’.\(^\text{1014}\) According to a World Bank report, there is an increasing trend towards the establishment of autonomous local government predicated on enhancing the role of the public in governance.\(^\text{1015}\) The drafters of the FDRE Constitution seem to have intended to make local government a site of public participation. It also appears that they were influenced by the aforementioned global trend. That must be why the Constitution clearly provides that the purpose for the establishment of local government is ‘to enable the [p]eople to participate directly in the administration of such units’.\(^\text{1016}\)

4.3.4. The drafting history of Article 50 (4)

\(^{1012}\) Porras (2009) 542.
The drafting history of Article 50 (4) of the Constitutions, as narrated by Assefa, sheds some light on the intention of the drafters of the FDRE Constitution with respect to the constitutional status of Article 50 (4) local government. Assefa writes Article 50 (4) was a result of a compromise to accommodate two important interests.\textsuperscript{1017} The first interest was to leave the responsibility regarding the creation of local government to the regional states. The other was to ensure the establishment of autonomous local government. The compromise was that, in keeping with the dual federal system, local government would remain the competence of the regional states. However ‘it was clearly stated that the local governments should not merely be agents of the state government but should have some level of autonomy’.\textsuperscript{1018}

4.4. Conclusion

In chapter two, the institutional features of a developmental local government were identified based on international literature.\textsuperscript{1019} Local government must be constitutionally recognised as an order of government and established throughout a country on wall-to-wall basis.\textsuperscript{1020} On the other hand, a local territorial unit which is meant to serve as an autonomous territorial regime for accommodating minority ethnic communities is not expected to be established throughout a country. It is rather expected to be established only in specific area wherein politically mobilised and territorially concentrated minority ethnic community is found.\textsuperscript{1021}

\textsuperscript{1017} Assefa (2007a) 341.
\textsuperscript{1018} Assefa (2007a) 341. Emphasis added.
\textsuperscript{1019} See chapter 2; § 3.5. & 4.4.2.3.
\textsuperscript{1020} See chapter 2; § 3.5.
\textsuperscript{1021} See chapter 2; § 4.4.2.3.
As the discussion in the preceding two sections show the FDRE Constitution envisages two categories of local government (Article 50 (4) and Article 39 categories of local government respectively) that demonstrate the aforementioned feature. The Constitution does not in fact explicitly recognise Article 50 (4) local government as an autonomous order of government. However, the constitutional objectives that underpin its establishment (self-rule and public participation) requires this category of local government to be autonomous level of government. Moreover, these constitutional objectives are of general relevance as everyone in every part of the country has the right to participate in communal matter. The purpose that Article 50 (4) local government intended to achieve entails the establishment of this category of local in every part of the country on a wall–to-wall basis.

Article 39 local government, on the other hand, has specific purpose namely to allow minority ethnic communities to enjoy territorial autonomy. The constitutional principle that underpinned its establishment is the right to self-determination of every ethnic community which is recognised under Article 39 of the FDRE Constitution. Hence, unlike Article 50 (4) local government, Article 39 local government is not meant to be established for every part of the country, but only in parts of the country where there are territorially concentrated intra-regional minority ethnic communities.

§ 5 will discuss the political motives and processes that led to and underpinned the decentralisation of powers to local government. § 6 then will provide a brief
overview of the organisational structure of the two categories of local government envisaged by the Constitution.

5. TOWARDS LOCAL LEVEL DECENTRALISATION

5.1. Introduction

In accordance with the constitutional prescription discussed above, the regional states have established either or both of the Article 39 and Article 50(4) local government. The establishment of the two categories of local government took place at different times. Moreover, different policy and political motives underpinned the establishment of the two types of local government.

5.2. Establishing Article 39 local government

As was discussed in chapter three, the Transitional Period Charter (TPC) recognised the right to self-government of each ethnic group even before the formal establishment of the Ethiopian federal system. Proclamation 7 (1992), which was issued during the transitional period, identified the ethnic communities that could establish their own self-governments starting from woreda. Some of the Article 39 local government units were, therefore, established during the transitional period, that is even before Ethiopia’s federal system was formally introduced. The regional states adopted their own regional constitutions shortly after the promulgation of the federal Constitution. Some of the regional constitutions which were adopted in 1995 merely formalised the existing ethnic-based local territorial units. Hence, the establishment of Article 39 local

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1022 See chapter 3; § 7.
1023 See chapter 3; § 7.
1025 The 1995 regional constitution of the SNNPR, for instance talk about nationality zones and liyu woredas. See Article 68 ff. For the discussion on nationality zones and liyu woredas see chapter chapter 4; § 6. 2.
government can be viewed as part of the first phase of the decentralisation process which began during the transitional period and was concluded with the establishment of the federal system in 1995.  

5.3. District level decentralisation programme (DLDP): The second phase decentralisation

5.3.1. Introduction

The system of local government which is envisaged under Article 50(4) of the FDRE Constitution did not exist before 2001 in any of the regional states.  

This does not, however, mean that no local administrative structure existed until 2001. In fact, among the first tasks undertaken by the EPRDF during the transitional period was to establish a local administrative structures. As was stated in the preceding chapter, the woreda was retained as the basic unit of government by the transitional government. However, prior to 2001, the woreda was a deconcentrated structure of local administration without autonomy.  

In 2000, the federal government launched the DLDP which marked the beginning of the second phase of the decentralisation process. The decentralisation programme, as will be discussed in the next sections, was underpinned by official and unofficial political motives. The official political motives are detailed in several federal policy papers. The ‘Interim Poverty Reduction Strategy (IPRS)’ briefly outlined the DLDP. In 2002 ‘the Sustainable Development and

\footnotesize{1026 Tegene (2002) 1.  
1028 See chapter 3; § 7.  
1029 See chapter 3; § 7.2.1.2.  
1031 Ministry of Finance and Economic Development: Ethiopia (MoFED) (2000).}
Poverty Reduction Program (SDPRP)\textsuperscript{1032} and in 2005 the ‘Plan for Accelerated and Sustained Development to End Poverty (PASDEP)’ further elaborated on the DLDP.\textsuperscript{1033} Other policy documents which were prepared as sub-programmes of the main development programmes also complemented the DLDP.\textsuperscript{1034}

5.3.2. Drivers of the formulation of the DLDP

The preparation for the IPRS began in 1998, seven years after the end of the two decade long war.\textsuperscript{1035} The civil war, aggravated by chronic drought and famine, had taken a heavy toll on the population.\textsuperscript{1036} Ethiopia’s already troubled economy had further plummeted as a result of 17 years of command economy under the Dreg.\textsuperscript{1037} At the time the IPRS was being formulated the great majority of the Ethiopian people were living below the national poverty line.\textsuperscript{1038}

The poverty in the country was not only widespread but also multi-faceted, manifested by economic deprivation, hunger, malnutrition, illiteracy, diseases, and the like.\textsuperscript{1039} More than 45 percent of the population could not afford to consume the minimum 2200 calories of food per day.\textsuperscript{1040} Life expectancy was

\textsuperscript{1032} MoFED (2002).
\textsuperscript{1033} MoFED (2005).
\textsuperscript{1034} These include ‘Public Sector Capacity Building Program (PSCAP)’, ‘Capacity Building for Decentralised Service Delivery (CBDSD)’, ‘Plan for Urban Development and Urban Good Governance (PUDUGG)’. These documents elaborated and complimented the decentralisation programme.
\textsuperscript{1035} MoFED (2000).
\textsuperscript{1036} See chapter 3; § 7.
\textsuperscript{1037} Dercon (2000).
\textsuperscript{1038} MoFED (2000) 3.
\textsuperscript{1039} MoFED (2000) 3.
\textsuperscript{1040} MoFED (2000) 3.
below 50 years of age. Infant mortality was high at 118 per 1000 infants while child mortality was 117 per 1000 children. Maternal mortality was also soaring at 7 per 1000 mothers. The rate of illiteracy was high at 77 and 55 percent for women and men respectively. Access to education was so limited that the gross enrollment to primary education in 1995 was only 23 percent.

Poverty was prevalent both in urban and rural areas, even though it was much harsher in the rural areas where 90 percent of the poor lived. Urban centres were characterised by ‘a poorly developed economic base, a high level of unemployment and a worrying incidence of poverty and slum habitation’. Besides, they lacked effective urban management, infrastructure, and systems of efficient service delivery.

With a declared intention to curb these problems, the national government, initiated several measures to transform the economic system from a command economy to a market-based economic system. The transformation of the economic system was undertaken as part of the Structural Adjustment Programmes (SAPs) in collaboration with the World Bank and the IMF.
Around the same time the Millennium Declaration (also known as the Millennium Development Goals (MDGs)) was adopted by the General Assembly of the United Nations in the Millennium Summit. The Declaration committed the member States of the UN, including Ethiopia, to work to improve the living conditions of their peoples.\textsuperscript{1050} At the Summit, the heads of states and governments pledged to halve poverty in its various forms by 2015.\textsuperscript{1051}

\textbf{5.3.4. Decentralisation as poverty reduction strategy}

The above were the drivers that prompted the federal government to position poverty reduction at the ‘core’ of the country’s development agenda.\textsuperscript{1052} The government, therefore, planned to achieve economic growth so as to redirect the wealth created ‘towards poverty reducing sectors’.\textsuperscript{1053} The poverty reduction strategy was also pointed towards maintaining equitable inter-regional and intra-regional development through a scheme of re-distribution.\textsuperscript{1054} The inter-regional aspect of equitable development intended to reduce the difference in development among the regional states. This, in particular, aimed at elevating the development level of the lowland regions.\textsuperscript{1055} The intra-regional aspect of equitable development was meant to reduce inequality between the urban and rural

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\textsuperscript{1050}See the Millennium Declaration, United Nations Resolution 55/2 (2000).
\textsuperscript{1051} Millennium Declaration (2000) Para 19.
\textsuperscript{1052} MoFED (2000) 8; MoFED (2002).
\textsuperscript{1053} MoFED (2002) 47.
\textsuperscript{1055} As the discussion in § 2.2 of this chapter reveals, there is wide variation in the socio-economic development between the highland and lowland regional states. MoFED (2002) 26.
communities within each region. Moreover, the poverty reduction strategies sought to incorporate and implement the MDGs.  

The poverty reduction and development plan rested on four ‘pillars’, of which one was decentralisation. The programme of decentralisation, as a poverty reduction strategy, was focused on tackling ‘poverty directly at the grassroots level’. To this end the *woreda* was chosen as the key local level government because it already served as a constituency in national and regional elections. It was viewed, therefore, as ‘a suitable point of merger between political empowerment and economic development at the grassroots level’. The decentralisation programme also sought to enhance direct public participation in local development programmes. Primary education, primary health care, rural water supply, rural roads, and agricultural extension services, were chosen as areas of development to be undertaken through decentralised system.

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1057 The other three pillars of the poverty reduction strategy were agriculture development led industrialisation (ADLI), judicial and civil reform, and capacity building in public as well as private sectors. ADLI is an economic strategy which attempts to put agriculture and industrialisation within a single framework of development in which agriculture serves as springboard for industrialisation by providing the industry raw material, capital as well as a market base. ADLI is also meant to create food security. ADLI is premised on the assumption that given the acute capital shortage, the large number of working population and vast arable land, ‘faster growth and hence economic development could be realised if the country adopts a strategy that help raise the employability of ... labour resources and enhance productivity of land resources aimed at capital accumulation’. ‘Capacity building is taken to comprise the development of human resources, building and strengthening of institutions, and establishment of effective working practices in combination’. MoFED (2000) 8-12; MoFED (2002) 38-40


1059 MoFED (2000) 13. See also above chapter 4; § 3.2.1.


In order to allow *woredas* to undertake developmental activities, the policy papers pledged that *woredas* would be ‘fully empowered to take up expenditure and revenue assignments within their competences’. 1062 A *woreda* would be entitled to unconditional block-grants so that it may decide and make use of a grant to respond to local needs and priorities. 1063 To that effect, each region was required to develop its own equitable formula for transferring to *woredas* block grants. 1064

The need for enhancing urban development was also considered in the policy papers. As was pledged in the SDPRP, a fully-fledged urban policy was adopted in 2007 by the federal government. 1065 The policy focused on urban governance, infrastructure provision, housing, and land management, creating employment opportunities, and protecting the urban environment. 1066 Furthermore, the programme recognised the need to harmonise the activities of *woredas* and urban local government. 1067

The decentralisation programme was further complemented by a ‘multi-sectoral, inter-governmental programme’ of capacity building. 1068 A ‘Ministry of Capacity Building’ was established in 2001. 1069 The Ministry was mandated to provide

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1064 MoFED (2002) 139.
1065 See MoFED (2007).
1066 MoFED (2007) 20 f
policy directives in relation to capacity building.\textsuperscript{1070} It was also mandated to programme and finance several capacity building sub-programs; one of which was DLDP.\textsuperscript{1071}

5.3.5. Local democracy for development

In the aforementioned policy papers, political reform at local level was considered to be critical for achieving decentralised development. By shifting decision making power from the centre to the \textit{woreda}, the government pledged to empower local communities, in particular the poor, to take part in and enjoy the full advantages of developmental activities.\textsuperscript{1072} Furthermore, the government declared its plan to enable local communities to ‘participate, negotiate and influence’ the decision making processes concerning local matters.\textsuperscript{1073}

A democratic system, which is based on the realisation of people's participation … and which ensures good governance, is a vital instrument for combating poverty and backwardness. It is therefore mandatory that democratisation be one of our major objectives....The on-going reforms [of]...devolution to [local government] are critical measures that would help deepen the democratisation process and good governance in Ethiopia."\textsuperscript{1074}

\textsuperscript{1070} FDRE Proclamation 256 (2001) Art 6(1); FDRE Proclamation 471 (2005) Art 9(1).

\textsuperscript{1071} Meanwhile, the World Bank launched two projects namely ‘Capacity Building for Decentralised Service Delivery (CBDSD)’ and ’Public Sector Capacity Building Program (PSCAP)’. The projects were launched in 2000, with the intent to assist capacity building at local level. It, in particular, sought to strengthen local governments financially so that it could develop the ability and the incentives to improve service delivery, especially in the rural areas. Spielman \textit{et ale} (2008) 6.

\textsuperscript{1072} Canadian International Development Agency (CIDA) (2005).

\textsuperscript{1073} \textit{CIDA} (2005).

\textsuperscript{1074} MoFED (2002) 50.
To this effect, the policy papers pledged that regular local elections would be conducted and that the capacity of local representative councils and other democratic institutions would be strengthened.\footnote{MoFED (2002) 40.} Furthermore, in order to enhance local democracy, the SDPRP stated that the capacity of communities and civil society groups would be strengthened.\footnote{MoFED (2002) 40; MoFED (2006) 177.} The civil society organisations in this regard are expected to play a role in the process of democratisation by facilitating ‘interaction, and mobilising groups and communities to participate in social, economic and political activities’ in particular at local level.\footnote{MoFED (2006) 176.}

The need to empower women was also considered as an integral part of the decentralisation programme. The IPRP, SPRDP, and PASADEP considered empowering women and reducing gender inequality among the most important objectives that the decentralisation programme was to achieve.\footnote{MoFED (2000) 13; MoFED (2002) 40.} To this effect, the SPRDP pledged to increase the membership of women in local government councils, especially in kebele councils.\footnote{A Women Affairs Office was established within the Office of the Prime Minister. Women affairs offices were also established at regional and zonal levels in all parts of the country.}

5.3.6. Concluding remarks

In chapter two it was stressed that human welfare should be the core element, as well as the goal and measure, of development.\footnote{See chapter 2; § 3.2. & 3.3.} Moreover, public participation in developmental activities, fairness, and sustainability were identified as the central elements of development.\footnote{See chapter 2; § 3.2. & 3.3.} As can be gathered from the discussion in
the preceding sections, these critical elements of decentralised development are canvassed in the various policy papers of the Ethiopian federal government. The urgency to reduce poverty is clearly recognised. Development is articulated in terms of elevating the living conditions of the people; not merely from the angle of economic growth. Central elements of development, including equity and sustainability, have found their way into the policy papers. Local democracy and public participation are viewed as critical elements of decentralised development. The need to ensure the articulation of the special needs of women is also taken into account. Moreover, the need to follow a differentiated approach in addressing the developmental needs of rural and urban areas is also conspicuously stated.

However, these benign purposes were not the only drivers of the decentralisation process. The following section discusses the unofficial and less benevolent political motives that underpinned the second phase decentralisation process.

5.3.7. Beyond the decentralised development rhetoric

The first non-official driver of the decentralisation programme was the need to diminish the power of the regional government. This became necessary due the division that arose within the Tigray Peoples Liberation Front (TPLF), a dominant member of the EPRDF. The other unofficial motive is the need to discourage the demand for the establishment of ethnic-based local units.

5.3.7.1. Political division as a driver of the decentralisation programme

The political division within the TPLF arose out of a disagreement between Meles Zenawi (the Prime Minister and the Chair Person of both the EPRDF and
the TPLF) and some of the top brass of the TPLF. However, the split in the TPLF occurred in 2001, in the same year that the EPRDF-led regional states began to revise their constitutions with the alleged purpose of decentralising powers to woredas. The true reason for the dispute remains unclear. That aside, it is clear that the PM faced formidable opposition from senior party members. Furthermore, some of the leaders of the other members of the EPRDF coalition sided with the dissenters following the split in the TPLF. This led to an extensive political ‘purge’ within the TPLF, other EPRDF member parties, and affiliate parties. Dissenters were expelled from the TPLF and the EPRDF. Those among the dissenters who had been elected to national and regional representative councils representing the EPRDF were ‘recalled’.

The political scuffle also led to structural reforms, in particular at regional government level. These aimed at diminishing the power of the regional government, especially of the regional presidents. Before 2001, the regional state

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1082 The dispute allegedly began back in 1998 while Ethiopia was still at war with Eritrea over a border dispute. Medhane & Young (2003) 390. See also Bereket (2003 Ethiopian Calendar) & Daniel (2003 Ethiopian Calendar).


1084 See below at § 6.

1085 Those who stood opposing the PM allege that the disagreement related to on how to handle the Ethio-Eritrean war. Members of the dissenting groups claim that they were in favour of a forceful regime change in Asmara. Meles was, however, against such suggestions due to international pressure. Meles and his supporters, on the other hand, maintain that the dispute related to corruption and lack of discipline that prevailed in the party. Bereket (2003 Ethiopian Calendar); Medhane & Young (2003); Solomon (2007) 239; Assefa (2007a) 388.

1086 Bereket (2003 Ethiopian Calendar); Medhane & Young (2003); Solomon (2007) 239; Assefa (2007a) 388.

1087 Bereket (2003 Ethiopian Calendar); Medhane & Young (2003); Solomon (2007) 239; Assefa (2007a) 388.
president (also called chief administrator) was immensely powerful. Not only was he or the head of a regional executive council but he or she was also the speaker of the regional council.\textsuperscript{1088} This gave the regional president enormous influence over both branches of a regional government. Moreover, as indicated above, the pre-2001 regional constitutions had created local administrative units – as opposed to local government units - which were structurally subordinate to the regional governments. The \textit{woredas} and municipalities were deconcentrated units of the regional governments and under the direct control of the regional presidents.

It was, therefore, decided that the power of the regional presidents as well as of the regional government should be diminished. To this effect, it was decided that more powers would be transferred to the regional governments to local government. A process was initiated in 2000 to revise the constitutions of the four highland regional states. The revision of the regional constitutions took place in the PM’s office on the order of the PM himself and without the involvement of the regional states.\textsuperscript{1089} In fact, not only were the regional states not involved in the revision, the regional officials were unaware of what was taking place.\textsuperscript{1090}

With a view to weaken the power of the regional chief administrators separation of powers was introduced in the new regional constitutions between regional councils and regional executives. The regional chief administrator was no longer


\textsuperscript{1090} Solomon (2008) 239.
a speaker of the regional council. Furthermore, autonomous *woredas* were created over which the regional president no longer had absolute control.\(^{1091}\)

### 5.3.7.2. Decentralisation to discourage ‘ethnic entrepreneurs’

A further unofficial motive that might have influenced the second phase of decentralisation was the exigency to discourage the demands for autonomous ethnic-based local territorial units.\(^{1092}\) As was discussed above, the federal Constitution implies that ethnically structured autonomous local government units may be established.\(^{1093}\) As will also be discussed in chapter seven, more than 28 ethnically structured local units have been established in the country.\(^{1094}\) Often the establishment of such local units is perceived to allow the elites of a particular ethnic community access to increased regional funding and other resources.\(^{1095}\) Motivated by the increased financial and other resources, elites of every ethnic community were engaged in ‘ethnic entrepreneurship’.\(^{1096}\) They established political parties organised along ethnic lines and began demanding their own ethnic-based local units. The EPRDF on the other hand had a change of heart on the establishment of a large number of such territorial units, despite initially encouraging their creation. The party said that the creation of so many ethnic local units was leading to inefficiency.\(^{1097}\) The party therefore decided to curtail the further establishment of ethnic-based territorial units. It even tried to


\(^{1092}\) Assefa (2007a).

\(^{1093}\) See above chapter 4; § 4.2.

\(^{1094}\) See above chapter 7; § 2.2.1.

\(^{1095}\) Vaughn (2003) 228ff.


amalgamate some of the already established ethnic-based local units. With the intention to discourage ‘ethnic entrepreneurs’ from demanding the establishment of more ethnic-based local units, the party also decided to transfer more powers and resources to Article 50 (4) local government units.

5.3.8. Concluding remarks

Poverty reduction was the official rationale for Ethiopia’s decentralisation programme. There was a clear understanding by the federal government that decentralisation was an appropriate arrangement to tackle the challenges of poverty. Several federal government policies, including the IPRP, SPRDP and PASDEP, clearly indicated that. However, poverty reduction was not the only driver of the second phase of decentralisation programme. The central government sought to use decentralisation to weaken the regional states. Moreover, the decentralisation process sought to remove factors that motivated ‘ethnic entrepreneurs’ to demand ethnic-based local units. The subsequent chapters will examine which rationale was given prominence in the design of the local government system of the country. Before that, the following section will first introduce Ethiopia’s local government structure.

6. A BRIEF OVERVIEW OF ETHIOPIA’S LOCAL GOVERNMENT STRUCTURE

As indicated above, the Amhara, Oromia, SNNPR, and Tigray regional states revised their constitutions in 2001 with the intention to redesign their government structure to fit the policy objectives described above: they were followed by Gambella, Benishangul-Gumuz, Afar, and Somali regional states. With the

1098 See chapter 7; § 2.2.1.
1099 Assefa & Mohammed (2010) 156.
revision of the regional constitutions, various types and tiers of Article 50(4) local government units were created. Furthermore, the regional constitutional revisions were followed by the enactment of other local government related laws. This section provides a brief description of Ethiopia’s local government structure.\textsuperscript{1101}

As was stated in § 4.4, the federal Constitution envisages the establishment of two types of local government: Article 39 and an Article 50(4) local government. All of the regional states have established Article 50 (4) local government units. Five out of the nine regional states have established Article 39 local government units.

There are two types of Article 39 local government units: nationality zones and \textit{liyu woreda} (special districts). Similarly, there are two types of Article 50(4) local government units; rural \textit{woreda} (districts) and urban local government units which include cities and municipalities. The following section will provide an overview of the structural organisation of both categories of local government.

\textbf{6.1. Article 50 (4) local government}

As indicated above, the category of Article 50 (4) local government can be classified into rural and urban local units. The \textit{woreda} is a rural local government unit while the city and the municipality are urban local government units. In regions, such as, Oromia and Afar, there is a zonal administration which covers several \textit{woredas} and cities. A zonal administration is a ‘deconcentrated arm’ of

\textsuperscript{1101} The discussion in § 6.5.1, § 6.5.2, & § 6.5.3 are based on an overview of eight regional constitutions and several proclamations. A particular provision in a regional constitution or proclamation is cited only where there are differences among the regions. In the subsequent chapter the relevant provisions will be cited.
the regional state which is meant to serve as liaison between woredas or cities and regional government. It is also run by regional appointees. Therefore, a zonal administration will not be the focus of this thesis; it will be mentioned in thesis only when it is necessary to do so.

6.1.1. Woredas

The woreda is the most important unit of Article 50 (4) local government. The criteria for establishing a woreda are unclear as the regional constitutions are silent on the issue. However, as some government policy documents indicate the main criteria for the establishment of a woreda is the population size of a particular territorial area: Generally, a woreda is established in an area which is inhabited by approximately 100,000 people. However, in some of the regional states, woredas have been established in territorial areas with significantly smaller or larger population sizes. There is no official figure on the number of woredas existing in the country. It is also unclear how they are demarcated. As already discussed previously, when the current government seized power, the woreda boundaries that existed previously were taken as the basis for establishing the regional states. At that time there were around 600 woredas. According to a National Electoral Board report,

1104 For instance Benishangul-Gumuz regional state has 20 woredas (BGRS Proclamation 86 (2010) Art 9 (1). The total number of the population of the region is 670, 847. The average population of each woreda in this region is therefore approximately 33, 000 people.
1105 See chapter 3; § 7.2.
1106 See chapter 3; 7.2.
there are 623 woredas.\textsuperscript{1107} A report by Yilmaz and Venugopal indicates there are 671 rural woredas.\textsuperscript{1108}

The SPRDP\textsuperscript{1109} indicated that a re-demarcation of woredas’ boundaries would take place so as to create ‘financially viable local government jurisdictions’.\textsuperscript{1110} However, no major re-demarcation of woreda boundaries has taken place, save for intermittent adjustments of woreda boundaries in some regions which also entailed the establishment new woredas.

6.1.2. Urban local government

There are 925 urban areas in Ethiopia.\textsuperscript{1111} In these areas the regional states have established urban local government units. Urban local government in Ethiopia can be classified into cities and municipalities.

6.1.2.1. Municipalities

Municipalities are urban settlements which are found within a woreda, and which do not have their own separate autonomous city government. More than 820 of the 925 urban centres fall within this category.\textsuperscript{1112} While within a woreda, a municipality provides its residents with municipal (urban specific) services, such as, ambulance services, sewerage, fire fighting and the like. The non-municipal functions - or what are called state functions – which include education and public health, are implemented by the woreda within which the municipality is

\begin{footnotesize}
\begin{itemize}
\item \textsuperscript{1107} NEBE (2008) 33.
\item \textsuperscript{1108} Yilamaz & Venugopal (2008).
\item \textsuperscript{1109} See above § 5.3.4.
\item \textsuperscript{1110} MoFED (2002) 40.
\item \textsuperscript{1111} MoWUD (2007) 2.
\item \textsuperscript{1112} MoWUD (2007) 6.
\end{itemize}
\end{footnotesize}
found. There are municipalities in the Amhara, Benishangul-Gumuz, SNNPR, and Tigray regional states. Before 2006, the Oromia regional government had municipalities which were referred to as third and fourth grade cities. However, the regional government abolished the municipalities in 2006 reducing them to kebele status.

**6.1.2.2. Cities**

A city is an autonomous urban local government unit which is outside a woreda structure and which has the status of a woreda. There are 98 cities. More and more urban areas are joining this category. Most of the cities (94 of them) are found in the four highland regions. In the low land regions, only the capital cities are organised as autonomous cities.

**6.2. Article 39 local government system**

There are two types of local government units which fall under Article 39 local government category: a nationality zone (special zone) and a liyu-woreda (special districts). Nationality zones are established, as institutions of self-government, for regional ethnic minority groups who occupy a territorial area covering two or more woredas. A liyu-woreda, on the other hand, is - in terms of territorial and population size - comparable to a regular woreda. The territorial demarcation of a nationality zone or a liyu-woreda follows the territorial settlement structure of the

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1113 See chapter 5; § 2.4.3.2 for a discussion on the distinctions between municipal functions and state functions.
particular ethnic community for whom it is established. A nationality zone or a *liyu woreda* not only is an autonomous local territorial unit, it may also secede from a region wherein it is found and become a separate regional state should the ethnic community for whom it is established so prefer. Article 39 local government units are found in the Afar, SNNPR, Benishangul-Gumuz, Gambella, and Amhara regions.

**Fig. 1 Organisational structure of local government**

6.3. **The kebele**

The *kebele*, which is the lowest territorial and administrative unit of the regional state, is also recognised in regional constitutions. As was discussed

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1119 FDRE Constitution (1995) Art 47 (2) recognises the right to secession from a region. It provides that ethnic communities within the existing regions have the right to establish their own regional state. See for more on this chapter 7; § 2.2.2.2.

1120 There are other sub-*kebele* territorial units and institutions such as *gott*, *mengistawi-budin* and *lemat budin* which are not constitutionally recognised and which are established with the declared intention of enhancing public participation. Helland (2004) 16; Bevan & Pankhurst (2007) 134.
in chapter three, the kebele as an administrative unit was created by the Derg and is still retained.\textsuperscript{1121} Presently each woreda (including liyu woredas) is sub-divided into a number of kebeles.\textsuperscript{1122} The kebele is also the second sub-division of a city.\textsuperscript{1123} As is the case for the woreda, the main criterion for establishing a kebele is the size of the population. In general, a kebele is established in a territorial area which is occupied by 5000 to 10,000 people. A kebele is not an autonomous local government. It is rather an administrative arm of a woreda or a city within which it is found.

6.4. **Addis Ababa and Dire Dawa**

Addis Ababa and Dire Dawa are autonomous federal cities. Addis Ababa is the capital of Ethiopia and the seat of the federal government. With more than three million people, the city holds the largest number (25\%) of urban dwellers in the country.\textsuperscript{1124} It is also a hub for several international organisations, including the head-quarter of the African Union. Addis Ababa is a cosmopolitan city and a melting pot of many ethnic communities.

Dire Dawa is found in the eastern part of the country close to the Ethiopia-Djibouti border. With a total population size of 342, 827, it is the second largest city in Ethiopia.\textsuperscript{1125} Dire Dawa is located adjacent to the railroad which runs from Djibouti to Addis Ababa, which made the City the economic as well as the

\textsuperscript{1121} See chapter 3; § 6.2.1.


\textsuperscript{1124} MoWUD (2007) 2.

industrial centre of eastern of Ethiopia. Dire Dawa is the most cosmopolitan city after Addis Ababa.

On account of their unique position, the two cities are structured as autonomous federal cities. Each of the two cities is governed by a Charter issued by Parliament. The Charter provides for the structural organisation, powers, and functions of the cities’ government. Each of these cities has its own government which has a direct relation with the federal government.

Addis Ababa is divided into 10 sub-cities. Previously Addis Ababa was also divided into 99 kebeles. In 2009, however, the Addis Ababa city government elevated the kebeles to woreda status thereby abolishing the kebele system. Dire Dawa still retains the kebele as its lowest administrative structure.

6.5. Governance and administrative structure of local government: An overview

Each unit of both the Article 39 and Article 50(4) systems of local government has a representative council, an executive council, and several administrative organs.

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1132 The discussions in § 6.5.1, § 6.5.2, & § 6.5.3 are based on an overview of 8 regional constitutions and several proclamations. Here a particular provision in a regional constitution or proclamation is cited only where there are differences among the regions. In the subsequent chapter the relevant provisions will be cited.
6.5.1. Representative councils

Members of the representative councils of woredas, liyu woredas, cities, and kebeles are directly elected by the residents of the respective local unit for a five year term. Members of a nationality zone council are generally not directly elected by voters. A portion of members of a national zone council are elected by woredas councils within the nationality zone. The remainder of the members of a nationality zone council are members of a regional council who are elected from woredas within the nationality zone. In SNNPR, members of a nationality zone council are directly elected by voters.

6.5.2. Executive organs

The executive council\(^\text{1133}\) of the woreda, the liyu woreda, and the nationality zone is composed of a chief administrator and the heads of the various executive organs of the respective local unit. The chief administrator, who is elected by and from among the members of the woreda, liyu woreda or nationality zone council, chairs the executive council of the relevant local unit.

A city has a mayoral committee as its highest executive organ. The mayoral committee is composed of a mayor and the heads of the executive organs of the city. The mayor is elected by and from the members of a city council when the party which controls the majority of the seats of the city council nominates, from among the members of the city council, a person for the position. In Oromia, the mayor is appointed by the Regional President.\(^\text{1134}\)

\(^{1133}\) This organ is referred to as ‘administrative council’, ‘executive council’, or ‘cabinet’ in the regional constitutions. In order to avoid confusion and for the sake of consistency, this organ will be referred to as ‘executive council’ throughout this study.

The *woreda* executive council is accountable to the *woreda* chief administrator, who is in turn answerable to the *woreda* council. The *woreda* chief administrator is also accountable to the chief administrator of the nationality zone (if the *woreda* is found within a nationality zone) and to the regional chief administrator.\(^{1135}\) Similarly, a mayor of a city is accountable to the city council, to the regional chief administrator and, where applicable, to the nationality zone’s chief administrator.\(^{1136}\) In Oromia, the mayor is not accountable to the city council but to the Regional President.\(^{1137}\)

### 6.5.3. Administrative organs

The administration of *woredas, liyu woredas* and nationality zones is undertaken by sectoral offices. The administration of a city with regard to its state functions is also undertaken by sectoral offices. The administration of a city with respect to its municipal functions is carried out by a city manager, a professional employee of the city, and other municipal organs which are organised by him or her.

### 7. CONCLUSION

Under Ethiopia’s dual federal system, local government is the competence of regional state. The regional states are, however, enjoined to establish one or both of two categories of local government *viz.* Article 39 and Article 50 (4) local governments. The two categories of local government are meant to serve two different purposes. Article 39 local government is meant to accommodate regional ethnic minority communities while Article 50 (4) local government is

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intended to be developmental. The Constitution envisages both categories of local
government to be autonomous.

Most of the local government units in the Article 39 category were established as
part of the first phase of the decentralisation process in the country, which began
during the transitional period and culminated with the establishment of the federal
system. The second phase of the decentralisation process which resulted in the
establishment of Article 50 (4) local government began in 2001. It was driven by
official and unofficial political motives. The official motive was to introduce
local government as the *locus* of development. The unofficial motives were to
reduce the powers of the regional states and to discourage ‘ethnic entrepreneurs’
from demanding ethnic-based local units.

In the Article 39 category, nationality zones and *liyu woredas* were established. In
the Article 50 (4) category *woredas*, cities and municipalities are established.

All local government units have representative councils, executive organs, and
administrative organs.

Against the backdrop of the institutional features that were formulated in chapter
two and against the background outlined in this and the preceding chapter, the
next three successive chapters will examine the institutional design of Ethiopia’s
local government system.
Chapter 5

Decentralisation and development in Ethiopia: Local government’s political, financial, and administrative autonomy

1. INTRODUCTION

As the discussion in the preceding chapter reveals, the official motive underpinning the second phase of Ethiopia’s decentralisation programme is to achieve development. Development is articulated in terms of reducing the prevalence of poverty in the country.\textsuperscript{1138} Decentralisation is one of the four pillars on which Ethiopia’s poverty reduction programme rests. This thesis examines whether the institutional features that are considered to be critical for decentralised development are observed in the institutional design of Ethiopia’s local governance. In chapter two, the institutional features that are likely to positively impact on decentralised development were identified, based on a study of international literature on international practices.\textsuperscript{1139} These are political, financial, and administrative autonomy. Central supervision and inter-

\textsuperscript{1138} See chapter 4; § 5.3.4.
\textsuperscript{1139} See chapter 2; § 3.5.
governmental co-operation were also identified as critical for decentralised development. In this and the next chapters, Ethiopia’s local governance system will be examined against the backdrop of these institutional features.

As was discussed in chapters 3 and 4, Article 50 (4) local government (which includes woredas, cities, and municipalities) is intended and designed to be developmental. Hence, the discussion in this chapter focuses on these local government units. Woredas, in this chapter, will also include liyu woredas unless indicated otherwise. Zonal administration and nationality zones will be mentioned only to the extent that they are relevant for the discussion.

2. POLITICAL AUTONOMY

2.1. Introduction

Political autonomy was introduced as one of the central institutional features of decentralised development. Political autonomy has four elements: certainty of local government’s existence, local democracy, devolution of original, pertinent and suitable functions to local government, and political powers.\textsuperscript{1140} The following sections will evaluate Ethiopia’s local governance system against these elements.

2.2. Certainty of existence

The existence of local government on a permanent basis is a fundamental element of local political autonomy.\textsuperscript{1141} Certainty of existence, as was discussed in chapter two, has three elements: The first is the establishment of local government as a sphere/level of government on a permanent basis and with secured and uninterrupted existence. The second element is the establishment of local

\textsuperscript{1140} See chapter 2; § 3.5.1.

\textsuperscript{1141} See chapter 2; § 3.5.1.1.
government on a ‘wall-to-wall’ basis. The third element relates to ensuring the continued existence of individual local government units.  

The following section will examine how these elements are reflected in the federal and regional constitutions.

2.2.1. Constitutional recognition

2.2.1.1. Recognition in the federal Constitution

As was stated in chapter two, the institutional mechanism to ensure the continued existence of local government as sphere/level is to provide it with constitutional recognition. As was also argued in chapter four, the FDRE Constitution enjoins the regional states to establish what is called in this thesis Article 50 (4) local government. The FDRE Constitution envisions this system of local government to be the locus of democratic participation. Therefore, it can be inferred that the Constitution requires Article 50 (4) local government to exist. To this extent, it can be held that local government is indeed recognised in the federal Constitution.

Nonetheless, the Constitution is vague and fails to explicitly recognise Article 50(4) local government as an autonomous order of government. The Constitution is not as explicit as, for instance, the Nigerian Constitution which provides that

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1142 See chapter 2; § 3.5.1.1.
1143 See chapter 2; § 3.5.1.1.
1144 See chapter 4; § 4.3.
1145 See chapter 4; § 4.3.
‘[t]he system of local government by democratically elected local government councils is under this Constitution guaranteed’. 1146 Nor is it like the South African Constitution which devotes an entire chapter to regulate local government matters. 1147 Only one sub-article (Article 50(4)) in the FDRE Constitution, which principally deals with the structure of the regional states, makes a passing reference to local government. In fact, read on its own, this Article may appear to be an authorising provision rather than obligating one. In other words the Article conveys the impression that the regional states have the authority, if they so choose, to create their own administrative arms; not necessarily an autonomous level of government. The Constitution also fails to provide even the basic structure of local government that the regional states are supposed to establish. It becomes clear that the federal Constitution indeed envisages the establishment of autonomous local government only when Article 50(4) is read and interpreted together with other provisions in the Constitution and with the drafting history of the Constitution in mind. 1148 Therefore, the FDRE Constitution envisages Article 50 (4) local government to be autonomous order of government but it does not provide it with an adequate recognition.

2.2.1.2. Recognition in regional constitutions

The prescription under Article 50 (4) of the FDRE Constitution was given effect to with the establishment of woredas and cities in every regional state. 1149

Woredas are created through regional constitutions. The regional constitutions

1148 See chapter 4; § 4.3.
1149 See chapter 4; § 6.1.
provide a certain measure of recognition to the *woreda*. \(^{1150}\) The regional constitutions are promulgated on the basis of the regional states’ power to ‘draft, adopt and amend’ their own constitutions.\(^{1151}\) They are the supreme regional laws that may be amended only through a stringent procedure. Moreover, the amendment of a regional constitution requires the assent of the *woredas* themselves. Any part of a regional constitution, save for the Bill of Rights, is amended only when half of (in most cases two-thirds) of the *woreda* councils in a region approve the amending Bill. \(^{1152}\) Furthermore, at least two-thirds of the members of a regional council have to vote in favour of the amending Bill.\(^{1153}\) The amendment of a regional constitution also requires the assent of the councils of nationality zones in the regions, such as Amhara and SNNPR which have them.\(^{1154}\) Constitutionally speaking, therefore, not only is the existence of *woredas* as a level of government ensured, they appear to be in a position where they can safeguard themselves from arbitrary abolition. In this sense it can be claimed that *woredas* are the creation of a constitution and their continued existence is guaranteed in the regional constitutions.


\(^{1151}\) FDRE Constitution 1995; Art 50(5).


The situation is different regarding cities. It can be argued that the establishment of urban local government, like rural woredas, is impliedly prescribed by the federal Constitution. Moreover, the regional constitutions have also, either explicitly or impliedly, authorised the regional governments to establish urban local government wherever appropriate.\textsuperscript{1155} However, cities and municipalities are the creation of ordinary regional statutes, not of the regional constitutions as such. It is unclear why it was necessary to make a distinction between woredas and cities in providing constitutional recognition. It can however be assumed that this is related to the fact that the development policy of the EPRDF is centred on the rural areas.\textsuperscript{1156} Agricultural Development Led Industrialisation (ADLI) has been the mainstay of the EPRDF’s development policy.\textsuperscript{1157} Cities and municipalities are considered important in this policy only to the extent that they contribute to agricultural development. This might be the reason why woredas are recognised in regional constitutions while cities are not. Whatever the reason may be, the non-recognition of cities in the regional constitutions has rendered them vulnerable to arbitrary elimination. This has happened, for instance, in Oromia where municipalities were eliminated and reduced to the status of kebeles.\textsuperscript{1158}


\textsuperscript{1156} Heymans & Mussa (2004).

\textsuperscript{1157} See chapter 4; § 5.3.4. For more discussion on ADLI see MoFED (2002) and MoFED (2006).

\textsuperscript{1158} ORS Proclamation 116 (2006) Art 3. See also chapter 4; § 6.1.2.1.
2.2.2. Wall-to-wall local government

The second element of the principle of certainty for the existence of local government is the establishment of local government in every part of the country.\(^ {1159} \) This relates to equity as it impacts on whether everyone in the country has an easy access to basic services.\(^ {1160} \)

The federal Constitution clearly links the establishment of Article 50(4) local government with democracy and public participation.\(^ {1161} \) It is evident that everyone in the country has a constitutional right to democratically participate in developmental activities of his/her community. This may be interpreted to necessitate the establishment of some form of local government system in every part of Ethiopia. In addition, each of the regional constitutions provides that a regional state is organised at regional and \textit{woreda} level, implying that \textit{woredas} would be established on a wall-to-wall basis.\(^ {1162} \) The facts on the ground confirm that this is so. Every part of the country falls within one of the 670 or so \textit{woredas}, 106 cities, or the two federal cities. \textit{Liyu woredas}, which principally are Article 39 local government, discharge a \textit{woreda}'s functions as they are like any other regular \textit{woreda} in terms of population and territorial size except that they are ethnically structured. Thus, in Ethiopia, the establishment of wall-to-wall local government is both constitutionally implied and practically effected.

\(^{1159}\) See chapter 2; § 3.5.1.1.

\(^{1160}\) See chapter 2; § 3.5.1.1.

\(^{1161}\) See chapter 4; § 4.3.

2.2.3. **Formal protection for individual local government units**

The third element of the principle of certainty for the existence of local government which has a direct bearing on local political autonomy pertains to protecting each individual local government unit. As was said before, each individual unit of local government should be protected from random elimination, change, or diminution in status or size, through division or amalgamation.\(^{1163}\) This entails a process of local boundaries demarcation that takes into consideration factors such as population size, administrative convenience, financial variability and the like.\(^{1164}\) It also requires clear substantive and procedural criteria for adjusting local government boundaries.\(^{1165}\) The objective for the creation of local government should determine the criteria for demarcating or adjusting local boundaries. Thus, where local government is intended to be developmental the factors that should be taken into account include territorial and population size, financial viability, developmental level, rural-urban differences. It should also provide for community engagement.\(^{1166}\)

In Ethiopia the Article 50(4) local government is intended to be developmental. This begs the questions: what are the criteria for demarcating *woreda* and city boundaries? Who has the authority to decide on local government boundaries? How does the local community participate in the process of local government boundary demarcation?

### 2.2.3.1. Demarcation of *woreda* boundaries

\(^{1163}\) See chapter 2; § 3.5.1.1.  
\(^{1164}\) See chapter 2; § 3.5.1.1.  
\(^{1165}\) See chapter 2; § 3.5.1.1.  
\(^{1166}\) See chapter 2; § 3.5.1.1.
As was stated in chapter three, the pre-1974 woreda boundaries were retained during the transitional period.\textsuperscript{1167} There were approximately 600 woredas at the time.\textsuperscript{1168} When the 2001 decentralisation programme was launched, it was indicated in the SPRDP that woreda boundaries might be re-demarcated with a view to creating ‘financially viable’ local jurisdictions.\textsuperscript{1169} It is unclear though whether any major local boundary re-demarcation has taken place in the country. What is clear, however, is that the number of existing woredas has increased since 1991. Now the number of woredas is estimated to be 670.\textsuperscript{1170}

The increase in the number of woredas could only have resulted from the division of the existing ones. It is not clear however on what constitutional basis these changes were introduced. The trend is that the regional states are attempting to regulate this matter through ordinary legislation. This is the case, for instance, in Tigray and Benishangul, which have enacted proclamations which, among other things, deal with the issue of woreda boundaries.\textsuperscript{1171} The two proclamations provide formal recognition to hitherto existing woredas in the respective regional state.\textsuperscript{1172} The proclamations also authorise the respective regional councils to create new woredas, and/or to divide, amalgamate, or eliminate any existing woreda within the jurisdiction of the respective regional state.\textsuperscript{1173} Proclamation 99 (2006) of the Tigray regional state authorises the regional executive council to

\textsuperscript{1167} See chapter 3; § 7.2.1.2
\textsuperscript{1168} See chapter 3; § 7.2.1.2.
\textsuperscript{1169} MoFED (2002) 40.
\textsuperscript{1170} For instance, in 2007 the Afar Administrative Council partitioned three of the regions woredas and created three new woredas. Afar Pastoralist Association (2007) 5.
define, through executive regulation, the criteria for the creation of a new woreda.\textsuperscript{1174} The proclamation also provides that the criteria, that are to be defined by the executive council, should include capacity to deliver services, administrative convenience, and the communities’ culture and preference.\textsuperscript{1175} Proclamation 86 (2010) of Benishangul-Gumuz provides certain criteria for the creation of a new woreda. These are population size,\textsuperscript{1176} capacity to cover 25 percent of its expenses from own resources, population settlement structure and the history, culture and interest of the community.\textsuperscript{1177} When deciding to create a new woreda, or to divide or amalgamate an existing one, a regional council has to take into consideration the studies and a proposal of a regional a bureau of finance and economic development as well as of administrative and security affairs bureau.\textsuperscript{1178}

\textbf{2.2.3.2. Demarcation of city boundaries}

The city proclamations of Benishangul-Gumuz and Amahara provide that the criteria for the establishment of a city will be provided in an executive regulation.\textsuperscript{1179} It is not clear whether they have adopted such regulation as yet. The city proclamations of Oromia and SNNPR set certain preconditions and procedural guidelines for the creation of new cities and municipalities.\textsuperscript{1180} Among the preconditions are clearly defined boundaries, a minimum population size,
commercial and industrial economic activities, financial self-reliance, and other objective criteria that may be stipulated by the regional executive council. An urban community that wishes to have its locality incorporated as a city may petition the regional government (in particular the Bureau of Works and Urban Development) to that effect. The petition should be supported with documents that prove that the legal preconditions for the incorporation of an urban settlement are fulfilled. The regional executive council has the final say on whether or not to grant the petition.

### 2.2.4. Assessment

From the foregoing discussion three points stand out. Local government is not given proper recognition under the federal Constitution. Cities and municipalities are creations of ordinary regional statutes. Therefore, their lasting existence is continuously under threat. The individual local units are not provided with adequate constitutional protection.

#### 2.2.4.1. Constitutional recognition

As was discussed in chapter four, the framers of the FDRE Constitution intended Article 50(4) local government to have ‘some level of autonomy’, and not to be a mere agent of the state governments. The drafters, nonetheless, did not deal with the details of local government matters in the federal Constitution. They believed it would be appropriate to leave it to regional governments to define their own system of local government. The decision of the framers of the

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1184 Assefa (2007a) 341.
1185 See chapter 4; § 4.3.
Constitution not to encroach into the competence of the regional states is in keeping with the logic of the dual federal system of the country. Moreover, each regional state has diverse social and economic conditions.

'The social and economic system in Ethiopia] ranges from settled upland teff cultures of the north to the enset-based farming system of the south to a range of agro pastoralists and nomadic system along the margins of the Rift Valley, each with their own particular socio-economic dynamics.'

This diversity makes varied the developmental needs of those in different parts of the country. Clearly, only the regional states can be assumed to be able to devise a local government system that caters for such diverse socio-economic conditions.

However, the compromise that the framers of the federal Constitution made was so extensive that it has left local government without proper protection in the federal Constitution. This in turn has rendered the existence and status of local government to depend on the policy preferences and political interests of the party in power at federal and regional levels rather than on constitutional and legal principles. As stated above, Article 50(4) of the FDRE Constitution is so vague that, if read by itself, may lead to the conclusion that it envisions the establishment of deconcentrated administrative structures rather than devolved local government units. This seems to be how the regional states understood Article 50 (4) prior to 2001. Thus, before the district level decentralisation

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(DLDP) was launched in 2001, *woredas* and municipalities were viewed as administrative arms of the regional governments without a modicum of autonomy. This was never viewed as incompatible with the Constitution. Moreover, the 2001 revision of the regional constitutions, which sought to provide *woredas* with some level of autonomy, was not the result of an effort to meet the prescriptions of the federal Constitution. Rather, it was the outcome of a change in the policy of the EPRDF.\textsuperscript{1188} It was also, at least to some extent, a political manoeuvre that was directed at diminishing the power of the regional authorities following the political in-fighting within the ruling party.\textsuperscript{1189}

It may be argued that *woredas* are recognised under the regional constitutions even though they are not explicitly recognised in the federal Constitution. Not only are the regional constitutions amended through stringent procedures, but the *woredas* themselves are involved in the amendment thereof.\textsuperscript{1190} Therefore, *woredas* have adequate protection under the regional constitutions. Such an argument, however, does not take into account the reality on the ground. The protection offered to local government by the regional constitutions is not as adequate as the protection that would have been offered by the federal Constitution. As was discussed in chapter four, the amendments of the regional constitutions are usually undertaken without strictly following the procedures that are provided in the regional constitutions. For instance, the amendment of the regional constitutions in 2001 did not follow the procedures which were prescribed in the regional constitutions themselves. In fact, the regional

\textsuperscript{1188} See chapter 4; § 5.3.

