



**HAWASSA UNIVERSITY**  
**COLLEGE OF LAW AND GOVERNANCE**  
**SCHOOL OF LAW POSTGRADUATE PROGRAM**

**YOUTHS ACCESS TO RURAL LAND IN SOUTHERN ETHIOPIA**  
**REGIONAL STATE: THE CASE OF WOLAITA ZONE**

**BY:**

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**HAWASSA, ETHIOPIA**

**YOUTHS ACCESS TO RURAL LAND IN SOUTHERN ETHIOPIA REGIONAL  
STATE: THE CASE OF WOLAITA ZONE**

**A THESIS SUBMITTED IN PARTIAL FULFILLMENT OF THE REQUIREMENTS  
FOR THE DEGREE OF MASTERS OF LAWS (LL.M) IN ENVIRONMENT AND  
LAND LAW AT THE SCHOOL OF LAW OF HAWASSA UNIVERSITY**

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## **DECLARATION**

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

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This is to certify that the thesis entitled **Youths Access to Rural Land in Southern Ethiopia Regional State: The Case of Wolaita Zone** submitted in partial fulfillment of the requirements for the degree of Master's with specialization in Environmental and Land Law, the Graduate Program of the School of Law, and has been carried out by Bereket Bekele, under my supervision. Therefore, I recommend that the student has fulfilled the requirements and hence hereby can submit the thesis to the department.

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## **ABBREVIATIONS**

Unless provided, or the context requires otherwise, each of the following terms, acronyms, and abbreviations shall stand for the expression as provided below:

|       |                                                 |
|-------|-------------------------------------------------|
| ADLI  | Agriculture development led Industrialization   |
| EEA   | Ethiopian Economic Association                  |
| EPRDF | Ethiopian people Revolutionary Democratic Front |
| FAO   | Food and agriculture organization               |
| FDI   | Foreign direct investment                       |
| FDRE  | Federal Democratic Republic Ethiopia            |
| FRLAU | Federal rural land administration Use           |
| GDP   | Growth and development plan                     |
| LRB   | Land reform bill                                |
| MLRA  | Ministry of land and Association                |
| SNNPR | South Nations Nationality peoples region        |
| SERS  | Southern Ethiopia Regional State                |
| SWRS  | South Western Regional State                    |
| PA    | Peasants Association                            |
| PDC   | Planning and development commission             |
| PDRE  | Peoples democratic republic Ethiopia            |
| TPLF  | Tigray peoples Liberation Front                 |

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## ABSTRACT

*In agriculturalist society, like Ethiopia, where lion share of the population relies on rural lands, the rights for livelihoods and welfare as well as access to rural land is fundamental to be capable of existence as a free and dignified human being. It is also clear that fair access to rural land threatens enjoyment of fundamental rights and freedoms. The access to rural land is one of the main concerns of the land tenure system. The right to access rural land is constitutionally guaranteed for the needy peasants, pastoralists and semi-pastoralists in Ethiopia. Thus, the main objective of the study is to assess the situation of access to rural land for youths in Ethiopian legal and policy framework as well as its practice in Wolaita Zone in respect to subjects, conditions and modalities in Southern Ethiopia regional state Diguna Fango and Abala Abaya. In order to conduct this thesis the researcher employed qualitative methodology of which both primary and secondary sources were used. Primary data were gathered principally from carefully cross reading of pertinent laws which also substantiated by data collected through interview with the youths, officials from the former SNNPR state, rural land officers from the Southern Ethiopia, Wolaita Zone rural land administration officers, from Diguna Fango and Abala Abaya Woreda rural land officers and also primary data were collected via focus group discussion conducted in both Woredas. The study revealed issues in light of conditions, subjects and modalities of access to rural land in the various land tenure system of Ethiopian; it highlighted the national rural land legal and policy frameworks and evaluated the practice in selected research areas. The basic argument made in this research is that even if the Constitution and other federal and regional laws recognized rural land grant as of right for Ethiopian needy peasants and pastoralists, the access to rural land in reality is surrounded with huge mismatch, inconformity and limitation with the laws stated and in which the access to rural land of the youth is not fully realized at all. The reason mentioned here were the nation has no flexible, sound and responsible land policy framework in order to accommodate the access right of the youth to realize the rural lands and other reasons discussed in this paper.*

