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Rome, Italy 6–10 May

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Land Rights in Ethiopia: ownership, equity and liberty in land use

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Session agenda: Customary and Group Land Rights

Presentation outline

1. Introduction
2. Methodology
3. Aim
4. Rural Land Rights
5. Urban Land Rights
6. Conclusion

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Introduction

- Ethiopia is a country located in east Africa with land area of about 1.1 million sq.km. and population of 80 million
- Ethiopia is a Federal state with nine regional states
- **The history of the country goes back to 700 B.C.**



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2. METHEDOLOGY

- This article is based on primary and secondary documents of past and recent origins.
- Hence, land related legislations (of past and present) and historical documents (books, journals, and newspapers) are used.

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AIM

- The purpose of this article is to investigate the types and nature of land rights in current Ethiopia, as compared to the past, and establish the equitability and liberty in the exercise of such rights.

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Land Tenure

From land tenure perspective we witnessed three types of systems

- Imperial Era (Pre 1974)
- The Derg era (1975-1991)
- Current system

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Pre 1974 system

- Before 1974, Ethiopian land tenure system was typically a feudalistic in nature.
- This is especially true in the Southern part of the country.
- Land was taken from the natives and distributed to the Church, soldiers, and state holdings.
- In the Northern part of the country, based on ancient customs, land was held as *rist*, that provides all rights except sale.

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- Rist rights emanated from family relations, land was inherited among descendants
- It was relatively secure in that there was less eviction and state interference.
- Although not related to land use right, there was a system known as Gult right, that provides power of administrative, tax collection and judicial powers to an elite.

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Gulf vs. Rist Rights

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Derg era (1974-1991)

- Under the slogan “land to the tiller”, the military junta (Derg) came to power.
- It immediately nationalized all urban and rural and without compensation.
- Under this socialist rule, peasants were allowed to hold a maximum of 10 ha.
- But land sale, lease, donation, mortgage, and inheritance to non family member were prohibited.
- Urban residents also allowed to have one residential and (if necessary) one business house.
- Although the building is free to transfer, the land becomes valueless since land was not subject to sale, mortgage, lease, donation etc.
- The great paradox was that the Derg that came to power with the sole mission of making the tillers owners of their land ended up itself as the sole land owner and rent collector.

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Current system (post 1991)

- The military Derg was ousted from power in 1991 by the current incumbent
- The current government embraces a free market economy
- But in terms of land ownership, it maintained the previous ideology of state ownership.
- Under article 40 of the current FDRE Constitution it is underscored “The right to ownership of rural and urban land, as well as of all natural resources, is exclusively vested in the State and in the peoples of Ethiopia.”
- The argument for state ownership of land in Ethiopia is solely based on two reasons: tenure security, and social equity.

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- To implement the constitutional provision, the federal government enacted proc. 456/2005 (latest) concerning rural land
- Regional governments enacted their own proclamations.
- To ensure equity the constitution guarantees every person who wishes to engage in agriculture to get plot of land free of charge.
- Peasants have been given more liberated rights of use, lease/rent, donation, and inheritance of land.
- Government restricts the sole power of selling land and mortgage.
- In this way, government argues, tenure security will be guaranteed (by prohibiting sale)- the fear is that farmers may sell land during periods of hardship.

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Highlights of restriction on rights

- Peasants have right to use (life time right)
- Lease/rent (limited by time and size)
 - Renting not more than 50% of land size
 - Renting for not more than 5, 10 etc years
- To get farm land one:
 - Must be above 18 years
 - Must be a permanent resident
 - Must have intention to engage in the agricultural profession
- Inheritance and donation to people outside family is restricted
- Inheritance to children who are engaged in non-farming activities is prohibited

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	Federal	Tigray	Amhara	Oromya	SNNPRS	Ben-Gumz
Rent Farmer-farmer	-Amount should not be all -Period not mentioned	-50% of land -3 yrs trad. -20 yrs modern	-No specific amount -25 years	50% 3 years tradi 15 modern	-No specific -5 yrs fmr-fmr -10, 25 yrs farm-investor	-50% of holding -2 yrs traditiona -10 yrs modern
Lease Gov.-investor	Amount not specified	50 yrs for Agri investment	25 years	No mention	No mention	40 years subject to renewal every 5yr
Mortgage of lease right	Allowed	Allowed	Allowed	Allowed	Allowed	Allowed
Donation	Allowed	-	To any farmer	To family member	To family members	To any person
Inheritance	Family members	-Children -Parents -Dependants (With no land)	-To any farmer by will -Minor children -Children no land -Children land -Parents	To family members (includes dependants)	To family members	-To any farmer by will -Minor children -Children no land -Children land -Parents

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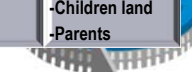




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Large scale agricultural lease

- Also known as “land grab”
- It signifies, large-scale agricultural land transfer on lease or sale basis.
- Recently it draws huge amount of media and donors attention
- This global land rush for agricultural land started during the mid of 2000 and intensified after the food crises in 2008/09
- Sovereign states and foreign investors have massively participating in this investment activities
- The purpose is to produce food crops, bio-fuel, sugar, cotton food oil, and other industrial imputes.
- The host countries are mainly from Africa, Asia an south America

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What happen in Ethiopia?