\textsuperscript{1189} See chapter 4; § 5.3.7.

\textsuperscript{1190} See above § 5.2.2.1.
constitutions were not amended by the regional states. As was discussed in chapter four, the revision of the regional constitutions rather took place at the federal level, in the Prime Minister’s Office, without the knowledge of the regional states. As Solomon notes:-

‘The process of constitutional revision has been criticised for its failure to emanate from within the states. The regional authorities were not aware of the reasons for this massive revision. It did not follow the amendment procedure set out in the states Constitutions, and, moreover it was an abrupt process under the command of the Prime Minister’s office.’

It is submitted, therefore, that the FDRE Constitution should be more explicit in recognising the constitutional status of Article 50(4) local government. Recognising local government in a national Constitution is not atypical or repugnant to a federal system. Several federal and quasi-federal states, including Belgium, Nigeria, Russia, and South Africa have explicitly recognised local government in their Constitution.

2.2.4.2. Constitutionally unprotected urban local government

As the earlier discussion shows, cities and municipalities are not recognised even by regional constitutions, while woredas are in a relatively better position in this respect. The difference in the constitutional status of cities and woredas demonstrates the vulnerability of local government to central government policy preferences. This is caused by the ambiguity in the FDRE Constitution regarding

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1192 See chapter 4 § 5.3.7.
the status of Article 50(4) local government. The development policy of the EPRDF has centred on the rural areas ever since it assumed power.\textsuperscript{1195} Hence, rural \textit{woredas} are recognised by and created in the regional constitutions. Cities and municipalities were, in contrast, considered important only to the extent that they complemented rural development.\textsuperscript{1196} They are, therefore, created through ordinary regional statutes. As was mentioned in chapter four, all cities and municipalities were initially within the administrative structure of rural \textit{woredas}, like municipalities currently are.\textsuperscript{1197} The separate restructuring of cities with the status of a \textit{woreda} was rather an afterthought.

In fact, the recognition of cities in regional constitutions does not adequately ensure their existence. Yet, the non-recognition of cities in the regional constitutions deprives them of that symbolic value that such recognition accords. It also renders cities vulnerable even to a swifter and unrestrained regional interference. The regional governments may, if they choose to, eliminate cities and municipalities as autonomous local government units by easily amending the regional statute that created them. This was the case, for instance, in Oromia where municipalities were reduced to the status of \textit{kebeles}.\textsuperscript{1198}

It is, therefore, submitted that as a minimum the regional constitutions should recognise cities as autonomous governments and guarantee their existence. There is no acceptable reason as to why only rural local government units should be

\textsuperscript{1195} See chapter 4; § 5.3.4. See also Heymans & Mussa (2004).
\textsuperscript{1196} See chapter 4; § 5.3.4. See also Heymans & Mussa (2004).
\textsuperscript{1197} See chapter 4; § 6.1.2.
\textsuperscript{1198} See chapter 4; § 6.1.2.
constitutionally protected. Urban dwellers have equal need for development and efficient service delivery. This should entail the establishment of constitutionally protected urban local government system.

2.2.4.3. Wall-to-wall local government

As the discussion above shows the federal and regional constitutions explicitly or impliedly require Article 50 (4) local government units to be established in every parts of the country. Practice also shows that Article 50 (4) local government units are in fact established in every part of the country. There are two important points that needs to be highlighted here. First, the establishment of Article 50 (4) local government units on wall-to-wall basis meets the prescription of the federal and regional constitutions. Over and above that, as it was indicated in chapter two,\(1199\) it is important for ensuring that everyone, in every part of the country, participates in, and ‘reaps’ the ‘fruits’ of, local development. Second, as was stated in chapter two, while it is necessary to ensure that local government units are established in every part of a country, it does not however mean that all local units across a country should assume an identical structure.\(1200\) Localities with different social and economic realities may require different local structure structures. Accordingly, in Ethiopia, the manner in which each local government units are structured shows that the developmental preferences of communities in different parts of the country are taken into account. Rural communities and urban communities are expected to have varied developmental preferences. Hence, in rural areas, woredas are established while in urban areas municipalities and cities are established. Within the urban category the different status and capacity of each local unit seems also to have been taken into consideration.

\(1199\) See chapter 2; § 3.5.1.1.

\(1200\) See chapter 2; § 3.5.1.1.
Hence, Addis Ababa and Dire Dawa are established as autonomous federal cities; outside the jurisdiction of a regional state. A distinction is also made in the manner in which cities and municipalities are structured; the former is established as autonomous unit of local government while the latter is established as administrative unit. In Ethiopia, therefore, the second element of ‘certainty of existence of local government’ is constitutionally prescribed and practically implemented.

2.2.4.4. Protection of individual local units

As was explained above, in most of the regional states, the creation of new woredas, as well as the division and/or amalgamation of the existing ones, do not seem to be clearly regulated. The regional constitutions are completely silent on the issue. Even in Tigray and Benishangul-Gumuz, where proclamations are enacted to regulate the matter, \(^{1201}\) the criteria for establishing a new woreda and for dividing and amalgamating existing woredas remain vague. In Tigray, the regional Executive Council is authorised to define these criteria in executive regulation, a legal instrument which the executive council can effortlessly amend. \(^{1202}\) The absence of a constitutional framework regulating the creation new woredas and the demarcation and adjustment of the boundaries of existing woredas is likely to render each individual woreda vulnerable to random division or amalgamation.

It is also unclear how local communities participate in the demarcation and adjustment processes of woreda boundaries. There are certain instances in which

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\(^{1201}\) See above § 2.3.3.1.

\(^{1202}\) See above § 2.3.3.1.
the regional states established *woredas* in response to petitions that were lodged by local communities. There are also instances in the Somali, Oromia, and SNNPR regional states where some communities participated in referendums that had the effect of altering existing *woreda* boundaries. These referenda were, however, conducted for the alterations of *woreda* boundaries which entailed changes to regional boundaries. Had this not been the case, the change with regard to *woreda* boundaries might not have involved referenda. Hence, no constitutional principle constrains the regional state governments, so it seems, from changing local government boundaries as and when they see fit.

It is, therefore, submitted that local boundaries, *as a rule*, should be established on a permanent basis. Justifiable gradual changes and adjustments of *woreda* boundaries may be introduced. However these changes should not be arbitrary. The changes should rather be based on pre-determined substantive and procedural criteria. These substantive and procedural criteria must be clearly listed in the relevant regional constitution.

### 2.3. Local democracy

As was discussed in chapter two, competitive local democracy is a central element of local political autonomy. It is also one of the key mechanisms for achieving development based on public participation. Local democracy also serves as a mechanism of ensuring that local government is responsive to local preferences. Moreover, it is a critical means of ensuring downward accountability.

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1204 See chapter 2; § 3.5.1.2.

1205 See chapter 2; § 3.5.1.2.
which is vital to local government’s political autonomy.\textsuperscript{1206} It was also indicated in chapter two, that local democracy entails the establishment of local councils and holding regular competitive elections. The following section will examine Ethiopia’s local democracy against the backdrop of these institutional features.

\textbf{2.3.1. Local elections}

FDRE Proclamation 532 (2007) provides that local elections are held on the basis of multi-party system and universal suffrage.\textsuperscript{1207} The Proclamation also provides that independent candidates may participate in elections.\textsuperscript{1208}

\textbf{2.3.1.1. Electoral system}

Proclamation 532 (2007) provides that the plurality system will be used in all elections which includes local elections.\textsuperscript{1209} The Block Vote (BV) system, a version of the plurality system which uses multi-member constituencies is used in local elections.\textsuperscript{1210} This system awards each voter as many votes as the number of councillors that can be elected from a constituency.\textsuperscript{1211} The \textit{kebele} is used as a multi-member constituency for \textit{woreda} and city council elections.\textsuperscript{1212} The

\begin{footnotesize}
\begin{enumerate}
\item See chapter 2; § 3.5.1.2.
\item FDRE Proclamation 532 (2007) Preamble.
\item FDRE Proclamation 532 (2007) Art 45 (1) (d)
\item Pausewang \textit{et al} (2002) 17. Proclamation 532 (2007) Article 29 (2) authorises the regional states to determine through a regional law the number of candidates that may be elected in local elections from a constituency, based on the size the population of the locality and the size of the local council.
\item Reynolds, Reilly, & Ellis (2005) 44.
\item FDRE Proclamation 532 (2007) does not provide that the \textit{kebele} will be used as a constituency for local elections. Article 20 (2) of this Proclamation rather provides that ‘[l]ocal elections at different levels shall be conducted by establishing proportional constituencies by taking into consideration the size and the number of deputies to be elected and the electors in accordance with the laws of State \textit[5] governments’. The regional constitutions provide that the \textit{kebele} will be used as constituency in \textit{woreda} elections. ARS Constitution (2001) Art 85 (1);
\end{enumerate}
\end{footnotesize}
number of councillors that are elected from each kebele varies depending on the size of the council which in turn depends on the territorial and population size of the woreda or city. Under the BV system, therefore, each voter in a kebele casts as many votes as the number of representatives that are elected from the kebele. Vote counting in the BV system is similar to the first-past-the-post (FPTP). Hence, two or more candidates, with the highest numbers of votes, even if without an absolute majority, become a winner.  

2.3.1.2. Competiveness and representativeness in local elections

Local elections have been held several times since the EPRDF took power. These elections were however far from competitive. The EPRDF and its affiliates claimed close to absolute victory in all the local elections thus far. The EPRDF and its affiliates control all the seats in all woredas and cities. There is barely a single seat that is held by an opposition party save for a few seats that are held by independent candidates. In fact, the opposition parties hardly participated in local elections. Most of the opposition parties either boycotted or withdrew from all local elections held to date. 

Various reasons are given for this. Opposition parties blame the electoral system and the National Electoral Board of Ethiopia (NEBE) for the non-competitiveness of elections in the country. Merera, an opposition party leader, writes that the plurality electoral system was the ruling party’s ‘constitutional engineering’ to


1213 See Reynolds, Reilly, & Ellis (2005) 44.
ensure its continued dominance.\textsuperscript{1216} The actual impact of the electoral system on local elections is however difficult to appraise as the opposition parties hardly participated in local elections that were held to date. It can, however, be argued that the plurality electoral system might have discouraged the opposition parties from participating in local elections as they stand little chance of winning an electoral position with this electoral system in place. The chance that the opposition parties have to win local elections is further restricted particularly because BV is the version of the plurality system which is used for local elections. This is because, in general, all forms of plurality electoral systems are criticised for awarding to a party council seats that are disproportionate to the votes it receives.\textsuperscript{1217} The BV system further exaggerates this disproportionality and results ‘in an even greater distortion of seats to votes’ than other forms plurality system.\textsuperscript{1218} Therefore, as Pauswang \textit{et al} write, in Ethiopia, in a constituency which can send, for instance, six delegates to a local council, a party may win all the six seats with just six more votes than the other parties.\textsuperscript{1219}

The opposition parties also allege that NEBE thwarts their participation by preventing them from registering their candidates or dropping their candidates from the voting roll. Merera says the NEBE acts as ‘a player not a referee with handpicked EPRDF cadres serving in the electoral management and restricting opposition candidates from registering’.\textsuperscript{1220} Furthermore, the poor organisation and financial constraints of the opposition parties are claimed to have contributed

\begin{itemize}
\item \textsuperscript{1216} Merera (undated) 9.
\item \textsuperscript{1217} See Reynolds, Reilly, & Ellis (2005) 35-52.
\item \textsuperscript{1218} See Reynolds, Reilly, & Ellis (2005) 44.
\item \textsuperscript{1219} Pauswang \textit{et al} (2002) 17.
\item \textsuperscript{1220} Aalen & Tronvoll (2008) 115.
\end{itemize}
to this situation. There are more than 3 million electoral positions at woreda, city, and kebele level. The opposition parties simply cannot compete for all these seats.\textsuperscript{1221}

The opposition parties seem to be either disinterested in local elections or to believe that it is meaningless to control local councils without controlling the federal and regional governments. This seems to be why that opposition parties participate in national elections while protesting against the electoral system and questioning the independence of the electoral commission. However they readily boycott local elections for the same reasons. Moreover, it had been difficult for opposition parties to find suitable candidates for local elections.\textsuperscript{1222} Many of their members view candidacy for a local council with disdain and prefer the more rewarding candidacy for Parliament and regional councils. Thus Lidetu Ayalew, an opposition party leader, states that when his party decided to participate in the 2001 woreda and kebele elections, most party members were not keen to stand as candidates.\textsuperscript{1223} In order to encourage party members to stand for local election, Lidetu writes, he had to present himself as a candidate for a woreda council.\textsuperscript{1224}

Additional point is that the international community does not appear to be interested in Ethiopia’s local elections which have its own impact on the

\textsuperscript{1221} Aalen & Tronvoll (2008) 115.
\textsuperscript{1222} Lidetu (1998 Ethiopian Calendar) 32.
\textsuperscript{1223} Lidetu (1998 Ethiopian Calendar) 32.
\textsuperscript{1224} Lidetu (1998 Ethiopian Calendar) 32.
competitiveness and representativeness of local elections.\textsuperscript{1225} Since the fall of the 
\textit{Derg}, international institutions and donors, such as the Carter Centre, European Union, and African Union have been involved as observers in Ethiopian national and regional elections. They have also assisted financially and logistically. Yet they have been dispassionate about local elections in Ethiopia. The last three local elections were, therefore, held without any international observers.\textsuperscript{1226}

\textbf{2.3.1.3. Assessment}

The significance of competitive and representative elections for development was highlighted in chapter two.\textsuperscript{1227} As it is clear from the discussion above, local elections in Ethiopia are neither competitive nor representative, regardless of why this is so. All local councils are controlled by the EPRDF or its affiliates. The opposition parties are completely unrepresented in local councils. Only a few independent candidates managed to win a few seats in local elections. It would be absurd to assume that the dominance of the EPRDF and its affiliates of all local councils is due to the fact that these parties and their policies have a complete and unreserved support throughout the country. It should not be assumed that there is not a single section of the Ethiopian society that has a different preference of development to the one promoted by the EPRDF and its affiliates. It is argued that the lack of competitiveness and representativeness in local elections has diminished the significance of the decentralisation programme as an institutional mechanism for bringing about development based on the democratic participation of the people.


\textsuperscript{1227} See chapter 2; § 3.5.1.4.
Furthermore, as was discussed in chapter two, one of the most important benefits of decentralisation is the possibility to simultaneously respond to a variety of developmental preferences. However, in Ethiopia, the EPRDF, with its affiliates, controls all levels of government. This by itself reduces the potential of the decentralisation programme to simultaneously respond to varied developmental preferences of different localities. Not only does the party with its affiliates control all local units, but it has also an extremely centralised structure and method of decision making. The decision making system of the party is based on the principle of ‘democratic centralism’. Under this system, the local structures of the party are only involved in the execution of decisions passed by the centre. Moreover, there is a little or no practical distinction between the government and the party. The policies and decisions of the party are executed as government policies and decisions. The lack of competitiveness and representativeness in local elections, and the domination of the entire political landscape of the country by a single party, coupled with the centralised decision making system of the party, is likely to have undercut the benefit that the decentralisation programme is expected to offer.

It would, nonetheless, be unreasonable to claim that the decentralisation process is an absolute fiasco in terms of bringing about electoral participation. For better or worse, several consecutive local elections have been conducted in the past years. This is not only a fundamental departure from the past, but it has also been a significant democratic exercise. Moreover, even in the absence of competitive elections, the decentralisation programme has registered some

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successes in terms of bringing about development. A 2010 UNDP report states that despite the lack of competitiveness and representativeness in Ethiopia’s local elections, the country has registered a significant improvement in providing primary health care and primary education.1229

2.4. Local government functions

2.4.1. Introduction

One of the central elements of local government autonomy, and which is a crucial institutional feature of decentralised development, is the devolution of original, relevant, suitable, and clearly defined functions.1230 It was contended in chapter two that local government functions should be clear enough to prevent uncertainty about who does what. Yet, it should not be too detailed so as to afford local government a degree of discretion.1231 It was also stated that the devolution of functions to local government should be based on the principle of subsidiarity.1232 The following section will discuss local government functions in Ethiopia.

2.4.2. The principle of subsidiarity

2.4.2.1. Introduction

In chapter two the principle of subsidiarity and its role in the allocation of functions to local government was discussed.1233 The issue now is whether and what role the principle of subsidiarity plays in the allocation of powers and functions to local government in Ethiopia. The following section will discuss this matter.

1230 See chapter 2; § 3.5.1.3.
1231 See chapter 2; § 3.5.1.3.
1232 See chapter 2; § 3.5.1.3
1233 See chapter 2; § 3.5.1.3
2.4.2.2. Subsidiarity under the FDRE Constitution

With regard to the allocation of competences to local government the FDRE Constitutional provides:

‘Adequate power shall be granted to the lowest units of government to enable the people to participate directly in the administration of such units’.\textsuperscript{1234}

It has been argued by some writers, and correctly so, that Article 50(4) is based the principle of subsidiarity.\textsuperscript{1235} If this provision is interpreted to embody the principle of subsidiarity, and it is submitted it does, clearly it is not based on an automatic ‘bias in favour of local government’. Nor is it based on the recognition of the sovereignty of the individual. The Ethiopian constitutional system recognises the sovereignty of ethnic communities, not of the individual.\textsuperscript{1236} The sovereignty of the individual is secondary under the Ethiopian constitutional system.

It is clear from Article 50 (4) that powers will be granted to local government. Clearly, it is the regional governments who will grant powers to local government. This implies that the regional states are the original custodians of the powers that are devolved to local government. Therefore, no assumption can be made in favour of local government in the allocation of functions.\textsuperscript{1237} On the contrary, local government is expected to exercise those functions that are specifically granted to it by the regional states. The Constitution does not require

\textsuperscript{1236} See FDRE Constitution (1995) Art 8(1).
\textsuperscript{1237} See also Solomon (2006) 80.
the regional states to justify their retention of certain functions on the basis of ‘comparative efficiency’ or ‘necessity’. Rather, the Constitution implies a particular function should be allocated to local government if public participation is crucial for the implementation of the particular task.

The other issue that arises is the meaning of ‘people’ in Article 50(4). As stated above, the allocation of powers to local government is meant to allow the ‘people’ to participate in decision making directly affecting them. The question here is whether ‘people’ refer to ethnic communities or to a collection of individuals. The federal Constitution uses the term ‘peoples’ to refer to ethnic communities as well as to collections of individuals. It is submitted that ‘people’ does not mean ethnic communities here. As the discussion in chapter four reveals, the Constitutions envisages the establishment of two categories of local government: 50(4) local government and Article 39 local government. The objective underpinning the establishment of Article 39 local government is specific: namely accommodation of intra-regional ethnic communities. On the other hand, the objectives underpinning the establishment of Article 50(4) local

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1238 The Preamble of the FDRE Constitution begins with ‘we the nations, nationalities and, peoples’. Here the term ‘Peoples’ refers to ethnic communities. Article 39 is captioned as ‘the right of nations and nationalities and peoples’. Article 39 (5) uses the terms people and ‘nation and nationalities’ as if they refer to the same concept. The Constitution also uses the term people to refer to a mere collection of individuals. For instance Article 40 provides ‘the people of Ethiopia as a whole and each nation nationality and people’ has the right to development. Clearly, the ‘people of Ethiopia as a whole’ is considered to be a collection of individual citizens. Article 10 provides that the human and democratic rights of the people will be respected. The term ‘people’ seems to refer to a collection of individuals. Article 12 also provides that ‘the people’ may recall elected official if and when they lose confidence in him or her. Clearly the term people refer to a collection of individuals, as people vote in their individual capacity, not as members of an ethnic community.

1239 See chapter 4; § 4.
government are not specific to accommodating ethnic communities. The objectives, which include democracy and public participation, have a universal relevance and application. Therefore, it is argued that ‘people’ under Article 50 (4) does not refer to a certain ethnic community. Rather, it refers to a collection of individuals who constitute a local community, regardless of their ethnic background.

From the above it can be gathered that Article 50 (4) of the FDRE Constitution reflects the principle of subsidiarity. However, the principle of subsidiarity as implied in the Constitution is not based on the classical notion of subsidiarity with an automatic ‘bias’ or ‘preference’ in favour of local government. It is rather based on the democratic principle that those who have a direct interest in a public service should have the power to deliberate on it.

2.4.2.3. Subsidiarity under the regional constitutions and regional laws

The regional constitutions of Amhara, Benishangul-Gumuz, Gambella, SNNPR, and Tigray provide that a woreda will have all powers that will ‘enable’ or ‘allow’ it to prepare, determine, and implement social services and economic development within its jurisdiction. The notion ‘enable’ or ‘allow’ is of critical import here in determining the functions that should be left to local government. It brings to the fore the condition of the ‘ability’ of local government to efficiently discharge a particular task. Hence, under the regional constitutions,

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1240 See chapter 4; § 4.
1241 The Amharic term which is used in these constitutions is ‘yemiyaschil’ which can be interpreted as ‘which enables’ or ‘allows’.
too, there is no assumption that all powers belong to local government unless explicitly stated provided to the regional governments. Rather, local government is expected to exercise functions that will enable it to prepare a plan for the provision of *woreda* social services and to implement its plan. Thus, the regional constitutions embody a conception of subsidiarity which seems to reflect the ‘functionality’ approach to subsidiarity with regard to the devolution of competences to *woredas*.

The city proclamations also contain what can be considered as the principle of functional subsidiarity. The city proclamations of the Afar, Amhara, and SNNPR provide that cities and municipalities have the powers and functions that are ‘necessary’ for the administration of their matters. ‘Necessity’ is, therefore, the functional criterion of subsidiarity for devolving functions to cities.\(^{1243}\)

The above discussion has identified the principle that is expected to guides the devolution of functions to local government. The next task is identifying the specific functions that are actually devolved to local government. The following section will deal with matter..

### 2.4.3. Functional competences of *woredas* and cities/municipalities

#### 2.4.3.1. The *woreda*

*FDRE Constitution*

\(^{1243}\) For instance the Afar proclamation 33 (2006) provides that the Semera city government has all powers which are ‘necessary’ to administer itself. The City proclamation of the SNNPR also states that a city has the power ‘necessary’ to administer city matters. The same principle is stipulated in the Amhara and Binashangul-Gumuz city proclamation. See AfRS Proclamation 33 (2006) Art 5 (1); SNNPR Proclamation 103 (2006) Art12 (1); ARS proclamation 91 (2003) Art 8(1); BGRS Proclamation 69 (2007) Art 8 (1).
It was discussed in chapter two that local government should be provided with original functions which are enshrined in a national constitution. The discussion in chapter two also shows that the constitutions of several countries, including, South Africa, Uganda, and Nigeria, contain a list of local government functions or, as is the case in Nigeria, functions that the states can transfer to local government. 1244

The FDRE Constitution, however, does not contain a list of local government competences. The constitutional division of functions under the FDRE Constitution is restricted to the federal and the regional states. 1245 Hence, in Ethiopia, local government does not have original competences that can be traced to the federal Constitution.

Regional constitutions

The regional constitutions do not contain a list of local government functions. All of the regional constitutions provide that a woreda administration may plan and implement ‘economic development and social services’ within its territorial jurisdiction. 1246 However, they fall short of providing a full list of woreda functions. The specific economic and social matters on which local government may exercise the power to plan remain undefined in the regional constitutions.

1244 See chapter 2; § 3.5.1.3.
This calls for a perusal of the policy papers, sectoral proclamations and other documents in order to gain a better idea of a woreda’s competences. As discussed in chapter four, the Sustainable Poverty Reduction and Development Programme (SPRDP) and the Plan for Accelerated and Sustained Development to End Poverty (PASDEP) state that a woreda would exercise certain functions in the areas of primary education, primary health care, rural water supply, rural roads, and agriculture extension services. It can be assumed therefore that woredas may exercise these functions. Some of the competences of the woreda can also be inferred from the powers and functions of woreda political organs as provided in the regional constitutions. For instance, a woreda council has the power to decide on matters relating to agriculture and natural resource conservation. Furthermore, a woreda chief administrator along with a woreda executive council, is charged with directing ‘woreda police’ and other security forces and protecting historical and cultural antiquities within the woreda. It can be gathered from this that a woreda may exercise certain functions in the areas of agricultural development, natural resource conservation, and security. This does not, however, mean much as the matters relating to agriculture and natural resource conservation may include a wide spectrum of activities. The exact responsibility of a woreda regarding agricultural development and natural

1247 See chapter 4; § 5.3.4.
resource conservation remains unclear particularly as these are regional competences under the federal Constitution. For example, does this include the provision of fertilisers? Is a woreda permitted to build agricultural colleges or irrigation schemes? In short, the manner in which the competences of woredas are provided for in the regional constitutions is full of ambiguity. In Amhara, SNNPR, Gambella, and Benishangul-Gumuz the problem is compounded by the presence of another level of sub-regional government (nationality zones) above the woreda. The nationality zones also have similar competencies in the area of social services and economic development.1250

Regional laws

Regional laws are supposed to provide the details of the competences of the woredas as the latter are not listed in the regional constitutions. To this effect, former Ministry of Capacity Building (MoCB) prepared a draft legislative document on the basis of which regional governments were supposed to enact their own legislation defining local government competences.1251 The draft legislative document proposed a list of functions that should be devolved to woredas. The functions that are listed in the draft Bill are reasonably similar to what woredas are exercising in practice.1252

The document has not, however, been adopted, in any form, in most of the regions. Tigray and Benishangul-Gumuz have each issued a proclamation; apparently based on this document, with the objective of defining the

1250 See chapter 7; § 2.2.3.
1251 See MoCB (2007).
1252 See below table 3.
competences of woredas. However, these proclamations themselves lack clarity: They add little to what is in the constitutions of the two regions. The Oromia regional state has issued a regulation which seeks to define in detail woreda and kebele functional competences. However, first an executive regulation is ranked below the regional constitution and the proclamation in the hierarchy of regional laws. It is a piece of legislation that the Regional President may alter at any given time. Secondly, this regulation does not define the functions of the woreda. It merely reiterates the regional constitution which, as stated above, is far from clear as far as functions of woredas are concerned. In short the functional competences of woredas is not clearly defined either through regional constitutions or though ordinary regional laws.

Woreda competences in practice
Various studies show that, though unclear what a woreda’s exclusive functional competences are, in practice, a woreda exercises various functions in the areas of health, water and sanitation, education, agriculture, and roads. The following table summarises the functions that are exercised by a woreda and a kebele in practice.

<table>
<thead>
<tr>
<th>Woreda</th>
<th>Kebele</th>
</tr>
</thead>
<tbody>
<tr>
<td>• Providing primary and secondary education (grades 1-10),</td>
<td>• Administering primary schools</td>
</tr>
<tr>
<td>• Adult education,</td>
<td></td>
</tr>
<tr>
<td>• Printing and distributing primary school textbooks</td>
<td></td>
</tr>
<tr>
<td>• Administering primary school</td>
<td></td>
</tr>
</tbody>
</table>

1254 See ORS Regulation 30 (2003).
1255 See ORS Regulation 30 (2003). For a discussion on the status of ‘regulations’ see also Chapter 4; § 3.2.2 & 3.3.2.
• Implementing of health extension services
• Constructing and administering of health stations and health posts
• Administering clinics
• Controlling and preventing HIV/AIDS and malaria
• Undertaking immunisation programmes

• Administering primary health posts
• Preventing HIV/AIDS

<table>
<thead>
<tr>
<th>Constructing wells</th>
<th>Administering community water schemes</th>
</tr>
</thead>
<tbody>
<tr>
<td>Supplying drinking water to municipalities</td>
<td></td>
</tr>
</tbody>
</table>

• Planning and implementing agricultural and pastoral development
• Implementing agriculture extension packages
• Constructing and administering small scale indigenous irrigation

• Implementing agriculture extension packages
• Co-ordinating farmers co-operatives

<table>
<thead>
<tr>
<th>Administering rural land use and other natural resources</th>
<th>Administering land use</th>
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<table>
<thead>
<tr>
<th>Constructing rural roads connecting kebeles</th>
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<table>
<thead>
<tr>
<th>Implementing state functions in municipalities within a woreda</th>
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2.4.3.2. Functions of urban local government

The functional competences of urban local government, including the federal cities, are categorised into state functions and municipal functions.\(^\text{1256}\)

State functions

State functions are those functions that are exercised by a federal city in its status as a regional state and by a city in its status as a woreda. State functions are considered as ‘areas of intervention’ for poverty reduction in the SPRDP and

PASDEP and are also related to the MDGs. The functions include education, health care, drinking water, and agriculture.\textsuperscript{1257}

The federal cities and regional cities have the authority to exercise state functions. A municipality exercises only municipal functions. The state functions are carried out by woredas within whose jurisdiction the municipality is found. The state functions of the cities are not clearly defined in the city proclamations. As provided under the SNNPR, Benishangul-Gumuz, and Amhara city proclamations, the state functions of a city may include primary and secondary education, technical and vocational schools,\textsuperscript{1258} and primary health care.\textsuperscript{1259}

Cities may also deal with local economic matters, such as, micro- and small scale enterprises, registration and supervision of commercial activities, issuing trade licenses, and expanding urban transport infrastructures.\textsuperscript{1260}

Addis Ababa and Dire Dawa are not within the jurisdiction of a regional state. These cities, therefore, can be assumed to have certain competences on the matters that are reserved as state functions under Article 52 of the Constitution. This does not, however, mean that the two cities can trace their competences directly from the Constitution. They rather drive their authority from the charters that established them. Ironically, the charters themselves do not contain clear lists of the functional competences of the two cities. Like the regional constitutions, the charters of the two federal cities contain a general provision which authorises

\begin{footnotesize}
\begin{enumerate}
\item[\textsuperscript{1257}] See chapter 4; § 5.3.4; Garcia & Rajkumar (2008) 14.
\item[\textsuperscript{1259}] ARS Proclamation 91 (2003) Art 8(2)(s);
\item[\textsuperscript{1260}] SNNPR Proclamation 103 (2006) Art 13(4); ARS Proclamation 91 (2003) 8(2) (o & p).
\end{enumerate}
\end{footnotesize}
the cities to formulate policies and design plans on their own social and economic matters.\textsuperscript{1261} It is, therefore, necessary to examine other laws in order to obtain a clearer insight into the competences of the federal cities.

The Addis Ababa City Proclamation, which establishes the various executive organs of the City, sheds some light on the state functions of the city.\textsuperscript{1262} Based on the functions each executive organ may exercise, it can be inferred that the Addis Ababa City may exercise the following state functions.

- Education: primary, secondary, vocational, special and technical schools, teachers training colleges;
- Trade and industry: trade licences, business organisations, medium industries, market centres;
- Urban agriculture: providing fertilisers, selected seeds, agricultural technology, veterinary services, animal breeding, reproductive centres, laboratories, genetic resources, quarantine services for animals and plants, veterinary drugs, forest;
- Environment: standard setting, controlling pollution, controlling of industrial residue, by-products, licencing and supervising underground water drilling, quarries;
- Health services;
- Tourism: registering and protecting tourist sites, set standards for hotels; licensing tourist and travel agents;
- Investment: licencing investment, providing financial and loan services, constructing infrastructure.

\textit{Municipal functions}

\textsuperscript{1261} FDRE Proclamation 361 (2003) 11(2) (a & b); FDRE Proclamation 416 (2004) Art 9(2).
The federal and regional cities and municipalities exercise municipal functions. The municipal functions include the following: cultural centres; recreational centres; youth centres; museums; housing; sewerage; street; street lighting; land administration; solid wastes; fire fighting, nurseries, care centres (for the aged, disabled, orphaned and abandoned children); pollution control; abattoirs; parks; markets; sanitation; liquor licences; and ambulance services.\footnote{ARS Proclamation 91 (2003) Art 8 (2) (y & z) & (i-iii) also see Art 38 (2); AfRS Proclamation 33 (2006) Art 16 (7-10); SNNPR Proclamation 103 (2006) Art 13 (6); ORS Proclamation 65 (2003) Art 2 (8).}

2.4.4. **Assessment**

2.4.4.1. **Devolution or delegation?**

It was stated in chapter two that the functional competences of local government should be original in a sense that they should be traced to a national constitution.\footnote{See chapter 2; § 3.5.1 3.} As the discussion above indicates, the functional competences of local government are not clearly defined. Whatever functions woredas and cities may exercise, those functions are not original since they do not emanate from the federal or the regional constitutions.

Some of the regional states, for instance Oromia and Amhara, have attempted to use a legal instrument such as an executive regulation, the lowest in the hierarchy of laws, to define local government functions.\footnote{About the hierarchies of regional laws see chapter 4; § 3.3.} Benishangul-Gumuz and Tigray have issued proclamations to the same effect. Thus, a regional government may at any time decide to assume some or all of what would have been woreda and city functions by amending the relevant proclamations and regulations. From the above, it appears that Ethiopia’s decentralisation to be more of delegation than...
devolution. As stated in chapter two, what characterises delegation is that the centre, as the principal holder of authority, is entitled to withdraw at any time the responsibilities it has transferred to local units. This is so despite the fact that the delegatee local unit enjoys a wide range of discretion regarding how it exercises the delegated powers and functions during the validity of the delegation.\textsuperscript{1266} Similarly, in Ethiopia, the functions of \textit{woredas} are not listed in the federal and regional constitutions. They are rather listed, if at all, in ordinary statutes. The regional state, therefore, by amending its statutes may take back the functions that it has transferred to local government at any time.

\textbf{2.4.4.2. Unclear functions}

The municipal functions of cities and municipalities have been reasonably clearly defined in the regional city proclamations. The state functions of cities are, however, unclear. The lack of clarity in the functional competences of local government is perhaps the most serious problem facing the entire decentralisation programme in Ethiopia. The regional constitutions have created a multi-tiered system of rural local government in which each tier is authorised to decide on its own ‘social and economic matters’. Yet they state nothing about the specific social and economic development matters with regard to which each tier of local government is authorised to take decisions. It is impossible to distinguish the exact responsibility of a \textit{woreda} with respect to education, health, agricultural development by referring to the regional constitutions. In the regions, such as, SNNPR and Amhara, the problem is compounded by the presence of autonomous

\textsuperscript{1266} See chapter 2; § 2.2.2.
nationality zones, above *woredas* and cities, which are responsible for planning and implementing their own social services and economic development.  

It is submitted that clearly defining local government functions should have been the first task in the decentralisation process. Establishing local government and transferring funds to it without transferring clear functions is ‘putting the cart before the horse’. Moreover, problems that are associated with a lack of clarity in the functional competences of different levels of government, such as wasteful redundancy and lack accountability, are likely to arise in Ethiopia. Furthermore, as a study by Garcia and Rajkumar shows, the political autonomy of *woredas* and cities is compromised due to the fact that their functional competences are not clearly defined. The study shows that regional states and nationality zones have assumed certain functions that are in practice viewed as *woreda* functional competences. It is, therefore, crucial to promptly define the functional competences of *woredas* and cities.

### 2.4.4.3. Inaccessibility of legislative instruments

Related to the above is that regional constitutions and other laws which, however scantily, deal with local government functions are inaccessible for the majority of the people. In fact, they are inaccessible even to *woreda* officials themselves. Very few copies of the regional constitutions and laws are published. Those copies are distributed to the regional government offices. For instance, the Gambella region reported in 2009 that it had published and distributed 5000

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1267 See below at § 2.5.3.
1268 See chapter 2 § 3.5.1.3.
1270 Yemane (2010) 111.
copies of the regional constitution to regional government offices.\textsuperscript{1271} In a region with more than 200,000 people, this was reported as a laudable achievement.

Moreover, in most cases, the regional laws, which deal with local government, do not reach \textit{woreda} officials, let alone the ordinary citizens. Hence, as some studies indicate, the basic functions of \textit{woredas} are unknown to many \textit{woreda} officials, let alone the ordinary citizens.\textsuperscript{1272} Yemane, explaining the problems relating to the inaccessibility of legal instruments in Tigray Regional State writes:

\begin{quote}
‘Once such laws are issued by the regional council that is the end of the process. They do not reach the \textit{woreda} administration. If at all they reach the \textit{woreda} administration, one cannot find them in government offices/shelves but in the hands/drawers of different individuals. When these individuals leave offices for whatever reasons, they take these important documents with them...This is the big challenge that \textit{woredas} are facing today.’\textsuperscript{1273}
\end{quote}

It is, therefore, submitted that the regional governments should make the necessary effort ensure that duly passed regional laws, specifically those that have impact on local development, are published in time. They should also ensure that these laws are easily accessible to members of the communities.

\textbf{2.4.4.4. Relevant for development?}

As stated in chapter four, the policy objective of the decentralisation programme is to reduce poverty in the country.\textsuperscript{1274} It was also envisioned in the policy paper

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\textsuperscript{1271} Ministry of Information (MoI) (2010).
\textsuperscript{1272} Yemane (2010) 111.
\textsuperscript{1273} Yemane (2010) 111.
\textsuperscript{1274} See chapter 4; § 5.3.4.
\end{flushright}
dealing with urban local government that cities and municipalities will be engaged in tackling urban specific problems such as unemployment and lack of housing.\textsuperscript{1275} This is in addition to the role that cities are supposed to play in providing education, health care and other social services. It was also envisioned to make cities ‘attractive, healthy and sustainable living environments’.\textsuperscript{1276} It is far from clear whether woredas and cities are legally empowered to exercise these functions. It is not, therefore, possible to judge the relevance of the functions of woredas for poverty reduction and development as the functions are not known.

In practice, woredas are engaged in providing services relating to primary health care, primary education, agricultural extension services, water, and sanitation, regardless of their formal competences being unclear. It is self-evident that these activities are not only relevant but also are critical for poverty reduction as envisaged in the policy papers. It is also important to note that remarkable progress has been registered in the areas of primary education, primary health care, and agricultural extension services in Ethiopia since the launch of the second phase decentralisation. The 2010 UNDP report on human development ranks the progress made by Ethiopia in these areas first in Sub-Saharan Africa and 11\textsuperscript{th} in the world.\textsuperscript{1277} Another report indicates that the prevalence of poverty, which was close to 50 percent at the beginning of the decentralisation process, has been reduced to 29.9 percent in 2009/2010.\textsuperscript{1278} In particular, the gross

\textsuperscript{1275} See chapter 4; § 5.3.4.
\textsuperscript{1276} See chapter 4; § 5.3.4.
\textsuperscript{1277} UNDP (2010) 28.
\textsuperscript{1278} MoFED (2010) 5.
students’ enrolment for primary school, which was only 45.8% in 1998/99, has reached 95 percent in 2010. Reports indicate that the number of people suffering from lack of food has been reduced to 28 percent in 2009/2010. The UNDP report also indicates that local actions have contributed greatly to the progress that has been achieved in the past years. This progress is recorded despite the lack of clarity in functional competences of woredas and cities. It can be assumed that had woredas’ competences been clearly defined, a better performance could have been registered in reducing the poverty prevailing in the country.

The functions of cities and municipalities are clearer than those of woredas, in particular their municipal functions. Their functions are also relevant for, and are directed at, tackling urban specific problems. For instance, the functions of cities and municipalities relating to micro and small enterprises are pertinent for creating jobs and reducing unemployment as envisaged in the policy papers. Their municipal functions, such as, pollution control, sewerage, parks are relevant for creating attractive and healthy living environments in the cities. The competence of cities with regard to housing is critical for the people’s welfare and the improvement of their living standard. Several cities, therefore, have been engaged in building low-cost housing or condominiums. The Addis Ababa City Government, for instance, reports that it has built and distributed more than

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1279 See chapter 4; § 5.3.4.
1281 See chapter 4; § 5.3.4.
32,000 housing units since 2001. To this extent it can argued that cities functions are indeed suitable and relevant for local development.

2.5. Local government powers

2.5.1. Introduction

A local government power refers to what local government may do with respect to its functional competences. Specifically, it refers to political powers, such as, the power to formulate policies, adopt short term and long term plans, enact laws, and enforce laws. The following section will deal with this issue.

2.5.2. Development policy making

A policy is a broad and a ‘novel principle of action’ which guides decisions with the aim of achieving a certain outcome. A policy does not deal with the particular activities to be undertaken. The ‘detailed proposal for doing’ something or achieving a certain outcome is rather described in a plan. The authority to formulate policies on local matters is a key political power. The significance of local government as discovery machine depends on the power of local government to formulate new policies.

The power to adopt policies is all the more important in Ethiopia as policies, in particular those relating to social service and economic development matters that are adopted by various levels of government have a certain legal force. Their legal force emanates from the procedure through which they are adopted. The

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1283 See chapter 2; § 3.5.1.4.
1286 See chapter 2; § 3.5.1.4
federal Constitution provides that general policies relating to social and economic matters, which are prepared by the executive council, have to be approved by Parliament. These procedures were followed to approve the SPRDP, PASDEP, and the Growth and Transformation Plan (GTP) are adopted. Likewise, regional policies on social services and economic development are formulated by a regional executive council and submitted to a regional council for approval. Therefore, in Ethiopia the power to adopt policies is an important political power. Now the question is whether woredas and cities have the power to formulate their own policies.

### 2.5.2.1. Woredas

The regional constitutions provide that a woreda has the ‘necessary’ power to ‘plan’ and implement its own social services and economic development. To this effect, a woreda executive council is authorised to draft ‘plans’ on woreda social and economic matters, while the relevant woreda council is authorised to approve the plans. The regional constitutions are silent as to whether woredas

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1289 See MoFED (2010); MoFED (2006); MoFED (2002). What is still confusing is that even the general federal policy papers such as SPRDP, PASDEP, and GTP are titled as ‘plans’.
1291 See above at § 2.4.3.1.
1292 See below at § 2.5.3.1.
may formulate and adopt ‘policies’ on these matters. It is necessary to note here that the policy making power of the federal and regional governments is mentioned in the federal and regional constitutions apart from and in addition to their power to approve and implement ‘plans’ on regional social and economic matters. For instance, Article 51(2) provides the following:

‘[The federal government] shall formulate and implement the country’s policies, strategies and plans in respect of overall economic, social and development matters.’

Article 52(2) (c) also provides:

‘[States have the power to] formulate and execute economic, social and development policies, strategies and plans of the State.’

Therefore, both in the federal as well as the regional constitutions, ‘policies’ are distinguished from ‘plans’.

The regional constitutions are, however, silent regarding a woreda’s power to adopt its own development policies. Moreover, several government documents and manuals refer to woredas as policy implementers rather than policy makers. Does this mean that woredas may not formulate policies on woreda matters?

One argument may be that the explicit reference to a woreda’s power to approve its own development plans, and not to a woreda’s power to formulate policies, implies that it cannot do the latter. The counter argument may be that there is no

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legal or constitutional provision that explicitly disqualifies woredas from adopting policies on woreda matters. The silence of the regional constitutions on the matter should not, therefore, be construed as prohibition. Moreover, there is no discernible reason why woredas may not be allowed to adopt their own policies while, as will be discussed in the next section, a city, whose status is equivalent to a woreda, has such a power. What becomes clear from the above however is the fact that it is not at all certain whether woredas have policy making power.

### 2.5.2.2. Urban local government

It is explicitly stated in the city proclamations and charters that cities and the federal cities may formulate policies on local matters. FDRE Proclamation 416 (2004) and FDRE Proclamation 361 (2003) provide that the Addis Ababa and Dire Dawa city governments, respectively, may formulate and implement policies concerning the development of the cities.\(^{1295}\) It may be argued that the policy making power of these two cities emanates from their status as federal cities which is similar to the status of the regional states, despite their accountability to the federal government.

The regional city proclamations also provide that cities may formulate policies on local matters.\(^{1296}\) SNNPR Proclamation 103 (2006) does not state whether a city may formulate its own policy. Yet, Article 12 (1) provides that a city may exercise all powers ‘necessary’ to administer local matters. It is evident that the


power to formulate policies on local developmental matters is a power which is ‘necessary’ for local development. Hence, it can be argued that cities in the SNNPR also have the power to formulate and implement their own developmental policies.

2.5.3. The power to plan

2.5.3.1. Woreda planning

The regional constitutions explicitly state that a woreda may prepare plans with respect to its own social and economic matters.\textsuperscript{1297} The woreda executive council is responsible for preparing draft woreda plans, and the woreda council has the ultimate power to approve the plans.\textsuperscript{1298} The regional constitutions do not, however, define ‘planning’ and the sorts of activities it entails. In practice, woreda planning is guided by manuals which are prepared by the MoCB and Ministry of Finance and Economic Development (MoFED), which define woreda planning and describe the process for adopting woreda plans. Some of the regional states, such as, the Tigray and Benishangul-Gumuz regional states, also have regulated woreda planning and the procedures for adopting a woreda plan.\textsuperscript{1299} According to the proclamations and manuals, planning involves


identifying resources and developmental priorities, and utilising resources to achieve these priorities.\textsuperscript{1300}

\textit{Types of woreda plans}

There are three types of \textit{woreda} development plans: short term development plans (for 1 year), medium term or strategic development plans (for 3-5 years) and long term development plans (for 10-20 years).\textsuperscript{1301} The \textit{woreda} is authorised to adopt a short term and medium term strategic plan.\textsuperscript{1302} In practice, however, \textit{woredas} limit themselves to preparing a short term development plan since they do not have the necessary capacity for preparing medium term and long term plans. In the short term plans, therefore, \textit{woredas} strive to respond for the preferences of local communities using the resources under their disposal.\textsuperscript{1303}

\textit{Planning processes and public participation}

The process of \textit{woreda} planning is described in various manuals of MoFED and MoCB. A \textit{woreda} development planning begins with public consultation at village level.\textsuperscript{1304} The main purpose of the consultation is to identify community problems and prioritise them.\textsuperscript{1305} The consultations are facilitated by employees of the \textit{kebele}. Civil society organizations (CSOs) are also invited to participate.\textsuperscript{1306} The community needs that are identified at village level are consolidated at \textit{kebele} level and become a ‘single \textit{kebele} priority list’. The aggregated priorities at \textit{kebele} level are also discussed at a \textit{kebele} general

\textsuperscript{1300} MoCB (1997 Ethiopian Calendar) 51.
\textsuperscript{1301} MoFED (2010).
\textsuperscript{1303} MoFED (2010).
\textsuperscript{1304} MoFED (2010) 7.
\textsuperscript{1305} MoFED (2010) 7.
\textsuperscript{1306} MoFED (2010) 7.
community meeting of the kebele’s residents.\textsuperscript{1307} The kebele priority lists are then sent to a woreda where the priority lists of the various kebeles are consolidated by the woreda development planning committee. The aggregate woreda priorities are then re-organised on a sectoral basis and passed on to the sectoral office concerned.\textsuperscript{1308}

Based on the priority list, each sectoral office decides on the ‘intervention areas’ and produces a plan. The plan of each sector is then aggregated and ‘linked to a budget’.\textsuperscript{1309} The plans which are prepared at sectoral level are discussed and negotiated among the various offices with the facilitation of the woreda Planning and Budgeting Desk. The end result of this negotiation becomes a single woreda plan which identifies woreda priorities and links them to budgets. The woreda plan is finally submitted to a woreda council for approval.\textsuperscript{1310}

It is, however, alleged that the planning process in practice distorts the local communities’ priorities: The priorities are distorted specially during the process of aggregation, disaggregation, and negotiation.\textsuperscript{1311} In addition, public participation is used only as a means to ‘extract information’ rather than to involve the public in decision making.\textsuperscript{1312} It is also unclear whether the information that is gathered through public participation is the ‘articulated

\textsuperscript{1307} MoFED (2010) 7.
\textsuperscript{1308} MoFED (2010) 16. About sectoral offices see below at § 4.2.2.
\textsuperscript{1309} MoFED (2010) 16.
\textsuperscript{1310} MoFED (2010) 16.
\textsuperscript{1311} Hadingham (2003) 21.
\textsuperscript{1312} Hadingham (2003) 21-22.
interests of local elites’ or the actual needs of local communities.\textsuperscript{1313} Moreover, the interests of heads of sectoral offices play a critical role in determining the areas of intervention.

\‘[T]he mechanism for prioritising between sectors and between interventions is not clear even among woreda staff. It is likely that in the absence of clear guidelines, prioritisation is done on an \textit{ad hoc} basis with choices of intervention being heavily influenced by the interests of the office head.\textsuperscript{1314}

Another concern is that in practice the woreda council plays a limited role in woreda planning.\textsuperscript{1315} The executive and administrative organs of the woreda play a dominant role in this respect. According to Yilmaz and Venugopal the woreda council hardly ever rejects plans prepared by sectoral offices.\textsuperscript{1316} The lack of knowledge and capacity to adequately understand ‘planning, budgeting and service delivery processes’ prevents woreda councillors from playing a more active role in the planning process. Thus, a woreda council plays a role which is ‘little more than a rubber stamp’ of the planning process.\textsuperscript{1317}

\textbf{2.5.3.2. Development planning in urban local government}

Urban planning is generally understood to have two components: The first is planning state and municipal service delivery.\textsuperscript{1318} The second is town planning.

