

Chapter 6

Compulsory loss of pastoral land tenure systems in Ethiopia

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Abstract

This chapter examines three approaches to pastoral land tenure systems in the context of Ethiopia. The first approach is consideration of the degree to which pastoral land tenure systems have been recognized by successive governments in Ethiopia through review of constitutional and legislative instruments, and relevant literature; such analysis indicates that government policies and laws have adopted wholesale abolition of pastoral land tenure systems. The constitutional and legal nullification measures have been accompanied by schemes which have excluded pastoral people. The repudiation approach of successive governments of Ethiopia towards pastoral land systems has been influenced predominantly by the economic and individualistic orientation of property rights in land. The second approach to pastoralism comes from the pastoral people themselves who have persistently countered the high modernist perspective of the national government on the grounds of collective cultural identity and resilience of their own diverse modes of life rooted in custom form of dealing with pastoral lands and other natural resources. It is argued that both the status quo and bottom-up approaches to pastoralism are not sustainable - calling for a third way. Thus, the most important challenge ahead in pastoralism discourses for intellectuals as well as development practitioners is to find out the appropriate mix of the two seemingly contradictory perspectives. In this regard, one finds an emerging and promising scheme called benefit sharing, which is getting increasing attention in literature and development discourses.

Keywords: Pastoralists, compulsory, modernization, customary law, property, land, equality fairness, sedentarization

1. Introduction

This chapter examines the degree to which pastoral land tenure systems have been recognized by successive governments in Ethiopia through a review of constitutional and legislative instruments, and relevant literature; such analysis indicates that government policies and laws have adopted wholesale abolition of pastoral land tenure systems. Also, this chapter reveals that the constitutional and legal nullification measures have been accompanied by schemes which

have excluded pastoral people such as land enclosures for eco-tourism; national parks and wildlife sanctuaries; plantations and farming; dams, and sedentarization of pastoralists. These projects have produced significant adverse consequences on pastoral communities in terms of compulsory loss of land rights; food insecurity; competition for scarce resources; exacerbation of conflicts; environmental degradation and above all weakening of their distinctive livelihoods.

The chapter is organized as follows. Section 2 sets the scene for the entire discussion by explaining contexts and the importance of pastoral landholdings in Ethiopia. Section 3 analyzes the mechanisms embodied in various constitutions and subsidiary land statutes meant to nullify pastoral land tenure systems. Section 4 suggests that such measures of repudiation have not been innocuous as they have led to harmful consequences on pastoral communities, is followed in section 5 by a discussion of the justification invoked often by the government for their nullification approach to pastoral customary land laws. Section 6 discusses the counter-narratives of pastoral people. Finally, the chapter concludes with the underlying point that the repudiation approach of successive governments of Ethiopia towards pastoral land systems has been influenced predominantly by the economic and individualistic orientation of property rights in land. This in particular means that land rights, from the standpoint of successive governments of Ethiopia, exist in the context of a private and exclusively defined tract of land and a conception of pastoral land as falling invariably within the purview of state domain. The concluding discussion suggests further research be conducted on a third path to pastoralism – benefit-sharing approach.

2. Importance of the pastoral areas of Ethiopia

Pastoral people occupy Ethiopia's periphery, which makes up about 60% of the total landmass of the Horn of Africa country. The pastoral area is home to approximately 12-15% of Ethiopia's 105 million people with around 2.9% annual growth. It exhibits ethnic, religious and livelihood diversity. The pastoral part is encircled by the highland part of the Country, which supports around 85% percent of the total population that practices largely sedentary agriculture founded upon small landholders. Government bureaucracy and political leadership in Ethiopia have invariably been drawn from highland elites who have often viewed the pastoral territory as El Dorado.

Ethiopia's pastoral area is agro-ecologically diverse with fragile eco-systems. It witnesses chronic, regular and massive food insecurity. The area lies 1,500 meters below sea level, representing arid and semi-arid plain fields; it is traversed by significant rivers suitable for commercial irrigation including ranching.¹ The pastoral area forms Ethiopia's long international border with Eritrea, Djibouti, Somalia, Kenya, South Sudan and Sudan. In the area, there are frequent intra and cross border conflicts, as well as contraband and movement of small arms.

Under the customary land law of pastoral people of Ethiopia, there are two broad landholding typologies; namely landholdings of individual pastoral families and communal rangelands. Landholdings of individual pastoral families are small in size and secondary in importance to the pastoral mode of life and are allocated to individual pastoralists by concerned clan authorities. These landholdings are used for housing, animal encampments, grazing land for milk cows and camels. Each pastoral family, concerning these land possessions, has exclusive use right including the right to cultivate, graze and plant perennial crops and the right to inherit to family members without any consultation to clan authorities. Family landholdings can also be leased or donated to members of the clan or third parties only after securing prior permission from clan authorities.²

Communal rangelands, which constitute the major land tenure form and institutions in the pastoral segment of Ethiopia, are founded upon communal exploitation of land and landed resources. Communal rangelands are vast and conferred on groups by clan authorities. Communal lands are central to the livelihoods of the pastoralists for they use the commons to carry out life-sustaining activities such as grazing, gleaning, and firewood and honey collection, as well as place of burial and of cultural, origins of water and sites of religious rites and festivities. Especially poor pastoralists, are disproportionately more dependent on the rural commons.³ Beyond survival, pastoral land tenures reflect their world views, identity, and entire social, economic and political

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¹ They are the Awash River, the Wabe Shebelle River, the Omo River, the Baro River, and the Genalle River.

² N Kabtamu *Land Tenure and Tenure Security among Somali Pastoralists: Within the Contexts of Dual Tenure Systems* (2012) 73-76.

³ D Bromley 'Property Relations and Economic Development; The Other Land Reform' (1989) 17 *World Development*.

fabrics. In specific terms, communal grazing lands, by custom, bestow use right upon all individual male members of a given clan. The use right encompasses the use of the entire rangeland for grazing livestock or making charcoal or using firewood or collection of gums and incense, yet rights over communal land do not extend to the right of transfer including the transfer of land to investors and land administration which are exclusively vested in the council of clan elders.⁴ Both pastoral family landholdings and communal rangelands depend ultimately on clan land ownership and management. In this predominate clan space, economic activities such as eco-tourism; livestock farming; exploring and mining minerals; commercial agricultural and electricity generation threaten pastoral land tenure systems. Also, there are other projects such as the expansion of educational and health services; mega road and railway infrastructure developments with great national and continental geopolitical importance compound the problem. In sum, this chapter demonstrates that these projects have not been carried out in a manner that respects the rights of pastoral societies guaranteed in constitutional and international human rights standards.⁵

3. Constitutional and legislative status of pastoral land tenure systems in Ethiopia

As the present section portrays, the top-down transformation of the pastoral land tenure systems represents the underlying mindset of the successive governments of Ethiopia. This attitude is embodied in various constitutions and legislation which invariably invalidate and replace pastoral mode of land governance and thus heralding the juridical death of pastoral land tenure systems. To this end, the first and second sub-sections discuss history of constitutional and legislative treatment of norms and institutions that govern pastoral lands in Ethiopia by the Imperial and Derg regimes⁶. This is followed, in the third sub-section, by the examination of the similar issue of the

⁴ Kabtamu (n 2 above) 76.

⁵ D Ayele *Large-Scale Agricultural Development and Land Rights of Pastoralists in Ethiopia: A Case Study of The Bodi People* (2015).

⁶ The Imperial Period refers to the period reign of Emperor Haile Selassie I who ruled Ethiopia between 1930 to early 1974 while the Derg Period relates to the time of military rule from 1974 to mid 1991.

constitutional and legal status of pastoral land norms and institutional arrangements in present-day Ethiopia.

The legal status of pastoral land tenures in the Imperial Period, 1930-1974

The 1931 and 1955 Constitutions are similar in respect of their provision for pastoral land tenures. The 1931 Constitution of Ethiopia declared ultimate Crown ownership over all lands and other resources in the Country. That constitution under Articles 27, 76 and 78, recognized only three categories of property; namely, the property of the Crown, private property and state property; it did not give any recognition to communal ownership of land and other resources. The 1955 Revised Constitution, in Article 130 (d), provided that

All property not held and possessed in the name of any person, natural or juridical,... whether real or personal, as well as all products of the sub-soil, all forests and all grazing lands, water-courses, lakes and territorial waters, are State Domain".

Further, within the tradition of its predecessor, the 1955 Revised Constitution acknowledged private property and state property without mentioning communal land and landed resources.⁷ Both constitutions gave constitutional status to the state's historic claim of absolute territorial dominion (radical state title) over all lands, both in sedentary or pastoral, areas of the country. Regarding the state's historical claim over the land, Russel Berman writes "The theory of residual state ownership finds particular support in the Ethiopian tradition of feudal land tenure ... the principle ... seems to be generally accepted by scholars that all land in Empire was ... held of the Emperor and at his pleasure..."⁸ Richard Pankhurst also states that "the ownership of land in Ethiopia was traditionally vested in the sovereign who could allocate or appropriate it at will."⁹

The 1960 Civil Code is one of the six western-oriented codes Ethiopia adopted between 1957 and 1965 with the primary aim of laying the foundation of a

⁷ Revised Constitution of Ethiopia of 1955, Arts 43-44 and 60.

⁸ B Russel 'Natural Resources: State Ownership and Control Based on Article 130 of the Revised Constitution' (1966) 3 *Eth. J. L.* 555.

