Fiscal Federalism in Somalia: Issues, Challenges and Agenda for Reform

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ABSTRACT

Following a series of reconciliation conferences, Somalia embraced federalism as a system of governancein 2004 when the Transitional Federal Charter was adopted in Mpagathi, Kenya. It was fully adopted in 2012 when the provisional constitution was approved by over 800-member constitutional assembly in Mogadishu, Somalia, and that created the Federal Republic of Somalia. Since then, the relevance of federalism in the Somali context has been questioned if it is suitable to settle the basis of a three-decade national debate on how to redesign a government that is for the people. At the heart of a bitter and draining schism and bone of contention between the levels of government is fiscal federalism. It is a daunting taskthat is hindering every elected government from meeting societal demands by equally sharing what the world puts on our table. As this problem grows, this paper is a contribution to an ongoing dialogue to an existing challenge that stands in the way of a workable agreement, it also suggests some critical areas that need to be considered if this phenomenon is to survive within the Somali context. This study identifies constitutional ambiguity (legal gap), fragile political commitment, and the lack of a deeper understanding of federalism as the biggest obstacles to successful federalism in Somalia. Finally, the study concludes by recommending that the Finance Ministers' Fiscal Forum (FMFF) together with the Technical Intergovernmental Fiscal Federalism Committee (IGFFC) update and review the obsolete, socialist-like tax regimes that do not have any significance in the federal system, taking any possible measures to end the tenure of the provisional constitution, building a strong institutional capacity to withstand any political turmoil between FGS and FMSs and lastly mitigating the insecurity in many parts of the nation.

INTRODUCTION

Federalism can be traced back to the Latin word "fetus", which means the starting point of a process that leads to the merger of two or more political bodies. The basic foundation for the initial theory of Fiscal Federalism was laid by Kenneth Arrow, Richard Musgrave, and Paul Sadweh Samuelson‟ 's two important papers (1954, 1955) on the theory of public goods. Musgrave 1959 book on public finance provided the framework for what became accepted as the proper role of the state in the economy. The theory was later known as the "Decentralisation Theorem‟ (Ozo-Eson, 2005). Within this framework, three roles were identified for the government sector, these were the roles of government in correcting various forms of market failure, ensuring an equitable income distribution, and seeking stability in the macro-economy at full employment and stable prices (Musgrave, 1959).

Thus, the government was expected to step in where the market mechanism failed due to various types of public goods characteristics. Governments and their officials were seen as the custodians of public interest who would seek to maximize social welfare based on their benevolence or the need to ensure electoral success in democracies (Ozo-Eson, 2005).

Although federalism lacks a formal definition in academia, but according to various interpretations (Heywood 1999; Elazar 1987; Montani 2017), the essence of federalism remains a means of organizing a nation in which two or more governments share responsibility for exercising authority over the same people in the same geographical area. For example, Africa's three main federal states; Nigeria, Ethiopia, and South Africa, have

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all adopted the federal system to offer accommodative decentralization, despite each having unique characteristics (Dickovick 2014).

In each of these three African nations adopting federalism was a means to solve a societal problem that -if not solved- would have endangered their existence; in both Ethiopia and South Africa the issue was deeply entrenched with an Ethno-regional federal system whereby in Ethiopia, an ethnic coalition dominated by Tigray People's Liberation Front established an ethnic federalism in 1994, in south Africa Following the collapse of the apartheid regime, a (quasi) federal arrangement, consisting on three tiers of governments (national, provincial and local), was adopted in 1996, (Montani 2017).

Brief History of the Structure of Federalism in Somalia

In Somalia, the first attempt to assemble the Somali state was made during the anti-colonial period and its lead-up to independence and unification in 1960 (Elmi 2015). For this, since independence and unification in 1960, the Somali state was based on the phenomenon of 'Greater Somalia', an idea that would unite the five major territories inhabited by ethnic Somalis during the colonial period (Dahir & Yassin 2021). However, after the military coup followed by decades of authoritarian rule (1969-1991) and the subsequent civil war, successive reconciliation conferences paved the way for the establishment of a transitional federal government in 2004 in the hopes of ending the blood-shed and state fragmentation, and that is what distinguishes Somalia's federal system from others, it was primarily meant to restore the trust of the different clans towards the state after 21 years of Barre's predatory and repressive regime (Elmi 2014).

The history of federalism and power decentralization in Somalia was not a newborn idea but rather it had earlier backers in Somali history before independence (PDRC 2009).The Hizbia Destur Mustaqil Somali (Somali Independent Constitutional Party) Formerly known as Hizbia Degil & Mirifle (HDM) in the 1940s under the presidency of Haji Abdullahi Begedhi, in their strongholds of the southern riverine area was the first prime mover of the idea of federalism thinking it would protect their interests and provide autonomy (Heritage Institute for Policy Studies 2020). Following the footprints of the HDM doctrine, Puntland state became another early advocate of the federal system since their establishment in 1998.After more than a decade of chaos and the collapse of state institutions, a decentralized form of government was first introduced during the Arta Peace and Reconciliation Conference in Djibouti in 2000. In the subsequent 2004 Mbagathi peace conference in Kenya, federalism was agreed as a key pillar of state building in Somalia and a precaution that the memories of a centralized state would not be relived (Somali Public Agenda 2021). However, the practical implementation of the federal system in Somalia only began in 2013 when Jubaland was established. Between 2013 and 2016, four federal units namely Jubaland (2013), South West (2014), Galmudug (2015), and Hirshabelle (2016) were formed under the first term of President Hassan Sheikh Mohamoud that lasted 2012-2016.

In the year 2012, a legitimate government was elected, and a new provisional federal constitution and a new federal parliament were also established after immense pressure from the international community and regional leaders (Dahir & Yassin 2021).The provisional constitution described Somalia's Third Republic as "Federal, Sovereign, and Democratic". The constitution also envisages the devolution of administrative power from the central federal government to the Federal Member State(s). It stipulated that the federal government retains power for monetary, national defence, foreign relations, and citizenship and immigration policies. It also dictated that the FGS and the FMS should negotiate all the remaining powers and resources through a constructive and collaborative relationship (Elmi 2015). Since 2012, the post-transitional institutions and political order necessary for a functioning federal state gradually began to take shape, with progress seen particularly in the Southern and Central regions. Between 2012 and 2016, four interim regional administrations, which eventually became FMS, were formed, Jubaland, Galmudug, Hirshabelle, and the South West (Elmi 201).

