

# Assessing the Tenure Security and Social Equity under Ethiopia Land Policy

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## *Abstract*

The 1995 Federal Democratic Republic of Ethiopia (FDRE) Constitution declared the continuity of Derg land policy of state ownership. The argument forwarded by the ruling body for the continuation of Derg land policy as public or state property is to ensure tenure security and social equity. Based on these points the paper in its objective focused on the rationality behind of continuing Derg's land policy: whether for addressing the issue of tenure security and social equity, or other rationality. To address these issues the writer employed doctrinal type of methods because it mainly based on review of secondary sources of data that includes short writing on the subject matter or paper or books or journals. It adds personal observation. The result of review of different literature clearly indicates that the debate as to land policy from the transition period is more of ideological/political ambitions rather than being based on theoretical foundation and empirical argument. The previous and current government has taken an interventionist approach to land for political power than ensuring tenure security and social equity. The other is private or state ownership of land policy centered only on single tenure arrangement ignoring opinions and interest of concerned society at large, and social, cultural and historical contexts of the larger society. As a result of this until today the issue of tenure security and social equity as to land remain unanswered in Ethiopia.

*Key Words: Tenure Security, Social Equity, Ethiopia, Land Policy and Poor Peasant Farmers.*

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## 1. Introduction

In Ethiopia land has been considered as an important economic and social asset where the status and prestige of people is determined.<sup>1</sup> Because of such high importance given to land, as compared to other properties, the legal protection accorded to land is always strict in nature.<sup>2</sup> Ethiopia political and economic history has been clearly demarcated through its land policy.<sup>3</sup> The history shows just how easily land tenure issues can politically divide the country and it has been the land policy which has driven the politics for more than century.<sup>4</sup> The government of Ethiopia has not developed a separate and full-fledged policy document that exclusively deals with land tenure security and social equity.<sup>5</sup> But the constitution of the federal democratic republic of Ethiopia explicitly states that, the right to ownership of rural and urban land is exclusively vested in the state and peoples of Ethiopia.<sup>6</sup> In many countries land ownership is not a constitutional issue, but in Ethiopia, because of its socio-economic importance, land ownership goes beyond a mere policy matter.<sup>7</sup> Rather, it is inserted in the constitution and the issue of its ownership has become a settled subject.<sup>8</sup> The ruling body argues that the continuation of land as public or state property rests mainly on two policy objectives: tenure security and social equity.<sup>9</sup> The Federal Democratic Republic of Ethiopia Constitution (FDRE) provides right to obtain land without payment for Ethiopia peasants for grazing and cultivation purpose as well as right to be protected against evictions from the possessions.<sup>10</sup> The amount of land to be provided to peasant farmers, as far as possible, is made equal.<sup>11</sup> Accordingly, the policy objective is to ensure equality of

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<sup>1</sup>Solomon Dessalegn, Ethiopia history of land and the present land governance: The case of Oromia region (International Journal of Academic Research and Development, Vol 5; Issue 1, January 2020), p 33

<sup>2</sup> Id

<sup>3</sup> Id

<sup>4</sup> Id

<sup>5</sup> Abebe Mulatu, Compatibility between rural land tenure and administration policies and implementing laws in Ethiopia, in Land policy, urban-rural interaction and land administration differentiation in Ethiopia, a paper presented at the 2<sup>nd</sup> FIG regional conference Marrakech, Morocco, (Solomon Abebe and Reinfried Mansberger December 2-5, 2003), p 1

<sup>6</sup> Article 40 (3) of the Federal Democratic Republic of Ethiopia Constitution Proclamation No 1/1987

<sup>7</sup> Solomon Dessalegn, Ethiopia history of land and the present land governance: The case of Oromia region (International Journal of Academic Research and Development, Vol 5; Issue 1, January 2020), p 36

<sup>8</sup> Id, p 36

<sup>9</sup> Id

<sup>10</sup> Article 40 (4) & (5) of the Federal Democratic Republic of Ethiopia Constitution Proclamation No 1/1987

<sup>11</sup> Id n(3)

citizens in accessing the land.<sup>12</sup> Tenure security is the other policy objective and concern of state.<sup>13</sup> State ownership of land is considered to be the best mechanism to protect the peasants against the market force.<sup>14</sup> In particular, it has been argued that private ownership of rural land would lead to massive eviction or migration of the farming population, as poor farmers would be forced to sell their plots to unscrupulous urban speculators, particularly during the period of hardship.<sup>15</sup> There is counter argument favoring free transfer of rights thereby adhering to the principles of private ownership of land.<sup>16</sup> The writer focus is not to assess the debates between those favoring state ownership of land and the other side favoring private ownership of land.

This paper assesses rationality behind of the post 1991 land policy: whether for addressing issues of tenure security and social equity or other grounds. To address these issues the writer employed doctrinal type of methods because it mainly based on review and analysis of secondary sources of data that includes short writing on the subject matter or paper or books or journals. It adds personal observation.

