

# SOME QUERIES ABOUT THE DEBATE ON LAND TENURE IN ETHIOPIA

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## ***Abstract***

*Regardless of the 1995 constitutional provisions on the state ownership of land, rural land policy has remained one of the sources of disagreement and focus of debate among all concerned about Ethiopia's development. The major objective of this paper is to closely examine the land tenure debate and to raise some of those queries related to those views and arguments. Theoretical literature, press media, academic and research papers, and programmes of political parties were among the sources used to gather information, and to examine the debate. It was found that the land tenure debate, as it stands now, does not seem informed by theoretical foundations and empirical evidences. The debate is more of ideological and political nature without serious considerations for the social and economic implications. It oversimplifies the issue in that ownership per se is considered as a panacea to or a source of all problems; and it is very narrow in that other forms of ownership and other important elements of land tenure are not given enough attention.*

## **1. INTRODUCTION**

Rural land policy has remained one of the sources of disagreement and focus of debate among politicians, academicians and other concerned parties in Ethiopia. This is not surprising given the agrarian nature of the economy and the role of land even in the social and political history of the country. The rural land tenure system has been considered one of the critical elements in Ethiopia's development. For instance, it has been considered as the major cause of the 1974 political upheaval which led to the overthrow of the imperial regime; it has been considered as one of those factors hindering the development of the country's agriculture and leading to perpetual food insecurity and it has also been cited as a source of economic injustice and social inequality. Although the 1975 land reform of the Derg was acknowledged for doing away with the feudal exploitative land tenure system, improper land policy and administration are still the sources of those problems particularly pertaining to the agricultural sector.

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During the transition period of the current regime as well, when the government had not yet defined its policy on rural land, much concern was shown by different sections of the society as well as by international agencies, and the issue had been the focus of debate. Later on, the ruling party made it clear that the policy on land was to continue more or less on the same lines to that of the Derg's policies: land ownership remained vested in the state and this was enshrined in the 1995 constitution. Moreover, the government stipulated in its major policy documents that rural land redistribution will continue as deemed necessary. Regardless of the constitutional provisions on the ownership of land, land policy has been one of the political campaign issues during the 2000 elections too. In that debate, there was a dichotomy of views on ownership of land belonging to the state (as advocated mainly by the ruling party), or to individual citizens (upheld by many political parties opposed to the ruling party). Views of some scholars also belong to the state/private dichotomy with few exceptions considering the role of rural communities in owning and administering land.

Generally, it can be argued that the land tenure debate as it stands now, particularly the one from the media, is more ideological and political without sound arguments about the implications of those positions; it oversimplifies the issue in that ownership per se is considered as a panacea to or a source of all problems; it is very narrow in that other forms of ownership and other important elements of land tenure such as tenure security and land transfer rights are not given enough attention; and that the debate does not seem informed by theoretical foundations and empirical arguments. As a result, it can be judged that such perceptions will not help much to correctly understand the nature of the present tenure problems and to forward sound policy options to consider in the future.

This paper is an attempt to fill some gaps in the land tenure debate by ways of presenting important theoretical arguments both regarding the ownership and other issues of land tenure; empirically examining the Ethiopian situation in line with such theoretical arguments; raising some queries on the land debate; and forwarding some suggestions which will help to develop sound policy considerations.

## **2. PROPERTY RIGHTS IN LAND: THEORY AND IMPLICATIONS**

Land tenure is about property relations in land and their administration. Middleton, (1988:ix) defined land tenure as "a system of relations between people and groups expressed in terms of their mutual rights and obligations with regard to land." Ogolla and Mugabe (1996:85-116) noted that land tenure defines the methods by which individuals or groups acquire, hold, transfer or transmit property rights in land. Formal rules of tenure, therefore, define the nature and content of property rights and determine how society will allow individuals or groups to hold property rights in land or other resources and the conditions under which those rights are to be held and enjoyed.

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There are four categories of property right systems in land: none (or open access), communal property, private property, and state property (Feder and Feeny 1993; Irwin 2000). Under open access, rights are left unassigned where lack of any exclusivity implies lack of an incentive to conserve. Under communal property, exclusive rights are assigned to a group with defined rules of access; under state property the management of land is under the authority of the public sector; and in private property an individual is assigned the rights. Private property is usually defined in terms of exclusivity and transferability.

