

Federalism and the COVID-19 crisis: The perspective from Ethiopia



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The first case of COVID-19 in Ethiopia was reported on 13 March 2020, a mere two days after the virus outbreak was declared a global pandemic by the World Health Organization (WHO). A Japanese national who flew from Burkina Faso to Addis Ababa was tested and found to be infected with the virus. At the time of writing, there are over 70 confirmed cases of COVID-19 in Ethiopia. The federal, state, and local governments are introducing various measures with the declared aim of containing the spread of the virus. This begs the question: under the country's federal dispensation, what is the responsibility of each level of government for containing pandemic disease? How do the activities of each level of government in relation to containing the virus measure up to the Constitution and the federal system?

The federal government's authority to control pandemic diseases emanates from the Constitution. As per Article 51(3) of the 1995 Constitution of Ethiopia, public health falls under concurrent competences of the federal and state governments. The type of concurrency is what is often referred to as 'framework concurrency' in which the federal government is authorised to 'establish and implement national standards and basic policy criteria' that the states use as a basis to formulate their own policies. Consequently, the federal government has policy making and legislative powers on pandemics since it is a public health issue. Moreover, a pandemic is a health risk which is often associated with people traveling into and/or out of a country, as it is by definition an epidemic of a disease spreading over multiple countries and continents. As the level of government with authority for controlling the country's ports of entry and exit, the federal government is responsible for containing pandemics by determining whether one should be granted entry into the country based on health considerations.

There are three federal agencies which are entrusted with controlling pandemics: The Ministry of Health (MoH); the Ethiopian Food and Drug Administration Authority (EFDA); and the Public Health Institute (PHI). The MoH has overall authority for public health related matters and the Minister, Dr Lia Tadesse, has been the most visible federal official during this crisis. The EFDA and PHI, which work under the MoH, have certain mandates that are linked to fighting pandemics. For instance, the PHI has the mandate to collect, analyse, and disseminate information on, among others, diseases with epidemic potential. It is also authorised to investigate and verify the outbreak of pandemics, alert relevant institutions, and support state and local governments in dealing with pandemics. The EFDA is responsible for controlling ports of entry and exit, with the purpose of preventing the spread of a pandemic. It is empowered to deny individuals entry to or exit from the country, or order them to be quarantined in the event of a pandemic.

The states' powers in the area of controlling a pandemic can also be linked with their concurrent power on public health. The Constitution authorises them to declare a state of emergency (SoE) if doing so is necessary for controlling the spread of endemic diseases.

The federal and state governments have taken increasingly restrictive measures to control the spread of the virus. Initially, the federal government required all who enter into





the country to undergo temperature checks. After the first COVID-19 case was confirmed the decision was made to close all federal offices and all non-essential federal employees were told to work from home. Ethiopian Airlines was forced to gradually suspend all international flights, save for cargo flights. On 20 March 2020, the Council of Ministers decided to close the borders of the country and made it mandatory for everyone returning to self-quarantine for 14 days at their own expense. On 8 April 2020, the Council declared a nationwide SoE and introduced more restrictions.

The states are also taking similar actions. The Amhara and Oromia states have reportedly closed their borders. Bahr Dar, the capital of Amhara state, has been in complete lock down since 31 March 2020. Several cities in Oromia, such as Adama and Assela, have suspended public transport. The constitutionality of the measures these states are taking is, however, in dispute since they were adopted in the absence of a SoE. The state that has taken the most drastic measures is Tigray which, as per Article 93 of the Constitution, has declared a SoE and suspended public movements to and from rural areas within the state. Those who enter the state must be tested. Moreover, it has ordered the closure of coffee houses, cafeterias, and other similar establishments. The constitutional and political implications of the double SoE (the SoE declared by the federal government and the one declared by Tigray state) are yet to be seen.

The COVID-19 outbreak occurred while the country is undergoing unprecedented political transformation which has a direct impact on the federal system. The Ethiopian Peoples' Revolutionary Democratic Party (EPRDF), which conceived and implemented the Ethiopian federal system, is no more. It has been replaced by a new party, the Ethiopian Prosperity Party, which differs from the EPRDF both in

ideological and structural terms. The EPRDF ran the country in a centralised manner rendering the federal system dormant. On the other hand, the trend in the past couple of years has been an increasing assertiveness on the part of the states. They have begun acting autonomously. The fact that the state of Tigray declared a SoE without waiting for direction from the federal government is evidence of this trend.

The pandemic also occurred as the country was planning to hold its sixth national elections in August 2020. These elections are viewed by many as a litmus test on whether Ethiopia is transitioning into becoming a democratic state. The National Electoral Board of Ethiopia has declared that it will not be able to administer the election as per the original plan. The SoE which has now been declared by the federal government has effectively postponed the elections. As the term of the current parliament is coming to an end, the country seems to be facing an impending constitutional and political crisis, which can be prevented only if the government and opposition parties agree on some kind of transitional arrangement within the constitutional framework.

