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Center-states Policy Coordination in the Ethiopian Federalism: Institutional Perspective

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Abstract: Ethiopia as a modern multicultural and multilingual state emerged in the second half of 19 century following the military expansion of Emperor Menelik II. Paradoxically, since then for about more than a century political and legal protection had not given to the inherent multicultural and multilingual realities of the nation. However, 1991 was remarkable in the sense that the new government led by Ethiopian People Revolutionary Front (EPRDF) adopted Ethnic Federalism with the view to constitutionally recognize and institutionally accommodate the issue of nationalities in the history of Ethiopia. Although the constitution established two levels of governments and conferred them with different sets of responsibilities they are interdependent in a wide range of important political, economic and social matters. Indeed, the interdependence of the federal state and the regional states necessitates their cooperation and hence effective form of policy coordination through sound intergovernmental relations (IGR) is crucial for the smooth and efficient application of their responsibilities. The presumption in such institutional arrangement is that the federal and constituent units are represented in intergovernmental relations institutions so that decisions/ policies passed takes in to account the interest of both orders of government, states and federal. This article has attempted to examine the practice and theories of Inter-Governmental Relation (IGR) in the Ethiopian Federalism from policy coordination perspectives using secondary sources/document analysis and found out that, theoretically, the 1995 constitution is neither clear on the system of vertical intergovernmental relations (IGR) and, practically, nor in establishing guiding principles/institution in charge with such authority. Hence, the status of intergovernmental relation and policy coordination in Ethiopia not only dominated by the federal government but also largely carried out by informal channels.

Keywords: Ethnic Federalism, Constitution, Self and Shared Rule and Formal/Informal Channel

1. Introduction

Ethiopia is characterized by great linguistic, cultural and religious diversity. Following the imperial intrusion in the horn of Africa in the closing years of the 19 century, Emperor Menelik II had expanded the kingdom of Shawa, which was one of the loosely associated kingdoms of the Abyssinian Empire, from the present day North Central Ethiopia to the South. Consequently, the modern Ethiopian state was created and emerged as a unitary and centralized state in the second half of 19th C. [8]

The political history of the modern Ethiopian state shows: 1) the unsuitability of a centralized unitary government for harmonizing the interests of heterogeneous ethnic communities; 2) the failure of a project of nation-building process that was based upon the imposition of state-nationalism and the concomitant suppression of the demands of ethnic communities for equality, power and power-sharing; 3) the contribution of authoritarian political rule in aggravating problems of ethnic diversity; 4) the imperativeness of the recognition and accommodation of ethnic diversity in the process of governance for the sake of ensuring peace, stability, and inter-ethnic harmony; and 5) the need for the democratic reconstitution of state and state power. [11]

Accordingly, since 1991 Ethiopia has embarked on exercising federal state structuring and governance system while constitutionally establishing the notion of 'self-rule and shared-rule' in its territory. The 1994/5 constitution defines the powers and functions of the federal and regional

government while allocating exclusive and concurrent powers to the respective governments. The major challenge in any federation is the actual exercise of power and function given the complexity of socio-cultural, economic, political and environmental system. Hence, conflict and disagreement is inevitable over the process of policy, law and program formulation and implementation. This necessitates the need for strong constitutional principles and sound institutions to address areas of conflict and resolve differences between the two levels of governments. In this paper, therefore, attempt was made to analyze the institutional aspects of the Ethiopian federal system how it managed the actual and potential conflict of jurisdiction as well as power confrontation and functions override in the process of policy coordination and integration.

2. The New Constitution and the Ethiopian Federalism

Since 1991 which marks the collapse of the military dictatorship Ethiopia is implementing an ethno- linguistic federal constitution. Ethiopian ethno-linguistic federalism is designed to address the 'national question' in Amharic it is famously referred to as "Ye Biher Bihereseb Tiyaque" (a popular name for the 1960s struggle against Ethno-linguistic domination in Ethiopia. [17] Adopted in mid1995, the constitution established a federation based on the principle and practice of self-rule and shared- rule. The implementation of the right of self- determination is manifested, at the grass root level, by the establishment of self-governments of ethnic communities in their respective habitats, and, at higher level, by their proportional representation in the states and federal governments as revealed in Article 39 (3). Accordingly, the Federal Democratic Republic of Ethiopia comprises nine states along ethnic line:- five state, Tigray, Afar, Amhara, Oromia and Somali regional states, have took the name of their dominant native inhabitant ethno-cultural communities and more or less ethnically homogeneous. The remaining four regional states; the South Nations Nationalities and Peoples; Gambella, Benshangul/Gumuz and Harari are multiethnic without a dominant Ethno-linguistic community (art.47). Since the federal constitution conferred an unlimited right to self-determination to ethno-cultural communities, regional/state governments are also expected to grant special administrative status to minority ethno-cultural communities by creating special zones called Liyu Zone or special districts known as Liyu Woreda as described under Article 46 (2). Thus, the organizational structure of the current Ethiopian state has the following features:

