

## ABHANDLUNGEN / ARTICLES

### Intergovernmental cooperation, divided societies and capital cities: The case of the Ethiopian capital

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**Abstract:** Some call it Addis Ababa. Others call it Finfinnee. That is the capital city of the Federal Democratic Republic of Ethiopia. “What’s in a name?” In fact, the name is at the centre of the row over the federal capital. Those who opt to refer the capital as Finfinnee claim that the capital belongs to the Oromo. Those that stick to the official name, Addis Ababa, reject the language of ownership. But this is not merely a fight over history. It is a constitutional politics that has gripped the federation. The debate over the Ethiopian capital brings to fore the question about the place of capital cities in multi-ethnic federations. Using the Ethiopian capital as a case study, this article investigates how capital cities can manage the tension between the accommodation of diverse communities and the indigeneity argument that is often used as a basis to claim ownership. The article argues that the mediation of tensions can be best addressed through the framework of intergovernmental cooperation.\*\*

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#### A. Introduction

Some call it Addis Ababa. Others call it Finfinnee. That is the capital city of the Federal Democratic Republic of Ethiopia. “What’s in a name?” In fact, the name is at the center of the row over the federal capital. Those are not neutral designations. Those who opt to refer to the capital as Finfinnee claim that the city belongs to the Oromo, the largest ethnic group in the country. According to them, the Oromo are the indigenes of the capital. Those that stick to the official name, Addis Ababa, reject the language of ownership. But this is not

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merely a fight over history. It is a constitutional politics that has gripped the federation. The so-called special interest clause, Article 49(5) of the federal Constitution, provides that “[t]he special interest of the State of Oromia in Addis Ababa, regarding the provision of social services or the utilization of natural resources and other similar matters, as well as joint administrative matters arising from the location of Addis Ababa within the State of Oromia, shall be respected”. Some cite this as the constitutional affirmation of the ownership of the capital by the Oromo.<sup>1</sup>

The debate over the Ethiopian capital brings to fore the question about the place of capital cities in multi-ethnic federations. Using the Ethiopian capital as a case study, this paper investigates how capital cities can manage the tension between the accommodation of diverse communities and the indigeneity argument that is often used as a basis to claim ownership. More specifically, the article seeks to explore whether the so-called special interest clause is an affirmation of the Oromo ownership of the capital or a call for intergovernmental cooperation.

The argument of this paper proceeds in five interrelated parts. The paper first introduces Addis Ababa and the constitutional and political developments that led to the controversy surrounding the city. This is followed by a section that introduces the historical and contemporary position of the so-called special interest clause. The paper then moves to the debate surrounding the meaning and implications of the special interest clause. The question is whether the clause represents an affirmation of ownership of the capital by a community or a call for intergovernmental cooperation. Finally, the paper explores the validity and appropriateness of claims based on the principle of indigeneity before it concludes the discussion with brief remarks.

## B. Introducing Addis Ababa

Addis Ababa is home to diverse population that is estimated to be no less than 4 million.<sup>2</sup> Like many capital cities around the world, it is a multi-ethnic and multi-faith cosmopolitan part of Ethiopia. Close to half of the population of the city (47.5 percent) belongs to the Amhara ethnic group while the Oromo account for just under 20 percent of the population followed by the Guragie that account for just above 16 percent of the population. In terms of religion, the city is largely inhabited by Orthodox Christians that account for 74.7 percent of the population followed by Muslims (16.2 percent) and Protestants (7.8 percent).<sup>3</sup>

- 1 *Tsegaye R. Ararssa*, Why resist the Master Plan? A constitutional legal exploration, Addis Standard, August 20, 2015, <http://addisstandard.com/why-resist-the-addis-ababa-master-plan-a-constitutional-legal-exploration/> (last accessed on 19 September 2019).
- 2 UN-Habitant has reported that the population of Addis Ababa is expected to be between 7.5 and 12 million in 2030. UN-Habitat, Ethiopia: Addis Ababa Urban profile, Nairobi 2008.
- 3 Nationally, the Oromo are the largest ethnic group accounting for 34.49 per cent of the population, followed by the Amhara (26.89 per cent) and the Somali (6.2 per cent) and the Tigray (6.07 per cent). In terms of religion, Orthodox christens account for 43.5 per cent of the population, followed

At the same time, the city can be described as the melting pot of Ethiopia. This is a place where many, irrespective of where they come from, assimilate to the ‘metropolitan culture’ that defines the city. Amharic, the language of the federal government, is the lingua franca of the city. 25 percent of the urban population of Ethiopia lives in Addis Ababa. The capital is also the economic hub of the country where we see disproportionate concentration of investment and infrastructure projects. The city alone accounts for 50 percent of the national GDP. In short, “not only is Addis Ababa a political capital, it is also an economic, social and cultural capital”.<sup>4</sup>

Addis Ababa has served as the capital city of Ethiopia since 1889.<sup>5</sup> Legend has it that it was Empress Taytu that requested her husband, Emperor Menelik, to give her a land to erect a house around the hot springs of Filwoha, which was located south of Entoto, where Menelik established his capital in 1881.<sup>6</sup> The chronicler of Emperor Menelik suggests that the Emperor, ‘whose statue now towers over a busy roundabout in the capital’s [old city centre]’,<sup>7</sup> saw the establishment of the capital around the hot spring of Filwoha as fulfilling the prophecy of his grandfather, King Sahle Selassie, who reportedly prophesized a construction of a city in the area: ‘O land, today you are full of Gallas,<sup>8</sup> but the day will come when my grandson will build here a house and make of you a city’. Once Empress Taytu managed to build a new house, the construction of the city followed with the Chiefs receiving plots of land and building their houses. By 1891, the capital had completely moved

by Muslims (33.9 per cent), Protestants (18.6 per cent) and Roman Catholics (0.7 per cent). See Central Statistical Authority, Summary and Statistical Report of the 2007 Population and Housing Census, <http://www.csa.gov.et/pdf/Cen2007>.

