Some Remarks on the Anomalies in the Ethiopian Tax Legislative Process

Kinfe Micheal Yilma[♣]

'If you want to know where the apathy is, you are probably sitting on it.'
Florynce Kennedy, "*Color Me Flo: My Hard Life and Good Times", 1976*

Opening

Ignorance of the legislative process on the part of legal academics has been a cause for concern for so long. Several decades back, an American writer rebuked lawyers' reluctance, not just for researching the subject, but for taking far less effort to understand it.[1] He had even capitalized the 'disturbing' state of the ignorance by epitomizing it as 'deliberate ignorance'.[2] This concern is still lingering in the academic sphere and bureaucracy six decades after Moffat expressed his lament. A relatively recent survey has revealed the very little attention paid both in the academic literature and in recurrent technical assistance missions of global financial institutions to legislative processes, especially to the tax legislative process in developing and transitional economies.[3]

These sorts of problems are also rampant in Ethiopia. But, this might not be that much surprising given the dearth of scholars in the field and the scant literature on the subject in the country. There are flaws of various sorts particularly in the tax legislative process.[4] This brief reflection seeks to put up

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[♣] LLB (Addis Ababa University), LLM (University of Oslo), Lecturer-in-Law, Hawassa University College of Law and Governance. Some of the points raised in this piece were initially discussed a couple of years ago with my colleagues Gosaye Ayele and Misganaw Kifelew who instigated its later writing, for which I am grateful. An updated version of this piece has also been presented recently on the Academic Forum of the Law School of Hawassa University; the comments of my colleagues helped enriching this piece.

[1] Moffat, A., 'The Legislative Process', *24 Cornell Law Quarterly*, (1938/39), P. 223.

[2] *Ibid*.

[3] Gordon, R. and Thuronyi, V., Tax Legislative Process, in Thuronyi, V. (Ed.,), *Tax Law Design and Drafting*, Kluwer Law International, (2000), P. 1.

[4] Note that though this piece singles out flaws from the tax legislative process, one can readily wed out similar legislative problems in the legislative process of various parts of the

examples of such problems upfront and asks why these problems are still left to reign for nearly two decades after the Constitution of Federal Democratic Republic of Ethiopia has been put in place. It questions why the meager literature on the subject is still shying away from the problem. However, it should be clear at the outset that this piece does not purport to offer a conclusive analysis of the problems in this area and it doesn't pretend to forward comprehensive solutions. The piece is organized as follows. First, it explains what is meant by "legislative process" in this context and then it goes on to raise some anomalies. Finally it closes with some suggestions.

1. Tax Legislative Process: A Contextual Enunciation

The enunciation made by two writers on the subject-matter of tax legislative process is partly befitting to the present discussion. As these writers put it, tax legislative process is "the process of designing and drafting tax legislation".[5] In this context, the expression 'tax legislative process' is meant to involve a series of legislative chores ranging from the initiation of legislative proposals to the crafting of the tax legislation and the consequent endorsement of the later by the pertinent law making body. It is all about the procedure by which tax laws are made.[6]

In this sense, the tax legislative process involves various institutions as well as experts of various disciplines. It, for instance, involves government agencies or ministries that set new legislative proposals on the agenda. It involves draft persons who would go through the toil of converting proposals set by clients or sponsors into legally sound and effective legislation. More importantly, it involves a body that deliberates on the draft bill- usually parliament or any other legally entrusted organ of the government.

Ethiopian law. Also noteworthy is that this piece takes up only a few examples of the flaws in the tax legislative process among the very many.

[5] Gordon and Thuronyi, *supra* note 3, P. 1.

[6] See generally, Simon, K., 'Constitutional Implications of the Tax Legislative Process', *10 Am. J. Tax Pol'y* (1992), *235*. See also, Graetz, M., 'Reflections on the Tax Legislative Process: Prelude to Reform', *Virginia Law Review*, Vol. 58, No. 8, (1972), PP. 1395 *et seq*.

