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# Property Rights and Their Implications on Agricultural Productivity in Ethiopia: A History

Temesgen Gebeyehu Baye<sup>1</sup>

## *Abstract*

*Property rights and relationships in Ethiopia, though complex and difficult to define, had been associated with and expressed in terms of land, which had shaped and dictated socio-politico-economic relations and processes. During pre-revolutionary imperial Ethiopia, most debates and discussions on property rights and obligations, including agricultural productivity and efficiency, were expressed in relation to the main existing tenure regime of the country: the rist tenure. This tenure, like most other indigenous tenure regimes and property arrangements in Africa, was flexible and accommodating.*

*This historical study, based on archives, interviews and secondary sources, examines the structure and nature of property rights and relationships. The data collected through different methods was carefully examined in order to reconstruct and document property rights and their implications for agricultural productivity and efficiency in the country based on the objectives of the study.*

**Key Words:** land, tributary rights, reversionary rights, property rights, productivity, agriculture, Ethiopia

**JEL Code:** Q15; P14; P17

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## **1. Introduction and Background**

Property rights are subject to different conceptualizations. They are rights that are recognized and enforced by others to use and control of resources. They can also be specified as a bundle of characteristics that comprise exclusivity, inheritability, transferability and enforcement. They involve relations between the property and the society. Property ownership and rights are legally or customarily sanctioned entitlements which an individual could work out to the exclusion of others. What distinguishes property rights from others is their enforceability. Property rights can be described as a set of powers conveyed to a person over a particular material or resource. These are rights to employ, manage, transfer, alienate or power to acquire the income or rent of the property one owns. Property rights provide one or all of the following rights to the holder of the property: the right of use and enjoyment, the right to collect rent, the right to transfer by gift or inheritance, the right to transfer by sale, and the right to exclude others from intervening with the attribute (Hallowell, 1943).

Theoretically, ownership right is the most complete type of property right. Honoré, in his article, *Ownership*, defined ownership as “the greatest interest in a thing which mature systems of law recognize” (Honore, 1961:165-79).<sup>2</sup> Looking into existing Civil Codes, one may also find similar expressions. For example, the Ethiopian Civil Code, under Article 1204, explains ownership as “the widest right that may be had on a corporeal thing;” and “such right may neither be divided nor restricted except in accordance with the law” (The Civil Code of Ethiopia, 1960 ).

Property could be held either in private or in common or by the state. One of the main features of communal property is that all members of the community want them equally. Here, there is no single individual that has absolute control and command over all of the resources. As noted by Clark and Kohler (2005),

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<sup>2</sup> Honore provides a list of eleven attributes (property rights) found in any advanced legal system which may also be called a bundle of rights: the right to possess; the right to use; the right to manage; the right to income; the right to capital; the right to security; the right to transmitting; the absence of term; a duty to prevent harm; liability to execution; and the incident of residuary character.

“The defining characteristic of communal property is that every member of the community has the right not to be excluded from the resource... In principle, the needs and wants of every person are considered, and when allocative decisions are made, they are made on a basis that is in some sense fair to all” (Clarke and Kohler, 2005: 36).

There are also other types of property and ownership arrangements known as open access. Some properties are destined to be owned by the state instead of a particular person or community, as their use may be intended for the entire people (Yudelman, 1964; Feder and Feeny, 1991; Rahamato, 1984). The state administration and control of such properties may minimize conflict and ensure equitable use by all. For example, it would be better if grazing land, hills, water bodies, irrigation systems and forest lands are owned by the local community. If they are put under individuals, conflict may arise as the holding is unfair or inequitable. In principle, the primary function of private property is that it becomes a guiding incentive to achieve a greater internalization of externalities (Hallowell, 1943; Demsetz, 1965; Amin, 1990; Wallerstein, 1976; Cliffe, 1976; Rodney, 1982). Individuals are made to bear the costs and benefits of their own activities, and to absorb the costs of inflicting spillover effects upon others.

