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## Land Tenure in Ethiopia

### Continuity and Change, Shifting Rulers, and the Quest for State Control

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## **ABSTRACT**

Ethiopia experiences a fierce political debate about the appropriate land tenure policy. After the fall of the socialist derg regime in 1991, land property rights have remained vested in the state and only usufruct rights have been alienated to farmers – to the disappointment of international donor agencies. This has nurtured an antagonistic debate between advocates of the privatization of land property rights to individual plot holders and those supporting the government's position. This debate, however, fails to account for the diversity and continuities in Ethiopian land tenure systems. This paper reviews the changing bundles of rights farmers have held during various political regimes in Ethiopia, the imperial, the derg and the current one, at different times and places. Our analysis indicates the marked differences in tenure arrangements after the fall of the empire, but identifies some commonalities in land tenure regimes as well, in particular between the traditional rist system and the current tenure system.

**Keywords:** Ethiopia, land tenure, property rights regime, bundles of rights

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# Land Tenure in Ethiopia

## Continuity and Change, Shifting Rulers and the Quest for State Control

Wibke Crewett,<sup>1</sup> Ayalneh Bogale, and Benedikt Korf

### THE CONTROVERSY: LAND TENURE POLICY IN ETHIOPIA

In 1975, the socialist derg regime that had overthrown the imperial regime of Haile Selassie, profoundly altered the agrarian structure and the mechanisms of access to land. The “Public Ownership of Rural Land Proclamation” nationalized all rural land and set out to redistribute it to its tillers and to organize farmers in cooperatives, thereby abolishing exploitative landlord-tenant relations so pertinent under the imperial regime. Even though, with the defeat of the military socialist derg regime of Mengistu in 1991, the dissolution of farm collectives took place rapidly, there was limited change with regard to property rights to land – to the disappointment of many international donor agencies. In principle, the Transitional Government of Ethiopia did not question state ownership of land (Hussein Jemma 2001, Kassa Belay and Manig 2004, Yigremew Adal 2001). In its declaration on economic policy in November 1991 (Transitional Government of Ethiopia 1991), it announced the continuation of the land policy of the derg regime. The new constitution of 1995 approved and confirmed the state ownership of land in Ethiopia (Federal Democratic Republic of Ethiopia 1995).

Land policy, the real source of power in imperial and contemporary Ethiopia, remains at the center of a controversial policy debate. The debate has largely been carried out along two antagonistic arguments concerning property rights to land. The Ethiopian government continues to advocate state ownership of land whereby only usufruct rights are bestowed upon landholders. The usufruct rights exclude the right to sell or mortgage the land. This, the government asserted, was to protect the rural peasants from selling off their land to wealthy individuals leaving them landless and without source of livelihoods. The government builds its argument on the premises of social and historical justice that is based on two principles: (1) justice understood as *egalitarianism* – guaranteeing every farmer in need of agricultural land equal rights of access to such land, and (2) *historical* justice – granting tenure security to the Ethiopian farmer’s who had experienced land deprivation and land expropriation through different mechanisms during the imperial era. The government’s position that emphasizes the social function of land is challenged by advocates of a privatization of property rights – most prominently, the Ethiopian Economic Association (EEA), some political parties in opposition to the current regime, and a number of donor agencies. These tend to argue that state ownership of land prevents the development of a land market, discourages farmers to invest on land, and thereby holds down land productivity as well as encourages

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unsustainable land use practices. The debate has been described as being politicized and ideological (Crewett and Korf 2008, Dessalegn Rahmato 1992, 1999, 2004, Hussein Jemma 2001, Hoben 2000, Yigremew Adal 2001).

There are two problems with the debate. First, there are doubts about the validity of the underlying – often implicit assumptions about the expected benefits of either privatization or state ownership. Second, it seems questionable whether this dichotomy is a sufficient framework to approach the land reform debate in Ethiopia, which historically has accommodated a large diversity of customary land rights. Furthermore, the current scholarly literature on Ethiopian land tenure is burdened by multiple terminologies with large variations in meaning of specific terms. This paper attempts to sort the rich material discussed in the literature and to analyze it using a comprehensive analytical framework in order to understand diversity, continuity and change in Ethiopian tenure relations over time. We employ a variant of Schlager and Ostrom's bundles of rights approach (Schlager and Ostrom 1992, Ostrom and Schlager 1996)<sup>2</sup> and analyze how such bundles of rights have been distributed in different tenure systems from the imperial regime and the *derg* up to the current regime. The paper reviews the existing literature; our aim is not to provide new insights about the history of land tenure relations in Ethiopia, but a *systematization* of the bundles of rights at different times and places from a property rights point of view. We will then extend this analysis to the current land regulations on federal and regional levels in order to demonstrate how far the bundles of rights have changed compared to former land tenure regimes.

This analysis endeavors to contribute to a widespread scholarly argument according to which Ethiopian land tenure relations did not change very much over the last decades (Berhanu Nega et al. 2003, Dessalegn Rahmato 2004, Ege 1997). It suggests that there have been marked differences in the bundles of rights different farmers have held in different times and places, but there are also significant continuities to be found in Ethiopian land politics, for example, in the continued quest of the state to keep overriding power in distributing land.

## **PROPERTY RIGHTS AND THE BUNDLES OF RIGHTS APPROACH**

Property rights theory does not emphasize who "owns" land, but rather analyzes the formal and informal provisions that determine who has a right to enjoy *benefit streams* that emerge from the use of assets and who has no such rights (Bromley 1991, Eggertsson 1990, Libecap 1989). These rights need to be sanctioned by a collective in order to constitute effective claims. Thus, property rights involve a relationship between the right holder, others, and a governance structure to back up the claim. Property rights consist of two components: the rule and its enforcement mechanism. The rules may derive from state law, customary law, user group rules, and other frameworks. Enforcement of statutory law is usually the responsibility of the state, which means that the rights ground on formal laws.

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<sup>2</sup> The "bundles of rights" metaphor has a longer tradition in legal anthropology (Benda-Beckmann and Benda-Beckmann 1999), and the Schlager and Ostrom approach used for our analysis is one of several conceptualizations of 'property as a bundle of rights'.



Property rights based on other types of rules may be enforced by customary authorities or by a user group, which manages the distribution of rights or members of that group “define or enforce rights among themselves” (Schlager and Ostrom 1992, 254).

The recent literature on property rights over land and other natural resources commonly uses a broad classification along open access (no rights defined), public (held by the state), common (held by a community or group of users), and private (held by individuals or “legal individuals” such as companies) property regimes, but such classification can only be a rough guide to the *effective* entitlements that a rightholder in one of the stylized property regimes holds in reality (cf. Benda-Beckmann and Benda-Beckmann 1999). This conceptualization of property rights also neglects the plethora of social relations that are defined through property, something that Benda-Beckmann and Benda-Beckmann call “layers of social organization” (Benda-Beckmann and Benda-Beckmann 1999, 22) and that we need to analyze in order to understand what property means in different contexts. As a first step, it therefore appears useful to further differentiate the exact nature of property rights.

