



Institut für Föderalismus  
Institut du Fédéralisme  
Institute of Federalism

**IFF Working Paper Online No 50**

## **Contentious Status of the Banadir Regional Administration**

NUR OSMAN KARSHE

August 2025

Citation: Karshe, N. O., Contentious Status of Banadir Regional Administration, IFF Working Paper Online No 50, Fribourg, August 2025.

<https://doi.org/10.51363/unifr.diff.2025.50>

University of Fribourg      Phone +41 (0) 26 300 81 25  
Institute of Federalism  
Av. Beauregard 1  
CH-1700 Fribourg      [www.federalism.ch](http://www.federalism.ch)



**UNIVERSITÉ DE FRIBOURG** FACULTÉ DE DROIT  
**UNIVERSITÄT FREIBURG** RECHTSWISSENSCHAFTLICHE FAKULTÄT

The IFF Working Paper Online series and other publications of the Institute of Federalism, Fribourg are available on the IFF website [www.unifr.ch/federalism/en/research/](http://www.unifr.ch/federalism/en/research/).

© IFF, 2025  
Institute of Federalism, University of Fribourg  
Avenue Beauregard 1  
1700 Fribourg  
Switzerland  
[federalism@unifr.ch](mailto:federalism@unifr.ch)



This work is published under a Creative Commons Attribution 4.0 International License (CC BY 4.0): <https://creativecommons.org/licenses/by/4.0>.

Nur Osman Karshe

The papers are published in the name of the author(s). Her/his view does not necessarily reflect the view of the Institute of Federalism.

DOI: <https://doi.org/10.51363/unifr.diff.2025.50>

ISSN: 2813-5261 (Online)

## Table of Contents

|  |    |
|--|----|
| A) Introduction .....  | 1  |
| 1. The Status and Representation of Mogadishu in Somalia’s Federalism .....                    | 2  |
| 2. The Role of Banadir Regional Administration (BRA).....                                      | 2  |
| B) Governance Challenges in National Capitals .....  | 2  |
| 1. The Significance of Urbanization in Federal Constitutional Theory .....                     | 2  |
| 2. Key Factors behind the Growing Importance of Cities.....                                    | 3  |
| 3. Challenges Cities Face in Modern Governance .....   | 3  |
| 4. Little Scholarly Attention to Cities and Urbanization.....                                  | 3  |
| C) Cities in Global Governance Frameworks .....  | 4  |
| 1. Contradictions in Federalism Principles.....  | 4  |
| 2. The concept of Neo-localism in Federalism.....  | 4  |
| 3. Cities as Forgotten Actors in Federal Politics .....  | 5  |
| D) The City in Federal Constitutions: Northern Stagnation, Southern Innovation .....           | 5  |
| 1. Global North.....   | 6  |
| 2. Global South.....   | 8  |
| E) Ambiguity and Conflicting Articles of the Provisional Federal Constitution of Somalia ..... | 11 |
| F) Resource Concentration and Power Dynamics of Mogadishu .....                                | 12 |
| 1. Population and Economic Concentration .....   | 12 |
| 2. Fiscal Decentralization and Revenue .....   | 13 |
| 3. Expenditure .....   | 13 |
| G) Governance Structure of Mogadishu.....  | 13 |
| 1. Current BRA-District Power-Sharing .....  | 13 |
| 2. Proposed Policy Options .....   | 14 |
| H) Conclusion and recommendations .....  | 15 |
| I) Bibliography .....  | 17 |

## **Abstract**

The constitutional ambiguity and exclusion of Mogadishu from full federal membership have generated considerable controversy within Somalia's federalism framework. The current constitutional review process offers a crucial opportunity to clarify Mogadishu's status, thus addressing these contentious issues. Excluding Mogadishu from full federal membership undermines the foundational principles of federalism, fostering conflict and imbalance, despite the city's substantial contributions to the national economy. This paper advocates for granting Mogadishu the status of a city-state to resolve these issues, thereby ensuring that political participation and resource allocation are consistent with the principles of federal governance.

## **Keywords**

Federalism, Decentralization and Conflict Management, Power Sharing, Cities, Metropolitan Governance, Political Representation.

## A) Introduction

Mogadishu, the capital city of Somalia, remains a focal point of contention in the implementation of federalism within the country. Despite its critical role as the host of the Federal Government of Somalia (FGS) and its control over the nation's largest revenue-generating airport and port, the city lacks formal political representation in the ongoing federal deliberations. Mogadishu is the only city where the FGS directly collects taxes, yet residents have increasingly voiced concerns over its ambiguous status. These petitions reflect growing agitation about the governance of Mogadishu, which sits at the intersection of competing federal government, federal member states, and clan interests.

The Banadir Regional Administration (BRA), which governs Mogadishu, participates in intergovernmental platforms such as the National Consultative Council (NCC) and the Intergovernmental Fiscal Transfers Technical Committee (IGFFTC). However, its status remains unclear, echoing the challenges national capitals face in federal systems globally. These cities often serve as political and symbolic centers, balancing the central government's control with the residents' demand for political participation and self-rule. Examples from other federations, including Canada, Australia, and Nigeria, showcase diverse approaches to addressing these tensions.

