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D E C E N T R A L I Z A T I O N

AND

N A T I O N - B U I L D I N G

(In Ethiopia)

By

B A R O T U M S A

A Thesis submitted to the
Faculty of Law, HSIU, A.A.

April 15, 1973.

1992
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INTRODUCTION

The subject of this paper —— the question of nation-building through decentralization-is a very controversial and delicate matter that many people who have the intellectual capacity and do realize the need for an undertaking of research with a view to shedding some light on it have hitherto refrained from doing so, presumably, out of fear of the magnitude of the effort that such a gigantic task involves and/or the possibility of evoking any government reaction with the unpleasant consequences. As a result, this far one cannot get sufficient material to draw on when writing a paper relating to this subject.

The author was not unaware of the existence of this difficulty from the outset. The author's undertaking of such a difficult task irrespective of the non-availability of material on the subject was in response to recent developments relating to national unity taking placein this country.

Since ten years,a single year did not pass without incidents of attempts by military groups to change the government or regional uprisings of various natures and magnitudes either indemand of secesion or for just administration. In addition, six years ago, the various regional associations based in the capital city, developed to such an extent as to

necessitate the issuance of a very stringent registration regulations —— Associations Registration Regulations of 1966 —— that in effect banned all associations with the exception of certain professional associations. It is with a motive to provoke discussion and through research on this crucial subject that I attempted to write something.

In the absence of ample material, field research would have been the best source of information for such a paper. However, since field research involves extensive travelling this paper could not benefit from information thus gathered.

Accordingly, as regards information concerning the various regions, the author decided to rely on two groups of people. The first group comprises of the members of the Parliament, whereas the second group consists of some friends who were once fellow students at this University.

To my great surprise I found many of the Parliamentarians to be very cooperative in discussing the subject. They are also found to be quite aware of the imminent danger that the country is heading to encounter as a result of the growing "tribal" consciousness. However, they are not willing to suggest any remedy. They dare not ascribe the situation to the character of the institution. They rather tend to

maintain that the temperament of the peoples of the different provinces differ. According to some of them, peoples of certain regions have for centuries been notorious for their "unruly" nature. Nevertheless, there are some among them who very well understand the underlying cause of the uprisings. However, they are hesitant to freerly discuss and more so to be quoted in connection with any matter that directly or indirectly refer to the Governmental System as being responsible for the problem.

Accordingly, except forming general opinion from the discussions I held with them, it has not been possible to obtain any concrete information that could have immensely enriched this paper.

The discussion held with the educated circles did not benefit me any more than re-inforcing my previous conviction that Ethiopia has now reached a stage where concentration of power in one ethnic group is tending to lead the country to disaster. Some quote copiously, specially from leftist writings, and strongly argue that it is natural for oppressed interest groups to rise in armed struggle in order to attain their human rights. So long as suppression persists the endeavour of the suppressed peoples to attain their rights will continue on its present trend of steady increase until oppression in all its forms — cultural, economic, political, etc.— is totally eliminated. In other words, this means that

the current incidents of uprisings will, inevitably, grow into Empire - wide civil war unless all the Ethiopian peoples are afforded real equality.

Thus, as concrete information on Ethiopia has been scanty, the discussion of the subject of this paper is involved to a large extent, contrary to the authors wishes, theoretical consideration.

In treating this subject the paper is divided into five chapters.

The first chapter deals with the consideration of the concepts of nation - building. Here the approach is comparative. Two major systems of nation-building are discussed and following that a system that is a hybrid of the two is recommended for this country.

The second chapter deals with historical explanation of the process of centralization in this country. Under this chapter, both the military conquest of the southern, western and eastern provinces is briefly described to offer the reader a necessary background in the method employed in incorporating the diverse peoples of the Empire. This is followed by a brief survey of the legal instruments the present Emperor used in the consolidation of the militarily incorporated peoples. The latter

part of the chapter deals with certain tendencies towards instituting a de-centralized administration. The chapter is wound up by concluding that hitherto the programme of de-centralization has not gone beyond the stage of contemplation.

The third chapter, which in the author's view is the most important part of the paper, is concerned with theoretical considerations of the political and economic advantages that would accrue to the nation from decentralization of administration. It is here that the dearth of material on Ethiopia relating to this subject is highly felt. The work of the Technical Committee on the Establishment of Local Governments was not very much helpful, because the Committee itself almost entirely relied on a general report by the United Nations Technical Assistance Programme on a similar subject concerning developing countries. Since the Committee's work does not constitute any original research on Ethiopia, the author had no option but make use of the material the UN recommended for the developing countries. The author was not however limitted to the UN report alone. He made use of other materials written about some countries that at one time faced an identical problem that Ethiopia is encountering today. The latter part of the chapter is an attempt to define, in general terms, the

jurisdictional arrangement between the Central Government and the suggested regional governments.

The fourth chapter deals with the role legislation plays to smoothly institute the envisaged de-centralized administration.

The paper comes to an end by concluding that the genuine unity of the diverse Ethiopian peoples is only attainable when a democratic de-centralized institution that affords equal participation in national affairs to all peoples is established.

Chapter I

Conceptual Framework of the Process of Nation-Building

1. Concepts of Nation and Nation-Building

The term nation, and consequently the phrase nation building, unless given definite definitions are very confusing. Therefore, before attempting to suggest any system of nation building for any country (Ethiopia is no exception), it would be beneficial to search for as many answers as possible to the crucial question: What is nation building? It is only after thorough survey of the various systems is made that it would be possible to appreciate the complexity and magnitude of the problem involved in the process of nation building. However, prior to embarking upon the task of describing the various systems of nation building, it is necessary to explain the term nation. To this end, in this chapter, I will first of all present two major kinds[1] of definitions of the term nation and thereafter proceed to describe two representative systems of nation building - that have relevance to Ethiopia - out of the existing various systems.

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[1] The two kinds of definitions referred to are representatives of the western and eastern schools of thought, although both as will be seen later do not differ much as regards elucidation of the juridical relationship between the population and a state

The definition of the term nation is necessitated in view of the fact that the term may convey different meanings to different readers depending upon the orientation of the reader concerned. Some readers may take the term to mean a group of people living under the jurisdiction of one state - no matter how heterogeneous the population may be - and others may take it to mean people having common language, common religion, common customs, common history, etc. irrespective of whether they live under one state or are divided between two or more states. Having presented the two concepts, I will at the end give a broader[2] meaning of the term which conforms to neither of the two - as used in this paper.

According to some authorities on international relations, "The term nation is an ethnic one, based upon a common heritage, language, culture, and sense of identity."[3]

The Marxian definition of the term nation excludes the element of ethnicity as an essential element and adds the sharing of a common territory - which precludes the possibility of people of common characteristics but under different states to constitute a nation - and common economic life - which is construed as interdependence of people of different regions as

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[2] Broader in the sense of having a legal concept rather than political and/or sociological concepts.

[3] Fred A. Sondermann, William C. Olson, and David S. McLellan, The Theory and Practice of International Relations (1970), p. 11.

a result of a high specialization of labour. The Marxian definition reads as follows:

> A nation is a historically constituted, stable community of people, formed on the basis of a common language, territory, economic life, and psychological make-up manifested in a common culture.[4]

If one considers the elements of either of the two foregoing dffinitions of the term nation in the light of the realities (diversity) of the population inhabitting the Ethiopian Empire, it will be evident that the amalgam of the Ethiopian poeples do not constitute one nation - i.e., the diversity of the peoples make it impossible to apply either of the definitions.

Accordingly, acceptance of either of the definitions leads to the inevitable conclusion that the Ethiopian Empire is constituted of many nations. According to these definitions the only thing that the diverse ethno-linguistic groups inhabitting the Ethiopian territory have in common is the fact that they are under the rule of one government - but, in fact, ruled differently. However, the fact that the peoples of Ethiopia are politically organized under one government with sovereign right should not and cannot be construed, in accordance with the above definitions, to mean that the ethnically, culturally, linguistically and historically diverse peoples of Ethiopia constitute one nation. The fact of their administration under one government shows us only that they have a common state. However, the above quoted

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[4] J. Stalin, Marxism and the National Question, Foreign Languages Publishing House, Moscow (1954), p. 16.

authorities maintain that being under the jurisdiction of one state is not tantamount to having a common nationality. Illustrating this point, Fred A. Sondermann, William C. Olson, and David S. McLellan wrote that; " A state may encompass more or less than one nation."[5]

Thus, according to the above definitions of the term nation (which the author has not adopted in writing this legal paper), the plurality of nations in Ethiopia is incontestible. Hence, according to both the Western and Marxian definitions of the term nation the peoples inhabitting the Ethiopian Empire constitute several nations; such as the Amhara nation, the Tigre nation, the Oromo nation, the Somali nation, the Gurage nation, the Wollamo nation etc. The recognition of this fact has a ? realm practical value. It is in itself a step forward, because it will help those concerned with the task of nation building to reckon with hard facts rather than delighting in the illusion that Ethiopia is a homogenous nation or is approaching one. This fact of diversity has to be seriously taken into account inorder to be realistic as to at what stage we are at present in our endeavour to build a nation. In other words, we have to realistically admit the fact of the existing diversity of the Ethiopian peoples lest we make a false start.

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[5] Fred A. Sondermann, William C. Olson and David S. McLellan, cited above at note 3, p. 12.

Hence, if we are to start from where we are today, how are we going to approach the problem of nation building? If we adopt the definitions quoted above, how are we to make a homogenous nation (which is a precondition for nationhood) out of the several nations? Is it ever possible to do so? Is it necessary that all groups within a state possess common cultural characteristics before a nation is deemed to have been built? These and other kindred questions relating to the subject under discussion compel one to seek for a different definition of the term nation. Accordingly, it seems imperative that one look for a definition that offers a wider concept of the term nation. A word of caution seems necessary at this juncture. The definition to be adopted should not take the process of nation building to mean imbuing the population with a sense of nationalism that derives from common identity. Nation building is not (as intended by the author) nor does it have to necessarily mean engendering nationalism (in a group of diverse peoples) manifested by a group of homogenous people, because this presupposes possession of the elements contained in the definitions given above. Furthermore, the undesirability of adopting this meaning of the phrase nation building becomes sufficiently vivid when nationalism as defined by the authorities quoted above is considered, because they maintain that nationalism which is the ultimate outcome of nation building can only be possessed by people of common characteristic. This will automatically deny pluralistic societies the status of nationhood. A look at the definition given by the three international relations authorities makes this point clear.

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According to them nationalism is manifested by people having;

> A common cultural heritage, a common language, a common attachment to a particular piece of real estate, common symbols, common social and economic institutions, a common government (or the desire for one), a sense of attachment, affiliation, even love for ones fellow nationals, a common interpretaion of the groups historical experience, and common hopes and expectations for the future."6

Most of the elements of the above definition do not apply currently to the Ethiopian pluralistic society. Hence, there is no Ethiopian nationalism. This lack of common cultural, social, and historical background and the conquest and the subsequent subjugation of most of the ethnic groups by one dominant ethnic group resulted in lack of similar values for the present and common goals and expectations for the future - that is the various ethnic groups manifest diverse emotional sentiments.

Inspite of this freightening diversity very few people advocate the disintegation of the Ethiopian population into its homogenous component parts as a solution to theproblem of nation building.[7] On the other hand assimilation, through force, of the various ethnic groups by the Amhara ethnic group whereby its national characteristics will be imparted to all other ethnic groups seems an impossibility because historically, for a dominant

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and maintain their respective distinct characteristics.[8] Thus, it can be safely concluded that the dominant group (Shoan Amhara) which played the role of "unification" has clearly failed in its endeavour to mold a homogenous nation due to the lack of the pre-conditions enumerated above. Hence, a pertinent question that one may ask at this juncture is: can a nation ever be built out of the bewildering complexity of the Ethiopian peoples who show elements of diversity in language, religion, customs, and ethnicity? The answer is "yes". The failure of one method does not mean that alternative methods will end in failure too. It only presupposes the necessity for a thorough study of the existing situation and a choice of a system that suits the particular situation.

Accordingly, the alternative system that the author recommends after a brief survey of the various systems is a one opposed to the system of building a nation by attempting to mold a homogenous nation out of diverse ethnic groups. The system is rather one that respects and provides positive services for the flourishing of the existing diversities thereby bringing about a voluntary and equal union of the peoples of Ethiopia under the jurisdiction

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[8] Nowadays one witnesses a growing tendency by the different ethnic groups of appreciation for their respective languages and cultures.

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of a common neutral multi-national state.[9] When a neutral state that is not identifiable with any ethnic group is established, the grounds for ethnic dissension and feuds will disappear, because these things invariably, arise from cultural subjugation, political oppression, and economic exploitation of one or more ethnic groups by a dominant group. In addition to the sense of unity that it engenders, the removal of the causes for national dissension and feuds diverts the attention of the peoples from the unproductive and destructive activities of rebellion to development oriented activities which by accelerating industrialization and the concomitant popularization of scientific methods and thinking, contribute towards the formation of a common advanced culture, thereby putting an end to cultural diversity. In support of the possibility of forming a united population with common characteristics out of diverse ethnic groups Fred A. Sondermann, William C. Olson, and David S. McLellan wrote the following:

> There are societies in which several different languages are spoken, where segments of the population have different historical experiences and different cultural patterns, but which still exhibit great attachment to the nation and a

[9] Allowing the flourishing of diverse cultures is not the end sought but is a means of facilitating a voluntary and spontaneous interaction of peoples resulting in the evolution of a culture common to all ethnic groups.

high degree of cohesiveness in relations with the outside world."[10]

This statement is a departure from the concept of the term nation these authors provided in the preceding pages of the book (quoted above at note 2). This, in other words, means that it is possible to form and consolidate a union of the diverse peoples of Ethiopia without forcing them to lose their ethnic characteristics or perpetrating any national oppression. Once this is achieved, the peoples of Ethiopia can, irrespective of their past differences, merge and develop fraternal unity and consequently, loyality to one another and a common state. Such a development will, undoubtedly, result in the tacit or express agreement of all the peoples to all activities of the government whether of domestic or international nature. In support of the possibility of building a nation out of diverse groups, the United nations Secretary General wrote as follows:

> Many nations possess a common language, a common origin, a common culture, a common religion, or a common folk-ways and traditions. On the other hand, many other nations include substantial numbers of individuals and groups of diverse languages, origins, cultures, religions or folk-ways and traditions. The fact that the nation belongs to the latter category does not alter its status, for it is what its constituent individuals and groups have in common, rather than what they have alike, that engenders the sense of

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[10] Fred A. Sondermann, William C. Olson, David S. McLellan, cited above at note 3, p. 31.

> belonging together, the sentiment of sharing a common destiny and the striving to fulfill a common task, that are the basic ingredients of the nation. " 11

Now a broader definition of the term nation can be abstracted from the fore-going discussion and quotations. Accordingly, a nation may be defined as follows: A nation is a group of peoples - irrespective of cultural, ethnic and linguistic differences- having the sense of belonging together, the sentiment of sharing a common destiny, the striving to fulfill a common task and living under the jurisdiction of a state.

Consequently, nation building may be defined - for the purpose of this paper- in the following words, viz, nation building is the integrative actions of a state whereby it engenders in a group of peoples the sense of belonging together, the sentiment of sharing a common destiny and the striving to fulfill a common task.

From this the definition ~~of~~ the phrase " nation building in Ethiopia" can now be provided. By " nation building in Ethiopia" the author refers to the process of engendering a sense of belonging together in the diverse ethnic groups, imparting the sentiment of sharing a common destiny and a sense of cooperative endeavour to fulfill a common task to the peoples currently living under the Ethiopian Empire state- this in short means the formation of a comprehensive, united, plural nation(society).

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11 The UN Secretary General, Definition and Classification of Minorities, (Memorandum submitted by the Secretary General, (1950)/, Lake Success, N.Y., p.5.

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It must be borne in mind that even this definition is not satisfied by the present situation prevailing in the country. It may be recalled that the method of forceful assimilation by the dominant group of the other ethnic groups has failed. It has also been pointed out earlier in this paper that the system is not likely to succeed. Infact, the trend is now - as is demonstrated by the Eriterean Liberation Front, the Bale and Gojam uprisings apparently subdued through sheer force without removing the cause of the uprisings, and the spreading of spontaneous opposition in various forms by the other regions to the process of assimilation - for secessionist tendencies and demands for self-determination to overtake the integrative (assimilative) actions of the state. This tendency is an inevitable response to attempts at forcible assimilation, and is likely to intensify (as discussed above). Hence, since force has failed to build a nation, the realizaion of this noble cause can only be brought about by institutional means which realign the present unequal relationship among the different groups in favour of a neutral state which is independent of any special allegiance to any particular ethnic group.

To further elaborate the alternative approaches to nations building, it would be necessary to make a brief survey of historical examples of the process.

German unification before Otto Von Bismark was hindered by a host of obstacles besides Austrian domination. Some of these obstacles were religious differences, political differences between the liberal south and the autocratic north, economic disagreements, and the existence of petty princes more interested in their small domains than in national unity. Before Bismark became the chief minister of Prussia in 1862, several peaceful attempts, with no avail, were made to unify Germany. Most significant among the attempts was the efforts made by Prussia to create one German state under Prussian leadership during the Revolution of 1848. The failure of this attempt convinced the Prussian leaders that German unification was impossible by peaceful means. This conviction led Bismark to declare: "Not by speeches and resolutions of majorities are the great questions of the time decided - that was the mistake of 1848 and 1849 - but by blood and iron."[13] To this end, Bismark strengthened Prussia's military arm and carried out war to bring the more than three-hundred states under Prussian rule. His efforts ended in 1871 by uniting and consolidating all German states under Prussian leadership.

Similarly, as stated earlier, in 1815, Italy was but a geographical expression. The Italian state we know today was then divided into eight and was under the jurisdiction of eight different rulers; Spanish Bourbons ruled Sicily and the southern half of the Italian boot as the kingdom of the two Sicilies.

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[13] Ibid.,

The Pope owned and ruled a vast domain in Central Italy known as the Papal States, Petty princes ruled over three large states - Parma, Madena and Tuscany. Austria owned the even larger northern states of Lombardy and Venetia. Only the kingdom of Sardinia and the large north-western state of peidmont were ruled as an Italian nation.[14] The unification of Italy was attempted several times through various means without avail. It was due to Garibaldi's well-organized and determined tiny army that the long desired unity of Italy was finally realised in 1861.