In Ethiopia, we know little about the history of the evolution and development of traditional property rights and arrangements. Except for the 1950s, 1960s and early 1970s when opposing views and debates on the issue and degree of reform of property and ownership rights and relations were discussed, we have only few scholarly works. If any, as the available sources reveal, there are gaps in intensity, structural analysis and focus. The issue attracted only a few intellectuals in the field. A number of factors could be mentioned for the neglect of the subject. This historical study, therefore, tries to fill the gap by focusing on the main characteristics of property rights and their implications on the productivity and efficiency of Ethiopian agriculture. This paper would thus contribute to the existing knowledge regarding the topic under consideration.

## **2. Objectives, Questions and Methodology of the Study**

The overall objective of this paper is to examine and understand the nature and features of property rights, and the implications these had on the productivity of Ethiopian agriculture before the 1974 revolution. Hence, the questions this study tries to answer are: What were the major theoretical debates over ownership and property rights and the implication they had on agricultural productivity? What was the role of politics and power in shaping and influencing in property rights arrangements in Ethiopia? How could state, *balebat*<sup>3</sup> and church relations be explained and understood in relation to tributary and reversionary rights? and what were the features of continuity and change in property rights in Ethiopian history? This study sought for answers to these questions. From a methodological standpoint, this article is based on grey literature, national proclamations and archives collected from the Ethiopian National Archives and Library Agency (hereafter NALA), Addis Ababa. In addition, seven informants were interviewed in 2017 in Gojjam and Addis Ababa.

## **3. Property Rights: Regimes and Features**

Pre-revolutionary Ethiopia (before 1974) was characterized by diversity of property right regimes. In this regard, Donald Crummey's works are significant in the clarification and conceptualization of the nature of the Ethiopian property rights and its nexus with power. He reasoned that property rights had unrestricted rights in terms of use and enjoyment. They were individually accumulated through time in various ways and procedures. They went on from generation to generation through birth, marriages, agreements and arrangements (Crummey, 2000).

During the period, property right were backed by title, license and certification.<sup>4</sup> Peasants had three types of property rights: ownership right, possession right and use right. Ownership right involved an unlimited right to

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<sup>3</sup> Literally, one who has a father; indigenous. During imperial times, it used to signify or represent a local authority linking the government with local people.

<sup>4</sup> Here, it is important to understand that certification is not titling.

use and unlimited right to transfer property. It was the highest and the most complete type of property right. The owner had an unlimited right to transfer, exchange or sell property (Demsetz, 1965).

Possession right was a type of property right that involved certain restrictions and limitations. It referred to possession of property without owning it. There was an unlimited right to use, but the right to transfer was limited (Demsetz, 1965; Wallerstein, 1974). For example, the *rist*<sup>5</sup> holding system cannot be regarded as ownership (For details on the right of transfer on *rist* land, also consult: Crummey (2000); Joireman (1996); Weissleder (1965); Bruce (1976); and Hoben (1973)).<sup>6</sup>

The other was use right. Use rights had restrictions. For example, the tenant might not possess the right to plant trees in the *rist* land. There was no right to transfer. Use rights were limited to either of two types: form of exploitation of the property or duration of use or exploitation (Woldemariam, 1995). Duration of exploitation had the following forms: (1) *indefinite time*: The peasant might use the land indefinitely. It was not permanent and still it was indefinite in time. (2) *lifetime use right*: This was a usufruct (live) right.<sup>7</sup> As long as the peasant was alive, he had the use right of the land. (3) *service time right*: The person had the right to use the property or the land as long as he rendered the service. For example, the soldier used the *maderya*<sup>8</sup> land as long as he provided the service to the state. He was not the possessor and hence he could not transfer it. (4) *the right to use in a given season or year*: There was a definite time of use. The land owner might give the land for the tenant to use for one *meher*<sup>9</sup> or more.<sup>10</sup> The three property rights were layers and they were not at all independent from one another.

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<sup>5</sup> Permanently held land; hereditary right over land; heritable property (in some cases conditional).

<sup>6</sup> In his study of peasant land tenure in Gojjam, Hoben, for instance, has mentioned the absence of egalitarian division of property in the *rist* system of tenure. Wills worked against the principle of equal inheritance. A will excluding children from inheritance was common.

<sup>7</sup> It is important to understand that usufruct does not necessarily mean lifetime rights.

