

ADDIS ABABA UNIVERSITY
SCHOOL OF GRADUATE STUDIES
DEPARTMENT OF SOCIOLOGY

**Customary Land Ownership and Its Impact on Government Interventions:
The Case of *Peri-Urban* Areas of Jig-Jiga Town**

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Customary Land Ownership and Its Impact on Government Interventions: The Case of Peri-Urban Areas of Jig-Jiga Town

A Thesis Submitted to the Department of Sociology in partial fulfillment of the requirements for the Degree of Master of Arts in Sociology

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DEPARTMENT OF SOCIOLOGY

This is to certify that the thesis prepared by Habtamu Ouma, entitled: *Customary Land Ownership and its Impact on Government Interventions: The Case of Peri-Urban Areas of Jig-Jiga Town* submitted in partial fulfillment of the requirements for the Degree of Masters of Arts in Sociology complies with the regulations of the university and meets the accepted standards with respect to originality and quality.

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Table of Contents

Contents	Page
Acknowledgement	I
Table of Contents	II
List of Boxes	V
Abbreviations	VI
Local Terminologies and their Meanings	VII
Abstract	VIII
Chapter One: Introduction	1
1.1. Background of the study	1
1.2. Statement of the Problem.....	4
1.3. Objective of the study	7
1.3.1. General objective	7
1.3.2. Specific objectives	7
1.4. Scope of the study.....	8
1.5. Significance of the Study.....	8
1.6. Limitations of the Study.....	9
1.7. Organization of the Thesis	9
1.8. Conceptual Definition of Terms	9
Chapter Two: Literature Review.....	11
2. Introduction.....	11
2.1.Review of Related Empirical Literatures and Conceptual Considerations	12
2.1.1. Customary Land Tenure: The ‘ <i>Oxymoron</i> ’	12

2.1.2. Customary Land Ownership and State Interventions: Their Interlace and ‘Paradox’	20
2.1.3. Statutory Recognition of Customary Land Rights.....	28
2.2.Theories of Customary Land Tenure Rights.....	35
2.2.1. Evolutionary Theory of Land Rights	36
2.2.2. Theories on Formalization and Legal Recognition of Customary Land Rights	41
2.3.Ostrom’s Analytical framework for Understanding Attributes of Factors Contributed to the Persistence of the Customary Landholding System.....	44
Chapter Three: Research Method	47
3. Introduction.....	47
3.1.Methodological Approach of the Study	47
3.2.Data Sources	48
3.3. Data Collection Instruments	48
3.3.1. In-depth Interview	49
3.3.2. Key-Informant Interview	49
3.3.3. Focused Group Discussions.....	50
3.3.4. Documentary Review	52
3.4.Sampling Procedures and Study site selection	52
3.5.Methods of Data Analysis.....	53
3.6.Field Challenges and Experiences	55
3.7.Description of the Study Area	55

Chapter Four: Data Presentation and Analysis	60
4. Introduction.....	60
4.1. Clan composition among the Somali community.....	60
4.2. Sex Composition and Community Statues of Informants In FGDs and In-depth Interviews.....	63
4.3. Factors that have contributed to the Persistence of the Current Customary Landholding System	64
4.3.1. Physical Attributes of Customary Lands and their derived Goods and Services.....	65
4.3.2. Attributes of the Communities Managing the Customary Lands	70
4.3.3. Attributes of the body of rules constituting the customary land holding.....	77
4.4.The legal status of customary tenure under the statutory tenure system.....	87
4.5. Challenges Experienced by the Local Government in relation to the Customary land holdings.....	92
4.6. The negative effects of government interventions on the customary land ownership status.....	101
 Chapter Five: Conclusion and Recommendations.....	 112
5.1 Conclusion	112
5.2 Recommendations.....	116
5.2.1 Recommendations for Interventions	116
5.2.2 Recommendations for Further Study	118
 References	 119
 Appendices	

List of Boxes

	Pages
Box.1 Sketch of the conceptual framework.....	43
Box.2. Summary of Methods and Instruments Used	54
Box 3. Clan composition among the Somali clans	62
Box 4. The cost of international airport project on the victims	102
Box 5. Effects on different assets and issues of compensation victims.....	104
Box 6. Jig-jiga Karamara flour factory: the hidden revelation story	106

Abbreviations

CLS- Customary Land Secretariats

CSA-Central Statistical Agency

DFID- Department for International Development

ETLR- Evolutionary Theory of Land Rights

FAO- Food and Agricultural Organization

FDR- Federal Democratic Republic

FGD- Focus Group Discussion

IIED- International Institute for Environment and Development

JAMS- Jigjig City Administration-Municipality Service

LAP- Land Administration Project

LASs- Land Administration Strategies

SORPARI- Somali Region Pastoral and Agro-Pastoral Research Institute

SRS- Somali Regional State

SSA- Sub-Saharan Africa

USAID- United Regional Agency for International Development),

WCC- Wadani Consaltant Company

Local Terminologies and their Meanings

Ammaanka- A sense of security

Badhicad- A punishment of clan members compensated through slaughtering their sheep.

Caado ah Dhulka- Customary Lands

Daaq- Pasture Lands

Degan- A reserved customary land for residence to the newcomers

Geescad - A punishment of clan member compensated through slaughtering oxen.

Dhulka bannaanaan- An open or vacant land

Hagdameyain- Social restriction to isolate customary land use rule breakers

Hogamiyaha Olaha- The last position in the leadership hierarchies of the Somali clan

Jilibyo- Sub-clans

Kalmo- Traditional social security or mutual support system among the Somali

Maddaa- a group of settlements depending on the same permanent water source

Odeyasha deeganka- elders with in-depth knowledge of traditional rules and regulations

Ogamilog or reerka faro - Household headman

Qabiil- clans

Rer garad- Customary title given to chief leader in each of the Somali clan

Wehelnimo- Social fellowship

Xeer- Traditional conflict resolution mechanism among the Somali community

ABSTRACT

The main objective of this study was to assess customary land ownership, related issues and government interventions with their challenging nexus and policy implications: And a special reference was made to those peri-urban areas of Jig-Jiga town. The necessary data for the study were generated both from primary and secondary sources. Hence, in-depth interviews, key-informant interviews, focus group discussions (FGDs) and documentary reviews were the principal means of generating data from primary and secondary sources. The findings of this study confirmed that despite many challenges customary land (farm lands, pasture lands, fenced lands) and the economic advantages derived from them; the homogeneity and other attributes of the community, particularly in terms of ethnicity and culture; and attributes of the body of rules constituting the customary land holding system were the main factors that enabled the users to kept intact and held land resources over many generations under their customary clan system in the study area. Thus, based on the findings of the study, merging the two systems into one has been practically impossible to the local government thereby interventions were challenged at times when customary lands needed. This is because there has been absence of a well-defined legal framework that supports the customary system in the town. Furthermore, the finding has also showed that the existing customary rules let individual clan members to exercise absolute control over their respective land and to have more freedom to transact their land in the informal ways. In addition, the finding indicated that government encroachments' to those customarily owned lands has been also devastating to the customary land owners. Such interpositions enforced customary land owners to transact their land unofficially thereby paved also the way for informal land market in the town. Therefore, harmonizing the current gap between the customary land rights and the statutory tenure system is the only possible way out for coping up with all the challenges and problems revealed in the findings. Therefore, any intervention policy or measures that will be applied in those areas should be based on understanding and harmonizing the gap between the two land tenure systems.

Key Words: Customary land ownership, government intervention, statutory tenure, customary rules, clans, landholding, impacts.

CHAPTER ONE

INTRODUCTION

1.1. Background of the Study

A distinguishing feature of land tenure in most African countries is that ownership of land under customary land tenure operates alongside statutory tenure. This dual nature of land ownership usually takes around the urban areas because these are administered under statutory land tenure while rural areas are governed by customary land tenure. Rapid urbanization has currently made necessary the demand for rural lands under the customary land tenure for urban development in the peri-urban areas of most African countries. Hence, there is an increasing occurrence of the transformation of customary (rural) lands to urban land at the peri-urban areas which leads to some changes in the customary land tenure system and affects the urbanization process in a skewed way (Theodoram 2006). However, one of the questions which the researcher is interested about, in this instance, is whether or not the customary land tenure operates alongside statutory tenure in the studied peri-urban area, and what is the current legal status of customary land tenure in the town?

Customary or indigenous land tenure is a major tenure system on a worldwide scale. It is not confined to Africa. Customary land tenure even governs lands in industrial economies, such as rural commons in Spain, Portugal, Italy, and Switzerland and territories belonging to indigenous minorities in Europe, North America, and Oceania. The system operates most expansively in agrarian economies, that is, those societies where most of the population is dependent on, and most of the gross domestic product is

derived from, land-based production and use, not off-farm industry and urban employment (Alden 2010).

While discussing about customary land tenure, at least two issues are worth considering regarding the interconnectedness between land and human beings. First, land as a crucial economic factor aged long enough almost equally with existence of human being. It has been the source of almost all material wealth and the main resource for human settlement. And still, there is a natural correlation between the ability of individuals and/or groups to hold land and feel secure in their property rights, and feel empowered to be a steward of these resources. To be precise, the interrelation of people and land has been fundamental to human existence. Second, as a natural resource, land also includes mobility, traditional institutions, indigenous knowledge, technical know-how, labor and capital available to the community. In these areas, in many instances, an individual's sense of identity is inextricably linked to the rights held through the historical occupation and/or ownership of land (Choudhury 1999). Being realistic with the above two arguments, shortage or inaccessibility of land, therefore, has a very negative effect on, and can seriously hamper social, economic and political development (Alden 2010).

According to the joint study made by Pastoralist Forum in Ethiopia, International Institute of Rural Reconstruction and Development Fund (2010) land in Ethiopia is contentious issue that has gone many changes over the last hundred years. The issue of land has been dominating the entire socio-economic and politico-legal environments of the country. In the country, land holding is also central in the livelihood of rural societies. Thus, it is the centrality of land in the livelihoods of rural Ethiopian that has made land tenure and tenure security issues the top policy agenda throughout the history of Ethiopia.

Hence, it became one of the most important elements considered in the context of urban and rural interventions (Abebe 2009).

The Ethiopian Somali community who practice pastoralism and agro-pastoralism are not unique when it comes to the central importance of land. That is because the livelihood of most of the people in this community depends exceedingly on land (Abebe 2009). The centrality of land in the livelihood of Somali communities is organized under different tribal structure. This is even deeper and stronger than other areas, and in these tribal communities land issues are interlocked in a very complex and sensitive traditional clan politics. For the Somali clans, clan-based land holding is not only where clan members are benefited from, but it is also the milestone for the very existence of the clan itself. Thus, in Somali region all lands are totally occupied by different clans and every clan has its own land including some disputed territories (Nigussie 2013). For instance, such customary landholding as an accustomed clan property right also remains relatively intact up to today among the Somali people living in the peri-urban areas of Jig-jiga town. However, the customary landholding system in the area is contesting with the existing formal land legislation of the local government.

Thus, this study is principally designed to deal with the challenging aspects related with customary landholding system and government intervention efforts, and their policy implications for government intervention measures. Therefore, addressing those challenging aspects of the customary land holding system experienced by the land administration, development and management institution; the deleterious effects of government intervention projects on the customary landowners; those factors that contributed to the persistence of the current customary landholding system and their

policy directions for government interventions measures; and addressing the legal status of customary land tenure in the town is a major entry point in this study. Thus, the researcher claimed that addressing all the above issues could serve as a major implication tools for any intervention policies.

1.2. Statement of the Problem

Benefits derived from customary land resources are among the fundamental incentives for the Somali communities to manage the resource base sustainably. In addition to this, attributes of the community that control and use the resources, and attributes of traditional system of rules dictating such customary land resource utilization among community members are indispensable factors for their sustainable management of customary land resource.

A growing number of researchers now see the recognition and formalization of local or customary land rights as a means of tackling insecurity of land tenure (Lavigne 2002; Dalrymple 2005; Hammond 2001; Durand-Lasserve 2006; Alden 2008; Benjaminsenet al. 2009; Toulmin 2009). The researchers suggest that lawmakers have sought to integrate the customary land tenure and statutory tenure systems by elevating local, customary land rights up into the national legal system. A study conducted by these researchers in various African nations suggested that customary tenure rights face a number of challenges and constraints, and puts the inferior status of the customary tenure rights (Toulmin 2009). Indeed, so much has been said that sometimes it is difficult to draw the line between what is real and what is fiction; the essential concepts have become blurred

by the divergent and sometimes controversial interpretations of these two seemingly irreconcilable concepts.

In this light, the researcher in this study has tried to examine the legal status of customary land tenure rights in the study area; and drawing insights from such previous works the researcher suggest how best to integrate customary tenure with the formal tenure one harmoniously.

Being this the case, the association between customary land and government interventions has been also a focus of studies in many different areas of Africa (Choudhury 1999; Alden2010; Laura 2011; Eric 2014).From the efforts made to review the works of such researchers concerning the interface between customary land ownership and government interventions, the researcher found out that such works contribute their part in one direction. It can be said that many of them address the negative effects of those government interventions on the customary land ownership status of many local communities as having a destructive impact on the livelihood practice of such communities (Choudhury 1999; Alden 2010; Laura 2011; Eric 2014). Such works predominantly focused on those pastoral areas where land claimed and considered as a communal resource among pastoral communities across Africa including Ethiopia (Alden 2010).

At the top of such pastoral land tenure discourses, neglect of customary tenure system by the government became the point of departure for many pastoral land writers. That is, most of them address the adverse effects of government interferences on those different pastoral areas where land is communal by its historical origin. For instance, a research

conducted by Choudhury (1999) has stated that the absence of a procedure, the abuse of due process, or the failure to provide fair compensation can seriously undermine the security of customary land rights. Perhaps this is nowhere more evident than in evolving peri-urban areas where landholding system is usually operates according to complex clan-based ownership system. For instance, Laura (2011) studied the conflicting nature between customary land holding systems and formal land laws in East Africa. The finding was that minority groups' access to land in East Africa is dependent on national legal regimes. Besides, the formal law is often used against communities to dispossess them of their land, leading to conflict. Eric (2014) also confirms the conflicting nature between customary land resources and state declarations over the use of these resources.

To sum up, what has been observed in such works (Choudhury 1999; Alden 2010; Laura 2011; Eric 2014) as a missing gap that needs further emphasis was the challenge on government interventions which could stem from clan-based customary land ownership. Therefore, this study was conducted to fill the above identified gap concerning the challenging aspects related with customary landholding system and, in addition, with government intervention efforts in the peri-urban areas of Jigjiga town through forwarding question as per the research questions: What are the challenging aspects of the customary land holding system experienced by the local government? What are the negative effects of those government intervention projects experienced by customary land holders? By using Ostrom's Analytical framework the researcher has also tried to understand those factors contributed to the persistence of the customary landholding system among the Somali clan community members in the peripheral part of the studied area. Drawing insights from previous works concerning the statutory recognition of

customary tenure, the researcher was also asked the following question to suggest how best to integrate customary tenure with the formal tenure one harmoniously: what is the legal status of customary land tenure in the town? Therefore, all of the above questions which were directly related to the specific objectives of the research were answered in the study.

1.3. Objective of the Study

1.3.1. General Objective

The overall objective of the study was to examine the existing challenging aspects related with customary landholding system and government intervention efforts which were deleterious for the customary landowners.

1.3.2. Specific Objectives

In addition, in line with the general objective, this study has also addressed the following specific objectives:

1. To describe factors that contributed to the persistence of the current customary landholding system
2. To examine the legal status of customary land tenure in the town.
3. To explore the challenging aspects of the customary land holding system experienced by the local government.
4. To describe the negative effects of those government intervention projects experienced by customary landholders. .

1.4. Scope of the Study

The scope of the study was limited in terms of coverage owing to financial and time resources available. In terms of location, this study is only confined to those Peri-urban areas of Jig-Jiga town, particularly to those peripheral parts of kebele 04,08,09,10 and 11. The study was also confined to use qualitative research method as a sole approach to generate primary information. In its focus, the study is also limited to analyze the existing challenging aspects related with customary landholding system and government intervention efforts which were deleterious for the customary landowners, especially to examine their policy directions for government intervention measures, in the year 2013/14.

1.5. Significance of the Study

This study was expected to help concerned bodies to identify some of the major challenging nexus between customary land ownership, related issues and government interventions which could possibly have policy directions. Such bodies, therefore, can use the research outcome as a reference for their further tasks. Furthermore, this study came up with some lessons that can be considered before any government interventions requiring customary lands in the town. Therefore, the study is hoped to give hint to policy makers to design the necessary strategies and programs which understand and harmonize the gap between the customary and formal land tenure systems. Finally, this study is hoped to play its role by letting ways for further investigation for interested researchers.

1.6. Limitations of the Study

Admittedly, the study of the challenging nexus between customary land ownership, related issues and government interventions, and their policy implication were conceptually broad, multifaceted, and necessitates an eclectic approach. For this reason, the first and foremost challenging task in this research process was to develop a well-organized body of research methodology, procedures, concepts, theoretical considerations, and so forth.

1.7. Organization of the Thesis

This thesis consists of five major chapters. The first chapter deals with general background of the study. The second chapter reviews related empirical literatures, key concepts and theories. The third chapter presents research methodological approach and methods of data collection instruments. The fourth chapter deals with data presentation and analysis. The final chapter makes succinct conclusions and recommendations.

1.8. Conceptual Definition of Terms

In this sub-section, some concepts that can have different meaning in different contexts have been defined in order to make their usage unambiguous for the reader. However, there are also several additional concepts, particularly related to customary land ownership, that haven't been defined in this section. They are left to be discussed in chapter two simultaneously with the empirical and theoretical considerations in order to avoid redundancy. Hence, the researcher identified these conceptual terms that are

adhered throughout the study. Therefore, the researcher has articulated his interest in the following conceptual definitions in the study.

- **Customary land:** refers to a land held by group (a clan) or individual (sub-clan families) tribal system.
- **Customary rules:** The term ‘customary rules’ in this research refers to ‘Indigenous’ legitimacy systems that have evolved locally with accepted practices based on the customs and traditions of a group (the clan); or it refers to rules that directs a mix of customary land rights, some private (those customary land rights exclusive to a given sub-clan family); and some shared (those communal land rights operated over common pool resources on customary lands).
- **Statutory Land tenure systems:** Sets of formal rules and institutions which determine access to, and control over land.
- **Ownership** refers to the ultimate and exclusive right conferred by customary rules and subject to certain restrictions to enjoy, occupy, possesses, rent, sell, use, give away, or even destroy an item of property.
- **Government Interventions** refer to any interventions demanding land and taken by the local /federal government in those areas where land is held by the clan on the basis of customary rules.

CHAPTER TWO

LITERATURE REVIEW

2. Introduction

Identifying relevant previous work is an essential skill in social research. The massive expansion in the volume and type of information, together with the increasing complexity of interrelated branches of knowledge, has given added importance to the need for systematic searching, and for critical appraisal and synthesized accounts of previous research (Robert, Miller, John, and Brewer 2003). This entry addresses the task of searching for relevant literature in the 'information age'. Hence, in this section of the paper, an endeavor was made to review existing literatures and past studies related to the subject under study. In doing so, the researcher has made consideration and sharpened his idea on the existing concepts, theories, and empirical literatures relevant to the subject not to be fully framed by them rather, in addition, to set up a 'reality' in order to analyze, conclude and to forward the necessary recommendation on the basis of what is real on the ground. Hence, this section is enthusiastic to review important concepts, theories, and empirical literatures to develop a theory based on the findings of the ground reality concerning customary ownership of land and its implication on State interventions in the study area.

Generally, this chapter is mainly divided in to three sections. The first sub-section of the chapter provides a review of related empirical studies. In the second and third sub-sections, theoretical considerations and analytical model overview were made respectively. Therefore, review of the existing related concepts, theories, and empirical

literatures will be presented in these three sections as per the identified specific objectives of this research.

2.1. Review of Related Empirical Literatures and Conceptual Considerations

Land as a crucial economic factor aged long enough almost equally with existence of human being (Eric 2014). So it is obvious to expect various literatures addressing customary land and their interface with interventions. There are some previous researches concerning the relationship between customary land ownership and interventions. Therefore, this section of the chapter will present reviews of some of these previous studies.

2.1.1. Customary land holding: The '*Oxymoron*'

Land in Africa has been described variously by various commentators with 'customary' being perhaps the most popular adjective (Eric 2014). But what is 'customary'? This question is centered at the development discourse. This is despite the fact that one's conception of what is 'customary' land tenure influences his or her analysis and following prescription of policy interventions.

For example, as Eric (2014) putted that the hegemonic view land rights in Sub-Saharan Africa lack the needed security of tenure is partly rooted in how 'customary' land tenure is conceptualized. Also claims that land tenure systems in the region do not support efficient land markets and individual property rights are rooted in one's understands of the meaning and dynamics of the prevailing land tenure. Flowing from this logic, this section provides a discussion based on previous empirical literatures on how different scholars define the meaning of customary or customary tenure.

