

Rural Land Registration in Ethiopia: Myths and Realities

Mekonnen Firew Ayano

Rural land registration has frequently been recommended as a step forward for developing countries. Registration is conceived not only as a means of clarifying property rights and promoting land markets, but also as a way to protect the rights of women and other vulnerable groups and prevent environmental degradation. This package of advantages was once associated with the land rights of individuals. However, more recently, customary interests have been recognized as important for social peace and as serving local conceptions of justice. In recognition of these objectives, Ethiopia and some other countries of sub-Saharan Africa have formally recognized what are often called “customary land rights.” Ethiopia is cited as a model of this approach in a multicultural setting. This paper shows, however, that serious problems associated with rural land registration have not disappeared. Fieldwork evidence from parts of Ethiopia suggests that customary property interests often go unrecognized. It also shows that the bargaining power of smallholder farmers who rent land to commercial farmers is being reduced. Simultaneously, there is an evident shift in decision-making power from households and communities to the state and officials. The complexity of these matters in practice raises questions about the interpretation of Ethiopian land policy.

Rural land registration has frequently been recommended as a step forward for developing countries. Registration is conceived not only as a means of clarifying property rights and promoting land markets, but also as a way to protect the rights of women and other vulnerable groups and prevent environmental

Postdoctoral fellow, Center for African Studies, Harvard University. This paper is a revised portion of my dissertation for the S.J.D. degree at Harvard Law School (2016). I am grateful to my academic advisor Joseph W. Singer for his support. My thanks also to Siobhán Airey, Girmachew Alemu, William P. Alford, Wossen Ayele, Keith Breckenridge, Grieve Chelwa, John L. Comaroff, Amy J. Cohen, Jackie Dugard, Harrison C. Dunning, Stanley Z. Fisher, Duncan Kennedy, Jonathan Klaaren, Pauline Peters, Desalegn Rahmato, Henry E. Smith, Janin Ubink, and my anonymous reviewers for their comments and suggestions on various drafts of the paper. Special thanks are due to Jane Fair Bestor, Sally Falk Moore, and to my interlocutors in Ethiopia. Professor Moore was an indispensable guide in my efforts to connect my HLS studies to the challenges facing rural localities in my home country and across sub-Saharan Africa. My Ethiopian interlocutors, who cannot be named, provided an invaluable education in the way in which the interplay of local, national, and international forces is driving a program based on inherently conflicting principles in new and unanticipated directions. Thanks are due to Harvard Law School's Institute for Global Law and Policy for a fieldwork grant and for its valuable workshops, where I presented a version of this paper. Mistakes are mine.

Please direct all correspondence to Mekonnen Firew Ayano, Postdoctoral fellow the Center for African Studies, Harvard University; mayano@sjd.law.harvard.edu.

Law & Society Review, Volume 52, Number 4 (2018)

© 2018 Law and Society Association. All rights reserved.

degradation (see World Bank 2003: 69–75). This package of advantages was once associated with the land rights of individuals on the argument that local land customs were anachronistic impediments to the development of a rural economy. However, more recently, local regimes have been recognized as important for maintaining social peace and as serving local conceptions of justice (see Toulmin 2009). Thus, the current policy in many places is thus to register customary interests in land with the hope that this will achieve the benefits that formal title is thought to provide (see Fitzpatrick 2005). In this paper, “customary interests” refers to titles, claims, and interests in rural land that are shaped by local customs and practices.

Policymakers’ receptivity to customary interests can be described as an ideology of “pluralist formalization,” that is, as a commitment to standardize local variations by legally recognizing a multitude of local land customs, cultures, and traditional practices. This pluralism’s key features are captured in a poster in the office of a local official in Ethiopia, where land registration on the new model is well underway.¹ The poster is captioned “The Benefits of Land Certification” and shows an elderly woman dressed in a traditional costume holding up a certificate for her land. On the sides of the certificate appear the following six bullet points in the local vernacular, Afan Oromo: “My land rights are recognized by the law”; “I am nurturing my land and harvesting more”; “I have few land border disputes”; “I can donate, bequeath, rent, or transfer my land without prolonged processes and with little cost”; “I am using technology and farm-extension inputs to increase the harvest”; and “this certificate has confirmed all the rights I have on my land.” On the bottom left of the poster is the logo of the United States Agency for International Development (USAID), which is funding the initiative. On the bottom right is the logo of the local government, along with an image of Oda (a type of ficus), a tree that symbolizes the belief system of the community. Anyone familiar with Ethiopian demography and literacy rates would understand that the woman represents an illiterate woman of the local Oromo ethnic community.

Land is the main source—often the sole source—of income for rural dwellers and an expression of civic life. Thus, it is said, “to have rights over land [in rural societies] is to be human: ‘To be landless is to be sub-human’” (Dunning 1970: 271). Involving predominantly rain-fed smallholder farming, agriculture accounts for about 50 percent of Ethiopia’s Gross Domestic Product and 85 percent of the employment (Tenaw et al. 2009: 12). Crop production, however, has always failed to meet the basic needs of the

¹ Oromia Bureau of Rural Land and Environmental Protection, Adami Tulu Jido Kombolcha, Ethiopia, December 2014 (copy with the author).

population. Ethiopians are among the poorest in the world, with a large number of people depending on emergency food aid.

Donors, consultants, and some academics attribute the dire situation largely to the rural dwellers' lack of secure land rights (Teferra 2005: 45–46). ARD, Inc. (2004: IX), a consulting firm in Burlington, VT, which was commissioned by the USAID to assess Ethiopia's land policy in anticipation of reform, reported: "insecurity of land tenure restricts rights in land, reduces incentives to productively invest in land, and limits transferability of land. In turn, these pose significant constraints to agricultural growth and natural resource management." Registration is conceived to address these problems and is expected to promote land markets, reduce land disputes, promote the rights of women and vulnerable groups, and prevent environmental degradation.

The notion that land registration can provide these benefits is not a new one. Explaining the "private" and "public" functions of registration, a classic treatise on the subject maintains that registration enables the owner or occupier to conduct safe, cheap, and quick land transactions and allows governments to make sound development plans (Simpson 1976: 3). De Soto (2000), a Peruvian economist who argued that the poor inhabitants of developing countries are rich in assets, but that they lack the formal titles—documentary representations—necessary to convert assets into productive capital, recently made this idea profoundly influential by emphasizing credit market potentialities of formal land titles. A wide range of actors—lenders, aid organizations, governments, and the academy—found the argument novel and promising (see Riles 2011: 5). However, the outcomes of land registrations² have never materialized in sub-Saharan Africa (Sjaastad and Cousins 2008).

A solid body of literature theorizes and documents the failure of efforts to register rural land in sub-Saharan Africa. A leading reason for the failure concerns the incapacity of states to accomplish grand social change through legislation. The incapacity arises from governments' lack of sufficient human, financial, and technical resources to assert legal and regulatory authority over individuals, groups, and local customs across a number of social fields. Moore (1998) shows how formalization initiatives in several African countries were frustrated by the unorganized actions of individuals. In most cases, land registries failed to provide authoritative records of titles and transactions and quickly became

² Hernando de Soto's proposal is generally referred to as "titling," because of his emphasis on the collateral potentialities of formal titles. But land registration can be Title Registration or Deeds Registration, also called Recordation, and there is no decisive difference between them. For further discussion of the difference between the two forms of registration, see Cooke (2003): 2–13.

outdated as a result of poor planning, the lack of skills of those doing the recording, and the flouting and manipulation of law by officials and elites (see McAuslan 2000). In regard to the role of experts, a group of Africa-based researchers reveals that African states' land registration practices are shaped by "a set of professions (planning, surveying, conveyancing) that generally work in the broad interests of the middle class rather than the poor majority" (Hornby et al., 2017: 10). Sikor and Muller (2009: 1309) point out that land registration in Africa is never a "simple recognition of 'what's out there' by the state", and that it "has often created and exacerbated conflicts over land and aggravated inequalities in access to land rather than the reverse". Atwood (1990: 666) concludes that land registration in African rural settings "will not have the impact predicted for it" because:

[T]he predictions are quite often based on deductive conclusions drawn from a simplistic model of rural land rights and their impact on farmer decision making. This model is inapplicable to many African situations. It overlooks important, informal, extra-legal institutions and practices which are for many people cheaper and more reliable methods of ensuring land tenure security than bureaucratic, legally recognized land registry systems.

Another set of reasons concerns the political stakes and distributive outcomes masked by ideologies and suppositions about law, legality, and the relevance of a particular legal ordering to development. Kennedy (2013) points out that the singular recipe for "clear and strong" property obscures the serious distributive and political stakes involved in law reforms, as well as the possibility of alternative property arrangements. According to Nyamu-Musembi (2007), efforts to formalize land rights not only wrongly equate legality with formality and ignore the evidence of plural legalities in African rural settings, they also disempower the poor, thereby entrenching existing gender and other social inequalities. Scholars of law and society have long been familiar with the distributive consequences of formal registration in the law of property. Demogue (1916: 430) noted in the early twentieth century that formalities of property favor one person and menace another. Noting that formal property registration favors dynamic security and security of transactions, Cooke (2003: 53) observes that registration "is rather selective in what it reveals, and its selections are aimed at its most favored viewer, the purchaser." In their recent study of land rights in East Timor, Fitzpatrick and McWilliam (2013) show that simple rules enacted to standardize diverse local land customs become complex from the standpoint of local communities and detrimental to communities' interests.

These sociolegal insights raise questions about land registration reform, that is, the idea that standardized legal rules regularize local variations and produce predictable outcomes, and that, once registered, customary interests in land become clear and secure. Building on these insights, this paper analyzes the problems of reconciling standardized national law with the local variations of land customs under the ideology of pluralist formalization. The analysis highlights the difference between legislative aims and social outcomes, and the difficulty of implementing land registration in African rural settings.

Ethiopia, a country of more than 80 ethnic groups and multitude of local land customs, is an important case for the current approach to land registration and pluralist formalization in sub-Saharan Africa. The scope of the registration now underway in Ethiopia is unprecedented in the country's history and is held up as a model of how land registration should occur elsewhere in Africa. Deininger (2010: 215), an economist at the World Bank, asserts that the Ethiopian experience has turned the "conventional wisdom on its head" by showing that registration can be effective in African rural settings and that its benefits can be reaped "even in an imperfect policy environment".

This paper shows, nevertheless, that problems associated with rural land registration have not disappeared. Fieldwork evidence from parts of Ethiopia suggests that customary property interests often go unrecognized. It also shows that the bargaining power of smallholder farmers who rent land to commercial farmers is being reduced. Simultaneously there is an evident shift in decision-making power from households and communities to the state and officials. The complexity of these matters in practice raises questions about the interpretation of the Ethiopian experience, and the benefits of formalization of rural land rights more generally.