Thus, in both the German and Italian cases, fragmented states under different jurisdictions were forcibly united and put under one leadership. A pertinent question that has to be answered at this juncture is: What problems were encountered in building the German and Italian nations we know today after the completion of unification through conquest? Before answering this question, it is pertinent to find out the differences in national characteristics of the inhabitants of the various states, and all unifying and dividing factors that might have existed. Moreover, an examination of the administrative apparatus that was instituted after the conquests, with a view to know the relationship between the states and the central government is in order.

In the case of both countries, in spite of the fragmentation that they were subjected to, the revolutionary epoch that preceded

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[14] Id., p. 136.

the period of unification gave rise to great scholars in the fields of philosophy and music which served to stimulate and foster a spirit of nationalism among peoples who possessed a common language, a common origin, a common culture, a common folk-ways and traditions and occupied a memorial land.[15] Jack C. Esterin described the German people of the early 19th century as follows:

> Inspite of this fragmentation, Germany had achieved considerable greatness - in philosophy and poetry (Lessing, Kant, Schiller and Goethe); and in music (Bach, Handel, Haydn, Mozart and Beethoven). German spoke a common tongue; they shared a common history; they practiced common customs and honoured common traditions. All that made for a single nation was present among the people."[16]

In addition to the common characteristics enumerated above, the people who played the role of unification constituted a dominant majority and were of a higher cultural level too. Hence, it was very easy for the Prussians to culturally attract and forcefully control the other minorities. Besides, the culmination, in the 18th century, of hundreds of years of scientific experimentation in the Industrial Revolution had a significant contribution.

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[15] This means that the people that inhabited the various states used to consider themselves as members of the large Germany (Geographical) irrespective of the fact that they were under different jurisdictions.

[16] Jack C. Esterin, cited above, at note 12, p. 167.

Through increasing production, concentration of workers in giant industries from different regions, the quickening of distribution and exchange and the concomitant development of easy means of communications the industrial revolution facilitated intercourse of peoples of various origins thereby resulting in the destruction of parochial differences and shaping of a common outlook pertinent to the era of industrialization. Thus, even if, initially, the unification of the fragmented states was achieved forcibly, the forging of a people having a sense of belonging together, the sentiment of sharing a common destiny and the purpose of fulfilling a common task for the common good was not difficult due to the factors enumerated above.

Inspite of the presence of all these positive elements that contributed to quick and easy nation building, guarantee of local self government is enshrined in the basic law of the Central Government (Federal Government).[17] The administration of the local governments is today the responsibility of the constituent states and city states. The local government bodies are empowered to make laws concerning their own local affairs and interpret and administer these laws.

The German state unified by Bismark was in many ways different from the Ethiopian state unified by Menelik II. For examples, unlike the Ethiopian peoples, the German people did not have the

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[17] The Preamble of the Basic law of the Federal Republic of Germany, having listed the constitnent parts of the Federal Republic states that " The entire German peoples is called on to achieve infree self-determination the unity and freedom of Germany.

language problem. Besides, they had a common history, and, mainly common customs. Moreover, the rate at which industrialization was surging ahead was tremendous. This helped a great deal in shattering local connections; thereby imparting a modern common outlook to all. It was inspite of all these advantageous factors that militated in favour of nation building that the need for a decentralized administration was recognized and put into effect in Germany.

In the light of the cultural, linguistic, religious and psychological differences and the relatively slower rate of industrialization, decentralization of administration would be more necessary for Ethiopia. It would lessen the prevailing national dissension and feuds. Decentralization increases efficiency in carrying out functions at both local and national levels. All these have positive effect on economic development.[18]

(ii) Nation Building Through Voluntary Association

Nation building through voluntary association of diverse ethnic groups is a system advocated, among others, by marxists, for states comprising of peoples possessing different national characteristics. The advocates of this system maintain that a state that comprises of different "nations" or "nationalities"

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[18] Since the role that decentralized administration plays in nation building will be dealt with in great detail under Chapter III of this paper, there is no need to further discuss it here.

may act as an integrating agent in building a nation not through forcible assimilation and/or national oppression which, invariably breed mistrust and antogonism among peoples, but through the formation of a multi-national state based on the principles of social justice, absolute equality, genuine fraternity and respect among the various nationalities. The presence of these elements, with other factors such as rapid economic development, are believed to lead to voluntary association and intercourse, ultimately resulting in the formation of a homogenous society. Furthermore, the marxists maintain that their system would foster trust and fraternity among distinct groups thereby doing away with national dissension and feuds. This, they argue, would bring about desirable solidarity which is a pre-requisite for national development.

Examples of countries that adopted and follow this method of nation building are, mainly, the socialist countries with the USSR being the first state to implement it.

During the first quarter of the nineteenth century, Tsarist Russia was "the greatest amalgam of peoples in Europe - Great Russians, Ukrainians, Poles, Rumanians, Finns, Letts, Germans, Lithuanians, Tartars, Mongols, etc."[19] In an attempt to secure national unity, the Tsars tried to forcibly Russianize the non-Slav nationalities and forced them to adopt the Russian language

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[19] Jack C. Esterin, cited above, at note 12, p.168.

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and the Greek Orthodox faith. Nationalist opposition to these repressive acts developed throughout the Russian territory in various forms.[20] Ultimately, a small but determined group of marxists came forth with slogans that were attractive to both the oppressed minority nationalities and the exploited workers.[21] Noteworthy of their programme (for the purpose of this paper) was the programme adopted by the Russian marxists concerning the right of self-determination of nations which reads:

> The right of self-determination means that only the nation itself has the right to determine its destiny, that no one else has the right forcibly to interfere in the life of the nation, to destroy its schools and other institutions, to violate its habits and customs, to repress its language, or curtail its rights.[22]

Elaborating this clause of the programme of social democrats Stalin wrote; "The right of self-determination means that a nation may arrange its life on the basis of autonomy. It has the right to enter into federal relations with other nations. It has the right to complete secession. Nations are sovereign, and all nations have equal rights.[23]

Explaining the aim of the Social Democrats in formulating such a programme for the resolution of the prevailing national strife, Stalin wrote;

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[20] Ibid.

[21] Ibid.

[22] J. Stalin, Cited above at note 4, p.33.

[23] Ibid.

> In fighting for the right of nations to self-determination, the aim of Social Democracy is to put an end to the policy of national oppression, to render it impossible and thereby to remove the grounds of strife between nations, to take the edge off that strife and reduce it to a minimum.[24]

In order to be able to appreciate how this programme of the Social Democrats was instituted and operates, it is necessary to briefly describe the pattern of arrnagement of the present USSR local government and have a look at the relevant constitutional provisions that deal with the different autonomous region (Autonomous Republics). The role of government in the socialist countries is far more comprehensive than in the capitalist countries. In the socialist countries, the ideal of social planning on a national scale is upheld. The influence of the ruling party (the communist party) affects all aspects of societ life. Neither the decisions of the Central Government stop at any particular level of the organizational hierarchy nor particular fields of human activity neglected. All units of social organization have their determined place in the structure of the socialist society. Thus the patterns of local government in communist countries is hierarchical.. However, it should be noted that the fact that the influence of the ruling party affects all aspects of society's life should not obscure the wide latitude of initiative and activity that local bodies enjoy without undue interfernce from the centre. This is made

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[24] Id. 34.

possible through two mechanisms. Firstly, at each level of the communist organizational hierarchy elected representative of the various regions are represented. Secondly, the principle of "Democratic - Centralism" affords ample opportunity for local initiative within the general frame-work of the centrally issued (by the CP) policy. Since the understanding of this seemingly contradictory principle required an appreciation of how it operates, I will, briefly, explain it. "Democratic Centralism" is the basis for the administration of subordinate organizations. According to this principle, all bodies from top to bottom are democratic in that the members are elected, the functions of these bodies, irrespective of its size and the geographical unit it administers, involve wide public participation and representatives owe all information pertaining to their deliberations to their electors. The word "Centralism" refers to the fact that the decisions of these bodies are subject to review from above in case of any diversion from the set socialist goal which all "nationalities" collectively decide upon. The immense responsibility that devolves on local bodies can be best expressed in the words of Humes:

> In carrying out these functions the councils consider and approve the current and long-range plans for the development of the economy and culture within their area and see to their fulfilment. They coordinate the drafting, and control the carrying out of housing and municipal development plans, social and cultural development and local improvement work, adopt the

budget and approve the report on its execution during the preceding year and see to the financing of local industry and social and cultural measures. Furthermore, the councils direct the development of local industry, supervise the work of the enterprises subordinate to the higher state organs, direct the development of agriculture and take the necessary measures to promote greater crops and higher productivity of livestock. The councils also administer the municipal services, housing and trade, enforce the law on universal compulsory education and take the necessary measures to develop health services, cultural activities and social insurance.[25]

In addition to the immense power granted to the local bodies, Article 17 of the Constitution of the Union of Soviet Socialist Republics recognizes the right of every Union Republic to secede and form an independent government of its choice.[26]

This constitutional recognition of the right to secession has in reality worked with respect to Finland. The Finish social-democrats, starting from before the 1917 Bolshevik Revolution were demanding secession. This right - which was denied them before the Marxits came to power - was accorded the Finnish people in accordance with the programme of the Russian Social-Democrats quoted above - which is embodied in Article 17 of the constitution - in December 1917.

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25 S. Humes and Eileen M. Martin, The Structure of Local Governments Throughout the World, Martinus Nijhoff, Netherlands (1967), p. 291.

26 Article 17 of the USSR states. "The right freely to secede from the USSR is reserved to every Union Republic."

Such a constitutional guarantee, it is believed, fosters mutual trust and engenders a sense of equality and ~~genuine~~ genuine unity rather than, as some maintain, leading to disintegration. There is no doubt that the USSR benefited a great deal by instituting such a system.

In the light of both the Ethiopian realities - diversity of national characteristics enumerated above - and the two systems outlined above, I will proceed, in the following chapters, to investigate with a view to suggesting thebest possible approach to the pressing issue of nation building in this country. To this end, it is deemed necessary to start the task with a brief historical introduction of both ancient Ethiopia and modern Ethiopia in order to be in a position to obtain a clear picture of the prevailing national differences and the complexity and the magnitude of the problem to which solution is being sought.

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Chapter II

The Process of Centralization (Nation-building) In Ethiopia

1. The Pre-Tewodros Era

Ancient Ethiopia - e.e., Ethiopia of pre late ninteenth century - refers only to part of the provinces of Eritrea, Tigre, Gojam, Gondar, part of Wallo and the North-eastern part of Shoa. Even this relatively small kingdom of ancient Ethiopia was subject to constant regional wars because of regional rivalry, the scramble for hegemony between the Oromo and Amhara nobilility and the ambitious Amhara and Tigre nobles who aspired to the throne, each claiming descent from the Solomonic line.[27] As the result of the intense rivalray for the throne among the nobles of the different regions, "from 1769-1855 central power almost completely disappsared. At one time five men claimed the throne in what was the nadir of imperial fortunes. In the Ethiopian Empire, as in the Holy Roman Empire, power devolved to the nobles. Ethiopia disintegrated into a number of small kingdoms as old local ruling families asserted themselves and appointed governors converted their offices into hereditary

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27 Robert L. Hess, National Unity and Regionalism in Eight African States. Cornell University Press, Itchaka, New York (1966), p. 456.

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positions. Until the mid-ninteenth century, the Ethiopian Empire did not exist.[28] It is more accurate to speak of the various kingdoms in Ethiopia, for Ethiopia had become a more geographical expression."[29]

2. Attempts to Reconstitute the Ethiopia Empire by Emperor Tewodros

The first bold attempt to reconstitute the disintegrated ancient Ethiopian Empire into a number of small kingdoms was made by Tewodros when he defeated the local rulers of Gojam, Gondar, Tigre, Shoa and Wallo and successfully claimed the throne as Tewodros II in 1855.

In an attempt to revive the imperial authority which was vanquished by a century of disorders and decline, Tewodros initially appointed governors loyal to him instead of local traditional rulers with regional interest and connections.[30] However, the circumstances of the time - which were caused by both the disaffected regional nobility and the church - were against the institution of administrative reform of the kind

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[28] Robert L. Hess' sweeping statement of the non-existence of the Ethiopian Empire should be read with a bit of caution. True, during the "Era of the Princes", the period Hess is referring to, regional lords exercised independent authority as regards affairs of local concern. However, the practical limitations of imperial power that prevailed then is not tantamount to absence of Emperor. The Emperor exited as puppet, whereas the rulers of the different regions were really independent.

[29] R. L. Hess, cited above at note 27, p.456.

[30] Ibid., p. 457.

he planned. Hence, his option was to strengthen the military arm of his government and rely on it for the consolidation of the empire by forcibly breaking the power of the regional lords.[31] His methods are well described in the following words:

> The arduous task,-..... of breaking the power of the great feudal chiefs - a task in Europe achieved only during the reigns of many consecutive kings- he has commece by chaining almost all who were dangerous..... He has placed the soliders of the different provinces under the command of his own trusted followers, to whom he has given high titles, but no power to judge or punish, thus in fact, creating generals in place of feudal chieftains more proud of their birth than of their monarchy, and organizing a new nobility, a legion of honour dependant on him and choses especially for their daring fidelity. Even the Wag Shum was not spared from ceasure.[32]

Thus, through subjugation of the local chieftains Tewodros was successful to unite the northern Christian part of the present Empire including Shoa and Wollo. However, he was neither in a position to gain more territory nor to consolidate the conquered regions by the time of his death in 1868. Although Emperor Yohannes IV pursued Tewodros' policy of limitting the authority of the regional lords inorder to lay the foundation for a modern state, his aim was frustrated by complications coming from regional interests European manouvers and Egyptian attempts at expanding over Ethiopia.[33]

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[31] Ibid.

[32] P. Gerhas, The Government of Ethiopia, Northwestern University Press, Evanston (19), p.270

[33] Robert L. Hess, cited above at note 27, p. 458.

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3. Expansion of the Empire and Continuation of the Process of Consolidation Under Menelik II

As soon as he became king of Shoa in 1865, Menelik II adopted a policy of expansion. To this end, he collaborated with Gobana, Chief of the Abitchu Oromo, and undertook the incorporation of the Oromo territories by employing both force and tact. After the conquest of most of the Oromos, Menelik undertook the incorporation of the outlying peoples such as the Somalis of Ogaden, the Sidamas, the Kambattas, the Wollamos etc. Thus by 1899 when all the outlying regions of the present Ethiopian Empire were conquered by Menelik II and incorporated under his rule, peoples of different origins, religions, histories and social and political organizations were "united" under a Christian Shoan Monarchy.[34] Describing the diversity of the peoples thus brought under one leadership and impliedly pointing to the difficulty to be encountered in the course of nation building, Baissa Lemu wrote:

> They..... speak numerous languages, some of which were and still are widely spoken, like Galla. By putting all these peoples under the Shoan Monarchy, Menelik created a new state(Author's emphasis) of Ethiopia. But a new nation has yet (Author's emphasis) to be molded of these peoples.[35]

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[34] Baissa Lemu, The Democratic Political System of the Galla of Ethiopia and the possibility of its use in Nation Building, (Mimeographed, 1971), p. 18.

[35] Ibid., p. 19.

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The method Menelik employed to "mold" a new nation out of the diverse peoples did not result in success. It was not successful not because the Shoan Amhara rule was loose, but on the contrary, it was because, among other reasons, the policy of inequality perpetrated by the feudal rulers and the oppressive nature of the administration was intolerable.[36] In describing the situation that prevailed in Borana and the reactions of the conquered peoples to the Central Shoan rule, Margery Perham said:

> The poulation was not large and the soldiers pressed so hardly upon the gabars allotted to them that many of these fled to the bush or into British territory.[37]

The oppression and exploitation was not limitted to the Oromo nationality alone. It was universal. A description of the situation that prevailed in Kaffa attests to this fact.

> A Russian who was sent as an officer in Ras Walda Giyorgis's invading army says that Kffa, formerly almost a fairy story country for its wealth of honey, grain, ivory and musk, cattle and horses, and for its mamufacture of excellent cloth and weapons was now a desert. This deterioration is described by Bieber, who visited the country in 1905 and recounts how, after only a few years of rule under the iron hand of the Shoans, the native culture had almost disappeared.[38] ..... Quoting a native sayings he adds; "where the Amharas tread the grass grows no more, and

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[36] M. Perham, The Government of Ethiopia, p. 314 Northwestern University Press, Evanston (1969), P 314.

[37] Ibid., p. 316.

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and says that the desire of the Amharas to enrich themselves quickly had greatly impoverished the country.[39]

Besides attempts to consolidate his rule through subjugation and impoverishment it is apparent that Menlik II did realize the need for establishing a kind of administrative framework through which he would exercise the traditionally absolute imperial power over the Empire. Thus, the state affairs which were embodied in the person of the Emperor were, in 1908 somewhat delegated to a ministerial framework which he created for the first time in the history of the country. Although the motives that led the emperor to take this initiative still remains a points of controversy, there seems to exist a general agreement on one reason regarding it. This reason is that at the time when the said ministerial framework was instituted, the Emperor was gravely ill. - It was then sought to strengthen the central control by creating a body that could collectively carry out state duties which if left in vaccum could have jeopardized the efforts of centralization by giving opportunity for individual rivals to fight for authority.[40] The author feels that this is not the only reason for establishing a ministrial framework.

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[39] Ibid.

[40] Christopher Claphom, Haile Sellassie's Government Longmans, Green and Co. Ltd., London (1969). p.15.

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There is a second practical reason that led to the institution of this measure. This reason is that the vast territory that came under a government that could not avail itself of the facilities of modern means of communications could not effectively cope with the growing centrifugal tendencies of regional chiefs under the sole guidance of one man (the emperor). Hence, the need for assistance for efficient execution of policies which were centrally prescribed without the consent of the various regions was felt. Nevertheless, since the ministerial frame-work directly evolved from the personal entourage of the emperor, it cannot be considered a new innovation, but an attempt to give permanence, through "modernizaion" to the already highly centralized set up.