⁹ P Richard *State and Land in Ethiopian History* (1966) 185.

market economy, and more broadly, to assist the country's endeavor to "modernize" itself.¹⁰ The property law section of the Civil Code, which runs from Article 1126 to Article 1674, is to a large degree still in force. If one goes through this portion of the Civil Code in search of provisions based on customary property rules, one finds few and insignificant references to custom.¹¹ In fact, one finds the sweeping repeal provision in the Civil Code, that is, Article 3347/1 that provides that "Unless otherwise expressly provided, all rules whether written or customary previously in force concerning matters provided for in this Code shall be replaced by this Code and are hereby repealed". Therefore, the ability to reference and apply customary laws under the Code is extremely limited.

At the time the Code was drafted state policy devalued and underestimated customary laws for they were thought to undermine the social, political and economic progress of the country.¹² In particular, the Code swept away custom generally and land tenure systems of the pastoral people particularly under the assumption that they impede land markets, encourage incessant land litigation, fragmentation, diminution of land and thus impediments to the modernization of agriculture and the wider economy.¹³ This policy view is reflected in the writings of Rene David, the drafter of the Code, as follows.

...Ethiopia wishes to modify her structure completely, even to the way of life of its people. Consequently, Ethiopians do not expect the new code to be a work of consolidation, the methodical and clear statement of actual customary rules. They wish it to be a program envisaging a total transformation of society and they demand that for the most part, it set out new rules appropriate for the society they wish to create. Ethiopia cannot wait 300 or 500 years to construct empirically a system of law which is unique to itself, as was done by the Romans and the English. The development and

¹⁰ Such codes were: Criminal Procedure Code of 1961; Civil Procedure Code of 1965; Penal Code of 1957; Commercial Code of 1960 and Maritime Code of 1960.

¹¹ See, for example, the Civil Code of 1960 Arts 1132/1, 1168/1, 1170/2, 1370, 1386-1409 and 3363-3367.

¹² G Krzczunowicz 'Code and Custom in Ethiopia' (1965) 2 *Eth. J. L.*; J Beckstrom 'Transplantation of Legal Systems: An Early Report on the Reception of Western Laws in Ethiopia' (1973) 21 *AM. J. of Comp. L.*

¹³ H Dunning 'Land Reform in Ethiopia: A Case Study in Non-Development' 18 *University of California Law Review*; S Joireman 'Contracting for Land: Lessons from Litigation in a Communal Tenure Area of Ethiopia' (1996) 30 *CJAS*.

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modernization of Ethiopia necessitate the adoption of a "ready-made" system; development and modernization force the reception of a foreign system of law in such a manner as to assure as quickly as possible minimal security in legal relations.¹⁴

The Imperial Period went far beyond mere constitutional and legislative declaration about the nullification of the norms concerning pastoral land tenure systems; it also invalidated and replaced the institutional arrangements for such landholding systems. Thus, the Imperial period put the administration of land, including pastoral landholdings under government institutions. In 1943, the Ministry of Interior¹⁵ was in charge of urban land administration while later in 1966 the administration of both urban and rural lands was transferred ~~given~~ to the Ministry of Land Reform and Administration.¹⁶ The Imperial government formed a network of territory-based government structures extending from province down to neighborhoods; such administrative edifice included the formation and functioning of land administration at *Teklay-Gezat* (province), *Awuraja* (sub-province) and *woreda* (sub-district) levels. These structures implied the intention of the government to repeal the institutional frameworks for customary land tenures including pastoral land tenures.

Status of pastoral land tenures during the Derg period, 1974-1991

The attitude of the Derg regime towards pastoral land regimes can be inferred from the core elements of the Public Ownership of Rural Lands Proclamation of 1975.¹⁷ Firstly, the Rural Lands Proclamation patently abrogated the then-existing multiple forms of land tenure when it declared in Article 3 that, "...rist [communal) land is [abolished] ... [thus] no person may put claims to land in rist areas... No law...practice, written or customary shall...have force...in respect of situation provided in this Proclamation." More specifically, the Rural Lands Proclamation, under Article 27, considered pastoral land tenure systems to last until the Government discharges its responsibility "to settle the nomadic people for farming purposes." Secondly, this revolutionary land statute, in Article 3,

¹⁴ R David 'A Civil Code for Ethiopia: Considerations on the Codification of the Civil Law in African Countries' (1963) 37 *Tul. L. Rev.* 188-89 and 193.

¹⁵ See Imperial Order No 1 of 1943.

¹⁶ See Imperial Order No 46 of 1966.

¹⁷ Hereafter the Rural Lands Proclamation.

replaced the diverse customary land tenures by a single land tenure mode thus: “all rural lands shall be the collective property of the Ethiopian people...” Finally, the same law was built on the explicit assumption that land-use rights were to be held either privately by households or collectively by producers’ cooperatives or by state farms following state laws but not communally according to customs.

The Derg regime adopted a constitution in 1987 which consolidated the Derg’s measures reflected in a series of proclamations enacted since 1974. The 1987 Constitution recognized three forms of property; namely, socialist property which included state property which encompassed all “Natural resources, in particular land, minerals, water and forest and cooperative ownership”, private ownership and other forms of property such as the property of mass associations and personal property (Articles 12, 13, 15 and 18). Thus, this constitution left no room for the autonomous existence of normative and institutional aspects of pastoral land tenure systems.

The Rural Lands Proclamation discussed above retained centralized and state-driven land administration organizational framework. To this end, the legislation divided rural Ethiopia, including pastoral parts of the country, into villages each with a minimum of 800 hectares of land and formed a peasant association in each of these villages. The peasant associations were mandated to carry out development by administering land including distribution and redistribution of rural lands and establishing judicial tribunals to hear land disputes,¹⁸ undertaking villagization program, administering and conserving any public property within the area especially the soil, water, and forest.¹⁹ Assumption of the leadership of the peasant’s associations was supposed to be based on election, rather than traditional considerations, by the general assembly of a peasant association.²⁰

The Rural Land Proclamation set up a second level rural administration called *woreda* (district) peasant association composed of delegates from each association established at an area level to coordinate the functions of peasant associations, to change the boundaries of areas so that peasants within a *woreda* would have, as far as possible, equal holdings, allot unoccupied land to any person who has no land or other means of livelihood, establish a *woreda*

¹⁸ Article 28 of the Rural Lands Proclamation annulled rural land cases pending in the ordinary courts, prohibited regular courts from entertaining new rural land cases and vested judicial tribunals of peasant associations with the power to handle all rural land disputes.

¹⁹ The Rural Lands Proclamation Arts 8 & 10.

²⁰ Art 9 *ibid*.

judicial tribunal to hear and decide appeals from the decision of the judicial tribunal at the area level as well as first instance jurisdiction to hear and render final decision over land disputes arising between areas.²¹ For inter-*woreda* matters, the third tier of peasant association called an *Awuraja* (sub-province) peasant association was formed to coordinate the functions of *woreda* peasant associations and to establish an *Awuraja* judicial tribunal which was supposed to hear and render final decision over land disputes decided at first instance by a *woreda* judicial tribunal; land disputes were required to be heard and resolved by different levels of tribunals formed under peasant associations, no more by customary elders.²²

Constitutional and legislative status of pastoral land tenures since 1991

The 1995 Constitution is quite progressive; it is the first of its kind in Ethiopia's constitutional history to explicitly recognize land rights of pastoralists and offer protection against displacement from their lands. However, its recognition of the normative and institutional elements of pastoral land tenure system is weak. This is discernible from its various clauses. First, in terms of land ownership, the 1995 Constitution declares that land and all other natural resources are exclusively vested in the form of common property in the State and 'nations, nationalities and peoples' of Ethiopia.²³ Thus, pastoral people are not recognized as owners of their rangelands and other resources within their customary territory as a distinct land tenure form and mode of livelihood. Secondly, the 1995 Constitution recognized the attenuated land rights of pastoral people. Accordingly, the supreme law of the land provides that Ethiopian pastoralists have the right to access and use rights over agricultural land without payment.²⁴ The 1995 Constitution further provides for the immunity of pastoralists from eviction from their land possessions in stipulating in Article 40(5) that "Ethiopian pastoralists have the right ... not to be displaced from their land." However, it should be noted that this constitutional arrangement precludes pastoralists from deciding on the contents of land rights according to their customs. This means pastoral people in Ethiopia are not given a constitutional entitlement to have access to and retain land within the tradition of the pastoral

²¹ Art 11 *ibid*.

²² Art 11 (3 and 4) *ibid*.

²³ The FDRE Constitution Art 40 (3).

²⁴ Art 40 (4) & (5) *ibid*.

form of tenure system. Thirdly, from an institutional point of view, the 1995 Constitution empowers the government as an administrator of land. This endowment implies the possibility of the government of expropriating pastoral land for demands including reallocation to the land poor, the landless and investors. The Constitution further empowers the Government, not the pastoral communities, as a trustee of land “to hold land on behalf of the People and to deploy [it] for their common benefit and development...”.²⁵ Fourthly a combined reading of Articles 34 (5) and 78 (5) of the 1995 Constitution is an illustration of its further limitation concerning the recognition of pastoral land tenure systems. This is because these constitutional clauses offer limited scope for customary laws as they recognize adjudication of disputes relating to personal and family laws with the consent of the parties to the dispute. The provisions give green light to federal and regional lawmakers to recognize customary courts that can handle disputes over personal and family matters. This means that had the framers of the Constitution wished to give broader recognition to customary laws, they would not have limited themselves to the recognition of customary laws related only to personal and family matters. Finally, another example of weak recognition of pastoral land tenure systems by the 1995 Constitution is found in the concept of property, which is defined as: ‘... any tangible or intangible product which has value and is produced by the labor, creativity, enterprise or capital of an individual citizen...’²⁶ Another clause in the same Constitution provides that ‘... Every Ethiopian shall have the full right to the immovable property he builds and to the permanent improvement he brings about on the land by his labor or capital.’²⁷ The joint reading of these clauses²⁸ shows that the Constitution has subscribed to the notion of improvement, which means that, for any person to have a legal claim over land they must show that they have made an improvement traceable to their labor and/or capital. Thus one cannot claim land without establishing improvements thereon. Unimproved land in this sense belongs to the state. Those who merely extract mere natural fruits from communal land cannot under this approach claim to have a right over those resources for they have not met the requisite condition for claiming such right.