Part two of the paper discusses my research method. Part three explains the pluralist ideology and its legal expressions in the Ethiopian context, while Part four presents abbreviated accounts of fieldwork evidence given by select informants showing the gaps, tensions, and disconnections that mar the Ethiopian land registration initiative. Part five looks at the problems of rural land formalization from the angle of political economy—the interests and ideologies of stakeholders in the registration initiative.

Research Methods

The paper draws on fieldwork conducted in the rural areas of Dugda and Adami Tulu Jido Kombolcha smallholder districts and Miyo district in the Borana pastoral community of Ethiopia

during 2013–2015. The research aim was to try and see how the new approach to land registration was working, how it affected people on the ground, and the dilemma faced by a government that wants to standardize its laws but must accept the fact of local variations of circumstances. The research was not motivated by a particular ideological commitment and was not intended to make an anti-official case. Initially I conducted formal interviews and questionnaires with officials, experts, and rural dwellers to gather information about the implementation and outcomes of the registration. But it soon became clear that there was no possibility of collecting reliable quantitative data because in formal interviews and questionnaires the informants were reluctant to share views and experiences that departed from the officials' narrative.

One of those reasons was a political control by the government. Through the local cells of the ruling party, the officials assigned an agent for every five members of the rural dwellers. These agents helped communicate the government's agenda and acted as lookouts and control apparatus in the rural settings (see De Fryetas-Tamura 2017). People were aware of the government's intentions and expectations and responded to questions about the land registration in a style and vocabulary that were strikingly similar to those used in official pamphlets. They were wary of what they talk about to whom due to the ruling political party's officials who watched over contacts that residents might have.

In addition to this political control, the rural dwellers did not easily disclose information about certain matters because of cultural and moral sensibilities. For instance, people often hesitated to tell me how many children they had, how much cattle they owned, the size of their plots of land, or how much they harvested. They had little desire to give such information because of concerns about taxes and fees that the government officials might charge. Furthermore, some people were familiar with research connected to aid and development projects funded by donors in the area. A few men had learned the "expertise" considered necessary to give interviews, and researchers were steered to them rather than to ordinary individuals. The "experts" as well as ordinary individuals typically asked whether a government or aid agency had funded the research, and whether aid would be forthcoming. These "experts" were particularly keen to be interviewed because of the apparent prestige and the token of appreciation expected in such circumstances.

Accordingly, I shifted to ethnography in the form of open-ended interviews, personal and in-depth discussions, and participant observation with about 50 informants from among the rural dwellers and several others from among community elders, village administrators, officials operating land registries, judges, and

public prosecutors. This approach furnished data and insights from the standpoint of, as Riles (2011: 11) quoting Geertz's well-known expression puts it, "the ant's eye view" instead of "the bird's eye view." It conveyed more complicated experiences and views about the registration initiative than the reports of the government and donors suggested. For instance, in-depth personal discussions revealed the experience of deep tensions and rivalries between civil servants and donor-hired consultants at the Dugda district's office of land registration arising from difference in their benefits. The responses I received to my questionnaires and formal interviews suggested that the relations were amicable, whereas personal and in-depth discussions revealed that the civil servants actually resented the fact that they were paid a substantially lesser sum than the consultants. The consultants were recent graduates of vocational schools in the fields of surveying and planning. Their offices were well furnished with stationery and computers, although the machines seldom functioned due to frequent power outages. The civil servants had various training and work experiences, and shared poorly furnished office rooms.

Although ethnographic evidence often raises questions of validity that policy-oriented research does not face because of its seemingly verifiable quantitative data, ethnography helps to overcome the political and cultural factors that constrain the process of gathering reliable quantitative data in the form of questionnaires and formal interviews. Further, ethnographic evidence can be more robust and generalizable when the researcher engages in a sustained and intensive study built on ongoing relations of trust with informants (Riles 2011: 11–14). This paper presents evidence gathered, analyzed, synthesized, and interpreted following sustained and engaged fieldwork for my dissertation for more than 9 months over a period of 2 years. I was able to make key local contacts with ease, to develop relations of trust, and to identify other informants, cases, archives, and sites through referrals from my initial contacts. There were no barriers to understanding the local context and culture, or to communicate with the informants and build long-term relations of trust. Afan Oromo, which I speak fluently, was the local language of the communities where I conducted my field research.

The Pluralist Ideology

Today, few organizations working in the area of rural land in developing countries uphold policies that could be described as "one-size-fits-all." The phrases in fashion are "local context," "pro-poor growth," "environmental sustainability," "gender

justice,” “indigenous peoples’ rights,” and “local participation” (African Union, African Development Bank, and UN Economic Commission for Africa 2010). Experts in the field accept the view that neither the market nor the state alone can cure problems of land and rural poverty (see Boast 2010: 145–66). They no longer view local customs as obstacles to development.

The World Bank’s policy on rural land and economic development, a paradigmatic instance of this approach, prescribes “formal recognition” of customary property interests “instead of premature attempts at establishing formalized structures” (World Bank 2003: xxvii). The *modus operandi* of “formal recognition” is registration. Significantly, this was also the typical mode of registration used in the privatization (individual titling) initiatives during the so-called “Structural Adjustment Program.” But whereas in the past, the officials and civil servants from central governments did the registering (see Dickerman et al. 1989), nowadays development agencies recommend decentralized and local participatory implementation of land registration in the form of group titling, individual/household titling, or a combination of these approaches (see Fitzpatrick 2005).

Pluralist formalization is a function of the rising currency of human rights and multiculturalism in recent years (see Kennedy 2006: 63–70). In the field of land registration, pluralism combines two competing ideological visions. One is liberal pluralism, specifically the vision of multiculturalism that has become, as Kymlicka (2007: 17–23) points out, a “global phenomenon.” It encompasses progressive notions of rights, such as the rights of indigenous peoples, self-determination, and shared development. Each of these notions revolves around the recognition and protection of land rights of indigenous peoples and other cultural communities. The other vision encompasses notions of a free market economy, such as the supposed efficiency of land markets, foreign investment, decentralization of the state, and alienable land rights—a conception of land rights as primarily being an economic asset than a cultural and political institution. This “curious ‘potpourri’ of pro-poor, pro-participatory approaches” (Peters 2004: 270) attempts to combine existing particularism and imposed uniformity.

In theory, the pluralist discourse marks a departure from the previous modernization ideology. The notions of rights and economic justice, nonetheless, are largely discursive rationalizations. Contrary to what Cohen (1933: 131) opined a long time ago, the practice of law and development has not outgrown “the superstitious awe of the printed word and its magic potency.” The rural land formalization agenda still harks back to the idea that law can have a meaning independent of its social context. The reforms in practice are geared toward market-oriented outcomes and

imposed uniformity (see Lahiff et al. 2007). The next sections discuss this ambition in the context of Ethiopia.

The Pluralist Approach in Ethiopia

The approach taken by governments of Haile Selassie (circa 1930–1974) and Mengistu Hailemariam (circa 1974–1991) in regard to law and development exemplified the modernist vision. These leaders epitomized what Scott (1999: 4) calls “high-modernist” ideologues. Haile Selassie was an ideologue of the market. His government sought to create a uniform regime of property based on a modernization philosophy (Singer 1970). Hailemariam was an ideologue of planning. His government, also known as the “Derg” which means “council,” sought to create a uniform regime of property suited to a “communist” ideology (see Clapham 1988).

Both governments had faith in the power of law to change society. They adopted a centralized uniform law that was intended to obliterate the multitude of local customs and practices in the name of national unity and development. Under Haile Selassie, Ethiopia adopted the Civil Code of 1960 and five other codes in the spirit of capitalist modernization (see Singer 1970). Under Hailemariam, the Public Ownership of Rural Land Proclamation of (RLP) announced “collective ownership of the means of production.” In both cases, the approach to rural land was what may be called “centralized formalization.” But neither government succeeded in effecting the sweeping changes that their reforms were intended to achieve in the face of tenacious local customs and practices (Cohen 1987: 148).

Since the collapse of Hailemariam’s government in 1991, the party in power, the Ethiopian People’s Revolutionary Democratic Front (EPRDF), has promoted a pluralist vision. The constitutional documents it has adopted are founded on a multiculturalist vision of Ethiopia, “a nation of nations” (Nahum 1997). State institutions have been restructured on the basis of ideas of federalism and the human rights of local communities, including the rights of ethnic communities to promote their cultures, languages, and traditions, and even to secede from the federation (FDRE Constitution : Art 39). The “command economy” policies of the previous government have been replaced with market-oriented agricultural policy (Chole 2004: 192–208, 261–91).

The multiculturalist vision was first declared in a document called the “Transitional Charter of 1991.” With the mediation of Western diplomats, the rebel forces that overthrew Hailemariam’s government negotiated its adoption (Cohen 1992). The Charter’s overriding political goal was to address the so-called “question of

nationalities,” understood to mean the lack of equality among ethnic groups (Zewde 2014). The Charter’s vision was enshrined in the Constitution adopted in 1995. A federal structure consisting of nine states, each organized largely along ethnic lines, and the rights of nationalities to self-determination, including the right to secession, was enacted (FDRE Const. 1995: Art. 39, Art. 47). The preamble of the Constitution commences by identifying its makers as “We the Nations, Nationalities, and Peoples of Ethiopia,” as opposed to the conventional “We the People” common in other constitutions. This arrangement is conceived, according to the EPRDF officials, to maintain “unity in diversity.”

Legal Expressions Concerning Land

When the Constitution was drafted in 1994, there were two proposals on the table: to privatize land and to retain the state control introduced by the RLP (Constitutional Commission Minutes 1994). The proposal that resonated with the then contemporary mainstream view prescribed a regime of private and alienable property rights in land. The rationale was that such a regime would promote private investment and land productivity. But the drafters of the Constitution rejected it with respect to land and natural resources. They reasoned that unequal land distribution was the main factor in creating the unequal relations among ethnic communities that sparked the 1974 Ethiopian revolution (Yemane-ab 2016).

A regime of private and alienable land, EPRDF leaders argued, would revive the historical rift between the “center,” understood to mean ethnic groups dominating the economy and politics, and the “periphery,” marginalized ethnic groups (see Markakis 2011). If such a regime were adopted, individuals and communities from the historical center would take advantage of the communities of the periphery due to the different economic and social conditions among the groups and the relative scarcity of fertile agricultural land in the areas of the center. For most communities of the periphery, the dominant ideological constituencies of EPRDF (see Haile 1996), any proposal for a regime of private property in land triggered memories of the baneful past. Despite efforts at persuasion by Western financial institutions, the influential figures in the constitutional drafting bodies held that the land redistributions and state controls introduced by the RLP were too dear to be traded for privatization (Minutes of the Ordinary Sessions of the Constitutional Commission 1994).