<sup>8</sup> Land temporarily held in return for service to the state.

<sup>9</sup> Harvesting season

<sup>10</sup> This is common in most areas of Ethiopia till today.

Regarding the right to transfer, we had two types of transfer rights: horizontal and vertical. Horizontally, a person might transfer his land to another while alive in the form of gift or sale. In principle, the owner had an unlimited right to transfer his land so far as he was the first to acquire the land. No obligation immediately arose against him for transferring his land because the first generation was the one that acquired the land. It was from the second generation on that kinship and land rights were associated so that horizontal transfer became conditional because vertical transfer started. Vertical transfer refers to the transfer of land from parents to children. Land property went down. Land could be inherited from both parents (system of inheritance) (Mengiste, 2009).

Here, in the study of the evolution and development of property and ownership rights in Africa, in general and Ethiopia in particular, it is important to avoid generalization. There is a need to analyze the essential features of ownership and property rights in traditional economies of Ethiopia. In this regard, Mengiste writes, “Some scholars of Ethiopia viewed the Ethiopian property system through the lens of the Western European absolutist states that developed in the seventeenth and eighteenth centuries” (Mengiste, 2011: 89-106). This could lead us to misconception. There is a need to examine specifics and local features. In supporting this, Boone (2014) argues, “In sub-Saharan Africa, property relationships around land and access to natural resources vary across localities, districts, and farming regions. These differences produce patterned variations in relationships between individuals, communities and the state” (Boone, 2014). Below, we have tried to examine and conceptualize the Ethiopian property rights and their implications on agricultural productivity efficiency.

#### **4. Tributary and Reversionary Rights**

Important rights to be seen in relation to property rights during pre-revolutionary Ethiopia were tributary and reversionary rights. Tributary rights were not property rights. They were derived from the state. They consisted of the right to collect or use tribute from the owners of the land. The state could ensure anyone with the right to use tribute and hence tributary obligations

were imposed on the land as a unit. These rights were tied to the land, not the person. *Ras*<sup>11</sup> Alula and *Ras* Gugsa, two famous governors of different parts of the country, were once said to have declared: “Man is free, land tributary” (Ambaye, 2015). Whenever a person owns land, he should pay tribute. Sometimes, tributary rights might combine both the land and the person. Property and tributary rights were common rights. Both were subjected to obligations and authorizations. Obligations were tied with sanctions that included confiscations of those rights. Reversionary rights were the rights of repossessing of a tributary right by the entity from which it was originally acquired. The property could be reverted to the original owner. Reversionary rights could exist if there is a previous holder. The previous holder could be conceived at individual or state (or institutional or state) level (*Ibid*; Woldemariam, 1995). The state, even in the absence of record of transferring, had a sovereign power and right to get the land back. The state (or the emperor) ideologically and historically assumed putative ownership rights as it was the owner of the land by the fact of sovereignty and power. In this regard, the Ethiopian ruling class came to have a highly developed ideology that legitimized and reinforced its rule. For instance, Francisco Alvarez, a Portuguese priest who stayed in Ethiopia during the 16<sup>th</sup> century, mentioned that the power of the emperor was absolute (Alvarez, 1970). Another traveller, Almeida, a Jesuit priest, also stated: “The Emperor confiscates and grants all the lands as and to whom he chooses” (Pankhurst, 1966:121). Likewise, James Bruce, a 17<sup>th</sup> century traveller to Ethiopia, wrote: “All the land is the king’s; he gives to whom he pleases during pleasure and resumes it when it is his will; but the crown makes no violent use of its power in that respect” (quoted in Paul & Clapham, 1972:290). Therefore, the state/the monarchy had reversionary rights of all belongings.