²⁵ Art 89 (5) *ibid.*

²⁶ Art 40 (2) *ibid.*

²⁷ Art 40 (7) *ibid.*

²⁸ 40(8) *ibid.*

What is worrisome, as discussed in what follows, is that the position of the Constitution regarding pastoral landholdings enunciated above has been made even weaker under federal and regional land laws passed since 1997. The first rural land law after the 1995 Constitution was the 1997 Federal Rural Land Law. This legislation did not provide for payment of compensation for improvements on communal landed resources in cases where 'nomads' lose their land rights due to government-initiated land distribution suggesting that the pastoral rangelands could be taken without compensation where the state needed them. This law defined land rights of 'nomads' in such a manner that their land-use rights is conditioned upon land demarcation in the sense of individual farm plots destined for sedentary agriculture and that it is only in that context that one's land possession gets the blessing of the government with its implication for payment of compensation for labor-related improvements thereon upon expropriation and government initiated-distribution (Articles 2 (4), 6 (6) and 6 (7-9).) This legislation conflated a community with a *kebele*(neighborhood) - territory-bound lowest government administrative unit.

The 1997 Federal Rural Land Law was repealed and replaced by the 2005 Federal Rural Land Law, which is presently in force. The preamble of the Federal Rural Land Law of 2005 reveals the intention of the government to replace pastoral customary tenure when it states its objective is to encourage "...private investors in pastoralist areas where there is tribe based communal landholding system." The same law defines state landholding as "rural land demarcated and those lands to be demarcated...and includes forest lands, wildlife protected areas, state farms, mining lands, lakes, rivers, and other rural lands" whereas communal landholding is described as "rural land which is given by the government to local residents for common grazing, forestry, and other social services." Thus, the government authorities are givers and takers of communal land. More telling is that the legislation under discussion seriously threatens the land rights of pastoralists when it stipulates that "Government being the owner of rural land, communal rural landholdings can be changed to private holdings as may be necessary."²⁹ Further, the land legislation in question stipulates that a pastoralist, is restricted to the transfer of his/her rural land use right through inheritance to a family member³⁰, which is defined as "any person who permanently lives with holder of holding right sharing the livelihood of the

²⁹ See Federal Rural Land Law of 2005 Art 5 (3).

³⁰. Article 2 (4) cum Article 8 (5) *ibid*.

later.”³¹ This definition privileges livelihood as a sole criterion in obtaining land right in the form of succession; it detaches land right inheritance from natural and customary affinities. In doing so, it curbs the freedom of a pastoralist, recognized under pastoral land tenure systems, to bequeath his/her land-use rights to any person with whom he/she has blood or marital relations. Moreover, the 2005 Land Law states that “disputes over rural landholding right may be settled through agreement or discussion by the parties concerned or failing that by an arbitral body appointed by the parties to the dispute or be decided following rural land administration laws of the Region concerned.”³² Even if this provision appears to open an avenue for customary norms and institutions, the power to recognize the customary mechanism of dispute settlement is entirely left to the discretion of regional governments. Finally, there is the repeal clause in the 2005 Land Law which provides that, “No law or practice shall, in so far as it is inconsistent with Proclamation, be applicable concerning matters provided for in this Proclamation.”³³ This opens, as mentioned above, the possibility of subsidiary land legislation to repeal pastoral land tenure systems which are in line with the tenets of the Constitution so long as such tenure rules are not in harmony with the legislation concerned. And beyond and above legal repeal, the general reluctance or even failure to issue land certificates concerning communal lands of pastoralists while issuing certificates to peasants’ private landholdings under Ethiopia’s ongoing rural land certification programs reflect the age-old thinking of the Government that the pastoral commons belong to it.

Another legislation that threatens the pastoral land tenure system is the Federal Expropriation Law of 2005. This law was crafted in a manner that precludes pastoral people from demanding compensation in the event of expropriation of their land possessions. This is done by conceptualizing a landholder as “an individual...and [who] has lawful possession over the land to be expropriated...”³⁴ The concept of landholder is further amplified to mean he/she who produces “proof of legitimate possession of the expropriated landholding...”³⁵ Thus, it appears that the communal holdings of pastoralists, for instance, are not given recognition in their existing forms but only when

³¹Article 2 (5) *ibid.*

³²Article 12 *ibid.*

³³Article 20 (2) *Ibid.*

³⁴ Federal Expropriation Law of 2005 Art 2(3).

³⁵See Expropriation Regulations of 2007.

pastoralists transform their ways of life into sedentary farming. The “lawful possession of the expropriated landholding” is made a precondition to receiving compensation in the event of expropriation.³⁶ Here the term ‘lawfully’ seems to mean production of evidence of the acquisition of private landholding according to state law, not any other evidence, such as per customary practices. Thus, it looks that any category of land other than the one held by private persons constitutes state holding. This implied classification of land enlarges the size of state landholding to the detriment of pastoral landholdings, thereby spelling the juridical death of the commons generally and pastoral land tenures particularly in the eye of the state.

It may be also instructive to consider the statutory status of pastoral land tenures under some regional state land laws.³⁷ The Rural Land Law of the Southern Regional State of 2007 defines communal landholding as “land out of government or individual possession and is being under the common use of the local community as a common holding for grazing, forest, and other social services.”³⁸ This same law states landless youth and peasants with less farmland shall be given rural land which is possessed by the community. Here local government authorities are authorized to distribute communal land, but not communities who are legitimate claimants of such lands. As a verbatim reproduction of a provision in the Federal Rural Land Law of 2005, the same statute confers ownership over communal land upon the government when it provides that “Government, being the owner of rural land, can change communal rural land holdings to private holdings as may be necessary.”³⁹ Another regional land law, the Afar Regional State Rural Land Law of 2009⁴⁰ reproduces this same community disempowering stipulation concerning communal lands. The Rural Land Law of the Tigray Regional State of 2008 is also no exception in subjecting the fate of communal lands including pastoral landholdings to the will of the lowest echelon of government administration when it provides:

³⁶ Article 22 *ibid*.

³⁷ Ethiopia is a federal state with nine federating units called regional states according to the 1995 Constitution, each regional state with the power to administer land which entails enactment of laws on the matter.

³⁸ Art 2 (14)).

³⁹ Art 5 (14)).

⁴⁰ Art. 5 (16).

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Grazing land means land demarcated at the time of land redistribution and land demarcated with the consent of the local people and kebele administration. Use of grazing land shall be by the custom of the locality concerned. The local people shall prepare and implement regulations regarding use of grazing land through Kebele council.⁴¹

It is interesting to note that the 2010 Rural Land Law of the Beni-Shangul Gumz Regional State recognizes the value of community consultation by local communities about the conversion of communal lands to private holding. This law, thus, states:

Where necessary and with the acceptance of the community, such lands shall be changed into private possession and by using modern technique utilizing the land for grazing, forest, and other perennial crops. Communal lands found in the region shall be changed into private grazing possession gradually and substituted by improved forest species to develop the potential of productivity. Communal grazing land shall be put to its development potential/productivity with the participation of the community. Local laws issued by the people and customary practices that do not contravene the law shall apply to utilization of communal lands.⁴²

It should nevertheless be noted that the critical decision about communal landholdings (changing communal land use patterns), under the Beni-Shangul Gumz Regional State land legislation just cited, still lies in the hands of local government authorities. A mere obligation to consult communities is imposed on them. The translation into reality of such kind of pledges to consult people in authoritarian states such as Ethiopia has often been something much to be desired.

From an institutional perspective, customary institutions in charge of administering pastoral lands have been overlaid by state-driven land administration institutions. In the current federal political dispensation, there is a federal ministry of agriculture and natural resources in charge of drafting and proposing to the Government rural land laws with nation-wide applicability and building the capacity of regional land administration institutions. The federating units (regional states) are mandated to administer land and to that effect, they

⁴¹Art. 26.

⁴² See Art 29.

have organized themselves into land administration bureaus at the regional level, land administration sectors at zonal level, land administration office at *woreda* (district level), land administration desk at *kebele* (neighborhood level). There is further the Ministry of Peace in charge of some kind of intervention including resettlement in pastoral areas of the country. In this array of government institutional arrangements, the role of customary pastoral land administration institutions is nowhere to be seen. Hence, tacit statutory repudiation seems to be the government's preferred approach towards the institutional arrangements of pastoral land tenure systems.

4. The effect of the constitutional and legislative laws on pastoral land tenure systems

The discussion in section 3 on constitutional and legislative frameworks indicates that wholesale repudiation of the pastoral form of land governance has been the policy intent of the successive governments. At this juncture, it is sound to inquire whether or not such sweeping statutory nullification of the normative and institutional aspects of pastoral land tenure systems is of any practical effect. There are two contrasting narratives to this end; one argues in favor of the harmless nature of the sweeping repeal measures while the other thinks that the weakened pastoral land tenure system is consequential.

Arguments in favor of the harmless nature of repudiation of pastoral land tenure systems

The first narrative in the literature holds that one should not make a fuss of federal and regional land laws regimes that seek to wipe out pastoral land norms and institutions because pastoral people enjoy *de facto* effective control of land administration. It is argued that the reason for the survival of pastoral land systems in spite of government legal onslaught is their communal nature which enables them to adapt to changing conditions of each generation by readjusting themselves to changing land uses and social relations within the pastoral community.⁴³

⁴³ See, for example, A Wily 'The Community Land Act in Kenya: Opportunities and Challenges for Communities' (2018) www.mdpi.com/journal/land (accessed April 29, 2018).