Thus, the process of drafting the constitutional property clauses was aimed at striking a balance between the two views. Recognizing private property in the spirit of a market economy, a

clause stipulates that: “Every Ethiopian citizen has the right to the ownership of private property” (FDRE Const.: Art. 40). “Ownership of private property” is defined as “the right to acquire, to use and, in a manner compatible with the rights of other citizens, to dispose of such property by sale or bequest or to transfer it otherwise” (FDRE Const.: Art 40). The term “private property” is defined as: “any tangible or intangible product which has value and is produced by the labor, creativity, enterprise or capital of an individual citizen, associations which enjoy juridical personality under the law, or in appropriate circumstances, by communities specifically empowered by law to own property in common” (FDRE Const.: Art.40(2)). The government is charged to ensure “the right of private investors to the use of land on the basis of payment arrangements established by law” (FDRE Const.: Art. 40(5)).

Addressing the “question of nationalities,” another clause stipulates that ownership of land and natural resources is vested in the state and in the peoples; that land is the common property of “nations, nationalities and peoples”; and, that land shall not be subject to sale or other means of exchange (FDRE Const.: Art.43 (3)). This was the most debated constitutional clause among politicians and scholars (see Abegaz 2004). The first element of the clause has been widely understood to mean that ownership of land is vested exclusively in the state (Adal 1999: 168). Hence the conventional folk view that “*maret yemengist new*,” “land belongs to the government,” in Amharic. No clear official interpretation has been rendered of what the phrase “land is the common property of the nations, nationalities and peoples” means. That land shall not be subject to sale or other means of exchange means that “land cannot be sold by anyone and is therefore not a marketable commodity” (Nahum 1997: 161).

Despite this ban, however, informal sales and exchanges of land, often disguised as sales of buildings and plants on the land, bequests among family members, and rentals are ubiquitous, especially in rural villages close to towns and cities and other localities where land is scarce (Gebreammanuel 2015: 110–16). Since Article 40(3) does not limit private ownership or the commercial alienability of immovable things and permanent improvements made on land, rural dwellers often sell land under the pretext of a sale of the immovable things and improvements they have added to the land.

Two further constitutional clauses, in particular, envision egalitarian access to land and protections against the eviction of rural dwellers. The first of these clauses stipulates that: “Ethiopian peasants have the right to obtain land without payment and the protection against evictions from their possession” (FDRE Const.: Art 40 (4)). The second clause stipulates that “Ethiopian pastoralists

have the right to free land for grazing and cultivation as well as the right not to be displaced from their own lands” (FDRE Const.: Art. 40(5)).

These two clauses are the least effective. The peasants’ and pastoralists’ rights to free access to land envisage, given the virtual absence of unoccupied land suitable for agricultural uses, redistributions of the lands held by farmers to landless peasants and pastoralists free of charge. However, there has not been any serious effort to redistribute rural land over the last two decades, save for sporadic and politically motivated ones (Ethiopian Human Rights Council 1997), because of the small attention that policy makers give these rights. This is partly due to the rising popularity of “market competitiveness,” “security of property,” commercial farming, and the ideology of neoliberalism more generally.

To be sure, the redistribution of rural land to implement these rights can be an intractable challenge. The rural population, approximately 80–85 percent of the about 100 million national population, is increasing. Agricultural land, consequently, has become scarce, and an increasing number of rural dwellers, especially youth, are becoming landless. The nonagricultural sectors of the economy are not growing fast enough to employ the rural landless. Under these conditions, land redistribution could lead to the fragmentation of landholding and create uncertainties and instability.

The right to protection against eviction is eviscerated by officials’ expropriation of rural lands for urban development, commercial farms, plantations, industrial-zones, and other commercial enterprises (see Gebremichael 2016). According to the statutory law, officials can expropriate rural land for “any better development purpose,” with compensation paid only for crops, plants, and similar improvements on the land (Expropriation Proclamation : Art. 3.1). This policy has threatened the lives and livelihoods of rural dwellers, especially after a global wave of agricultural land deals began to occur after the 2008 price spike in global food and commodity markets (see Shepherd 2013).

In the last 10 years alone, Ethiopia has leased out more than 3 million hectares of farmlands—an area roughly the size of Belgium—to national and multinational corporations for large-scale commercial farms and mega plantations (see Rahmato 2014). Although only a small fraction of this land has actually been developed (Burgis 2016), according to a document from WikiLeaks (2009), the national government officials plan to negotiate and offer about 3 million hectares of additional rural land for such leases.

Statutes dealing with land are also marred by competing visions. The rules governing horizontal property relations, such

as classifications of goods, nuisance, possessory actions (actions to enforce possessory right), petitory actions (legal actions to enforce ownership rights), and transfers and acquisitions of immovable properties stem largely from the rules set forth in the Civil Code (see Abdo 2008). But the statutory rules governing the ownership and alienability of land and the resolutions of land disputes stem from the state ownership regime set forth in the RLP (see Crewett et al. 2008: 15–17). Nominally, state governments wield the power to enact laws and to regulate land use (FDRE Const.: Art. 51(5)). However, the content of the laws is the same across the states, because the central authorities exercise *de facto* control over local authorities by means of the political party structure (see Abbink 2009). Thus, laws governing expropriation, dispute resolution, regulations of land use norms and practices, and the registration of rural land are more or less the same across the country.³

The Rural Land Registration Initiative

Ethiopia's land registration initiative is one of the most ambitious efforts to standardize local land customs and practices. It was cast in broad policy terms as an initiative intended to secure the land titles of smallholder farmers and pastoralists, to encourage gender equality, and to stimulate the conservation of land and natural resources (Rahmato 2009a: 181). A general framework for implementing the program was formulated in a statute enacted by the federal government (Rural Land Administration and Land Use Proclamation 456/2005), and state governments adopted laws and regulations consistent with the proclamation to carry out the registration of all rural lands within their respective territories. Unlike the system of registration envisioned by the Civil Code (see Civil Code of Ethiopia 1960: Book III, Title X), which was to be implemented by expert civil servants, the current system of registration has been implemented by lay members of communities through localized processes anchored in villages and carried out in several rounds and phases. The first round of the first phase of the program, covering the areas occupied by smallholder farmers, has been completed in most parts of the country (see Deininger et al. 2008).

Local administrators registered plots using traditional tools such as ropes to survey, measure, and record information about

³ See, for example, The Proclamation Issued to Provide for the Revised Rural Land Administration and Use of the Amhara National Regional State of 2006, Proclamation No. 133; The State of Southern Nations, Nationalities, and Peoples Land Administration and Use Proclamation of 2007, Proclamation No. 110; The Proclamation to Amend the Proclamation No. 53/2002, 70/2003, 103/2005 of Oromia Rural Land Use and Administration, Proclamation No. 130/2007.

the size, location, borders, use and names of proprietors of plots of land. The register was supposed to include encumbrances, such as easements and covenants, although that has not occurred in practice. In the districts where I conducted field studies, a committee consisting of five people called “*Kore Shalagi Lafa*” (Committee of Land Survey) was constituted for every village to survey, measure, and record such information. The members were elected by simple majority vote of the village community for a term of 4 years, renewable for another such term. Every such committee had a chairperson and secretary, both of whom had to be literate as they were charged with the task of making written records.

Information collected through surveys was recorded in a template distributed by the Central Bureau of Rural Land and Environmental Protection to its local offices. The template consisted of rows and columns in which information about the size, borders, uses, and names of proprietors of plots were recorded. The recorded information was submitted to the local office of Rural Land and Environmental Protection, and that office issued certificates that bore the information submitted to it by the committee.

If a plot was a common holding of spouses, the certificate bore the names of both spouses. Plots of land that belonged to the community as a whole, such as open fields and common grazing areas, were to be registered as “common land,” and certificates in respect of such plots were to be deposited with a person elected by the community to keep in trust for the community. Both the committee and the office kept registers that contained the information collected by the committee and submitted to the office. The registers were to be used in case of any inaccuracies, disputes, and disagreements that might arise.

The second round of the first phase, which deploys modern tools of information technology such as the Geographic Information System to upgrade and expand the databases developed during the first round, has been launched in some areas where the first round has been fully completed. The tasks of measuring and recording land information in this round have been outsourced to short-term consultants. According to the government’s plan, a second phase of registration, which will cover areas of land used by pastoralists and semi-pastoralists, will be forthcoming.

Gaps, Tensions, and Disconnects

Although the government and donors tout the outcomes of Ethiopia’s land registration initiative and often cite it as a model of how land registrations should occur elsewhere, serious

problems associated with rural land registration have not disappeared. This section presents fieldwork evidence that shows that customary property interests often go unrecognized. The evidence also shows that the bargaining power of smallholder farmers who rent land to commercial farmers is being seriously reduced. Simultaneously, there is an evident shift in decision-making power from households and communities to the state and officials.

Inconsistencies of Land Customs and Registration

The register of property being implemented in Ethiopia has been crafted in a set of templates of fixed rows and columns to record information about plots (farmland, residence, common area, and location), the corresponding title (use right, leasehold), and the subject of the title (use-right holder, leaseholder, and spouse or spouses). It is premised on what Coldham (1978: 98) called a “dangerous assumption,” which is the theory that customary interests are congruent with formal land rights. Although the templates are uniform across the country and the register is supposed to remain stable and a fixed source of authoritative information, customary property interests in rural land are local, overlapping, and embedded in changing social relations (Berry 1993). Thus, what the development agencies prescribe under the rubric of “formal recognition” of customary property interests actually changes those interests, leading to complex outcomes instead of standardizing local variations.

Some general observations about Ethiopia’s rural society and land are important to illuminate the lack of congruence between registration and customary property interests and the complex outcomes of registration. The rural dwellers consist mainly of communities of sedentary farming, mixed farmers, pastoralists, and hunter-gatherers organized around an administrative locus of village, known as “Kebele,” that the Derg government constituted through its infamous “villagization” program (see Pankhurst 1992).

Subsistence farmers, who constitute 90 percent of the rural dwellers, typically have four types of land: homesteads, farmlands, semi-common, and common lands. The homesteads are household residences, while farmlands consist of plots dispersed across the entire area of a village. The 1975 rural land redistribution was made so that each household would acquire plots assessed not only in terms of size but also fertility, resulting in dispersed plot distributions (Rahmato 2006: 3–11). The average household cultivates less than 2 hectares of land, fragmented into about 2.3 plots (Gebreselassie 2006: 4). The semi-common lands are open to all members of the community or subgroups of the community at

certain times and for certain purposes, such as grazing calves and cows, funerals, and other social functions. The common lands are generally open to all members of the village.

Kebele administrators usually consist of a chairman and council comprising a few individuals who are nominally elected from among the members of the village. In theory, a Kebele is part of the formal government, and the administrators are supposed to govern on the basis of official policies and laws. Taken at face value, this and the official rules vesting “ownership” of land in the state might suggest the absence of customary property interests in land. However, administrators act on the basis of local customs and norms as well as local conceptions of the official laws. Disputes over land among rural dwellers are typically submitted to elders in the neighborhood, and only if the elders fail to resolve them are they submitted to the administrators and courts.