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\textsuperscript{1313} Hadingham (2003) 22.
\textsuperscript{1314} Hadingham (2003) 20
\textsuperscript{1315} Yilmaz & Venugopal (2008) 11.
\textsuperscript{1316} Yilmaz & Venugopal (2008) 11.
\textsuperscript{1317} Yilmaz & Venugopal (2008) 11.
\textsuperscript{1318} What is referred to here as ‘town planning’ is referred in the regional and federal proclamation as ‘development planning’. For the sake of clarity the term ‘town planning’ is used here.
\end{flushleft}
which pertains to planning the physical and structural development of an urban
centre. 1319

Planning state and municipal services delivery

Cities, including the two federal cities, have both the power and the duty to
prepare short term, medium term, and long term state and municipal services
delivery plans.1320 Municipalities also have the power to prepare and implement
plans for municipal services delivery. The woreda within which a municipality is
found is in charge of the preparation and implementation of the plans regarding
state matters, such as, education and health care.1321 However, there is not a
single regional law that deals with the details of the planning of state and
municipal delivery in cities. The manuals which deal with woreda planning
provide some guidelines for the planning and implementation of state and
municipal services delivery in urban areas. In practice, it seems that cities plan
the delivery of social services by using procedures that are similar to the one
described above in relation to woreda development planning.

Town planning

The federal cities and the regional cities also have the power to prepare and
approve their own town plans.1322 However, neither the regional city

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11(2) (b) & 14 (1) (c); ARS Proclamation 91 (2003) Arts 8 (2) (a) & 8 (2) (c) & 60; ORT
Proclamation 65 (2006) Art 8 (2) (b) & 9 (1) (d) & 49; BGRS Proclamation 69 (2007) Arts 8 (2)
(a) & 53; AfRS Proclamation 33 (2006); SNNPR Proclamation 103 (2006) Art 17 (2) (9) & (10)
& 49.

1320 FDRE Proclamation 416 (2004) Art 9 (1); FDRE Proclamation 361 (2003) Art 11(2) (b); ARS
Proclamation 91 (2003) Art 8 (2) (a) & (c); ORT Proclamation 65 (2006) Art 8 (2) (b); AfRS
Proclamation 33 (2006); SNNPR Proclamation 17 (2) (9) (10).

1321 See above Table 3.

1322 FDRE Proclamation 416 (2004) Art 12 (1) (c); FDRE Proclamation 361 (2003) Art 14(1) (c);
AfRS Proclamation 33 (2006) Art 5 (2) (e); ARS Proclamation 99 (2003) Art 8(2) (c). see also Art
proclamations nor the charters of Addis Ababa and Dire Dawa define what town planning constitutes. This is rather dealt with in a federal law: FDRE Proclamation 574 (2008). This Proclamation is enacted by the federal government on the basis of its constitutional power to enact laws regulating the utilisation and conservation of land. The Proclamation provides three levels of town planning: national, regional, and urban. Cities are authorised to have their ‘urban physical and structural plan’ prepared either by private or public institutions.

The Proclamation mentions to two types of town plans: A ‘city wide structural plan’ which covers the entire urban area and a ‘local structural plan’ which focuses on a particular section of a city. The first, which is prepared by a city for a ten year period, determines the direction and extent of the physical growth of a city or a municipality. A city wide structural plan is also used to determine the principal land use classes, housing development, lay-out of major social and physical infrastructures, environmental matters, and industrial zones. A local structural plan is prepared based on and with a view to implementing a city wide structural plan. It also focuses on the strategic areas

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60; ORS Proclamation 65 (2003) Art 14 (2) (k) see also Art 49; BGRS Proclamation 69 (2007) Arts 53; AfRS Proclamation 33 (2006); SNNPR Proclamation 103 (2006) Arts 17 (9) & see also Art 49.


of an urban centre. A local structural plan is used to determine different zones. It is also used to determine building heights, plan local streets and transport systems, determine types of housing and neighbourhood organisations. Moreover it is used to identify green areas, water bodies, and the like. A city has the authority to revise/modify urban plans, authorise development (or demolition), to redevelop an urban area, to undertake urban renewal, to expropriate or re-allocate land.

2.5.4. Local government legislative powers

The power to pass laws on local matters is critical for local autonomy. As De Visser notes, ‘the ability’ of local government to ‘translate locally generated policies into law’ is a vital element of local autonomy. The next section discusses the legislative powers of woredas and cities have legislative power.

2.5.4.1. Woredas

The regional constitutions provide that a woreda may issue directives on security related matters. The constitutions also provide that a woreda may adopt its own internal procedures. The regional constitutions provide nothing more than

1332 ‘Development’ is defined as ‘the carrying out of building, engineering works, mining or other operations on or below ground, or the making of any substantial change in the life of any structures or neighbourhoods’. FDRE Proclamation 574 (2008) Art 24.
1334 See chapter 2; § 3.5.1 4.
1337 AfRS Constitution (2001) Art 76 (2) (e); ARS Constitution (2001) Art 86(2) (e); BGRS Constitution (2002) Art 87(2) (e); GRS Constitution (2001) Art 90 (2) (e); ORS Constitution
this so far as the legislative power of woredas is concerned. The regional constitutions are silent on whether woredas may legislate on economic and social matters within their competences. Zerihun, referring to Article 79 (2) (f) of the Oromia Constitution, asserts that a woreda (in the Oromia region) has legislative power.\textsuperscript{1338} He seems to suggest that the legislative power of the woreda is explicitly stated in the Oromia Constitution. However, Article 79(2) (f) thereof refers to the power of the woreda to approve its own internal rules and procedures. Whilst this may be considered as a legislative act, it is restricted to the internal operations of a woreda council. It does not mean that a woreda may enact laws on developmental issues, such as, primary health care, and primary education.

The Tigray Constitution, on the other hand, provides that a woreda may issue directives on matters relating to social and economic matters that are within its competence.\textsuperscript{1339} This provision was specifically inserted into the Tigray Constitution in 2006. Prior to that, the legislative power of a woreda council in Tigray was limited to adopting internal procedures and issuing directives on security matters.\textsuperscript{1340}

This brings us back to the initial question: are woredas, other than those in the Tigray region, permitted to legislate on the provision of social and economic services? Proclamation 86 (2010) of the Benishangul-Gumuz regional state

\textsuperscript{1338} Zerihun (2010) 132.
\textsuperscript{1339} Proclamation 98 (2006) Art 4 (i).
\textsuperscript{1340} TRS Constitution (2001) Art 74 (2) (i).
provides that a woreda may issue directives on matters within its competence. It is, therefore, clear that in Benishangul-Gumuz the woreda has legislative power. It is unclear, however, whether this power is based on the regional constitution or whether it is a mere statutory power. As stated previously, the principle of subsidiarity which is implied in the regional constitutions allows a woreda to exercise any power which ‘enables’ it to prepare and implement social and economic development plans. Based on this principle, it may be argued that a woreda may indeed enact local laws for doing so will certainly ‘enable’ it to prepare and implement plans on a woreda’s social and economic matters.

2.5.4.2. Urban local government

Regional cities

It is plainly stated in the city proclamations that cities and municipalities may issue directives on matters that are within their competence. Both cities and municipalities have a wide range of legislative powers with respect to municipal matters. Cities also have the power to legislate with respect to their state functions and in their capacity as a woreda. In addition, SNNPR Proclamation 103 (2006) provides that a city may legislate on matters that are not covered by regional and federal laws. This Proclamation also enjoins the Regional President to ensure that the legislation of city councils are published in the Debub Negarit Gazette when, after being adopted by a city council, it is signed and sent to him by the

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1341 See above at § 2.4.3.
1344 This is a gazette in which the regional government’s laws are published.
As was discussed in chapter four, the FDRE Constitution divides legislative powers between the federal and regional governments. Given this fact, it is doubtful whether a regional government may authorise a city council to legislate on matters that are not covered by federal laws. It is clear that a regional council may delegate to a city within its jurisdiction some of its own legislative powers. However, it may not do so with respect to federal matters which are not covered by federal laws. In any case, it seems that a piece of legislation which is issued by a city to regulate a matter which is not covered by regional legislation will lapse as soon as the regional government legislates on the matter.

**Federal cities**

The city councils of the federal cities have the power to enact proclamations on a wide range of state and municipal matters. Proclamation 416 (2004) provides that the Dire Dawa city may issue proclamations on matters relating to the city’s development. Similarly, Proclamation 361(2003) and Proclamation 416 (2004) provide that the Addis Ababa and Dire Dawa cities may enact proclamations to constitute the executive organs of the cities, to approve the budgets, to issue the master plans of the cities, to establish the cities’ judicial organs, and to levy taxes and services fees. Moreover the two cities may enact regulations to implement federal laws when they are so authorised. As mentioned in chapter four, the proclamation is the highest statutory law that the

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highest federal or regional legislative organ may enact.\textsuperscript{1350} In principle, a proclamation enacted by either of the two cities may not be superseded by a contrary federal law so long the city enacted the proclamation on matters that are within its competences.\textsuperscript{1351} The power of the two federal cities to issue proclamations seems to emanate from fact that they have a status similar to the regional states.

2.5.5. Local government executive power

Executive power is important political power. Local executive power implies the establishment of executive organs which are run by locally elected or appointed officials who are also accountable to local representative councils. It also implies the power of these executive organs to enforce locally adopted laws and policies within the relevant local unit. It may also include the power to enforce regionally and nationally adopted laws and policies. The following sections will examine whether woredas and cities have executive powers.

2.5.5.1. Woreda

Woredas have executive powers under the regional constitutions. As indicated in chapter four, the executive power of a woreda is vested in its executive council and a woreda chief administrator who chairs the woreda executive council.\textsuperscript{1352} The woreda chief administrator is elected by and from among members of the woreda council.\textsuperscript{1353}

\textsuperscript{1350} See chapter 4; § 3.2.1. & 3.3.1.
\textsuperscript{1351} Fasil (1997) 82. See also the discussion in chapter 4; § 3.3.
\textsuperscript{1352} See chapter 4; § 6.5.2.
\textsuperscript{1353} See chapter 4; § 6.5.2.
The *woreda* executive council, along with the *woreda* chief administrator, is charged with preparing a *woreda* development plan. The executive council is also tasked with ensuring the implementation of the development plan after it is approved by the *woreda* council. The *woreda* executive council is also responsible for executing regional and federal laws, regulations, and policies at *woreda* level.\(^\text{1354}\)

The regional constitutions provide that the *woreda* executive council is accountable to the *woreda* chief administrator and the *woreda* council.\(^\text{1355}\) A *woreda* chief administrator in turn is accountable to the *woreda* council and the regional chief administrator.\(^\text{1356}\)

### 2.5.5.2. Urban local government

As indicated in chapter four, the city has a mayor and a mayoral committee as its executive organs.\(^\text{1357}\) The mayor, who is generally elected from and among the

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\(^\text{1354}\) See chapter 4; § 6.5.2.


members of the city council, chairs the mayoral committee.\textsuperscript{1358} In Oromia, the mayor is appointed by the Regional President, not elected by a city council.\textsuperscript{1359} It is unclear whether the Regional President is required to appoint the mayor from among members of a city council. The mayoral committee is accountable to the mayor while the mayor is in turn accountable to the city council and the regional chief administrator or, in case of federal cities, to the federal government.\textsuperscript{1360} In Oromia, a mayor is accountable to the regional president, not to a city council. In this region, a mayor is required only to present his plans and reports to the relevant city council.\textsuperscript{1361}

Both the federal cities as well as the regional cities have executive powers on city matters. The mayor and the mayoral committee are charged with the execution of a city council’s policies and decisions.\textsuperscript{1362} The federal cities have residual executive power on federal laws; in addition to their original executive powers


\textsuperscript{1361} Previously, like in the other regions, in Oromia, the mayor was elected by the relevant city council. He or she was also accountable to the city council as well as to the Regional President (see ORS Proclamation 65 (2003) Art 18 (1). The above change was introduced in 2006 through the amendment of the city proclamation of the region. It seems that the success of opposition parties in the 2005 elections in many cities of Oromia prompted the regional government to seek to control the executive organs of the cities in the region. ORS Proclamation 116 (2006) Art 7.

over matters within their competences.\textsuperscript{1363} Thus, they may assume the responsibility of executing a federal law, within their jurisdictions, where the execution of the law does not clearly fall in the mandate of anyone of the federal ministries.\textsuperscript{1364}

2.5.6. Assessment

As discussed in chapter two full political powers are crucial for local autonomy. Political powers include the power to formulate policies on local matters, to plan the implementation of those policies, and to translate the policies into laws. However, it submitted that the policy making and legislative powers \textit{woredas} are vague. Moreover, the development planning process distorts a local community’s preferences. In addition, \textit{woredas} and cities have compromised executive power.

2.5.6.1. Unclear policy making powers

The preceding discussion shows, the regional constitutions are ambiguous as to whether \textit{woredas} may adopt their own policies on local matters. The silence of the regional constitutions on the policy making power of a \textit{woreda} is a grave diminution of the political autonomy of the latter. The political power of a \textit{woreda} will not be full without the power to formulate policies on local matters. Furthermore, \textit{woredas} become able to create novel ideas and new methods of tackling communal developmental problems only when they may adopt original policies on matters within their competence. The absence of explicitly stated policy making power will reduce \textit{woredas} into regional and national policy implementing agents, as opposed to autonomous levels of government. Moreover,


without the power to adopt policies, the significance of *woredas* as ‘laboratories’ of new ideas will be diminished.

One may argue that even if *woredas* had the constitutional power to formulate their own policies, it would make no significant practical difference. As was discussed earlier, the functional areas on which *woredas* may adopt policies are themselves unclear. Moreover, as will be discussed below, *woredas* do not have the necessary competent personnel to formulate policies.\(^{1365}\) In addition, it was indicated in chapter four that, in practice, the federal government takes it upon itself to formulate all policies; even policies concerning local matters.\(^{1366}\) The regional governments are rarely involved in policy formulation despite their constitutional power to do so; and let alone *woredas*.

It is submitted that *woredas*’ lack of capacity should not be used as an excuse to formally deprive them of the power to formulate *woreda*-specific policies. Regional governments should rather take measures to build the capacity of *woredas* so that they may formulate their own polices.

### 2.5.6.2. Vague legislative power

As was discussed above the regional constitutions are silent on whether a *woreda* may legislate on its social and economic matters. It may be argued that a *woreda* legislative power may be inferred from the omnibus provision which allows a *woreda* to exercise all powers to plan its economic development and social service provision and implement the same. However, a legislative power is such

\(^{1365}\) See below at § 2.7.4.

\(^{1366}\) Chapter 6; § 2.2.1.1.
an important political power that it should not be merely inferred from general constitutional principles, but explicitly stated. Furthermore, the absence of an explicit allusion to a woreda’s legislative power on matters relating to development is problematic. It may be understood that a woreda council’s legislative power is limited to regulating its own internal procedure of operation. Regional states, such as, Benishangul-Gumuz, have provided in regional proclamations that woredas may issue directives on matters within their competences. However, it is submitted that given the importance of legislative power as a political power, it should not be mere statutory power. It should rather be clearly stated in the regional constitutions.

The Tigray regional government seems to have appreciated the potential confusion that was likely to arise from the silence of the region’s Constitution regarding the legislative power of woredas. That must be why the regional government amended the regional Constitution to specifically indicate that woreda council may enact directives on woreda matters; even if the matters are not clearly defined. It is submitted that the other regional states should follow suit.

2.5.6.3. Compromised executive powers

Executive power is a critical manifestation of political autonomy. As indicated above, woredas and cities have executive organs that exercise certain executive powers. Nevertheless, it is argued that the autonomy of woredas and cities is vulnerable to regional and even zonal interference.
One of the manifestations of local government executive autonomy is the accountability of its executive branch to local government representative councils. Under the regional constitutions a woreda chief administrator is accountable not only to a woreda council but also to the regional president/chief administrator.\footnote{1367 See chapter 4; § 6.5.2.} The woreda chief administrator is also accountable to the zonal chief administrator if the woreda is found within a nationality zone. Similarly, the mayor of a city is accountable to the city council, to the regional chief administrator and, where applicable, to the nationality zone’s chief administrator.

In Oromia, the mayor is not even accountable to the city council but to the regional government. The mayor is required under that region’s law only to submit to the city council the plan on social and municipal services for approval.\footnote{1368 See chapter 4; § 6.5.2.}

The dual, in some cases triple, accountability of woreda chief administrators and mayors allows senior governments to interfere in the execution of the decisions and laws of a woreda council or a city council. It even allows regional and zonal governments to replace local decisions with their own. It also undermines the role of the local councils as the overseers of the performance of the local executive bodies. The situation is further compounded by the fact that all government structures in the country are controlled by either EPRDF or its affiliates. In most cases the regional chief administrators are the ‘party bosses’ of woreda chief administrators and mayors of cities. Thus, woreda chief administrators and mayors will naturally tend to give a more serious attention to

\footnote{1367 See chapter 4; § 6.5.2.} \footnote{1368 See chapter 4; § 6.5.2.}
their accountability to their party bosses rather than to that of the local councils.\footnote{1369}

Moreover, as was stated above, in Oromia, a city council is no longer authorised to elect a mayor. This power has been shifted to the regional president. Moreover, the mayor is rendered accountable to the Regional President. The decision to transfer the power to appoint a mayor of a city from a city council to the Regional President is a grave diminution to the autonomy of the cities in the region.\footnote{1370} It turns them into an administrative arm of the region.

3. **FINANCIAL AUTONOMY**

3.1. **Introduction**

The importance of local financial autonomy for decentralised development cannot be exaggerated. As Steytler notes, financial autonomy ‘defines whether local government [is] an order of government’.\footnote{1371} The financial autonomy of local government can be guaranteed, primarily, by enabling it to raise its own revenue.\footnote{1372} Where local government cannot raise sufficient internal revenue, and that is oftentimes the case, central transfers are used to finance local government’s activities.\footnote{1373} This section will deal with the issue of financial autonomy of local government in Ethiopia.

\footnote{1369} See Yilamz & Venugopal (2008).
\footnote{1370} ORS Proclamation 116 (2006).
\footnote{1371} Steytler (2009) 419.
\footnote{1372} See chapter 2; § 3.5.3.1.
\footnote{1373} See chapter 2; § 3.5.3.3.
3.2. Local finances under FDRE Constitution
The FDRE Constitution does not contain a list of local government taxes, nor does it mention how local government activities are financed. Yet, it prescribes that adequate powers must be transferred to local government. This constitutional prescription may be considered to imply the transfer of adequate revenue to local government. The Constitution could not have required the devolution of ‘adequate’ powers to local government without sufficient revenue: The effective exercise of political powers cannot be possible without commensurate revenue. It may be, therefore, assumed that the FDRE Constitution implicitly requires the regional states to transfer adequate financial powers to local government. 1374

3.3. Local finances under regional constitutions and laws
The regional constitutions, city proclamations, and other laws speak about various sources of local government revenue. The sources of woredas are different from cities and municipalities. The sources of revenue of local government also vary from one region to another. In general, local government revenue in Ethiopia may be classified into taxes and fees, regional grants, and other sources.

3.3.1. Taxes and fees
3.3.1.1. Woreda taxes and fees
The regional constitutions are silent regarding woreda’s taxes except that they authorise woredas to collect (not to decide on the rate of) certain taxes. As was discussed in chapter three, land use fees and agricultural income tax including royalties on the use of forests are designated as regional taxes under the federal

Constitution.\textsuperscript{1375} The regions have retained for themselves the power to determine the rate of these taxes under the regional constitutions. However, they have transferred to \textit{woredas} the responsibility to assess and collect these taxes and fees.\textsuperscript{1376} To that effect, the regional states have enacted rural land use fee and agricultural income tax proclamations in which they have determined the rates of these taxes.\textsuperscript{1377} The involvement of the \textit{woredas} in connection with land use fees and agricultural income tax is limited to assessing and collecting the taxes and fees.\textsuperscript{1378} \textit{Woredas} collect these taxes on the regional states’ behalf. As rule, \textit{woredas} are required to transfer a certain percentage of the revenue that they collect from these taxes to the regional government.\textsuperscript{1379} However, in practice, the regional states allow \textit{woredas} to retain the revenue. Instead, as will be discussed below, the regional states deduct an amount equivalent to the revenue the \textit{woreda} collected from these taxes from what would accrue to it in form of regional grants.\textsuperscript{1380}

\begin{itemize}
\item \textsuperscript{1375} See chapter 4; § 3.5.
\item \textsuperscript{1376} As was discussed in chapter 3 rural and urban lands were nationalised by the \textit{Derg} in 1970s. Since then, land remains under the ownership of the state. Under the FDRE Constitution it is clearly stated that the ‘right to ownership of rural and urban land, as well as of all natural resources, is exclusively vested in the State and in the peoples of Ethiopia’. Thus, one pays a land use fee as a possessor of a piece of land not as an owner. See chapter 3; § 6.2. See also FDRE Constitution (1995) Art 40 (3).
\item \textsuperscript{1379} Garcia & Rajkumar (2008) 66.
\item \textsuperscript{1380} Garcia & Rajkumar (2008) 66.
\end{itemize}
In addition, the regional constitutions provide that a *woreda* may identify and utilise a source of revenue that is not being utilised by a regional government.\(^{1381}\) However, it is unclear what this means. It may mean that a *woreda* may impose and collect a state tax where the regional state has not begun to utilise the particular tax. If this is what the regional constitutions mean, it is of no use as there is no state tax that the regional states have not begun utilising.\(^{1382}\) The above provision may also be interpreted to mean that a *woreda* may create a new tax which does not fall under the authority of the federal or the regional governments and collect revenue therefrom. However, this would be an incorrect interpretation because a *woreda* may not assume the authority to impose and collect undesignated taxes as there is a constitutional procedure in accordance with which an undesignated tax is designated as either a federal, state, or concurrent tax.\(^{1383}\) Therefore, the regional constitutional provision which allows *woredas* to impose and collect taxes that are not utilised by regional governments seems to be meaningless.

Certain regional proclamations authorise the *woreda* to collect income taxes from its employees and employees of enterprises that it owns and administers. Under these proclamations, a *woreda* is also authorised to collect income tax from


\(^{1383}\) See chapter 4; § 3.5.1.
employees of enterprises which are licensed by the woreda and to collect certain taxes from small traders, and traditional minors. 1384

The woreda is also authorised to collect user fees from libraries, clinics, and community halls. It is also entitled to collect license fees, from irrigation schemes, water-wells, and fees for registration of birth, death, marriage, and divorce. 1385 Some regional states have also introduced a scheme of tax-sharing between themselves and woredas within their jurisdiction. For instance, in Tigray and Benishangul-Gumuz, a woreda is entitled to take a certain percentage of the income collected from land leased for and income tax collected from commercial agriculture within a woreda. 1386 Incomes collected from tourists visiting certain sites in a woreda are also shared between the woreda and the regional state. The share of each level of government in these incomes is determined by the regional state. 1387

3.3.1.2. Urban local government taxes and fees

The most important taxes and fees that cities and municipalities may collect are urban land lease fees, land use fees, municipal user charges, and payment for municipal services. 1388 The municipal user charges and payment for municipal

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services include: ‘market fee, sanitary service, slaughter houses, fire brigade services, mortuary and burial services, registration of birth and marriage, building plan approval, property registration and surveying, and use of municipal equipment, transport or employees’.\textsuperscript{1389} The city also has the authority to collect rentals from government-owned houses.

In theory, cities and municipalities have full authority to assess and impose the fees mentioned above and to retain and use the revenue collected therefrom. However, in practice cities and municipalities do not seem to exercise full authority over these taxes. For instance, the Tigray government has issued an extremely detailed regulation in which it has determined the rates for municipal service fees.\textsuperscript{1390}

Revenue collected from municipal service charges is reserved to finance the municipal functions of an urban local government; not state functions.\textsuperscript{1391} However, cities are often required to re-direct revenue which is generated from municipal service to finance their state functions which are generally underfunded.\textsuperscript{1392}

3.3.1.3. Addis Ababa and Dire Dawa

The charters of Addis Ababa and Dire Dawa contain long lists of taxes that the two cities may impose and collect. In terms of revenue, the two cities, especially Addis Ababa, are in a by far better position compared to other cities.

\begin{footnotesize}
\begin{enumerate}
\item Yilmaz & Venugopal (2008) 21.
\item See TRS Regulation 6 (1998).
\item Werner and Nguyen-Thanh (2007) 17.
\item Werner and Nguyen-Thanh (2007) 17.
\end{enumerate}
\end{footnotesize}
Table 4. Revenue collected by Addis Ababa and Dire Dawa city governments in Birr (in millions (in Birr))

<table>
<thead>
<tr>
<th>Year</th>
<th>Addis Ababa</th>
<th>Dire Dawa</th>
</tr>
</thead>
<tbody>
<tr>
<td>2005/06</td>
<td>2770.876</td>
<td>34.288</td>
</tr>
<tr>
<td>2006/07</td>
<td>2349.42</td>
<td>58.60</td>
</tr>
<tr>
<td>2007/08</td>
<td>2976.00</td>
<td>72.68</td>
</tr>
<tr>
<td>2008/09</td>
<td>4202.54</td>
<td>102.24</td>
</tr>
<tr>
<td>2009/10</td>
<td>4690.78</td>
<td>140.21</td>
</tr>
</tbody>
</table>

Source: Ministry of Finance and Economic Development (2011)

Addis Ababa covers close to 97 percent of its expenditure from its internal revenue and it receives no block grant from the federal government.\textsuperscript{1393} Moreover, as the above Table shows, the internal revenue of the two cities has increased significantly over the past years. For instance, Addis Ababa’s internal revenue has risen by 70 percent between the year 2005 and 2010.

The internal revenue sources of the two cities include the following:\textsuperscript{1394}

- Income tax from government employees working in the cities.\textsuperscript{1395}
- Tax on income earned from urban agricultural activities.
- Profit, excise and turnover taxes on individual traders (as opposed to companies) operating in the city and public enterprises which are owned by the city government.

\textsuperscript{1393} Garcia & Rajkumar (2008).


\textsuperscript{1395} Addis Ababa is territorially found with the Oromia regional state. The Oromia regional government uses the City as its seat. Many regional government offices of the Oromia region including the office of the regional president are found in the City. The City may not collect income tax from those who work in the offices of Oromia.
• VAT which is collected by the federal government from individual traders in the cities, and from enterprises that are owned by the city government.

• Urban land lease and use fees

• Property rates.

• Capital gains tax on properties in the city.

• Tax on income earned from rented houses and buildings.

• Stamp duties on contracts, agreements, as well as title deed executions.

• User charges from vehicles in the city.

• Royalties on the use of forest resources in the city.

• Services charges on municipal services.

• Tax on income earned from patent rights.

3.4. Inter-governmental fiscal transfers to rural local government

Local government receives revenue directly from the regional states or nationality zones or indirectly from the federal government. The revenue that comes to local government in the form of inter-governmental revenue transfers may take the form of either unconditional block grants or specific purpose grants (SPG).

3.4.1. Block grants

3.4.1.1. Woreda

Block grants are the most vital source of revenue for woredas.1396 They cover the lion’s share of a woreda’s budget. As mentioned above a woreda receives block grants directly from a regional government where the woreda is outside the jurisdiction of a nationality zone. Where the woreda is found within a nationality zone the block grants are channeled to the woreda via that nationality zones.

The policy to transfer unconditional block grants to *woredas* was adopted in 2001 when the DLDP was launched.\(^{1397}\) The four highland regions first introduced a scheme of block grants and the other regions followed suit.\(^{1398}\) The constitutional foundation of *woreda* block grants is unclear. Given the federal system, the federal government does not seem to have the authority or the duty to directly finance local government. It is, therefore, up to the regional states to finance local government through inter-governmental transfers. The regional constitutions, however, are silent on whether local government is entitled to regional revenue transfers. The regional constitutions vaguely hint that the regional governments may allocate a certain amount to *woredas*.\(^{1399}\) Certain regional proclamations also provide that the regional states may extend financial assistance to *woredas*.\(^{1400}\) However, it is not clear what form this ‘financial assistance’ takes and whether the regional states are legally obligated to provide such assistance. Put differently, it does not seem that *woredas* are constitutionally entitled to regional block grants.

Block grants are, in principle, unconditional grants. Therefore, *woredas* are free to use these grants for any purpose they deem necessary.\(^{1401}\) In particular, block grants are intended to cover the *woreda’s* recurrent and capital expenditure for

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\(^{1397}\) See chapter 4; § 5.3.4.


education, health care, agricultural extension services, rural roads, and the like.1402

As was mentioned above block grants cover a significant portion of woredas’s annual budget. As the table below shows, in Tigray more than 60 percent of woreda budget is covered by regional block grants. In Oromia the regions block grants cover up to 81 percent of woredas’ budget.

Table 5. Percentages of woreda budget covered by block grants

<table>
<thead>
<tr>
<th>Year</th>
<th>Amhara</th>
<th>SNNPR</th>
<th>Oromia</th>
<th>Tigray</th>
</tr>
</thead>
<tbody>
<tr>
<td>2006/07</td>
<td>86%</td>
<td>-</td>
<td>-</td>
<td>-</td>
</tr>
<tr>
<td>2008/09</td>
<td>78.4%</td>
<td>77.7%</td>
<td>76.1%</td>
<td>61.8%</td>
</tr>
<tr>
<td>2009/10</td>
<td>78.2%</td>
<td>73.3%</td>
<td>81%</td>
<td>57.6%</td>
</tr>
</tbody>
</table>


Similarly in SNNPR up to 77 percent of same is covered by block grants while in Amhara up to 86 percent of woreda budget is covered by regional block grants.

Table 6. Block grant transferred to woredas (in millions (in Birr))

<table>
<thead>
<tr>
<th>Year</th>
<th>Amhara</th>
<th>SNNPR</th>
<th>Oromia</th>
<th>Tigray</th>
</tr>
</thead>
<tbody>
<tr>
<td>2005/06</td>
<td>-</td>
<td>852.106</td>
<td>1819.24</td>
<td>493.74</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Year</th>
<th>Revenue</th>
<th>Block Grant</th>
<th>Revenue</th>
<th>Block Grant</th>
</tr>
</thead>
<tbody>
<tr>
<td>2006/07</td>
<td>2497.171</td>
<td>-</td>
<td>2,688.20</td>
<td>-</td>
</tr>
<tr>
<td>2008/09</td>
<td>2936.29</td>
<td>2121.33</td>
<td>3,133.63</td>
<td>769.44</td>
</tr>
<tr>
<td>2009/10</td>
<td>2714.2</td>
<td>2529.4</td>
<td>3619.3</td>
<td>839.48</td>
</tr>
</tbody>
</table>


Moreover, as can be gathered from the table above, the revenue that woredas receive in form of block grants has increased significantly over years. In SNNPR the block grants to woredas shows a 196 percent increase in the years between 2005 and 2010. In Tigray the regional block grants increased by more than 70 percent during the same years. Likewise, in Oromia the block grant that woredas receive has risen by more than 98 percent.

**Vertical division of block grants**

As stated above there is no clear constitutional instruction for the regional states to transfer revenue to woredas. Therefore it is unclear what percentage of its budget a regional state is expected to transfer as block grants to woredas within its jurisdiction. In practice a regional state sets aside not less than 50 percent of its annual revenue as block grants to woredas. Up to 66 percent of the total budget of Amhara regional state is set aside as woreda block grant. In Tigray and Oromia, the share of woreda block grants in the regional budget is up to 60.5 and 52 percent, respectively. The SNNPR regional government reserves up to 80 percent of its revenue as block grants.

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percent of its annual budget (which is the highest compared to the other regions) as woreda block grants.1405

As a study by Garcia and Rajkumar shows, woredas may even take the lion’s share of some sectors’ budgets. For instance, in the four highland regions woredas administer from 80 to 65 percent of the regional recurrent spending for education and health, respectively.1406

*Horizontal division of block grants*

The amount that each woreda is entitled to receive in the form of a block grant (horizontal division) is determined on the basis of a preset formula. Each region is entitled to use any formula it deems fit to allocate block grants to the woredas.1407 In practice, the regional states use the ‘three parameters formula’, the ‘unit cost formula’ or the ‘fiscal equalisation formula’ to allocate block grant to each woreda within their jurisdiction.1408

The ‘three parameter formula’ uses population size, level of development and own revenue of a woreda to calculate the share of the woreda in the block grant.1409 This formula was criticised as unfair and unresponsive to service delivery needs of woredas. The ‘unit cost formula’, on the other hand, takes the cost of providing a given service for a given individual in a woreda and multiplies it by the number of individuals who receive the service in the woreda. This formula is criticised for incorrectly assuming that the cost of providing a given

1408 For detailed discussion on the formulas see Garcia & Rajkumar (2008) 91-95.
1409 For a detailed discussion on see Garcia and Rajkumar (2008).
service is equal in all woredas in a particular region. To correct this, the ‘fiscal equalisation formula’ was introduced in a number of regional states. The fiscal equalisation formula, while principally similar to the unit cost formula, attempts to take into account the actual unit cost of providing a particular service in a particular woreda. It should be borne in mind that these are mere formulae for determining the amount a woreda is entitled to receive. Regardless of the formula used, the revenue is a block grant and a woreda is at liberty to spend the revenue as it sees fit.

Once the amount due to a woreda is determined by using one of these three formulae, an amount equivalent to what a woreda has collected in the form of land use and agricultural income taxes is deducted. The remaining amount is transferred directly to the woreda. The block grants are directly transferred to a nationality zone when a woreda is found within a nationality zone. The nationality zone then transfers the revenue to the woredas within its jurisdiction after making the necessary adjustment.

3.4.1.2. Grants for cities

Transferring regional grants to cities is a relatively new development. The regional states began transferring grants to cities after the restructuring of some of the municipalities as cities with the status of a woreda. The city proclamations of Amhara and Benishangul-Gumuz provide that cities will receive block grants

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from the regional government. The Oromia and SNNPR proclamation provide that cities will receive subsidies, not necessarily block grants, from the regional government. The practice, however, is that cities are not treated in the same manner as the rural woredas despite having the same status. In most cases, the grants for a city are not formula-based, nor do they take the form of a block grant. Rather, the grants are determined on an ‘ad hoc’ basis with a view to financing the recurrent costs of the state functions of the cities. The exception is SNNPR, where cities receive formula based block grants.

Moreover, the municipal functions of cities and municipalities are expected to be fully covered by the city’s or the municipality’s internal revenue. Therefore, cities do not receive grants for their municipal functions. They are required to keep the accounting record of and to administer their municipal revenue separately from their revenue for state functions.

3.4.2. Specific-purpose grants (SPGs)

Special-purpose grants (SPG) are further sources of revenue for woredas. The federal government or donors finance specific projects of woredas through SPGs. Programmes that are designed by the federal government, including food security

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programme, productive safety net programme, public service capacity building programme (PSCAB), road fund, and HIV/AIDS programme, are budgeted for and funded by the federal government. These programmes are executed by the regional governments together with local government. For the purpose of executing these programmes, the federal government transfers SPGs to the regional governments. The regional governments in turn transfer the SPGs to local government. More than half of what woredas receive in the form of SPGs is allocated for food security related programmes including agricultural extension and resettlement programmes.

The federal government also finances specific projects which are undertaken in Addis Ababa and Dire Dawa and which have national relevance. The federal government may also financially assist the two federal cities in order to enable them to discharge their responsibilities.

3.4.3. Other sources of revenue

3.4.3.1. Sales of assets

In some regions woredas are allowed to collect revenue from the sale of assets. The assets that may be sold may include movable and immovable properties (other than land) under the ownership of a woreda, building materials such as sand, stones, and woods.

3.4.3.2. Revenue from business activities

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1422 Garcia and Rajkumar (2008); 38.
Cities are authorised to receive income from certain business activities, including public enterprises under their ownership. They are also legally authorised to engage in other income generating activities by entering into contracts and, for instance, by engaging in investment activities.\textsuperscript{1426}

3.4.3.3. Borrowing

The regional constitutions are completely silent on whether a \textit{woreda} may borrow. The regional proclamations of the Tigray and Benishangul-Gumuz regions provide that a \textit{woredas} may borrow if so authorised by the regional governments.\textsuperscript{1427} The city proclamations also allow cities to borrow from various sources. According to SNNPR Proclamation No 103 (2006), an urban administration may borrow.\textsuperscript{1428} In the Oromia also, cities are allowed to borrow from the federal and regional governments', a city fund or other financial institution to finance their capital expenditure.\textsuperscript{1429} In the Amhara region, a city may borrow from internal sources with the permission of the regional government.\textsuperscript{1430} Proclamation 69 (2007) of the Benishangul-Gumuz region also provides that a city may borrow.\textsuperscript{1431} The two federal cities are also authorised to take short term and long term loans from domestic sources with the authorisation of the federal government.\textsuperscript{1432} They may do so provided that their primary function of services delivery will not be endangered.\textsuperscript{1433} The two cities may

\begin{footnotesize}
\begin{itemize}
\item[1428] SNNPR Proclamation 103 (2006) Art 43 (1) (3).
\item[1430] ARS Proclamation 91 (2003) Art 8 (2) (m).
\item[1431] BGRS Proclamation 69 (2003) Art 42 (2).
\end{itemize}
\end{footnotesize}
borrow directly or by selling bonds.\textsuperscript{1434} Furthermore, the Addis Ababa city government may request the federal government to borrow money from international sources on its behalf.\textsuperscript{1435}

Despite the above, there is still some confusion regarding the power of local government to borrow. As was discussed in chapter four, the FDRE Constitution provides that the regional states may borrow money from ‘domestic sources’ under the conditions stipulated by the federal government.\textsuperscript{1436} It is, therefore, unclear whether the regional states may authorise local government to borrow, considering the fact that their own power to borrow is curtailed. Even if the regional states could authorise local government to borrow it is also unclear whether the authorisation of the regional governments would suffice. There is a legal uncertainty in this respect. As some studies indicate, the legal uncertainty pertaining to borrowing by urban local government has discouraged financial institutions from extending loans to it.\textsuperscript{1437}

An additional point is that, in Ethiopia all financial institutions require security in the form of a ‘disposable asset’ or a guarantee for any lending they make.\textsuperscript{1438} Nonetheless, neither the federal government nor the regional governments are legally required to provide guarantees for the loans that an urban local government may take. Thus, it is for the lender to assess the creditworthiness of the cities. Most financial institutions however do not view cities as creditworthy.

\textsuperscript{1435} FDRE Proclamation 361 (2003) Art 54 (3).
\textsuperscript{1437} Werner and Nguyen-Thanh (2007) 29.
\textsuperscript{1438} Werner and Nguyen-Thanh (2007) 30.
Therefore they do not extend loans to cities unless either the federal or regional
governments guarantee the loans. As a consequence, cities and municipalities
are unable to finance certain capital expenditure by borrowing from financial
institutions.

It is submitted that there should be a clear legal framework regulating when, from
whom, and how much cities may borrow. It is, however, a prudent decision from
the part of the regional and federal government not to guarantee local
government’s loan. As was discussed in chapter two, the expectation that regional
or federal government would guarantee such loans will encourage financial
institutions to extend unwarranted loans to city, resulting in what Shah calls
‘financial perversity’.

3.4.3.4. Donors funds

Donors provide financial assistance to woredas through direct budget support or
by financing specific projects. After the dispute relating to the 2005 national
elections, many donors ceased to assist the federal government with direct budget
support. However, with a view to ensuring the continuation of basic service
delivery, more than 12 donors, along with the World Bank designed a
Protection of Basic Services (PBS) project. The aim of the project was to
provide direct budgetary assistance to regional and local government (as opposed

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1440 See chapter 2; § 3.5.3.2.
1441 These include African Development Bank (AfDB), Austria, Canada International
  Development Agency, (CIDA), DFID, European Commission (EC), Irish Aid, Italy, Netherlands,
  Kreditanstalt fuer Wiederaufbau (KfW(German Development Bank)) Spain, and the World Bank.
to the federal government) to ensure ‘basic services’ delivery, and that the country meets the MDGs. In addition, donors finance various projects in different regions. For instance, some 18 cities in the Amhara, Oromia, SNNPR, and Tigray regional states have donor’s funded Municipal Infrastructure Investment Plans which cover infrastructure such as, water, roads, drainage, sanitation, and solid waste management.

3.4.3.5. Public Contribution

It is widely reported that woredas and kebeles often take contributions in kind, in cash, or in labour from local residents for building schools, roads, markets, health posts, and the like. Kebele and sub-kebele level institutions play an important role in mobilising the local community for development related activities. However, the collection of public contributions does not seem to be well regulated. Moreover the public contributions are not well ‘quantified’ or documented. It is not possible to adequately assess the community contribution for local developmental purposes. In addition, some reports show that local communities are often pressurised to contribute.

3.5. Budgeting and expenditure authority

3.5.1. Introduction

As was discussed in chapter two, financial autonomy includes expenditure autonomy. Expenditure autonomy finds practical expression in the budgeting
power of local government. The following sections will examine whether woredas and cities have budgeting and expenditure power.

3.5.2. Budgeting power of woredas and cities

Until 2001 woredas did not have the authority to approve their own budgets. Their budgets were rather decided by the regional governments. With the launch of the second phase decentralisation, woredas and cities were authorised to prepare and implement their own social and economic development plans consistent with the national and regional development policies and plans. Concomitant with this power, woredas and cities were empowered to decide on their expenditure preferences which find expression in their budget. To this effect, all regional government constitutions and city proclamations as well as the charters of Addis Ababa and Dire Dawa, provide that woredas and cities have the power to prepare and adopt their budgets.

3.5.3. Budget preparation

There is no clear legal procedure for the preparation and adoption of a budget at woreda and city level. According to manuals prepared by MoFED, the budget preparation forms part of the planning process. Hence it begins with identifying expenditure priorities. This is conducted based on the budget needs

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1451 For the discussion on planning see above at § 2.5.3.1.
of each sectoral and sub-sectoral office. Each sectoral and sub-sectoral office of a woreda or a city prepares a budget request in which it describes its plans, the activities it is going to undertake and the amount of revenue that it needs for undertaking the planned activities.\footnote{MoFED (2010) 6.} This budget request is submitted to a woreda developmental committee. This committee consolidates and makes the necessary adjustments and submits it to the woreda council for approval.\footnote{MoFED (2010) 6.} The woreda council or city council has the final say on the budgets of the woreda and the city respectively.\footnote{MoFED (2010) 6.}

3.5.4. The legal status of an approved budget

The other related issue to budgeting and expenditure is the legal status that an approved woreda or city budget assumes. The issue is whether a woreda or a city budget is approved as a policy, a by-law, or a directive. The regional constitutions are silent on this matter. Practice at federal and regional level shows that a budget is approved as a proclamation which is the highest statutory law next to the federal and regional constitutions.\footnote{See chapter 4; § 3.2.1.1 \& 3.3.1.} A federal or regional budget is also published in a gazette on which a federal or a regional law is published. Accordingly, a federal budget is published as a proclamation in the Federal Negari Gazette.\footnote{See for instance FDRE Proclamation 578 (2008).} If the same procedure is followed at local level, it can be assumed that is the case, a woreda or a city budget may be approved as a proclamation, regulation, directive, or by-law depending on the designation that the legislation of the council of a particular local unit takes. Hence, the Addis
Ababa and Dire Dawa city governments adopt their budget as a proclamation since the two cities have the power to enact proclamations. The regional cities may approve their budget as directive.  

3.6. Assessment  
The financial powers of local government are assessed as follows.  

3.6.1. No adequate woreda taxes and fees  
In chapter two, it was emphasised that internal revenue is critical for a local government which aims to achieve development. The transfer of revenue from central government should be used only to minimise fiscal imbalances and for the purpose of redistribution. This helps shield the political autonomy of local government and ensure downward accountability of local authorities.

However, in Ethiopia woredas have no clear taxing power. Land use fees, agricultural income taxes, and income taxes from employees of woredas are generally considered as the main sources of own revenue for woredas. There are a number of concerns regarding these taxes and fees. First, these taxes cannot be considered as internal sources of revenue for a woreda as the woreda does not have full authority on these taxes. As discussed in chapter two, full authority over a tax includes controlling the tax rates and collecting and spending the revenues for purposes that a local government unit deems necessary. As the foregoing discussion reveals, the woreda does not determine the tax rate. Moreover, the

1458 See above at § 2.5.4.2.  
1459 See above at § 2.5.4.2.  
1460 See chapter 2; 3.5.3.1.  
1461 See chapter 2; 3.5.3.1
revenue a *woreda* collects from land use fees and agricultural income tax is ‘offset’ against its share in the regional block grants.\(^{1462}\) Land use fees and agricultural income taxes cannot thus be considered as internal sources of revenue for *woredas*.

According to Solomon, the lack of skilled manpower at the *woreda* level is what is keeping the regional states from assigning taxes to *woredas*.\(^{1463}\) The other and the more important concern is the wide inequality that exists among *woredas*.\(^{1464}\) Some are affluent while others are poor. The regional states are concerned that assigning taxes to *woredas* will perpetuate this inequality. This concern is a legitimate one. The regional states have the responsibility to ensure equitable development among the *woredas*. While maintaining equity is necessary, the regional states cannot, however, expect a complete equality among all *woredas* and cities. A certain level inequality should be tolerated. Moreover, the regional states should use other means to maintain equity. The block grant can be used to maintain a level equity among local government units. Moreover, equalisation grants may serve the same purpose. It is not prudent to deny all *woredas* taxing power in the name of equity.

As was indicated above *woredas* are authorised to collect fees from users of *woreda* libraries, clinics, community halls, irrigation schemes, water-wells, and fees for registration of birth, death, marriage, and divorce. The *woreda* is a rural local government unit. Not most cities, let alone rural *woredas*, keep a record of

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\(^{1463}\) Solomon (2008) 145.

births, deaths, marriages and divorces. Moreover, in general, rural communities do not have births, deaths, marriages, and divorces recorded. It will be also hard to find even a single library in most woredas. It is, therefore, questionable whether a woreda can collect a significant amount of revenue from these sources.

In addition, records show that the revenue that woredas collect from agricultural income taxes, land use fee, and the like is negligible. In Amhara, Oromia, and SNNPR, the three biggest highland regions, woredas collect less than 30 percent of their total revenue from internal sources (land use fees and agricultural income taxes included).\footnote{See table 5 above.} Moreover, woredas do not have the incentive to vigorously collect revenue from these taxes. This is because the regional states deduct from the regional grants an amount equivalent to what a woreda has collected from these taxes.\footnote{Garcia and Rajkumar (2008) 67.}

\subsection*{3.6.2. Inadequate block grants}

There are two important points regarding woreda block grants. First, woreda block grants make up a significant proportion of each region’s annual budget. As indicated earlier, the four highland regions set aside not less than 60 percent of their annual budgets as woreda block grants. The SNNPR reserves up to 80 percent of its annual budget for woreda block grants.\footnote{See table 5 above.} Secondly, the block grants which are transferred to the woredas have increased considerably over the years. Thirdly, the regions have tested and are testing several grant formulae with a view to ensuring a more equitable distribution of revenue among the woredas. This effort to discover a more efficient and equitable formula is commendable.
Despite the above, the fact remains that woredas do not have a constitutionally entrenched claim to block grants. The policy decision to transfer regional block grants to woredas was made by the federal government in the SPRDP and PASDEP. Thus it was a mere policy preference of the EPRDF. This preference may change depending on the party in power.

In addition, due to the fact that the entitlement of a woreda to block grants is not constitutionally entrenched, a regional government might refuse to transfer block grants to a woreda that is under the control of a party other than the one that controls the regional government. This was, for instance, precisely the case in the Sheko-Mejenger woreda of SNNPR. In the 2000 local elections an ethnic-based opposition party called Shako-Mejenger Democratic Unity Party (SMDUP) managed to win the majority seats in this particular woreda. However, the Southern Ethiopia Democratic Movement (SEPDM), the ruling party at the regional level, punished residents of this woreda for electing the ‘wrong party’. It did so by depriving this woreda of regional grants so that the woreda would face ‘extreme budget allocation problems’ while under the control of SMDUP.

Furthermore, there is enormous imbalance between the expenditure needs and the revenue of woredas in spite of the increase in the amount which is transferred to them in the form of block grants. The block grants are too small to allow woredas to engage in developmental activity. More than 90 percent of the revenue that

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comes to woredas in the form of block grants is used for paying the salaries of woreda employees. According to some studies, the woreda ‘wage bill’ is growing at an alarming rate and woredas are facing difficulties in meeting these commitments. Too little is left for capital investment, such as, building schools, health stations, etc.

3.6.3. Public contribution: voluntary?

The insufficiency of own revenue and block grants to finance capital projects has forced local communities to shoulder the responsibility of contributing to such projects. A study by Yilamaz and Venugopal shows that there are many cases in which communities are left to meet, from their own resources, the costs of building schools, roads and water tanks. Public contributions are not necessarily detrimental: they may be seen as active participation by the communities in their own affairs. Yet, such a heavy reliance on public contributions is also unhealthy and may be viewed as a failure by the government to deliver basic services. Moreover, the contributions are not always offered voluntarily; often communities are forced to make these contributions. For instance, in some Tigray woredas communities are required to provide 20 days free labour. In Afar a woreda directive requires the communities to contribute to the maintenance of some forests.

3.6.4. Neglected municipal services

Cities and municipalities have the responsibility to provide municipal services. It is evident that the municipal services relating to pollution control, parks, sanitation and hygiene are decisive for the urban dwellers. There are also certain municipal functions, such as housing, which are clearly related to enhancing human welfare and poverty reduction. Yet, cities and municipalities are left to fend for themselves to cover the costs of these municipal services. The block grants do not cover any of the municipal services they provide. In short, municipal services are totally neglected by the regional governments. This is a manifestation of the ruling party’s emphasis on rural development.