This study focuses on the constitutional challenges surrounding Mogadishu's exclusion from having a status similar to Somalia's federal member states. It situates the discussion within broader federal constitutional theory and the increasing importance of cities in modern governance. As Hirschl argues, cities hold significant political, socio-economic, and cultural importance, marking the 21st century as the "century of the city" (Hirschl, 2022). However, cities continue to face challenges such as inequalities, environmental planning issues, and social tensions despite their central role in society.

Moreover, this paper examines the lack of scholarly and constitutional recognition for cities, highlighting gaps in both theoretical frameworks and constitutional law. Although global city networks and municipal leadership have pushed for greater inclusion in international policy-making, these efforts have not translated into formal constitutional guarantees. The discussion extends to analyzing comparative insights between the Global North and South, where federations like India, Brazil, and South Africa offer innovative approaches to granting cities greater constitutional authority.

By using Mogadishu as a case study, this paper seeks to explore the potential governance structures and constitutional frameworks that can address the city's contentious status within Somalia's federalism. The central question driving this research is: What is the appropriate constitutional status for Mogadishu within the context of Somalia's federalism?

## **1. The Status and Representation of Mogadishu in Somalia's Federalism**

The status and future political representation of the capital, Mogadishu, is not included in the current federal deliberations and remains a source of contention in implementing federalism. Mogadishu hosts the FGS, has an airport and a port (the country's two largest revenue sources), and is the only city where the FGS collects taxes. There have been increasing petitions in recent years where residents complain about the city's lack of status, leading to rising agitation on how the capital should be governed in the future. Again, the city is caught up between competing federal government, federal member state, and clan interests.

## **2. The Role of Banadir Regional Administration (BRA)**

The BRA, which governs Mogadishu, receives intergovernmental fiscal transfers on budget support, similar to other FMSs. It is also a member of intergovernmental forums such as the National Consultative Council (NCC), the Inter-Ministerial Finance Ministers Forum, and the Intergovernmental Fiscal Transfers Technical Committee (IGFFTC). Despite this, the city's status remains ambiguous.

## **B) Governance Challenges in National Capitals**

National capitals in federal countries often face contentious governance issues due to competing interests among central governments, state governments, and the capital city's inhabitants. As political and symbolic centers, the central government aims to control and develop these cities, while residents demand political participation and self-rule. Various federations have addressed these challenges differently, with some capitals lacking constitutional status (e.g., Switzerland, Canada, Germany), while others have established separate federal districts (e.g., Australia, India, USA) or granted full state status (e.g., Nigeria, Austria).

### **1. The Significance of Urbanization in Federal Constitutional Theory**

As this paper focuses on the constitutional challenge that excludes the capital city, Mogadishu, from having a status similar to those given to other FMSs in Somalia's federal government, there is also literature that similarly highlights the significance of cities and the urbanization process in federal constitutional theory, which emerged in recent years. The ground-breaking exercise done by Hirschl suggests that there is political, socio-economic, and cultural importance for modern society in cities. Additionally, he also reminds us why the 21st century is called the century of the city, where the world's largest population began to live in cities (Hirschl, 2020).

## 2. Key Factors behind the Growing Importance of Cities

It is crucial to note the factors behind the ever-growing importance of cities, whether large or small. These factors include:

- **Socioeconomic Factors:** Responsible for development, modernization, and cultural interaction among societies and cohesion because cities are centers for economic activities, civilization, service delivery, and culture.
- **Political Factors:** Cities often present reform agendas compared to other parts of the same country, like rural areas.
- **Demographic Changes:** Population growth, particularly in the developing world, with increased national rates and migratory patterns.
- **Diversity:** Cities encourage interaction among people with diverse backgrounds.

## 3. Challenges Cities Face in Modern Governance

Despite the cities' role as socio-cultural, political, and economic actors in today's society, they also prove to be branded sites of deep-rooted differences and conflict because tension is high between diversity and social cohesion. Cities not only offer opportunities for innovation, harmony, and diverse populations living together, but they also pose challenges such as inequalities, security concerns, environmental urban planning problems, and social and ethnic-related issues.

## 4. Little Scholarly Attention to Cities and Urbanization

Studies largely indicate that there are few theories discussing the constitutional independence of cities. Only recently have scholars begun to pay attention to the status of cities in constitutional law. In federal studies, cities are subsumed under subnational units. As Hirschl (2020) argues, federal theories continue to hold to the doctrine that regions and states have the legal and structural status, while cities are subunits of the region/state. This originates from historical, constitutional, and perceptions of revolutions and the processes of subjugating sovereignty (Farah, 2020).

One of the most complex and confusing issues is the complete overlook of capital cities and the urbanization status in the federal constitutions. The relevant legal discussions primarily focus on municipalities and administrative laws, with minimal acknowledgement in constitutional law.