Pastoral communities constitute about 10 percent of the entire population, but they occupy or claim title to about 61 percent of the landmass (see Reda 2014). Even though an area may be vacant at a given time, a community has territorial claims. Formal Kebele nominally exist in the pastoral and hunter-gatherer communities, which also have other parallel and more organic social structures that fulfill administrative and judicial functions.

The rural land regimes are quintessentially local, changing, and embedded in social relations governed by a hybrid set of official and unofficial regimes (see Reda 2014). Communities that change their customs by deliberate design are common. The Borana pastoral community in southern Ethiopia, for instance, “spend much of their time reviewing their culture (*aadaa*), with deliberate intention to modify their customs and, if necessary, introduce new laws” primarily through the Borana *Gada* institutions, an endogenous age-grade-based social structure engaged in a continuous process of norm-making and revision (Bassi 2005: 103).

Borana land customs are connected to water, labor, and other elements of the social relations. The connection among customs, authorities, and practices governing water wells (or boreholes) and land among the Borana is important in understanding the extent of local variations and the complex problem of implementing a standardized scheme of land registration.

The customary authorities and practices governing Borana lands, as well as water wells, are set by traditional authorities ranging from “*Abba Olla*” (“father of village”) all the way up to the general assembly of the entire Borana community, called “*Gumi Gayo*” (general assembly), within the broader traditional institutions of *Gada* (see Dhal and Megerssa 1990). The Borana customs and practices regarding boreholes involve different authorities, norms,

customs, and practices. All adult males of a village community dig boreholes collectively, but the person who is said to have spotted the location first, known as “*Abba Ela*,” “the father of the well” in the local language, Afan Oromo, has certain exclusive rights and privileges. The borehole is named after him in perpetuity and his (and his heirs’) cattle have priority in accessing water from the well. He wields a venerated authority over decisions regarding the upkeep and cleaning of the borehole, establishes priority of access to the boreholes, and imposes collective contributions of labor and money for the upkeep of troughs and the surrounding areas. The authority to regulate the number and sequencing of the herds that access the borehole belongs to another person called “*Abba Herega*,” “the father of the accounts.” These two traditional authorities govern the use of boreholes within the broader framework of the *Gada* structures that also govern the access and use of lands.

Rights and social relations over boreholes and the rights and social relations over land are deeply interconnected, but the law envisions the registration of all rural land with the assumption that the right to access the boreholes can be isolated from land rights and treated as an easement. Treating access to the boreholes as easement will have significant implications. It will impose a binary legal relation and a hierarchy between ownership and encumbrance in Borana legal culture, where property relations are nuanced and complex. This could disrupt the existing relations among the various authorities in charge of the boreholes, those in charge of lands, and the public with respect to the governance and use of land and water. It can also ossify existing entitlements and power relations.

Another complex problem concerns the changing local land use and social relations because of migrations of individuals and households across communities. Movement usually occurs from a densely populated to a less densely populated area. While households in sedentary communities where land is scarce move to pastoral and hunter-gatherer areas where land is less scarce (see Watson 2006), communities in the latter areas are also shifting to livestock herding and sedentary farming economies (see Gebre 2004). These processes shape (and are shaped by) population growth, conflict, drought, ethnicity, the state, aid organizations, and combinations of other natural and man-made factors (Helland 2002: 47–66). Similar factors affect local land regimes and social relations across Africa, and the changes involve conflict, cooperation, and redistribution of power and property among social groups (see Boone 2013).

The question then is how registration affects these diverse, changing, and overlapping land rights and social relations. In the

particular case of the Ethiopian initiative, a uniform template of registration formulated by central authorities cannot accommodate the particularism of diverse local land customs and practices. Although, as Miskin (1950) notes, it is theoretically possible to devise a scheme of registration that fits the idiosyncrasies of a local regime, designing one to suit every local regime would result in multiple systems of registration. Not only would this be costly, but the registration would be superfluous because local land regimes are internally formal (see Smith 2009: 7–12). Registration can never be a merely formal recognition of customary property interests. It creates new property, forms of authority, and social relations that may be incompatible with the existing structure of interests, powers, and privileges of the myriad of traditional authorities. In short, customary property interests are not just a set of property rights, but also a set of norms about how property rights change, including procedures for such change. And it is hard to adequately capture each and every customary property interest and to ensure that ongoing shifts in a custom are reflected in the register of properties.

The constitutional limitations on the alienability of land rights, discussed in the previous section, also raise the question of how official rules affect diverse and flexible local land regimes. Although the practical significance of constitutional rules is limited, the limitations can potentially lock into place the flexibility of land rights under local customs and practices. If registered interests in land in rural areas were capable of being alienated through local market and social exchange processes, social change could be accommodated. The next sections discuss the social impact of land registration in more detail.

The Failure to Recognize Customary Interests

The customary property interests of some individuals were sidelined during the initial processes of registration and subsequently in the course of deciding disputes over land titles. The main reasons were the uniform mode of the registration and the shift made by judges toward applying the doctrine of indefeasibility of title certificates strictly—certificates are conclusive evidence of title (see Cooke 2003: 99–122). Despite their statist ideologies and formal laws, courts under the government of Haile Selassie and the government of Mengistu Hailemariam tolerated customary practices and transactions, creating an avenue to recognize and enforce interests in land arising from local customs and practices.

The courts' approach changed in 2008, when the highest court, the Federal Supreme Court, rendered a precedent (*Gebrehiwot v. Dubarge et al.*) requiring registration as a precondition of

the validity of contracts pertaining to immovable things. It thus effectively outlawed the recognition and enforcement of real rights to immovable things that were not registered (Heroui 2008). By reinterpreting Article 1723 of the Civil Code (Heroui 2008), the court ushered in a silent but fundamental shift in the approach to customary practices that is in tension with the official pluralist vision—the recognition of customary interests in land. Although the precedent was rendered in a case that involved the unregistered sale of a house, lower courts in rural areas have adopted the new approach, especially in the areas where the program of registration has been implemented.

The land registration, coupled with the courts' approach to the indefeasibility of formal land title, has had a perverse impact on the customary interests. A number of cases confirm that the registration disadvantages individuals and communities that have relatively limited access to the formal laws and government services (see Quisumbing and Kumar 2014). The following is an account of one such case.

Meskerem was a young woman of about 20 years old.⁴ She lived in a rural village on the outskirts of Batu town, Oromia. On the day of my interview with her, she was at the district court along with her mother to hear the outcome of litigation between her and her husband about their divorce and division of their common property. The property consisted of chattel, grains, and a plot of land. Meskerem did not have a lawyer and neither did her husband.

The court validated decisions that had been rendered by a council of local elders on the divorce and division of grains and chattels, but it rejected Meskerem's claims with respect to a piece of farmland. She believed that her in-laws had given her the land as part of "handhura," a local customary practice whereby in-laws donate property to a newlywed couple. By the customary practice of the community, the piece of land was a common marital property, and a share of it belonged to her. But the court reasoned that a certificate of registration was conclusive proof of title, and that since the particular land she claimed was still registered in the name of her in-laws, she had no enforceable right to it. If she had had the gift registered with the office of registry in her name or in the name of her husband, the court might have enforced her claim. Meskerem's mother explained that to ask one's in-laws for a transfer of registration, which involved travel and other processes, would create a serious breach of trust between a woman and her in-laws.

⁴ Interview with Meskerem K., Resident of East Shoa Zone, in Batu Town (December 13, 2013).

According to the judges of the district, courts relied on certificates for proof of title except in cases pertaining to lands in areas where the registration program had not been undertaken.⁵ They would not enforce claims of unregistered titles or customary interests unless the plaintiff impugned the validity of the certificate on the grounds of fraud, duress, or mistake. These are the only legally permissible grounds for a court to invalidate a certificate of land title.

Meskerem's case raises two related questions: How often do customary interests go unrecognized, and do the outcomes of registration in terms of clarity and security of land rights in the general scheme of the economy and society justify the failure to recognize customary interests? Meskerem's was not an isolated incident. My fieldwork revealed a number of cases of selective legalization, the recognition of some interests but not others. Similar phenomena have been observed in other African settings (see Coldham 1978).

The second question concerns deeper issues because a cost-benefit formula presumes commensurability of incommensurate values, that is, the idea that we can measure the cost and benefits of registration by attributing a monetary value to the outcomes of registration. To conclude that the benefits of registration outweigh the problems faced by the people whose land rights go unrecognized, we must assume that the benefits and the losses can be quantified and compared. However, not only this assumption raises profound moral and political questions about the distribution of property and power. The comparison and normative conclusions drawn from the cost-benefit analysis, often on the basis of data gathered in the form of opinion polls, also raises questions about accuracy and reliability. Furthermore, the idea that a higher benefit gained by the majority justifies losses sustained by a minority is problematic, especially from the standpoint of human rights.

A related point concerns the efficacy of the formal law. If the law of registration and the doctrine of indefeasibility gain traction, local customs may change in a way that conforms to the law. If customs conform to the law, people like Meskerem who acquire land rights through local customs will be able to get their property interests registered or that the customs will cease to function so that marriage arrangements like Meskerem's will not entail a gift of land rights. Nonetheless, even if the land customs conform to the law, the failure to recognize customary interests belies the pluralist ideology—the belief that registration, among other things,

⁵ Group Discussions with judges of Adami Tulu Jido Kombolcha District Court, in Batu Town (December 14, 2013).

recognizes customary interests and promotes the rights of women and other vulnerable groups. Land registration is likely to change the land customs and practices, particularly the customs of dowry and other traditional practices that involve the sharing of land and land-related resources in relationships characterized by trust and reciprocity.

But the outcome could also be ineffective formal laws, as indeed was the case with the Civil Code. The ineffective formal law would mean, among other things, that the courts would not apply the doctrine of indefeasibility of certificate of title, and that people like Meskerem will be able to enforce their land rights despite the lack of a certificate of registration. Indeed, ample researches show that legislative efforts to standardize local land customs in sub-Saharan Africa rarely produce the intended outcomes (Moore 1998).

Meskerem's case points to a further basic question about land registration: Having a certificate of title does not guarantee that land registries and courts cannot manipulate the land records and the rules and standards to attain a particular outcome. Even if the formal law becomes effective, and people like Meskerem get their customary interests registered, outcomes of land disputes may not be particularly certain or predicable. Instances where courts and land registries annulled certificates of title for legal, illegal, and nonlegal reasons were common.

The following is a land dispute that involved registration and decisions by courts, committees, and combinations of official legal rules, and unofficial regimes illustrating how the registration can be a selective legalization of rights and outcomes of disputes over registered land can be protracted and costly.