Despite the Provisional Constitution of 2012 defining the country as "Federal", the problem has always been that it did not describe some important issues regarding different aspects of federalism. As some scholars argue there was incomplete transition to the federal system and the biggest reason behind this was that Somalia adopted a federal system of government while all rules, regulations, and laws, including the country's revenue

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and administrative laws remained on a unitary basis. For example, the existing tax laws and regulations are based on unitary and socialist governments having absolute power overpolitics, and large and medium businesses were run under state-owned enterprises and industries (Najibullah 2018).

The system has completely changed and currently, Somalia is a non-socialist federal government and the fundamental regulations are not yet conformed to federalism. In addition, there is no clear fiscal federalism framework. This framework could explain how federalism applies in the economics of fiscal policy setting a clear strategy for both sides of the fiscal equation. On the revenue side, it sets a clear strategy for tax collection assignment among the federal government and states, fiscal regime design, and revenue sharing mechanism. On the expenditure side, it sets the strategy of budgeting, transfers, and managing government spending in a transparent and accountable manner (SPA 2021).

However, there are some agreements between the federal government and member states on tax harmonization and revenue sharing model of the fishery and petroleum resources, but still, these agreements or in some cases, memorandum of understanding (MoU) cannot serve as a final reference since the foundation laws are not yet approved by the parliament such as revenue law and petroleum law. Hence, discussions and agreements on intergovernmental relations regarding the economic and fiscal aspects of federalism have not progressed as quickly as those regarding other elements of federalism. Thus, currently, fiscal responsibilities are unclear, (World Bank 2015).

The current transfers that the FGS & FMS share are mostly grants from donors, and the distribution methods are not derivation-based as they are not based on social indicators such as size of population, level of development, poverty, etc. Rather, they are based on a discretionary decision by the federal government which may end up violating the principles of fiscal imbalances, thus creating conflicts among the levels of government,(Najibullah &Yassin 2019). To date, resource-sharing mechanisms have been agreed only for petroleum and fishery resources by the federal government, all states, and the Benadir region, excluding Somaliland.

Nevertheless; the process of federalism and administration decentralization has not been a smooth transition, for example as Dominik Balthasar (2018) contends the administrative architecture reflected by the tight control that the Barre’s Supreme Revolutionary Council maintained on all levels of administration was intended to confront tribalism. Siad Barre considered the social division a significant challenge to national unity, but this kind of governance system federalized clans instead of citizens. The five FMS plus Somaliland were all established based on clan majority. For this reason, Somali federalism is nothing more than each clan carving up its state and constitution which sometimes creates border tensions between the FMS, such as the Somaliland-Puntland conflict over Tukaraq in 2017 and the Galmudug-Hirshabelle feud over Mataban town (Mohamed and Mohamed 2015).

Political disagreements between the federal government of Somalis (FGS) and its regional constituent units (FMS), mainly stem from which tier of the two levels has which powers (Max Planck Foundation 2016). This has created a spill-over effect on the relationship between the centre and the peripheries causing the whole country to be subject to dwindling standards of living with no hope visible at the end of the tunnel. Additionally, issues like ambiguities inherent in the provisional constitution, the lack of a constitutional court that has the mandate to settle such matters, and the lack of inter-governmental institutions that can facilitate the smooth and healthy relationship between the two tiers of the nation add insult to the injury (SPA 2021).

Nevertheless, the greatest weakness of federalism seems to be stemming from fiscal federalism/decentralization. Aframework that could have explained how federalism applies in the economics of fiscal policy setting. Our country’s legal framework has failed to illustrate which level of the two (FMS & FGS) raised revenues; and which level has the power to borrow. Article 50[b][e][f] of the federal provisional constitution stipulates without clarity, that power is given to the level of government where it is likely to be most effectively exercised; resources shall be fairly distributed, and the responsibility for the raising of revenue shall be given to the level of government where its likely to be most effectively exercised (Dahir & Yassin 2021). Now, take this information and compare to it how the FMSs operate fiscally, every member state is leading its race without any harmonization at all.

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Therefore; this paper aims to study recent developments regarding fiscal federalism in Somaliawhich remains relatively little scholarly discussed on Somalia's nascent federalist project. Detailing pressing challenges and finally recommending possible solutions.

Taxation and Domestic Revenue Mobilization in Somalia

According to a report by the World Bank, authored by Junquera-Varela et al (2017), Domestic revenue mobilization (DRM) is a key priority for sustainable development agendas. The Addis Ababa Action Agenda of July 2015 emphasized the importance of DRM noting that it's essential in achieving sustainable development goals (SDGs).

In 2015 the World Bank launched the first edition of a series of Somalia Economic Update publications, in that report it was estimated that the Federal Government of Somalia collected $30 million in domestic revenue having a tax share of 0.9% to the GDP. Nevertheless, the domestic revenue for the government increased to $84.3 million financing 56% of the recurrent expenditures. A tax-driven revenue contributed 70% of the revenue from 2012 to 2014. Tax on international trade from Mogadishu's port and airport was the key source for the government revenue contributing 91% of the domestic revenue between 2012 and 2014. In 2022 domestic revenue which is mainly customs duties collected at the Mogadishu port and Mogadishu Aden Adde airportamounted to US$5.5 million to US$8.5 million monthly. This is supplemented by sales tax on Khat, also collected at the port and airport, and income tax on government wages and salaries.

However, domestic revenue which mainly comes from two sources (Mogadishu Port and Mogadishu Aden Adde airport) can no longer sustain an economy aggravated by nuisance taxes and rampant tax avoidance by the big companies (World Bank 2015).In the medium term, the Government should revise tax revenues by reforming tax administration, expansion of the tax base, and customs reforms. In this respect, the federal government should issue licenses to financial institutions, telecommunications firms (including telephone, TV, and radio companies), airlines, large manufacturers, and firms engaged in the import and export trade to meet pressing societal needs.

As mentioned above the lack of a strong tax base at both federal and state levels remains to be the challenge to fund the rudimentary responsibilities entrusted to them. Puntland and FGS raise comparatively larger revenues from their respective areas as it is indicated in their annual budgets. The other four member states depend on limited taxation from domestic revenues and most except Jubal and receive monthly budget support from FGS through a transfer designated for FMS' with no-functioning ports (Somali Public Agenda 2021). However, some challenges block both the FGS and FMS from collecting a long list of taxes; including but not limited to, insecurity and inability to control the entire state limits the prospects of most of the FMS, Political infighting within the FMS or between the center and periphery, etc. (Isak 2019).