## C) Cities in Global Governance Frameworks

A worldwide discovery has been made regarding the interrelation between international governance and urbanization in various countries. With the dynamics of cities and the urbanization process in areas of environmental issues, campaigns against poverty, global migration, and the influx of refugees, cities inevitably become involved in the formulation of policies against these issues. Reacting to the absence of city roles in international law, mayors initiated the formation of global mayoral networks with the shared goal of joining the UN-Habitat program, committing to implement the Paris Agreement, and seeking international representation in all global policy-formulating arenas regarding the refugee crisis. Despite cities lobbying for membership in international policy-making platforms, city leaders have also managed to take a crucial role in key policy areas of administration, urbanization planning, service provision, settlement of undocumented migration, and protection of human rights at the municipal level. However, all these attempts made by the municipalities have not translated into constitutional jurisprudence.

### 1. Contradictions in Federalism Principles

Ignoring the legal status of cities is contrary to the principles of federalism, such as subsidiarity, equality, and power distribution at all levels of government, as this is the theoretical concept that underlies the practice of both politics and government institutions. King (2014) differentiates federal states from unitary states as follows:

- **Unitary Systems:** Emphasize assimilation in all respects, whether political, constitutional, or territorial in the state.
- **Federal Systems:** Clearly recognize the diversity that exists in all areas of the state, including sociological differences, territorial, and political diversity. (Obi, 2019; Elazar, 1997) N.B.

### 2. The concept of Neo-localism in Federalism

According to Kharel (2022), it is a common feature that the composition of federations includes multi-layered polities with constitutional definitions in the federal constitution, despite each jurisdiction having its own constitution (Models of Federalism and Nepal's Practices, n.d.). They practice their constitution within their territory as constituents. The principles of subsidiarity and regionalism in federalism appear to be in favor of what is now known as neo-localism, which is a form of power devolution to the local level, where the basic and strategic objective is to implement the national goals effectively and efficiently. It is also an attempt to prevent political homogenization, globalism, and supra-nationalism governance, leading to the emergence and rise of local movements that claim to reflect the true identity of specific regions, communities, or polities.

### 3. Cities as Forgotten Actors in Federal Politics

It has been a recurrent issue that the significance of cities in modern federal systems is left behind without defining the position of capital cities in theoretical concepts and constitutional settings. Farkas (1971) expresses in the American context that most scholars of federalism concentrate on subnational entities and recognize them legally as autonomous. The state-centered attitude, primarily observed in federal states worldwide and designed by the Westphalian framework, only ranks autonomous states with territorially organized peoples of diverse backgrounds. These attitudes, based on old mindsets, resulted in cities being completely overlooked. Despite the centrality of cities in modern governance, they are now described as the “forgotten stepchildren” of federal politics and scholarship (Farkas, 1971). This strong neglect highlights the need to rethink federalism to better account for the critical role of cities in the contemporary world.

#### D) The City in Federal Constitutions: Northern Stagnation, Southern Innovation

For comparative analysis purposes, this study will try to consider the differences between cities in federal constitutions: northern stagnation and southern innovation. This comparison considers the oldest known federal constitutional arrangements, revealing that the status of the cities is diverse. In many federations in the so-called Global North, the constitutional settings often put cities under the rule of higher levels of government. In contrast, several federations in the Global South have discovered innovative ways to delegate power to cities, embracing and promoting ideas of diverse models with varying levels of success. This classification between these two spheres of the globe associates the Global North with traditional constitutional systems, which do not accommodate the city status, and the Global South with constitutions that better explain the city status. This also implies a distinction between conventional federal and modern unitary states (Hirschl, 2020).

In addition, federations in the Global North, like the United States, Canada, and Australia, are challenged by the constitutional denial of city status. This means cities are controlled by the state authorities. In the U.S., regardless of the city sizes, the Constitution places all cities under the control of an autonomous state. There are rules based on doctrines like **Dillon’s Rule** and **home rule** (also known as the **Cooley Doctrine**), which were established in the 19th century and upheld by the U.S. Supreme Court in the early 20th century. Being the only law in place, it maintains the definition of the powers of municipalities.

In most U.S. states, Dillon’s Rule limits local governments to powers explicitly granted by the state. While some states adopt home rule provisions that grant municipalities a degree of autonomy, cities remain under

state authority. This has sparked an ongoing discussion about the minimal constitutional recognition of city powers, despite the increasingly significant role cities play in the country's economy and society.

Although the U.S. Constitution dates back centuries and is very strict, it grants a huge number of powers to the states over the cities. The listed powers or competencies of states include the authority to manipulate electoral district boundaries. Such power undermines the ability and representation of cities to supersede city legislation through preemption.

American constitutional experts consistently emphasize that the lack of city status in the Constitution undermines urban efforts to promote dwellers' welfare, as tactics such as redistricting and rezoning are used to shift power toward suburban areas.

In recent decades, there were indications that instances of preemption have gushed, with states blocking or overturning city ordinances on a wide range of issues like gun control, tobacco regulations, living wage policies, sanctuary city measures, municipal civil rights protection, anti-discrimination laws, nutritional labelling in restaurants, and environmental protection initiatives like bans on plastic use. In some states, further measures have been taken, such as passing laws that prevent cities from joining international city networks.

## **1. Global North**

In the next paragraphs, this paper provides comparative insights into city status in a number of countries in the Global North, beginning with Canada. The analysis shows that Canadian cities do not possess direct constitutional powers. The Canadian cities and municipalities are subordinate to provincial legislations, working as bodies of delegated provincial authority. They neither have taxing powers to raise revenues nor authority to deliver services that are independent of the province. In this context, American counterparts focusing on Washington, D.C., enjoy better constitutional entitlement.