Proponents of this narrative cite illustrations of the resilience of pastoral land tenure regimes from the three successive regimes. In the Imperial period (between 1930 and 1974), pastoral communities' traditional legal institutions generally and their land tenure systems particularly continued to operate even after the introduction of state land laws. The transplantation of modern laws with repealing provisions did not lead to the elimination of preexisting customary land tenures in the pastoral society. Pragmatic considerations necessitated *de facto* tolerance on the part of the state of customary practices including the land tenures systems of the people there. The Imperial Government did not have the requisite infrastructure and administrative reach to impose itself on the nomadic people. The pastoral people did not also have reasons to detach themselves from their long-standing customary institutions. Norman Singer states that:

The central government did nothing to prevent the traditional systems of law from operating. Interference with that operation could have meant a complete disruption of the institution most closely valued by members of traditional society and an impossible workload for the governors... The government would not appoint a full complement of judges to adjudicate in the provinces... The core of provincial governors was burdensome enough to administer as no system of communications existed. The customary system remained unchanged. The Ministry of Interior performed [some required] legal functions [in the pastoral territories], while the local population ...continued with their own pattern of existence.⁴⁴

What is said in general terms in this quote should be true for land tenure. Bahru Zewde also argues that even if there was an interference with customary institutions after the incorporation of the pastoral parts of Ethiopia into the Imperial territory in 19th and 20th centuries, customary institutions remained of vital force for the local population and that this was possible because the emperor's rule had been, as a matter of fact, "more of a decentralized monarchy rather than a centralized one"⁴⁵ and that his "imperial authority was exercised through the annual collection of tributes rather than using direct intervention in local administration"⁴⁶. The customary land tenures in the pastoral areas were no exception. In this vein, Ann Lambton tells us about the continued survival of

⁴⁴ N Singer 'The Ethiopian Civil Code and the Recognition of Customary Law' (1971-1972) 9 *Houston Law Review* 466-467.

⁴⁵ B Zewde *Ethiopia: the Challenges of Democracy from Below* (2002) 19.

⁴⁶ Zewde (n 45 above) 10

customary land tenures in the post-imperial incorporation of the pastoral areas including the reasons for the persistence of such tenures:

These [state] tenures were superimposed on older titles in disregard of existing land rights, but such preexisting land rights such as communal tenures of great variety continued to exist...In spite of legal reforms, the old tenures linger on. Some of them, notably the collective tenures, no doubt, appear anachronistic to the western-trained economist. But it is important to remember that they have been preserved in conditions of geographical isolation as forms of group security-a security which may have little in common with security as understood by economists, but which has meaning for the local people.⁴⁷

In connection with the Derg regime (between 1975 and 1990), the lack of government capacity to implement land law and geographic distance from the seat of political power created a conducive environment for the continued operation of the traditional land laws of the pastoral communities. Also the Rural Lands Proclamation was terse, leaving many issues unaddressed, consisting of few broad provisions. The provisions were not detailed by second and third level implement legislation. The sketchy nature of the Rural Lands Proclamation led to the *de facto* application of customary land tenures chiefly customary land dispute settlements. Similarly, the perspective that maintains the innocuous nature of state land laws in Ethiopia claims that since 1991, pastoral people have been and still are using customary land tenure forms and institutions widely despite contrary state land law prescriptions.

The consequential nature of the repeal clauses concerning pastoral land tenure regimes

The second contending perspective is that constitutional and legislative nullifications have impacted customary land tenure systems for a couple of reasons. One justification for this position is that legal pronouncement matters for claim-making and claim-denying. This means state land laws give the state the power to assert that pastoral people are mere squatters using the lands without any legitimate title. What is more the state takes pastoral land, without being obliged to pay compensation or seek consultation with the people. Its claim over the commons is not merely symbolic nor is it made to protect the

⁴⁷ A Lambton (1971), 'An Approach to Land Reform' (1971) 34 *Bulletin of the School of Oriental and African Studies* 224 and 227.

interests of community members with full acknowledgment of their traditional land title. It is rather a radical claim in the sense that the state's control over the commons results in the gross expropriation of communal lands. Thus, rural people are turned into squatters concerning their access to the commons. And the underlying thinking behind the lack of recognition of pastoral tenures is the attitude that either pastoral people possess no land tenure rules or if they have them, these land tenure rules are not proper laws. State ownership and expropriation of pastoral land have resulted in national projects with significant land disposessions. What follows is a representative sample of different Ethiopian governments expropriation of pastoral land tenure regimes for projects such as large scale farms, villagization, elites small farming and conservation measures.

The Imperial Government

The Imperial Government created a state land domain of large size primarily out of communal lands⁴⁸ in the 1960s and 1970s using four successive five year plans to push for expansion of commercial agriculture in the pastoral areas and individual private landholdings.⁴⁹

The Imperial Government endeavored to translate these plans into reality in the pastoral areas. Due to these government measures, for instance, on the eve of the revolution in 1974, there were an "estimated 5,000 large-scale farms covering 750,000 hectares, with infrastructure, field layouts, and machinery designed for large-scale operation."⁵⁰ To this end, the state offered to the commercial large farm sector attractive investment incentives in the form of cheap land, tax holidays and of exemption from customs duties on capital goods.⁵¹ The state itself engaged in commercial farms concentrating its investments in cotton, fruits and sugarcane plantations along the Awash Valley that brought about the eviction of pastoralists and semi-pastoralists. In pockets of pastoral areas such as Afar, landlords and other commercial farmers started cultivating commercial crops including oilseeds destined for national and international markets. In the contexts of these national plans, the Imperial Regime further used lands under state domain for imposed conservation measures, parks and wildlife sanctuaries with rangelands to be controlled by

⁴⁸ Pankhurst (n 9 above).

⁴⁹ Dunning (n 13 above).

⁵⁰ H Scholler & P Brietzke *Ethiopia: Revolution, Law and Politics* (1976) 637 and 651.

⁵¹ B Zewde *Society, State and History: Selected Essays* (2008); Scholler & Brietzke (n 50 above).

rangers to the exclusion of local people in the management of such resources. It is in this connection that said that the imperial regime believed that “Salvation could only come from the development of “large and mechanized farm enterprises.” Hence the emergence of “agrarian capitalism” or “mechanised feudalism” through land concessions...”⁵²

The Derg Regime

The Derg’s Ten Year Perspective Plan (intended to run from 1984 to 1994) designated the commons as ‘vacant lands’ and to be put under full utilization in the form of resettlements of people from highland Ethiopia, settlement of the pastoral peoples themselves, expansion of socialist agriculture in the form of expansion of producers cooperatives and state commercial farms. The Derg thought that “for the pastoralists to develop, they must settle first.”⁵³ To the Derg, pastoralists were compatriots “who follow the tails of their cow, aimless wanderers who do not plan their movements rationally, who languish in backward socio-economic stages, [who] must [be] liberate[d] from such backwardness.”⁵⁴

The Present Government, since 1991

The current Government of Ethiopia has subscribed to the goal of transforming, rather than enhancing, the pastoral mode of life which involves the introduction of sedentary agriculture. This transformational agenda has been given concrete shape in successive government plans. For instance, the *Growth and Transformation Plan I* (2010-2015) (the GTP I) and *Growth and Transformation Plan II* (2015/16-2019/20), focus upon rapid economic growth by dealing with natural resource management and utilization and raising agricultural productivity. Both plans have capitalized upon production for the international market. GTP I, in particular, characterized pastoral areas as sites,

...where abundant and extensive land exists, large-scale commercial agriculture is possible, an assessment will be made to identify suitable land and

⁵² R Lefort ‘Ethiopia’s Election: All Losers’ (2010), <<http://www.opendemocracy.net>>.

⁵³ F Gadamu, ‘The Post-Revolutionary Rethinking of Arid Land Policy in Ethiopia’ (1994) 34 *Nomadic Peoples* 72-73.

⁵⁴ Gadamu (n 53 above) 73.

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keeping the same in organized land bank, and promoting such lands for investment by facilitating for local and external investors to develop it using lease system. While keeping the support for private investment in large-scale farms, the focus will be made to ensure that the products produced from such farms to be primarily for exports. In this regard, emphasis will be accorded for cotton, date palm, tea, rubber tree and the like...In the coming five years, over 3 million hectares of land will be identified, prepared and, used for the desired development purpose by transferring it to investors and in so doing tangible support will also be given to private investors to enhance their investment in commercial agriculture⁵⁵

This tone of GTP I have been retained in GTP II. The transformational agenda of the Government as embodied in the two plans targets pastoral areas as El Dorado, among others, to boost agricultural productivity and commercialization. Thus, this has led to the extensive compulsory appropriation of landholdings of pastoralists in a manner incompatible with the nature and ethos of their customary land tenure systems. Implementation of these mid-term plans has led to transfer to corporate farmers of several millions of hectare of land which compulsorily taken from pastoralists without compensation with the effects of land dispossessions and pushing pastoralists to marginal grazing lands.⁵⁶ Also tied to release of land for large-scale corporate farming is the Government's ventured into villagization programs which have affected 275,000 households in the

⁵⁵ Ethiopia: Growth and Transformation Plan I (2010/11-2014/15) (2010) 23-24.