Administratively, the Ministry of Finance of the federal government has so far implemented some major reforms including the Introduction of sales taxes on imported goods collected at the air and seaport, Harmonization of tax rates of tobacco, khat, and also departure tax throughout all states signed by the intergovernmental finance ministers of the federal government and states in Garowe, Puntl and in September 2017.Establishment of Large and Medium Taxpayers Office (LMTO) which is a specialized office for collection of taxes from large and medium-sized enterprises/taxpayers in Mogadishu, modernization of the collection system where after assessment, the taxpayer can deposit the taxes to which of any licensed private bank or directly to the Central Bank (Federal M. of Finance, 2022)

The revenue performances equipped with the above effective reforms, success in economic policy benchmarks with IMF's Staff Monitoring Program (SMP), and the government's commitment to the reform together will build a strong relationship and better engagement with donors and other international partners (Junquera-Varela et al, 2017). The FGS will also have to review and finalize a revenue-sharing mechanism with Federal Member States, through the intergovernmental fiscal forum and the ongoing constitutional process. FGS and FMS should harmonize their tax regimes and FGS will develop the capacity of local/district councils to mobilize local revenues (Abshir 2020).

However, in light of the non-existence of the division of functions and assignments of revenues, each FMS is engaged in collecting taxes from the territory under its writ and retaining it for its use. International trade tax represents a vast proportion of the revenues of Puntl and and Jubal and along with fees. They both levy a de facto lower tax rate on imported trade to discourage business people from using FGS-managed Mogadishu port. A good example that shows how the revenue-generating powers of FGS & FMS overlap is the case of Puntland state, whereby Puntland collects almost the same revenue that the federal government of Somalia raises. Such revenues revenue include; among others, customs duty, sales tax, telecom charges, corporate income tax, turnover tax, personal income tax (both public and private sector), and airport/port fees (Abubakar 2016). Not only this, the lack of a deeper understanding of fiscal federalism has pushed states like Puntland to issue licenses to foreign fishing companies with drift nets outlawed in international waters (Garowe Online 2018).

CONCEPTUAL REVIEW OF FISCAL FEDERALISM IN AFRICA

To begin with, Federalism in Africa gained momentum in the 1990s when single-partly African political regimes introduced political and economic liberalizations in their respective states (Bushashe 2023). In Africa, federalism is usually regarded as a method to 'hold together' divided communities, especially following negative experiences involving dominant governing parties, top-down state administration, and high degrees of fiscal centralism (Dickovick 2014).

For example, Africa's three main federal states; Nigeria, Ethiopia, and South Africahave adopted the federal system to offer accommodative decentralization, despite each having unique characteristics. In Nigeria, 'Africa's most well-known federal system' (Keller 2002), federalism has evolved from the three centrifugal, Ethno-regional federal system in 1960 into a more integrated, 36-unit, multiethnic federation designed to bridge north-south ethnic and sectarian divisions and, in the case of Biafra, to prevent separatism. In Ethiopia, an ethnic coalition dominated by the Tigray People's Liberation Front established an ethnic federalism in 1994 following the downfall of the Derg regime (1974-1991).

Nigeria's federalism quest specifically fiscal decentralization was not a smooth process rather numerous hurdles were faced and conquered, first of all, the transition was challenged by the amalgamation of Nigeria in 1914, the component units, the protectorate of Northern Nigeria, the protectorate of Southern Nigeria and the Colony of Lagos-each enjoyed complete fiscal independence (Akpo,2004). Additionally, several occasions of interference of different Presidents and the Federal Ministry of Finance on the formula for revenue sharing were recorded.

For example, in January 2004, the Federal Ministry of Finance in a letter to the Commission gave the Federal Government a share of 54.68% and a grant of 2% of the states. The National Revenue Mobilization, Allocation and Fiscal Commission (NRMAFC) disagreed with the Ministry of its non-compliance with the provision of section 164(1) of the 1999 Constitution. But despite these challenges and many others, Nigeria's fiscal federalism is a force to reckon with and an example to be considered in other African contexts like Somalia.

On the other hand, following the collapse of the apartheid regime in South Africa, a (quasi) federal arrangement, consisting of three tiers of governments (national, provincial, and local), has been adopted in 1996. Although each of these states has its unique characteristics, they share the same logic for federalism: stability. The decentralization of governance in Sub-Saharan Africa has become widespread in the past two decades, with several African countries (e.g. Ghana, Kenya, Tanzania, Uganda, and Cote d'Ivoire) introducing devolution of power as governance reform to make policy more responsive to the needs of ordinary citizens (Montani 2017).

In all three African nations, fiscal decentralization was a means of distributing or dispersing public funds away from the central location or authority to local or regional authorities (Halim, 2022). In the case of Nigeria, It dates back to 1946 when the Richards constitution was introduced. Over the years fiscal commissions were appointed to work out fiscal and financial arrangements that were consistent with the assignment of powers and responsibilities to each level of government. The idea was that each level of government should have adequate funds to effectively and efficiently discharge its responsibilities. Suffice it to say that Nigeria's fiscal federalism has emanated from historical, economic, political, geographical, cultural, and social factors. In all of these, fiscal arrangements have remained a controversial issue since 1946 (Ekpo, 2004). In South Africa, fiscal federalism, from the very beginning, raised several fundamental issues. The assignment of responsibilities among federating units in South Africa has also created problems, First, there was the question of how each level of government would be given adequate fiscal powers to enable it to maximize its revenue and discharge its constitutional duties and still preserve its fiscal autonomy, Second, there were problems of allocating the centrally collected revenue equitably among all the levels of governments, Third, fiscal federalism had been encumbered in the past by non-jurisdictional problems such as imbalance in population, size of land area, resource endowments and levels of development (Okollo & Akpokighe, 2014).

In Ethiopia, the concept of fiscal federalism dates back to Emperor Haile Selassie when Ethiopia had a long history of substantial central control and a centrally planned economy under the Mengistu regime. Both revenue and expenditure have been intensely concentrated under the unitary state of Ethiopia. After the fall of the military regime in 1991, the Transitional Government of Ethiopia (TGE) installed a federal assembly by forming ethnic-based territorial states.

The TGE initiated a far-reaching institutional and political transformation. It made an essential move towards the lounge decentralization program and restructuring along with the federal lines Million (A. Bushashe & Y. Bayiley, 2023).

The fact that Ethiopia is prone to ethnic-based conflict, armed-based ethno-nationalist, and separatist groups, fiscal federalism aims to help national or regional state governments, based on their initiatives, improve their regions and narrow the prevailing gap between regions regarding economic growth and development (Ghebrehiwet, 2015).Since fiscal decentralization brings efficient public service delivery and economic growth, fills development gaps, and reduces income inequality, it can avoid the risk of civil war and instability in the country.