## ***2. Rational of Sate or Public Ownership of Land by Derg***

It is generally acknowledged that the pre-1975 land tenure system in Ethiopia had been one of the most complex tenure systems in the world and had not been thoroughly studied.<sup>17</sup> Before 1975, particularly in southern part of the country land concentrated in the hands of absentee feudal land lords, tenure was highly insecure and arbitrary evictions was a serious threat.<sup>18</sup> In southern part of the country extreme form of exploitation ensued following the conquest, and the establishment of the tenant land lord relations among the unequal was a dreaded phenomenon.<sup>19</sup>

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<sup>12</sup> Id

<sup>13</sup> Id

<sup>14</sup> Daniel W Ambaye, Land rights and expropriation in Ethiopia (KTH Architecture and the Built Environment, 2013) p 70

<sup>15</sup> Solomon Dessalegn, Ethiopia history of land and the present land governance: The case of Oromia region (International Journal of Academic Research and Development, Vol 5; Issue 1, January 2020), in MOIPAD, Federal Democratic Republic of Ethiopia Rural Development policies, Strategies and Instruments (A/A Ministry Information, Press and Audiovisual Department, 2001) pp 6-9

<sup>16</sup> Id

<sup>17</sup> Yigremew Adal, Review of land holding system and policies in Ethiopia under the different regimes (EEA/Ethiopia Economic Policy Research Institute, Working Paper No 5/2002, December 2002), in Dessalegn 1984; Cohen and Weintraub 1975; Gilkes 1975; Dejene 1999, p 4

<sup>18</sup> Solomon Dessalegn, Ethiopia history of land and the present land governance: The case of Oromia region (International Journal of Academic Research and Development, Vol 5; Issue 1, January 2020), in Land to the Tiller Redux: Unlocking Ethiopia's Land Potential (Dustin Miller and Eyob Tekalign Tolina, 2008), p 34

<sup>19</sup> Solomon Dessalegn, Id n (3), p 34

Land was often granted by the monarch to the northern occupiers in consideration of their service to the crown.<sup>20</sup> Bahiru Zewde described the extent of tenancy in the southern part of Ethiopia and the extent of private property enjoyed by the occupiers: the most important consequence of the growth of private property was the concomitant spread of tenancy. Some 50%-65% of all holdings were estimated to fall under this category.<sup>21</sup> In southern part of the country eviction was common place, and an extreme form of exploitation bred lots of anger, a cause latter espoused by University students, activists, and elites and ultimately to the demise of imperial regime replaced by military Derg.<sup>22</sup> When the Derg<sup>23</sup> come to power in 1975 they were welcomed due in part to their policy of land to the tiller.<sup>24</sup> This slogan<sup>25</sup> promised that the previous imperial feudalism would be eliminated and land policy would allow for farmers to own the land they were working.<sup>26</sup>



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<sup>20</sup> Id

<sup>21</sup> Solomon Dessalegn, id n(3), in A History of modern Ethiopia 1855-1991 (Bahiru Zewde, Addis Ababa University Press, reprint 2007), p 35

<sup>22</sup> Solomon Dessalegn, id n(3), p 34-35

<sup>23</sup> Derg means military government regimes which was a dictator against Ethiopia peoples for about two decades.

<sup>24</sup> Id

<sup>25</sup> The slogan means land to the tiller to demise the exploitative feudal land lord-tenant relationships by the Amhara colonial hegemony against the central and southern people of the country.

<sup>26</sup> Public ownership of rural lands act proclamation, No. 31, Chapter 2 (Ethiopia, 1975)

## Ethiopia peoples gathered at Finfinnee (Addis Ababa) from different places welcoming the 1975 Derg sweeping land law revolution

It seems a time the question of rural land get an adequate answer.<sup>27</sup> The 1975 land law<sup>28</sup> was the first uniform tenure system imposed up on Ethiopia as a whole with the purpose of abolishing feudal system in order to release human labor suppressed within such system for industry.<sup>29</sup> The main reasons for the nationalization of the rural land from the previous owners/holders and their transfer to state ownership discussed in the preamble of the proclamation<sup>30</sup> as follow:

Where as in countries like Ethiopia a person's right, honor, status, and standard of living is determined by his/her relation to land;...that several thousands of gashas of land was grabbed by insignificant number of feudal lords while the masses live under serfdom;...that it is necessary to change the past injustice and lay a base up on which Ethiopians may lives in equality, freedom and fraternity;... that development could be achieved through the abolition of exploitation of many by the few;...in order to increase productivity by making the tiller the owner of the fruit of his labor;... to provide work for all rural people;... it becomes necessary to distribute land and increase rural income and thereby laying the base for the expansion of industry.<sup>31</sup>

The advantage of Derg land tenure system was that it eliminated the landlord-tenant relationships and the political as well as economic power of the land owning class.<sup>32</sup> The 1975 sweeping land law once and for all eliminated any private ownership of rural land, which had started to flourish in southern part of the country, and it overnight abolished the age old tenure system of the country in general.<sup>33</sup> For tenant farmers and landless peasants, especially of the southern part of the country, the abolition of land ownership removed a major source of exploitation in one case, and provided guaranteed access to land in the other.<sup>34</sup> Teketel (1998) has concluded that there

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<sup>27</sup> Id

<sup>28</sup> Public ownership of rural lands act proclamation, No. 31, Chapter 2 (Ethiopia, 1975)

<sup>29</sup> Teshome Chala, Analysis of politics in the land tenure system: Experience of successive Ethiopian regimes since 1930 (African journal of political science and international relations, Vol. 10 (8), September 2016), p 114

<sup>30</sup> Preamble of public ownership of rural lands act proclamation, No. 31/1975 (Ethiopia, 1975)

<sup>31</sup> Teshome Chala n(19), in (Daniel W Ambaye, 2013) land rights and expropriation (Stockholm, Royal Institute of Technology (KTH))

