

Chapter 18

The Nexus Between Human– Rights–Based Approach and Intergovernmental Fiscal Transfers for Sustainable Development: A View From Ethiopia

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ABSTRACT

The ultimate objective of intergovernmental transfer is to enable each level of government to respect, protect, and fulfill social, economic, cultural, and political rights. As a result, human rights should be embodied as a central element in government budget reflecting revenue allocation and expenditure priorities. However, the economic rationales may not be fulfilled due to tax collection inefficiency, a sense of “free-ridership,” or fiscal profligacy leading to regional development imbalances. Moreover, important principles embodied in human rights such as participation, accountability, and empowerment of marginalized groups could be sidelined. This chapter analyzes the conceptual and practical underpinnings of transfer programs in Ethiopia and the need to address human rights to achieve development in an integrated manner. The study further argues that the nexus between human-rights-based approach (HRBA) and fiscal transfers is compatible with a federal system in an effort to address regional development asymmetries.

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INTRODUCTION

Inter-governmental fiscal relations in Ethiopia started as a result of the change in government in 1992 which later on was affirmed through the Federal arrangement established under the 1995 constitution. Inter-governmental fiscal relation is intertwined with the fact that expenditure responsibilities are decentralized as opposed to taxing responsibilities. As a result, fiscal transfers are used to mitigate the challenges emanating from financial imbalances, thereby the assumption is that each level of government fulfills the obligation to respect, protect and fulfill socio-economic and political rights. Many studies (such as Tegegn and Kassahun, 2007; Solomon, 2008; Abu 2013)¹ on inter-governmental fiscal relations in Ethiopia have focused on the economic, administrative and politico-legal implications of federal–state relations. Especially, the analysis has focused on whether meaningful fiscal and political powers devolved to sub-national levels within the federal arrangement, and the challenges of economic disparity among the regions. Like many other federations, it is the general-purpose grant which is used as an optimal transfer mechanism primarily based on equity and efficiency considerations. However, human rights aspects remain insufficiently addressed. Particularly, the human rights approach is not sufficiently addressed in order to make each level of government accountable to the people and to ensure public participation in governance in general, and in the proper utilization of fiscal transfers in particular. This is because, as it will be analyzed in detail below, the human rights are a valuable tool for evaluating the realization of economic, social and cultural rights in an interrelated manner with political rights. In the absence of proper legal and institutional mechanisms, even the fulfillment of economic objectives could be frustrated. Further, the economic rationale may not be fulfilled due to irresponsible fiscal behavior which could hamper the effort to address regional disparities. This kind of behavior by some regional governments can be a liability to others. Thus, there should be a mechanism to ensure that inter-governmental transfers are utilized to change the reality on the ground by improving the level of development in the region or locality.

The author follows the insights given by Amartya Sen (Development as Freedom, 1999) in the reconceptualization of development in human rights terms on the basis of constitutive and instrumental roles of freedoms in informing the ends and means of development. The paper argues that process orientation is the main contribution of the rights-based approach to development and therefore the process is important as equal as the outcome of development in addressing regional economic disparities as well as in the proper utilization of resources. This argument is based on the constitutional recognition of the right of citizens to sustainable development which encompasses an integrated approach to the fulfillment of human rights. The constitution requires that the process of intergovernmental transfers to promote equitable regional development should be seen as an integral process of fulfilling the other aspects of human rights which are also instrumental to the achievement of the right to development. This is how the nexus between a human rights-based approach and intergovernmental transfers is embodied in the constitution.

This study makes a legal and theoretical analysis of the principles of a human rights-based approach for the proper utilization of fiscal transfers (that are aimed at addressing regional imbalances) in Ethiopia. The study design includes the use of secondary sources such as tax records and expenditure analysis for a brief investigation of the nature of inter-governmental fiscal relations in Ethiopia. In addition, federal and regional constitutions and other laws, policy documents and related publications are used.

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