The experience of the above-mentioned federal countries could be used as a guide in the case of Somalia. Lessons like reversing the age-long fiscal dominance by the federal government, the need for an efficient formula between the centre and other tiers of government, radical diversification of the Somali economy to other viable and productive sectors of the economy, such as agriculture, mining, industry, and human development, diversifying and strengthening the fiscal base of subnational governments are all applicable and viable lessons Somalia can learn from federal giants in Africa.

CONCEPTUAL ANALYSIS OF FISCAL FEDERALISM IN SOMALIA

The word "fiscal" refers to anything concerning government finances in terms of revenue and expenditures, as well as taxes and public debts and Fiscal federalism connotes the interplay of the mechanisms of government in the ownership, control, management, and distribution of resources between the regions (states) and the center, (Okolo & Akpokighe, 2014). It is the interplay of the allocation of financial functions and responsibilities between the various tiers of government.

As stated above, the 2012 Provisional Constitution (PC) introduced a federal system of governance without providing a clear legal and institutional structure for managing fiscal federalism (Dahir & Yassin 2021). It only specified three levels of government, at the federal, state, and district levels.

However, the PC neither assigned functions to each level of government nor provided an institutional framework for intergovernmental relations. On the distribution of revenues, the PC provided that it would be agreed between the FGS and the FMSs, but this remains an ongoing process.

The result has been a fiscal regime with asymmetrical results, where the FGS collects and spends most of the revenues in Mogadishu and the surrounding region (Banadir) while the FMSs collect and retain all taxes within their jurisdiction (Mohamed. I.M, 2016). As portrayed in figure 01.

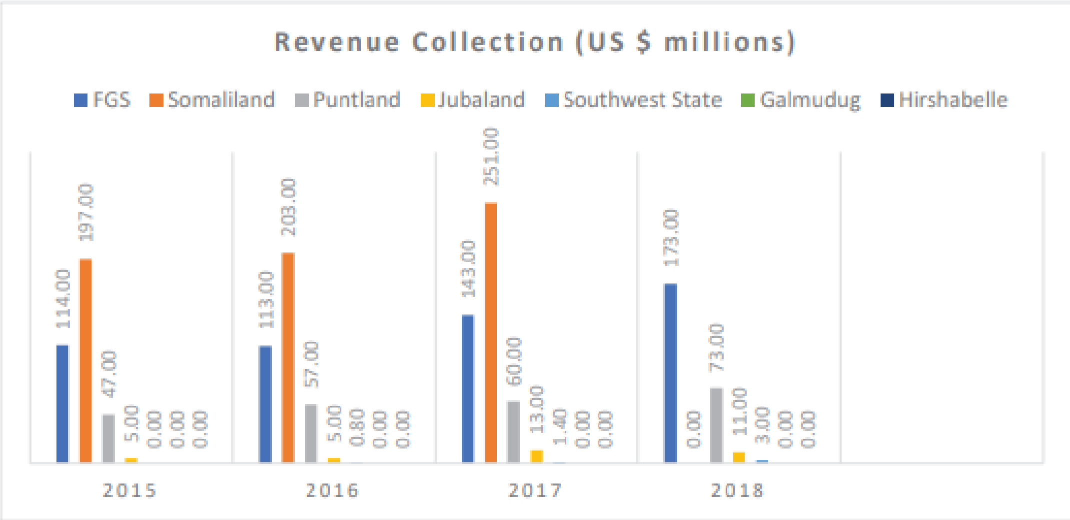

Figure 01: Revenue Collection by FGS and FMSs

Source: IMF estimates and Somalia Authorities

Figure 01 shows that out of the 5 FMSs and Somaliland, the states of South West, Galmudug, and Hirshabeelle hardly collect any revenue and it is evident that those states with operational ports (Somaliland, Puntl and & Jubaland) collect more revenue. Moreover, the main sources of revenue in all these jurisdictions are trade taxes (collected mainly in ports), non-tax revenues, and taxes on goods and services (Directorate of Inland Revenue 2020). Revenues from income and corporate taxes are negligible, signifying weak tax authorities and some elements of tax evasion/avoidance. The FGSs and FMSs also levy similar, but un-harmonized tax rates. These issues are being addressed through the FGS/FMSs Intergovernmental Fiscal Forum (IGFF) established to harmonize tax rates and address other related issues, such as harmonization of fiscal, budget, accounting frameworks, and revenue sharing. It should also be noted that municipalities also collect insignificant revenues from charges of services, property rates, licenses, rent, and market taxes (IMF 2018).

Despite the absence of a revenue-sharing framework, the FGS budget allocates resources for revenue transfers to the FMSs. The allocations rose from US$22.8 million in 2017 to US$27.6 million in 2019 but declined as a percentage of total revenue from 9.2 percent to 8 percent during the same period. These allocations are from two sources; Overseas Development Assistance (ODA) and FGS revenue. The first source is dispersed through the Ministry of Finance while the latter is financed through the Federal Ministry of Interior, Federal Affairs, and Reconciliation. Arguably, FGS distributes these transfers unevenly among FMSs, but Benadir Regional Authority (BRA) receives 15% from Mogadishu Port as well as support from Overseas Development Assistance. The allocation of these transfers should have been based on the size of the population, level of development, poverty, vulnerability, etc. (Isak & Ali 2019.

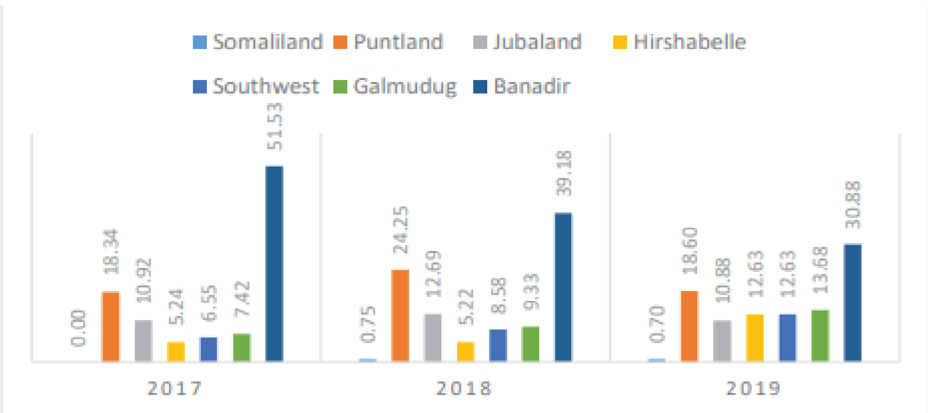

Figure 02: FGS Budget Revenue Transfers to FMSs and Somaliland (% of total transfers)

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Source: FGS Budget Appropriate Act, 2019

Under the IGFF arrangements, progress has been made in promoting cooperation between FGS and FMS, a natural resource sharing agreement was reached in Baidoa in June 2018, and a fisheries and revenue sharing agreement in March 2019 in Addis Ababa. Legislative Bills on revenue harmonization and revenue administration have been tabled in Parliament to bolster cooperation on fiscal matters. More substantially, the Council of Ministers' Inclusive Politics Forum is reviewing possible fiscal federalism models that could be adopted for Somalia (MPIED & Ministry of Finance 2020). The outcome of this process will inform the constitutional review process concerning fiscal federalism. The Forum will clarify functional assignments of FSG and FMSs, mechanisms for revenue sharing, management of natural resources, and public borrowing powers for consideration during the ongoing review of the Constitution under the Constitutional Review Process.