<sup>32</sup> Teshome Chala n(19), p 114

<sup>33</sup> Daniel W Ambaye n(9), p 55

<sup>34</sup> Daniel W Ambaye n(9), p 55

was no doubt that the Ethiopian land reform has basically abolished the legal, political and economic power of the landed classes as a whole.<sup>35</sup> The land reform by Derg improved the standard of living (level of income) of the former tenants by the amount of the rent and other dues that they had to pay their land lords before the redistribution of land.<sup>36</sup> In the former private land tenure areas, it is also asserted that land redistribution has eliminated rural unemployment by safeguarding the right of the former tenants to a source of income.<sup>37</sup> However, Derg land reform was with many shortcomings, for instance, Kidane (1990) concludes that there was no general improvement of agricultural production attributable to the redistribution of land. Ethiopia's agriculture has continued to stagnate since the land redistribution.<sup>38</sup> Periodic and the frequent land distribution and redistribution programmes monopolized by state victimized rural peasants by exposing to severe poverty.<sup>39</sup> This was caused due to lack of incentive by peasants in investing in land and managing land properly. Even though the Derg effectively abolished previous institutions of land tenure system, it took over the control to distribute access to land through state machinery called peasant associations.<sup>40</sup> Finally the Derg land reform was failed because the mandate given to peasant association encouraged them to practice periodic land distribution and redistribution, in consultation with government bodies, created tenure insecurity.<sup>41</sup> By and large, it replaced the land lord with state, providing the latter with direct and uncontrollable access to the peasantry. "In conclusion, the end product of the land reform was it failed where it succeeded."<sup>42</sup>

### *3. The continuity of State or Public Ownership of Land Post 1991*

This part addresses the rationality behind the governing body in power for continuing the Derg land policy based on reviewing different literatures. It is clear that after the fall of the Derg, the

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<sup>35</sup> Yigremew Adal n(11), in Tenants of the state: The limitations of revolutionary agrarian transformation in Ethiopia, 1974-1991 Lund dissertation in sociology, department of sociology, Lund University, Sweden (Teketel Abebe, 1998), p 15

<sup>36</sup> Yigremew Adal n(11), p 15

<sup>37</sup> Yigremew Adal n(11), in Ethiopia: Failure of land reform and agricultural crisis (Kidane Mengisteab, Greenwood press, New York, 1990), p 15

<sup>38</sup> Id, p 15

<sup>39</sup> Bruce, et al., After the Derg: An assessment of rural land tenure issues in Ethiopia, (Draft, 1993), Addis Ababa (Finfinnee)

<sup>40</sup> Crewett W et al., Land tenure in Ethiopia: Continuity and change, shifting rulers and the quest for state control (2008)

<sup>41</sup> Daniel W Ambaye n(9), in Agrarian change and agrarian crisis: State and peasantry in post-revolution Ethiopia (Dessalegn Rahmato, Journal of the International African Institute, 1993), p 32

<sup>42</sup> Id

transitional government of Ethiopia, in its declaration on economic policy in November 1991 announced the continuation of land policy of the Derg regime.<sup>43</sup> By inserting the land policy in the constitution, the government in power approved and confirmed state ownership of land.<sup>44</sup> As one writer commented by inserting the land policy into the constitution, the government in power has effectively eliminated the possibility of flexible application of policy.<sup>45</sup> The argument forwarded by the government in power for state and public ownership of land rests mainly on two policy objectives: tenure security and social equity. The objective of this writing is to dig out the rationality behind of this policy: whether to address the issue of tenure security and social equity or other grounds. From the time of transition up to present there is a debate on land tenure system. The debate focuses ownership issues between public versus private ownership of land. As a number of researchers provided the current debate on the land tenure system is more of ideological in tone rather than being based on sound argument that take into account the implications of positions taken. For instance, Yigremew Adal notes that:

...the debate oversimplifies the issue in that ownership per se is considered panacea to or a source of all problems; it is very narrow in that other form of ownership and other important elements of land tenure such as tenure security and access to land are not given enough attention; and that the debate does not seem to be informed by theoretical foundations and empirical arguments.<sup>46</sup>

It can be easily understood from the above observation that the debate over land tenure issues is most likely based on political backgrounds rather than sound theoretical reasoning and pragmatic consideration of the reality on the ground.<sup>47</sup> Yet, these positions have forgotten the significance of the legal frame work that can radically improve tenure security and thereby ensure access rights of the rural peasants and pastoralists.<sup>48</sup> Such features of the land debate in this country have also diminished the possibility of influencing future policy making on land matters.

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<sup>43</sup> Article 40 of the Federal Democratic Republic of Ethiopia Constitution Proclamation No. 1/1987

<sup>44</sup> Article 40 (3) of the Federal Democratic Republic of Ethiopia Constitution Proclamation No. 1/1987

<sup>45</sup> Samuel Gebreselassie, Land, land policy and small holder agriculture in Ethiopia: Options and scenarios. Future agricultures consortium meeting, The Institute of Development Studies, p 4

<sup>46</sup> Gudeta Seifu, Rural land tenure in the Oromia national regional state, in Some Queries about the debate on land tenure in Ethiopia, (Yigremew Adal) Institute of Development Research, Addis Ababa (Finfinnee) University for some detailed discussion on the issue, p 109

<sup>47</sup> Id

<sup>48</sup> Id

#### *4. State Ownership of Land Policy v. Tenure security and Social Equity*

Coming to the current constitution<sup>49</sup> in force it explicitly states that, the right to ownership of rural and urban land is exclusively vested in the state and peoples of Ethiopia.<sup>50</sup> It also provides that land is common property of nation, nationalities and peoples of Ethiopia and shall not be subject to sale or other means of transfer.<sup>51</sup> However, since the proclamation does not clearly indicate the exact duration of usufruct for land holders, tenure security remained the problem.