The concept of “bundles of rights” as it is developed by Schlager and Ostrom (1992) is useful for our purpose to analyze the distribution of rights among different user groups and between individuals under various tenure regimes in Ethiopia. Schlager’s and Ostrom’s interest was primarily in analyzing common property regimes used by collectivities of resource users. However, we assume that their differentiation of bundles of rights is equally applicable for the analysis of other forms of land tenure regimes, in particular when we find some hybrid types of regimes that are not completely state ownership, nor common property, nor private ownership. We therefore consider an analysis of changing levels of rights bestowed upon rural peasants in Ethiopia at different times, places, and under changing political regimes a telling example for such analysis.

Schlager and Ostrom distinguish between two major types of property rights, which they define as “authority to undertake particular actions related to a specific domain” (Commons 1968 quoted in Schlager and Ostrom 1992, 250) and that are associated with increasing levels of command over benefit streams and resources bestowed upon the rights holders (Table 1): *operational level* property rights and *collective choice* property rights (Schlager and Ostrom 1992, 250-251). Operational level property rights include the right to enter a defined physical property (access rights) and the right to obtain the “products” of a resource (withdrawal rights). Collective choice property rights include (1) management rights (for example, to transform and use a resource); (2) exclusion rights (that is determine who is entitled to access and withdrawal rights (Ostrom 2000) and who decides about the transfer of such entitlements); and (3) alienation rights (the right to sell or lease a resource (Ostrom 2000)).<sup>3</sup> The difference between operational level rights and collective choice rights is the difference between “exercising a right and participating in the definition of future rights to be exercised” (Schlager and Ostrom

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<sup>3</sup> Ostrom recently (Ostrom 2000, 339) introduced some clarifications of the initial definition of types of rights in Schlager and Ostrom (1992) and Ostrom and Schlager (1996). This improved the applicability of the framework significantly.

1992, 251), which means that holders of *collective choice* rights determine operational rules (Schlager and Ostrom 1992, Ostrom 2000).

Schlager and Ostrom then differentiate four types of users ("positions") with different bundles of rights (Table 2). *Authorized users* hold access and withdrawal rights but "lack the authority to devise their own harvesting rules" (Ostrom and Schlager 1996, 133). *Claimants* also have management rights, whereas *proprietors* also dispose of exclusion rights. Only *owners* hold all four types of rights (access, withdrawal, management, exclusion, and alienation) and can sell or lease but not bequeath their collective choice rights (Schlager and Ostrom 1992, 254; Ostrom and Schlager 1996, 149). A further clarification of the concept of "bundles of rights associated with position" (Ostrom and Schlager 1996) led to the integration of a fifth user type: an *authorized entrant*. The authorized entrant holds solely access rights and replaced the *authorized user* as the position with the weakest bundle of rights (Table 2).

**Table 1. Bundles of Property Rights**

Level of right	Type of right	Authorized actions
Operational	Access	Right to enter a defined physical area and enjoy nonsubtractive benefits
	Withdrawal	Right to obtain resource units or 'products' of a resource system
Collective choice	Management	Right to regulate internal use patterns and transform the resource by making improvements
	Exclusion	Right to determine who will have access rights and withdrawal rights, and how those rights may be transferred
	Alienation	Right to sell or lease management and exclusion rights

Source: own representation of Ostrom 2000, 339, based on amendments of Schlager and Ostrom 1992, 250-251, and Ostrom and Schlager 1996, 133.

Schlager and Ostrom's framework is useful to analyze types of users and bundles of rights, but it cannot account for the *politics* of land tenure relations. In other words, the bundles of rights approach could be misunderstood to depoliticize the political economy of land use. Ethiopia has undergone multiple political practices of regime control from imperial to *derg* to the current regime – processes by which the state has controlled the rural masses through agricultural policies, repression, and tenure systems. This is well documented in the literature (Pausewang et al 2002, Vaughan and Tronvoll 2003). However, the bundles of rights approach allows a clarification of the tenure systems in use and the specific rights that, in principle, a user holds and to what kind of benefit streams, or authority to particular actions (Schlager and Ostrom 1992) these rights confer. In the Ethiopian case, this approach allows to identify what people talk about when they use expressions as "rist", "gult", state ownership and so on, since these are not as clear-cut as is often assumed in the literature. Notwithstanding, there is often a wide gap between rights on paper and rights in practice, and land policy has to be understood as power policy, particularly in the agrarian societies such as

Ethiopia. Therefore, our analysis is complementary to a more political reading of the deeply embedded power differentials within Ethiopian rural society and needs to be read as complementing those analyses.

**Table 2. Bundles of Rights Associated with Positions (Ostrom and Schlager 1996)**

	Owner	Proprietor	Claimant	Authorized user	Authorized entrant
Access rights	+	+	+	+	+
Withdrawal rights	+	+	+	+	
Management rights	+	+	+		
Exclusion rights	+	+			
Alienation rights	+				

Source: Ostrom and Schlager 1996, 133.

As the regional differences of land tenure systems are very distinct, particularly for the imperial period, and a full coverage of this diversity of land rights is not possible in our analysis, we refer to de jure land rights, or what could be perceived as the most general and widely accepted patterns of formal/government/state interpretation of land rights throughout the recent Ethiopian history.

## CHANGING TENURE REGIMES IN ETHIOPIA'S RECENT HISTORY

The introduction of new land legislations and policies often leads to situations of legal pluralism, that is customary and modern institutions of land tenure co-exist, although their rules may partly contradict each other (Meinzen-Dick and Pradhan 2002). Scholars writing on African land tenure systems have often emphasized this struggle between customary forms of tenure and "modern" legal forms of individual private property imposed by the state and have argued that a top down interference into customary institutions have largely failed (for example, Bassett and Crummey 1993, Bruce and Migot-Adholla 1993, De Janvry et al. 2001, Juul and Lund 2002, Kirk 1999).

Ethiopia has a long legacy of state intervention in land tenure relations. The Ethiopian state has exerted considerable influence on local land tenure regimes throughout different political regimes. The country also differs in some respects from a number of other African countries in its property rights system. As Ethiopia has not been colonized (with a very brief exception of Italian occupation in the 1930s and 1940s), we do not find the kind of colonial heritage or legacy pertinent in other sub-Sahara African countries and societies that resulted in land grabbing by European settlers, which contributed to the formalization of private property right to land (Novati 2002). The colonial legacy in Ethiopia rather confers to an *imperial* colonialism in the second half of the 19<sup>th</sup> century with the expansion of the empire, starting from its heartland in Abyssinia towards the South and the imposition of an exploitative land tenure system in those newly conquered territories (Donham and James 1986). Overall, this imperial history of conquests of autochthonous ethnic groups and a certain regional and temporal variation in

imperial governance modes of these newly conquered areas resulted in a diversity of land tenure systems across the country.