**Key Words:** Youths, Rural Land, Tenure, Land laws, Land policy

## CHAPTER ONE

### 1. BACKGROUND OF THE STUDY

Land and access to land have played the most significant role in the social, political and economic life of Ethiopian society for the long time in Ethiopian political history. It was and continues to be the target out of which power and social prestige are extracted in addition to its being an important economic asset. Access to rural land also has bundle of meanings for Ethiopian rural dwellers. It is the expression of their wealth, determinate of their status and their means of subsistence<sup>1</sup>. Land in rural areas has a multifunctional role as it is a source of income and plays a significant role in providing food. An increasing concern for locals is the rising land shortages and the lack of income opportunities. There are also several obstacles which could have a significant impact on local people's access to land<sup>2</sup>. Land access and ownership in Ethiopia in the past century has passed through different land tenure systems. During the Imperial system, which ended in 1975, land mainly belongs to the upper class of the society, Balesit or Baleabat who have control over the land and the right to distribute to peasants, Chisegna, in return for different kinds of payment<sup>3</sup>. Chisegna were low the society who couldn't access their own land in order to lead their life in agriculture in working for themselves. Rather they were known in working for others in that they bring their labor product to those higher class balerist or balabat. To rectify these land classification rural land policy and rural land legal the Dergue brought revolution that removed any balabat or balerist and equalized every citizen in Ethiopia. However the subsequent two regimes laws and policy frameworks also criticized due to failure to answer whole rural land question of the youths.

Regarding to policy options it is possible to take the 1975 World Bank land policy paper as a starting point; it indicated three basic principles that should be considered in informing any land policy. At that time, the World Bank believed that first, owner operated family farms

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<sup>1</sup>[https://link.springer.com/chapter/10.1007/978-3-319-14639-3\\_2#auth-Daniel\\_W.-Ambaye:accessed](https://link.springer.com/chapter/10.1007/978-3-319-14639-3_2#auth-Daniel_W.-Ambaye:accessed) on June 2023

<sup>2</sup> Eva Berger ;Access to land in Ethiopia The impact of land laws, industrial development, villagization and land-grab in rural areas

<sup>3</sup> Land Policy and the Youth 'bulge' in Ethiopia: 2019 Conference on Land Policy in Africa" Africa Land Policy Center - Abidjan, Cote d'Ivoire, November 25-29, 2019

were efficient and thus desirable, second there should be freely operating land markets to permit land transfers to more efficient and productive users and third there was a need for a more equitable distribution of assets. These principles are still considered to be largely valid<sup>4</sup>. It secures their means of livelihood and enables them to be uplifted from poverty. Moreover, the prevalence of secured access to land is a means to define the social status of a person in the community where he/she lives.

Thus access to rural land has critical concern in Ethiopia for long time political, socio-economic and cultural aspect. Access to rural land in Ethiopia has active role in regime changes happened in this country. The Feudal regime that lasted for more than four decades failed due to the Ethiopia student movement in slogan with “ Land to tiller” and following these Ethiopian student movement in different parts of the country peasant rebellion began to erupt. The peasant rebellion in Bale, Gedeo people uprising and Gojjam people uprising were among additional opposition movement successively emerged after the Ethiopian student movement in 1960’s. The need for land was the primary cause of the downfall of the previous two regimes, the socialist military Dergue and the imperial feudalism<sup>5</sup>.