The use of the term "customary" is problematic. Sums up the problem by stating that the popular use of the word "suggest[s] that groups of people, who are closely bound together by common interests and values, share land for purposes of subsistence" rather than the more unobjectionable idea that all members of the community have equal claims to land, that "membership of a political community is the basis of an individual's entitlement to land" or that an individual is not free to dispose of land at was. The idea that land is farmed collectively and that the produce is shared is then erroneous in this context. The legal concept of "customary" is also confusing and customary law has been the subject of increasing scholarship in recent decades (Raikes 2000): on the one hand it can mean that a right is held by a group jointly (one property, inseparable title), while on the other hand it can mean that it is held by a group in common (one property, separate but with the same title in land). Here we can note the contradiction in defining the concept (i.e.; the *'oxymoron'*).

As a concept, 'customary tenure' has been also used in several ways in different contexts. In many contexts, the terms 'traditional', 'communal' and 'indigenous' have been used interchangeably to describe all indigenous tenure systems in Africa. For instance, some scholars (Noronha 1985; Mighot-Adholla and Bruce 1994; Nkwae 2006) have contested such generalizations. These scholars argue that describing all forms of indigenous tenure as 'customary' or 'communal' reveals misconceptions about the different forms of indigenous tenure systems in Africa. For example, Nkwae (2006) argues that using the

term 'communal' to describe all indigenous tenure systems in Africa implies group management, ownership, exploitation, control and use of land.

He argues that such a description is misleading in that it presupposes that individual members of the group do not have exclusive land rights. Nkwae's argument is supported by Ostrom (2000), who asserts that findings from many studies on common property-rights systems consistently indicate that such systems do not exist in isolation of, but usually in conjunction with individual rights. In a similar argument, Noronha (1985) notes that the use of the term 'communal' to describe customary tenure systems oversimplifies a complex tenure relation in the customary systems, and therefore should be avoided.

The above scholars' scope of argument is that there is no a single definition that represent the concept of 'customary' or 'customary tenure' across Africa, and that these concepts has been used in several ways in different contexts. Their contentions on the concept of 'customary tenure' seems as it has off two folds; one is that gives separate rights where property is still considered as a common group property, and the other gives a joint rights in a group contexts where separable rights have non-existent in this case the conventional logic is that customary tenure entails an absence of individual rights and a domination of group rights. Current literature emphasizes the dynamic, adaptive and flexible capacity of customary tenure systems, dispelling widely held conceptions regarding their static, 'traditional' nature. The arguments of other scholars on the evolving nature of customary tenure systems in history seems give us understandings why/how customary tenure systems conceptualize differently throughout Africa. This is due to fact that customary

land holding systems like many social systems are subject to evolution, reflecting on changes in the society and pressure from the growth of urban areas (Törhönen 2004); as a result, the very term and concept of customary tenure is contested.

In the course of transmission over time, as well as through experiments, good workable and key elements of the tenure system are retained and poor ones dropped to suit new socio-geo political and climatic conditions (Kalabamu 2000).

Aspects of customary land holding that have changed to reflect on the dynamic humankind-to-land relationship as reported by (Kalabamu 2000; Boydell and Holzknicht 2003; Abdulai and Ndekugri 2007; Obioha 2008) include change of social value of land to economic value; change of communal rights inland to individual rights; change of customary ownership to other forms of land ownership; and change of land use pattern. Several authors have discussed the implication of such customary land holding dynamics on land administration. For instance, economists of so called property rights school argue that the flexibility and fluidity of customary land holding arrangements is tantamount to tenure insecurity and leads to market inefficiencies (Dorner 1972; World Bank 1974).

Toulmin and Quan (2000) however argue that land registration introduces some simplifications that are difficult to work in a complex and dynamic set of practices as in customary tenure systems. For instance, where many interests co-exist on the same piece of land, the existing system has to simplify it before it can be recorded. This creates tenure security for few and insecurity for many. For instance, as Cotula (2007) stated in recent decades, major changes have taken place in African economies and societies,

including demographic growth, urbanization, monetarisation of the economy, livelihood diversification, greater integration in the global economy, and cultural change. These processes have had major implications for local land tenure systems.

Although such systems claim to draw their legitimacy from tradition and are commonly referred to as customary, they have been profoundly changed by decades of colonial and post-independence government interference, and are continually adapted and reinterpreted as a result of social, economic, political and cultural change. The ways in which customary systems respond to such change vary substantially, based on the extreme diversity of local contexts. These changes in customary tenure system seemed to confirm the basic tenets of the so-called “evolutionary theory of land rights” - whereby demographic growth and agricultural intensification tend to push towards greater individualization and commercialization of land rights. However, empirical evidence from many parts of Africa shows that the picture is often more complex than the linear process described by this theory. For instance, intra-family individualization processes may co-exist with the continuation or reinterpretation of the collective dimensions of customary land holding, in order to reaffirm the primacy of the land rights of locals (Cotula 2007).

The above scholar’s scope of argument on the dynamic, adaptive and flexible capacity of customary tenure systems demonstrated how the very term and concept of customary tenure is contested, and how it conceptualizes differently throughout Africa as a result of such dynamics.

Being saying about the dynamics nature of customary tenure, it is better now to review about the complex right relationships that are framed under customary tenure systems in order the researcher to conceptualize as to what ‘customary land holding system’ was and meant throughout his discussion in chapter five.

In developing countries, land tenure and property rights can be formal (freehold, leasehold, public and private rental), customary, or religious in origin; they can also include various types of unauthorized/informal tenure or settlement. Tenure entails varying degrees of legality, according to the legislative framework. These different forms of tenure also include different sets, or bundles, of rights to land, property and natural resources. Theoretically, customary tenure systems are grounded in two basic principles (Pottier, 2005). First, every indigene, by virtue of his or her membership of the group, has access to land. This principle, which Biesele et al. (1991) refers to as the right of avail, is a key feature of the various kinds of customary tenure system. Right of avail, which is also referred to as ‘general rights based on citizenship’, is uniformly applied to all and automatically shared by all people belonging to a particular community, tribe or clan. All rights – individual or common are deduced from the right of avail.

The second principle, which is described as ‘probably equally ancient’ (Pottier 2005), is the recognition of an individual’s right to anything that he or she has created in land, whether this is a homestead or field. Such a right can be inherited according to the regular rules governing the inheritance of private property. These rights in improved land can thus become the particular rights of an individual and can be transferred to another in the lifetime of the right-holder. In many societies, Cousins (2007) indicated that customary

tenure still prevails, based on kinship, membership or relationship with traditional land holding groups. In some sub-Saharan Africa societies, land rights derived from custom predominate in rural and even urban areas.

Often, these include complex sets of secondary or subsidiary rights to land, housing and natural resources; these rights can be held by family members and other individuals and groups, and are derived from negotiations and transactions with the primary land holding group. Cousins for instance summarize current pan-African ideas of custom, drawing on the work of various anthropologists, sociologists, and other African scholars. He lays out various constructs that he suggests are generally true of customary land management as practiced today:

1. Land and resource rights are directly embedded in a range of social relationships and units, including households and kinship networks; the relevant social identities are often multiple, overlapping and therefore 'nested' or layered in character (e.g. individual rights within households, households within kinship networks, kinship networks within wider 'communities').
2. Rights are derived primarily from accepted membership of a social unit, and can be acquired via birth, affiliation or allegiance to a group and its political authority, or transactions of various kinds (including gifts, loans and purchases).
3. Land and resource rights include both strong individual and family rights to residential and arable land and access to a range of common property resources

such as grazing, forests and water. They are thus both 'communal' and 'individual' in character.

4. Access to land (through defined rights) is distinct from control of land (through systems of authority and administration). Control is concerned with guaranteeing access and enforcing rights, regulating the use of common property resources, overseeing mechanisms for redistributing access and resolving disputes over claims to land. It is often located within a hierarchy of nested systems of authority, with many functions located at local or 'lower' levels.
5. Social, political and resource boundaries, while often relatively stable, are also flexible and negotiable to an important extent; this flows in part from the nested character of social identities, rights and authority structures.

Therefore, in this study what was new in defining the term customary tenure system in the study area is, and used to describe as 'indigenous' tenure systems that have evolved locally whereby land is held on the basis of group and individual rights; and the mechanisms for obtaining, using, distributing and disseminating these rights, which arise as a result of accepted practices based on the customs and traditions of a group.

In the coming section, the interface between customary land ownership and state interventions are discussed.

2.1.2. Customary Land Ownership and Government Interventions: Their Nexus and 'Paradox'

There is a natural correlation between the ability of individuals and/or groups to hold land and feel secure in their property rights and feel empowered to be a steward of these resources. In many instances, an individual's sense of identity is inextricably linked to the rights held through the historical occupation, stewardship, and/or ownership of land. In most instances, according to Choudhury (1999), secure land tenure and property rights can be said to contribute to better local government formation and local revenue generation from taxation, and is, therefore, linked to fiscal decentralization. In land-based economies, a stake in land leads to a stake in governance. At the same time, taxation on land resource use and ownership is dependent upon an accurate record of ownership and a land/resource valuation/assessment system.

And here we can note the strong connection between land and economy. The two are interdependent to one another than different entities, and many scholars and researchers (Choudhury 1999; Alden 2005; Eric 2014) seem to have a consensus concerning the strong interlace between the land and economy in particular and government intervention itself in general. Such works has also putted the soul relationship between land and governments. For instance, Julius Nyerere once said, "To us in Africa, land was always recognized as belonging to the community; the African's right to land was simply the right to use it; he had no other right to it, nor did it occur to him to try to claim one". In Zambia, Kenneth Kaunda in other way also asserted, "Land, obviously, must remain the property of the state today. This in no way departs from heritage".

Such governments localized ultimate control over land at the center, obfuscating the subtle and complex nuances of customary land administration and management as actually practiced on the ground (Alden 2005). Thus, it is difficult to talk about tenure security where land is claimed to be for both the people and the state at the same time. For instance, Eric (2014) stated that customary land holding system has been a pinnacle of both rural and urban economies in all the African countries. He further argued that in dominantly agrarian societies where agriculture is the main source of livelihood, landlessness could be the greatest form of poverty. It is therefore appropriate that policies and other interventions to ensure optimal land use continue to be part of the various efforts being put in place to reduce poverty in Sub-Saharan Africa (SSA) and elsewhere.

Many other literatures overweigh their discussion towards the paradoxical relationship between customary land ownerships and state or government interventions despite their strong interconnectedness in the discourse of development.

Customary systems have also been affected by decades of government policies and programmes in the land sector in different parts of countries. While these interventions may often not achieve their original aims, they do generate intended and unintended consequences, including possibly undermining the effectiveness and/or perceived legitimacy of customary systems. For instance, a study conducted by James Ferguson (1994) documents how the depoliticizing discourse and practice of development facilitates the encroachment of the regional and its bureaucracy into more places and dimensions of life. For example, even though most development projects are deliberately apolitical, they are not to the community nor to the donors, but to the government.

Many projects constructed in the face of competing pressures on indigenous land resources from government and private development interests. Such interests of the government (Choudhury, 1999) are fundamentally, political. For example, national economic growth and development efforts often ignore indigenous visions of land and development in favor of short-term economic goals that usually involve intensive resource extraction. This is therefore deleterious in those areas where indigenous peoples commonly prioritize self-sufficiency and food security over production for the market, and where they are guided by the social values of stewardship, equity, and reciprocity. Ironically, there are considerable examples of donors, supporting small-scale projects that promote indigenous peoples' rights on the one hand, while supporting broad national land reforms that result in the dispossession of indigenous peoples on the other. The implication seems articulated in the following statement as I quoted from Eric's study in Sub-Saharan Africa:

It is now a popular knowledge that the various western- led interventions in the land sector across SSA (sub-Saharan Africa) have failed to achieve their stated objective thereby prompting the need for a shift in policy direction. Such a shift should however be preceded by critically interrogation of some of the fundamental underpinnings of the design and implementation of the early interventions in order not to repeat past errors (Eric2014).

For instance, land administration and use policies and laws that superficially address pastoral issues have not been sensitive to pastoralist traditions and hence pastoralists do not benefit from investments made in their lands.

For example, a study conducted by Nigussie (2013) in pastoral areas of Ethiopia demonstrated that the successive Ethiopian government including the present one have failed to understand the working paradigm of land administration in pastoral context and to this extent, implementing their formal tenure system is practically impossible until the two tenure system are adjusted. According to him the central government has missed several important factors, which are indeed the basic ingredients, and the fabric that tied together the pastoral communities under the umbrella of customary land holding system administered by the seemingly uneducated but extremely blatant and wise traditional clan authorities. Rather than building on the existing customary tenure system in place, the successive Ethiopian government went to re-invent the new wheel, rejecting the old and tested informal tenure system with its traditional authorities who have indeed better local knowledge and social legitimacy than the formal institutions align to the idea of tribalism and clan structure (Nigussie 2013).

As can be inferred from the above argument, Nigussie seems to have regarded the central government as forced by its own driving force of national building and subjugation of the pastoral communities, than bringing sustainable form of land administration in pastoral areas of Ethiopia. However, other argued that the management of land rights cannot be analyzed from the angle of customary institutions alone and hence government intervention may be needed to secure the resource claims of weaker and more vulnerable groups. Because of social and political change, and of the intervention of the state and development projects, numerous actors are today involved in local land management. The challenge for an empirical analysis is to understand the complexity of these dynamics (Lund 2001).

For instance, where customary systems have been eroded by social, economic, cultural and political change, government intervention may be needed to provide effective land management. Even where customary systems seem to work well at the local level, government intervention may be required as powerful outsiders that do not feel bound by those systems (e.g. urban elites, foreign investors) enter the land arena. In these cases, lack of legal protection for local land rights based on customary systems may result in local resource users losing land access. And, whether customary systems are still working well or not, government intervention may be needed to secure the resource claims of weaker and more vulnerable groups – who stand to lose out in ongoing processes of change in local land relations (Lund 2001).

Tensions between the diverse norms on which “customary” land management is based and those of government interventions (laws, but also how government agents interpret them) creates a situation of plurality of legal systems in which different norms embodying contradictory principles coexist. This plurality of standards (Lund, 2001) also results from economic and social changes that cause certain stakeholders to contest the legitimacy of local norms, and new, more legitimate but not official, practices to emerge. This plurality of norms is matched by a plurality of institutions: state interventions establish public land management systems (local administration, courts, etc.) over customary systems, partially replacing them and modifying them: development projects often create their own authorities and committees. As a result, numerous institutions (land chiefs, village chiefs or communal committees, etc.) may claim legitimacy to exercise land management responsibilities. Others play a role in practice: project technicians and

even politicians that intervene in land management. As Jacob (2002) argued in many cases, customary norms and authorities remain dominant, government authorities do not interfere, and outside stakeholders are obliged to respect local standards. In some other places, multiple institutions find ways to cooperate and coordinate, creating hybrid, new regulation frameworks.

A study in different regions of Ethiopia has showed how are customary land rights affected in practice? On the instructions of the federal government of Ethiopia (Shete 2011 as cited in Liz Alden Wily in 2005) regional state governments have identified millions of hectares of land to lease to investors for commercial production, in accordance with its Agricultural Development Led Industrialization Program. Nearly one million hectares has been so identified in Benshanguel Gumuz Regional State, leaving scant room for any generational expansion for even settlements and farms, and concern among local populations that their off-farm woodland livelihoods will be lost and their ability to farm curtailed by the clearance of these lands for industrial agriculture, decimating water and soil conservation needed to enable farming in lower areas.

Only a handful of the 4,338 jobs that were promised under four of the leases have so far materialized, most of them filled by outsiders. The other example is the Bechera Agricultural Development Project (Fisseha 2011 as cited in Liz Alden Wily in 2005) in Oromiya Regional State that leased 10,700 hectares to an Indian company for multi-crop production, incorporating most of the rangelands and wetlands used for grazing and seasonal farming, forcing families to sell their stock. Around 300,000 hectares have been leased to the same investor in Gambella Regional State for rice and banana cultivation,

with a similar loss of the grazing lands. Commercial exploitation of forests (Guillozet and Bliss 2011, as cited in Liz Alden Wily in 2005) is encouraged and plans are in place to direct investment towards forests that are “encroached, cleared or abandoned” and are considered idle and available by government. This does not reflect reality on the ground, such as in the case of the Arsi Forest, historically occupied and used by Oromo agro-pastoralists.

The other study conducted in four districts of Harshin woreda in Somali regional state of Ethiopia showed the key reason for the breakdown to customary institutions governing access to customary land and resources has been competition from government institutions and their interventions. Often government pushes NGOs to support infrastructure establishment rather than other ‘softer’ (socio-economic) interventions, as part of their interventions (Oxfam GB 2011). This finding has also pronounced in another study as follows:

The traditional laws that have long been an effective means of ensuring sound use of natural resources have been weakened over time. Government support for pastoral land tenure and administration is essential if there is to be sound pastoral natural resource management. However, land administration and use policies and laws that superficially address pastoral issues have not been sensitive to pastoralist customary traditions on the use of customary lands and hence pastoralists do not benefit from government interventions made in their lands (SORPARI 2008)

The above statement confirms that because of the lack of clear land tenure procedures in pastoralist areas, pastoral lands are encroached upon, which leads to tenure insecurity. Hence, some suggested that customary laws that were an effective means of ensuring sound use of lands have been weakened and need to be strengthened. This is due to the

fact that it is almost impossible to divorce land from indigenous land management system and that land is arguably one of the most important assets for people throughout the world. This is particularly true for pastoral poor, where land may form the most significant part of their asset base (Oxfam GB 2011).

In general, from the above studies in Ethiopia the major implication and scope of argument is that the complexities associated with government interventions and their ramifications in the livelihood status of the people affected by these interventions may pose challenges for peoples' lives.

Based on my understanding from several readings of literatures, many researches that have been conducted regarding the relationship between customary land ownership and interventions have tried to show only those disparaging consequences on the land ownership status of most communities resulting from the interventions made by government for different purposes. The literatures have putted fewer endeavors to see in addition those challenges on regional development which could be stems from the customary land ownership system. Therefore, realizing such gaps in these literatures, the researcher finally compelled to explore those challenging aspects of the customary land holding system grounding the findings on/from the local government officials' experience during interventions in the studied area.

Therefore, the researcher has come up with a better finding by filling these gaps and holes in the previous studies particularly in the study area.

2.1.3. Statutory Recognition of Customary Land Rights

While customary land holding has historically been seen as an obstacle to development, new experiences challenge these conclusions. A number of international donor agencies have adopted programs to promote indigenous land rights, turning the customary land holding and indigenous land rights into a contemporary issue. These programs focus on the legalization of customary property rights to land resources and the decentralization of authority, management and government services (Choudhury 1999).

Customary systems, much like common law systems, are in a constant state of evolution, adapting to the changing political, legislative, demographic and ecological circumstances and choosing innovations that work best to accomplish the desired ends. It may be argued that very little pure "tradition" remains; today's "customary law" is a mixture of various practices that have been inherited, observed, transmuted, learned and adopted. As well-stated by Cotula and Toulmin (2007): "Far from being clearly delimited and mutually exclusive, the customary and the statutory are usually intertwined in complex mosaics of resource tenure systems. "Problems occur when one system does not recognize the other as valid and countries that have refused to recognize the strength and validity of customary land rights has resulted in widespread tenure insecurity across Africa.

Corresponding to the above agreement a growing number of researchers and policy-makers now see the recognition and formalization of local or customary land rights as a means of tackling insecurity of land tenure(Lavigne 2002).Contending with this,

researchers suggest that lawmakers have sought to integrate the two systems by elevating local, customary land rights up into the national legal system.

Rather than passing laws built out of ideals and constructions of how society should be run, lawmakers have to send out anthropologists, sociologists, economists, and other researchers to investigate the rules by which the people govern themselves in the ground reality, and then worked to create a space within statutory law to reflect those practices.

On this regard a study conducted by FAO in different parts of Africa (2010) concludes that while each nation should define for itself the most appropriate mechanism to recognize customary land rights within its formal legal system, the harmonizing or integration of customary land rights and formal law may best be done by recognizing custom as the effective, local, and locally-valid means that communities have established over time to administer and manage their lands and natural resources.

However, customary and statutory legal systems are not as divergent as may be thought, and identifies areas of overlap that may be useful starting points for creative integration of statutory and customary land law. It recommends that such integration may best be done not through strict codification at the national level, but through national laws carving out a space for custom within their legal framework, and then allowing each local community to determine and define for itself its rules and governance structures through fully-participatory processes (FAO 2010).

But here questions should be asked as to what extent do statutory legal systems support the administration of customary lands at local level? And as it's been said is it really

possible to legally recognize customary tenure systems under the formal tenure systems?
Are titling programs effective in bringing tenure security for customary land owners?

For instance, assisted by the World Bank, many governments in SSA extended classical titling programmes as a means of securing tenure, and the objectives of these programmes included changes to existing customary landholding patterns and the establishment of new institutional arrangements to provide security of tenure. Land administration strategies (LASs) shaped by these objectives are usually centralized, with top-down administration processes. Even when they are decentralized, they are still built on state-led institutions. However, in many parts of Sub-Saharan Africa where culture and tradition are strong, these formalization techniques have failed to deliver their overriding objectives to the majority of beneficiaries (Dalrymple 2005).

In many areas where land titling registration has been pursued, it has proved to be ‘slow, expensive, difficult to keep up-to-date, and difficult for poor people to access; it has had little or no impact on investment behavior and income, and has not always been necessary or sufficient for achieving a high level of tenure security for land development; and has only benefited a small number of high-income groups. Since the 2000s, a new paradigm has emerged for the formalization of customary tenure and LASs. This new formalization strategy has been driven by the need to promote customary rights and laws in LA reform initiatives.

