



Addis Ababa University
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Land Tenure and Democracy in Ethiopia

A Thesis Submitted to Addis Ababa University College of Law and Governance
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Laws (LL.M) in Constitutional and Public Laws

-By-

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Declaration

I, undersigned, declare that this Thesis is my original work and has not been presented for a degree in any other university and that all sources of materials used in the Thesis have been duly acknowledged.

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List of Acronyms

AEUP-----All Ethiopian Unity Party

Art-----Article

EDP-----Ethiopian Democratic Party

EPRDF----- Ethiopian Peoples' Revolutionary Democratic Front

FDRE-----Federal Democratic Republic of Ethiopia

GDP-----Gross Domestic Product

ONC-----Oromo National Congress

TGE -----Transitional Government of Ethiopia

TPLF -----Tigrayan Peoples Liberation Front

UDHR-----Universal Declaration of Human Rights

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Abstract

This Thesis has investigated the nexus between land tenure and democracy in Ethiopian context deploying relevant primary and secondary sources informed by key informants.

The Thesis considers the nexus between forms of land ownership and liberal democracy in a context where there is people's land ownership policy as recognized under the FDRE Constitution. It has identified and explored four major indicators to determine the nexus between land tenure and liberal democracy. These indicators are: land tenure in relation to neo-patrimonial states, land tenure and making the government accountable and transparent, land tenure and democracy (which is conceived as "government by discussion") and land rights as human rights of individuals and a constituent part of liberal democracy.

Using these indicators, the Thesis explores and establishes the nexus between land tenure and liberal democracy. Specifically the Thesis has established the nexus on two different but related grounds and reached to the following findings in Ethiopian context. The people's land ownership regime in Ethiopia has enabled the government to cultivate a political/governance culture that is contrary to the principles of liberal democracy. Moreover, this land ownership regime has aggravated the problems the country faces in its democratization process. Finally, the Thesis concluded that there is a nexus between land tenure and democracy in the country and argues the issue of land tenure to be an essential political issue that needs to be considered for solving existing problems of illiberal and undemocratic governance.

Chapter One

Introduction

1.1. Background of the Study

The question of Land tenure has been a sensitive political issue in the contemporary history of Ethiopia. This is due to the fact that the country is agrarian in nature and agriculture is the main source of income for the economy. Agriculture is a dominant sector that contributes 36.7 % of the GDP in 2015/2016.¹ It is generating about 90% of foreign currency earnings, accounts about 85% of employment and supplying approximately 70% of raw materials to manufacturing”.² In Ethiopia politics has a predominant role in determining land tenure, and it has also been the land policy which has driven politics for the last one hundred years.³ Land has been a central source of livelihood and power in Ethiopian history.⁴

Land may be held in private as private property or under the state/public ownership. In Ethiopia traditionally there was relatively little separation between political power, the control of land and wealth.⁵ Those who own the political power usually own land and also control redistributive economic organizations.⁶ Land had been under the control of the kings and their trusted followers in the imperial period. As a result there were struggles against the imperial regime’s inequitable landholding system and a coup motivated by the slogan “Land to the Tiller” overthrown the feudal land system in 1975.⁷ *Derg*, the regime that replaced the feudal system,

¹ National Bank of Ethiopia, *Annual Report*, (2015/2016), p. 6. <<http://www.nbe.gov.et/pdf/annualbulletin/2015-2016%20Annual%20Report/201516%20annual%20report.pdf>> accessed 3 January 2017.

² Muradu Abdo, ‘State Policy and Law in Relation to Land Alienation in Ethiopia’, (PhD Thesis, University of Warwick, 2014), p.4. <http://wrap.warwick.ac.uk/74132/1/WRAP_THESIS_Spur_2014.pdf> accessed 2 February 2016; Ethiopian Government Portal, *About Ethiopia: Economy*, (2016). <<http://www.ethiopia.gov.et/web/Pages/Economy>> accessed 29 February 2017.

³ D. Miller and Eyob Tekalign, “Land to the Tiller Redux: Unlocking Ethiopia’s Land Potential”, *Drake Journal of Agricultural Law*, vol. 13, (2008), p. 348.

⁴ *Id*, p. 350.

⁵ Daniel Woldegebriel, ‘Land Rights and Expropriation in Ethiopia’, (PhD Thesis, Sweden, Royal Institute of Technology, 2013), p. 53. <<http://kth.diva-portal.org/smash/get/diva2:666017/FULLTEXT01.pdf>> accessed 18 February 2016.

⁶ *Ibid*

⁷ D. Miller and Eyob Tekalign, cited above at note 3, p. 353.

thwarted the motto that it raised and ultimately ended up in people's land ownership regime abolished private ownership of rural land and landlord-tenant relationships.⁸

Then, after the downfall of the *Derg* regime, the FDRE Constitution⁹ recognizes people's land ownership regime as the land policy of the state. Currently, land is exclusively vested in the State and the peoples of Ethiopia.¹⁰ In due course there are criticisms raised against this type of land ownership in Ethiopia.

People's land ownership regime has been criticized for being one of the contributing factors for tenure insecurity that results in low productivity and poverty in Ethiopia.¹¹ The policy has also been criticized for being a threat to liberty, and negates the democratization process of a country. Pausewang argued that the FDRE Constitution recognizes people's land ownership to guarantee access to land for peasants but practically "keep peasants hostage to the local authorities".¹² Muradu also argued that "...in the context of people's ownership of land, peasants would not express their true will through the electoral process for fear of losing their lands because the state uses land to build patronage".¹³ People's ownership of land gives a huge power for the government authorities by making them *de facto* land owners particularly in the absence of effective legal restraints.¹⁴ There are also authors who argue that Ethiopian peasants have become "tenants of the State" and "have been deprived of their (human) right to freely decide what to do with their farm land".¹⁵

However, no single study has been conducted to explore whether, how and in what manner land tenure has any implication on democracy and the democratization process in Ethiopia which is the focus of this study.

⁸ Public Ownership of Rural Lands, 1975, Proc. No. 31, *Neg. Gaz.*, year 34, no. 26; W. Crewett, Ayalneh Bogale and B. Korf, "Land Tenure in Ethiopia: Continuity and Change, Shifting Rulers, and the Quest for State Control" (2008), CAPRI Working Paper No. 91, pp. 1 & 12.

<<http://ageconsearch.umn.edu/bitstream/50890/2/capriwp91.pdf>> accessed 5 January 2016.

⁹ The Constitution of the Federal Democratic Republic of Ethiopia (hereinafter FDRE Constitution), 1995, art. 40(3), Proc. No. 1, *Neg. Gaz.*, year 1. no.1.

¹⁰ *Ibid.*

¹¹ Muradu Abdo, cited above at note 2, p. 41.

¹² S. Pausewang, "The Need for a Third Alternative: The Amputated Debate on Land Tenure in Ethiopia", (2000), <www.irsa-world.org/prior/XI/papers/4-8pdf> accessed 10 February 2016.

¹³ Muradu Abdo, cited above at note 2, p. 45.

¹⁴ Muradu Abdo cited above at note 2, p. 46.

¹⁵ W. Crewett and B. Korf, "Ethiopia: Reforming Land Tenure", *Review of African Political Economy*, vol. 35, no. 116, (2008), p. 207.

1.2. Research Questions

Generally the Thesis addresses the following research questions:

- Is there any nexus between land tenure and democracy? What is the extent of the nexus between land tenure and democracy?
- What are the forms of land ownership and their justification and critics? What constitutes tenure security and democracy? Are there any indicators that can show the nexus between land tenure and democracy?
- Does the political history of Ethiopia have any relevance in showing the nexus between land tenure and democracy in Ethiopia? What looks like the contemporary politics in Ethiopia? Who owns land in Ethiopia? Does the existing land tenure system have any contribution to the existing political system of the country? Whether, how and in what manner land tenure has influenced the democratization process of the country?

1.3. Objective of the Research

The general objective of the research is to examine the nexus between land tenure and democracy in Ethiopia. To this end, the Thesis has forwarded the following as specific objectives:

- To explore the theoretical and conceptual framework of forms of land ownership; to scrutinize the constituents of tenure security; to examine the conceptual framework and the constituent of democracy; and to assess indicators that can show the nexus between land tenure and democracy.
- To examine the political history, the contemporary politics and the land tenure policy frameworks and practices for the purpose of assessing the nexus between land tenure and democracy in Ethiopia; and
- To examine whether the existing land tenure system has any contribution to the democracy and democratization process of the country.

1.4. Research Methodology

This research is based on qualitative research methodology to make an appropriate review of the existing literature and the legal framework on land tenure and democracy. Relevant legal documents mainly the FDRE Constitution and the FDRE Rural Land Administration and Land Use Proclamation No. 456/2005, legal literatures, books, articles and journals were used so as to conceptualize forms of land ownership, democracy and the nexus between the two. The conceptual, legal and theoretical framework serves as spring board to examine the nexus between land tenure and democracy in Ethiopian context. Laws and literature are analyzed to study the nature of land tenure and the nexus and implication it has for the democratization process of the country.

Nevertheless, some informative quantitative data are used to show the role of land tenure in building democracy in Ethiopia. Purposive sampling technique is employed in selecting key informants for interview. Interview with key informants drawn from political party leaders, government officials and peasants were conducted by using structured and semi-structured questions. Some relevant cases have also been analyzed so as to show some practical aspects of the issues.

1.5. Scope and Limitation of the Research

The study is all about the nexus between land tenure and democracy in Ethiopia. The study only focuses on rural land tenure and hence issue of urban land is not the concern of this paper. In assessing the nexus, the study is limited to reviewing the land policy framework as stated in the Constitution. Some provisions of the subsidiary land laws, however, are raised in justifying the nexus between land ownership and democracy.

It was difficult to find peasants consented for interview as the state of emergency is declared and enforced at the time this research is conducted. For this and other reasons most of the interviewees asked for anonymity and a few persons approached were unwilling to be interviewed.

1.6. Significance of the Study

There are no comprehensive study on issue of land tenure and democracy in Ethiopia. The issue is so neglected that it draws little attention to the Ethiopian scholars. The research has a gap filling role in the existing literature by showing the nexus between land tenure and democracy in Ethiopian context. The study can be used as a source of information and a stepping stone for writers to research more in the field. This research can also be used as an input for the government so that it can take measures to promote democracy and good governance in the country. The study may be important for policymakers if they consult it to consider the nexus between land and democracy by way of addressing land policy issues.

1.7. Ethical Considerations

The writer has taken an important ethical consideration in working on this Thesis. Interviewees were informed of the purpose of the study before securing informed consent from them. Some of my interviewees requested that they be kept anonymous and that was maintained in the Thesis.

1.8. Organization of the Thesis

This Thesis contains three chapters. Chapter one provides an introduction and background of the study. Chapter two covers the conceptual and theoretical framework of forms of land ownership, tenure security and democracy in general. It has established the conceptual nexus between land tenure and liberal democracy. Chapter three highlights and explores the historical and contemporary land ownership policy and politics, the contemporary debate on land tenure and the nexus between land tenure and democracy in Ethiopia in practical perspective. Then the Thesis concludes that the people's land ownership regime contributed to the illiberal and undemocratic conducts of the government. Moreover, the government's weak observance to the principles of liberal democracy, given the people's land ownership regime, contravenes peasants human rights thereby aggravates the problems and further harmed the democratization process of the country.

Chapter Two

Forms of Land Ownership, Tenure Security and Democracy

2.1. Introduction

Land is an essential resource which provides the source of all material wealth and survival to all human beings. Land has a paramount implication for the social, economic and political landscape of a nation. In agrarian societies like Ethiopia, reforming the rules of the land tenure does not only reform the way the land is regulated but also “redefine relationships between and within communities, and between communities and the states”¹⁶. Land policy and reform on land law are crucial for shaping political mobilization, electoral dynamics, and far-reaching public debates about democracy and development in many African Countries.¹⁷ Land policy is one of the constituents of land tenure system. Land law reforms establish and specify the possible forms of property rights in land as per its vital interest. These forms of land ownership or property rights in land are determined in various ways and justified through many theories and models.

This chapter intends to document views regarding land reform, forms of land ownership and conceptualizing democracy to use it as a stepping stone to examine the nexus between land ownership and democracy in Ethiopia. The modern conception of democracy which is majority rule-minority right, ensuring deliberative democracy and government by discussion in a broad sense is the defining elements of constitutional or liberal democracy employed in this Thesis. Then, by using indicators, the researcher assessed the nexus between land tenure and liberal democracy. Indicators employed to discuss the nexus are those treating land tenure as the one that governs land right as property rights of individuals, those examining how land is administered in people’s land ownership regimes and determining whether the land ownership regime by itself has any implication for the democratization process of the country.

The first section lists and describes theories and forms of land ownership including private ownership of land, State ownership of land and associative land ownership. The second section deals with the concepts and constituents of tenure security. Then the third section deals with the

¹⁶ C. Boone, “Property and constitutional order: Land tenure reform and the future of the African State”, *African Affairs*, vol. 106, no. 425, (2007), p. 558.

¹⁷ *Ibid*

concepts of democracy in a modern sense and identifies the concept of democracy employed in this Thesis, i.e. liberal democracy. Generally this chapter establishes a conceptual framework for the next chapter and confirms the existence of the nexus between land tenure and liberal democracy in a conceptual perspective.

2.2. Theories of Land Reform and Forms of Land Ownership

2.2.1. Theories of Land Reform

There are different views regarding land reform in agrarian societies. First the liberal school views land rights and reforms in relation to specific measures proposed by the conservatives such as land to the tiller or land redistribution.¹⁸ As it is proposed and controlled by the land owners themselves who have mostly dominated the legislature, the land reform excludes significant political changes and control legislations to protect the status quo.¹⁹ As land owners have not lost their original power and right, there is no distributive justice and economic development under this reform.

The second view is trying to include the peasantry into the existing national political economy by organizing the progressive forces against the landowners.²⁰ This theory uses assistance and support programs to assist and support peasants for encouraging them to actively participate and incorporate into the social and political life of the society by mobilizing progressive forces. The third view demands revolutionary approach for the “transformation of the social, economic and political conditions” of the society.²¹ This is radical reform on the distribution of land ownership rights and on access and control of land through acquisition of land from the state or land owners to be redistributed to the historically disadvantage and dispossessed one just like the 1975 land reform of Ethiopia.²²

¹⁸ Temesgen Gebeyehu, "Peasants, land reform and property right in Ethiopia: The experience of Gojjam Province, 1974 to 1997", Journal of African Studies and Development, vol. 5, no. 6, (2013), p. 147.

¹⁹ *Ibid.*

²⁰ *Ibid.*

²¹ *Ibid.*

²² *Ibid.*

During the formulation of land law reform the articulation of land policy involves specification of the possible forms of land ownership.²³

2.2.2. Forms of Land Ownership

In order to ensure their long term economic viability and by considering their role in the social, economic and political life of the society, it is necessary to settle the best way of governing land. To settle issues of forms of land ownership, essentially there are advocates of people's/states land ownership, advocates of privatization and advocates of regulation by the community itself. Literature has also identified such different forms of land ownership and explores their justifications and critics that may be considered in articulating land policy and specifying the possible forms of land ownership. Hence, land ownership policy which land law reform may introduce can be one of the following three ownership regimes: private, state, and associative land ownership regimes.

2.2.2.1. Private Ownership of Land

This is a land tenure system which accords full and exclusive rights of ownership to a single person (natural or artificial) or group of persons. The owner shall have the right to use, possess, receive income from it, or alienate it gratuitously or for consideration as marketable commodity and the right to exclude others from using and possessing the property.²⁴ Here the role of the government is limited to acting as a night watchman responsible to regulate and enforce property rights in land through making laws and establishing institutions.²⁵ As it guarantee full ownership right for the owners of the land, private ownership has a critical role in enhancing genuine tenure security.

Right to free hold for peasants is helpful to abolish tenure insecurity, promote efficient and effective utilization of land and contribute for the improvement of governance.²⁶

²³ Solomon Fikre, "The Challenges of Land Law Reform, Smallholder Agricultural Productivity and Poverty in Ethiopia", (PhD Thesis, University of Warwick, 2015), p. 132. < <http://go.warwick.ac.uk/wrap/71012>> accessed 07 August 2016.

²⁴ Daniel Woldegebriel, cited above at note 5, p. 34.

²⁵ *Ibid.*

²⁶ Yigremew Adal, "Review of Landholding Systems and Policies in Ethiopia under the Different Regimes", EEA/Ethiopian Economic Policy Research Institute Working Paper No. 5/2002, (2002), p. 29.