Reversionary rights could be historical and putative rights (Hardin, 1968; Gesheker, 1985; Interview with Chekol Belete, 10/7/2017). Historical reversionary rights were common. They had been practiced through political

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<sup>11</sup> The highest military rank below *Ras betwoded*, which is in turn a royal title combining the power of the *ras* and the imperial flavour of the *betwoded*.



channels.<sup>12</sup> They happened when some irregularities happened after the land was sold or transferred. The irregularities happened because of power and status differences among individuals. The following case may further elaborate this:

Whereas Mr Alemu was given only one *gasha*<sup>13</sup> of land, now he possesses more than that and he may not be paying tax for the excess land he has. A claimant, thus, demands that “since I am also a soldier, the land should be re-measured and turned over to me,” or Mr Alemu should lose it to a pushy person (NALA, 4.43.23).<sup>14</sup>

Putative reversionary rights took place under extraordinary conditions or when there was intestate death (death without a will) or heirless death, if there is no successor. Death without real heir resulted in putative reversionary rights. In some rural Ethiopia, this phenomenon had been commonly described as *yemote keda*. (The phrase has two meanings: land of a traitor or land of death without will). The person might also not have a child who could inherit the land. In such cases, the land could be reverted. Non-political crimes (such as theft and murder) also caused confiscation rights to revert the land. The same was true to the political crimes, *lese majeste* (a crime on the government or the king), which resulted in property and physical punishment. Such and other reversionary rights happened during the 19<sup>th</sup> century in Shewa province and its dependencies (the south). Yet, they were not common cases. The state did not cause permanent confiscation of property. The monarchy and the state made concessions. Hence, reversionary rights were defined and redefined through time. The 1908, 1914

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<sup>12</sup> I have benefited from Dr Woldemariam’s class during my Master of Arts study regarding reversionary and tributary rights. I am grateful to him.

<sup>13</sup> *Gasha* was a unit of measurement of land. Regarding the origin of *gasha*, Gebrewold wrote the following: *Gasha* refers to a weapon made up from hides of hippopotamus. Its service was to defend oneself from spears because in ancient times spear was the major weapon of attack. In addition to this, *gasha* (shield) was used as a defensive tool in games with horses. All these descriptions are provided to explain why land is measured in *gasha*. Land given to a soldier was named after the word *gasha* by which he defends himself.

<sup>14</sup> Under such circumstances, if the holder is weak, he would lose his land, whether he had excess land or not. The practice and principles of governing and managing property and tribute could vary. Some people held excess land and accumulated wealth, not because they were born or were descendants of a particular family, but because of the status and position they had.

and 1928 proclamations were made as a move to end property confiscations. In this regard, certain reversionary rights had been abolished.

We may exemplify this by the state-church relation. The Ethiopian Orthodox Church had been granted land by the state since its introduction during the 1<sup>st</sup> Century AD. Though the state had the reversionary rights, its right started to decline as the church became powerful and influential, and hence, started to oppose the actions of the state. In this regard, Emperor Tewodros (r. 1855-68) tried to take land from the church. Stern declared that the vast landed property of the church was a great eyesore to king Tewodros (Stern, 1862). *Debtera Zenebe* also observed:

...The priests asked the emperor to allow them to possess the land they had possessed at the time of the emperors, i.e., before the rule of the *Zemene Mesafint*.<sup>15</sup> Yet, the emperor was not sympathetic to them. He exclaimed, '... What shall I eat and give to my soldiers. You have taken all the lands, calling them "lands of the cross." ...the priests declared that the emperor should continue the time-honoured practice of marching from place to place in order to spread the burden of his court and army over the empire as a whole.... A fierce dispute then broke out between the emperor and his soldiers on the one hand and priests on the other (quoted in Pankhurst, 1966: 94).

Until WWII things remained unchanged. Gradually, however, with the introduction and development of capitalism, important changes occurred regarding different property rights and the role of the state. The role of the state, as elsewhere in modern Africa, in shaping property right became stronger. Boone notes:

The role of the state in defining property rights, especially rural property rights, has been decisive in shaping the locus and character of political authority in modern Africa, and in producing the successes and limitations of the nation-building project. These connections have been largely overlooked by those who study national level political processes because those [studies], for the most part, misunderstood African [property] regimes (Boone, 2007: 557-586).

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<sup>15</sup> The Era of Princes. In Ethiopian history, this period roughly covers between 1750 and 1855.