Following this paradigm shift, international researchers (Alden Wily and Hammond 2001; Durand-Lasserve 2006; Alden Wily 2008; Benjaminsenet al. 2009; Toulmin 2009)

have shown that although formalization may be necessary, it should be implemented in an incremental manner and should address the social aspects of tenure.

Community participation in land governance, and the development of local institutional capacity by decentralizing LASs from national, state-led agencies into community based institutions, play major roles in these policies and formalization strategies (Amanor 2008). Several experiments with land reform policies and locally-based systems across Sub-Saharan Africa have been based on these objectives. This view has been echoed by many international policy and research initiatives that emphasize the importance of building on customary tenure systems in order to achieve equitable land management (Deininger and Binswanger 1999; Toulmin and Quan 2000; Deininger 2003; UN-HABITAT 2003; Delville 2006; Toulmin 2009). For example, in Ghana, the multi-donor Land Administration Project (LAP), which strengthens the customary administration of land and establishes Customary Land Secretariats (CLS) under the aegis of chiefs, reflects how dominant this strategy has become.

However, in consideration of various African nations' recent trend of granting of vast areas of land to foreign investors, the urgency of placing real ownership in the hands of the people living and making their livelihood upon lands held according to custom cannot be overstated. This has been visible throughout the nations especially when the rural poor's customary land claims are not considered to be valid because they lack formal recognition and as the result when only the rich and the legally savvy have tenure security. This shows that most land in African nations is owned by the state and communities seem to have little power to contest such grants.

According to Rachael (2010), such powerlessness is often intensified by the fact that rural communities often operate under customary law and have no formal legal title to their lands or documentation of their claims. For her, recognizing and protecting customary land rights is a critical component of protecting and defending the land rights of the rural poor; and then true tenure security will only come from elevating customary land rights up into formal law, and making customary land rights equal in weight to registered rights. Other researches also suggested the inevitable reality that the recognition of customary land rights and their institutional frameworks as a must to be done to bring tenure security.

For instance, Lavigne (2002) suggested given the social and political nature of land relations, any attempt to strengthen security of tenure especially in peri-urban areas must avoid general prescriptions and be highly context-specific in the process of integrating the two tenure system. Lavigne further argued that regardless of this reality, until recently in many African nations customary authorities have been severely marginalized in land reform policies, primarily due to the centrist nature of reform and the presumed insecurity of tenure they afford. However, in a positive shift, there is now greater recognition that communal tenure and customary land institutions must be an integral part of land administration. That is, despite a trend towards increasing formalization of land tenure, particularly in urban and peri-urban areas, customary land management institutions are still the most important authority regulating communal land administration.

In Ethiopia, the main cause of tenure insecurity in pastoralist area, for example, is neglect of customary tenure systems and marginalization of customary institutions by the central

government. For instance, Solomon (2006) as cited in Nigussie (2013) indicated that some of the measures currently practiced in the highland areas of Ethiopia, such as land registration and certification cannot work in pastoralist areas and he then argued that tenure security can be solved through recognition of customary institutions and customary tenure rules.

Nevertheless some of the researchers like Dessalgn Rahmoto cited in Nigussie (2013) do not accept such arguments and they argue that customary laws and institutions are no more functional and therefore able to bring tenure security in pastoral areas. They state that land registration and land certification as well as pastoral settlement are the only solutions. Rather they argue that the best strategy is to combine the two tenure system by striking balance between statutory tenure rules. However, the total ignorance of customary tenure rules and enforcement of statutory rules may be also issue of practical impossibility.

Here we can understand that a negligence of those indigenous customary realities during legal framework development that may affect the people could encounter non-submissiveness by the people themselves. Because it is sometime difficult to enforce legal rules which failed to incorporate the basic social value. Is it really possible?

Generally, it can be said that the above literatures are founded upon the notion that protecting and enforcing the land claims may be best done by passing laws that elevate existing customary land claims up into nations' formal legal frameworks and make customary land rights equal in weight and validity to documented land claims.

Therefore, through a realization of the literatures concerning statutory recognition of customary land rights, the researcher further asked the following questions in this study, notably: What is the status of customary tenure among the locals? Is it possible to legally recognize customary tenure systems under the formal tenure system? Is the existing customary tenure rights have granted a legal recognition? Are the customary land rules are very stronger than the statutory one today or vice versa? Finally, how best to integrate statutory and customary legal systems so as to most effectively strengthen tenure security.

2.2.Theories of Customary Land Tenure Rights

According to Strauss and Corbin (1994) a theory is a set of relationships that offer a plausible explanation of the phenomenon under study. Morse (1994) extends this interpretation by proposing that:

A theory provides the best comprehensive, coherent and simplest model for linking diverse and unrelated facts in a useful and pragmatic way. It is a way of revealing the obvious, the implicit, the unrecognized and the unknown. Theorizing is the process of constructing alternative explanations until a “best fit” that explains the data most simply is obtained. This involves asking questions of the data that will create links to established theory (p 25–6).

Strauss and Corbin (1990) suggest that a theory has a number of characteristics. To begin with it should be a plausible statement of a series of relationships across concepts and sets of concepts which can be traced back to the data. This plausibility becomes strengthened through continued research. Furthermore, a theory should be conceptually dense. It includes many conceptual relationships presented in a discursive form which is embedded in conceptual writing. Theories should be seen as fluid, owing to the fact that they should embrace the interactions of multiple actors, and emphasize temporality and process. Theory can also use to draw together unrelated fragments of empirical evidence and research. The ideas and propositions that comprise theory can provide imaginative leaps in understanding that make connections between situations not before related or research data not previously seen as fitting together. Theory can thus highlight and explain the empirical regularities appearing in the social world (Strauss and Corbin 1990). Orienting towards these characteristics of a theory, in the study, therefore, theories were used as systematic tools to explain some of the ways in which customary land

holding and state interventions are related. Following this introduction, the section is split into three sub-sections. The first sub-section reviews an influential theoretical perspective on customary land holding and human decision-making embodied in the institutional and development economics literature. Sub-section two presents theories on the formalization and Legal Recognition of Customary Land Rights. The final section discusses Ostrom's Analytical framework for Understanding Attributes of Factors Contributed to the Persistence of the Customary Landholding System

2.2.1. Evolutionary Theory Of Land Rights

The discussion of customary tenures in African land policy reforms reflects one long-standing theoretical debate in the social science literature over the role of property rights in African development. Essentially the debate is over whether customary or community-based tenures represent an obstacle to economic development and if African countries should implement reform programs to transform customary regimes to individual tenures (Feder and Noronha 1987; Migot-Adholla et al. 1991; Platteau 1992; Migot-Adholla and Bruce 1993; Simon 1993; Platteau 1996; Cousins Cousins, et al. 2005). On one side of the debate are adherents of the ETLR (Evolutionary Theory of Land Rights), whose ranks include neo-classical economists, Public Choice theorists, and some Neo-Institutionalists, who believe that property rights in any society evolve due to scarcity (Platteau 1992; Platteau 1996). This theory predicts that as population pressure increases and land becomes an increasingly scarce resource, rights to land will individualize until private property exists (Ault and Rutman 1980; Noronha 1985; Ault and Rutman 1993).

This *move to individual tenure is economically advantageous* for both the land owner and the state since bestowing all *property rights and decision-making powers in one person overcomes key economic inefficiencies such as transaction costs and free ridership* (Demsetz 1967; Hardin 1968; Ault and Rutman 1980.) For adherents of the ETLR, the move to individual tenures is inevitable since institutions are seen as evolving in order to maximize benefits and minimize costs. Institutions, moreover, have been described as moving toward greater efficiency over time (Furubotn 2005).

The policy implications of the ETLR are clear: development-oriented governments should assist this evolutionary process by formulating and implementing individualization reforms. Here the researcher asks a question; as to what extent the movement of customary regimes to individual tenures can be possible particularly in those areas where customary lands are owned by complex clan-based system, like in the study area?

In contrast to ETLR, those arguing for the retention of customary or community-based tenures, represent a more multi-disciplinary group of scholars, including economic sociologists, anthropologists, and mainstream institutional economists. They make two primary arguments for community-based tenures. First, they contend that the function of land in African society is much more complex than granted by Western economic thought (E.g., Berry 1984, Brink and Bromley 1992; Platteau 1992, Cross 1992; Cross, 1987). In Africa, they observe, land serves important social and political functions not common in the west. Land is the cultural basis of power and belonging (Berry 1984;

Cross 1991). The granting of land is a primary mechanism for structuring society and gaining political power and allegiance.

The holding of land is the primary indicator of societal belonging. Second, these scholars argue that customary tenures have been mischaracterized and misunderstood.

Customary tenures are not anachronisms impeding economic progress but instead are dynamic institutional arrangements characterized by a mix of property rights (some private, some shared) which has adapted over time to meet community needs (Bromley 1992). Such tenures can be inherently secure and conducive to economic growth - nothing less than "private property for the group. The failure of many African societies to move toward individual tenures is thus an indicator of the inappropriateness of these tenures for the African social context and a challenge to claims of universality for the ETLR. The land policy implications are also clear: forcible reform of land tenure using Western institutional models is not advisable. To improve tenure security governments should clearly define and enforce all property rights regimes, including indigenous institutions (Brink, et al. 2006; Bruce 1988; Migot-Adholla and Bruce 1993).

Behind this debate on land tenure and land policy is an even more fundamental disagreement over *human decision-making and rationality*. Adherents of the ETLR view decision-making through the dominant theoretical model in economics, that of the "economic man." As every Economics student knows, economic man (and woman) is a self-interested, atomistic actor endowed with a set of preferences whose decision-making is expected to be "rational." Rational behavior is defined as utility-maximizing behavior, that is, behavior that makes the economic man better-off (Becker 1976). The evolution of

land institutions described by the ETLR assumes the self-interested rationality of the economic man.

Faced with scarcity and the difficulties of community-based tenures, a rational decision-maker will choose to hold land under individual tenure in order to maximize his/her utility.

Scholars skeptical of the ETLR, such as mainstream institutional economists and economic sociologists, not surprisingly are also quite critical of the economic man. They question the concept of human nature central to this paradigm.

Human beings are cast as rational actors driven by the need to maximize their utility, yet every day one sees evidence in actual behavior that humans can and do act "irrationally" in the economic sense (Aaron 1994). One also sees instances when people knowingly act against their individual self-interest (Sen 1977 in Bassett 2005). Sen calls this type of action "commitment." *Commitment* can be defined "in terms of a person choosing an act that he believes will yield a lower level of personal welfare to him than an alternative that is also available to him." This conscious act of choosing is an important distinction since many economists have dismissed the significance of acts motivated out of altruism or sympathy by arguing that such acts, which give pleasure to the person making the sacrifice, are basically egoistic and still maximize one's utility. Hence, there is a range of motives for human behavior and decision-making in addition to self-interest. Humans are motivated by principles such as altruism, cultural constructs such as tradition and nationalism, as well as by ignorance and irrationality.

A second critique relates to the under-socialized or atomistic nature of the individual. Economic man is presented as a creature born with a given set of preferences. He is depicted as an individual acting in isolation, deliberating solely upon his own welfare and acting purposively to maximize that welfare (Becker 1976).

Mainstream institutional economists, most vocally, find this presentation problematic because it does not explain where preferences - the source of purposive action - come from and why they change. In neo-classical economic theory, preferences are "immanently conceived" and fixed. Without an explanation of why people have certain preferences and why preferences may change, mainstream Institutionalists assert that economics offers little meaningful explanation for purposeful action (Hodgson 1988; Aaron 1994).

In contrast, mainstream institutional economists and economic sociologists have clear notions about the source of purpose. They argue that human beings are social animals born into a society endowed with culture, beliefs, and institutions. Human preferences and hence purpose are determined in an interactive process whereby the cultural and social factors that dictate what is considered acceptable or unacceptable behavior interact with individual perspectives and motivations (Biddle 1990; Granovetter 1992). Granovetter calls this view of human behavior "embeddedness." Embeddedness represents a middle way between the atomized, under socialized perspective of neo-classical economics and the over socialized concept of human nature once characteristic of sociology (Granovetter 1992). "Actors," Granovetter argues, do not behave or decide as atoms outside a social context, nor do they adhere slavishly to a script written for them by the particular intersection of social categories that they happen to occupy. Their

attempts at purposive action are instead embedded in concrete, ongoing systems of social relations. These on-going systems of social relations or institutions must be integrated into economic analysis in order to really understand purposive human behavior and predict economic outcomes.

Thus, the special emphasis on the two debates provided the researcher with an interesting theoretical insight for examining the extent of the decisive power of people over their customarily owned lands within the existing customary rules and the extent of willingness of customary land owners towards state interventions in peri-urban areas of Jigjiga town. Furthermore the insights of mainstream institutional economists and economic sociologists granted a theoretical ground for the researcher's claim that the attributes of community identity and belonging among the Somali clans in customary landholding systems was significant.

2.2.2. Theories on Formalization and Legal Recognition of Customary Land Rights

Historically, two schools of thought have shaped the formalization and legal recognition of customary land rights in Sub-Saharan Africa. The first, the economic school, is embedded in neo-classical economic theories of property rights, and emphasizes the role played by economic objectives. Formalization is therefore seen as a fundamental requirement for the economic development of areas characterized by informal and/or customary land holding (McLaughlin and Palmer 1996). In the economic property school, the flexibility and fluidity of customary tenure arrangements are considered

equivalent to tenure insecurity and market in efficiency (Dorner 1972; World Bank 1974).

This school of thought influenced many land reform programmes in Sub-Saharan Africa during the twentieth century. Land administration systems (LASs) shaped by these programmes are usually centralized, with top-down administration processes. Even when they are decentralized, they are still built on state-led institutions.

Since the 2000s, a new paradigm has emerged for the formalization of customary tenure and LASs. This new formalization strategy has been driven by the need to promote customary rights and laws in LA reform initiatives, and represents the views of the second school. According to this view, procedures for formalizing customary land rights have the dual objective of reducing conflicts over land on the one hand, and encouraging investment and productive land use on the other. While opinions differ over the best balance between local and public regulation, proponents of this view agree on the need to promote (1) a clear legal framework that recognizes the legitimacy of local rights and arrangements, provided they do not contradict the fundamental principles of the State, (2) a decentralized institutional framework for land management favoring “legitimate, autonomous and managerial authorities” (Le Roy *et al.* 1996; Lavigne Delville 2006) capable of regulating the plurality of norms, and (3) simple tools for upholding agreed rights.

In the other way round, the community-based approach to land management sees the State as the source of problems and conflicts over land, since successive colonial and independent States have imposed unsuitable normative models, particularly the imported concept of private land ownership, and denied local rights and regulations. The resulting

conflicts are now aggravated by pressure to commoditize land(Lavigne 2002).According to this view, efforts to register land rights (especially individual rights) will prolong these inappropriate public interventions and cause further disruption to local societies. The only way to address the issue of land tenure and resolve conflicts over land is to rehabilitate traditional institutions, restore the authority of local bodies and give local societies greater autonomy in managing their lands and resources.

This view tries to take greater account of the realities of rural land tenure in Africa, the fact that customary regulations still prevail in many rural areas, and that public interventions have often been disruptive. However, it tends to underestimate the extent to which rural societies have been changed by state interventions, market development and demographic pressure, while overestimating the coherence of local modes of land management, and sometimes their legitimacy in the eyes of local actors. It also ignores the fact that that land tenure is closely entwined in and flows from social structures (what is called “embeddedness”), resulting in differentiated access to land according to social identities, and the exclusion of young people and ‘outsiders’ from local social spaces(Lavigne 2002).

Hence, emphasizing the theories on formalization and legal recognition of customary land rights generally granted a theoretical ground for the researcher’s assertion that any intervention policy, rule and regulations that will be applied in those areas where land is controlled on customary basis should be based on understanding and harmonizing the gap between customary land rights and formal land tenure system. Here, formalization and legal recognition of customary tenure rights has important role to harmonize the gaps.

Therefore, emphasis on the theories helped the researcher to draw a possible recommendation.

2.3. Ostrom's Analytical framework for Understanding Attributes of Factors Contributed to the Persistence of the Customary Landholding System

This section was concisely discuss about the analytical model developed by Ostrom (2005); a conceptual framework on natural resource management. Here, the researcher want to make clear for the readers that in this study he employed this analytical model only to describe and analyze those attributes of factors that have contributed to the persistence of the current customary landholding system. He adopted the model among others which are not of course discussed in this chapter for their broadness and vagueness in terms of the usages of concepts that should not be considered and used for analyzing the issue among the Somali community. Hence, the researcher adapts this model because it was best fitted with the fact that land as a 'customary natural resource' among the Somali community.

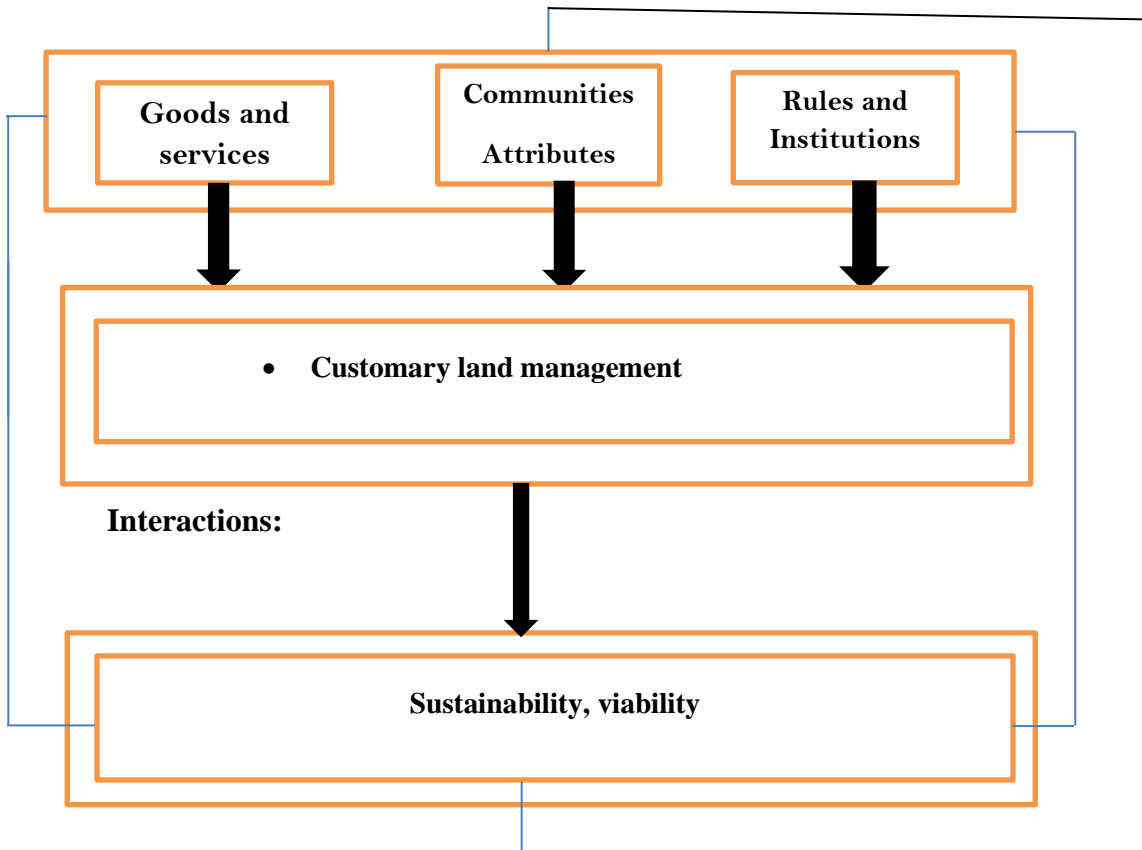
Among the conceptual elements of this model, the researcher predominantly focused on those physical attributes of goods and services, attributes of communities and on the attributes of rules and institutions claimed that they are important in understanding the current customary land holding system of the peri-urban areas of the town. The model helped the researcher to avoid a mono-causal explanation regarding the persistence of the customary land management. Thus, coupled with other advantages the analytical model helped the researcher to analyze those attributes of factors contributed to the persistence of the current customary landholding system in the study area. Further, the researcher

also claimed that such attributes has policy directions for any government intervention measures.

The analytical model assumes that people choose customary land management and use strategies in light of the incentives they gain from the customary lands. It assumes that incentives for the sustained management of customary lands are generated by the physical attributes of customary lands and their desired goods and services; by the attributes of communities; and by the rules or institution that structure how customary lands are governed managed and used. The analytical model expects these attributes to impact on the pattern of interaction. Finally, the strong combination of all the above attributes is expected to insure sustainability and viability regarding customary landholding. Accordingly, the researcher expected that the nature of these attributes might also affect the traditional customary landholding system of the Somali communities and its perseverance in the study area. The model is depicted as follows:

Box 1: Sketch of the Conceptual Framework

The process of data collection and analysis merely regarding those attributes of factors contributed to the persistence of the current customary landholding system in the peri-urban areas of the town was captured within the following own designed envisaged by adopting from the above model.