However, there are scholars who argue against private ownership of land. Among which Lynn Ellsworth argued that “tradable title” can be a source of tenure insecurity because it may “easily exposes the small guy to market forces without subsidy, aid, or legal protection from natural disaster. For example, distress or “forced” sales of farms in times of family crisis or bad weather can send such otherwise efficient farmers out into the streets without a home”.²⁷

In private ownership of land peasants might be exposed to distress sale, left without any alternative means of livelihood and ultimately lead to eviction of poor peasants that caused for landlessness, rural-urban migration and make them unemployed and beggars. Moreover, the assumption that private ownership of land automatically assures tenure security through land privatization and titling is empirically unfounded.²⁸ The argument that privatization of land promotes efficiency might not always be true as “many able-bodied part-time and absent small farmers earning higher off-farm income still inefficiently hold (i.e., under-utilize or idle) land, without much incentive to sell it, in order to keep security...and enjoy the rural environment” in many countries of the world.²⁹ Therefore, privatization of land does not always boost transfer of land to more efficient users and might not increase productivity.

2.2.2.2. State Ownership of Land

The proponents of centralized control want a government agency to choose the land administration strategy that it considers best in deciding on who can use the land, and how and when lands can be effectively utilized. Terms like “public ownership” or “government ownership” may be employed to describe “state ownership” of land. State or government ownership of land gives the impression to mean the ownership of land by the political body while “public or collective ownership” seems to signify the ownership of land by all the people

<http://www.eaecon.org/sites/default/files/working_papers/EEA_working_Paper_2002/WP%205%202002_Yigremew%20Adal_Review%20of%20Landholding%20Systems%20and%20Policies%20in%20Ethiopia%20under%20the%20Different%20Regimes.pdf> accessed 01 March 2016.

²⁷ L. Ellsworth, “A Place in the World: Tenure Security and Community Livelihoods, A Literature Review”, p. 12. <http://www.forest-trends.org/documents/files/doc_128.pdf> accessed 03 August 2016.

²⁸ Muradu Abdo, cited above at note 2, p. 43.

²⁹ J-M. Zhou, “Realizing Efficient Use and Conservation of Land under Private Ownership- A Rebutment to Nobel Economics Laureate Theodore W. Schultz”, (Fifth Conference on Global Economic Analysis ‘Sustainable Development and the General Equilibrium Approach’, Taipei, 5-7 June 2002), p. 3. <<https://www.gtap.agecon.purdue.edu/resources/download/1229.pdf>> accessed 30 January 2017.

or by the local community.³⁰ However as this definition could not be always acceptable, we need to look the legislations of respective countries as to the specific/actual meaning given to the terms.³¹ In a state where there is *de jure* peoples' ownership of land the government has the *de facto* power no less than ownership title as a manager or custodian of land on behalf of the people.³² Practically there is no difference between "state" ownership of land and "collective or public" ownership of land as the government is a political body considered being a representative of the people, and the power of administration and allocation of land vested in the hands of the state as a sole decision maker.³³

Despite the fact that the state owns land and the decision maker is any level of the government or committee as an agent of the people, the assumed objective is to use it in the best interest of the society, the principal, in general.³⁴ Because there is agency relationship between the government and the governed as the former is the representative of the later in democracies. Whatever the government owned for itself or on behalf of the people shall be utilized in the interest of the people for whom it is elected to serve at the very beginning. However, peoples' land ownership has given exclusive right to the state and the state may exclude anyone from the use of a right as long as it follows accepted political procedures in identifying persons who cannot use state-owned property.³⁵ This is because once the government has given the power to own and administer land through making laws and legislations; it might deny a certain minority group of people or individuals from possessing land by the will of the majority or government decisions.

Some also argues that the government assumes a hegemonic power over land in a country where there is lack of democratic practice, weak local level popular participation and historical imbalance of power over the land.³⁶ State ownership of land is also criticized for being a source of tenure insecurity as there is a possibility for repetitive land distribution at any moment of time for the purpose of ensuring social equity.

³⁰ Daniel Weldegebriel, cited above at note 5, p. 37.

³¹ *Ibid.*

³² Muradu Srur, 'Rural Commons and the Ethiopian State', (2013(1) Law, Social Justice and Global Development (LGD), p. 16.

³³ Daniel Weldegebriel, cited above at note 5, p. 38.

³⁴ *Id.*, p. 38.

³⁵ H. Demsetz, "Toward a theory of Property Rights", The American Economic Review, Vol.57, No. 2, (May,1967), p. 354.

³⁶ Muradu Srur, cited above at note 32, p. 17.

On the other hand those who argue in favor of state ownership of land critically argues that private ownership allow land to be concentrated in the hands of a few who have the financial capacity to buy.³⁷ As a result some warns that privatization will contribute for the revival of the landlord-tenant relations where the main feature of the system itself is inequitable distribution of resources.³⁸

2.2.2.3. Associative Land Ownership Regime

This is articulated by scholars as a third alternative to the two land ownership regimes discussed above.³⁹ Associative land ownership regime designate ownership right to a village community while every member of the village community and outsiders including the government has a usufruct right with a restrictive right to transfer subject to the decision of each community representatives.⁴⁰ Siegfried pausewang who initiated this land tenure system after examining the past and the present land ownership regime in Ethiopia argued as follows. People’s land ownership regime keep peasants hostage to the local authorities. They threatened peasants with their power to revoke access to land as a penalty for any displeasure and opposition.⁴¹

In order to remedy this criticism on people’s land ownership regime and critics on grounds of distress sell against privatization, Pausewang come up with a “third alternative”.⁴² Here, the local community designated as the right holders and administrators for individuals while the individual peasants have use right over the land. In associative land ownership regime, the local community is empowered to decide freely on land use and access to land with due protection against infringements from the state and private interests while individual rights to land are guaranteed to limit and check their power.⁴³

³⁷ Yigremew Adal, cited above at note 26, p. 28.

³⁸ *Ibid.*

³⁹ S. Pausewang, cited above at note 12, pp. 1-12.

⁴⁰ Muradu Abdo, cited above at note 2, p. 20; Jhon W. Bruce, Allan Hoben and Dessalegn Rahmato, “After the Derg: An Assessment of Rural Land Tenure Issues in Ethiopia”, (Conference paper, Addis Ababa, Addis Ababa University, 1994), pp. 60-61

⁴¹ S. Pausewang, cited above at note 12, p. 9.

⁴² S. Pausewang, cited above at note 12.

⁴³ S. Pausewang, cited above at note 12, p. 1.

This land ownership regime is not just like the ordinary communal land ownership⁴⁴ regime exposed for state interference. Associative land ownership regime does not allow the community leaders to dispose the land and thereby deprive peasants land rights but it is a kind of land use right in the hands of the local community with practiced local democracy.⁴⁵ Hence, this essential power is designated to the local communities to be exercised in a democratic manner that can ensure tenure security and good governance. It accommodates traditional tenure arrangements where customary practices and institutions are legitimized⁴⁶ as long as it does not contradict to the norms of democracy. This alternative focus on a living local democracy paired with a community responsibility for land distribution with individually owned use right of the peasantry free from arbitrary interference of the state and private individuals.⁴⁷ Generally associative ownership of land gives emphasis to the community at large as owners of the land, independence of the peasantry, good governance and by and large a practiced local democracy.

This form of land ownership is similar to what Shivji Commission recommended and shaped the debate over the 1999 Village Land Act in Tanzania.⁴⁸ This law is based on a secured user rights principle more or less similar to the associative land ownership perspective. According to Shivji, the law has strengthened the central state's land powers while it has failed to satisfy its promise to ensure local democracy.⁴⁹ However, others are still hopeful that the land law would contribute for expanded "local democratic control over land matters".⁵⁰ This is because "the village assemblies with land prerogatives would be elected, allows for more local participation, and be easier for villagers to monitor and sanction" in a manner that is more participatory than the centrally derived process.⁵¹

⁴⁴ Communal ownership of land is all about an ordinary type of land ownership in which a right can be exercised and production can be undertaken collectively by everyone living in the community. See Muradu Srur, cited above at note 30, pp. 6-7

⁴⁵ S. Pausewang, cited above at note 12, p.9.

⁴⁶ Daniel Behailu, *Transfer of Land Rights in Ethiopia: Towards a Sustainable Policy Framework*, (2015), p. 149.

⁴⁷ S. Pausewang, cited above at note 12, p. 10.

⁴⁸ C. Boone, cited above at note 16, p.583

⁴⁹ *Ibid.*

⁵⁰ C. Boone, cited above at note 16, p. 584.

⁵¹ *Ibid.*

However this ownership regime is also criticized for failure to clearly specify some critical issues such as the meaning of a community and how village lands can be demarcated and the scope of power of the community over communal land and grounds of state intervention.⁵²

2.3. Land Tenure Security

It is difficult to objectively and systematically conceptualize tenure security partly because it is mostly a perception or feeling of peasants that could not be objectively determined. The definition of tenure security framed in different ways by different scholars has assumed to have three core components: breadth, duration and assurance.⁵³ “Breadth” refers to the robustness of the rights to land which constitutes or refers to the number or quantity (bundle) of the land right the landholder held and the degree of importance or quality (possession of key rights) of the right held by the land rights holder.⁵⁴ In case of “Duration”, the longer the duration of time the holder exercise his right, the more secured the land tenure will be. “Assurance” is the ability of peasants to exercise land rights through effective and appropriate legal remedies for enforcement and protection of the rights through government machineries, in case they are violated.⁵⁵ If there is strong justice machineries which can protect the land rights of peasants from any interference by anyone including the government, there will be secured land tenure.

It is difficult to support with empirical evidence that whether a certain form of land ownership by itself necessarily brings feelings of land tenure security. Some argue that private ownership of land is a must to ensure tenure security. However, there might be severe property insecurity for the marginalized group while there is a greater security for the few others.⁵⁶ Although, some others argue that people’s land ownership regime ensure greater tenure security than privatization if it practically recognizes use and transferability of land use rights, by clear and detailed laws, in unrestricted manner with effective checking mechanism of maladministration.⁵⁷

⁵² Muradu Abdo, cited above at note 2, p. 52.

⁵³ Solomon Fikre, cited above at note 23, p.54.; Yigremew Adal, cited above at note 26, p. 35; F. Place, M. Roth and P. Hazell, “Land Tenure Security and Agricultural Performance in Africa: Overview of Research Methodology” in John W. Bruce and Shem E. Migot-Adholla (ed), *Searching for Land Tenure Security in Africa*, (Washington, DC, The World Bank, 1994), p. 20.

⁵⁴ Yigremew Adal, cited above at note 26, p. 35; Solomon Fikre, cited above at note 23, p.54.

⁵⁵ *Ibid.*

⁵⁶ Muradu Abdo, cited above at note 2, p.44.

⁵⁷ *Id.*, pp.18- 19.

Security of tenure might be guaranteed by legislations or title registration but there might be feelings of insecurity if the political body that enacts such legislation is perceived as unstable or untrustworthy.⁵⁸ Therefore, what matters is what the ordinary peasants perceive.

One argues that the narrower private property regimes that cannot effectively protect tenure security in the rural areas show that the State can mobilize land as a patronage resource to win elections.⁵⁹ Peasants' full ownership right over their land would make them confident enough to vote against the government. However, if there is State/people's land ownership, peoples might hesitate to express their true will for fear of losing their land as the State might use it as a patronage resource.⁶⁰ Hence, it is argued that State hegemonic power over land negatively affect the liberalization and democratization process of a country.⁶¹

2.4. Democracy

2.4.1. Conceptualization

Democracy is basically a contested concept understood differently in different society and it is very difficult to reach agreement on its meaning or its proper application rather possible to agree on the elements that it constitutes.⁶²

Many scholars defined the contemporary concept of democracy differently in more or less similar fashion. For Amartya Sen if there is no full participation in the electoral process and at the time of voting, if there is no adequate opportunity for the parties to present their views and if the electorate have no freedom of information and access to the media, we cannot say that there is free, fair and democratic election and ultimately we cannot have a democratic system.⁶³ This definition reflects a more or less comprehensive contemporary conception of democracy.

⁵⁸ S. Davies, "The Political Economy of Land Tenure in Ethiopia", (PhD Thesis, University of St. Andrews, UK, 2008), p. 62. <<http://hdl.handle.net/10023/580>> accessed 10 December 2017.

⁵⁹ C. Boone, "Electoral Populism Where Property Rights Are Weak: Land Politics in Contemporary Sub-Saharan Africa", *Comparative Politics*, vol. 41, no. 2, (2009), p. 183.

⁶⁰ Muradu Abdo, cited above at note 2, p.45.

⁶¹ See for example Muradu Abdo, cited above at note 2, p.44.

⁶² G. Williams, "Democracy as idea and Democracy as Process in Africa", *Journal of African American History*, vol. 88, no. 4, (2003), p. 339; J. Hampton, "Democracy and the Rule of Law", in Ian Shapiro(ed), *The Rule of Law*, (2012), pp. 13-42; D. Held, *Models of Democracy*, (3rd ed., 2006), p. 1.

⁶³ A. Sen, "Democracy as a Universal Value", *Journal of Democracy*, vol. 10, no.3, (1999), p. 5.

Generally, according to Sen, we can say that there is democracy where the principle of the majority and the rights and liberties of citizens (minority) are guaranteed and protected.

Democracy has two major responsibilities sometimes competing: responsibility to protect the ultimate sovereignty of the people (rule of the majority) without infringing the rights of the minorities (minority rights).⁶⁴ Similarly, Marc F. Plattner argues that modern democracy has a hybrid or dual character, “one that tempers popular rule with antimajoritarian features”.⁶⁵ This modern conception of democracy which is mostly incorporated into a constitution and where the government is further limited by rule of law is sometimes known as constitutional or liberal democracy.⁶⁶

The merits of liberal democracy in the lives of the citizens can be reflected in three different ways according to Sen. First, democracy has “intrinsic value”: the right and liberties of citizens shall be protected because they are human and as it is necessary for their existence.⁶⁷ Second, democracy has “Instrumental Value” because it recognizes civil and political rights of individuals important to know the views and perception of the citizen and make sure that their claims are included in making laws, policies and rendering decisions.⁶⁸ Therefore the existence of democratic system of government by itself can warrant a continuing existence of such system.

Third, democracy has constructive importance: the existence of democracy that encourages full participation, exchange of ideas and discussion will help citizens to form their general needs and values and to learn from one another.⁶⁹ Therefore liberal democracy is important to identify the needs and priorities of the society and to make informed and well considered decisions.

2.4.2. Democracy as “Government by Discussion”

Democracy in its older sense viewed narrowly in terms of ballots and elections which were all about representative democracy. However in conceptualizing democracy as “government by

⁶⁴ M. F. Plattner, “Populism, Pluralism, and Liberal Democracy”, *Journal of Democracy*, vol. 21, no. 1, (2010), p. 84.

⁶⁵ *Ibid.*

⁶⁶ M. F. Plattner, cited above at note 64, p. 84.

⁶⁷ A. Sen, cited above at note 63, p. 5.

⁶⁸ However democracy has also non-instrumental values. See C. F. Rostboll, “The Non-instrumental Value of Democracy: The Freedom Argument”, *Constellations*, vol. 22, no. 2, (2015).

⁶⁹ A. Sen, cited above at note 63, p. 5.

discussion”, public reasoning has given a critical role.⁷⁰ Sen argued that democracy has been conceptualized in terms of the “exercise of public reasoning” and no longer be seen in terms of “the demand for public balloting”.⁷¹ Though elections have a critical role in the process of public reasoning, it is not a single important thing as it depends on other important factors such as freedom of expression and access to information.⁷²

Public reason is a view that citizens’ holds in arguing or justifying their stand in supporting laws and policies that appeal to the coercive powers of the government concerning “fundamental political questions”.⁷³ Public reason does not apply to all political discussions but only when there are issues of “constitutional essentials and matters of basic justice”.⁷⁴ Rawls in his “Theory of Justice” also argues that discussions, debates and exchange of views or deliberation concerning public political questions are defined as deliberative democracy.⁷⁵

Most importantly Sen identified the critical problems in the contemporary world as it is not the pressure put on voters in the process of balloting rather;

...in the way expressions of public views are thwarted by censorship, informational exclusion and a climate of fear, along with the suppression of political opposition and the independence of the media, and the absence of basic civil rights and political liberties... Indeed, a great many dictators in the world have achieved gigantic electoral victories even without any overt coercion in the process of voting, mainly through suppressing public discussion and freedom of information, and through generating a climate of apprehension and anxiety.⁷⁶

Therefore now to call a regime democratic we need to make sure that the rights and liberties of citizens are protected. Consequently, democracy as conceptualized in the previous subsection is more or less similar to this one except the latter’s emphasis on the deliberative aspects of democracy. However, in both cases the institutional conception of democracy in its oldest sense

⁷⁰ A. Sen, *The Idea of Justice*, (2009), p. 324.

