

ETHIOPIA

(Federal Democratic Republic of Ethiopia)

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1. History and Development of Federalism

The Federal Democratic Republic of Ethiopia (1,112 million km²) is located at the Horn of Africa. It is bordered by Sudan on the west, Kenya on the south, Somalia and Djibouti on the east, and Eritrea on the north. It has a population of some 63 million inhabitants, about 90 per cent of whom earn their living from the land, mainly as subsistence farmers. Agriculture is the backbone of the national economy. The country has a GNP per capita of just 100 US\$, making it the poorest country in the world in 2000, according to the World Bank.¹ Life expectancy at birth is 42 years for males and 44 years for females.

Due to its 3,000 year history, Ethiopia is seen as the oldest “state” in Africa and one of the oldest in the world. Starting from the Da’amat State (ca. 500 BC-100 AD), followed by the advanced civilization of the Axumite Empire and finally the Era of the Princes, Ethiopia has existed within different patrimonial empires. Modern Ethiopia was created by Christian highland rulers largely through twin processes of political subjugation and economic exploitation in the late nineteenth and early twentieth centuries. The Imperial Crown Prince and Regent, Haile Selassie, established ascendancy over regional feudal lords from 1916 to 1930, when he became Emperor. Haile Selassie was driven into exile during the Italian occupation of Ethiopia between 1936 and 1941. Following the country’s liberation by Allied forces in 1941, he returned from Britain and ruled until his overthrow in 1974.

Eritrea, created at the end of the nineteenth century through Italian colonialism, was federated with Ethiopia in 1952 after 10 years under a British mandate. The United Nations General Assembly passed a resolution, the Federal Act, by which Eritrea came under the sovereignty of the Ethiopian Crown. The UN resolution—Resolution 390(v)(a) of 2 December 1950—contained 15 articles, the first seven of which regulated the relations between Eritrea and Ethiopia. According to the first article of this UN document, Eritrea was to constitute “an autonomous unit federated with Ethiopia”.

Growing contradictions between an emerging capitalist system and feudalism, and questions about the value of the monarchy, fuelled unrest. In 1961 the royal body guard attempted a coup d’état which revealed popular dissatisfaction with the pace of modernization and development. In recognition of this, in 1962 the government moved to increase centralization.

In 1974, the Provisional Military Council (*Derg* in Amharic) toppled the Haile Selassie’s regime and proclaimed Ethiopia a socialist state. In the early years of the regime—a time referred to as the “red terror”—struggles for power and the establishment

of a socialist state resulted in, at a conservative estimate, 100,000 people killed and several hundred thousand more fleeing the country.

Following the Soviet model, a Workers' Party of Ethiopia was created in 1984, and in 1987, the People's Democratic Republic of Ethiopia was promulgated under a new constitution. The constitution conferred ultimate state power on the so-called national *Shengo* and its standing organ, the Council of State. However, like other socialist/communist countries, the ruling political party—through the Central Committee and the Politburo of the Workers' Party—maintained power through informal 'parallel' channels of communications and decision making, and in reality, had ultimate decision-making power in the country.

At the end of the Cold War, Soviet support wavered and the integrity of the centralized state was challenged. Two years of military defeats in Eritrea and Tigray, in addition to the gradual desertion of his Soviet allies, fatally weakened the regime of Colonel Mengistu.

In 1991 the Ethiopian Peoples' Revolutionary Democratic Front (EPRDF), a newly created coalition, launched a decisive military assault through central and western provinces, while in the east, Eritrean forces closed in on the cities of Assab and Asmara. Colonel Mengistu fled to Zimbabwe. In July 1991, EPRDF forces took control of Addis Ababa. A conference was convened to endorse a transitional charter. The charter became the legal basis of four years of interim rule under an EPRDF-dominated legislature with an executive headed by the leader of the Tigray People's Liberation Front (TPLF), Meles Zenawi. The transitional government implemented extensive economic reforms and a radical form of federal devolution to nine of the new regional states along predominantly ethnic lines. On 8 December 1994, the 538-member Constituent Assembly approved a draft constitution prepared by the Constitution Drafting Commission. During the drafting process, the public was consulted, mainly at meetings held at the local level. Voters accepted the constitution in a referendum, and the Federal Democratic Republic of Ethiopia was proclaimed in August 1995.