⁵⁶ F Albrecht *et al* 'Using Crowdsourcing to Examine Land Acquisitions in Ethiopia' (2013) 100 <gispoint.de/fileadmin/user_upload/paper_gis_open/537532003.pdf>, (accessed 4 April 2019). F Horne 'Understanding Land Investment Deals in Africa, Country Report: Ethiopia' (2011) 7. K Deininger & D Byerlee *Rising Global Interests in Farmland. Can It Yield Sustainable and Equitable Benefits?* 2011. Fieldwork data, 22 September 2012, and 10 October 2014. Report of the Ministry of Agriculture and Rural Development of Ethiopia, 2012. P Baumgartner *et al* 'Impacts of Large-Scale Land Investments on Income, Prices and Employment: Empirical Analysis in Ethiopia' (2013) 11 <www.zef.de/.../90cd_Baumgartner-%20etal%202013%20Impact%20> (accessed 4 April 2019). A Gebre *Pastoralism under Pressure: Land alienation and pastoral transformations among the Karrayu of eastern Ethiopia, 1941 to the present* (2001). E Elias & Abdi, F Abdi *Putting Pastoralists on the Policy Agenda: Land alienation in Southern Ethiopia* (2010); D Ayele (n 5 above).

pastoral segments of Ethiopia.⁵⁷ Finally, Solomon *et al* have graphically described the adverse effects of these projects on the pastoral people as follows.

Such large scale alienation of land has been devastating to the livelihood of pastoralists by severely diminishing their access to dry season grazing, resulting in overstocking on their wet season grazing, and consequent bush encroachment and degradation of the range resources. The combined effect

⁵⁷ As fieldwork data gathered by this researcher in Addis Ababa in December 2013 show, these households are drawn from four regions that enjoy special assistance under the Federal Special Assistance Board namely, Afar, Somali, Gambella and Beni-Shangul regional states. The state rejects the accusation by international human rights groups that the ongoing villagization program has connection with the transfer of land to corporate farmers, arguing instead it is a voluntary 'village clustering' for providing the hitherto scattered villages infrastructure and social services; members of clustered villages are given up to 5 hectares of fertile land, for free, which is thought to be sufficient for their livelihood on the top of provision of land for house construction, community services and as well as for grazing purpose and with extension services and inputs so that they are able to use the land in a productive manner.

Thomas Staal, former USAID/Ethiopia Director, said there was no link between moving people in the lowland areas and releasing land for corporate farming. In Gambella and Benishangul-Gumuz, my staff has had several trips out there. But, we have not seen any evidence of human rights abuses, and we have not seen evidence of a link between moving people to make way for large-scale commercial agriculture.

However, there is evidence that village clustering in the lowland areas is accompanied by land dispossession and is linked to large-scale agricultural land transfers. This has been suggested by (a) a complaint filed on behalf of people in Gambella with the World Bank Inspection Board; (b) a bill passed by the US Congress which prohibits US aid from being utilized in connection with government programs linked to land dispossessions; and (c) court proceedings by an Ethiopian farmer against the UK Government over resettlement project seeking a ruling that the UK "acted unlawfully by providing aid to Ethiopia without assessing its human rights record" and thus the aid has contributed to the dispossession of land from him and thousands of fellow villagers from Gambella Region. See, <http://www.addisfortune.net/interview-Where%20Mission%20Man%20Goes%20Missionary.htm> (accessed 13 September 2013). 'Ethiopian Accuses UK over Support for Brutal Government in Addis' The Daily Mail 30 March 2014.

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of shrinkage of grazing resources and population growth has reduced the per capita livestock holdings.⁵⁸

The projects set aside rather than preserve “mobility and flexibility for their risk management value in the face of environmental uncertainty.”⁵⁹ Such government-driven projects implemented and being implemented in the pastoral areas of the Country have worked against rather than working with “existing land use management institutions, in particular, with traditional institutions, taking advantage of their legitimacy and local knowledge.”⁶⁰ However, such development initiatives have not made the pastoralists who are dispossessed of their landholdings beneficiaries of the process to avoid and minimize its adverse effects on them. For example, this can take the form of converting the value of their holdings into shares of the estates that yield continuous streams of annual income for the dispossessed or implementing for the man out-grower scheme as well as spate irrigation of rangelands to produce additional fodder. Payment of monetary compensation for the rangeland taken usually ends up in the pockets of the elite without trickling down to the average pastoralist and without enabling them to follow supportive activities to maintain their livelihood. In cases where rangelands are taken for national parks, community- based eco-tourism can be introduced so that the affected pastoralists benefit from a continuous stream of income as practiced in Eastern and Southern Africa.⁶¹ The overall net consequence of the modernization projects of the government implemented in the pastoral parts of Ethiopia can be expressed as the pastoralists’ forcible loss of “rights over their grazing territory...The symbolic significance of this is expressed as the loss of

⁵⁸ S Bekure *et al* (2018) *Formalizing Pastoral Land Rights in Ethiopia: A Breakthrough in Oromia National Regional State* (2018) 15. These researchers assert that: “Karrayu pastoral households who used to own on average about 100 heads of cattle and 35 camels 40 years ago have now to do with 12 cattle and 16 camels. In Borana, average ownership of livestock has declined from 30 cattle and 11 camels to 12 cattle and 5 camels per household. This is at tremendous downward adjustment to their livelihood and curtails their resilience to cope with severe droughts. Consequently, the number of households becoming destitute and receiving food aid has increased.”

⁵⁹ Bekure (n 58 above).

⁶⁰ J Bruce *et al* ‘Protection of pastoralists’ land rights: Lessons from the international experience’ (2015) Prepared by TetraTech for the United States Agency for International Development.

⁶¹ Bekure (n 58 above).

citizenship or, at the very least lower status than the average citizens of the country.”⁶² Land, at the heart of the collective organization of pastoral people, is used to autonomously arrange, maintain or change their socio-economic, political and cultural affairs. Particularly shared norms about the ownership, allocation, reallocation, use, and transfer of land embed in clan authority and may be regarded as obligatory by these sub-national communities. Under international bills of human rights, the Ethiopian state is required to respect, protect and even support, this mode of organization of life unless it can demonstrate that it is intervening on account of liberation of some social groups within the pastoral societies such as women and occupational minorities from the repressive effect of cultural practices including customary land norms and institutions. However, what is being witnessed, as the above account reveals, is continuous, longstanding and significant state efforts to dismantle and transform the pastoral mode of life against their active and persistent resistance. Hence, compulsory reordering of their lives by the state in the name of modernity constitutes an assault against the citizenship of members of pastoral communities` - offends their right to be different ‘under the banner of the equality of political citizenship’.⁶³

5. Justifications for the Government`s Expropriation of Pastoral Land

A mixture of the doctrine of *terra nullius*, ‘civilizing the pastoral people’ and the beneficial investment approach is some of the narratives often invoked by governments in Ethiopia to take land from pastoral society.

The Terra Nullius narrative

The first is the *terra nullius* narrative - the land being taken is space. The late Prime Minister Mr. Meles Zenawi said,

[W]hat we are doing is [using] all unutilized land in this country and we have a lot of unutilized land in the lowlands. What we have done is to build infrastructure in those areas and therefore open up the area for investments both by domestic and foreign private sector... [w]e have three million hectares

⁶² Gadamu (n 53 above) 71.

⁶³ ES Nwauche ‘Affiliation to A New Customary Law in Post-Apartheid South Africa’ (2015) 18 *PER/PELJ* 574.

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of unutilized land. This land is not used by anybody. This land should be developed..."⁶⁴

Mr. Abay Tsehay, a former senior minister in the current government, in responding to critiques directed against the Kuraz Project, a multi-billion dollar sugar plantation project underway in the pastoral areas of South Omo on about 150,000 ha land, said:

The farms are in barren areas... the plan is to transform South Omo residents socially, economically and culturally... Groups campaigning against the plans have selfish motives. They want these people to remain as primitive as they used to be, as poor as they used to be, as naked as they used to be so that they will be specimens for research and an agenda for raising funds... Previously impoverished communities will be "far better off" as they will benefit from irrigated land, improved social services, support from agricultural experts and job opportunities.⁶⁵

The Minister echoed the late Zenawi's statements that:

[This area is known as backward in term of civilization... The Ethiopian government will never allow the pastoralist community to remain under poverty and backwardness any more. The livelihoods and living styles of Ethiopian pastoralists should be altered altogether.⁶⁶

The concept of *terra nullius* invoked in connection with pastoral people suggests the need for transformation of the entire pastoral mode of life. Successive governments have attempted to superimpose modern property rights on pastoral landholdings defining pastoral land as un-owned or government property as well as denigrating pastoral way of life as stagnant and archaic that needs to be modernized, transformed, not just merely improved.⁶⁷

⁶⁴ <<http://transformingethiopia.wordpress.com>> (accessed 3 January 2018).

⁶⁵ <<http://www.etsugar.gov.et/en/projects>>(accessed 27 December 2017).

⁶⁶ <<http://www.waltainfo.com>> (accessed 22 October 2017).

⁶⁷ A Wily 'The Community Land Act in Kenya: Opportunities and Challenges for Communities' (2018) www.mdpi.com/journal/land (accessed 29 April 2018); A Regassa *et al* (2018) 'Civilizing' the Pastoral Frontier: Land grabbing, dispossession, and coercive agrarian development in Ethiopia' *The Journal of Peasant Studies*.