The fact that cities and municipalities are left to shoulder the full financial burden of providing municipal services raises the issue of equity. It is evident that some cities and municipalities are more affluent than others. The cities and municipalities that are well-off will provide better municipal service than the poor ones. This creates an inequitable distribution of municipal services. Thus, it is submitted that the regions should consider some mechanism of financing the municipal services of poor municipalities and cities.

4. ADMINISTRATIVE AUTONOMY

4.1. Introduction

The importance of administrative autonomy for local development was discussed in chapter two. Administrative autonomy allows local government to implement local policies and decisions on its own. Thus, administrative autonomy makes local government ‘flexible’ and ‘responsive’ to local preferences.\textsuperscript{1476} Local

\textsuperscript{1476} See chapter 2; § 3.5.2.
administrative autonomy also has a bearing on the political autonomy for local government as a lack of administrative autonomy allows undue central interference to take place. 1477 Administrative autonomy, as defined in chapter two, includes local government’s discretion to determine its internal administrative structures as well as to hire and fire personnel.

4.2. Determining the internal administrative structure of local government

4.2.1. Woreda

The administrative autonomy of local government is implied in the federal and regional constitutions. As discussed elsewhere, the federal Constitution provides that local government should be afforded ‘adequate’ power. This provision, based on the principle of subsidiarity, may be interpreted to envisage providing woredas and cities with ‘adequate’ administrative power which also includes the power to determine their own administrative structure. The power of a woreda to determine its administrative structure can also be inferred from the omnibus provisions in the regional constitutions that provide woredas with the ‘necessary’ power, or a power which ‘enables’ them to prepare, determine and implement plans for social services and economic development. 1478 Evidently the power to determine the administrative structure of a woreda is a necessary power that would enable a woreda to prepare and implement its own social services and economic development plans.

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1477 See chapter 2; § 3.5.2.

1478 See above at § 2.4.2.2.
The regional constitutions provide that a woreda may determine its internal affairs.\textsuperscript{1479} It is clearly an internal matter of a woreda to determine its own administrative structure. Furthermore, a woreda council is charged with the power to approve the ‘administrative plan’ of the woreda when submitted to it by the woreda chief administrator.\textsuperscript{1480} An ‘administrative’ plan may include a plan on the administrative structure of the woreda. From the above it can be concluded that the woreda has the constitutional power to determine its administrative structure. In addition Proclamation 86 (2010) of Benishangul-Gumuz regional state and Proclamation 99 (2006) of the Tigray regional state provide that woreda may decide on its administrative structure.\textsuperscript{1481}

4.2.2. Administrative organs of a woreda

Each woreda has various sectoral offices which serve as its administrative structure. The sectoral offices of a woreda are almost always the counterparts of the sectoral offices of a regional government. There appears to be an unwritten rule which requires a woreda to align its administrative structure to that of the regional government.\textsuperscript{1482}


\textsuperscript{1482} In general, sectoral offices that exist at the woreda level may include some or all of the following. Agriculture & rural development bureau; Pastoralist affairs (in SNNPR, Oromia, Somali and Afar regions); Finance and economic development bureau; Capacity building bureau (which includes Health office, public health desk, health service training desk, HIV/AIDS office); Education office; Public organisation and public participation labour and social affairs
4.2.3. Urban local government

Like *woredas*, the power of cities to determine their internal administrative structure can be inferred from the general constitutional principle discussed above.1483 Moreover, the regional city proclamations provide cities and municipalities with the necessary power (‘full power’ as provided under the Oromia city proclamation) to administer local matters.1484 This can be interpreted to include the power to decide on the internal administrative structure of a city or a municipality. Furthermore, the power of cities and municipalities to determine their administrative structure is clearly stipulated in the city charters and regional city proclamations. The Dire Dawa Charter provides that the city government has the power to establish municipal and non-municipal bodies.1485 The Addis Ababa Charter also provides that the city government may determine the organisational structure of its sectoral offices.1486 Furthermore, the Charter provides that, on the recommendation of the city manager and with the approval of the city council, the mayor may establish municipal organs.1487

The regional city proclamations also authorise cities and municipalities to determine their administrative structure and to establish departments and support office bureau (which includes women’s affairs office and youth and sport); water resources development office; Justice administration office; Rural roads, mining and energy desk; Trade, industry and transport; Public organisation, labour and social affairs office; Youth and sports desk; Culture information and tourism desk. MoCB (2007) (a); 39ff; MoCB 2007 (b).

1483 See above § 4.2.2.
1487 FDRE Proclamation 361 (2003) Art 23(1) (e); Art 24 (2) (a).
services and other administrative offices.\textsuperscript{1488} However, the organisational structure of a city is explicitly required to be in line with the administrative structure of a regional government. For instance, Regulation 53(2005) of the Oromia region, which was issued to give effect to the regional city proclamation, requires the organisational structure of a city to be aligned to the organisational structure of the regional government.\textsuperscript{1489} The same is provided in SNNPR Proclamation 103(2006).\textsuperscript{1490} This seems also to require the administrative structure of a city to be aligned to the administrative structure of the regional government.

\textit{Administrative organs of urban local government}

Cities have two types of administrative organs: namely sectoral offices and municipal service organs.

\textit{Sectoral offices}

As has been discussed elsewhere, urban local governments including the two federal cities (with the exception of the municipalities) discharge both state functions and municipal functions. Thus, the cities, and the federal cities have sectoral offices which directly deal with the administrative aspects of their state functions. The number and types of sectoral offices of a city vary depending on the kind and number of state functions that it discharges. Addis Ababa and Dire Dawa exercise extensive state functions in their capacity as regional states. Thus,

\textsuperscript{1488} ORS Proclamation 65 (2003) Art 14 (2) (e); SNNPR Proclamation 103 (2006) Art 17(2) (2) (5).
\textsuperscript{1489} ORS Regulation 53 (2005) Art 7 (1).
\textsuperscript{1490} SNNPR Proclamation 103 (2006) Art 17 (2) (2) (5).
the two federal cities have numerous sectoral offices which deal with the administrative aspects of their state functions.\textsuperscript{1491}

\textit{Municipal service organs}

The administrative aspects of the municipal services of a city and a municipality are undertaken by a manager of municipal services (MMS) and other municipal service organs which are established under his office.\textsuperscript{1492} In general, a MMS is directly accountable to the mayor of an urban local government.\textsuperscript{1493} Each of the various municipal service organs is charged with a particular municipal function.\textsuperscript{1494}

4.2.4. \textit{Civil service and employment}

Local administrative autonomy also relates to the power of local government to recruit, hire and fire, and determine the salaries and benefits of, its personnel. As stated in chapter two, local personnel who are locally recruited and hired are expected to be accountable to local political organs.\textsuperscript{1495} Local personnel who have

\textsuperscript{1491} For instance, Addis Ababa city has the following sectoral offices Tourism commission; Urban agriculture office; Co-operative organisation and promotion offices; Investment authority; Micro - and small scale business enterprises development agency; Environmental protection authority; Policy studies and plan commission; Social and non-governmental organisation affairs office; Labour affairs office; Youth and sports commission; Women affairs office; Public prosecution office; Addis Ababa city penitentiary administration; Mass media agency. Addis Ababa City Proclamation 14 (2004) Art 2.
\textsuperscript{1493} FDRE Proclamation 361 (2003); Art 24(1); FDRE Proclamation 416 (2004) Art 23(1); SNNPR Proclamation 103 (2006) Art 25(3).
\textsuperscript{1494} For instance, in Addis Ababa the municipal service organs include: Infrastructure and construction authority; Transport authority; Land development authority; Housing agency; Cleaning and beautification and park development; Civil status document services; Fire and emergency services; Code enforcement services. Addis Ababa City Proclamation 2 (2003) Art 37(1) (a-i).
\textsuperscript{1495} See chapter 2; § 3.5.2.
vertical accountability to the central government have the potential to endanger the political autonomy of local government and therefore stifle the success of decentralised development.

4.2.4.1. Woreda

The power of a woreda to recruit, hire, deploy, and fire its personnel is not plainly stated in the regional constitutions. Nevertheless, this power can be considered as a ‘necessary’ power to prepare and implement a woreda’s socio-economic development plans. It can also be considered to have been implied in the power of a woreda to determine its administrative structures, as establishing the administrative organs, without the power to staff them, is meaningless. In any case, regional states, such as the Tigray regional state, have issued proclamations which deal with the power of a woreda in relation to civil service and employment matters. Proclamation 99 (2006) of the Tigray regional state provides that a woreda has the power to recruit, promote, deploy, inspect, internally transfer and adjudicate the grievances of woreda employees.¹⁴⁹⁶ Various government documents and studies recognise that a woreda has the power to hire and fire its administrative staff, support staff and ‘frontline’ professionals, including, teachers, doctors, nurses, health officers, agricultural experts, within the framework of regional civil service law.¹⁴⁹⁷

4.2.4.2. Urban local government

Urban local government has certain explicitly stated powers pertaining to its administrative personnel. These powers include the power to hire, deploy, and

¹⁴⁹⁶ TRS Proclamation 99 (2006); BGRS Proclamation 86 (2010) Art 109 also provides to the effect.
determine the salaries and other benefits of, administer, promote, and/or terminate the employment of, its personnel in accordance with regional civil service laws. The mayors of Addis Ababa and Dire Dawa have the authority to hire city managers to head the administration of municipal services. The city manager in turn has the authority to hire sub-city managers (in Addis Ababa) and kebele managers and other employees in accordance with the city’s civil service law.

4.2.5. Assessment

The foregoing discussion shows that woredas and cities have the power to decide on the structure of their administrative organisations. Accordingly, they have established several administrative organs in the form of sectoral offices and organs of municipal services. It can be gathered from the discussion in the preceding sections that the administrative offices are organised in a manner that takes into account the need to have a differentiated approach to rural woredas and cities. The organs are also structured to deal with the administrative aspects of the specific functions of a woreda or a city. The particular circumstances of woredas in different regions also seem to have been taken into account in the structuring of the woreda administrative organs. For instance, there are sectoral offices that deal with pastoral matters in the lowland regions which have pastoral communities, while no such office exists in the highland regions which have no pastoral

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1498 AfRS Proclamation 33 (2006); Art 24; Addis Ababa City proclamation 2 (2003) Art 6(4); SNNPR Proclamation 103 (2006); Art 47(1); ORS Proclamation 65 (2003) Art 43(1).
1499 FDRE Proclamation 361 (2003); Art 21 (2) (g); FDRE Proclamation 416 (2004) Art 20 (2) (g).
The establishment of municipal organs in urban areas also shows the effort taken to provide urban specific services through suitable administrative structures. *Woredas* and cities also have a constitutional and statutory power to hire and fire their own personnel which is a central element of, and critical for, administrative autonomy.

Despite the above, *woredas* do not enjoy their administrative autonomy. There are various reasons for this. First, as a report by MoCB indicates, the administrative organs of *woredas* suffer from an acute lack of skilled manpower. Many approved *woreda* positions are either vacant or occupied by employees who do not fulfill the minimum educational and work experience requirements. A study conducted by the MoCB in the lowland regions indicates that up to 33 percent of *woreda* approved positions remain vacant. According to this study, the educational background of the existing *woreda* personnel is extremely low. Less than two percent of the *woreda* personnel have a first degree, while only 20 percent have a diploma. The great majority of the *woreda* employees have not even completed their high school education. More than 18 percent of the *woreda* positions are occupied by employees who do not even meet the minimum requirements relating to work experience and education. Moreover, the field of specialisation of 65 up to 75 percent of *woreda* employees does not match their job descriptions. In particular, the rural *woreda*

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1501 See above § 4.2.1.
1503 MoCB (2007) 55
1504 MoCB (2007) 50
1505 MoCB (2007) 51
1506 MoCB (2007) 41
employees in the lowland regions are drawn ‘from a narrow educational pool’ even though the new developmental role that woredas are expected to play requires ‘higher education and wider fields of specialisation’. \footnote{MoCB (2007) 41}

Various factors contribute to the prevailing shortage of trained manpower at the woreda level. The work environment at woreda level generally viewed as unattractive: Most woredas are found in remote rural areas where there are little or no facilities and services. \footnote{Garcia & Rajkumar (2008) 72.} Moreover not only tworeda personnel are paid poor salaries, they also receive no fringe benefits. \footnote{Garcia & Rajkumar (2008) 72.}

Secondly, regional states and (in SNNPR) the nationality zones often interfere in the administration of woredas. There have been instances where the decisions of woredas in relation to civil service and employment were ‘overruled’ by zones and regions. \footnote{Yilmaz & Venugopal (2008) 15.} For instance, in SNNPR a woreda’s decision to cut back on the number administrative workers was overruled by a nationality zone. \footnote{Yilmaz & Venugopal (2008) 16.} There also have been several instances where woredas, despite their refusal, were forced to employ workers that were transferred from zones. \footnote{Yilmaz & Venugopal (2008) 16.}

Thirdly, ‘frontline’ professionals, such as, nurses, teachers, health workers, and development agents are trained by regional institutions. For instance teachers of primary schools are trained in teachers training colleges which are run by regional
states. Nurses, development agents, health workers are all trained in institutions that are run by regional states. They are deployed by the relevant regional bureau to woredas after they have completed their training. The deployment is in principle carried out based on woredas’ requests. However, woredas rarely receive what they request. For instance, a woreda may request a certain number of, for example, mathematic teachers. But it may wind up receiving several English teachers.

5. CONCLUSION
The discussion in this chapter reveals the strengths and weaknesses of the institutional design of Ethiopia’s decentralisation programme as it relates to development. To start with the positive aspect of the decentralisation programme there is a policy framework which aims to use woredas and cities as tools of development. Significant and commendable measures have been taken to this effect. Regional states have revised their constitutions with the intention of creating autonomous woredas. They have also enacted proclamations with the object of restructuring their urban local government. In every part of the country either a woreda or a city is established whose main purpose is achieving development. An attempt has been made to respond to the varied developmental preferences of urban and rural communities by creating different kinds of local

1514 It should, however, also be noted here that in the past years a number of public and private universities and colleges have been opened in Ethiopia. These academic institutions are producing thousands of graduates every year and supplying, even saturating, the labour market with trained professionals. As finding jobs in the urban areas is becoming more and more difficult, many university graduates have no other option but to take up employments in rural woredas. Therefore, shortage of trained man power may not be a problem for a long time, unless, the financial constraints under which woredas operate constrains them from effecting the necessary employment. Garcia & Rajkumar (2008) 68-72.
government structure. Therefore, *woredas* are established in rural areas while cities and municipalities are established in urban centres. Elected local councils are established and elections are held more or less regularly. It is constitutionally recognised that *woreda* and cities have the power to plan and implement their own social services and economic development. *Woredas* and cities are afforded the power to design their own administrative structure and effect employment. A block grant system has been introduced with a view to ensuring the financial autonomy of *woredas* and cities.

However, the constitutional and legal framework, governing *woredas* and cities, has numerous deficiencies that has real or potential negative impacts on local government’s effectiveness to achieve development. The following standout in particular:

- The federal Constitution is far from explicit in recognising Article 50(4) local government as an autonomous level of government. The Constitution does not clearly provide that local government will be a democratically constituted order of government. It merely makes a transitory reference to local government. This creates uncertainty about the very existence of local government. The recognition of *woredas* in regional constitutions does not seem to guarantee the continued existence of local government. As past experience shows, if it is in the interest of the ruling party, the regional constitutions may be easily amended, even through procedures other than those that are provided for their amendment.

- Cities are not accorded appropriate recognition in the regional constitutions. This is because the ruling party’s development policies are centred on the
rural areas. This is an example of how the existence of local government is dependent on party policy rather than constitutional principle which may be linked to the lack of explicit recognition of local government in the federal Constitution.

- There is no clear principle that guides the creation of new woredas, or the amalgamation, or division of existing ones. Not even the basic principles that are supposed to guide the alteration of woredas’s boundaries are provided for in the regional constitutions. This opens the door for arbitrary alteration of woreda boundaries which has potentially harmful impacts on local democracy and development.

- The functional competences of woredas and the state functions of cities are not clearly defined. This is one of the most critical deficiencies in the institutional design of Ethiopia’s local governance system.

- Woredas do not have full political power since the regional constitutions, save for that of the Tigray, do not explicitly provide woredas with policy making and legislative powers.

- Woreda chief administrators and mayors are not exclusively, even primarily accountable to local representative councils. They are equally, if not more, accountable to zonal and/ or regional chief administrators. This dual and sometimes triple accountability of mayors and woreda chief administrators compromises the political autonomy of local government.

- Local government has no adequate sources of revenue. Woredas do not have full taxing power. They collect certain taxes, but on behalf of the regional government. Their entitlement to regional block grants is not constitutionally guaranteed. Moreover, the block grants, despite the fact that
they are increasing from year to year, are not adequate enough to cover the expenditure needs of *woredas*.

This chapter has dealt with *woredas*, cities and municipalities political, financial and administrative autonomy. As was discussed in chapter two, local autonomy needs to be complemented with central supervision and inter-governmental co-operation in order to optimise the potential of a decentralisation programme to achieve development. The following chapter will examine whether and how central supervision and inter-governmental co-operation are undertaken in Ethiopia.
Chapter 6
Decentralisation and development in Ethiopia: Central supervision and inter-governmental co-operation

1. INTRODUCTION

The preceding chapter dealt with matters pertaining to local government’s political, fiscal, and administrative autonomy. As was discussed in chapter two, experience in the implementation of decentralisation programmes shows that local government autonomy is important, but not sufficient to ensure decentralised development. Central supervision of local government’s activities is equally critical for attaining the optimum developmental benefit of a decentralisation programme. Central supervision is particularly important to ensure equitable development among localities, to prevent corruption and capture by local elites of powers and resources. Moreover, co-operation between local government and central government is also crucial as there always be overlaps and gray areas in functional division between local and central government. This chapter, therefore, deals with the issue of central supervision and inter-governmental co-operation in Ethiopia.

Thus, § 2 will deal with the central supervision of local government activities in Ethiopia. It describes the role of the federal and regional governments in supervising the activities of local government. § 3 will deal with inter-governmental co-operation between local, regional, and federal governments.

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1515 See chapter 2; § 3.5.4.
1516 See chapter 2; § 3.5.4.
2. CENTRAL SUPERVISION OF LOCAL GOVERNMENT IN ETHIOPIA

2.1. Introduction

Central supervision, which is essentially hierarchical, is used to enforce national or regional objectives. Supervision is critical for ensuring equitable development which is a central element of development. As was indicated in chapter two, supervision has four elements: regulation/standard setting, oversight, support, and intervention. The following sections will discuss the role that the federal and regional governments play in regulating the activities of local government as well as the instruments that they use to do so. The sections will also discuss the role of the federal and regional government in monitoring and supporting local government. The substantive criteria for and methods of intervention by federal and regional government will also be discussed.

2.2. Regulation

As stated before, local government in Ethiopia operates within a dual federal system. In this dual federal system, local government is primarily the competence of the regional states. Hence the regional states can be presumed to have the primary responsibility to regulate its activities. As will be explained below, this does not mean that local government is exempt from the regulatory power of the federal government. Both the federal and regional governments regulate the works of local government.

1517 See chapter 2; § 3.5.4.1.
1518 See chapter 2 § 3.5.4.1.
1519 See chapter 4; § 4.
2.2.1. Federal government

The federal government may set standards for local government in two ways: by using its power to formulate general policies on national, social, and economic matters and by enacting proclamations.

2.2.1.1. Federal government policy papers

The federal government has an extensive policy making power under the federal Constitution which allows it to influence local government activities. It has the power to ‘formulate and implement the country’s policies, strategies, and plans in respect of the overall economic, social and development matters’.\footnote{FDRE Constitution (1995) Art 51 (2).} Furthermore, it has the power to ‘establish and implement national standards and basic policy criteria for public health, education, science and technology as well as for the protection and preservation of cultural and historical legacies’.\footnote{FDRE Constitution (1995) Art 51 (3).} In addition, the federal government has the power to ‘formulate and execute the country’s financial, monetary and foreign investment policies and strategies’.\footnote{FDRE Constitution (1995) Art 51 (4).} The federal government uses these constitutional powers to set national political visions and standards which have the effect of regulating local government’s actions.

As the discussion in the preceding chapter shows, local government is directly engaged in providing economic and social services, including, primary education, healthcare, agricultural extension services, and the like.\footnote{See chapter 5; § 2.4.6.} The federal government has the constitutional power to set national policy standards
regarding the provision of these social services. Hence, the federal policies, strategies and plans on social services and development also set general policy framework for local government.

There are several federal policy papers that regulate local government. As was discussed in chapter four, the decentralisation programme itself was articulated in various federal policy papers. The three policy papers on poverty reduction and development outlined the role that local government was expected to play within the overall poverty reduction and development programme. In particular these policy papers articulated the role that local government was expected to play in providing social services, such as, primary education, primary health care, rural water supply, rural roads, and agricultural extension services. There are also several other federal policy papers which were prepared on a sectoral basis: The policy papers on urban development, education, agriculture, to mention a few. These papers provide further details pertaining to the role of local government role in each sector.

It should be noted that the policy papers of the federal government do not purport, nor are they expected, to specifically and comprehensively deal with decentralisation or local government. In other words there is no federal policy paper on local government since local government is the competence of the regional government. The federal government is constitutionally prohibited from

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1524 See chapter 4 § 5.3.4.
1525 See chapter 4; § 5.3.4.
1526 See chapter 4; § 5.3.4.
Decentralisation and local government, therefore, feature in federal policy papers within the context of and, as a strategy for, poverty reduction.

Nonetheless, each of the sectoral policies deals with every aspect of local government activities in that particular sector. The policy papers provide the minimum number of schools, health stations that are to be established not only in a woreda but also in a kebele. Thus, local government activities are in practice regulated more by federal policy frameworks than by regional ones. This is despite the dual federal arrangement.

2.1.1.2. Federal framework legislation
The federal government has important legislative powers which allow it to set general legislative frameworks. This allows it to regulate local government activities. For instance, it has the constitutional power to enact laws which are necessary for establishing and sustaining ‘one economic community’. It also has the power to enact laws which regulate ‘the utilisation and conservation of land and other natural resources’. The federal government makes use of these and other legislative powers to regulate local government actions. What is visible here is that some of the federal proclamations are specifically intended and drafted to directly address local government, despite the dual federal system.

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1527 Heymans & Mussa (2004) 6
1528 See MoCB (2007) 104.
There are several proclamations as well as executive regulations, issued by the federal government that lay down standards for local government. It is not within the scope of this study to analyse all federal laws which directly or otherwise regulate local government. Therefore, only some of the federal proclamations that regulate local government are briefly discussed below to illustrate how the federal government regulates local government through framework legislation.

**Proclamation 272 (2002)**

Proclamation 272 (2002) is issued by the federal government based on its power to enact laws to regulate the use of urban land. The Proclamation regulates how cities and municipalities may allocate urban land on lease for various ‘developmental activities’. It broadly defines ‘developmental activities’ and sets the maximum lease period for a specific ‘developmental activity’. The Proclamation authorises a city/municipality to set the maximum lease period for developmental activities that are not defined in the Proclamation. The Proclamation also deals with the manner of determining the land lease rate, expropriation, eviction of illegal land holders, and the like. It should be noted that this Proclamation directly addresses not only federal cities but also regional cities.

**Proclamation 513 (2007)**

Proclamation 513 (2007) regulates solid waste management. The Proclamation regulates how cities and municipalities should manage solid waste in an

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1533 The developmental activities include housing, urban agriculture, education, industry, commerce, and any other activity which may be defined by the regional government, a city or a municipality. FDRE Proclamation 272 (2002) Art 6.
economically useful manner. It thus regulates what cities and municipalities should do so as to create an enabling environment to attract investment in waste management. It enjoins cities and municipalities to prepare and implement waste management plans. The Proclamation goes as far as prescribing to cities and municipalities to put marked waste bins in the streets, ensure frequent collection of waste, and create public awareness.

Proclamation 574 (2008) and Proclamation 455 (2005)

As was discussed in the previous chapter, Proclamation 574 (2008) regulates urban planning. Proclamation 455 (2005) regulates matters relating to rural and urban land expropriation. The Proclamation authorises woreda or city/municipal administrations to expropriate land for a ‘public purpose' where it is believed that a plot of land may be used for a more appropriate development project. It further provides how a woreda, acity, and a municipal administration can effect the expropriation. In particular, it provides a general framework with regard to the provision of an expropriation order and determination of compensation.

1538 FDRE Proclamation 513 (2007) Art 4. It is constitutionally suspect whether the federal government has the power to legislate on solid waste management. It is indicated in the Proclamation that its enactment was based on Article 55 (1) of the Constitution which authorises Parliament to legislate on those matters that are designated as federal functions in the Constitution. However ‘solid waste’ management is designated neither as a federal nor as a state competence. Thus, it is a residual power, which, by default, is within the competence of the regional states.
1539 For more discussion see chapter 5; § 2.5.3.2.
2.2.2. Regulation by regional and nationality zones governments

2.2.2.1. Regional policy papers

Regional states have the power to formulate regional policies and strategies on social and economic development matters.\textsuperscript{1542} The regional states also have the authority to set minimum targets that need to be fulfilled in every sector by local government units.\textsuperscript{1543} They may do so through their policies and plans. The regional policies are expected to be consistent with the national poverty reduction and economic development policies and strategies. Hence, the planning and implementation of social services and economic development by a \textit{woreda}, city, or municipality are expected to be undertaken within the national as well as the regional policy frameworks.

In Amhara, Benishangul-Gumuz, Gambella, and SNNPR some \textit{woredas} and cities are found within a nationality zone. Nationality zones are established as autonomous local units for regional minority ethnic communities.\textsuperscript{1544} As is stated in the regional constitutions, the government of a nationality zone is the highest political organ of the ethnic community for whom the nationality zone is established. It may, therefore, exercise all political power within the nationality zone.\textsuperscript{1545} It is also clearly provided that a nationality zone may prepare and implement its own strategic development plan.\textsuperscript{1546} A \textit{woreda} within a nationality zone is, therefore, expected to take into consideration the strategic plan of the

\textsuperscript{1542} See chapter 4; § 3.3.

\textsuperscript{1543} See chapter 4; § 3.3.

\textsuperscript{1544} See chapter 4; § 6.2. See also chapter 7 § 2.2.1 for more discussion on this.

\textsuperscript{1545} See chapter 7; § 2.2.3.

nationality zone while preparing its own strategic and annual plans. It is unclear whether a nationality zone may formulate its own policies on social services and economic development, as this is not explicitly stated in any of the regional constitutions. If nationality zones may in fact formulate zone-specific policies, it will mean that the woredas within the nationality zone’s territorial jurisdiction will be further regulated by these policy frameworks. In effect, it will mean that woredas within a nationality zone will be regulated by three levels of government, namely federal, regional, and zonal governments. However, practice shows that the federal government plays a dominant role in policy making, and woredas are seldom affected by a regional policy framework let alone by that of a nationality zone.\footnote{Assefa (2006).}

2.2.2.2. Regional framework legislation

As has been indicated earlier, local government is a regional government competence. Hence, the regional governments have a constitutional power to regulate the activities of local government through regional laws. The regional states have issued a number of proclamations that have the effect of regulating local government. Most of these proclamation feature in the discussion in chapter five. The regional constitutions which created woredas are enacted by the regional governments. The regional proclamations which have created cities and municipalities and which have defined their powers can also be considered as regional legislative regulatory frameworks.

Nationality zones may also regulate woredas by enacting laws. As will be discussed in the next chapter, a government of a nationality zone has the power to

\footnote{Assefa (2006).}
choose the official language of the nationality zone.\textsuperscript{1548} It also has the power to enact laws on matters that are not covered by regional laws.\textsuperscript{1549} It can be assumed that the laws of the nationality zones will also serve as regulatory frameworks for woredas and cities.

\textbf{2.2.3. Assessment}

The foregoing discussion has described the role of the federal, regional, and, in some cases, zonal governments in regulating the activities of local government. As the discussion shows, the federal and regional governments have the authority to set standards for local government through their policies and framework legislative instruments.

The federal government plays a dominant role in terms of regulating local government through policy making. The regional governments play a minor role in this respect. This is despite the fact that, given the dual federal system, the latter are supposed to play a more dominant role in regulating local government’s activities. The rather marginal role of the regional states in regulating local governments may be due to two reasons. Firstly, the policy making power of the federal government, in the areas of social services and economic matters, including health and education, is widely cast in the Article 51 (2) of the federal Constitution. The Constitution does not put a limit on the policy making power of the federal government on these matters. Assefa and Mohammed, referring to the clause in Article 51 (2) of the federal Constitution, write:-

\begin{quote}
‘This is perhaps more than necessary and proper clause because it grants the federal government wide powers over economic, social, health, and education matters. It places
\end{quote}

\begin{footnotes}
\item[1548] See for instance ARS Constitution (2001) 74 (3) (a).
\item[1549] See chapter 7; § 2.2.3.1.
\end{footnotes}
primary responsibility on the federal government to determine major policy directions and standards. However, if one follows the terms closely, the powers of the federal government even in these vital areas do not seem [to have a limit].

This vaguely and widely phrased clause on the policy making power of the federal government seems to have allowed the latter to cover all areas through its policies. This in turn seems to have limited the opportunities that the regional states have to regulate local government though their policies.

The second reason may relate to the fact that all levels of government are controlled by a single party, the EPRDF. As stated in the preceding chapter, the policies of the country are drafted by the central structure of the party. The regional states, therefore, barely add to the content of the federal policies in their policy papers.

A related matter is that the federal government uses its power to legislate on certain matters including urban and rural land to bypass the regional states to regulate the activities of local government. As the above discussion indicates, some of the federal proclamations directly address cities, municipalities, and woredas.

The other visible matter is that, within a region, the degree of a woreda’s authority with respect to a particular function seems to vary depending on whether the woreda is within or outside the borders of a nationality zone. The area of authority of woredas within a nationality zone, with respect to a particular

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1550 Assefa & Mohammed 2010 144..
1551 See chapter 4; § 3.2.1. and chapter 5; § 2.3.1.2.
A woreda function, is likely to be more limited than the woredas outside a nationality zone. This is because the activities of woredas outside a nationality zone are regulated only by the federal and regional policy and legislative frameworks. Woredas within the borders of a nationality zone may also be regulated by the laws of the nationality zones’ government. The policies and laws of a nationality zone, which are likely to be more detailed and specific than regional and federal policies and laws, will have the effect of narrowing the field of authority of the woredas within a nationality zone’s boundaries compared to the woredas outside the jurisdiction of a nationality zone. This is a consequence of the compromise to balance the need to accommodate regional ethnic minorities and the need to ensure the autonomy of the woreda and cities.

2.3. Monitoring

The second element of central supervision is oversight or monitoring the activities of local government. Monitoring is a mechanism by which senior levels of government gather information as to whether local government is acting within its constitutional and legal authority. It is also the mechanism to ensure whether local development projects meet regional and national standards.

2.3.1. Federal monitoring

2.3.1.1. Monitoring woredas and regional cities

The federal government or its organs are not expected to directly monitor the activities of local government as local government is a regional matter. There is no a federal law that authorises any federal organ to exercise direct oversight over either woredas or cities. This begs the question of how the federal government can ensure that the standards it sets are respected by woredas and cities.
It seems that the mechanism for the federal government to ensure that federal standards are met by local government is indirect: through the regional states. Each federal ministry may exercise indirect monitoring through their regional counterparts to ensure federal standards are met. For instance, Proclamation 574 (2008) provides that the Ministry of Urban Development and Construction (MoUDC) has the power to watch over and follow up the conformity of urban structural plans to the national standard.\textsuperscript{1552} In addition, the Proclamation authorises the regional government to ‘follow up, evaluate and ensure the proper implementation of urban plans’.\textsuperscript{1553} This cannot mean that MoUDC may directly monitor the activities of regional cities. Such an interpretation will render the above provision of the proclamation unconstitutional. Hence the provision must be read to mean that the relevant regional bureau of urban development will monitor cities and municipalities. MoUDC monitors urban local government indirectly through the regional bureaus. Other ministries may also engage in similar indirect monitoring of woreda and city activities.

2.3.1.2. Monitoring the federal cities

The two federal cities, Addis Ababa and Dire Dawa, are accountable directly to the federal government.\textsuperscript{1554} Hence, their activities are monitored directly by the federal government and its organs. There are two federal organs with a particular responsibility of monitoring the two federal cities: these are MoUDC and the Ministry of Federal Affairs (MoFA). The former is in charge of overseeing the activities of the two federal cities with respect to their municipal functions.\textsuperscript{1555}

\textsuperscript{1552} FDRE Proclamation 574 (2008) Art 55 (2).
\textsuperscript{1553} FDRE Proclamation 574 (2008) Art 56 (2).
\textsuperscript{1555} FDRE Proclamation 471 (2005) Art 18 (1) (m).
The latter is charged with monitoring the overall activities of the federal cities.\textsuperscript{1556} Furthermore, each line ministry presumably oversees the activities of these two cities that are related to the particular sector for which the ministry is responsible.

\textbf{2.3.2. Monitoring by regional and zonal governments}

\textbf{2.3.2.1. Monitoring \textit{woredas}}

As was stated in chapter four, in Oromia, Somali, Tigray, Afar, and most parts of Amhara regional states, \textit{woredas} and cities are the second level of sub-national government, with no intermediary between them and the regional governments.\textsuperscript{1557} In fact, the constitutions and proclamation of Oromia and Afar provide for the establishment of zone administrations, between the regional states and \textit{woredas}. Zone administrations (as opposed to nationality zones) are ‘deconcentrated arms’ of the regional government, not autonomous sub-regional governments.\textsuperscript{1558} In every part of the SNNPR, Gamella, and some parts of Amhara regional states, nationality zones are established as self-governments of minority ethnic communities between the \textit{woredas} and the regional government.\textsuperscript{1559} The level of government that has a direct monitoring responsibility over a \textit{woreda} or a city, therefore, seems to vary depending on whether a \textit{woreda} is found within or outside a nationality zone. As provided in the regional constitutions, a \textit{woreda} which is found within a nationality zone is responsible to the government of the nationality zone as well as the regional government.\textsuperscript{1560} Therefore, both the nationality zone and the regional state may

\textsuperscript{1556} FDRE Proclamation 361 (2003) Art 61 (5).

\textsuperscript{1557} See chapter 4; § 6.1.

\textsuperscript{1558} See chapter 4; § 6.1.

\textsuperscript{1559} See chapter 4; § 6.2.

\textsuperscript{1560} ARS Constitution (2001) Art 86 (1); SNNPR Constitution (2001) 91(2) & 100 (2) (g); GRS Constitution (2001) 90 (1); BGRS Constitution (2002) Art 87 (1).
monitor its activities. A woreda which is outside a nationality zone is answerable only to the regional government. Therefore, only the regional government may directly monitor the woreda’s activities. Furthermore, as is the case in Oromia and Afar, a regional state may monitor woredas through zonal administration, where the latter is established. 1561

A related issue is whether there is a particular regional or zonal organ that has a principal or exclusive responsibility of monitoring woredas. In some regions, such as Tigray and Beinishangul-Gumuz, the primary responsibility to monitor woredas is entrusted to a regional ‘administrative and security affairs bureau’. 1562 This bureau is required to monitor woredas directly or through its zonal counterparts. It is unclear whether the other regions also allocate to a particular bureau the principal responsibility of monitoring woredas. Even if this is the case, it does not mean that such a bureau has an exclusive mandate of monitoring woredas. Rather, various regional and/or nationality zone sectoral offices are authorised to exercise oversight over the various activities of the woredas. For instance, the regional finance and economic development bureau has the ‘primary responsibility’ to monitor woredas with respect to their financial management. 1563 Other sectoral offices, including, education bureaus, health bureaus, and the like, monitor the activities of woreda that relate to their respective sector. 1564

2.3.2.2. Monitoring urban local government

As stated in the preceding chapter, cities have state functions and municipal functions.\footnote{See chapter 5; § 2.4.3.2.} It is not clearly regulated in the city proclamations which organ of a regional state monitors the activities of cities with regard to their state functions. However, it seems that, as is the case with respect to a \textit{woreda}, no regional or zonal sectoral office has exclusive power to monitor cities with respect to their state functions. It seems that each regional sectoral office may monitor cities with respect to the cities’ state function which is pertinent to it. Thus, for instance, a regional education bureau may monitor cities with respect to their activity in the area of education. As far as their municipal functions are concerned, the regional bureau of urban development has the primary responsibility to monitor cities and municipalities.\footnote{ARS Proclamation 91 (2003) Art 62; ORS Proclamation 65 (2003) Art 53; AfRS Proclamation 33 (2005) Art 19; BGRS Proclamation 69 (2007) Art 55; SNNPR Proclamation 103 (2006) Art 53.}

2.3.2.3. Methods of monitoring

The principal method of regional monitoring is self-reporting. For instance, the federal cities are required to submit annual reports to the Ministry of Federal Affairs.\footnote{FDRE Proclamation 361 (2003) Art 61(6); FDRE Proclamation 416 (2004) Art 51(3).} Likewise, a \textit{woreda} chief administrator is required to submit periodical reports to the regional states, or nationality zones, or, as is the case in Oromia, to the zonal administration.\footnote{ARS Constitution (2001) Art 93(2) (h); BGRS Constitution (2002) Art 94(2) (h); GRS Constitution (2002) Art 97 (2) (h); SNNPR Constitution (2001) Art 100 (2) (g); ORS Constitution (2001) Art 87 (2) (f); TRS Constitution (2001) Art 82 (2) (g).} The mayor of a city has a similar
responsibility. The reports of the woreda chief administrator or the mayor of a city deal the overall activities of the woreda and city respectively. In addition, each woreda or city sectoral office submits periodical reports on its activities to its zonal or regional counterpart. The report regarding the municipal functions of a city or a municipality, so it seems, goes to the regional bureau of urban development or in case of federal cities to the MoFA and MoUDC.

The other method of monitoring is on-site inspection. In some regions, regional officials are required to undertake periodical on-site inspections. For instance in Benishangul-Gumuz, regional officials are enjoined to visit woredas once a year. It is also reported that some regional bureaus conduct periodical on-site inspections of the performance of woredas. Most notably, a regional bureau of finance and economic development periodically sends auditing and inspection units to woredas.

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1571 In Oromia it is called Bureau of Industry and Urban Development.

1572 The MoF and MoUC are authorised to follow up the activities of the federal cities in particular those that are related to the municipal functions of the cities. Likewise, regional bureaus of works and urban development are authorised to follow up the activities of cities in relation to their municipal functions. It can be inferred from this that the reports of cities regarding their municipal functions should be submitted to these federal and regional organs. FDRE Proclamation 361 (2003) Art 61; FDRE Proclamation 416 (2004) Art 51; BGRS Proclamation 69 (2007) Art 55; ORS Proclamation 65 (2003) Art 53 & 54; ARS Proclamation 91 (2003) Arts 62 & 63; SNNPR Proclamation 103 (2006) Art 53.


2.4. **Support**

2.4.1. **Introduction**

As maintained in chapter two, one component of supervision is that senior levels of government should support local government in undertaking its developmental activities. Support may take the form of a general assistance. It may also be used to resolve specific problems that are identified through monitoring. The following section will examine whether and how the federal and regional governments provide support to local government.

2.4.2. **Federal support**

The federal Constitution is silent on the issue of whether and how the federal government may support local government. The question is whether the federal government is required to support local government. One argument in this respect may be that, local government is a regional competence. Hence, the federal government has no obligation to provide support to local government, save for the two federal cities which are within its jurisdiction. The counter-argument is that the constitutional responsibility of the federal government to directly or indirectly support local government is implied in its duty to formulate and ensure the implementation of policies on social services and economic matter. It is submitted that the second is the more plausible argument. As stated before, important social services, such as, health care and education, whose policies are formulated by the federal government, are implemented by local government. It may be, therefore, argued that in order to ensure the implementation of the policies of the federal government on social services, the federal government may, if not should, directly or indirectly, support local government.
In addition, certain federal laws require federal ministries to support local government. For instance, Proclamation 691 (2010) requires MoUDC to ‘provide all-round and co-ordinated support to urban centres to make them development centres capable of influencing their surroundings’. 1575 The Proclamation further provides that the Ministry has the duty to ‘provide capacity building support to urban centres for improving their service delivery; and where necessary, organise training and research centres in the field of urban development’. 1576

Practice confirms the above. The federal government provides technical support to woredas either directly or through regional sectoral offices. The MoFED and, previously the MoCB, are principally involved in providing support to woredas. As the discussion in chapter four shows, MoCB had the mandate, among other things, to implement the DLDP. 1577 Accordingly, the MoCB, with its counterpart at regional level, took various measures to implement the DLDP and to build the capacity of woredas including preparing manuals, general guidelines and the like. 1578

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1577 See chapter 4; § 5.3.4.
2.4.3. Support by regional government

2.4.3.1. Supporting woredas

The regional constitutions are silent on the responsibility of regional governments to support woredas. Some regional proclamations, however, impose an obligation on regional governments to support woredas. In Benishangul-Gumuz, for instance, the regional Administrative and Security Affairs Bureau has the responsibility to support woredas to build their capacity.\footnote{1579} To this effect, the Bureau is required to provide comments on woreda sectoral reports.\footnote{1580} It is also required to support woredas to prepare and implement annual and strategic plans that are consistent with regional and federal annual and strategic plans.\footnote{1581} Moreover, other regional sectoral bureaus are required to provide technical assistance to woredas. In Benishangul-Gumuz regional state, for instance, experts in each regional sectoral office are required to go to woredas twice a year to provide technical assistance.\footnote{1582}

2.4.3.2. Urban local government

In all regions, the primary responsibility of supporting cities is given to the regional bureau of works and urban development.\footnote{1583} The bureau is required to provide technical support to cities and generally to build the capacity of cities. It is also expected to co-ordinate the technical support that other sectoral bureaus provide to cities.\footnote{1584}
The federal cities receive support from the federal government. The MoF has the main responsibility of supporting the federal cities.\textsuperscript{1585} MoUDC also has the duty to provide technical support to the federal cities.\textsuperscript{1586}

\section*{2.5. Intervention}

The fourth element for central supervision is intervention.\textsuperscript{1587} It was indicated in chapter two that it was critical to clearly define in a constitution the grounds for, and the methods of, intervention. Therefore, the following sections will examine the grounds and the methods for federal and/or regional intervention in local government.

\subsection*{2.5.1. Federal intervention}

\textbf{2.5.1.1. Intervention in \textit{woreda} and regional cities}

There is no explicitly stated constitutional ground for direct federal government intervention in local government.\textsuperscript{1588} What is clearly known is that the federal government has the power to intervene in a regional state when the ‘constitutional order is endangered’ in the region\textsuperscript{1588} or the regional state fails to maintain security, or to prevent human rights violations.\textsuperscript{1589} It may be argued that a federal intervention in a regional state may not necessarily have state-wide implications. The problem that triggers a federal intervention in a regional state may be

\begin{itemize}
\item \textsuperscript{1586} FDRE Proclamation 691 (2010) Art 25 (1) (c).
\item \textsuperscript{1587} See chapter 2; § 3.5.4.1.
\item \textsuperscript{1588} FDRE Constitution (1995) Art 62 (9). FDRE Proclamation 359 (2003) a proclamation which is issued to regulate federal intervention, provides that the constitutional order is said to be endangered when there is an armed uprising, attempt to resolve a conflict between ethnic groups of different regions in ‘non-peaceful means’, and when the peace and security of the federal government is disturbed.
\item \textsuperscript{1589} FDRE Constitution (1995) Art 55 (16).
\end{itemize}
geographically limited to a specific *woreda* or city. In such circumstances, the federal intervention may *in effect* amount to a federal intervention into a local government unit. It will be, however, implausible to consider such an intervention as federal intervention in local government unit. Moreover, even if it was to be so argued, the grounds for a federal intervention, in particular the first two, are limited to security-related matters. They are not related to a breakdown in service delivery which is the principal responsibility of an Article 50(4) local government unit. Thus, the question still remains: what will happen if a *woreda* fails to provide basic services despite the fact that the constitutional order is not endangered and that there is stability and security in the *woreda*? What will happen if a regional state, within whose jurisdiction the malfunctioning *woreda* is found, is unwilling or unable to take appropriate measures to rectify the problems?

One argument may be that Ethiopia has a dual federal system in which local government is an exclusive regional matter. Therefore, the federal government may not intervene in local government even if there is a breakdown in service delivery in a particular *woreda* and the regional state within whose jurisdiction the *woreda* is found fails to intervene.

The counter-argument may be that the federal government has a constitutional responsibility not only to formulate, but also to ensure the implementation of, policies with respect to social services, such as, public health, education, and the like. Evidently, it is the primary responsibility of a regional state to intervene and rectify a breakdown in service delivery in a particular *woreda*. However, this
cannot preclude the possibility of a federal intervention when a regional state completely fails to correct the problem.

In addition, FDRE Proclamation 359 (2003) (issued to regulate federal intervention in regional states) defines a human rights violation, for the purpose of federal intervention, as a ‘violation of the provision of the human rights stipulated in the Constitution and laws promulgated pursuant to the Constitution’.

The Bill of Rights of the federal Constitution provides that ‘[e]very Ethiopian national has the right to equal access to publicly funded social services’. The Constitution adds that ‘[t]he State has the obligation to allocate ever increasing resources to provide to the public health, education, and other social services’. A failure to ensure the delivery of basic services, such as, health care and education, may, therefore, constitute a human rights violation as per Article 55(16) of the FDRE Constitution. Accordingly, the federal government may (if not must) intervene if a woreda or city fails to provide basic services and if a regional state does not intervene in time to correct the situation.

It may still be argued that such a federal intervention cannot be considered as an intervention in local government but as an intervention in a regional government. This is because what triggers the federal intervention is not the failure of a woreda or a city to discharge its constitutional duty. It is rather the failure of the regional state to correct the problem which emanates from the failure of a local government unit to discharge its constitutional duty.

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It is submitted here that it is of little consequence whether such an intervention is called federal intervention in local government or federal intervention in a regional government. What matters most here is that the federal government is not precluded from intervening to correct a break down in service delivery by a local government unit.

2.5.1.2. Federal intervention in federal cities

As indicated above, the federal government has the power to exercise direct oversight over the two federal cities, Addis Ababa and Dire Dawa. There are three grounds for federal intervention in the federal cities. It may intervene in either of these cities if the city government endangers ‘the constitutional order’, if there is a breakdown of security in the city, and if a coalition of political parties breaks up which forms the executive of the city.

When the first two are the grounds for federal intervention, Parliament may decide to immediately dissolve the councils of the two cities and establish a transitional government for the cities. Parliament may also determine the duration that the city will be under a transitional government. The Prime Minister (PM) will be in charge of ensuring the implementation of the decision of Parliament in this respect. In the case of a break-up of a coalition of parties forming the executive of one of the federal cities, the MoFA is required to approach the political parties and invite them to form a new coalition or revitalise

the previous one. Parliament may, however, decide to dissolve the city councils and hold new elections within six months if the parties fail to agree to create a coalition.

Regardless of the ground of intervention the body which will be in charge may not make new laws or amend the existing law of the cities. The only legislative power it may exercise is to adopt a budget. The body may also issue regulations, as part of its executive power, where a proclamation issued by the city council so authorises the executive organ so to do. Otherwise, the power of the body is limited to exercising executive powers only.

After the 2005 electoral dispute the federal government had intervened in Addis Ababa. A provisional caretaker government was established which governed the city until 2008.

2.5.2. Regional intervention

2.5.2.1. Intervention in a woreda

Grounds for intervention

The regional constitutions, other than that of the Tigray, provide no substantive ground for regional intervention in a woreda. The Tigray regional Constitution provides three broadly defined grounds for a regional intervention in a

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1600 See Assefa (2009) 89.
It provides that the regional government may intervene (1) when a woreda endangers the constitutional order, (2) when it fails to maintain peace and security, or (3) when it fails to effectively exercise its legal and constitutional functions and powers.1602

Proclamation 99 (2010) of Tigray and Proclamation 86 (2010) of Benishangul-Gumuz provide three additional grounds of intervention over and above the above two. These are misappropriation of funds or properties, a failure of a woreda executive council to convene a meeting for more than 6 months, and infringement of obligating provisions of regional laws.1603

The aforementioned regional constitution and proclamations do not define what ‘endangering the constitutional order’ or a failure to maintain peace constitutes. It may be, therefore, appropriate to use the elements that are used in Proclamation 359 (2003) to define ‘endangering the constitutional order’ for the purpose of federal intervention.1604 A constitutional order, thus, may be considered to have been endangered when there is an armed uprising in a woreda or when ethnic

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1601 The intervention clause was inserted in the Tigray Regional Constitution by means of a constitutional amendment that was introduced in 2006. The amendment was promulgated in the TRS Proclamation 98 (2006).
1604 FDRE Proclamation 359 (2003) defines endangering the constitutional order as ‘an activity or act carried out by the participation or consent of a Regional Government in violation of the Constitution or the constitutional order and in particular (1) armed uprising (2) resolving conflicts between another Region or Nation, Nationality or People of another Region by resorting to non-peaceful means(3) disturbance of peace and security of the Federal Government or (4) violation of directives given pursuant to Article 11 of this Proclamation; shall be deemed to have been an activity or act that has endangered the constitutional order.
groups within a *woreda* clash and no peaceful means are used to resolve the problem. A *woreda* can also be said to have failed to maintain peace when it is unsuccessful in ensuring public safety through the normal operation of the law.\textsuperscript{1605} These substantive grounds for intervention are security related.