After the fall of the Provisional Military Council, the different liberation forces transformed themselves into political parties. They were not, however, able to convert in this short time from fighting forces into democratic players, and they continued to try to *overcome* others rather than democratically cooperating with them. In May and June 1995, Ethiopia held national parliamentary and regional legislative elections. Most opposition parties boycotted these elections—led by the Oromo Liberation Front which, seeing itself trailing the Tigray People's Liberation Front (TPLF), went underground—thus ensuring a landslide victory for the TPLF. International and non-governmental observers concluded, however, that opposition parties would have been able to participate had they chosen to do so.

In May 1991, the Eritrean People's Liberation Front (EPLF), led by Isaias Afwerki, assumed control of Eritrea and established a provisional government. This provisional government independently administered Eritrea until, on 23-25 April 1993, Eritreans voted overwhelmingly for independence in a UN-monitored free and fair referendum. Eritrea was declared independent on 27 April 1993.

In May 1998 rising tensions between Eritrea and Ethiopia led to an offensive military operation launched by Eritrea. Trench warfare turned into an intensive military operation by Ethiopia which eventually led to an Agreement on the Cessation of Hostilities, signed

on 18 June 2000. Finally, on 12 December 2000 Ethiopia and Eritrea signed a peace agreement in Algiers. Currently, 4,200 UN troops are deployed along the border between Eritrea and Ethiopia. The reason for the outbreak of hostilities—a border dispute—will now be settled under the auspices of the Organization of African Unity (OAU) and the UN.

2. Constitutional Provisions Relating to Federalism

The Federal Democratic Republic of Ethiopia (FDRE) is a parliamentary democracy. Its head of state is the President, who is nominated by the House of Peoples' Representatives and then elected for a six-year term by a two-thirds majority vote of a joint session of Parliament (Article 70).

The federal Parliament is bicameral. The legislative institutions of the federal government are the House of Peoples' Representatives and the House of Federation. Members of the House of Peoples' Representatives are elected for a five-year term in a "first-past-the-post" electoral system. According to the constitution, this House cannot have more than 550 members, and at least 20 seats are reserved for minority nationalities. Its functions consist of legislative, financial, deliberative, informative, and representative subjects (Article 54). It is also provided with questioning power (Article 55(17)).

The composition of the House of Federation is surprisingly very open. The election of members can be direct or indirect—the decision is left to the state councils. Thus, state councils can decide whether they elect the members themselves or whether elections are held. Additionally, each nation or nationality gets one additional member for each one million of its population (Article 61). At present there are 112 members. Of this number, 71 are appointed by the states, and the other 41 seats are apportioned based on population (Article 61).

Ethiopian federalism has ethnicity as underlying organizing principle. Ethiopian citizens are categorized into their different ethno-linguistic groupings. Member units of the federation are moulded by "settlement patterns, language, identity and consent of the people concerned" (Article 46(2)). Ethnic federalism is expressed by the formulation of "We the Nations, Nationalities and Peoples of Ethiopia" (Preamble of the Constitution). Whether minorities are specially acknowledged in the federal Parliament, or self-governed administrative units at the local level, the Nationality Right is a main constructional feature of the constitution and also a factor in the determination of the division of power.

The House of Federation is the sole custodian of the constitution. It has the exclusive right (Article 62(1)) and ultimate authority (Article 83) to interpret the constitution and this is its main function. The Council of Constitutional Inquiry was established in Article 62(2) to examine constitutional issues and to submit findings to the House of Federation. The Chief Justice of the Federal Supreme Court heads the Council. The House of Federation is not bound by the advisory opinion of the Council of Constitutional Inquiry.

The FDRE is comprised of the federal government and nine member states (also referred to as "regional states") (Article 50). Member/regional states are Tigray, Afar, Amhara, Oromia, Somali, Benishangul/Gumuz, Southern Nations, Nationalities and

Peoples, Gambela, and Harar (Article 47). The head of each member/regional state is called the President of the Region. He is head of the administration and Chairman of the Executive Committee of the state. The President of the Region is accountable to the Council of the Region (the name of each state legislature) and to the Executive Committee of the state. The Executive Committee is made up of the President, the Vice-President, the Secretary and other sector heads—for example, of Planning and Finance, Economy, Administration, and Social Affairs. All members of the Executive Committee are elected by the Council from within its members to serve a five-year term.