⁷¹ *Ibid.*

⁷² *Id.*, p. 327.

⁷³ J. Rawls, “The Idea of Public Reason Revisited”, *The University of Chicago Law Review*, vol. 64, no. 3, (1997), p. 795.

⁷⁴ J. Rawls, *The Law of Peoples with “The Idea of Public Reason Revisited”*, (2012), p. 133.

⁷⁵ *Id.*, p. 138.

⁷⁶ A. Sen, cited above at note 70, p. 327.

in terms of balloting alone has been enhanced by including additional components of protecting individual rights of citizens, ensuring deliberative democracy and government by discussion in a broader sense. Hence, recognizing and protecting individual rights which includes the right to property is a crucial constituent of liberal democracy.

In this Thesis, democracy is conceptualized as liberal democracy which constitutes elements of the principle of majority, protection of the rights and liberties of citizens or minority rights and the power of the government is additionally limited by rule of law (limited government). This is also defined as constitutional democracy or constitutionalism.

2.4.3. Thoughts and Practices Contradicting the Norms of Democracy and their Implication in the Democratization Process of a Country

Scholars have asserted that the fall of the Soviet Bloc, fascism and totalitarianism by itself shows that liberal democracy is unchallengeable, good and effective system of governance in the current world.⁷⁷ However, there are thoughts, and practices contradicting the norms of democracy in some States who are through time in transition to undemocratic system of governance. Now let us make some illustrative discussions about such thoughts and practices contradicting the norms of democracy.

The first prominent argument against democracy is in relation to *economic development*. Here it is argued that undemocratic system of government is better in bringing economic development and “liberal democracy is considered as inimical to some material interests of the society.”⁷⁸ This thesis is known as “Lee thesis” named after its proponent Lee Kuan Yew, the former leader of Singapore. This thesis has been attacked by many for selective evidence it employed particularly from China and Singapore in justifying the thesis. It is also argued that there are no systematic empirical studies that can prove that there is contradiction between political rights and economic performance while many argued that it is difficult to establish a link between the two.⁷⁹

Conversely, Sen asserted that “in the terrible history of famines in the world, no substantial famine has ever occurred in any independent and democratic country with a relatively free press”

⁷⁷ S. Chain, *Liberalism, Democracy and Development*, (2002), p. 22.

⁷⁸ A. Sen, cited above at note 63, p. 3; S. Chain, cited above at note 77, p. 22.

⁷⁹ A. Przeworski, *Sustainable Democracy* (1995); A. Sen, cited above at note 63, p. 3.

because the government is politically motivated to operate efficiently if political rights have been effectively exercised.⁸⁰ Sen also advocated that both economic growth and democracy can be pursued at the same time as there is no clear and determinative evidence that can show the kind of relationship that exists between the two and due to the direct value of human dignity.⁸¹

The second behavior contradicting the norms of democracy is related to *neo-patrimonial approach*: Patrimonial rulers distribute political power and offices based on their personal ties and relationship with their client without considering the criteria of skill, professionalism and competence.⁸² Neo-patrimonial governments are working mostly by combining rational-legal bureaucratic structures and patronage relations while the latter plays a dominant role often up to the extent of preventing the functioning of the former.⁸³ The government might ultimately be a totalitarian form of government by making citizens fully dependent on it by using essential resources like land as a patronage resource.⁸⁴ Therefore, we can conclude that neo-patrimonialism is inimical and generally not conducive to democracy and democratic governance.

2.5. Land Tenure and Democracy: Making the Nexus in a Conceptual Perspective

2.5.1. Economic Freedom (Property Right) and Democracy

In this part of the paper our focus is to investigate the correlation between property or land ownership regime and democracy. According to Friedman, it is a widely held belief that issues of property should not be politicized and any forms of property rights can be combined with any kind of political arrangement as there is no special link between them.⁸⁵

⁸⁰ A. Sen, cited above at note 63, p. 4.

⁸¹ S. Alkire, "Development 'A Misconceived Theory Can Kill'", in C. W. Morris (ed.), *Contemporary Philosophy in Focus*, (2010), p. 215.

⁸² S. Davies, cited above at note 58, p. 72.

⁸³ *Ibid.*

⁸⁴ See section 2.5.2, for further discussion on neo-patrimonialism.

⁸⁵ M. Friedman, "Diffusion of Political Power" in R. C. Ellickson, C. M. Rose and B. A. Ackerman(eds.), *Perspectives on Property Law*, (2nd edition, 1995), p. 71; C. H. Knutsen, "Democracy and Property Rights: a theoretical and empirical analysis on the effects of political regime type on property rights arrangements", (Masters Thesis, University of Oslo, 2007).

<<http://folk.uio.no/carlhk/publications/MasterEconomicsDemocracyandPropertyRights.pdf>> accessed 1 December 2016.

However Friedman argues as follows in showing the intimate connection between property rights and democracy. According to him, ensuring property rights have dual functions: property right is an end in itself that contributes for the prevalence of democracy as a constituent of liberal democracy and also property right is used as a means of restricting government powers from unnecessary intervention in the private life of individuals.⁸⁶ This argument is in compliance with Sen's argument on the instrumental value of democracy in section 2.4.1.

Social choice theory also argues that stable democratic system can exist when property rights are treated as individual rights free from direct and arbitrary intervention of the majority.⁸⁷ Private property free from government interference is also important to guarantee personal security and independence from the government to participate freely in democratic deliberations, an essential condition for the prevalence of democracy.⁸⁸ Hence, there is a direct link and interconnection between property rights regime and liberal democracy.

Once we have established a general nexus between property right and liberal democracy, the researcher come up with main indicators to determine the nexus between forms of land ownership and liberal democracy. In doing so, while it might be possible to identify many indicators to show the nexus between land tenure and democracy, this Thesis has identified the following four major indicators.

2.5.2. Land Tenure and Neo-patrimonial State

Neopatrimonialism is a modified or a modern version of patrimonialism with the development of bureaucratic administration.⁸⁹ Patrimonial states are those states that allocate political power not according to professional criteria and competence rather on the basis of cliental relation.⁹⁰ According to Van De Walle those African states practicing patrimonial logic together with a simulated "legal-rational forms of state legitimacy" are defined as neopatrimonial states.⁹¹ Steven Davies argued that existence of liberal institutions in "bureaucratic neopatrimonial" States does not show that they are "tending towards democratization" rather it is a means in use

⁸⁶ *Ibid.*

⁸⁷ *Id.*, p.185

⁸⁸ *Id.*, p.93

⁸⁹ S. Davies, cited above at note 58, p.110.

⁹⁰ See Van De Walle (1994, p. 131) and Le vine (1980, p. 658) cited in S. Davis, cited above at note 58, p.71.

⁹¹ S. Davis, cited above at note 58, p. 72.

to strengthen their positions.⁹² In neopatrimonial States democratic-legal state structure is dominated by patrimonial imperatives.⁹³ For example, according to Kheang Un and Sokbunthoeun So, Cambodia is a neo-patrimonial state where there is no accountability towards the people and between government institution because accountability essentially exists between the patrons and the clients.⁹⁴

Local government officials of neo-patrimonial states might make accessibility of state owned resources conditional upon political support. Muradu in his footnote asserted that neo-patrimonialism in land politics is all about the usage of land as a means of political control for the purpose of protecting one's political power.⁹⁵ Correspondingly, in a country where property rights are weak, "land rights can be allocated and reallocated by regimes seeking electoral advantage by rewarding their constituencies at the expense of losers, rivals, or minorities".⁹⁶ She also states that in parts of sub-Saharan Africa, for example in Côte d'Ivoire, land is utilized for electoral mobilization and there are attempts to win elections by threatening or promising to allocate or reallocate land.⁹⁷

Steven Davies also argues that "neo-patrimonial regimes harbor the two fold goal of seeking to stay in power and ensure sufficient resources are procured in order to do so".⁹⁸ Neo-patrimonial states in agrarian societies might prefer people's land ownership particularly to use land as a patronage resource to stay in power for unlimited period in undemocratic and illiberal manner.

Davis, citing an academician, has stated that the EPRDF in Ethiopia have been achieving more political objectives than economic objectives through people's landholding because privatization would cause losing the right to control the peasantry, the absolute majority.⁹⁹ Similarly, one politician confirmed to the writer that EPRDF won't privatize land, if it do so, it will loss the

⁹² S. Davis, cited above at note 58, p.112.

⁹³ J. Abbink, "Discomfiture of Democracy? The 2005 Election Crisis in Ethiopia and Its Aftermath", African Affairs, vol. 105, issue 419,(2006), p.175.

⁹⁴ K. Un and S. So, "Land Rights in Cambodia: How Neopatrimonial Politics Restricts Land Policy Reform, Pacific Affairs, vol. 84, no. 2 (June 2011), p.294.

⁹⁵ Muradu Abdo, cited above at note 2, p. 17, note 82.

⁹⁶ C. Boone, cited above at note 16, p. 183.

⁹⁷ *Ibid.*

⁹⁸ S. Davis, cited above at note 58, p.249.

⁹⁹ *Id.*, p. 215

immediate election to come.¹⁰⁰ This shows that people's land ownership regime might strain electoral democracy in case the government uses it as a patronage resource to reward its supporters and punish non-supporters. Hence, peasants in neo-patrimonial states with insecure tenure under people's land ownership regime might be forced to allow the ruling party to continue to stay in power at the pain of losing their land.

2.5.3. Land Tenure and Making the Government Accountable and Transparent

The institutions of economic activity should be free from the control of political authority so that economic strength can be used as a check to political power by avoiding power concentration.¹⁰¹ It is also argued that accountable, transparent and responsible land governance is essential for the enforcement of human rights, a constituent element of liberal democracy.¹⁰² People's land ownership regime in agrarian societies gives the government access to control the private and public life of the peasant as it has the power to redistribute the essential resource (land) in the way it thinks fit. In such case peasants might be subject to arbitrary actions of local government officials in deciding who shall have access to land and the officials might use it as a means of political punishment for any political opposition or disrespect to their decisions and orders.¹⁰³ This is the case of neo-patrimonial states where accountability and transparency to the people does not exist as formal rules are constrained by patron-client type of relations.¹⁰⁴

On the other hand, elected officials and institutions shall be accountable to their constituency and act and decide transparently to win elections again in electoral democracies. However, when power including land administration and distribution is concentrated in local administrative units, the local government officials might use such power to recreate supporters or members. They might use it to induce electorates to vote for them and to win elections while they are not responsive to the local population. This shows that the power of the local government to control

¹⁰⁰ Interview with Mr. Adane Tilahun, a candidate in the 2005 and 2010 elections and AEUP General Secretary, December 28, 2016.

¹⁰¹ R. C. Ellickson, C. M. Rose and B. A. Ackerman, cited above at note 85, p. 76.

¹⁰² Daniel Behailu, cited above at note 46, p. 181.

¹⁰³ W. Crewett, Ayalneh Bogale and B. Korf, cited above at note 8, p. 19, note 15.

¹⁰⁴ K. Un and S. So, cited above at note 94, P.294.

land in agrarian societies might be used to make peasants submissive and widely recognized for creating high possibilities of unaccountability for the local population.¹⁰⁵

As we have discussed in section 2.3., one of the constituent of tenure security is assuring that land rights are not violated by anyone. Absence of accountability, transparency and participatory decision making in rural areas where there is people's land ownership regime might contribute for the prevalence of tenure insecurity. Such insecure land tenure might weaken the confidence of the peasants to demand the government to be accountable and transparent for the prevalence of liberal democracy.

2.5.4. Land Tenure and Democracy as “Government by Discussion”

As we have discussed in section 2.4., democracy in the contemporary world is defined in terms of exercising public reasoning and “government by discussion”. Public reason is all about a view of the people in making their own argument and political justifications for supporting laws and policies concerning fundamental political questions.¹⁰⁶ Property rights, particularly issues of land rights in agrarian societies, are one of the essential rights of peasants that need to be decided, exercised and enforced through public debates, discussions, and deliberations. Thus, peasants shall be consulted, invited for discussion and debate, and their views shall be used as inputs in making policies, laws and decisions.

If a government is not open for discussion and deliberation before giving decisions, we cannot say there is a “government by discussion”. In the absence of government by discussion in a country where there is people's land ownership regime, there will be insecure land tenure that might make peasants dependent on the hegemonic power of the state. This dependency and lack of freedom of the majority of citizens, peasants, in agrarian societies negatively contribute to the democratization process of the country.

Failure to engage and participate the public particularly the farmers in deciding any issues in relation to rural land such as ownership which is a “constitutional essential”, redistribution, and

¹⁰⁵ D. Chinigo, “Decentralisation and Agrarian Transformation in Ethiopia: Extending the Power of the Federal State”, *Critical African Studies*, vol. 6, issue 1, (2014), p. 9.

¹⁰⁶ J. Rawls, cited above at note 73.

expropriation would make the government undemocratic as it does not satisfy the requirements of deliberative democracy.

2.5.5. Land Right as Human Rights of Individuals and a Constituent Element of Liberal Democracy

It is when the rights of individuals are protected, and duly considered by the government in making laws and rendering decisions that we can say that there is liberal democracy in the contemporary world. As land is an essential resource and even a means of livelihood in agrarian societies, “access to land and effective use of land can ensure the respect and the realization of a number of fundamental human rights”.¹⁰⁷ Many fundamental human rights of individuals might be seriously injured if property rights particularly land rights of peasants are not guaranteed and protected in agrarian societies. Property rights are also among the essential human rights of individuals that need to be protected as a constituent of liberal democracy.

Even if nowhere right to land is explicitly provided in international human rights instruments, land policy of a nation can affect many fundamental human rights of individuals enshrined in international human rights law. Land access to a particular group including women and minorities are recognized under international human right instruments and also numerous rights are affected by access to land including right to food, water, housing and work.¹⁰⁸

Especially in agrarian societies such as Ethiopia, land is an essential resource in promoting, respecting, enforcing and fulfilling fundamental human rights of majority of the population, the peasantry. Access to land is necessary for access to many economic, social and cultural rights, “and as a gateway for many civil and political rights”. Daniel says:

It is absolutely unrealistic for the rural mass in Ethiopia or the other least-developed nations to attain the right to work and the right to an adequate standard of life, which includes the right to food, health, or even the right to culture without the enactment of proper laws that protect rights to land and that afford access to land. Hence, land as

¹⁰⁷ Daniel Behailu, cited above at note 46, p. 181.

¹⁰⁸ E. Wickeri and Anil Kalhan, “Land Rights Issues in International Human Rights Law”, Malaysian Journal on Human Rights, 2010, vol. 4, no. 1, pp. 16 & 17.

property deserves special attention when considered in the context of developing countries, where the majority makes their living on small farms.¹⁰⁹

On the other hand the FDRE Constitution recognize many essential rights including right to food and right to work directly connected and dependent on access to land to enjoy them as a right.¹¹⁰ Therefore, in developing countries like Ethiopia effective enforcement of many human rights are dependent on access to land. If the land tenure system failed to ensure tenure security, it affects property rights and many other fundamental rights of individuals.

Guaranteeing and protecting fundamental human rights and liberties (such as land rights) is an essential constituent of liberal democracy. Catherine Boone argued that in liberal democracy property is institutionalized in a private sphere insulated from the everyday politics of majoritarian decision making rather than being used as a means of restraint.¹¹¹ Furthermore as we have discussed in the previous sections, people's land ownership regime might result in tenure insecurity as the state might not effectively guarantee land rights of individuals, and as it might use land for building patronage.¹¹² This behavior of the State and insecure tenure has its own negative contribution to the democratization process of the country.

On the other hand, People's land ownership is criticized for being a source of concentration of power (economic and political power) in the hands of the government which might contribute for the government to be unlimited and unaccountable.¹¹³ Such unlimited government is inimical to liberal democracy which might make laws and pass decisions on majority against the rights of minorities (i.e. land rights of individuals). Hence, if the land ownership right of individuals in a certain country is not properly guaranteed and protected, it is difficult to say that the regime is democratic and liberal.

¹⁰⁹ Daniel Behailu, cited above at note 46, p. 187.

¹¹⁰ The FDRE Constitution, cited above at note 9, Art. 41.

¹¹¹ C. Boone, cited above at note 59, p. 185.

¹¹² *Id.*, p. 188.

¹¹³ M. Friedman, cited above at note 85, pp. 75 & 76.

2.6. Summary

We have addressed the issue of views regarding land reform in agrarian societies. The liberal school views reform in relation to measures proposed by the conservatives while the other view is all about integrating the peasantry into the national political economy by organizing progressive forces. The third view has followed revolutionary approach for the transformation of social, economic and political conditions. Three major land ownership regimes are examined in this chapter. In our discussion both private and people's land ownership regime are criticized for possible dispossession and exploitative tenancy due to lack of tenure security while the degree might be different. Associative land ownership, in providing remedies to these defects, recognize a community ownership of land where a secured use right including a community supervised right to transfer with practiced local democracy is recognized for individuals.