Source: Own Sketching

CHAPTER THREE

RESEARCH METHOD

3. Introduction

This section presents the method used in the study area. It began with a discussion of the methodological approach of the study, followed by data sources, study design, details of the data collection tools and process, sampling procedures and study site selection, data analysis methods and description of the study area. Further, it gives an explanation of how the informants of the proposed study were selected, what different instruments were prepared, how data was collected, and the methods by which the collected information was analyzed.

3.1. Methodological Approach of the Study

Because of the nature of the statement of the problem, the researcher used a qualitative method approach. This is due to the fact that it was emphasizing on words and meanings rather than quantification helped the researcher in the collection and analysis of data. That is, the focus of this study was on participants' perceptions and experiences. Thus, this approach was helping the research subjects to be able to recount their experiences and knowledge in their own voices without limits. Therefore, the direct voices of the study subjects were used to generate data from the field. In so doing, the data emerge from the field was descriptive. That is, data were reported in words (primarily the participant's words rather than in numbers). Hence, it was listening to participants helped the researcher to build an understanding based on their experiences.

The other chief reason for using qualitative approach was that not much has been written about the population being studied particularly in relation to the themes under studied. Thus, the existing literatures do not holistically apply with the study participants being studied. Therefore, these and other methodological reasons forced the researcher to confine himself to adopt qualitative approach rather than survey questionnaires to generate detailed information. Accordingly, in this study a combination of different qualitative data collection instruments was in use. Hence, data was collected through in-depth interviews, key-informant interviews, focus group discussions and through documentary review.

3.2. Data Sources

In order to achieve the objectives of the study, both primary and secondary sources of information were consulted. The primary sources of information for this study were key informants including traditional clan elders, clan leaders, government officials (who have higher positions in land management, administration and development bureau and in Somali regional state Jigjiga city administration municipality), and victims affected by intervention projects. To enhance the data from primary sources, available secondary data, in addition ,were referred from different books and literatures dealing with the issues under investigation.

3.3.Data Collection Instruments

The following three major data collection tools were employed in order to gather the relevant primary data from the targeted informants.

3.3.1. In-depth Interview

In the context of this study, in-depth interviews were used as informal conversations that allowed the researcher to extract rich and detailed information from interviewee(s). In so doing, the researchers had prepared a guide list to remember what he wants to raise during interview. In general, the main purpose of the in-depth interview was to obtain relevant data from traditional clan elders. For this very purpose the researcher interviewed twenty three (23) purposively sampled traditional clan elders.

3.3.2. Key-Informant Interview

This method was quite important whereby the well informed members of the community being studied provide the researcher with rich and detailed information on the subject of inquiry. Key informants are persons who have unique knowledge about the issue under study, and have access to other information of interest to the researcher (Kaufman 2005). In the context of this study, key informants were a widowed household head, customary land owners, a pharmacist, and government officials. Thus, this method helped to generate valuable information on the legal status of customary land tenure under the current formal land legislation, the challenging aspects of the customary land holding, and the deleterious aspects of government intervention projects. Furthermore, for the purpose of collecting this information, interview guides were designed and employed to track the interview session. The interview process pursued the model of Somali customary ways of conversation in the ordinary setting in order to keep the interviewee feel comfortable and share ideas at maximum ease.

Totally, seven (7) key informants were contacted. The two key informants were those who were victims of intervention projects and who recounted their stories in the study. The other two informants were influential clan leaders. The rest three key-informants participated in the study were government officials (the core process Head of Land Development and Management of the town, the Head of Urban Master Plan in Urban Development Construction and Housing Bureau, and the Head of Land Administration department in Somali Regional State Jigjiga city Administration Municipality service). Except the interview with the victims of intervention projects and clan leaders, the other three interviews were conducted in the office of the informants and each took 45 to 60 minutes. The interview with the victims of intervention projects and with clan leaders was conducted in their own home and took 40 minutes each.

3.3.3. Focused Group Discussions

Focus Group Discussions were employed to generate qualitative data to supplement data obtained through in-depth and key-informant interviews. Furthermore, it was used to generate additional data concerning the existing attributes of factors contributed to the persistence of the current customary landholding system. Totally, two FGDs¹ were conducted on Sunday afternoon each. Sunday afternoon was a favorable time to get the participants than the other days. The first FGD was conducted with men customary land owners. The second FGD was conducted with influential men clan leaders who have the knowledge of working traditional system of rules constituting customary land holding system in the town.

¹ FGD Participants: Jamal Ali, Siraj Mume, Hassan Hargaye, Mowlid Aden, Yusuf Dubo, Alou Liban, (customary land owners) and Hadi Muhammed, Ahmed Dahin, Dayib Muse, Abdi Waiid, Ahmed Muhammed, Farah Abdi (traditional clan elders or Odeyasha Deeganka)

The need for conducting two group discussions only with men was due to the fact that cultural barriers may inhibit women to express their feelings and perceptions openly. The other reason was the fact that in order to approach women among the Somali community, first one should go through their husbands and asks permissions. Thus, approaching women was possible only in the presence of their men counterparts which thus inhibit women to express their feelings and perceptions openly. Each of the FGDs took more than an hour. The discussions were held in the local language (i.e. Somaligna) and were facilitated by the researcher himself.

Observation

This method is one of the widely held ethnographic techniques employed in order to gain the deepest insight about local realities. In more comprehensive terms, observation involves “direct and sustained social contact with agents, and of richly writing up the encounter, respecting, recording, representing at least partly in its own terms, the irreducibility of human experience” (Willis and Trondman 2000 in Prowse 2010). This kind of method provides self-critical knowledge about the local realities and opportunity to reflect on one’s own mindset, and frame the prevailing distortions about issues being observed (Chambers 2007). Moreover, the data gathered through this method appeared exceptional and unique, and it helped the researcher to understand the physical attributes of customary lands and their derived goods and services in the studied setting.

It was then very vital in this study, so as to observe the environmental situation including farm lands, open and fenced lands, and pasture lands.

3.3.4. Documentary Review

Additionally, Secondary sources of information were employed to supplement the primary data. That is, secondary data collection involving mainly reviews of relevant literature including scholarly articles; especially the Ethiopian land laws and policies was reviewed to gain a preliminary understanding about the legal status of customary tenure system under the federal Constitution of Ethiopia. In addition, the information pertaining to the status of customary tenure system under the current statutory tenure was also collected through key-informant interviews.

3.4. Sampling Procedures and Study site Selection

Snowball sampling uses qualitative thinking to approach the meanings and social relationships of those being studied (Gilgun and Handel 1992: p. 24). It is often used as a stand-alone qualitative technique, especially investigating topics of high sensitivity (Abbott-Chapman 1973). Likewise, in this study, purposive sampling particularly snowball-sampling technique was employed to approach study participants in the study area where land issues are interlocked in a very complex and sensitive traditional clan politics (Abebe 2009). Accordingly, informants were selected by using purposive sampling particularly snowball-sampling technique by which a first key informant was identified through informal conversations with other informant in Jig-jiga town. Then, the informants were asked to indicate potential informants and were invited to suggest for other potential informants. This process was kept continuing until the necessary data for the study is collected. Thus, by using this technique, the researcher has selected twenty-three potential informants who are traditional clan elders in their community; seven key informants and twelve focus group participants.

All of the informants, except the three key-informant government officials (who have higher positions in land management, administration and development bureau and in Somali regional state Jigjiga city administration municipality) were selected from the peripheral parts of five kebeles particularly from kebele 04, 08, 09, 10 and 11. The main reason for selecting these kebeles in the study area is because customary landholding system is working in the peripheral parts of these kebeles. In such areas, government interventions are also visible than the other parts of the city.

3.5. Methods of Data Analysis

Data analysis in the study pursued thematic approach. Thus, the qualitative data generated from the in-depth interviews, key-informant interviews and focus group discussions was analyzed through careful interpretation of meanings and contents; and through organizing, and summarizing in accordance with the issue under investigation. Hence, all the data that was collected using local language- *Somali*-was directly translated into English by the researcher. In so doing, an attempt was also made to maintain the originality and clarity of information while translating it into English. In line with this, the researcher was made descriptive presentation of the data in a reflexive and narrative manner whilst keeping its original content. Furthermore, the analysis supported the data with secondary sources.

Box.2. Summary of Methods and Instruments Used

Specific Objectives	Unit of Analysis(Information on what)	Observation Unit/ Data source(Information from whom or from what)	Methods of Data collection
To describe factors that contributed to the persistence of the current customary landholding system	Physical attributes of customary lands and their derived goods and services; community attributes; and attributes of rules around customary landholding	A. Key Informants B. Traditional clan elders C. Clan leaders	A. FGD B. In-depth Interview C. Observation
To examine the legal status of customary land tenure under the current formal land legislation of the town.	legal status, local status,	A. Written secondary sources B. Key-informants	A. Documentary Review B. Key-informant interview
To explore those challenging aspects of the customary land holding system experienced by the local government	Land possession, issues of compensation, attitude of customary land owners	A. key-informants or B. Government officials	A. Key-informant Interview
To describe the deleterious aspects of government intervention projects experienced by customary landowners. .	Social capitals, customary land use right, control right and transfer rights related to land	A. Victims affected by intervention projects B. Key-informants	A. Key-informant interview

3.6. Field Challenges and Experiences

Since the research involved the willingness of traditional clan elders, local government officials as well as clan leaders, the targeted persons to be interviewed avoided the researcher for political reasons. To mention, for instance, the staff in the targeted institutions even in face of the authorized letter I provided to them sometimes refused to cooperate, referring the researcher to somebody else from other institutions. They further gave wrong time just to avoid the researcher and this delayed the process of data collection. Eventually, the researchers sought means of overcoming the challenges posed by the study. Among the strategies used, the researchers made use of rapport; this involved building trust and confidence in the key informant by assuring the interviewee that the research was meant for academic purpose. In due process the researcher obtained permissions from the targeted groups. In addition the researcher also adopted flexibility in the use of the language. The local language preferred by the interviewee was usually considered and this gave access to information. Thus, the reliability and credibility of this research was enhanced and maintained throughout the research.

3.7. Description of the Study Area

Jig-Jiga City is located around 640km to the east of Addis Ababa, and about 105km to the east of the Historical walled city of Harar near the Ethiopian border with the northern Somalia. Jig-jiga is the capital city of the Somali region of Ethiopia. The Somali region covers a land area estimated at 340,000 Km² with elevations that range 300-2,000 meters above sea level. The region, has two perennial (Shebele, and Genale) rivers, two Rivers which flow almost 9-10 months a year (Weib and Dawa) and hundreds of seasonal rivers and streams (SORPARI 2008).

The Somali Region has a human population estimated at 4.1 million and therefore, constitutes approximately 6% of the country. Nomadic pastoralists constitute an estimated 85% of the population. The economy of the region is totally based on agriculture and trade, especially the livestock sector. The nomadic pastoralists are totally dependent on their livestock for their livelihoods including merchants and traders of live animals and animal products (milk, meat, ghee, hides and skins). The regional government and the district administrations earn more than 70% of their annual revenue from the livestock sector in the form of sales tax. Agricultural production continues to be basically the subsistence type where the production priority of both the nomadic pastoralists and the crop farmers of the region cover the basic dietary needs of their immediate families. As a result, there are no agriculture-based industries such as product processing and packaging facilities in the region. There are also no manufacturing industries in the region (SORPARI 2008).

The regions' abundant natural resource base remains unexploited economically for a variety of reasons. These include lack of capital, frequent drought and remoteness of some potential areas. In an effort to address these issues, an ambitious modernization and mechanization of the agriculture sector and agricultural production is included in the 1999-2003 E.C. strategic Plans of the regional government (SORPARI 2008). The previous regimes made the region devoid of basic infrastructure, including education, health, roads, telecommunication, economic development and others. Before, they considered that the inhabitants of the region are aggressive and have succession mentality. But, the regime change that took place in 1991, created favorable condition for

the Somali's residing in the region which is 99% of the total population of the region. This new federal system has brought economic and social growth.

For instance, at present the majority of the 52 districts of the region have telephone service, schools, health posts or clinics, animal health posts, and irrigation facilities have been implemented in Gode areas of Shabelle River. Similarly, roads have improved and new asphalt roads were constructed. In addition to this, new international airport and standard university were established in the capital city of the region, Jigjiga (SORPARI 2008). Based on the 2007 Census conducted by the Central Statistical Agency of Ethiopia (CSA), the Somali Region has a total population of 4,445,219, consisting of 2,472,490 men and 1,972,729 women; urban inhabitants number 623,004 or 14.02% of the population, a further 1,687,858 or 37.97% were pastoralists. With an estimated area of 279,252 square kilometers, this region has an estimated density of 15.9 people per square kilometer.

For the entire region 685,986 households were counted, which results in an average for the Region of 6.8 persons to a household, with urban households having on average 6 and rural households 6.5 people. Ethnic groups include Somalis (97.2%), Amhara (0.66%), Oromo (0.46%), foreign-born Somalis (0.20%) and Gurages (0.12%). Somali was spoken by 96.82% of the inhabitants. Other major languages included Amharic (0.67%), and Oromifa (0.51%). 98.4% of the population is Muslim, 0.6% Orthodox Christian, and 1.0% are followers of all other religions (CSA, 2007). The CSA of Ethiopia estimated in 2005 that farmers in the Somali Region had a total of 459,720 cattle (representing 1.19% of Ethiopia's total cattle), 463,000 sheep (2.66%), 650,970 goats (5.02%), 91,550 asses (3.66%), 165,260 camels (36.2%), 154,670 poultry of all species (0.5%),

and 5,330 beehives 0.12% (CSA 2007). Geographically Jig-Jiga city is found approximately in 9° 20' latitude and 42° 47' longitudes with an average Elevation of 5400ft (SORPARI 2008). Jig-jiga city is situated in a vast plain land bounded by Gurayse mountain chain on the West and Garab-assehill on the East. The altitude of the City ranges between 1720m around Duda-hidi village and 1620m around the Jig-jiga Healthy Science College (WCC 2007). The City has a gentle slope that declines from Garba-assehill in the East to the main river and rises in the same direction and at the same time the slope decreases from Karamara hospital to Jig-jiga Healthy Science. There are in general three seasonal streams that pass through or around the City. Qore-dhere and Celbahay streams unite near Karamara hospital to make the main stream that bisect the City in the eastern part. The third stream is known as bidh-bidhisthat bounded on the west of the City. Finally, the three streams meet around Shek Ali Gure cemetery in the south. The climate of Jig-Jiga city could be classified semiarid type which is characterized by high Temperature and low rainfall, and the average annual rainfall is 675.77mm. The city receives most of the rain in April and May (spring) that is 132.71 (max) and 68.31mm (min) and August and September (autumn) which is 85.47 and 80.84mm respectively. The mean maximum annual average temperature of the city is 19.54°C while monthly average temperature ranges between 25.24°C in November to 29.39°C in March. In contrast the minimum monthly temperature ranges between 7.21°C in November and to 16.13°C in July (WCC 2007).

The major land use of the Jig-Jiga city includes residential, road, transport, and commerce, administration areas, inadequate of open spaces, recreational areas, and vast plain land bounded by mountain of Karamara in the west and Garab case hill in the east.

Jig-Jiga has one city administration and eleven kebeles in number (Jig-Jiga city Administration, 2010).

The population number of the city is about 125,584 of which 66,940 are male and 58,644 are female (CSA 2007). The city was founded by the *barites* and *the yabar* Somali clans who were known for incense production. Jijiga was a city of Hararghe province, but with the adoption of the 1995 Ethiopian constitution, it became the capital of the Somali Regional State. Jijiga was mentioned by W.C. Barker in 1842 as one of the mahalla or halting-places of the caravan route between Zeila and Harar. However, Richard Pankhurst states that Jijiga was founded in 1916 by Fitawrari Tekle Hawariat Tekle Mariyam, who had the town methodically organized in a square grid of streets (Pankhurst 1968). In his memoirs of his homeland, Nega Mezlekia describes Jijiga as sitting "on a vast, unmitigated plain, with no greenery in sight except for the occasional cactus bush used as shelter by the wandering hyena, and the inevitable sacred tree in every compound. The city is surrounded by Rocky Mountains on all sides save the north, which is open as far as the eye can see (Nega 2000).

CHAPTER FOUR

DATA PRESENTATION AND ANALYSIS

4. Introduction

This chapter brings us to the systematic analysis and presentations of data gathered from the field. In doing so, the chapter has utilized different items and inputs; these are voices of the informants, FGD participants and key informants, and relevant scholarly works relating to the issues under studied. The chapter begun by providing a general discussion on the clan composition of the somali community; the sex composition and community statues of informants in FGDs and in-depth interviews; those attributes of factors that have contributed to the persistence of the current customary landholding system in the study area; the legal status of customary land tenure under the current formal land legislation of the town; and then moves on to present those challenging aspects of customary land tenure experienced by the local government, and finally it discusses the deleterious aspects of government intervention projects experienced by customary landowners who were the victims of such interventions.

4.1. Clan Composition among the Somali Community

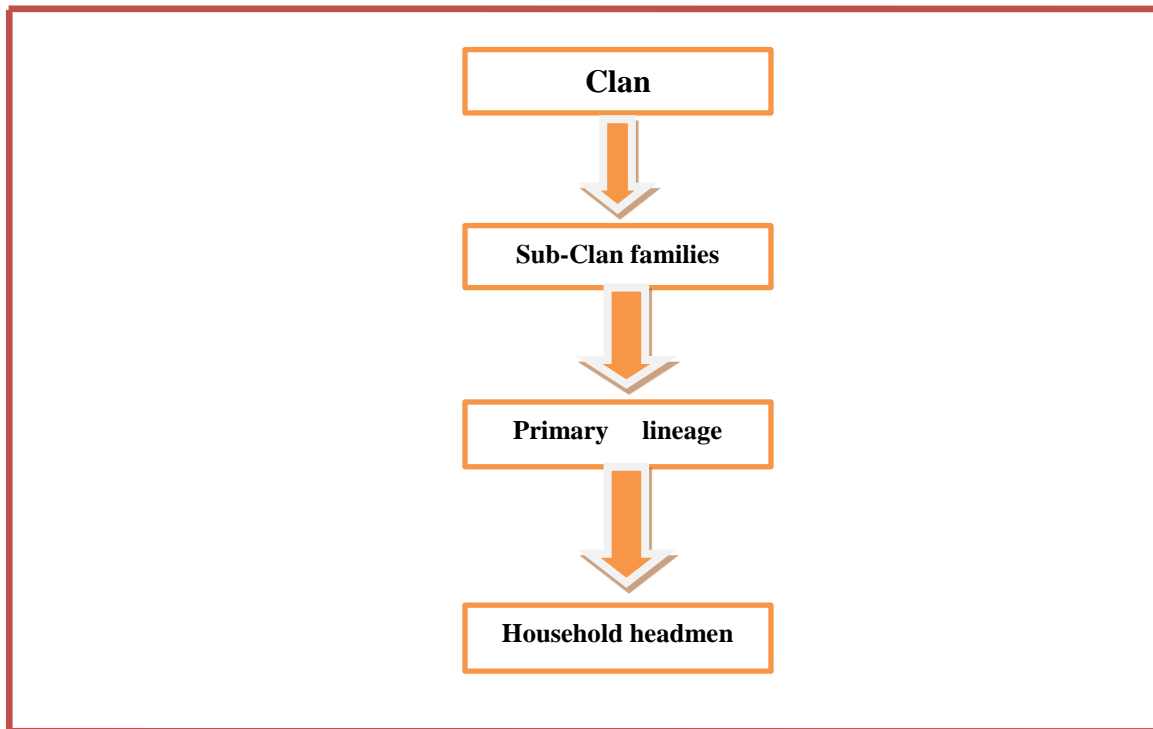
This sub-section of the chapter presents the clan composition among the Somali community around the study area. This might dissect relevant points for the next proceeding discussions. Doing so is very important for it makes also clear the clan composition of participants of this study which in turn adds to our understanding of the ethno-cultural similarity of the study participants under consideration.

Somalis are organized into clan, sub-clan families, primary lineages, and households-with virtual independence to manage their own affairs. Lineage is traced through the male line. Somali names have three parts. The first name is the given name, and is specific to an individual. The second name is the name of the child's father, and the third name is the name of the child's paternal grandfather. Thus, siblings, both male and female, will share the same second and third names. Each clan is headed by a hereditary Sultan and each sub-clan has a council, to which members are elected on merit. The *Sultan* commonly deals with issues relating to other ethnic groups and with government bodies. Cases which *clan* members fail to resolve are referred to the Sultan. He prays for the prosperity of the clan, blesses the good and curses wrongdoers. They provide leadership in resource use, management and resolving conflicts at sub-clan level. *Odeyasha Deeganka* are an elders highly respected because of their in-depth knowledge of the *Heer* (traditional rules and regulations of the Somali clan). The *Odeyasha Deeganka* is also responsible for the management of social welfare and conflicts at *local community* level. They are pious, generous traditional elders well versed in the *Heer* of the clan. He deals with issues at settlement level, including marital disputes, conflicts at individual and household level.