Further, with the consolidation of the central state, individual rights of property ownership became stronger. Those changes gradually became standards in most parts of the country. There was a transformation in power and property relations between the state and the elites (Bisson, 1994). In this regard, Zewde has the following to say:

“... what the nobility lost in political power it recoups in greater guarantee of property rights. For the absolutization of state power was paralleled by the absolutization of property. Absolutization of power and property was assisted by the rediscovery of the Roman property law replacing the precarious and incomplete feudal property system” (Zewde, 1984: 7).

Free hold developed and flourished. Freehold is an absolute private property. There was the separation of criminal law from civil law. The land was converted from political resource to economic resource. The process of separation of politics and property continued until the 1974 revolution. Land was used not only as a means of production but also as a means of raising capital, thereby becoming a commodity. Commoditization of land was expanded.

The essential nature of free hold and private property developed gradually and steadily. The first private property emerged with the first generation (the one who received the land from the state) and then it was followed by the process of *ristization*<sup>16</sup> by its descendants. Here, in the *rist* tenure regime, the state might not have any control authority. What it had was tributary rights over administrative units. The state rewarded its subjects by distributing these services and securing property rights. Zewde notes: “The nobility lost their power because of the absolutization and centralization of state power. They were compensated for these losses with security of property rights. The conditional and *gult*<sup>17</sup> rights were replaced by secure and complete property rights, including the land” (Zewde, 1984: 7). Emperor Haileselesie in

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<sup>16</sup> The process of turning other tenure systems into the *rist* tenure system.

<sup>17</sup> Non-hereditary right to collect tribute, bestowed on members of the nobility and clergy by the king.

particular, after struggling and winning over the old order, became a cadre of capitalist ideology - private property. The process continued until the 1974 revolution.

## **5. Ownership Rights, Productivity and Efficiency**

In the post-1941 Ethiopia, there were two opposite views and debates on the issue and degree of reform in the *rist* tenure (For further details on views and debates regarding Ethiopian land tenure patterns and constraints, see: Dunning (1970); Lawrence and Mann (1966); Warriner (1970); Ingedawork (1962); and Woldemaskal (1957)). For some, change in the *rist* tenure system of Ethiopia had to be introduced to bring socio-economic and political development. According to them, the communal land tenure system had been one of the major factors for the poor agricultural productivity and underdevelopment of the country. This could be expressed in the social, political and economic life of the people (NALA, 19.08; Interviews with Teferi Mamo and Mulugeta Chekol, 11/19/2017). Therefore, in order to bring high productivity and efficiency on the rural traditional economy, there were views that a change from communal to individual property rights should be given legal recognition. (For details on different tenure systems, see also Joireman (2000); Ingidawork (1962); Bauer (1972); Bruce (1976)). According to them, the existing tenure system lacked defined, transferable, and enforced property rights that blocked credit market and prevented peasants from developing their land through long-term investment. In this regard, the prime purpose of some research works in Ethiopia in the 1950s and 60s was to show the impact of property rights on agricultural productivity and efficiency of farming. The dominant view was that the rural agricultural decline in Ethiopia was the effect of the communal *rist* tenure system. This debate was in part stimulated by the rise of commercial agriculture in some areas in the rift valley, southern and western Ethiopia where land had been a commodity, unlike in the provinces where kinship and village tenure regimes prevailed. It was argued that Ethiopian agriculture could be transformed if the *rist* tenure system was simplified and rationalized, with land itself reduced essentially to a commodity so that it could be bought, sold or used as was most profitable (Cohen, Goldsmith and Mellor, 1976). Rather, the presence of endless claims and counter claims

contributed to the absence of extensive farming and precluded the possibility of intensive agricultural mechanization and investment. Thus, the debate on the need for reforming the *rist* tenure was taken among some Ethiopians as a political and economic solution to the problem, including the governance and development challenges of the period. The *rist* tenure system as a constraint for development was also mentioned in the government development plans. It states:

...the *rist* tenure system eliminated the possibility of mortgage credit or of transactions in land. In addition, it obstructed farmers from investing in productive farming operations particularly from safeguarding against soil and water erosion (IEG, 1962; IEG, 1967).<sup>18</sup>