The beneficial investment narrative

The other narrative is that the investment projects carried out on such hitherto space are beneficial. The State's storyline on account of beneficial corporate farming is that the process does not affect the food and tenure security of the local populations; that improvement of such empty lands transferred to investors would benefit through technology transfer, employment, integration of local agriculture with corporate farms and infrastructure development. As mentioned above, apart from the empty land claim, the Government is defending the project of large-scale agriculture on the ground that legal and institutional frameworks have been put in place to ensure beneficial outcomes for the local population and the nation as a whole in terms of jobs, social and physical infrastructure, and foreign currency and scientific production techniques. Thus, land deals are done,

... on the basis of a clearly set out lease arrangement. That is a win-win arrangement. It is not a land grab. And, therefore, we are very comfortable with the fact that we have put in place all the necessary guidelines, environmental and otherwise, to make sure that everyone benefits from this exercise ... these agreements that we are signing with Indians, as well as other foreign companies, are precisely designed to make sure that everybody benefits ... we have a constitutional order here. The Constitution clearly states you do not disempower; you do not grab property from anybody. There is a rule of law here and it is firmly entrenched in our system.⁶⁸

6. The pastoralists' counter-narratives?

Pastoral people deploy counter-narratives that reject the perspectives and actions of the government towards their land. Firstly, pastoral people reject the government's empty land narrative arguing that such narrative including the associated underutilization argument is an incorrect assessment by outsiders of the productivity of the land. The land tagged empty is in fact, being used by people in a way compatible with their mode of life. For the affected people, the 'empty land' that is being alienated is a source of their livelihoods.⁶⁹ In particular, the people use such 'such vacant land' in common for grazing, firewood, forage,

⁶⁸ <<http://transformingethiopia.wordpress.com>> (accessed 3 January 2018)

⁶⁹ <www.fao.org/docrep/012e/a1209e00.pdf>, (accessed 30 December 2016)

thatches for construction of huts, honey collection and generally to obtain a significant amount of their food necessities in addition to the use of such spots for social, religious and cultural festivities. Hence, the local population sees communal lands as belonging to them, as an intrinsic part of each of the member's private landholding. A local man said, "There is no empty land in Gambella without a history..."⁷⁰ An elderly man in the Somali Regional State, when asked to be part of the government's program of village clustering, which entails a change of his mode of life into sedentary farming said, "we the Somalis are not condemned to dig land and our land is also not created for digging."⁷¹ He added even highlanders who have been "digging land for centuries are unable to ensure their food security", thereby suggesting that sedentary agriculture and food security do not necessarily have a positive correlation and, thus, by implication pastoral lifestyle can also bring about food security.⁷² Asmarom Legesse puts the attitude of Borana pastoralists in South Eastern Ethiopia towards the enclosure and tilling as "nothing but contempt for those who stoop to till the soil."⁷³ An indigenous man from the Gambella said:

All of the land in the Gambella region is utilized. Each community has and looks after its territory and the rivers and farmlands within it. It is a myth propagated by the government and investors to say that there is wasteland or land that is unutilized in Gambella...⁷⁴

Secondly, land transcends economic value; it is embedded in people's culture. In stating that land is rooted in people's culture, a local man says,

There is a fear that there will be no more culture within the pastoralist area...We're going to lose our culture and there will be nothing remaining for the next generation. I'm afraid this life may only be a story that we can tell our children (BBC News, December 16, 2010).

As a cultural asset, for the people, no one including the community itself, let alone the central government, has the mandate to alienate land. It is stated to this effect by a member of an affected community in South-western Ethiopia

⁷⁰ 'Land Grab Fears for Ethiopian Rural Communities' BBC News, 16 December 2010.

⁷¹ Kabtamu (n 2 above).

⁷² Kabtamu (n 2 above).

⁷³ A Legesse *Gada: Three Approaches to the Study of African Society* (1973) 17.

⁷⁴ 'How Food and Water are Driving a 21st-century African Land Grab' The UK Guardian 7 March 2010.

that if elders in the pastoral areas are being bribed to sell land, they: "...can't sell the land, it's not theirs. That land is ancestral land."⁷⁵ The Oromo sing the following verses in praise of the Earth:

Oh Earth, mother of grasses,
under you is water,
on top of you is grain,
we dig and eat on you,
we raise cattle and lead them out
to the pasture on you,
you carry us on your back,
Please, give us your peace!⁷⁶

Parker Shipton puts the matter as,

... people seek in land not just material satisfaction but also power, wealth, and meaning-their aims can be political, economic, and cultural ... people relate to land not just as individuals, but also as members of groups, networks, and categories... Despite what economic development planners may think and hope, land is seldom if ever just a commodity.⁷⁷

Thirdly, they reject how lands are taken away from them for agricultural investment and the attendant effect. An affected local man from Gambella Region stated:

All the land around my family village has been taken over and is being cleared. People now have to work for an Indian company. Their land has been compulsorily taken and they have been given no compensation. People cannot believe what is happening. Thousands of people will be affected and people will go hungry. The foreign companies are arriving in large numbers, depriving people of the land they have used for centuries. There is no consultation with

⁷⁵ BBC News (n 70 above).

⁷⁶ As quoted in M Damtie (2011), 'Anthropocentric and Eco-centric Versions of the Ethiopian Legal Regime' in (Peter Burdon, ed.) *Exploring Wild Law: The Philosophy of Earth Jurisprudence* (2011) 167.

⁷⁷ P Shipton 'Land and Culture in Tropical Africa: Soils, Symbols, the Metaphysics of the Mundane' (1994) 23 *Annual Review of Anthropology* 348 and 350.

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the indigenous population. The deals are done secretly. The only thing the local people see is people coming with lots of tractors to invade their lands.⁷⁸

A farmer told the Voice of America that: "We are for development of our country, but we cannot develop our country when land is in the hands of the government... You can work on your land, and all of a sudden, they push you out of your land."⁷⁹ Enclosures for sugar plantations in the Lower Omo Valley have led to the remark that "with thousands facing uncertain futures, never before has sugar left such a sour taste in the mouth."⁸⁰ This story by the people is contrary to the late Prime Minister Zenawi's statement of assurance: "We are making sure that the Gambela people are settled and have land and that young people can go to farms not as guards but as farmers."⁸¹ A frustrated local man said,

What power do we have to stop them? We just stay silent. They are cutting down our bush and forest, and bulldozing our garden then they want us to sell off all our cows. No one is going to sell their cattle. They should go away. They should leave our forest alone and leave it to us to cultivate with our hands.⁸²

Further, people also engage in preemptive informal land transfers to richer outsiders and pastoralists and enclosure of the commons for themselves in anticipation of Government dispossession of their communal lands. People assert their version of the improvement doctrine arguing that they possess the ability to improve the communal land.⁸³ There have not so far been legal consequences of these practices; the informal land transferees continue using their lands without any formal legal recognition by the state. One, however, may anticipate potential controversy to arise particularly between pastoralists who sold land and these informal landholders; the former perhaps invoking the unconstitutionality of the land transactions citing the Federal Constitution which

⁷⁸ 'How food and water are driving a 21st-century African land grab' The UK Guardian 6 March 2010.

⁷⁹ 'Foreign Agro Firms Scoop Up Ethiopian Farmland' The VOA News 22 February 2010.

⁸⁰ 'Ethiopia's Tribe Cry for Help' *Al Jazeera* 13 February 2012).

⁸¹ 'How Meles Rules Ethiopia' www.africanarguments.org 12 May 2012 (accessed 20 June 2013).

⁸² 'Ethiopia at centre of global farmland rush' <<http://www.guardian.co.uk/global-development/video/2011/mar/21/ethiopia-land-rush>> The UK Guardian 21 March 2011.

⁸³ A Gebre 'Resource Deprivation and Changes in Pastoral Land Tenure Systems: The Case of the Karrayu in the upper Awash Valley of Ethiopia' (2004) in Proceedings of the Workshop on Some Aspects of Rural Land Tenure in Ethiopia: Access, Use and Transfer 14 and 24.

under Article 40 (3) declares that land ownership is exclusively vested in the State and the peoples of Ethiopia and sale or exchange of land is prohibited. People also act in a way that creates a specter of fear in the minds of those who took over land without their approval. They take matters into their own hands. This is evidenced by the invasion of parks, game reserves, state farms and state forests by local people, the evictions of those resettled as outsiders, the dissolution of cooperatives leading to the partition of land allocated for such cooperatives, and claims for distribution of state farms.⁸⁴ Haunted by this specter of tenure insecurity, many people who resettled on the Commons returned to their original villages and others still stay there with recurrent conflicts with the natives and with a lingering sense of insecurity of their tenure. Finally, people occasionally attempt to resort to a formal complaint to avoid land alienation or mitigate their effects. A recent example where local people have filed their formal complaints to the Office of the President of the country is a Gambella case. The case involved the grant by the Ministry of Agriculture of 3, 012 hectares of land to New Delhi-based Vedanta Harvests Private Limited Company for tea production.⁸⁵ The people unsuccessfully argued that it is forest land that they have protected for generations to steward it for future generations and that such an allocation of forest land is inconsistent with “our country’s representation of Africa in international panels regarding global warming through our Prime Minister.”⁸⁶

However, in terms of the extent of success of pastoral people’s counter-narrative, local people’s set of reactions just outlined is not fully effective due to a powerful alliance in support of the land alienation process and the ill-organized nature of the resistance.⁸⁷ The ineffectiveness also lies in the failure to clearly articulate the nature of their argument: is the people’s argument that the state shall take their claim into account in the alienation process or the state itself

⁸⁴ N Nishizaki ‘Revisiting Imposed Wildlife Conservation: Arssi Oromo and the Senkelle Swayne’s Hartebeest Sanctuary, Ethiopia’ (2004) 25 *African Study Monographs*.

⁸⁵ ‘Ethiopian President Concerned by Lease of Forest to Indian Firm’ The Bloomberg 4 February 2012 (accessed 12 October 2012).

⁸⁶ E Stebek ‘Between ‘Land Grabs’ and Agricultural Investment: Land Rent Contracts with Foreign Investors and Ethiopia’s Normative Setting in Focus’ (2011) 5 *Mizan Law Review* 200.

⁸⁷ G Meszaros ‘Social Movement, Law and the Politics of Land Reform: Lessons from Brazil’ (2013) *Legal Studies Research Paper* No. 2014-08 <ssnr.com/abstract=2459909> (accessed 1 December 2014); S Moyo & W Chambati (eds.) (2013), *Land and Agrarian Reform in Zimbabwe: Beyond White Settler Capitalism* (2013).

shall make claim to the people in taking the land? That is, it is unclear as to who must be a claim maker regarding land transferred to developers. Moreover, the people's contestation is unsupported by civil society organizations operating within the Ethiopian territory due to restrictive law on charities and civil society.⁸⁸ Thus, there is a limited and ineffective contestation of large-scale land transfers in Ethiopia.