An elderly couple in the village of Kal'o Kabit of Dugda district rented a parcel of their farmland to another person (the Renter).⁶ The rental agreement was neither put in writing nor registered by the administrators. The Renter had been cultivating the land for about 8 years and was able to get it registered in his name during the first round of the land registration program. When the couple became aware of this and complained about it, the local office of land registry rejected their request to cancel the certificate and to transfer the registration to their names. The couple then sued the Renter in the trial court, which also rejected their claim. The couple appealed the decision to the appellate court, which was located about 100 miles away from their residence, and the appellate court remanded the case, instructing the lower court to have the matter investigated by a committee.

⁶ Interview with Dula K., Local Government Official, Dugda District, in Meki Town (June 20, 2014).

The trial court accordingly constituted a committee, which reported that the couple had held title to the land for more than 20 years before the onset of the land registration initiative in the locality. The Renter was cultivating the land pursuant to an informal (oral) rental agreement with the couple for about 8 years before the registration. Based on the findings of the committee, the court annulled the Renter's title certificate and ordered registration of title to the land in the couple's names.

The plaintiffs in this case asserted unregistered title against the defendant's registered titles. This situation resembles Meskerem's claim. The reasoning of the appellate courts in this case, however, was different from that in Meskerem's case, in which the court rejected her claim for the recognition of a customary interest against her in-laws' registered title. In this case, the court annulled the Renter's registered title even though there was no claim (and proof) of fraud, mistake or duress against the Renter. This was, according to the opinion of the judges, due to the fact that the plaintiffs' claim derived from title granted by the formal local administration, while the issue in Meskerem's case concerned a local custom.

In cases of disputes over registered land titles, especially claims contesting the validity of a certificate of title, courts generally refer the disputes to the office of land registry to find the facts. The office ordinarily convenes a committee of inquiry called "*Kore Kulkulesitu*," or "investigation committee," consisting of representatives of the local offices of public prosecution, agriculture, clerks of local court, and a few others. The committee then goes to the location of the disputed parcel and talks to the village administrators and the parties to determine the matter. The findings of the committee usually rely on information and evidence supplied by the village administrators.

Such investigations are lengthy. The village administrators do not have a reliable record of land titles, and the influence of favors, connections, and bribes conditions the quality of their services, investigations, and inspection of the evidence. The contesting parties have various ways to influence the outcome at various stages of the dispute-resolution process. One party may be able to influence the village administrators while the other may have connections at upper levels of the government. Since the decision processes involve multiple offices and officials, it may be hard for any single person to bribe or unduly influence the entire processes.

In influencing the outcome of land dispute in the wider process, a local chief who wields influence over the local administration may fare less well than the widow whose son works at the bureau of land administration. The multiple avenues for contests

and appeals in the formal process increase the prospect of different outcomes. Furthermore, since the individuals and institutions in charge of deciding disputes have views and interests that may not be in line with the law and legitimate interests of the parties, outcomes do not always match the certainty and predictability attributed to formal land titles.

Land registration can create land disputes and costly dispute resolution processes without necessarily leading to qualitatively superior outcomes. Because legal rules are largely indeterminate, even in Western legal culture (see Llewellyn and Chriss 2008), they rarely produce the sort of certain and predictable outcomes that are often attributed to them. The indeterminacy is compounded in Ethiopia's land dispute cases because of arbitrary judicial discretion (Gabisa 2015: 301–13), an overwhelming backlog of cases at the courts, the courts' lack of human and technical resources, and the influences of local traditional authorities in a long and protracted dispute resolution processes (see Mequanent 2016: 173–76).

Changes in Relative Bargaining Power

Local land customs are part of the background norms and institutions that govern rural land rights and shape bargaining processes in land rentals, sharecropping, farm-labor, and related exchanges (Ensminger 1997: 169–70). They shape rural land use and land-related transactions. However, local land customs can be complex and unfriendly from the standpoint of an outsider, and the registration is intended partly to simplify this complexity and promote a broad-based and impersonal land market. In addition to promoting a land market, the registration is expected to protect the interests of the poor, women, and other vulnerable groups and enhance their bargaining power in land transactions. Field evidence shows, however, that registration may reduce the relative bargaining power of the poor and less well-off rural dwellers in land rental agreements.

One of the people I came across during my field research was a 42-year old man named Dima, a father of six children.⁷ At the time of our conversation, Dima was looking after a vegetable farm of about four hectares that belonged to an investor from Addis Ababa, the capital city. There was a generator and a water pump for bringing water from a nearby pond to irrigate the farm. Dima was hired to look after the farm and the farm tools for a monthly salary of 450 Birr. He worked at the farm only during the seasons

⁷ Interview with Dima G., Resident of East Shoa Zone, in Dugda District (December 14, 2013).

when he did not work on his own farm, which he worked seasonally because he could not afford a generator and water pump and had to rely on the rains.

Dima did not have much trouble getting a certificate for his land titles, but he believed that some members of his village had a hard time getting theirs. "You had to knock on many doors of the members of the committee and the chairman and other officials during the land registration process to make sure that parts of your farmland would not be registered in the name of somebody else or kept out of the survey because registration could entail higher taxes," Dima noted. Apparently, some farmers did not want to have their entire holding registered because of concerns about land taxes and other matters.

Dima was not entirely happy with all of the changes that had surfaced in his community. He thought the registering land, leases, and rentals would shift bargaining power in favor of the "investors"—the commercial farmers mostly from urban centers who came to rent land from smallholder farmers—who were well-versed in formal processes and well-connected with the local officials. Before the registration was implemented in the rural communities, land rental agreements were governed by customs and practices that were more favorable to the subsistence farmers than to investors.

Under the prevailing custom, rental agreements were normally oral, and farmers negotiated the terms before, during, and after concluding the agreements. The extent of negotiation and bargaining over rental arrangements depended on facts that neither party could have known at the time of the initial bargaining. Subsequent events affected subsequent negotiations and bargains. If the investor harvested or was likely to harvest more than anticipated, for instance, the farmer would likely seek to renegotiate the arrangement. But if the harvest went bad or was likely to go bad, he might forgo part of his initially agreed rent. A farmer could seek early termination, additional payments, and various forms of support from the renter if he faced unexpected difficulties, significant social or family events, or mishaps. If the farmer could not afford the expenses for his children's school or medical fees or seed and fertilizers for his farms or wedding and funeral expenses for his family, for instance, he would ask for support from the investor. The investors rarely refused such requests, because, by custom and tradition, the farmers were normally entitled in such instances to modify the rental terms.

Under the registration laws, land rental and exchange agreements must be written and registered with a government office. This requirement has made it harder for farmers to renegotiate terms and benefits they might have claimed according to

customary practice. The requirements of writing and formal registration mean that courts, and not necessarily traditional authorities, enforce rental agreements. Investors can now hire lawyers and influence courts, whose processes are relatively cheaper and more accessible to the investors than to the farmers. Or, so Dima and some of my other informants thought.

The changes in bargaining power due to changes in background norms affect the structure of rural land markets, mainly rental agreements, and the relative welfare of the parties. In theory the changes should not matter, because each party should be able to anticipate the changes and adjust the rental terms accordingly. Under the customary regime, the investor would anticipate future costs in setting the rent, and the farmer under the formal regime should account for what he would forego because of the changes in the background norms. But the different initial endowments in general and the conditions of subsistence farmers constrained by social norms and vicissitudes of nature now create significant differences in the course of bargaining.

For subsistence farmers, offering farmlands for a profit is an exception to the social norm of personal virtue. The “good farmer” cultivates his farmlands, and how well he cultivates establishes his social standing and civic status in his community. There are social norms against land rentals. A farmer who rents out his farmlands to sit idle is considered socially unworthy, even if the rental earns him higher gains than what he could have earned by working the land. “Upright” farmers would offer their farmlands for rent only if they faced a serious and immediate need of cash, or if they could not cultivate their lands because they could not afford farming inputs, such as plow-animals, seed, and fertilizer. A widow or any other farmer who could not cultivate her farmland because of age or illness could rent out farmlands without offending social mores.

Not every rural dweller upheld the social mores against rentals. Mores also change, and they have changed, especially in areas close to towns, where rentals for profit are becoming more common. Even sales of rural land that occur under the shadow of informality are common despite the official legal ban (Rahmato 2009b: 50). Also, not every subsistence farmer could command superior bargaining power to every investor under customary arrangements. An investor might be able to influence the traditional authorities. Similarly, a subsistence farmer who had a good network in the government might be in a far better position than an investor to succeed under the formal regimes.

Shifting the Power of Decision Making

The land registration initiative is one place where the Ethiopian government attempts to assert authority over local regimes

in rural communities (see Chinigo 2014). One outcome of the registration is to shift power from local social organizations, such as households, heads of households, chiefs, and village-councils, to state officials. Researchers point out that the authorities have used the land registration program to achieve specific political objectives. Rahmato (2009a: 181–201), for instance, indicates that officials used the land registration processes to reward supporters and punish opposition and supporters of the opposition political parties following the controversial elections in 2005.

Some of my informants also described situations in which the registration deepened their insecurity, leading to outcomes that feed into the broader scheme whereby local and global elites and powerful corporations extract surplus from rural societies in what Kennedy (2012: 210–16) calls “perverse political economy.” A farmer noted, “before the registration came about, if you worried about someone encroaching your boundary or title, you would inspect the physical land and see who was doing what. But since the registration, someone can tamper with the record of your title at the office in town, and you would not even know about it unless you went to the office and were able to read your records or have connections in the offices.”⁸

Proponents of registration think that a registered title is more secure than “informal” title. This is why advocates of the human rights of women and other vulnerable persons attempt to empower these social groups through land registration initiatives. Nevertheless, the opposite may also be true: formal regimes can be less secure than local customs and practices. Nyamu-Musembi (2007) documents that land registrations worsened the land rights of women and other vulnerable persons in Kenya because of insecurities caused by the formal regimes. Lavers (2017) cautions against Ethiopia’s attempt to solve structural social problems, such as gender inequality, merely by land registration (Lavers 2017). The attempt to solve structural social inequalities through formal legal equality can legitimize and entrench existing structures. The problems of gender and other social inequalities require serious reforms, cultural changes, and the restructuring of power relations within the household, community, and the society more generally. In the absence of these changes, women and vulnerable persons may find local regimes more beneficial than formal regimes. Hoben (1970) reported, for instance, that the local custom of “*rest*,” a traditional system of land tenure in the highland regions of the Amhara people, promoted distributive equity and gender equality within the community. Other research documents

⁸ Interview with Kasaye B., Resident of East Shoa Zone, in Dugda District (December 20, 2013).

local customs and practices that advance efficiency and environmental sustainability (Bassi and Tache 2011).