Though the government recognized multiple forms of tenure systems (not just individualized ones), including village tenure systems which were neither completely collective nor individualized, such people were arguing that uniformity of land tenure regimes would be a prerequisite for productivity and efficiency. They also supported absolute land ownership rights. The logic was that in the absence of the right to sell, there is no land ownership.<sup>19</sup> This would pose a major problem in the working capacity and tradition of the peasantry. According to them, absence of ownership rights had caused economic stagnation in the country. Theoretically, this seems a strong argument as ownership refers to an absolute right, exclusive and perpetual. Ownership has three characteristics: the right of use and enjoyment, the right of abandonment, and the right of alienation *intervivos* or *mortis causa* (Desta, 1973). This exclusive quality gives the owner a privative interest in the property, preventing simultaneous and equal ownership of the thing by another person. The perpetual quality of the right of ownership relates to the fact that ownership is not limited in time (Hollwell, 1982).

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<sup>18</sup> See also Second Five-Year Development Plan, 1963-1967; Third Five-Year Development Plan, 1968-1973.

<sup>19</sup>In the main, individuals who supported radical land reform and ownership rights include a number intellectuals and university students. They demanded radical actions of the land reform. They demanded the total removal of the imperial order.

For others, the prevailing subsistence economy and absence of capital accumulation was not the result of the *rist* tenure system. The *rist* system was not the main factor in the agricultural stagnation of the country. The *rist* tenure system did not have a negative impact on the development of Ethiopian agriculture as it practically gave the owner both use and enjoyment rights. In those days, ownership was generally of less interest to the people than the issue of possession and use of property. A peasant could make his own decision in using his land. This included when to farm, what to farm and how to farm. The peasant himself indeed decided all these. This is an indicator of absoluteness of his land holding rights. He might also abandon the land at will or decide to leave it to remain idle (*Ibid*; Interviews with Alem Ayalew and Fenta Bikes 2/5/2017). He had the power to exercise considerable freedom to make permanent transfer (Mengiste, 2011). Land grants and gifts, for instance, were common between those who did not have blood relation. Adoption-related gifts were common ways of land transfer. Mengiste has the following to say:

Adoption-related inheritance worked in peculiar ways. It fused gift, adoption and inheritance at once. The term used to describe the process is *wolede*, “begot”, while the property transaction it involved is called *aworese*, “inherited”. One formality of adoption was the adoptee’s symbolic sucking of the thumb dipped into honey. This act established social ties between the adopter and the adoptee. Typically, the adopter gave property, usually land, to the adopted child or children. The relationship was long-lasting and the complete transfer of inheritance was intended to take effect after the death of the donor (*Ibid*: 313).

In supporting this view, we have documents at St. Mary Church of Gundewoyen, Gojjam:

**Document-1:**

(On 6 June 1943 [EC], during the reign of Emperor Haileselasie and priesthood Adane, Mrs Aregash Wase, by sucking the honey-dipped thumb of *Kegnazmach*<sup>20</sup> Abesha Mejale, made a solemn promise and begot

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<sup>20</sup> Commander of the right wing.

*Kegnazmach* Abesha Mejale over her *rist* and cattle equally with her biological sons. Witnesses are [list of many people]).

**Document-2:**

During the reign of king Tekle-Haymanot and Abune Lukas [pope of Gojjam], and in front of the *aqabé se'at* Asefa and the learned men of the churches and the learned men of law, and by sucking the thumb of Ayalew Mengesha dipped into honey, adopted *memehere* Alabachew over his land. Likewise, he [Alabachew] made a solemn promise to abide by the members of the kin.

**Document-3:**

During the reign of Ras Hailu and priesthood of Meteku, Mrs Etagegnehu made Walelegn her *fej*.<sup>21</sup> And also by sucking the honey-dipped thumb of Akalu Negussie, begot Akalu Negussie, who in turn made an oath to take care of her till her death. Witnesses are [list of many people].<sup>22</sup>

Therefore, it is fair to argue that the *rist* tenure, like other indigenous tenure regimes and property arrangements in Africa, was accommodating, flexible and dynamic. There is a rich literature documenting the flexibility of customary land and resource arrangements (Joireman, 2011; Manji, 2001; McAuslan, 1998).<sup>23</sup> True, sale is one of the characteristics of absolute ownership. If one could not sell his land, it means alienation of the property *intervivos* or *mortic* cause is impossible denying the absolute character of ownership, which is one of its attributes (Desta, 1973). In this regard, like other customary property rights regimes of sub-Saharan Africa, the Ethiopian customary law had been malleable and dynamic. It had the capability of accommodating changes and interests of the society.