The population of megacities such as Toronto has grown rapidly, ranging from 50,000 to 7.5 million as of the current date. The service delivery institutions in Canada's large cities, characterized by multiculturalism and social incorporation, are now overseen by an outdated constitutional order from 1867.

The federal system of Canada, the Constitution Act of 1867, exclusively empowers provinces where the municipalities are governed, created, and regulated by the laws of provinces. The structures, functional responsibilities, assignments, and powers of municipalities are defined in the provincial legislation framework. Their existence and operations are controlled by the provinces.

Statistically, the data indicates that 85% of the Canadian population lives in cities, particularly more than half of the country's population is concentrated in six metropolitan regions. Having seen all these facts and

figures, it is not an overreaction to say that the constitutional blind spot for cities highlights a significant constitutional shortcoming in 21st-century Canada.

Australia's constitutional framework favors state domination over cities and metropolitan self-rule, yet conflicts arise. The High Court has not clearly defined the federal government's constitutional role in funding urban renewal initiatives, highlighting a constitutional blind spot or the denial of city status in Australia. Unlike Canada, where provinces gained exclusive constitutional powers, Australia's constitution merely lists the competencies granted to the Commonwealth parliament (mainly in sections 51 and 52); all other remaining legislative powers are assigned to the states. Since local government was established through colonial legislation before federation, it was not incorporated into the powers allocated to the Commonwealth (Twomey, 2013).

According to Twomey (2013), large cities in Australia, such as Sydney, Melbourne, and Brisbane, are highly populated, ranging from 2.5 to 5 million, but do not have autonomy of their own; rather, they are controlled by the states. The policies of city planning, services of education, health, policing, land use, infrastructure, and major utilities are administered by the state.

Moreover, amendments to the Australian constitution to empower cities have either encountered referendum failures (1974 and 1988) or were withdrawn due to insufficient support (Twomey, 2013).

As part of the Global North, the European nations have granted local governments constitutional recognition, unlike the North American countries and Australia. Despite the constitutional acceptance of local governments and the reflections in the European charter of local self-government (1988), the extent of local autonomy varies significantly from one country to another. Key practical examples from some European countries, like Germany, where the German constitution gives authority to municipalities over domestic issues, although the laws of both the federal and regional levels place municipalities under substantial restrictions.

Italy's constitutional amendment, which emphasizes the decentralization method of empowering the major cities, gained momentum in 2015. This allowed the cities to elect metropolitan mayors and also expand their powers in areas such as planning, zoning, local policing services, and transportation. While Spain has strong disparities in regional identities, the constitution does not give power to the regions. As it is, the capital city of the country, Madrid, enjoys some legal privileges, and the Catalan region holds limited powers (Ter-minassian et al., 2017).

Despite the limited authority given to these cities, they still avoid establishing strong and influential councils. In practice, while European cities benefit from constitutional safeguards, their actual autonomy is often constrained by higher-level legislative frameworks (Strebel & Kübler, 2021).

## 2. Global South

Boosting the status of large cities in the constitutions of both unitary and federal countries by delegating them a fair amount of power and treating them as autonomous is the observation seen in cities like Mexico City, Buenos Aires, and Addis Ababa, as well as in (federal and) unitary countries like South Korea, Vietnam, and Taiwan. The city's constitutional empowerment of the Global South proved to be successful, but not in every case (Heller, 2011).

Until 1993, the Indian Constitution delegated the majority of powers regarding urban governance to state governments; however, this changed with amendments that redefined the constitutional status of cities. The 73<sup>rd</sup> amendment addresses governance issues relating to rural settlements and townships, while the 74<sup>th</sup> amendment talks about the cities. The 74<sup>th</sup> amendment lists criteria that metropolitan areas must meet, including: a population of at least one million; and a minimum composition of either one or more districts, two or more municipalities, or a combination of panchayats and neighboring areas. State legislatures are permitted to award municipalities such powers as this gives them the capacity to build institutions of self-government, according to Article 243W (a) of the Constitution. (See article 243W Constitution of India 1992).

According to Schedule 12, which is attached to the 74<sup>th</sup> amendment, the 18 substantial policy initiatives for urbanization and poverty mitigation require the state legislative body to devolve power to city authorities. While the 74<sup>th</sup> amendment emphasizes the importance of empowering cities and local governments constitutionally, it is still necessary to look at how this empowerment works in practice. Assessments denote that the constitutional changes have had a limited impact on urban self-government (Banerjee, 2021). Several key factors contribute to the poor implementation of these constitutional changes. Similarly, these factors may include the fact that the amendment did not fully empower cities, as state governments retain legislative, administrative, and financial authority over them (Banerjee, 2021; Mohanty, 1995). Additionally, state-controlled agencies continue to provide transportation, housing, and land management services, which affect the status of cities and the improvement of low-income neighborhoods.

The last and most important factor that is responsible for the poor implementation of the constitutional amendment is its provision that allows state governors to define metropolitan areas based on broad criteria, which has further entrenched state control. All these factors highlight the powerlessness of urban local governments because of the battling state governors, who are obstructing the amendment's core vision of local autonomy.