This is not to suggest that local customs are always better than formal land regimes. Land customs that undermine women's rights, foster conflict, and encourage wasteful land use are many (see Flintan 2010). The customs and practices surrounding rural land in the Amhara and Tigre communities, for instance, discriminated against ethnic, trade, and religious minorities (see Hoben 1973: 8). The Borana custom of inheritance does not allow a woman to inherit common marital property unless she has given birth to a son (see Flintan: 163). The Borana consider *Wata* people outcasts and deny any meaningful access to land, herding, and other civic relations with mainstream Borana way of life even though they speak the same language and reside among the Borana (see Kassam and Bushana 2004).

In the *Gada* tradition, the man is considered the head of the household, and the *Abba Olla* the head of the village, and the *Abba Gada* the head of the Borana community as a whole. Although the effective power of these heads might be constrained by other organizations such as councils of elders and spiritual authorities and by the sense of ethics and morality of the individuals in question, they wield powers sanctioned by tradition and discriminate against particular social groups such as women, "illegitimate" children, and outcast groups.

The pitfalls of local customs can certainly be addressed by governmental regulation and progressive social policies. The question, however, is whether rural land registration suits a progressive agenda. Donor-commissioned researches report that the registration has enhanced women's perception of tenure security (Holden and Tefera 2008), while other researches document more nuanced outcomes. A study in Siraro, a district in the central part of Ethiopia, concludes that the registration extended the power of the state in the rural milieu without any progressive distributive outcome (see Chinigo 2014). Another study in Wolaita, a district in the southern part of the country, reports the lack of women's participation in the registration processes (Qoricho 2011). The evidence from my fieldwork also showed how the shift of power often hurt the people intended to benefit from the registration.

I met Fate,⁹ an elderly woman perhaps in her 60s, in the office of the Rural Land and Environmental Protection at the town of Batu. She was from one of the villages in the area, and on that day, she had come to the office to request a replacement for

⁹ Interview and Personal Observation with Fate S., Resident of East Shoa Zone, in Dugda District (December 17, 2013).

her certificate of land title. Pulling out a ruined booklet from a basket she carried, Fate explained to an officer that the mice had destroyed her certificate and that she wanted a replacement. In further conversations with the officer, it turned out that her main reason for coming to the office was not entirely the destruction of her booklet. Illiterate and a widow, she was not intending to do anything particular and immediate with the certificate. What she really wanted was to be relieved of taxes and liabilities with respect to the parts of her farmlands that were being cultivated by two of her sons. Before the onset of the registration program, the local authorities levied taxes and fees on the person who actually cultivated the land. But with the introduction of the registration, the person in whose name a plot of land was registered had to pay the taxes on it.

The officer advised Fate that he could not replace her certificate at that time. He was expecting to receive new booklets from the Headquarters in Addis Ababa, about 250 km away. In the meantime, she would not need to come to the office, as he would advise the chairpersons of all the villages in the district when the new certificates arrived. At that time, she would have to pay a fee for the replacement. As for the removal of the lands being used by her sons, the officer advised her to request that the village administrators write a letter and to submit information about those lands to the office, and the officer would then remove the registration from her record.

From the officer's advice, it was clear that Fate and other rural dwellers like her were not the only ones exposed to the costs and uncertainties inflicted by land registration. The officers in charge of the local land registry had neither adequate resources nor the full information about whether and when they would get the resources they needed, including the basic forms and stationeries. The local office depended on the central authorities, and the central authorities, in turn, depended on the donors for funds and expatriate consultants for expertise and technical support. Fate's case shows, in short, how registration shifts power and authority from local villages to district and central government offices and officials. It shows how local matters become a subject of national and even global expertise, power, and authority, contrary to the claims routinely propagated by the donor agencies that the registration process was and continues to be local and participatory.

The shift of power is not objectionable per se. What matters most is how and for what purpose the officials exercise their acquired power. Two sets of factors make the shift objectionable. First, the pervasive illiteracy among rural dwellers, the lack of accountability and transparency of the formal government bodies, the distance of government institutions from the rural communities, and other similar

problems disempower the poor, women, and the rural dwellers more broadly. Government offices, such as land registries and courts, are located miles away from most rural communities. In addition, the formal regimes and their procedure require literacy, if not technical legal skills, and expose the illiterate and the poor among rural dwellers to greater costs and uncertainties than do the local regimes.

Second, and more important, the registration initiative opened up legal, illegal, and nonlegal avenues for officials and other well-positioned individuals to expropriate land and extract surplus from the rural economy. Illegal expropriation, maladministration, corruption, and arbitrary evictions of the rural dwellers are rampant (see Plummer 2012: 288–315). In a number of rural villages, officials charged with administering land enclosed common grazing areas for private use while implementing the land registration. In one case, local government officials illegally issued certificates of title to as many as 300 individuals in an area of land that belonged to a rural village of about 600 households (Oromia Ethics and Anticorruption Commission 2013: 30–33). The recipients of the illegal certificates were neither farmers nor residents of the village and, according to the law, had no right to the titles. They were from different urban areas and worked for the government.

One might argue that the problems of abuse of power, corruption, expropriation, and other causes of insecurity of rural landholding among the rural dwellers in Ethiopia are issues of “rule of law.” Supporters of the Ethiopian registration initiative might think that the problems could have occurred without the registration initiative. The fact, nonetheless, is that the state of Ethiopia’s “rule of law” when the donors decided to support the program of registration was as fragile as it is today. The records at the land registries contained simplified data and information about the rural dwellers and their land titles that have made expropriations and extractions of surplus from the rural economy easier for officials.

Stakeholders and Interests Shaping Land Registration

Global and domestic actors who have different interests and ideological commitments shape the law and rural development reforms in Ethiopia and Africa more generally. Transnational actors play a particularly pronounced role in law reforms in African rural settings, and they are described as supplying indispensable and apolitical technical expertise. For instance, Byamugisha (2014: 11), specialist on rural land at the World Bank, writes that “[a]n expert with a global experience is required to act as a

supervision engineer and advisor to supervise project implementation, similar to the practice in the building and construction industries.” But however important global expertise might be, rural land registration involves political stakes, and the stakeholders’ role is important to fully appreciating the complexity of implementing the registration schemes and the disconnection between legislative intentions and social realities. Looking at the land registration from the viewpoint of the stakeholders, in this part of the paper I highlight how multiple actors who have independent and often conflicting interests and ideologies shape the priorities, institutional choices, and outcomes of the law.

The stakeholders in Ethiopia’s land registration initiative include: Western financial institutions and aid donors, the government of Ethiopia, banks and microfinance lenders, foreign and local consultants, and rural dwellers. Western donors and financial institutions provide the funds, the consultants provide the expertise and supervisions, and the national and local government officials and other professional stakeholders wield the greatest power and influence in setting the priorities and design of the reform. The rural dwellers have the greatest stake in the outcome, but the power they wield and actually exercise to influence the reform initiative is limited (see Easterly 2014).

Donors and national and local governments view rural land in the context of economic growth, social development, and political supervisions. They view the rural societies through the prism of development. The ideologies and interests of individuals in these institutions, which converge more often than not, are also important because the donors and governments usually pursue visions and ideas that their officials want them to pursue (see Ngugi 2006). The local officials, for instance, see rural land and the society primarily as the source of economic revenue and political capital, and actions of government agencies are directed toward those goals (see Crummey 2000).

The role of rich and powerful governments that provide the funds to the donors is particularly important in setting priorities and design the reform. Those governments, especially of the Western industrialized economies, exercise significant influence on the development agenda and priorities of reforms in Africa. They are involved both directly and indirectly through the donor agencies (see Ferguson 1990: 3–22). Historically, European imperial interests and ideologies dictated law reforms in colonial Africa, whereas national agenda in the Cold War era were largely shaped by the interests and ideologies of nationalist elites (see Bassett 1993). But the more recent approaches are influenced by the global and domestic neoliberal interests and ideologies.

The private-commercial segments—local and foreign commercial firms, middlemen of the distribution in agricultural labor and commodities, banks, and elites—are inclined to see rural lands as a source of capital, markets, and wealth. Banks and credit institutions seek to enlarge their markets and client bases by collateralizing land titles. Commercial farmers strive to raise capital from banks and generate income and wealth by renting land from rural dwellers.

The rural dwellers are important actors, but they lack structured power and proper channels to orchestrate their concerns. This is particularly obvious with regard to the policies and priorities of land registration, where officials consider the economic and political stakes too high to accommodate the full participation of rural dwellers (see Geisler 2012). The rural communities generally lack literacy, legal aid, and other resources necessary to claim rights and demand compliance with legal rules, but this does not mean that they lack any power to pursue their interests. Reform initiatives frustrated by individual actions are ubiquitous.

Individuals and households of the rural communities see land as their source of subsistence, income, identity, and civic status. But their stakes are not always aligned with each other and with those of the other stakeholders. Conflicts and competition connected to differences of interests among the rural dwellers are common. Those who have greater power, wealth, and social capital are more likely to influence the registration initiative to their advantage than those who are less powerful.

Broadly stated, the registration initiative is an avenue where the stakeholders, including local officials, real estate developers, speculators, brokers, and rural dwellers struggle and compete over property and power. Land registries, courts, village administrators, surveyors, and others who decide land disputes pursue outcomes that serve their interests. The international actors design institutions and strategies that suit their interests and ideological commitments. An example that can illustrate how donors and other powerful stakeholders pursue their interests is the preference for title registration over recordation in the land registration agenda. Both models of registration are prevalent across various legal cultures, and none has a decisive comparative advantage (see Cooke 2003: 2–12). Nevertheless, title registration is popular among the donors, officials, and other key drivers of the registration agenda (see World Bank 2011: 3–5) because it is suitable to advance their organizational and personal interests. Compared to recordation, title registration requires more funding and its implementation allows consultants to be involved in the processes. This satisfies donors who seek to disburse more loans. Furthermore, title registration is easier to supervise, audit, and report

expenditure and outputs, because it involves issuing certificates that can be counted.

Theories of development have changed significantly over the last several decades, but the legal techniques of law reforms in Africa have remained more-or-less constant: a model generated by Western agencies is transplanted with the financial and technical support of Western agencies. Colonial administrators (see Serels 2007) and neoliberal reformers have been particularly keen on land registration. However, the outcomes have always contradicted the officials' expectation and the corresponding theories and schools of thought (Obeng-Odoom 2012). The socially significant outcomes have often been the unintended ones. This is not only because the models and expectations are flawed. Nor can the problems of sequencing, lack of resources and capacity, and other similar factors alone account for the disconnection. It is a function of the myriad of stakeholders who shape the priorities, design, and implementation of Africa's law and development endeavors.

Conclusion

Driven by varieties of interests and ideologies, the officials and transnational actors implement land registrations to standardize local variations and enhance the legibility of land customs and practices from their standpoint. Whereas past land registration efforts aimed at radically changing the local land regimes, the current efforts are rhetorically directed at recognizing local land customs. There is an apparent shift away from the previous centralized approaches that viewed local customs as anachronistic impediments to modernization to the view that they are important for social peace and development. Thus, the policy is to recognize local customs and practices by registering customary interests.