The FDRE constitution clearly provides that the government may expropriate private property for public purpose subject to the payment in advance of compensation commensurate to the value of property.<sup>52</sup> The basic flow and reason of controversy in the evaluation and compensation of assets is that the disagreement between Article 40 (3) of FDRE constitution that recognize joint ownership of land by people and the state, and Article 40 (8) of FDRE constitution which give compensation only to the private property, fixture on the land but not the land. The constitution seems to give a right to ownership of land on the one hand, and denies benefit on the other.<sup>53</sup> Concerning urban land the constitution said nothing about the acquisition and transfer of urban land dwellers. Given the number of exceptions and prohibitions, and the lack of clear specifications of responsibilities and decision criteria, the current legal framework allows for enduring influence of the state bureaucracy on land distribution and land rights.<sup>54</sup> This offers potential spaces for corruption, political interferences and bureaucratic arbitrariness.<sup>55</sup> The federal rural land administration and use proclamation No. 456/2005 follows the trajectory that the right to land is exclusively vested in the state and in the people<sup>56</sup> and grants holding rights to users by which these rights remain restricted. It defines certain obligation for the user, in

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<sup>49</sup> The Constitution mean Federal Democratic Republic of Ethiopia Constitution Proclamation No. 1/1987

<sup>50</sup> Article 40 (3) of Federal Democratic Republic of Ethiopia Constitution Proclamation No 1/1987

<sup>51</sup> Id

<sup>52</sup> Article 40 (8) of Federal Democratic Republic of Ethiopia Constitution Proclamation No 1/1987

<sup>53</sup> Solomon Dessalegn, n(3), in Daniel W Ambaye n(9), p 75

<sup>54</sup> Wibke Crewett, et al., Land tenure in Ethiopia: Continuity, Change, Shifting Rulers, and the quest for state control (Capri working paper No 91, 2008), p 18

<sup>55</sup> Wibke Crewett, et al., Land tenure in Ethiopia: Continuity, Change, Shifting Rulers, and the quest for state control (Capri working paper No 91, 2008), in Searching for tenure security? The land system and new policy initiative in Ethiopia. FFS discussion paper No 12. Addis Ababa (Finfinnee): forum for social studies (Dessalegn Rahmato, 2004), p 19

<sup>56</sup> See Preamble of Federal Democratic Republic of Ethiopia Rural Land Administration and Land Use Proclamation No. 456/2005



particular restrictions of land use on highly sloped territories. It also opens up the possibility for the government being the owner of the rural land to change communal rural land holdings to private holdings<sup>57</sup> for example, for private investors which weakness communal pastoral communal land tenure rights significantly.

As many different studies and arguments shows, those major land tenure and administration problems that existed during the Derg are prevailing. Arbitrary and political land redistribution resulting in serious negative repercussions in tenure security and land management is the most compelling event that has exacerbated preoccupations about the future of land tenure in this country.<sup>58</sup> It was also Dessalegn Rahmato (1994) apprehension before land issues were enshrined in the 1995 constitution that there were indications “that land policy may be sacrificed for political and doctrinal purposes”.<sup>59</sup> The political primacy in land administration has been demonstrated by the 1996 land redistribution of the Amhara Region where access to land was based primarily on political criteria of participation or not.<sup>60</sup> Neither social equity nor economic considerations were given enough attention in such political motivated redistribution of land.<sup>61</sup> One scholar familiar with political economy of Ethiopian land tenure pointed out additional and unofficial reasons of cultural beliefs, ideological orientation, and the strategic advantage of state ownership of land for political stability and agricultural development.<sup>62</sup>

The state ownership of land policy’s goal of ensuring fairness in allocation of land rights is incompatible with the post Derg land law reform’s and agricultural development led industrialization (ADLI) strategy’s objective of raising smallholder productivity.<sup>63</sup> For instance, Kassahun has noted the anomaly between the land policy’s purpose of putting land under state ownership on the one hand; and on the other, the land law reform’s and the agricultural development led industrialization (ADLI) strategy’s objective of raising smallholder

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<sup>57</sup> Article 5(3) of Federal Democratic Republic of Ethiopia Rural Land Administration and Land Use Proclamation No. 456/2005

<sup>58</sup> Yigremew Adal n(11), p 35

<sup>59</sup> Yigremew Adal n (11), in Land policy in Ethiopia at cross roads (Dessalegn Rahmato, 1994), in Land tenure and Land policy in Ethiopia after the Derg (Dessalegn Rahmato) Norway: Reprocentralen AVH.

<sup>60</sup> Id

<sup>61</sup> Id

<sup>62</sup> Yigremew Adal n (11), in Ethiopia land tenure revisited: Continuity, Change and contradictions. Paper presented to IDR land tenure conference, April 6-7, Addis Ababa (Finfinnee) (Allan Hoben), p 35

<sup>63</sup> Solomon Fikre, The challenge of land law reform, smallholder agricultural productivity and poverty in Ethiopia (PhD thesis, Warwick University, 2015), p 141

productivity, as well as the national development policy goals of bringing about rapid economic growth, benefiting the majority of the population there from, moving the country from aid-dependency to self sufficiency, and establishing a well developed market economy.<sup>64</sup> Landlessness is still a serious problem in Ethiopia, as many rural residents are landless, or have landholdings less the minimum size required to guarantee adequate food production let alone the growth of small land holder productivity in the country.<sup>65</sup> The dominant narrative pertaining to fairness, which is to be secured by a benevolent, paternalistic state through the enforcement of the policy of state land ownership and the rigorous involvement of the state in land relations as an arbiter to ensure fairness practically, is designed to maintain state control on land and retain its most formidable power resource.<sup>66</sup>