A redistributive land reform in 1975, which only transferred usufruct rights to the rural peasantry, ensured some form of continuing state ownership. As a consequence, in the last three decades since the *derg* took power, the Ethiopian state and its local representatives have been the dominating force in the highland areas in defining access, distribution, and tenure terms of user rights. This legacy has weakened or largely crowded out not only the remains of customary institutions,<sup>4</sup> but also the imperial land use institutions, which were superimposed on the diverse traditional land holding systems. Furthermore, there is no real “go-back-to-customary-rules” type of perspective (Atakile Beyene 2004), since the pre-1975 land tenure system under imperial rule has been widely conceived as unjust among the rural peasantry as much as among the more progressive urban elites: land was concentrated in the hands of absentee landlords, tenure was highly insecure, and arbitrary evictions posed serious threats to tenant farmers (Abera Jemberre 2000, Cohen and Weintraub 1975, Dessalegn Rahmato 1984, Hoben 1973, Joireman 2000, Pausewang 1983).

The antagonisms celebrated in the recent Ethiopian land debate fail to grasp this regional and also temporal diversity of land tenure systems in Ethiopia not only during the imperial regime, but also during the *derg* regime with very different bundles of rights attributed to the tillers in different places and different production systems. This diversity continues even today in regional land regulations that differentiate bundles of rights for different types of land use and plot holders, and in different regions of the country.

In the following sections, we analyze the bundles of rights for different rights holders across three different ruling regimes: the imperial regime in the 20<sup>th</sup> century (pre-revolutionary period), the *derg* regime that ousted the imperial regime in 1975 (post-revolutionary period), and the developments after the fall of the *derg*. This analysis is based on a reading of the available scholarly literature. Overall, there is an imbalance in the depth of research covering the northern, often referred to as “central,” parts of the empire and the conquered areas in what is called the “South” (Joireman 2000). Scholarly research on the imperial land tenure systems in the (pastoral) semi-arid lowlands of east, southeast, and southwestern Ethiopia (the so-called periphery) is scarce. There is particularly little knowledge on the pre-imperial, customary land tenure systems in the periphery, which often remained in place below a layer of land rights superimposed by newly arriving settlers from the centre. Due to these data imbalances, our analysis is therefore confined to northern and central Ethiopian land tenure systems, which are shaped by sedentary farm practices.

Our analysis has some limitations that are worth mentioning. First, the regional differences of land tenure systems are very distinct, particularly for the imperial period, and information about these land tenure systems are mainly anecdotal and incomplete. Therefore, a full coverage of the diversity of land rights

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<sup>4</sup> This has been less of the case in many lowland areas, where pastoralists and agro-pastoralists still practice clan-based communal tenure regimes, such as in Somali region or among the Borana in Oromia region (Donham 1986, Helland 2006, Mohammed Abdulahi 2007, Watson 2003).

across space and time is not possible. We consequently refer to stylized examples of the most prominent and well-researched types of land rights of this period.

Second, in our analysis we focus on the *de jure* rights since individual variations in *de facto* land rights cannot be treated here as these would vary across space and time according to differing local social practices. Hence, we do not investigate differentiations of rights of actors who on paper are entitled to the same bundle of rights, such as spouses who hold joint ownership rights even though we are very aware that there are marked *de facto* imbalances with regard to land rights in Ethiopia, particularly in rights distribution between men and women.

Third, we introduce generalized decision rules that help us in identifying which actors are, according to Schlager and Ostrom's classification, authorized to particular actions. We therefore define that an individual's legal entitlement to a right that, even if possessed only under certain circumstances or shared, qualifies the actor as rightholder. We thereby follow a generalization made by Schlager and Ostrom in neglecting limitations and attenuation of types of rights.

## **The Imperial Regime**

The Ethiopian empire accommodated a land tenure system that is described as one of the most complex compilations of different land use systems in Africa (Joireman 2000). The terminology that has become the commonly used classification of the pre-revolutionary land tenure types does not reflect this plethora of local land tenure systems but refers mainly to the imperial administrative classification. It is commonly distinguished between communal (*rist*), grant land (*gult*), freehold, or sometimes referred to as private (*gebbar* tenures), church (*samon*), and state (*maderia*, *mengist*) tenure regimes. Unfortunately, there is no comprehensive and commonly accepted definition of these different types of land tenure so that rather different land tenure relations are summarized under one term. These differences are significant. The most central terms used to explain Ethiopian land tenure systems, such as *gebbar*, have had differing meaning across space and time in some regions of the country and during different time periods, at times opposite to its use in official tax nomenclature. However, the latter was frequently adopted by scholars of the Ethiopian land tenure system. Contradictory interpretations are also found for the term *rist*, which the majority of writers denote it as collective property, but which is also described as "rigorously individualistic" (Brietzke 1976, 641).

Different land tenure systems were usually associated with a spatial distribution between the North and the South (Aberra Jemberre 2000, Pausewang 1983) or, put differently, the central core and the periphery (Donham 1986) of the Ethiopian empire. Most of the literature on land tenure during the imperial regime concentrates on the historical heartland – the old center - of the Abyssinian Empire, which comprises mainly the northern and northwestern part of Ethiopia (for example, Alemneh Dejene 1987, Cohen and Weintraub 1975, Hoben 1973). Only few authors cover the colonized areas of the South as well – those areas conquered during military campaigns under emperor Menelik (1889-1913), and they do this, with some exceptions (such as found in Donham and James 1986), mostly at a rather general level (Pausewang 1983, Dessalegn Rahmato 1984). Generally, the literature describes land tenure in the northern periphery as an "ancient communal" tenure system (Aberra Jemberre 2000, 131) of *rist* where occasionally renting and

sharecropping occurred (Joireman 2000). The historical “southern” land tenure regimes are delineated as a mixture of private land tenure, “pastoralist” communal regimes (Joireman 2000, 9), and government tenure (Hussein Jemma 2001), which were strongly affected by an exploitative tax and tribute system (*gult*) that Northern settlers had imposed on the indigenous population (for example, McClellan 1986).

In the following section, we discuss the most dominant interpretations of the principles of each of the different types of land tenure as reflected in the literature. We construct artificial “pure” types of land tenure, which existed in a large variety of different ways. This is a certain dilemma as we utilize the ambiguous traditional terms (*rist*, *gult*, and *gebbar*) knowing that they meant different things in different localities, but we will try to spell out the ambiguities when discussing each ideal type.

### **Rist Tenure**

The *rist* system was a kind of corporate ownership system based on descent that granted usufruct rights – the right to appropriate the return from the land (Hoben 1973). In the *rist* system, all male and female descendants of an individual founder or occupier were entitled to a share of land (Hoben 1973). The allocated usufruct rights did not refer to a specific plot of land, and, since it was often difficult for rights claimants to trace the pedigree to an ancestral landholder, harshly competitive bargaining over access to land occurred. Claims to land were usually accepted or rejected by the representative of the *rist* corporation who consulted other members of the kinship group (Hoben 1972). The number and sizes of families varied over time, and in many localities redistribution of land within the kinship group occurred regularly (Aberra Jemberre 2000, Hoben 1972, Hoben 1973). *Rist* rules aimed at maintaining continuity in the possession of land to both individually operated and clan lands (Atakilte Beyene 2004); that is why *rist* rights holders usually lacked the right to sell their share outside the family, mortgage, bequeath or transfer it as a gift as the land belonged to the descent group, not the individual. *Rist* is burdened with some ambiguity in the literature. It is usually conceptualized as a genuine Abyssinian collective land tenure system. Since other land tenure types are less well researched, we refer to *rist* as a variant of communal land tenure in Ethiopia.