Soon after the fall of Dergue regime, speculations were running as to the direction of the land policy to be pursued by the new government EPRDF. Public land ownership in Ethiopia is already a legacy of the EPRDF-led government<sup>6</sup>. At the beginning of the national dialogue conference, the land question was listed as one of the contentious primary agenda items by the transitional administration that was formed following the overthrow of the Dergue regime. Regarding the land issue, the national assembly of the conference split into two factions under the auspices of the then-transitional government, the arguments for and against private and public ownership of land <sup>7</sup>

The FDRE Constitution provides right to obtain land without payment for Ethiopia peasants for grazing and cultivation purpose as well as a right to be protected against evictions from

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<sup>4</sup> ibid

<sup>5</sup> Ibid

<sup>6</sup> Daniel W Ambaye, Land Rights and Expropriation in Ethiopia Architecture and the Built Environment, 2013) p.70

<sup>7</sup> Constitutional Assembly, 1994 pp.8-9

the possessions<sup>8</sup>. Unlike the economic policy of the country that is based on the free market principle the constitution has defined access to land on the foundation of egalitarian social equity paradigm. Particularly, the constitutional makers have perceived access to rural land rights from the perspective of securing means of livelihood for all. Rather than the economic value of land, what mattered most for constitutional makers of Ethiopia was to use access to rural land rights for guaranteeing all needy nationals with the means of living. That is through granting ‘free access to rural land for all needy nationals’<sup>9</sup>. Therefore, the right to free access to rural land for all needy nationals is a separate constitutional right provided for the nationals even if the fact on the ground varies from the constitutionally provided<sup>10</sup>. Thus, the main goal of this research is to assess how Ethiopian law and policy regarding to young people's access to rural land, as well as how this right is really implemented in the Wolaita Zone in Southern Ethiopia.

Finally this paper analyzed the situation of access to rural land for youths in Southern Ethiopia Wolaita Zone in respect to subjects, conditions and modalities to access rural land in mentioned Woredas. This thesis paper broke down in to five chapters. The first chapter dedicated to deal with background of the study, statement of the problem, objective and significance of the study, the scope, limitation and methodology of the study. The second chapter devoted to describe the theoretical frameworks toward the access to rural land in the history of the Ethiopian land tenure system; particularly emphasizing on the youth access to rural land. Then, the third chapter goes on presenting access right to rural land in accordance with federal and regional legal and policy framework. The fourth chapter committed to describe the mode and conditions of accessing rural land and legible youths to access rural land in Southern Ethiopia Wolaita Zone. This chapter described legible persons to access rural land with their requisite conditions. It also assessed modalities of accessing rural land. The last chapter presented conclusions, findings and recommendations.

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<sup>8</sup> Article 40 (4) & (5) of FDRE Constitution

<sup>9</sup> FDRE Constitution, 1995, Articles 40(4) and (5)

<sup>10</sup> Brightman Gebremichael Ganta: Access to Rural Land Rights in the Post-1991 Ethiopia: Unconstitutional Policy Shift pp. 12

## **1.1 Statement of the Problem**

Access to rural land is part of land tenure system in which rural land is allocated for different parts of society in different forms of allocation. Land in rural areas of Ethiopia fulfills a number of social functions. It is a bearer of social and cultural values since it's used as settlement and symbolic and ritual use, such as burial sites. Land is also associated with the well-being of the household and the social standing in the community. Landowners are treated with greater respect and often feel a stronger sense of identity within the community. The status of a land owner, in turn, increases influence in local politics. Land in rural areas is also considered to be a crucial asset, especially considering that the majority of the population is employed in the agricultural sector, and depend on land in order to make an income<sup>11</sup>. In contrary to this the person who has no rural land has low social value and leveled as the lower class in every aspect of life.