Chapter Five of the constitution—Articles 50-52—deals with the structure and division of powers. A very detailed description of the powers and functions of the federal government is given in Article 51(1-21). All of the federal powers are directed towards issues of national concern. These are, *inter alia*, overall economic and social development, national standards and basic policy criteria for health and education, defence, federal police, foreign policy, foreign commerce, declaration of a state of emergency, immigration and granting of passports, copyright, standards for measurement and calendar, and possession and bearing of arms. The exhaustive description of federal powers is followed by a general provision regarding the powers and functions of the states. Article 52(1) indicates that “all powers not given to the Federal Government alone, or concurrently to the Federal Government and the States are reserved to the States”. According to Article 52(2), the states can establish their state administration, enact and execute state constitutions, formulate policies, strategies and plans, administer land, levy and collect taxes and duties, enact and enforce laws relating to the state civil service, and establish and administer a state police force.

Article 49 of the constitution gives special status to the capital city, Addis Ababa. According to Article 49(2), Addis Ababa has a “full measure of self-government”. Addis Ababa is generally seen as the country’s tenth entity. The Governor of Addis Ababa—the administrative head of the city—is elected by the city Council. But, because the Governor is accountable both to the Council *and* to the Prime Minister (Proclamation 87/1997, Article 12), and the administration of the city is responsible to the federal government (Article 49(3)), Addis Ababa is not as independent as the states.

The constitution deals at great lengths with fiscal and financial arrangements of the state and the federal governments (Articles 62, 94-100). In general, in carrying out their responsibilities and functions the federal government and states each have to raise the necessary revenues. The constitution enumerates powers of taxation (Articles 96, 97) of both levels. The federal power of taxation (under Article 96) includes, *inter alia*, duties, taxes and other charges on imports and exports, air, rail and sea transport services, and income tax on employees of the federal government. The federal government levies and collects income, profit, sales and excise taxes on enterprises owned by the federal government. The state power of taxation includes, *inter alia*, income tax on employees of the state and of private enterprises as well as of enterprises owned by the state, fees for land usufructuary rights, income from transport services rendered on waters within its territory, incomes derived from private house and other properties, and royalty for the use of forest resources (Article 97). Concurrent powers of taxation are outlined in Article 98 and include, *inter alia*, profit, sales, excise and personal income taxes on enterprises the federal government and states jointly establish, taxes on the profits and companies and

dividends due to shareholders, and taxes on incomes derived from large-scale mining, petroleum and gas operations, and royalties on such operations.

A joint session of Parliament has to vote by a two-thirds majority on tax powers not specifically given separately or jointly to one or both of the two levels (Article 99). The House of Federation decides upon the formula for subsidies which states may be entitled to receive from the federal government. Revenues from *joint* federal and state tax sources and subsidies provided by the federal government to the states are also determined by the House of Federation based on recommendations made by the Committee of Revenue Sharing (Article 62(7)).

Constitutional amendments involve state and federal legislative organs (Article 105) and can be initiated by both levels (Article 104). A two-thirds majority of state councils or federal Houses is needed so that the proposal can be further processed. There are two possible procedures based on the importance of the amendment. If amendments refer to fundamental rights and freedoms, both Houses of Parliament must accept the proposal by a two-thirds majority and all state councils must agree by a majority vote. In all other cases, a joint meeting of Parliament must agree by a two-thirds majority vote and two-thirds of the states must approve the proposed amendment by a majority vote.

An exceptional provision contained in the constitution is the right to secession (Article 39). It is part of the broader right of self-determination outlined in the Preamble. Self-determination is the most important constitutional, legislative and policy instrument upon which Ethiopia has drawn to affect the positive development of federalism. The constitution includes the right to develop one's languages, promote one's culture and preserve one's history, and it gives to states the opportunity of leaving the FDRE. Detailed procedures are provided for constitutional exercise of the right of secession in Article 39(4). The procedures includes as steps a two-thirds majority vote of the council of the respective state, a referendum organized by the federal government, and a majority vote in the referendum. It was through this process that Eritrea gained *de jure* independence in May 1993. No other member state has ever attempted to secede.