Even though the *rist* system provided for general tenure security, it granted only very insecure property rights to a particular plot of land. It continuously endangered the security of an individual’s effective rights to use a specific plot of land and encouraged fragmentation and successive reduction in individual plot size. At the same time, it sustained and privileged the majority of the rural peasantry with direct access to land through its distributive role (Atakile Beyene 2004), and guaranteed that the bulk of the land was under peasant control (Hoben 1973, McCann 1988).

### **Gult and Rist Gult**

Superimposed on the *rist* system was a type of fief right that required the *rist* holding peasants (or those who held other types of traditional land rights) to pay tribute and taxes in cash, kind, or labor to landlords– this was called the *gult* right

(Bereket Kebede 2002, Cohen and Weintraub 1975, Pausewang 1983). In the Abyssinian center of Ethiopia, these *gult* holders were largely an aristocratic group, whereas in the southern periphery, it was civil and military servants of the imperial regime who had received *gult* rights as compensation for their services (Aberra Jemberre 2000, Dejene Aredo 1999, Pausewang 1983). *Gult* rights were also vested to organizations, in particular the Orthodox Church (Cohen and Weintraub 1975, Joireman 2000, Pausewang 1983). Even though most scholars consider *gult* to be a right to land, it has also been characterized as a right to the manpower of the peasants living on the land. *Gult* was usually linked to an office, and while the *gult* lords had a number of duties towards the crown such as administration, maintenance of security in the region, and military services, they also had the right to oversee other administrative personnel in the granted area (Donham 1986). *Gult* rights were not inheritable or not necessarily hereditary (Bereket Kebede 2002, Pausewang 1983), and since formal land ownership was vested in the state, the *gult right* could be withdrawn by the crown at any time, although this did not happen frequently (Cohen and Weintraub 1975).<sup>5</sup> However, many local *gult* holders (local nobles) were at the same time *rist* holders (Donham 1986).

Besides these *gult* rights, there existed a system of heritable *rist gult* rights that vested the *gult* lord with the right to independently exact taxes in cash, kind, and labor for the landlords own burse (Aberra Jemberre 2000, Joireman 2000) - a system that increased the independence of landlords from the imperial power. Initially, only granted to the royal family and provincial nobles, the granting of heritable *rist gult* rights became the rule in the regions of the newly conquered South (Cohen and Weintraub 1975, Pausewang 1983).

### **Gebbar or Private Property Rights**

There is some confusion in the literature regarding the meaning of the terms *gebbar* and the existence of private property rights during the imperial rule. Prior to an administrative reform in 1941, the term *gebbar* - which existed in the center but was then transferred to the conquered South - characterized "tribute-paying peasants" (Donham 1986, 38) who were controlled by *gult* lords<sup>6</sup> or local elites (*balabbat*), and suffered from burdensome tributes and services to be delivered to these authorities.

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<sup>5</sup> There are different interpretations of the *gult* system to be found in the literature. Different from much of the literature, Berhanu Abegaz (2005), for example considers land under *gult* rights to be "freehold".

<sup>6</sup> Again, there is disagreement in the literature about the nature of these rights. Some authors assume it was granted as *gult* or *rist gult* (Cohen and Weintraub 1975, Joireman 2000, Pausewang 1983). Pausewang (1983), for example, writes that those rights were given as heritable *gult rist* rights with high security of tenure for the landlord, but Bereket Kebede (2002) insists that the rights distributed under Menelik II were limited since the landlords lacked alienation rights, could be replaced by the emperor, and had to accept governmental provisions that granted usufruct rights to local peasants on this land. As a consequence of land grantings to imperial favorites, lands belonging to the indigenous land users are reported to have been expropriated (Mengistu Woube 1986), although some emphasize that they were given usufruct rights to their plots (Bereket Kebede 2002, Pausewang 1983) and large-scale peasant eviction only emerged after some landlords started investing in large-scale agriculture or rented out land in the 1950s (Bereket Kebede 2002).

The literature identifies two processes that led to the emergence of private property in Ethiopia. First, after the return of Emperor Haile Selassie from exile in 1942, land tenure (what is referred to as 'freehold') was granted to selected individuals such as soldiers and civilian victims of the Italian occupation (Pausewang 1983).<sup>7</sup> Second, a tax reform in 1941 defined the land for which tax had been paid to the government as the property of the taxpayer. As a consequence, taxpaying *gebbars* became the legal owners of their land (Donham 1986). The term *gebbar* was henceforth used to refer to private property during the Ethiopian Empire<sup>8</sup> (see Ethiopian Economic Association/Ethiopian Economic Policy Research Institute 2002, Taye Mengistae 1990). All land, for which no tax had been paid to the government (or put differently - land for which land lords had pocketed tax payments made by farmers, instead of forwarding it to the government), was converted into government land thereby depriving pastoralists of their communal rights. This tax reform limited the influence of the local landlords and abolished all *gult* and *rist gult* rights, including those of the Orthodox Church. The farmers therefore were no longer required to pay tribute to the local overlords, but directly to the representatives of the Ethiopian crown.

The tax reform increased tenure security, in particular for *rist* rights holders in the North who had paid land tax and at the same time improved the situation of a class of taxpaying peasants in the South<sup>9</sup>. Overall, these reforms, even though poorly implemented, meant the juridical recognition of some kind of private property rights for individual rights holders, including ownership rights (Pausewang 1983, 1990).

However, many peasants had, under the tribute system imposed on them, lost their land or had lived on the land of the new class of taxpaying *gebbar* owners. In addition, many landlords had registered formally as taxpayers and thereby deprived those farmers of their land rights (Pausewang 1983). These farmers then became tenants who practiced sharecropping (Donham 1986). Sharecropping demanded from the tenant to deliver a large share of up to half of the produce to the landlords to maintain the right to use the land for subsistence production. The tenant was also subject to arbitrary demands for gifts and labor services (Aberra

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<sup>7</sup> Scholars of the Ethiopian land tenure system claim that *rist gult* rights already had had the quality similar to those of private property (Joireman 2000).

<sup>8</sup> *Gebbar* tenure is a particularly difficult terminology since it not only experienced a transformation in meanings over time, but its interpretation varies from region to region. Some authors describe *gebbar* farmers as holders of most complete private property rights including the right to rent and sell their land (Berhanu Abegaz 2005), whereas others describe the *gebbar* as a particularly exploitative status, turning a farmer into a slave. Pausewang notes that, starting with the rule of the settlers from the North, in the South the formerly proudly-carried name *gebbar* changed its meaning to that of a dependent tenant and even a slave (Pausewang 1983, Pausewang 1990), "the conquered" (Berhanu Debele 2002), and "serf" (Abbera Jembere 2000).