In Ethiopia youths face numerous challenges due to the denial of access to rural land. There are vivid reasons that open most challenges to occur. Among those reasons the long lasted unfavorable land tenure systems and harmful customary practices could be mentioned. It is clear that some customary tenure systems are disadvantages to the youth: while almost every adult is given access to farm land, the youth virtually have no access to it except through inheritance. While many countries in Africa have adopted statutory laws that grant women equal rights to land, customary laws continue to deny these rights in practice. The customary practices, which mostly favor inheritance by boys, make access to land for girls and young women even more difficult sometimes impossible to access rural land<sup>12</sup>. The other challenge is over reliance on inheritance which limits choices in terms of timing, size, quality and location of land. For that matter inheritance of land is the main means by which young people obtain access to land also in Ethiopia. Of course tot only that there are numbers of factors that have reduced the effectiveness of the means of youth access to rural land. A key factor is shortage of land. In many African countries, including Ethiopia the average land being cultivated is already too small to support commercial agriculture. For instance with farm size averaging less than 1.5 hectares in Ethiopia, and this subdivision of land among a

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<sup>11</sup> Brightman Gebremichael Ganta : Access to Rural Land Rights in the Post-1991 Ethiopia: Unconstitutional Policy Shift

<sup>12</sup> Frank F K Byamugisha and Yaw Ansu, land Policy in Africa conference in Addis Ababa,2015

large number of siblings has led to fragmented and unviable land parcels which have led to the imposition of legal minimum size limits<sup>13</sup>.

The lack of enough rural land to buy or rent is the other challenge that should be considered. Ethiopian land laws mandate equal access to land for everyone aged at least 18 years, however land access through allocation from authorities is almost absent while land that can be obtained from parents through inheritance or gift is too small to establish a meaningful livelihood. The land rental market has restrictions, including on the number of years land can be rented out. And yet the law prohibits the purchase and sale of land in Ethiopia<sup>14</sup>. The youth lack financial capacity to purchase land in order to access rural land. And they cannot access them through credit markets because they are not well developed, especially for long term credit moreover, as they do not own land or other assets, they cannot provide collateral such as land and savings<sup>15</sup>.

In principle access to agricultural land is a constitutional right in Ethiopia where it has also served as a safety net in rural areas. But increasingly it has become difficult to fulfill the access of rural land for the young generation who were interested to engage in agriculture. The reality shows that Ethiopia faces land scarcity in parts of the highlands where population densities have become very high and farm sizes very small. As a result, land as a safety net is eroding and landlessness emerging among the youth who are unable to stay on their parents' land<sup>16</sup>. This is particularly true for Southern Ethiopia where farm size is the smallest in the country. The land laws also add complication as the minimum farm size is now set at 0.5 hectare while many farms are already smaller than this<sup>17</sup>. The children therefore either have to co-manage the land with their parents or leave the farm. The institutional responses to the challenge include distribution of communal land to youth and

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<sup>13</sup> ibid

<sup>14</sup> Sosina Bezu and Stein T. Holden: Land Access and Youth Livelihood Opportunities in Southern Ethiopia, 2014

<sup>15</sup> Andrianaivo and Yartey 2009: Understanding the Market growth of Africa

<sup>16</sup> Sosina Bezu and Stein T. Holden: Land Access and Youth Livelihood Opportunities in Southern Ethiopia, 2014

<sup>17</sup> SNNPR Rural land use proclamation Art 11(1) (a)



voluntary resettlement was not adequate since access to agricultural land is the most important determinant of Ethiopia's youth livelihood<sup>18</sup>.