It has been argued elsewhere that the Ethiopian model is unique in the sense that it blends ethnic federalism with self-determination. The federal model is designed in a way that provides expression to ethnic identity. Besides, the federal arrangement paves way to the exercise of the right to self-determination of the various nations, nationalities and peoples of Ethiopia. Therefore, the federal system was motivated by the need to accommodate ethnic diversity within a common political and economic community.

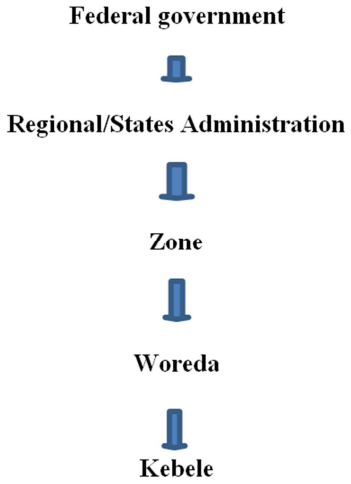

Figure 1. *FDRE structural hierarchy.*

3. Policy Coordination in the Ethiopian Federalism

A. Federal-state Coordination and state legislative autonomy

As discussed earlier, the constitution is clear in that it authorize the states to formulate and execute social and development policies, strategies and plans of the state within the overall federal framework. In federal-states relations, one mechanism in which the federal government uses to influence states autonomy is through the use of policy making.

Legislative autonomy of states at federal level is protected through second chamber. [30] The need for forming second chambers in federations is to represent member states at the federal legislature and enable their participation at least in some of its legislations. Though their competence varies from federation to federation, federal second chambers are part of the federal legislature, and do have legislative functions. For instance, in presidential federations as the USA and Brazil, second chambers are co-equals with respective lower chambers in terms of legislation. On the other hand, in parliamentarian federations such as Germany and India, powers of second chambers are generally less as compared to respective lower chambers, which are entitled to "make" and "unmake" the federal executive. [30] Nevertheless, in both forms of government, federal chambers have significant legislative functions. However, the experiences of South Africa shows that the second chamber, the National Council of Provinces, has the role of representing the provincial perspective within the national Parliament and giving the provinces a collective say in national legislation, providing the entree for provinces in to national policy-making as a bridge between the provincial

and national governments. [12] In Ethiopia, the second chamber formally known as the House of Federation (HoF), representative institution of 'nations, nationalities and peoples', has insignificant legislative role. [25] The supreme legislative power resides on the lower house (the House of Representatives), Article 50 (3). Consequently, states have no (less) control over law legislated by the federal government and this is because Ethiopia has second chamber which lacks law making power and function in the areas of shared policy making. The House of Federation, in this regard, deviates not only from the general practice in established federations but also from a core idea of federalism, 'shared- rule'. [6] This entails that the political system is an exclusion of states interest at the federal level which prevents states to negotiation as well as bargain with the federal government in the process of policy/law making. [12] In the Ethiopian federalism, policy coordination dominantly carried out by the ruling party's (EPRDF) notion 'democratic centralism' which promotes the dominance of the federal government in social, political and economic policies making process. [3] It is, thus, the operation of state legislative autonomy is affected by the EPRDF as dominant ruling political party and its principle of 'democratic centralization'. [22] Therefore, states forced to copy the federal policies and harmonization of federal laws and policy by the state is a widespread practice in the Ethiopian federalism.