Feder and Feeny also explained that private property rights in land have evolved in response to increase in the scarcity of land and, therefore, the benefits to be derived from more precise and secure land rights. Increasing population density, decline in the agricultural terms of trade, and technological change that made investments in land quality more profitable have enhanced the benefits from creating more precise property rights in land. All or some of these property rights may exist in a single society for different tracts of land. For instance, in many societies, some or all land is constitutionally the property of the state, but exclusive use rights are given to individuals under a contractual arrangement with the state. If these use rights are transferable with few limitations, and, if contract is sufficiently long-term (say, 99 years), it is argued, for most of the contract's duration there is very little difference between possession of use rights and full property rights.

Ownership, use and transfer rights are among those important dimensions of property rights in land. Theoretically, the greater the number of rights conferred by the tenure arrangement, the greater the real or potential value of the land resource to the holders. According to Eyzaguirre (1988: 340-361), ownership denotes the relation between a person and any right that is vested in him. That which a man owns is in all cases a right. And to own a piece of land means to own a particular kind of right in the land. In a restricted sense, ownership in land for Eyzaguirre refers "to the juro-political status of a person in relation to a given piece of land". While the jural status also presumes the right of administration and use, such a presumption may not be sufficient for the exercise of the latter. For owners of land, whether they be individuals or the state, to exercise fully their rights of use and administration, the institutional and economic conditions necessary to exploit and administer the land must be present. He then noted that concentration of rights of ownership is thus an expression of political process necessary to exercise those rights over others with potential claims or uses for the land.

Use rights include the right to grow perennial crops, grow annual crops, make permanent improvements, collect firewood and wildfruit, cut trees, graze livestock, and others, while transfer rights include right to sell, give, mortgage, lease/rent, bequeath, register, and others. Moreover, transfer rights were assumed to imply greater tenure security than use rights. Again, among transfer rights, rights of permanent transfer were assumed to be superior to rights of temporary transfer. And

among permanent transfer rights, the right to sell was assumed to be superior to the right to give, which, in turn, dominates the right to bequeath.

The relationship between property rights and other economic activities is that property rights serve to assign the gains and losses from actions to agents and thereby having a profound effect on incentives, resource allocation decisions, and economic performance. Hoof (1993:231) also noted that "little economic activity would occur in the absence of rights, or powers, to consume, obtain income from, and transfer assets. The level of economic development of a region will, therefore, depend on its system of property rights."

In terms of incentives related to land use, it is argued that secured property rights provide agents with incentives to use land efficiently and to invest in land conservation and improvement while uncertainty or risks to the possession of land rights will negatively affect production and investment. Land transactions generally increase efficiency in resource allocation, because agents with high marginal productivity of land acquire land from agents with low marginal productivity. Secured land rights are also explained as influencing credit transactions by way of collateral arrangements.

Security of rights is among those important considerations in land tenure policies. Migot-Adholla, et al. (1993:108) defined that "security of tenure implies the ability of a farmer to cultivate a piece of land on a continuous basis, free from imposition, dispute, or appropriation from outside sources, as well as the ability to claim returns from input or land improvements while the farmer operates the land and when it is transferred to another holder." According to Place et al. (1993:19), land tenure security was said to exist "when an individual perceives that he or she has rights to a piece of land on a continuous basis, free from imposition or interference from outside forces, as well as ability to reap the benefits of labour and capital invested in that land, either in use or upon transfer to another holder." In this case, therefore, security of tenure involves the perception of a farmer about his rights over a particular parcel of land.

Place et al. (1993:15) indicated that there is a widespread belief among development specialists that tenure security is an important condition for economic development. Secure rights based on economic theory are believed to: (1) increase credit use through greater incentives for investment, improved creditworthiness of projects, and enhanced collateral value of land; (2) increase land transactions, facilitating transfers of land from less efficient to more efficient uses by increasing the certainty of contracts and lowering enforcement costs; (3) reduce the incidence of land disputes through clearer definition and enforcement of rights; and (4) raise productivity through increased agricultural investment.

Place et al also underlined that tenure insecurity from an economic perspective is thus some function of four elements: (1) inadequate number of absolute rights, (2)

inadequate duration in one or more rights, (3) lack of assurance in existing rights, and (4) high costs of enforcing rights (p. 21).