Democracy is also conceptualized as liberal democracy constituting majority rule and minority right, as "government by discussion", deliberative and where the power of the government is additionally limited by rule of law. The nexus between land ownership and liberal democracy in a conceptual perspective is established by using four indicators: Neo-patrimonial states in-terms of using land as a patronage resource, democracy as "government by discussion", accountability and transparency of the government and land right as human right of individuals and a constituent of liberal democracy. Hence, land tenure has a direct connection to liberal democracy as the land tenure and/or land administration has its own implication in the democratization process of a country.

In the next chapter we will discuss the case of Ethiopia. The conceptual nexus established in this chapter will be examined based on the same indicators in light of the people's land ownership regime and the political reality of the country on the ground based on empirical facts. This chapter and the next chapter have essentially emphasized the overall claim of the Thesis that there is a conceptual, historical and practical nexus between land tenure and liberal democracy, and the people's land ownership in Ethiopia contributes (negatively or positively) to the existing democracy or democratization process of the country.

Chapter Three

Land Tenure and Democracy in Ethiopia

3.1. Introduction

The previous chapter has conceptualized land tenure or forms of land ownership, tenure security and democracy. The nexus between land tenure and democracy is also established in a conceptual perspective by using specific indicators. Then by using the already established conceptual nexus as a stepping stone, the writer will examine the nexus between land tenure and liberal democracy in Ethiopian context. In this chapter, we will examine the political history and the current policies and affairs of the government of Ethiopia to take note of the fact that whether there is nexus between land tenure and liberal democracy in practice.

The first section examines the history of land and politics in Ethiopia which covers the imperial period during Emperor Haileselassie I and the Derg regime. The second section elucidates land tenure and democracy in the contemporary Ethiopia. This section first examines the current land ownership policy including issues for debate and who actually owns land and then describes the current politics and the behavior of the government in light of the norms of liberal democracy. Then the third section expound the nexus between land tenure and democracy in Ethiopia by using indicators we have identified, in the previous chapter, to establish the nexus.

3.2. History of Land Tenure and Politics in Ethiopia

The history of land tenure in Ethiopia explains why the political culture of the nation “lent a hand to the existence of extractive (exploitative) state both in terms of history and current affairs”.¹¹⁴ Some of the justifications and arguments presented in favor or against one forms of land ownership in the present day Ethiopia are highly interlinked to the political history of the country. Here in under the writer will make a brief discussion on the three types of tenure systems and politics in Ethiopian history: the Imperial Era (Pre-1975), the Derg Era and the current land tenure system.

¹¹⁴ Daniel Behailu, cited above at note 46, p. 2.

3.2.1. Land Tenure and Politics in the Imperial Era (Pre-1975)

The nexus between land tenure and politics under the reign of Emperor Menelik and Emperor Haile Selassie is the subject of discussion under this sub-section.¹¹⁵ The political conquest and expansion in Ethiopia at the end of the 19th century resulted in political subjugation, alienation of land and a forceful establishment of a feudal system of land ownership.¹¹⁶ The power of the King was absolute, hostile to liberty and democracy, where all land belonged to the king and all land rights emanated from the generous gift of the king to his subjects including the church.

Private land ownership was introduced by Menelik II in the southern parts of Ethiopia resulted in transfer of large tracts of land especially to investors in 1950s and 1960s and made *gabbars* once and for all landless tenants.¹¹⁷ Land privatization in the era of feudalism and a patronage system of governance created a favorable environment for exploitative tenancy to the dismay of the indigenous land-less majority. During this period, land was a patronage resource utilized to perpetuate the dominancy and hegemony of the state at the local level.

Land was also used as a political means of controlling subjects, making low ranking officials loyal and conferring political power for the nobility.¹¹⁸ This shows that the imperial regime administered the country depending on patron-client type of relation in which the Emperor is the supreme source of patronage having many clients all over the country up to the local level reaching peasants in hierarchical order. Hence, in the imperial period there was a feudal system based on patrimonial system of governance inimical to liberty and democracy.

Opposition grew everywhere in the country among which the peasant rebellion and the Radical Student Movement were the prominent ones.¹¹⁹ The slogan “Land to the Tiller” staged by students in a demonstration in 1965 reverberate the land question as a burning political issue and became a “marker of the transition from the reformist to the revolutionary era”.¹²⁰ Finally the issue of land tenure and many resistances and popular uprisings directly and indirectly related to

¹¹⁵ The reason why the writer chooses to start his discussion from the last days of Emperor Menelik II is because this period was a period where by the nation building has been completed through expansion and occupation. See Saheed A. Adejumobi, *The History of Ethiopia*, (2007).

¹¹⁶ D. Miller & Eyob Tekalign Tolina, cited above at note 3, p. 351.

¹¹⁷ Daniel Woldegebriel, cited above at note 5, p. 57.

¹¹⁸ S. A. Adejumobi, cited above at note 115, p. 41; Yigremew Adal, cited above at note 26, p. 3.

¹¹⁹ S. A. Adejumobi, cited above at note 115, p. 104.

¹²⁰ S. A. Adejumobi, cited above at note 115, p. 106.

it were among the major contributing factors for the down fall of the imperial regime and the seizure of power by the Derg.

3.2.2. Land Tenure and Politics in the Derg Regime

Derg took the radical land reform of March 1975 by adopting the Public Ownership of Rural Lands Proclamation No. 31/1975. The land reform aimed at dismantling the political, economic and institutional basis of feudalism and enlarged the political support base by appeasing the demands of the peasantry, thereby consolidating its power.¹²¹ These the major justification of the land reform was the liberation of peasants from the age old feudal oppression and injustice in order to lay the basis upon which all Ethiopians may live in equality, freedom and fraternity.¹²² The land reform also relieved the peasants of the south from the landlord-tenant relation that had condemned them to live in a slave-like existence.

The 1975 proclamation abolished the landlord-tenant relation and replaced with collective land ownership of the Ethiopian people where inalienable usufruct rights to all peasants were recognized.¹²³ A political power including the power to redistribute rural land were decentralized to local governments at the *kebele* level in the form of Peasant Associations (PAs) replacing the centralized individualistic form of governance existed in the imperial period.¹²⁴ Dessalegn asserted that nationalization of land and the power of the state to redistribute and dispose the land “...extended the ability of the state to intrude in all aspects of peasant life”.¹²⁵ Moreover Harold Aspen stated that peasant association leaders were not accountable to peasants rather accountable to their higher officials which show that accountability went in the wrong direction, from the bottom to the top.¹²⁶

¹²¹ T. Sikor and D. Muller, “The Limits of State-Led Land Reform: An Introduction”, *World Development* vol. 37, no. 8 (2009), P.1308.

¹²² A Proclamation to Provide for the Public Ownership of Rural Lands, cited above at note 7, Para. 2 of the preamble.

¹²³ Dessalegn Rahmato, *The Peasant and the State: Studies in Agrarian Change in Ethiopia 1950s`-2000s`* (2009), p. 297.

¹²⁴ Dessalegn Rahmato, “Agrarian Change and Agrarian Crisis: State and Peasantry in Post-Revolution Ethiopia”, *Journal of the International African Institute*, Vol. 63, No. , (1993), pp. 39-41

¹²⁵ *Id*, p. 39.

¹²⁶ H. Aspen, “Models of Democracy-Perceptions of Power. Government and Peasantry in Ethiopia,” in Bahru Zewde and Siegfried Pausewang (eds.), *Ethiopia the Challenge of Democracy from Below* (2002) p.64.

The land reform policy was criticized for making “insecurity of tenure an enduring element” and for politicizing land because access to land was dependent on political conditions provided by the government.¹²⁷ This gave a chance for the state to exercise a greater hegemonic power. Later on the initial reform derived by “radical populism” for social justice was replaced by doctrinaire rural policies based on soviet style socialist ideology, such as agricultural socialization including resettlement that caused for peasant resentment.¹²⁸

In its last days, *Derg* adopted new mixed economic policy that had not changed the state land ownership regime while it was the government intervention that gave rise to eviction and land redistribution and ultimately resulted in tenure insecurity and peasant resentment.¹²⁹ Finally the failure of the *Derg*’s policies contributed for the downfall of the *Derg* and the coming to power of Ethiopian People’s Revolutionary Democratic Front (EPRDF) in 1991.¹³⁰ Hence, it is safe to conclude that the land ownership policy pursued by the *Derg* fundamentally contributed to its downfall. This indicates that land tenure is a critical issue and an essential resource directly connected to the political system of a country particularly in agrarian societies like Ethiopia.

3.3. The Current Land Tenure System and Democracy in Ethiopia

3.3.1. The Land Policy in the Current Regime

After the down fall of the *Derg*, due to the free market economy that the new government endorsed and because land is the main factor of production, many expected that land would be private property of individuals. However, the Transitional Government of Ethiopia (TGE) in declaring its economic policy in November 1991 endorsed the continuation of the land policy of the *Derg* regime.¹³¹ When the 1995 FDRE Constitution was enacted, the land ownership regime that came to exist by the 1975 radical land reform endorsed to be the land policy of the current government without any significant change.¹³²

¹²⁷ Dessalegn Rahmato, cited above at note 123, p. 298.

¹²⁸ *Ibid.*

¹²⁹ Dessalegn Rahmato, cited above at note 124, p. 49.

¹³⁰ S. A. Adejumobi, cited above at note 115, pp. 133-134.

¹³¹ W. Crewett and B. Korf, cited above at note 15, p. 204.

¹³² However there are notable differences between the land reform proclamation of 1975 and the 1995 FDRE Constitution. The *Derg* 1975 proclamation specifically prohibited the rural land lease, the hiring of labor and

The FDRE Constitution has settled land policy issues by incorporating peoples' ownership of land as the land tenure policy of the State. By incorporating land policy under the Constitution, the current government makes land policy reforms subject to rigid constitutional amendment procedures hardly adaptable to the realities of the dynamic world. Some claim that the inclusion of land policy under the Constitution which is expected to assume a greater level of permanency and rigidity compared to other laws, and assertions of high government officials to that effect has made the issue of land ownership in the country a dead issue.¹³³ However, since the advent of the current regime, the issue has been a source of debate among researchers, politicians and other concerned bodies in Ethiopia.

3.3.1.1. The Current Debate on Land tenure

In the debate concerning the current land tenure system of the country, there are some who advocate for private ownership of land while others endorse peoples' ownership of land as stipulated under the Constitution. On the other hand, there are some who argue in favor of a third alternative to the "amputated debate" centered on state versus private ownership of land, associative land ownership regime. Still some observers note that the debate is influenced by ideological perspectives of professionals, academics, opposition political parties and the ruling party rather than being based on empirical facts reflecting the perspective of Ethiopian peasants.¹³⁴

The government, the ruling party and some opposition political parties¹³⁵ are the prominent proponents of the current land ownership regime, people's ownership of land. They argue that private ownership of land will expose peasants for "distress sell" during hard times which leads to the concentration of land in the hands of few individuals who have the ability to buy and

concealed the maximum land size per individual to 10 ha in different from the FDRE Constitution among other things.

¹³³ See the FDRE Constitution, cited above at note 8, Art. 40; Berhanu Nega, Berhanu Adnew and Seyum G/Sellase, "Current Land Policy Issues in Ethiopia", (Ethiopian Economic Policy Research Institute, Addis Ababa, Ethiopia, 2003), p. 108. <<http://www.fao.org/docrep/006/y5026e/y5026e08.htm>> accessed June 06, 2016; Muradu Abdo, cited above at note 2, pp.287-288.

¹³⁴ W. Crewett and B. Korf, cited above at note 15, p. 203; Berhanu Nega, Berhanu Adnew and Seyum Gebre Selassie, cited above at note 133, p. 110.

¹³⁵ For example Oromo National Congress (hereinafter ONC). Interview with Mr. Tolosa Tesfaye, president of ONC in January 01, 2017.

aggravate landlessness and poverty.¹³⁶ They claim that people's land ownership policy of the government builds on a social equity paradigm (principle of fairness) to equally distribute land to the needy. It also prevents peasants from selling land under their possession and thereby protecting them from land grabbing hands of the urban bourgeoisie and rural elites. They further claim that this form of land ownership protects farmers from social and political exploitation thereby preventing political unrest and the revival of exploitative tenancy, in short ensuring fairness or equal access to land and redressing historical injustice.¹³⁷ In addition, these proponents argue that those historical injustices throughout the history of Ethiopia emanated from the quest for political power through controlling access to land.¹³⁸

Some rejected the government's rhetoric claiming for being "defender of peasants" as it is directly involved in evicting peasants and making them landless in semi-urban and peripheral area of the country.¹³⁹ Many accuse government authorities for transferring land from the peasantry to investors or for its own purpose without consulting peasants or their communities.¹⁴⁰ Furthermore tenure insecurity and fear of losing their lands deter farmers from objecting government decisions that deprive them of their livelihood.¹⁴¹

Several authors argue that people's land ownership policy in Ethiopia has contributed for peasant subordination by making them 'tenants of the state' and have deprived them of an essential human right, the right to property or livelihood.¹⁴² The people's land ownership policy defeated its objective of ensuring equal access to land to all citizens without payment by providing land for urban and foreign elites in the name of investment and commercial agriculture resulting in

¹³⁶ Biniam Tamrat, "Historical Review of the Current Debate on Ethiopian Land Tenure System", *African Journal of History and Culture*, vol. 7(2), p. 48.

¹³⁷ W. Crewett and B. Korf, cited above at note 15, p. 205.

¹³⁸ Solomon Fikire, cited above at note 23, p. 136.

¹³⁹ Dessalegn Rahmeto, "Land to Investors: Large-Scale Land Transfers in Ethiopia", Forum for Social Studies, Addis Ababa, 2011; "Ethiopia-Land for sale", *Al Jazeera*, January 30, 2014.

<<http://www.aljazeera.com/programmes/peopleandpower/2014/01/ethiopia-land-sale-20141289498158575.html>>accessed September 12, 2016.

¹⁴⁰ Dessalegn Rahmeto, cited above at note 139, p. 7; Biniam Tamrat, cited above at note 136, p. 48.

¹⁴¹ Interview with Biniam Abebaw, (pseudonym) and Alebachew Worku(pseudonym), peasants in the peripheral parts of Addis Ababa, December 3, 2016.

¹⁴² Dessalegn Rahmeto, cited above at note 123, p.262; W. Crewett and B. Korf, cited above at note 15, pp. 207 & 215; S. Davies, cited above at note 58, pp. 248-249;

the eviction of peasants and promotion of absentee landlordism, problems the policy was supposed to prevent.¹⁴³

On the other hand those who argue for private land ownership argue on the angle of local democracy and human rights, principle of efficiency, and sustainable development. It is argued that right to self determination of peasants as their “unrestricted economic rights”, which everyone should benefit from, can be effectively protected in Private land ownership regime.¹⁴⁴ Ethiopian Economic Association, donor agencies, most of the opposition political parties, researchers and academicians are among the proponents of private land ownership.¹⁴⁵

Many argue that people’s land ownership policy of the EPRDF regime has a real motive of controlling land and making peasants dependent on the state for accessing this critical resource thereby discouraging them not to actively engage in politics due to fear of eviction.¹⁴⁶ Private land ownership enhances and ensures absolute tenure security by preventing the government from dispossessing farmers of their farm lands.¹⁴⁷ Arguments that are critical of people’s land ownership implicitly or explicitly support private land ownership regime. They asserted that the power of the state in controlling the peasantry through land ownership policy shall be constrained by the privatization of land supposed to ensure peasants independence.¹⁴⁸

Apart from people’s ownership vs. privatization dichotomy, there is a third alternative land tenure policy which is community or ‘associative’ ownership of land. In associative land ownership regime, there is a decentralized decision making at the village level where ownership

¹⁴³ Solomon Fikire, cited above at note 23, p. 145.

¹⁴⁴ Daniel Behailu, cited above at note 46, p. 24.

¹⁴⁵ W. Crewett and B. Korf, cited above at note 15, p. 206.

¹⁴⁶ Solomon Fikire, cited above at note 23, p. 147; Dessalegn Rahmeto, cited above at note 139, pp.6-7.