The third substantive criterion under the Tigray Constitution and the additional three grounds for intervention in the aforementioned proclamations may be linked to a breakdown in basic service delivery. In Tigray, for instance, a *woreda* can be considered to have failed to exercise its legal or constitutional functions warranting intervention if it fails, for instance, to approve its annual plan and budget to deliver basic services. It goes without saying that a *woreda*’s development will be negatively affected if a *woreda* executive council fails to meet for six months. This should entail intervention in a *woreda* by a regional government. However, a failure to exercise a ‘constitutional function’, and infringement of regional laws by a *woreda* as grounds for intervention, are too ambiguous and widely formulated. The lack of specificity in this respect is likely to endanger a *woreda*’s autonomy.

**Methods of intervention**

Only two methods of intervention are considered in the Tigray Constitution and in the regional proclamations that regulate regional intervention. These are suspension and dissolution of a malfunctioning *woreda* council.\textsuperscript{1606} The two methods of intervention are employed regardless of the ground for intervention. Hence, in Tigray and Benishangul-Gumuz, for instance, the regional council, which has the last say on the matter, may suspend a *woreda* council pending an

\textsuperscript{1605} See FDRE Proclamation 359 (2003).

\textsuperscript{1606} TRS Constitution (2001) Art 74 (4) (b).
investigation into the problem which caused the regional state to intervene. If the investigation so warrants, the regional council may dissolve the woreda council. During the suspension of a woreda council or after the council is dissolved, the regional council may order the regional executive council or chief administrator to establish a transitional woreda administration and appoint provisional heads of executive bureaus of the woreda. The transitional woreda administration will administer the woreda for a maximum of one year or, as is the case in Tigray, one and a half years. During that period of transition a woreda administration will assume only the executive powers of the woreda executive council as provided under Articles 80 and 82 of the Tigray Constitution. The only legislative power the provisional administration may exercise is approving the woreda’s annual plan and budget. Thus, it may not carry out other legislative functions of the woreda. This is in keeping with local democracy and political autonomy to preclude the provisional local administration from assuming the legislative functions of a woreda or a city. As De Visser states, local legislative power is the most important expression of local autonomy which should not be easily tampered with.

2.5.2.2. Regional intervention in urban local government

The regional city proclamations regulate intervention by the regional governments into cities.

\[\text{\footnotesize\ref{footnote1607}}\]
\[\text{\footnotesize\ref{footnote1608}}\]
\[\text{\footnotesize\ref{footnote1609}}\]
\[\text{\footnotesize\ref{footnote1610}}\]
\[\text{\footnotesize\ref{footnote1611}}\]
Grounds for intervention

The grounds for regional intervention in cities are (1) causing harm to the public interest, (2) failing to maintain peace and security, and (3) endangering ‘the constitutional order’.\textsuperscript{1612} When any one of these substantive criteria is met, the regional government is authorised to intervene. Each of the above substantive criteria is ambiguous and requires clarification. However, no definition is provided in the regional city proclamations as to what constitutes ‘causing harm to the public interest’, or what ‘the public interest’ is for that matter. ‘Endangering the constitutional order’ is also not clearly defined.

Methods of intervention

In some of the regions, for instance in Oromia, the regional government is allowed to automatically dissolve a city council when any one of the grounds for intervention is present.\textsuperscript{1613} In the Amhara, Afar, Benishangul-Gumuz, and SNNP regional states, the regional governments are authorised to suspend a city council in similar cases.\textsuperscript{1614} The suspension is undertaken temporarily and is meant to buy time to investigate the matter. In the meantime, the regional government will establish a provisional city government which will take care of the city’s affairs pending investigation. A new election will be conducted within six months if after investigation the regional council decides that the city council be dissolved.\textsuperscript{1615}

\textsuperscript{1613} ORS Proclamation 65/2003; Art 30 (2).
2.5.3. Procedural safeguards against undue intervention

The above discussion shows whether, when, and how the federal and regional governments may intervene in woredas and cities. The question that follows is whether a woreda or a city may defend itself from illegal regional or federal intervention. As was discussed above, the regional constitutions, except that of the Tigray, are silent on the issue of intervention, including on the issue of whether a woreda may challenge a regional intervention. The Tigray Constitution, even though has an intervention clause, is silent on whether and how a woreda may challenge an illegal regional intervention. Moreover each of the city proclamations of the SNNPR, Amhara, Benishangul-Gumuz, and Oromia as well as the charters of the federal cities has an intervention clause. Yet, none of these proclamations provide whether or how a city may challenge an undue regional intervention. Only Proclamation 99 (2006) of Tigray and Proclamation 86 (2010) of Benishangul-Gumuz provide that a woreda may provide a written explanation as to why the regional intervention should not take place.\textsuperscript{1616} Even in this case, the final decision on whether the intervention should take place however remains with the regional council.

The next related issue is whether a woreda or a city may approach a regional or a federal court challenging the legality of a regional or (in case of the federal cities) a federal intervention. There appears to be no constitutional or legal provision that hinders a woreda or a city from doing so. However, disputes relating to regional or federal intervention are likely to involve the interpretation of either the federal or a regional constitution. As was mentioned in chapter four, it is an

unsettled matter whether a regional court may interpret a regional constitution in resolving disputes. It is also contestable whether a federal court may interpret the federal Constitution in similar cases.  

1617 It is clear though that disputes involving the interpretation of regional constitution may be resolved by a Constitutional Interpretation Commission (CIC) or, in case of SNNPR, by the Council of Nationalities (CoN).  

1618 The HoF has a final say on disputes involving the interpretation of the federal Constitution.  

1619 Therefore, it may be argued that a woreda or regional city, other than those that are in SNNPR, may challenge the constitutionality of regional intervention by taking the matter to a regional CIC. A woreda or city in SNNPR may approach the CoN challenging the constitutionality of a regional intervention. The federal cities may approach the HoF challenging the constitutionality of a federal intervention.

2.6. Assessment

The above section has dealt with the question as to whether, when, and how federal and regional governments may intervene in local government. There are some critical issues relating to intervention. First, none of the regional constitutions, except that of the Tigray, provides substantive criteria or mechanisms of intervention in ailing woredas and city administrations. Thus, it is not clear whether and how a regional government may intervene when a woreda fails to live up to its developmental mandate. In regional states such as Amhara and SNNPR where there are autonomous nationality zones above woredas, it is also unclear who has the constitutional mandate to intervene in a malfunctioning woredas that is located in a nationality zone.

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1617 See chapter 4 § 3.2.3 & 3.3.3.  
1618 See chapter 7; § 2.3.2.2.  
1619 See chapter 4 ; § 3.2.1.2.
The failure of the regional constitutions to adequately regulate regional intervention is dangerous as regional governments may interpret the silence of the regional constitutions on the matter to mean that they have neither the authority nor the duty to intervene in underperforming woredas. This is however unlikely. What is likely and equally dangerous is that the regional states may interpret the silence of the regional constitutions to mean that there is no limit to their power of intervention. The regions may, therefore, resort to intervention in response to minor problems in otherwise a well-functioning woreda thereby excessively eroding its autonomy. The regional states may also resort to intervention to achieve selfish political ends. For instance, the regional governments may use intervention to undermine the authority of a woreda that is under the control of an opposition party. As was discussed above, some of the regional states, such as Benishangul-Gumuz, have attempted to define the grounds for and methods of intervention in their proclamations. However this has two flaws. First regional intervention has critical consequence on woreda autonomy. Therefore, it should not be regulated through ordinary legislation. It should be clearly provided in regional constitutions.

Secondly, as the above discussion shows, the grounds for intervention are defined in the regional proclamation vaguely and broadly. As was discussed above, the grounds for intervention include endangering the constitutional order, failing to maintain peace and security, and causing harm to the public interest. Neither the Tigray Constitution nor the regional proclamations define what constitutes endangering the constitutional order. ‘Public interest’ is also not defined, nor
what constitutes ‘causing harm’ to it. In a scenario where a woreda or a city is controlled by a party other than the ruling party of a regional state, every little deviation of a woreda council, which is controlled by such a party, from the decision of a regional government may be interpreted as ‘endangering the constitutional order’ warranting intervention. Moreover, the substantive criteria are not only ill-defined, but also almost exclusively focused on security issues. A failure by a city to fulfill its state and municipal functions in a peaceful situation is not considered as a ground for intervention.

Thirdly, the only mechanism for intervention that is provided in the Tigray Constitution and other regional proclamations is the dissolution of a woreda or city council and the establishment of a provisional administration. It is questionable whether it is appropriate to dissolve a woreda or city council for every allegation of failure to exercise its constitutional function. If ‘failure to exercise a constitutional function’ is generously interpreted, a woreda council may be dissolved just because one of its sectors, for instance education, is malfunctioning. It may be argued that dissolving a woreda council is appropriate for a woreda political autonomy as it takes the matter back to the local community. However, the time and resources that will be wasted every time a woreda council is dissolved and new elections are held should also be considered. It is submitted that other methods of intervention should be used before resorting to the dissolution of a woreda council. One such method of intervention is the assumption of a woreda’s function by the regional government. Thus, for instance, the regional government may be allowed to take over the responsibility of providing primary education if a woreda education bureau fails to effect its
responsibility without the need to dissolve the woreda council. For instance, in South Africa the assumption of some of local government’s executive powers by a senior level of government, without a need to dissolve municipal councils, has been used as a method of intervention. This method ensured an uninterrupted service delivery in ailing municipalities.\(^{1620}\) This approach should be considered in Ethiopia, too.

3. INTER-GOVERNMENTAL CO-OPERATION IN ETHIOPIA

3.1. Introduction

As stated in chapter two, co-operation between local government and senior levels government is as important as central supervision.\(^ {1621}\) Co-operation aspires to harmonise activities, prevent disputes, and fill legislative gaps.\(^ {1622}\) As stated previously, co-operation is expected to be based on equality among the various levels of government.\(^ {1623}\) This requires a normative principle of co-operation which recognises the ‘institutional integrity’ of local government. Moreover, co-operation should be conducted both horizontally (among local government units) and vertically (between local government and senior levels of government).

In Ethiopia’s context, it is submitted, it is critical to create institutional systems for both horizontal and vertical co-operation. There are many areas which require co-operation between two or more woredas and between woredas and cities. In many cases schools and clinics which are situated in one woreda serve residents

\(^{1620}\) Steytler & De Visser (2007).
\(^{1621}\) See chapter 2; § 3.5.4.2.
\(^{1622}\) See chapter 2; § 3.5.4.2.
\(^{1623}\) See chapter 2; § 3.5.4.2.
of other woredas.\textsuperscript{1624} Financing and administering these facilities requires co-operation between or among woredas. Moreover, cities and municipalities serve as political seats and economic and political centres of several woredas. This also requires clearly institutionalised city-woreda co-operation.

In addition, as was discussed above, the federal and regional governments adopt policies on social and economic matters that are meant to be implemented by woredas and cities. Moreover, there are two, in some cases three, levels of sub-national governments. As was discussed previously, the functional competences of each of the sub-regional governments are left undefined. It is, therefore, critical to create institutional arrangements for both horizontal and vertical co-operation.

The following sections will examine the institutional framework for co-operation among the various levels of government in Ethiopia.

3.2. Normative principles of co-operation in Ethiopia

3.2.1. Under the FDRE Constitution

The federal Constitution articulates a normative framework which recognises the regional states and the federal government as two autonomous orders of government. This normative framework enjoins the two orders of government to respect each other’s institutional integrity.\textsuperscript{1625} The Constitution is, however, completely silent on the institutional status of local government. Article 50(4) of the federal Constitution is too ambiguous and does not explicitly recognise local

\textsuperscript{1624} Solomon (2008).

\textsuperscript{1625} The FDRE Constitution Article 50 (8) provides that ‘Federal and State powers are defined by this Constitution. The States shall respect the powers of the Federal Government. The Federal Government shall likewise respect the powers of the States’.
government as an equal partner of the regional and federal governments. It does not also explicitly articulate the normative principle that should guide the relationship between the Article 50(4) local government and the regional states.

3.2.2. Under the regional constitutions

All the regional constitutions explicitly state that the *woreda* remains a body hierarchically subordinate to the regional government despite having the power to decide on its internal affairs.\(^{1626}\) The regional constitutions of SNNPR and Gambella provide that the *woreda* is subordinate not only to the regional government but also to the nationality zone within which it is found.\(^{1627}\) The Constitution of the Benishangul-Gumuz region specifically states that a *woreda* is subordinate to the executive branch of the regional government.\(^{1628}\)

Cities and municipalities are not the creation of the regional constitutions even though their establishment has been implicitly required by the federal and regional constitutions.\(^{1629}\) They are the creatures of regional statutes. Therefore, their institutional status as an order of government is not explicitly recognised and their basic structure is not defined in the regional constitutions. Furthermore, the regional statutes which created cities plainly affirm the institutional subordination of the cities to the regional governments. Proclamation 65 (2003) of the Oromia region, for example, provides that the relationship between the regional government and the cities in the region will be ‘guided by [a] spirit of co-

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\(^{1629}\) See chapter 5; § 2.2.1.2.
operation, partnership, support’. The Proclamation further states that this relationship (which is guided by a spirit of co-operation, partnership, support) is founded on the recognition of the accountability of cities to the regional government. Likewise, the provision of the Amhara Proclamation which provides for the principle which governs the relationship between cities and the regional government, also asserts that cities are answerable to the regional government.

In brief, neither the FDRE Constitution nor the regional constitutions nor the city proclamations contain a normative principle that recognises the institutional status of a woreda or a city as an equal partner with the regional governments. On the contrary, the regional constitutions as well as the regional proclamations ascetically draw attention to the hierarchical subordination of local government.

3.3. Horizontal co-operation

As stated earlier, horizontal co-operation among local government units is crucial for addressing developmental issues that impact on more than one local unit. In the Ethiopian context, this requires an institutionalised woreda-to-woreda, city-to-city, and woreda-to-city, co-operation. The following section discusses how horizontal co-operation takes place.

3.3.1. Co-operation between woredas

The regional constitutions are silent on the issue of whether there can or should be a woreda-to-woreda co-operation and the institutional instruments for such co-

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1632 ARS Proclamation 91 (2003).
1633 See chapter 2; § 3.5.4.2.
operation. Yet, there is no a legal impediment for such co-operation to take place. Moreover, some of the regional states have provided in their proclamations that *woredas* within a regional state may co-operate with each other. For instance, Proclamation 86 (2010) of the Benishangul-Gumuz provide that *woredas* with these regions may co-operate with each other.\(^{1634}\) The proclamation provides, the *woredas* within the regional state may establish an association to this effect. It also provides that neighbouring *woredas* in the region may create a joint committee to deal with common issues.\(^{1635}\)

3.3.2. Co-operation among cities

The principles for co-operation among the cities within a region as well as among cities of different regions are provided for in city proclamations. For instance, the Amhara Proclamation 91 (2003) provides that one of the municipalities in a *woreda*, where there are a number of municipalities, becomes ‘a leading municipality’.\(^{1636}\) The leading municipality will be responsible for co-ordinating the activities of, providing technical and engineering assistance to, and building the capacity of, the other municipalities in the *woreda*. It also has the responsibility to co-ordinate their human resource management and financial administration.\(^{1637}\)

The Amhara regional city Proclamation also provides for the establishment of ‘amalgamated cities’ and ‘metropolitan cities’ which are expected to serve as

\(^{1636}\) ARS Proclamation 91 (2003) Art 37(1).
\(^{1637}\) ARS Proclamation 91 (2003) Art 37(2) (a-g).
institutions of co-operation among cities. An ‘amalgamated city’ is a gathering of small towns within a given radius that do not have their own city or municipal administrations. According to the regional Proclamation, these small towns which are in close proximity to each other may come together to create a city. However, the details of how the system of amalgamated cities operates are not clearly stated in the Proclamation. There is no also evidence demonstrating that amalgamated cities exist in fact; and not only in law.

A ‘metropolitan city’ is a city which is, supposedly, created through the coming together of several cities which have their own city or municipal administration. It can be assumed that the cities which constitute a metropolitan city need to be situated in close geographical proximity to each other. Therefore, through co-operation, cities and municipalities in the Amhara region can create a larger urban government structure. Nevertheless, there is no evidence about whether there are in fact metropolitan cities in the region.

A further institutional arrangement for co-operation among the cities within a region is the establishment of zonal and regional associations of cities and municipalities. This is provided for in the city proclamations of some of the regional states including Amhara, Oromia, Benishangul-Gumuz, and SNNPR.

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1643 As stated previously very few urban settlements exist in the low land regions. Moreover, only the capitals of these regions have the status of a city or a municipality. Thus nothing is provided
The regional association of cities and municipalities is expected to promote co-operation among them.\footnote{ARS Proclamation 91 (2003) Art 66 (1); SNNPR Proclamation 103 (2006) Art 52 (1); ORS Proclamation 65 (2003) Art 52 (1).} A cities’ association is expected to assist the cities in a region to build their capacity. It is not clear whether there is an existing city association in any of these regions. It is unlikely that any city associations have been established in the lowland regions as at present the capital of each of these regions is the only existing viable city in those regions.

The above formal arrangements are designed to facilitate co-operation among cities and municipalities of a specific regional state. This begs the question whether there may be co-operation among cities of different regions. It is provided in the regional city proclamations that each city may establish co-operation with cities in a different region.\footnote{ARS Proclamation 91 (2003) Art 66 (1); SNNPR Proclamation 103 (2006) Art 52 (1); ORS Proclamation 65 (2003) Art 52 (1).} Thus, the cities of the different regions may come together to form a national cities’ association. However there is no a national legal framework that regulates co-operation among cities unless FDRE Proclamation 621 (2009), which regulates the establishment and operation of non-government organisations, may be considered as a national law governing the establishment of a national cities’ association. Therefore a city association may be established at national level as non-governmental organisation, not as public organs. Nonetheless, there is no institutional system that allows such an

\footnote{ARS Proclamation 91 (2003) Art 66 (1); SNNPR Proclamation 103 (2006) Art 52 (1); ORS Proclamation 65 (2003) Art 52 (1).}
association to play a significant role at the federal government level other than, perhaps, acting as a lobbying group.

3.3.3. ‘Rural-urban linkages’

As discussed in chapter four, the need for the ‘rural-urban linkage’ was stressed in the federal policy papers. In particular it was envisioned by the federal government that urban areas would complement rural development by serving as market, service, and industrial centres. This policy rationale is translated into law in the city proclamations and charters. The regional city proclamations state that, one of the objectives for the creation of cities and municipalities is to ‘help, guide, and accelerate’ rural development. Three mechanisms for the integration of rural and urban local government are provided for in the city proclamations. The first one is the creation of municipalities within a larger rural *woreda* structure. The municipalities are allowed to carry out municipal functions. Simultaneously, they serve as political, administrative, and economic centres of the *woreda* within which they are found.

The second mechanism for integration is the representation of surrounding rural *kebeles* in a city council. For instance, the Proclamation 16 (2006) of Oromia provides that at least 20 percent of the seats in a city should be reserved for the surrounding rural *kebeles*. Proclamation 103 (2006) of SNNPR also envisages elections for a city council in the rural *kebeles* surrounding a city. Despite the fact

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1646 See chapter 4; § 5.3.4.  
1647 See chapter 4; § 5.3.4.  
1649 See chapter 4; § 6.1.2.1.  
that this arrangement may have other, less benign, objectives,\textsuperscript{1651} it still serves the purpose of integrating cities and rural areas. The boundary of the city of Dire Dawa is also demarcated in such a manner that certain rural \textit{kebeles} are included within the city so that that may be represented in its City Council.\textsuperscript{1652} It could be argued that the representation of rural \textit{kebeles} in city councils is not a mechanism for co-operation between two distinct units of local government as those who are elected in the rural \textit{kebeles} become full members of the city council. However, it cannot be gainsaid that the representatives who are elected from rural \textit{kebele} may create a link between rural \textit{kebeles} and cities thereby serving as means of co-operation.

The creation of a joint committee is the third mechanism of integration or co-operation between rural and urban local government. The Oromia, SNNPR, Amhara, Afar, and Benishangul-Gumuz city proclamations provide that a joint committee may be established between a rural \textit{woreda} and a city.\textsuperscript{1653} The joint committee is expected to identify social and economic matters affecting both the rural and urban populations, seek solutions for common problems, and make

\textsuperscript{1651} As will be argued in chapter 7, the real motive behind this arrangement is to ensure that members of an indigenous ethnic group of the area hold the majority seats in the city council and to exclude non-indigenous communities.


recommendations to the political organs of the local government. The committee is also mandated to resolve border disputes.

3.4. Vertical co-operation: Forums for inter-governmental relations

As argued above there are many areas which require co-operation between woredas or cities and nationality zones, regional states and the federal government. However, the regional constitutions provide no clear direction as to how the various levels of sub-national governments may come together to solve the problems that arise from the unclear division of functional competences. There is no deliberately designed institutional forum for interaction between woredas or cities and regional states and/or nationality zones. A careful perusal of the regional constitutions and city and sectoral proclamations however points to some mediums which are or may be used as forums for inter-governmental relations. These are: nationality zone councils, associations of cities and municipalities, and sectoral offices. Practice also suggests the existence of certain informal forums of IGR.

3.4.1. Nationality zone council as forum for IGR

As discussed in chapter four, in Amhara, Benishangul-Gumuz, and Gambella a portion of the seats in a nationality zone council are occupied by representatives of woreda councils. Members of a regional council who are elected from the constituencies within the nationality zone occupy the rest of the seats. Thus, in these three regions, woreda and the regional government representatives meet in the nationality zone councils. In some sense, therefore, a nationality council can

1656 See chapter 4; § 6.5.1.
be considered as a forum of IGR for the three orders of government, *viz.*, regional, zonal and *woreda*. However, it should be noted that nationality zone councils are not designed to serve as forums for IGR. It is also unclear whether members of a nationality zone council who are selected from constituencies within the zone act in their individual capacity or in their capacity as the representatives of the *woreda* from whose council they are selected. It is also unclear in what capacity those who are also members of the regional council act in the nationality zone. Yet, it can be assumed that in this council the interests of the *woredas* as well as those of the regional state are or can be raised and debated.

3.4.2. Local government associations

As stated above, certain regional proclamations provide that regional associations of *woredas* and cities and municipalities may be established. The Proclamation 65 (2003) of Oromia provides that such an association will represent cities collectively and express their views on matters of common interest.\textsuperscript{1657} However, the Proclamation does not indicate the forum wherein the association may express these views. Proclamation 103 (2006) of SNNPR also provides that a city association may represent ‘cities collectively, express their views on matters of their common interest [and] lobby [the regional] government for revision of laws’.\textsuperscript{1658} The association of cities in the Amhara regional state, as provided for Proclamation 91 (2003), is intended to exercise function similar to those of in the other regions.\textsuperscript{1659}

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\textsuperscript{1657} ORS Proclamation 65 (2003) Art 52 (2).
\textsuperscript{1658} SNNPR Proclamation 103 (2006) Art 52.
\textsuperscript{1659} ARS Proclamation 91 (2003) Art 66.
There is no evidence showing whether a regional association of *woredas* or cities and municipalities has been established in any of the regional states. It should be noted that even if such an association is in fact established, it is not expected to be a ‘negotiating partner’ that represents the interests of cities at regional level. A regional government is not, for instance, required to consult such an association before passing a certain decision affecting the cities within the jurisdiction of the relevant regional state. Therefore, it seems that such an association of *woredas* or cities is meant to be merely an informal lobbying group.

There is no federal law that specifically provides for the establishment of a national association of *woredas*, cities, and municipalities which promotes the interest of cities at federal level. There is no also evidence as to whether such an organisation exists in the country.

### 3.4.3. Communication through sectoral offices

There is no institution of co-operation that brings together regional executive organs and their counterparts at *woreda* and city levels. However, frequent communication takes place between *woredas*, cities, and senior level governments (nationality zone and regional governments) through sectoral offices. Regional or zonal bureaus of education and health, for instance, interact with their *woreda* counterparts. There are also regional bureaus with crosscutting functions. For instance, regional and *woreda* or city bureaus of capacity building and urban development communicate with a number of other sectoral offices. The most important communication on a sectoral basis, however, is the one between regional or nationality zone bureaus of finance and economic

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development and their woreda equivalents.\textsuperscript{1661} Regional bureaus of finance and economic development are in constant communication with woreda bureaus with respect to financial and developmental matters. Block grants and other financial assistance are transferred to woreda through these regional bureaus of finance and economic development and received and administered by its woreda counterparts.\textsuperscript{1662}

As stated previously, a woreda in a nationality zone is not expected to have direct communication with regional sectoral offices. Rather, the nationality zone’s sectoral offices deal directly with their regional counterpart. For instance, in SNNPR, the regional government does not transfer block grants directly to the woredas but to the zonal bureau of finance and economic development.\textsuperscript{1663} In some regions, such as the Oromia region, there are zonal administrations which are ‘deconcentrated arms’ of the regional governments. The zonal administrations ‘serve as immediate points of referral for local governments’ dealings with regional or federal government on service delivery matters related to health, education, roads, and other sectors.\textsuperscript{1664}

It should be underscored that co-operation through sectoral offices is not statutorily institutionalised. Hence it is up to each regional and woreda sectoral office to decide when, where, and how often to meet and to determine the agenda to be discussed. Little is known about the extent to which these sectoral

\textsuperscript{1661} Heymans & Mussa (2004) 9
\textsuperscript{1662} Heymans & Mussa (2004) 9-10.
\textsuperscript{1663} Garcia & Rajkumar (2008) 24.
\textsuperscript{1664} Heymans & Mussa (2004) 9.
interactions serve as mediums for communicating local government interests to the senior levels of government.

3.5. Assessment

3.5.1. Co-operation between unequal

As stated before, co-operation between local government and a senior level of government presupposes equality between the two levels of government. This, in turn, presupposes the recognition of the institutional integrity of the two levels of government. The regional constitutions and city proclamations, however, have not elevated the status of local government to that of being an equal partner of the regional states. Nor do they protect the institutional integrity of local government. Rather, the regional constitutions and city proclamations underscore the subordinate status of woredas and cities to the regional governments. In so doing, the regional constitutions and city proclamations maintain the old hierarchical local administrative structure. Consequently, any interaction that takes place between a nationality zone or a regional state and a woreda or a city is in principle founded on the inferior status of the latter.

According to the World Bank it is a ‘universal lesson’ of the past several decades that any endeavour to promote development through decentralisation needs to replace the ‘hierarchical system of governance characteristic of centralised systems’.

It is submitted that this lesson is also applicable to Ethiopia. Therefore, if woredas and city are to play a significant developmental role, the hierarchical relations between them and regional government should be reconsidered. This may require replacing the provisions in the regional

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constitutions which cause local government to be a subordinate structure with provisions that recognise and protect the institutional integrity of woredas and cities.

3.5.2. Horizontal co-operation

As was discussed earlier, the federal policy papers recognised the importance of the ‘rural-urban linkage’ for development. Furthermore, these interactions are more or less clearly institutionalised in the city proclamations. The provisions for the creation of municipalities in woredas, the representation of rural kebeles in cities, and the establishment of joint committees between rural woredas and cities are commendable and innovative institutional arrangements in this regard. However, it is unclear to what extent these institutions of horizontal co-operation, which are envisioned in the regional constitutions and proclamations, are established and have become operational.

3.5.3. Vertical co-operation

As was discussed above, the manner in which nationality zone councils are composed makes them forums for co-operation for three levels of government. Yet nationality zone councils have not been deliberately designed to serve as forums for co-operation. It is also not clear whether in fact nationality zones serve as forums of co-operation. Even if they do, they do not exist in all regions. Nor are they found in every part of the regional state where they are established.

Local government interacts with regional government through the latter’s sectoral offices. The interactions between the regional sectoral offices and their counterparts at woreda and city level are not institutionalised or regulated.

\[1666\] See chapter 4; § 5.3.4.
Moreover, *woreda* and city associations are not formally represented either at regional levels or nationality zone level. There is also no an institutional mechanism that allows the voices of *woredas* and cities to be heard at federal level even though the policies and laws of the federal government have an important impact on local government.\textsuperscript{1667}

Ethiopia is not the only federal country that does not have an institutional arrangement for the representation of local government at national level. Inter-governmental co-operation in federal systems is generally limited to the central government and the states. Local government may then participate in a system of inter-governmental co-operation between itself and the state governments. It, however, seldom makes direct contact with the national government.\textsuperscript{1668} In many federal states there are no formal inter-governmental forums for local-federal interaction. Only informal interactions take place where ‘organized local governments act as lobby groups rather than negotiation partners’.\textsuperscript{1669} In fact, the states do not welcome direct contact between local government and national government.\textsuperscript{1670} Lacking constitutionally entrenched representation at federal level, for instance, the German local government lobbies its interests through local government associations, such as, the German Association of Cities and the

\begin{itemize}
\item \textsuperscript{1667} See above at § 2.2.1.
\item \textsuperscript{1668} Steytler (2005) 7.
\item \textsuperscript{1669} Steytler (2009) 428.
\item \textsuperscript{1670} Lazar and Seal wrote that in Canada the states of Quebec and Ontario opposed any direct relation between the municipalities and the national government. They preferred any deal between the municipalities and the national government to be made through their mediation. Lazar & Seal (2005) 41.
\end{itemize}
German Association of Towns and Municipalities.\textsuperscript{1671} In Canada, the relations between local government and national government are mostly limited to deciding whether local government qualifies for federal spending programmes.\textsuperscript{1672} The local - provincial and local - federal relationships are top-down, in which local government is a mere ‘policy taker’ not a ‘full partner’.\textsuperscript{1673} In Australia, too, the Constitution does not provide for direct interaction between local government and the national government.\textsuperscript{1674} This does not, however, mean that local government associations may not be allowed to represent local government in the national government and serve more important purposes. In Austria, for instance, local government has a constitutional consultative position which it exercises through the Austrian Association of Cities and Towns and the Austrian Association of Municipalities.\textsuperscript{1675} The South African Constitution provides that organised local government should be consulted by national and provincial governments and be represented in the National Council of Provinces (NCOP), the second chamber of the South African Parliament.\textsuperscript{1676} Accordingly, the South African Local Government Association (SALGA) represents local government in the National Council of Provinces (NCOP), the upper chamber of the South African Parliament. Moreover it plays a central role in facilitating co-operation among municipalities.\textsuperscript{1677}

\textsuperscript{1671} Burgi (2009) 155.  
\textsuperscript{1672} Young (2009) 120.  
\textsuperscript{1673} Young (2009) 120.  
\textsuperscript{1674} Sansom (2009) 22; Steytler (2009) 427.  
\textsuperscript{1675} Kiefer & Schausberger (2009) 47.  
\textsuperscript{1677} Steytler & De Visser (2007) 16-11.
Clearly, no mechanism exists in Ethiopia which allows the voice of local government to be heard at national level. The EPRDF party structure, therefore, seems to play the most significant role as the medium of communication between local government and senior levels of government.\footnote{1678} This is perhaps the most important reason that jurisdictional disputes among the various tiers of government almost never occur.\footnote{1679}

3. CONCLUSION
The discussion in this chapter shows that both the federal and regional governments are authorised, explicitly or implicitly, to co-ordinate the activities of woredas and cities. The regional governments are expected to play a leading role in terms of regulating the activities of local government, the latter being within the former’s competence. The regional states also play the leading role in monitoring woredas and cities. In practice, however, the federal government plays a dominant role in regulating local government activities.

There is a general normative principle for co-operation between regional governments and local government. However, co-operation between the orders of government takes place with the subordinate status of local government in mind. Even if there is a principle in various regional laws requiring linkages between woredas and cities, the institutional mechanisms that are provided are limited to linking cities and neighbouring woredas. No institutional arrangement is provided for region-wide and nation-wide co-operation between cities and woredas.

\footnote{1678} This is true for for federal-regional relations. See Assefa (2007a) 383 ff.
\footnote{1679} Assefa (2007a) 383 ff.
The previous two chapters have dealt with the issue of decentralised development in Ethiopia. The second main issue that this thesis seeks to discuss is whether and how local government serves as institutional mechanism for accommodating ethnic minorities-more specifically intra-regional ethnic minorities. The following chapter will deal with this matter.

Chapter 7
Decentralisation and accommodation of intra-regional ethnic minorities in Ethiopia

1. INTRODUCTION
One of the two principal objectives of this study is to inquire whether Ethiopia’s local government system demonstrates the institutional features that are necessary for accommodating ethnic minorities in each of Ethiopia’s regional states. This chapter deals with this particular issue. In chapter two, it has been shown, on the basis of international literature, that ethnic minorities may exercise self-rule at local level. The institutional features of territorial autonomy also were identified. These include: a constitutional norm permitting ethnic minorities to exercise self-rule, ethnically organised local territorial units, political and administrative
structures, and relevant competences and powers. It was also shown that ethnic minorities may be represented in central government institutions that have the power to make decision directly affecting their autonomy at local level. This chapter examines how these institutional principles are given effect in Ethiopia’s constitutional system.

To this end, § 2 will briefly discuss the normative principle under the FDRE Constitution allowing intra-regional minority ethnic communities to enjoy territorial autonomy at local level and to be represented in federal and regional governments. Next, § 3 will discuss territorial autonomy and self-rule as a mechanism for accommodating intra-regional ethnic minorities. § 4 will deal with the principle of shared rule, followed by a discussion in § 5 on the institutional arrangements for accommodating territorially dispersed ethnic communities.

2. TERRITORIAL AUTONOMY AT LOCAL

2.1. Normative principle for self-rule under FDRE Constitution
Even before the promulgation of the FDRE Constitution in 1995, the Transitional Period Charter (TPC) contained a principle of ‘self-rule’.\textsuperscript{1680} This principle empowered each ethnic community in the country, intra-regional minority ethnic communities included, to exercise territorial autonomy in the territory it inhabited. In this respect the Charter explicitly recognised the right to self-determination of each ethnic community as one of the political principles that would govern the country.\textsuperscript{1681} It also recognised the right of each ethnic

\textsuperscript{1680} See chapter 3; § 7.2.1.1.
\textsuperscript{1681} See chapter 3; § 7.2.1.1. See also the Transitional Period Charter (TPC) 1991; Preamble.
community to administer its own affairs within the territory it inhabited.\textsuperscript{1682} The TPC also provided for the creation of ethnically structured regional and local territorial entities. With a view to implementing this principle, the Transitional Government of Ethiopia (TGE) enacted Proclamation 7 (1992) which identified 63 territorially concentrated ethnic communities.\textsuperscript{1683} Out of the 63 ethnic communities, 47 were declared able to establish their own self-government starting from the \textit{woreda}.\textsuperscript{1684}

The TPC was not limited to providing the principle of self-rule. It also contained the principle of ‘shared rule’ which entitled each ethnic community of the country to be represented in regional and national government organs.\textsuperscript{1685}

The principle of the right to self-determination of each ethnic community of Ethiopia became constitutionally entrenched when the 1995 Constitution was promulgated. Under the FDRE Constitution, a group of people is considered to be an ethnic community when, among other things, the group is found in contiguous territorial areas.\textsuperscript{1686} An ethnic community, which by definition occupies clearly defined territory, is constitutionally entitled to exercise self-rule in the territory it occupies either through the establishment of a regional state or ethnically organised local government unit.\textsuperscript{1687}

\begin{footnotesize}
\begin{enumerate}
\item {TPC (1991) Art 2 (b).}
\item Proclamation 7 (1992) Art 3 (1).
\item See chapter 3; § 7.2.1.1.
\item TPC (1991) Art 2 (b).
\end{enumerate}
\end{footnotesize}
The FDRE Constitution, like the TPC, also contains the principle of ‘shared rule’. The specific provision of the FDRE Constitution that recognises the right to self-government of ethnic communities also entitles them to an ‘equitable representation in regional and federal government’.\textsuperscript{1688} This provision of Constitution is interpreted to require the representation of all ethnic communities in all branches of regional and federal governments including the representative assemblies, the executive branches, and the civil service.\textsuperscript{1689}

The following sections will examine how the elements of self-rule and shared rule are given effect to at local level in the regional constitutions and in political practice.

2.2. Self-rule at local level

As stated in chapter two, self-rule promotes political autonomy.\textsuperscript{1690} It, therefore, first and foremost entails the establishment of local territorial units whose boundaries are delimited along the geographical settlement structure of a minority ethnic community which seeks to exercise territorial autonomy.\textsuperscript{1691} Secondly, it calls for the establishment of government institutions in the territorial area so demarcated. The government institutions must include political organs, such as, a representative council, executive organs, and administrative organs. Thirdly, self-rule involves transferring clearly defined competences to the local unit. The competences must also be relevant for promoting and protecting the identity of the particular minority ethnic community. Fourthly, self-rule entails transferring

\textsuperscript{1689} Yonatan (2010) 232.
\textsuperscript{1690} See chapter 2; 4.4.2.1.
\textsuperscript{1691} See chapter 2; 4.4.2.1.
internal financial sources to the ethnic-based local territorial units. The following sections will examine whether these elements of self-rule are found in the regional constitutions.

**2.2.1. Ethnically organised local territorial units**

As was indicated earlier, Proclamation 7 (1992) identifies 63 territorially concentrated intra-regional ethnic minority communities in six regional states, namely Amhara, Afar, Benishangul-Gumuz, Gambella, SNNPR, and Tigray. The Proclamation also provides that 47 of the 63 ethnic communities can establish self-government starting from *woreda* level. Accordingly, the aforementioned regional states, with the exception of the Tigray Regional State, have provided in their constitutions for the creation of ethnic-based local territorial units. The territorial units are meant to provide territorial autonomy to the intra-regional minority ethnic communities which are found within the boundaries of these five regional states.

The ethnic-based local territorial units are established either at zonal level as nationality zones (special zones) or at *woreda* level as *liyu woredas* (special districts). As described in chapter four, a nationality zone covers two or more *woredas* while a *liyu woreda* is equivalent to a regular *woreda* in terms of

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1692 See chapter 3; § 7.2.1.1. This is excluding the Amhara, Oromo, Tigrawi, Somali, Hareri, and Afar, which have their own regional states.

1693 Proclamation 7 (1992) Art 3(1) & (2).

1694 The Irob and Kunama ethnic communities, the two intra-regional minority ethnic communities in the Tigray region, are among the ethnic communities that are declared incompetent to establish self-government. See Proclamation 7 (1992) Art 3 (2) (a).

1695 See chapter 4 § 6.2.
territorial and population sizes.\textsuperscript{1696} There are 29 ethnic-based local territorial units in Ethiopia. Most of these territorial units (14 nationality zones and four liyu woredas) are found in the SNNPR. Afar has one liyu woreda, Amhara has three nationality zones and one liyu woreda, Gambella has three nationality zones and one liyu woreda and Benishangul has two liyu woredas.

The Afar, Amhara, and Gambella regional Constitutions specifically indicate the ethnic community for which a nationality zone or a liyu woreda is established.\textsuperscript{1697} The regional constitutions of SNNPR and Benishangul-Gumuz simply provide for the establishment of a nationality zone and/or a liyu woreda without specifying the ethnic community/communities for whom these territorial units are to be established.\textsuperscript{1698}

The Afar regional Constitution explicitly provides for the establishment of a liyu woreda for the Argoba ethnic community.\textsuperscript{1699} The Amhara regional Constitution also explicitly provides that a nationality zone will be established for each of the Himra, Awi, and Oromo ethnic communities.\textsuperscript{1700} Accordingly, two nationality zones called Waag-Himra and Awi have been created for the Himra and Awi ethnic communities, respectively. The Oromo nationality zone is established for the Oromo ethnic communities in the Amhara regional state, since the Oromos in

\textsuperscript{1696} See chapter 4 § 6.2.
\textsuperscript{1699} The Argoba ethnic community was not mentioned in Proclamation 7/1992 even as an ethnic community, let alone as capable of establishing self-government. AfRC (2002) Art 43 (2).
\textsuperscript{1700} ARS Constitution (2001) Art 73 (1).
the particular area are among original inhabitants of the region. Moreover, a part of the Argoba ethnic community, which is original inhabitant of the Amhara region as well as to Afar, is given its own liyu woreda in the regional state. However, neither the Argoba ethnic community nor the Argoba liyu woreda is mentioned in the regional Constitution. The liyu woreda is, therefore, created in a regional proclamation.

The Gambella regional Constitution specifically provides that the Anywaa (or Anuak), Nuer and Mejenger ethnic communities will have their own nationality zones. Accordingly, three nationality zones and one liyu woreda are established in Gambella; Anywaa zone, Nuer Zone, Majenger Zone and Itang liyu woreda. The Anywaa zone is, as the name itself indicates, established for the Anywaa ethnic community, the Nuer Nationality Zone belongs to the Nuer ethnic community and the Majenger Zone for the Majenger ethnic community. In this region, Article 39 local government units are created on a wall-to-wall basis. Hence, every part of the regional state falls under either one of the two nationality zones or the Godere liyu woreda. No territorial regime is established in the Gambella region for the Opo and Komo ethnic communities. The regional Constitution, however, enjoins the existing nationality zones to allow these intra-

\[\text{\textsuperscript{1701}}\] As mentioned before, Oromia is reserved as a mother state of the Oromo ethnic group; the largest ethnic group of the country. Yet there are Oromo enclaves in the Amhara region. Thus, the Oromo nationality zone was established by bringing together five woredas whose inhabitants were predominantly Omotos. Mohammed (2010) 147.

\[\text{\textsuperscript{1702}}\] See ARS Proclamation 130 (2006).


zonal ethnic minorities to administer themselves at kebele level. The Constitution also requires the nationality zones to ensure the representation of these ethnic communities in the zones’ councils.

As indicated above, the SNNPR and the Benishangul-Gumuz regional Constitutions provide for the establishment of nationality zones and liyu woredas as the second orders of government within the regions. Neither of these Constitutions, however, mentions the specific ethnic community for whom a nationality zone or a liyu woreda is to be established.

The Constitution of the SNNPR provides a general principle that each liyu woreda or nationality zone will be delimited on the basis of the settlement pattern, language, identity, and consent of the people concerned. The regional Constitution also authorises the Council of Nationalities (CoN) - the second chamber of the regional government – to decide on matters relating to the establishment of nationality zones and liyu woredas. It should be noted none of the Amhara, Gambella, Afar, and Benishangul-Gumuz regional states have more than five territorially concentrated intra-regional minority ethnic communities. It was, therefore, fairly easy for these regional states to territorially accommodate the minority communities within their boundaries. Establishing ethnic-based territorial units was not, however, an easy task in SNNPR where

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1709 SNNPR Constitution (2001) Art 59 (2). For more discussion on the CoN see below at § 2.3.2.1.
more than 45 ethnic communities are found. It was also not practical to list in the regional Constitution all the nationality zones and *liyu woredas* in the region, or the ethnic communities for which such territorial units were to be established. That seems to be the reason why the regional Constitution of SNNPR provides only the procedure by which an ethnic community can petition for a nationally zone or a *liyu woreda*, and the organ that has the power to decide on such petitions.

As indicated above, there are 14 nationality zones and four *liyu woredas* in SNNPR. The nationality zones are: Hadiya, Gurage, Keffa, Sheka, Sidama, Silte, Wolayita, Dawro, Gedeo, Bench-Maji, South Omo, Gamo-Gofa, and Kemabat-Tembaro. There is a dominant ethnic community in each of the first

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As was discussed in chapter 3, five regions were created during the transitional period in the area which is now known as the SNNPR. The regions were Gurage-Hadiya, Kemabata, Wolayita, Omo, and Sidamo. Each of these regions held between 5 to 10 distinct ethnic communities most of which were, according to Proclamation 7 (1992) capable of establishing their own self-government starting from woreda. In the 1990s the five regions arguably agreed to merge together and form what is now called the SNNPR. The agreement was based on Proclamation 7 (1992) Art 3 (2) (b) which allowed the regional states to come together to form a larger region by agreement. The former five regions were, therefore, reduced to the status of nationality zones after the amalgamation. Some of the former regions became multiethnic nationality zones. The nationality zones and *liyu woredas* which were established within the former regions were restructured separately.

1711 The official website of the Southern Nations Nationalities and Peoples http://www.snnprs.gov.et (last accessed on 27 February 2012). The number of nationality zones and *liyu woredas* in the SNNPR has changed over the past years. In some cases new nationality zones were created and in other instances existing nationality zones were amalgamated. Their boundaries were redrawn. In few cases separate nationality zones which were amalgamated were again divided into their former constituents. For instance, initially Wolayita, Gamo-Gofa, and Dawro were lumped together in one multi-ethnic nationality zone known as North Omo
seven nationality zones, even though none of the nationality zones are ethnically homogenous.\textsuperscript{1712} The Kembata-Temabaro and Gamo-Goafa nationality zones have two large yet non-dominant ethnic communities; the Kembata and Tembaro and the Gamo and Gofa respectively. Moreover, there are other ethnic minorities and ethnic migrants amidst these ethnic communities. The Bench-Maji and South Omo nationality zones are multi-ethnic nationality zones. For instance in the South Omo nationality zone more than 16 distinct ethnic communities live.\textsuperscript{1713}

The \textit{liyu woredas} in SNNPR are the Alaba, Basketo, Konta, and Yem.\textsuperscript{1714} Each of these \textit{liyu woredas} has a dominant ethnic community. Moreover, each \textit{liyu woreda} bears the name of the dominant ethnic community for whom it is established. This does not, however, mean that these \textit{liyu woredas} are ethnically

\begin{itemize}
\item Nationality Zone. Later, the North Omo nationality zone was divided into three nationality zones (Daro, Gamo-Gofa and Wolayita) and two \textit{liyu woredas} (Basketo and Konta). The Keffa and Sheka nationality zones were merged together to form the Keffa-Sheeka Nationality Zone before the latter was once again divided into its constituting units. The Bench-Maji zone is also a result of the union of two pre-existing nationality zones: the Bench and the Maji. The Silte Nationality Zone is the other nationality zone which was established as a result of the division of the Gurage Nationality Zone. Previously, the \textit{woredas} in the present day Silte Nationality Zone formed part of the Gurage Nationality Zone. It was only in a referendum held in April 2000 that Silte was recognised as an ethnic community which is distinct from the Gurage. After the referendum the \textit{woredas} which are predominantly Silte were brought together to form a new nationality zone. See Vaughn (2003).
\end{itemize}

\textsuperscript{1713} Van der Beken (2007) 136.
\textsuperscript{1714} Initially there were eight \textit{liyu woredas} which included Amaro, Burji, Derashe, and Konso \textit{liyu woredas}. These four \textit{liyu woredas} were however merged together in 2011 into one zone called Segen zone. Official website of the Southern Nations Nationalities and Peoples Regional State http://www.snnprs.gov.et (last visited on 27 February 2012).
homogenous. For instance, there are three very small ethnic communities in the Derashe liyu woreda, not to mention the ethnic migrants in the liyu woreda.\textsuperscript{1715}

It is important to note that in SNNPR, Article 39 local government is established on a wall-to-wall basis. Hence, every part of SNNPR falls into one of the 22 nationality zones and liyu woredas. Consequently all of the Article 50 (4) local government units (woredas and cities) are found within the territorial jurisdiction of an Article 39 local government unit in this regional state. This makes the region, as Assefa and Mohammed observe, something akin to an ethnic federation within a larger ethnic federation.\textsuperscript{1716}

The Benishangul-Gumuz regional Constitution provides for the creation of ethnic territorial units.\textsuperscript{1717} However, the regional Constitution does not indicate which of the five ethnic communities of the region would have its own nationality zone or liyu woreda. The regional government has issued a Proclamation (Proclamation 73 (2008)) which specifically provides that each of the five ethnic communities of the region can establish a ‘Nationality Council’.\textsuperscript{1718} The ethnic communities are the Berta, Gumuz, Shinasha, Mao, and Kono.\textsuperscript{1719} It is unclear from the Proclamation whether these ethnic communities may have their own nationality zone or liyu woreda.

\textsuperscript{1715} Van der Beken (2007) 136.
\textsuperscript{1716} Assefa & Mohammed (2010) 155.
\textsuperscript{1717} BGRS Constitution (2002) 74 (1).
\textsuperscript{1718} BGRS Proclamation 73 (2008) Art 3 (2).
\textsuperscript{1719} BGRS Proclamation 73 (2008) Art 3 (2).
In any case, nationality zones are yet to be established in the Benishangul-Gumuz. Instead three administrative zones are established in the region: Assossa, Kemashi, and Metekel. 1720 The Assossa administrative zone is viewed as the domain of the Berta ethnic community.1721 The Kemashi and Metekel administrative zones are regarded the ‘domains’ of the Gumuz ethnic community.1722 An administrative zone – in contrast to a nationality zone - is not an autonomous level of government; but a deconcentrated unit of the regional government.1723

Two liyu woredas, Pawe, 1724 and Mao-Komo, have been established in the Binshangul-Gumuz region. 1725 The Mao-Komo liyu woreda is a bi-ethnic liyu woreda which is established, as the name indicates, for the Mao and Komo ethnic communities.1726 The Pawe liyu woreda 1727 is the only local unit that established as an autonomous territorial unit for ethnic migrants.1728

1722 Berhanu (2007) 160
1723 See chapter 4; § 6.1.
1724 Proclamation 86 (2010) of Benishangul-Gumuz region refers to Pawe as regular woreda, not as liyu woreda.
1727 Pawe, which is found within the Metekel administrative zone, was established as a settlement area by the Derg during the implementation of its Beles-Vally villagisation programme. In 1980s tens of thousands of people were moved from the former Gojjam and Wollo provinces as well as Kembata and Wolayita areas of the present SNNPR to be settled in Pawe area. These settlers have formed a distinct community in the past 30 or so years. However, after the formation of the Benishangul-Gumz region in the 1990s, these communities were excluded from the regional and local politics despite their sheer numbers and the fact that they occupy largely contiguous territorial areas. They were excluded for the mere reason that they were non-indigenous to the region. Angered by their political exclusion, the settlers were engaged in incessant conflict with
2.2.1.1. Assessment

Self-rule at local level, first and foremost, necessitates the demarcation of a local territorial unit wherein an intra-regional ethnic minority community becomes the dominant group. As the preceding discussion clearly indicates, the FDRE Constitution provides a general normative principle which permits intra-regional ethnic communities to exercise self-rule at local level. The discussion also demonstrates that five multi-ethnic regional states have created ethnically defined local territorial units to provide territorial autonomy for the ethnic minorities within their boundaries. The other four regions do not have created Article 39 local government unit. The reasons seems to be that, as per Proclamation 7 (1992), only these five regional states and the Tigray regional state have territorially structured intra-regional ethnic minority communities. Indeed the Irob and Kunama ethnic communities, which are found in the Tigray regional states, are territorially structured. However, they are among the ethnic communities that are declared in Proclamation 7 (1992) to be too small to exercise territorial autonomy even at *woreda* level. Proclamation 7 (1992) does not indicate the existence of any territorially organised intra-regional

the Gumuz which are found in the surrounding areas. In 1993, the EPRDF pressurised the regional government to establish Pawe as a *liyu woreda* for the settlers. Pawe’s status as *liyu woreda* not only has relieved it of its accountability to the Metekel administrative zone but also allowed the settlers to be represented in the regional legislative and executive organs. Pawe is the only known autonomous sub-regional territorial unit which is established for a non-indigenous ethnic community. The establishment of a *liyu woreda* in Pawe apparently became possible due to the relatively identifiable geographical settlement pattern of the settlers in the region. Wolde Selassie (1997) 63; Asnake (2009) 169.