Following the notion of the right of self-determination, Article 47(2) of the constitution states that "Nations, Nationalities and Peoples within the States ... have the right to establish, at any time, their own States". A "Nation, Nationality or People" has to establish a "Council", its own representative body, to start the process of establishing its own state. This "Council" is the chief negotiator for the process, although it is nowhere specified exactly how the Council should be established, or who should serve on it. As is the case of secession, precise procedures are given in the constitution about how to establish new states within the FDRE, (Article 47(3)), including a two-thirds majority vote of the members of the Council of the Nation, Nationality or People concerned and a referendum.

Ethiopia is a multi-ethnic state with more than 80 different ethnic groups. A great variety of languages are spoken in the country—there are approximately 80 languages with some 200 dialects. Although Amharic is the working language of the federal government (Article 5(2)), all Ethiopian languages enjoy equal state recognition under Article 5(1). States determine their respective working language by law (Article 5(3)). Language is not the only difference among Ethiopians—religious practices differ as well. Ethiopians are members of a number of different religions (approximately 40% are

Muslim, approximately 40% are Christians, and the remaining 20% are animists and others), yet conflicts because of religious membership are not known.

3. Recent Political Dynamics

Elections for the House of Peoples' Representatives took place on 14 May 2000. (The election in the member state of Somali was postponed to 2 September 2000 because famine in the first half of 2000 made it impossible to organize the election properly.) The total number of parties participating in the elections was 49, and of these, 31 won seats. The government—led by Prime Minister Meles Zenawi of the TPLF—has a comfortable two-thirds majority in the House of Peoples' Representatives.

Ethiopian federalism faces several serious challenges, including restructuring and political devolution. Political restructuring involves incremental steps to improve the process of governance. Federalism demands political maturity which means that awareness has to grow so that citizens realize they have an interest in joining to fashion a common approach to the problems of federalism. The problem for Ethiopia is, in its long history, the country has never known either a democratic political system or an administrative culture. The peoples of the Abyssinian 'heartland' and of the more traditional societies of the south and the east are used only to strictly hierarchical and highly patriarchal systems. The normative principles of the federal system and their adoption to Ethiopia's cultural and historical context is the prominent challenge faced by the federal and state governments.

The formal constitutional solution that Ethiopia has offered to deal with the problem of governance in general, and ethnicity in particular, is highly affected by the degree of political maturity and administrative capacity of the states, which varies greatly. This may be related to the vast differences in state populations. Some states have relatively small populations—for example, approximately 200,000 in Gambela and approximately 500,000 in Benishangul/Gumuz—while others have extremely large populations—for example, over 14 million in Amhara and over 19 million in Oromia.

Some states are able to take ownership of the given opportunities while others—particularly at the *Woreda* (district) and *Kebele* (local) level—have little capacity even to run the daily governmental and administrative routine. Even if one assumes good intentions by the governments on the different levels, due to extraordinarily low administrative capacity a lot is left undone or is not properly done. In some years, the so-called Emerging-Regions (Afar, Somali, Benishangul/Gumuz, Gambela) which have extremely low capacity, were not even able to spend the allocated financial resources facilitated through the financial equalization scheme. They "refunded" in some years up to 60 per cent of what was allocated to them. Therefore, building administrative capacity for the public sector is a major feature of the Five Year Development Plans of both the federal and the state governments.

States have adopted their own constitutions as a blueprint. State leaders have become increasingly aware of their specific situation and are adjusting their constitutional setting accordingly. Adjustments are necessary in regions dominated by traditional clan rule, as it is the case in nomadic societies. In Afar and Somali, clan rule plays a more dominant role in many areas of public life than the formal political structure. In the

Southern Nations, Nationalities and Peoples Region, where no one knows precisely how many ethnic groups exist and how many languages are spoken, the levels of the administration are adjusted frequently and new jurisdictions are founded now and then to meet the demands of the people.

4. Sources for Further Information

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Note

1. This dismal standard of living can in part be attributed to diversion of government resources to the recent conflict with Eritrea. With the end of the conflict, the situation may improve.