- 4 *Olaana Abbaaxiiqi*, Lets end Finfinne saga, and shoot for the stars, <https://www.ethiopia-insight.com/2019/02/10/lets-end-Finfinnee-saga-and-shoot-for-the-stars/> (last accessed on 10 September 2019).
- 5 For most part of the Ethiopian history, Emperors of Ethiopia are known for their roving seat of power. Although there were earlier attempts, it was only in the 17<sup>th</sup> century that a fixed capital was established when Emperor Fasiladas built his palace at Gondar. For more, see *Richard Pankhurst, Menelik and the Foundation of Addis Ababa*, The Journal of African History 2(1) (1961), p. 106.
- 6 The decision of Menelik, the then King of Shoa, one of the four regions that make up the Ethiopian Empire, to establish his capital in Entoto is linked with the discovery of a ruined church in the area that is believed to have been built by Emperor Dawit (1381-1410). According to his chronicler, Guebre Selassie, Menelik declared that: ‘God has caused us to find the remains of the Emperor Dawit’s city of Entoto. Since this discovery has been made in our time, it is incumbent on us to resurrect this city’ (Pankhurst, note 5, p.105).
- 7 *Jason Burke*, It’s life and death: How the growth of Addis Ababa has sparked ethnic tensions, <https://www.theguardian.com/cities/2017/mar/13/life-death-growth-addis-ababa-racial-tensions> (last accessed on 03 November 2019).
- 8 This is a term that, for a long time, was widely used to refer to the Oromo. It is now established that it is a pejorative term that harms the dignity of the Oromo.

from Entoto to the hot springs of Filwoha. It is widely believed that it was Empress Taytu that named the city, Addis Ababa, which literally means the New Flower.<sup>9</sup>

Many observers noted that the city was growing fast. According to one observer, 'Addis Ababa became a boom city...after the Battle of Adowa in 1896'.<sup>10</sup> It quickly attracted the migration of individuals from different parts of the country. Amharic, the language of the imperial court, quickly became the lingua franca of the city although, according to some population estimates made in the early twentieth century, the Oromos were the largest ethnic group, closely followed by the Amharic-speaking Shoans.<sup>11</sup> In 1963 Addis Ababa also became the seat of the organization of the African Union. That increased its status as diplomatic center of the African continent although many western countries had already opened their embassies by then. As nicely captured by Solomon Deressa in his 1996 piece, *Letters from Addis Ababa*, the growth and modernization of the capital continued apace against the background of proliferating shantytowns.

*The ultra-modern six-lane boulevards with four phase traffic lights that can be turned into a purgatory of congestion by a couple of absent-minded cows crossing against the light - the cows are probably owned by a poor family that runs its own dairy farm right behind Africa Hall - lead into residential side streets which in turn open onto back alleys that can with startling abruptness turn into fragmented images in a hell dreamed up by Hieronymus Bosch. Children are playing marbles. The pros are standing pert and insolent at the doors of their shabby or not-so-shabby dwellings. A carefree male customer is urinating into the gutter.<sup>12</sup>*

A city whose population was estimated to be half a million by 1974, when Emperor Haile Selassie was overthrown by a revolution that was hijacked by the Military, has seen its population more than doubled by 1991, when the rebel groups marched to the capital and brought to an end 17 years of military rule.<sup>13</sup>

In 1991, the military government was overthrown, and a transitional government was established. The Transitional Charter, the constitutive document of the transitional govern-

9 It is reported that the name 'had been chosen on account of the numerous flower mimosas growing in the area', Pankhurst, note 5, p.107.

10 Pankhurst, note 5, p. 114.

11 Relying on other sources, Pankhurst (note 5, p. 115) indicates that the capital quickly became home to migrants of 'three different kinds, each of which was responsible for about a third of the total population: first, of nobles courtiers and soldiers from the province of the north-Shoa, Amhara, Gojam and Tigre; Secondly of servants and slaves from the lands of the Shangellas, Beni Shangul, Walamos and Gurages; and thirdly, of the Galla peasants from the neighboring country-side.'

12 Solomon Deressa, Letter from Addis Ababa, African Arts, 2 (2) (Winter, 1969), pp. 42-44, 62.

13 Burke, note 7. In addition to serving as the capital of the country and Africa, Addis Ababa also served as the capital of subnational entities. Prior to 1991, it was the capital of Shewa, one of the fourteen regions that made up Ethiopia and located in the central part of the country. Peter P Garretson, *A history of Addis Ababa from its foundation in 1886 to 1910*, Wiesbaden 2000, p. 1-27.

ment, introduced ethnicity as the basis to organize the country. It introduced ethnically defined subnational units. Article 2 of the Charter provides that 'each nation, nationality and peoples has the right to administer its own affairs within its own defined territory and effectively participate in the central government on the basis of freedom, and fair and proper representation'.<sup>14</sup> This was followed by a law that, by and large, established ethnically defined regions. Some were more clearly and explicitly associated with an ethnic group than others. But the ethnic basis of the state organization and the attempt to match a region with particular ethnic group (s) was evident. The only exception was Addis Ababa.

The Proclamation elevated the status of Addis Ababa as the latter became one of the fourteen newly established regions that make up the country.<sup>15</sup> Like Brussels, Berlin and Moscow, Addis Ababa assumed a dual nature. It became both: a city and a state. Unlike the other subnational units, it was not, however, associated with a particular ethnic group(s). At the same time, the new geographical configuration, which was adopted by the Transitional Government that is attempting to create ethnic homeland for each large ethnic group, have had a significant effect on the politics of the city. Addis Ababa found itself fully encircled by the newly created region of Oromia, the homeland of the Oromo, that also made Addis Ababa its capital, though without any jurisdiction over the city.<sup>16</sup> That perhaps represents the first indication of the political entanglements that were to come involving Addis Ababa and the State of Oromia. Although the demand by Oromo nationalists and, in particular, the Oromo Liberation Front to incorporate Addis Ababa into Oromia was not accepted, a concession was made in a form of the special interest clause that recognizes the special interest of the Oromo over the Capital.