Notwithstanding the constant political rift between the center and the periphery, two strategic initiatives that have achieved commendable milestones are the Finance Minister's Fiscal Forum (FMFF) established in early 2016 together with its partner; Technical Intergovernmental Fiscal Federalism Committee (IGFFC). After a series of over ten (10)meetings in different venues, they succeeded in harmonizing some tax schemes such as Khat taxes ($2.5 per bundle), international departure tax ($30 per international passenger), and cigarettes ($30 per cartoon). However, although the rates were agreed upon, there is no evidence that they have been applied uniformly (FGS, Revenue Department 2021).

Besides, the intergovernmental fiscal forum also agreed on the principle of harmonized customs (Ports) tariff rates and payroll and personal income by both governmental and non-government employees. Furthermore, they settled on uniformly levying progressive tax rates on salaries ranging from 6% ($201-$700), 12% ($701-$1500), and lastly $18 (any salary above $1500). Before concluding this agreement, FGS and FMS used to collect different rates from payroll taxes. Previously, FGS took the above rates from its civil service payroll; South West, Galmudug, and Hirshabelle collected a 5% flat tax from all the government employees while only Puntland imposed a 6% flat tax on their civil servants' income. This contradiction caused some NGOs to relocate to these states which applied lower rates of personal income tax (FGS, Revenue Department 2021).

In addition to that, the Federal Government of Somalia (FGS) and its member states have made a significant effort to de-escalate the tensions originating from the matter of fiscal federal federalism. The parties have inked a Memorandum of Understanding (MoU) on certain issues regarding tax harmonization of specific goods, petroleum revenue, and fishery resource-sharing in tandem with Article 44 of the provisional constitution. Specifically, on fishery sector and interim agreement was designed in February 2019 in Mogadishu, this game-changing agreement was comprised of six Articles that will settle the foundation of how this sector will be managed. Among those six Articles was the issue of who has the ultimate constitutional right to give out fishing licenses, the establishment of the Somalia Fisheries Authority was also another key factor (Goobjoog 2018).Without wasting any time, the federal government of Somalia also reached a breakthrough agreement with the FMSs on the ownership, management, and sharing of petroleum and mineral resources in June 2018 Baidoa. However, Puntl and and Jubal and opposed this agreement soon after it was approved by the federal parliament in 2020 (Federal Government of Somalia 2020).

The biggest reason that the states of Puntl and and Jubal and rejected the revenue-sharing bill of the fishery and marine resources sector was the fact that FGS had signed another agreement in February 2018 regarding tuna licensing, but FGS failed to complywith the terms of the agreement to share the revenue with terms FMSs as agreed upon in September 2019 Addis Ababa. The FGS Ministry of Fisheries issued one-year licenses to 31 vessels for the Chinese Overseas Fisheries Association (COFA). Besides that, the ministry also renewed the license of the association for one more year in November 2019. Consequently, FGS has accrued US$ 1.68 million in revenue in February 2020 from the 2019 tuna license. However, as of writing this paper, these revenues are yet to be shared with the FMS (FGS, Ministry of Fisheries and Natural Resources, 2020).

Also, with the absence of a clear federal act dividing revenue-raising powers between them, the FGS reached an agreement with some of the FMSs on harmonizing Sin taxes (excise tax on specific goods due to their ability or perception to be harmful or costly to the society), and increasing their rates. Those taxes included tobacco, khat, etc. (Isak & Ali 2019).

Nonetheless, in a typical Somali perspective, fiscal federalism remains a key component to a sustainable and non-fragile economy for two reasons, First, since subnational or local governments are considerably more in touch with consumers or voters than the central government, decentralization can enhance economic growth by improving the efficiency of FMSs public service provisions. As a result, they are more acquainted with local tastes than the national government as also argued by Boadway (2005) and Najibullah (2018). Second, devolution may promote the rivalry between FMSs to establish a good fit between FMS public service provision and FMS wanting to attract mobile aspects of production, leading to economic growth as also argued by (Boadway & Tremblay, 2012; Tiebout, 1956).

THEORETICAL UNDERPINNING OF FISCAL FEDERALISM

The study was guided by the “Decentralisation Theorem”. The basic foundations for the initial theory of Fiscal Federalism were laid by Kenneth Arrow, Richard Musgrave, and Paul Sadweh Samuelson. Samuelson’s two important papers (1954, 1955) on the theory of public goods, Arrow’s discourse (1970) on the roles of the public and private sectors, and Musgrave’s book (1959) on public finance provided the framework for what became accepted as the proper role of the state in the economy. The theory focuses on situations where different levels of government provide efficient levels of outputs of public goods “for those goods whose special patterns of benefits are encompassed by the geographical scope of jurisdictions” (Oates, 2006). From an African perspective, the decentralization theorem involves a nuanced understanding of power dynamics, identity politics, and resource distribution within diverse societies. In Africa, where colonial legacies and ethnic diversity often intersect, federal systems are adopted to accommodate regional autonomy and mitigate tensions (Chitondo & Chanda, 2023).

This framework identifies three roles for the government sector. These are correcting various dimensions of market failure, maintaining macroeconomic stability, and redressing income inequality. The central government is responsible for the correction of market failure and maintenance of macroeconomic stability, while the subnational governments and the central government are jointly responsible for redressing income inequality (Ozon-Eson, 2005).This principle, which Oates (1972) has formalized into the “Decentralization Theorem” constitutes the basic foundation for what may be referred to as the first-generation theory of fiscal decentralization (Oates, 2006; Bird, 2009). Such a situation came to be known as “perfect mapping” or “fiscal equivalence” (Ma, 1995; Olson, 1996).

From the foregoing, the role assignment that flows from the basic theory of fiscal federalism is summarized as follows: The central government is expected to ensure equitable distribution of income, maintain macroeconomic stability, and provide national public goods. Decentralized levels of government on the other hand are expected to concentrate on the provision of local public goods with the central government providing targeted grants in cases where there are jurisdictional spill-overs associated with local public goods. Once the assignment of roles has been carried out, the next step in the theoretical framework is to determine the appropriate taxing framework. In addressing this tax assignment problem, attention is paid to the need to avoid distortions resulting from decentralized taxation of mobile tax bases.