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<sup>21</sup> Representative, local agent.

<sup>22</sup> Gratitude and familial affection were among the reasons for land grant and transfer. These documents could help us to extend our understanding and argument on the role that land plays in the degree of economic relationships among individuals until the collapse of the imperial regime in Ethiopia in 1974.

<sup>23</sup> For instance, with the rapid evolution and development of monetization of the economy and land markets, there was evidence of land sales in communal tenure areas of the country. This, however, needs a separate study.

For example, the communal or the *rist* tenure system supported and confirmed its presence regarding the exclusive nature of right and ownership. *Rist* rights were neither collectively exercised nor collectively worked. Each plot of land or *rist*, irrespective of its inefficiency, was an independent center of production. *Rist* rights had been held exclusively by the *ristegna*.<sup>24</sup> There was no tendency of reverting the *rist* land to the community; not even the nearest of kins can claim, as of right. This was because even though the group controlled land, it was held securely by the individual farmer as his or her own. Thus, the individual exclusively appropriated the produce of his own toil (Interviews with Mulugeta Teferi and Alem Biyalfew, 3/2/2017). The *rist* customary system is similar to those in other sub-Saharan Africa societies and communities. Ossome writes:

.... customary systems did not exclude individual rights, as a simple premise of ‘communal’ systems supposed [sic] Research showed individuals and small familial units who have separable claims, rights, and responsibilities work the vast majority of farms in Africa, even though land in its most general sense is usually vested in collectivities such as chiefdoms or clans (Ossome, 2014).

The right of *rist* ownership was very ancient in origin and had gone through a slow historical evolution to reach its existing feature and form during the period under consideration. It began by being communal and gradually evolved into individual ownership. Therefore, attempting and supporting individualization of the already individualized holding as part of land reform and development programs by the then Ministry of Land Reform and Land Administration in the 1960s and early 1970s had been considered just meaningless as it had no theoretical as well as practical foundation. It was a waste time and a misplaced effort on the part of the government. The presence of restrictions on the sale of land in the *rist* areas did not have such a pronounced effect on the use of land, agricultural productivity and efficiency. Therefore, instead of emphasizing on the artificial differences and characteristics, the effort should have been on fundamental solution for the problem, the issue of modernization of agriculture, technology, improvement

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<sup>24</sup> *Rist* holder; a person having *rist* rights; a person holding land in consequence of his inherited rights.



of agricultural inputs and markets. (For details, see the works of Markakis (1974, 1973); Hoben (1972); Pausewang (1970, 1973); Cohen (1973); Bondestun (1974); Stahl (1973)).

Therefore, the practical absence of a sale of land in *rist* tenure areas of Ethiopia and low agricultural productivity was not the result of the absence of ownership right, but due to other factors. True, like other land regimes in sub-Saharan Africa, the Ethiopian tenure problems were reaching a peak of crisis. During the post-war period, there was a trend of rising land values, population pressure, environmental degradation, input prices and the shifting for commercial/cash crop agriculture (Boone, 2007; Bruce, 1993; Migot-Adholla *et al.*, 1991; Joireman, 1966, 2011). The economy in Ethiopia was also at a low level of development and it could not afford a ready market not only for land but even for the produce from it. The society was at the subsistence economic stage of development, and hence, agricultural production and the orientation were mainly for consumption and immediate use. It was not used for capital, investment, or market.