The elevated status of Addis Ababa as a city-state did not last long. With the adoption of the current constitution in 1995, the capital lost its status as a region. It is not one of the nine states that make up the Ethiopian federation. The Constitution recognizes the capital as a self-governing city that is, however, accountable directly to the federal government.<sup>17</sup> That makes the city closer to the federal territory model represented by Washington DC, Canberra, New Delhi and Abudja, where the capital is under the control of the federal government, albeit with some autonomy. It does not enjoy the full autonomy that is accorded to

14 Transitional Period Charter of Ethiopia No.1 Negarit Gazeta 50<sup>th</sup> year No.1 Addis Ababa, 22 July 1991 (hereafter Charter).

15 Article 3 (1), Proclamation 7/1992, A Proclamation to Provide for National/Regional Self-Governments.

16 Initially, the 2005 Constitution of the Regional State of Oromia, recognized Addis Ababa (referred to as Finfinnee in the proclamation) as the capital city of Oromia region (See Article 6, Proclamation 1/1995, Megeleta Oromia, Finfinnee 21 August 1995). However, in 2001 the State revised its constitution to make Adama its capital city. Following the 2005 electoral crisis, the capital city of Oromia was again moved back to Addis Ababa based on Proclamation 94/2005.

17 Article 49 (2) of the Constitution of the Federal Democratic Republic of Ethiopia (herein after FDRE).

the states. This, however, has not stopped the rapid growth of the city. It is reported that the urban land of the capital has expanded 2.9 times between 1987 and 2017.<sup>18</sup>

The expansion of the city was accompanied by the loss of agricultural land, which meant the displacement and eviction of the Oromo farmers that surround the city, often with little or no compensation. The continued expansion of the city has had devastating effects on the cultural, economic and social life of the Oromo farming households surrounding the city. However, the expansion of the city did not only dislocate the Oromo farmers surrounding the city. In the name of urban renewal and development, dozens of neighborhoods were reduced to rubble and their residents were moved to the outskirts of the city.<sup>19</sup> This has further complicated the problem and aggravated the tension as most of the housing projects for those evicted from the city centers are located in areas that were once owned by Oromo farmers. The continued introduction of housing projects that continue to push the borders of the city meant the expropriation of farmlands with often unsatisfactory compensations.

Things come to head in 2015 when the city administration introduced the Addis Ababa and the surrounding Oromia Special Zone Integrated Development Plan (2014-2038). Members of the Oromo community took to the streets expressing their objection to the Addis Ababa City Master Plan, which protesters claimed was a continuation of the expansion of the city.<sup>20</sup> For many members of the Oromo community, it represented the unabated grabbing of Oromo lands and eviction of Oromo farmers. This was facilitated by the absence of clear border demarcation between the capital and the State of Oromia. This has led one to comment that 'Addis Ababa city's massive housing projects are borderless'.<sup>21</sup>

Perhaps, because of its complete encirclement by Oromia<sup>22</sup> the loss of its distinct status as a subnational unit and its continued expansion, debates around the ownership of the capital have taken center stage in the politics of the country. In fact, as mentioned earlier, it is part of constitutional politics. Arguably, this is as a result of the special interest clause mentioned above that later found itself into the federal constitution. The special interest clause, as it is usually known in Ethiopia, is often invoked in the debate about the status, ownership

- 18 *Berhanu Keno Terfa, Nengcheng Chen, Dandan Liu, Xiang Zhang and Dev Niyogi*, Urban expansion in Ethiopia from 1987 to 2017: Characteristics, spatial patterns, and driving forces, *Sustainability* 11 (2019).
- 19 *Yen Duong*, Demolition derby: The human cost of Addis Ababa's rapid growth, <https://www.theguardian.com/cities/2019/apr/08/demolition-derby-the-human-cost-of-addis-ababas-rapid-growth> (last accessed on 06 November 2019).
- 20 The demonstrations quickly morphed into an Oromia-wide protests against the marginalization of the Oromo in public life. That forced the federal government to declare a state of emergency twice within a period of two years. That did not, however, end the protests that eventually led to the resignation of the Prime Minister and the election of the current Prime Minister, Abiy Ahmed, to power.
- 21 *Fekadu Nigussa Geleta*, State of Oromia's Interest in Addis Ababa (Finfinnee): Undelivered constitutional promises, *Journal of Oromo Studies*, p. 40.
- 22 Surrounding Addis Ababa is the Oromia Finfinnee special zone, consisting of eight major towns (i.e. Burayu, Dukam, Gelan, Holata, Lega Tafo, Sebeta, Sendafa, and Sululta).

and relationship of the capital with the State of Oromia. The problem is that there is no agreement on the meanings and implications of the special interest clause. The next section introduces the clause that is at the center of the controversy surrounding the capital and the different meanings attached to it.

### C. The special interest clause

As mentioned earlier, the phrase ‘special interest’ with reference to Addis Ababa appeared for the first time in Proclamation 7/1992. Article 3 (4) of the Proclamation provided that:

*“The special interest and political right of the Oromo over Region Thirteen [Harari] and Region Fourteen [Addis Ababa] are reserved. These Regions shall be accountable to the Central Transitional Government and the relations of these Self-Governments with the Central Transitional Government shall be prescribed in detail by a special law.”*

It is this provision that more less or also made it to the federal Constitution. The corresponding Article 49(5) of the federal Constitution provides that “[t]he special Interest of the State of Oromia in Addis Ababa, regarding the provision of social services or the utilization of natural resources and other similar matters, as well as joint administrative matters arising from the location of Addis Ababa within the State of Oromia, shall be respected”. It is important to note that both the Proclamation and the Constitution envisage the enactment of a law that will outline the declared special interest over the capital. To date no such law has been adopted though, as we shall see later, draft laws, both official and unofficial, have been circulating.