1728 It is alleged that the Amhara settlers in the Wollega Administrative Zone of the Oromia Regional States had petitioned for their own Nationality Zone which apparently has not materialised. See Tesfaye (2011) 51.

1729 See chapter 3 § 7.2.1.1.

1730 See chapter 3 § 7.2.1.1.
minority ethnic community in the Oromia and Somali regional states. Hareri is so small a city state that it does not even have a woreda which is recognised in the region’s Constitution. Therefore, it is not surprising that these four regions did not create ethnically organised local territorial unit. The establishment of territorial regimes in Addis Ababa and Dire Dawa is simply out of the question. These are cosmopolitan cities and melting pots for all ethnic communities of the country. Now, what remains is to evaluate the merits and demerits of this arrangement. The advantages and disadvantages of establishment the ethnic-based local territorial units are assessed as below.

*The benefit of local territorial autonomy*

The establishment of ethnic-based local territorial units has two principal benefits. First, it empowers intra-regional minority ethnic communities. Secondly, it prevents potentially deadly ethnic conflicts.

*Empowering intra-regional ethnic minorities*

A plethora of ethnic communities in Ethiopia had endured political, economic, and cultural domination and marginalisation for more than a century. The pre-1991 centralisation process, in particular, had aggravated the marginalisation of the various ethnic communities. Evidently, almost all ethnic communities of the country were under harsh economic and cultural domination; especially those in the southern Ethiopian regions. However, it will be safe to say that the discrimination against most of the ethnic communities that have now become

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1731 However, it is to be noted that millions of territorially dispersed non-indigenous ethnic communities live in these two regions. This calls for non-territorial accommodation. It will be examined below whether any non-territorial mechanisms have been used to accommodate the ethnic minorities in these two regions. Whether and how the territorially dispersed endogenous and exogenous ethnic minorities are accommodated will be dealt with below.

1732 See chapter 3.
intra-regional ethnic minorities was particularly harsh. Due to their small size, their very existence was barely noticed, save for the purpose of tax collection, military service, and/or labour. The ethnic federal system has provided the larger ethnic groups with a territorial and political space wherein they can enjoy some level of political and cultural autonomy. Had it not been for the constitutional principle that entitles them, among other things, to exercise self-rule at local level the intra-regional minority ethnic communities would have remained under similar domination, though from a different group.

The establishment of the local territorial units, therefore, has allowed these ethnic communities to decide on their own affairs without the fear of being ‘outvoted’\textsuperscript{1733} by the regionally dominant ethnic communities. The establishment of the ethnic-based local territorial units has enabled the intra-regional minority communities to become local majorities.\textsuperscript{1734} This, in turn, has provided such ethnic community with a territorial space wherein it can protect and promote its unique identity. It has also prevented regionally dominant ethnic communities from imposing their values on the intra-regional minority ethnic communities.\textsuperscript{1735}

The territorial arrangement also has the effect of restoring the dignity and pride of the intra-regional ethnic minority groups which were hitherto marginalised. These ethnic communities have now begun to feel empowered. They have regained ‘importance and integrity’.\textsuperscript{1736} Watson, explaining how the establishment of the

\textsuperscript{1733} Yonatan (2010) 203.
\textsuperscript{1734} Yonatan (2010) 203.
\textsuperscript{1735} Yonatan (2010) 203.
\textsuperscript{1736} Watson (2000) 199.
Konso *liyu woredas* has made the Konso ethnic community feel empowered, writes:

‘The implication of the designing as a special *woreda* were immediately evident: the main junction town of Bekawale, which had grown up earlier this century, first as a garrison town and administrative outpost of the northern empire and more recently as the Derg headquarter, was renamed Karate, after the Konso name for the area in which it is situated. The administrative offices, which earlier had largely been staffed by officials from other regions of Ethiopia, were locked up and deserted. These had been situated in one part of Bekawale known by the Amharic term for the old garrison, Aroge Ketema. New offices were opened in another part of the town and staffed by as many educated Konso as could be found. Through this renaming and relocation, the new local administration reclaimed Konso linguistically and spatially, at the same time distancing itself from [historical domination].’

*Preventing or resolving conflicts*

As several studies indicate, the creation of ethnic-based local territorial units has helped quell potentially devastating inter-ethnic conflicts and ease inter-ethnic tensions. This is particularly true for SNNPR which is the most ethnically diverse region. It is appropriate to discuss two important instances where the creation of sub-regional territories has helped bring some calm in SNNPR. The first is inter-ethnic conflicts in the former North Omo nationality zone. The second is the Silte-Gurage ethnic tension.

*The North Omo case*

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1738 Assefa (2007a); Vaughn (2003).
As was discussed in chapter three, SNNPR is a result of the amalgamation of four pre-existing regions which were created during the transitional period.\textsuperscript{1739} One of the four regions was a multi-ethnic region, called the Wolayita region. Within the territorial area of the former Wolayita region were found several ethnic communities including Wolayita, Gamo, Gofa, Dawro Basketo and Konta. The Wolayita region became a multi-ethnic nationality zone after the establishment of SNNPR and was renamed the North Omo nationality zone.\textsuperscript{1740} Members of the Wolayita elite found it to be below their expectation, yet tolerable, that they were put together in one regional state with other ethnic communities whom they considered to be ‘backward population’.\textsuperscript{1741} Their despondency, however, began to re-surface after the Wolyita region was relegated to the status of a nationality zone when SNNPR was established.\textsuperscript{1742} Soon they began to demand their own separate nationality zone. Their demand was rebuffed by the regional

\textsuperscript{1739} See chapter 3 § 7.2.1.1.

\textsuperscript{1740} According to Vaughn, the Wolayita region or later Semeien Omo nationality zone was established along the boundaries of the Gamo-Gofa province; a province which was created by the Derg. Vaughn says the Derg created the Gamo-Gofa province (kifle-hager) by taking some territorial areas from the former Sidamo, Kafa, Gamo-Gofa tekaly-ghizats. The creation of the province was effected with a declared purpose of bringing together one linguistic community in one administrative unit. This was based on a study conducted in 1980s by the Institute for the Study of Ethiopian Nationalities which suggested that the languages that are spoken by the Dorze, Gamu-Gofa, Kulo-Konta [Daro], Malo, Oyda, Welamo [Welaiyta] ethnic communities were different dialects of one language called ‘wolamo-cluster’. The study showed that the languages which are spoken in the area share up to 90% of terms. Vaughn (2003) 251.

\textsuperscript{1741} Vaughn explains that the Wolayita pride emanates from the fact that they were better educated than the rest of ethnic communities in the area. The fact that Ka’o Tonna, the former King of the Wolayita resisted Emperor Menilik’s conquest until he was at last defeated given them a sense of pride. Also a number of Wolytitas were in the Derg government. These factors have made the Wolyitas to view themselves as better than the rest of the ethnic communities in the North Omo nationality. However this attitude of the Wolayita was regarded by others including the EPRDF as ‘chauvinistic’. Vaughn (2003) 253.

\textsuperscript{1742} Vaughn (2003) 253.
government. The refusal created tension and sporadic conflicts between the Wolayitas and the other ethnic groups in the Zone. The tension reached a boiling point when politicians at the regional level decided to coalesce the Wolayita, Daro, Gamo and Goffa languages to create what Smith calls an ‘Esperanto-style language’, wogagoda, which was meant to be used as a language of instruction in primary schools.\footnote{Smith (2008) 208. The language was named by taking the Amharic letter initials of the four languages mixed together. See also Getachew & Derib (2006) 57.} The Wolayitas were infuriated by this arrangement and a conflict broke out in the North Omo Zone which caused the deaths of dozens of people. The regional government then decided to partition the North Omo Nationality Zone into three nationality zones (Daro, Gamo-Gofa and Wolayita) and two liyu woredas (Basketo and Konta).\footnote{Cohen (2006) 174.} The conflict was resolved only after the Wolayitas acquired their own nationality zone.

\textit{The Silte case}

The Silte ethnic communities were not considered to be a distinct ethnic community until April 2000. They were rather considered to be Muslim members of the Gurage ethnic community.\footnote{Many writers agree that the Gurages and Siltes speak two distinct languages which are mutually unintelligible. See Bahru (2008).} After the ethnic federal system was introduced, some urban elite, organised in two political parties,\footnote{Silte Gogot Democratic Party and Silte People’s Democratic Unity Party.} began to agitate for the recognition of the Silte as a distinct ethnic community.\footnote{For detailed discussion on the process of the recognition of Silte as an ethnic community and the establishment of Silte nationality zone see Vaughn (2003) 261 ff.} In 1997, the SNNPR government organised what is now known as the Butajira Conference in Butajira Town to determine the identity of the Siltes. The Conference, however, decided that the Siltes were not a distinct ethnic community, but a part
of the Gurage ethnic group. This decision created tension in the area.\textsuperscript{1748} In the meantime, the two Silte parties continued to agitate for the recognition of the Siltes as a distinct ethnic group. The parties alleged that the Gurage nationality zone was discriminating against the Silte woredas in terms of investing in social and economic development projects.\textsuperscript{1749} They, therefore, demanded territorial autonomy for the Silte ethnic community. Eventually, the House of Federation (HoF), which under the FDRE Constitution has the power to decide on issue of ethnic identity, determined that a referendum be held in the Silte woredas to determine the identity of the Siltes.\textsuperscript{1750} In the referendum that was held in April 2000, the Siltes overwhelmingly voted in favour of their recognition as a distinct ethnic group. Subsequently, the Silte inhabited woredas were brought together to form the Silte Nationality Zone.

Studies indicate that SNNPR has enjoyed relative peace since the establishment of the Wolayita and Silte nationality zones.\textsuperscript{1751}

\textit{The disadvantages of local territorial autonomy}

While the establishment of ethnic-based local territorial units has the above mentioned advantages, it also has numerous disadvantages. There are six points which should be stressed in this regard. First, as was discussed in chapter two, many scholars agree that creating ethnically defined territorial units is not the ‘ideal’ method to tackle the challenges of ethnic diversity.\textsuperscript{1752} It may rather constitute a ‘counter ideal’ as it locks into territorial places ‘the historical

\textsuperscript{1748} Vaughn (2003) 261.
\textsuperscript{1749} Vaughn (2003) 261.
\textsuperscript{1750} Vaughn (2003) 265.
\textsuperscript{1752} Steiner (1991) 1554.
differences’ among ethnic groups.\textsuperscript{1753} It also perpetuates ethnic divides by institutionally ‘freezing’ them.\textsuperscript{1754} By so doing, it enfeebles any sense of commonality.\textsuperscript{1755} Instead, it accentuates differences and separateness.\textsuperscript{1756} Therefore, the territorial option of accommodating minorities should be a last resort. However in Ethiopia the territorial option seems to be viewed as the ideal method of accommodating ethnic minorities.

Secondly, as was indicated in chapter four, Ethiopia’s ethnic federal system fails to resolve majority-minority tensions as it does not and, in fact, cannot create ethnically homogenous regional states.\textsuperscript{1757} This criticism can also be directed against the scheme which attempts to accommodate intra-regional ethnic minority communities through the establishment of local territorial units. The creation of 28 local territorial units has not removed majority-minority tensions. Not all intra-regional ethnic minority communities are able to exercise territorial autonomy at local level. Several ethnic communities still remain minorities within an intra-regional minority ethnic community. There are still other minorities in the mono-ethnic nationality zones which are vulnerable to discrimination from locally empowered ethnic communities. There are also others which are lumped together in bi-ethnic or multi-ethnic nationality zones, such as, Gamo-Gofa, Bench-Maji, and South Omo. Hence, majority-minority tensions also re-emerge at local level.

\textsuperscript{1753} Steiner (1991) 1552.
\textsuperscript{1754} Erk & Anderson (2010) 2.
\textsuperscript{1755} Steiner (1991) 1554.
\textsuperscript{1756} Steiner (1991) 1552.
\textsuperscript{1757} See chapter 4 § 2.2.
Thirdly, the creation, division, and amalgamation of nationality zones and *liyu woredas*, especially in SNNPR, are not undertaken on the basis of constitutional principle, but on the basis of the political preferences of the ruling party. In the early 1990s, the ruling party encouraged all ethnic communities to establish their own self-government. Latter, the party decided that establishing ethnic-based local units was bad for efficiency. Now the right to self-rule has become secondary to efficiency. Therefore, some legal demands for a nationality zone or *liyu woreda* are denied in the name of efficiency. As Aalen writes:

‘[The Southern Ethiopian Peoples’ Democratic Movement (SEPDM)] made a principled decision to separate “identity issue” from “administrative issues”, stating that the request for new zone or special *woreda* administrations should from now on be considered from a purely administrative perspective, which was clearly separated from the right of nationalities to self-determination. It was decided that groups which before could argue that recognition of a separate ethnic identity should automatically give them the right to a separate administration would not be heard anymore.’

Moreover, the creation of nationality zones and *liyu woredas* is carried out arbitrarily and seldom follows the procedures laid down in the regional constitutions. For instance, as Vaughn states, the authorities of the Keffa and Sheka zones were summoned to Awassa, the capital of SNNPR, and simply told that the two zones would be amalgamated. No public consultation or referendum took place. Besides, nationality zones and *liyu woredas* are often

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1760 See above at 7.4.1.
created only following violent conflicts; rarely has a peaceful petition for a nationality zone or liyu woreda resulted in the establishment of one. The Keffa-Sheka nationality zone, for instance, was divided after a deadly conflict broke out in the area. As explained earlier, the division of the former North Omo zone into three nationality zones and a number of liyu woredas was also precipitated by the conflict between the Wolayitas and the other ethnic communities in the Zone. 1763

Fourthly, in many cases, projects to create ethnic local territorial units are hardly ever initiated by the people: The establishment of nationality zones and liyu woredas is rather driven by urban elites.1764 The urban elites lobby for the creation of an ethnic-based local unit motivated by their own desire to take a piece of the increased national and regional budgets that the creation of such territorial units brings or is assumed to bring.1765 Often, the urban elites put the majority of the population, whose interests they claim to champion, in economic and politically disadvantageous positions while pursuing their own economic interest. A typical example is the creation of the Wolayita nationality zone. The establishment of the Wolayita nationality zone was clearly in the interest of the urban elite who took control of the budget of the zone. 1766 However, by no means could it be in the interest of the bulk of the rural population. Land scarcity is ‘the defining socio-economic constraint’ of Wolyitas. The area is also known for food insecurity and famine. As Vaughn maintains:-

\[1763\] See above at 7.4.1.
\[1764\] See Vaughn (2003).
\[1765\] See Vaughn (2003).
‘One would not normally expect a population concerned to maximise its opportunities for outward migration to support the drawing of administrative boundaries likely to have the effect of confining it more closely within its own ‘homeland’.  

Fifthly, in several instances the creation of nationality zones and *liyu woredas* has been the cause of ethnic conflicts, even though in some cases it has helped resolve such conflicts. It politicised competition for resources among ethnic communities. The conflict between the Anywaa and the Nuer ethnic communities of Gambella is an example. As a study by Medhane indicates, the very creation of the Anywaa and Nuer nationality zones has aggravated the historical rivalry between the two communities.  

The Anywaa have a sedentary agrarian socio-economic tradition and established settlements and villages. The Nuer, on the other hand, are predominantly pastoralists who move seasonally from one place to the other in search of pasture for their cattle within certain ‘natural’ (as opposed to administrative), boundaries. In fact, they are not restrained by the international borders between Ethiopia and Sudan, let alone by sub-regional boundaries. Therefore, the establishment of nationality zones is at odds with the economic tradition of the Nuers as it puts limitations on the territorial range within which they can move in search of pasture.

‘Pastoralists in Ethiopia have their respective ‘natural homeland’ within which they used to move freely. Confinement of intra-regional mobility increases distress among local population intensifying intra-ethnic competition for resource and/or territories. It

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1768 See Medhane (2007).
further increases inter-ethnic conflicts as it denies pastoralists to use their mobility in order to avoid conflictuous confrontations.\textsuperscript{1770}

On the other hand, the establishment of nationality zones has given the Anywaa a constitutional claim over a certain part of the Gambella region which they never had previously. There were traditionally known Anywaa settlement areas even before the establishment of the nationality zones.\textsuperscript{1771} Often conflict arose when the Nuers moved to this area in search of grazing, and whenever their cattle destroyed the farms of the Anywaa. However, the conflicts were seen as conflicts between individuals, and were settled through traditional dispute settlement mechanisms.\textsuperscript{1772} The disputes were hardly politicised. The creation of an ethnic local regime has failed to solve the problems which used to occur as a result of the difference in the manner of creating a livelihood of the two ethnic communities. On the contrary, it has given it a political dimension, and made it even more rigid, intense and broad. As Medhane writes:

\begin{quote}
‘Unlike the past, when conflicts were mainly over control or use of grazing areas and riverbanks, control over territory is now important to the extent that it helps to legitimise power at zonal and regional levels, where the new resources are found. Thus the controversy over territory and citizenship and the conflict between the Anuak and Nuer elites over who controls the administrative centres may not be because the agricultural value of the land in the weredas gives direct economic benefits, but because political control of these weredas leads to direct access to the resources of the state. The focus is not on the traditional ecological zones, but on new choke points of financial resources, that is, the wereda and regional power structures, which largely depend on numbers and on how many weredas are controlled by each group. Violent
\end{quote}

\textsuperscript{1770} Kelkelachew & Falge (2006) 98.
\textsuperscript{1771} Medhane (2007) 12ff.
\textsuperscript{1772} Kelkelachew & Falge (2006).
conflicts have broken out between the two ethnic communities in which education and jobs have usually been the points at issue. Which language is taught in which district has come to signal political ownership of the district under contestation and the region in general.\textsuperscript{1773}

As a consequence, Gambella has been plagued by inter-ethnic conflict between the Nuer and Anywaa ethnic groups making the region the most volatile one in the country.\textsuperscript{1774} The conflict between the two ethnic communities was so serious that the federal government was forced to intervene in the regional state on more than one occasion. It is clear that the conflict between the two ethnic groups has other historical, political, and even international, dimensions. Moreover, the competition between the two ethnic groups is not limited to guarding their respective sub-regional territory. Being the largest ethnic communities in the region, both the Anywaa and the Nuer vie to control the regional government. However, it cannot be gainsaid that the establishment of the ethnic-based local territorial units has ‘ politicised’, ‘ intensified’ and given a new dimension to the historical rivalry that existed between the two ethnic groups.

Sixthly, the creation of territorial entities for sub-regional ethnic minorities has a negative impact on the developmental mission of Article 50(4) local government units which are found within each ethnic-based local unit. In SNNPR all \textit{woredas} and cities are found within one of the 14 autonomous nationality zones. The same goes for Gambella where each \textit{woreda} is within one of the two nationality zones. There are also several \textit{woredas} in the three nationality zones of the Amhara


\textsuperscript{1774} Equally bloody conflicts have also arisen between the ethnic migrants on the one hand and the endogenous ethnic group and on the other which also led to federal intervention in the region.
The constitutions of the Amhara, SNNPR and Gambella regional states do not provide any significant protection to the institutional integrity of the regular woredas in the nationality zones. As a result, nationality zones exercise tight control over the woredas. In a sense, it can be said that woredas are the competences of nationality zones wherever the latter are established. As discussed in the previous chapter, allocated regional block grants reach woredas after passing through nationality zones. This creates an additional and unnecessary hurdle which has unacceptable consequences for the developmental activities of woredas. Moreover, liyu woredas have the power and the duty to discharge development related functions in accordance with their status as woredas. As was discussed in chapter two, when creating a local unit which is meant to serve as an agent of development, important factors, including, territorial and population sizes, ethnic diversity, resources, the level of development, and rural-urban differences should be taken into account. Liyu woredas, however, are created primarily, if not purely, based on the ethnic criterion. Economic and administrative capacity and other social factors are seldom considered in the process of creating liyu woredas. Hence, the capacity of liyu woredas to effectively deliver basic services to their residents is debatable. The above problems are compounded by the lack of clarity in the functional areas of the various levels of sub-regional government.

2.2.2.2. Secession

Introduction

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1775 See chapter 5; § 2.6.3.1.
1776 See chapter 5; § 2.6.3.1.
1777 See chapter 2; § 3.5.1.1.
1778 See chapter 5; § 2.4.4.2.
Under the Ethiopian constitutional dispensation, the right to territorial autonomy of an intra-regional ethnic group extends to secession. Secession has two aspects as far as intra-regional ethnic minority communities are concerned: secession from a regional state and secession from the Ethiopian federation. An intra-regional minority ethnic community has the right to secede from a regional state wherein it is found to form a separate regional state. It also has the right to secede from the Ethiopian federation to form an independent state. As will be argued below, only an intra-regional minority ethnic community which enjoys territorial autonomy at local level may exercise both aspects of the right to secession. Put differently, only nationality zones and liyu woredas may secede to be a separate regional state or independent state.

Secession from a regional state

The procedure for secession from a regional state is provided under Article 47(3) of the FDRE Constitution. A demand for a regional state must be approved by the legislative council of the intra-regional minority ethnic community concerned. It has to be passed by a two-thirds majority. It should be noted that it is not the approval of the regional council of the region wherein the intra-regional ethnic community is found which is required here. Rather the approval of the council of the particular ethnic community is required. Clearly, the council of an Article 50(4) local government unit (i.e. a woreda or a city council) is not considered to be a council of an ethnic community. Therefore, it may not exercise the power to approve a demand for secession. As will be discussed below, the council of a liyu woreda or nationality zone is considered to be the highest political organ of the

ethnic community for whom it is established. It is, therefore, this organ that the Constitution envisages to approve a demand of an ethnic community for secession from a regional state. This implies that an ethnic community should have a nationality zone or a liyu woreda in order to demand its own regional state. It is unclear whether the council of a multi-ethnic nationality zone can validly approve a demand for a regional state by one of the ethnic communities constituting the nationality zone. It seems that the particular intra-zonal minority ethnic community must first secede from the nationality zone wherein it is found, in a similar procedure, and establish its own liyu woreda or nationality zone before it can demand its own regional state.

The regional council of the region within which the intra-regional ethnic group is found is expected to organise a referendum within a year after the demand for a regional state is approved by the council of the ethnic community i.e. a nationality zone or a liyu woreda council of the ethnic community. According to the FDRE Constitution, the referendum is organised ‘in the nation, nationality or people’ which desires to secede. This clearly indicates that the referendum is held in the nationality zone or liyu woreda which seeks to become a regional state. The demand for a regional state needs to be supported by a majority of the population of the particular intra-regional ethnic group. Article 47 (3) (b) of the Constitution suggests that only members of the relevant ethnic community concerned can vote in the referendum. This excludes ethnic migrants who reside

1782 See below at § 2.2.1.2.
1785 FDRE Constitution (1995) Art 47 (3) (c)
in the particular nationality zone or liyu woreda which seeks to become a regional state. If the demand to secede from a regional state is approved by a referendum, the regional council will have to transfer the power to the council of the ethnic community concerned. The nationality zone or liyu woreda then becomes a regional state and a member of the Ethiopian federation. 1786

Secession from the federation

A further aspect of secession refers to the right of every ethnic community of the country, including an intra-regional minority ethnic group, to secede from the federation to form an independent state. This right is enshrined in Article 39 (1) of the FDRE Constitution. Article 39 (4) of the FDRE Constitution provides the procedural requirements for secession from the federation. The move towards forming an independent state begins with the approval of a demand for secession by the council of the relevant ethnic community. 1787 Fasil argues that only a regional council has the power to approve a demand for secession from the federation. 1788 Thus, an intra-regional ethnic minority group must have its own regional state in order to demand secession from the federation. Yonatan Fessha, on the other hand, maintains that the right to secession belongs not to a regional state but to the ethnic communities of the country. 1789 Therefore, he adds, an ethnic community is not required to have its own regional state in order to secede from the federation and form an independent state. 1790 It is submitted that Yonatan’s interpretation of the constitutional provision is the correct one. The Constitution provides that a demand for secession from the federation should be

1788 Fasil (1997) 159.
approved by the council of the ethnic community, which is not necessarily a regional council. This implies that the legislative council of the ethnic community which is established at nationality zone or liyu woreda level may validly approve the ethnic community’s demand for secession. Therefore, an intra-regional ethnic minority community may secede to form its own independent state without the need to establish a regional state. However, the ethnic community may not secede from the federation unless it enjoys territorial autonomy at least at local level by establishing a nationality zone or liyu woreda.

Once the nationality zone or liyu woreda council approves, by a two-thirds majority, the demand of the ethnic community for secession from the federation, the federal government will organise a referendum in the particular nationality zone or liyu woreda. If, in the referendum, the demand for an independent state is supported by the majority of the members of the ethnic community in question, the federal government will transfer powers to the council of the newly independent state.

A further question is whether an intra-regional ethnic minority group must show a good cause to validly demand secession. FDRE Proclamation 251 (2001) provides that an ethnic community may petition for secession when it believes its identity is denied, its right to self-administration infringed, its history and culture are not promoted, or its rights under the FDRE Constitution are not respected. It appears from the Proclamation that the right to secession is not entirely unconditional. On the other hand, the FDRE Constitution, under Article 39 (1),

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makes it clear that the right to secession is ‘unconditional’. Clearly, the Constitution supersedes Proclamation 251(2001). Hence, an intra-regional ethnic group may exercise both secessions without any condition.  

Assessment

It was discussed in chapter two that territorial autonomy, as a rule, does not include the right to secede. However, in Ethiopia, as the above discussion shows, the territorial approach to accommodate intra-regional ethnic minorities goes as far as allowing the ethnic communities to secede from the regional state wherein they are found. Furthermore, an intra-regional minority ethnic community is even permitted to secede from the federation to establish a separate state. What needs to be stressed is that only a council of a unit of local government which belongs to Article 39 local government category may approve a demand for secession. An ethnic community may not exercise the right to secession unless it has a nationality zone or a liyu woreda. Local territorial autonomy is, therefore, a precondition for secession.

However, the significance of the secession clause for intra-regional ethnic communities, in particular the clause for secession from the federation, is debatable. The right to secede from a regional state may be appealing to some of the major intra-regional minority ethnic communities, such as, the Sidama, the Wolayita, the Gumuz, and the Berta, who have for a long time entertained an aspiration for their own regional state. However, it seems to have little more than symbolic value to most of the small ethnic communities that dot SNNPR and the other regional states. Small ethnic communities, which are found in multi-ethnic

\[1793\] See also Yonatan (2010) 208.

\[1794\] See chapter 2; § 4.4.2.
nationality zones, such as, Bench-Maji- and South Omo, and others such as, Opo and Komo, are not expected to aspire to have their own liyu woreda or nationality zone; let alone a regional state.

With respect to secession from the federation, it is clear that the clause was incorporated first into the TPC and later into the federal Constitution principally to appease the nationality movements which claimed to represent the Oromo and Somali ethnic groups. In fact, the Oromo Liberation Front (OLF) and the parties that claimed to be representatives of the Somali and Afar ethnic communities had made it clear from the outset that they would not even take part in the TGE unless the clause for secession from the federation was incorporated in the TPC. Several writers agree that the EPRDF had no choice but to incorporate the secession clause at the time, or risk a reversion back to a civil war even if the party was not in favour of the inclusion of the clause.

Intra-regional ethnic minorities, on the other hand, ardently opposed the incorporation of the clause on secession from the federation. Especially, those pro-Ethiopian ethnic minority communities from the south fervently argued at the drafting stage against the incorporation into the Constitution of the secession clause. Apparently they could not prevent the incorporation of the clause in the Constitution. The concern of the intra-regional ethnic communities is obvious. Most of them do not aspire to secede and create their own state; nor are they

1795 Alem (2005) 323.
1796 Alem (2005) 323.
1798 Alem (2005) 326.
capable of doing so. They rather seek to ensure that their rights are respected within the Ethiopian state. The intra-regional ethnic minority communities view all of the regionally dominant ethnic communities, including, the Oromo, Amhara and Tigrawi, as potential oppressors. It is unclear whether the intra-regional minority ethnic community will be part of the newly created state if a regionally dominant ethnic community secedes from the federation. If that is the case, and it is difficult to imagine otherwise, the intra-regional ethnic minorities will have no choice but to put their fate in the hands of the dominant group of the new state.

Thus far, only political parties, such as, OLF and Ogaden National Liberation Front (ONLF) have expressed their aspiration for secession from the federation. None of the intra-regional ethnic minority groups seem to aspire to secede from the federation. Most of the ethnic communities in SNNPR have rather shown a strong desire to stay within the federation. With regard to secession from a regional state, the Sidama and the Wolayita have demonstrated an interest to establish their separate regional state. In fact the Sidama Nationality Zone Council had gone as far as approving a demand for a separate regional state. The request had also received support from the CoN. However, the EPRDF keen to allow the creation of new regional states. Therefore, it intervened and stopped the implementation of this decision.

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1799 Alem (2005) 326.
1801 Alem (2005).
1803 For a discussion on the CoN see below at § 2.3.2.1.
was because the EPRDF wished to reduce the number of regional states that the
four former regional states were lumped together to create SNNPR. 1805 The Berta
elite, disillusioned by their failure to dominate the Benishangul-Gumuz regional
government, had also agitated for secession from a region and the establishment
of a separate state. 1806 The EPRDF was nevertheless unsympathetic to their plea
and dismissed their petition ‘as an unpopular wish of the Berta political elite, not
a genuine demand of the people’. 1807

2.2.2. Governance institutions and their powers

2.2.1.1. Introduction

The second feature of the self-rule element is the establishment of government
institutions in the autonomous areas. Government institutions include political
organs, such as, representative councils and executive as well as administrative
organs. 1808 As was discussed previously, having institution of government is vital
for a minority ethnic community to exercise self-rule. 1809

As was mentioned earlier, the FDRE Constitution explicitly recognises the right
of every ethnic community to exercise ‘a full measure of self-government’. 1810 To
that effect, the Constitution authorises the establishment of government
institutions in the territorial area that each ethnic community inhabits. 1811 Without
doubt, ‘a full measure of self-government’ includes the power to exercise both

1806 Asnake (2009) 164
1808 See chapter 2; § 4.4.2.2.
1809 See chapter 2; § 4.4.2.2.
political and administrative powers. Furthermore, ‘government institutions’ include both political and administrative organs. As was argued earlier, the FDRE Constitution envisions that neither the exercise of self-governance nor the establishment of government institutions is to be limited at regional level. The Constitution envisages that self-governance may be exercised at local level. It also requires the establishment of government institutions at local level. There is thus a clear constitutional normative principle that empowers intra-regional ethnic minority groups to exercise self-rule by establishing government institutions in the territorial areas they inhabit. The following section will examine how this principle is given effect through regional constitutions.

2.2.1.2. Political organs

In each liyu woreda and nationality zone a representative council and various executive organs are established.

Representative councils

The members of the representative council of a liyu woreda, like any woreda, are directly elected by the people for a five year term. As was discussed in chapter five, a plurality electoral system is used in all elections, including the elections of liyu woreda councils. As is the case with any woreda elections, a kebele is used as an electoral district in liyu woreda elections. Therefore, two or more representatives are elected to a liyu woreda council from each kebele in the liyu woreda.

1812 See chapter 4; § 4.2.
1813 See chapter 4; § 4.2.
1814 See chapter 5; § 2.3.1.2.
1815 See chapter 5; § 2.3.1.2.
In Gambella and Amhara, the nationality zone council is not directly elected. Some of the members of a nationality zone council are rather selected in a ‘special procedure’ by and from among members of the woreda councils that are found within a nationality zone.\textsuperscript{1816} Members of a regional council who are elected from the woredas within the nationality zone automatically become members of the nationality zone council.\textsuperscript{1817} The Benishangul-Gumuz regional Constitution also provides a similar procedure for the election of members of the nationality zone councils (even though no nationality zone council is yet established in this region).\textsuperscript{1818} In SNNPR, members of a nationality zone council are directly elected by the people.\textsuperscript{1819} It is not clear though whether the woreda or the kebele is used as the electoral district in elections for nationality zone councils in this region. According to the regional Constitution, members of the regional council, who are elected from constituencies within a nationality zone, also become members of the nationality zone council.\textsuperscript{1820}

As was discussed in chapter four, there are 79 political parties in the country, most of which are ethnic-based political parties. These parties operate either alone or in coalition with each other.\textsuperscript{1821} Some of the ethnic-based parties are members or affiliates of the EPRDF while the rest are opposition parties. As indicated before, all regional and local councils in the country are controlled by ethnic-

\begin{footnotes}
\footnotetext{1816}{ARC (2001) Art 74 (1); BGRC (2002) Art 75 (1); GRC (2002) Art 78 (1).}
\footnotetext{1817}{ARC (2001) Art 74 (1); BGRC (2002) Art 75(1); GRC (2002) Art 78 (1).}
\footnotetext{1818}{BGRS Constitution (2002) Art 75 (1).}
\footnotetext{1819}{The SNNPR Constitution (2001) Art 81 (1)
\footnotetext{1820}{The SNNPR Constitution (2001) Art 81 (1)
\footnotetext{1821}{See chapter 4; § 3.2.1.1.

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based political parties which are either members or affiliates of the EPRDF.\textsuperscript{1822} None of the opposition parties are represented in any woreda council because, among other things, all opposition parties either boycotted or withdrew from all local elections that have been held thus far.\textsuperscript{1823} The consequence is that opposition parties are also not represented in any nationality zone council, as members of a nationality zone council are elected from among the members of the woreda councils within the nationality zone.

\textit{Powers of representative councils}

A council of a nationality zone or a liyu woreda has the power to legislate on local matters.\textsuperscript{1824} The legislation of the council may not, however, be repugnant to a regional, national or regional law. Moreover, a nationality zone or liyu woreda council is authorised to approve the budget and the social and economic development plan of the nationality zone or the liyu woreda.\textsuperscript{1825} The council also has the power to approve the appointment of various executive office holders including, as is shown below, the appointment of the nationality zone/liyu woreda chief administrator.

\textit{Executive organs}

Each liyu woreda and nationality zone has an executive organ, called, the executive council.\textsuperscript{1826} The executive council is composed of a chief administrator, a deputy chief administrator, and heads of the various executive organs of the

\textsuperscript{1822} See chapter 5; § 2.3.1.3.
\textsuperscript{1823} See chapter 5; § 2.3.1.2.
nationality zone or liyu woreda.\textsuperscript{1827} Nationality zones and liyu woredas have a parliamentary executive. Hence, the representative council of a liyu woreda or a nationality zone elects a chief administrator from among its members after the party that controls the majority seats nominates the person.\textsuperscript{1828} The representative council also approves the appointment of the heads of the various executive organs. The terms of the office of the executive council and chief administrator runs concurrently with that of the representative council.\textsuperscript{1829}

\textit{Powers of executive organs}

A chief administrator of a nationality zone or a liyu woreda is responsible, with the other heads of executive organs, for implementing the legislation and decisions of the nationality zone or liyu woreda council as well as that of the federal and regional governments.\textsuperscript{1830} He or she is also responsible for the preparation of the budget and social and economic development plans of the nationality zone/liyu woreda. Furthermore, he or she is in charge of ensuring the implementation of the budget and the plans once they are approved by the representative council of the nationality zone or the liyu woreda.\textsuperscript{1831}

\textit{Assessment}

As was discussed above, nationality zones and liyu woredas have representative councils and executive organs, the political organs which are critical for self-rule.


Therefore, the second feature of self-rule is clearly institutionalised. The critical question is whether and to what extent members of an ethnic community may in fact control and run the political organs of its nationality zone or liyu woreda.

As the discussion above indicates, the plurality electoral system is used in all elections in Ethiopia, including local elections. It is submitted that in spite of the plurality electoral system, in most cases members of the ethnic communities, for whom a liyu woreda is established, are likely to have control over the liyu woreda councils. As was discussed earlier, most of the liyu woredas have one dominant ethnic community. Only a few liyu woredas are bi-ethnic or multi-ethnic. Besides, members of the dominant ethnic community of a liyu woreda are to be found in the majority in most of the kebeles which serve as constituencies in liyu woreda elections. As was discussed earlier, each woreda or liyu woreda was carved out by bringing together several kebeles the majority of whose residents belong to a particular ethnic community. A liyu woreda is, therefore, a collection of kebeles where members of an ethnic community are in the majority. Even now inter-zonal or inter-regional boundary disputes are resolved by taking into consideration the ethnic composition of the residents of each kebele in the border areas. Kebeles in disputed border areas are transferred to one or other woreda, liyu woreda, zone, or region based on their

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1832 See chapter 3; § 7.2.1.1.
1833 For instance the Argoba nationality zone of the Amhara regional states is composed of 7 kebeles where members of the ethnic community are found in majority. The kebeles are Fetekoma, Arranechero, Chomye, Emeyeserte, Killkillo, Yaseneager and Gobera. ARS Proclamation 130 (2006) Art 6.
1834 FDRE Proclamation 251 (2001) Article 29 (3) provides that referendums to resolve border disputes take place at kebele level.
Therefore, it can safely be assumed that the representatives that are elected to a liyu woreda council from most of the kebeles in the liyu woreda are likely to belong to the ethnic community for which the liyu woreda has been established.

The same can be said with respect to nationality zones. A nationality zone is an amalgam of two or more woredas where members of a particular ethnic community are found to be in the majority. As indicated above, in Amhara and Gambella regional state, the woredas within a nationality zone send specially selected individuals to nationality zone councils to occupy a portion of the nationality zone council seats. Members of the regional council, who are elected from the woredas within the nationality zone, automatically become members of the nationality zone council and occupy the remaining seats. Clearly the woredas within the nationality zone are likely to send to the nationality zone council individuals belonging to the ethnic community for whom the nationality zone was established. Furthermore, members of the regional council who are elected from the woredas within the nationality zone are likely to belong to the ethnic community for whom the nationality zone was established.  

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1835 For instance in resolving the boundary disputes between Oromia and Somali regional states as well as between SNNPR and Oromia regional states certain kebeles were transferred from Oromia to the SNNPR or Somali regional states or vice versa through a referenda which was conducted at a kebele level. NEBE (1997 Ethiopian Calendar)

1836 See above at § 2.2.1.

1837 Yonatan makes similar argument about the representation of ethnic communities in the HoPRs. See Yonatan (2009) 336.
In SNNPR, a certain number of the members of a nationality zone council are directly elected by the people. It is not clear whether the *woreda* or the *kebele* is used as the electoral district in elections for nationality zone councils in this region. In any case, it makes no difference. Still, in line with the above reasoning, it can be assumed that the dominant ethnic community in the mono-ethnic nationality zones controls the majority of the seats in the nationality zone councils. Even members of the various ethnic communities in the multi-ethnic nationality zones are likely to be more or less proportionately represented in the nationality zone councils as each of them controls one or more *woredas*. In short, the direct and indirect electoral process is likely to result in a *liyu woreda* or nationality zone council that is controlled by the ethnic community for whom the nationality zone or the *liyu woreda* was established.

However, the electoral process is far from perfect. Certain deficiencies can still be detected in the electoral processes which are likely to undermine the right to a ‘full measure’ of self-rule of the ethnic communities. As was indicated above, members of a nationality zone council are not directly elected by the people in Gambella and Amhara regional states. The ‘special procedure’, whatever it might entail, deprives members of the ethnic community of the opportunity to directly elect their own representatives. This belies the notion of self-rule. As has been maintained in chapter two, representative democracy is essential for territorial autonomy. It is also inherent to the notion of the right to self-determination.\footnote{See chapter 2; § 4.4.2.1.}
Nationality zone and liyu woreda councils are intended to be institutions of self-determination of a particular ethnic community. As provided in the regional constitutions, the councils are the highest political organs of the ethnic community for which they are established.\(^{1839}\) The self-determination of the ethnic community is expected to be expressed in the ability of members of the ethnic community to directly elect their political leaders. This is what the FDRE Constitution envisages. That is why the FDRE Constitution provides that a sovereign power resides in each ethnic community and finds expression, among other things, in the ability of members of the ethnic community to elect their representatives.\(^{1840}\) It seems also based on this assumption that the FDRE entrusts these councils with the power to decide on so critical a matter as secession. The indirect arrangement, on the other hand, counters the very notion of autonomy, self-determination, and self-government of the ethnic community for which a nationality zone is established. Moreover, the arrangement opens a door for the federal and regional politicians to undermine the autonomous entity by ensuring the selection of ‘loyalists’.

Furthermore, the electoral practice, but not necessarily the electoral system,\(^{1841}\) fails to allow the representation in the nationality zone and liyu woreda councils


\(^{1841}\) Opposition parties blame, among other things, the plurality electoral system for their exclusion from all representative councils in the country. They even argue that the plurality electoral system was deliberately introduced by the EPRDF to manipulate electoral outcomes so as to deny them representation in any representative council (Mennasemay (2003)). The distortive effect of the electoral system can be seen in the results of regional and national elections. However, the effect of the electoral system on the electoral outcomes of local elections
of diverse political views which exist within an ethnic community. As was indicated previously, all nationality zones and liyu woredas are controlled by ethnic-based political parties which are either members or affiliates of the EPRDF. There is no a single party with a different political view that is represented in a nationality zone or a liyu woreda council.\textsuperscript{1842}

The non-representation of diverse political views is exacerbated by the fact that many of the political parties that control nationality zones and liyu woredas have disputable legitimacy.\textsuperscript{1843} It is often alleged that the EPRDF is involved in the creation of the affiliate parties.\textsuperscript{1844} The relationship between the EPRDF and affiliate parties is alleged to be ‘characterised by [the latter’s] complete subordination’ to the former.\textsuperscript{1845} Members of the affiliate parties who reject the EPRDF’s ‘ideological line’ are expelled through a process of gim-gema. In particular, the so called ‘Peace and Development Conferences’ which are unclear. This is simply because the opposition parties have never participated in local elections. They either boycotted or withdrew from local elections. Thus, there is no factual evidence that directly links the electoral system with the lack of representation of the opposition parties in nationality zone and liyu woreda councils.

\textsuperscript{1842} As will be discussed below, there are evidences which indicate that electoral system has exclusionary effect in national and regional election.

\textsuperscript{1843} Young (1998) 197.

\textsuperscript{1844} The genesis of the establishment of the affiliate parties (also referred to as Peoples Democratic Parties (PDOs)) is that after the fall of the Derg and during the transitional period the EPRDF fighters ‘marched’ to the present day SNNPR. In the area, they mobilised the various ethnic groups into small ethnic-based political parties. The teachers in the area were particular targets of recruitment. Each of these parties now bear the name of the ethnic group they claim to represent followed by ‘people democratic organisation’ (PDO). Now these parties are commonly called as PDOs. Vaughan (2006) 186.

\textsuperscript{1845} Asnake (2009) 247.
convened and chaired by EPRDF cadres, are used to dispose of those who refuse to obey.\textsuperscript{1846}

In addition, the ethnic-based political parties which are members of the EPRDF and which control self-governing local territories are not politically autonomous. It has become the policy of the EPRDF to merge ethnic-based parties (both EPRDF’s members and affiliate parties) under one umbrella regional party.\textsuperscript{1847} The regional umbrella party is expected to operate on the basis of the principle of democratic centralism.\textsuperscript{1848} For instance, the SEPDM is a coalition of 20 small ethnic-based political parties and is a member of the EPRDF.\textsuperscript{1849} Based on the principle of democratic centralism the constituent units of the SEPDM do not have political autonomy from the SEPDM. Similarly, the SEPDM does not have a political existence separate from the EPRDF. Thus, the policies are formulated at the centre and the local echelons of the party are enjoined to implement these policies and decisions. Thus, the governments of the 18 liyu woredas and nationality zones in SNNPR, which are ruled by more than 20 ethnic-based political parties, cannot independently exercise political power. A similar kind of centralisation of the political party structure has taken place in the Gambella and

\textsuperscript{1846} Asnake describing the \textit{gimgema} process in Benishangul-Gumuz states: ‘After the end of the conference, the six political parties underwent a gruelling \textit{gimgema session} under the stewardship of EPRDF cadres. In these evaluation sessions, the members of the parties had to undergo a humiliating process of self-criticism. Those who sufficiently criticised themselves and accepted their ‘weakness’ and were thought to have submitted themselves to the objectives of the EPRDF were allowed to become members of the new ethnic parties. On the other hand, many regional officials accused of having links with ‘anti-peace’ forces, tendencies of ‘narrow-nationalism’ and ‘dictatorship’ were excluded’. Asnake (2009) 247. See also Samatar (2004) 1146.

\textsuperscript{1847} See Wondwosen (2009).

\textsuperscript{1848} See The Statute of EPRDF (undated).

\textsuperscript{1849} See chapter 4; § 3.2.1.1.
Benishangul-Gumuz regions at the behest of the EPRDF.\footnote{Asnake (2009); Medhane (2007).} This, in effect means that, the territorial autonomy which came about as a result of the decentralisation process, is undercut by the centralisation of the regional party structures. The establishment of nationality zones and liyu woredas has, therefore, become enfeebled in terms of allowing the ethnic minorities to fully enjoy self-rule.

2.2.3. Competences of liyu woredas and nationality zones

The third critical feature of self-rule is the devolution of clearly defined competences which are relevant for the protection of the identity and culture of an ethnic community. As indicated in chapter two, language, education, radio, television, public libraries, cultural centres, museums and the like are considered appropriate functions for the promotion and protection of an ethnic community’s culture and identity.\footnote{See chapter 2 § 4.4.2.1.}

The federal Constitution does not contain a list of competences that are to be exercised by ethnic-based sub-regional units. Article 39(2) of the Constitution, however, provides that an ethnic community ‘has the right to speak, to write and to develop its own language; to express, to develop and to promote its culture; and to preserve its history’. This implies that nationality zones and liyu woredas may exercise those powers and function that are necessary for expressing, developing, and promoting the language and culture of the ethnic community for which they are established. However, the specific competences that they may exercise are not clearly identified.
The regional constitutions do not also clearly indicate whether a nationality zone or a liyu woreda may exercise these functions. Like the federal Constitution, the regional constitutions impose a duty on the governments of nationality zones and liyu woredas to promote and protect the language, culture, and history of the intra-regional minority ethnic communities for whom they were established. It is unclear what these local units may do to perform this duty. What is clearly provided, though, is that nationality zones and liyu woredas may choose their own working language as well as the language of instruction for primary education within their territorial jurisdiction.\(^{1852}\) It is not at all clear whether they may exercise any of the functions that are mentioned above. Furthermore, a nationality zone and a liyu woreda have a constitutional power to decide on their own social services and economic development matters.\(^{1853}\) It is, however, left undefined what ‘social services and economic development matters’ include.

In practice, nationality zones and liyu woredas exercise certain functions in the area of education. For instance, they are responsible for translating teaching materials into local languages.\(^{1854}\) They are also responsible for distributing teaching material to primary schools. Nationality zones, along with the regional state, are engaged in establishing and administering secondary schools, technical and vocational schools, special schools, teacher training institutes, and medium-


\(^{1854}\) Garcia & Rajkumar (2008) 16
level colleges. The practice is not, however, based on a clear legislative division of functions among the various levels of government.

2.2.3.1. Competences relating to language

Choosing a working language

The federal Constitution authorises each regional state to choose its working language. The regional constitutions in turn allow each nationality zone and liyu woreda to adopt its own working language. Accordingly, several mono-ethnic nationality zones have adopted the language of the dominant ethnic community of the zone as their working language. For instance, afaa-oromo has become the working language of the Oromo Nationality Zone in Amhara regional state. In SNNPR, several mono-ethnic nationality zones, including the Sidama, Silte, and Hadiya nationality zones, have begun to use local languages for official purposes.

In principle, the working language of a regional state becomes the working language of all woredas and cities in the region. This is the case, for instance, in Oromia, Tigray, and Somali. However, a woreda or a city, which is within the territorial jurisdiction of a nationality zone, is expected to use the working language of the latter. This is because only Article 39 local government units may decide to adopt their own working language. Article 50(4) local government units do not have this competence. Hence, intra-regional ethnic minority communities

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1858 Mohammed (2010) 147.
that are found within the nationality zones and that have decided to use a local language for official purposes may access public services in their own language from all local public offices, including, kebeles, woredas, and cities.\(^\text{1860}\)

Therefore, they may use their own language to submit applications to public offices. They may also receive documents, such as identification cards, which are prepared in their own languages.