The evidence presented in this paper showed that the effects of Ethiopia's land registration, which is often cited as a model of this approach, belie the pluralist rhetoric and undercut officials' expectations. The bargaining power of smallholder farmers who rent land to commercial farmers is being reduced, and there is a shift in decision-making power from households and communities to the state and officials. These disconnections reveal that the reformers overestimate the efficacy of registration (and standard legal rules) and underestimate the complexity of local land customs. The fixed formalities of registration are inconsistent with the local and flexible customary interests in land. The extreme poverty, pervasive illiteracy, gender and social inequalities, and other problems undercut the rural dwellers' ability to use the formal regimes. The law cannot prevent the many stakeholders from

bending the laws to suit their respective interests and ideological commitments in implementing the registration. Looking at the actors and their interests, we can see how the standard can be refracted and the outcomes perverted. Interests and ideologies of the powerful actors inflect the law, and the poor among the rural dwellers, especially those who lack resource required to get just and fair public services, are less likely to benefit from land registration. Registration is not a simple formality. It creates winners and losers, usually along the lines of the existing distribution of power and property, entrenching inequalities of class, gender, ethnicity, and other social cleavages. Land registration in an imperfect structural environment tends to produce imperfect outcomes.

References

- Abbink, Jon (2009) "The Ethiopian Second Republic and the Fragile "Social Contract",” 44 *Africa Spectrum* 3–28.
- Abdo, Muradu (2008) "Subsidiary Classification of Goods Under Ethiopian Property Law: A Commentary,” 2 *Mizan Law Rev.* 52–90.
- Abegaz, Berhanu (2004) "Escaping Ethiopia's Poverty Trap, The Case for Second Agrarian Reform,” 42 *J. of Modern African Studies* 313–42.
- Adal, Yigremew (1999) "Ethiopian Rural Land Tenure System: Its Impact on Sustainable Land Use and Food Production,” in Assefa, Taye, ed., *Food Security Through Sustainable Land Use: Policy on Institutional, Land Tenure, and Extension Issues in Ethiopia*. Addis Ababa: NOVIB Partners Forum on Sustainable Land Use.
- African Union, African Development Bank, & UN Economic Commission for Africa (2010) *Framework and Guidelines in Land Policy in Africa: Land Policy in Africa, A Framework to Strengthen Land Rights, Enhance Productivity, and Secure Livelihoods*. Addis Ababa: AUC-AfDB-ECA Consortium.
- ARD, Inc. (2004) *Ethiopia Land Policy and Administration Assessment: Final Report with Appendices*. USAID Contract No. LAG-00-98-00031-00 Task Order No.4 Broadening Access and Strengthening Input Market Systems (BASIS) IQC.
- Atwood, David (1990) "Land Registration in Africa: The Impact on Agricultural Production,” 18 *World Development* 659–71.
- Bassett, Thomas J. (1993) "Introduction: The Land Question and Agricultural Transformation in Sub-Saharan Africa,” in Bassett, Thomas J. & Crumme, Donald E., eds., *Land in African Agrarian Systems*. Madison: Univ. of Wisconsin Press.
- Bassi, Marco (2005) *Decisions in the Shade: Political and Juridical Processes among the Oromo-Borana*. (Salvadori, Sylvia. Transl., 2005. Trenton: Red Sea Press.
- Bassi, Marco & Boku Tache (2011) "The Community Conserved Landscape of the Borana Oromo, Ethiopia,” 22 *Management of Environmental Quality: An International J.* 174–86.
- Berry, Sara (1993) *No Condition is Permanent: The Social Dynamics of Agrarian Change in Sub-Saharan Africa*. Madison: Univ. of Wisconsin Press.
- Boast, Richard (2010) "Individualization – An Idea Whose Time Came, and Went: The New Zealand Experience,” in Godden, Lee & Tehan, Maureen, eds., *Comparative Perspectives on Communal Lands and Individual Ownership: Sustainable Futures*. New York: Routledge.
- Boone, Catherine (2013) "Land Regimes and the Structure of Politics: Patterns of Land Related Conflicts,” 83 *Africa* 188–203.

- Burgis, Tom (2016) "The Great Land Rush: Ethiopia: The Billionaire's Farm," *Financial Times Investigations* 1 (March).
- Byamugisha, Frank F. K. (2014) *Agricultural Land Redistribution and Land Administration in Sub-Saharan Africa: Case Studies of Recent Reforms*. Washington, DC: The World Bank.
- Chinigo, Davide (2014) "The Politics of Land Registration in Ethiopia: Territorialising State Power in the Rural Milieu," 42 *Rev. of African Political Economy*, 1–16.
- Chole, Eshetu (2004) *Underdevelopment in Ethiopia*. Addis Ababa: Organization for Social Science Research in Eastern and Southern Africa.
- Civil Code of the Ethiopia (1960) Proclamation No. 165, *Negarit Gazeta* (Gazette Extraordinary), Year 19, No. 1.
- Clapham, Christopher S. (1988) *Transformation and Continuity in Revolutionary Ethiopia*. Cambridge: Cambridge Univ. Press.
- Cohen, Herman J. (1992) "Updates on Situation in Ethiopia," 3 *US Department of State Dispatch* 38, 21 September.
- Cohen, John M. (1987) *Integrated Rural Development: The Ethiopian Experience and Debate*. Uppsala: Scandinavian Institute of African Studies.
- Cohen, Morris R. (1933) *Law and Social Order: Essays in Legal Philosophy*. New York: Harcourt, Brace and Company.
- Coldham, Simon (1978) "The Effect of Registration of Title upon Customary Land Rights in Kenya," 22 *J. of African Law* 98.
- Cooke, Elizabeth (2003) *New Law of Land Registration*. Oxford: Hart Publishing.
- Crewett, Wibket, Ayalneh Bogale, & Benedikt Korf (2008) "Land Tenure in Ethiopia: Continuity and Change, Shifting Rules and the Quest for State Control," IDEAS Working Paper Series from RePEc, United States, St. Louis.
- Crummey, Donald (2000) *Land and Society in the Christian Kingdom of Ethiopia: From the Thirteenth to the Twentieth Century*. Urbana: Univ. of Illinois Press.
- De Fryetas-Tamura, Kamiko (2017) "'We are Everywhere': How Ethiopia Became a Land of Preying Eyes," *The New York Times* 5 (November). Available at: <https://www.nytimes.com/2017/11/05/world/africa/ethiopia-government-surveillance.html>.
- De Soto, Hernando (2000) *The Mystery of Capital Why Capitalism Triumphs in the West and Fails Everywhere Else*. New York: Basic Books.
- Deininger, Klaus (2010) "Towards Sustainable Land Administration: Recent Evidence and Challenges for Africa," 5 *African J. of Agricultural Resource Economics* 205–26.
- (2008) "Rural Land Certification in Ethiopia: Processes, Initial Impacts, and Implications for Other African Countries," 36 *World Development* 1786–812.
- Demogue, Rene (1916) "Security in Modern French Law," in Fouillee, A., et al., eds., Franklin W. Scott & Joseph P. Chamberlain Trans. *Modern French Legal Philosophy*. Boston: Boston Book Co.
- Dhal, Gudrun & Gemetchu Megerssa (1990) "Boran Concepts of Well and Water," in Pa'lson, Gisli, ed., *From Water to World-Making: Anthropological Studies of Arid Lands*. The Scandinavian Institute of African Studies: Uppsala.
- Dickerman, Carol W., et al. (1989) "Security of Tenure and Land Registration in Africa: Literature Review and Synthesis," LTC Paper 137, Land Tenure Center, Univ. of Wisconsin-Madison.
- Dunning, Harrison C. (1970) "Land Reform in Ethiopia: A Case Study in Non-development," 18 *UCLA Law Rev.* 271–307.
- Easterly, William (2014) *The Tyranny of Experts: Economists, Dictators and the Forgotten Rights of the Poor*. New York: Basic Books.
- Ensminger, Jean (1997) "Changing Property Rights: Reconciling Formal and Informal Rights to Land in Africa," in Drobak, John N. & Nye, John V. C., eds., *The Frontiers of the New Institutional Economics*. San Diego: Academic Press.
- Ethiopian Human Rights Council (1997) Discriminatory Land Redistribution in the Regional State of Amhara, Report No.11, March 19.

- Expropriation Proclamation, Expropriation of Landholdings for Public Purposes and Payment of Compensation proclamation of 2005. No. 455, Federal Democratic Republic of Ethiopia Proclamation, Federal Negarit Gazeta, Year 2011, No. 43
- FDRE Constitution, Federal Democratic Republic of Ethiopia, Proclamation No.1/1995.
- Ferguson, James (1990) *The Anti-Politics Machine: "Development", Depoliticization, and Bureaucratic Power in Lesotho*. Cambridge: Cambridge Univ. Press.
- Fitzpatrick, Daniel (2005) "'Best' Practice for Legal Recognition of Customary Tenure," 36 *Development and Change* 449–75.
- Fitzpatrick, Daniel & Andrew McWilliam (2013) "The Bright Line Fever: Simple Legal Rules and Complex Property Custom among the Fataluku of East Timor," 47 *Law & Society Rev.* 311–43.
- Flintan, Fiona (2010) "Sitting at the Table: Securing Benefits for Pastoral Women from Land Tenure Reform in Ethiopia," 4 *J. of Eastern African Studies* 153–78.
- Gabisa, Henok G. (2015) "'Justice System Reform Programme' in Ethiopia: Is Rule of Law Lost in Translation," 23 *African J. of International and Comparative Law* 291–313.
- Gebre, Ayalew (2004) "Resource Deprivation and Changes in Pastoral Land Tenure Systems: The Case of the Karrayu in the Upper Awash Valley of Ethiopia," in Negatu, Workneh & Adal, Yigremew, eds., *Some Aspects of Rural Land Tenure in Ethiopia: Access, Use and Transfer*. Madison: Land Tenure Center, Univ. of Wisconsin-Madison.
- Gebremanuel, Daniel Behailu (2015) *Transfer of Land Rights in Ethiopia: Towards A Sustainable Policy Framework*. The Hague: Eleventh International Publishing.
- Gebremichael, Brightman (2016) "Public Purpose as a Justification of Expropriation of Rural Land Rights in Ethiopia," 60 *J. of African Law* 190–212.
- Gebreselassie, Samuel (2006) "Land, Land Policy and Smallholder Agriculture in Ethiopia: Options and Scenarios" Future Agriculture Policy Brief, Discussion Paper 008, Future Agriculture Consortium.
- Geisler, Charles (2012) "New Terra Nullius Narratives and the Gentrification of Africa's 'Empty Lands'," 17 *J. of World Systems Research* 15–29.
- Haile, Minasse (1996) "The New Ethiopian Constitution: Its Impact on Unity, Human Rights and Development," 20 *Suffolk Transnational Law Rev.* 1.
- Helland, Johan (2002) "Land Alienation in Borana: Land Tenure Issues in a Pastoral Context in Ethiopia," in Babiker, Mustafa, ed., *Resource Alienation, Militarisation and Development: Case Studies from East African Drylands*. Addis Ababa: OSSREA.
- Heroui, Yohannes (2008) "Registration of Immovables under the Ethiopian Civil Code: An Overview in Comparative Perspective," 2 *Ethiopian Bar Rev.* 31–77.
- Hoben, Allan (1970) "Social Stratification in Traditional Amhara Society," in Tuden, Arthur & Plotnicov, Leonard, eds., *Social Stratification in Africa*. New York: The Free Press.
- (1973) *Land Tenure among the Amhara of Ethiopia: The Dynamics of Cognitive Descent*. Chicago: Univ. of Chicago Press.
- Holden, Stien & Tewodros Tefera (2008) "From Being Property of Men to Being Equal Owners? Early Impacts of Land Registration and Certification on Women in Southern Ethiopia," Final Research Report Prepared for UNHABITAT, Shelter Branch, Land Tenure and Property Administration Section.
- Hornby, Donna, et al. (2017) *Untitled: Securing Land Tenure in Urban and Rural South Africa*. Pietermaritzburg: Univ. of KwaZulu-Natal Press.
- Kassam, Aneesa & Ali Balla Bushana (2004) "Marginalization of the Waata Oromo Hunter-Gatherers of Kenya: Insider and Outsider Perspectives," 74 *Africa: J. of International Africa Institute* 194–216.
- Kennedy, David (2013) "Some Cautions about Property as a Recipe for Economic Development," in Kennedy, David & Stieglitz, Joseph E., eds., *Law and Economics*