The expression 'tax legislative process' should not however be confused with 'tax law making process', at least for the purpose of this piece. Tax law making[7] essentially constitutes only the last phase of the legislative process − the parliamentary deliberation and adoption of the draft bill. It does not include all the preliminary procedures of designing, crafting and sometimes the research process involved in the legislative continuum. This reflection endeavors to address all the legislative process as a whole.

2. Major Anomalies

This section treats two broad themes concerning the tax legislative process in Ethiopia. First, it addresses problems witnessed in relation to undesignated tax powers under the FDRE Constitution. Secondly, it briefly addresses some salient problems that exist in the area of concurrent tax powers.

A. Undesignated Tax Powers and Beyond

The FDRE Constitution categorizes taxation powers as follows: Federal Power of Taxation (Art 96), State Power of Taxation (Art 97), Concurrent Power of Taxation (Art 98) and 'Undesignated Powers of Taxation (Art 99). Some people commend the inclusion of the fourth category of taxation powers for it may help avoiding the need to amend the Constitution − which normally follows rigorous procedures− should introducing new varieties of taxes appear necessary.

A closer look at of the current pieces of tax legislation in force in Ethiopia, both at the Federal and State levels[8], evinces considerable contradictions with

[7] Law making is described as the process during which an 'idea of a law' is transformed into a law. Bogdanovskaia, *The Legislative Bodies in the Law Making Process*, Available at: <http://www.nato.int/acad/fellow/97-99/bogdanovskaia.pdf.> Accessed on November 2012. The Black's Law Dictionary describes law making as "the process of making or enacting a positive law in written form, according to some type of formal procedure, by a branch of government constituted to perform this process." See, Garner B., (Ed.,) *Black's Law Dictionary*, Ninth Edition, Thomson Reuters, (2009), P. 982 cum P. 966.

[8] Owing to accessibility constraint, only the laws of the Southern Nations, Nationalities and Peoples Regional State (hereafter SNNPR) and Oromia Regional State (hereafter ORS) are considered in this piece.

the revenue provisions of the Constitution. There are a good number of taxation powers made undesignated under the Constitution that are being exercised by either layers of the federal or regional governments unilaterally. One such example is the power to tax income from winning of state lotteries and other games of chance. In allocating the power to tax such incomes, the Constitution explicitly provides about "national lotteries and other games of chance".[9] Local or state lotteries remain undesignated thus requiring the joint decision of the two houses- the House of Federation and the House of Peoples' Representatives.[10]

The word 'national' under Art 96(4) evidently connotes the wider geographical scope and dimension of lotteries and other games of chance thereby implying the possibility of having local or state-wide lotteries and other games of chance. Despite such stipulation, the federal government has already established a monopoly on all varieties of lotteries and games of chance by issuing unilateral subordinate law. On top of its exclusive power to undertake a range of lottery activities, the National Lottery Administration reserves the right to issue permits to those who wish to undertake any lottery activities.[11] This is just one instance, an example of an anomaly in the Ethiopian tax legislative process. To this, there is another additional anomaly. Some of the regional states in the country have provided in their respective income tax laws stipulating that income from games of chance are within State Taxation Power. For example one regional state has expressly put in its income tax law income from games of chance as one item of Schedule D income.[12]

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[9] See Art 96(4) of the FDRE Constitution, Proclamation No. 1/1995, *Federal Negarit Gazeta*, 1st year, No. 1.

[10] As per Art 99, the House of the Federation and the House of Peoples' Representatives shall, in a joint session, determine by a two-thirds majority vote on the exercise of powers of taxation which have not been specifically provided for in the Constitution.

[11] See Arts 12 & 13 of National Lottery Administration Re-Establishment Council of Ministers Regulation, Regulation No. 160/2009, *Federal Negarit Gazeta*, 15th year No. 21.

[12] See, for instance, Art 33 of The Southern Nations, Nationalities and Peoples Regional State Income Tax Proclamation, Proclamation No. 56/2003, *Debub Negarit Gazeta*, 8th year, No. 5.