¹⁴⁷ Even if critics argues that distress sell in private land ownership regime make land tenure insecure, there are no empirical evidences that can proof that the policy of state ownership of land would prevent peasants from selling or mortgaging their land in hard times. Conversely, researches based on empirical facts are showing that (extra-legal) transfers of land during the *derg* regime and their after under people’s ownership of land are in comparable scale or even larger than the transfers that were undertaken when such transactions were permitted, in the Imperial period. See Solomon Fikire, cited above at note 23, p. 148;

¹⁴⁸ Dessalegn Rahmeto, “The Land Question and Reform Policy: Issues for Debate”, *Dialogue*, vol. 1. no. 1, (1992), pp. 43-57 cited in Solomon Fikre, cited above at note 23, p. 147.

right resides while every member of the village community and outsiders including the government has a usufruct right with a restrictive right to transfer.¹⁴⁹

According to Pausewang, local governments in the People's land ownership regime are accused for exercising arbitrary power, threatening peasants asserting their rights with the loss of their land and for exploitative tenancy.¹⁵⁰ He further argues that while people's land ownership make peasants hostage to the local authorities, privatization would cause for the loss of their land through distress sell and lead to landlessness and rural- urban migration.¹⁵¹ For Pausewang, it is only when there is a prevalence of constitutionalism in which the views of the peasantry is heard and seriously considered in decision making that people's land ownership can be acceptable until alternative work opportunities are created for peasants who are uneducated.¹⁵²

Hence, according to Pausewang, Ethiopian peasants are in need of practicing local democracy with community land ownership (with responsibility for land distribution) where individuals have secured user right including a community supervised right to transfer, associative ownership of land.¹⁵³ Under this land ownership regime there is secured land tenure as there is practiced local democracy and community land ownership with a supervised and restrictive right to transfer. Thus, by and large, local democracy can avoid local autocracy in land governance, and can be helpful to realize political claims of democratic governance as envisaged under the FDRE Constitution.

3.3.1.2. Who Owns Land in Ethiopia Under the FDRE Constitution?

The Constitution envisaged that land is exclusively vested in the State and the peoples of Ethiopia.¹⁵⁴ This provision of the Constitution needs some clarification as it creates some practical problems and doubt on the clear meaning of the words. Many scholars and politicians misunderstood, misnomer or negligently interpreted the terminology of Article 40(3) of the Constitution to mean state ownership of land rather than people's land ownership where the State

¹⁴⁹ J. W. Bruce, A. Hoben and Dessalegn Rahmato, cited above at note 41, p. 61; Muradu Abdo, cited above at note 2, p. 49.

¹⁵⁰ S. Pausewang, "Ethiopia: a Political View from Below", South African Journal of International Affairs, vol. 16, no.1, (2009), p. 75.

¹⁵¹ S. Pausewang, cited above at note 12, p. 9.

¹⁵² S. Pausewang, cited above at note 150, pp. 75-76.

¹⁵³ S. Pausewang, cited above at note 12, p. 10.

¹⁵⁴ The FDRE Constitution, cited above at note 9, Article 40(3).

is an agent. This issue is critical issue in developing countries like Ethiopia where the majority is illiterate and unable to reach at a correct interpretation of the provision or just unable to understand. The ambiguous provision of the Constitution states that:

The right to ownership of rural and urban land, as well as of all natural resources, is exclusively vested in the State and in the peoples of Ethiopia. Land is a common property of the Nations, Nationalities and Peoples of Ethiopia and shall not be subject to sale or to other means of exchange.¹⁵⁵

Different scholars argued differently in interpreting the same legal provision. For example Mellese argues that the constitutional phrase “the ownership of land is vested in the people and the state” shall be interpreted to mean land is jointly owned (co-owned) by the state and the people of Ethiopia as the provision treated the two entities distinctly.¹⁵⁶ However Muradu contends that interpreting the Constitutional provision as it envisages joint ownership by the people and the state is inappropriate and incongruent to the full text of the particular provision of the Constitution.¹⁵⁷

Muradu argues that in the text the phrase “peoples of Ethiopia” is augmented to mean “the Nations, Nationalities and Peoples of Ethiopia” in the second sentence.¹⁵⁸ He similarly interpreted the concepts of ownership used in the first sentence of the provision as it is explained in the second sentence to mean “common property”, means collective property of the Nations, Nationalities and Peoples of Ethiopia as opposed to joint ownership.¹⁵⁹ Then he argued that land is collectively owned by each and every nation, nationalities and peoples of Ethiopia and they cannot localize their ownership interest and asset in any particular territory.¹⁶⁰ Hence, in Ethiopia it is not possible to claim ownership right on a particular geographical area (land) based on customary utilization or other similar grounds.

Further the Constitution also states that land is the common property of the Nations, Nationalities and peoples of Ethiopia while recognizing the government as an agent of the people to hold and

¹⁵⁵ *Ibid.*

¹⁵⁶ Muradu Srur, cited above at note 32, p. 14.

¹⁵⁷ *Id.*, p. 15.

¹⁵⁸ *Id.*, p. 16.

¹⁵⁹ *Ibid.*

¹⁶⁰ *Ibid.*

deploy it for their common benefits and development.¹⁶¹ Hence, the term “exclusively vested in the State and the peoples of Ethiopia” in Article 40(3) of the Constitution shall be interpreted in conjunction with Article 89(5) of the constitution expressly allowed the government to hold land on behalf of the people and to deploy it for their common benefits and development.¹⁶² This shows that the role of the government is to act on behalf of the Nation, Nationalities and People of Ethiopia in administering land collectively owned by them. Daniel also asserted that the government is a political body representing the peoples of the country, and the sole decision maker responsible for land administration and allocation on behalf of the people.¹⁶³ Therefore, it is proper to call the current land ownership regime as “people’s land ownership regime”. However, as we have discussed in the previous chapter, it is the government who exercise entitlements of ownership as a “trustee” in legal sense and as an owner in practice because the people acts through their juridical agent in a representative democracy. One can arguably conclude that the actual owner on the ground is the government as an agent of the people where people’s land ownership has only a symbolic value. Hence, the government has given a hegemonic power over land, and the peasantry whose life entirely depends on the former.

On the other hand, Rural Land Administration and Land Use Proclamation governing the acquisition and use of rural land under Article 5(3) specifies the phrase “[g]overnment being the owner of rural land...”¹⁶⁴ This provision imply that land ownership lay in the hands of the government contrary to the constitutionally recognized people’s land ownership regime where the government is simply an agent. Thus, it needs to be amended.

The other issue is which level of government is responsible to hold and administer land in Ethiopia on behalf of the people. As a Federal State, the powers and functions of the Federal and State governments are provided under the FDRE Constitution.¹⁶⁵ Article 51(5) of the FDRE Constitution has stated that the Federal government shall enact laws for the utilization and conservation of land and other natural resources. It is the responsibility of the Federal

¹⁶¹ The FDRE Constitution, cited above at note 9, Art. 40(3) cum Article 89(5).

¹⁶² The FDRE Constitution, cited above at note 9, Art. 89(5).

¹⁶³ Daniel Woldegebriel, cited above at note 5, p.38.

¹⁶⁴ Federal Democratic Republic of Ethiopia Rural Land Administration and Land Use Proclamation, 2005, art. 5(3), Proc. No. 456, *Neg. Gaz.*, year 1, no. 44.

¹⁶⁵ The FDRE Constitution, cited above at note 9, Arts. 51 and 52.

government to enact legislations to govern the administration, utilization, and conservation of land in the country.¹⁶⁶ The States responsibility is to administer land and other natural resources in accordance with Federal laws.¹⁶⁷ In addition, as land is the common property of Nations, Nationalities and Peoples of Ethiopia, the Federal government shall be responsible to unilaterally decide the scope of power that should be exercised by the regional governments. Hence, it is the unilateral power of the Federal government to make laws that govern how land should be administered and utilized.¹⁶⁸ However the Federal government shall exercise its power without infringing the Constitutional power of States to administer land.

In accordance with the Constitution, the Federal government enacted the Federal Land law¹⁶⁹ and the nine regions also enacted their respective regional land laws¹⁷⁰ in accordance with the power vested on them under the Federal Land Law.

3.3.2. Contemporary Politics in Ethiopia under the FDRE Government

Ethiopian Peoples' Revolutionary Democratic Front (EPRDF), a collision of four nationalist parties¹⁷¹, came to power in May 1991 after 17 years of armed insurgency. Tigrian Peoples Libration Front (TPLF), one of the dominant political party in the coalition that form EPRDF¹⁷², employed Marxist-Leninist principle which had been popular among the Ethiopian students of

¹⁶⁶ The FDRE Constitution, cited above at note 9, Art. 51(5).

¹⁶⁷ The FDRE Constitution, cited above at note 9, Art. 52(2)(d).

¹⁶⁸ But in constitutional practice in the case "*Biyadglegn Meles & et al v. the Amhara Regional State* (Miazia 30, 1989 EC, unpublished) the applicants requested the CCI to declare the state land laws issued before the Federal government enacted a framework legislation as unconstitutional. However, the House of people's representative has enacted proclamation no. 89/1997 and retroactively endorsed State laws that were enacted before the Federal proclamation. However, the CCI ruled that the state law is constitutional on two different grounds: it falls under the residual power of the states and also because it was retroactively endorsed by the Federal proclamation. It is hard to accept this decision for two reasons: why the Federal parliament retroactively endorsed if the state law was constitutional as decided by the CCI and if it was unconstitutional, it was not acceptable to retroactively endorse the laws which have no effect. See Assefa Fiseha, *Federalism and Accommodation of Diversity in Ethiopia: A Comparative Study*, (2006), pp. 304-306.

¹⁶⁹ The FDRE Rural Land Administration and Land Use Proclamation, cited above at note 164.

¹⁷⁰ See for example recently published Regional Rural Land Laws, The Ethiopian Somali Regional State Rural Lands Administration and Use Proclamation No. 128/2013; Benishangul Gumuz Regional State Rural Land Administration and Use Proclamation No. 85/2010; Afar National Regional State Rural Land Administration and Use Proclamation No. 49/2009.

¹⁷¹ The Four Political parties formed the coalition are Southern Ethiopian People Democratic Movement, Amhara National Democratic Movement, Oromo Peoples Democratic Organization and Tigrian People Libration Front.

¹⁷² J-N- Bach, "Abyotawi democracy: neither revolutionary nor democratic, a critical review of EPRDF's conception of revolutionary democracy in post-1991 Ethiopia", *Journal of African Studies*, vol. 5, no. 4, (2011), p. 642.

the day and Tigrayan nationalism as a means to mobilize the Tigrayan peasantry.¹⁷³ After it controlled state power, the Marxist-Leninist principle was ‘officially’ discarded and replaced by ‘liberal democracy’ in 1991.¹⁷⁴ However, for the purpose of winning legitimacy from two sides, according to Merera, EPRDF continued to use a dual strategy in which they preach liberal democracy to convince westerners (donors) support as the country was in a state of bankruptcy while it continued adhering to its Marxist-Leninist principle of revolutionary democracy.¹⁷⁵

On the other hand, Aregawi argued that there is “a hybrid of ideologies-namely the outer trappings of democracy (parties, periodic elections, a constitution and a parliament) and ‘revolutionary democracy’, with the later holding ultimate sway-constitutes the outward political symbolism and rhetoric prevailing in the Ethiopian state”.¹⁷⁶ ‘Revolutionary democracy’ originated from Lenin’s thesis formulated to replace parliamentary democracy where the former is a rule by politically trained vanguard party representing ‘the masses’, consult the constituency but not accept changes from it, and implement policies in a top-down approach.¹⁷⁷ Hence it is possible to share Merera’s argument that the ‘Ethiopian democratization enterprise’ has made a serious mistake in making the Marxist-Leninist philosophy of revolutionary democracy formulated for a socialist revolution a guide to liberal democratic transformation.¹⁷⁸

Many scholars question the legitimacy of the 1995 FDRE Constitution claiming that its making process was not “fully participatory” and was dominated by the ruling party.¹⁷⁹ The Constitution

¹⁷³ Aregawi Berhe, “A Political History of the Tigray People’s Liberation Front (1975-1991): Revolt, Ideology and Mobilisation in Ethiopia”, (PhD thesis, Amsterdam, Vrije University, 2008), pp. 208-237; K. Hedrard and S. Smis, Recent “Experiences in South Africa and Ethiopia to Accommodate Cultural Diversity: A Regained Interest in the Right of Self-Determination”, *Journal of African Law*, 44, (2000), p. 41;

¹⁷⁴ Aregawi Berhe, cited above at note 173, p. 236.

¹⁷⁵ Merera Gudina, “The State, Competing Ethnic Nationalisms and Democratisation in Ethiopia”, *Africa Journal of Political science*, vol. 9, no. 1 (January 2004), pp. 33&34.

¹⁷⁶ Aregawi Berhe, cited above at note 173, p. 236.

¹⁷⁷ *Id*, p. 234.

¹⁷⁸ Merera Gudina, cited above at note 175, p. 43, note 2.

¹⁷⁹ Correspondingly, some writers labeled the Constitution as EPRDF’s party program while some others specifically call it Tigray People’s Liberation Front’s (TPLF’s) party program. See Adem Kassie, “The Federal Democratic Republic of Ethiopia: Introductory Remark” in R. Wolfrum, R. Grote and E. de Wet (eds.), *Constitutions of the Countries of the World, The Federal Democratic Republic of Ethiopia Commentary*, (Release 2011-4, September 2011), pp. 3-4; Teguadda Alebachew, “When Constitution Lacks Legitimacy in the Making: The Case of Ethiopia”, (LLM Thesis, Addis Ababa University, 2011); Aregawi Berhe, cited above at note 166, pp. 344-345; Tsegaye Regassa, “The Making and Legitimacy of the Ethiopian Constitution: towards bridging the gap between constitutional design and constitutional practice”, *Afrika Focus*, vol. 23, Nr. I, (2010).

established a human-rights sensitive democratic republic.¹⁸⁰ However, in practice, elements of liberal democracy contained under the Constitution were entangled with the ideologies of revolutionary democracy due to the ideological attachment of the ruling party to the later. And exceptionally, parliamentary system and representation through election is considered as a foundation of revolutionary democracy in Ethiopia but in practice these liberal tools were appropriated by EPRDF leaders to legitimize its survival.¹⁸¹ Hence, it is difficult to make a clear cut demarcation line between liberalism and revolutionary democracy in Ethiopian context.¹⁸²

Some argue that while there are “liberal institutions”, the Ethiopian version of revolutionary, *abyotawi*, democracy, has been mainly used as a tool of legitimating and a fighting tool for EPRDF against internal and external opponents or critics.¹⁸³ EPRDF practically utilized revolutionary democracy as a defense. For instance when human right institutions such as Human Rights Watch criticized the government for committing “land grabbing”, it rejected their allegation accusing them for being “neoliberals promoting rent-seeking behavior”, hostile to revolutionary democracy.¹⁸⁴ Some also argue that there is a democratic illusion by reducing democracy to its procedural components denying any meaningful political participation and without any possibility of hearing the voice of the society.¹⁸⁵ Moreover, the party is accused of acting as a vanguard political force where no dissent voices are heard and as being constructed in a manner that does not threaten the whole sum control of the party-dominated executive.¹⁸⁶ This argument can be backed by the various allegations of elections rigging levied against the EPRDF by many observers in the last five elections spanning back two decades.¹⁸⁷

In addition EPRDF’s doctrine of “democratic centralism” reflected in its 2010 party statute¹⁸⁸ in practice overruled democracy because it is all about accepting orders without question and

¹⁸⁰ The FDRE Constitution, cited above at note 9, Arts 1, 8, 10, 13-44, 11.

¹⁸¹ J-N Bach, cited above at note 172, pp. 645 and 646.

¹⁸² *Id.*, p. 643.

¹⁸³ Aregawi Berhe, cited above at note 173, p. 236.

¹⁸⁴ EPRDF, “Issues of Land Grab”, *Addis Raey*, vol. 3, no. 7, (2011), pp. 29-36

¹⁸⁵ J-N Bach, cited above at note 172, p. 646.

¹⁸⁶ J. Abbink, cited above at note 93, p. 195.

¹⁸⁷ See for instance Ethiopian Human Rights Council, *Compiled Election Reports*, (Addis Ababa, August 2004); J. Abbink, cited above at note 93, pp. 187-189;

¹⁸⁸ J-N Bach, cited above at note 172, p. 647.

participation in a top-down approach.¹⁸⁹ Generally *Abyotawi* democracy continued to be adapted to new realities through time and provides justification for fusing political and economic power in the state¹⁹⁰ and for retaining the land tenure policy of the previous regime.