A quick look at the two corresponding clauses reveals major differences. The special interest as formulated in the current Constitution, departs from the Proclamation in at least two significant ways. First, the Proclamation gives the special interest over the Capital to the Oromo. The Constitution, on the other hand, refers to the special interest of the State of Oromia. In other words, the custodians of the special interest, according to the Proclamation, are the Oromo as people while the Constitution reserves that to the subnational unit. Second, the Proclamation does not only give the Oromo a special interest over the capital but also political rights. The Constitution, on the other hand, limits itself to ‘special interest’ and makes no mention of rights. The special interest that the Constitution imposes on the capital, when compared with the one imposed by the Charter, is, obviously, limited both in scope and content.

### D. The special interest clause interpreted

Many scholars and politicians believe that the so-called special interest clause affirms the historical ownership of Addis Ababa by the Oromo. It recognizes Addis Ababa as the land

of the Oromo and the Oromo as indigenous occupant of the city.<sup>23</sup> It represents an affirmation of the fact that Addis Abba was built upon the forceful expulsion of the Oromo from their land. Tsegaye, for example, argues that “[t]he ‘special’ in the ‘special interest’ phrase hails not only from the mere fact of geographic location of Addis Ababa in Oromia but also from the implicit recognition of the essentially Oromo identity of the city”.<sup>24</sup> Based on this, several politicians and scholars interpret the special interest clause as vesting the Oromo with special rights over the capital. This takes different forms. Milkessa, for example, interprets the special interest clause as implying four special rights.

*Four special rights are unambiguously offered to Oromia regarding: (1) provision of social services, (2) utilization of natural resources, (3) joint administrative matters, and (4) other similar matters. Especially, the first and third rights appear crucial to undertake urban policy reforms so as to accommodate Oromo language and identity in the city as part of the special interests because provision of social services for a given community obviously implicates language of service provisions and cultural identity elements. Moreover, the joint administrative matters phrase offers power sharing opportunities for Oromia.*<sup>25</sup>

This understanding of the special interest clause seems to be also the thinking behind the unofficial draft law that purported to give effect to the special interest, promised by the Constitution.<sup>26</sup> The unofficial draft proclamation extends several rights and benefits to the Oromo. It includes several clauses that are aimed at promoting the culture and language of the Oromo.<sup>27</sup> It sanctions Afan Oromo as the co-official language of the city administra-

23 See for instance, *Getahun Benti*, A nation without a city [a Blind Person without a Cane]: The Oromo struggle for Addis Ababa, *Northeast African Studies* 9(3) (2002); *Zelalem T. Sirna*, Addis Ababa/Finfinnee: A blueprint towards twin-city administration, *Ethiopian Journal of the Social Sciences and Humanities* 14(1) (2018); Fekadu, note 21.

24 *Tsegaye R. Arrarsa*, The special interest: The affirmation of denial, <http://addisstandard.com/the-special-interest-the-affirmation-of-denial/> (last accessed on 19 June 2019). In another piece, Tsegaye seems to have a change of mind as he states the opposite: ‘From the reading of the constitution, one can gather that the ‘Special Interest’ is derived from mere physical-geographical intimacy between Oromia and Addis Abeba, i.e., from the fact that the city is located in Oromia, almost as if the city is an enclave of a sort’. See Tsegaye R. Arrarsa (2018) ‘The “Special Interest” of Oromia over Addis Abeba A Hollow Constitutional Promise, an empty legal rhetoric: The Draft Law on the interest that is not so special’, *Addis Standard*, Special edition, How the “Special Interest” of Oromia over Addis Abeba became What’s next? A vacuous exercise in legal rhetoric, February 2018, p.4.

25 *Milkessa Midega*, The federal governance of multiethnic cities in Ethiopia: Urban policy and conflict in Addis Ababa & Dire Dawa, PhD Dissertation, Addis Ababa University (2017).

26 See the Draft proclamation to determine the special interest of the State of Oromia in Addis Ababa City, (hereinafter Draft Proclamation) Available at <https://chilot.me/2018/01/draft-proclamation-determine-special-interest-state-romia-addis-ababa-city/> accessed on 03-04.2020.

27 Draft Proclamation, note 26, Article 6.

tion.<sup>28</sup> It mandates the establishment of public-funded schools that use Afan Oromo as medium of instruction.<sup>29</sup> It mandates renaming of the city streets and other landmarks, using “their original Afan Oromo names”.<sup>30</sup> It also gives equal recognition to the name that the Oromo use to refer to the city: Finfinnee.<sup>31</sup> These measures, according to the unofficial draft law, are essential “to sustain the historical events related to the people of the Region, the cultural and historical legacy that reflect the national identity of the Oromo people”.<sup>32</sup>

The unofficial draft law also interpreted the special interest clause to include the extension of economic benefits to the Oromo. It expects the youth of Oromia to be made beneficiary of the job opportunity found in the Addis Ababa city, in particular “in relation to water development, waste management, power generation from the waste, water shade management, transport services and other similar services”.<sup>33</sup> It also imposes an obligation on the city administration to build market places (and facilitate other necessary conditions) for farmers of Oromia to “sell their agricultural products”.<sup>34</sup> It also extends preferential treatment to the civil servants and officials of the state government living in the city with respect to accessing public houses. For this purpose, it requires the city administration to provide Oromia “with quota to benefit from the allocation of condominium houses built by public expenses”.<sup>35</sup>

From the foregoing, the special interest clause, according to many scholars, politicians and the unofficial draft law, is about ownership of the city. It recognizes the Oromo as the historical owners of the city and, based on that, extends special rights to them over the capital. Ironically, that seems to be also the understanding of those that oppose the clause. They decry that the Constitution and the special interest clause, in particular, gives special rights to the Oromo over the capital. They are concerned that they have been rendered guests in a city that the Constitution has declared to be of the Oromo.<sup>36</sup> That explains their fierce opposition to the so-called special interest clause. The question is whether the wordings of the Constitution and the intentions of the drafters of the Constitution lends to this understanding of the special interest clause.