Multi-ethnic nationality zones, such as, the Bench-Maji and South Omo zones rather resort to using Amharic as their working language. This is not, however, as a result of a constitutional restriction preventing them from adopting two or more local languages as their working languages. The decision to use Amharic rather seems to have been prompted by the ethnic and linguistic diversity of these nationality zones. A decision to do otherwise might have driven the nationality zones into administrative difficulties. Moreover, it might have led to a dispute among the ethnic communities as each ethnic community would have attempted to have its language used as the working language.

*Choosing language of instruction for primary education*

The FDRE Constitution recognises the right of each ethnic community ‘to speak, write and develop its language’.\(^\text{1861}\) Accordingly, the regional constitutions have recognised the right of the intra-regional ethnic communities to receive education in their own working language.\(^\text{1862}\) Moreover, it is the policy of the federal

\(^{1860}\) That is, for instance the case in the Oromo nationality zone in Amhara regional state. See Mohammed (2010).


\(^{1862}\) The Gambella Constitution, for instance, expressly provides that each of the ethnic communities of the region has the right to learn in their own language. Likewise, the Benishangul-Gumuz regional Constitution recognises the right of the ethnic communities of the region to
government to ensure that primary education is offered to each ethnic community either in its own language or in the language that the ethnic community chooses.\textsuperscript{1863} Amharic is only a subject in primary schools of various nationality zones as it is ‘a language of countrywide communication’.\textsuperscript{1864}

The councils of nationality zones and liyu woredas are authorised to decide whether or not a local language should be used for the purpose of primary education.\textsuperscript{1865} Moreover, practice shows nationality zones are engaged in translating primary school textbooks into a local language.\textsuperscript{1866} Nationality zones (along with the woredas within their territorial jurisdictions) and liyu woredas are expected to establish schools or separate classes which provide primary education in the language of an ethnic community.

Practice is also largely in line with the above. Several mono-ethnic nationality zones and liyu woredas have adopted local languages for primary education. For instance, the Oromo and Awi nationality zones of the Amhara regional states have begun to use Afaan-oromo and Awgini, respectively.\textsuperscript{1867} Most of the mono-ethnic nationality zones and liyu woredas in SNNPR have adopted local

\begin{itemize}
\item receive education either in their own language or in the language of their choice. GRS Constitution (2002) Art 6 (3); BGRS Constitution (2002) 6 (3).
\item \textsuperscript{1863} FDRE Ministry of Education (1994) 23.
\item \textsuperscript{1864} FDRE Ministry of Education (1994) 23.
\item \textsuperscript{1866} Garcia & Rajkumar (2008) 15.
\item \textsuperscript{1867} Cohen (2006) 166; Mohammed (2010); Yonatan (2011).
\end{itemize}
languages as medium of instruction. Some ethnic communities in multi-ethnic nationality zones have also begun to use local languages for education.\footnote{Cohen (2000) 124.}

### 2.2.3.2. Assessment

Evidently, there is a lack of clarity as regards the functional areas that are within the exclusive competences of nationality zones and liyu woredas. The federal Constitution implies that ethnically organised territorial and administrative units may exercise functions that are relevant for preserving and promoting the culture and language of the ethnic community for which they are established. The regional constitutions also impose on nationality zones and liyu woredas the duty to promote the language, culture, and history of the ethnic communities. Furthermore, the nationality zones and liyu woredas are authorised to formulate the social services and economic development plans of a nationality zone.

The federal Constitution does not, however, specify the functions that an ethnic-based territorial and administrative unit may exercise for achieving the stated purposes. The regional constitutions also fail to clearly define the specific competences that nationality zones and liyu woredas may use to the above effect. Furthermore, the specific areas of social and economic matters that are within the competences of a nationality zone are undefined. In particular, the distinction between the social and economic matters that are within the competences of a nationality zone and the woredas or/and cities that are found within it are left unspecified. Interestingly, the draft legislative framework that was prepared by the Ministry of Capacity Building to clarify the competences of woredas, deliberately avoids defining the competences of the woredas that are found within...
the territorial jurisdiction of nationality zones.\textsuperscript{1869} As was discussed in chapter five, the lack of specificity in the competences of the various tiers of sub-regional governments is one of the major deficiencies of the decentralisation project in Ethiopia.\textsuperscript{1870}

It is clear that nationality zones or \textit{liyu woredas} have the competence to use a local language for work and/or primary education. The decentralisation of language choice to nationality zones and \textit{liyu woredas} is viewed as an important measure for protecting the identity of the intra-regional ethnic minority communities. Several writers claim that the use of local languages in schools and administrative offices has resulted in a ‘cultural renaissance’ for many ethnic communities that were marginalised in the past.\textsuperscript{1871} This arrangement has re-instated the pride and dignity of these ethnic communities by preventing the need to ‘face the indignity of having to speak [Amharic] and appear before members of Amhara elites at the local level’.\textsuperscript{1872} As Cohen maintains, ‘local pride and self-identity are clearly increasing in response to the reform’ that allowed nationality zones and \textit{liyu woredas} to use local languages for work and education.\textsuperscript{1873} Boothe and Walker also state that:-

‘[D]ecentralisation, use of the mother tongue, and curricular revision have all helped to bolster community support for primary education … Across the board, parent, student and teacher attitudes about using the nationality languages were positive. Children

\begin{footnotesize}
\begin{enumerate}
\item See chapter 5; § 2.4.4.2.
\item See chapter 5; § 2.4.4.2.
\item Young (1998) 199.
\item Cohen (2000) 122.
\end{enumerate}
\end{footnotesize}
were excited that for the first time they could legally use their mother tongue in schools. Parents were pleased that they could talk to school officials in the mother tongue rather than through an interpreter. Teachers were encouraged by the students’ willingness to engage in class discussions now that they could express themselves in the language in which they were most confident.\textsuperscript{1874}

The use of local languages for official purposes also brings significant economic benefits for members of ethnic minority communities as it provides them with enhanced employment opportunities. Previously, many were discouraged, if not excluded, from seeking employment in the administrative organs of the country, among other things, due to their lack of proficiency in the Amharic language.\textsuperscript{1875}

Now, the establishment of nationality zones and \textit{liyu woredas}, coupled with the decentralisation of language choices, has enhanced the opportunity for most hitherto ‘unemployable’ members of the ethnic minorities to find employment in the administrative structures of the local units. Presently, most of the administrative organs of the nationality zones and \textit{liyu woredas} are occupied by members of the ethnic minorities for whom the autonomous areas were established.

The implementation of a decentralised language choice is not, however, without problems. The decisions to adopt a local language for work and education are often top-down in which members of the community hardly participated.\textsuperscript{1876} In some cases this top-down approach has caused serious conflicts. The \textit{wogagoda}

\textsuperscript{1874} Boothe & Walker (1997).
\textsuperscript{1875} See chapter 3; § 5.1.5.
\textsuperscript{1876} Getachew & Derib (2006) 56-57.
case is an example. The decision to adopt a local language for work seldom takes into account the ethnic heterogeneity of the nationality zones and liyu woredas. In particular, the urban areas are always multi-ethnic even in nationality zones and liyu woreda where there is a dominant ethnic community. The decentralisation of language choices does not formally cater for the ethnic communities which do not belong to the dominant ethnic group. This renders the decentralisation of language choices problematic.

The implementation of the use of local languages for education has also become an immensely complex task for the nationality zones and liyu woredas. For instance, it has been difficult to find trained teachers who speak local languages. Therefore, almost all nationality zones and liyu woredas suffer from a chronic shortage of trained administrative workers and teachers who speak the local language.

2.2.4. Revenue

As was stated in chapter two, financial autonomy is a critical element of self-rule. Financial autonomy impacts on the effectiveness of local self-government in promoting and developing the culture and languages of the ethnic group for which it is established. Building schools, publishing books in the language of the ethnic minority, hiring teachers, and establishing other cultural centres clearly require revenue. Transferring adequate revenue to ethnically organised local units

\[\text{See above chapter 7; § 2.2.1.1.}\]

\[\text{In SNNPR there is a policy to use Amharic in primary schools in the zonal capitals. See the discussion below at § 3.3.2.2.}\]

\[\text{See MoCB (2007) 50-51.}\]

\[\text{See chapter 2; § 4.4.2.1.}\]
is also important for preventing conflicts and maintaining peace as ethnic-based conflicts are often caused or exacerbated by unjust resource distributions.\footnote{See chapter 2; § 4.4.2.1.}

The FDRE Constitution is silent on how ethnic-based sub-regional units are to be financed even though it envisages their establishment. As indicated elsewhere, the federal Constitution allocates taxing powers only between the federal and regional governments.\footnote{See chapter 2; § 4.4.2.1.} The regional constitutions provide no taxing power for nationality zones and liyu woredas. This is despite the power of nationality zones and liyu woredas to approve their own budgets.\footnote{ARS Constitution (2001) Art 74 (3); BGRS Constitution (2002) 75 (3); GRS Constitution (2002) Art 78 (3); SNNPR Constitution (2001) 81 (3).} It seems, therefore, that a nationality zone may only decide on how to spend revenue allocated to it by a regional state; it may not raise its own revenue.

In practice, nationality zones receive a significant amount of funds from the regional governments in the form of block grants.\footnote{Garcia & Rajkumar (2008).} As has been discussed in the previous chapter, the block grant that is earmarked for woredas within a nationality zone is transferred directly to the nationality zone.\footnote{See chapter 5; § 2.6.3.1.} The nationality zone then deducts a certain amount for itself and adjusts the remaining amount to transfer it to the woredas within its jurisdiction.
A *liyu woreda*, like any other *woreda*, may collect agriculture income taxes and land use fees. However, as was discussed in the previous chapter, a *liyu woreda*, like a regular *woreda*, collects these taxes on behalf of the regional states. It is not allowed to retain the proceeds from these taxes for itself. That is why an amount equivalent to what it has collected from these taxes is deducted from the block grants it receives from the regional government. Moreover, it is not clear whether the status of a *liyu woreda* entitles it to extra revenue over and above what other ordinary *woredas* with similar developmental needs receive from a regional government.

In short, both nationality zones and *liyu woredas* have no constitutionally defined internal revenue raising power. Moreover, *liyu woredas*, like any other *woreda* outside the jurisdiction of a nationality zone, directly access block grants from the regional government.

### 2.2.4.1. Assessment

As can be gathered from the above discussion, territorial autonomy at sub-regional level is not accompanied with full financial autonomy. Nationality zones are completely dependent on regional grants to finance their activities. *Liyu woredas* raise some revenue in the form of agricultural income taxes and land use fees. However, as has been discussed in the previous chapter, an amount that is equivalent to what a *liyu woreda* raises from these taxes is deducted from its share of the regional block grant.

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1886 See Chapter 5:§ 2.6.2.1.
1887 See chapter 5; § 2.6.2.1.
1888 See chapter 5; § 2.6.2.1.
Even if nationality zones and liyu woredas do not have constitutionally defined sources of revenue, some studies indicate that they have had access to increased funding from the regional and, even, from the national government, which is meant to cover their capital and recurrent expenditures.\textsuperscript{1889} In fact, it was the desire to access this revenue that motivated the elites of certain ethnic communities to demand the creation of nationality zones or liyu woredas. As has been discussed in chapter four,\textsuperscript{1890} one of the unofficial rationales for the second phase decentralisation was to discourage the demand for nationality zones and a liyu woredas. This is why nationality zones are required to transfer to the woredas within their jurisdiction the bulk of the regional block grant that they receive.\textsuperscript{1891} The block grant is transferred directly to a nationality zone merely to signify its special status.

The total dependence of the nationality zone on regional block grants is likely to weaken their relevance as institutions of self-rule for a particular ethnic community for whom it was established. The financial dependency does away with the accountability of local officials to the local people. The fact that members of nationality zone councils are not even directly elected by the people - despite the fact that members of a nationality zone council are expected to exercise the highest political powers in their respective nationality zones - makes the problem even more aggravated.

\textsuperscript{1889} Vaughn (2003).
\textsuperscript{1890} See chapter 4; § 5.3.7.2.
\textsuperscript{1891} See chapter 5; § 2.6.3.1.
2.2.5. Concluding remarks

The foregoing discussion depicts the institutional design of ‘self-rule' at local level which is meant to accommodate intra-regional ethnic communities. As the discussion reveals, ethnic-based sub-regional territorial units are established. The establishment of ethnic-based local territorial units is clearly the fundamental element of territorial autonomy. Political and administrative institutions are established in the territorial units which are also critical for self-rule. Even though their competences are generally unclear, the political organs have the authority to decide on certain culture and language related matters.

As the discussion in chapter two shows, territorial autonomy clearly allows ethnic minorities to exercise self-rule at local level. However, unlike federalism which provides both for self-rule and shared-rule, territorial autonomy does not in general necessitate the representation of the local units in the central government. The FDRE Constitution, however, contains the principle of ‘shared-rule’ which entitles intra-regional minority ethnic communities to be represented in the central government. The following section will examine how the ‘shared-rule' element is institutionalised.

2.3. Shared-rule

2.3.1. Introduction

As was stated in chapter two, local autonomy is critical, but not sufficient. Self-rule must be complemented with shared-rule. Shared rule entails the representation of ethnic-based local units or intra-regional ethnic minority groups in sub-national and national government political, administrative, and judicial

\[1892\] See chapter 2 § 4.4.2.2.
As maintained previously, the representation of intra-regional minority ethnic communities in regional and national governments signifies regional integration. It also puts intra-regional minority communities in a position where they can influence decisions directly affecting their interests.

According to the FDRE Constitution, intra-regional minority ethnic communities not only are allowed to exercise self-rule, they are also entitled to ‘equitable representation in state and Federal governments’. This is clearly a normative principle for shared-rule. Several studies indicate that this principle allows the equitable representation of every ethnic community in every regional and national government organs including the legislative and executive organs, the army, the police, and the civil service. Obviously, not all federal and state organs make decisions that directly affect ethnic-based local units. Moreover, even if members of a given intra-regional ethnic community are elected or appointed to a particular regional or federal government, it does not mean that he or she will act as a representative of the ethnic-based local unit. Therefore, it is unnecessary to discuss whether and how each ethnic community is represented in every regional and federal government organ.

There are, however, certain regional and federal organs in which the ethnic-based local units are either directly or indirectly represented and whose decisions directly impact on the ethnic-based local units. At regional level, nationality

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1893 See chapter 2 § 4.4.2.2.
1895 See above § 2.1.
1896 See above § 2.1.
zones and liyu woredas are represented in the CoN (in SNNPR) and certain judicial organs. At federal level, the HoF has the power to make decisions directly affecting the ethnic-based local units. The following section, therefore, will discuss how these organs are composed and how their decisions impact on the ethnic-based local units.

2.3.2. Shared-rule at regional level

2.3.2.1. The Council of Nationalities of SNNPR

As mentioned before, SNNPR is a collection of 21 ethnic-based autonomous sub-regional territorial units. Every part of the territory of SNNPR falls within a nationality zone or a liyu woreda, making the region appear to be an ethnic-based federation within a larger ethnic federation. Moreover, SNNPR has another distinctive feature of a federal system: a bi-cameral legislative house. Unlike any other regional states in Ethiopia, SNNPR has an upper house which is known as the Council of Nationalities (the CoN).

Each of the members of the CoN is viewed as a representative of a particular ethnic community, not as representative of a particular nationality zone or liyu woreda. Yet, members of the CoN are elected by the councils of the nationality zone and liyu woredas from among their members. The

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1897 See above § 2.2.1.
1899 Each ethnic community is represented by at least one representative. If an ethnic community has more than a million people it may have additional representative in this CoN. SNNPR Constitution (2001) Art 58 (1).
representatives of the ethnic communities which are not represented in a nationality zone council, if there are any, are elected by woreda councils.\textsuperscript{1901}

The CoN has three critical powers that directly impact on nationality zones and liyu woredas. First, it has the power to decide on a petition of a particular ethnic community for a separate nationality zone or liyu woreda.\textsuperscript{1902} Evidently, the power of the CoN to decide on this matter directly affects the existing nationality zones and liyu woredas. As stated before, the entire territorial area of SNNPR falls within one of the 21 nationality zones and liyu woredas. The establishment of a new nationality zone or liyu woreda in this region cannot take place without causing a reduction in the territorial and population sizes of one of the existing nationality zones, if not its total disintegration as was the case in the North Omo nationality zone. The power of the nationality zones and liyu woredas to elect the members of the CoN, therefore, allows them to be involved in and to influence such decisions.

Secondly, the CoN is responsible for settling disputes between the various levels of government of the regional state.\textsuperscript{1903} It has a final say when the dispute between two levels of government entails the interpretation of the regional Constitution.\textsuperscript{1904} The power of the CoN to settle disputes between two levels of government is an important check on the power of the regional state.

\textsuperscript{1901} SNNPR Constitution (2001) Art 58 (3).
\textsuperscript{1902} SNNPR Constitution (2001) Art 59 (3).
\textsuperscript{1903} SNNPR Constitution (2001) Art 59 (5)
\textsuperscript{1904} SNNPR Constitution (2001) Art 59 (1). There is a constitutionally established organ in SNNPR, the Council of Constitutional Inquiry (CCI) which is composed of judges and lawyers. The CoN itself is in charge of establishing the CCI. The CCI presents to the CoN its opinion with
government and to interpret the regional Constitution has the potential to affect
the existing nationality zones and liyu woredas.

Thirdly, the CoN is involved in the amendment of the regional Constitution.1905
The provisions of the regional Constitution, other than the Bill of Rights, are
amended when a Bill of Amendment is approved by a joint session of the
Regional Council and the CoN and when the Bill is approved by a two-thirds
majority vote of the joint secession.1906

2.3.2.2. Judicial organs

Under the FDRE Constitution judicial power is entrusted to the federal and state
courts.1907 The regional constitutions also structure the state courts as regional
first instance courts (often referred to as woreda courts), regional high courts
(also known as zonal court) and regional supreme courts.1908 Woreda and zonal
courts fall under one hierarchical structure at the top of which is a regional
supreme court.1909 They do not form parts of a woreda, a liyu woreda or
nationality zone government structure. The regional government is responsible
for establishing the various tiers of regional courts, for appointing the judges
thereof, and for financing them.1910

respect to a particular issue related to the interpretation of the regional Constitution. The CoN
1907 See chapter 4; § 3.2.3. & 3.3.3.
Art 71; SNNPR Constitution (2001) 75.
1909 There are various specialised tribunals at state level which deal with particular issue such as
taxes, labour, urban land expropriation
Art 71; SNNPR Constitution (2001) 75.
However, there is an element of shared-rule in the procedure in terms of which the judges of the above mentioned branches of a regional court are appointed. The regional government is enjoined to consult with the relevant nationality zone or liyu woreda government about the appointment of a particular judge to administer justice in a regional first instance or high court which is established within its territory.\textsuperscript{1911} The final decision with respect to the appointment of judges belongs to a regional council. It is important to note, however, that no such consultation takes place to appoint a judge in a woreda which is found outside the territorial jurisdiction of a nationality zone.

In Gambella and Amhara regional states, nationality zones and liyu woredas are also represented in a quasi-judicial organ known as the ‘Constitutional Interpretation Commission (CIC)’. A CIC is an organ which has the power to interpret a regional constitution. The establishment of this organ is provided for in all regional constitutions except that of SNNPR.\textsuperscript{1912} A CIC is composed of the representatives of each woreda.\textsuperscript{1913} In Amhara and Gambella regional states, the nationality zones, in addition to the woredas, are also represented in the CIC.\textsuperscript{1914} A CIC decides on matters involving the interpretation of a regional

\begin{flushright}
\textsuperscript{1911} ARS Constitution (2001) 74 (3) (g); BGRS Constitution (2002) Art 75 (3) (g); GRS Constitution (2001) Art 78 (3) (g); SNNPR Constitution (2001) 76 (3).
\textsuperscript{1912} As mentioned above, in the SNNPR, the power to interpret the regional constitution belongs to the Council of Nationalities. The ARS Constitution (2001) Art 70 (1); the AfRS Constitution (2001) Art 76; the SRS Constitution (2001) Art 71(1); the GRS Constitution (2001) Art 74 (1); the ORS Constitution (2001) Art 67 (1). As was stated above in the SNNPR the power to interpret the regional Constitution is entrusted in the Council of Nationalities.
\textsuperscript{1914} The GRS Constitution (2001) 74 (1).
\end{flushright}
constitutional1915 based on the opinion of a regional ‘Constitutional Inquiry Commission’.1916

2.3.2.3. Assessments

The CoN is intended to play the role that a second chamber in a federal system plays.1917 The drafters of the regional constitutions were in fact inspired by the composition and powers of the HoF when they created the CoN.

‘There was need for an institution which can resolve conflicts democratically and amicably, thereby contributing to the consolidation of the democratic unity among the diverse peoples of the south. So from the exercises of the federal House of the Federation we came to learn the need to establish a similar institution in our region. The House of Nationalities or the Council of Nationalities is the result of that realization.’ 1918

As several writers argue, the rationale for the establishment of a second chamber in a federal system is to create a check on the ‘tyranny’ of the majority.1919 Therefore, the principle that underlies the manner in which such a house is organised is directed at mitigating the influence of the majority. To that effect the second chambers of many federal states, including, the USA, Canada, and

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1916 The Constitutional Inquiry Commission is composed of a president and a vice-president of a regional supreme court, six lawyers who are appointed by a regional council after being nominated by a regional chief administrator, and three members of a regional council who are selected by the speaker. The ARS Constitution (2001) Art 70 (2); the AfRS Constitution (2001) Art 76; the SRS Constitution (2001) 71 (2); the GRS Constitution (2001) 74 (3); the ORS Constitution (2001) Art 67 (2).


1918 Haile Mariam Dessalegn, a former chief administrator of the SNNPR, quoted in Van der Beken (2007) 114.

Switzerland, are composed of the representatives of the sub-national units.\textsuperscript{1920} Moreover, the sub-national units are represented, though not always, on the basis of equality, despite differences in territorial and population sizes.\textsuperscript{1921} Hence, each unit of a federation, regardless of its population and territorial sizes, sends an equal number of representatives to the second chamber.\textsuperscript{1922}

Considering the fact that the CoN is meant to play the role of a second chamber, this organ should have been composed of representatives of the nationality zones and liyu woredas.\textsuperscript{1923} Moreover, each nationality zone and liyu woreda in the region should have been represented by an equal number of representatives. However, as was stated above, in terms of the regional Constitution, members of the CoN are not viewed as representatives of the nationality zones and liyu woredas even though the councils of the nationality zone and the liyu woredas elect them. They are rather viewed as representatives of the ethnic communities which are found within each nationality zone and liyu woreda. Moreover, under the regional Constitution, members of the CoN are not required to act as agents of the nationality zone from whose council they are elected. Rather, they are expected to act as agents of the ethnic community that they are meant to represent. Furthermore, the CoN is composed on the basis of a majoritarian principle. Therefore, the number of representative that may represent an ethnic community in the CoN is determined by the size of the population of the ethnic community. It is logical, therefore, to expect ethnic communities with larger

\textsuperscript{1920} See Watts (2010); Norton (2007) 7.  
\textsuperscript{1921} Watts (2010) 2.  
\textsuperscript{1922} Watts (2010) 2.  
\textsuperscript{1923} Van der Beken (2007) 136.  

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populations to have more representation than those with smaller populations allowing the former to have stronger influence in the CoN.

However, first, despite the fact that the nationality zones and liyu woredas are not represented in the CoN, members of the CoN are elected by the nationality zones and liyu woredas from among the members of their councils. It can be assumed that nationality zones and liyu woredas would ensure that their interests are promoted in the CoN by sending members who are likely to do so. Secondly, the fact that the CoN is organised based on a majoritarian principle will not have much impact on its composition and on its decisions. This is because even the largest ethnic communities of SNNPR, such as, the Sidamas and Gurages have populations of little more than two million each. Therefore, even the largest ethnic communities can send only one or a few more representatives. The Sidama ethnic community, for instance, sends three representatives which is the largest number of representatives that an ethnic community sends. The Gurage, Gedeo, Hadiya, Wolayita, and Gamo send 2 representatives each. The rest of the ethnic communities, including the smallest ones, send one representative each.

The ethnic diversity of the population of a nationality zone or a liyu woreda, therefore, determines the number of representatives that it may send to the

Mono-ethnic nationality zones, such as, Sidama, Hadiya, and Gedeo, send fewer representatives than the multi-ethnic nationality zones, such as, Bench-Maji and South Omo. For instance, the South Omo nationality zone sends 16 representatives, one for each of the 16 ethnic communities that are found in the nationality zone. Even the Derashe liyu woreda sends two more representatives to the CoN than the Sidama nationality zone. This provides the multi-ethnic nationality zones more weight in the CoN than the mono-ethnic nationality zones even if the latter have a larger population size.

The involvement of nationality zones and liyu woredas in the appointment of the judges who preside in the courts that are established within their territorial jurisdiction is an expression of shared-rule. It is particularly important to ensure that the courts deliver judgements in the working language of the nationality zones and liyu woredas. Moreover, as was stated above, nationality zones and liyu woredas are represented in the quasi-judicial organ which has the ultimate power to decide on disputes involving the application and interpretation of regional constitutions. The involvement of nationality zones and liyu woredas in the appointment of the judges of a state court is likely to help them ensure the appointment of a judge who can deliver judgements in their working language. Also, their representation in the CIC is of important symbolic value. Moreover, it might help protect their interests.

1928 Van der Beken (2007) 136
1929 Van der Beken (2007) 136
1930 Van der Beken (2007) 136
1931 In SNNPR, Sidama, Wolayita, Gamo, Gofa, Dawro, Hadiya, Kamabata, Kafa, Silte languages are used by the state courts for the purpose of administering justice in the relevant nationality zone and liyu woreda. Getachew & Derib (2006) 55.
However, it should be noted here that the regional constitutions are meant to give effect to the normative principles that are enshrined in the FDRE Constitution. Therefore, any dispute based on a regional constitution may not find a final solution at regional level. It may still be taken to the House of Federation (HoF) for final resolution. However, as clearly provided in Proclamation 251(2001), parties to a dispute are required to exhaust regional remedies before taking their cases to the HoF.\footnote{FDRE Proclamation 251 (2001)} The CIC and the CoN (in SNNPR) can be viewed as an important regional remedy for resolving disputes. It may, therefore, be assumed that the nationality zones and liyu woredas will gain some advantages from their involvement in the interpretation of the regional constitutions to protect their autonomy where they are involved in constitutional dispute. This is so despite the fact that it is open to question whether it was wise to entrust a political organ with the power to interpret a regional constitution.

It is necessary to note that the above assessment is based on what is formally stated in the regional constitutions. The practice is that disputes between different levels of government are hardly coached in such a way that they require the interpretation of a regional constitution. There is no reported case where a regional CIC was ever approached to interpret a regional constitution in any of the regional states. Disputes between various levels of government are rather dealt with within the party system. This renders the constitutionally established dispute settlement structures obsolete and the representation of liyu woredas and nationality zones in these formal structures meaningless.
2.3.3. Shared-rule at federal level

2.3.3.1. Introduction

As was stated in chapter two, the representation of intra-regional minority ethnic communities in regional government is important, but not sufficient. The shared-rule element of the federal model requires the representation of ethnic minority communities in national government. A perusal of the FDRE Constitution reveals that intra-regional ethnic minority communities have the right to be represented in important federal government organs. These organs include the House of Peoples Representatives (HoPR), the House of Federation (HoF), and various executive and administrative organs. Decisions of all these federal organs may have a direct or indirect impact on the autonomy of the ethnic-based local units. However, the discussion in the following section will focus only on the HoF, the second chamber the federal government.

2.3.3.2. The House of Federation (HoF)

Composition of the HoF

As has been discussed before, the HoF, which is the upper house of the federal government, is composed of the representatives of the ethnic communities of the country. Therefore, every ethnic group, regardless of its population size, sends at least one representative to the HoF. An ethnic community with more than a million people sends one extra representative for each additional 1 million people belonging to that ethnic community.

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1933 See chapter 4; § 3.2.1.
1935 FDRE Constitution (1995) 61(2)
1936 FDRE Constitution (1995) 61 (2)
It is debatable whether the Constitution warrants separate representation in the HoF of an ethnic community whose members are found in more than one regional state as original inhabitants. Alem seems to argue that the Constitution warrants separate representation of members of an ethnic community who live in different regional states.\footnote{Alem (2005) 330.} On the basis of this assumption he views as anomalous the non-representation of the Amharas and other ethnic migrants who are found in Oromia and other regional states.\footnote{Alem (2005) 330.}

<table>
<thead>
<tr>
<th>Region</th>
<th>Ethnic groups</th>
</tr>
</thead>
<tbody>
<tr>
<td>Amhara</td>
<td>Amhara (13), Awi (2) Agew-Himra (1), Oromo (1)</td>
</tr>
<tr>
<td>Oromia</td>
<td>Oromo (19),</td>
</tr>
<tr>
<td>Tigray</td>
<td>Tigre (4), Kunama (1) Irob/Saho (1)</td>
</tr>
<tr>
<td>SNNPR</td>
<td>Dawro (1), Bumi (1), Dime (1), Tembaro (1), Shekicho (1), Kafficho (1) Gacho (1), Nao (1), Tsema (1) Alaba (1), Qebena (1), Gamo (1), Derashe (1) Bench (1), Yem (1), Konta (1) Konso (1) Me'enite (1) Mareko (1) Oida (1), Ari (1), Gedeo (1), Gofa (1), Silc (1), Desenech (1), Surma (1) Wolaita (2), Hadyia (2), Sidama (2), Surma (1), Zeyise (1), Gidecho (1), Arbore (1), Geleb (1), Kore (1), Gideo (1), Guraghe (1), Hamer (1), Gewada (1), Basketo (1), Burji (1) Alaba (1), Bena (1), Kambata (1), Shinasha (1)</td>
</tr>
<tr>
<td>Afar</td>
<td>Afar (2)</td>
</tr>
<tr>
<td>Gambella</td>
<td>Anywaa (1) Nuer (1), Opa (1), Mejenger (1)</td>
</tr>
<tr>
<td>Benishangul-Gumuz</td>
<td>Berta (1), Gumuz (1), Shinasha (1), Mao (1), Koma (1)</td>
</tr>
<tr>
<td>Harerri</td>
<td>Harerri (1)</td>
</tr>
<tr>
<td>Somali</td>
<td>Somali (4)</td>
</tr>
</tbody>
</table>

Source: House of Federation (2011)

Yonatan, on the other hand argues that each member of the HoF is assumed to represent a particular ethnic community. This is so regardless of where the
members of the particular ethnic community live. Therefore, he maintains, there is no reason why the Oromos who are also found in the Amhara regional state should be separately represented in the HoF, let alone the Amharas in the Oromia regional state who are anyway ethnic migrants in that region. \textsuperscript{1939} Separate representation may be acceptable, according to Yonatan, only if there is a persuasive reason to consider an ethnic community ‘that [is] demarcated outside [its] homeland’ as a ‘distinct’ ethnic community in its own right. \textsuperscript{1940}

In any case, the practice is that an ethnic community which is considered original inhabitant of more than one regional state is represented in HoF separately. \textsuperscript{1941} For instance, the Oromia region, as the homeland of the Oromos, sends the largest ‘contingent’ to the HoF. Moreover, the Oromo nationality zone of the Amhara regional state also sends one representative to the HoF. \textsuperscript{1942} On the other hand, the Amharas in Benishangul-Gumuz, even though they have their own liyu woreda, are not separately represented in the HoF. This is apparently so because the Oromos are considered to be an original inhabitant of the Amhara regional state, whereas the Amharas in Pawe liyu woreda are still regarded as ethnic migrants in the region despite the territorial autonomy that they enjoy.

The Constitution provides that members of the HoF may be elected by the regional councils. It also provides that they may be directly elected by the people

\textsuperscript{1939} Yonatan (2010) 220.  
\textsuperscript{1940} Yonatan (2010) 220.  
\textsuperscript{1941} Yonatan (2010) 220.  
\textsuperscript{1942} Yonatan (2010) 220.
if a regional government decides to do so.\textsuperscript{1943} Therefore, it is the prerogative of each regional state to determine the manner in which those who would represent the various ethnic groups of the region in the HoF are selected. Proclamation 251 (2001) provides that if an ethnic community has its own nationality zone or liyu woreda, the council of the relevant nationality zone or liyu woreda will fully participate in the selection of those who will represent the relevant ethnic community in the HoF.\textsuperscript{1944}

\textit{Powers of the HoF impacting on nationality zones and liyu woredas}

As indicated before, the HoF does not have legislative power. It has, however, the power to decide on matters related to self-determination.\textsuperscript{1945} It also has the authority and the duty to settle constitutional disputes.\textsuperscript{1946} The decisions of the HoF on these matters may impact on intra-regional minority ethnic communities as well as on the autonomy of the ethnic-based local territorial units that are established for them.

First, as was stated before, matters relating to the right to self-determination of a particular ethnic community are settled with the involvement of the HoF.\textsuperscript{1947} This may involve the determination of fundamental issues, including whether a group of people can be considered to be as an ethnic community.\textsuperscript{1948} This was, for instance, precisely the issue in the Silte Case.\textsuperscript{1949}

\begin{itemize}
\item \textsuperscript{1943} FDRE Constitution (1995) Art 61 (3).
\item \textsuperscript{1944} FDRE Proclamation 251 (2001) Art 47 (6).
\item \textsuperscript{1945} FDRE Constitution (1995) Art 62 (3).
\item \textsuperscript{1946} FDRE Constitution (1995) Art 62 (2).
\item \textsuperscript{1947} FDRE Constitution (1995) Art 62 (3).
\item \textsuperscript{1948} FDRE Proclamation 251 (2001) Art 19 (1).
\item \textsuperscript{1949} See above § 2.2.1.1.
\end{itemize}
Secondly, the issue of self-determination may involve a demand by a particular ethnic community for territorial autonomy through the establishment of a liyu woreda or a nationality zone. It should be noted that such a demand is in principle a regional matter which must be decided by a regional government. However, the normative constitutional principle that entitles intra-regional ethnic minority groups to their own liyu woreda or nationality zone emanates from the FDRE Constitution.\footnote{See FDRE Constitution (1995) Art 39 (3).} As stated before, the HoF has a final say on all constitutional disputes. Hence, a demand by a particular intra-regional ethnic group for a liyu woreda or nationality zone, if denied by a regional government, may find its way to the HoF as a constitutional dispute. In effect, the HoF may be called upon to decide on the very creation of a particular liyu woreda or nationality zone.

Thirdly, the HoF may also be involved in the determination of matters relating to secession from a region. This is particularly relevant to intra-regional ethnic communities that have their own liyu woredas or nationality zones. In principle a demand by an intra-regional ethnic group for a regional state is decided by a representative council of the ethnic community which desires to establish its own regional state. This means that a liyu woreda or a nationality zone council decides whether or not to secede from the regional state wherein it is found.\footnote{See the discussion above at 2.2.2.2.} The regional government has the responsibility to facilitate the implementation of the decision of the nationality zone or liyu woreda council. It does so by organising a referendum and by transferring power to the new regional government when the demand for a regional state is supported in the referendum by the majority of the
ethnic community. In short, secession from a region is a regional matter that can be settled in accordance with the procedure laid down under Article 47(3) of the FDRE Constitution. Moreover, as indicated in Proclamation 251 (2001), an ethnic community must exhaust its remedies at regional level as far as secession from a region is concerned. A nationality zone or a liyu woreda council may, however, approach the HoF for a final decision, if a regional government refuses to positively respond to the demand of the ethnic community for a regional state after the latter has exhausted its regional remedies.

Fourthly, as was discussed above, under the FDRE Constitution the right to self-determination of the ethnic communities of the country is extended to include the right to secede from the federation to form an independent state. The referendum for secession is organised by the HoF. The HoF is also the federal government organ which actually transfers powers to the newly established states.

Fifthly, the federal government has the power to intervene in regional states when it believes that the constitutional order is endangered, when human rights are violated, or the regional government fails to maintain peace and security using the regular peacekeeping mechanisms. Any intervention by the federal government in a regional government must receive the approval of the HoF. The HoF also decides when a federal intervention should come to an end. It is

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1953 FDRE Proclamation 251 (2001) 19(3) (2-4).
important to note the problem that causes federal intervention may be limited in
its scope within a particular nationality zone or liyu woreda. Hence, a federal
intervention in a regional state may equally, if not more so, impact on the
autonomy of a nationality zone or a liyu woreda.

2.3.4. Assessment

The foregoing discussion clearly shows that all intra-regional minority ethnic
communities are represented in the HoF. Their representation in this House is
crucial as the HoF has the power to decide on matters that directly impact on the
local territorial autonomy of the ethnic communities. Their representation,
therefore, allows them to have their voices heard at the federal level. The
involvement of the council of nationality zones and liyu woredas in the selection
of the representative of the relevant ethnic community is an expression of shared-
rule. Moreover, as stated above, members of the HoF are not formally required to
act as representatives of a region even if they are primarily selected and sent by a
regional council. They are not, for instance, enjoined to vote in a block.1958 The
absence of a legal requirement that enjoins members of the HoF to promote
regional interests provides the representatives the opportunity to promote in the
HoF the particular interests of their ethnic community. In effect, even if not
necessarily, they may promote the interest of the nationality zone or liyu woreda
of the particular ethnic community to which they belong.

The above advantage is, however, mitigated by the fact that the composition of
HoF is based on a majoritarian principle.1959 As was discussed before,1960 there

1959 Yonatan (2010) 222; See also Assefa (2007a).
1960 See § Table 4.1.
are substantial differences in population size between the various ethnic communities of the country. Ethnic communities, such as, the Oromos and Amharas, which have large populations, can easily ‘outvote’ intra-regional ethnic communities. Moreover, in practice, members of the HoF act more as representatives of the regional states rather than of the ethnic communities that they are supposed to represent.

### 2.4. Concluding Remarks

The above discussion shows that intra-regional ethnic communities are represented in regional and federal government organs. These federal and regional government organs into which intra-regional ethnic communities are represented have the power to decide on matters that have a direct and an indirect impact on the territorial autonomy of the intra-regional ethnic communities. The representation of the ethnic communities in these organs is, therefore, likely to allow them to influence decisions which have an impact on their interests.

### 3. ACCOMMODATING TERRITORIALLY DISPERSED ETHNIC COMMUNITIES

#### 3.1. Introduction

It may be gathered from an earlier discussion that territorial autonomy becomes a workable mechanism for accommodating ethnic minorities only where the ethnic communities are found territorially concentrated. Territorial autonomy is not an appropriate option when members of an ethnic community are dispersed all over a region or a country. It is also not an ideal choice where an ethnic community, though territorially concentrated, is too small to effectively exercise

1963 See chapter 2; § 4.4.2.
territory-based self-governance. Non-territorial options should be explored in such cases. It was stated in chapter two that the equitable representation of ethnic minorities in the political and administrative apparatuses of local government, and providing recognition to the culture and language of members of a territorially dispersed ethnic community were necessary. The following sections will examine whether a non-territorial institutional arrangements have been used in Ethiopia to accommodate these communities. The sections will also examine how local government - both Article 39 and Article 50(4) local government units - plays a role in this respect. The discussion will begin by arguing that there is a need to seriously consider non-territorial options to accommodate certain intra-regional minority ethnic communities.

3.2. A case for non-territorial options in Ethiopia

As previously discussed, there are a number of small indigenous ethnic communities in some of the regional states that are too small, both in terms of population size and in terms of the territorial area that they occupy, to effectively exercise territorial autonomy even at local level. Proclamation 7 (1992) identifies more than 17 such ethnic communities. Most of these intra-regional ethnic minority groups are found in SNNPR. As was shown above, these small ethnic groups are lumped together in multi-ethnic nationality zones, such as, Bench-Maji, South Omo, Kembata-Tembaro, and Gamo-Gofa. Besides, there are those that are found in other nationality zones amidst a locally dominant ethnic community. Such small ethnic communities are also found in the Tigray region (the Kunamas and Irobs) and in Benishangul-Gumuz (Komo, Mao and
The Opo and Komo ethnic communities of the Gambella regional state are also among those that are too small to exercise territorial autonomy.

Moreover, millions of ethnic migrants are found in every regional state, nationality zones, and liyu woreda. More than three million non-Oromo people reside in the Oromia region, including close to two million Amharas. Similarly, in the Somali region, in particular in Jijiga town, a significant number of non-Somali residents are found. Furthermore, in SNNPR half a million Amharas are found, mostly in the urban areas of SNNPR; a population greater by far than, for example, the entire population of the Gambella region. There are also quarter of a million Oromos in this region.

Tens of thousands of Amharas, Oromos, and other ethnic communities live in Gambella region. Besides, more than quarter of a million Amharas and Oromos live in the Benishangul-Gumuz region besides small proportion of other communities.

Clearly, territorial autonomy is not a viable option to accommodate the ethnic migrants, save in exceptional cases, like Pawe liyu woreda, where they are found territorially concentrated. Therefore, the need to accommodate these ethnic communities and ethnic migrants requires a serious consideration of non-

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1964 In Benishangul a bi-ethnic liyu woreda is established for Mao and Komo ethnic groups. However, the Shinasha ethnic group has no territorial autonomy.
1971 See above at § 2.2.1.
territorial solutions. The following sections examine how the regional states have attempted to accommodate these communities.

3.3. Political representation

3.3.1. Autochthonous ethnic communities

3.3.1.1. Representation in woredas

The FDRE Constitution guarantees the right of every ethnic community to be represented in the national and state governments. To that effect it reserves 20 seats in the House of Peoples’ Representatives (HoPRS) for 20 ethnic communities that cannot be represented through the normal electoral process. Undoubtedly, the express reference to the right of an ethnic community to be represented in state and federal governments does not exclude a claim for similar representation in local government. Rather, it is clearly provided in Proclamation 7 (1992) that an ethnic community has a right to be represented in a woreda council if it does not have a woreda of its own.

Small ethnic communities not only are represented in woreda councils but many of them also have their own woredas. As a rule a woreda is required to have a population of approximately 100 000. However, often this requirement is ignored. Woredas are created for several ethnic communities even if they do not fulfil the minimum population requirement. Therefore, even in multi-ethnic nationality zones, such as, Bench-Maji and South Omo, small ethnic communities, such as, Suri, Me’en and Dizi have their own woredas. This is even the case in the regions that have not created any ethnic-based local government units. In Tigary,

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for instance, the Irob ethnic community has a *woreda* of its own which in fact bears the name of the ethnic community.

This kind of arrangement allows the ethnic communities to decide on some of their own social and economic matters. It should be noted that a *woreda* is an Article 50 (4) local government unit. Therefore, these ethnic communities do not enjoy the same degree of constitutional protection and autonomy as the ethnic communities that have their own *liyu woredas* or nationality zones.

There are several territorially concentrated small ethnic communities that do not have their own *woredas*. These ethnic communities are often found to be in the majority in one or more *kebeles* within a particular *woreda*. This is the case, for instance, in Gambella where ethnic communities of a few thousands, such as Opo and Komo, are found concentrated in certain *kebeles*. That is why the Gambella regional Constitution provides that the Opos and Komos can exercise self-rule at *kebele* level. As was discussed above, a *kebele* is used in *woreda* elections as a multimember constituency. Each *kebele* sends a certain number of representatives to the *woreda* councils. Therefore, the electoral process which uses a *kebele* as a constituency for *woreda* elections is likely to result in the representation in a *woreda* council of most of the ethnic communities. Furthermore, special procedure, such as reserving a certain number of seats in a *woreda* council, may be used to ensure the representation of the ethnic communities where the electoral process does not guarantee their representation.

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1975 See above at 2.2.1.
1976 See chapter 5; § 2.3.4.2.
3.3.1.2. Representation in city councils

The political representation through the normal electoral process of ethnic communities of a given region in city councils including those communities that constitute the majority in a particular region, nationality zone, or liyu woreda, cannot be guaranteed. The cities are often multiethnic. Oftentimes autochthonous ethnic communities of a given region are even found to be in the minority in many urban areas. 1977

Some of the regional states, such as Oromia and SNNPR, have introduced a special procedure designed to ensure the representation of the autochthonous ethnic communities in city councils. However, as can be gathered from the discussion below, the procedure goes beyond ensuring the representation of the ethnic communities. Rather it seems to be directed at excluding ethnic migrants from being represented in local political organs.

Reserving city council seats

Proclamation 65 (2003) of the Oromia regional state provided that up to 30 percent of the seats in a city council may be reserved for the Oromos in the cities where they are found to be in the minority. 1978 In addition, the Proclamation provided that five percent of the seats in a city council will be reserved for the

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1977 The Oromos, for instance, constitute only 46 percent of the total population of the Nazret (Adama) City which is found in Oromia regional state. The Amhara population exceeds that of the Oromos in Debre-Zeit (Bishoftu) which is also in Oromia regional state. In Somali regions, in particular in Jijiga town, there are a significant number of Amharas and Oromos. The same can be said in relation to most of the cities in SNNPR, Gambella, and Benishangul-Gumuz. FDRE Population Census Commission (2007).

rural kebeles which are found in the vicinity of a city.\textsuperscript{1979} The above provisions were amended in 2006 by Proclamation 116 (2006). Proclamation 116 (2006) increased the seats in a city council that are reserved for the Oromos from 30 percent to 50 percent.\textsuperscript{1980} The Proclamation further stated that this arrangement may also be implemented at the kebele level within a city.\textsuperscript{1981} This means that 50 percent of a kebele council is reserved for Oromos if they are found to be in the minority in a particular kebele of a city. Moreover, the Proclamation increased from five percent to 20 percent the seats in a city council that are reserved for the rural kebeles which are found in the surrounding area of a city.\textsuperscript{1982} It is evident that almost always the rural kebeles in the Oromia region that are found in the vicinity of cities are dominated by the Oromos. Hence, the above scheme alone reserves approximately 70 percent of the seats in a city council for the Oromos. As will be discussed below, this, coupled with a language requirement,\textsuperscript{1983} completely disenfranchises the ethnic migrants in many urban areas.

Similarly, Benishangul-Gumuz City Proclamation 69 (2007) provides that 55 percent of a city council in the region is reserved for the ethnic communities.\textsuperscript{1984} The Proclamation authorises the regional council to increase the percentage of a city council’s seats that can be reserved for the ethnic communities.\textsuperscript{1985}

\textsuperscript{1983} See below at § 3.2.2.1.
\textsuperscript{1984} BGRS Proclamation 69 (2007) Art 10 (5).
\textsuperscript{1985} BGRS Proclamation 69 (2007) Art 10 (6).
Likewise, Proclamation 103 (2006) of SNNPR provides that up to 30 percent of the seats in a city council may be reserved for members of the ethnic communities of a particular nationality zone or liyu woreda within whose jurisdiction the city is situated. This happens in particular when members of the ethnic community of a nationality zone or liyu woreda are in a minority in the city. The Proclamation further provides that in order to fill the seats that are reserved for the groups, elections may be conducted in the rural kebeles which are adjacent to the city. The above quota scheme would be used unless the particular ethnic community is in the majority in a particular city, or the regional executive council decides otherwise.

*A mayor from an indigenous community*

The reservation of political positions for ethnic communities in cities also extends to the executive branch of a city. SNNPR Proclamation 103 (2006) provides that the mayor of a city will be elected from among the members of the city council who belong to the ethnic community within whose nationality zone or liyu woreda the city is found. This is especially so when members of the ethnic group/s are in a minority in the particular city. According to this provision, the mayor cities, such as, Wolkité and Butajira, cities that are found in Guraghe nationality zone, must be from Gurage ethnic community. Likewise, Hosanna, a city which is found in Hadiya nationality zone, may have only a Hadiya mayor. The same applies to the other mono-ethnic nationality zones.

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However, it is unclear what happens when a city is found in a multi-ethnic nationality zone, such as South Omo or Bench-Maji. There appear to be two options. The first option is that the office of the mayor would rotate among the ethnic communities constituting that particular nationality zone. This might be the case especially where the city is a capital of a multiethnic nationality zone. The other option is that the mayor may be elected from among the ethnic community within whose woreda the city is found.

Proclamation 116 (2006) of the Oromia region provides that the mayor and deputy-mayor of city will be appointed by the Regional President, as opposed to by a city council. Previously, the cities in Oromia had a parliamentary form of executive. A city council, therefore, had the authority to elect the mayor from among the members of the city council. The above change was introduced in Proclamation 116 (2006). As the preamble of Proclamation 116 (2006) indicates, the above change was introduced to eliminate all legislative hurdles that limited ‘the role of the Oromo people’ in the cities. In another words, this arrangement is meant to ensure that all political organs of the cities, including the offices of the mayor and the deputy-mayor, are occupied by Oromos, to exclusion of others.

3.3.2. Ethnic migrants

As was indicated before, there millions of ethnic migrants in many urban areas of almost every region. In particular, millions of internal immigrants, mostly belonging to the Amhara ethnic community, are found in Oromia, SNNPR, Gambella, Benishangul-Gumuz, Somali, and Afar. There are also certain ethnic


\[1991\] See chapter 4 § 2.1.
communities of southern origin who have a history of migration within the country which include ethnic Wolayita and Guraghe who are found in various urban areas outside their respective regions, nationality zones, or liyu woredas.\textsuperscript{1992}

3.3.2.1. Political representation of ethnic migrants

The regional constitutions and proclamations are almost completely silent on the issue of the political representation of ethnic migrants. None of the regional constitutions or city proclamations provide for any special schemes aimed at ensuring the representation of ethnic migrants. It also does not seem possible to provide for such a scheme, as individuals belonging to various ethnic communities are found in every urban area; even if most of the ethnic migrants are of Amhara origin.