- with *Chinese Characteristics: Institutions for Promoting Development in the Twenty-First Century*. Oxford: Oxford Univ. Press.
- Kennedy, Duncan (2006) "Three Globalization of Law and Legal Thought: 1850 – 2000," in Trubek, David M. & Santos, Alvaro, eds., *The New Law and Economic Development: A Critical Appraisal*. Cambridge: Cambridge Univ. Press.
- (2012) "African Poverty," 87 *Washington Law Rev.* 205–35.
- Kymlicka, Will (2007) "The Global Diffusion of Multiculturalism: Trends, Causes and Consequences," in Tierney, Stephen, ed., *Accommodating Cultural Diversity*. Burlington: Ashgate.
- Lahiff, Edward, Saturnino M. Borrás, & Cristobal Kay (2007) "Market-Led Agrarian Reform: Policies, Performance and Prospects," 28 *Third World Q.* 1417–36.
- Lavers, Tom (2017) "Land Registration and Gender Equality in Ethiopia: How State-Society Relations Influence the Enforcement of Institutional Change," 17 *J. of Agrarian Change* 188–207.
- Llewellyn, Karl N. & James J. Chriss (2008) *Jurisprudence: Realism in Theory and Practice*. New Brunswick, U.S.A: Transaction.
- Markakis, John (2011) *Ethiopia: The Last Two Frontiers*. Rochester: James Currey.
- McAuslan, Patrick (2000) "Only the Name of the Country Changes, The Diaspora of European Land Law in Commonwealth Africa," in Toulmin, C. & Quan, J., eds., *Evolving Land Rights, Policy and Tenure in Africa*. London, UK: DIFD/IIED/NRI.
- Mequanent, Getachew (2016) "The Application of Traditional Dispute Resolution in Land Administration in Lay Armachiho Woreda (District), Northern Ethiopia," 87 *World Development* 171–9.
- Minutes of the Ordinary Sessions of the Constitutional Commission (1994), Addis Ababa, January 19.
- Miskin, A. B. (1950) "Land Registration," 31 *Sudan Notes and Records* 274–86.
- Moore, Sally Falk (1998) "Changing African Land Tenure: Reflections on the Incapacities of the State," 10 *European J. of Development Research* 33–49.
- Nahum, Fasil (1997) *Constitution for a Nation of Nations: The Ethiopian Prospect*. Lawrenceville: Red Sea Press.
- Ngugi, Joel M. (2006) "The World Bank and the Ideology of Reform and Development in International Development Discourse," 14 *Cardozo J. Int'l & Comp. L.* 313–45.
- Nyamu-Musembi, C. (2007) "Breathing Life into Dead Theories About Property: de Soto and Rural Land Relations in Africa," 28 *Third World Q.* 1457–78.
- Obeng-Odoom, Franklin (2012) "Land Reforms in Africa: Theory, Practice, and Outcome," 36 *Habitat International* 161–70.
- Oromia Ethics and Anti-Corruption Commission (2013), *Kemirmera Mahider*, 9 Bulletin of Oromia Ethics and Anti-Corruption Commission.
- Pankhurst, Alula (1992) *Resettlement and Famine in Ethiopia: The Villagers' Experience*. Manchester, UK: Manchester Univ. Press.
- Peters, Pauline E. (2004) "Inequality and Social Conflict Over Land in Africa," 4 *J. of Agrarian Change* 269–314.
- Plummer, Janell, ed. (2012) *Diagnosing Corruption in Ethiopia: Perceptions, Realities, and the Way Forward for Key Sectors*. Washington, DC: World Bank.
- Public Ownership of Rural Land Proclamation of 1975, Proclamation No. 31, *Negarit Gazeta*, Year 34, No. 26. n.d.
- Qoricho, Yonas Tafesse (2011) *Women and Land Rights in Rural Ethiopia: The Case of Wolaita*. Master of Philosophy in Indigenous Studies, Faculty of Humanities, Social Science and Education, Univ. of Tromsø.
- Quisumbing, Agnes R. & Neha Kumar (2014) "Land Rights Knowledge and Conservation in Ethiopia: Mind the Gender Gap," IFPRI Discussion Paper 01386.
- Rahmato, Dessalegn (2006) "From Heterogeneity to Homogeneity: Agrarian Class Structure in Ethiopia since the 1950s," in Rahmato, Desalegn & Assefa, Taye, eds., *Land and the Challenges of Sustainable Development in Ethiopia*. Addis Ababa: Forum for Social Studies.

- (2009a) *The Peasant and the State: Studies in Agrarian Change in Ethiopia 1950s-2000s*. Addis Ababa: Addis Ababa Univ. Press.
- (2009b) "Peasants and Agrarian Land: The Unfinished Quest for Agrarian Land Rights in Ethiopia," in Ubink, Janin M., Hoekema, André J., & Assies, Willem J., eds., *Legalizing Land Rights: Local Practices, State Responses, and Tenure Security in Africa, Asia, and Latin America*. Leiden: Leiden Univ. Press.
- (2014) "The Perils of Development from Above: Land Deals in Ethiopia," 12 *African Identities* 26–44.
- Reda, Kelemework Tafere (2014) "Formal and Informal Land Tenure Systems in Afar Region, Ethiopia: Perceptions, Attitudes and Implications for Land Use Disputes," 14 *African J. on Conflict Resolution* 41–61.
- Riles, Annelise (2011) *Collateral Knowledge: Legal Reasoning in the Global Financial Markets*. Chicago: The Univ. of Chicago Press.
- Rural Land Administration and Land Use Proclamation of 2005/456, Federal Democratic Republic of Ethiopia, Federal Negarit Gazeta, Year 2011, No. 44.
- Scott, James C. (1999) *Seeing Like State: How Certain Schemes to Improve the Human Conditions Have Failed*. New Haven: Yale Univ. Press.
- Serels, Steven (2007) "Political Landscaping: Land Registration, the Definition of Ownership and the Evolution of Colonial Objectives in the Anglo-Egyptian Sudan, 1899 – 1924," 35 *African Economic History* 59–75.
- Shepherd, B. (2013). GCC states' land investments abroad: The case of Ethiopia (Summary report (Georgetown University. Center for International and Regional Studies); no. 8). Doha, State of Qatar: Georgetown University, School of Foreign Service in Qatar, Center for International and Regional Studies.
- Sikor, Thomas & Daniel Muller (2009) "The Limits of State-Led Land Reform: An Introduction," 37 *World Development* 1307–16.
- Simpson, S. Rowton (1976) *Land Law and Registration*. Cambridge: Cambridge Univ. Press.
- Singer, Norman J. (1970) "Modernization of Law in Ethiopia: A Study in Process and Personal Values," 11 *Harvard International Law J.* 73–125.
- Sjaastad, Espen & Ben Cousins (2008) "Formalization of Land Rights in the South: An Overview," 26 *Land Use Policy* 1–9.
- Smith, Henry E. (2009) "Community and Custom in Property," 10 *Theoretical Inquires in Law* 5–41.
- Teferra, Daniel (2005) *Economic Development and Nation Building in Ethiopia*. Lanham: Univ. Press of America.
- Tenaw, Shimelis, K. M. Zahidul Islam, & Tuulikki Parviainen (2009) "Effects of Land Tenure and Property Rights on Agricultural Productivity in Ethiopia, Namibia, and Bangladesh," Univ. of Helsinki Discussion Paper Series No. 33, Helsinki.
- Toulmin, Camilla (2009) "Securing Land and Property Rights in Sub-Saharan Africa: The Role of Local Institutions," 26 *Land Use Policy* 10–19.
- Watson, Elizabeth E. (2006) "Making a Living in the Postsocialist Periphery: Struggles between Farmers and Traders in Konso, Ethiopia," 76 *J. of International African Institute* 70–87.
- WikiLeaks (2009) "Ethiopia Seeks Dramatic Change in Agricultural Land Use," 10 December, Cable from US Embassy in Addis Ababa, Ethiopia, 09ADDISABABA2900_a.
- World Bank (2003) *Land Policies for Growth and Poverty Reduction*. Washington, DC: The World Bank.
- (2011) *World Bank Land Tenure Policy: Securing Rights to Reduce Poverty and Promote Rural Growth, Sustainable Development Network*. Washington, DC: The World Bank.
- Yemane-ab, Abera (2016) "'Land to the Tiller': Unrealized Agenda of the Revolution," 16 *Northeast African Studies* 39–63.

Zewde, Bahru (2014) *The Quest for Socialist Utopia: The Ethiopian Student movement c. 1960–1974*. Oxford: James Currey.

Mekonnen Firew Ayano studies law and development with a focus on property, land, and agricultural development in Sub-Saharan Africa. He received SJD (doctoral) degree from Harvard Law School (2016), LL.M. degree from the American University in Cairo, and LL.B. degree from Addis Ababa University. His previous experience includes working as a legal counsel for the World Bank, as a judge in Ethiopia, and as a lecturer at Addis Ababa University. His research interest includes law and development, legal theory, property, and land and agricultural development policies.