All the above theoretical discussions are more of economic nature while land rights have social and political dimensions as well. Like all other property relations, land rights are affected by the state policy and power relations in a society. On the one hand, government can use its *police power*, which is "inherent government authority to regulate matters of safety, health, welfare, environment, morality and other matters pertaining to the protection of the public interest". On the other hand, it uses its *eminent domain* which is "inherent power of the state to take private property for a public purpose provided that any legal requirements for compensation are complied with" (Bruce 1996). So, there is no such thing as absolute private proprietorship as the state uses such powers to determine the rights, powers, privileges and immunities of the holders of those land rights. Social and political rationales and pretexts then justify intervention of the state in relations of people with land. Hence, land tenure systems are not designed based on economic considerations alone but also on political and social exigencies as well.

### 3. THE DEBATE ON THE ETHIOPIAN RURAL LAND TENURE

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#### 3.1. Background

The Derg's policy on rural land was stipulated in the 1975 Proclamation: 'Public Ownership of Rural Lands, No. 31/75'. The basic provisions include: public ownership of all rural lands, distribution of land to the tiller, prohibitions on transfer of use rights, ten hectares of land as maximum a family can possess, and prohibition of hired labour to cultivate ones holdings. Abolishment of feudalism, creation of equitable land and wealth distribution, increase of agricultural production and creation of employment were among the officially stated rationales for the reform. Although the initial reform was welcomed by many and had accomplished its objectives of abolition of feudal relations and distribution of land, what happened consecutively was much criticised from different angles. The most frequently cited problems of the rural land tenure system of the Derg, which was administered high-handedly, include diminution of holdings and farm plots, eviction of peasants and confiscation of property, tenure insecurity and all its consequences, and its adverse effects on sustainable land use, discouraging the movement of people out of agriculture, and inefficient allocation of resources.

Regardless of its free market economic policy, the present government also maintained the state ownership of land. The 1995 constitution (Art 40) provided that "the right to ownership of rural land and urban land, as well as of all natural resources is exclusively vested in the state and in the peoples of Ethiopia. Land is a common property of the nations, nationalities and peoples of Ethiopia and shall not be subject to sale or other means of exchange (Sub. Art. 3). Sub Art. 4 also states that

“Ethiopian peasants have right to obtain land without payment and the protection against eviction from their possession.” Another important provision about property rights (Sub Art. 7) says that “Every Ethiopian shall have the full right to the immovable property he builds and to the permanent improvements he brings about on the land by his labour or capital. This right shall include the right to alienate, to bequeath, and, where the right of use expires, to remove his property, transfer his title, or claim compensation for it.” The constitution also states (Art. 51) that the Federal Government shall enact laws for the utilisation and conservation of land and other natural resources.

There are some little differences between the legal framework of the Derg and the present government on rural land issues. The 1975 land policy prohibits lease and using hired labour to farm the land. The maximum farm land to be possessed by a farmer was given to be 10 hectares. Present land laws allow leasing the land and no restriction on using hired labour. The maximum size of holdings was not decided by the Federal Government laws but a practical example from the Amhara Regional Government land law showed it was three hectares.

Not only officially stated policies but also what has been taking place on the ground is also more important. In practical aspects as well, there are more similarities in land administration between the two regimes than differences (see Dessalegne 1997; Yigremew 1997, 1999; Mekonnen 1999; Ege 1997; Hoben, 2000).

If the 1996 land redistribution carried out in some areas of the country is taken as an illustration, land tenure issue has been more politicised, land redistributions have continued in a more political and high-handed manners, peasant evictions and property confiscation are practised under different pretexts, land transfer mechanisms are constrained. As a result, tenure insecurity and land degradation have been corollaries of such practices. All these have given rise to more preoccupation about the current rural land tenure system.

### **3.2. The Debate**

As indicated in the introduction, the current debate on the land issue focuses on private-state ownership dichotomy issues. State ownership of land has been strongly advocated by the ruling party. However, it legally acknowledges the rights of peasants to have free access to land and protection against eviction. In the case of peasant eviction through land redistribution or other means (a situation which the ruling party also accepts and it is stipulated in the law), payment of compensation is provided. Generally, the argument here is that individual ownership of land will lead to concentration of land in the hands of those who have the ability to buy which will lead to eviction of the poor peasants, and rural-urban migration of the same peasants who are left without any alternative for livelihood.