The Somali communities in the study areas are also divided into different clans. According to the data gathered from in-depth interviews and FGDs it was noted that the dominant clan in the area belongs to the *bertrae* and *yeberae* clans. The larger proportions of the customary lands are under the control of these two clans. Only some parts of such lands belong to members from the other clans such as, shekash, waiten, etc. Members in each clan are also divided into sub-clans ("*jilibyo*") based on their descendant respective clan family. Each sub-clans' household heads are the descended members of

the dominant root clan family (the *bertrae*, *yeberae*, etc.). That is, under each of these clans there are sub-clan families. Members in every sub-clan family are governed by their respective “*Ogamilog*” or “*reerka faro*”(household headman) that operates under the leadership of *Rer garad* (a customary title given to chief leader in each of the dominant clan). Any important issues related with land are discussed with the “*garad*”. Generally, the clan structure consist of the Somali people in the per-urban areas of Jig-jiga town could be summarize within the following own designed envisaged box below.

Box 3: Clan Composition among the Somali Clans



Source: Own Sketching

4.2. Sex Composition and Community Statues of Informants In FGDs and In-depth Interviews

Sex and community status of the informants in focus group discussions and in-depth interviews were important to generate primary information about the physical attributes of customary lands and their derived goods and services; community attributes; and attributes of rules around customary landholding. Accordingly, all the informants in FGDs and In-depth Interviews were males, and the majorities of them were traditional clan elders or locally termed as *Odeyasha Deeganka*. These elders are highly respected because of their in-depth knowledge of traditional rules and regulations among the community. They are also responsible for the management of social welfare and conflicts at local community level. They also deal with issues at settlement level, including marital disputes, conflicts at individual and household level. Therefore, these customary titles in the community are usually given to those male elders rather than to females who are believed to stay at home. This is perhaps due to the fact that such customary titles are culturally vested in male (i.e. husband) as most pastoral areas of Ethiopia.

Therefore, in order to extract primary data pertaining to those attributes of factors that have contributed to the persistence of the current customary landholding system, the skillful customary knowledge of such male informants were important. Expertise knowledge and lived experiences of people were also important to dig detail primary information from key-informants concerning the challenging aspects of the customary land holding system; the deleterious aspects of government intervention projects; and the legal status of customary land tenure under the current formal land legislation.

4.3. Factors that have contributed to the Persistence of the Current Customary Landholding System

This sub-section of the chapter is dedicated to reflect the views and opinions of informants about those attributes of factors that have contributed to the persistence of the current customary landholding system around the peri-urban areas of the town and its analysis. This will be analyzed from the perspective that what are the detail descriptions of such attributes and how they have contributed to the persistence of the current customary landholding system around the peri-urban areas of the town? Hence, the researcher was too much interested in the detail description on these attributes of factors for the claim that such attributes might also have policy implications for any government intervention measures that could be taking in the future.

According to FGD participants² (*who are customary land owners and traditional clan elders or Odeyasha Deeganka*), the Somali community in the studied peripheral parts of Jig-jiga town has been devising traditional landholding system which is carried out along with their traditional rules to manage customary land uses among its clan members for many years. This old and traditional management of customary lands under its customary rules are also still working particularly in peri-urban areas of the town. The reason for the persistence of this customary land management system was due to three major interdependent attributes of factors. These groups of factors which the researcher shall proceed to describe further can be articulated as follows: (1) the physical attributes of the customary lands and their derived goods and service; (2) the attributes of the community

²Jamal Ali, Siraj Mume, Hassan Hargaye, Mowlid Aden, Yusuf Dubo, Alou Liban, (customary land owners) and Hadi Muhammed, Ahmed Dahin, Dayib Muse, Abdi Waiid, Ahmed Muhammed, Farah Abdi (traditional clan elders or Odeyasha Deeganka)

that control and use the customary lands; and (3) the attributes of the traditional system of rules managing customary land utilization among community members. In the coming discussions the researcher independently treated the above important attributes, but having realizing and treating the second and third attributes as a social rule system. This is because both are directly or indirectly dealing with those features of traditional rules which are adapted by the communities in the study area. The third attribute consist of “*role grammars*” specifying to a greater or lesser extent who may or should have access and who is excluded, and who should do what, when, where, and how to have access, and in relation to whom, etc.

4.3.1. Physical Attributes of Customary Lands and their derived Goods and Services

The detailed description of the physical attributes of customary lands and their derived goods and services is exciting to note how they have contributed to the persistence of the current customary landholding system. Here the researcher want to make clear for the readers that by ‘physical attributes of customary lands’ he meant that the natures of the customary lands such as farm lands, pasture lands or vacant lands. In line with the Ostrom’s analytical framework used for the purpose of understanding such attributes of factor, it is argued that communities choose and maintains customary land resource management and use strategies in light of the incentives they face. Incentives or advantages are important for sustainable customary land management.

It assumes that advantages for the sustained management of customary land resources are generated by the economic characteristics or attributes of the desired goods and services

produced from customary lands. For the purpose of understanding how such economic attributes of goods and service could contribute for the sustainable possession of customary lands, FGD participants were first asked some general questions to understand the historical connection between the customary land, the clan and the economic attributes of goods and services generated from the customary lands in the peripheral parts of the town. Accordingly, the information obtained from FGD participants³ showed that the customary lands mostly found in the study area are still managed as clan-owned natural resources, primarily because of their origination. That is, historically, these lands were owned in a clan basis for many decades among the different Somali clan communities mainly by the two dominant clan families (the *bertrae* and *yeberae* clans). Particularly the *bertrae* were the autochthons of much of the towns' land since it is believed to be that they were the founders of the town. Hence, historically these lands remained as a central importance for these clan families.

As one of FGD participants⁴ (*traditional clan elders or Odeyasha Deeganka*) verdict, the central importance of customary land (*Caado ahdhulka*) is also evidenced by its reference in numerous Somali *gabay*- a generic local term used to refer poems- which he said that he could also be a witness for such “*gabay*” ever since he grow up with in these communities. Then the lands are accustomed by different clans mainly by these two clans (*bertrae* and *yeberae*) with their respective sub-clans families on different basis for many decades. Widely, customary lands were serving as major chief sources for both human consumption and pasturing animals to the clans. The large proportion areas of the town

³Jamal Ali, Siraj Mume, Hassan Hargaye, Mowlid Aden, Yusuf Dubo, Alou Liban, (customary land owners) and Hadi Muhammed, Ahmed Dahin, Dayib Muse, Abdi Waiid, Ahmed Muhammed, Farah Abdi (traditional clan elders or Odeyasha Deeganka)

⁴Farah Abdi

were customary lands on which farm lands and pasture lands took the large areas of the town. However, the information gathered from in-depth interview informants⁵ and FGD participants, some of these features of customary lands were changed due to the rapid urban expansions. The expansion was brought with the resulted land markets for housing which were operated between customary land owners and the buyers of customary lands. This has affected the traditional management process which was strong among the locals. The rapid expansion of urban areas has also changed the attributes and locations of the customary lands. The above information seems to give sense and coupled with the argument of Törhönen (2004) that customary land holding systems like many social systems are subject to evolution, reflecting on changes in the society and pressure from the growth of urban areas.

The information from the in-depth interviews and FGD sessions depicted that the majority of the customary lands are currently located at peri-urban areas of the towns. These customary lands which held by different individual sub-clan families are mostly found in today's peripheral parts of kebele 04, 08, 09, 10 and 11 of the town. Most predominantly, these customary lands are used as '*Beers*'- a generic local term used to refer farm lands. These farm lands are highly fertile and they are sources of crop production.

⁵Tahirr Cassawe , Fuad Bashir, Zekkariye Sh/ Abdulahi, Rage Abdu, Ali Hargaye, Cumer Kalid , Suleiman Farah, Adnan Oumer, Jemal Dubo, Hassan Ali Gurrez, Mukamil Ahmed, Keddar Yusuf, Deeq Abdiselan Ali, Anuaar Muhammed , Gulled Yahiyie , Shermarke Aden, Kulmiyye Abdulmahad, Birley Hassan, Usman Hamid, Abdi Mohammed, Muktar Abdulahi, Abdikadir Nur Hussein, Muhammed Siraj Gobey

From the observation made and the information gathered, farm lands are found on those peri-urban areas located in between the main military camp and the newly built International airport of the town.

They also found in the peripheral areas of different kebeles such as 08, 09, 10, and 11. From these farm lands the products the communities gained are cereal crops usually maize and sorghum. Sorghum and maize are the two staple food crops cultivated in these farm lands. The information gathered from the informants showed that the communities lived in these areas has been using these cereal crops for consumptions and selling for more than a decade. The major technologies used by the communities to cultivate in these areas are animal powers usually oxen. The majority of owners of these farm lands are from the two dominant clans among the Somali communities namely the “bertrae” and “yeberae” clans. In some parts of these areas it was also observed and noted that there were interventions made by the local government; and for instance, the newly built International airport of the town was a typical example that can be mentioned in this regard.

From the information gathered through the in-depth interviews and FGD sessions and from the effort made to observe the whole peripheral parts of the five kebeles, it was also found out that there are some areas which were farm lands and now became open vacant lands (“*dhulka bannaanaan*”) in their physical appearance. This was due to the fact that the owners of such lands were shift their sources of livelihood from these lands to trade activities found in the town. Hence, some parts of the customary lands in the study areas have such kinds of open land features in their physical existence. They are earmarked and fenced by the owners for sale particularly for housing. Most of such open areas are found

on those peripheral parts of kebele 04 and on those areas starting from Jig-jiga University up to the local artificial dam of the town (namely *gidib*); and on the southeast marginal parts of the town. These open areas are under the control of both the '*bertrae*' and '*yeberae*' sub-clan families.

Based on the information gathered through the interviews and FGDs, only few of the customary lands in the study area are pasture lands ("*daaq*") particularly found on the southern edge of the town. This peripheral part of the town is where the majority features of rural areas shown besides few urbanized areas. In this area customary land particularly ("*daaq*") are communal resources and locals habituated this area are from the *bertrae* clans and usually members can have access to these land for pasturing their animals.

From the above discussions the researcher found out that there are three different types of customary lands in the study area; (1) the first type is called "beers"- a farm land on which different cereal crops are produced; (2) the second is "*daaq*"- a pasture land usually used for animal consumption; and (3) the third type is called "*dhulka bannaanaan*"- an open or vacant land.

To sum, the physical attributes of customary lands and their derived goods and services (e.g., maize, sorghum, pasture) provided incentives to the communities for long periods of time. The above discussions showed that most of the customary lands are farm lands, and maize and sorghum are important cereal staple food crops cultivated on these land for many years. They gave economic and other incentives for the local users. This is due to the fact that the beneficiaries of the farm lands and the pasture lands are predominantly the users themselves. This indicates that the land with their economic advantage are still

held and utilized by the clans. That is, the clans are the protectorates of the customary lands in the study areas. It was also noted that the goods and services derived from the customary lands were served as a major livelihood source for the communities. Thus, it is such economic advantages of goods and services derived from customary lands that have forced the communities still to intact with their customary landholding system. These attributes of factor, therefore, is one of the factors that has contributed to the persistence of the current customary landholding system among the users. Finally, the policy implication of such attributes of customary lands and their derived goods and services for any government interventions measures is that such economic attributes of goods and services are strongly connected with the livelihood of the users thereby it should worth to be considered. In doing this, an important question; to what extent the attributes of customary lands and their derived goods and services offer any meaningful opportunities and economic advantages for the user community? And such other questions should be taken in to account in any local or federal government interventions measures.

4.3.2. Attributes of the Communities Managing the Customary Lands

The fact that the Somali ethnic group is organized in a clan structure around customary land management system could also be seen among the different clans in the peri-urban parts of the studied area. Such structures of the community designed in accordance with custom are significant for the people in every aspects of their life. Hence, at this juncture, emphasis has been laid on to discuss those community attributes which have contributed for the sustainable management of customary lands in the studied areas. Thus, in line with the analytical model (used for the purpose of understanding those attributes of

factors that have contributed for customary land holding to persist in the study area), additional community attributes have also crucial contributions to the persistence of the rules constituting the management of the customary land.

Such attributes of the community in the study area, which are crucial for the persistence of the rules constituting the customary land management, are related to the ethno-cultural characteristics of the Somali communities. During the interviews and group discussions, informants were asked to describe in detail the ethno-cultural attributes of their communities and their affiliation towards such attributes. The researcher does this to understand and examine how such attributes could have also contributed for the management of customary lands in the area. Hence, from the information gathered, it was noted the communities in the studied peripheral parts of the five kebeles share common ethno-cultural background. In terms of their ethnic content, the whole communities managing the customary lands in the areas belong to the same ethnic group (the *Somali*). This is has to say that they are homogeneous in terms of ethnic contents. Likewise, it was noted that most of the users and owners of customary lands in the areas have a common religious background. Also the responses of informants and FG discussant showed that the communities are strongly bounded and guided by their religion, i.e., *Islam*. Here, the situation in the area can be parallel with what Durkheim as Quoted in Henslin (1995) identified the importance of religion among societies as follows:

Durkheim identifies religion acting as a form of social buttress that unites adherents by regularly bringing them together to enact various rituals and providing shared values and norms to bind one another in to a community (Henslin 1995:5).

Coupled with the above quote, in the studied area, religion had given the members of the communities a sense of community couched with the same religious standards. Furthermore, probing questions were forwarded to see the role of ethno-cultural attributes of the community in the customary land holding system.

Hence, according to the FGD conducted with the customary land owners⁶, most of the owners of customary lands in the studied areas including themselves are praiseworthy for the existence of the clan in the community. They also claimed that such clan structures has strengthened social bond among the members of each sub-clan households and helped them to management customary lands in their own territory.

When asked about this one of FGD participant ⁷(*who inherited and owned his fathers' customary land, a farm land*) had to say:

I always feel good. Nothing gives you (“*ammaanka*”) a sense of security than being a member in your own ethnic group particularly in our community [Somali]...especially in our clan ‘*bertrae*’ we get a lot of helps such as supporting each other when one of our member get sick and married...especially if one of the clan member marry a woman he will get land from the customary lands of the clan to build a house on it. These all are because of our affiliation towards the clan.

As the FG participants and the in-depth interview informants described, the above quoted view of the participant is also a typical of most of the beneficiaries from the customary lands in the studied area. From such accounts of the above informants it could be inferred that the ethno-cultural similarity particularly the clan has played a vital role in the process of maintaining social bond among the clan members in the study area. This is manifested

⁶Jamal Ali, Siraj Mume, Hassan Hargaye, Mowlid Aden, Yusuf Dubo, Alou Liban

⁷Hassan Hargaye (*bertrae*)

through their mutual support system which is administered by the *Ogamilog* or household head of each sub-clan households. Such mutual support mechanism is the other important community attributes to be understood in customary land tenure system of the community the in the studied area.

According to FGD participants, this mutual assistance system come into play when a clan member has many children and cannot support his family with his livelihood income and when a member needs a house as a residence and cannot be able to build a house. These all usually accomplished by providing a land and giving money to such unfortunate members of the clans. This contribution is called '*Kalmo*'- the old traditions of sharing of social security system among the Somali clan communities whereby people of same clan member contribute in various ways to those highly unfortunate members of the clan. This supportive system has created a strong common bond among the clan members in the study area. Here still we can observe the importance of land among the clans thereby government interventions in those areas, where customary lands are major priorities for the locals, should consider how the mutual support systems of the clan are firmly structured around customary land.

Furthermore, it can be understood the Durkheimian traditions of society that might better explain the collective social relationships between the clan with interdependent social and economic interests. These social and economic support interests have religiously endorsed among members belonging to each Somali clan in the study area. In this respect it can be also noted that religion among the clans has also served as strong social glue holding the clan members together. This is also affirmed by the participants and informants throughout the discussions and the interviews conducted with the researcher.

In a simple term the identity sketches of ethnic identification of the clans in the study area could better described in the summary given by Hutchinson et al (1996) as a:

social entity within a larger society having real or putative common ancestry, memories of a shared historical past, and a cultural focus on one or more symbolic elements defined as the epitome of their peoplehood. Examples of such symbolic elements are kinship patterns, physical contiguity, religious affiliation, language or any combination of these. A necessary accompaniment is some consciousness of kind among members of the group (p. 6).

This definition once again is parallel to what the researcher have discussed above referring the ethno-cultural affiliations of the local people handling the customary lands in the study area. However, this individual identity in each clan is personal that varies with situations while collective identity are bunches of identities used as boundaries with a sense of belongingness in relation to others ethnic groups in the studied town.

This sense of collective identity among the clans in the studied area is also best pronounced by one of the in-depth interview informants⁸ as follows:

As part of our identity, every members with in a clan must be acting according to what tribal instincts requires and when it comes to ethno-cultural similarity everyone is the same, the Somali community never chooses paradise over his tribe's wishes.

From the information gathered through FGDs and in-depth interviews, it was also noted that the rival between clans in terms of helping their respective unfortunate members in providing land. This is the other best indication to be mentioned in relation to the

⁸Gulled Yahye (Odeyasha Deeganka from the bertrae clan)

importance of a clan in safeguarding its members among the people in the study area as well. In this regard, one of the in-depth interview informants⁹ had to say:

In our community, it is an honor for any clan to help their members by the time they get in to difficulties. This is because if one clan does not help its poor members, the other clans dishonor that particular clan...therefore; there is a great rival in our community even between clans to keep intact with their dignity.

It can be recognized from the above quote of the informant that such kind of helping mechanisms among the clans can be one attribute serving as a social capital and help to keep the clan community their dignity. Hence, such social support system along clan structure served as an expression of what the FG participant termed “*wehelnimo*” meaning social fellowship.

Further, in relation to this one of the in-depth interview informants¹⁰(bertrae) hotly had this to say:

Of course we all are from the same tribe [the Somali community] of different clans.... for example I have a strong sense of belongingness towards my clan be it mentally or emotionally...

Hence, from the above quoted voices, it can be understood that the utilization of land is also not far from such attributes of the community (i.e., utilization can be based on strong clan attachment and ties among the clan members).This positively shaped the pattern of interactions among the members of each sub-clan families towards the utilization of customary lands in the study area. Therefore, homogeneity of the community, particularly

⁹Cumer kalid (Odeyasha Deeganka from the yeberae clan)

¹⁰Mukamil Ahmed (Odeyasha Deeganka from the bertrae clan)

in terms of ethnicity, culture, or clan affiliation is important attribute helped clans to keep intact with their traditionally owned customary lands within their clan proximity.

To conclude, from the above discussions, the researcher found out that the attributes of the Somali community, which is structured around robust tribal system, have also contributed for customary landholding to persist in the peri-urban areas of the town. Hence, the fact that these attributes of the community can determine members' access to customary land utilization has also major implications for any government intervention measures. Finally, the researcher came up with those important issues regarding such community attributes that should be considered in any interventions to be taken by the local government. Accordingly, any intervention measures should take in to account the fact that the larger proportions of lands in the peri-urban areas of the town are under the control of clans as traditionally owned land resources. Furthermore, such interventions should consider the importance of land among the clans in those areas of the town where customary lands are major priorities and served as sources of livelihood incomes for the local people. Also, the fact that access to land is embedded in and an integral part of social relationships among the clans, or that the mutual support systems of the clan are firmly structured around their customary lands should worth to be considered. In general, the importance of ethno-cultural attributes among the clan communities in relation to managing customary lands should be given much emphasis in producing any local government intervention programmes.

4.3.3. Attributes of the Body of Rules Constituting Customary Land holding

Another factor contributed for the persistence of customary land holding system among the Somali people in the studied area could be related to the (indigenous) attributes of rules that dictate how customary lands are managed and used. In the analytical model used for understanding this, it is argued that the very features of body of rules, which are adapted by the communities, constituting the traditional management of natural resources contributed their share to the sustainable utilization, and hence to the preservation of the resources. Such systems of rules consist of “role grammars” specifying to a greater or lesser extent who may or should control and who is excluded, and who should do what to be included in the ownership status, when, where, and how, and in relation to what criteria (Ostrom, 2005). In line with the above claim in the analytical model, the researcher discussed those attributes of the body of rules constituting the customary land holding scheme in the peri-urban areas of the selected kebeles.

Therefore, those attributes of rules consisted in the customary land management system in peri-urban areas, which specify to a greater or lesser extent who may or should control and who is excluded, and who should do what to be included in the ownership status, when, where, and how, and in relation to what criteria, were discussed. Here, the researcher is interested in the detailed description of the existing traditional body of rules to understand and note how such attributes of rules have contributed for the sustainable utilization of customary lands and their derived goods and services among the locals. In doing so, the researcher has also tried to understand the historical continuity of these traditional bodies of rules among the Somali people in the study area.

The discussion is based on the FGD held with influential clan elders¹¹ who have the knowledge of the working traditional system of rules constituting customary land holding system.

Customary systems are alliance-based and rely on a number of principles. These usually include primacy of first occupants; access to resources linked to community/lineage membership; relatively easy access to cultivation rights for incomers when land is abundant, but differentiation between “autochthons” and “incomers”; cultivation rights secured through labor and continuous use within customary tenure systems individual’s rights are clearly defined by the individual’s place and status within the kinship group. For instance, the lands which are usually held by clans or sub-clan families are worked on the basis of diverse blends of group to individual rights, accessed on the basis of group membership and social status, and used through complex systems of multiple rights. (Ostrom 2005)

In comparative terms, the clans in peri-urban areas controlled land by their clan-based social system. The FGD participants were asked to discuss about the mechanisms of owning land among the clan members in the area. Accordingly, it was noted that the traditional use over several generations and utilization by clan members or lineages is the major methods of claiming land which corresponds to the clans in peri-urban areas. This method of traditional use over several generations indicated the historical continuity of the traditional bodies of rules. The clan has its own land and the corresponding lineages have their own specific areas within their respective proximity.