The counter-narratives of the pastoral community have not been tested in Ethiopian courts. Even though the possible justifications for this merit separate research, tentatively, one can point to a mix of three factors. The first factor can be attributed to the law on charities and civil societies which has muzzled their operation and thus believed to have contributed to a deficit in rights awareness on the part of pastoral societies as well as weakened their capacity to make claims in the courts based on bill of rights ratified by Ethiopia. Another impediment seems to be the Expropriation Law of 2005, which precludes people including pastoralists affected by land expropriation from challenging the existence of public purpose in a court of law; ultimate decision making power concerning the existence or otherwise of public purpose being vested under this legislation in executive discretion.⁸⁹ Another consideration is a general lack of public trust in the judiciary particularly its impartiality when it comes to a dispute against the government⁹⁰ Lastly, even if the evictions of pastoral people from their land possessions brought about by the various government projects recounted above raises constitutionality, the issue has not nevertheless landed in the House of Federation (HOF), which pursuant to Articles 83 (1) and 61 (1) the Constitution, is entrusted to decide 'all constitutional disputes'; the fact that members of the HOF, as a matter of practice, have so far been drawn invariably from top executives of the nine regional states⁹¹ and the bestowal of far-reaching power to the HOF, its independence from the executive and its trustworthiness as an adjudicator of

⁸⁸ Charities and Societies Proclamation of 2009, which, by severely limiting the amount of funds they obtain from foreign sources, prevents civil societies from engaging in activities related to rights advocacy. The good news is that the Ethiopian parliament has revised this law.

⁸⁹ M Abdo 'Reforming Ethiopia's Expropriation Law' (2015) 9 *Mizan Law Review*.

⁹⁰ C Mgbako *et al* 'Silencing the Ethiopian Courts: Non-Judicial Constitutional Review and its Impact on Human Rights' (2008) 32 *Fordham International Law Journal*

⁹¹ The FDRE Constitution Arts 83 (2), 84 and 61-68.

“sensitive political matters involving the Constitution in an unbiased manner” has been questioned.⁹²

7. Concluding remarks

The narrative of the Government of Ethiopia considered in this chapter is a model of developing pastoral societies, which is dominant. It advances a conception of good life founded upon a radical involuntary transformation of the pastoral land tenure systems and thus their entire mode of life. The status quo emphasizes commercial crop production and livestock rearing in a sedentary setting based on a property right model reflective of highland Ethiopia. This model is firmly embedded in national laws and plans as well as in the minds of the state bureaucracy. Such narrative, even though it may be well-intentioned, is not inclusive of pastoral people; entirely top-down in its modus operandi; and leads to inequality and is unacceptable. There is another approach to pastoralism, which comes from the pastoral people themselves who have persistently countered the high modernist perspective of the national government on the grounds of collective cultural identity and resilience of their diverse modes of life rooted in the customary form of dealing with pastoral lands and other natural resources. However, if this approach is taken literally, it would demand the Government to renounce its interests in pastoral areas; it builds on extreme romanticism of traditional pastoral ways of life; it hides power imbalances within such societies and tends to exclude others with legitimate interest in pastoral areas – ignores the strategic importance of pastoral population, land and other resources to the political economy of the Country.

Therefore, it appears that both the status quo and bottom-up approaches to pastoralism are not sustainable - calling for a third way. Thus, the most important challenge ahead in pastoralism discourses for intellectuals as well as development practitioners is to find out the appropriate mix of the two seemingly contradictory perspectives. In this regard, one finds an emerging and

⁹² A Fiseha (2007) ‘Constitutional Adjudication in Ethiopia: Exploring the Experience of the House of Federation (HOF)’ (2007) 1 *Mizan Law Review*; T Regassa ‘The Making and Legitimacy of the Ethiopian Constitution: Towards Bridging the Gap between Constitutional Design and Constitutional Practice’ (2010) 23 *Afrika Focus*; Y Tesfaye ‘Whose Power Is It Anyway: The Courts and Constitutional Interpretation in Ethiopia’ (2008), 22 *Journal of Ethiopian Law*; G Assefa ‘All about Words: Discovering the Intention of the Makers of the Ethiopian Constitution on the Scope and Meaning of Constitutional Interpretation’ (2010) 24 *Journal of Ethiopian Law*.

promising scheme called benefit sharing, which is getting increasing attention in literature⁹³ and garners support from international development institutions.⁹⁴

The benefit-sharing mode is also grounded in international, regional and national legal instruments on traditional knowledge concerning genetic resources.⁹⁵ However, it is easier said than done. As it stands, the benefit-sharing approach is at its infancy and tends to focus largely on economic benefits; even in relation to the economic interests to be shared, it is at present neither in a position to overcome the dominant corporatist attitude of the first path to pastoralism nor first inhabitant versus newcomer dichotomy entrenched behind the grassroots approach to pastoral people. Also, there are no adequate functioning institutional safeguards for the capture by traditional and government elites of the economic benefits to be shared among members of the pastoral community. Thus, the benefit-sharing approach to be a robust and legitimate approach to the advancement of pastoral societies in Ethiopian and beyond the horizons, it is expected to avoid the exclusionist nature of the first two approaches; it must duly cater for legitimate interests of various forces including human rights, food security, cultural identity, inclusive and sustainable development without romanticizing or denigrating pastoral livelihoods as backward. It is suggested here that the sharing of benefit model merits separate in-depth research to explore how to remedy its shortcomings.

⁹³ P Little *et al* (2010) 'Future Scenarios for Pastoral Development in Ethiopia, 2010-2025 Report Number 2 Pastoral Economic Growth and Development Policy Assessment, Ethiopia' https://www.future-agricultures.org/wp-content/uploads/pdf-archive/Pastoral%20Growth%20Study%20Policy%20SCENARIOS%20Paper%202%20FINAL_P1.pdf (accessed 24 July 2019).

⁹⁴ A Napier and D Solomon (2011) 'PLI Policy Project Review of Pastoral Rangeland Enclosures in Ethiopia', <https://fic.tufts.edu/assets/Tufts-Range-Enclosure-Review-PLI.pdf> (accessed July 23, 2019).

⁹⁵ For international and regional legal framework related to sharing of benefits, see, respectively, the Convention on Biodiversity (1992), <https://www.cbd.int/doc/legal/cbd-en.pdf>, accessed on 26, July 2019; African Model Legislation for the Protection of the Rights of Local Communities, Farmers and Breeders, and for the Regulation of Access to Biological Resources, <https://www.cbd.int/doc/measures/abs/msr-abs-oau-en.pdf>, accessed on July 29, 2019; for national legal frameworks, see Access to Genetic Resources and Community Knowledge, Community Rights Proclamation No. 482/2006, <http://www.ebi.gov.et/wp-content/uploads/2018/01/ABS-Proclamation-Ethiopia.pdf> (accessed on July 29, 2019); and Council of Ministers Regulations 169/2009 to Provide for Access to Genetic Resources, and Community Knowledge, and Community Rights, <http://www.ebi.gov.et/wp-content/uploads/2018/01/ABS-Regulation-Ethiopia.pdf>, accessed on July 29, 2019).

BIBLIOGRAPHY

Literature

Abdo M (2013) 'Rural Commons and the Ethiopian State' (2013) 17 Law, Social Justice and Global Development Journal (30-80)

Abdo M (2015) 'Reforming Ethiopia's Expropriation Law' 9 Mizan Law Review (301-340)

Abdulahi M (2007) 'Legal Status of the Communal Land Holding System in Ethiopia: The Case of Pastoral Communities' 14 International Journal on Minority and Groups Rights (85-125)

Assefa G (2010) 'All about Words: Discovering the Intention of the makers of the Ethiopian Constitution on the Scope and Meaning of Constitutional Interpretation' 24 Journal of Ethiopian Law (140-170)

Ayele D (2015) Large-Scale Agricultural Development and Land Rights of Pastoralists in Ethiopia: A Case Study of The Bodi People (LL.M Thesis, School of Law, Addis Ababa University, Ethiopia, unpublished, on file with the author)

Beckstrom J (1973) 'Transplantation of Legal Systems: An Early Report on the Reception of Western Laws in Ethiopia' 21 AM. J. of Comp. L. (559-582)

Bekure S; Mulatu A; Dagnew A; Negassa D; Haddis Z and Gebremeskel T (2018) Formalizing Pastoral Land Rights in Ethiopia: A Breakthrough in Oromia National Regional State (Unpublished, on file with the author)

Brietzke P (1976), 'Land Reform in Revolutionary Ethiopia', 14 The Journal of Modern African Studies (637-660)

Bromley D (1989) 'Property Relations and Economic Development; The Other Land Reform' (1989) 17 World Development (867-877)

Damtie M (2011) 'Anthropocentric and Eco-centric Versions of the Ethiopian Legal Regime' in (Peter Burdon, ed.) Exploring Wild Law: The Philosophy of Earth Jurisprudence (Kent Town, Australia, Wakefield Press) (159-172)

Compulsory Loss of Pastoral Land Tenure Systems in Ethiopia

David R (1963) 'A Civil Code for Ethiopia: Considerations on the Codification of the Civil Law in African Countries' (1963) 37 Tul. L. Rev. (187-204)

Deininger K & Byerlee D (2011) Rising Global Interests in Farmland. Can It Yield Sustainable and Equitable Benefits? (World Bank, Washington, DC.).