The policy's of state ownership of land undermines tenure security and incentive for investment on land, and thereby adversely affects productivity and sustainable use of land. For instance, in case of lease of land by peasant farmers the duration is shorter<sup>67</sup> by which it provides little or no incentive to improve land productivity through investment in long term land development measures. The real case indicative of this is interview with expert and concerned people in and around Awash disclosed that as far as leasing is concerned, there are huge problems because all farmers in the Woreda do leasing to non investors who are coming from big town or cities.<sup>68</sup> Despite the prohibition of the law to lease for more than three years, some have leased the land for 99 years and some for 15 or 20 years.<sup>69</sup> The other is land holders cannot rent 100% of their holding. They can rent only that amount of land that does not displace them from the land; i.e. they should reserve enough land that yields sufficient output to sustain their family.<sup>70</sup> Such

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<sup>64</sup> Solomon Fikre, The challenge of land law reform, smallholder agricultural productivity and poverty in Ethiopia (PhD thesis, Warwick University, 2015), in the political economy of agriculture extension in Ethiopia: Economic growth and political control, Future agricultural consortium working paper 042 (Kassahun Berhanu, 2012), p 141

<sup>65</sup> Solomon Fikre, The challenge of land law reform, smallholder agricultural productivity and poverty in Ethiopia (PhD thesis, Warwick University, 2015), in Recent experiences in land rental markets in Ethiopia: Impact on equity, efficiency and poverty (Samuel G/Silassie, 2006), in Land and challenge of sustainable development in Ethiopia: Conference proceeding (Dessalegn Rahmato and Taye A., (eds) Addis Ababa (Finfinnee):FSS), p 145

<sup>66</sup> Id, p 141-42

<sup>67</sup> Article 10 (2) Oromia National Regional State, rural land use and administration proclamation No 130/2007 provide that duration of land lease contract shall not be more than three years for those who apply traditional farming, and fifteen years for mechanized farming.

<sup>68</sup> Solomon Dessalegn n (3), p 47

<sup>69</sup> Id

<sup>70</sup> Article 10 (1) of Oromia National Regional State, rural land use and administration proclamation No 130/2007, states that without prejudice to Article 7 (1) any peasant, pastoralist or semi pastoralist has the right to rent out up to half of his holding.

restriction affects adversely the disadvantaged such as old widowers and orphans who are not able physically work on their land.<sup>71</sup> Furthermore, it limits the efficient reallocation of land resources from those who want to earn their livelihood from off-farm employment opportunities and still retain their land resources as a safety net in case the off-farm employment sours.<sup>72</sup> State ownership of land policy discourages smallholders on marginal land from out-migrating and ties them to inefficient land use, which leads to fragmentation of land holdings, overpopulation in rural areas, and land degradation.<sup>73</sup> The policy's of state ownership of land does not allow land rights being used as collateral for loan. But investors who lease land for a limited period of time allowed to use their land use rights as collateral while small scale land holders who have use right in perpetuity are not accorded the same privilege.<sup>74</sup>

The policy's of state ownership of land empowers the government authorities to give away land to investors and others without consulting land holders or their communities, and irrespective of the damage this may have on peasants' livelihood and the natural environment.<sup>75</sup> The government explanation and implementation of its policy of state land ownership defeats the principles of fairness as egalitarianism, as well as the arguments of maintaining economic fairness, social equity, and political stability used to justify the enforcement of the policy.<sup>76</sup> For instance, the government has explained that one of the ways in which the ownership of land by the state is expressed is the government controls land as an owner and ensures it is used for various purposes, including enabling private investors that want to engage in agriculture to get land through long-term lease.<sup>77</sup> Large tracts of land are being provided in the name of investment to commercial agriculture enterprises that produce almost exclusively for export, which is reported to have resulted in massive eviction of smallholders belonging to indigenous ethnic groups, as well as in the much vilified absentee landlordism that the policy is supposed to

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<sup>71</sup> Girma Kassa, Issues of expropriation: The law and practice in Oromia (LL.M thesis, November 2011), p 35

<sup>72</sup> Id

<sup>73</sup> Solomon Fikre, n (62), p 143

<sup>74</sup> Article 8 (4) of Federal Democratic Republic of Ethiopia rural land administration and use proclamation No. 456/2005

<sup>75</sup> Solomon Fikre, The challenge of land law reform, smallholder agricultural productivity and poverty in Ethiopia (PhD thesis, Warwick University, 2015), in Land to investors: Large scale land transfer in Ethiopia (Dessalegn Rahmato, Addis Ababa (Finfinnee): FSS, 2011)), P 144

<sup>76</sup> Solomon Fikre, n (62), p 144

<sup>77</sup> Solomon Fikre, The challenge of land law reform, smallholder agricultural productivity and poverty in Ethiopia (PhD thesis, Warwick University, 2015), in Rural development polices, strategies and tactics of the government of the federal democratic republic c of Ethiopia (FDRE), in Amharic, (Ministry of information, Addis Ababa (Finfinnee), 2001)), p 145

prevent.<sup>78</sup> Large tracts of land allocated for investment in commercial agriculture to foreign investors that mostly produce for export to their home countries in a country where numerous studies have identified the smallness and fragmentation of landholdings as one of the major factors contributing towards low smallholder productivity and pervasive poverty.<sup>79</sup> According to the government, the future of agricultural growth and development in Ethiopia lies in the promotion of investment in commercial agriculture, as the key actors in the sector's development will be relatively large-scale private investors and not the semi-subsistence small farmers.<sup>80</sup> This reflects a paradigm shift that has been made from the existing agricultural development led-industrialization (ADLI) strategy centered on raising small holder productivity in staple crops towards commercial agriculture.<sup>81</sup> According to Dessalegn and Merera, the real motive of the government is the quest to control land and ensure the continued dependence of the rural small holder of land masses on the state for accessing this vital resource.<sup>82</sup> Dessalegn contends that the whole purpose of state ownership of land is creating land dependency which creates insecurity, disempowers individuals and communities, and enhances the hegemonic authority of the state. Here the state assumes the role of sole active agent, and individual and communities become passive recipients of decisions from above because of the underlying insecurity over their property and the fear of losing it at any time.<sup>83</sup>