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There are some scholars as well who argue on the same line. Gebru (1998 ), for instance, mentioned that "Some scholars believe and argue that the privatisation of rural land and the concentration of the latter in the hands of a few 'enterprising and efficient farmers' would lead, in the long-run, to overcome some aspects of the structural problems of the agrarian economy." Among what he mentioned as policy implications of such argument is that the government has to undertake a full privatisation program. He then expressed his preoccupation that such a situation "will definitely lead to a total reversal of the 1975 agrarian reform measures the fundamental element of which was enabling the overwhelming majority of the country's peasants to have access to land." He also noted that the basic argument of those proponents of land privatisation was that government control of land led to the peasant insecurity of holdings. He argues against privatisation saying:

... privatisation 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 batted on the meagre 'surplus' produced by the peasants, mostly tenants, will now be replaced by 'capitalist' farmers who will alienate small peasants from their land (p. 9).

He cited an empirical evidence where a limited penetration of capital in the central and southern parts of the country caused massive misery to small peasants and tenants. His worries also have a nationality dimension in that in the above mentioned experience "the victims of the onslaught of the penetration of capital were peasants and pastoralists from the oppressed nationalities. It gave rise to the exacerbation of the oppression and exploitation of peasants and pastoralists of those nationalities." With that horror in mind, he asks: "Should the same thing be allowed to happen again because capital covets to swallow their plots of land?" (p. 10).

Fantu (1994: 139-40) is another scholar who argues on the same lines. He explains the danger of private ownership of land as follows:

Given the country's meagre industrial base and limited opportunities for non-agricultural pursuits, land is the only productive asset available to the majority of the rural population. It is, therefore, of utmost importance that it is distributed equitably and that security of tenure is clarified through legislation. While advocates of land reform may favour introducing western-style property rights, the commoditisation of land would turn the clock back to the situation before the 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 pauperised and destitute migrants into the towns. Enforcement measures should be included in the legislation to prevent future inequalities emerging.

On the other hand, many of those political parties that are rivals (or in opposition) to the ruling party have opted for private ownership of land. There are also more

scholars supporting this position. Although those parties have stipulated private ownership of land in their political programs, they have, neither in those documents nor during the land debate, expounded their position. What is strongly mentioned is the issue of peasants' unrestricted economic rights on land which includes the right to sell. But there is no argument about the implications of such a privatised land ownership system. Hence, it seems mere ideological stand than a policy choice to be argued.

Those who scholarly argue towards this anti-state land ownership position do, implicitly or explicitly, support unrestricted rights of peasants on land including land sales. However, they seem not to be interested in the mere private ownership of land per se, but in the need for constraining the controlling power of the government on the peasantry by way of land ownership and all its other consequences. In this line, there are arguments, for instance, that since the 1975 land reform, Ethiopian peasants have become 'tenants of the state' (see, for instance, Teketel 1998; Mesfin 1999; Dessalegne 1992). One of such scholars noted that the 1975 land reform "...replaced the landlord with the state, providing the latter direct and unencumbered access to the peasantry. It politicised land because access to it became increasingly dependent on a host of factors, including peasants' relations with the state-manipulated PAs [Peasant Associations], compliance with government directives, and provision of corvee labour by peasants to the 'socialist' sector of agriculture which was actively promoted in the 1980s" (Dessalegne 1992:47). Another scholar also contended that "Before the land reform, 48.4 % of peasants had been landowners, 50.6% were tenants (where 38.8% were landless and 12.8% had some land). This was what we considered as a problem and made us to shout. Derg made himself the owner of the land transforming Ethiopia from a country of semi-ristholder (and semi-tenant) to a country of all tenants (Mesfin 1999:12).

The most pronounced problem of such a system is noted as tenure insecurity and all its consequences have led to suggest the following:

... the transitional government should in due course, meaning as soon as possible, re-instate the principle of private ownership of land, and affirm the right of peasants to hold their plots as private property with clear title deeds. The only way peasant confidence will be restored, and insecurity of tenure abolished thus enabling peasants to take their land as their assets and to work it with great effort, is if peasants are assured that no one can take their land from them. This is particularly important in the light of the experience of the last fifteen years ... (Dessalegne 1992:53).

The economic impact of such state ownership was making it difficult to the peasant to increase the productivity of the land and his labour as he has seen the land does not belong to him and that it can be taken away by the state whenever necessary (Mesfin 1999).

Another scholar who is very familiar with the country's land issue also argues that present tenure system with state ownership, the land policy and practices have re-politicised land tenure, discouraged investment, could not prevent land sales and mortgaging but made them take place where the sellers are at a disadvantage, could not prevent land transfer from rural communities to commercial farmers and urban dwellers, they slow rural-urban migration but not certainly. He then concluded that thought from the food security perspective (best way to focus on), rural land policy has two problems: "1) making sure everyone who needs it has enough land to survive and 2) making sure that efficient farmers have more land than inefficient farmers" (Hoben 2000).