¹¹Hadi Muhammed, Ahmed Dahin, Dayib Muse, Abdi Waiid, Ahmed Muhammed, Farah Abdi (traditional clan elders or Odeyasha Deeganka)

In many instances, an individual clan member's sense of identity is inseparably linked to the rights held through their historical occupation and ownership of land. This is noticeable particularly among the bertrae and yeberae sub-clan family members which are the majorities in the peri-urban areas of the five kebele of the town. Hence, from the information gathered through FGD held with influential clan elders, it was also noted that each sub-clan household families in these areas claimed exclusive control and utilization over their respective plot of customary lands. Such utilization of customary land, which is at the heart of their livelihood and identity, is highly controlled and protected. Farm lands- *beers*, pasture lands and water wells or locally called '*ellas*', *for instance*, are the most important products of customary lands that are highly regulated among the members. These are the most important sources of financial assets which are the products of customary lands and they are predominantly owned by members of each sub-clan families in the peri-urban areas. Primary rights to these products of customary lands are with the sub-clan members who initially owned them. Hence, owners of such products of customary lands have anyone of a number of complex use rights to the goods and services derived from such assets on the customary lands. This is further described by one of the FGD participant¹² in relation to the mechanisms of owning customary lands as follows:

Most predominantly the ownership status of each individual member in each sub-clan families in our clan [bertrae] is restricted up to the owning of only those customary lands ... [farm lands]....which belongs to our fathers or our families in their own clan geographical areas. As a result, we can exercises utilization over such customary lands.

¹²Ahmed Muhammed (traditional clan elders or Odeyasha Deeganka)

Further a probe for more information was needed and questions were forwarded to discuss as to what extent the right of a clan is in every sub-clan family with in their respective owned customary lands and the kinds of absolute right the clans as the dominant entity have over each customary lands of their corresponding lineage sub-clan families. Accordingly, as most of the participant argued, there is a restriction over the boundary of the customary lands usually farmlands and these rules govern under the customary system with a legitimate acceptance by the local members. Hence, the general and absolute rights of the clans as the dominant entity is to confiscate the customary lands of every sub-clans partially or totally particularly by the time such sub-clan families violates these customary rules that put a restriction not to enter to the other clan geographical territory by another different member of sub-clan families. According to the information gathered, the punishment for such norm breakers of the clan members in general is called '*geescad*'-which is compensated through the punishment of members by slaughtering their oxen- and '*Badhacad*'-through the punishment of members conducted by slaughtering their sheep. The other punishment is called '*Hagdameyain*' social restriction to isolate those breakers of the customary rules managing land use among the clans. Under this punishment members will be terminated from any social networks and interactions with in the dominant clan in the study area. The clans as the dominant entity has also total decisive power over '*Degan*'- a reserved land for residence area to the new coming members of the same clan. Here the clan decides whether such lands should be given to the new coming members who are usually come from other areas than from Jig-jiga town. Therefore, from this it can be noted that the clan generally have absolute right

in controlling and managing issues of trans-boundary encroachments among the sub-clan families.

According to the information gathered, whenever problem relating to trans-boundary encroachment rose it is discussed with the *Re garad* (a customary title given to chief leader of the *bertrae* clan), and the *garad* with his advisor might come up with the problem. Here, it can be noted that access and control over customary lands administered by clan authorities such as the *garad* who exercise traditional authority over the lands of their clan members in the study area. Further a probe for more information was needed and questions were forwarded to describe the kinds of resources on customary lands that are communally shared and/or restricted from owning by individual sub-clan family among the clans in the peri-urban area of the town. The researcher did this in order to notice how the traditional rules are/were strong in dictating utilization. Hence, the resulting information showed that the only common pool resources on the customary lands in different parts of the study area are pastures and traditional water wells locally termed as *ellas* even *ellas* sometimes also owned by individual sub-clan families.

Based on the information, only few of the customary lands in the study area are pasture lands (“*daaq*”) particularly found on the southern edge of the town. This peripheral part of the town is where the majority features of rural areas shown besides few urbanized areas. In this area customary land particularly (“*daaq*”) are communal resources and locals habituated this area are from the *bertrae* clans and usually members can have access to these land for pasturing their animals. The pastures are mostly covered by grassland suitable for pasturage. Every sub-clan member in the clan has access right to these pastures. Sub-clan family members who have many animals came from different

peri-urban areas of the town in to those southern edges of the town areas where pasture lands found for pasturage. However, in some cases, the rights to access water from *ellas* have been privatized and are sold by individual family clan members. As a result, the access to these sources is characterized mainly by poor regulation in the study area.

FGD participant also added that places of Funeral and Mosques built on the customary lands are also the other places that are used for common purpose among the clans in the study area. Usually plots of customary land for the construction of mosques are provided by the wealthy members of the clan. This signifies the importance of Islamic religion among the members.

Regarding the inclusion right of the outsiders in those areas where utilization of any customary lands are communal, the clans in peri-urban areas have an elaborate well-centered system of clan-association through a limited quota for outsiders, including members of other ethnic groups. For example, in those areas of customarily owned lands that are open in their physical outlook, the quota or access for outsiders to have a land is linked with purchasing. According to the information gathered, members from other outsider clans than the owner clan and/or from other ethnic group in the study area can purchase a land for any purpose usually for residential purpose. However, the pastures are exclusively controlled by the bertrae clan and access to these areas for the outsiders is highly restricted. Farm lands are also restricted only to a certain use. That is, one outsider can work on other farm lands as a daily laborer. Thus, rights to use are also obtained by providing labor. The other members in other way rent these farm lands and to some extent use the output products from such lands without a full authority over the utilization. In addition, a more probing question relating to the inclusion use rights of

outsiders was needed and made. For example, in relation to this, one of FGD participants¹³ articulated the inclusive rights of outsiders with in his clan (yeberae) proximity as follow:

Outsiders other than our clan members might own a plot of land through marital affiliation with a member of our clan. This is also possible by and depends on the length of ones staying within the clan. The requested affiliation done through the fulfillment of certain criterion and conditions on the basis of the customary rules of outsiders' inclusion to clan membership. That is, normally the affiliation will be approved after the traditional practice and ceremony of slaughtering animals [an ox, a sheep, and goat] for the acquaintance of the fleshly affiliation of the person to our clan.

The above quoted voice of the informant showed that the outsider can own a land, especially if he gets married to one of the bertrae clan woman member and gets reproduce a child. Consequently the spouse will inherit the land within the clan territory from her parent or from members of her extended family. Therefore, from this we can understand that clan affiliation either through blood or marriage within the clans is the major factors which determine access to a plot of customary land. The other areas of the customary lands in the study area are reserved for residence area for the newcomers of the members of the clan. These areas locally termed as '*Degan*'- a land for residence. Further, in relation to this one of the FGD participants¹⁴ also had this to say:

Only people just like us from the same clan are allowed to settle on these residential areas [*Degan*']. However, whenever newcomers of our [bertrae] clan arrived and ask the clan for a place to reside he will provided with the land he requested in the area.

¹³Hadi Muhammed (traditional clan elders or Odeyasha Deeganka)

¹⁴Ahmed Dahin (traditional clan elders or Odeyasha Deeganka)

Adding to this one of the other participant¹⁵ further discusses and articulated in line with the above quoted statement as follows:

After the inclusion of immigrant [members from other areas]members of our clan welcomed and accepted, the newly included members will get a land to build his own living quarter with in the *degan* and will also have the right to buy a farm land (*beer*). And even if the person is poor and cannot afford, he could be hired or get the chance to utilize a farm land with one of the clan members based up on a certain agreement that allow the two users to be benefited from the seasonal incomes of the crop from the farm lands.

From the above quoted voices it can be noted that the inclusion process with in any clan is done through the ‘traditional negotiated systems of shared utilization of customary lands’. That means when the newcomers want to have access rights they must first negotiate with the *garad* of the clan for their residence. Hence, in the study area among the clans, inclusion right to some extent is feasible. That is, not close ended at least concerning to clan members who do have welcomed through marital affiliation to the clan. Therefore, *direct inheritance and clan affiliation* are found to be the two dominant mechanisms of owning customary lands among the clans in peri-urban areas of the town.

Despite the discussion made regarding those attributes of the body of rules constituting customary land management in the peri-urban area, the researcher further probe information to see the continuity of such traditional rules or whether such rules are distorted by external influences or not in the area. Accordingly, the information gathered from FGD sessions showed that there has been resistance to the interventions made by the local government in many different terms.

¹⁵Farah Abdi (traditional clan elders or Odeyasha Deeganka)

Consequently, many customary lands were given to different investors and NGOs claimed that was for public benefit. However, the clan resistance to these encroachments has been weak due to the fact that the interventions were claimed to be included broad programs of urban development. In relation to this, one of the participants¹⁶ has also putted the following:

There are also serious tensions between the bertrae clan and the Ogaden clans, who currently took the state power. These situations lead to conditions where some government official to put their pressure on the lands of the bertrae clans for a residence. However, the resistances of the bertrae clan to these encroachments were weak because the residers are claiming to be government officials. Thus, in fear of such government encroachment people enforced to sell their land [through informal land market] before the government came and took their land.

The above quote of the informant is well sensed by Hagmann. As putted by Hagmann (2003) in his book *Mitigating violent resource conflicts in the Somali region of Ethiopia*, land enclosures and disputes among the Somalis are partly accompanied by the eviction of minority sub-clan households that are pushed out of the district by their more powerful brother clans [e.g., the *Ogaden* clan in the study area]. This seems also well articulated by Nigussie as follows:

The centrality of land in the livelihood of Somali communities which is organized under different tribal structure is even deeper and stronger than other areas, and land issues are interlocked in very complex and very sensitive traditional clan politics. And among the Somali clans, clan land holding is not only where clan members benefited from it, but also it is the milestone for the very existence of the clan itself. Thus, in Somali region all lands are totally occupied by different clans and every clan has its own land including some disputed territories (Nigussie 2013: 12).

¹⁶Abdi Waiid (traditional clan elders or Odeyasha Deeganka)

Generally, from the above all discussions, it can be noted that, despite many challenges towards, the customary management of land as an accustomed property resource remains relatively intact up to today. To conclude, as he already mentioned before, the researcher was interested in the extension of the discussion regarding the body of rules managing customary lands believing that deep understanding about the institutional basis of the local system of rules constituting the customary land management among the clans in peri-urban areas is important and have a greater implications for any intervention measures targeted in such areas. Accordingly, any such interventions should consider how the customary rules over land are deeply intertwined with in the clans, and the fact that these rules were also the major factor contributed for the customary land holding system to persist in the studied areas of the town.

Concluding Remarks

To conclude, due to the three major attributes of factors that are discussed in the foregoing sections, the customary management of land as an accustomed property, however, remains relatively intact up to today despite few challenges distorted the traditional rules. Such attributes of factors, that have contributed to the persistence of the current customary land holding system in the studied area, were the physical attributes of the customary land resources and their derived goods and services; attributes of the community that control and use the customary land resource derived goods and services; and the attributes of the traditional rules managing these customary lands and their products. Therefore, these attributes revealed the interplay of those factors in response to the relatively survived customary land holding system in the study area despite few challenges thanks to their robust historical and clan governance mechanisms.

4.4. The Legal Status of Customary Tenure under the Statutory Tenure System

So far, we have discussed the interrelated attributes of factors that have contributed for the persistence of the current customary land management in the studied area. Here, the researcher has tried to find out the statutory and local position of the customary land tenure. However, before embarking on the task of examining the legal status of customary tenure under the statutory tenure system, one thing is necessary. That is, what is the status of land under the Federal Constitution of Ethiopia?

To begin with the position of FDRE constitution regarding customary rights is not clear. Whether the constitution indirectly recognizes customary land rights of pastoralists or talks about new distribution of land to pastoralists are not clear. Besides, those customary land rights that are constitutionally acceptable and socially equitable are not yet identified.

Article 51(5) of the Constitution of the Federal Democratic Republic of Ethiopia empowers the Federal Government to enact laws regarding the utilization of land. All such enactments are benchmarked on the cardinal premise of total and complete state ownership and control of land. Article 40(5) of the FDRE constitution simply states that “Ethiopian pastoralists have the right to free land for pastoral and cultivation as well as the right not to be displaced from their own lands.” Article 40 further specifies a “right to obtain land without payment” for “Ethiopian peasants” for grazing and cultivation purposes as well as a right to be [protected] against eviction from the possessions. In other way round, the Ethiopian land policy is guided by the principle that both rural and urban lands are state property.

Therefore, government has the right to distribute, compensate or evict groups of people or individuals whenever development options and priorities are considered in the interest of the public. Besides, the Ethiopian Environmental policy declared that the pastoral land policy is to recognize and protect wherever possible the customary rights of access to and use of land and natural resource which are constitutionally acceptable, socially equitable and are preferred by local communities. Article 40 Sub articles 3 also states that:

“Land is exclusively vested in the State and in the peoples of Ethiopia”. It goes further that “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”.

The feature of the present constitution is the upholding of the philosophy of private ownership of property. Sub article 1 of Article 40 states: “*Every Ethiopian citizen has the right to the ownership of private property*”. Unfortunately, the right to holding land was, categorically, excluded from the constitutional definition of *private property* and many regard this exclusion as sufficient to conclude that *private land rights* are not tenable in Ethiopia. This is as extreme as land nationalization can go. Theoretically, this view can and should be disproved by the simple fact that there is much misunderstanding and misapplication of concepts in land, land ownership and estate (private property) in the country. Here we can observe the hegemony of the government in the position of FDRE constitution regarding land ownership. For instance, the constitution gives right to Ethiopian pastoralist to free land for pastoral and cultivation, along with the right not to be displaced from their own lands and right to be protected against eviction from the possessions.

Further, it also specified land as a common property of the Nations, Nationalities and Peoples of Ethiopia and states land shall not be subject to sale or to other means of exchange. In the other way, it states that government has the right to distribute, compensate or ‘evict’ groups of people or individuals whenever ‘development’ options and priorities are considered in the interest of the public and it empowers the Federal Government to enact laws regarding the utilization of land. So it is difficult to clearly spell out from the constitution as to what the right of the people is concerning land ownership even though it been stated that land is belongs to the people. Cognizance these, it was clear that the very aim of this research was to probe whether the statutory land laws incorporated those land rights that are acknowledged under customary rules. Therefore, the following discussion is based the information obtained from a key-informant¹⁷ (government official who has the expertise knowledge pertaining to the legal status of the existing customary land rights) gathered through key-informant interview. The information presented and discussed in line with questions provided under an interview checklist (see Appendix B) as follows:

What is the status of customary tenure among the locals? What is the status of customary tenure under the statutory one? Do you think the customary tenure rights have granted a legal recognition? Is there a documented source that specified customary land rights for the clan members? If there is no documented source, how then these customary tenure rights are labeled among the clan members? How your institutions describe the challenges in relation to the non-existence of documentation for such customary rules

¹⁷ Mustafe Abdi (Head of Land Development and Management of Jigjiga town, On March 03, 2014)

during interventions? Is there any legal framework that supports the customary system?
Are there any modalities for the registration of the customary tenure rights?

Therefore, the discussions with the Head of Land Development and Management Department in Jig-jiga city administration bureau depicted that the customary land rights exist based on a local legitimacy status. That is, the rules and regulations under which these customary land rights held are known by the community, and are upheld, controlled, protected and enforced by the community. It is such recognition at the local level that gives legitimacy to the occupation and use of customary lands under the traditional rules for many years. According to the key-informant, these rights, which are legitimate according to customary rules are often not legally recognized, and are largely referred to as informal rights. And such informal rights are existed in the minds of every individual member of the tribes.

This resulted in the non-existent of a well-defined documented source that specified customary rights for the tribes. That is to say, the customary land tenure is not documented or recorded but information about it is passed from one generation to another, and transactions involving transfers of rights in the customary lands are not recorded but the use of the land is secure with in the community through recognition by all the members.

As the key-informant stated, an absence of well-defined documented source that specified customary land rights for the clan members has made the customary tenure system to remain as a challenge for the clan and the local government as well. On top of that, this situation is usually associated with problems resulted during interventions especially

people may come to view the statutory land legal system not as something good, but as a function of state power. The key informant also further added that:

The best indication of this reality could be shown during interventions. That is, the absence of a well-defined legal framework that supports the customary system sometimes led to tensions between the local government and the customary land holders, especially when the government demands their lands for different purposes.

Here the absence of not only documented sources is a challenge, but also the absence of a well-defined legal framework from the side of the local government that supports the customary system in general. This situation remained as challenge for both local government and the customary land holders. As a result of this, the discussion with the key-informant revealed that, no modalities exist for the registration of the customary tenure rights.

However, customary and statutory legal systems are not as divergent as may be thought. And identifying areas of overlap may be useful starting points for creative integration of statutory and customary land law. Such integration may best be illustrated by Cotula and Toulmin.

For instance, Cotula and Toulmin (2007) have putted the firm relationship between customary and statutory tenures as follows:

Far from being clearly delimited and mutually exclusive, the customary and the statutory are usually intertwined in complex mosaics of resource tenure systems. Problems occur when one system does not recognize the other as valid and countries that have refused to recognize the strength and validity of customary land rights has resulted in widespread tenure insecurity (Cotula and Toulmin 2007:5).

From this it can be understood that the best strategy is to combine the two tenure systems by striking balance between statutory tenure rules and by making customary land rights equal in weight to registered rights rather than creating the kind of a 'landlord-tenant relationship as against a relationship between a custodian and a use'.

To sum up, from the above direct voice of the informant, it is possible to conclude that there has been less effort made in the integration of the customary tenure rights with statutory tenure systems. This is because the system of land administration is largely designed to cover rights and interests that have been defined only in the state land legislation which did not take into account the existence of informal rights. As a result there has been absence of a well-defined legal framework that supports the customary system in the town. Thus, merging the two systems into one has been practically impossible to the local government thereby interventions were challenged at times when customary lands are needed.

4.5. Challenges Experienced by the Local Government in relation to the Customary land holding

In this section, the analysis will delve on the challenges experienced by the local government during interventions demanding customary lands in the studied town. Here I have tried to explore some of the '*intricacy*' of clan-based land ownership system especially by the time when the local government wants a land for the purpose of intervention in the absence of which progresses sometimes might not be conceivable.

However, I am not trying to say that every intervention is dedicated to bring changes in the lives of people. Of course some interventions can be also '*tragic*' for the local

communities if the necessary compensation is not given for the loss of their lands where their livelihood is highly depended (we will see this in the next discussion of sub-section 4.6. regarding the negative effects of such interventions on the customary land ownership status of the people). However, here am talking about the sophistication of clan-based ownership of land on that intervention taken by the local government which sometimes is inevitable in the context of urban expansion. An attempt has been made to integrate the discussion with the land possession status of the town to explore whether it relates with the sophistication of clan-based land ownership or not. In doing so, the discussion and analysis of the information was guided by the key-informant interview made with the core process Head of Land Development and Management of the town¹⁸, the Head of Unban Master Plan in Urban Development Construction and Housing Bureau¹⁹, and with the Head of Land Administration department in Somali Regional State Jigjiga city Administration Municipality service²⁰. Accordingly, an attempt was made to comprehend the pragmatic arguments of the above key-informants. Thus, the discussion and analysis of it presented as follows:

The discussion with the informants has revealed that the main areas administered by the local government currently are those former areas which were before under “government administration” like military camp, offices (bureaus) bus stations (relinquished), kebeles and government rent houses those are the main areas that are administered and delivered for investment and development under the formal land delivery system. However, the dominant area of the town including the peri-urban areas is belongs to the clan. This

¹⁸Mustafe Abdi (On March 03, 2014)

¹⁹Engineer Fadle Sheck Mahamed(On March 11, 2014)

²⁰Ayanle Mahamed (On March 15, 2014)

situation firmly supported by the Head of Land Development and Management of the town. He had to say the following below:

As the matter of historical fact the people surrounding the city like other areas of the region has possessed their land through the existing customary land holding systems which is on tribal based land ownership, this system allow individual members of the tribe to dominate a large proportion of areas of the town and the surrounding areas and these areas are predominantly occupied by specific tribes which are the Bartire and the Yeberae.

According to him, the land controlled by clans can said to be larger in acres than the land that are under the jurisdiction of the local government in the town and the southern part of the main highway which divides the town along the east-west axis into two is dominated by the Bartire clan while the northern part is inhabited by the Yeberae clan. This confirmed with Niguse's (2013) study which found out that in Somali region all lands are totally occupied by different clans, including some disputed territories thereby one cannot get clan without land or vacant land without clan occupations as every clan has its own land and.

From the discussion with the the Head of Land Development and Management, it was found out that such possession of land by clans is sometimes challenging to the local government in relation to proper land administration system. In line with this he had also this to say:

The existing land tenure system is the main challenge for proper land administration in the city because the power to deliver land resides in the hand of individuals who own land as 'free hold' under the protection of the clan.