Gordon (1983) emphasizes that the extensive application of non-benefit taxes on mobile factors at decentralized levels of government could result in distortions in the location of economic activity. Following the assignment of functions, taxes that matched more effectively the assigned functions are also assigned to the relevant tier or level of government. For example, progressive income tax is suited tothe functions of income redistribution and macroeconomic stabilization and is therefore assigned to the central government. On the other hand, property taxes and user fees were deemed more appropriate for local governments. Benefits taxes are also prescribed for decentralized governments based on the conclusion that such taxes promote economic efficiency when dealing with mobile economic units, be they individuals or firms (Olson, 1982).

The final element of this basic theory is the need for fiscal equalization. This is in the form of lump sum transfers from the central government to decentralized governments. The arguments for equalization are mainly two. The first which is on efficiency grounds sees equalization as a way of correcting for distorted migration patterns. The second is to assist poorer regions or jurisdictions. Equalization is important in several federations. For example, Canada has an elaborate equalization scheme built into its inter-governmental fiscal arrangements (Boadway and Hobson, 2009; Weingast, 1995).

Pressing Pitfalls and Challenges of Fiscal Federalism in Somalia

Over thirty years of state fragmentation and civil unrest, it's almost impossible to design a modern revenue and taxation mechanism in Somalia. However, defeating all odds, World Bank (2017) praised Somalia for doing better in the fiscal side of the economy after the civil war. However, some common challenges in fragile and post-conflict economiesstill need to be addressed. Some of them are discussed below:

lack of clarity and consensuson the Federal System remains a top priority. Somalia's federal system arrangement hardly provides the clarity of legal and institutional frameworks for tax and customs collection, revenue and resource sharing, agreed roles and responsibilities, shared security and justice arrangements and fiscal federalism whereby existing tax laws and regulations are based on unitary and socialist government cannot solve the situation at hand. A good example that shows how the political eco-system is not yet equipped to digest full federalization is the issue of FGS & FMS disagreements, Michael Keaten, former UNSG envoy to Somalia, alluded to these disagreements in his final briefing to the United Nations Security Council on Sept. 13, 2018, to quote his words; "On the day I arrived in Mogadishu on January 20, 2016, I was taken straight to the president's office to discuss a threat by FMS to suspend cooperation with the central government….When I left Mogadishu two days ago, the country faced a similar situation". For those of us who might be keen to know why, the answer is the structural problems that shape Somali politics and security have not changed' as argued by UNSOM (2018).The biggest reason that many researchers often cite is the notion of a serious unaddressed constitutional divide between FGS and FMS This divide has understandably prevented the completion of the country's constitutional transition process, which started in 2000. This has led to some terming the 'unfinished' nature as Ila Meerayso (running around in circles). Therefore, a complete revision of the constitution followed by a nationwide referendum will put this conflict to an end.

Al-Shabaab and Political Instability are the second most severe barriers to successful fiscal federalism in the country, The prolonged conflict and political instability of almost three decades largely destroyed the country's physical and socio-economic infrastructure, the government apparatus as well as the security institutions. The enduring nature of the conflict has generated extreme poverty, vulnerability, and a complex set of political and social grievances that remain a threat to the country's stability. Al-Shabaab is a major force to reckon with in some states like Jubal and, Southwest, and Galmudug where they impose their system of taxation called "Zakawaat", they tax crop production, livestock, small and large businesses in the areas they rule and unless they are faced with an iron fist then it will be very difficult to impose other taxes on the ordinary people because that will be double taxation. Therefore; Al-Shabaab and the politics of the country blocked effective Intergovernmental transfers that are transparent, straightforward administratively, and founded on unassailable, objective criteria, simply because states that are dealing with Al-Shabaab in their territories cannot compete with those that don't have such kind of problem.

An Equitable (re) redistribution of National Resources presents another unsettling constraint on the country's pursuit of fiscal federalization. The 2012 provisional federal constitution stipulated "The allocation of the natural resources of the Federal Republic of Somalia shall be negotiated by, and agreed upon, by the Federal Government and the Federal Member States by the Constitution". In 2019, the Federal Parliament passed a petroleum law, which provided details as to how potential hydrocarbon revenues are to be shared between the FGS and FMS (IMF 2018). A few days after the FGS passed the law in parliament, the leaders of Puntland and Galmudug states issued a joint statement declaring that the duo 'are not part of, and do not recognize the new petroleum law and cannot be held responsible for any decision that does not involve consultation and consensus between the FGS and the FMS' (Garowe Online 2019). To downplay these tensions, experts claim that Somalia needs to enact a resource-sharing agreement between the FGS and FMS and attain political consensus and stability before the commencement of oil production.

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Bridging the fiscal divide within member states The fiscal divide between Somalia's federal member states entails the differences in revenue generation and spending capacity emanating from the natural resource endowments and the availability of fully operating ports and airports. States like Puntland and Jubal and host two of the most important ports in the country (Bosaso and Kismayo), on the other hand, the state of Puntland has two airports that receive local and international flights (Garowe and Bosaso). Hence, they collect a huge amount of inland revenue and trade taxes (collected mainly in ports). The availability of rigid domestic revenue mobilization policies also serves another challenge causing a fiscal divide between FMS and that's why the states of South West, Gulmudug, and Hirshabelle hardly collect any revenue, and the little they collect are spent almost exclusively on salaries for civil service staff, MPs, cabinet members and security organs. Similarly, Puntland with better revenue generation policies than other FMSs spends significantly on infrastructure, governance, institutional development, etc. Therefore, these disparities in fiscal federalism pose a serious threat because the level of development between FMSs will be far apart and that will create different needs and priorities between the states, and reconciling those pressing issues will jeopardize the process of effective fiscal federalism. If the process of fiscal federalism fully operates then this issue of fiscal disparity will be addressed through a program of fiscal equalization which some scholars term as the glue that holds the federation together. Most equalization programs are federally financed whereby wealthy states make progressive contributions to the equalization pool and the poor states receive from this pool.

Clarity in defining federal, state, and local government revenue assignments, poses another threat to fiscal decentralization, and the lack of it emanates from the provisional constitution of Somalia. In federal systems, some taxes are exclusive to the center (FGS), while others are assigned to the member states and local governments, for example, ports, airports, visa fees, passport fees, license fees for international fishing companies, etc. are mainly exclusive revenue assignments for the center (FGS). States and local governments have also a list of revenue assignments for most federal entities. However, the revenue assignments do not mean that each level of government uses the revenue it collects. Therefore, there should be a sharing mechanism for the revenue collected. For instance, if a state has a port, and the federal government collects significant revenue from the state, there should be a criterion for sharing such revenue with the federal government, the state, and the local government whose jurisdiction the port falls under.