B. Federal-State Coordination and state executive/administration autonomy

In Ethiopia, the conceptual ambiguity is the implementation of federal laws and policies in the constituent states as the one field of federal-states Intergovernmental Relations. As it is pointed out earlier, federal systems enforce their laws and policies by setting up dual structures, federal and state institutions for dual federalism, or by assigning the state machinery with the power to enforce both federal and state laws for executive federalism. Art 50 (2) of the Ethiopian constitution hints a dual form of federalism i.e. both the federal and state governments execute their own policies and laws using their own machineries. This shows that there will be parallel federal and state executive organs in charge of enforcing federal and state laws, respectively. This is clearly stated in the constitution which establishes dual federalism (Article-50 (2)) and it does not give a mandate of implementing federal laws to states unlike Swiss constitution (Art.46takeb21983@gmail.com (1)) and Germany (Article 83 of the Basic Law). [12]

However, the realities on the ground are different. Due to infant stage of federal-states intergovernmental relations, state machinery directly executes federal laws and the state governments take over the responsibility of enforcing and administering federal laws and policies regardless of the absence of this mandate. In the absence of well-organized institutional set-up for the enforcement of federal laws in states, the federal government uses informal contact through party channels which undermines not only formal policy coordination but also affects the autonomy of states. [12] It is, therefore, in the Ethiopian federalism states made to implement, administer and execute both their own laws and policies and laws and policies made by the federal government Hence, there is institutional lacunae in federal state relation and policy coordination. [12] For instance, the five years development plan, Grand Renaissance Dam Project and its process, the Business process reengineering package, Development and Transformation Plan, the Millennium Development Goals, usually comes from the center. Here, the issue is not why these policies are legislated at the center because it is due to Art-51 of constitutional power division or others, but the risk is how does the federal government implement or execute and administer these overall strategies and policies with in states and what roles if any states have in the design of these policies. Hence, due to the dominant position of the federal government and its institutions, the states autonomy is undermined and seems to be checked by a centralized party structure, centralized policy making and implementation and administration of federal laws and policies by states.

C. Federal-State Coordination and state financial autonomy

The sharing of revenue between the central government and the National/Regional self- governments" was decided by the Proclamation 33/1991.

In sharing of revenues, taxes are grouped into three: central/Federal Government (art.96), regional/states government (art.97) and joint (art.98). As far as collection of the revenues goes, the regional governments collect their own revenues whereas the Federal Government collects not only its own revenues but also the joint revenues, of course with a possibility of delegation whenever deemed necessary. For those powers of taxation which have not been explicitly stated in the provisions of the FDRE Constitution, such as value added tax, Article 99 clearly stipulates that the exercise of such powers is to be determined by a two-third majority vote in a joint session conducted by the House of Federation and the House of People's Representatives, thus subjecting the exercise of this so-called "undesignated power" to strict requirements.

However, examination of the three tax base and revenue sources indicates that the relationship between the federal government and the regional states is asymmetrical, even though they are in principle considered to be equal. Though, the financial and manpower resources of the regions are very limited, the revenue base of the regions is not productive and expansive. Currently, states are dependent on federal fund, particularly for capital budget. They are not yet economically strong to claim that their laws supersede that of the federal law, despite the fact that the constitution has given them all the power to develop their respective regions.

As can be inferred from Sub-Article 7 of Article 62 of the FDRE Constitution, which enumerates the powers and functions of the House of Federation, there is a possibility by which the Federal Government may transfer revenue to the regional governments. Such a system of transfer payments or grants, by which a central government shares its revenues with lower levels of government, is an important aspect of

the subject matter of 'fiscal federalism'. The underlying rationale behind transfer of revenue is the existence of a fiscal gap at the sub-national level emanating from lack of locally generated own revenue to finance own expenditure; differences in the regions level of economic development and endowment with natural resources lead to the formation of a fiscal gap. Indeed, federal governments use this power to enforce national rules and standards. Such transfers of revenues usually fall under three categories: conditional, unconditional and equalization grants. [33] Conditional transfer from a federal body to a state, or other territory, involves a certain set of conditions. If the lower level of government is to receive this type of transfer, it must agree to the spending instructions of the federal government. The second type of grant, unconditional, is usually a cash or tax point transfer, with no spending instructions. Unconditional grants are usually general purpose grants aimed at addressing vertical imbalances. The third type of grant, equalization grant, is used to address horizontal imbalances between regional governments through the channeling of resources from the relatively wealthier regions to poorer ones; thereby equalizing the capacity of regional governments to provide a national standard level of goods and services.