The ruling party's and other people's argument that if peasants are given unrestricted land rights, then they will sell their lands and they will become landless is judged as unfounded and if it happens in extraordinary situations, it is not considered as disastrous. It was argued:

Is there a danger of peasants selling their land and the consequent emergence of agrarian capitalism in the rural areas? I believe there is none. The tradition of peasants in this country is to hold on to their plots for life unless they are victims of extraordinary misfortune. To the peasant, land is a source of life, of pride and identity. In those rare cases where land selling may occur (there are always exceptions to the rule) new legislation could make it either difficult for the peasant to sell or for outsiders to buy the land in question so that in the end the land will remain within the community (Dessalegne 1992:53).

In another occasion, the same author also noted: "the argument of the state is that if the peasant is given absolute rights over the land he will immediately sell, or will be quickly deprived of it by unscrupulous urban-based capitalists, and the result will be large-scale landlessness." He further added that "this argument is not only foolish but assumes the peasant to be either irresponsible or child-like who will quickly throw away the most valuable asset in his possession. The peasant values the land very highly and is strongly attached to it; he or she will not give it away under any circumstances unless there is a compelling reason to do so. Moreover, selling the land is not a mortal sin" (Dessalegne 1999:10).

There are other scholars who also argue on the same line. For instance, Mesfin (1999:13) argued that the assertion that the peasant will sell his land if ownership is granted considers the peasant as child and is historically unfounded. He stressed that this had never happened even when peasants were troubled and if they do sell for starting a better business there is nothing wrong with that as no country has prospered through the poor peasant production. He added, "paying heavy land rentals and contributions and being stripped off by local officials during harvest, with what miracle is the holdings of the poor peasantry to be transformed into modern farms?" He also argued that "It is possible to enact law to protect the peasant during such sales transactions. It is possible to arrange a mechanism to create jobs in the

small towns for those peasants who sell their land. Development is to guide the poor peasants to other activities but not to trap the peasantry in tenancy and unviable agricultural activity.”

Teketel (1998: 332), who has studied the Ethiopian land reform (1974-91) pointed out that the land question has remained a dominant subject of controversy since the pre-1974 period and expressed his views against state ownership saying “...from our discussion of the effects of the land reform of the military regime it is apparent that state ownership of rural land can create more problems than it solves.”

Few scholars have also suggested policy alternatives to the current tenure system. Dessalegne's Associative Ownership (1994) and Hoben's Devolutionary Model or Framework Approach (2000) are suggested alternatives to the current land tenure system of Ethiopia. In both systems, there is a devolved system of land tenure where the rural communities will have autonomy over land matters and where there is a combination of secure individual rights and community management and responsibility.

**4. DISCUSSION AND SOME QUERIES**

It is somewhat ironical, particularly for an external observer, that first, regardless of a market economic policy of the new regime, land remained under state ownership, and second, this 'constitutionally resolved' issue of land ownership has continued to be a source of hot debate even among political parties. Closer examination of the land debate also shows that, given the Ethiopian situation, neither the focus on ownership nor the narrow and exclusive private/state choice are tenable. Following are some discussions and queries about the foregoing land debate.

1. There is total absence of the opinions and interests of the peasants and nomadic pastoralists in the discussions on rural land tenure. While these sections of the society are the largest in number and the direct operators of the land, their views and opinions about the land tenure system of this country have not been given any attention. In Ethiopia, peasants remained unorganised and they have not been represented by such membership institution that would have been important for protecting their rights and strengthening their claim-making power.

2. Is the form of ownership a guarantee of having respected land rights? One can observe that in those debates on land, the central issue is ownership and implied in that right is tenure security (either through private or state ownership). It was noted that ownership here implies an exclusionary right of a person or corporation/state over other persons with respect to a given piece of land. So it implies full right on the land. The exercise of that right is, however, contingent on a political process that involves the ability of the owner to enforce the specified social relationships. For owners of land, whether they be individuals or the state, to exercise fully their rights on land, the