<sup>9</sup> There is some disagreement whether *gebbar* can be qualified as a kind of private property during the imperial period. Some emphasizes that *gebbar* is not private property in the sense as defined by Western conceptions and that such conception was alien to customary tenure regimes where it emerged (Pausewang 1983). Others add that the formal ownership of land by the crown prohibited real private land tenure. This is contested by a third group that argues that the formal ownership of the crown does not necessarily imply the absence of private property during Haile Selassie's rule (Joireman 2000, 23).



Jemberre 2000, Hussein Jemma 2001, Woube 1986). Some authors claim that sharecropping relations differed between the North as the contracts had been of less exploitative character than in the South (Joireman 2000, 107).

**Table 3. Distribution of Bundles of Rights during the Ethiopian Imperial Empire for Stylized Types of Right Holders**

	Representative of rist holder corporation/elders	Individual rist holder	Gult holder <sup>a</sup>	Rist gult holder	Gebbar holder <sup>b</sup>	Tenant
Access rights		+	+	+	+	+
Withdrawal rights		+	+	+	+	+
Management rights	+	+	+	+	+	
Exclusion rights	+		+	+	+	
Alienation rights				(+)	(+)	
Type of right holder	Not clear	Claimant	Proprietor	Owner	Owner	Authorized user

Source: own representation

(+) = likely, but not explicitly defined in the literature; anecdotal evidence only; local variations

<sup>a</sup>) Right during period of service only; <sup>b</sup>) Rights after 1941 tax reform

Table 3 summarizes the bundles of rights for different tenure arrangements under imperial rule. It demonstrates the distinct variations of property rights in different tenure regimes. However, due to the scattered information on the diversity of local variants of the land tenure regimes, it is difficult to exactly depict the distribution of the bundles of rights for this period.

*Gult* holders (we refer here to the *gult* lords in the periphery) held the right to use, manage, and exclude others (with the exception of the crown) during their period of office. Individual members of the *rist* kinship group also held these three bundles of rights (whereas alienation right was held collectively and exerted by the representative of the *rist* holder corporation), making all individual rights holders claimants and the collective proprietors in Schlager and Ostrom's terminology. The role of the representative of the *rist* holder collective is difficult to assess since this individual---who is at the same time a member of the collective group and a holder of *rist* rights of access, withdrawal, and possibly management---would, according to the classification by Schlager and Ostrom, be the proprietor of the resource. This is not the case; instead, it is the cognatic descent group who holds proprietors' functions.

Holders of heritable *rist gult* had the most secure property rights, and they may be classified as owners as they were entitled to alienate the land through inheritance. However, the literature is unclear about their rights to sell and lease. The same rights were held by the group of *gebbar* farmers (after the above mentioned tax reforms), who held land without obligations to render services to any

overlords.<sup>10</sup> Tenants held a particularly weak bundle of rights. Their withdrawal rights are difficult to assess, not only due to local variations in tenancy contracts, but also because tenancy referred to sharecropping relations and tenancy conditions that were determined by landlords.

Broadly speaking, the Ethiopian land tenure system during the emperors' rule was dominated by drastic power imbalances between landlords and peasantry. Land policy was used in as an instrument of "divide-and-rule" at the disposal of the emperors (and the nobility). The Emperor reserved the sovereign right over all land with the authority to grant and withdraw land rights at all levels, and this right was exercised to keep "a retinue of war lords, governors, and nobles personally obliged to the emperor" (Pausewang 1983, 24).

## **The Derg Regime**

On 4 March 1975, the "Provisional Military Administrative Council" – also known as the *derg* (the council) – after it had overthrown the imperial regime of Haile Selassie, announced an agrarian reform program known as Proclamation No. 31/1975 "Proclamation to Provide for the Public Ownership of Rural Lands." This proclamation declared all rural land to be the property of the state [Article 3] – without any compensation to previous rights holders – and prohibited all tenancy relations [Article 4.5]. The Proclamation provided the legal basis for the distribution of usufruct rights to a large number of rural families who had been working under exploitative tenancy contracts for a small group of landlords. The reform hence implemented the "land to the tiller" approach that was popular in the 1970s (Haile Kebret 1998, Mengistu Woube 1986, Pausewang 1983, 1991). The *derg* justified the land reform program on two principles: (1) historical justice – to overcome the exploitative character of imperial agrarian relations; and (2) justice as egalitarianism – providing each farm family with equal access to cultivation land according to their needs.

The Proclamation made a number of provisions. Farmers were not allowed to transfer their usufruct rights by sale, mortgage, or lease, and bequeathing of allocated usufruct rights was limited to primary family members like spouse and children upon death of the rights holder. The plot size per family was restricted to a maximum of 10 hectares, and the use of hired agricultural labor was prohibited [Article 5]. The reform was the first uniform tenure system imposed upon Ethiopia as a whole. Considering the difference in agrarian relations that had existed in the North and South prior to the reform, the changes were more radical for tenant cultivators (and landlords) in the South than for *rist* rights holders in the North. In the *rist* system, land distribution had already been relatively egalitarian (Atakile Beyene 2004, Pausewang 1983).

The *derg* brought about major changes in organizational structures and institutions in order to implement "agrarian socialism" (Kirsch et al 1989, Joireman 2000), including the quest for collectivization of small-scale farms and the

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<sup>10</sup> Whether or not *gebbar* farmers held the right to alienate (sell and mortgage), their land is not clear from the existing literature. If yes, which is likely, this would have made *gebbar* farmers true owners of their land. Similarly, it is not clear, but also likely whether or not *rist gult* holder had effective alienation rights, for example, to sell and lease.

establishment of state farms. The state thereby effectively abolished the remains of traditional institutions of *rist* and *gult*, and took over the control to distribute access to land through Peasant Associations (PA). Membership in Peasant Associations was established as the central element of the state's rural bureaucracy and became obligatory for all farmers. The leadership of the Peasant Associations was entitled to expropriate land from the landholders and distribute it equally among its members, which made the collectivity of the members of the Peasant Association proprietors of the land.

In the initial phase of the reform, especially in the South, a considerable proportion of the rural peasantry supported land redistribution. Most of the redistribution seems to have been completed as early as 1976 (Alemneh Dejene 1987, Berhanu Debele 2002, Haile Kebret 1998, Pausewang 1983). The proclamation ruled out the option of migration because usufruct rights were tied to the membership in the Peasant Association of origin (Clapham 1988). Thus, many Peasant Associations gradually faced scarcity of land to be distributed to new claimants. In some regions of Ethiopia, Peasant Associations therefore had to redistribute land not only of those who had married out or left but also that which had been assigned to farming families. Defer Abate (1994, 1995) reports that this redistribution was often insufficient to meet growing demands due to land scarcity. The scale and frequency of redistribution differed in the various places and regions (Clapham 1988, Teferi Abate 1994, 1995).<sup>11</sup> Redistribution occurred frequently in some densely populated districts in Amhara region, but in other localities, the Peasant Association leadership allocated the land only once during the initial distribution of 1975-1976.