When we go down to the rural areas, there is a repressive rule of state and unpopular governance at the local level aggravated by vertical power relation without consultation, participation and democratic accountability to the peasantry.¹⁹¹ Currently, farmers are divided as ‘*acha* farmers’ (‘peer’ farmers) and model farmers.¹⁹² The government claimed that this division is needed because it could not afford to give new technologies for every farmer and it would be more effective to give these scarce resources to leading farmers as a main supplier of marketed surpluses and to encourage other farmers to see these farmers as role models.¹⁹³ However, the ruling party uses enrolment of model farmers as a means to recruit party members making them responsible to carry out the orders of the upper levels party-state structure in their locality.¹⁹⁴

After reviewing relevant documents in Amhara region, Rene Lefort concluded that in practice, from its inception, enrolment of model farmers is employed for political ends in order to ensure the permanence of the ruling power at the local level and suggested formal criteria for enrolment of model farmers.¹⁹⁵ This is a clear case of discrimination between members and supporters of the ruling party and the rest of the rural population, and a means of sustaining political hegemony of the ruling party at the local level by using public resources and institutions. This is a behavior that contradicts the norms of democracy and constitutional guarantees.

The 2005 national election was appreciated for being relatively free, fair and democratic. But after the election, when the ruling party performed badly, the government set back by increasing the level of repression that contradicts the norms of a democracy as evidenced by: laws that

¹⁸⁹ R. Lefort, “The Theory and Practice of Meles Zenawi: A Response to Alex De Waal”, *African Affairs*, vol. 112, issue 448, (2013), p. 461.

¹⁹⁰ J-N Bach, cited above at note 172, p. 657.

¹⁹¹ S. Pausewang, cited above at note 150, 69-85.

¹⁹² R. Lefort, Free Market Economy, “developmental state’ and party-state hegemony in Ethiopia: the case of the ‘model farmers’. *The Journal of Modern African Studies*, vol. 50, issue 4, (2012), pp. 682-683; Rene Lefort, “Powers-Mengist- and peasants in rural Ethiopia: the post-2005 interlude”. *The Journal of Modern African Studies*, vol. 48, issue 03, (2010), pp. 441-444.

¹⁹³ EPRDF, “Our Rural Development Strategy, Level of Performance and Future Focus areas”, *Addis Raey*, vol. 4, no. 2, (2013), pp. 70-80; Rene Lefort, (2010), cited above at note 192, pp. 441-444.

¹⁹⁴ R. Lefort(2010), cited above at note 192, pp. 441-444.

¹⁹⁵ R. Lefort(2012), cited above at note 192, pp. 692; Interview with Mr. Adane Tilahun, cited above at note 100.

narrow the political space and discourage Civil Society organizations working on democracy and human rights¹⁹⁶, and EPRDF's official recognition of "democratic centralism" inconsistent to the formal federal system utilized to strengthen the controlling power of the state at the local level¹⁹⁷.

In contrast to the official assertion and rhetoric of "democratization process"¹⁹⁸, Haggmann and Abbinik claimed that the "revolutionary democracy" in Ethiopia "has the trappings of multiparty democracy with parties, elections held and some extent of free press media permitted, but with an unshakably dominant rule of the vanguard party, that assumed power in armed struggle and therefore cannot and will not relinquish it".¹⁹⁹ Aalen and Tronvoll argued against the government's usual assertion that the country is in transition to democracy by calling the state in general "...an authoritarian state draped in democratic window-dressed in which manipulated multiparty elections are a means to sustain power".²⁰⁰ In line of there assertion, the May 2015 parliamentary elections resulted in the claim that EPRDF and its allied parties have won every seats in parliament.

EPRDF and its affiliates claimed a 100% election victory in a multiethnic state with diversified opinions while the country paradoxically and immediately immersed into a serious of protests and confrontation against the ruling party that resulted in a state of emergency being declared for the first time in the country's history. This election victory implies that participation in political life will be completely reserved to EPRDF members and allies.²⁰¹ Although the ruling party and the U.S. president, Barack Obama, called the government "democratically elected"²⁰², after few

¹⁹⁶R. Lefort (2013), cited above at note 189, p. 463;

¹⁹⁷ L. Aalen and K. Tronvoll, "The End of Democracy? Curtailing Political and Civil Rights in Ethiopia", Review of African Political Economy, vol. 36, issue 120, (2009), pp. 199-202.

¹⁹⁸ EPRDF, "The New Millennium and Ethiopian Renaissance ", Addis Raey (special issue), vol. 2, 2007, pp. 28ff

¹⁹⁹ T. Haggmann and J. Abbinik "Twenty Years of Revolutionary Democratic Ethiopia", 1991 to 2011, Journal of Eastern African Studies, vol. 5, no. 4, (2011), p. 582.

²⁰⁰ L. Aalen and K. Tronvoll, cited above at note 197, p. 203.

²⁰¹ L. R. Arriola and T. Lyons, "Ethiopia's 100% Election", Journal of Democracy, vol. 27, no. 1, (2016).

²⁰² Barack Obama's speech during his visit to Ethiopia, July 2015. In fact this speech is criticized by many opposition groups and journalists. See, "Obama Criticized for Calling Ethiopia's government 'democratically elected'", the guardian, July 27, 2015. <<https://www.theguardian.com/us-news/2015/jul/27/obama-urges-ethiopia-end-crackdown-political-press-freedom>>accessed 28/1/2017; "Obama, in Ethiopia, Calls Its Government 'Democratically Elected'", The New York Times, July 27, 2015.

<https://www.nytimes.com/2015/07/28/world/africa/obama-calls-ethiopian-government-democratically-elected.html?_r=0> accessed 28/1/2017

months' protests and resistance in the two most populous regions of the country begins which ultimately forced the government to declare state of Emergency in October 2016.

Concerning the recent protests and resistance witnessed in most parts of the country, the government repeatedly acknowledged that the political space is narrowed, maladministration and abuse of power is rampant, democracy has not been flourished, the government and the ruling party need to be renewed in deep, the electoral system shall be revised and working on flourishing good governance is necessary.²⁰³ However this examination of the current protest cannot be considered as a full-fledged examination because the protesters raised radical slogans invoking for acknowledgment of self administration, frustration on land ownership, and political and economic marginalization that constitutes issues of democratic governance.²⁰⁴ Therefore, the contradiction between the result of the 2015 election and the large scale civil disobedience (or unrest) that arose in its aftermath illustrates questions of legitimacy raised against the government.

Moreover, the state of emergency may once again be used as a means of helping the regime to continue to stay in power by stifling opposition, restricting civil liberties and incessantly harass private media. In the directive issued for the state of emergency, the government expressly prohibits following some media outlets and participating in any public meeting without prior approval of the *command post* established to follow-up the enforcement of the decree²⁰⁵.

These discussions can arguably lead to the conclusion that there are behaviors, practices and/or authoritarian rules practiced by the government that contradicts the norms of liberal democracy recognized and guaranteed under the constitution. Hence, it is possible to assert that the norms of liberal democracy incorporated in the constitution are rhetoric used as a means to establish a

²⁰³ Ethiopian Broadcasting Corporation citing Prime Minister Haile Mariam Dessalegn, speaking in visiting those prisoners in Tolay Camp due to the recent protest, News on 22/12/2016 at 07:00 AM in the morning,. See <<http://www.ebc.et/web/news/-/-3522>> accessed 22/12/2016 ; EPRDF, "The Necessity, constituent and importance of Deep Renewal Movement Again", *Addis Raey*, vol. 5, no. 6, 2016, pp. 6-37.

²⁰⁴ "What do Oromo Protests means for Ethiopian Unity?", *BBC News*, 09 March 2016. <www.bbc.co.uk/news/amp/35749065> accessed 01/02/2017.

²⁰⁵ See "A Directive for the Execution of the State of Emergency Issued by the State of Emergency Command Post" (as translated by the Horn Affairs), October 15, 2016. <<http://hornaffairs.com/en/2016/10/19/ethiopia-directive-execution-state-emergencyfull-text/>> accessed 27/10/2016.

revolutionary democracy under a vanguard political party with no place and opportunity to hear an alternative or critical voice.

3.4. Land Tenure and Democracy: Making the Nexus in Ethiopian Context

In the previous chapter we have identified and discussed those indicators that can show the nexus between land tenure and democracy. Now we will discuss those indicators one by one to check whether there is any corroborative informative empirical evidence that can indicate that there is nexus between land tenure and democracy in Ethiopia and the kind of correlation they have. In due course, we will consider whether the people's land ownership regime in Ethiopia contributed to the current behavior of the government contradicting norms of democracy, and whether the current political situation have any negative implication for the land governance.

3.4.1. Land Tenure and Neo-patrimonialism in Ethiopia

As we have discussed in the previous chapter, neo-patrimonial states are those states in which rational-legal modes of governance co-exist with personalized modes of governance through mobilizing and redistributing resources for political purpose in a pretended electoral democracy. In developing countries like Ethiopia, land is a critical asset and a source of everything for the rural peasantry which can easily be mobilized to get a political profit if the government has the chance to do it. The people's land ownership regime gives the government a direct access and chance to mobilize land as a patronage resource. Now we will examine empirical facts to ascertain whether or not people's land ownership regime in Ethiopia gives the government a direct access to the peasantry to mobilize land as a patronage resource for its political gain.

In EPRDF regime, scholars have documented peasants' complaints that they were threatened with lose of their land and access to fertilizer if they supported or voted for opposition political parties in May-June 2000 parliamentary election and March 2001 local election.²⁰⁶ Pausewang interviewed peasants in Northern Shoa on Election Day and disclosed that the cadres at the local level harass peasants supporting opposition party as follows: "The Constitution says that the land is the property of the government. We do not give our land to those who betray us. Let your

²⁰⁶ S. Pausewang, "No Environmental Protection without Local Democracy? Why Peasants Distrust Their Agricultural Advisers", in Bahru Zewde and Siegfried Pausewang (ed.), *Ethiopia: The Challenge of Democracy from Below*, (2002), pp. 97-98.

party give you land-if they have any...’’²⁰⁷ Such kind of threat creates a great and actual fear on peasants participating in politics and potential fear on all peasants not to lose everything they have in their life as land is a critical asset, almost everything for their livelihood. Such harassment can greatly undermine the fairness of elections making participation in elections less necessary and winning in elections hardly possible.

There are also peasants who reported to election observers the fact that intimidations by *kebele* officials were common by saying: “you are voting for the opposition? Alright, ask your party to give you land. The constitution says the state owns the rural land. We don’t give our land to those who are not loyal to us”.²⁰⁸ Here the local leaders harassed peasants using the fusion of power between the ruling party and the government at the local level as an opportunity. And they harassed peasants as if the ruling party is the owner of the land, and in a manner that make them fearful of voting for any opposition again. Election observers in the 2001 local elections also reported that peasants in rural areas were threatened with loss of their lands to redistribution by local government officials.²⁰⁹

Moreover, Informants who participated in the 2005 and 2010 elections acknowledged that the government officials evicted those who believed to have voted for or supported opposition political parties from their farm land.²¹⁰ Fear of losing their land is the trend as the peasants believe that land is owned by the government and in reality, local government officials exercise unlimited power in administering land.²¹¹ It is the local government officials who are doing and executing whatever they want favoring their supporters and punishing those who questioned and opposed them. These empirical facts congregate with the argument that people’s land ownership

²⁰⁷ *Id.*, p. 98.

²⁰⁸ S. Pausewang, cited above at note 150, p. 72.

²⁰⁹ Ethiopian Human Rights Council (EHRCO), “The 2001 Ethiopian Local Elections: A report on EHRCO’s Monitoring Activities and Findings”, *Compiled Election Reports*, (Addis Ababa, 2004), p. 146.

²¹⁰ Interview with Abebe Wolete (pseudonym), a peasant, 28/12/2016; Interview with Mr. Adane Tilahun, cited above at note 100.

²¹¹ Almost all informants the writer interviewed including the government official believe that land is practically owned by the government and even most of them informed me that people’s land ownership is simply rhetoric. For example interview with Professor Mesfin W/Mariam, a human right activist at the time and founder of Ethiopian Human Right Council, on 12/12/2016; Interview with Mr. Dessalegn Rahmeto, a well known Researcher on Agrarian issues, in December 2/2016; Interview with Biniam Abebaw (pseudonym), cited above at note 141.

regime practically strengthen local despots, allowed local authorities to claim ownership, and to give and reclaim land at their own discretion.²¹²

Political affiliations also play a determinant role in designing and implementing land redistribution plans. In different parts of the country, officials of the ruling political party used land as a patronage resource to make politically motivated land redistributions that favor the supporters of the ruling party and punish non-supporters. Land redistributions made in 1997 in Amhara Regional State by the decision of the State Council and those made in Southern Nation, Nationalities and Peoples Regional State, Arbaminch Zuria Woreda from 2009 to 2010 can illustrate how the government used land redistribution as means to its political ends.

Council of the Amhara National Regional State promulgated a proclamation, Proclamation No. 16/1996, to provide the reallocation of the possession of rural land in the Amhara National Regional State in November 1996. The reasons given by the regional state in declaring such law, as provided under the preamble of the proclamation, are avoiding unemployment and uncertainty about landholding rights; responding to the land question that millions of farmers have been raising; fighting for and overcoming the weakness of the 1975 land reform and ensuring justice and stability in rural communities. However, it is argued that the primary motive of the 1996-97 land redistribution policy was political. The policy categorized or stratified peasants into different social classes, such as *qerit fiyudal*, “remnant feudal”, and *birokrat*, “bureaucrats.”²¹³

Scholars argue that the redistribution was carried out based on this categorization in order to “discriminate the officials of the preceding regimes as oppressors while it lump the current officials together with the oppressed peasants”.²¹⁴ In conducting the land redistribution, the term *birokrat* was used to refer to those peasants who had served in various local offices under the *Derg* while those officials or significant land owners in the imperial regime referred to as “remnant feudal”, but both were treated in the same way.²¹⁵ Hence, in this paper, we will treat them together under the *birokrat* label. During the implementation of the Proclamation, the

²¹² S. Pausewang, cited above at note 149, p. 75.

²¹³ Gelaye, Getie, “Peasant Poetics and State Discourse in Ethiopia: Amharic Oral Poetry as a Response to the 1996-97 Land Redistribution Policy”, *Northeast African Studies*, vol. 6, no. 1-2, 174.

²¹⁴ S. Ege, “Peasant Participation in Land Reform: The Amhara Land Redistribution of 1997”, in Bahru Zewde and Siegfried Pausewang (ed.), *Ethiopia: The Challenge of Democracy from Below*, (2002), p. 73.

²¹⁵ *Ibid.*

birokrat were systematically discriminated and were allowed to hold a maximum of only one hectare of land regardless of their family size while the rest of the peasants were allowed to have up to three hectares.²¹⁶ The discrimination was purely political because, as opposed to the birokrats discussed above, those *birokrats* currently working as a member of the EPRDF “core” or as official at any level were treated similar to the rest of the peasants.²¹⁷

The regional government and the state-owned media reported that, from its inception to its accomplishment, the land redistribution was conducted as per the demands and decision of the peasantry so as to create a just system of land tenure.²¹⁸ However, the peasants claimed that the land redistribution was discriminatory and in violation of the equality clause of the constitution. They instituted their case to court up to the House of Federation for constitutional interpretation, but the House rejected it as groundless.²¹⁹ The decision of these adjudicative organs seems to be untenable seen in light of empirical evidences proving the contrary.

Peasants affected by the land redistribution claimed that it was done based on their political links. They stated that peasants who were local political leaders during the previous regime were forced to lose their land in favor of peasants holding political positions under the current government.²²⁰ This discrimination was also reflected in the registration process used to identify and exclude former *Derg* officials based on their prior political participation.²²¹ The complaints made by the peasants are also shared by scholars, human right activists and politicians that the researcher interviewed.²²² Some of the interviewees stated that it was a fact that they personally

²¹⁶ Yigremew Adal, cited above at note 26, p. 27.

²¹⁷ Ethiopian Human Rights Council(EHRCO), “Discriminatory Land Redistribution in the Regional State of Amhara”, Special Report No. 11, March 19, 1997, in *Compiled Reports of EHRCO (From December 1991 to December 1997)*, (1999), p. 250.

²¹⁸ Hassen Usman, “Urgent Meeting of the Council of the Amhara National Regional State begun: it is stated that Equitable Land Redistribution is Important for Development”(in Amharic), *Addis Zemen*, 56th year, No. 46, Tikimt 26, 1989(November 5, 1996), pp. 1 & 5; Hassen Usman, “The State Council Approved the Proclamation for Reallotment of the Possession of Land” (in Amharic), *Addis Zemen*, Tikimt 28, 1989(November 7, 1996), pp. 1 & 8; Temesgen Gebeyehu, cited above at note 18, p. 153.

²¹⁹ Muradu Abdo, cited above at note 1, p. 126; Molla Mengistu, “Rural Land Tenure System in Ethiopia: Legal Rights and Its Implementation in Amhara National Regional State” (in Amharic), *Journal of Ethiopian Law*, vol. 22, no.2, (2008), p. 166.