28 Draft Proclamation, note 26, Article 6 (1).

29 Draft Proclamation, note 26, Article 4.

30 Draft Proclamation, note 26, Article 6 (2).

31 Draft Proclamation, note 26, Article 6 (6).

32 It also imposes an obligation on the city administration to ‘facilitate the construction of theatre houses, recreation, cultural and artistic centers that reflect and demonstrate history and culture of the Oromo people’. It also expects the museums of the city to include ‘heritages and books that reflect the history, culture and tradition of the Oromo people’. Draft Proclamation, note 26, Article 6 (3) and (4).

33 Draft Proclamation, note 26, Article 10.

34 Draft Proclamation, note 26, Article 11.

35 Draft Proclamation, note 26, Article 12.

36 See *Ezega*, Ethiopian security bans Baladera Council Press Conference in Addis Ababa, <https://www.ezega.com/News/NewsDetails/7033/Ethiopian-Security-Bans-Baladera-Council-Press-Conference-in-Addis-Ababa> (last accessed on 06 November 2019).

Perhaps, one of the important issues that should be discussed first is whether the inclusion of the special interest clause was motivated by the history of the city, as some argue, or due to its geographic location and, in particular, due to the fact that Addis Ababa has become an enclave within the newly created state of Oromia. What is the reason behind the inclusion of the specific interest clause? I think this is an important question that needs to be addressed before moving onto a detailed discussion of the ‘special interest clause’. The response to this major question would have implications on how we interpret the special interest clause. And the issue can be addressed by looking at both the wording of the Constitution and the history of the making of the clause. Let’s begin by looking at the intention of the drafters of the Constitution.

A cursory review of the minutes of the Constitutional Commission and the Constituent Assembly that was responsible for drafting the current constitution reveals that the drafters brought attention to the fact that the area surrounding the capital is inhabited by the Oromo and the possible (and unavoidable) expansion of the city that might affect them.<sup>37</sup> This reality, they believed, requires the Constitution to acknowledge the interest of the Oromo and mandate discussion between the city administration and the State of Oromia. This suggests that the inclusion of the clause was motivated by the need to address the spillover effects of the actions and omissions of the city and its administration on the surrounding towns of Oromia. The language of ownership was not employed in the discussions and eventual decision that led to the inclusion of the Special Interest Clause in the Constitution. Ownership does not seem to be the motivating factor behind the inclusion of the special interest clause. This was also reiterated by the Chairman of the Constitutional Assembly and later President of the Country (1995 to 2001), the late Dr Negaso Gidada, in an interview he gave to a weekly paper.<sup>38</sup> In that interview, he stated that the clause is not about ownership of the city. The rationale behind the inclusion of the clause in the Constitution is, according to him, the understanding that there are many issues that connects the city and the state of Oromia because Addis Ababa is an enclave located in the State of Oromia. It is based on the understanding that the two administrations must work in cooperation with each other over mutual matters, including social services, natural resources and security.

If there is anything that this cursory review of the intentions of the drafters of the Constitution suggests, it is that the special interest clause cannot be interpreted within the framework of ownership. This is also supported by the wordings of the Constitution. The constitution makes no reference to ownership and historical claims with reference to the capital. For example, the Special interest clause refers to the provision of social services. This is probably about the provision of government services in the areas of education, medical care, housing and the like. Unlike the suggestion by some that this is about the social

37 See Minutes of Constitution drafting commission the Constitutional Commission, <https://www.abysinialaw.com/online-resources/state-constitutions?download=1217:constitution-minutes-part-2> (last accessed on 8 June 2019), pp. 135-138,169-171.

38 Interview of Negaso Gidada with Addis Admas, <https://www.youtube.com/watch?v=sM4lfV0RZaI> (last accessed 19 June 2019).

services that the city should provide to the State of Oromia and Oromos that reside in the Capital,<sup>39</sup> the wording does not suggest that the city is obliged to provide social services that are dedicated to the Oromo. It does not oblige the city administration to formulate and implement a policy of social services that targets the Afan Oromo speaking population of the city.

Arguably, it rather obliges the city administration to consider the interest of the state of Oromia when formulating and implementing the provision of social services. What those interests might be and how they can be addressed, through consultation or coordination, can only be determined on a case by case basis based on the negotiations of the city administration and the state of Oromia. In this regard, the special interest of the State of Oromia could be about ensuring that the city administration extends the provision of social services to communities that live in the surrounding towns of Oromia.<sup>40</sup> This could include ensuring that residents of the neighboring Oromia towns have access to nearby public services, including health stations, public hospitals, schools and the like. This could include making it possible for them to access government services in their language or with the help of translation. Given that Addis Ababa doubles as the capital of the State of Oromia, where most of the offices of the state government are located, the special interest of Oromia might also include that the city administration provides or facilitates the establishment of public schools that use the language of the state government as a medium of instruction. The same with public housing if such benefits are made available to employees of the city administration. In short, the argument that the Constitution, when it refers to the provision of services, is mandating the city to provide social services its Oromo residents is based on model of historical ownership that attaches special rights to the Oromo and has no basis in the Constitution

Furthermore, interpreting the special interest clause as obliging the city administration to provide social services that specifically targets residents of the city that belong to the Oromo ethnic group contradicts both the special interest clause and the nature of the Ethiopian federal system. First, as mentioned earlier, the special interest is extended to the

39 According to Tsegaye, this could be about health facilities and public transport services ‘that operate in Afan Oromo’. This is about ensuring that officials and civil servants of the Oromia state government have access to public housing and ‘the need for designated plots of land on which to build houses for the employees of the state’. He does not, however, limit social services to education, housing and medical care. It also extends, according to him, to the redefinition of the identity of the city to ensure ‘the cultural representation of the Oromo in the life of the wider city’. This is about ensuring that the language and culture of the Oromo are reflected in public schools, street names, statues and arenas of performing arts. *Tsegaye R Ararssa*, Commentary: The Interest that is not So Special: Addis Ababa, Oromia and Ethiopia, Addis Standard, <https://addisstandard.com/the-interest-that-is-not-so-special-addis-abeba-romnia-and-ethiopia/> (last accessed 19 June 2019).