- Most regional states (Oromia, South, Gambella, and Benishangul) are on a continuous spree of agricultural land.
- A sum of 2.2 million hectare of land was distributed to foreign and domestic investors only by regional states (acc. to the government)
- Recently (after 2010) the federal government gives away about 400,000 ha of land.
- Independent researchers (such as Dessalegn) put the total land leased since 1991 to 5 million ha.
- The rate and duration of the lease agreement was not similar
- In Gambella for example an Indian Company by the name Karuturi leased 100,000 hectares of land for less than 2 dollars a hectare

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Large scale agriculture...

- The duration was for 60 and more years
- So far the federal government has collected from regions about 3.6 million of ha to be distributed in the coming few years.
- The government argues that it will create huge FDI, enable to be food self sufficient, bring and save foreign currency, create job opportunity, improve infrastructure and transfer technology transfer.
- Critics do not agree on all of them.
- It needs further study.

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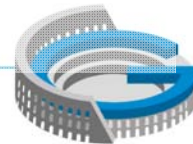


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Critics of the land policy

- Critics of the land policy generally said that the land policy:
 - promotes insecurity of tenure because it allows, among other things, periodic redistribution;
 - is inefficient because it constrains land transactions and has inhibited the emergence of a dynamic land market,
 - promotes fragmentation of land and growing pressure on land resources because it discourages rural people from leaving their farms for other employment opportunities;
 - gives the state immense power over the farming population because land is state property.

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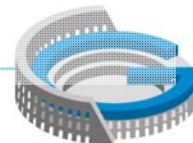




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Urban Land

- Urban land is governed by different law (lease proclamation No.721/2011).
- A recently revised, this law provides urban residents right to acquire and by auction
- Only under special cases that land be given by allocation (upon payment but without bidding)
- Residential houses are given on 99 years lease agreement
- Upon expiry government may take land back without compensation for building if land is needed for other purposes.

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Strategies to curb rent seeking

- Government complained that their was rent seeking activities inland dealings (selling land without adding value on it)
- One, speculators who participate repeatedly in unfinished land sale shall be denied such right (23.7)
- During sale of unfinished property, government agent must present
- People who wish to sell their lease right (bare land) or half completed construction will get no benefit (paid lease price + construction cost + 5% of profit gained from sale)
- The mortgage value of the property becomes the summation of paid lease price and cost of construction.

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- Assume X holds 200m² land, leased for 3,500 birr, and incurred 40,000 birr for foundation. He paid 70,000 birr initial lease price. Now he transferred it to Z for 4000 birr per m²)
- He shall get 118,500 (70,000+3500+40,000+5000). Profit is 8,500.
- While the government collects 95,000 birr out of the profit (100,000)
- What about if the construction is completed?

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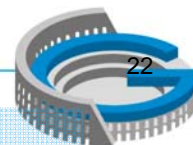
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Assume municipality invests 50 m to develop and collects 200 m by transfer

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If municipality expends 50 m to develop and collects 200 m by transferring land, what else does it want? Why should it keep sharing?

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Mortgage

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- The fourth strategy is limiting the mortgage value of the land only to the amount of lease price paid.

LAND LAW

CC=400,000

TLP=50,000

MV=450,000

SV=4,000,000

EXV= 900,000

MV= CC+TLP

TMV= 900,000

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“Lease” means a system of land tenure by which the use right of urban land is acquired under a contract of a definite period. Art. 2(1) Lease Proc

Ownership is the widest right that a person may exercise over

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Period	Land use	N/S	Use	Lease	Donate	Inherit	Mortgage	Sale	Equity
Imperial Era	Rural	North	√	√	√	√	??	X	√
		South	√	√	√	√	√	√	X
	Urban		√	√	√	√	√	√	X
Derg Era	Rural		√	X	X	X (√)	X	X	√
	Urban		√	X	X	X (√)	X	X	√
Current System	Rural		√	√	√	√	X	X	√
	Urban		√	√	√	√	√(?)	X	X

X(√)- No inheritance except to children and widow/er
√(?) - mortgage only lease right

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Conclusions and Recommendations

- When the new government came to power its mission was how to create equity of land holdings and at the same time liberalizing the land use rights.
- But it seems it is far from attaining that goal
- The rural laws should be revised so that to remove some of the restrictions
- Much care is needed in the event of land transfer for Large-scale agricultural investment
- A system should be devised that creates equity of land holding in urban areas