Towards the end of the 1970s, the *derg* intensified the collectivization program with the promotion of Agricultural Producer Cooperatives (APC) and the establishment of large-scale state farms. APC were to be formed by members of a Peasant Association by pooling their land, draught animals, and farm implements. The head of the cooperative automatically became the head of the Peasant Association and thereby could exert substantial political control and power over all association members (Alemneh Dejene 1987, Bereket Kebede 2002, Kirsch et al 1989). Officially, peasants should enter APCs at their free will (Alemneh Dejene 1987), but some authors report more forceful implementation of cooperatives (Bereket Kebede 2002, Fekade Azeze 2002, Pausewang 1991). Still, in 1984, only two percent of Peasant Association members were engaged in APCs, and the productivity of cooperatives remained significantly lower than that of small-scale producers (Bereket Kebede 2002, Brüne 1990, Clapham 1988, Kirsch et al 1989, Pausewang 1991). Regardless of the weak economic performance of collectivization, "the single most important feature of the revolution" was the mass organization in the rural areas and the capture of the peasantry into a system of state control (Clapham 2002, 15).

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<sup>11</sup> Access to land was largely discriminatory for women, although this was not primarily due to the legislation, since men and women enjoyed equal rights to land. But women's rights depended on marriage and were not registered separately – they therefore lacked control of agricultural land. Zembeworke Tadesse and Yared Amare (2000) note that the specific position of women also differed across various ethnic groups.

**Table 4. Distribution of Bundles of Rights during the *derg* regime (de jure situation)**

	PA committee	PA members, heads of households (men and widows)a	APC committee	APC member
Access rights		+		+
Withdrawal rights		+	+	+ <sup>c</sup>
Management rights	+	+	+	
Exclusion rights	+	+/- <sup>b</sup>	+	
Alienation rights				
Type of right holder	<i>Not clear</i>	<i>Proprietor/ Claimant</i>	<i>Not clear</i>	<i>Authorized user</i>

Source: own representation

a) Official membership in PA was restricted to heads of households; married women held indirect rights as member of the household; b) Right held only in case of bequeathal to heirs; attenuation of rights from redistribution programs in certain regions of the country occurred; c) Right entitled to a share of APC production

Broadly speaking, an individual farmer was compulsory member of a collective of a Peasant Association controlled only a limited bundle of rights (Table 4): he (or she)<sup>12</sup> had access, withdrawal rights, and possibly management rights, but the latter depended on decisions and interferences of the Peasant Association. Such farmer can be classified as a *claimant*. If the farmer was not affected by redistribution programs, he (and in few instances, she) also held some very limited exclusion rights in that the farmer could distribute access and withdrawal rights between heirs. However, authorities accepted only close relatives as heirs. Members of APCs cannot be tightly classified according to Schlager and Ostrom's scheme: they held access rights, but more indirect withdrawal rights in that they received payments from the cooperative (even though often in kind). While the Peasant Association held collective choice rights of the land, average PA members were *claimants*. The APC committee also had collective choice rights of exclusion and management over the resources of the APC. This analysis indicates that the revolutionary system of tenure replaced the pre-revolutionary functions of landlords as overlords and tribute collectors by a system of state control, where Peasant Associations and APCs played the central role. The power of the associations was based on their right to distribute land. With the usurpation of the Peasant Association by the central rulers, they became effectively an instrument of the *derg* rulers to control and govern the peasantry.

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<sup>12</sup> Even though land rights were granted to households, in practice they were given to the registered member of the Peasant Association, usually the male head of the household, so that married women held only indirect rights to land. The widows were also landholders as primary heads of households.

Overall, the *derg* regime failed to increase agricultural productivity with its agrarian reforms. At the same time, the 1975 Proclamation ensured that a much larger number of rural farm families received access to land. Tenure security under the *derg* was clearly limited (Dejene Aredo 1999, Dessalegn Rahmato 1994), although Hussein Jemma (2001) points out that it constituted a marked increase in tenure security for former tenant cultivators in the South who became Peasant Association members with an entitlement to land. Sources of insecurity included the redistribution of land (for example, due to establishment of cooperatives or population growth), forcefully implemented producer co-operatives, which required peasants to pool their land, and compulsory resettlement. Dessalegn Rahmato (1984) observed that in many of the villages, initial redistribution occurred within the first two years after the proclamation. During this period, farm families had particularly insecure effective rights to individual plots, although they had a general entitlement to an *undefined share* of the Peasant Association's land endowment. This system resembles the *rist* tenure of the North, but was extended from *rist* right holders to all members of the Peasant Associations. Broadly speaking, landless, wage laborers, tenant cultivators, and poor, powerless *rist* rights holders are often considered as the winners of the *derg* reforms; however, we also need to note that bribery of officials was a regular practice to ensure that the better-endowed farmers would get access to a better quality or a larger parcel of land (Fekade Azeze 2002). Losers of the reform were the *gult* and *rist gult* lords as well as peasants with *gebbar* rights.

### **After the Derg**

After the fall of the *derg* (military socialist) regime of Mengistu in 1991, privatization of farm collectives took place rapidly, and many international observers expected that in this process of "post-socialist transition," a transformation of land institutions towards a privatization and registration of land titles would follow, which was regarded as a means to increase productivity of Ethiopia's smallholder agriculture. However, these expectations were soon disappointed. The Transitional Government of Ethiopia, in its declaration on economic policy in November 1991 (Transitional Government of Ethiopia 1991), announced the continuation of the land policy of the *derg* regime.

The new constitution of 1995 approved and confirmed the state ownership of land in Ethiopia (Federal Democratic Republic of Ethiopia 1995). Article 40 of the 1995 Ethiopian constitution states 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 the peoples of Ethiopia. Land is a common property of the nations, nationalities and peoples of Ethiopia" (Federal Democratic Republic of Ethiopia 1995, Article 40).

The article further specifies a "right to obtain land without payment" for "Ethiopian peasants" for grazing and cultivation purposes as well as a right to be "[protected] against eviction from the possessions" (ibid., sections 4 and 5). The article further stipulates that any transfer of land is prohibited and "shall not be subject to sale or other means of exchange" (ibid., section 3).