After the death of Menlik II, leaving the new Ethiopian state in the situation described above, the responsibility of consolidating the empire devolved upon Haile Selassie I.[41]

4. Consolidation of the Empire by Emperor Haile Sellassie I

Emperor Haile Sellassie has reigned longer than any of the three previous innovating emperors (Tewodros II, Yohannes IV, and Menelik II) with a plan to build a nation out of the already incorporatated diverse ethno-linguistic groups. Besides, whereas

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most of the times of the previous emperors was spent in bringing regional rivals under control and gaining more territory, Emperor Haile Sellassie had relatively longer time to devote to administrative innovations aimed at institutionally controlling the militarily conquered peoples. To this end, he developed both the set up of the rudimentary central administrative framework he inherited when he came to the throne and provincial administrations which will be dealt with in detail in the latter part of this chapter.

During the greater part of his reign Haile Sellassie attempted to consolidate the Empire through centralization. Very recently, however, he showed certain signs of plan to decentralize. This is shown by Order No. 43 of 1966 which was issued to institute local administration at Awraja level. Furthermore, the permission and encouragement given to local self-help programmes is another indication of the tendency favouring decentralized administration to a limitted degree. Thus, it can be stated that Emperor Haile Sellassie made more innovations at nation building by trying both centralized and decentralized methods of administration than any of the previous emperors.

(i) Haile Sellassie's Contralization Measures

(a) The Constitution of 1931

Upon succession to the throne, His Majesty Emperor Haile Sellassie I granted a written constitution to his people.

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As is evident from the speech[42] of the Emperor on the occasion of the signing of the Constitution, out of the seven objectives outlined, top on the list was the unification of the peoples of the various ethnic groups under one central leadership. According to the speech of His Majesty, the principal provisions of the constitution are concerned with:

(i) The unity of the country - the means he prescribed for the maintanance of the "unity" of the Ethiopian peoples incorporated under one central rule by Menelik II is by subjecting them to a continued common rule, policies of which are centrally formulated without the participation and consent of the conquered regions.

(ii) Application of a common law to all the distinct groups irrespective of the inconveniences caused to the conquered peoples due to the prevailing differences- it is worth noting under this point that the statement made concernir universal application of law is sweeping in the sense that even those laws of the conquered peoples pertaining to family affairs were not spared from abolition.

(iii) Creation of one national parliament - through the creation of one national parliament that sits in Addis and whose deliberations were made subject to the approval of the Emperor before becoming law, he ensured that any policy affecting any affair in any part of the Empire got his consent; thereby miniminizing the

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(IV) Centralization of all executive power – the implementation of laws promulgated according to the manner described under paragraph (iii) above was assigned to his ministers.

These measures are tantmount to excluding regional representation in the Centralized Government and at the same time prohibiting them from administering their local affairs through traditional bodies. De-centralized administration has a positive impact on economic development. Hence, there is no doubt that the institution of such a highly centralized administration hampered the economic development of the nation – the impact of centralized administration on economic development will be discussed under chapter III of this paper.

The purpose aimed to be achieved by the objectives of the constitution indicated under (iii) and (iv) above is the disbanding of already existing traditional governments. This measure did not discriminate between certain democratic institutions that should have been preserved for their practical utilities and traditional feudal lords who might have been a threat. The preservation of certain institutions would not have posed a threat to the Central Government. True, some traditional feudal lords might have posed a threat if they could maintain connections with and commanded the population of their respective regions. However, the fear of some feudal

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In addition to the abolition of native political and administrative institutions of the conquered peoples and replacement of traditional rulers by central government officials with no responsibility to the local community, the purpose of the 1931 Constitution was to introduce and popularise systems, customs, and laws of the Shoan conquerors universally. This is reflected in the speech His Majesty made, partly discussed above, when he promulgated the constitution.

The abolition of local institutions and implantation of the central ones and the appointment of Central Government servants who were not sufficiently familiar with the customs of the peoples of the conquered regions was a drastic measure that augured in an unhappy era for the people thus affected. However, this would not be surprising once the primary aim of the Central Government is known. At that early stage, when the conquered peoples have not yet been brought under effective control, the concern of the Central Government was primarily the strengthening of central institutions rather than the development of local institutions and the preservation of customs which might have served useful

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In addition to the abolition of native political and administrative institutions of the conquered peoples and replacement of traditional rulers by central government officials with no responsibility to the local community, the purpose of the 1931 Constitution was to introduce and popularise systems, customs, and laws of the Shoan conquerors universally. This is reflected in the speech His Majesty made, partly discussed above, when he promulgated the constitution.

The abolition of local institutions and implantation of the central ones and the appointment of Central Government servants who were not sufficiently familiar with the customs of the peoples of the conquered regions was a drastic measure that augured in an unhappy era for the people thus affected. However, this is would not be surprising once the primary aim of the Central Government is known. At that early stage, when the conquered peoples have not yet been brought under effective control, the concern of the Central Government was primarily the strengthening of central institutions rather than the development of local institutions and the preservation of customs which might have served useful

purpose if left intact, by gradually developing them into modern institutions by taking their beneficial elements and effecting necessary modifications.

In describing the instrumentality of the constitution in the centralization of administration, Christopher Clapham stated as follows:

> First and foremost, the Constitution was an instrument of centralization under the Emperor, reflecting the traditional principle of absolute imperial power without practical limitations which modified it.[44]

(b) The Institution of the First Parliament

In order to appreciate the instrumentality of the first Parliament in the centralization scheme of the administration of the Empire, reading the articles of the 1931 Constitution that vest the Parliament with powers would be necessary. Furthermore, knowledge of how election to the first Parliament was conducted would enhance ones understanding of the primary purpose for which it was instituted.

Articles 35 and 47 sufficiently illustrate the extent of power the Parliament was granted to deliberate on issues of national interest and to summon and question members of the

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[44] James C.N. Paul and Christopher Clapham, cited above at note 42, p. 240.

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executive branch on matters concerning their duty. In accorda with the provisions of Article 35 of the 1931 Constitution, the members of the Chamber of Deputies were legally bound to delibe on proposals transmitted to them by the executive. However, an proposal originating in the Chamber had to obtain the prior approval of the Emperor before it could be deliberated upon.[45]

Article 47 of the constitution denied both Chambers the right to summon Ministers to their meetings for purposes of asking questions concerning any matter without the consent of the Emperor.[46]

Thus, the Parliament was only granted the power to discuss proposals transmitted to it by the executive. It did not have the power of decision making. Even the curbed right of deliberating on proposals did not extend to all state affairs. They were denied the right of discussion of proposals pertaining

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45 Article 35 stated, "The members of the Chamber of Deputies shall be legally bound to receive and deliberate on the proposals transmitted to them by the Ministers of the respective departments. However, when the Deputies have an idea which could be useful to the Empire or to the nation, the law reserves to them the right to communicate it to the Emperor through their president, and the Chamber shall deliberate on the subject if the Emperor consents thereto."

46 Article 47 stated, "The Chambers may not summon Ministers to their meetings even if they feel the need therefore, without first having obtained the consent of the Emperor....."

to the organization of the government, the armed forces and foreign affairs.[47] It is therefore clear that the power the First Parliament was granted to influence and/or determine matters pertaining to national interests was highly curbed.

Moreover, the procedure by which the election to the Chamber of Deputies was conducted illustrates the non-existence of genuine representation in the Parliament. This can be very well illustrated by briefly describing how the people of Kembatta elected their deputies to the first Parliament. According to Paul and Clapham,[48] an order from the Minister of Interior was sent to the representative of war to assemble noblemen, captains, lieutenants and sergents to select from among themselves persons that would elect a deputy. The criteria that was prescribed to be used in the election of a deputy was:

> respect for the Emperor,
> love for the country (the entire Empire),
> loyality to the Central Government, and
> firmness in the Christian religion.

This criteria indicates that the primary purpose and function for which the "deputies" were wanted was for promoting the centralization scheme of the Central Government. It clearly shows that the conflicting centralization policy of the

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[47] C. Clapham, cited above at note 40, p.35.

[48] Paul and Clapham, cited above at note 42, p. 341.

government and the desire of the inhabitants to retain some sort of power to determine activities of their immediate concern were not well balanced. Such an imbalance in policy usually tends to neglect one side while unduly favouring the other side. When such an imbalance relates to the conflicts between centralization and de-centralization (which is the subject matter of our concer the danger of harming the interests of the people is unavoidable.

The so-called representatives (deputies elected in accorda with the procedure and on the basis of the criteria described above) from the various regions were not to be expected to represent the genuine interests of the people they purported to hav represented. They were assembled in the Parliament in Addis, presumably, to get well-indoctrinated in the "good" intentions of the Government in centralizing the administration and the beneficial results that would ensue to the population from same policy. With regard to the members of the Chamber of the Senate, it can be said that it was an effective method and covert excuse for keeping ambitious regional lords under close control and away from undesirable connections. Besides, Parliament was also wanted to give a semblance of legitimacy to all laws aimed at con centrating power. This argument can be summed up by the followin quotation. Nega Ayele, quoting Fitawrari Tekle Hawariat[49] with respect to this matter wrote as follows:

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[49] Fitawrari Tekle Hawariat is the drafter of the 1931 Constitution. Hence, he is well versed in the intentions of the laws and institutions that came into being at that time.

> At that time we did not want a person who could work well in the parliament and legislate good and modern laws. We wanted the people to accept those laws which were to be legislated, and those laws could only get acceptance if they were discussed by the nobility and accepted by them first. Thus we had brought important personalities who had considerable influence in the provinces and had them appointed in both houses according to their power of influence and importance in the public eye. We wanted to speak to the people of Ethiopia through these personalities. Thus, we used them as instruments for achieving our plans and goals.[50]

With this brief discussion of the 1931 Constitution and the objectives of the first parliament, we will now proceed to consider other legal instruments that were used in the consolidati of the militarily conquered regions.

(c) The Development of Provincial Administration

It was noted in the preceding chapter that Emperor Menelik abolished the political organizations of all the conquered peoples and put appointed governors (mostly generals who participated in the conquest of the southern provinces) in power. However, since Menelik neither instituted organizational control nor developed modern means of communications for easy check upon newly emerged provincial chiefly families, most of them were in a position to resist Haile Sellassie's centralization policies. The resistance might have ended in disaster but for the 1936

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50 Nega Ayele, Centralization Versus Regionalism in Ethiopia: The Case of Gojjam, HSIU (Mimeographed), (1970), p. 43.

Italian occupation which removed most of the chiefs from power and created a new centralized administration. Thus, in 1941, when Emperor Haile Selassie returned from exile, most of the chiefs were removed from political power and the administration was relatively centralized. Hence, what was needed was issuance of pertinent laws to further the centralization process and consolidate the achievements gained. This was realized by the Emperor. In accordance with this realization, in 1942, he issued the Decree Approving Administrative Regulations for Provincial Government.[51] This Decree provided that governor-generals for the administration of each province were to be appointed by the Emperor on the recommendation of the Minister of Interior.[52] The Decree further provided that, since the governor-general is a government representative, his duty was to supervise subordinate officials and give orders to them in accordance with regulations issued by the Ministry of Interior.[53]

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[51] Decree Approving Administrative Regulations for Provincial Government, Decree No. 1 of 1942, Neg.Gaz. Ist year, No.6.

[52] The appointment of provincial governors loyal to the Emperor(and hence the Central Government) was started by Tewodros and continued thereafter. The provision of this Decree dealing with the manner of appointment simply put into a written law what has been a practice for about ninety years.

[53] Part 4 of the Decree Stated: "The Governor-general is empowered to give orders in accordance with regulations issued to him by the Ministry of Interior, to the Director, Governors, Mislenies and town officials and to give orders in accordance with regulations issued by other Ministries, to their departmental officials appointed in his Province.

The duties thus assigned to the governors-general - i.e., the transmission of orders in accordance with centrally issued regulations - did not provide for consideration of opinions originating locally. It was mainly aimed at curbing the extent and degree of participation of the populace in affairs of local concern. It did not even reserve minor fields of activities to be managed by citizens whose interests was most affected, - and hence due most consideration - by activities carried out at local levels.

M. Perham's comments on the aim of the Decree as being primarily concerned with the destruction of the local populations initiative and responsibility in their domestic affairs; thereby facilitating a firm establishment of a centrally formulated uniform rule, vividly illustrate the outstanding purpose which the Decree was aimed at achieving. Perham's comment reads:

> One thing stands out above all others in this decree. It aims at the final destruction of the old provincial government, sweeping away all that most European observers describe, not quite exactly, as feudal in the former position of the rulers of the provinces. This process had, as we have seen, begun many years earlier and was carried a long way in much of Ethiopia in the first part of Haile Sellassie's reign. But here for the first time, by full legal definition, nearly, all the attributes of power possessed by the provincial ruler through almost the whole of Ethiopian history are shorn away. We have seen already in the Chapter on the army that he has lost his private army; he now loses his right to appoint his own hierarchy of provincial officials or to recruit his own police. His control of provincial tribute is taken from him and instead

he becomes, in effect, the chief accountant for the government. He is to be assisted, which means that he will be watched and checked, by other important officials appointed by the Emperor and responsible to their several ministers at the capital. He and all these officers are to be attached directly to Addis Ababa by the payment of their salaries from the central treasury. Another feature of this scheme of government will strike all those who are interested in African administration. It is the absence, with an exception to be noted later, of any trace of the principles generally described as indirect rule, or even of any local-government. Had a situation arisen which had given Britian the responsibility for devising a system for this country, it would undoubtedly have provided most carefully for the recognition within a common framework of many kinds and sizes of local communities. There would have been considerable study of the varieties of social institution presented by Amhara, Sidamo, negro, or Somali provinces and there would have been many consultations with the groups to obtain their views upon the forms and the persons to be recognized. The Ethiopian decree appears to aim at immediate bureaucratic concentration and at a complete uniformity which ignoresthe wide differences between the provinces and the peoples. It may be of interest to record that some years ago, before the Italian conquest, an Ethiopian student was sent to Europe to make a study of the methods followed in Africa by the several European powers. In a discussion with the writer, he made it clear that his report would be strongly in favour of the French policy of assimilation, rather than the British one of 'indirect rule'. A possible reply to the comments in the last paragraph is that the decree provides only for the upper layer of administration, and that this will be linked with the lower customary strata of kindred groups, shums, and community leaders that we have already reviewed. That may be; indeed, to some extent, it must be, at least for a period. But there is no hint of this in the legislation; there is no reference to the Chiqa-Shum, to locally elected or selected councils or chiefs. The effect of the decree, as it becomes fully effective, must be to sap initiative and responsibility from local

> institutions and leaders and to provide it mainly from above /emphasis mine/. The parliament is unlikely to provide much check upon this or to afford for many years much expression to local sentiments or particularities, especially for the more backward regions. Whatever modifications provincial realities may force upon the government, the drive towards rapid centralization and uniformity is apparent in this decree as in so much of the Emperor's policy.[54]

The provision pertaining to the collection of money makes a sweeping statement that prohibits local initiative and responsibility. It prohibits any collection of money other than government taxes and dues. This is tantamount to indirectly denying local citizens any role in the administration of affairs that immediately affect and interest them, no matter of what nature and magnitude the activities may be. Except payment of taxes and dues, legally fixed by the Central Government, into the Government Treasury, other collections of money, for whatever purpose, were made punishable.[55] One may argue that this provision was intended to curb corruption only. However, the Decree did not except from penalty contributions and collections of money expressly intended for development projects. It makes no mention of such exceptions. It categorically prohibits collections of money other than those payable to the Central Treasury. Besides, there is Part 7 of the Decree to prevent corruption.

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[54] M. Perham, cited above at note 2, p. 349-350.

[55] Part 6 of Decree No. 1.

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Hence, there is no doubt that this measure hindred co-operative activities and local initiative which would have played a great deal in the socio-economic development of the nation; because without fund no development plan can either be formulated or implemented.

In developing countries - Ethiopia is in fact among the twenty-five countries designated as the least developed - there is no alternative to cooperation for the much need mobilization of the latent organizational and financial potential of agricultura communities.[56] Since Ethiopia is predominantly an agricultural community, the need for the mobilization of its populace both for its man-power and financial advantages is obvious. As a by-product of the mobilization of the latent man-power for self-help cooperative activities, new skills are acquired by the local personnel. Accordingly, the advantages of local initiative is many-fold whereas its prohibition is a great loss both in terms of human and financial resources.

Thus, it is observable that the prohibition of people from paying money - except for taxes and government dues - hindered their cooperation; because there was no point in the people's getting together and discussing areas of cooperation if the acquisition of the means - money - of putting into effect the decisions arrived at after discussions was impermissible.

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[56] I.B.G., 3rd Five Year Development Plan, (1968-1973), p. 380.

In view of the overwhelmingly agricultural character of the Ethiopian economy, the negative impact that the stifling of local initiative and cooperative activity had on the economic development of the nation is immense. The disadvantages that resulted from this Decree are not solely limitted to economic loss alone. Faster economic growth is one of the pre-requisites fo national unity. An economically strong government can build the infrastruc necessary for easy communications; thereby facilitating the badly needed interaction of the inhabitants of otherwise isolated region: Intercourse of peoples and, consequently, cultural interaction - which can only come about after communications systems are sufficiently developed - ultimately result in the formation of a homogenous society - provided other conditions are also satisfied Moreover, by spreading education and effective and proper use of the mass media a wealthy government can teach values that promote national unity. In addition, an economically strong government can industrialize the country rapidly. Industrialization brings workers from different regions together. This helps in imparting new values to industrial workers. The values gained in this manner are different from those entertained by agricultural communities who are usually haunted by primitive and hence, parachial interests.

Other pertinent provisions of the Decree, particularly Parts 71 to 77, deal with the establishment of municipalities

for towns with elected councils. However, it is explicitly provided that the elected Municipal Councils, with the exception of fixing municipal taxes in accordance with the law, were not vested with powers exceeding discussion of matters pertaining to municipal affairs and advising the mayor on same matters.[58]

(d) The Administration of Justice Proclamation[59]

The administration of Justice Proclamation, 1942 provided for the establishment of the Supreme Imperial Court, the High Court, the Provincial (Tekly Guezat) Court and other courts of both civil and criminal jurisdictions which the Emperor may establish by warrant. These courts were to be subordinate to the provincial court. The subordinate courts provided for in the Proclamation were established by a circular published by the Ministry of Justice. The courts so established were the

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Adjudication of disputes in strict conformity to written

the application of local customary laws in adjudicating disputes, because since the judgements of the local judges were appealed to Woreda Courts which, in almost all cases, were staffed by judges dispatched from the centre, it was imperative that the local judge knew and applied those laws which the courts at the next higher level applied, otherwise their judgements would end in reversal at appeal. Thus, it can be concluded that the local judges were indirectly encouraged to know the customary laws of the dominant ethnic group and adjudicate, even minor cases that fall within their jurisdiction, according to the principles and procedures thereof.