From the above direct voice of the informant, it can be noted that the majority areas of the town belongs to the tribes of the Somali communities *and* this showed that at least the

effects of clan-based land ownership on the process of proper land administration of the city. In line with this the Head of Land Administration department in Jigjiga city Administration Municipality service further articulated his agreement as follows:

In Somali region, unlike the other regions of the country, the land is owned by the clan not the government. The land policy of Ethiopia connected the land with the government and the people. But among the Somali community land is still controlled and managed by the tribe. And here “*qabiil*” (clans) are important than the government.

Furthermore the Head of Land Development and Management also said that the land policy of the state allows people to possess only a land of 400 ‘*kare*’ meter for residential purposes. However, the customary rule allows its tribal members to hold a land beyond the specified land by formal rules of the local government. According to him, this could be contradictory with the formal land policy of the state. As a result of this many areas are under the possession of the tribes thereby those lands under state administration are few in terms of the area they cover. The owners are individual sub-clan family members in each clan.

During the interview, the informants were also requested by the researcher to describe the mechanisms whereby the local government used to get a customary land from the clan during intervention. Hence, from the information they have provided, when the local government needs a land for interventions it have to pay the ‘compensation’ for the tribes who hold that particular land. Unless the people will not make any contribution in order to handover their land.

Further, in relation to this, the interview with the key informants also illustrated that the legal tenure system of the local government cannot impact the customary land rights of

the clan. Only the local government approaches the clan through negotiation that outweighs to the clear and detail needs of the clan though the negotiation first conducted, and through the rules and regulations provided under the local government. In the negotiation if the needs of the clan are fulfilled by the government, the clan will be flexible for any interventions.

The Head of Land Administration department in Somali Regional State Jig-jiga city Administration Municipality service had also this to say:

Since land belongs to the clan in our region, the government has only the choice of taking some important customary rules [even if they are not being written] by the time when a land is needed for intervention purposes.

From the above direct voice of the informant, it can be noted that it is not easy to the government to access customary lands. This is due to the fact that the land is ruled by tribal system thereby it is challenging to Passover this reality in order to easily access such lands. Rather demarcation is well recognized by the clans and that could be a source of dispute if proper negotiations are not taken by the local government. Further he added that the following:

One man has died in a dispute which arose in the occasion of demarcating land by the municipality for the Regional Teachers Training Institute. And such Land demarcation and handing over of sites even for public facilities (including the Regional University) necessitated the use of the federal police force. An investor has to bargain with the clan chief for the sale of a plot of land.

The same informant had also this to say:

Currently Jig-jiga University is bargaining with the bertrae clan and the university asked approximately 154 kare meter for building expansion purpose and the tribes asked a huge amount of compensation that was more than the real cost for the requested customary land.

The above contention of the informant seems to substantiate Niguse's argument (2013) that the centrality of land which is organized under different tribal structure is deeper and stronger than other areas. That is because in these areas land tenure issues are interlocked in very complex and very sensitive traditional clan politics. That is, according to this argument, the issue of land in such areas of the country is a question of life and death. Land hence in the town interlocked in a very complex tribal system and it is politically sensitive.

A more probing question was forwarded to the informants to explore further information regarding the challenges associated with the customary land holding system. Accordingly, it was found out that the other challenges experienced by the local government are related with people's level of awareness regarding interventions. According to the Head of Land Administration department in Somali Regional State Jig-jiga city Administration Municipality service, the attitudes of people within the clans towards interventions sometimes is challenging to the government.

This is also evidently could be seen in those Peri-urban areas of town particularly in those areas where people strongly and firmly attached to the customary lands inherited from their families. He further articulated this as follows:

The other challenge we as a concerned agents faced is related with peoples' low level of awareness regarding the purposes of interventions. That is, people sometimes ask more compensation in return to their lands and they didn't want to accept if it is not proved to them by the government what they requested is accepted. At this time force might be the only option the government has to use. However, this doesn't mean in deed that the government always provided enough compensation for the people and that all people are not flexible. There are peoples who are flexible and claimed that the beneficiaries of such interventions should be them.

Therefore, from the above quote of the informant, we can noticed that the availability of customary land ownership in the Peri- urban areas of the city sometimes could have made the enforcement of law and policies difficulty. This could imply that the government should come up with better encroachment policy systems to persuade such people.

In his interview with key informants the researcher has also found out that the existing customary land holding system was also one of the major causes of informal land market in the Peri-urban areas of the city. For example, according to the information obtained from the Head of Unban Master Plan in Urban Development Construction And Housing Bureau and the Head of Land Administration Department in Somali Regional State Jigjiga city Administration Municipality service, the existing land holding system which is based on tribal interdependency is the major cause of informal land market in the Peri-urban areas of the city.

For instance the Head of Land Administration Department in Somali Regional State Jigjiga city Administration Municipality service had this to say:

The customary land holding system in peri-urban areas of the town aggravates informal land market in two ways; firstly because it legitimizes individual land ownership of the tribe members (as a free hold); and secondly it don't restrict individuals to transact their own share of land to anybody whom they agree with. As the result of this situation there is an increase in the confidence of the buyer and easy transfer of the land from seller (customary land owners) to buyer within a short period of time. Therefore people chose accessing land through informal land market rather than searching other options (formal land market) that might enable the government to get the proper income tax.

Further, the Head of Unban Master Plan in Urban Development Construction and Housing Bureau has also this to say:

The existing customary land holding system allow individual members of the sub-clan family to sell their land through informal land market because the surrounding areas are dominantly occupied by specific clans which are Bartire and Yeberae this situation give individual from the two clan to become the major supplier of land for the city through the informal system. The individuals who buy land through this system get their ownership through informal agreement which have low uncertainty in the transaction process. Therefore this situation induces irregular settlement.

Therefore, according to him, “if there is inefficiency in the formal system people tend to acquire land through informal land market and develop properties through illegal means without obtaining building permit and title deed from the municipality”. This situation has also resulted in irregular settlement which is inconvenient with land use plan of the city. Therefore, the informal land acquisition in the Peri-urban areas of Jig-jiga city is not in line with the article 40 Sub articles 3 of the constitution of Ethiopia which states:

...“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”...

In addition, it is not also in line with the lease holding Proclamation of 721/2011 which has prohibited land possession and permission other than lease holding.

To sum, the above discussion regarding the challenges experienced by the local government shows that land belongs to the clan which is the protectorate owner and the customary land holding system in the town give to the owner of customary lands absolute rights to control, sell, rent, and transfer and inherit thereby government intervention is being adversely tempted. The fact that land controlled by clans in larger acres than the land that are under the jurisdiction of the local government in the town was also the other challenges related with the existing customary land holding system.

The system is also the main challenge for proper land administration in the city since the power to deliver land resides in the hand of individuals who own land as ‘free hold’ under the protection of the clan. This lets individual to have more freedom to transact their land in the informal ways giving rise to irregular settlements which are built without acquiring official permission from the responsible body and are in conflict with the land use plan of the city. The attitudes of people towards interventions sometimes are also founded to be challenging to the government. Hence, it has been not easy to the local government to access customary lands except through negotiations. This could imply that the government should come up with better encroachment policy systems with improved compensation approach to persuade such people.

4.6. The Negative Effects of Government Interventions Projects on the Customary Land Ownership Status

In the research an attempt was made to investigate the negative effects of those government interventions on the customary land ownership status of the owners, particularly on those areas whereby customary lands were prone to such an interventions; and to understand how these interventions could in turn affects the different customary land status of the clan members legitimated by their customary rules. In doing so, its effect on their livelihood status, social capitals, and tenure security will be discussed according to the information obtained from those who were victims of such interventions.

Besides, an attempt was also made to see what policy implications these situations could have for any future government intervention measures. Hence, key-informant interviews were made with some victims particularly whose customary land were encroached and took by the local as well as federal government for different purposes. Therefore, the discussion and analysis of it will proceed as such.

There is no doubt that, everywhere in the world government needs land of some sort for various public purposes and one of the popular way government (federal or regional) gets land is through land expropriation procedures. Thus, land expropriation is inescapable fact that every landholder should accept. Moreover taking citizens landholding without compensation is violations of citizen's basic property right and to such extent, it may not be tolerable by the society, and governance systems can be challenged when the attainment of land resources is unclear, not for the public benefit, or is unregulated particularly in places where lands ordinarily ruled by tribal system (Abebe 2009:27).

From these perspectives, many of the provisions of federal land expropriation laws are not clear on areas where lands ordinarily ruled by tribal system. However, let us assume

that the government recognizes such land as land belonged to certain tribe and pays compensations accordingly to the tribes. The problem however, is the nature of properties situated on vast tribal lands: some lands might be pasture lands, farm lands and some lands might be water wells, which are indeed the most important for livestock and human (Abebe 2009). For this purpose, the researcher has conducted key-informant interviews with key-informants²¹ particularly with those people whose customary lands were encroached by the local and federal government interventions.

In doing so, the researcher has come up with how such encroachments adversely were affected the lives of the people. Therefore, the interview obtained from the victims is given much emphasis to understand the situation from the stand point of the individual who had lived experiences. Accordingly, the interview with the informants has revealed that government encroachments' to those customarily owned lands in the peri-urban areas of the town has been devastating to the people who were the owner of these lands. In the interviews gathered it was noted that the interventions were affected the kinds of those land rights of the people which were given under their customary rules. According to the informants, the different kinds of customary land rights had been lost as the result of the interventions. Consequently, people lost their most important livelihood assets which were in there former places.

The above information is well illustrated below discussing about the victims of the intervention for the Regions' International Airport project (see Box 4).Once again the discussion is given much emphasis to understand the situation from the stand point of

²¹Sh/Hassan Gore (Customary land owner, on July 13, 2014), Alyah Jamal (A widowed Household Head, on July 24, 2014), Garad Ali Muktar (Pharmacist, on August 06, 2014), Mahamed Muse (Customary land owner, on May 21, 2014)

some individual victims who had lived this experience. Here, the researcher wants the readers to notice that the international airport project was a federal project wherein the regional local government was highly took part. That is, it was the federal government that funded this project.

Box 4. The Cost of International Airport Project on the Victims

Jigjiga International Airport was the project that the federal government invested huge amount of capital wherein the regional local government was highly took part. However, the project was deleterious for the local people who were settled on the customary land needed by the government for this project. The victims have expressed that when the intervention took place, most of them were not willing to cooperate; it was forcefully that most of them were evicted from their villages. As a result this situation currently has made them to live in very hard living conditions. On top of that, they have also associated the problem to the kinds of assets and land holdings they used to access in their place of origin. These were the main sources of incomes for their household consumption. Water wells (Birkas), Honey beehive, Khat/chat farm, 'Mashila' farm 'Bekolo' farm and Pasture lands were the major sources of livelihood that the locals have lost though the government claimed the necessary compensation (In-cash) had been given to the locals. According to the victims, however, the compensation given for the loss of these assets was Unsatisfactory.

Different kinds of customary land rights of the victims had been lost after the loss of the above assets. The right to transfer a land for children through inheritance, the right to have access to pasture lands for animals, the right to rent farm lands for other tenants and such other rights provided by the customary system were also the other loss the victims encountered because of the project. As the result they are currently live in very poor living conditions.

The victims were also reported that they have lost those kinds of social relationships and networks which were important in terms of creating a strong bondage between the community members such as regular community meetings at times of conflict, cooperation at times of death and sickness, financial helping at times of marriage, contributing in various ways to those highly affected and vulnerable clan members, helping non-clan members who affiliate through marriage, etc.

Source: Information from Key-Informant Interviews with International Airport Victims, 2014.

Hence, from the above discussion it is possible to portray that the victims' poor socio-economic status currently because of the intervention has made most of the victims to develop a negative attitude towards the local government. Some of the victims even reported that there was less effort from the government to make clear in detail what the project was all about. The intervention was forceful neglecting the interest of the majority members. Most of them reported that they would have voluntarily cooperated with the project if they were informed before the government made a decision. Furthermore, this case was affirmed during the FGD session among customary land owners. And one of the FG discussant²²(customary land owners) had this to say:

When the government wants to construct any projects, the community should be consulted because the demanded lands might be village customary land where communities settled together with their own tribal members. Unless such kinds of lands could not be easily attained for any intervention projects.

From the interviews made with the victims it was noted that the major effect of such 'government interventions (the regions' International Airport Project)' on the customary land ownership status of the property owner was mostly relating to owners access to important land resources (farm lands, etc.) and their derived goods and services. This effect can be seen from two major perspectives, the first is their deprivation from most important assets such as social, financial, or environmental capitals where their communal living was highly interdependent, and the other was regarding the compensation that was affected the attitude of the victims towards the local government.

²²Alou Liban (customary land owners)

This information again could be well illustrated and summarized below discussing about situation of one of my key-informants who was the victims of the Airport project (see Box 4).

Box 5. Effects on different Assets and Issues of

Alyah Jamal was one of the victims of the regions' International Airport project and she is currently a 57 year's old widowed woman. Currently she is living with her extended family members in 09 kebele. Like the other victim members of the community, she also shares the same history. Accordingly, she concisely recounted the situation as follows:

“Before I came to here, things were very well for living with my family. I and my family were living with subsistence agriculture which feed the household for years. First when I heard about the project we got shocked and were suspicious about the project and about evicting from the village. Then after one day people came in the village who claimed themselves as government development agents. These people then fenced our village by soldiers and forced us to board on the car they have provided for this purpose. They brought us somewhere outsides of our village and tried to negotiate with the whole villager regarding the compensations that are going be paid in return to our village land. It can be said that there was no any formal method of negotiation with the people thereby the intervention was deleterious for the people particularly to those who were possessed farmland.

Like the others I used to have also a farmland holding (Khat/chat farm) and Water well 'ella' that I used to access in the place of our origin. These were the main sources of incomes for our household consumption. However, because of the project we lost them and we were left no choice rather than give up the decision to them (the government). According to their agenda they have only compensated us in return for the loss of the chat farm. The water well (ella) was taken without the compensation. As a result were enforced to live in very hard living conditions. The compensation was also given interims of in-cash (money) than in-kind thereby it was up to us to find a land for our new future residence though the given money once gain was not enough in relation to the prior income that we used to gain from the chat farm. The loss of our ella was not even taken in to considerations. We have also loss the kind of togetherness and communal life that have been astonishingly protecting us from the various vulnerable livelihood conditions as well. Consequently, as you can see it, we have left no choice than living in this slum area within our pity home”.

Source: Key-Informant Interview with International Airport Victims, 2014.

Similarly, the above story was found to be truthful according to the in-depth interview conducted with one of the informants²³ who shared the same story. Thus, the informant had this to say:

Currently I have a small shop bought by the compensation I got in return to the loss of ‘Mashila’ and ‘Bekolo’ farms I used to have in prior village. In the place of my origin I was a farmer, as a farmer, my life was intrinsically linked to my access to these farms for a living. Consequently, if you ask me to make comparison between my old village and my current area in terms of access to land, undoubtedly my access to land in the old village is considerably better than here. As a result I always get pained when I remember that situation.

Another informant²⁴ also described the situation as:

“.....for my fellow farmers and me land was life. No access to land means life will become messy. We were not even thinking about that we can leave the lands of our own in the village....”

From the above discussion and the direct voices of the informants, it is possible to conclude that the victims’ access to a land as compared to their holdings in their previous villages has made them to feel grievance. Consequently, given their current poor living conditions as they have alleged, they are not happy with the local government but it was not explicit. In another way round, the greatest challenge to customary land holders was how to protect and secure land rights in the face of such mounting pressure that demanded customary land by the local government. This situation could also be well illustrated and summarized below discussing about the situation of Karamara Flour Factory three years ago (see Box 5).

²³Adnan Oumer (Odeyasha Deeganka, customary land owner)

²⁴Deeq Abdiselan Ali (Odeyasha Deeganka, customary land owner)

Box 6. Jigjiga Karamara Flour Factory: The Hidden Revelation Story

Jig-jiga Karamara Flour Factory is the second huge flour factory in the city that was planted in 2004 E.C at 08 kebele of the peri-urban areas of the town. Prior to the existence of the factory in the area, the land used to be a property of the customary owner. The owner was from the yeberae clan. The land was a large farm land particularly sorghums and wheat were the cereals that are used to produce on the farm. The land was also stretching up to the land currently the Regions' New electric power corporation is built near to the factory. The land covers more than 1500 kareters. Currently, the man (Sheck. Ali Hassan) who was the owner of the land is living in Deghaboor and I went there to get the information for this purpose though it was risky to reach the man. Finally, he concisely recounted his pain full experience as follows:

"I remember that day. It was about 4:00 A.M at local time. I was in the farm land monitoring the workers as the usual day and in a very long distance I saw people coming to my farm looking strange and I guessed they might be from the city. This is because the area was peri-urban where settlement was not expanded well like the inner city. Then after this strange people came to us and were looking around the area. From them one came to me and told me that this people were investors and he was also from the government institution. I was told that the master plane of the city has reached my land and accordingly they are going to plant a flour factory. I was shocked and vibrating because it was unimaginable to me to loss the land since many extended families of mine where highly dependent for a living on that farm land. Finally, i had nothing to say to them and simply leave the farm saying angrily 'tuugto' (thieve). Days are passed and became weeks and months. And I had no choice rather than accept the request of the local government. I met them and asked by what condition that they are going to deal with me. Once again I get shocked and was about to fight and punched one of them. My relatives were also there and fight with me against them. A man who were claimed an investor was wounded in the fight. Then after we were taken by the policy and jailed for a month. The cause of the conflict was about the compensation. They were told me that they are going to pay me only 720,000 Ethiopian birr in return to 1500kare meter of farm land which is not even equal with the amount of money usually get within a year from this land. Finally they gave me one million birr and i heard that the man who brought the investors was the one who eat the 1 million and 5 hundred birr which was allocated for the compensation and he imprisoned. And I preferred to stay here in degahaboor with my family. Laakin killil waa tuug" he said meaning the local government was thieves.

Source: Key-Informant Interview, 2014.

From the above story of the informant we noted that there are informal ways of grabbing and reaching customary lands by the people who claimed themselves as the concerned bodies. In line with this, such intervention may be considered as devastating and that do not feel bound by those customary rules. In these cases, lack of legal protection for local land rights based on customary systems may result in local resource users losing land access.

Furthermore, the above case was also affirmed during FGD conducted with customary land holders by one of the FG discussant²⁵ (customary land owners). He said that he sold his land because of two reasons. First, the master plan (expansion of the city) was reached his land and he was uncertain about the future if the government might took his land without fair compensation and, second, given the expansion of settlements in peri-urban areas of the city, the value of land has increased. Therefore, he sold his land (through informal land market) in order to have enough money to build a standard house, and create other economic opportunity in the city. Accordingly, he sold his land with high cost and bought a new land parcel for a residence in a least cost. Further, in relation to the above all information in this section, a key-informant interview was made with a customary land holder. Accordingly the information from the key-informant²⁶ suggested that in the town there are some sorts of land taking by local government to reinstate those returnees from different armed groups and from Somaliland without payment of compensation to tribal owners.

Accordingly, the lands around the periphery of 04 kebele were given to 44 government officials who were claimed to have a seat on the parliament without any compensation.

²⁵Jamal Ali (customary land owners)

²⁶Mahamed Muse (Customary land owner, 21/06/2014)

These were from the 'Ogden' clan. And this intervention opens a tension between the Ogden and other clans. The other interview made with a key informant²⁷, who currently hold a huge land in the town and took the title of '*garad*' from his father in a small rural village outside the town, revealed that the land currently occupied by the Regions' Agricultural Research institute was owned by his father for many years. According to him, this land was claimed for the institute without any negotiation with his father. However, his father was complained about the land, and he was told that as long as he had no property on the land he cannot get compensation in return. Then the intervention left no choice for his father than handed it over to the local government. The informant had also said that certain members of his clan were jailed in Zeway prison because of the conflict raised between the local government and the clan during expansion of Jigjiga University.

To summarize, in this section, an attempt has been made to describe the negative impacts of government interventions on the customary land ownership Status of the locals. Accordingly, the discussions and interviews with the informants (particularly who were victims of local as well as federal government intervention projects in the peri-urban areas of the town) have revealed that government encroachments' to those customarily owned lands in the peri-urban areas of the town has been devastating to the owners. The interventions were also affected the kinds of those land rights of the members of local communities which were given under their customary rule thereby also paved the way for informal land market in the town.

²⁷Garad Ali Muktar (Pharmacist, 06/08/2014)

These findings are also shares Choudhurys' argument which stated that the absence of a procedure, the abuse of due process, or the failure to provide fair compensation can seriously undermine the security of customary land rights. Perhaps this is nowhere more evident than in evolving peri-urban areas where landholding system is usually operates according to complex clan-based ownership system (Choudhury, 1999). From the findings it can be also understood that government interventions on customarily hold land areas ignores the fact that the customary land tenure in the area is closely entwined in and flows from social structures (what is called "embeddedness"), resulting in differentiated access to land according to social identities or clan affiliation, and the exclusion of 'outsiders' from local social spaces (Lavigne 2002).

CHAPTER FIVE

CONCLUSION AND RECOMMENDATIONS

This final chapter includes the major conclusion that the researcher has reached based on the finding and results of both primary and secondary data analysis. It also included the researcher's recommendations on the basis of these findings which include important inputs that might have policy implications for any government (local or federal) intervention policies or projects on those customary land holding areas of Jig-jiga town.