There are also other cases where the federal government appears to make some inroads into the taxation powers of the states. Taxation pertaining cooperative societies is a good case in point. Pursuant to Art 97(3), it is the exclusive power of the states to levy and collect agricultural income taxes on farmers incorporated in the form of cooperative associations. Most of the regional states including the ORS and SNNPR have accordingly issued laws that levy agricultural income taxes and rural land use fees.[13]

But, the law that regulates the formation, operation and winding up of cooperative societies is promulgated by the legislative body of the Federal Government.[14] And, this federal law contains a provision that exempts cooperative societies from payment of taxes on their profits.[15]While states' laws authorize levying taxes, this federal law is granting a legal grace to societies. Consequently, this raises a number of troubling questions. One is: what constitutes a tax power? Does not it include both the power to levy and, where necessary, to exempt the tax subject from the tax burden?[16] Of course it

[13]See, for instance, Oromia National Regional Government Proclamation to Amend Rural Land Use Payment and Agricultural Income Tax of Oromia Regional State's, Proclamation No. 99/2005, *Megeleta Oromia.* See also The Southern Nations, Nationalities and Peoples Regional Government Land Use Rent and Agricultural Activities Income Tax Proclamation, Proclamation No. 4/1996, *Debub Negarit Gazeta*, 1th year, No. 5. The later proclamation has been amended by Proclamation No. 63/2003, Proclamation No. 91/2005 and proclamation No. 122/2008 with changes in the rates of the tax and land rents.

[14]Cooperative Societies Proclamation, Proclamation No. 147/1998(as amended), *Federal Negarit Gazetta*, 5th year, No. 27; yet, the competence of the federal government to issue this law is debatable. There is no clear constitutional mandate authorizing the federal government to issue law of cooperative societies. This is also evident from the absence of any 'enabling clause' in the preamble of the Cooperative Societies Proclamation. After all, failure to mention enabling law in many of the laws, both proclamations and regulations, is commonplace in Ethiopia while it is one indispensable conventional rule of bill drafting.

[15]*Ibid*, Art. 31(1(a)); by a passing remark it is interesting to note that the same sub-article provides that members of societies shall pay dividend tax. However, the tax subjects of Ethiopian dividend tax are only shareholders of Share and Private Limited Companies. See, Income Tax Proclamation, Proclamation No. 286/2002, *Federal Negarit Gazetta*, 8th year, No. 34, Art 34 (1).

[16]This point brings to mind a famous constitutional law case once entertained by the American Supreme Court presided by the Chief Justice Marshall ― *McCulloch V. Maryland*. In this oft-cited case Justice Marshall is reported to have claimed that *'the power to tax includes the power to destroy.'* The case was regarding a bank called 'Bank of the United States'

does! If it were possible for one level of government to erode the tax base of the other layer of the government by granting whatever exemptions, it would seriously undermine the revenue interest of the former. More importantly, it would afoul against the cardinal principle of fiscal federalism-*intergovernmental tax immunity*.

The intergovernmental tax immunity principle puts, among other things, a limitation on both layers of government to refrain from intruding into the exclusive tax domain of the other.[17] In our case, the exemption of cooperative societies from paying tax by the above mentioned federal law constitutes interference in the taxation power of the states. This is no less infringement of the principle than taxing the property of the other layer of the government. After all, capacity to grant exemption implicitly carries with it the capacity to tax the same and hence the exemption granted by federal law jeopardizes the tax immunity of the states.[18]

Speaking of cooperative societies, the above-mentioned federal law, whose constitutionality is at best questionable, categorizes cooperatives into seven: namely, Agricultural Cooperative Societies, Housing Cooperative

established by federal government and had branches in different states including the state of Maryland, a party in the case. While operating through its branch in Maryland, the latter claimed to tax the branch merely because it is operating within its territory. The court ruled that since the bank is incorporated under federal law and that since the state of Maryland is well represented in the federal legislature, it is the power of the federal government to tax the bank. See generally, Stone, G. et al, *Constitutional Law*, Little, Brown and Company, (1986), PP. 41-61. See also Solomon, *infra* note 17, P. 152 (citing Mason A.T. and D.G. Stephenson (1996), *American Constitutional Law*, 11th Ed., Prentice Hall, PP. 270-271. This is probably a point of argument that any savvy person in favor of the exemption by the federal government would raise. As far as what power of taxation comprises is concerned, Solomon writes, albeit in a slightly different context, that 'the power of taxation comprises of two specific powers: the power to set a tax rate and the power to collect the tax paid'. See, Solomon, *infra* note 17, P.140.