The final question concerning the administration of justice related to the Mohammedan Courts.[63] The Kadis and Naibas

Proclamation, 1944, Proclamation No. 62

dwindling as they are converted to both Christianity and Mohammedanism. Their conversion to Christianity and Mohammedanism does not automatically acquaint them with the customary laws of these peoples. Hence, it can be said that a substantial proportion of the population is subjected to laws which are not part of their customs. This may be acceptable in view of the fact that special rights and services, if designed to be provided for all interest groups, would end in unmangeable proliferation of institutions. However acceptable such a principle may be, its drastic application is harmful and hence unwelcome. When promulgating the laws pertaining to the administration of justice, the inconveniences that would be caused to the conquered peoples were not taken into consideration. With the exception of the few cases discussed above, the laws were intended to apply uniformly throughout the Empire disregarding the diverse national characteristics. Thus, it can be concluded that the basic laws concerning the administration of justice were mainly aimed at centralizing the judicial system.

(e) The Establishment of Ministries and Other Government Agencies

We have already seen that the creation of a bureaucratic polity for the administration of the Empire dates back to 1908 when Menelik II founded the first Ministerial framework in the history of Ethiopia. After the liberation, Emperor Haile Sellassie assigned power to the various Ministries by Order No. 1 of 1943.[66] This Ministerial Order, which still remains

[66] Ministers (Definition of Power) Order, Order No.1 of 1943, Neg.Gaz., 2nd year No. 5.

inspite of the amendments discussed below - the organic law defining the powers and duties of the executive branch, was amended in the same year by Order No. 2 to provide for the establishment of the Prime Ministry. Recently, by Orders Nos. 44 & 4 of 1966, the Emperor expanded the responsibilites of the ministers and increased the authority of the Prime Minister. It may be stated that by thise Orders the Emperor delegated his powers to the Prime Minister who is made answerable to him.

Thus, it is evident that the first Order as well as its subsequent amendments did nothing novel as far as creating and devolving power in local bodies is concerned.[67] The Order and its subsequent amendments simply institutionalized practices that were exercised by the Prime Minister prior to their coming into force. This was necessitated by the increasingly growing responsibility due to the government's growing involvment in international affair and national devebpment projects.

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[67] Orders 44 and 46 do actually deal with delegation of more responsibility to the Prime Minister and the Ministers Order 46, in particular, is more or less, an amendment to the Constitution in that it makes the Ministers collectively responsible to the Prime Minister contrary to the constitutional (Article 68) requirement that they be responsible to the Emperor and to the State.

However, these amendments are not concerned with the creation of local governments and delegating power thereto which is the subject of this matter. For distinction between delegation of duties by higher executives to lower executives and delegation of powers to local administrative institutions, see Chapter II, Section (i') of this paper.

A word of caution should be added here to alert readers against mistaking the modernizing tendencies of the Orders in response to the increasing administrative complexity of the time for a measure to decentralize the administration of the Empire. Similarly, the governmental agencies other than ministries that were established since 1941 and given considerable degree of autonomy were by no means intended to affect the highly concentrated power in the Central Government. Their autonomy is solely concerned with development of certain sectors of the economy. All these agencies are, in fact, under a strong grip of the Central Government. Thus, both the institutionalization of the Council of Ministers and the establishment of new non-ministrial agencies were not aimed at decentralization of power but rather at modernizing the bureaucracy for efficient administration in order to be able to effecively control the discontented peoples due to denial of their inalienable right to participate and determine decisions that affect their lives.

The foregoing interpretation of the development of the bureaucratic polity can be supported by the following observations one can make;

(i) the fact that the bureaucracy is utterly unresponsive to the needs of the people, the rationale of which is that the Parliament cannot vote out the Government out of power and the dependance of members of the executive for promotion on the Emperor,[68]

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[68] Baisa Jemu, cited above at note 34, P 57

(ii) the fact that the Provincial offices of the various ministries mainly carry out policies formulated here at the centre without taking into account the needs and actual conditions prevailing in the various regions, and

(iii) the fact that the appropriation of funds has been in favour of those offices concerned with the administration of keeping peace and order and the collection of taxes excessively high to the detriment of development activities.[69]

(f) The Dissolution of the Federal Status of Eritrea

From 1890 until 1941 Eritrea was under the Italian colonial rule. At the end of the Italian rule it came under the British Military and care-taker administration. The Eritrean territory remained under the British authority until it was federated with Ethiopia in 1952. Thus, the Eritreans and the Ethiopians of the other thirteen provinces were under different authorities, and hence were ruled differently for sixty two years. During this period their laws were promulgated by different authorities. Hence, they had different legal systems.[70]

Besides the different legal systems that applied to the two territories, the last years leading to the Federation of Eritrea

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69 This can be seen from the annual budget allocations of the Government.

70 Since Eritrea was an Italian colony, its legal system consisted of laws promulgated pursuant to the Constitution of Italy and some Italian legislations proper were as also so extended to it.

with Ethiopia brought about a big gap between the outlook of the two peoples. These years effected a great change in the political outlook of the Eritreans. Of particular importance was the period when the disposition of this former Italian possession was under consideration by the Four Power Commission of Investigation of the United Nations.[71] During this time, the Eritreans were consulted as to the future fate of their country. Different interest groups were active in disseminating and popularizing the respective views of the various political parties. This, inevitabl resulted in a highly politicized Eritrean population. Furthermore, the Constitution of Eritrea that was drafted under the auspices of the United Nations contained ample provisons concerning human rights, whereas that of Ethiopia - the 1931 Constitution - contained curtailed provisions in this respect.[72]

Thus, when the Federation of Eritrea with Ethiopia was effected in 1952, two un-equal constitutions were in existance. The Federal Government was confronted with the dilemma of whether to extend similar human rights to the rest of the Ethiopian population or curtail those human rights provisions included in

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[71] The Four Power Commission of Investigation, which was charged by the United Nations with the duty of determining the disposal of all Italian possessions, consisted of Britain, France, U.S. and USSR.

[72] For further information see Chapter III of the 1931 Constitution.

the Eritrean Constitution. However, since the Constitution of Eritrea was prepared and promulgated - after the approval of the Eritrean Assembly - under the auspices of the United Nations, it was neither considered wise nor was it really easy to annul the human rights provisions of the Eritrean Constitution. Rather, the Ethiopian Government considered it proper to up-date the 1931 constitution by revising it - as revealed in the 1955 Revised Constitution - , especially the chapter dealing with human rights. But, revision of the 1931 Constitution was not the ultimate goal of the Ethiopian Government. It was intent on terminating the Federation. C. Clapham wrote:

"The Ethiopians never regarded the Federation as more than a stop gap, and they worked steadily to undermine the Eritrean Government; in 1962 they achieved their aim of completely absorbing Eritrea into the centralized administrative system which applied to the rest of the Empire."[73]

Thus, the autonomous status of Eritrea, which was granted it by Article 3 of the Federal Act[74] was brought to an end. With the termination of the Federation the Eritrean autonomous governmental system came to an end. However, the termination of the Federation did not automatically put an end to the Eritrean legal system. The Ethiopian Government decided to

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[73] C. Clapham, cited above at note 46 , p. 23.

[74] The Federal Act, Order No. 6 of 1952.

accomplish this task gradually as provided in Order 27[75] which reads:

> All enactments, laws and regulations or parts thereof which are presently inforce within Eritrea or which are denominated to be of Federal application, to the extent that the application thereof is necessary to the continued operation of existing administrations, shall until such time as the same shall be expressly replaced and repealed by subsequently enacted legislation, remain in full force and effect, and existing administrations shall continue to implement and administer the same under the authority of the Imperial Ethiopian Government.[76]

Admittedly, the Order does not specifically repeal all Eritrean legislation that operated prior to 1962. The avoidance of such a measure - i.e. the restaint from automatically extending all Ethiopian legislation over Eritrea - was dictated by the fear that such a measure would create confussion in the legal system and raise hue and cry.[77] However, the fear of hue and cry did not have any deterrent effect on providing for the future extension of Ethiopian legislation over Eritrea. The provision of the article quoted above which states "to the extent that the application thereof is necessary to the continued operation of existing administrati

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75 The Termination of the Federal Status of Eritrea and the Application to Eritrea of the System of Unitary Administration of the Empire of Ethiopia, Order No.27 of 1962, Neg.Gaz. 21nd year, No.3.

76 Article 6 of Order No. 27.

77 Fasil Nahum, The Enigma of Eritrean Legislation, Mimeographed), Faculty of Law(HSIU, 1973), p.6.

reveals that the restraint from totally abolishing the Eritrean legislation was not intended to leave it intact. The decision was rather necessitated by the desire to ensure a smooth public life with as little disruption as possible when an entirely new legal system is drastically introduced.[78]

Apart from the option for the step-wise introduction of the entire Ethiopian legislation in order to avoid hue and cry and possible confussion of judges and other personnel concerned with the enforcement of law, the Ethiopian Government was confronted with another problem not to at once abolish the Eritrean legal system intoto. This problem was the non-existence of any Ethiopian legislation in areas such as labour relations, industri property rights, municipal regulations on health and building, regulations governing protection of forests and wild life and regulations pertaining to defence for the poor.[79] Leaving these regulations to operate unaffected is not tantamount to reserving those fields of activities to local Eritrean administration. Because, first of all, no such administrative organization existed in Eritrea legally, and secondly such an administration was envisaged to be taken over by the Central Government. Hence, it was intended to operate until laws covering these fields were promulgated pursuant to the Revised Constitution of 1955. Since

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[78] Id., p. .

[79] Id., p. 7.

the Eritrean constitution was explicitly repealed by Article 3 of Order 27 and the Revised Constitution made the sole-constitutio of the Empire of Ethiopia, other Eritrean legislations, except those permitted to operate temporarily, would lack basic enabling legislation to rest upon. Hence, the temporary nature of the legislations until such a time when laws were enacted in these fields is not contestible.

Furthermore, the unequivocality of the position of the Ethiopian Government as regards the question of Eritrean autonomy can be ascertained by the statement contained in the preamble of Order 27 which states ".....and the application to Eritrea of the system of unitary administration presently uniformly applied throughout the Empire."[80]

The Eritrean people's reaction to the usurpation of their rights of independently administering their domestic affairs is described in Clapham's words as follows:

> Many Eritreans resented this treatment, and a separatist movement, the Eritrean Liberation Front, has been especially active in the Moslim lowland parts of the province...."[81]

Several Eritreans whom the author talked to seeking information concerning any relationship between the dissolution of the Federation and the inception of the Eritrean Liberation Front spoke of the existence of intimate connections between the

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[80] Preamble of Order 27.

[81] C. Clapham cited above, at note 40, p.23.

two episodes. Further, most of them maintain that the movement was not limitted to Moslem Eritreans alone. Christian Eritreans were also involved from the beginning. The information obtained concur on the point that when the Ethiopian Government's determination to terminate the federation was made clear, a group of Eritreans composed of both Christian - e.g., Wolde-Ab Wolde-Mariam - and Moslims who ranked high in the then Eritrean Government formed a movement out of a resentment of the termination of the autonomy of Eritrea. They maintain that, initially, the movement did not make demands for secession. It limitted its demands to the restoration to the territory of Eritrea of the autonomy it enjoyed prior to December 1962. However, as the Central Government still stubornly adhered to its decision and disregarded the demands of the group that purported to be representing the interests of the Eritrean people, it went to the extreme of making demands for self-determination (secession) unti eight years later it developed to such an extent as to create a situation that called for a declaration of a state of emergency in certain parts of the province.[82]

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82 Declaration of State of Emergency in certain Areas of the Teklay Gizat of Eritrea, Order No. 66 of 1970, Neg.Gaz. 30th year No. 6, and

State of Emergency in Certain Areas of the Teklay Gizat of Eritrea Regulations, Legal Notice No. 390 of 1970. Neg.Gaz., 30th year No. 6.

(ii) Attempts at Consolidating the Ethiopian Empire through Decentralization

The disadvantages of the extreme centralization of the Ethiopian administration are reflected in both the rate of economic development and the political instability of the country.

One of the main reasons for the backwardness of the Ethiopian agriculture, which is the mainstay of the national economy, is the subjection of the majority of the non-northern population to a system of land tenure which has catastrophic results on producti and which is the breeding ground for social and economic ills.[83] The notorious tenancy problem which is responsible for the many social and economic ills of the country is partly the outcome of the conquest by Menelik II of the southern, western and eastern provinces. "Actually right after the conquest, except for the token portions that Menelik II allotted to the balabats, literally all the conquered lands were taken by the state and the former owners irrespective of their claims were reduced to tenant status. Later on, these lands were appropriated to the 'rases', 'dejzmatches and their soldiers from the north and central provinces and the Church by Menelik II and his successors. Finally now, 95% of the privately owned (private ownership is the major tenure) in these provinces are owned by 5% of the population of Addis Ababa with,

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83 Asefa Bekele and Bshetu Chole, Toward a Strategy of Development for Ethiopia, Dialogue, Vol. 1, No. 2, (1968), p. 56.

continues to prohibit formation of political parties. The absen of political parties resulted in the inevitable proliferation of covert groups which on several occassions have made attempts to change the regime. Examples of such attempts are, the 1960 attempted coup d'etat, the 1964 plot by a group of military offi the Taddese Biru and his group case and Dejazmatch Takele's atte to kill the Emperor by planting mines on the Sebetta Road.

The failures of these attempts should not be taken for the lasting stability of the government. They may be atributed to t efficiency and strength of the police and security system rather than the absence of interest groups who aim at changing the gove ment. However, reliance on the strength of the security and the police is nether a correct choice nor a guarantee for continued existence. Firstly, it is not a correct choice, because such a policy will lead to disproportionately appropriating the limitte revenue in favour of strengthening the unproductive security arm of the government thereby prejudicing socio-economic activities. Such a policy naturally breeds and intensifies discontent of the populace. Secondly, the policy of unduly favouring the strength of the police and security arm is not a guarantee for the contin existence and/or the stability of the government, because, since the personnel of these institutions are members of the disconten Ethiopian society they cannot help getting politisized by the conditions. This may ultimately lead them to become collaborato with other political groups or agents of change by themselves.

for example, a certain the late Ras Biru alone owning in one region of Chercher Awraja, in the province of Hararghe, 920,000 hectars. This same person had 600,000 hectars in the Awraja of Chilale, Arusi Province."[84]

Thus, as can be clearly seen from the above quutation, Menelik's conquest, the expansion and Worsening of tenancy problem and the subjection of one region to another, with the concomitant institution of centralized administration, are closely connected incidents. Since the Ethiopian economy is predominantly agricultural, the slow rate of economic growth can be atributed to the backwardness of the agricultural sector which in turn is partly atributable to the conquest and the subsequent centralization of the administration. In addition to making the economic growth rate of the nation one of the lowest in Africa, this administration is also partly responsible for the fact that the per capita income of the country is one of the lowest in Africa.[85]

Apart from the economic disadvantage, which in itself is grave enough to motivate search for an alternative institution, the system also posed political problems. Fearing that permitting the establishment of political parties may lead to regional oriented organizations, the goverment in the past discouraged and to-day

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84 Eyob Taddesse, Land Redistribution and Economic Development (Senior Research Paper, Faculty of Law), 1969, pp. 13-14.

85 Assefa Bekele and Eshetu Chole, cited above, at note 82, p. 40.

There is ample evidence for such a possibility. This is atteste to by the fact that members of this institution have participate in almost all previous attempts at changing the government. Hen it can be concluded that even if the present government, unlike many African government, have stayed in power for a long time, i is highly susceptible to change.

Apparently in recognition of this glaring sad situation whi is brought about, among other things, by the excessive centralize tion of administration, the government made limitted attempts - this far the government only indicated its intention - to institu a sort of administration which is aimed at giving the population the opportunity of participating in matters of their respective local concerns. This is evident from the comment of the Technical Committee for the Establishment of local Self-Government which reads:

> We find that Ethiopia has now reached the stage of development, where an administeration concentrated in the Central Government may hamper the further economic and social development - and, therefore, that a decentralization of the administration will be of great importance to the further harmonious development of all parts of the country.[85]

This comment of the Technical Committee is further augmented by the following statement from the preamble of Order No. 43 of 1966 which reads as follows:

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[86] I.E.G., Report and Draft from the Technical Committee on the Establishment of a local self-Government, 1964, p.2.

> Whereas it is Our desire that Our beloved people shall enjoy the benefits and facilities provided by a modern administration which makes full provision for the active participation in the business of local government. ...87

In addition to Order No. 43 of 1966, the policy of the Gover nent towards instituting Local Self-Government is also revealed through the Third Five Year Development Plan and the encouragemen accorded to regional self-help associations.

Before going into the discussion of the pertinent provisions of the Order and the Development Plan with a view to investigate the extent of the decentralised administration envisaged, it is necessary at this point to elucidate the meanings of certain terms that will hereafter be used repeatedly in connection with decentralization.

The term decentralization - as it is involved in almost every aspect of public administeration - may mean different things to different people depending upon which form of local government - i.e. whether the local government carries out most of the public activities within its area of jurisdiction or excute only one or a few activities in its area - one is familiar with.

Besides making distinction on the basis of general or Special functions, types of local government can be distinguished on the basis of the degree of autonomy. Hence, there is a need for a brief explanation concerning the distinction between the possible

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87 Local Self-Administration Order, 1966, Order No. 43 of 1966, Neg.Gaz, 26th year, No. 43.

forms of local government before we embark upon the evaluation of the existing laws.

Generally, decentralization may refer to two different forms of government, viz;

(a) deconcentration or delegation of functions, and

(b) de-centralization or delegation of power.

(a) Deconcentration (Delegation of Functions)

Deconcentration refers to delegation of functions where the inhabitants of the local government have no power of policy-making concerning their local affairs; decisions are made by the Central Government, appointment of officials is done centrally and the local government is made responsible only for the carrying out of duties assigned to it. The purpose of delegating functions is then not to permit wide participation of the people in the direction of the development of their area, but rather, to de-concentrate congested functions to local officials who are answerable to the Central Government for purposes of efficiency and speedy execution of their duties. The local government of this type is non-representative - i.e. it is a form of local government in which the administrative responsibility rests with non-elected employees of the central ministries or agencies. In cases where election of members of the local people take place, the members of the elected body are not vested with any power. They are assigned the function of advising the Central Government officials on matters pertaining to certain local issues which the officials

may, by themselves, not be able to know and take appropriate decisions.