Brazil's federal system applied a method that incorporated urban development into the constitution, which was proactive and relatively effective. However, there have been challenges stemming from the

socioeconomic disparities and the complications of intergovernmental politics, similar to those faced by other federal systems. Even so, Brazil's experience serves as a positive counterpoint to India's 73rd and 74th Constitutional Amendments, which aim to strengthen local governance but encounter obstacles in their implementation and impact.

Following the two-year process of inclusive participation and contribution of the Brazilian people, a new federal constitution was approved in 1988. The amendments, especially Article 182, affirm the municipal authority and assign urban development policy to implement and develop public services at the city level and pledge the well-being of residents as stipulated by the law. Despite the fact that the majority of Brazil's population (85 percent) lives in cities, Article 182.1 clearly determines that each city, with at least 20,000 inhabitants, must have a master plan ratified by the council of that city, as this becomes a fundamental approach for the urbanization program and expansion policy.

The adoption of the city statute in 2001 and the establishment of the Ministry of Cities and the National Cities Council in 2003 explicitly symbolize Brazil's commitment and effort to implementing Articles 182 and 183, as emphasized by the formation of two institutions, as the federal government's involvement was seen as a complementary step. It was the first time ever that a City Statute was established in a South American country (Longo & Mobilio, 2016).

However, the critical challenges that development initiatives of cities are facing include political disagreements between the levels of the government and megacity leaders. The political dynamics affect the smooth implementation of reforms on the ground because when there is political alignment at both federal and intergovernmental levels, there is a possibility to support municipal initiatives. Any political power shift will lead to the discontinuation of urban development due to funding cuts (UN-Habitat, 2015).

Following the end of apartheid, the South African constitution, adopted in 1996, is considered the most inclusive, comprehensive, and successful effort to give cities full status or power. Despite the reality that there has been a transformative break from the country's political and constitutional history, the new constitution intentionally decreases the provincial authorities while strengthening the role of local government (du Plessis & Fuo, 2024).

Very exclusively, the South African constitution makes extraordinary alterations based on critical departure from the pre-1996 model of governance, which was heavily centralized, particularly chapter 7 (Articles 151-164). It builds on the principles of Article 40(1) by granting municipalities the full authority to create and enforce regulations in areas like municipal planning, public health, transportation, and trade. One of the most important competencies given to municipalities is the revenue-generating power. This allows them

to perform functions assigned to them. The provincial and national governments will have an oversight role.

This recognition and empowerment of the constitution enables the municipalities to improve their local governance by promoting decentralization, enabling municipalities to address local needs while aligning with broader governmental objectives.

According to chapter 7 of the South African Constitution, municipalities were divided into three categories, one of which refers to metropolitan areas like Johannesburg, Cape Town, and Durban. The reason behind the unification process of metropolitan government and, by extension, integrated urban space, was to address the inequalities and dismiss the apartheid policies. The previous exclusion of the Soweto area from city boundaries was aimed at denying political representation, access to municipal services, and financial funding (Sachs, 2023). There are additional municipal powers provided, especially through sections 151(3) and 156. Municipalities can have taxing powers, and revenues that they can collect include property taxes, surcharges, and service fees.

Not only does the constitution clarify municipal competencies, but also the constitutional court recognizes revenue-raising authority specifically, which the court describes as an ‘original power’. According to the court, the municipalities can impose rates and surcharges without needing federal enabling legislation. Furthermore, municipal governments are assured an equitable share of national revenue to support the delivery of basic services and the execution of their assigned responsibilities (See Articles 227(1)(a), 227(2), and 229(1) of the Constitution of the Republic of South Africa, 1996).

Constitutional reform and the recognition of cities are not the only factors determining success; there are additional elements that ensure the effective implementation and success of the reform. These factors include political, social, and economic aspects. Having said that, most observations carried out in South African municipalities indicate that the constitutional recognition of local government has been quite effective in allowing cities to provide improved services to their residents. The impact of the reform is tangible when major cities like Cape Town are governed by an opposition party (the Democratic Alliance).

However, unlike in India or Brazil, the South African municipalities enjoy constitutional protection from the exclusive rule of federal or provincial governments.

In short, federalism, in the face of its alignment with principles like subsidiarity, local governance, and accommodating regional differences, does not strongly recognize the city status constitutionally. In countries of the Global North like the United States, Canada, and Australia, cities lack constitutional entitlement. Meanwhile, in many countries in the Global South, constitutional reforms supported by political will have provided cities with greater constitutional authority (Banerjee, 2021).

This contrast highlights that the North/South divide is more influential in shaping the constitutional role of cities than the federal or unitary status of a country (Arban, 2022). Factors such as rapid urban growth in Asia, Africa, and Latin America, along with the relative modernity of constitutions in the Global South, likely contribute to this difference.

## **E) Ambiguity and Conflicting Articles of the Provisional Federal Constitution of Somalia**

The Somali Federal Constitution outlines the distribution of power between the federal government and member states but notably excludes the BRA from receiving the full benefits of federalism. For instance, Article 49 stipulates the boundaries and powers of federal member states but omits granting the BRA legislative and executive powers. Similarly, other articles, such as Article 72, exclude BRA from equal representation in the Upper House, thereby denying its residents the same level of political participation as other regions.