40 In fact, Article 33(3) of the Addis Ababa City Government Charter Proclamation No.87/1997, which seems to outline the special interest of the State of Oromia in Addis Ababa, states that ‘[s]ervices provided to the residents of Addis Ababa by the City Government shall be extended to the surrounding residents of the State of Oromia on the same terms and conditions where such services are equally accessible to them’.

Sate of Oromia, not to the Oromo as individuals or a community. Second, according to the Constitution, the subnational units that make up the Ethiopian federation have only territorial and not personal jurisdiction. In other words, their respective authority is limited to those that reside within the boundaries of the state. It does not extend to individuals that reside in other states even if the individuals belong to the same ethnic group that dominate the state. Interpreting the special interests of Oromia as including the protection of the welfare and interests of Oromos that reside outside the State of Oromia suggests that the latter has jurisdiction beyond its boundaries.

In addition to the provision of social services, the special interest clause states that the special interest of Oromia must be respected regarding the utilization of natural resources. Arguably, this is not about natural resources in the capital. After all, there are hardly any natural resources in the capital that deserve constitutional attention. Arguably, this is, one the one hand, about the health problem that arise from the impact of the actions of the city on the natural resources of Oromia. The water bodies and open spaces in Oromia are reportedly contaminated by the direct discharge of waste from the industries located in Addis Ababa, often without any treatment.<sup>41</sup> On the other hand, this is about the fact that the capital heavily relies on the natural resources of Oromia, including for water, food products and other raw materials.<sup>42</sup> The sources of the capital's surface water are, for example, three dams, all located in the State of Oromia and within less than 30 km outside the city.<sup>43</sup> In addition, Addis Ababa has access to "three primary well fields for groundwater extraction with a total of about 50-60 wells". The three reservoirs account for 80 percent while the remaining 20 percent comes from one well system. As stated by Van Rooijen and Tadesse, "the reservoirs are fully allocated for water supply to Addis and all the available water is being used".<sup>44</sup> The same with hydroelectric supply.

From the foregoing, the special interest of the State of Oromia with respect to the utilization of natural resources is, indeed, about ownership, at least partly. But it is not about

41 'Much of the wastewater, both domestic and industrial, produced in the urban area of Addis Ababa reaches the Awash River in Oromia, untreated and seriously polluting local water sources', *D. Van Rooijen and G. Tadesse, Urban sanitation and wastewater treatment in Addis Ababa in the Awash Basin, Ethiopia*, [https://wecd-knowledge.lboro.ac.uk/resources/conference/34/Van\\_Rooijen\\_D\\_-95.pdf](https://wecd-knowledge.lboro.ac.uk/resources/conference/34/Van_Rooijen_D_-95.pdf) (last accessed on 06 November 2019), p. 5. This has adverse effect on the surrounding communities as 'the downstream river water is used for various purposes such as drinking water supply and irrigation', making 'public health risks...high', *Van Rooijen and Tadesse*, p. 5. Due to the limited wastewater treatment capacity in Addis, 'wastewater is discharged directly into natural watercourses of the Akaki River, which eventually joins the Awash River. The Akaki River is an important source of water for small scale farmers in and around Addis who are producing vegetables and fodder for livestock.', *Van Rooijen and Tadesse*, p. 5.

42 Zeleke G, Trutmann P and Denekew A (2007). Fostering New Development Pathways: Harnessing Rural-urban Linkages (RUL) to Reduce Poverty and Improve Environment in the Highlands of Ethiopia. Proceedings of A planning workshop on Thematic Research Area of the Global Mountain Program (GMP), Addis Ababa, Global Mountain Programme.

43 Van Rooijen and Tadesse, note 40, p. 2-3.

44 Van Rooijen and Tadesse, note 40.

ownership of the city. It is about ownership of natural resources located outside the city and the benefits thereof. And, partly, it is also a call for intergovernmental cooperation on the impacts associated with the utilization of natural resources that are located outside the capital.<sup>45</sup> In sum, the special interest clause, in so far as the utilization of natural resources is concerned, has nothing to do with the historical ownership of the city but with issues that emerged as a result of the relationships that arise due to the geographic location of the city within the state.

Respecting the interest of the State of Oromia in the utilization of natural resources could mean that the city, when it utilizes the natural resource of Oromia, must share the pecuniary benefits that accrues from the utilization of resources.<sup>46</sup> This means that, for example, a determined percentage of revenue generated from the usage of water and electricity should be directed to the coffers of the state of Oromia. The problem is that the natural resources located in the State of Oromia, according to the Constitution, are not owned by the state government. They are the resources and properties of the federal government. The dams from which Addis receives both its water and electricity do not belong to the state of Oromia. And the revenue that is generated from the provision of water and electricity do not go to the coffers of the city government. These are revenues generated and kept by the federal government. This means that any claim for the redirection of some of the revenues to the State of Oromia must be directed to the federal government. This is, therefore, not an issue between the state and the city. It is about financial intergovernmental relations, a federal issue that concerns all state governments and the federal government. Should regions that are the sources of natural resources be entitled to receive a certain percentage of the income generated from natural resources located within their boundaries? The Constitution, as it is now, does not recognize what in some jurisdictions call the principle of derivation. The closest that the Constitution comes to recognizing the principle of derivation is found in the concurrent power of taxation it vests on the federal government and state governments with respect to some natural resources. It allows the federal government and the states to “jointly levy and collect taxes on incomes derived from large-scale mining and all petroleum and gas operations, and royalties on such operations”.<sup>47</sup>

Finally, the special interest clause refers to joint administrative matters. Unlike the suggestion by some that this mandates the installation of power sharing arrangement in the city administration,<sup>48</sup> this is perhaps the clearest indication that the special interest clause is

45 That seems to be also what is partly implied in Article 33(4) of the Addis Ababa City Government Charter Proclamation No.87/1997, which states that ‘[t]he Addis Ababa City Government shall consult with and obtain the consent of the government of the state of Oromia prior to undertaking any development activity within the territory of the State of Oromia with view to providing services to the residents of Addis Ababa’.