(b) De-legation of Power(De-centralization)

Decentralization is a wider concept than decencentration.- It denotes delegation of power. Decentralization refers to a system where local government affairs are largely in the hands of the local people whereby the local people elect their own leaders. The elected bodies make decisions and execute same with regard to infrastructural activities within their area of jurisdiction; they are responsible for the collection and expenditure of taxes and all facets of administrative activities with full participation and involvement. In other words, the local government is representative - i.e. it is a form of local government in which the direction of the local government body devolves upon a body whose members are elected by the inhabitants of the area. In most cases, such rights are granted by the constitution as a result of a deal between the constituent regions of the state; whereas in other cases other legislation are employed to devolve power on local bodies.

In the light of the foregoing dictinction between delegation of power and delegation of functions, I will now proceed to examine the extent to which it was intended by the Ethiopian Government to delegate power to the various Awrajas of the Empire by Order No.43 of 1966.

(c) "Local Self-Administration Order, 1966"

The provision of the Order that instituted local self-administration at the Awraja level reads:

> There is hereby established at the Awraja level an Awraja Local Administration (hereinafter the Local Administration) to exercise the system of local self-administration instituted by this Order.[88]

In order to facilitate the discussion of the extent of jurisdiction assigned to Awrajas by this Order, the primary question that should be asked is: What legal instrument is employed in establishing the Local Administration institution?

The Constitution was not amended to provide for such an innovation. Nor is it possible to stretch the interpretation of the only provision of the Revised Constitution that confers a constitutional right of local self-administration relating to chartered towns to provide for the kind of local government that includes all areas of the Empire.[89] Article 29 is a constitutional provision that expressly confers right of self administration to certain areas of the Empire. However, the Article only deals with urban areas. It is explicit in that it grants the right of self-administration to the inhabitants of chartered municipalities only. Hence, it can by no means be stretched to encompass rural areas. Accordingly, the creation of an institution for Local

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[88] Article 2 of Order No. 41.

[89] Article 29 of the Revised Constitution.

Government in areas other than chartered towns cannot be based on this article of the Constitution.

The Order that provided for the establishment of Local Administration is issued pursuant to Art. 27 of the Constitution. Article 27 is a constitutional provision that entrusts the power of creating organizations and assigning duties thereto to the Emperor. Pursuant to this Article, the Emperor is not empowered to issue rules and regulations affecting the primary rights of the people. Thus, this Order could only validly provide for the establishment of the organization and duties of the Local Administration body without confering any responsibility on it that affects the rights of the citizens. This can only be effected by acting in accordance with Arts 34 and 88 of the constitution. It is required that when laws pertaining to primary rights are concerned, the Parliament and the Emperor act together. Any law that is issued outside this constitutionally established procedure will lack validity.

Accordingly, it can be concluded that through this mechanism - i.e. without effecting any constitutional amendment - and without the participation of the Parliament the utmost that can be validly accomplished is to vary the structure of governmental organizations. In the case under consideration too, this is what is effected. The organizational structure of the Ministry of Interior is varied. The administration of local areas is de-concentrated under a unitary government.

True, the Constitution does not prohibit local government of any kind. However, to institute autonomous regions where both

powers of decision - making and execution are exercised locally, the Constitution has to be amended to provide for the creation of more than one parliament and more than one executive body. Although the Constitution does not expressly prohibit such institutions, since it talks of only one Parliament and one Executive Government, autonomous institutions of this magnitude are not envisaged by it. Hence, the utmost that can be done is the delegation of certain functions hitherto exercised by central institutions. But this does not amount to delegation of power which entails the reorganization of the existing unitary government to provide for the establishment of equal autonomous local governments who voluntarily decide to associate and form a sort of a federal government. Hence, there is no possibility, without exceeding the limits provided by the Constitution, of creating a system of autonomous local governments by an order.

What is the scope of powers and duties assigned to the Awrajas by the Order? Art. 4, sub Art.(1) of the Order enumerates the following seven fields of activities to be within the area of jurisdication of every Local Administration:

(i) In the field of education:
the building, furnishing, maintenance and operating of elementary schools, and

(ii) in the field of public health:
the building, furnishing, maintenance and operation of clinics and sanitation and other public health facilities of similar category;

(iii) in the field of public works:
the construction and maintenance of local roads and minor bridges(other than built and maintained by the Imperial Highway Authority);

(iv) in the field of community development:
cooperation with the activities of the state in this field;

(v) in the field of trade and commerce:
fostering the development and the growth of trade and the development of local marketing; arrangements;

(vi) in the field of general affiars:
control of private construction and such other matters as may be determined to be local affairs by the Minister of Interior in agreement with the Minister or Ministers concerned.[90]

There are many limitations on the power of the Local Administrations. First of all, although the Order states that "decisions" concerning the fields of activities enumerated above ere within the jurisdiction of every Local Administration, sub Art. 2 of same provision limits the decision making power of the Awraja Administrations by requiring them to comply with "such national or regional plans, programmes and general pdicies as may be adopted by the competent authorities.[91] There is nothing

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[90] Article 4 (1) of Order No. 43.

[91] Article 4 (2) of Order No. 43.

wrong with complying with national policies. In fact, at this early stage this is desirable in view of the fact that the Central Government personnel are educated and skilled in the business of drawing up development plans. The point that the author wants to bring to the attention of readers is - no matter what the rationale is - the functions of Local Administrations are required, not to exceed the execution of National and/ or regional plans, centrally drawn up, as concerns all Awrajas. The Awraja Administrations are, by this provision, denied making independent decisions, however relevant the decision may be to any particular Awraja.

In addition to the limitation on the decision making power of the Awraja Administrations, the specified functions(enumerated above) assigned to Local Administrations for execution are very much limitted too.

Furthermore, the Councils established in the Awrajas are hampered by several administrative controls in addition to the legal limitations referred to above. Firstly, the Local Administration is headed by the Awraja Administration who is an appointee of the Central Government. Therefore, in his capacity as head of the Administration the responsibility of ensuring the proper execution of the decisions of the Council devolves upon him. Secondly, the exercise of any meaningful power by the Local Council is impeded by the control of the administration of its budget. The power of estimating both income and expenditure is assigned to the Ministry of Interior

who, in consultation with the Minister of Finance, may prepare the budget which srves as a legal basis for the administration of all income and expenditures.[92]

Thirdly, the supervision and control is not within the jurisdiction of the elected council; thereby further minimizing any effective power concerning the determination of the affairs of the Awarajas. The rationale behind dnying the councils the administration of their budgets and auditing is that qualified personnel in sufficient number could not be found within the Awrajas. However, even if the auditing is to be performed by an independent body from outside the Awraja, the controlling power can be effected by enabling the councils to send the accounts to a recognized auditor of their choice or to the Auditor General's office, for that matter, and receive reports thereof. The denial of this trivial power seems deliberate.[93]

(d) The Implementation of the Order

We have seen that the Local Administration Order transfers only the administration of limitted duties indicated above which heretofore were concentrated in the Central Government. It is self-evident that even if these limitted functions are to be

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[92] Id., Art. 47.

[93] The Auditor General's Office, as it is today, is not capable of handling such a responsibility in addition to its present responsibilities. Its staff would have to be substantially increased.

carried out properly by the Local Administration, the responsibilit of financing the execution of the transferred (deconcentrated) activities has to be met. To this end, a draft proclamation was prepared and submitted to the Parliament for its deliberation and promulgation.* According to this draft proclamation, the following revenues are to be assigned to the Awraja Local Government:

(a)

(i) land tax (without tithe);

(ii) education tax;

(iii) health tax; and

(iv) cattle tax

due and collected in the area of the Awraja;

(b) revenues from the property tax (general rates on lands and buildings) assessed and collected in towns within the area of the Awraja with the exception of towns chartered as Municipalities;

(c) revenues from fees for licenses for trading activities and for professional or vocational occupation which shall be collected within the Awraja area with the exception of towns chartered as Municipalities;

(d) fees for services rendered by the Awraja Local Government, including water rate;

(e) fees for registering property and surveying property for registration;

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*For a text of this draft proclamation, see annex I pp. 129 - 135

(f) fees for considering and approving construction plans;

(g) revenues from the property of the Awraja Local Government;

(h) grants - in - aid, which may be given to the Awraja Local Government from the budget of the Central Government upon the recommendation of our Minister of Interior or, if need be, of our Minister of Interior in consultation with the Minister or Ministers concerned;

(i) donations which may be received by the Awraja Local Government for general or specific purposes."[94]

The total amount of revenues mentioned above will not be sufficient to run the Awraja Local Government activities. According to a report of the Technical Committee on the Establishment of Local Government, "the total amount of revenues from the present land, education, health and cattle taxes ($16.6 million as estimated in the budget for the year of 1957 E.C.)[95] though higher then the revenue from the present tithe on land ($11 million as estimated in the same budget) - and even with the other revenue mentioned in items (b) through (h) of Article 2 of the draft added the funds thus assigned to the Local Government will not be

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[94] The draft Awraja Local Government Revenues Proclamation, Art. 2.

[95] The 1957 E.C. corresponds to 1964-1965 budget year.

sufficient for the proper carrying out of the activities transferre to them in Article 4 item (a) of the draft of the Local Self-Government Order."[96]

In view of this then, the Local Administration remains dependent on the mercy of the Central Government for revenues necessary to carry out the above specified functions assigned to it. The grants-in-aid, which may be obtained from the Central Government budget are not likely to be substantial for obvious reasons. Firstly, the Central Government itself works within constraints as far as money is concerned. Secondly, the demand on Central Government, even if it were in a position to provide grants-in-aid, would not tough, because of the untold authority the Administrator exercises on the Council, especially as regards matters of budget.

The shocking fact about this matter is the refusal of the Parliament to pass the draft proclamation. The major arguments of the members of parliament who oppose this draft proclamation are?

(i) that sufficient number of skilled personnel are not currently available to shoulder the responsibility of effectively carrying out the activities transferred to Local Administrations,

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[96] I.E.G. Ministry of Interior, The Technical Committee On the Establishment of Local Government, (1964), p. 14.

(ii) that the institution of independent local Administrations before the people are "sufficiently united" would lead to disintegration by augmenting the content centrifugal tendencies of certain regions, and;

(iii) thirdly, the revenue collectible from certain Awrajas are far less than what would be required for expenditure in order to carry out the functions delegated to Awraja Administrations. These weak arguments emanate, presumably, from lack of thorough study and knowledge of many minor but relevant things to this subject. Firstly, the argument advanced on the basis of shortage of manpower is a manifestation of the lack of information concerning both the under-employment of a host of educated Ethiopians and the highly increasing number of the youth that are desperately looking for jobs. Secondly, the argument concerning the impact of decentralization on national unity is not very persuasive. It should be realised that there are some parliamentarians who are decidedly opposed to the implementation of the Order. These are people with vested interest who fear that they will lose in the event when this scheme is implemented. To this end, they deliberatlly create confusion to win the following of some naive parliamentarians who sincerely believe that Ethiopia is today welded

together by a benevolent Central Government and will go to pieces when the component regions are given the right of participation in affairs of their intimate concern. The third argument can be rebutted on the ground that local administration will result in better administration. The improved administration will in turn result in increased productivity and consequently, the revenue will increase. Although the exact increment cannot be determined now, it will be shown in the following chapter that decentralized administration brings immense wealth to a nation.

Accordingly, it is worth emphasizing at this juncture that the impact the institution of the Order would have on national unity and economic development will be positive. It was noted earlier that the major causes of national dissension are the cultural subjugation of the non-Amhara ethnic groups and the heavy taxation on the population without any investment in many of the regions that would be reflected in the betterment of the life of the people.

(e) Proposed Implementation Scheme of the Order by the Ministry of Interior

To overcome the obstacle posed by the refusal of the Parliament to pass the draft proclamation relating to the allocation of revenue to the Local Administrations to be instituted pursuant to Order No. 43 of 1966, the Government decided to centrally collect the revenue granted to it and assign to the Local Administration.[97] In pursuance tof this purpose, the Ministry of Interior classified the Awrajas into two categories, viz; the outlying Awrajas - i.e., those Awrajas bordering the neighbouring countries, and the interior Awrajas.

The number of the outlying Awrajas is twenty five. These twenty five Awrajas border the Sudan, Kenya, Somalia, the French Territory of Afar and Isas and the Red Sea. These Awrajas are far away from Addis Ababa - the seat of the Central Government - and the provincial administrative towns. Furthermore, since means of communications is extremely poor it is difficult to reach them, with the consequence that their administration and control has been and continues to be a big problem for the Central Government. Hence, it can be said that for practical purposes the peoples inhabiting the outlying Awrajas do not live together with the other peoples of Ethiopia. The absence of a systematic intercourse which is only possible

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97 Personal interview with Ato Aberra Yemane-Ab, Ministry of Interior.

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as a result of people living together generation after generation has hindered, and still continues to hinder, the development of a common national outlook for the various Ethiopian ethnic groups. The gravity of this situation is further accentuated by the fact that most of the nationalities inhabiting the outlying regions are divided between two states - i.e., between Ethiopia and one of the above enumerated neighbouring countries. In most of these regions the development projects of the states across the border is more attrative to the outlying Ethiopian nationalities. Besides, their kin and kith across the border enjoy more rights with regard to usage of their languages and customary laws in the day to day administration of their affairs.[98]

Cognizant of these facts, the Ministry of Interior has started work on a device whereby a different administration suited to the particular situation of the outlying Awrajas is to be instituted. The administration being devised is different from the administration applied to the other Awrajas in the sense that the outlying regions will not be granted the kind of self-administration envisages in Order No. 43 of 1966. They will be designated "development Awrajas." The development projects and the administrative measures being drawn up for these regions are intended to both prevent the intercourse of these peoples with those across the borders and improve

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[98] This information was obtained from a Ministry of Interior official who prefers to remain anonymous. Furthermore, last summer a group of Somali elders from the Ogaden Awraja petitioned His Imperial Majesty for the provision of the amenities comparable to the ones provided across the border.

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communications facilities and development activities with a view to facilitating interaction with the rest of the Ethiopian peoples.[99]

(f) Proclamation On the Municipalities and Townships, Proclamation No. 74 of 1945.

In accordance with this Proclamation, Municipal Councils, which as provided for under part 73 of the Decree Approving Administrative Regulations for Provincial Government, are instituted with the town officer as chairman. These are not wholely representative bodies. The Councils are composed of the representatives in the cities and towns of the various Ministries and seven elected residents - only Ethiopian nationals - of the towns. Theoretically all the Ministries have the right to have their representatives in all towns and cities. However, out of the sixteen Ministries the nature of the duties and responsibilities of four Ministries - i.e. the Ministry of Defence, the Ministry of the Pen, the Ministry of Foreign Affairs and the Ministry of Mines - would preclude their representation in the towns and cities. Hence, it is obvious that the Government has a clear majority of twelve representatives to the seven elected representatives. Thus as can be learned from its composition a Municipal Council

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[99] I.E.G. Ministry of Interior, A Study of Local Administration and the Outlying Awrajas (Mimeographed), (1971), p. 154.

is not an independent local body voicing the interests of the inhabitants it purports to serve. This is because the Councils are clearly dominated by Central Government employees. Therefore, it is not correct to designate them as representative bodies in the sense that they deliberate on matters pertaining to the interests of the inhabitants of the towns they purport to represent. The Central Government employees are there to execute functions assigned to them by the Central Government. Accordingly, their duties will mainly be to see to it that decisions prejudicial to the interests of the Central Government will not be made. Besides, the powers vested in the Councils is only advisory.[100] The Proclamation provides that matters deliberated on by the Municipal Councils shall not come into force until they have been confirmed by the Minister of Interior. Hence, it can be concluded that under this multi-dimensional control it is not conceivable to expect the Municipal Councils to be autonomous local bodies with any significant influence on matters of interest to the respective areas of their jurisdications.

(3) The Third Five Year Development Plan

According to the Third Five Year Development Plan, one of the major re-organizational questions to be considered during the plan period - 1968 to 1973 - is the administrative services

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100 Part 73 of Decree No. 1.

of the Ministry of Interior. The plan envisages that the current heavy concentration of responsibilites in the Central Government will be decentralised to the extent development works require. The plan gives the economic and social development that will be reaped from decentralization of administrative responsibilities as its ultimate objective. It is implicit in this that other aspirations of the nation will be satisfied through material betterment which the plan stresses throughout as a prerequisite for the alleviation of other problems. Hence, it is in the light of this that it states;

> The Awraja self administration programme in itself is an important institution for the integrated regional development programme, which will be initiated primarily on the basis of such local self-reliance. The Awraja Administration will play a key role in the planning and implementation of integrated rural development programmes.101

In spite of the immense role that local administration can play in the development of the various Awrajas and the nation at large, there are mistaken considerations that hamper the timely institution of the administration. Top on the list of the reasons for the delay is the question of law and order. It is an undisputed fact that law and order is an essential feature of any development programme. However, the question that needs thorough investigation is whether giving people their due rights leads to disorder or order.

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101 I.E.G., Third Five Year Development Plan, p. 153.

The answer to this question does not easily come by. However, the magnitude of the difficulty should not deter an undertaking of a survey with a view to find out a proper answer to the question. It is advisable, within the framework of the conflicting interests, to courageously undertake a study of the extent of latitude that could be allowed for local interests and preferences, which, even if in minor matters they run counter to those of the Central Government, may still be tolerated.

Accordingly, this national problem can be handled better and obstacles on the way removed if the people concerned with the implementation of the plan overcome the traditional notion that local autonomy leads to disunity, and undertake open mindedly an objective study that will help to determine to what extent and how fast the programme should be instituted.

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Chapter III

The Need For A New Institutional Framework

1. The need for Decentralization

There is hardly any dispute on the positive role of the initial measures aimed at the centralization of the administration by subduing the feudal lords of the contending regions. However, the fact that the process of centralization is pursued unduly beyond reasonable bounds[102] thereby tending to end in disastrous disentigration is a thing resented by all who cherish the well-being of united Ethiopia. The gravity of the disadvantage of this system is even recognized by the very government that keeps on postponing the badly needed institution of a decentralized government. The Technical Committee on the Establishment of a Local Self-Government notes this fact as follows?