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institutional and economic conditions necessary to exploit and administer the land must be present. Therefore, the debate on ownership assumes that if people own the land there are conditions which will guarantee them unrestricted rights on it, or if the state owns the land it will guarantee peasants tenure security by way of protecting their rights. However, in the African context, where property confiscation is not an exception, the policy of land ownership by itself will not be expected to guarantee exercise of such rights. Moreover, in Ethiopia, since the days of modern administration, land used to be the 'spoils' of those victors - governments and parties. Preferential access to land has remained a mechanism of reward to those supporters of governments while denial of such access is used as a punishment and a controlling mechanism. We also know that in Ethiopia even use rights stipulated by law were not respected. One may then ask, is private tenure a guarantee against undue state intervention and violation of peasant's rights in a situation where even constitutional provisions are not respected. Hence, the argument that either formal legal policy of individualised land rights or state paternalism will guarantee peasants' access to and use of land is not strong. After all, have not we had experience of peasant eviction in both systems of private and state ownership of land?

3. Why a fight over a single tenure arrangement? In the land debate the focus on a choice only between private and public does not seem to have taken into consideration both the country's tradition and the current de facto land tenure issues and realities. Although there had been some private ownership of land in parts of the country before the 1975 reform, this should not be taken as instructive for future policy. First, traditionally, the Ethiopian peasants had a communal land tenure system and the private tenure was an imposition. The most sacred rights in land, including in those kinship/rist areas, were also inheritance and use but not ownership and sale. Second, the experience of such private land system in some parts of the country was not pleasant and it had even been overexploiting as a warrant for the 1974 revolution. Another oversight is that there are a number of communities like nomadic pastoralists that de facto administer and use resources communally. What will individualised land rights mean to those communities? In addition, in other communities as well, many important land resources such as forests, grazing areas, water sources, and others are still used and managed by the community. There is no reason why the state cannot own and manage some lands for some national purposes as well. If so, is it not important to have a combination of different tenure arrangements wherever necessary than the given single choice?

4. Is not there a potential danger of dispossession by way of land transactions? Historically, those arguments advanced in favour of private property in land are concerned more with economic growth while those against are concerned more with distribution or equity. Arguments against individualisation tend to focus on the problems of land concentration through mainly the mechanisms of land sales and mortgaging. One important issue in the land debate is whether or not peasants sell their plots if unrestricted individualised rights are allowed? We have seen that those proponents of state ownership argue that peasants will be deprived of their plots by

those urban-based and unscrupulous people with money to buy land. It seems that there are reasons to believe so.

The argument that historically Ethiopian peasants retain an affection and emotional tie to land which remains the source of their social identity and the abode of their ancestors and do not intend to sell it may not hold strong in a serious poverty situation in which the Ethiopian peasants are currently found. They are in a situation of what Chambers (1983 ) called "deprivation trap": poverty (lack of necessary assets), physical weakness, vulnerability, isolation, and powerlessness. The current trend under structural adjustment is also more worrisome in that rural poverty is on the rise. Meagre produce insufficient to feed the peasant family even under normal production year, lack of any additional means of income, lack of support and other conditions lead peasants to hopelessness. We also know that peasants are at a disadvantageous terms of trade. There are also those more vulnerable ones: landless, land-starved, ox-less, starved, sick, and with all other sorts of misery. Moreover, there are lots of financial obligations and necessities. Drought, war, epidemics, and other natural calamities are not also uncommon. The traditional insurance institutions of the peasant communities are also weakened and the poorest of the poor are not in a situation to participate. In such a situation, it has been witnessed by the author of this paper (for instance in North Shewa and even in former rist areas like Gojjam), and by others who do fieldwork in rural villages, that peasants are selling and mortgaging their plots although it is not legally allowed. In one kebele, for instance, there were few peasants who were even applying to kebele officials to 'voluntarily surrender' their plots because they were not able to pay the tax. The author has also found that in Gojjam many young peasants, particularly women, have sold their newly granted plots and migrated to nearby cities. These are distress sales and such land markets are more active around towns where merchants and government employees are participating. This has also been the case in many peasant societies in other countries where an immediate consequence of the emergence of land sales market based on formal titles was the development of a credit market based on the collateral value of land. The most commonly cited example is that of the Kenyan case, where such land markets resulted in a situation where 5% of Kenyan landowners own almost 70% of the agricultural lands and absentee owners own 90% of all the farms exceeding 3 ha.