In general terms, the major sources of taxation are indeed controlled by the federal government. The powers of regional states in revenue collection are not granted fully. And of those powers granted to the regional states they do not exercise them well for various reasons including the lack of institutional capacity to collect tax. Setting their own development and economic policies and financial decision-making capacity of the different tiers of the government are almost insignificant. Furthermore, in the Ethiopian law, at any rate, regional states cannot borrow from foreign or domestic creditors without prior approval of the federal government.

4. Federal-states Inter-governmental Relation (IGR) in the Ethiopian Federalism

Federal-states intergovernmental relations have direct impact on the operation of the federal system and it is very important in understanding its operational part since it has the tendency to alter or entirely change constitutional division of power. Almost with no exception, all federation either directly through their constitution or indirectly through legislation establishes the institution that manages and coordinates intergovernmental relations between different spheres. Depending on the nature of the federation, federal-states intergovernmental relation may be conducted on a cooperative, competitive, coercive and conflicting basis. When the federation is a decentralized one and is a coming together one, the tendency is towards competition and when it is a centralized and holding together one, the relationship takes the form of cooperation and the issue of autonomy comes to the scene at this point.[9] The links between the excessive cooperation between the two layers of governments will result centralized federalism. [18]

The general principles and common understandings is that institutions of Intergovernmental relations are basically formed to achieve the purpose of the relations between the center and constituent units and to carry out common or shared programs/policies. The intergovernmental institutions will need to be genuinely collaborative in character, rather than instruments for intergovernmental imposition. [11] At the same time, in establishing formal institutions to improve intergovernmental collaboration, it will be essential to ensure that it is open, transparent, accessible and responsive in order to avoid any public sense that will contribute to a democratic deficit. [11] This would involve establishing an institution made up of individuals with policy expertise that are not influenced by political views and other factors. Therefore, institution (s) established through constitution or legislation to manage and give shape for federal states intergovernmental relations play vital role in determining the relations, protecting the autonomy of states in the activity of relations between orders of government. This is so because of it is separate institution in which both orders of government are represented and cannot be influenced by either level of government while promoting both the interest of states and federal government in the process of policy formulation and implementation.

The structure of intergovernmental relation and the arrangements to be followed may vary from state to state. One may find a formal institution which is established either by the constitution itself or by a subsequent proclamation containing the major coordination area in which the institution focuses. The formal rules of intergovernmental relations are imperative to constrain clientelism and destructive behavior during the IGR dialogue. [13] One of the cardinal reasons for formalizing IGR lies on the benefit that "Institutionalization brings continuity, stability and predictability. Formal functioning mechanisms allow for clear cut action enabling smoother functioning."[19]

Notwithstanding these benefits of formal IGR, there are informal intergovernmental relation mechanisms, especially, in those federations whose constitutions do not provide ample provision that regulates intergovernmental matters. Informal IGR, in most cases, may not have "constitutional base", but it emerges through practice or evolves over time. [19] Of course, constitutions may incidentally indicate the areas where the federal and the regional governments can work together in general or the sector by sector cooperation in particular. However, in the absence of an institution which is dedicated to IGR, it is clearly felt that intergovernmental interaction between different levels is not a regular affair. The informal ways of IGR are fluid and ad hoc that may develop in line with changing circumstances and existing political turmoil; and in effect, due attention should be given to formal IGR.

In Ethiopia, for the last two decades many institutions, formally and informally, practiced and conducted IGRs on areas such as implementation of national standards, policies

& laws; design, implement & evaluate joint programs/plans; effective utilization of resources; capacity building; sharing good practices and experiences.

Formally, IGR processes and principles such as dispute settlement, subsidy and federal government intervention in the states are clearly stated in the constitution/legal act. After the federal system launched in 1995, Organization for Regional Affairs (ORA) is established in Prime Minister Office and due to critics, 6 this institution was dissolved in 2001 and its task is taken over by Ministry of Federal Affairs (MOFA) which is established as a branch of federal executive institution through federal proclamation; 23 August 1995 with the passing of Proclamation 4-1995. In the proliferation of proclamations No. 417/2005 and 691/2010, the power and functions of this executive institution; at the same time federal-states relation institution have been amended. Currently the name of Ministry of Federal Affairs has changed to Ministry of Federal and Pastoral Development Affairs (MOFPDA) which as a core processes ought to bring equitable development in the less developed regions, to prevent and resolve conflicts, to strengthen Federal system, to uphold Federal Regional relations in the country, and to maintain good relations, peace and tolerance among different religions and beliefs. [34]