> We find that Ethiopia has now reached the stage of development where an administration concentrated in the Central Government may hamper the further economic and social development - and, therefore, that a decentralization of the administration will be of great importance to the further harmonious development of all parts of the country.103

Furthermore, the committee conceeds to the widly held view that besides contribution to economic development decentralization

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102 This has been discussed under Chapter II where the process of centralization has gone to the extent of saping local initiative and responsibility.

103 Imp. Eth. Govt., Technical Committee on the Establishment of Local Self-Government, Cited above at note 96, P. 3.

also brings about national unity. In support of this view the committee quotes the following from the U.N. Publication on Decentralization for National and Local Development;

> Although devolution is often assumed to have a devisive effect, it can be designed to contribute towards nationaly unity. For example, giving local authorities a sense of participation in the formulation and execution of National development programs can strengthen the identification of communities with the national government and with people elsewhere in the country.104

These general observations are confirmed by the objective realities obtaining in the country today. Nega Ayele puts it as follows from his studies of the Gojam case relating to the subject matter of this paper:

> The persistence of the problem of regionalism in Ethiopia for the last hundred years since the centralization scheme has been accomplished and its tendency to intensify is the outcome of the Central Government's failure to transform the life of the people on modern trends. This is so because the government is solely interested in the concentration of power as a result of which all its moves are viewed with suspicion.105

The suspicion of the people of Gojam is shared by the peoples of the various regions of the Empire. This fact is amply demonstrated by too many uprisings. Thus, the prevailing excessive centralization is the cause of both the economic backwardness of the country and the tendency towards disunity.

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104 Ibid.

105 Nega Ayele, Centralization Vesus Decentralization, The Gojam Case, cited above at note 50, P.

Accordingly, the urgency for a search for an alternative that will radically transform the status quo for the better must be realised. The author considers that decentralization is one of the major methods of overcoming the present economic and political crisis in which Ethiopia finds itself today.[106] To this end, I will briefly discuss the role decentralization can play in economic development and political unity thereby contributing towards the building of a strong multi-national state the population of which share common aspirations.

(1) Impact of Decentralization on the Economic Development of the Country.

Although there are numerous economic demands and influences that usually lead to decentralization of power the following are amongst the outstanding considerations:

a) increased efficiency,
b) participation of the population,
c) avoidance of wastage of resources,
d) facilitation of the engagement of the populace in productive activity,
e) more appropriation of national funds to development programmes,

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106 Decentralization by itself does not offer absolute remedy. It is to be remembered that certain institutional changes are indispensable.

f) prevention of nation dissension and feuds, and

g) facilitation of the coordination of activities.

(a) Increased Efficiency

Ethiopia is a vast country where centralized control is practically impossible. This is further accentuated by the inadequate communications facilities. Thus, the Central Government Authorities are practically isolated from local regions and hence are not sufficiently aware of the needs and interests of the population. Lack of sufficient knowledge of the country and the aspirations of the people inevitably results in the formation of an unresponsive bureaucracy and a gap between the needs of the people and the policies of the government. This situation is very well reflected in the prevailing inconsistency between the needs of the peoples and governmental decisions. In addition, even the minimum decisions made affecting local activities are not made as rapidly as is desirable. Moreover, when purely local issues have to come to the attention of the officials of the Central Government for decision, execution of many vital functions is delayed, because the officials are unnecessarily occupied with onerous and detailed tasks which could be quickly and more effectively handled by officials at local levels.

The United Nations puts the adverse effects of excessive centralization on efficiency of administration in a vivid manner as follows:

> Approval at the highest level may be required before even minor actions can be taken. For example, expense vouchers may have to be signed by directors or even by ministers before payment can be made; appointment of even the lowest grades of personnel may have to be cleared through the office of the head of the executive; expensive engineering machinery may lie idle for lack of spare parts which await headquarters approval; equipment may not be moved to another district for urgent purposes without permission from the capital; the head of the government may have to intervene in jurisdictional and administrative disputes between ministries over trivial matters.107

Thus, it is clear from the above quotation that the non-existence of organizations at local levels is very costly. Economies that arise in costs of administrative services are huge enough to justify the initiation and promotion of decentralized administration.

(b) Participation of the Poluation

Bureaucrats find it very difficult to admit that persons on the spot, invloved in and acquainted with the circumstances, are usually more competent and interested in matters of local importance than Central Government authorities. Accordingly, they very often hasten to conclude that the argument in favour of public participation is simply idealistic. However, it has been proven beyond doubts that when decisive and executive power on the administration of matters directly affecting their lives

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107 The United Nations Technical Assistance Program Decentralization for National and Local Development United Nations, N. Y. (1962), p. 6.

themselves on people through the institution of local self-administration, their interest is raised thereby prompting increased contribution both by way of work and voluntary payment of money levied as taxes which they usually evade otherwise. In cases where the Central Government goes to the people only to collect taxes without bringing benefits commensurate with their contribution they feel neglected, alienated and exploited. Under such circumstances tax evasion is likely to be common and government revenue inevitably low, thereby reducing the amount of revenue to be expended for development plans. Moreover, it is universally accepted that it is beneath the dignity of man to be governed without interest or participation in the affairs which directly affect his life. Thus, the justification for a local government formed by the voice of the people is both moral and practical. Local Government has the greatest influence on matters which are of local interest, and touch the citizens most personally. It is accordingly in this area that citizens should most be encouraged to participate, and involve themselves in the business of government. It is furthermore in these spheres where governments most closely affect the affairs of the population, that the official abuse of power is most directly felt and resented. It is here in consequence that a politically sensitive government organization is most required.

To conclude with a quotation from a United Nations report; "development programmes must be designed to reach and to benefit

the large majority of the people if the programmes is to gain widespread support and are to contribute to national unity and development."[108]

(c) Avoidance of Wastage of Resources

The immense role that economic utilization of both human and material resources play in economic development is incontestible. With regard to human resources extreme centralization hampers economic development in, mainly, three ways; (a) due to extreme centralization the local population is prevented from fully participating in the national development programme, (b) unemployment and/or under-employment are inevitable consequences of centralised administration,[109] (c) as a consequence, a highly centralized government prevents development of skills because opportunities for training and field experience are limitted. According to a U.N. report, decentralization resolves this problem as follows:

> Decentralization involving effective participation by the people in government programmes carried out locally can yield many benefits. First of all, the people will have a better understanding of what the government proposes. Through this understanding they will be more likely to adopt the new ideas and practices, use the services offered, contribute their own effort and resources to the programme, give vitality to new institutions and make constructive adjustments in their lives that may be necessiated by the initial

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108 Ibid.

109 Decentralization would facilitate the optimal use of manpower by creating diverse local administrative and development activities.

> changes proposed, thus making the changes enduring. For example the benefits of substituting swamp cultivation fer hill cultivation of rice must be clearly understood by farmers if they are to adopt the new practices and make all the consequent adjustments in their way of life, in social relationship rooted in land rights and in new forms of community organization that may be necessary in the resttled areas. Secondly, the central government development activities can be made more realistic by involving the people locally in important decisions. Fuller account will thereby be taken of local knowledge, needs and interests. Moreover, methods appropriate to the circumstances an more readily be devised for fulfilling local needs. Finally, popular participation increases the likelyhood that services and amenities, once established will be maintained and even expanded. Moreover, success in fulfilling a community need encourages people to try to meet others. The experience in establishing and managing a community facility is cumulative and new sources of initiative and leadership arise to draw upon it.110

The economic wastage that ensues from exessive centralization is not insignificant even if not as important as the loss incurred due to wastage of human resources. Again, a U.N. report makes a penetrating statement concerning this matter:

> There may be an economic distribution of supplies: instead of direct shipment of supplies from manufacturer to place of use, major item may be freighted to a central supply depot and then hauld back to the place where they are, or could be, manufactured:
>
> There may be exessive prescription from the centre. For example, the practice of producing in the capital designs for even the most simple element of public work's construction may cause delays and failure to use local materials and skills.111

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110 Ibid.

111 Ibid.

Facilitation of Engagement of the Populace in Productive Activity.

The excessively centralized Ethiopian administration hinders economic development by impeding the engagement of the populace in productive activity through two ways.

First, it hampers the development of the productive forces. When one ethnic group oppresses and robs other ethnic groups the oppressed ones usually lose the incentive to work hard and increase production. Besides, the system of exploitation prevents the development of cooperation between the peoples of the oppressor and oppressed ethnic groups, thereby acting as a barrier to economic cooperation and exchange of skills. Hence to abolish national oppression is tantamount to removing a fetter from the productive forces of the society. V.I. Lenin, made the following remark concerning the economic price countries in which national oppression prevails have to pay:

> The possibility of oppressing and robbing other nations perpetuates economic stagnation, because the source of income is not the development of productive forces, but the semi-feudal exploitation of non-Russians.[112]

But when equality is able to prevail among various groups of the nation by allowing the various nationalities to participate in affairs which directly affect them the slightest drain on the productivity of the people is brought to a hault.

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[112] V.I. Lenin, "Socialism and War", Collected works, Vol. 21, p. 306.

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(e) More Appropriation of National Funds to Development Programmes

The Ministry of Defence accounts for about one quarter of the total expenditure of the Government. This is in contrast to agriculture, the main-stay of the national economy and of the livelihood of the majority of the Ethiopian people, which accountsfor 2.5% (about ten times less) of the national budget.[113] In order to extricate itself from backwardness and poverty it is imperative that the Ethiopian Government carefully define the national objectives and allocate the scarce resources strictly according to priorities.

Since the liberation of the country after the Five Year Italian Occupation, Ethiopia neither engaged in nor had a serious war threat from any foreign power. Hence, there does not seem to exist any justification for the expenditure of 25% of the National budget on defence. The wars that have engaged our soldiers since 1941 have been wars directed at subduing regional uprisings in Tigre, Eritrea, Bali, Arusi, Gojam, and Harar. The causes for these peasant uprisings, according to Andreas Eshete, have been and continue to be oppression and exploitation of the people by the ruling clique. The oppression has social, economic, political and cultural dimensions.[114]

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[113] Imperial Ethiopian Government, Budget Proclamation, Neg.Gaz. No. 239 of 1966.

[114] Andreas Eshete, The Problems of Regionalism and Religion: Some Theoretical Considerations, Challenge, Vol. 10. No. 1. (1970).

It is the failure to recognize this fact and take appropriate measures for the removal of the grounds of strife that keeps the government lingering in this problem and the country in poverty. Hence, in order to bring a halt to national uprisings it is necessary to abolish systems and policies of national oppression, because it is only by doing so that people divert their attention and energy from war to peaceful development activities. This also enables the government to allocate the scarce resources where they will most benefit the nation at large. When confronted with an identical problem in Czarist Russia, Stalin made thorough study of the causes of the problem and came out with the following solution:

> In fighting for the right of nations to self-determination the aim of Social Democracy is to put an end to the policy of national oppression, to render it impossible, and thereby to remove the grounds of strife between nations, to take the edge off that strife and reduce it to a minimum.[115]

(f) Prevention of National Dissension and Feuds Encourages Investment

When power is concentrated in the Central Government represented by the members of the dominant group civil strife is inevitable. Civil strife is one of the major causes of political instability in Africa, and Ethiopia is no exception.[116]

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[115] J. Stalin, cited above at note 4, , p. 34.

[116] The Ethiopian Government's susceptibility to political instability is discussed above in connection with the disadvantages of excessive centralization of administration. Hence, refer to chapter 2 of the paper.

Generally, investors whether domestic or foreign, are reluctant to invest their money where political stability is not certain; because investors usually want to be sure of peaceful management of their business. Thus, in addition to other numerous impediments to investment - such as lack of adequate communications system, absence of skilled manpower etc, - civil strife plays a great deal in preventing investment. Accordingly, the solution of the prevailing national dissension and the subsequent political stability will encourage optimal investment which is one of the prerequisites for economic development

(c) Facilitation of Coordination of Activities

Formulation of development plans is the primary step in the development task of governments. The importance of this first step is usually accorded an unduly great significance as if plan formulation is an end in itself. In fact, in centralized governments, plans are usually drawn-up without taking into consideration local needs, peculiarities, and resources. Thus it is usually the case where the government administration is centralized that development plans are divorced from reality. This situation further worsens when the implimentation stage is reached, because here the solid support and participation of the population at large becomes indispensible. People do not give blind support. Even if coerced to participate, the participation cannot be total. The absence of local decision and participation leads the various government agencies to independently institute whatever activity falls under their respective jurisdications.

This results in lack of coordination of activities at the local level.

The UN report illustrates the wastage of resources that usually results from lack of coordination at the local levels in the following words:

> Dams were built by the Ministry of Public Works in one country to make available water for irrigation at locations where Ministry of Agriculture soil surveys had already shown that the land was not suited;
>
> representatives of the Ministry of Agriculture in another country were promoting the production and use of certified seeds while State Bank representatives were granting credit for purchase of seed varieties not recommended by the Ministry;
>
> the plans of one Ministry to build a new housing estate on a particular site were well advanced when it was discovered that another Ministry's plans to turn the same area into a reservoir were equally well advanced;
>
> differences in the priorities of agencies can be wasteful. For example an urgent school repair was accorded low priority by public work;
>
> and vaccination officers arrived at the school on a day when examinations were scheduled.[117]

(ii) <u>The Impact of Decentralization on Political Unity</u>

As briefly discussed above the economic advantage that would ensue from decentralization is undoubtedly imense.[118]

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[117] The UN Report: cited above at note 107, p. 7.

[118] Decentralization by itself is no solution. Other measures, such as institutional handicaps must also be changed along with this if optimum effect is to be reaped.

Moreover, there is no doubt that the economic advantage will reflect in political advantage as the two are inseparably interwoven in their bearings upon human behaviour. Accordingly, it should not be construed that the political effect of decentralization will be limited to the disappearance of the discontent of the oppressed peoples.

The Government of Ethiopia, since the accomplishment of the centralization scheme through conquest has been mainly pursuing the concentration of power. This has, inevitably resulted in its failure to improve the material life of the people - the economic backwardness of Ethiopia is discussed in Chapter 2. Furthermore, during the centralization process the government denied the people - with the exception of the Shoan Amhara ruling class - the right to use their institution, languages, and representation in the Central Government. C. Clapham gives the exclusion of all regions, even the central Amhara regions in the Central Government in figures. According to him numbers of individuals from different regions appointed between 1941 and 1966 is; Shoa 85, Gojam 6, Begemidr 5, Tigre 7, Eriterea 19, Wollega 6, Sidamo 2, Illubabor 2, Harari 2, Somali 2.[119] This situation naturally stirred the people of different regions into movement with the view to restoring their usurped rights. The tendency of the discontented Ethiopian peoples to intensify their struggle against the repression from the Central

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[119] C. Clapham, cited above at note 40 , p. 77

Government is demonstrated by the struggles of the peoples of Eritrea , Gondar, Bale, Harar, and Wallo.

> The last few years have witnessed the growth of armed struggle against the feudal order in Ethiopia. In Eriterea, Bale, Arussi, Harar, Gojam, the people have risen to combat oppression.120

Especially in the southern provinces where the repression affects the land question it is very probable that the mass of tenant peasants will soon join the movement which at the moment seem to include only segments of the population. This will give the movement a national character. A pertinent question that cries for a considered and unbaised answer is then; how is it possible to abolish the mounting discontent and suspicion towards the Central Government of the Ethiopian peoples in order to make Ethiopia a state where the diverse nationalities can have a sense of attachment, affiliation, loyalty to one another, and a neutral common state, and express agreement to all activities - both domestic and international - of the Government? The answer to this question is found in the discovery of the cause that usually agitates oppressed ethnic groups of a pluralistic society. Stalin had the folliwng answer for an identical question that was rocking imperialist Russia before the 1971 October Rovolution:

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120 Andereas Eshete, cited above at note 114 , p.6.

> A minority is discontented not bedause there is no national union but because it does not enjoy the right to use its native language. Permit it to use its native language and the discontent will pass off itself.
>
> A minority is discontented not because there is no artificial union but because it does not possess its own schools. Give it its own schools and all grounds of discontent will disappear.
>
> A minority is discontented not because there is no national union, but because it does not enjoy liberty of conscience (religions liberty), liberty of movement etc. Give it these liberties and it will cease to be discontented.
>
> Thus, equal rights of nations in all forms (language, schools, etc.) is an essential element in the solution of the national question. Consequetnly, a state law based on complete democratization is required, prohibiting all national previlages without exception and every kinds of disability or restriction on the rights of national minorities.
>
> That, and that alone, is the real, not a paper guarantee of the rights of a minority. 121

In support of the political advantage of decentralization a U.N. report reads as follows:

> Although devolution is often assumed to have a decisive effect, it can be designed to contribute towards national unity. For example, giving local authorities a sense of participation in the formulation and execution of national development programmes can strength the identification of communities with national government and the people elsewhere in the country. 122

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121 J. Stalin, cited above at note 4 , p. 103

122 A U.N. report on Decentralization for national and Local Development, cited above at note 107 , p. 8.

In his memorandum concerning minorities, the Secretary General of the United Nations makes a highly illustrative statement that reinforces the arguement that provision of rights leads to the development of peaceful identity:

> The definition of the term minority is particularly difficult because of the fact that minorities are social realities which are dynamic rather than static, and which change under the influence of varying circumstances. For example, many sociologists and political scientists have pointed out that a minority group which becomes satisfied with its relationship towards the predominant group tends to become assimilated by the latter. On the other hand they have also remarked that if the members of the minority group feel that the rule imposed by the predominant group prevents them from maintaining their particular distinctive characteristics or inhibits the development of their aspirations for the future, the group's relationship towards the predominant group tends to become more and more strained. The degree of self-contentment of a minority may, but does not necessarily, depend on the amount of autonomy or protection granted by the state. Some states have succeeded in promoting the progressive voluntary assimilation of the minority by arousing in its members a sincere enthusiasm for, and feeling of solidarity with, the destiny and forms of life embodied in the state. Others have achieved precisely contrary results when they tried to assimilate the minority. Still others have, by granting the minority the protection it desired, so increased the solidarity of the minority with the predominant group, that as a result, a national state engendered in spite of the existing differences in traditions, language, culture etc. The fair treatment and the freedoms accorded to a minority may soften its hostility towards the dominant group and further its assimilation by causing it to have closer relations with the latter. If

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> the predominant group possess ideas which are capable of winning the support of the minority, an assimilation often results.123

The arguments and quotations sited in the foregoing paragraphs attest to the tested instrumentality of democratic reforms in promoting production and uniting peoples of diverse ethnic groups; thereby making possible the badly needed economic achievement through tapping the country's rich natural, human and financial resources. This inevitably results in a larger and more diversified production of goods and services which is a prerequisite for the elimination of archaic traditional methods in production and the introduction of advanced scientific methods. These changes in the conditions of life of people are apt to play great role in the transformation of the diverse cultures of the various groups and imparting common character to all thereby overcoming one of the major national characteristics which serve as distinguishing features of nationalities consequently fostering feuds among them. Many people attempt to discredit this point on the basis of the widely held mistaken belief that a national characteristic (culture) of a certain national group is fixed once and for all. But history shows that culture is modified by changes in the material conditions of life - i.e., with scientific progress. Mao-Tse-Tung subscribes to this view by writing as follows:

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123 The U.N. Secretary General, cited above at note 11, P. 12.