²²⁰ Gelaye, Getie, cited above at note 213, pp.188-190;

²²¹ Temesgen Gebeyehu, cited above at note 18, pp. 152; Interview with Dr. Bantayeggn Tamrat, Vice president of EDP, December 7, 2016.

²²² Interview with Mr. Dessalegn Rahmeto, cited above at note 211; interview with Dr. Bantayeggn Tamrat, cited above at note 220; Interview with Professor Mesfin W/ Mariam, cited above at note 211.

observed while living with the community or during their field visits.²²³ Moreover, empirical facts also disclosed that the land redistribution policy of the Regional State including the proclamation, order and plans were not properly informed to the peasantry rather prepared and disseminated secretly without active participation of the majority of the peasants.²²⁴ It is argued that the only justification that could be presented seems to be a political project of establishing a class basis for the current regime based on an order from above.²²⁵

The land redistribution policy and its implementation raise constitutional questions. The Proclamation was promulgated prior to the enactment of 1997 Federal Land Laws, discriminated individuals for the purpose of achieving the governments' political objectives, and expropriated land without due process and without considering the personal conditions of the peasants, rather based only on their political backgrounds in a way that reflects legislative autocracy.

Hence, we can arguably conclude that the land redistribution policy was a politically motivated policy that used land as a patronage resource to favor local officials and supporters of the incumbent government by punishing officials and supporters of the previous regime. The above discussions are evidences that can prove that the government is using the people's land ownership regime as a means for establishing a political support base at the local level.

Another empirical fact that could be used as an evidence to prove that the government is using land as a patronage resource for political purpose is land redistributions made in Southern Nation, Nationalities and Peoples Regional State, Arbaminch Zuria Woreda. During the 2010 local election, local officials in Lante *kebele* of Arbaminch Zuria Woreda used land redistribution as an election campaign tool.²²⁶ They communicated to the youngsters who were members of the EPRDF to effectively perform the election campaign and promised to make land

²²³ Speaking from his personal experience, Dr. Banyigeegn told the writer that he personally observed while a father who was a Derg official in Awi Zone loss his land and the land was given to the child who was a Kebele official of the incumbent government. Interview with Dr. Bantyegegn, cited above at note 221; Interview with Professor Mesfin W/Mariam, cited above at note 211.

²²⁴ Gelaye, Getie, cited above at note 213, pp. 175, 188-190; Temesgen Gebeyehu, cited above at note 18, p. 153.

²²⁵ This was unsuccessful as the political support base was visibly reversed especially after EPRDF has failed in the 2005 election. EPRDF believed that its failure in the 2005 election was due to the influential role that *birokrats* had played. As a result, it suddenly brought them to the forefront again to become the driving force of the rural community. See R. Lefort (2010), cited above at note 192, p. 442 ; S. Ege, cited above at note 214, p. 86.

²²⁶ Interview with Abebe Wolete (pseudonym), cited above at note 210; Interview with Kebede Ababu and Ayalew Ayenew (pseudonyms), peasants in Arbaminch Zuria Woreda Lante Kebele, on 28/12/2016.

redistributions in their favor if the government won the election.²²⁷ When EPRDF was declared winner, the officials delivered on their promise by confiscating land as “excess land” from peasants presumed to be supporters of opposition parties and redistributing it to those who supported the party and worked in the election campaign.²²⁸ Hence, the discrimination against peasants who were non-supporters or who were not members of the ruling party was twofold: they were discriminated at the time land was confiscated as “excess land” and at the time it was redistributed to the landless peasants who were only supporters or members of the ruling party. The *kebele* officials interviewed by the researcher admitted that they have received complaints made by the peasants regarding the way the land redistribution was made.²²⁹ However, they asserted that political affiliations of peasants did not play any role during the land redistribution and that the complaints are caused by the behavior of some rent seeking officials.²³⁰

Therefore, we can arguably conclude that the government, by using the people’s land ownership regime as an opportunity, uses land as a patronage resource to favor its supporters, to punish non supporters and establish a political base to win elections at the local level. Hence, the people’s land ownership policy practically gives local officials a chance to use land as a patronage resource with the aim of achieving their political ends. On the other hand it is also possible to say that weak compliance to democratic norms in Ethiopia contributed to these undemocratic and illiberal acts of local officials in administering land.

3.4.2. Land Tenure and Making the Government Accountable and Transparent

As we have discussed before, in agrarian societies, the one who exercise control over the lands of the peasantry can control each and every part of his life including his livelihood, his abode and dignity. Majority of the population of Ethiopia are peasants dependent on farm lands, an essential resource under people’s ownership and controlled by the government on behalf of the former. Unaccountable and obscure land governance is a source of tenure insecurity which directly exposed peasants in the country to the hegemonic power of the state. On the other hand, the

²²⁷ Interview with Abebe Wolete, (pseudonym), cited above at note 210.

²²⁸ Interview with Wondwosen Admasie (pseudonym), a peasant, on 28/12/2016.

²²⁹ Interview with Belay Chekol (pseudonym), a kebele official worked in land administration committee and participated in the 2009-2010 Land Redistribution in Lante Kebele and Sintayehu Azene (pseudonym), a current Lante kebele official, on 10/01/2017.

²³⁰ *Ibid.*

FDRE Constitution states that any public official or an elected representative shall conduct the affairs of the government in accountable and transparent manner.²³¹ By examining the accountability and transparency of the government in carrying out its duty of administering land under the people's land ownership regime, we will discuss whether the people's land ownership regime has any contributions to the democratization process in Ethiopia.

The "democratic centralism" policy of the ruling party undermined the constitutional responsibility of public officials to be accountable and responsive to the local community.²³² Due to the extremely centralized structure, local officials are responsible to execute what was decided above and are not responsive to local preferences and accountable to the local community.²³³ Some *Woreda* official alleged that there is *gimgema* to ensure accountability and transparency but it is practically one means of ensuring allegiance to the party line as they are initiated by the party itself in a top-down approach with very little local community involvement.²³⁴ In addition to the policy of the ruling party, people's land ownership and control of rural lands and agricultural inputs allow the government to keep peasants in check rather than being accountable to them.²³⁵ It is argued that there is party dominance at the local level where *Woreda* administrators see their roles as representative of the central government carrying out government and party orders.²³⁶

EPRDF noted that, patrimonialism and rent seeking behavior lead to the split of TPLF in 2001, and struggle for democracy and good governance is necessary because 'transparency and accountability must be installed at all levels to fill the vacuum for rent seeking enterprises'.²³⁷ However, the party failed to address such problems and similar problems of "bad governance" and lack of accountability at the local level has been raised as a reason for the massive loss of

²³¹ The FDRE Constitution, cited above at note 9, Art. 12.

²³² T. Hagmann and J. Abbink, cited above at note 199, p. 584.

²³³ Zemelak Ayele, "Local Government in Ethiopia: Still an Apparatus of Control?" Law, Democracy and Development, vol. 15, (2011), pp. 20-21.

<<http://www.saflii.org/za/journals/LDD/2011/8.pdf>> accessed 12/02/2016.

²³⁴ Meheret Ayenew, "Decentralization in Ethiopia: Two Case Studies on Devolution of Power and Responsibilities to Local Government Authorities", in Bahru Zewde and Siegfried Pausewang (ed.), *Ethiopia: The Challenge of Democracy from Below*, (2002), p. 141.

²³⁵ T. Hagmann and J. Abbink, cited above at note 199, p. 584.

²³⁶ Meheret Ayenew, "Decentralization in Ethiopia: Two Case Studies on Devolution of Power and Responsibilities to Local Government Authorities", in Bahru Zewde and Siegfried Pausewang (ed.), *Ethiopia: The Challenge of Democracy from Below*, (Nordiska Afrikainstitutet Gotab), 2002, p. 145.

²³⁷ Rene Lefort (2010), cited above at note 192, p. 444.

parliamentary seats in the 2005 election and contributing factors for the 2016 protest.²³⁸ This admission by the government can be used as an evidence to arguably conclude that there are problems of accountability, transparency and establishing limited form of government at the local level in Ethiopia.

The rural *kebele* officials consider any form of opposition and resistance as a sign of rebellion and make the peasants fearful and hostage to their authority by using force and threatening them with the loss of their land using their land administration power.²³⁹ The informants in Sululta, Kasowoserbi *kebele* confirmed that land is not administered in a transparent, accountable and responsive manner.²⁴⁰ Some informants in Sululta, and in the peripheral areas of Addis Ababa told the writer that they were forced to evacuate their land for reasons of “public interest” without being properly notified in advance, with little or no compensation and left their land without any response for their complaints against this action.²⁴¹ Many of the farmers in the peripheral parts of Addis Ababa were evicted from their land, the only source of income and means of livelihood for them and their family, irresponsibly without considering how they will live with the very little amount of money they were paid as compensation.²⁴²

This maladministration on land administration and expropriation of rural land is partly admitted in the recent report issued by Addis Ababa city administration and by the higher governmental official the researcher interviewed.²⁴³ The government has recently officially admitted that many displaced peasants are complaining about the compensation paid, replacement land given and on the sufficiency and appropriateness of the support they are getting for their livelihood.²⁴⁴ Addis Ababa City Administration confirmed that among the peasants who were displaced for development, not more than 6% of the peasants are living a better life while the livelihood of

²³⁸ EPRDF, cited above at note 193, p. 24; EPRDF, cited above at note 203, pp. 6-37.

²³⁹ Interview with peasant informants in the peripheral parts of Addis Ababa, Arbaminch Zuria Woreda, Lante *kebele* and in Sululta Oromia Region, from 01/12/2016 to 01/01/2017; S. Pausewang, cited above at note 12, p. 9.

²⁴⁰ Interview with Ibsa Gutema, a peasant, Oromia National Regional State, Sululta Kasowoserbi, on 01/01/2017; Interview with Mr. Tolosa Tesfaye, cited above at note 130.

²⁴¹ *Ibid.*

²⁴² Interview with Biniam Abebaw and Alebachew Worku(pseudonyms), cited above at note 141.

²⁴³ Interview with Ayenew Mamo (pseudonym), a higher government official working on rural land issues, on 29/12/2016; Almaz Ayalew, “The Life of seventy percent of the peasants whose land was expropriated for development is deteriorated”, Almaz Ayalew, “The Life of seventy percent of the peasants whose land was expropriated for development is deteriorated”, *Addis Zemen*, year 76, no. 107, Tahisas 17, 2009(December 26, 2016), pp. 1 & 11.

²⁴⁴ *Addis Zemen*, cited above at note 243.

70% of them is highly affected and deteriorated and the remaining 24% are living as daily laborer or are unemployed.²⁴⁵

The only problem identified by the government as a cause is the issue of sufficiency of compensation while it has ignored other problems that we have discussed above. There is no experience of setting agenda for discussion and debate to engage the peasantry at large in making policies, laws and decisions on issues of rural land as it was admitted by the higher official interviewed by the researcher.²⁴⁶ However, issues of consultation and participation before the decisions of expropriations are made, checking whether the investments undertaken on their land are made for “public purpose”, in a strict sense of the term, and other similar issues are also forgotten. While they are aware that there are complaints regarding land administration because of lack of transparency at the local level, they are not working on changing the land policy itself believing that it is already resolved by the constitution, and focus only on the enforcement of the land use rights as provided in the constitution.²⁴⁷ Hence, we can arguably conclude that there are problems of transparency and accountability in land governance at the local level which has its own negative contribution to the democratization process of the country.

More than 80% of the population in Ethiopia is peasants who are fully dependent on land for their and their families’ survival. Non-transparent and unaccountable land governance system has a direct negative impact to the democratization process of such a country as it is difficult to say that there is democracy in a country where 80% of the population is living under unaccountable and non-transparent form of governance. To conclude, the people’s land ownership regime in Ethiopia where there is no accountable and transparent form of governance at the local level make the peasantry a hostage to local government officials and results in irresponsible land governance and tenure insecurity which contributes for exploitative tenancy forcing peasants to be fearful of exercising their democratic rights, and ultimately injuring the democratization process of the country. Had the land been free from the direct control of the government, it would have been possible to argue that it might not be exposed to

²⁴⁵ Addis Zemen, cited above at note 243.

²⁴⁶ Interview with Ayenew Mamo (pseudonym), cited above at note 243.

²⁴⁷ *Ibid.*

maladministration and the peasants could be strong and independent enough to question local officials and assert their rights to make them accountable for their arbitrary actions.

3.4.3. Land Tenure and Democracy as “Government by Discussion”

As discussed above, democracy is contemporarily defined as “government by discussion” and is also defined in terms of public reasoning. Public reason is all about the view of the people in making their own argument and political justifications for supporting laws and policies concerning fundamental political questions. Issues of land tenure, in agrarian societies like Ethiopia, is one of the essential and basic rights of peasants that need to be decided, exercised and enforced through public debates, discussion and deliberations, i.e. the requirements of deliberative democracy.

The Ethiopian land ownership policy is incorporated under the FDRE Constitution. One might assume that it should be a well deliberated issue as it is incorporated in a constitution, a law that is expected to assure some level of permanency and rigidity. However, many writers argued that the constitution including the land ownership policy, a critical matter and a contentious issue at the time of drafting the Constitution is decided as provided under the program of the ruling party (EPRDF) without any national consensus.²⁴⁸ The discussions made at the time of making the Constitution were dominated by party liners of EPRDF because the peasantry, the majority in Ethiopia, was uneducated and as there was no meaningful civic education campaign.²⁴⁹

On the other hand, the issue of land ownership was so contentious and the members of the constitutional drafting commission unable to join their positions and later sent it to the Constituent Assembly.²⁵⁰ Merera argued that there are complaints from various sectors of the society, and lack of national consensus on many contentious issues including land ownership, the draft constitution was approved by EPRDF dominated constituent assembly without a serious debate and dissent voice.²⁵¹ Hence, we can arguably conclude that there was no serious public

²⁴⁸ Tsegaye Regassa, cited above at note 179, pp. 86-88; Teguadda Alebachew, cited above at note 179, p. 64; Merera Gudina, cited above at note 175.

²⁴⁹ T. M. Vestal, Vestal, Theodore M., “An Analysis of the New Constitution of Ethiopia and the Process of its Adoption”. *North Eastern African Studies*, vol. 3, no. 2 (1996), pp. 24-25; Teguadda Alebachew, cited above at note 179, p. 64.

²⁵⁰ Teguadda Alebachew, cited above at note 179, p. 64.

²⁵¹ Merera Gudina, cited above at note 175, pp. 38 & 3; Teguadda Alebachew, cited above at note 179, pp. 60-70.

discussion and debate ensuring national consensus in incorporating the land ownership policy in the constitution. While it is a matter of basic justice in agrarian societies where public reasoning is required to be exercised, there was no serious public discussion and debate ensuring national consensus in incorporating the land ownership policy in the constitution.

After the incorporation of people's land ownership regime in the FDRE Constitution, what we need to discuss herein under is the level of participations on decision making process on issues of land ownership. The first question that needs to be addressed is whether the government consulted peasants before it pass decisions and makes laws in relation to rural land. All the informants that the writer interviewed admitted that the peasants are not directly involved on decision making and their opinions are not consulted and included in making decisions, laws and policies in relation to land.²⁵² Some of informants told the writer that they were evicted from their land without being communicated as to the reason why they leave their abode and only means of livelihood.²⁵³ One of the peasant informants living in the peripheral area of Addis Ababa and whose land was expropriated in 2002 noted that they did not have any say in the decision making process.²⁵⁴

A higher government official interviewed by the researcher stated that peasants are not in a position to discuss and to put their contributions in making laws and decisions as they are predominantly uneducated.²⁵⁵ As an alternative, they are trying to engage associations and local government officials to identify the practical problems at hand.²⁵⁶ However this solution of engaging the officials at the local level cannot solve the problem of the peasantry as the source of problem can be the officials themselves who are mostly members of the ruling party and who might not reflect different opinion other than what is reflected at the center.

²⁵² Interview with Ayenew Mamo(pseudonym), cited above at note 243; Interview with Daniel Tilahun(pseudonym), a peasant and a cabinet at *kebele* level, 13/01/2017; Interview with peasant Abebe Wolete(pseudonym) , cited above at note 210; interview with Ibsa Gutema(pseudonym), cited above at note 240; and interview with Biniam Abebaw(pseudonym), cited above at note 141.

²⁵³ Interview with Alebachew Worku(pseudonym), a peasant, cited above at note 141; Ibsa Gutema (pseudonym), a peasant, cited above at note 240; Interview with Tolosa Wondimnew(pseudonym), a peasant, Oromia National Regional State, Sululta Kasowoserbi, on 01/01/2017.

²⁵⁴ Interview with Biniam Abebaw(pseudonym), cited above at note 141.

²⁵⁵ Interview with Ayenew Mamo(pseudonym), cited above at note 243.