[17]For a concise description of the principle; see, Solomon Nigussie, *Fiscal Federalism in The Ethiopian Ethnic Based Federal System*, Wolf Legal Publishers, Revised Edition, (2008), PP. 151-154.

[18]Strikingly, a cooperatives law of the SNNPR, issued in 2007, provides that cooperative societies shall be exempted from profit taxes in line with the federal cooperatives law. See, Art 41(1(1(a))) of a Proclamation to Provide for the Establishment of Cooperative Societies in Southern Nation, Nationalities and Peoples Regional State, Proclamation No. 111/2007, *Debub Negarit Gazeta*, 13th Year, No. 11.

Societies, Industrial and Artisans Producers' Cooperative Societies, Consumers Cooperative Societies, Savings and Credit Cooperative Societies, Fishery Cooperative Societies, Mining Cooperative Societies.[19] A cursory reading of Art 97(3) in light of this categorization leads one to conclude that the power of states is restricted to taxing only agricultural cooperatives, which are indicated just as one type of cooperative societies under Art 2(1(a)) of the cooperatives law. Put differently, states' power of taxation is not applicable on the other six types of societies. Accordingly, the power to tax those types of societies has to be determined by the joint decision of the two houses as an undesignated tax.

On the other hand, the agricultural income tax laws of some regions provide otherwise broadening the subjects of such taxation in addition to agricultural cooperatives. Art 6 of the SNNPR law, for instance, states that income from agricultural activities or agricultural businesses are subject to tax.[20] And, the law further defines 'agricultural business' to include a wide variety of activities including fishery which is identified as separate activity of fishery societies under cooperatives law.[21]This oversteps the constitutional taxation power of states, further exemplifying the flaw in the tax legislative process.

Let us add one more case. This relates to Mining Income Tax law. In assigning taxation powers on mineral extractions, the Constitution has opted to make taxation on the basis of the classification of mining activities into 'small scale' and 'large scale' mining operations. Accordingly, taxation of the former is within the exclusive powers of the states[22] while the latter fall under

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[19] Art 2(1) of Cooperative Societies Proclamation, *supra* note 14.

[20] The Southern Nations, Nationalities and Peoples Regional Government Land Use Rent and Agricultural Activities Income Tax Proclamation, Proclamation No. 4/1996, *Debub Negarit Gazeta*, 1th year, No. 5.

[21] Art 2(5) defines 'agricultural business' *as production of seasonal and annual crops, the development of animals and fishery(sic) and their products, the development forestry and wild lives and their products including the processing of such products in a way suitable to consumers whether it is undertaken individually or by enterprises*. [Emphasis Supplied]

[22] FDRE Constitution, *supra* note 9, Art 97(8). Note that small scale mining operations are not mentioned by name under Art 97(8) but they can readily be inferred from the cumulative reading of Art 98(3) and Art 97(8) of the constitution.

concurrent taxation powers.[23] Nevertheless, the federal mining income tax law is applicable both on large scale and small scale mining operations without any distinction.[24] This is an instance of usurpation of taxation power by the Federal Government. By virtue of this proclamation, the taxation power of the Federal Government not only applies to small scale mining operations but also extends to unilateral exercise of such power against the concurrent taxation power over large scale mining operations.

Perhaps, concurrent taxation power was not conceived during the promulgation of this mining income tax law.[25]Given this legal framework, it is unlikely that the states have exercised their respective powers on small scale mining operations. In the SNNPR, for instance, no law has been issued so far and as a result such tax has never been collected.[26]

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[23] *Ibid*, Art 98(3).