> A given culture is the ideological reflections of the politics and economics of a given society.[124]

Explaining how the feudal culture underwent change with the emergence of a capitalist economy Mao said; and the new culture reflects these new economic and political forces in the field of ideology and serves them. Without the capitalist economy, without the bourgoisie, the peti-bourgoisie and the proletariate, and without the political forces of these classes, the new ideology and new culture could not have emerged.[125]

Thus, there is hardly any dispute as to the need for decentralisation as a major contributor to a nation building by promoting economic development, bringing about unity and genuine cooperation between peoples and imparting a common advanced culture to all. Accordingly, the task that remains is the framing of a modern institution which would serve the purpose by benefiting from the positive efforts of its peoples and the natural resources of the country. In other words, this calls far the establishment a just democratic society in a decentralized union.

2. The Institutional Framework

There are different systems of local government organizations. These different systems are patterned to suit particular conditions of countries that adopted them. Hence, it is not enough to know

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124 Mao Rse-Tung, On New Democracy, People's Publishing House (1952), p. 44.

125 Ibid.

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what systems exist. The matter of greater importance is how far they achieve the objectives for which they are intended. This should remind us of the great importance of the fact that choice of a system for a country must be done cautiously. Borrowing with a view to transplanting an entire system without a degree of adaptation required by the particular conditions of the country for which the system is intended would certainly end in disaster. To this end, before prescribing any local government system a host of questions need to be answered, amongst which the following are deemed to be outstanding.

(i) Is the institution to be designed a system for general-purpose or special-purpose functions?

(ii) What type of structure best suits the execution of functions decentralized?

(iii) How wide should the areas of the local government be?

(iv) To what extent should the local units be autonomous

(v) How is the power of taxation to be distributed between local and Central Governments?

(vi) On what basis are the local units to be organized - i.e., is it on the basis of national or regionsl autonomy?

The institutional framework is one that can maintain the unity of Ethiopia and simultaneously protect the legitmate interests of the different nationalities. In other words,

this means the establishment of a democratic society, based on free choice, in a decentralized union, where each region will be autonomous, ruled by its citizens fully enjoying all human rights.[126]

(1) Distribution of Power between the Central Government and Regional Administrations

The question of the distribution of power between the Central Government and the "Regional" Administrations have to be viewed not only from the angle of its possible impact on economic development but also from the point of view of its impact on the unity of the peoples of Ethiopia. The hard realities that any genuine attempt at unification and consolidation of the various distinct groups should take into account is the existing order of priorities in the loyalities of the different nationalities. Currently, the hard unfortunate reality is that each group shows primary loyality to its own ethnic group. With the exception of the dominant ethnic group all the rest show no loyality at all or secondary loyality to the state. This situation, as already discussed, is brought about by the belief that the state is a monopoly of a minority Shoan Amhara and the consequent identification of the existing intolerable oppression with this particular ethnic group. To correct this situation and re-align peoples' loyalities in accordance with

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126 Communique on the Establishment of the Ethiopian National Liberation Front (1971), p.3.

the order desired for the unity of the peoples, it is imperative to establish a neutral state that is not identifiable with any particular ethnic group. This means that, at the Centre, both the executive and the national Parliament should be composed of representatives of all interest groups. No single ethnic group should be over-represented in any of the branches of the Government and pose as a unifier and guardian of the other groups.

Although each ethno-linguistic group tends to stand apart from the other groups, there is no any single distinct group in Ethiopia which constitutes the only population of a section of the country. In all the regional divisions of the country that the author suggests, it may be true that one ethnic group may constitute the overwhelming majority of the population of a particular area. Nevertheless, several of the other ethnic groups live scattered and interspersed within each other group. Hence, there is no homogeneity of population anywhere. This intermingling of nationalities is a natural tendency which is dictated by the economic interests of the people. One should neither attempt to reverse nor curb this phenomenon. The phenomenon is a historical inevitability entailing positive results as it fosters intercourse of the otherwise isolated peoples.

It is the question of the representation of - both in the national and regional parliaments - the diverse groups that worries many people concerned with this issue. There are several alternative methods regarding the representation of different interest groups. As much as there are various methods there are also adherent groups advocating the adoption of this or that method.

Some people may prefere the Indian and the Lebanese system which makes use of the Electrol Register System to solve a problem identical to the one that will very likely encounter Ethiopia as regards the representation of its various interest groups in the legislature. Others may suggest the system of drawing boundaries of electoral districts to favour the minority groups.[127]

The system the author is going to suggest, however, differs from both. It is a system that will avoid the mobilization and promotion of the latent belief of the various groups that they from distinct groups from those among whom they live, and hence have to consider their interests as being

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127 Jarer[illegible].H. Paul and C.Clapham, Vol. 2, cited above at note [illegible], pp. 744-745.

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separate from the interests of the rest of the population. Such a mechanism, in the author's view, tends to prevent optimum interaction which is one of the perrequisites for the eventual formation of a homogeneous society. The maintenance of the Ethiopian peoples with their current distinct national characteristics for generations will hinder the integrative efforts of the state to form one nation with common national characteristics.

The Electoral Register System in particular, "by whatever name it is called, is a divisive force in a community, emphasizing differences between candidates and voters."[128]

Accordingly, the author does not subscribe to any of the two before-mentioned methods for the representation of the minority groups scattered throughout The Empire. Since the division suggested has already taken into consideration ethnic groupings as one of the factors, all of them will afforded ample opportunity for getting just representation. Besides, the next lower administrative level below the "Regions" will, in most cases, follow distinct groups thus further increasing the opportunity for all groups to participate in most of the decisions that affect their livelihood.

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128 Id., p. 746.

Therefore, the only guarantee, if recognized and enforced, that would satisfy the interspersed minorities is the institutionalization of a democratic apparatus that operates without making discrimination against the minorities on any basis.

Today the principle of equality is widely known and cherished as a result of which all the peoples of Ethiopia are demanding absolute equality with the dominant ethnic group. The equality that the peoples of the conquered regions of Ethiopia are agitating for, as is evidenced by the numerous propaganda pamphlets distributed, presumably, by groups purporting to represent the various nationalities and the ~~talks~~ private discussions that have become frequent now, include non-discrimination, the recognition of special rights and the rendering of positive services for their realization. This, in other words, means a demand for real equality. According to a report of the United Nations Secretary General, for certain group of people to attain real equality, there are positive services and special rights which minorities within a state must be provided with. The rights and services referred to include:

> Provision of adequate primary and secondary education for the minority in its own language, provision for maintenance of the culture of the minority through

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> the establishment and operation of schools, libraries, museums, media of information, and other cultural and educational institutions; provision of adequate facilities to the minority for the use of its language, either orally or in writting, in the legislature, before the courts, and in administration, and the granting of the right to use that language in private intercourse; provision for respect of the family law and personal status of the minority and their religious practices and interests; and provision of a certain degree of autonomy.[129]

For a satisfactory execution of these broad functions then, the creation of a system of autonomous local governments must be provided for constitutionally. Once the constitution does that it becomes impossible for the Central Government to unnecessarily intervene in affairs of the kind which the UN Secretary General lists as affairs of immediate interests of local governments. Arguing in support of a strong local government Paul and Claphan stated as follows:

> A pluralistic state (one may argue) is ultimately stronger than a state that tries overnight to make poorly-integrated (author's emphasis) peoples conform to a single set of national norms.[130]

It is thus clear that there is a need for strong local bodies constitutionally established. The Central

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[129] The United Nations Secretary General, cited above at note 11 pp. 2 - 3.

[130] James S.N. Paul and C. Clapham, cited above at note 42, p. 51.

Government should be precluded from undue interferuce in affairs of local interest except providing and assisting in the carrying out of some techincal matters. Preclusinn of a distant impersonal government from unduly interfering in purely local affairs and giving elected representatives of the people the decision- making power would make a halt to the undesirable prescription from above without sufficiently knowing local needs and conditions.

In addition to the provision for the establishment of a strong local government, the constitution should recognize the right of the people to resist any attempt by any body that aims at abolishing their regional autonomy.

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(ii) Functions

The functions of the autonomous local governments thus established must be of general purpose. Local governments must be empowered to carry out most of the public activities within their area. Examples of such activities may include primary education, health services, welfare services, justice administration and development projects of local level.

(iii) Structure

Generally speaking, two types of structures can be designed to suit the execution of the functions defined under (ii) above. It is possible to have a single structure of bodies, with equal powers, directly under and responsible to the Central Government. The second alternative is to devise a tiered structure in which lower tiers have lesser number of functions and power than the higher ones. In such a device, the lower tiers are not directly under the Central Government. The higher tiers control and guide the lower tiers.

Ethiopia, as can be learnt from the annexed map,[131] must of necessity, be divided into large regions which can further be subdivided into smaller administrative units and autonomous nationality areas which are too small both in area and size of population for further subdivision. Thus, the peculiar Ethiopian conditions - the existence of large more or less contignous areas inhabitted by people of similar cultural characteristics and the existence of minority nationalities occuppying relatively smaller areas of land - dictate that Ethiopia employ both systems depending upon the region concerned.

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[131] For a suggested schematic administrative map, see annex II, P.136

To this end, the country may be roughly divided into five big "Regions" and three outlying nationalities areas. The major criterion in the demarcation of the three outlying nationality areas shall be the consideration of the extent to which the inhabitants are keenly aware of their distinguishing characteristics from the rest of the population. The inclusion of areas within one of the regions shall be determined by the capacity of the region thus to be established to preserve some measure of order and sense of unity. In accordance with the fore-going discussion then, the division of the country may be outlined as indicated below:

The Northern Region
The Central Region
The Eastern Region
The Western Region
The Southern Region, and
The three outlying nationality regions.

The five "Regions" may be further sub-divided into smaller lower administrative units which shall be under the supervision and control of the respective "Regions".

The outlying nationality regions whose inhabitants have more kinship with nations living across the border in the neighbouring countries may be under a special administration devised centrally in consultation with the representatives of these peoples. Their administration must be designed to accelerate economic development of these border regions and facilitate their communications inwards in order to overcome the centrifugal tendency by increasing interaction of these peoples with the rest of the Ethiopian peoples.

(c) Areas

The question of the determination of areas for the proper execution of functions delegated to local governments is very

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controversial. Questions such as: Should the criterion of historical precedents be the sole determining factor of areas? To what extent should availability of natural resources and density of population influence the decision? need to be thoughtfully considered. It has to be borne in mind that the sole criterion of historical precedents is both divisive and an impediment to national development. Hence, availability of natural resources and the density of population per area should be taken into consideration since the question of nation building, in addition to its political implications also takes into account the economic viability of areas organised into autonomous regional units. In this regard, the present manner of delimitting administrative units is haphazard. In some awrajas there are people of diverse characteristics living together. The provision of certain services which require the usage of the languages of the distinct groups becomes difficult. When establishing regional administration, the conflicting issues of cost of administration and the provision of rights and services to the satisfaction of each and every distinct group must be balanced very carefully. Lumping several distinct groups together within one local government unit involves unnecessary cost. The usage of more than one language within one administrative unit necessitates the employment of more administrative personnel who can communicate to the diverse people. This, in other words, means duplication of effort and hence wastage of human resources. Especially at this stage of the country's development when the shortage of educated and trained personnel is very acute for the performance of development - oriented functions, economic use of human resources is imperative. Nevertheless, the consideration of cost should not be weighted heavily against the provision of certain positive services.

Such a policy would very likely result in neglecting the interests of some of the peoples. This would cause discontent. Since the objective of the suggested system is to minimize or even eliminate antagonism as far as practicable by institutionalizing a democratic administration, no consideration should lead to a decision denying any group of people their inalinable rights.

As far as practicable, the new administrative regions should encompass people of same language (excepting dialects) and culture. Thus, on the basis of division into five regions as indicated above, the areas of the autonomous regions will be larger than those of the existing provinces.[132] On the other hand, with regard to the peoples wishing to preserve their particular characteristics which distinguish them from the rest of the population, the establishment of autonomous nationality regions, however small they may be in area, is recommended. This is deemed necessary because, as President Nyrere of Tanzania believes, and quite correctly, if multi-national states have to remain integrated, the dominant group should be solicitous of the interests of the minorities, because they are the ones who need the protection of the State.[133] If Ethiopia fails to re-organize its administrative units, at the same time providing for the establishment of autonomous nationalities, it will fail to provide the required protection for the small minorities.

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[132] However, when considering people's feelings of connection and active participation that is easily attainable when smaller areas are delimitted for local administrations, the economic viability and the availability of trained and educated personnel necessitate that the size of local administrations to be established be big.

[133] Julius K. Nyrere, The Nigeria-Biafra Crisis, The Government Printer, Dar-es Salaam (1969) p. 11.

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Failure to act in this protective manner, president Nyerere said in connection with the Nigeria-Biafra Crisis, will inevitably end in chaos and tendencies of decision secession.

(c) Revenue

It is hardly disputed that without the provision of the means required to carry out responsibilities devolution by itself does not serve any purpose. Accordingly, if the autonomous regions are to operate properly and effectively, they have to be given a means by which to carry out their functions. In connection with this, Paul and Clapham wrote:

> if provincial or local governments are to enjoy a degree of autonomous power, they must have an assured supply of revenue- either they must get automotically, a share of taxes raised nationally, or they must have a taxing power of their own (or enjoy a combination of both)"[124]

Besides the complexity of the distribution of power, regarding revenue, between the Central and Regional authorities the demand for a high level manpower that the administration of taxation requires further complicates the matter. Although it is argued that when the taxes raised directly go to the improvement of the conditions of lives of the people tax evasion is minimal, this theoritical argument should not prevent one from setting up an efficient tax collection machinery.

It may be found out later that some regions are poor in natural resources; and unless gigantic industrial projects that require heavy investments are started, the money raised through taxation is not adequate for the carrying out of the responsibilities of regional governments. Such situations lead to an unequal growth and consequently development of arrogance on the part of the

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[124] Paul and Clapham, cited above at not 42, p. 53.

wealthier regions. This is no solution to the problem this paper is intended to suggest remedy for. Hence, such possibilities must be envisaged by the Central Government at the outset and subsidies provided until the technological development reaches the stage where the state can tap the resources exploitation of which would require heavy capital investment.

(vi) Controlling and Supervising Authority

To what extent and in what manner the Central Government should control the regional governments is a very controversial issue at the initial stage of the institution of a decentralised administration, specially in view of the fact that personnel with the required skill needed for public administration are not available in sufficient number. Accordingly, at the initial stage, it is necessary that the Central Government assist the regional governments with the task of coordinating their socio-economic development programmes. In assisting in the coordination of the activities of the regional governments, the Central Government should not exert too strong influence to the extent that local initiative is impeded. On the other hand, undue relaxation of influence may turn out to be dangerous. Hence, the extent of supervision and control should be determined by the real needs of the different administrative units, changing as the regional governments move towards self-sufficiency with respect to trained manpower.

(vii) The criterion of Organizing Autonomous Regions

When considering the question of instituting local administration for a multi-national state, the dilemma usually encountered is: Should the organization be based on national or regional autonomy? It has to be recalled that none of the regions indicated above constitute a homogenous ethnic group. All of the regions, and for

that matter, even the outlying Awrajas are interspersed with different nationalities. The scattering of nationalities throughout the entire Ethiopian territory, which set in during the period of the Shoan conquest and expansion, is continuing at a greater rate, and the likelihood of its increase as a result of improved communications and economic development with the consequent growth of commerce is conceivable. This historical phenomenon is not possible to halt. Nor is it desirable to halt and/or reverse such a normal process, because it is a natural phenomenon by which the diverse groups intermingle and consequentely, in the course of settling among alien nationalities, shed off their native characteristics and old connections thereby acquiring new habits and customs of the inhabitants of the new region.- This is a positive phenomenon in the formation of a homogenous society with common aspirations and outlook.

The crucial question that cries for a thorough consideration is: how should the fate of the minorities who are scattered and settled among other ethnic groups be determined? It is strongly recommended that the interspersed peoples should not be repatriated to their places of origin. The Organization should not be based on purely nationality lines. It has been said already that there is no region that is solely inhabited by a single ethnic group. Neither is it the infention of the author to draw baundaries to separete and keep the various groups in isolation. Accordingly, the basis of organization should be regional. This is thought necessary, because the recognition of nationalities as a juridical person entails the practical problem of affarding rights and positive services to individuals scattered throughout other nationalities.

Unquestionably, all members of the different nationalities are entitled to non-discriminatory treatment, specially in respect of the rights and freedoms set forth in the Universal Declaration of Human Rights.[135] This means that the equal rights of all the peoples of Ethiopia shall be recognized by the constitution. The right so recognized shall include the right to employment, the right to free education in each nationality's language, the right to free health services, the right to pension, the right to promotion to higher governmental posts on strictly merit basis the liberty of free conscience etc. Recognition of these rights by itself does not change the situation. In addition to recognition, the constitution should provide for the enforcement of the rights recognized. It is only when positive services are provided - i.e when the enjoyment of the rights enumerated above is ensured - that real equality reigns. When each and everybody is provided with all that is due to him there would not be any ground for discontent. Such an arrangement will eliminate the prevailing national discension and feuds.