Many scholars have questioned if the 1995 constitution provided any differences to the land reform proclamation of 1975 (Berhanu Nega et al. 2003, Dessalegn Rahmato 2004, Ege 1997, Kassa Belay and Manig 2004). There are,

nevertheless, some notable differences between the rules of 1975 and 1995. The 1975 proclamation prohibited the lease of land and the hiring of labor and concealed the maximum land size per individual to 10 ha; such provisions are absent in the 1995 document (Yigremew Adal 2001, 56). Furthermore, Article 40, section 7 specifies the rights to the compensation payments for investment on land in case the “right to use expires,” also newly introduced:

“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 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” (Federal Democratic Republic of Ethiopia 1995, Article 40.7)

At the same time, there are serious omissions that leave tenure security unclear. In particular, the proclamation does not state the duration of usufruct rights for landholders. Broadly speaking, while the 1995 constitution and the subsequent Proclamation 89/1997<sup>13</sup> largely confirm state ownership of land as continuation of *derg* policies, they also provide some specifications that seek to take account of the necessity for a rural land and labor markets to emerge.

Several regional governments have made use of the powers vested in them in the 1995 constitution and Proclamation 89/1997 to formulate their land policies, among them Tigray Region (1997, amended 2002), Amhara Region (2000), Oromia Region (2002), and Southern Regional State (2003).<sup>14</sup> According to the constitution, regional land policies need to be in accordance with federal law; all regional policies therefore validate state ownership of land and farmers only receive usufruct rights to plots of land without transfer rights, such as sale or mortgage. All regional proclamations confirm at least formally that land rights are to be granted to men and women, including the right to lease out land, although most regions restrict the period of the lease and limit leasing rights to only a share of the farmland.

Only one out of the four regional policies mentioned above rules out future land redistribution (Oromia), one does not specify (Tigray), and two other regions make it conditional on the demand of the community and a scientific assessment of its effects on land productivity (Amhara Region, and Southern Nations, Nationalities, and Peoples Regional State). In three out of four regional states, landholders need to comply with a number of user rules and management obligations to secure their usufruct and access rights. In Tigray and Amhara regions,

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<sup>13</sup> Proclamation 89/1997 “Federal Rural Land Administration Proclamation” transfers the authority for land administration, including rights to distribute land, to the regional governments and vests them with the power over the “assignment of holding rights and the execution of distribution of holdings” (Article 2.6).

<sup>14</sup> It is worth mentioning that most pastoral peripheral regions (for example, Afar, Somali) have not yet produced a regional land tenure policy (Helland 2006, Mohammed Abdulahi 2007). Mohammed Abdulahi outlines that the 2005 Proclamation makes it easier for federal and regional states to appropriate communal land of pastoralists in order to encourage private investment and facilitate state-driven development projects (Mohammed Abdulahi 2007, 122). We cannot go into depth on this here, but note that this is likely to increase the peripheral status of pastoralist land tenure systems and practices.

the right to use land depends on the residence in the *kebele*, a restriction already in place under the *derg* regime. At the same time, some regions formulate the aim to introduce certificates designed to increase tenure security and to reduce border conflicts (Deininger et al 2006). Inheritance rights have also been specified and in some case been extended beyond the core family: for example, in the Amhara region, it is allowed for land to be bequeathed to people outside of the family if those assisted the rights holders in times of need.

The “Oromia Rural Land Use and Administration Proclamation 56/2002” (Regional Government of Oromia 2002) grants higher levels of tenure security than the other three regional policies because it rules out redistribution of land plots (Regional Government of Oromia 2002, Article 14.1). The proclamation grants “lifelong usufruct rights” (Article 6.1) to agricultural land “free of payment” to all male and to female residents whose livelihoods depend on agriculture (Article 5.1). However, there are three important restrictions formulated in the proclamation that allow the state to expropriate land use rights from plot holders. Article 6.4 grants the right of expropriation if land is required for “more important public uses”, but the rights holder needs to be compensated and can remove investments thereon. Importantly, Article 14.4 specifies that “irrigation land” is excluded from the prohibitions of land redistribution, which is allowed subject to the “participation and consensus of the user community.” Those losing irrigation land are entitled to compensation with “reasonable rainfed land.” Third, land can be expropriated if needed for irrigation infrastructure. In the latter case, even the compensation to the former rights holder is limited.

Furthermore, the “Oromia Rural Land Administration and Use Regulation No. 39/2003” (Regional Government of Oromia 2003, hereafter referred to as the regulation) states that if land users fail to use their land in every production season (except in the case of restoring fertility), the land use rights can be terminated (Regulation, Article 3.5). According to the regulation in Article 22.1, after a period of three years without cultivation, the land will be expropriated; in the case of irrigated land, this can be applied already after two years. In addition, the regulation imposes a number of obligations on land management practices (for example, Article 17).

**Table 5. Distribution of Bundles of Rights according to the Oromia Regional Land Proclamation (de jure situation)**

	Land use and land administration authority	PA committee	PA member, (m/f)	PA member, married (f/m) <sup>c</sup>	PA member, non-married (f)	PA member, (size of plot below minimum size) <sup>b</sup>
Access rights			+	+	+	+
Withdrawal rights			+	+	+	+
Management rights	+	+	+ <sup>a</sup>	+ <sup>a</sup>	+ <sup>a</sup>	+ <sup>a</sup>
Exclusion rights			+	+	+	+
Alienation rights			+ <sup>d</sup>	+ <sup>d</sup>	+ <sup>d</sup>	
Type of right holder	<i>not clear</i>	<i>not clear</i>	<i>Owners</i>	<i>Owners</i>	<i>Owners</i>	<i>Proprietor</i>

Source: own representation

<sup>a</sup>) Management right is shared with community or other authorities in case of irrigation scheme development, public investment on land of right holders, and so on; <sup>b</sup>) Joint rights to be shared with co-heirs in order to avoid further fragmentation; <sup>c</sup>) Spouses do not receive rights to defined individual plots, but individual right is granted by law; <sup>d</sup>) Rights holders are allowed to rent out up to only half of their land holding. (m) = male; (f) = female

Overall, despite of these contradictions and limitations, the provisions laid out in the proclamation and the regulation constitute a significant improvement in tenure security compared to the situation under the *derg*, at least on paper. Thus, many land rights holders in Oromia now enjoy a larger bundle of rights than under the *derg* and can be regarded to be *owners*, in principle. This holds particularly for married and non-married women who also received individual rights titles (see Table 5). Oromian peasants now have improved exclusion rights through a relaxation of inheritance limitations and the abandoning of redistribution programs, which is accompanied by the right to rent out a share (up to half) of the landholding.

However, there are severe limitations of these rights for some rights holders. Divorced women still lack secure land rights since numerous exceptions severely limit these rights. Owners of very small plots may experience intervention by others such as co-heirs and holders of irrigation land who share the management right of 'making improvements of the resource' in the community where they live. At the same time, some provisions in the proclamation and in particular in the regulation attenuate this tenure security by imposing limitations on lifelong tenure (for example, by defining management obligations) or linking land rights to social status (such as denying effective equal rights to widows and divorced women). Given the number of exceptions and prohibitions, and the lack of clear specifications of responsibilities and decision criteria, the current legal framework allows for an enduring influence of the state bureaucracy on land distribution and land rights.