46 Tsegaye, note 39, suggests that there must be ‘percentage of income that should go back to Oromia’s revenue based on what is often called the principle of derivation in federal countries’.

47 Article 78(3) of the Constitution of the Federal Democratic Republic of Ethiopia.

48 Milkessa, note 25.

about intergovernmental cooperation and not about ownership of the city. It indicates that the special interests clause is incorporated not because of the historical connection the city has with the Oromo but because of the entangled web of relations that exists between the city and the state of Oromia that simply arises, in the words of the Constitution, 'from the location of Addis Ababa within the State of Oromia'. This is an acknowledgment on the part of the Constitution that there are matters that need the attention and decision of both the city administration and state government. More specifically, there are matters that need to be jointly administered. In other words, this is about matters of intergovernmental cooperation that require the establishment of co-decision procedures and institutions.

From the foregoing, it is clear that the special interest clause is about the unavoidable matters of intergovernmental cooperation that the two administrations must engage in because of the location of the Capital within the state of Oromia. What it does is impose an obligation on the city administration to cooperate with the State of Oromia on a range of issues that affect the populations of both jurisdictions. The Special interest clause is, therefore, a call for intergovernmental cooperation. It is not an acknowledgment of the historical ownership rights of the Oromo over the city. In fact, if the constitution is affirming the Oromo ownership of the capital, then there would not have been any need to include a special interest clause.<sup>49</sup> You cannot have a special interest on something that you own. In fact, if anything, the inclusion of the special interest clause is an indication that the Constitution does not regard Oromia or the Oromo, for that matter, as the owners of the capital that are entitled to special rights/protection. Intergovernmental cooperation is the lens through which the clause should be interpreted.

Once we agree that it is the imperatives of intergovernmental cooperation and not the discourse on ownership that should inform our understanding of the special interest clause, it also becomes inappropriate to talk about rights under Article 49(5) of the Constitution. I am not even sure if one can use the language of rights in relation to the 'special interest clause'. After all, the clause refers to the special interest of the government of the state of Oromia and not the Oromo. The state of Oromia cannot be a subject of a right. It is also important to note that the reference to rights, which appears in the corresponding provision of the Proclamation, is, as mentioned earlier, dropped when the Constitution was adopted. Unlike the Proclamation, the Constitution does not expect the envisaged law to reserve political right to the Oromo.

In fact, it is unfortunate that the Constitution opted to use the phrase 'special interest'. In fact, the polarized debate on the special interest clause has its root partly in the decision of the constitution to use the phrase special interest, which has led to a lot of confusion and political wrangling. It gave, both opponents and proponent of the clause, the impression that the Constitution extends special rights to the Oromo with respect to the capital. As it is clear by now, the phrase does not accurately capture the content of the clause. In fact, it is a misnomer. As argued above, what the constitution calls for is the consideration of the inter-

49 Olaana Abbaaxiiji, note 4.

est of the state of Oromia in the formulation and implementation of policies for the capital. These are not special interests. And the duty to consider the interests of Oromia is only applicable with respect to matters that may affect the provision of social services, the utilization of natural resources, other similar matters and administrative matters that call for joint attention because of the location of the Capital with the state of Oromia. If the actions and decisions of the city have nothing to do with any of these areas, then the city has no obligation to consider the interests of the state of Oromia. The special interest clause has, for example, nothing to do with political power, let alone mandating power sharing arrangement in the city administration. It also has nothing to do with the cultural face of the city. That is why any suggestion that it implies renaming of the city streets and landmarks cannot be supported by the special interest clause.

The remaining question is whether the Constitution should have declared, explicitly or implicitly, that the Oromo are the historical owners of the city and, based on that, extended preferential treatments and benefits to the Oromo and the State of Oromia.

#### E. The argument from indigeneity

Many scholars and politicians, predominantly those hailing from the Oromo community, claim that Addis Ababa, long before it was made a capital city of the Ethiopian Empire, was inhabited by the Oromo. They claim that 'Finfinnee' was inhabited by the Tulama Oromo, an Oromo subgroup that, like many Oromos, had established "their own autonomous local government area".<sup>50</sup> The making of the capital city, goes the argument, involved the dispossession and evictions of the Tulama Oromo from their land, forcing many to move to Southern and South Eastern part of Ethiopia. The historical names of the places in the city disappeared. So have the Oromo clans that were indigenous occupants of the area where the city is located today. The construction of the city, they argue, does not reflect 'a continuity of history'.<sup>51</sup>

Based on these premises, they call for the restitution of the Oromo to their rightful place. They want the Constitution to acknowledge this historical injustice. Of course, they are not only demanding symbolic recognition. They expect the constitution to translate the act of recognition into a reality. As a result, they, would for example, want to see Oromiffa as the co-official language of the city administration. They would want to see a power sharing arrangement that guarantees a place for the Oromo in the administration of the city.

Basically, this brings to fore the thorny topic of indigeneity. This is a politics of indigeneity, which says that we are owners, others are guests; we have special rights to which others are not entitled. It is a claim based on historical habitation. This is a politics that ignores the current demographic reality of the city or does not believe that the current demo-

50 *Getahun Benti*, The dynamics of migration to Addis Ababa (Ethiopia) and the over urbanization of the city, c.1941-c.1974, East Lansing 2000.