However, the impracticability of such a device becomes obvious with respect to the scattered peoples. Hence, the provision of positive services to ensure the maintenance and enjoyment of the distinctive characteristics of the interspersed minorities needs to be determined by the number of the particular nationality. The UN Secretary General suggests:

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135 Article 2 of the Universal Declaration of Human Rights.

A minority considered as a group entitled to special positive services or special rights should properly include a number of persons sufficent by themselves to develop its own particular traits. Although it is not possible to determine a definite figure, it seems that for administrative reasons a minority composed of a very small number of persons would probably not be considered as entitled to special positive services or special rights" 136

The UN Secretary General, cited above at note ff, p. 8.

Chapter IV

The Role of Law in the Institution of a Decentralized Administration.

The form and degree of autonomy suggested in this paper is in response to the objective demands that the various nationalities inhabiting the Ethiopian Empire are making and in expectation of the economic and political advantages that the country would reap by instituting a decentralized administration. According to Mr. Andreas Eshete, in recent years the demands of the people, in certain regions, have already gone beyond peaceful means and developed into armed struggle.[137] In view of this situation then, a pertinent question that has to be answered before going any further is: Who is to initiate this programme and administer the implementation thereof?

Both the initiation and the implementation of the programme can emanate from two diametrically opposed quarters. It can either come from the Central Government which can do so before the current regional uprisings gather momentum and lead to a "disastrous" disintegration of the state, thereby making the matter beyond control; or if the Government fails to take a timely measure the institution of this administration can be demanded and enforced by the inhabitants of the conquered regions whose resentment of the usurpation of their traditional autonomy is intensifying.

In the latter case it is feared that the regions may never come together or may associate only on condition that the constitution of the Central Government guarantee regional governments which be within the control of the indigenous people.

Since, at the present time, the peoples movements have not yet reached the stage where they can enforce their aspirations,

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[137] Andreas Eshete, cited above at note [114] p.6.

I will limit discussion of this part of this paper to the role of law that the Central Government may issue, preferably, in consultation with representatives of the people.

When this matter is looked at from the point of view of the desires of the peoples of certain regions - which manifest tendencies for strong autonomous administration - a system of unitary government becomes both unsatisfactory and unacceptable. This is so because the different peoples have fear and suspicion for one another, and any concentration of power within the control of one region - which is the case today - will not save the imminent danger. The use of the constitution to effect the envisaged decentralisation of power would deny any particular interest group to arbitrarily assume the privilege or possibility of either withdrawing the devolved power or effecting the implementation thereof at its discretion. In other words, this would give the structure that re-aligned power and relationships on equal basis permanence thereby eliminating the prevailing fear of one another. In support of this argument, Paus and Clapham wrote as follows:

> The Constitution may be used to create a system of autonomous local governments within a single National State below the national government, and transfer some of the powers of the Central Government to these governmental units. Once the Constitution does that it obviously becomes more difficult to alter the system."[138]

The use of the constitution to create a system of autonomous regional government is necessary and will, very likely, be demanded by the various interest groups in view of the fact that there is a historical precedence for easy annulment of autonomy brought

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[138] Paul and Clapham, cited above at note, 42, p33

into existence by a legislation of a lower hierarchy. The Federation of the Ethiopia and Eritria which was brought into existence by a legislation-the Federal Act- was brought to an end simply and quickly by an Imperial Order - Order no. 27 - without the participation of the Parliament.

A point for warning is appropriate at this juncture. The Constitution - as it normally does - should only deal with general broad provisions. It should not deal with detailed affairs lest it hampers desirable flexibility. Legislations may be used to provide for, within the limits of broad constitutional provisions, changes and adaptations that may be necessitated by the circumstances of the case. In order to achieve this purpose, the law has to change quickly in response to needs and demands. When necessary genuine changes are effected through the instrumentality of the law, the Central and/or the Regional Governments that concede to said changes will not be accussed of arbitrariness. Thus, the use of law in effecting changes facilitates the manipulation of the society on the road charted for national development. The role of law in bringing about changes is recognised by many people concerned with moving backward countries to advancement. Accordingly, in recognition of the tested effectiveness of legal changes by providing easy means of control, several states enact laws as desirable goals to be achieved rather than using it to maintain the status quo.

In connection with the study of Order No.43 of 1966, it was noted that the parliamentarians are against the institution of a decentralized administration. This is not the only project that the parliamentarians have blocked. They are, at present, seen blocking the Land-Lord Tenant Relationship Proclamation which was drafted and presented to the Parliament for its deliberation and approval. These instances are sufficient indications of the fact that our parliamentarians are likely to refuse passage of bills

that adversely affect their interest.[137]

Narrow individual interests is not the only factor that hampers the passage of such draft legislations. Lack of appreciation of the impact that such measures would have on national development is another reason. As noted earlier, some of them argue that the institution of decentralized administration would result in the disintegration of the country. However, it has been discussed earlier that this is not true. It is the contrary that is true.

When the kind of plans such as the institution of de-centralisation of general administration is envisaged, it may be imperative that certain extra-ordinary measures be taken. The extra- ordinary measures may entail the dissolution of the parliament and effecting the necessary constitutional changes by the head of state. A second alternative is to raise the educational qualification of candidates to be eligibile for election so that parliamentarians of high calibre who are in a position to understand the advantage of changes are elected.

Once the authentic motives of decentralization are put into law in an unequivocal terms, the implementation of the programme requires, among other things, re-inforcement by well-prepared propaganda to change the attitudes of both those who are deadly opposed to decentralisation and the other extreme side which favours secession.

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137 Our parliamentarians are among those members of the society who are big land owners. Accordingly, they are blocking the legislation of laws that would reduce their income. Decentralization entails democratization of administration. This would ultimately result in making the populace politically conscious and consequent demands for change in several social structures that would deprive the parliamentarians of the privileges they now enjoy.

Chapter V
CONCLUSION

The existing system of Centralized administration is, mainly, the outcome of the conquest carried out by Menelik II. Inevitably, the ensuing government became basically Shoan Amhara in both its structure and composition. This resulted in the destruction of the institutions of the peoples of the conquered regions and the establishment of institutions that unequally treat the citizens of the Ethiopian Empire. This prevailing situation where the dominant ethnic group denies the other interest groups equality and democratic rights and perpetrates the policy of suppression has engendered feelings of animosity and civil strife.

In some provinces where the political consciousness of the people is high due to the availability of more opportunities for education and exposure to democratic ideas and institutions, civil strife is already tending to evolve into secessionist movements. These tendencies are apt to intensify until and unless the grounds for them are removed and a neutral state that is not identifiable with any particular interest group is set up. The neutral state will need to re-align the present unequal relationships between the various interest groups in favour of institutions that afford real equality to all. This calls, among other things, for the institutionalization of a decentralized administration.

It has been discussed in the preceding chapters that when civil strife prevails both human and financial resources are deverted for the maintenances of "peace and order" which will never be attained until the roots of discontent and resentment

that are the causes of strife are eliminated. At the present stage of its development, Ethiopia can ill-afford the concentration of the scarce resources on unproductive activities. Hence the need to ameliorate the problems that lead her to engage in such activities is obvious.

If Ethiopia is to build a nation that is politically stable and economically viable, it must, first of all, establish a just democratic society that will afford all the interest groups within its territory the opportunities to play decisive roles in the affairs of their respective local affairs and due participation in the Central Government. The establishment of a just democratic government in a multi-national state entails the decentralization of administration, thereby permitting the entire population to participate in national development. Such an institution, the author maintains, will engender in the various interest groups of Ethiopia a sense of belonging together, the sentiment of sharing a comman destiny and a sense of cooperative endeavour to fulfill common tasks. Thus, it would be possible to form a comprehensive, united plural nation (society) out of the hitherto civil strife ridden peoples of Ethiopia.

October____1964

PROCLAMATION NO_____OF 1964

A Proclamation to provide for Revenues for the Local Awraja Government

CONQUERING LION OF THE TRIBE OF JUDAH

HAILE SELASSIE I

ELECT OF GOD, EMPEROR OF ETHIOPIA

WHEREAS We have decided to establish a Local Self-Government on the Awraja level (hereinafter called "Awraja Local Government") and to make it responsible for a part of the civil administration; and

WHEREAS, it is necessary to ensure that said Awraja Local Government shall have sufficient financial means for the exercising of its duties and for attainment of its purposes, as determined in the "Local Self-Government Order, 1964";

NOW, THEREFORE, in accordance with Article 34 and 88 of Our Revised Constitution We approve the resolutions of Our Senate and Chamber of Deputies and We hereby proclaim as follows:

1. Titles.

This Proclamation may be cited as the "Awraja Local Government Revenues Proclamation, 1964"

2. Revenues.

The following revenues are hereby assigned to the Awraja Local Government.

(a) revenues from:
(i) land tax (without tithe);
(ii) education tax;
(iii) health tax; and
(iv) cattle tax

due and collected in the area of the Awraja;

(b) revenues from the property tax (general rates on lands and buildings) assessed and collected in towns within the area of the Awraja with exception of towns chartered as Municipalities;

(c) revenues from fees for licences for trading activities and for professional or vocational occupation, which shall be collected within the Awraja area with the exception of towns chartered as Municipalities;

(d) fees for services rendered by the Awraja Local Government, including water rate;

(e) fees for registring property and surveying property for registration;

(f) fees for considering and approving construction plans;

(g) revenues from the property of the Awraja Local Government;

(h) grants-in-aid, which may be given to the Awraja Local Government from the budget of the Central Government

ANNEX I

D R A F T

AWAJA LOCAL GOVERNMENT PROCLAMATION, 1964

F R O M

THE TECHNICAL COMMITTEE, 1964

upon the recommendation of Our Minister of Interior or, if need be of Our Minister of Interior in consultation with the Minister or Minister concerned;

(i) donations which may be received by the Awraja Local Government for general or specific purposes.

3. Taxes on Land.

Taxes on land enumerated in Article 2, item (a) of this Proclamation shall be levied under appropriate legislation duly adopted in accordance with the provisions of Article 88,89 or 90 of Our Revised Constitution and shall be assessed and collected by the Awraja Local Government.

4. Property Tax and Fees for Licences.

(a) (i) The maximum rates of the property tax mentioned in Article 2, item (b) of this Proclamation shall be the following:————————————

(ii) The maximum rates of the licences fees mentioned in Article 2, item (c) of this Proclamation shall be the following:————————————————

(b) (i) The Awraja Council shall issue regulations regarding property tax and fees for licences mentioned in Article 2, items (b) and (c) of this Proclamation, and shall - within the limits of item (a), (i) and (ii) of this Article 4 - determine the rates of said tax and fees.

(ii) The regulations and rates of (i) of this item (b) shall be subject to the approval of Our Minister of Interior.

5. Fees for Services and Regulatory Activities.

(a) The Awraja Council shall determine the amount of fees payable for services rendered by the Awraja Local Government, refer Article 2, item (d), and of the fees mentioned in Article 2, items (e) and (f) of this Proclamations.

(b) Said fees shall be subject to the approval of the Governor-General of the Province.

6. Loans.

(a) The Awraja Council shall be empowered to raise the following loans:

(i) loans for specific purposes;- and

(ii) loans for the prompt payment of expenditure during the fiscal year, and which shall not exceed one tenth (1/10) of the ordinary revenues of the year and shall be repayable not later than the end of that year,

(b) Said loans shall be raised only from domestic sources and shall be subject so [sic] the approval:

(i) in the case of item (a), (i) of this Article 6, the approval of Our Minister of Interior and Our Minister of Finance;- and

(ii) in the case of item (a), (ii) of this Article 6, the approval of the Governor-General of the Province.

(c) With the application for approval the Awraja Council shall submit:

(i) explanations concerning the necessity of raising the loan and purposes for which it shall be used,- and

(ii) the plan of repayment.

(d) Repayments made shall be notified by the Awraja Local Government:

(i) in case of loans mentioned in items (a), (i) and (b), (i) of this Article 6, to Our Minister of Interior and Our Minister of Finance,- and

(ii) in case of loans mentioned in items (a), (ii) and (b), (ii) of this Article 6, to the Governor-General of the Province.

7. Transitory Provisions.

(a) The cost of the first elections of the Awraja Councils and Councils meetings (Article 66, item (b), (i) and (ii) of the Local Self-Government Order, 1964), as well as other costs connected to the introduction of the Local Governments, which may incur until the first (1st) day of Hamle nineteen hundred and fifty nine (1959) E.C.- shall be borne by the Central Government.

(ii) in the case of item (a), (ii) of this Article 6, the approval of the Governor-General of the Province.

(c) With the application for approval the Awraja Council shall submit:

(i) explanations concerning the necessity of raising the loan and purposes for which it shall be used,- and

(ii) the plan of repayment.

(d) Repayments made shall be notified by the Awraja Local Government:

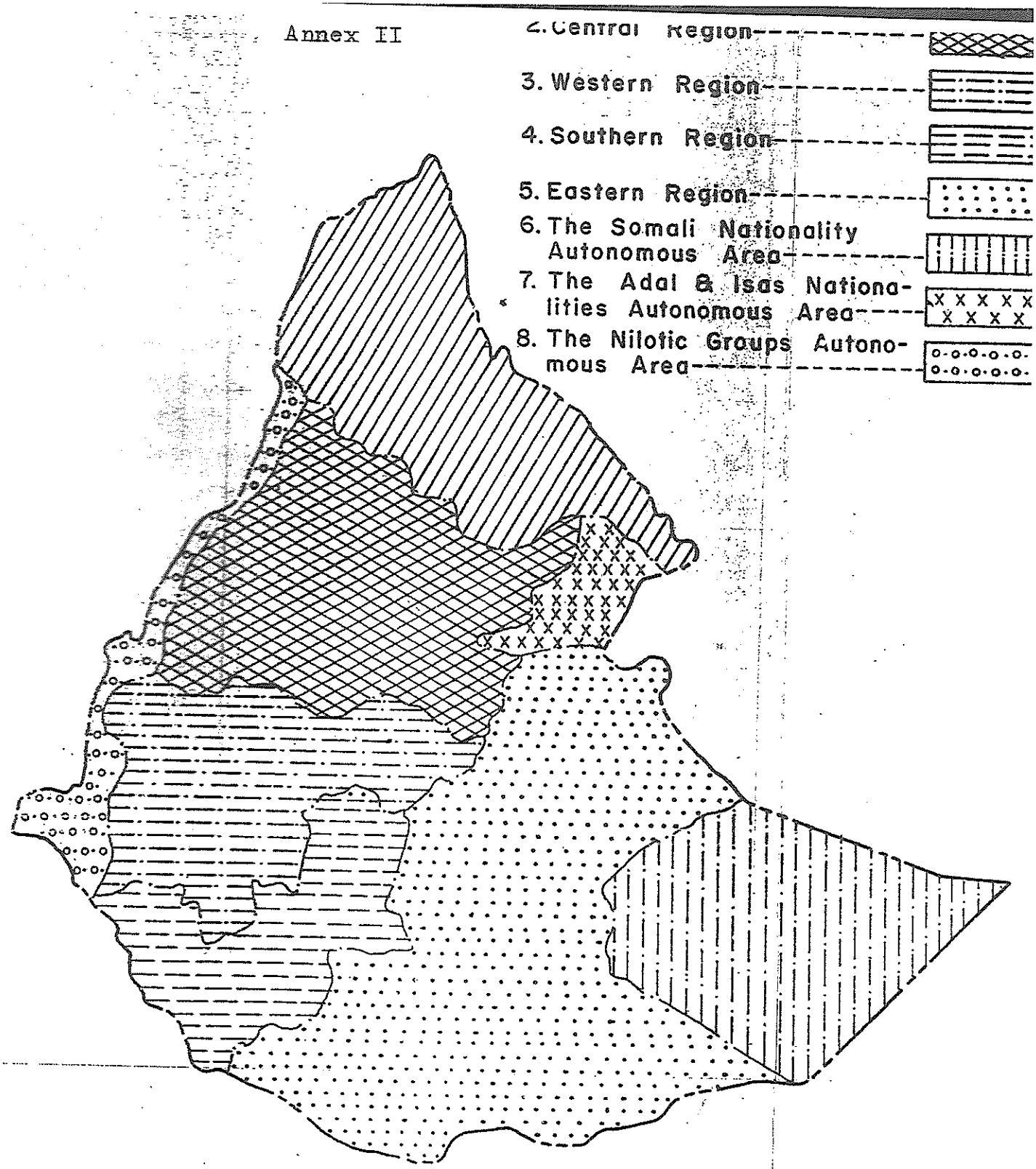
(i) in case of loans mentioned in items (a), (i) and (b), (i) of this Article 6, to Our Minister of Interior and Our Minister of Finance,- and

(ii) in case of loans mentioned in items (a), (ii) and (b), (ii) of this Article 6, to the Governor-General of the Province.

7. Transitory Provisions.

(a) The cost of the first elections of the Awraja Councils and Councils meetings (Article 66, item (b), (i) and (ii) of the Local Self-Government Order, 1964), as well as other costs connected to the introduction of the Local Governments, which may incur until the first (1st) day of Hamle nineteen hundred and fifty nine (1959) E.C.- shall be borne by the Central Government.

Annex II



Regional Administrative Map of Ethiopia

(b) (i) To enable the Awraja Local Governments to meet their expenses in the first six (6) months of the fiscal year of nineteen hundred and sixty (1960) E.C., Our Minister of Finance is hereby authorised - during the same period - to make advance payments to each Awraja Local Government, not exceeding one half (½) of the revenues from the taxes mentioned in Article 2, item (a) of this Proclamation as actually collected within each Awraja area in the preceding fiscal year.

(ii) Such advance payments shall be repayable by instalments over a period of time to be determined for each Awraja Local Government by Our Minister of Finance in agreement with Our Minister of Interior.
However, the advance payments shall be fully repaid not later than the end of the fiscal year of nineteen hundred and sixty nine (1969) E.C.

8. Effective Date.

(a) This Proclamation, - with the exception of Article 7, item (a) - shall enter into force on the first (1st) day of Hamle in the year nineteen hundred and fifty nine (1959) E.C.

(b) Article 7, item (a) of this Proclamation shall come into force as the costs mentioned become due.

Done at Addis Ababa, this ———— day of ——— 196—

TSAHAFE TAEZAZ AKLILU HABTE WOLD
Prime Minister & Minister of Pan

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