[24]*A Proclamation To Provide for The Payment of Tax on Income From Mining Operations, Proclamation No. 53/1993(as amended),* Negarit Gazeta, *52nd year, No. 43, Art 3 (1). This proclamation, issued in accordance with the Transitional Government Charter, was amended by Proclamation No. 23/1996 to equalize the tax rate on both small scale and large scale mining operation to 35%. Note that a new mining income tax law has recently been tabled to the HPR partly with a view to lower the tax rate on large scale mining operations to 25%. See* *ዮሃንስ አምበርብር: በማዕድን አምራቾች ላይ የተጣለው የገቢ ግብር በአሥር በመቶ ዝቅ ሊደረግ ነው: ሪፖርተር ቅፅ 18 ቁጥር 1370: ኤሑድ ሰኔ 9 ቀን 2005: Available at < http://www.ethiopianreporter.com/index.php/news/item/218.*

[25]See below a discussion on the current state of concurrent power of taxation and the problems therein.

[26]One faces a more serious legislative confusion while reading the federal mineral operations proclamation which provides that income tax to be paid by holders of artisanal and small scale mining licenses shall be determined by the laws of the states. See, Art 65(2) of A Proclamation to Promote for Sustainable Development of Mining Resources, Proclamation No. 678/2010, *Federal Negarit Gazeta*, The law can be an evidence for the federal government's belated realization of the fact that states do have the constitutional power to collect taxes on small scale mining operations. We cannot but hope that the newly tabled mining income tax law at the federal parliament restricts itself to large-scale mining operations, which still is a concurrent tax matter. In my recent conversation with tax officers at the SNNPR Revenues and Customs Bureau I learned that they plan to issue a directive to enable them collect the tax, yet relying on direction put forward in the above cited proviso of federal mining law.

B. The Issue of Concurrent Tax Powers: Constitutional Amendment or Interpretation?

Issues concerning concurrent taxation powers under the FDRE Constitution have remained controversial in the Ethiopian discourse of fiscal federalism. This is one of the areas where one comes across a host of puzzling questions. The problem primarily relates to the current practice of levy and collection of taxes from concurrent sources. The Constitution under Art 98 generically stipulates that both the center and the states have the power to jointly levy and collect taxes from sources designated therein. While this is what the black letters of the Constitution provides, in the practice this is reversed as the power of levy and collection is already assigned to the federal government while states are only to claim their share from the proceeds. The legal basis for delegated [sic] such levying and collecting taxes by the Federal Government to the exclusion of regional states still remains too obscure.

Despite the scant literature on these issues, there are some contradictory claims that are being aired from some writers on the subject. According to some writers the practice follows the formal 'constitutional amendment' made to the Constitution. Others attribute this prevalent practice to 'constitutional interpretation' of concurrent power of taxation. There still others who express their opinion basing on 'amendment' or 'interpretation' interchangeably while legally speaking the two are disparate procedures**.** On this point, Solomon Nigussie writes:

> It is said[sic] that the Constitution has been amended whereby the power is to the federal government. He continues to write that: 'the provision has been interpreted[sic] in such a way that those tax sources listed under concurrent power have to be levied and collected by the center but the proceeds are compulsorily shared with the states.[27]

As it can readily be gleaned from this quote, the writer seems uncertain as to what is the basis of the practice. He appears to be uncertain as whether it is

[27]Solomon, *supra* note 17, P. 141; elsewhere in the different parts of his book he prefers to use the term amendment than interpretation. See, for instance, pages 156(footnote number 156) and 208(footnote number 1).

attributable to constitutional interpretation or constitutional amendment.[28] He further writes (in footnote): "the amendment of the provision, rather the interpretation, follows Art 9(1) of Proclamation No. 33/1993 which defined the sharing of revenue between the central government and the regions during the transitional period."[29] The limitation with this opinion is not just its confusion of the two strikingly distinct procedures; it is also evasive in telling us how either of the procedures could be the basis. If it is attributable to interpretation, which organ proffered such an interpretation? Was it by the House of Federation, or courts?[30] No clear answer has been given to these and other related questions.