This offers potential spaces for corruption, political interference, and bureaucratic arbitrariness (Dessaiegn Rahmato 2004, 6).<sup>15</sup>

In 2005, the federal government issued a revised proclamation, the Rural Land Administration and Land Use Proclamation No. 456/2005. Not surprisingly, the revised proclamation follows the trajectory that “the right to land is exclusively vested in the state and in the people” and grants only “holding rights” to users. Holding rights include leasing rights and inheritance rights. The proclamation is designed to increase subjective tenure security of individual rights holders (peasants) and therefore emphasizes the importance of land measurement, registration, and certification of those holding rights, but the rights remain restricted. It defines certain obligations for the user, in particular restrictions of land use on highly sloped territories. It also opens up the possibility for the “government being the owner of rural land [to change] communal rural land holdings to private holdings” (paragraph 5.3)--for example, for private investors--, which weakens pastoral communal land tenure rights significantly. The regional states are now expected to revise their regional proclamations according to the revisions in the 2005 Proclamation, but Mohammed Abdulahi suggests that the new proclamation mirrors many provisions set out in the Amhara and Tigray regional policies, that were written before the proclamation - an observation that lets him conclude that “the land tenure laws of these two states ... are the foundations for the 2005 Proclamation” (Mohammed Abdulahi 2007, 123). The proclamation therefore appears to be a manifestation of deepening ideological commitments from within the Tigrayan political elite towards a universal prescription or tenure model for the whole of Ethiopia.

## **BUNDLES OF RIGHTS AND THE COMPLEXITY OF TENURE REGIMES**

Arguably, one pattern we observed is that land tenure has been and continues to be organized in collectives (historical *rist* collective ownership, Producer cooperatives, and current Peasant Associations). Therefore, Schlager’s and Ostrom’s bundles of rights approach was useful to explore how changes in political regimes translate into different *de jure* rights constellations at different points in time and for different categories of people. While we did not exactly replicate Schlager’s and Ostroms’ focus on the whole group of resource users as the analytical unit, we considered differentiations within the actor groups and between different actor groups within resource user groups, such as women and men. We find this relevant because our analysis shows that there could easily emerge wrong perceptions of “who owns what” if representatives of user collectives are considered to possess the full lower ranking bundle of rights they hold as members of the

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<sup>15</sup> State ownership, and especially the power to redistribute land plots in agrarian societies, makes rural peasants vulnerable to arbitrary actions of local bureaucrats who decide about which individual is granted access to land as well as to political punishments for alleged political opposition (Fekade Azeze 2002, Yigremew Adal 1997). Ege (2002), for example, observed patterns of discrimination against certain political groups, those who were suspected of having supported the derg regime, in the 1997 land redistribution process in Amhara Region. Aspen (2002) noted coercive actions of state organs against local peasants at the dawn of the 2000 elections whereby peasants were threatened that their land would be taken away if they voted for opposition parties.

group plus the rights assigned to them as a particular function. Schlager's and Ostrom's framework, however, made it difficult to analyze some of the more complex property relations and power distributions that they conceptualize in the categories of actors and rights definition.

First, some functions held by individuals in resource management are not covered in the category of "position." Schlager and Ostrom assume a hierarchical rights structure, according to which each right builds on "lower ranking" rights (namely, access and withdrawal rights). In the case of Ethiopian land tenure, there are at times actors who hold collective choice rights but are not entitled to direct withdrawal and access rights, such as a PA committee. This point has also been made by van de Griendt (2004) who suggests introducing a "trustee" with management, exclusion, and alienation rights, and a "steward" with access, management, and exclusion rights (see, also Ostrom 2000).

Second, an adaptation of the framework to more differentiated actor groups (such as the distribution of rights within a household, where power, gender, and other factors play a role) is difficult since the rights categories are very broad and micro-property relations are too complex to be reflected in the bundles of right analysis, particularly when the analysis is conducted on a macro-scale, as in our case. Moreover, it is challenging to depict overlapping rights of different character, indirect rights, "attenuated" rights, or interference into rights that are held private in principle, but where a collective group or other external authorities can constrain these rights. For example, some management rights are held by the community and other rights by individuals. We also found that different rights holders shared rights that are merged in one type of rights in the Schlager and Ostrom framework, such as the right to "regulate internal use patterns" and the right to "transform the resource by making improvements." These rights do not necessarily merge. In addition, it appears that some of the rights definitions were difficult to translate on the ground such as "internal use patterns," particularly if resources are governed by overlapping authorities of different levels of administration.

## CONCLUSIONS

In this paper, we have used the "bundles of rights" approach to identify changes and continuities in the distribution of rights among Ethiopian farmers during three different political regimes since the beginning of the 20th century. This analysis has been done on a macro-perspective. We have looked into the *de jure* rights according to the different legal specifications under the three political regimes. The literature we have reviewed clearly signals that these macro-level legal specifications have been implemented and practiced in very different ways in different places within Ethiopia. Nevertheless, our analysis indicates commonalities in conceptualizing land tenure in Ethiopia that have survived in all three political regimes; this is what we wanted to demonstrate with this analysis.

Our study of the bundles of the *de jure* rights a farmer has held in different tenure regimes at different times and places has indicated that, with the exception of a brief period at the end of the imperial regime, when farmers under *gebbar* rule and, with some reservations, *rist gult* holders, enjoyed some kind of private property rights, Ethiopian peasants have not held rights to land that could be subsumed as making the rights holders *owners* as categorized by Schlager and

Ostrom. Only recently, limited ownership rights were vested in Oromian farmers. However, these owners face a large number of provisions, limitations, and rights attenuations.

There seems to be a pattern in Ethiopia that ruling regimes are reluctant to hand over the power resource of land distribution. Ruling regimes have legitimized this with the historical legacy of the imperial oppression of the rural peasantry although we have seen that the degree and scale of oppression differed significantly between the North and South of Ethiopia. State control is legitimized as historically and socially just. With such arguments, the government seems to find significant support among some segments of rural peasantry. It is based on a "widely spread [...] belief that every Ethiopian should have the right to a plot of land if he/she requires it for a livelihood" (Tekeste Negash 1997, 39).

It is indicative to trace the wide acceptance of this ideal within the rural peasantry as a result of specific experiences of collective ownership throughout the country such as the *rist* system in the North (with its redistribution scheme among *rist* right holders), other forms of collective tenure in the Southern regions of the country (TessemaTa'a 2006, Mohammed Hassen 1990), and experiences under state ownership of land by kings of southern regions (Huntingford 1955). A number of land tenure systems from the South as well as the *rist* tenure system show some resemblance to the current land tenure system and, with some reservations, that of the *derg*, with the exception that the communal *rist* system is replaced by the state's organs – the Peasant Associations. It is evident that the quest for state control over rural land exhibits a long continuity in Ethiopian history (Crummey 2000).

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<sup>16</sup> We follow here the Ethiopian way of citing (Ethiopian) authors. As Ethiopian and Somali names are not based on family or surnames, authors are cited and referenced by their first name followed by their father's name (Yacob Arsano) rather than by their father's name (Arsano).

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