On the demand side are those better off peasants, urban-based speculators and investors. In Ethiopia, today, the agricultural sector continues to play a dominant role in the generation of output and employment. On the other hand, there is no developed capital market. Given no other better and easier investment alternatives, agriculture dominates those investment opportunities. Land is also being grabbed by those speculators particularly around urban settlements. So, many investors prefer to invest on land-related activities. Another indication of such a demand comes from government's need for resources as well. One can observe that regardless of diminution of peasant farm holdings, many regional governments are advertising abundance of and easy access to agricultural lands. In some cases, it has also been

found that the land for such lease-based arrangements for commercial farms are snatched from peasants (communal grazing fields) without the will of the peasants. All these suggest the possibility, even without a policy of land sale, that peasants will be dispossessed of their lands by ways of sale and mortgage.

5. Could the horror of land sale justify state ownership? If we accept that the potential danger of landlessness and other problems associated with the free land market are not speculations, the land market should be regulated, meaning that the rights of individuals to own, buy, sell and accumulate private land property should be constrained in the pursuance of objectives of social equity, economic growth and political stability. This does not, however, necessarily entail state ownership of land. Experiences in Africa, Asia and even in developed Europe shows that it was possible to protect the small holders without necessarily having state ownership or even without a total ban on land sales (see Platteau 1992). In Rwanda, in the mid-1970s, the government issued a statutory order to the effect that rights to land might not be alienated unless the seller could prove that he or she had retained at least 2 ha of land to make a decent livelihood; and unless the buyer could prove that he or she was not already in possession of more than 2 ha of land. In Korea, effective enforcement of the three-hectare limit on land ownership and the prohibition of tenancy were important measures checking restratification trends. Moreover, land transactions had mainly taken place within the boundaries of individual villages and absentee landlordism was not allowed. In the case of Taiwan, the government had intervened in agriculture with the explicit purpose of promoting family owner-cultivation. The government established a specialised public agency provided with pre-emption rights to buy all the lands offered for sale in the market. The lands thus acquired were to be redistributed with the explicit purpose of enlarging the smaller peasant properties to viable size. So land sales were regulated. There were also measures of rent regulation and allocation of land-to-the tiller. In many Western European countries also there exist various kinds of legal controls over inheritance, land use and sale. The type of government interference most commonly encountered, as is the case in France, is based on the numerous laws aimed at protecting the rights of tenants: ceilings on land rents; granting of first option to buy land from owner; guaranteed renewal of land leases except if the owner decides to work on the land himself; long minimum period of notice before terminating a land lease contract; and so on.

One important thing to note is that in such situations of regulated land markets smallholders were provided with important institutions and services. Platteau (1992:218) concluded that:

To achieve the various objectives of equity, long-term efficiency, deployment of latent learning capacities among the great mass of people, social peace and political stability, any land policy must be based on three overriding principles: official registration and protection of rigorously defined land rights; equitable allocation of land rights at the time of granting titles; regulation of land transfers so as to present the emergence of disequalising tendencies.

Therefore, at least in theory, fear of potential land sales does not necessarily justify state ownership.

6. Are food production and long-term growth given due consideration? There is implication for large-scale/modern farm production in the arguments by those proponents of individualised land rights. The country's acute need for food production, absence of other non-farm means of livelihoods and employment opportunities, efficiency issues of large-scale farms, and other related issues may come to mind while thinking in this line. From the food security perspective, it can be argued that large-scale commercial farms tend to produce those high-value cash products which are most likely not food items and which are directed towards external markets while small farms primarily produce food for family consumption and for internal market. In this case, such production pattern will lead to both increase in prices for subsistence food products which will make poor peasants more food insecure and will also shift the country's agricultural production away from food production in general. Efficient utilisation of labour and employment creation considerations will also point against large-scale commercial farming. More employment is also meant better distribution of income. Large-scale commercial farms are capital intensive and employ less labour which lead to unemployment and underutilisation of the most abundant resource—labor.

Speculative strategies of acquiring more land than that could be efficiently operated, and lack of managerial skills to efficiently run those agricultural enterprises coupled with scarcity of domestic capital may also lead to inefficiency of large-scale farming. The Ethiopian experience in terms of state farms and production co-operatives sapping large financial and other resources but producing less efficiently than peasant farms is a case in point. There is also what is known as the inverse relationship between farm size and productivity. Experiences of Japan, Taiwan, South Korea, India and many other developing countries have shown that small farmers with adequate access to inputs had higher level of efficiency and productivity (Johnston and Clark 1986; Lipton 1977; Alemneh 1987; Kidane 1990).