In respect of the interpretation rationale, the 1992 law of revenue sharing is cited as the basis. Yet, we are bound to question if this law could ever be used to interpret a constitutional provision. As is well known, the 1992 law

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[28] This has been observed, though in glimpse, in a review of the above cited book. See, Taddese Lencho, Book Review, *Journal of Ethiopian Law*, Vol. XXIII, No. 2, (2009), PP. 190-191. In reading this interesting book review where the reviewer goes even to clarify certain thorny points, one would notice how even the reviewer was not certain about what has happened regarding the issue as he skipped his clarification on the point.

[29] Solomon, *supra* note, 17, P. 141; the full text of Art 9(1) of the Proclamation to Define the Sharing of Revenue between the Central Government and the National Self-Governments, Proclamation No. 33/1992 reads as follows: *"Central Government revenues and revenues jointly owned by the Central Government and National/Regional Governments shall be collected by the Central Government revenue collection organs. However, whenever deemed necessary the collection of such revenue may be delegated to Regional Governments."*[Emphasis Supplied].
It is also instructive to cumulatively note Art. 8(4) of the same proclamation which provides as: *'The tax rates levied on types of taxes jointly owned by the Central Government and Regional Governments shall be fixed by the Central Government.'* [Emphasis Supplied].

[30] The same questions may also be raised as far as the alleged 'amendment' is concerned. Has the said amendment proposal been submitted to the relevant bodies as set forth under Art 105 of the Constitution? In this regard, one might claim that amendment to the text of constitutions can happen informally through practices and custom without their being formal amendment. This author insists that while such amendment might be held as valid in certain exceptional circumstances, it could hardly justify random snatching of clear constitutional power of taxation. It rather appears to have resulted from the lack of entrenched constitutional culture. For more on informal constitutional amendment, see Elkins, Z. et al, *The Endurance of National Constitutions*, Cambridge University Press, (2009), P. 45 *et seq*.

was issued before the ratification of the Constitution during the Transitional Period and pursuant to the Transitional Period Charter.[31] And, the Charter, which was the 'interim constitution', was promulgated to serve as the supreme law of the land for the duration of the Transitional Period.[32] Since the Charter was meant to serve for a specified duration, it was a temporal statute. [33] Normally, when a temporal law expires, all rules issued under such statute will come to an end.[34] Accordingly, since the 1992 law had been issued pursuant to that temporal law, the Transitional Charter, which has already expired, it had run out of time and it could be of no legal use. This begs the question: can an interpretation of a provision within the Constitution be sought based on an already gone law, which is the 1992 law? This author is of the opinion that the 1992 law couldn't be a ground of interpretation of Art 98 of the Constitution. But, it is true that this 1992 law has put its immense influence over existing regimes of tax assignments.[35]

In an otherwise impertinent source, it is opined that the current practice has sprung following a stealthy and hardly complete constitutional

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[31] See, the Preamble of the Proclamation to Define the Sharing of Revenue between the Central Government and The National Self-Governments, Proclamation No. 33/1992, *Negarit Gazeta*, 52nd year, No. 7.

[32] Transitional Period Charter of Ethiopia, *Negarit Gazeta,* No. 1, 5oth year, No. 1, Art 18. It is to be noted that the Transitional Government of Ethiopia officially stayed in power from July 1991 to August 1, 1995 though it was initially mandated for a maximum of two years and six months. See, Art 12 of the Charter. Confusingly, Solomon writes that the Transitional Government was mandated only for six months. See, Solomon, *supra* note 17, P. 23(footnote 58).

[33] Singh, A., *Introduction to Interpretation of Statutes*, Wadhwa and Company, Reprint Edition, (2007),P. 217. Temporal statutes are applicable for a specified time and cease to apply upon the expiry of the specified time unless it is repealed earlier.

[34] *Ibid*, P. 119; it is also to be noted all of the rules, orders, notifications, orders, by-laws made or issued under the statute will not be continued even if the provisions of the expired act are reenacted. Applying this rule in our case, all subordinate laws issued after the expiry of the Transitional Government Charter but while the transitional government was practically functioning were not willy-nilly laws in the stricter sense of the expression.