51 Fekadu Nigussa Geleta, note 21.

graphic reality should take center stage. It harks back to the past and selects a particular community as the rightful owners of a land and renders individuals that do belong to the selected community as guests. In fact, that is exactly what political parties that claim to represent the Oromo, in a joint press release, stated in 2018.<sup>52</sup> They argued that the Oromo are the historical owners of the city. They were also quick to state that this does not mean that members of other communities cannot live in the city. Many interpreted this declaration, perhaps reasonably so, as stating, in effect, that the non-Oromo that reside in the city are guests in a city owned by the Oromo and whose rights must, nevertheless, be respected. This is even though the Oromo, as mentioned earlier, account for just under 20 percent of the population of the city.

The problem with the politics of indigeneity is the difficulty with ascertaining, with any degree of precision, the so-called historical owners of a place. Who is indigenous? How do we determine indigeneity? Does the community have to show that they were the original settlers of the land? If so, how would a community be able to do that? Or is it based on prior inhabitation? If so, prior to who? Prior to when? How far in time do we have to go back to establish the indigeneity of a community to a particular area? 100 years? 500 years? Even if the Oromo is considered indigenous, it is still not clear if indigeneity has to be established with reference to belonging to the ethnic group of the Oromo or to the specific Oromo sub-group that can trace its connection to the area that is today known as Addis Ababa and its environs. In Nigeria, for example, indigeneity is not established by establishing attachment to an ethnic group that historically inhabit the area.<sup>53</sup> Beyond ethnic link, an individual must establish that his or her ancestors belong to a community that is indigenous to the local area in question. One can belong to the same ethnic group but hail from a different local area. The politics of indigeneity raises complex questions. There is no clear answer to many of these questions.

It is precisely because of the problematic nature of the claim based on indigeneity that we are now hearing counter claims that also harks back to distant past to claim ownership. We have now heard, probably for the first time, about a medieval city named Berera (Barara) that allegedly is the name of what is today Addis Ababa.<sup>54</sup> Proponents of this argue that we should not only look back to 150 years ago. They go back to 500 years ago and claim that there were other communities (most notably individuals belonging to the Amhara ethnic group) that inhabited the area long before the arrival of the Oromo in the 16<sup>th</sup> century

52 See for instance, Ezega News, Oromo Parties Claim Ownership of Addis Ababa, Condemn Attacks on Oromos, <https://www.ezega.com/News/NewsDetails/6646/Oromo-Parties-Claim-Ownership-of-Addis-Ababa-Condemn-Attacks-on-Oromos> (last accessed on 19 June 2019).

53 Yonatan Fessha, Empowerment and exclusion: The story of two African federations, in: Alain-G Gagnon/Michael Burgess (eds.), Revisiting unity and diversity in federal countries: Changing concepts, reform proposals and new institutional realities, Leiden 2018, p.57.

54 See for instance, Is it Be(a)rara or Finfinnee? Debates on Addis Ababa!, <https://www.zehabesha.com/is-it-bearara-or-finfinnee-debates-on-addis-ababa/> (last accessed on 03 April 2020).

and the displacement that followed.<sup>55</sup> Berera has now made it to the imagination of many that reject the Oromo ownership of what is today Addis Ababa. It has become a rallying point for the movement against what they regard as the creeping “oromization of Addis Ababa”.<sup>56</sup> The contestation around whether the capital is Finfinnee or Berera is clear indication of the problematic nature of employing the politics of indigeneity.

The problematic nature of the indigeneity argument should not suggest that there are no legitimate claims that the Oromo and the State of Oromia can make on the city administration. There are compelling reasons that require the city administration to take the legitimate concerns of the Oromo and the State of Oromia seriously and address those concerns properly. This might require introducing institutional and symbolic measures that promote an inclusive capital that is conscious of the plight of those that feel exploited and excluded by its policies and actions, notably the Oromo dominated neighborhoods that had faced the brunt of its unbridled expansion. As argued above, however, the interests of the State of Oromia cannot be formulated within the framework of the principle of indigeneity. The legitimate concerns of the Oromo cannot be addressed within a constitutional and political framework that make some owners while rendering others as guests.

## F. Conclusion

The Constitution envisages the special interests of the State of Oromia to be addressed through the vehicle of intergovernmental cooperation that must be guided based on the principle of accommodation. Embedded in the special interest clause is the duty of intergovernmental cooperation. As can be inferred from the discussion of the special interest clause, this probably entails three things. First, the city administration has the duty to consult the State of Oromia on decisions and actions that affect the surrounding towns of Oromia and its inhabitants. Second, it means that the two administrations, where necessary, have to engage in coordination of policy administration. Third, the duty of intergovernmental cooperation means that, with respect to some matters, the two administration might have to engage in joint decision making. This might involve establishing co-decision processes and institutions.

Embedded in the special interest clause is also the principle of accommodation. The goal of the constitutionally sanctioned intergovernmental cooperation is to accommodate the interests of the surrounding Oromia towns and their inhabitants. The Constitution clearly expects the city administration to accommodate the interests of Oromia in the broadly formulated areas of social services, utilization of natural resources and joint administrative

55 Proponents of this view largely rely on an article that was published in 2009: Richard Pankhurst and Breternitz Hartwig, “Barara, the Royal City of 15th and Early 16th Century (Ethiopia), Medieval and Other Early Settlements Between Wechecha Range and Mt Yerer: Results from a Recent Survey.” *Annales d’Ethiopie*, Vol. 24, 2009, pp. 209-249.

56 *Olaana Abbaaxiiqi*, Rival capital camps must face Finfinnee facts, <https://www.ethiopia-insight.com/2019/03/29/rival-capital-camps-must-face-Finfinnee-facts/> (last accessed on 19 June 2019).

matters. The nature and extent of the accommodation depends, however, on the outcome of the political negotiations that must happen between the two administrations.