These constitutional gaps not only reflect a lack of understanding of federalism but also marginalize Mogadishu's residents. The ongoing review process of the constitution offers a critical opportunity to address these issues, potentially paving the way for enhanced political participation and a defined constitutional status for Mogadishu, which would contribute significantly to the completion and stability of Somalia's federal system.

This paper is particularly concerned with Articles 48 and 49 of the Constitution of the Federal Republic of Somalia, which address the formation of federal member states. Additionally, the Law on Districts and Regions of Somalia (Law No. 116), issued in 2013, is also relevant. Article 2 of this law provides details on the structure of local governments in the Federal Republic. It recognizes local governments as national institutions with legal personality, which exercise their administrative and legislative powers. These local governments are categorized into four levels: A, B, C, and E.

**Level A:** Represents the local government of Mogadishu. **Level B:** Represents the local government of regions. **Level C:** Represents the local government of districts. **Level E:** Represents the local government of villages.

Article 3 of Law No. 116 outlines the conditions for establishing new districts. These include the following: 1. A district must have defined boundaries; 2. it must consist of at least five villages, each of which should meet the following criteria: A population of at least 10,000 people. Availability of a primary school, Quranic school, police post, local government office, and health center. The ability to generate 14% of the district's total revenue; 3. The total population of the district must be at least 50,000 people; 4. The district must be

able to generate 70% of its revenue independently, and 5. The distance between two districts must be at least 40 kilometers.

Although the provisional federal constitution of 2012 defines only layers of government, specifically the federal and state levels, the constitutions of subnational federal member states recognize local governments, as seen in the Puntland state of Somalia. The constitution of Puntland State accepts the role of both regions and districts, as the following articles demonstrate.

Article 120 defines the existence of decentralization of regional and district administrations:

1. The system of Puntland shall be based on decentralization
2. To effect an administrative system of decentralization, Puntland State shall be divided into regions and districts.
3. The government shall be responsible for the restructuring and demarcation of the boundaries of the regions and districts of Puntland.
4. The process of decentralization of governance shall be regulated by special law, approved by the House of Representatives.
5. The demarcation of the administration and taxation powers between the Puntland central government regions and districts shall be defined by special law.

## **F) Resource Concentration and Power Dynamics of Mogadishu**

### **1. Population and Economic Concentration**

Mogadishu, Somalia's largest city with an estimated population of 2.6 million, is the country's primary economic hub. The city generates significant revenue, hosts the country's largest seaport, and serves as a crucial center for private business activities. Its demographic and economic importance underscores the need for its inclusion in the federal framework to ensure balanced development and representation.

The BRA, which governs Mogadishu, is left with fewer powers to raise revenues, limited to a few specific taxes, including on property, income, permits and license fees, and insignificant taxes from small markets (as per the 2024 Appropriation Act). That said, BRA receives 15% of the revenue collected from the Mogadishu port and airport.

As for why the services BRA provides are scant, this perhaps relates to the much narrower revenue streams it has due to the FGS's tight control over most of the revenue sources in Mogadishu. Here, the FGS gives only an insignificant 15% of the Mogadishu port and airport revenues to the BRA, a percentage which cannot help it cover its service delivery responsibilities. Another explanation relates to the uncertainty around Mogadishu's status, which creates a serious obstruction to its ability to deliver services. If its status

were determined, it could have sources where it could mobilize revenue to cover the required services. For the time being, the BRA's senior leadership is appointed by the FGS's incumbent president, and therefore, remains loyal and accountable to them and not to the people in the Banadir region. A change is necessary in order to ensure accountability towards the people of the Banadir region.

## **2. Fiscal Decentralization and Revenue**

Article 50(f) of the federal constitution ambiguously assigns revenue-raising responsibilities, leading to confusion and inefficiencies. Mogadishu generates substantial domestic and international trade revenue, yet the federal government collects most of it. The FGS provides only 15% of customs revenue to BRA, a percentage widely viewed as unfair. Additionally, international funds from sources such as the World Bank and the European Union are often conditional, and the BRA frequently fails to meet eligibility criteria, resulting in fewer grants and further financial strain.

## **3. Expenditure**

The constitution's vague delineation of functional powers results in significant disparities in service provision. Mogadishu's municipality is responsible for providing essential services such as education, healthcare, and infrastructure, but lacks the financial capacity to do so effectively. This financial shortfall leads to widespread disenchantment among residents, who see their taxes contributing to federal revenues without receiving adequate returns in services. Consequently, this imbalance exacerbates local grievances and heightens the risk of conflict.

## **G) Governance Structure of Mogadishu**

### **1. Current BRA-District Power-Sharing**

The BRA governs Mogadishu through a structure comprising 20 administrative districts, each overseen by a district commissioner. These commissioners are appointed by the BRA governor, who also serves as the mayor of Mogadishu. While this system aims to provide a degree of political inclusivity, with representation from various clans to reflect the city's diverse demographic composition, significant issues remain.