[35] Taddese Lencho rightly describes this persistent leverage as: 'The 1992 law is the voice behind the silences and ambiguities of the 1995 Constitution.' Taddese Lencho Income Tax Assignment under the Ethiopian Constitution: Issues to Worry About, *Mizan Law Review*, Vol. 4, No. 1, (2010), P. 42.

amendment made to Art 98 of the Constitution.[36] This document states that the amendment of the provision had been deliberated and approved by both the House of Peoples' Representatives and the House of Federation, first separately, and later in a joint session with full votes.[37]However, this document states that there is no clue if the draft was submitted for consideration by Regional State Councils. Furthermore, the document states that the amendment law has never been published in the *Negarit Gazetta*. If this source were to be taken as credible, it would ostensibly attest the deeply entrenched lack of transparency that characterizes the legislative process in Ethiopia, not to mention the lethargy of those involved in it.

Closing

In the foregoing an attempt is made to point out three major flaws in the tax legislative process in Ethiopia. Contrary to the intent of the framers of the Constitution, Taxation powers are being randomly apportioned and translated into tax laws. We noted that certain undesignated taxation powers awaiting the designation by the appropriate bodies are snatched away by either layers of the government. In other cases, powers of collection of taxes from concurrent sources are being exercised by the Federal Government using perhaps surreptitiously made laws. These inconsistencies represent clear contravention of one of the cardinal directives (or principles, as the Amharic version of Art 100(1) of the Constitution reads) which provides that any tax must be related to the source of revenue taxed, and further, rather more importantly, that it must be determined following proper consideration.

The most worrying aspect of the problem is the lack of transparency on how the federal government becomes the default beholder of concurrent tax

[36] Federal Justice Organs Professionals Training Center, *Tax Law and the FDRE Constitution*, Pre-Job Training Manual, P. 31[Amharic −Translation Mine].

[37] *Ibid*; note that as a standard requirement any proposed constitutional amendment shall be approved by the joint session of the HPR and HF with majority vote and by at least 2/3 of the state councils. See, FDRE Constitution, *supra* note 9, Art 105(2).

powers though states are taking a share out of the proceeds. This may give rise to questions of constitutionality.[38]

These problems are just tips of the iceberg and the aim here in this piece is to draw the attention of concerned stakeholders. These legislative problems may emanate from apparent apathy among those directly involved in the process of tabling tax laws and, more importantly, those involved in the actual process of drafting of proposed tax laws. It appears to this author that such flaws are partly attributable to the lack of competence of draftspersons and others involved in the process. To this we may add the dearth of academic exposition on the subject, equally to share the blame for these and lingering shortcomings.[39]It goes without saying that due expositions of the constitutional provisions by academics could help lessening ambiguities and imprecision.[40]

While we acknowledge the limited number of experts specifically trained in legislative drafting and all associated background works of research and the dearth of jurisprudence and other literature, yet the problems pointed out in this piece are intolerable ones with multifarious ramifications. The search for solutions shouldn't be postponed for an unlimited period of time.

A feasible short-term solution therefore is to strengthen drafting offices, both at the federal and regional levels. There has to be seasonal trainings on the basics of legislative drafting along with research processes. It is also vital to prepare a comprehensive drafting manual that would guide draftspersons as the one which has been done at the federal level.[41] The implementation of the new legal education curriculum that includes legislative drafting as one course may help in the alleviation of the existing problems. Also, publicizing formal

[38] FDRE constitution, *supra* note 9, Art 12.

[39] Elsewhere, I argued that the Ethiopian tax law regime is generally ignored by academics and this argument goes along with the ignorance towards the legislative process. See generally, Kinfe Micheal Yilma 'Teaching and Writing Tax Law in Ethiopia: Exhibit B for Low Scholarly Productivity', *Mizan Law Review*, Vol. 6, No. 1(2012).

[40] One barely finds writings on the subject except a few student theses tucked away in the shelf of libraries and thus highly inaccessible to readers.

[41] The manual already prepared by the Justice and Legal System Research Institute can still be enriched and useful lessons can be learned from benchmark drafting manuals such as Max Planck Manual on Legislative Drafting on the National Level in Sudan of 2006.

processes that assign taxation powers to the Federal Government do help in eliminating some confusion. What is more, academics have meaningful roles in all these endeavors.