The question, therefore, is whether the normal electoral process provides an opportunity to everyone in all cities to be elected to the city councils. The answer is simply no. On the contrary, there are various legislative and non-legislative barriers which have the effect of disenfranchising those who belong to ethnic migrants in a number of regional states. As was seen above, the reservation of the largest portion of a city council’s seats for members of ethnic communities greatly reduces the opportunity that the ethnic migrants have for representation in city councils. The language requirement is the other legislative barrier hampering the political representation of ethnic migrants.

\textsuperscript{1992} Smith (2008).
Language requirement, local elections, & ethnic migrants

Proclamation 532 (2007), which regulates all elections in the country, provides that anyone who wishes to stand for election must be conversant with the working language of ‘the regional state or the area of his intended candidature’. As an earlier discussion shows, each regional state, nationality zone, or liyu woreda may adopt its own working language. The working language of a regional government may not be the same as the working language of a nationality zone or a liyu woreda. In general, woredas and cities are expected to use the working language of the regional government within whose jurisdiction they are found. For instance, all woredas and cities in Oromia and Tigray use afaan-oromo and Tigrigna, respectively. However, woredas and cities that are found in nationality zone or liyu woreda are expected to use the working language of the latter for official purposes. In the context of local elections, therefore, it is not sufficient for a candidate to be conversant with the working language of the regional government. The electoral proclamation requires the person to be able to speak the working language of the woreda or city wherein he or she intends to run for election.

The constitutionality of the language requirement

The constitutionality of the language requirement was disputed in 2000 in connection with regional elections. The issue arose in relation to regional elections when individuals belonging to ethnic migrants were prevented from running in regional elections by officials of the Benishangul-Gumuz Region. The regional officials argued that the individuals should not be allowed to run for election in the region as they did not speak any of the local languages of the

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1994 This is as narrated by Assefa (2007 a).
region. This argument was based on a provision of the election law which, before it was amended, provided that a person must be ‘versed in the vernacular’ of a regional state in order to stand for election. Yet, Amharic, which is not ‘vernacular’ of the region, was the working language of the region in which the individuals, who sought to run for elections, were well versed. The matter was taken to the National Electoral Board of Ethiopia (NEBE). The NEBE interpreted the term ‘vernacular’ to mean a language which is indigenous to a particular region. Then it decided that the individuals who sought to run for election could not do so since none them was able to speak any of the local languages of the Benishangul-Gumuz region.

The individuals challenged the constitutionality of the provision of the law along with the decision of the NEBE by invoking Article 38 of the Constitution which provides:

‘Every Ethiopian national, without any discrimination based on colour, race, nation, nationality, sex, language, religion, political or other opinion or other status, has the following rights: ...(c) To vote and to be elected at periodic elections to any office at any level of government; elections shall be by universal and equal suffrage and shall be held by secret ballot, guaranteeing the free expression of the will of the electors’

The matter was referred to the HoF as it involved constitutional interpretation. The HoF, in turn, referred it to the Constitutional Inquiry Commission (CCI) seeking the Commission’s opinion. The majority of the CCI were of the opinion that the provision as well as the interpretation of the NEBE had infringed the Constitution. On the other hand, the minority of the CCI held that the language

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requirement was neither discriminatory nor unconstitutional if it was seen in light of the ‘letter and spirit’ of the Constitution as well as the country’s ethnic-based federalism.

The HoF declared that the decision of the NEBE was unconstitutional to the extent that it required knowledge of a local language in order to run for elections. The HoF, however, decided that a person should be able to speak the working language of a regional state to participate in regional elections.

*The impact of the language requirement on ethnic migrants*

As a consequence of the language requirement, ethnic migrants that are found in a number of urban areas, are effectively disenfranchised. They are in particular disenfranchised in local elections. For instance, a large number of non-Oromo people are found concentrated in many cities of the Oromia regional state. As was seen above, the non-Oromo population even exceeds that of the Oromo in large towns, such as, Nazret (Adama) and Debre Zeit (Bishoftu). However, a non-Oromo may not run for the city council of Nazret or Debre-Zeit unless that candidate happens to be able to speak *afaan-oromo* which is the working language of the region and, therefore, of the cities. It should also be noted that candidates from the ethnic migrants may compete only for 30 percent of the city council seats in Oromia even if they speak *afaan-oromo*; 70 percent of the seats are in any event reserved for Oromos.

As was also discussed before, the Afar, SNNPR, Benishangul-Gumuz, and Gambella regional governments use Amharic as a working language. However,

1996 See above at § 2.2.3.1.
some of the mono-ethnic nationality zones and liyu woredas in SNNPR have begun to use local languages for official purposes. Hence, ethnic migrants who are found in the urban areas of these liyu woredas and nationality zones may not run for election unless they know the local language. The nationality zones and liyu woredas in Benishngul-Gumuz and Gambella have not begun using the local language for official purposes. In principle, a candidate, his/her ethnic background regardless, may thus run for elections. However, as many studies show, ethnic migrants are excluded from taking part in local elections.\footnote{1997}

3.3.2.2. Language and cultural rights of ethnic migrants

As was discussed above,\footnote{1998} only an ethnic community which enjoys territorial autonomy at regional or local level may use its language as a working language. Therefore, needless to say, ethnic migrants may not demand to access public services in their own language. Ethnic migrants must use the working language of local government to access public services.

‘[I]ndividuals moving into [other] regions must assimilate. That means Amharic–speaking citizens moving to an Oromifa-speaking region have to leave behind any prior claim to language protection…this has created a problem in some areas where an important number of minorities are scattered in the midst of the regionally dominant linguistic groups, especially in major urban areas of some of the member states.’\footnote{1999}

On the other hand, every ethnic community is entitled to receive education in its own language even if it does not enjoy territorial autonomy. It is not however clear whether the ethnic migrants may as of right demand to receive education in their own languages. The Gambella Constitution, after recognising the right of the

\footnote{1997} See Asnake (2009); Berhanu (2005).
\footnote{1998} See above § 2.3.3.1.
\footnote{1999} Yonatan (2010) 197.
ethnic communities of the region to learn in their own language, provides that the 'people in the region have the right to learn in Amharic'. The term ‘the people in the region’ seems to refer to ethnic migrants. Thus, in this region Amharic is designated as the medium of education in which all ethnic migrants may legally demand to be educated. Hence, local government in this region is constitutionally enjoined to provide primary education in Amharic for the ethnic migrants by establishing either separate schools or separate classes. It should be noted that Amharic is designated as the only language of education for all ethnic migrants in the region. Hence, for instance, the Oromos in the region may not demand to learn in *afaan-oromo* nor may the Tigrawiyans demand a school or a class which offers education in *Tigregna*.

The other regional constitutions are silent on the question of whether ethnic migrants may demand to receive education in their own languages. Thus, it is unclear whether ethnic migrants may demand a *woreda* or a city to establish a school for their children which provides education in their mother tongue.

It may be argued though that the FDRE Constitution provides that ‘[t]he State has the obligation to allocate ever increasing resources to provide to the public health, education and other social services’. It further adds that ‘[e]very Ethiopian national has the right to equal access to publicly funded social services’. It should be noted that it is not a particular ethnic community which can demand

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2000 GRS Constitution (2002) Art 6 (4). This sub-article is found only in the Amharic version of the regional Constitution, not in the English version.
access to government funded service; but ‘every Ethiopian’. Based on these constitutional principles, it may be argued that local government, being a part of the state, has the obligation to establish and finance schools for members of the ethnic migrants. Moreover, it can be argued that schools that are run by local government are state funded schools. Hence, ethnic migrants may demand equal access to these state funded schools. Equal access should be read to imply the right to be educated in one’s own language; since otherwise ethnic migrants may not be considered to have equal access to a state funded social service.

Conversely, it may be argued that ethnic migrants may not demand to receive education in their own languages considering the fact that neither the communities nor their languages have received recognition in a regional constitution. The FDRE Constitution puts no constitutional obligation on the regional states either explicitly or impliedly to accommodate ethnic migrants in terms of providing education in their respective languages. It may further be argued that equal access to state funded education does not imply the right to be educated in one’s own language. It simply implies a right to be enrolled in the existing schools regardless of the language they use to teach.

What the above shows is that both the federal and regional constitutions are vague on whether ethnic migrants are entitled to receive education in their own language. The federal policy on education is also silent on the matter.

In spite of the constitutional ambiguity, ethnic migrants, who prefer to receive education in Amharic, are accommodated in almost all regions. Oromia has
adopted a policy to establish either separate schools or separate classes which
provide primary education in Amharic. Accordingly, several cities with large
ethnic migrants, including, Nazareth, Debre-Zeit, Assella, Nekemt, Zeway, and
Jimma, have established either a separate school or separate classes which
provide education in Amharic. In SNNPR, the policy has been to use
Amharic in the capitals of the nationality zones. In the capitals of mono-ethnic
nationality zones Amharic is used for education together with the language of the
dominant ethnic communities of the nationality zone. In the multi-ethnic
Bench-Maji and South Omo nationality zones, Amharic is used for primary
education. Even some mono-ethnic nationality zones and liyu woredas in
SNNPR, such as, the Guraghe nationality zone and the Alaba liyu woreda, use
Amharic in primary school.

3.3.3. Assessment

The discussion above reveals that even the smallest ethnic community in almost
every regional state is represented in local councils either through the regular
electoral process or through a special procedure. Many of the small ethnic
communities in fact have their own woreda. Such an arrangement allows them to
decide on certain social and economic matters. However, it should be noted that
the constitutional protection and the extent of autonomy that a regular woreda

\[\footnote{2003 Cohen (2006) 166; See also (Yonatan) 2010 228.}
\[\footnote{2004 For instance Amharic is used along with sidamigna in primary schools of Awassa city which
is the capital of Sidama nationality zone as well as of the SNNPR. Amharic is also used alongside
with gamogna in Arba-Minch, the capital of Gamo-Gofa Nationality Zone, in Soddo, the capital
of Wolayita nationality zone Amharic and wolayitegna are used in primary schools. In Hossana,
the capital of Hadiya nationality zone Amharic is used in along with hadiyisa while in Dilla, the
capital of Gedeo Nationality Zone, gedeofaa is used for the same purpose. Cohen (2000) 199. See
also (Yonatan) 2010 228.}
\[\footnote{2005 Cohen (2000) 199.}
enjoys is not on par with that of a liyu woreda or a nationality zone. As was discussed in the previous chapter, individual woredas do not have constitutional protection and, therefore, the creation, division or amalgamation of woredas can be undertaken without any legal restraints. The Tigray regional government, for instance, may decide to eliminate the Irob woreda at any time by amalgamating that woreda with other woredas. Moreover, as was discussed earlier, liyu woredas and nationality zones have the power to decide on cultural matters, including, the power to choose a language for official purposes and for primary education. Regular woredas, such as Irob woreda, however, do not have the competence to exercise functions that are particularly important for protecting an ethnic community’s identity, including the right to choose a working language. This is one of the reasons why Tigrigna, and not Saho (the language of the Irob ethnic community), is used as the working language of the Irob woreda.

The above discussion also shows that the regional governments have devised various institutional arrangements to ensure that the political organs of cities remain within the control of ethnic communities, even if at the cost of marginalising ethnic migrants. It is bemusing to observe that the institutional designs are aimed at simply preventing any potential representation of ethnic migrants in city governments. No acceptable justification can be given, for instance, for putting 70 percent of city and kebele council seats out of the reach of ethnic migrants and thereby disenfranchising the majority of the cities’ residents.
as is the case in Oromia. This rather appears to be a measure of retribution for past injustices.\textsuperscript{2007}

The FDRE Constitution recognises the historical ‘interactions’ among several of the ethnic communities of the country ‘on various levels and forms of life’.\textsuperscript{2008} The Constitution recognises that these interactions have led to the creation of a ‘common interest’ and ‘common outlook’ among the various ethnic communities of the country.\textsuperscript{2009} These are more visible in cities than anywhere else where populations with different ethnic, religious, and cultural backgrounds live together. It is also in the cities where non-ethnic or mixed ethnic populations are found in large number. The formal and informal restriction on the political representation in city councils of ethnic migrants belies this constitutionally recognised ‘common outlook’ and shared history.\textsuperscript{2010}

Furthermore, the insistence on ensuring that cities remain under the political control of the autochthonous ethnic communities contradicts a major national and international trend \emph{viz.} urbanisation. As many studies show, urbanisation is a global trend the importance of which is not even diminished by glocalisation.\textsuperscript{2011} As a World Bank report indicates, urbanisation is rather reinforced by glocalisation. National and international firms seek to access the ‘sizable pool of labour, [sic] materials, services, and customers’ urban areas have to offer.\textsuperscript{2012}

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\textsuperscript{2007} See chapter 3.
\textsuperscript{2010} See Assefa (2007a) 254-255.
\textsuperscript{2011} World Bank (2000) 125.
\textsuperscript{2012} World Bank (2000) 125.
\end{flushright}
This, in turn, leads to a mobility of a large labour force and capital to urban areas leading to ethnic diversity in cities.\footnote{World Bank (2000) 125.}

Presently, only 16 percent of the Ethiopian population lives in urban areas.\footnote{See MoWUD (2007) 2.} However Ethiopia is being urbanised at the rate of four percent, a rate which is higher than the average urbanisation rate of the African continent which stands at 3.2 percent.\footnote{See MoWUD (2007) 2.} Cities in every part of the country are already ethnically diverse. As the country becomes more and more urbanised, cities and municipalities are likely to become even more diverse. This trend has been visible particularly in recent years with the opening of higher learning institutions in different parts of the country. More than 23 universities have been opened in remote cities, such as, Neqemté, Jijiga, and Soddo.\footnote{See Rayner & Ashcroft (2011).} This is in addition to the cities, such as Jimma and Mekellé, which have had universities for a long time. Students from different parts of the country and with different ethnic backgrounds are sent to these cities to take up their studies. Moreover, the federal government is sending university lecturers and support staff with different ethnic backgrounds to these areas. Many of the lecturers and support staff even move with their families to these areas. All these factors reinforce the ethnic diversity of cities. Obviously, university students are not permanent residents of these cities and university workers constitute a small fraction of a city’s residents. However, the trend is clear: cities are likely to become more diverse rather than less. Therefore, to insist that a minority segment of the urban population should exercise absolute control over
cities to the exclusion of all others is a bizarre attempt to curtail a global and national trend. Moreover, it is undemocratic and discriminatory to restrict the representation of ethnic migrants in the manner described above. It is contrary to key civil and political rights of the ethnic migrants including the right to equality and non-discrimination. 2017

The above should not, however, be construed to mean that the special interests of the autochthonous ethnic communities in the cities should not be protected. To do so would be unfair. To begin with, cities are the economic centres of the regions, nationality zones, and woredas. They are also the seats of regional, zonal, or woreda governments. Most of the existing infrastructures and social service centres, including schools and hospitals are found mainly in the cities. It is only rational to allow ethnic communities to exercise a certain measure of control over cities and their resources if they are to feel empowered. It would also be unfair to restrict the control of the autochthonous ethnic communities to poorly resourced rural areas. However, this can be achieved without totally excluding other communities. For instance, where ethnic communities are found in the minority in urban areas, institutional arrangement such as, power sharing, ‘double-majority’ or ‘minority-veto’ can be used to ensure that their interests are protected. Macedonia is a good example in this respect. In Macedonia, when a particular identity group is found to be in the minority in a particular municipality, a decision specifically affecting the interests of the minority has to be approved in the municipal council by a majority vote. In addition, it has to be

supported by a majority of the particular identity group in the municipal council.\textsuperscript{2018}

4. CONCLUSION

This chapter has examined the Ethiopian local governance system and its relevance for accommodating intra-regional minority ethnic communities. The discussion shows that territorial and non-territorial institutional arrangements are employed to accommodate intra-regional ethnic communities at local level. With a view to accommodate intra-regional ethnic communities ethnically defined local government units are established. An institutional arrangement that has elements of self-rule and shared-rule is put in place. As a manifestation of self-rule of the intra-regional ethnic communities, ethnically defined local territorial units have been created. Government institutions are established in the local territorial units. As part of the shared-rule element intra-regional ethnic communities are represented in regional and federal government organs. The ethnic communities which are too small to exercise territorial autonomy are also allowed to be represented both in Article 39 and Article 50(4) local government units as well as regional and federal organs. Yet the decentralised system has numerous shortcomings. The following stand out in particular:

- The regional constitutions do not provide clearly defined competences nationality zones and liyu woredas which are relevant for the protection and promotion of the culture and identity of the relevant intra-regional ethnic communities. As indicated above nationality zones and liyu woredas have competences in the area of education and language. These are important culture related functions. Yet

\textsuperscript{2018} Lyon (2011) 31.
other culture related functions are not clearly listed in the regional constitutions including

- Territorial autonomy is not accompanied with financial autonomy. Nationality zones do not have any plainly stated revenue raising power. *Liyu woredas* collect certain taxes as agents of the regional state. This negatively impacts on the political autonomy these local units.

- The electoral process does not allow the diverse political views that exist within an ethnic community to be fairly represented in local councils. All the seats in nationality zone and *liyu woreda* councils are controlled by EPRDF or parties that are affiliated to it. Ethnic based opposition are completely unrepresented. Moreover, the principle of democratic-centralism based on which EPRDF and its affiliates operate undermines the autonomy the ethnic based local unit.

- There are no institutional arrangements that ensure the political representation of ethnic migrants. On the contrary, their right for political representation in local councils are curtailed through various legislative measures. Their cultural rights are not given appropriate institutional recognition. They can access public service using only the working language of a regional state or a particular *liyu woreda* or nationality zone. They may not also demand a local government unit to provide them primary education in their own languages.

This chapter and the preceding three chapters have examined the institutional design of Ethiopia’s local government system and its implication for development
and accommodation of intra-regional ethnic minorities. The following chapter will provide a conclusion of the thesis
Chapter 8
Conclusion
1. INTRODUCTION

The decentralisation programme that is being implemented in Ethiopia was intended to serve two principal objectives *viz.* to serve as an institutional mechanism for bringing about development by reducing the prevalence of poverty in the country and to respond to intra-regional ethnic diversity by accommodating intra-regional ethnic minority communities. This thesis, therefore, examined whether Ethiopia’s local government system has the institutional features that are deemed likely to enhance the prospect of a decentralisation programme for achieving development and accommodating ethnic minorities. With a view to answering this question chapter two identified the institutional features that scholars, experts of decentralisation, and global development institutions, such as the World Bank, aver are likely to unleash the potential of a decentralisation programme to achieve development. The chapter also explored several territorial and non-territorial institutional options which may be implemented at the local level in order to accommodate ethnic minorities. The potential of Ethiopia’s decentralisation programme and local government system to achieve its intended purposes was examined in chapters four, five, six and seven against the backdrop of these institutional features.

The study of Ethiopia’s local government system revealed that, with an eye to respond to the twin challenges of poverty and intra-regional ethnic diversity, the country has established two categories of local government which are based on two different constitutional principles. In order to tackle the challenges of poverty, Ethiopia has established what is referred to in this thesis as Article 50 (4)
local government. This category of local government is intended to have a certain degree of autonomy while under the overall supervisory power of the regional and, to some extent, the federal governments. In order to respond to the challenges of intra-regional ethnic diversity, the country has also established Article 39 local government units based on the federal principles of self-rule and shared-rule. This thesis separately examined the two categories of local government against the backdrop of the institutional features that are identified in chapter two. The following sections will summarise the findings of the thesis.

2. LOCAL GOVERNMENT AND DEVELOPMENT

A study of international scholarly works on decentralisation and development in chapter two showed that political, financial, and administrative autonomy are defining elements of devolution. These are also critical institutional features of decentralised development.

2.1. Political autonomy

As was discussed in chapter two, political autonomy has four elements. The first element of political autonomy is the certainty of the existence of local government, which, in turn, has three aspects: The existence of local government as an autonomous sphere or order or level of government, the establishment of local government in every part of a country on wall-to-wall basis, and the protection of the institutional security of individual units of local government. Political autonomy also involves the establishment of governance structures, including legislative and executive organs, and local democracy. Moreover, it entails the devolution of original, clearly defined, and development-related functions. It also implies transferring full political power to local government on those functions. International literature shows that each of these elements of
political autonomy impacts on the potential of local government to bring about
development which is equitable and sustainable.

2.1.1. Political autonomy and Article 50 (4) local government

2.1.1.1. Certainty of existence

Constitutional recognition

The most preferable institutional option for ensuring the continuous existence of
local government, as suggested by decentralisation and development scholars, is
the recognition of local government as an order of government in a national
constitution. The thesis, therefore, examined whether local government is
recognised as a level of government in the FDRE Constitution. The finding was
that the FDRE Constitution is generally vague with regard to the constitutional
status of Article 50 (4) local government. The Constitution does not explicitly
recognise this category of local government as an autonomous level of
government. It rather makes a transient reference to it in Article 50 (4). This is
despite the fact that a careful perusal of the entire text, and the drafting history, of
the Constitution reveals that the Constitution certainly envisions this category of
local government to exist as an autonomous order of government. The regional
constitutions provide a certain measure of recognition to woredas, which belong
to the Article 50 (4) category of local government. However, the regional
constitutions are generally silent on the status of cities and municipalities.

The vagueness of the FDRE Constitution with regard to the constitutional status
of local government is problematic. It has rendered the very existence of local
government insecure and dependent on the political will of the party in power at
federal and regional level. This is evident from the fact that the decentralisation
programme that resulted in the creation of woredas and cities was instigated by a political rationale rather than by the purpose to meet the prescriptions of the FDRE Constitution.

While the regional constitutions provide a certain measure of recognition to local government, practice shows that they do not provide adequate protection to local government since they are easily amended. Moreover, the regional constitutions make distinction between rural woredas and urban local government in providing recognition. The recognition of woredas in regional constitutions to the exclusion of cities and municipalities is a reflection of the EPRDF’s preference for a rural-centred development policy. This in itself demonstrates the fact that the lack of explicit recognition of local government in the FDRE Constitution has rendered the existence of local government dependent on the policy of the party in power.

It is, therefore, suggested that Article 50 (4) local government should be explicitly recognised as a democratically constituted autonomous level of government.

*Wall-to-wall local government*

The constitutional objective that Article 50 (4) local government is meant to serve is achieving participatory development. This rationale entails that this category of local government is established in every part of the country, on a wall-to-wall basis.

In Ethiopia local government units are established on a -to-wall basis. Moreover, the structures of the local government units that are established in different parts
of the country reflect the developmental preferences of the communities in different parts of the country. In rural areas, *woredas* are established while in urban areas municipalities and cities are established. Within the urban category the different status and capacity of each local unit is taken into consideration for providing the status of a city or a municipality. Hence, Addis Ababa and Dire Dawa are established as autonomous federal cities with the status of a regional state. A distinction is also made in the manner in which cities and municipalities are structured. Cities are established as autonomous units of local government while municipalities are established as administrative units.

The establishment of *woredas*, cities, and municipalities in all parts of the country is important for two reasons. First this is in line with what the FDRE Constitution envisions. Second, the establishment of *woredas* and cities in all parts of the country is important for it allows everyone, in every part of the country, to participate and share in the benefits of local development.

**Constitutional protection for individual local units**

The existence of each *woreda* and city is not adequately protected since there are no clearly defined and constitutionally entrenched substantive and procedural criteria for the creation, division, and/or amalgamation of *woredas* and cities. There is a trend to define the criteria for altering *woredas’* and cities’ boundaries through regional proclamations. However, this is not likely to provide adequate protection for individual local units. Firstly the regional proclamations are effortlessly amended by the regional states. Second, the criteria for alteration of *woreda* boundaries are vaguely and widely defined by some of the regional proclamations. Thirdly, the role of community participation in the process of
altering *woreda* boundaries is not articulated. As a result individual *woredas* and cities are vulnerable for haphazard division and amalgamation. This in turn endangers the political autonomy of each individual *woreda* and city. This also jeopardises local democracy since a *woreda* or a city which chose to be governed by a party other than the one that governs the regional and/or federal government may be eliminated through division or amalgamation. This is not mere speculation but real danger in the Ethiopian context where the entire political space is controlled by one party (EPRDF) which has acrimonious relations with opposition parties.

It is, therefore, recommended that the regional constitutions should provide clearly defined substantive and procedural criteria for creating, dividing, and amalgamating *woredas* and cities. The criteria may include population size, geographical location, resource distribution, administrative convenience, and the like. The procedural criteria should include a requirement for public engagement.

### 2.1.1.2. Local democracy

The discussion in chapter two showed that the establishment of political structures and local democracy are critical institutional features of local political autonomy and, therefore, of decentralised development. Decentralised development requires local democracy that is competitive (creating a chance for alternation in leadership) and representative (allowing the representation of all major political opinions). These are likely to optimise the potential of each local unit to be responsive to local developmental preferences by ensuring public accountability. Local elections should involve political parties and allow room for the participation of non-partisan candidates.
In Ethiopia woredas and cities have political structures which include legislative and executive organs. Members of the legislative organs are elected directly by voters. Local elections, in which political parties and independent candidates participate, are held more or less regularly. The electoral system in use in Ethiopia is block-voting: A system that uses a multi-member constituency and provides voters as many votes as the number of candidates that are elected from a particular constituency. To this extent the institutional features that are important for local democracy and, therefore, for decentralised development, are visible in Ethiopia’s local governance system.

However, practice shows that local elections in Ethiopia are far from competitive and representative. All local electoral positions, except a few seats which are occupied by independent woreda and city councilors, are controlled by the EPRDF and by parties affiliated to it. The non-representativeness and non-competitiveness of local elections is compounded by the fact that EPRDF has a centralised structure and decision making procedure. The fact that opposition parties have hardly participated in local elections makes it difficult to assess whether the non-competitiveness and non-representativeness of local elections is due to the electoral system in use. It is clear, however, that, the non-competitiveness and non-representativeness of local elections diminish the political autonomy of woredas and cities. This jeopardises the institutional responsiveness of local government to local developmental preferences.
2.1.1.3. Local government’s functions

Devolution by definition entails the transfer of certain functions to local government units. International literature shows that a decentralisation programme that aims to create developmental local government should devolve to local government functions that are original (entrenched in a national Constitution), clearly defined, and relevant for development.

Article 50 (4) of the FDRE Constitution enjoins the regional states to provide local government with adequate functions. The principle of functional subsidiarity is implied in this Article which requires the devolution of certain functions to local government if public participation is vital for its implementation. Yet, the Constitution is silent on the specific functions that the regional states are required to devolve to local government. The Constitution contains a list of functions that are within the competence of the federal government and leaves residual functions to the regional states. Therefore, Article 50 (4) local government units do not have original functions that can be directly traced to the federal Constitution. Their functions are rather derivative of regional states’ functions.

Moreover, the functions of Article 50 (4) local government units, especially those of the woreda as well as the state functions of the cities are not clearly defined. The regional constitutions do not contain a clear list of functions that are within the competence of woredas. Some regional states have attempted to define the competences of woredas in regional proclamations or executive regulations. Regional proclamations and executive regulations are however ordinary statutes.
that can be easily repealed or amended by a regional council or by a regional executive council respectively. The regulations are particularly easier to repeal or amend as they are prepared and adopted by the executive organ of a regional state. Therefore, a regional government may take back the functions that it has devolved to woredas and cities by amending the proclamations and regulations. Moreover, those proclamations, which have already been enacted with the purpose of defining the functional competences of woredas, lack in clarity.

Practice shows that woredas and cities exercise functions relating to health care, education, water, and agriculture. However as some studies show, the lack of clarity in their functional competences has a negative impact on the effectiveness of woredas and cities in planning and implementing development projects. It is submitted that the functions that woredas and cities in practice exercise are relevant for development. It is, therefore, recommended that these functional competences should be clearly listed in regional constitutions as the functions of woredas and cities.

2.1.1.4. Local government powers

As the discussion in chapter two shows, political power is an intrinsic element of political autonomy and an important feature of decentralised development. Political power may include the power to approve local developmental policies and plans, to translate policies and plans into legislation, and to implement the legislation.

Under the regional constitutions woredas do not have full political power. It is not clearly stated whether woredas have any policy making power. Most of the
regional constitutions do not explicitly state whether *woredas* have legislative powers. It is arguable whether *woredas* have the power to legislate other than to determine their internal procedures. Even if it may be argued that a *woredas* have legislative power, the lack of clarity in its functional competences renders those legislative powers meaningless.

The executive organs of *woredas* and cities are executive councils and mayoral committee respectively. The executive councils and mayoral committees are headed by a chief administrator and a mayor respectively. These executive organs are authorised to exercise executive power. The *woreda* chief administrator and a mayor of a city are accountable to the *woreda* and the city council respectively. In addition, they are accountable to a chief administrator of the nationality zone and/or the regional state depending on whether the relevant *woreda* or city is found within a nationality zone. This multiple accountability compromises the executive power, and therefore, the political autonomy of local government.

It is therefore recommended that the policy making, legislative, and executive powers of *woredas* and cities should be clearly stated in the regional constitutions. The accountability of a *woreda* chief administrator and a mayor should be exclusively to a *woreda* council and city council respectively. Therefore, the provisions in the regional constitutions and proclamations that require *woreda* chief administrators and mayors to be accountable to a regional chief administrator should be repealed. Instead it should be clearly stated that *woreda* chief administrators and mayors are exclusively accountable to the relevant local councils.
2.2. Financial autonomy

Devolution implies financial autonomy which may involve revenue-raising and expenditure powers. A study of international literature in chapter two revealed that the extent to which a local unit enjoys financial autonomy impacts its success to achieve development. Financial autonomy is so critical that it also impacts on the political and administrative autonomy of a local government unit.

The evaluation of the financial autonomy of woredas and cities showed that these local units do not have full financial autonomy. This is mainly due to the fact that even though woredas and cities have expenditure autonomy, they lack adequate internal sources of revenue. Woredas are authorised to collect land use fees, agricultural income tax, and income taxes from their employees. Cities and municipalities are also allowed to collect urban land lease fees, urban land use fees, and municipal service fees. However, woredas do not have full authority over these taxes and fees since they do not determine their rates. They collect these on behalf of the regional states. That is why the revenue they collect from these taxes is offset with the revenue they receive in form of regional block-grants. Moreover, the revenue that they collect from these taxes and fees is woefully inadequate to cover even the major portion of their expenditure needs. Hence woredas are principally dependent on inter-governmental grants.

Since 2001, the regional governments have been transferring financial grants to woredas and cities. The grants are formula-based unconditional block grants. However, the entitlement of woredas to regional block grants is not entrenched in
the regional constitutions. Moreover, the grants are inadequate to cover the woredas’ fiscal gap.

Some of the proclamations provide that cities may receive block grants. However practice shows that the grants received by cities are not formula-based. They are rather *ad-hoc* inter-governmental transfers. Moreover, cities may not use the block-grants for anything other than discharging their state functions. In other words, cities do not receive regional grants for their municipal functions.

It is unclear whether woredas and cities may borrow. Some regional proclamations authorise cities and woredas to borrow from internal sources. However, under the federal constitution the regional states themselves need to secure the permission of the federal government to borrow. Given this it is unclear whether the regional states have the power to authorise woredas and cities to borrow. Due to the legal uncertainty about the borrowing power of woredas and cities, very few financial institutions are willing to extend loans to woredas and cities.

In general, therefore, woredas and cities lack financial autonomy. It is, therefore, recommended that certain clearly defined taxing powers should be devolved to woredas and city administrations. Woredas and cities should be allowed to exercise full authority with respect the taxes so devolved to them including the power to determine the rate of, and to assess and collect these taxes. Moreover, the regional constitutions should clearly and explicitly enjoin the regional states to transfer to woredas and cities formula based unconditional grants. The block
grants should be based on the expenditure needs of local government. To this effect, all regional states should use a grant formula that best responds to the expenditure needs of woredas. In addition, there is no justifiable reason for making a distinction between the cities’ state and municipal functions in providing block grants since the purpose of a block grant is to fill the fiscal gap of a local unit. Therefore, cities should be provided with block-grants both for their state and municipal functions.

2.3. Administrative autonomy

A study of international literature on decentralisation in chapter two shows that devolution entails the transfer of administrative power to local government units. It also showed that local administrative autonomy is one of the institutional features that are likely to impact on the success of a decentralisation scheme for achieving development. Administrative autonomy has two elements; the power to determine the organisational structure of administrative organs of local government and the power to hire and fire personnel.

The evaluation of woredas and cities based on the above two elements showed that woredas and cities have constitutional and statutory power to determine the structure of their administrative organs. They also have power to hire and fire their own administrative staff. Yet, practice shows that regional states interfere in administration of woredas and cities. Moreover, woredas and cities suffer from an acute lack of skilled man power. This has a harmful impact on the potential of woredas and cities to achieve their developmental potential.
2.4. **Central supervision and inter-governmental co-operation**

2.4.1. **Central supervision**

International literature shows that when local government is meant to achieve development, local autonomy will not be sufficient. Local autonomy must be balanced with inter-governmental co-ordination. To this effect, scholars argue that a central government should regulate the activities of local government. It should also exercise oversight over the activities of local government units. In addition it should support and, if need be, intervene in local government.

A perusal of the federal and regional constitutions shows that the federal government and regional governments both have the power to supervise the *woredas* and cities. The power of the federal government to supervise local government emanates from its constitutional power to formulate and implement general policies on social services and economic matters. The power of the federal government, among other things, to enact laws on the use of land and utilisation of natural resources also allows it to regulate the activities of local government. The regional states also have the power to regulate local government’s activities since matters relating to local government are within their competence. The federal and regional governments are further required, at least implicitly, to provide support to local government. In addition, each regional state has the authority to directly monitor the activities of *woredas* and cities within its jurisdiction. It has also the power to exercise oversight over the activities of local government by receiving periodical reports from *woredas* and cities and by conducting on-site inspections.
The regional constitutions, except the Tigray and Oromia Constitution, do not provide for a regional intervention in *woredas*. The Tigray Constitution and the proclamations of some other regions provide for regional intervention the *woredas* and cities. However, the substantive criteria for regional intervention in *woredas* are widely cast, paving the way for undue and unrestrained regional interventions. Moreover, the only method of intervention considered is suspending or disbanding the council of a malfunctioning *woreda* or city. Other less invasive means of intervention are not provided for.

It is therefore recommended that the regional constitutions should provide for regional interventions in *woredas* and cities which fail to discharge their constitutional functions. The substantive and procedural criteria for regional intervention should be clearly and strictly defined in the regional constitutions. Moreover, methods of interventions which are proportional to the seriousness of the problems facing a *woreda* or a city should be provided in the regional constitutions.

**2.4.2. Inter-governmental co-operation**

It was argued in chapter two that decentralised development requires an institutional arrangement for co-operation between local government and senior levels of government. Co-operation should be based on the principle of equality between two or more levels of government. This entails the recognition of the institutional integrity of local government. It also entails an institutional scheme for vertical co-operation (co-operation between local government and senior levels of government) and horizontal co-operation (among local government units).
The evaluation of Ethiopia’s local governance system showed that the necessary institutions of inter-governmental co-operation either do not exist or are not adequately institutionalised. The federal Constitution does not contain a normative principle which guards the institutional integrity of local government from undue encroachment by federal and regional governments. In fact, the regional constitutions and proclamation state that *woredas* and cities are subordinate to regional government. Therefore the normative principle of equality which is a central element of inter-governmental co-operation is absent in the regional constitutions.

Some regional proclamations provide for horizontal co-operation, namely *woreda-to-woreda*, city-to-city and *woreda-to-city* co-operation. *Woredas* may co-operate among themselves by creating associations. Cities are also allowed to do the same. These regional proclamations provide for an institutional link between rural *woredas* and cities through the representation of rural *kebeles* in city councils. *Woredas* and cities are also authorised to create joint committees for the purpose of co-operation. However the institutional schemes for co-operation among local government are limited within a regional government. It also appears that there is no institutional scheme of co-operations among *woredas* and cities at national level.

There is no also a clear institutional arrangement for co-operation between local government and regional and federal government. In practice, interactions between *woredas* or cities and regional governments take place through sectoral
offices of the local government units and the regional governments. However, these interactions are *ad hoc*. Moreover, they are more co-ordinative in nature than co-operative. This is because the interactions are undertaken with the supposition that the *woreda* or the city is hierarchically subordinate to the regional government.

It is therefore, recommended that the federal Constitution should explicitly recognise local government as an order of government. The regional constitutions should provide a normative principle for co-operation between regional government and local government. Co-operation between regional and local governments should be clearly institutionalised. There should be an institutional mechanism through which the voices of local government can be heard at regional and federal levels.

### 3. DECENTRALISATION AND ACCOMMODATION OF ETHNIC MINORITIES

In chapter two four principles of accommodating ethnic minorities were identified which may be implemented at different levels depending on the demands of a particular minority ethnic community. Individual members of an ethnic minority community may demand equal treatment. A minority ethnic community may demand cultural autonomy. An ethnic minority ethnic community may demand territorial autonomy. Its demand may also extend to a power sharing scheme, which is known as consociationalism. It may demand secession. It was stated that local government may be used to accommodate ethnic minorities at the second and third level.
3.1. Territorial autonomy

Territorial autonomy is principally about self-rule and aims to provide ethnic minorities a certain measure political autonomy at regional or local level. However, self-rule may be complemented with shared-rule which allows the ethnically structured local units to be represented at state and national government level.

3.1.1. Self-rule

The central defining features of self-rule are ethnically structured local territorial units, governance institutions including legislative and executive organs, and the devolution of functions to the local units that are relevant for the protection of ethnic identity, and revenue.

3.1.1.1. Ethnically structured local territorial units

In order to accommodate intra-regional ethnic minority communities, a distinct category of local government, which is referred to in this thesis as Article 39 local government, is established in Ethiopia. Article 39 local government units, which include nationality zones and liyu woredas, are structured based on ethnic criteria. Article 39 local government units are established in Afar, Amhara, Benishangul-Gumuz, Gambella, and SNNPR.

Territorial autonomy in Ethiopia includes the right to secession. Secession has two aspects as far as intra-regional ethnic minorities or the ethnic-based local territorial units are concerned: The right to secede from a regional state to form a separate regional state or the right to secede to form an independent state. The move towards secession starts with a demand for secession by members of an ethnic community. The demand must be approved by the council of the relevant
ethnic community which is either a nationality zone council or a liyu woreda council. (Therefore, the right to secession may only be exercised by an ethnic community which has its own liyu woreda or nationality zone). A referendum is then organised in the relevant liyu woreda or nationality zone by the regional government (in the case of secession from a regional state) or House of Federations (in the case of secession from the federation).

It can be gathered from the above that the institutional features that are critical for accommodating ethnic minorities by creating autonomous territorial regimes at local level are clearly visible in Ethiopia’s federal and regional constitutions. In fact, the federal and regional constitutions place a high premium on the territorial arrangement. That is why the constitutions extend the territorial scheme to include secession. The problems associated with the territorial scheme, therefore, do not appear to emanate from the lack of an adequate constitutional framework. The problems are in fact associated with the overemphasis that the territorial scheme is given in constitutional terms, to the exclusion of other non-territorial arrangements. The constitutional principles have created expectations on the part of ethnic minorities. However, the ruling party has become reluctant to give adequate effect to the constitutional principles. For instance demands by intra-regional minority ethnic community to secede and form own regional state are discouraged and even refused by the ruling party. This shows that lawful demands for local territorial autonomy are often rebuffed for political or other reasons.
3.1.1.2. Governance structure

In each liyu woreda and nationality zone a representative council, an executive council, and several executive organs are established. Members of a liyu woreda council are directly elected by the voters. In SNNPR, members of the nationality zone council are also elected by the voters. In Amhara, and Gambella, a portion of the seats in a nationality zone council are occupied by members who are elected in a special procedure from the councils of the woredas in the nationality zone. The remaining seats are occupied by members of a regional council who are elected from woredas within the nationality zone.

The electoral system that is used in liyu woredas and nationality zones (in SNNPR) is a block voting system. The kebele is used as a multi-member constituency in liyu woreda elections. Because the liyu woreda is a collection of kebeles the majority of whose residents belong to a certain ethnic community, it is likely that the minority ethnic community for whom the liyu woreda is established will control the council of the particular liyu woreda. The same can be said about the nationality zone elections in SNNPR. In Gambella and Amhara the members of a nationality zone council are elected in special procedure from woredas within the relevant nationality zone. It can be assumed that the woreda councils will elect individuals belonging to the ethnic community for whom the nationality zone is established.

It does not appear, however, that the various political views within an ethnic community are reflected in the councils despite the fact that the councils of the nationality zones and liyu woredas can be assumed to be controlled by the
relevant ethnic communities. All nationality zones and liyu woreda councils are controlled by ethnic-based parties which are members of or affiliates to EPRDF. The opposition parties are not represented in any of these councils. Moreover, the ethnic political parties which are members of the EPRDF are subordinate to the central structure of the party. The domination of all nationality zone and liyu woreda councils by a single party and its affiliates, coupled with the centralised decision making system of the party seems to have undercut the benefit that the establishment of the ethnic based local units is expected to offer to the relevant ethnic community.

3.1.1.3. Functions

Nationality zones and liyu woredas have the power and duty to promote and protect the culture, language, and identity of the relevant ethnic community. The functions that they may exercise to discharge these responsibilities are generally unclear. However, it is clear that they may choose their working language. They may also choose the language or languages that may be used for the purpose of instruction in primary schools. These two functions are critical for the purpose of promoting and protecting the identity of the relevant ethnic communities.

3.1.1.4. Revenue

The political autonomy of nationality zones and liyu woredas is not complimented with financial autonomy. It is unclear whether nationality zones have any taxing powers. A liyu woreda, like any other woreda, has the power to collect agricultural income taxes and land use fees on behalf of the regional states. However, the revenue that liyu woredas collect from these taxes and fees is not sufficient to allow them to discharge their functions. Nationality zones and liyu woredas are, therefore, financially dependent on regional grants.
The financial dependence of nationality zones and liyu woredas is likely to undermine their political autonomy. Moreover, they will be constrained from effectively discharging their responsibility of protecting and promoting the ethnic identity of the relevant ethnic communities. For instance, without adequate finance, they will not be able to build schools or publish books in the language of the relevant ethnic communities. It is therefore suggested that certain taxing power should be devolved to liyu woredas and nationality zones.

3.1.2. Shared-rule

One of the defining features of shared-rule is the representation of ethnic-based local territorial units at state and national level of government. In Ethiopia, the constitutional principle that allows ethnic minorities to exercise self-rule also entitles them to be represented in regional and national organs. This principle allows ethnic minorities to be represented in every regional and federal organ. However, only the regional and federal organs in which nationality zones and liyu woredas are directly or indirectly represented or those that make decisions directly impacting them were considered in this thesis.

At regional level, nationality zones and liyu woredas are represented in various organs. In SNNPR, nationality zones and liyu woredas have the power to elect members of the Council of Nationalities (CoN), which has the power to interpret the regional constitution and to decide on matters relating to nationality zones and liyu woredas. In Amahara, Gambella, and Benishangul-Gumuz, nationality zones and liyu woredas are represented in the Constitutional Interpretation
Commission (CIC) which also has the power to interpret the constitutions of the relevant regional states.

At the federal level, the House of Federation (HoF) has the power to make decisions directly impacting the autonomy of nationality zones and liyu woredas. The HoF has the power to decide whether a group of people constitutes an ethnic community. It may also decide on the demand of an ethnic community for territorial autonomy if such a case is brought to it as a constitutional dispute. The HoF may be involved when a nationality zone or a liyu woreda approves a demand for secession, whether it is secession from a regional state or secession from the Ethiopian federation. Despite the fact that the decisions of the HoF may have far reaching consequences on nationality zones and liyu woredas, the latter are not directly represented in it. This is despite the fact that the relevant ethnic communities for whom the nationality zones and liyu woredas are established are represented.

3.2. Non-territorial

It was indicated in chapter two that territorial autonomy and the establishment of ethnically structured local units are useful only when the relevant ethnic minority community is territorially concentrated. When members of an ethnic community are territorially dispersed or, even if territorially concentrated, when they are too small in size to adequately exercise territorial autonomy, non-territorial options should be considered. The non-territorial options that were considered were power-sharing, cultural autonomy, or special representation in local councils.
In Ethiopia there are several ethnic minorities which, even though they are territorially concentrated, do not have their own nationality zones or *liyu woredas*. Some of the regional states have in fact established regular *woredas* and, as is the case in Gambella, ethnically organised *kebeles* to accommodate these communities. However, this arrangement is not considered as territorial autonomy as these units are not established based on ethnic criteria. Moreover, these local government units, unlike nationality zones and *liyu woredas*, do not have the powers that are relevant for the protection of ethnic identity such as the power to choose their own language/s of work and education and the power to secede.

There are also several thousands of ethnic migrants in every region. The ethnic migrants may even constitute the majority in several cities. However, there is no institutional mechanism to accommodate these non-indigenous communities. On the contrary, they are excluded from political representation through formal and informal mechanisms. In regions such as Benishangul-Gumuz, SNNPR and Oromia, ethnic migrants are excluded from political representation through a quota system which reserves a disproportionate portion of the seats in city councils for the original inhabitants of the local units. Moreover, a candidate in local elections is required to be able to speak the working language of the relevant region, nationality zone, or *liyu woreda* which also has the effect of excluding ethnic migrants. Lastly, in these regions the office of the mayor is exclusively reserved for the original inhabitants of the regional state, *liyu woreda*, or nationality zone.
The above shows that non-territorial schemes are not given much attention. Ethnic migrants who are found dispersed in several urban areas are, therefore, left without any constitutional protection. They are marginalised in terms of political representation in local councils and in terms of cultural rights. This shows that there is a need to consider non-territorial institutional schemes that will accommodate ethnic migrants.

4. Harmonising Article 39 and Article 50 (4) local governments

In Ethiopia two separate categories of local government are created which are meant to serve two different purposes. For the purpose of achieving development, woredas and cities (Article 50 (4) local government) are established throughout the country and for the purpose of accommodating ethnic minorities, nationality zones and liyu woredas (Article 39 local government) are established on top of one or more woredas. Now the question is how are the two categories of local government harmonised?

It appears that attempts have been made to create a certain measure of institutional congruence between the two categories of local government. The first method of harmonising the two categories of local government is integrating them in one local unit. This is the case with regard to a liyu woreda. As an Article 39 local government, a liyu woreda is organised on the basis of ethnic criteria as opposed to merely on the basis of geographic or economic criteria. Moreover, a liyu woreda exercises cultural function such choosing its own language. As an Article 50 (4) local government, a liyu woreda serves as a regular woreda and, therefore, provides basic services.
The other method that is used to create institutional harmony between the two categories of local government is by further decentralising nationality zones into several woredas and cities and by creating institutional links between the two categories of local government. In Amhara and Gambella institutional link is created between a nationality zone and woredas inside it through the representation of the woredas in the nationality zone council. Woredas within the nationality zone send to the council of the nationality zones representatives who occupy a portion of the seats in the nationality zone council. This arrangement is likely to create some level of synchronisation between nationality zones and the woredas within them.

While to the above extent the two categories of local government are institutionally harmonised, there still remain several areas of discord between the two categories of local government. As indicated above, in Gambella and Amhara, members of a nationality zone are not directly elected by the voters. They are elected in a special procedure by and from among members of councils of woredas that are found within the jurisdiction of the relevant nationality zone. This arrangement, even though likely to create a certain measure of institutional link and harmony between a nationality zone and the woredas within it, suffers from democratic deficiency since it does not allow the relevant ethnic community to directly elect members of the nationality zone council, an organ which is viewed as the highest political organ of the relevant ethnic community. On the other hand, in SNNPR, members of a nationality zone council are directly elected by voters. It is unclear how a nationality zone and woredas within it are institutionally linked with the nationality zones in this region.
There is also a certain dissonance between the two categories of local government in terms allocation of functional competences. Functions with regard to culture, including the power to choose the language of work and school, are exclusive competences of Article 39 local government units. Regular woredas and cities do not have the power to choose their working languages or the languages to be used for primary education. However, the competences of Article 39 local government are not limited to cultural matters. The regional constitutions allow a nationality zone to adopt and implement plans on social services and economic development. At the same time the regional constitutions authorise woredas to do the same. However, the particular areas of social services and economic matters that are within the competences of nationality zones and those within the competences of the woredas within them are left undefined. This is likely to hamper the political autonomy and, therefore, the developmental mission of woredas and cities within the nationality zones.

It is, therefore, necessary to clearly demarcate the functional competences of the two categories of local government. In this regard, it is suggested that nationality zones should be limited to exercising culture related matters. Developmental functions should be left to woredas and cities as they are likely to be more efficient than nationality zones in planning and implementing developmental projects. The liyu woreda should continue exercising both developmental and cultural functions.
The other areas of dissonance relate to fiscal relation between nationality zones and liyu woredas within their jurisdiction. As the discussion in chapter 5 shows, regional block grants reach to woredas within a nationality zone through the nationality zone. This arrangement is likely to make unduly prolonged the process of transferring block grants to the woredas. Moreover, the block grants reach to the woredas after the nationality zones have carved off a portion of the block grants for themselves and after they have made certain re-adjustment. The revenue that the woredas within the nationality zone receive after such a process of deduction and re-adjustment is likely to be less responsive to their expenditure needs.

It may not, however, be suggested that block grants should directly go from a regional state to woredas within a nationality zones. This may allow the regional governments to undermine the autonomy of nationality zones. On the other hand, the efficient formulation and implementation of development projects by woredas require that they receive adequate and timely block grants. In order to balance the two interests, the regional governments may still continue to provide block grants to nationality zones. However, they may use their regulatory power to set minimum standard as to what percentage of the block grants, when, and how nationality zones should transfer to woredas and cities and follow up its implementation.
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