5.1. Conclusion

This study was intended to examine customary land ownership, related issues and government interventions with their challenging nexus and policy implications. A special emphasis was given to the case of peri-urban areas of Jig-Jiga town. To conduct the study, data was collected from seven key informant interviews and two focus group discussions. In addition, 23 traditional clan elders were participated in the in-depth interviews. The land owners were from different clans. These selected participants were interviewed to obtain an in-depth understanding of the subject matter.

The result of this study uncovers that the physical attributes of customary lands and the goods and services derived from them; the homogeneity and other attributes of the community; and the attributes of the body of rules constituting the customary land holding system were the main factors that enabled the users to kept intact and held land resources over many generations under their customary and tribal system. That is, due to these three major attributes, the customary land holding system as an accustomed property remains relatively intact up to today despite many challenges distorted the

traditional rules among the clans thanks to their robust sub-clan family governance mechanisms.

The finding of the study showed that most of the customary lands are farm lands in their physical attributes, and maize and sorghum are important cereal staple food crops cultivated on these land for many years. They gave economic and other incentives for the local users because the beneficiaries of the farm lands and the pasture lands are predominantly the users themselves, and they contributed their part for persistent management of customary land among the users. Hence, the study identified three different types of customary lands in the study area; (1) the first type is called “beers”- a farm land on which different cereal crops are produced; (2) the second is “daaq”- a pasture land usually used for animal consumption; and (3) the third type is called “*dhulka bannaanaan*”- an open or vacant land.

This research also found out that the utilization of customary land and their derived goods and services is also not far from those attributes of the community i.e., utilization is based on strong clan attachment and ties among the clan members; this positively shaped the pattern of interactions among the members of each sub-clan families towards the utilization of customary lands. Therefore, homogeneity of the community, particularly in terms of ethnicity and culture, was found to be an important feature and helped clans to keep intact with their traditionally owned customary lands within their clan proximity.

The analysis on the legal status of customary land rights under the statutory tenure system found out that there has been less effort made in the integration of the customary tenure rights with statutory tenure systems. This is because the system of land administration is largely designed to cover rights and interests that have been defined only in the state land legislation which did not take into account the existence of informal rights. As a result there has been absence of a well-defined legal framework that supports the customary system in the town. Hence, it was found out that the legal tenure system of the town has less effect in harmonizing with the customary land rights of the clan and it was not easy to the local government to access customary lands at any times though they can and enforce sometimes. Thus, merging the two systems into one has been practically impossible to the local government thereby interventions were challenged at times when customary lands needed.

With regard to the challenging aspects of the customary land holding system experienced by the local government, the findings of the study indicated that the majority areas of the town belongs to the clan of the Somali communities which is the protectorate owner. The fact that Land controlled by clans in larger acres than the land that are under the jurisdiction of the local government was also founded to be the other challenges related with the existing customary land holding system. The system is also the main challenge for proper land administration in the city since the power to deliver land resides in the hand of individuals who own land as ‘free hold’ under the protection of the clan. This lets individual clan members to exercise absolute control over their customary land and to have more freedom to transact their land in the informal ways. That is, it recognizes

individual land ownership of the clan members (as a free hold), and it don't restrict individuals to transact their own share of land to anybody whom they agree with. These situations gives rise to irregular settlements without acquiring official permission from the municipality and are in conflict with the land use plan of the city.

The findings of the study also indicated that due to the less effort made in the integration of the customary and statutory tenure systems, interventions were challenged at times when customary lands needed. This is because the system of land administration is largely designed to cover rights and interests that have been defined only in the state land legislation which did not take into account the existence of informal rights. With regard to the attitudes of people towards interventions, it was chiefly evident that sometimes customary land owners founded to be challenging to the government.

Finally, the analysis on the negative effects of government intervention projects on the customary land ownership status of the victims indicated that government encroachments' to those customarily owned lands has been devastating to the owners in the peri-urban areas of the town. The interventions were also affected the kinds of those land rights of the members of local communities which were given under their customary directions. This finding especially was evidenced by the experience of some individuals who were the victims of the intervention. The finding also revealed that the different kinds of customary land rights of the victims had been lost as the result of the interventions. It was also found out that such kind of interventions have also enforced

land owners to transact their land unofficially thereby paved the way for informal land market in the town.

5.2.Recommendations

In this sub section of the chapter, the researcher gives some recommendations based on the findings of this study.

5.2.1. Recommended Implications for Interventions

- It can be said all findings of the study indicated that it is not easy to control all problems resulted between the customary land holding system and any intervention by the local government unless the two systems integrated harmoniously. Therefore, in order to cope with the deleterious impacts of any interventions on the customary land rights and with the challenging nature of customary rules in responses to these interventions in the town, the gap between the formal tenure system and the customary land holding one should be minimized (harmonized).
- The implementation of any interventions without the recognition by the surrounding people (which are members of clan around the city) can not be efficient and effective. Therefore deep research and studies should be done by the concerned institutions in order to forward the mechanisms of harmonizing the formal and customary land holding system. Therefore, any intervention policy, rule and regulations that will be applied in those areas should be based on understanding and harmonizing the gap between the two land tenure systems.

- Effective awareness creation should be done by the responsible bodies and municipality for the clan leaders and in general to the people around the city. Influential clan leaders should participate in the establishments of institutional and legal frameworks on how to use the customary land for the maximum (higher) benefits of the mass and the future developments of the city in line with the general policy, rule and regulation of the state.
- The finding revealed that the existing customary land holding system tempted by weak Institutional and land administration capacity of the local government (municipality) was one of the main causes of informal land market in the Peri urban areas of the city. Thus, the institutional and land administration capacity of the municipality should be enhanced through the provision the basic inputs to establish effective and efficient land administration. In addition, regulations to control informal land market and irregular settlements resulted from it should be enacted based on the harmonization of the customary land holding system.
- In general strong attention should be paid by the responsible body for minimizing the gap and harmonizing the formal land tenure system (law, policy, rule and regulations) with the customary one and the institutional and land administration capacity of the municipality should be enhanced through the provision of basic inputs to start effective and efficient land administration system in the city.

5.2.2. Recommendations for Further Study

As it was already elaborated, problems and challenges related to customary tenure system and interventions and issues related to harmonizing the two tenure system in the studied town are not the results of single event rather they are the aggregate results of forces that emanate from the long historic and deep rooted customary land holding system of the Somali community.

- Therefore in order to understand how these customary system works and to understand its social, environmental, economic and political implication and other related issues, deep investigation and researches should be done by researchers. This research has its own limitation of time and money for in-depth study of the issue from multifaceted angles. Therefore it should be good if other researcher or interested groups study it deeply from multidimensional perspectives in order to provide better understanding of this area of research.

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APPENDICES

Appendix A: Profile of Study Participants

1. Key Informants

S. N	Name	Sex	Occupation/Status	Date of Interviews
1	Mustafe Abdi	M	Head of Land Development and Management of Jigjiga town	03/03/2014
2	Engineer Fadle Shek Mahamed	M	Head of Unban Master Plan in Urban Development Construction and Housing Bureau	11/03/2014
3	Ayanle Mahamed	M	Head of Land Administration department in Somali Regional State Jigjiga city Administration Municipality service	15/03/2014
4	Shek. Hassan Gore	M	Customary land owner (Victim)	13/07/2014
5	Alyah Jamal	F	A widowed Household Head (Victims)	24/07/2014
6	Garad Ali Muktar	M	Pharmacist	06/08/2014
7	Mahamed Muse	M	Customary land owner	21/06/2014

II. In-depth Interview Informants (traditional clan elders or *Odeyasha Deeganka*)

S.N	Name	Sex	Status in the Community	Kebele	Clan
1	Tahirr Cassawe	M	<i>Odeyasha Deeganka</i>	08	Bertrae
2	Fuad Bashir	M	<i>Odeyasha Deeganka</i>	08	Yeberae
3	Zekkariye Sh/ Abdulahi	M	<i>Odeyasha Deeganka</i>	11	Bertrae
4	Rage Abdu	M	<i>Odeyasha Deeganka</i>	04	Bertrae
5	Ali Hargaye	M	<i>Odeyasha Deeganka</i>	04	Bertrae
6	Cumer Kalid	M	<i>Odeyasha Deeganka</i>	10	Yeberae
7	Suleiman Farah	M	<i>Odeyasha Deeganka</i>	09	Yeberae
8	Adnan Oumer	M	<i>Odeyasha Deeganka</i>	10	Yeberae
9	Jemal Dubo	M	<i>Odeyasha Deeganka</i>	08	Yeberae
10	Hassan Ali Gurrez	M	<i>Odeyasha Deeganka</i>	04	Bertrae
11	Mukamil Ahmed	M	<i>Odeyasha Deeganka</i>	09	Bertrae
12	Keddar Yusuf	M	<i>Odeyasha Deeganka</i>	10	Bertrae
13	Deeq Abdiselan Ali	M	<i>Odeyasha Deeganka</i>	11	Yeberae
14	Anuaar Muhammed	M	<i>Odeyasha Deeganka</i>	08	Bertrae
15	Gulled Yahye	M	<i>Odeyasha Deeganka</i>	08	Bertrae
16	Shermarke Aden	M	<i>Odeyasha Deeganka</i>	10	Bertrae
17	Kulmiyye Abdulmahad	M	<i>Odeyasha Deeganka</i>	09	Bertrae
18	Birley Hassan	M	<i>Odeyasha Deeganka</i>	11	Bertrae
19	Usman Hamid	M	<i>Odeyasha Deeganka</i>	10	Bertrae
20	Abdi Mohammed	M	<i>Odeyasha Deeganka</i>	08	Yeberae
21	Muktar Abdulahi	M	<i>Odeyasha Deeganka</i>	11	Yeberae
22	Abdikadir Nur Hussein	M	<i>Odeyasha Deeganka</i>	11	Bertrae
23	Muhammed Siraj Gobey	M	<i>Odeyasha Deeganka</i>	09	Yeberae

III. Participants of Focus Group Discussions

S. N	Name	Sex	Status within the community	kebele	Clan
1	Jamal Ali	Male	Customary Land Owner	08	Yeberae
2	Siraj Mume	Male	Customary Land Owner	09	Bertrae
3	Hassan Hargaye	Male	Customary Land Owner	08	Bertrae
4	Mowlid Aden	Male	Customary Land Owner	11	Bertrae
5	Yusuf Dubo	Male	Customary Land Owner	09	Yeberae
6	Alou Liban	Male	Customary Land Owner	10	Bertrae
7	Hadi Muhammed	Male	Traditional clan elder (<i>Odeyasha Deeganka</i>)	10	Yeberae
8	Ahmed Dahin	Male	Traditional clan elder (<i>Odeyasha Deeganka</i>)	08	Bertrae
9	Dayib Muse	Male	Traditional clan elder (<i>Odeyasha Deeganka</i>)	09	Yeberae
10	Abdi Waiid	Male	Traditional clan elder (<i>Odeyasha Deeganka</i>)	09	Bertrae
11	Ahmed Muhammed	Male	Traditional clan elder (<i>Odeyasha Deeganka</i>)	10	Bertrae
12	Farah Abdi	Male	Traditional clan elder (<i>Odeyasha Deeganka</i>)	11	Yeberae

Appendix B: Instruments

1. Interview Checklist for Key-Informants(for Local government officials)

Introduction

The researcher is undertaking this research to investigate customary land ownership, related issues and government interventions: their challenging nexus and policy implications: in the case of peri-urban areas of your jig-jiga town. For this purpose, the researcher would like to know your opinion and your pragmatic view regarding the legal status of customary land tenure under the current formal land legislation of your town. He would like to know also your honest response concerning the challenging aspects of the customary land holding rules experiencing by your institution. The researcher would like first to inform you that participation in the study must be based on your free will. Second, the researcher is very much grateful for the sacrifice you paid to this end and the information gathered will be highly confidential and will only be used for the purpose of this research. The researcher also believes the real answers that you give possess high importance that might be used by policy makers, planners, and other aid and development agents that work hard to overcome the challenging aspects of the customary rules. Furthermore, any information that you provide is valuable to this study. I would like to extend my appreciation and thanks for your cooperation and committing your precious time.

Thank you in Advance!

Date of interview: _____

Place of interview: _____

Name of the Informant: _____

Sex _____

Age _____

Occupation _____

Part One: Questions Regarding The Legal Status Of Customary Land Tenure

Under The Current Formal Land Legislation Of Jig-Jiga Town.

1. What is the status of customary tenure among the locals?
2. What is the status of customary tenure under the statutory one?
3. Do you think the customary tenure rights have granted a legal recognition?
4. Is there a documented source that specified customary land rights for the clan members?
5. If there is no documented source, how then these customary tenure rights are labeled among the clan members?
6. How your institutions describe the challenges in relation to the non-existence of documentation for such customary rules during interventions?
7. Is there any legal framework that supports the customary system?
8. Are there any modalities for the registration of the customary tenure rights?

[To further suggest how best to integrate customary tenure with the formal tenure one (harmoniously)]

Part Two: Questions regarding the challenging aspects of the customary land holding system experienced by the local government

1. How do you describe the land possession status of the clan and the local government?
2. What are the mechanisms the local government used to get a customary land during interventions?

3. Challenges experienced by the local government during development interventions which demanding customary lands.
4. Challenges related to the attitude of the customary land owners
5. Challenges related to the customary rule managing the demanding customary lands
6. Challenges related to compensation
7. The status of customary tenure among the locals
8. The status of customary tenure under the formal land laws.
9. Which areas of lands of the town currently are possessed by clans? And
10. Which areas are under the control of the regional government?
11. Do you think that the land controlled by clans is larger in acres than the land under the jurisdiction of the state in the town?
12. Can we say all lands the regional government used to interventions are customary lands?
13. Is it easy to take such lands or such purposes?
14. What are the challenges experienced by the local government during development interventions which demanding customary lands?
 - A. Is/was there any challenges related to the attitude of the customary land owners?
 - B. Is/was there any challenges related to the customary rule managing the demanding customary lands?
 - C. Is/was there any challenges related to compensation?

15. Can you please give me a case example on those development intervention projects which were demanded customary lands and challenged by their respective customary rules/by the owners of that land in Jig-jiga town?

[To further suggest how best to integrate statutory and customary legal systems]

II. Interview Checklist for Key-Informants (Victims of Government Interventions)

Introduction

The researcher is undertaking this research to investigate customary land ownership, related issues and government interventions: their challenging nexus and policy implications: in the case of peri-urban areas of your jig-jiga town. In this study, the researcher would like to know, in your opinion, what your experience is regarding the effects of that government intervention on your community's land ownership status. The researcher would like first to inform you that participation in the study must be based on your free will. Second, it is not obligatory to answer all questions. Third, your autonomy to refrain yourself from the study at any point in time and to ask any question is fully respected. Finally, the researcher would like to guarantee you that the confidentiality and anonymity is kept for whatever information you would provide.

Thank you in Advance!

Part one: Effects on social capitals/Interactions

1. What did you feel when you detached from your neighbours /relatives because of the intervention?
2. What were those kinds of social relationships/networks you lost?
3. How such kinds of social relationships/networks were important for you among your prior community?

Part Two: Effects on livelihood and land ownership status

1. What kinds of assets you lost because of the intervention project?
2. From the assets you lost for which one have you got compensation?
3. In what mechanism did you get the compensation?
4. What is your opinion regarding the compensation given for the loss of these assets?
5. Do you think that the local government had given to you fair compensation?
6. Finally, what are the biggest challenges do you think you encountered for the loss of your livelihood assets?
7. What kind of land tenure rights you lost because of such an intervention?

[To narrate the experience of customary land owners who were victimized by government intervention projects]

Below is the Somaligna translation of Interview Checklist for Key-Informants (Victims of Government Interventions)

Jaamacada Adisababa

Machadka Cilmiga Bulshada

Suaalo loogabaahanyahay inay dadka jagooyinkooda hore jagooyin cusub kabadashay kaga jawaabaan.

1. Jagaday dawladu kaabadashay maxaad kaqabta?
2. Maxaad dureentay markaad magashay in jagadaada iyo jagooyin kale oo badan joobaahday manfacada guud ee bushada iyo dawlada dagaankaba?
3. Muxuu ahaa waxaad filanaysay xiliga laguwargali yay isbadalkani ku dhici doona jagadaa da hore?
4. Sideed uayagtamuhimada talaabaday dawla du qaadatay dhinaca horumarka?
5. Miyaad umalayn ujeedada lagaleeyahay jagooyinkaasi inay ahaydmid faaido guud lagahelayo?
6. Miyaad kafikiraysay inay dawlada dagaanku jago cusub kugaabaal gudayso waqtigaad warka maqashay?
7. Isbadalkani jagadaada hore kudhacay intee buu maaxadada dhaqaale (dakhligaaga hore) iyo xidhiidhkaad dadkalalahayd saa mayn kuyeeshay?
 - Inbadan
 - Indhex
 - dhexaad ah Inyar Inaba
8. Fadalan noosheegi nooca iyo qiyaasta saamayntaas?

III. Check List for Focus Group Discussions

Introduction

The researcher is undertaking this research to investigate customary land ownership, related issues and government interventions: their challenging nexus and policy implications: in the case of peri-urban areas of your jig-jiga town. In this study, the researcher would like to know, in your opinion, what your knowledge is regarding the existing customary land management system in peri-urban areas of Jig-jiga city and regarding the effects of that government intervention on your community's land ownership status? The researcher would like first to inform you that participation in the study must be based on your free will. It is not obligatory to answer all questions. Third, your autonomy to refrain yourself from the study at any point in time and to ask any question is fully respected. Finally, the researcher would like to guarantee you that the confidentiality and anonymity is kept for whatever information you would provide.

Thank you in Advance!

1. Name _____
2. Age _____
3. Sex _____
4. Status in the Community _____
5. Clan _____
6. Kebele _____

7. How do you describe the historical connection between the customary land, the clan and the economic attributes of goods and services generated from the customary lands in the peripheral parts of Jig-jiga town?
8. Where are the current locations of customary lands? In which areas of the town that these customary lands predominantly found?
9. How you describe those physical attributes of the current customary lands in these areas?
10. How you describe the ethno-cultural attributes of your community and your attachment towards such attributes?
11. What is the role of such ethno-cultural similarities in customary land management in the areas?
12. What are the mechanisms of owning land among the clan members?
13. To what extent the right of a clan is in every sub-clan family with in their respective owned customary lands?
14. What kinds of absolute right the clans as the dominant entity have over each customary land owned by sub-clan families.
15. What kinds of resources on customary lands are communally shared and/or restricted from owning by individual sub-clan family among the clans?
16. Exclusion and inclusion rules Control by locals and their institutional basis
17. Resistance to Encroachment by Outsiders.

[A general question to generate an answer regarding customary rules managing access to land among the Somali communities]

Below is the Somaligna translation for Focus Group Discussions check List

Jaamacada Adisababa
Machadka Cilmiga Bulshada

Diraasad kusaabsan lahaanshaha iyo maaragnta qaabdhaqameedka dhulka hareeraha magaalada Jigjiga.

Wadahadal lalayeelan doono odayaasha iyo dhalinyarada

Dhamaan mudanyaasha wadahadalka lalayeelan doono, marka hore waad salaamantihiin.Salaan kadib.Mudaneyaal, ujeedada ugumuhimsan ee wadahadalkan lagaleeyahay waa ururin xog kusaabsan lahaanshaha iyo maaraynta qaab dhaqameedka dhulka hareeraha magaalada Jigjiga.Taasoo loogabaahday in xogta layahelayo wadahadalka lagudiyaariyo qoraal qalinjabin tacliinsare oo laxidhiidha lahaanshaha iyo maaragnta dhulka magaalooyinka, lagana qaadindoono shahado tacliin sare oo looyaqaano “*Mastar Digrii*”.

Hadaba waxaan dhamaan mudanyaasha wadahadalka lalayeelanayo kacodsanayna inay nasiyaan warbixin runta iyo xaqiiqadu kudheexantahay maadaama ooy guusha dirasadeenu kuxidhantahay warbixintaasi.

Iskaashigiina waadkumahadsantihiin

Jaamacada Adisababa

Sided uaragtaa heerka lahaanshu ha iyo maaraynta qaab dhaqameed ku dhulka hareeraha magaalada Jigjiga?

- 1.1.Fadlan muxuu ubadanyahay dhulka hareeraha magaalada Jigjiga?
 - B. Dhul beereed?
 - T. Dhul banaan?
 - J. Dhul daaq?
- 1.2.Fadlan miyaad noosheegi kartaa asalka dadka dhulka qaabdhaqameed kuyeeshay dhinacuu ubadan yahay (qabiilka ama beeshay katirsan yihiin)?
- 1.3.Fadlan muxuu yahay heerka iyo qaabdhaqameedka lahaanshaha iyo maaraynta guud ee dhulka?
- 1.4.Miyuu jiraa nidaam iyo shuruudo kusaabsan kaqaybqaadashda dadkaan qabiilku ama beeshay katirsanayn dhinaca isticmaalka ama lahaanshaha dhulka?

IV. Observation Checklist

Kebele _____

Time _____

Events	Notes

DECLARATION

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

Habtamu Ouma

April, 2015

CONFIRMATION

This thesis is submitted for examination with my approval as a university advisor.

Taye Negussie (PhD)

April, 2015