One major issue is the absence of representation from Somaliland, which historically claims independence from Somalia. This absence limits the inclusivity of the administrative framework, potentially leading to governance gaps. Additionally, the dominance of the Hawiye clan, the largest clan in Mogadishu, further exacerbates the problem. Although efforts are made to include various clans in the administration, the overwhelming influence of the Hawiye clan often results in an imbalance of power. This dominance can marginalize smaller clans and ethnic groups, contributing to feelings of disenfranchisement and exclusion.

The exclusion of the BRA from the federal governance structure has far-reaching consequences. Firstly, it undermines governance effectiveness by centralizing power and limiting local autonomy. The district commissioners, although locally appointed, operate within a framework that lacks federal support and recognition, restricting their ability to implement policies effectively. This limitation hampers the delivery of essential services, as local authorities may not have the necessary resources or legislative backing to address the city's unique challenges.

Furthermore, the exclusion impacts conflict dynamics within Mogadishu. The city's history of clan-based conflicts means that equitable representation and power-sharing are crucial for maintaining peace and stability. The perceived marginalization of certain groups can reignite tensions and lead to unrest. The lack of federal integration of the BRA also means that Mogadishu's issues are often sidelined in national discussions, further entrenching the sense of neglect among its residents.

To address these challenges, it is essential to consider governance structures that promote inclusivity and decentralization. Integrating the BRA into the federal system as a recognized entity with legislative and executive powers could enhance governance effectiveness. This integration would ensure that local authorities have the necessary support to implement policies and provide services, thereby improving the overall quality of governance in Mogadishu.

Moreover, a more inclusive governance framework would help mitigate conflict dynamics by ensuring that all clans and communities feel represented and valued. This approach requires deliberate efforts to balance power among different groups and create mechanisms for equitable resource distribution. By addressing the root causes of marginalization and disenfranchisement, it is possible to foster a more stable and cohesive society.

In summary, the current BRA-district power-sharing structure, while inclusive to some extent, is insufficient to address the complex governance and conflict issues in Mogadishu. The exclusion from federal governance exacerbates these problems, highlighting the need for a more integrated and inclusive approach. Recognizing BRA as a full federal member state with appropriate powers and representation could significantly enhance governance effectiveness and contribute to lasting peace and stability in Mogadishu (Hashi & Barasa, 2023).

## **2. Proposed Policy Options**

1. **Federal District:** In this model, Mogadishu would be governed directly by the federal government, with specific laws enacted to ensure self-governance and federal representation. This approach centralizes control under the federal government while allowing for a degree of local autonomy. Special legislation would outline the governance structure, administrative functions, and

representation rights of Mogadishu within the federal framework. This model aims to provide a balanced governance approach by maintaining federal oversight while recognizing the unique status of the capital city.

2. **Federal Member State:** This option proposes granting Mogadishu the same constitutional status as other federal member states. This includes legislative powers, autonomy over taxation, and land management. Recognizing Mogadishu as a federal member state would ensure that it receives equal representation in federal institutions and has the authority to manage its resources and political affairs independently. This model aligns with the principles of federalism, promoting equitable power distribution and local self-governance, which are critical for fostering stability and economic growth.
3. **Capital City within a Federal Member State:** This model suggests designating Mogadishu as a subsection within an existing federal member state, with its jurisdiction and governance structure specified by federal legislation. This approach aims to balance federal oversight with local governance by delineating the specific roles and responsibilities of the capital city within the broader federal state. The legislative framework would address issues such as taxation, land use, and political representation, ensuring that Mogadishu's unique needs are met while maintaining integration within the larger state.

## **H) Conclusion and recommendations**

Somalia's provisional constitution is central to the ongoing federal conflicts, characterized by ambiguous and contradictory articles that affect Mogadishu's status. Excluding Mogadishu from equitable power-sharing arrangements poses significant political risks, including increased tensions and potential unrest. However, the ongoing constitutional review process presents an optimistic opportunity to address these issues. By aiming for full political participation and improved access to services for Mogadishu residents, the constitutional review seeks to rectify these imbalances. The recommended policy option of granting full federal membership to Mogadishu aligns closely with the overarching goals of Somalia's federalism, ensuring a more balanced and inclusive governance framework. Implementing this policy would enhance governance effectiveness, foster economic growth, and contribute to lasting peace and stability in Mogadishu and the broader Somali state.

Mogadishu has re-established diplomatic ties with the rest of the world, which were lost following the beginning of the civil war in 1991. A number of Western countries, such as the United States and European Union member states, have relocated their diplomatic offices to the capital. The question of Mogadishu's status is not just a matter of political representation but also of justice, equity, and effective governance.

Granting the city Federal Member State status could be a significant step towards resolving the current tensions and building a more inclusive and representative federal structure.

This paper supports the **second option**, advocating for Mogadishu to receive full membership status as a federal member state. This recommendation is based on the following arguments:

- The BRA actively engages and makes significant contributions in Intergovernmental forums such as the NCC, IMFF, and IGFFTC.
- Within the budgetary framework of the Intergovernmental Fiscal Transfers, the BRA is treated on par with federal member states, receiving an equivalent allocation.
- Despite the above two, the BRA is not part of the current federal structure and is not under consideration in the current constitutional amendment review process.
- The city's significant economic growth, abundant resources, and complex power dynamics make it necessary to have a full federal membership.
- Granting Mogadishu full federal membership would enhance its ability to manage its affairs effectively, promote equitable resource distribution, and ensure robust political representation.