In Somalia, many factors are causing this challenge to persist. First, trust among the political class is weak, and trust between the federal government and federal member states is limited. Some states like Puntland and Jubaland specifically, manage ports in Bosaso and Kismayo respectively, but they do not trust the FGS to manage these ports or even give them some shares of the revenue they generate from them. Therefore, without trust and confidence among the leadership of the two levels of the government, the revenue of some of the core assignments would not be possible. Second, the responsibility assignments for each level of government are not clear in Somalia in the provisional constitution, there are no clear roles and responsibilities for each level of government. Article 54 of the provisional constitution gives FGS four exclusive powers, namely, 1) foreign affairs, 2) national defense, 3) citizenship and immigration, and 4) monetary policy, to the federal government. On the other hand,Article 53 demands that federal member states should be consulted on foreign aid, trade, treaties, and other matters that relate to international agreements. As of writing this paper, there are no agreed roles and responsibilities. For instance, how much responsibility the local government takes for education, health, infrastructure, and security responsibilities would determine how much revenue it can generate or receive. The contention is that responsibility assignment is a prerequisite for revenue assignment as well as fiscal transfers. As long as the responsibilities for public services are not clear, the fiscal debate will remain. Third, there are no agreed mechanisms for sharing domestic revenues and international donor support. The federal government and federal member states are still negotiating ways to share donor money and other potential revenue from natural resources in Somalia. For instance, there is a disproportion in the FMS annual budget, institutional capacities, and the services they offer. As a result, there is a heated debate on how to share revenue and donor aid. Moreover, the sharing mechanism for future income from natural resources is not yet clear. If sharing mechanisms are not yet there, assigning a list of revenue assignments for each level of government will remain problematic. For Somalia, to clearly outline the fiscal responsibilities for each level of government, trust among the political stakeholders, clarification of responsibilities for each level of government as well as agreement on a revenue-sharing formula would be prerequisites.

The lack of effective revenue authority and institutional capacityat both federal and state levels is also another challenge facing fiscal federalism in Somalia is the lack of operative revenue and customs authorities in the country. Currently, the revenue and customs are part of federal and state ministries of finance and the proper institutional setting should have been the revenue authority as an independent entity that has its legal framework. The establishment of an independent revenue authority could be a good model for Somalia. First, such an entity could depoliticize the revenue collection. Second, federalism in Somalia is not clarified, and there are debates on the suitability of a federal structure in the Somali context. Centralizing revenue collection while the federalism debate is ongoing could be a good idea. Third, an independent revenue authority is the practice of many federal and central governments. Ethiopia is an example of a federal country, which centralizes its revenue and customs collection, as it established the Ethiopian Revenues and Customs Authorities in 2008.

The issue of Fiscal Transfers tops all of the fiscal hurdles that FGS and FMS find themselves facing in their quest for fiscal federalism. Fiscal transfers refer specifically to the money transferred from the federal government to the constituent FMSs or vice versa and entail instruments like grants, subsidies, etc. The fiscal transfer mechanismin Somalia is more or less stagnant mainly due to the lack of a legal framework and the overall meager fiscal resources at both the FGS and FMS levels. The existing fiscal transfer does not follow in the normal way, as it isa one-way transfer from the FGS to the FMS. Moreover, no grounded mechanism is being used but rather a gentleman’s agreement between the finance ministries of FGS and FMS. Another vicious contention over the handling of fiscal resources is the politicization of fiscal transfers where FGS withholds the grants from those who have fallen out with it and have taken their own political will, while it dishes out these grants to the FMSs that remain unquestionably loyal to it. This matter completely opposes the Kampala Communique of November 2019 which clearly stated the de-politicization of fiscal transfers.

The lack of attention given to the local government is indeed another hurdle hindering the fiscal decentralization and federalism discussion. The platform for discussion of fiscal affairs is exclusively for the federal government and Federal Member States. Apart from the local governments not being an active member in those discourses, the capacity to provide basic public services among local municipalities varies and some major cities don’t even have any local councils fully operating. Therefore, it's not yet clear how local governments as the third tier of government can be part of the fiscal federalism discussions. On the other hand, the lack of effective local governments in most major cities is another challenge and will have a huge impact on the kind of fiscal federalism the country will adopt in the future.

Limited Revenue Streams pose a severe challenge to the process of fiscal federalism since the different revenue channels available to both FGS and FMS are limited. For the FGS side, revenues that flow to the federal government come from two main sources; domestic tax and non-tax revenues and external grants. The first source represents 32% of the revenues of FGS while the second source makes up around 68% (Federal Government of Somalia, 2020). FGS only exclusively collects taxes, charges, and fees from the Benadir Regional Administration (BRA) on which it is based. FGS collects these charges mainly from Mogadishu seaport and airport. The other sources of domestic revenue raising for FGS include inland taxes, hotels, business taxes, land taxes, vehicle taxes, and income taxes (mostly government employees and employees of international organizations). The FMSs are not on equal footing in terms of the financial resources they have, except for Puntland which enjoys comparatively significant fiscal resources from customs (airports, Bossaso seaport, and borders), inland revenue, donor budgetary, and project support. Jubaland, on the other hand, generates its current meager revenues from customs (Kismayo port and airport), inland revenue, and grants from donors and FGS. The remaining FMSs (Galmudug, Hir Shabeelle, and SouthWest) have almost matching fiscal resources. These three FMSs don’t have functioning ports, and the little revenue they operate on comes from limited inland revenue, income tax from civil service salaries paid by the World Bank, and the $150,000 monthly FGS budget support. Therefore, these limited revenue resources hinder full fiscal federalism from being adopted in Somalia since no fiscal sufficiency is in sight with the two levels of the government.

Corruption is a major barrier to Fiscal Federalism in Somalia; Corruption is perhaps the biggest challenge to Somalia’s development and the integrity of the country’s fiscal system. Since the collapse of the central government in 1991, corruption has been a destabilizing factor in the country’s progress. It however gained pronounced ascendancy during the third federal Republic, forcing a greater percentage of the country's population into serious economic hardship leading to the introduction of the new Public Finance Management Policy (PFMP) in 2013, to render more transparent, accurate and timely its public sector financial system. A parliamentary finance committee was also established in 2014, which oversees all withdrawal transactions from the Central Bank. Additionally, a Public Procurement Concessions and Disposal Act was passed, and the Office of the Auditor General (OAG) was established to audit all government transactions. The government also began to utilize the free asset recovery system supported by the UNODC and World Bank, it also concurrently launched an anti-grift Public Awareness Campaign. All these initiatives and endeavors were mainly focused on mitigating or at least discouraging the systematic corruption within the public sector but unfortunately, the fruits are yet to be reaped. Therefore, without designing serious policy measures at both federal and state levels whereby the revenue collected at both levels of the government is properly managed and shared with the foreign aid and grants from the international donor funds, the process of full fiscal decentralization will take an enormous time to fully operate.