7. Are implications for long-term social and political stability considered? Long-term growth requires social equity and political stability. Skewed land holdings, resulting from the workings of free land markets, may in the long-run undermine such development prerequisites and lead to the collapse of the social and political order. In many of the political upheavals in developing countries, the slogan 'land-to-the-tiller' was used to mobilise the majority of the population—the peasants—who were hard-hit by those unfair land tenure systems. Therefore, at times, political and social considerations may even override those of economic factors in making land tenure policies. After all, it will be difficult to assume that the large majority of Ethiopian peasants who were neither accustomed to unrestricted land markets nor had good experience where it worked and, whose main concern is to secure guaranteed access to a resource upon which their livelihood crucially depends, the land, would prefer the free land market system.

8. If at all, would the market function as desired? Even assuming that land markets in an individualised tenure arrangement will result in economic growth, we may then ask whether the market mechanism may function properly. It is asserted that (Platteau 1992) the market can work satisfactorily as an allocation mechanism only when it is embedded in a suitable socio-political order, the market order, in which anonymous, general and abstract contractual relationships are predominant, professional standards and procedural norms are established, things are alienable, exchange transaction consists of temporary relationships between the objects exchanged and the civil society is independent of the polity. He argues that such elements of the market order are absent in sub-Saharan Africa and noted that "instead of adapting to its needs, the socio-political order to which it is being applied, the market mechanism is likely to be transformed and subverted by the forces at work in this order." His characterisation of sub-Saharan situation is that land laws intended to protect rights are often being ignored, manipulated or violated. A good deal of Asian countries experience also points to the same direction. Even with all good government intentions and commitment, the task of regulating free land markets, starting from a cadastral survey and provision of title deeds, will be thought of as one of the most difficult if not impossible task given resource and other constraints of a country like Ethiopia.

As a result of such limited government capacity (which sometimes is a blessing in disguise), de facto tenure systems are more functional than what appears in the law. The case of the 1974 land law that prohibited land transactions and hired labour, while in reality both were widely exercised including even land sales, is a good example.

## **5. CONCLUSION**

It seems that the hitherto discussions on land tenure, particularly those from the media, are based on either political ideology or an experience of state distrust. Otherwise, there is no fundamental reason to dwell upon first ownership rights and second upon a limited state-or private choice. On the one hand, robust, flexible, and secure land rights, without the right to own, will serve many of the fundamental political, economic, and social purposes of tenure, while on the other hand, private ownership is not a guarantee of secure rights. Moreover, the narrow choice does not give sense because it is Ethiopian peasants' experience that neither the market nor the state have allowed them to have secured tenure on their holdings. It can be also argued, that given the level of poverty of the peasants and the nature of the political system itself, free land market will be more devastating than a weak state controlled land ownership system. This is because, while peasants do have their room for evading the high-handedly decided and imposed government policies and laws, they will be more victims of unscrupulous private hands with all their lust for wealth coupled with corruption and low level of law enforcement mechanisms if the market alternative is adopted. In addition, there is no basic reason to limit the tenure arrangements to

one single choice. Given the diverse socio-economic and cultural conditions of the country, it will be more important to exploit the advantages and to have experience in the pros and cons of a combination of private, communal, and state tenure systems for different purposes and different tracts of land.

Moreover, property rights are part of other human rights and they will be respected when there is a democratic political system. Forms of ownership or legal provisions including constitutions are not by themselves guarantee of respecting people's rights. It is important to note that it was not for lack of legal prescriptions that Ethiopian peasants have been denied of rights to have continuous and secure access to land. However, the reality has been that like government offices or public employment in the modern sectors, rural lands have been used for rewarding supporters of the regimes or punishing those uncaptured ones. Land used to be taken away from the peasants and given to war lords and aristocrats, it was grabbed from those poor peasants and allotted to those supporters of the collectivisation and other dreams of the ruling party. Nowadays, land of pastoralists and grazing fields of peasants are being given to those investors on a lease arrangement while peasants are also being dispossessed of their plots and produces in the pretext of land redistribution. Under such conditions, it is not the form of land ownership or legal provisions which is more important but first of all the conditions necessary to have respected rights. Finally, it would be suggested that when the moment comes to have genuine interest in rethinking about alternative tenure policy, both private, communal, and state ownership systems would have been considered and not a single choice. Dessalegne's Associative Ownership and Hoben's Devolutionary Model or Framework Approach will be also among those to consider within the broader context.

## Some Queries about the Debate on Land Tenure in Ethiopia

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