Finally, the debate ended on 12 September 1974 when the Conquering Lion of the Tribe of Judah, Haile-selassie I, Elect of God, Emperor of Ethiopia, His Imperial Majesty, King of Kings, the 225<sup>th</sup> direct descendant of Menilik I (Son of King Solomon of Jerusalem and Queen Sheba of Ethiopia) was deposed. The Provisional Military Administrative Council (PMAC), also known as the *Derg*, took power. The PMAC adopted socialism and embarked on radical social changes. On 4 March 1975, the *Derg* declared land to be the property of the state and the people (Public Ownership of Rural Lands, Proclamation No. 31/1975). With this, the very purpose and nature of property rights, land in particular, were changed. Article 5 of the proclamation states:

No person may by sale, exchange, succession, mortgage, antichresis, lease or otherwise transfer his holding to another; provided that upon the death of the holder the wife or husband or minor children of the deceased or where these are not present, any child of the deceased who has attained majority, shall have the right to use the land (Ibid).

In 1991, the *Derg* was overthrown and the Ethiopian People's Revolutionary Democratic Front (EPRDF) took power. The new regime in the beginning made certain that the issue of land ownership would be settled through the new federal constitution. The constitution was adopted in 1995. Article 40 of the constitution states the right to ownership of land is exclusively vested in the people and state 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 Article 3). Sub Article 4 also states that "Ethiopian peasants have the right to obtain land without payment and the protection against eviction from their possession." Sub Article 7 mentions 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 labor 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."

Article 51 of the same constitution states that the Government shall enact laws for the utilization of land and related resources. Similarly, Article 52 states that regional states have the right and responsibility to administer land in line with federal laws. This law was enacted in 1997 under "Rural Land Administration Proclamation, No. 89/1997." Article 2 of the law has vested regional governments with the power of land administration and the execution of distribution of holdings." Holding rights were also defined as "the right any peasant shall have to use rural land for agricultural purposes as well as to lease and, while the right remains in effect, bequeath it to his family members; and includes the right to acquire property thereon, by his labor or capital, and to sell, exchange and bequeath same" (Article 2. Sub Article 3).

There are no fundamental differences between the *Derg* and EPRDF regarding the legal framework on land and related issues. There are more similarities in land property administration between the two regimes than differences (See also Rahmato, 1997; Adal, 1997, 1999; Ege, 1997). In this regard, current land policies are a continuation of those changes introduced towards the end of the *Derg* government. The *Derg* halted land redistribution practices in 1989. The incumbent government also seems to follow a similar policy in recent times. Though land laws contain provisions for land redistribution, it seems more

probable that no further major land redistributions will happen in the near future of the country.

## **6. Conclusion**

Property right as a social institution shows a system of relations, rights, duties, powers and privileges of certain kinds. In Ethiopia, the pre-revolutionary Ethiopia was characterized by diversity of property right régimes. During the post-war period, there were a series of debates and discussions on the need for transforming the productivity and efficiency of agriculture in the country. The land tenure patterns and regimes had been the main source of debate for the cause of the Ethiopian underdevelopment. Some argued that the *rist* tenure system was the root cause for the stagnation of the Ethiopian economy. In this regard, individualization of the *rist* tenure had been the main point of contention. There were views that a change from communal to individual tenure rights should be given legal recognition. The potential presence of many claimants, as land was inheritable through both male and female kinships, the sale of one's share would hamper the right of others who were entitled to it. Ownership of land was the birthright and the symbol of respectability. Land was not a disposable commodity which in turn aggravated economic and political tensions and conflicts in the country.

For others, the *rist* tenure, which had been the dominant tenure type in central, northern and northwest Ethiopia, like other indigenous tenure regimes and property arrangements in Africa, was accommodating, flexible, dynamic and efficient. The system supported and confirmed its presence regarding the exclusive nature of right and ownership. The arrangement permitted the owners both use right and enjoyment that indicates absoluteness of his land holding rights. *Rist* rights were neither collectively exercised nor collectively worked.

Yet, it is important to see the interwoven factors and constraints for Ethiopia's agrarian stagnation. The focus and debate on land tenure patterns and systems continued until the 1974 revolution. The revolution nationalized all tenure regimes in the country. The new regime eliminated the multiple tenure systems. Land became the property of the state and the people, not the individual. This continues to be the state policy today.

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Alem Biyalfew, Gojjam  
Chekol Belete, Gojjam

Fenta Bikes, Gojjam  
Mulugeta Chekol, Addis Ababa  
Mulugeta Teferi, Addis Ababa  
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