CONCLUDING REMARKS

Somalia is a post-conflict economy that is characterized by a vulnerability of macroeconomic variables such as a steady growth rate, high inflation, massive unemployment rate, deficit trade balance, lowest per capita income in the globe, and high external shock with a dollarized business. With all these fragilities on the ground, a Provisional Constitution (PC) was introduced on August 1st, 2012 by a National Constitutional Assembly. Unfortunately, it did not provide clear legal and institutional structures for managing fiscal federalism. It also neither assigned functions to each level of government nor provided an institutional framework for intergovernmental relations. Therefore, this study was aimed at to shed light on the complexities surrounding fiscal federalism and explore options for fiscal arrangements. Besides, let each one of us know that clarifying the structure of fiscal federalism is a key priority for Somalia's federal state reconstruction, and it is also a major component of building a nation that can stand for its citizens in the face of difficulties and adversaries, it will also be a remedy to the constant inter-governmental disputes on resource-sharing procedures. Finally, the study concludes with several policy recommendations for different stakeholders.

RECOMMENDATIONS AND WAY FORWARD

Enhancing Intergovernmental Collaboration and Cooperation: This entails reviewing and harmonizing the overlapping functions in the newer FMSs and then implementing harmonized local government laws that specify the functions of local governments and their fiscal powers. Equally important is clarifying the role of local, district-level governments in fiscal federalism in the constitution. This helps to overcome the current ambiguity surrounding the legal status and role of the much-needed local government sub-structure in the federal structure. Consequently, this could help breathe new life into the currently defunct sub-structure and provide basic services required by local governments that have long been forgotten in Somalia's federal system.

Addressing Capacity and Implementation Challenges: The study highlights the challenges related to capacity constraints and coordination issues in policy implementation and service delivery. To overcome these challenges, it is essential to strengthen the institutional capacity of all levels of government, particularly at the subnational and local levels. This can be achieved through capacity-building programs knowledge sharing, and technical assistance to enhance government officials and administrators' skills and capabilities. Additionally, the use of technology and information systems can facilitate efficient data management, monitoring, and evaluation of policies and programs, leading to improved service delivery outcomes at the local government levellikely understanding the needs of the local people more closely than the state and federal officials who tend to monopolize and determine policies that affect the majority of the country's citizens.

Conflict Resolution and Collaboration Mechanisms: Intergovernmental disputes and conflicts pose significant challenges to Somalia's effective governance and resource management. The findings highlight the importance of employing conflict resolution mechanisms and strategies, such as negotiation, mediation, and legal processes, to address conflicts and foster them. Developing clear and transparent dispute resolution frameworks and strengthening the capacity of institutions responsible for resolving conflicts can contribute to more harmonious intergovernmental relations and ensure that disputes are resolved fairly and timely. Additionally, the completion of the pending provisional constitution remains a top agenda on the national conflict resolution quests, because the completion of the constitution could resolve many of the contentious issues between the levers of powers (center and periphery) primarily around fiscal federalism. Another key reform that will settle the disagreements between the FGS and FMS is to develop a formula for sharing the revenues to substitute the current impromptu, ad hoc-based “gentleman’s agreement” arrangements that some actors see as favoring certain FMSs in particular.

Empowering local governments as the third pillar of the fiscal federalism process: Another practical recommendation this study highlights is that local governments are not part of the fiscal decentralization and federalism discussions. The platform for the discussion of fiscal affairs is exclusively for the federal government and the Federal Member States.

Apart from that local governments are not part of the fiscal federalism discussions, the capacity to provide basic public services among local municipalities varies. Some local governments have a better system of domestic revenue collection and provide services, such as Garowe, while others don’t. Some local governments have no local councils (elected or selected) while others have local district councils. It is not yet clear how local governments as the third tier of government can be part of the fiscal federalism discussion. However, there are no organized local governments that are ready to be part of the conversation, and this will have a huge impact on their operations in the future. Therefore, this study recommends that if fiscal federalism is to survive in Somalia, local governments should take a lion's share since they are at the forefront of revenue mobilization and collection efforts nationwide.

Equality in sharing funds and grants among FMS: FGS should consistently uphold transparency and accountability for all its activities, particularly grants it receives from donor organizations to restore trust among FMSs. FGS should nonpoliticized use its leverage over administering the grants as a stick to subdue and punish opposing FMSs. Nor should it use these distributions of revenue as a carrot to reward those who toe its line of thinking. Instead, the FGS should act as a neutral figure that invariably administers justice among its subordinate units. A good example of the existence of this problem is the tension between Puntland and the Federal government on the constitutional amendments that prompted the regional state to declare that it will act independently until there is a federal government with a constitution that is agreed upon by a referendum in which Puntland takes part. Then in March 2024, Puntland’s Interior Minister Juxa said that the accounts of organizations implementing existing development projects are empty. And in his words, the cause of it was the conflict between Puntland and the federation.

Security and national stability: this should attract the attention of the federal government and international partners so that the backbone of every economic endeavor is the trust people have in the security sector. Fiscal federalism in Somalia is just a mere daydream when Al-Shabaab is collecting taxes on vehicles traveling in the territories they control, and also different types of tax from the towns they directly controland locals in major cities like Baidoa, the capital city of South West member state. Strengthening the security sector is a leading factor in successful fiscal federalism in Somalia.

To sum it up, since the federal government remains the engine of revenue-generating endeavors of the country, improving its tax base and widening the frontiers of the taxable capacity of the people is crucial. However, a few points should be revisited and corrected to achieve the desired targets, firstly, it is essential to diversify revenue sources to ensure a more sustainable and resilient revenue stream. This can be achieved through efforts to enhance tax collection, explore new revenue-generating opportunities, and reduce reliance on a few key sources. Secondly, policies should be implemented to address the factors influencing revenue performance, such as economic fluctuations and policy implications. Thirdly, capacity-building initiatives should be prioritized to empower revenue-generating institutions and improve their effectiveness. These recommendations together with the ones mentioned above aim to optimize domestic revenue generation in Somalia and mitigate the challenges identified through the analysis

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