## I) Bibliography

### References

- Arban, E. (2022). City, state: Constitutionalism and the megacity. *The American Journal of Comparative Law*, 70(2), 424–429. <https://doi.org/10.1093/ajcl/avac032>
- Banerjee, I. (2021). *Problems of Urban Self-governance in India*. Nagarlok, LIII(3), 1–24. <https://www.researchgate.net/publication/359715989>
- du Plessis, A., & Fuo, O. N. (2024). When law struggles to deliver: Reflections on service delivery law reform in South Africa, 1996–2024. *South African Journal of Science*, 120(11/12). <https://doi.org/10.17159/sajs.2024/19336>
- Elazar, D. J. (1997). Contrasting Unitary and Federal Systems. *International Political Science Review*, 18(3), 237–251. <https://doi.org/10.1177/019251297018003002>
- Farah, A. M. (2020). Fiscal Federalism in Somalia: Issues, Challenges and Agenda for Reform. *International Journal of Research and Innovation in Social Science*, 8(8), 2590–2605.
- Farkas, S. (1971). The Federal Role in Urban Decentralization. *American Behavioral Scientist*, 15(1), 15–35. <https://doi.org/10.1177/000276427101500102>
- Hashi, M. B., & Barasa, T. (2023). Enhancing federal inter-governmental relations and state building in Somalia. *Humanities and Social Sciences Communications*, 10, Article 847. <https://doi.org/10.1057/s41599-023-02177-w>
- Heller, P. (2011, February 8). *Towards a sociological perspective on democratization in the Global South: Lessons from Brazil, India and South Africa*. Paper presented at the Comparative Research Workshop, Yale University.
- Hirschl, R. (2020). *Cities in national constitutions: Northern stagnation, southern innovation* (IMFG Papers on Municipal Finance and Governance No. 51). Institute on Municipal Finance and Governance, Munk School of Global Affairs and Public Policy, University of Toronto. <https://aspercentre.ca/wp-content/uploads/2020/09/Hirschl-IMFG-Cities-in-National-Constitutions.pdf>
- Hirschl, R. (2022). Cities in federal systems: Comparative perspectives. In E. Arban (Ed.), *Cities in federal constitutional theory* (pp. 76–96). Oxford University Press. <https://doi.org/10.1093/oso/9780192843272.003.0005>

- Hirschl, R. (2022). The “Era of the City” as an Emerging Challenge to Liberal Constitutional Democracy. *Ethics & International Affairs*, 36(4), 455–473. <https://doi.org/10.1017/S0892679422000478>
- Kharel, A. B. (2022). Models of federalism and Nepal’s practices. *Journal of Political Science*, 22(1), 40–50. <https://doi.org/10.3126/jps.v22i1.43038>
- King, L. (2014). Cities, subsidiarity, and federalism. In J. E. Fleming & J. T. Levy (Eds.), *Federalism and subsidiarity: NOMOS LV* (pp. 259–290). New York University Press. <https://doi.org/10.18574/nyu/9781479868858.003.0010>
- Longo, E., & Mobilio, G. (2016). *Territorial government reforms at the time of financial crisis: the dawn of metropolitan cities in Italy*. University of Macerata. <https://doi.org/10.1080/13597566.2016.1210603>
- Mohanty, P. (1995). Municipal decentralisation and governance: Autonomy, accountability and participation. *Indian Journal of Public Administration*, 41(1), 11–18. <https://doi.org/10.1177/0019556119950102>
- Obi, E. (2019). The theory, practice, and current trends in federalism. *International Journal of Research in Tourism and Hospitality*, 5(1), 1–12. <https://doi.org/10.20431/2455-0043.0501005>
- Strebel, M. A., & Kübler, D. (2021). Citizens’ attitudes towards local autonomy and inter-local cooperation: evidence from Western Europe. *Comparative European Politics*, 19, 188–207. <https://doi.org/10.1057/s41295-020-00232-3>
- Ter-Minassian, T., Soulage, B., Lété, N., Conroy, C., & Sow, M. (2017). *Fiscal federalism and governance in the European Union* (Project on 21st Century City Governance, Brookings Institution). Brookings Institution. [https://www.brookings.edu/wp-content/uploads/2017/09/cs\\_20170911\\_fiscal\\_federalism\\_in\\_eu.pdf](https://www.brookings.edu/wp-content/uploads/2017/09/cs_20170911_fiscal_federalism_in_eu.pdf)
- Twomey, A. (2013). *Local government funding and constitutional recognition* (Constitutional Reform Unit Report No. 3). University of Sydney.
- UN-Habitat. (2015). *The challenge of local government financing in developing countries*. [https://sdgs.un.org/sites/default/files/publications/1732The%20Challenge%20of%20Local%20Government%20Financing%20in%20Developing%20Countries%20\\_3.pdf](https://sdgs.un.org/sites/default/files/publications/1732The%20Challenge%20of%20Local%20Government%20Financing%20in%20Developing%20Countries%20_3.pdf)