Totally the constitutionally resolved issue of land ownership has continued to be a source of hot debate even among political parties.<sup>84</sup> The problem, however, is that none of these arguments from both sides has provided comprehensive empirical research findings that show the views and

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<sup>78</sup> Solomon Fikre, n (62), p 145

<sup>79</sup> Id, p 145-46

<sup>80</sup> Solomon Fikre, The challenge of land law reform, smallholder agricultural productivity and poverty in Ethiopia (PhD thesis, Warwick University, 2015), In Government of the federal democratic republic of Ethiopia (FDRE) rural development policy and strategies (Ministry of finance and economic development (MoFED), Addis Ababa (Finfinnee), 2003) p 52

<sup>81</sup> Solomon Fikre, The challenge of land law reform, smallholder agricultural productivity and poverty in Ethiopia (PhD thesis, Warwick University, 2015), in Ethiopia: sustainable development and poverty reduction programme (SDPRP): Annual progress report (2003/04), (Ministry of finance and economic development (MoFED), Addis Ababa (Finfinnee), 2005)) p 27

<sup>82</sup> Solomon Fikre, The challenge of land law reform, smallholder agricultural productivity and poverty in Ethiopia (PhD thesis, Warwick University, 2015), in the peasant and the state: Studies in the agrarian change, 1950s-2000s, (Dessalegn Rahmato, Addis Ababa (Finfinnee): Addis Ababa University press,2009) and popular participation and rural development in Ethiopia (Merera Gudina, 2006) in Kassahun Birhanu and Demessie Fantaye, (eds.), Ethiopia: Rural development policies, Trends, Changes and Continuities, (Addis Ababa (Finfinnee): Addis Ababa (Finfinnee) University Press), p 146-47

<sup>83</sup> Id n (74), p 147

<sup>84</sup> Yigremew Adal n (11), p 31

interests of the peasants, poor farmers in particular, who would be the most affected by drastic tenure policy change.<sup>85</sup> That is to say, it is seldom, if ever, that farmers are actually asked how they feel about these issues, controversies and the policy options, all of which are entertained and created by outsiders (i.e. elites) who are usually out of touch with the farmers' realities.<sup>86</sup> This means it is of paramount importance to conduct adequate empirical studies that focus their attention on the feelings and interests of the majority of the country's peasants, without excluding the interests of other actors or ignoring the efficiency argument.<sup>87</sup>

### *5. Privatization Land Policy v. Fair Access of Land*

The other important point that should be considered is privatization policy. Based on the history of land tenure policy of this country can privatization policy achieve tenure security and fair access of land for those in need (i.e. poor peasants) than state ownership of land policy? Based on the political history of this country scholars or experts argue against privatization land policy as follow. Private ownership of land completely leads to concentration of land in the hands of a few predatory bourgeoisie and elites who have the ability to buy, to evict poor peasants, landlessness, and rural-urban migration of the same peasants who are left without any alternative means of livelihood.<sup>88</sup> Privatization policy of land brings back landlord-tenant relationship which was chronic problem for more than century in the political history of this country, and finally cause for revolt against exploitative imperial regime.<sup>89</sup>

Gebru (1998) argues against privatization providing: Privatization of land will create a massive eviction of peasants and the displacement of pastoralists. Landless and poor peasants, who comprise the overwhelming majority of the rural population, will be the first victims of that policy. Moreover, the pre-reform landlords, who battered on the

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<sup>85</sup> Hussein Jemma, The politics of land tenure in the Ethiopian history: Experience from the south (Paper presented for XI world congress of rural sociology, Trondheim, Norway, July 25-30, 2004), p 12

<sup>86</sup> Hussein Jemma, The politics of land tenure in the Ethiopian history: Experience from the south (Paper presented for XI world congress of rural sociology, Trondheim, Norway, July 25-30, 2004), in Tekie Alemu (2000), Farmers willing to pay for tenure security, p 12

<sup>87</sup> Id n (84), p 12-13

<sup>88</sup> Yigremew Adal n (11), p 29

<sup>89</sup> Id

meager surplus produced by the peasants, mostly tenants, will now be replaced by capitalist farmers who will alienate small peasants from their land.<sup>90</sup>