²⁵⁶ *Ibid.*

The “democratic centralism” policy of the ruling party forced the local governments to be less responsive to local preferences, and for the local communities to participate only in executing laws, policies and decisions made at the center.²⁵⁷

Hence, these failures to include the views of the peasantry in making decisions, laws and policies contradict the principle of liberal democracy as “government by discussion”. In those areas where there is no “government by discussion” at the local level, given the people’s land ownership policy, it is possible to assume that land governance in Ethiopia contradicts democratic values and is used by the government as a means of exercising hegemonic power and authoritarianism against the peasantry. Hence, the land governance contradicting the principles of democracy at the local level is the result of the illiberal and undemocratic centralized government.

3.4.4. Land Right as Human Rights of Individuals and a Constituent Element of Liberal Democracy

As we have discussed in the previous chapter land right is a property right and an essential resource that directly and indirectly affect a number of fundamental human rights recognized under the FDRE Constitution and international human right instruments ratified by Ethiopia. Dessalegn Rahmeto defined land rights as “not only rights of control over and use of a given plot of land and the resources on it, but also includes the right to make decisions on the long-term sustainability of the land as well as on its disposition”.²⁵⁸ It is when the actor enjoys a wider set of rights over the land in question and rights and responsibilities are combined in one actor that we can say that land rights are secured and freedom of the peasantry is guaranteed.²⁵⁹

In Ethiopia, peasant’s right to land is partial and conditional, as different actors have different forms of authority over the same piece of land, which constitutes the most critical source of tenure insecurity.²⁶⁰ The FDRE Constitution guaranteed full right to private property while it exclude land, a key economic factor and an essential resource, from being privately owned.²⁶¹

²⁵⁷ Zemelak Ayele, cited above at note 233, pp. 20-21.

²⁵⁸ Dessalegn Rahmeto, cited above at note 123, p.235.

²⁵⁹ *Ibid.*

²⁶⁰ *Ibid.*

²⁶¹ The FDRE Constitution, cited above at note 9, Art. 40.

However, literatures on social choice argued that recognizing property right as individual right without subjecting them directly to simple majority is necessary for the stability of electoral democracy.²⁶²

Dessalegn argued that the Amhara land redistribution “has left a legacy of insecurity and rancor among many peasants in the region, doubt and uneasiness in other rural areas”.²⁶³ These facts of tenure insecurity are claimed to have contributed for poverty among peasants, directly contradicting their constitutional right to development²⁶⁴. On the other hand, Daniel notes that private ownership of land helps to fulfill the right to self determination peasants to exercise freedom of choice and economic liberty.²⁶⁵ In addition, the merits of economic freedom to be used as a means of restraining the powers of the government is not applicable here in Ethiopia as there is concentration of economic power (land) and political power in the hands of the government. This by itself might make the government a totalitarian government inimical to liberty and democracy as we have discussed in section 2.5.1.

Ethiopian peasants or pastoralists are assured against eviction by the constitution except for “public purpose” where the *Woreda* administration believes that it should be used for a better development project.²⁶⁶ Requiring a land for “public purpose” and pass an eviction order for that purpose is a political decision by the appropriate authority in accordance with the law. However, the discretionary power to be exercised in defining the phrase “public purpose” under this politico-legal procedure²⁶⁷ may be used by local political authorities as a means of discriminating peasants based on their political partisanship. The autocratic leadership and hegemonic power

²⁶² C. Boone, cited above at note 62, p. 185.

²⁶³ Dessalegn Rahmeto, cited above at note 123, p.238.

²⁶⁴ The FDRE Constitution, cited above at note 9, Art. 43.

²⁶⁵ Daniel Behailu, cited above at note 46, 2015, p. 24.

²⁶⁶ Expropriation of Landholdings for Public Purposes and Payment of Compensation, 2005, art. 3(1), Procl. No. 455, *Federal Neg. Gaz.*, year 11, no. 43, (2005).

²⁶⁷ Expropriation of land for “public purpose” as defined and provided under Art. 2(5) & 3(1) of the Expropriation of Landholdings for Public Purposes and Payment of Compensation Proclamation No. 455/2005 requires a need for political decisions of the appropriate authority to determine whether there is “public purpose” in an appropriate expropriation action.

local authorities exercise at the local level enables them to evict peasants without any consultation and discussion.²⁶⁸

Similarly Dessalegn argued, by evoking a practical case in South Wollo, that courts are hesitant to render decisions against the *Kebele* and *Woreda* administrators at the local level.²⁶⁹ Furthermore, the absence of clear definitions for the terms “public purpose” in any of the land laws including the constitution is a defect which give substantial “discretionary power to local authorities and reinforce the subordination of peasants who neither have voice nor the means to defend their rights and interests”.²⁷⁰ The reinforced subordination and dependency of peasants exposed them to suffer inhumane treatment by the local officials.

Informants also told the writer that peasants are silenced due to fear of losing their land and they do not voice their opposition at the local levels due to fear of being labeled as “member of opposition parties”.²⁷¹ Adane, General Secretary of AEUP, noted that in 2010 he personally found a written and sealed document issued by *kebele* official warning an individual to denounce AEUP and join EPRDF on pain of losing his land in North Wollo, Amhara region.²⁷²

The constitution and international human right instruments recognize the right to work, to be protected against unemployment and to pursue a livelihood of his choice.²⁷³ However, the fact that Ethiopian Peasants who lost their land, their only means of livelihood and employment, for reasons of “public interest” forced to live a hopeless subsistence life is confirmed by the government itself.²⁷⁴ While the state is duty bound to pursue policies which aims to expand opportunities for the unemployed and the poor as the socio-economic rights of individuals²⁷⁵, it is practically creating unemployed, poor and jobless peasants by evicting them from their land in

²⁶⁸ Interview with peasant informants in the peripheral parts of Addis Ababa, Arbaminch Zuria Woreda , and in Sululta Oromia Region, from 01/12/2016-01/01/2017.

²⁶⁹ Dessalegn Rahmeto, cited above at note 123.

²⁷⁰ *Id*, p.240.

²⁷¹ Interview with Mr. Adane Tilahun, cited above at note 100.

²⁷² *Ibid*.

²⁷³ The FDRE Constitution, cited above at note 9, Art. 41(1); The Universal Declaration of Human Rights, (1948), Art. 23.

²⁷⁴ Addis Zemen, cited above at note 242.

²⁷⁵ The FDRE Constitution, cited above at note 9, Art. 41(6).

the name of expropriation for “public purpose”²⁷⁶ The government is also able to control every aspect of peasants’ life in Ethiopia because it controls and exercises hegemonic power over land. The people’s land ownership regime that assigns the power to administer land to the government that is acting in contradiction to the principles of democracy at the local level has aggravated the problem and contributed for the violation of many human rights of peasants. Discussions made under this sub-topic indicate that this policy has given the government full access into the lives of peasants which has made them dependent on the government and has enabled it to take land related decisions that violate the constitutionally granted freedom of choice and human rights of peasants.

3.5. Summary

Land is not only a critical asset that determines the social and economic status of individuals but also a source of political power in Ethiopia. The political history of Ethiopia evidenced the nexus between land tenure and democracy. While the ideology and the forms of government were different in the imperial and the *Derg* regime, they equally utilized land for political gain and the land issues finally contributed for the downfall of the two regimes. The patron-client type of relation in the imperial period, where land belonged to the absolute monarchy, used as a political means of controlling subjects, making low ranking officials loyal and conferring political power for the nobility; replaced by the insecure land tenure under state land lordship that exposed the peasantry to greater state intrusion and where access to land subjected to political conditions.

Currently, debates on forms of land ownership lay on private, people’s and associative perspective. The third alternative to the “amputated debate”, associative land ownership, is a land ownership regime where a practiced local democracy with a community ownership of land and a secured land use right is integrated. However, currently it is the people’s land ownership regime that is recognized by the FDRE Constitution.

There are behaviors, practices and/or authoritarian rules practiced by the government that contradict the norms of liberal democracy recognized and guaranteed under the FDRE Constitution. The weak compliance to democratic norms, given the people’s land ownership

²⁷⁶ Interview with peasant informants in the peripheral parts of Addis Ababa and in Sululta Oromia Region, from 01/12/2016-01/01/2017.

policy, in Ethiopia has contributed to these undemocratic and illiberal acts of local officials in administering land.

The people's land ownership policy practically gives local officials a chance to use land as a patronage resource with the aim of achieving their political ends. There is no accountable and transparent form of governance at the local level which resulted in irresponsible land governance and tenure insecurity and contributes for exploitative tenancy, forcing peasants to be fearful of exercising their democratic rights. While there is no "government by discussion" at the local level, given the people's land ownership policy, it is possible to assume that land governance in Ethiopia contradicts democratic values and is used by the government as a means of exercising hegemonic power and authoritarianism against the peasantry. People's land ownership regime, while the government is acting in contradiction to the principles of democracy at the local level, has aggravated the problem and contributed for the violation of many human rights of peasants. Generally, these empirical facts are illustrative cases that can indicate the practical nexus between land tenure and democracy in Ethiopia.

Concluding Remarks

The Thesis has explored the nexus between land tenure and democracy in Ethiopia.

For the purpose of determining the nexus between land tenure and liberal democracy in Ethiopian context, the Thesis has articulated the forms of land ownership and the contemporary politics of the country. After examining the necessary provisions of the Constitution where the land policy of the FDRE government is incorporated, the Thesis contends that there is people's land ownership regime in Ethiopia. The Thesis analyzed literatures on the topic, official documents issued by the incumbent political party and practices to understand the behavior and practice of the current regime in light of the norms of liberal democracy as incorporated in the Constitution.

The nexus between land tenure and liberal democracy in Ethiopia has been established after the writer has identified the appropriate indicators to that effect. The Thesis has established the nexus between the two by using the following four major indicators that can be categorized into two major categories and that are not mutually exclusive and identified based on their implication for one another:

- 1) Whether the people's land ownership regime in Ethiopia contributes to the prevalence of undemocratic political and governance culture. Land tenure vs. neo-patrimonialism and land right as human rights of individuals are chosen as indicators of the nexuses between land tenure and liberal democracy under this category.
- 2) Whether the current political situation has any negative implication for land governance. Democracy as "government by discussion" and land tenure vs. making the government accountable are indicators that fall under this second category.

The first indicator, under the first category, is land tenure and neo-patrimonialism. Here, it is argued that people's land ownership regime in Ethiopia has negatively impacted the realization of liberal democracy because empirical evidence shows that the government uses it as a patronage resource to reward its supporters and punish non-supporters. People's land ownership regime in neo-patrimonial states has enabled the government to stay in power by threatening peasants who have dissenting political views with loss of their land.

The second indicator under the first category is indicators that recognize land right as human rights of individuals and a constituent element of liberal democracy. As land is administered by the government on behalf of the people, land right in Ethiopia is subject to the rule of majority and the rights of individuals are not used as a checking mechanism. The government is being illiberal and undemocratic due to such concentration of economic and political power. Hence, the Thesis argued that people's land ownership regime in Ethiopia has contributed to the current behavior of the government which is in contradiction to the norms of liberal democracy. Moreover, this land ownership regime has aggravated the problems the country faces in its democratization process.

Furthermore, the third indicator under the second category is democracy as "government by discussion". In Ethiopia the people's land ownership regime is incorporated in the Constitution without obtaining the necessary national consensus. Other subsidiary land laws and decisions are also made without making the necessary consultation and discussion with the peasantry at the local level. As there is no "government by discussion" at the local level, there is no democratic land governance rather local despot or authoritarianism in administering land.

The fourth indicator included under this category is land tenure and making the government accountable and transparent. In Ethiopia there is no accountability and transparency at the local level. This has contributed for the prevalence of tenure insecurity, and weakens the peasant's confidence to demand the government to be accountable and transparent. The Thesis concluded that this weak compliance to democratic norms has contributed to these undemocratic and illiberal administrations of land at the local level. Generally, it concludes that the existing land ownership regime contributed to the government's weak compliance to democratic norms which has resulted in the violation of peasants human rights and has injured the democratization process of the country. This shows the nexus between land tenure and liberal democracy in Ethiopia. Therefore, any land tenure reform in Ethiopia must be cognizant of this nexus and shall be that which augments the democratization process of the country.

The FDRE Constitution recognizes liberal democracy as "government by discussion", accountability and transparency, majority rule and minority right and where the government is further limited by the rule of law. What is expected from the government is being loyal to the

Constitution. Reforming the country's land ownership policy can be an essential first step to realize the norms of liberal democracy as envisaged in the Constitution. To this end, adopting an associative land ownership policy can be taken as a viable alternative. The basis of this land ownership regime is individuals' right to exercise local democracy regarding issues of land governance. It recognizes a community ownership of land, and secured land use right with community supervised right to transfer. This land tenure system envisages that there is constitutionalism in which the views of the peasantry are considered. However, this land ownership regime needs critical assessment and studies have to be done to learn about its practicability in different local contexts.

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Interview with Ayalew Ayenew, (pseudonym), a peasant, on December 28, 2016.

Interview with Belay Chekol, (pseudonym), former Lante kebele official, on January 01, 2017.

Interview with Biniam Abebaw, (pseudonym), a peasant, December 3, 2016.

Interview with Daniel Tilahun, (pseudonym), a peasant and a cabinet at kebele level, on 13/01/2017.

Interview with Ibsa Gutema (pseudonym), a peasant, on January 01, 2016.

Interview with Kebede Ababu (pseudonym), a peasant, on December 28, 2016.

Interview with Sintayehu Azene(pseudonym), a current Lante kebele official, on January 10, 2017

Interview with Tolosa Wondimnew(pseudonym), a peasant, Oromia National Regional State, Sululta Kasowoserbi, on 01/01/2017

Interview with Wondwosen Admasie(pseudonym), a peasant, on December 28, 2016.

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Interview with Ayenew Mamo(pseudonym), a higher government official, December 29, 2016.

Interview with Dr. Bantyegegn Tamirat, V/president of Ethiopia Democratic Party (EDP), on December 7, 2016.

Interview with Mr. Dessalegn Rahmeto, on December 2/2016.

Interview with Professor Mesfin W/Mariam, on December 12, 2016.

Interview with Mr. Tolosa Tesfaye, president of Oromo National Congress (ONC), on January 01, 2017.

Annex

Interview Guide Questions to Peasants

1. Who owns land in Ethiopia?
2. Have you ever been consulted and invited for discussion by the government officials before they make decisions, laws and policies in relation to land?
3. Was there any politically motivated land redistribution in your locality? Who benefited from the land redistribution?
4. What about issues of “Model Farmers”? Does it have any connection with political partisanship?
5. Do you fear that you might lose your land due to your participation and membership in opposition political parties?
6. Do you think that the government has a direct access and interfering in your day to day life due to the existing land ownership regime?
7. Have you ever lose your land or do you know anyone whose land was expropriated in violation of the legally prescribed procedures? Was the expropriation made for “public purpose” (your benefit)? Whether adequate and timely compensation are paid for peasant’s whose land was expropriated?
8. Have you ever been approached by government officials raising issues of land as a means of election campaign? If yes, how?
9. Do you know any instance in which the government officials harassed peasants not to be members of the opposition political party at the pain of losing their land?
10. Do you fear questioning and demanding accountability of the local government officials because they have the power to administer land?

11. In your day to day life, do you know any instance in which a peasant was harassed and warned at the pain of losing his/her land due to his/her speech criticizing the ruling political party and its officials in public gathering?

Interview Guide Questions to Political Leaders, government officials and Scholars

1. Whether the government officials use land ownership as a means of election campaign at the local level, either as a means of convincing peasant electorates to vote in favor of the ruling party or not to give their vote to a specific opposition?
2. Do farmers hesitate from being member or supporter of opposition political party for fear of losing their land?
3. Do you think the government is administering land in accountable, transparent and participatory manner or in consultation with the rural land holders at the local?
4. Does the government have ever made politically motivated land redistribution?
5. Do you think the government uses a clear standard in expropriating land for “public purpose”?
6. What about issues of “Model Farmers”, does it has any connection with political partisanship to favor political supporters and to establish the political relations on patron-client type of relation through resource distribution or is it made purely for economic purpose?
7. Do you think the government/ the incumbent political party EPRDF can do whatever it wants and exercising unlimited power in rural Ethiopia due to its strong power of controlling peasants by using land as a powerful means of control?
8. Do you think land reform might give a chance for peasants to be free from the tight control of the government, if any?
9. Whether the government is working on reforming the land ownership regime and if so, whether they have considered politics as one of the main concerns for changing the land ownership policy? (question for government officials from Ministry of Agriculture)
10. Whether the government is working on the correlation between land tenure and democracy? If so, do they have anything to say on the kind of relationship that exists between land tenure and democracy? (A question for government officials from the Ministry of Agriculture).