Theoretically speaking, MOFA became more formal and legalized institution organized to serve as focal point in creating good federal-states relationship and cooperation based on mutual understanding and partnership. The Ministry of Federal Affairs (MOFA) has been formally established to facilitate the relations between levels of governments. However, it showed little change from the Organization for Regional Affairs. There are critics even from its nature. As stated under the general principle, the institution of intergovernmental relation is expected more or less to be neutral, meaning that not to be influenced by any side and not to be a branch of any spheres body. Coming to the experience of some federations, it reveals that the federal and constituent units are represented in intergovernmental relations institutions so that decisions passed takes in to account the interest of both orders of government, states and federal. [23] In Ethiopia, there is no way in which states can be represented in ministry of federal affairs institution because it has been originally established as a federal executive. Thus, the issue is that to what extent the interest of states can be protected in this institution, being a federal executive. As Assefa noticed, the activity of the Ministry of Federal Affairs in the states is one of the semi- formalized practices that have an impact on the overall federal-state relations that it is an executive institution of the federal government by which the Prime minister exercises a leading role. [5] Therefore, the current design through MOFA/MOFPDA provided the federal government a dominant role in determining how the relations aspect should look like.

In 2003, the federal government passed a new law that provided a system for federal intervention in the states and the task of facilitating this intervention is given to this ministry. Critics argue that the proclamation endangers the notion of federalism by providing loophole for the federal executive to intervene in the regions on one hand and giving this mandate to this institution on the other hand.[4] for instance, notes the proclamation gives a wide legal framework for federal action that seems to go against the tone of the federal system itself. [5] In addition to the function of coordinating the implementation of decisions, authorizing the intervention of the federal government in the affairs of regional states was given to ministry of federal affairs. Here it seems as a mechanism of controlling the states by the federal government through this institution.

In Ethiopia, the formal federal-state intergovernmental relation through institution and regular basis is at its inception stage and characterized by the informal channels. This is due to existence of constitutional and institutional gaps and other reasons discussed earlier, the federal executive and the EPRDF party dominates relationships between the federal and states orders of government. [4] Critics indicate that, many of the intergovernmental issues are virtually dictated by the federal government and through the informal technique of ruling party. Political party is one determinant factor of federal-states intergovernmental relations nature, and discussion of political parties exert significant influence on the ability of state governments in federal systems to shape their own destinies in the process of their relations with federal government is clearly made. [32] In Ethiopia since the EPRDF exercises hegemonic control in all the regional states through its member and affiliated parties, absorption of power in the hands of the federal is evident. [1, 5] From most of contemporary conflicts that challenge the federal system, the intergovernmental conflicts are rare, if not absent, due to the fact that federal-states intergovernmental relations is through party channel. The prevalent political role of EPRDF at federal level and its partner at states level have created favorable and supportive political environments for building positive federal-states relations. [1] Members of the ruling party are used as good models to implement new policies and strategies adopted at center in their state. In the absence of well-organized institutions to facilitate federal-states relations, party line is used as an option to accomplish tasks because the party line is well organized.

However, in the same party organization that controls both federal and state orders of governments and has a centralized structure, it weakens the power of the state governments in a way that undermine states autonomy in the goings-on of both orders of intergovernmental relations. Some writers affirm that party structure in Ethiopia undermines the federal division of power and subordinates states governments to the federal government. Aalen, for instance expressed that practically, the EPRDF is controlling all the regional state governments in the Ethiopian federation, either directly through the member parties or indirectly through affiliate parties, in which the largely centralized party structures appear to contradict with the devolved power structures of a federal system. [1] In effect, the relationships between federal and states are more through party channel without

constitutional, institutional or legal framework and due to this the federal executive and party channel dominates the federal-states intergovernmental relations. [1, 5]

In Ethiopia, the federal-state intergovernmental relations has influence as stated earlier on the autonomy of states because of its party structure based relations, informal relations, and political culture of extreme cooperation and absence of practical institution that manages intergovernmental relations between the two spheres. Thus, beside institutional lacunae, the cooperation between both orders of government is usually dominated by the federal and its institution owing to several factors which results the concentration of powers in the hands of the federal government and its executive institutions.