Gebru fear have nationalities dimension in that the victims of onslaught of the penetration of capital were peasants and pastoralists from the oppressed nationalities (i.e. the southern and central part of the country). Finally Gebru said should the same thing be allowed to happen again because capital covets to swallow their plots of land?<sup>91</sup> There are indications that Abiy Ahmed pan national party (Ethiopia prosperity party) privatizes land as its premise is individualism than collectivism. These pro of privatization policy of land are mainly from the feudal family striving for the revival of this exploitative imperial system by the name of nation building (fake nationalist). And Abiy Ahmed national prosperity party determined to re-born “one oppressor nation” whose political system, culture and language dominated the others and on the other, many “oppressed nationalities” that were politically and economically marginalized, culturally and linguistically dominated. Which mean few exploitative and many oppressed nationalities. And these few exploitative (which their origin is from feudal family) although it has never part of their socio cultural and political ethos, they see the virtue of private rights (over land) as a winning formula for the Nafxagna/Settlers class to fight any social, political and economic measures that nation such as Oromo, Sidama, etc. could impose in their respective states. Abiy Ahmed prosperity party its dogma is individualism and under such dogma it is determined that state ownership of land policy changed into privatization land policy. Finally the land policy determined to come after the pan national party of Abiy Ahmed (Ethiopia prosperity party) mainly serves the predatory bourgeoisie and elites who have the ability to buy and to evict poor peasants. And land will be concentrated in the hands of these few predatory bourgeoisies and elites which their origin is the feudal family (i.e., mainly the northerners).

Fantu is another scholar who argues on the same lines. His argument is that given the country’s meager industrial base and limited opportunities for non agricultural pursuits, land is the only productive asset available to the majority of the rural population and stresses the utmost importance of its equitable distribution. He also warns “the

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<sup>90</sup> Yigremew Adal, Review of land holding system and policies in Ethiopia under the different regimes (EEA/Ethiopia Economic Policy Research Institute, Working Paper No 5/2002, December 2002), in Gebru Mersha, 1998, Privatization of rural land: To protect whose security? Paper presented at the inaugural workshop of the forum for social studies (Addis Ababa/Finfinnee, September 18, 1998), p 9

<sup>91</sup> Id, p 10

commoditization of land would turn the clock back to the situation before 1974 revolution. It would bring back the former landlords, open up the possibility of large-scale peasant evictions and thus create a massive influx of pauperized and destitute migrants into the towns”<sup>92</sup>

Privatization policy of land not suitable to redresses the issues of injustice that small holders historically (fairness as historical justice) suffered and prevent those injustices from coming into being again. Also privatization policy of land is not suitable for equal access to agricultural/communal land without payment. Privatization policy of land leads to resurgence of those historical injustices along with their economic, social, and political implications. That, they explain, is because majority of smallholders would sell off their land through distress sales and become landless and impoverished, which would give rise to the imperial-era absentee landlordism and exploitative tenancy institutions.<sup>93</sup> Private ownership of land policy because of lack of industrial development and the high rate of unemployment in both urban and rural centers, large-scale rural-urban migration increase the potential for economic, political and social unrest and ethnic conflict resulting from migration across ethnic boundaries.<sup>94</sup> Private ownership of land policy completely provides peasants unrestricted access and right to use their land in whatever they liked. This right includes the right to use land as collateral to exchange and sale. This means because majority of peasant farmers are poor they are going to be forced to sell their land with very cheapest prices at the time of hardship to unscrupulous urban speculators. And finally the land concentrated on the hands of few predatory bourgeoisie, elites and unscrupulous urban speculators. This clearly takes back the country to pre 1974 revolution, i.e. landlord-tenant relationship will revive. Those peasant farmers who sold their land at very lowest price, because what they get by selling their land not survive them for long time, and no other means of livelihood provided either by those who bought their land or by the government, they are going

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<sup>92</sup>Yigremew Adal, Review of land holding system and policies in Ethiopia under the different regimes (EEA/Ethiopia Economic Policy Research Institute, Working Paper No 5/2002, December 2002), in Fantu Cheru, Designing structural adjustment program: Reconstruction, Rehabilitation, and Long-term Transformation (1994), p 29-30

<sup>93</sup> Solomon Fikre, The challenge of land law reform, smallholder agricultural productivity and poverty in Ethiopia (PhD thesis, Warwick University, 2015), in Gebru Mersha and Mwangi wa Githinji, (2005), Untying the Gordian knot: The question of land reform in Ethiopia, Institute of social studies (ISS), and UNDP land, poverty and public action policy paper No. 9, (The Hague: ISS/UNDP), p 138

<sup>94</sup> Solomon Fikre, The challenge of land law reform, smallholder agricultural productivity and poverty in Ethiopia (PhD thesis, Warwick University, 2015), in MoFED, (2002), Ethiopia: Sustainable development and poverty reduction programme (SDPRP), (Addis Ababa/Finfinnee: MoFED), p 138

to be beggar, or servant of the buyer of the land with a very low payment of salary, or their family disintegrate, and they become landless and homeless/they begin to live in street. For instance, even under state ownership of land policy of the Ethiopia people's revolutionary democratic Front (EPRDF) government because of prevalent informal land dealing in pre urban particularly around cities/towns in Oromia many households left in the field without support either from the government or unscrupulous urban speculators who snatch their land with very lowest price. Specifically peasant farmers around Addis Ababa/Finfinnee were victims of such land grabbing by urban unscrupulous speculators including the governing body. The EPRDF government who seriously advocates state ownership of land policy for justice as fairness principle i.e., fairness as historical justice and fairness as egalitarianism was the main actor in land grabbing from Oromo peasant farmers around the capital city of the country. Bear in your mind this was done by the EPRDF government who was the main advocator of state ownership of land policy with ultimate objective of protecting the majority smallholders of land. Land grabbing massively undertaken by the name of large scale project majorly owned by Abyssinians (Tigrayan's and Amharan's) under the EPRDF governance in Oromia particularly resourceful land near to capital city (Addis Ababa/Finfinnee), integrated master plan of Finfinnee/Addis Ababa which aimed to expand Finfinnee/Addis Ababa largely to the surrounding Oromo peasant farmers land.<sup>95</sup> What do you understand from this discussion? It is clear nothing was changed under the successive regimes but what was changed is only the process with ultimate goal of exploiting the central and southern part of the country. This is a massive land grabbing that aimed to undertake genocide on Oromo's nation. Let alone private ownership of land policy even the state ownership of land policy failed to address the issues of majority poor smallholders of land in this country. In the political history of this country both public and private ownership of land policy practiced at different time failed to answer the issues of tenure security and equitable access to land.