Dunning H (1970-1971) 'Land Reform in Ethiopia: A Case Study in Non-Development' 18 University of California Law Review (271-307)

Dunning H (1986) 'Law and Economic Development in Africa: The Law of Eminent Domain', (1986) 68 Colum. L. Rev. (1286-1315)

Elias E & Abdi F (2010) Putting Pastoralists on the Policy Agenda: Land alienation in Southern Ethiopia. (IIED, Washington, DC.)

Fiseha A (2007) 'Constitutional Adjudication in Ethiopia: Exploring the Experience of the House of Federation (HOF)' 1 Mizan Law Review (1-32)

Gebre A (2001) Pastoralism under Pressure: Land alienation and pastoral transformations among the Karrayu of eastern Ethiopia, 1941 to the present (Addis Ababa University, Addis Ababa)

Joireman S (1986) 'Contracting for Land: Lessons from Litigation in a Communal Tenure Area of Ethiopia' 30 CJAS (214-232)

Kabtamu N (2012) Land Tenure and Tenure Security among Somali Pastoralists: Within the Contexts of Dual Tenure Systems (LL.M Thesis, School of Law, Bahir Dar University, Ethiopia, unpublished, on file with the author)

Krzcunowicz G (1965) 'Code and Custom in Ethiopia' 2 Eth. J. L. (425-466)

Lambton A (1971), 'An Approach to Land Reform' (1971) 34 Bulletin of the School of Oriental and African Studies (224-240)

Legesse A Gada: (1973) Three Approaches to the Study of African Society (New York: The Free Press)

Compulsory Loss of Pastoral Land Tenure Systems in Ethiopia

Mgbako C., Braasch S., Degol A., Morgan M., Segura F. Tezera T. (2008) 'Silencing the Ethiopian Courts: Non-Judicial Constitutional Review and its Impact on Human Rights' (2008), 32 Fordham International Law Journal (259-297)

Moyo S & Chambati W (eds.) (2013) Land and Agrarian Reform in Zimbabwe: Beyond White Settler Capitalism (Dakar, ODESRIA)

Nishizaki N (2004) 'Revisiting Imposed Wildlife Conservation: Arssi Oromo and the

Senkelle Swayne's Hartebeest Sanctuary, Ethiopia' 25 African Study Monographs (61-77)

Nwauche ES (2015) 'Affiliation to A New Customary Law in Post-Apartheid South Africa' (2015) 18 PER/PELJ (569-592)

Regassa A., Hizekiel T., Korf B. (2018) 'Civilizing' the Pastoral Frontier: Land grabbing, dispossession, and coercive agrarian development in Ethiopia' The Journal of Peasant Studies (1-21)

Regassa T 'The Making and Legitimacy of the Ethiopian Constitution: Towards Bridging the Gap between Constitutional Design and Constitutional Practice (2010) 23 Afrika Focus (85-118)

Richard P (1966) State and Land in Ethiopian History (Oxford: Oxford University Press)

Russel B (1996) 'Natural Resources: State Ownership and Control Based on Article 130 of the Revised Constitution' (1966) 3 Eth. J. L. (555-590)

Scholler H & Brietzke P (1976) Ethiopia: Revolution, Law and Politics (Munhen, Weltforum Verlag)

Shipton P (1994) 'Land and Culture in Tropical Africa: Soils, Symbols, the Metaphysics of the Mundane' (1994) 23 Annual Review of Anthropology (347-377)

Compulsory Loss of Pastoral Land Tenure Systems in Ethiopia

Singer N (1971-1972) 'The Ethiopian Civil Code and the Recognition of Customary Law' (1971-1972) 9 Houston Law Review (460-494)

Stebek E (2010) 'Between 'Land Grabs' and Agricultural Investment: Land Rent Contracts with Foreign Investors and Ethiopia's Normative Setting in Focus' (2011) 5 Mizan Law Review (175-214)

Tesfaye Y (2008) 'Whose Power Is It Anyway: The Courts and Constitutional Interpretation in Ethiopia' 22 Journal of Ethiopian Law (128-144)

Zewde B (2002) Ethiopia: the Challenges of Democracy from Below (Uppsala: Nordiska Afrikainstitutet)

Zewde B (2008) Society, State and History: Selected Essays (Addis Ababa: Addis Ababa University Press)

Legislation

Ethiopia

Access to Genetic Resources and Community Knowledge, Community Rights Proclamation No. 482/2006

Amhara Region Rural Land Law of 2006

Beni-Shangul Gumz Region Rural Land Law of 2010

Charities and Societies Proclamation of 2009

Civil Code of Ethiopia of 1960

Civil Procedure Code of Ethiopia of 1965

Commercial Code of Ethiopia of 1960

Council of Ministers Regulations 169/2009 to Provide for Access to Genetic Resources, and Community Knowledge, and Community Rights

Criminal Procedure Code of Ethiopia of 1961

Expropriation Law of 2005

Expropriation Regulations of 2007

Federal Rural Lands Proclamation 2005

Imperial Order No 1 of 1943

Imperial Order No 46 of 1966

Maritime Code of Ethiopia of 1960

Compulsory Loss of Pastoral Land Tenure Systems in Ethiopia

Oromia Rural Land Administration and Use Proclamation of 2007
Penal Code of Ethiopia of 1957
Public Ownership of Rural Lands Proclamation of 1975
Regulations on License for Agricultural Activities of 1990
Revised Constitution of Ethiopia of 1955
Southern Regional State Rural Land Administration and Use Proclamation of 2007
Tigray Regional State Land Administration and Use Proclamation of 2007

International

African Model Legislation for the Protection of the Rights of Local Communities, Farmers and Breeders, and for the Regulation of Access to Biological Resources
The Convention on Biodiversity (1992)

Newspaper articles

'Ethiopian President Concerned by Lease of Forest to Indian Firm' The Bloomberg 4 February 201 (accessed 12October 2012).
'Land Grab Fears for Ethiopian Rural Communities' BBC News, 16 December 2010.
'How Food and Water are driving a 21st-century African Land Grab' The UK Guardian 7 March 2010.
'How food and water are driving a 21st-century African land grab' The UK Guardian 6 March 2010.
'Foreign Agro Firms Scoop Up Ethiopian Farmland' The VOA News 22 February 2010.
'Ethiopia's Tribe Cry for Help' *Al Jazeera* 13 February 2012).
'Ethiopia at centre of global farmland rush' The Uk Guardian 21 March 2011.
'Ethiopian Accuses UK over Support for Brutal Government in Addis' The Daily Mail 30 March 2014.

Internet sources

Albrecht F *et al* 'Using Crowdsourcing to Examine Land Acquisitions in Ethiopia' (2013) 100

www.gispoint.de/fileadmin/user_upload/paper_gis_open/537532003.pdf

(Accessed 4 April 2019)

Baumgartner P *et al* 'Impacts of Large-Scale Land Investments on Income, Prices and Employment: Empirical Analysis in Ethiopia' (2013) 11

www.zef.de/.../90cd_Baumgartner-%20etal%202013%20Impact%2

(Accessed 4 April 2019)

Bruce J *et al* 'Protection of pastoralists' land rights: Lessons from the international experience' (2015) Prepared by TetraTech for the United States Agency for International Development

<http://ethiopia.usaid.gov/node/326> (Accessed 15 July 2016)

Dowden R, 'How Meles Rules Ethiopia'

<https://african.arguments.org/2012/05/21/how-meles-rules-ethiopia--by-richard-dowden> (accessed 20 June 2013)

Ethiopia: Growth and Transformation Plan I (2010/11-2014/15) (2010) the Ministry of Finance and Economic Development, www.moard.gov.et (Accessed 20 May, 2018)

Gadamu, F 'The Post-Revolutionary Rethinking of Arid Land Policy in Ethiopia' (1994) 34 *Nomadic Peoples* <https://fic.tufts.edu/assets/Tufts-Range-Enclosure-Review-PLI.pdf> (Accessed 23 July 2019)

Gebre A "Resource Deprivation and Changes in Pastoral Land Tenure Systems: The Case of the Karrayu in the upper Awash Valley of Ethiopia" (2004) in Proceedings of the Workshop on Some Aspects of Rural Land Tenure in Ethiopia: Access, Use and Transfer <https://fic.tufts.edu/assets/Tufts-Range-Enclosure-Review-PLI.pdf> (Accessed 23 July 2019)

Horne F 'Understanding Land Investment Deals in Africa, Country Report: Ethiopia' (2011) www.eastafricaforum.net (Accessed 4 April 2019)

Lefort R 'Ethiopia's Election: All Losers' (2010), <http://www.opendemocracy.net> (Accessed 3 April, 2018)

Little P *et al* (2010) 'Future Scenarios for Pastoral Development in Ethiopia, 2010-2025 Report Number 2 Pastoral Economic Growth and Development Policy Assessment, Ethiopia' https://www.future-agricultures.org/wp-content/uploads/pdf-archive/Pastoral%20Growth%20Study%20Policy%20SCENARIOS%20Paper%202%20FINAL_P1.pdf (accessed 24 July 2019).

Meszaros G 'Social Movement, Law and the Politics of Land Reform: Lessons from Brazil' (2013) *Legal Studies Research Paper* No. 2014-08 ssnr.com/abstract=2459909 (accessed 1 December 2014)

Napier A and Solomon D (2011) 'PLI Policy Project Review of Pastoral Rangeland Enclosures in Ethiopia', <https://fic.tufts.edu/assets/Tufts-Range-Enclosure-Review-PLI.pdf> (accessed 23 July 2019).

Report of the Ministry of Agriculture and Rural Development of Ethiopia, 2012, www.moard.gov.et (Accessed 9 October 2013)

Wily A 'The Community Land Act in Kenya: Opportunities and Challenges for Communities' (2018) www.mdpi.com/journal/land (Accessed 29 April 2018)