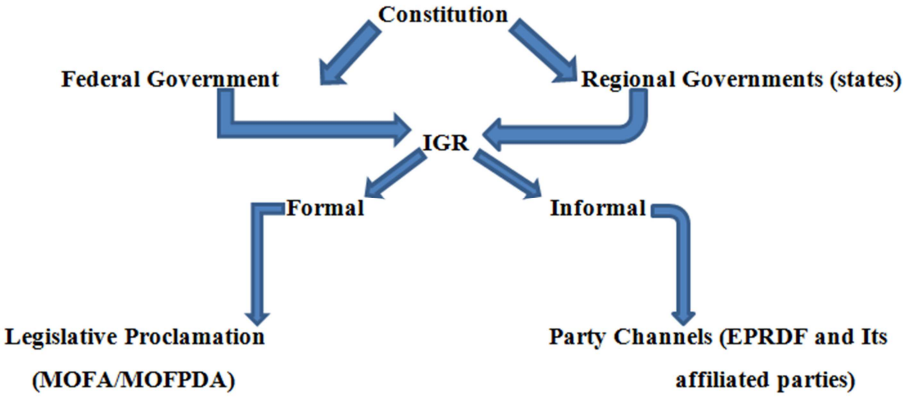

Figure 2. *Structure and Arrangements of Intergovernmental Relation (developed by researcher).*

5. Conclusion and Recommendations

Since the adoption of the 1995 constitution, Ethiopia is implementing an ethno-linguistic federal constitution which aimed at building one common political and economic community founded on the rule of law and capable of guaranteeing sustainable peace, democracy and socio-economic development. Although the constitution established two level of governments and conferred them with different sets of responsibilities they are interdependent in a wide range of important political, economic and social matters. Indeed, it is difficult to implement any policy document of one level of government free from the influence of any action of the other level of government. In all the foregoing matters, the interdependence of the federal state and the regional states necessitates their cooperation and hence effective form of intergovernmental relations (IGR) is crucial for the smooth and efficient application of their responsibilities.

The experience of some federations have indicated that IGR is constitutionally and institutionally guaranteed with the presumption that the federal and constituent units are represented in intergovernmental relations institutions so that decisions passed takes in to account the interest of both orders of government, states and federal. In Ethiopia the 1995 constitution is neither clear on system of vertical intergovernmental relations (IGR) and nor in establishing guiding principles and the institution in charge with such authority. However, for the last two decades various institutions formally and informally have practiced and conducted IGRs. Formally, intergovernmental relation, processes and principles such as dispute settlement, subsidy, federal-regional relations and federal government intervention in the states are conducted by Ministry of Federal Affairs (MOFA), which is established through federal proclamation; 23 August 1995 as a branch of federal executive institution. This implies that in Ethiopia there is no way in which states are represented in ministry of federal affairs institution since it is originally established as a federal executive branch. Rather, the proclamation that created the Ministry of Federal Affairs gives a wide legal framework for federal action that seems to go against the tone of the federal system itself and in effect has served as a mechanism of controlling the states by the federal government.

In the context of Ethiopian federalism, IGR is largely carried out by informal channels. Due to the existence of constitutional and institutional gaps, political party channels dominate relationships between the federal and states orders of government. The prevalent political role of the Ethiopian People Revolutionary Democratic Front (EPRDF) at federal level and its partner and affiliated parties at states level have created favorable and supportive political environments for building positive federal-states relations. Members of the ruling party are used as good models to implement new policies and strategies adopted at center in their state. Hence, in the absence of well-organized institutions to facilitate federal-states relations, party line is used as an option to accomplish tasks because the party line is well organized. Because of its party structure based informal relations, political culture of extreme cooperation and absence of practical institution that manages intergovernmental relations between the two spheres, in Ethiopia the federal-state intergovernmental relations has influenced the autonomy of states. In effect, the cooperation between both orders of government is usually dominated by the federal and its institution owing to several factors which results the concentration of powers in the hands of the federal government and its executive institutions. Since currently a single party continues in power over both the federal and regional states, the informal party channels is working in facilitating IGR and in promoting cooperative government.

However, the so called political party and associated informal channels are not sustainable and even create a vacuum of collaboration when a political party assumes power in one or more regional states different from a party having power at the federal state. Therefore, intergovernmental institutions need to be genuinely collaborative in character, rather than instruments for intergovernmental imposition and constitutionally recognized institution is paramount important to fairly represent the interests of both level of government to the end building a common political and economic community.

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