The debate of state-private ownership of land policy seems to be based on ideological differences rather than empirical studies. The private versus state ownership of land by itself is not as such a decisive factor. What is important is whether or not there are adequate measures and regulations in place to guarantee tenure security and equal access

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<sup>95</sup> Solomon Dessalegn, "Qeerroo fi Qaarree Oromoo": Unarmed young Oromo force that save Ethiopia from disintegration, Vo, 1 Issue 3 (International Journal of Social Science and Humanities, July 2019), p 33



to land, such as land certification, just compensation in case of expropriation, long duration of rights, good governance, absence of corruption, and easy access of courts.<sup>96</sup>

Ethiopian government advocating tenure security and social justice related to land; granted large tracts of arable rural land to foreign financed agricultural projects that raised questions that the EPRDF government is facilitating a land grab by foreigners to produce food for export while Ethiopian farmers are unable to escape poverty.<sup>97</sup> From this it is clear that the current and previous government have taken interventionist approach to land for political power, with significant impact on the rights of existing land users.<sup>98</sup> And critics clearly noted that this long term commercial leasing process is not always participatory, stakeholders including current users of the land are not always adequately consulted, and the term of the leases and the allocation process are not transparent, making it unclear whether each land allocation beneficial to the economy in general and to the local communities in particular.<sup>99</sup> The EPRDF government considering itself as champion of the rural society strictly took state ownership of land as a guarantee for peasants and pastoralists tenure security. In the debate between the state and private ownership of land policy the main stake holder of the issue, the rural society, other than being told what has been decided, has not yet got involved in choosing what is better to it. Researchers disclosed that both of state and private ownership of land policy parties debated on the issue of land ownership largely based on either calculated assumptions or political ambitions. Obviously, this case has two implications. On one hand, the contenders, on both sides of the argument, are more likely reflecting their own interest and ideologies without fully investigate the interests of peasant farmers. On the other hand, each of them may not fully understand the adverse effect of deciding land policies without letting the concerned section of the society.<sup>100</sup> Thus Allan Hoben rightly commented it will be better if contending parties listen what concerned peoples says and take into account the social, cultural and historical contexts of the large society

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<sup>96</sup> Daniel W Ambaye n(9), p 40

<sup>97</sup> USAID (United States Agency International Development) country profile, Ethiopia: Property rights and resource governance, in Vidal, J. 2010. How food and water are driving a 21<sup>st</sup> century African land grab, the observer, March 7, 2010. <http://www.gurdian.co.uk/environment/2010/mar/07/food-water-Africa-land-grab> (Accessed May 2, 2011).

<sup>98</sup> USAID (United States Agency International Development) country profile, Ethiopia: Property rights and resource governance, p 8

<sup>99</sup> Id n (96), p 11

<sup>100</sup> Binayew Tamrat, Historiographical review of the current debate on the Ethiopian land tenure system (African Journal of History and Culture, February 2015), p 49

before designing and revising land policies and strategies.<sup>101</sup> The western neo liberal, international donors and scholars unwelcome advice regarding land policies and their implementation failed in their attempt to significantly change Ethiopian government policy of state ownership of land to privatization policy of land as the EPRDF government mainly led by Tigray Peoples Liberation Front (TPLF) not wants to relinquish a significant source of political and economic power among rural constituencies (in the central and southern part of the country where the land is largely arable land suitable for agricultural and industrial investment) than fully implementing his argument of fairness as historical justice and fairness as egalitarianism (i.e. tenure security and social equity) during the debate between state ownership and private ownership of land policy.<sup>102</sup>

## *6. Conclusion*

Review of different literature shows that the 1975 sweeping land law reform eliminated an exploitative old aged feudal land tenure system. But the Derg land reform was with many shortcomings, because, the government replaced the landlords, providing the latter with direct and uncontrollable access to peasantry land. After the fall of Derg from 1991 the same land policy continued. The EPRDF government argued for continuity of Derg land policy to address the issue of tenure security and social equity. But from the time of Derg and under the reign of EPRDF government until today inadequate access, tenure insecurity, diminution and fragmentation of land holdings, inefficient allocation of land, and inappropriateness or lack of land administration policies and institutions are some of the frequently cited problems in different literature. Different literature indicated that from the time of transition the debate between state-private ownership of land only focuses a single tenure arrangement which mean the debate is more of ideological/political ambitions rather than being based on theoretical foundation and emperical argument. The debate of state-private ownership of land completely ignored opinions and interest of peasant farmers and nomadic pastoralists which are big stake holders. The other problems as different literature clearly indicated is that both state-private land

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<sup>101</sup> Allan Hoben, 2002, 28-29

<sup>102</sup> USAID (United States Agency International Development) country profile, Ethiopia: Property rights and resource governance, in Crewett W, Korf B, Ayalneh B, Land tenure in Ethiopia: Continuity and change, shifting rulers and the quest for state control (2008), p 13

ownership policy advocates ignored social, cultural and historical contexts of the larger society (i.e. a combination of different types of tenure arrangements wherever necessary). As a result of this until today the issue of tenure security and social equity as to land remain unsettled.

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