The other reason that the youth face the lack of rural land is the current constitutional standing. The Ethiopian constitution concludes that all land is property of the state. Its multi-dimensional role for both the agrarian society and the state well defines even the relation between the state and the society, because its roles towards the society depend upon the extent to which the state ensured and observed the society's access to land. Otherwise, the state's employment of access to rural land rights for its own benefit and interest of political legitimacy and suppression of society results in all in all impoverishment of the society. From the viewpoint of the society, access to rural land rights defines their economic, social, cultural and political position. The economic well-being and eradication of poverty for agrarian community depend upon having secured access to land rights. Because for those parts of society, land rights are livelihoods from which they derive the necessary food, income and shelter to sustain their decent living. Moreover, it is a means of accruing of capital and bequeathing it to the coming generation<sup>19</sup>. It is also fundamental for the realization of some economic human rights. For instance, for such society, the realization of the right to food, the right to housing and the right to work and subsistence and depends on the secured access land rights. That is why they have demanded States to 'protect the assets that are important for people's livelihoods' access to land in our case, and to conduct policy and legal reforms 'consistent with their human rights obligations and in accordance with the rule of law'<sup>20</sup>.

There are convincing reasons for ensuring that rural poor people must have to secure rural land access. It brings agricultural productivity and food security, economic growth in rural areas, increased family incomes and more-sustainable land use. It also contributes to conflict prevention and helps reduce migration to urban centers. Access to land also empowers rural youth, strengthens networks that give them a voice and contributes to a more participatory political culture. Access to land and land tenure security are at the heart of all rural societies

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<sup>18</sup> Sosina Bezu and Stein T. Holden: Land Access and Youth Livelihood Opportunities in Southern Ethiopia, pp.4 September 2013

<sup>19</sup> *ibid*

<sup>20</sup> ICESCR, 1966, Article 6; ICCPR, 1966, Article 1(2))

and agricultural economies. Having land, controlling it and using it are critical dimensions of rural livelihoods, and determine rural wealth and rural poverty. In particular, rural poverty remains to be very high in the situation access to rural is not secured. Access to land has often been considered to be a major determinant of poverty in many developing countries<sup>21</sup>. Land has a wider significance for social and political privileges in society<sup>22</sup>. It is stated that the condition of landlessness threatens the enjoyment of a number of fundamental human rights. It is stated as right to access rural land free of charge is vanguard security to ensure means of livelihood of peasants and pastoralists<sup>23</sup>.

In addition to policy and legal gap problems Ethiopia has also long faced severe problems of land scarcity. That is because population density is growing rapidly that lead the farm sizes to diminish. During 2011–2012, more than half of rural farm households in Ethiopia cultivated less than a hectare of land. In land constrained countries under usufruct land rights systems like Ethiopia, youth rely on periodic land redistributions, inheritance, and informal rental markets for access to land<sup>24</sup>.

Residents in rural areas specially youth in need of land for farming, have the right to get access to agricultural land without a cost. However the waiting list for land access is usually long and it takes time before the request is being processed. Additionally, land shortage has become an increasing concern in Ethiopia. Most exposed are the areas in the highlands where the population has increased. Because of this, it is more difficult to pursue the right for access to agricultural land<sup>25</sup>. On other hand in the situation that the access to rural land is not guaranteed the problem of landlessness occurs for rural youth who are interested to engage in agricultural activities<sup>26</sup>.

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<sup>21</sup> Selim Raimen, Sohani Fatehin : Access to Land and other Natural Resources by the Rural poor: The case of Bangladesh pp. 5

<sup>22</sup> Elisabeth Wicker and Anil Kalhan, Land Rights Issues in International Human Rights Law 2(May 01, 2015), [http://www.ihrb.org/pdf/Land\\_Rights\\_Issues\\_in\\_International\\_HRL.pdf](http://www.ihrb.org/pdf/Land_Rights_Issues_in_International_HRL.pdf).

<sup>23</sup> Fassil Nahom: Constitution for a Nation of Nations the Ethiopian Prospect 52 (1st Ed. The Red Sea Press Asmara, 1997),

<sup>24</sup> Katrin Kosec, Hosaena Ghebru, Brian Holtemeyer, Valerie Mueller and Emily : The effect of Land Access on youth employment and migration decision from Rural Ethiopia ,2017 pp.934

<sup>25</sup> Eva Berger :Access to land in Ethiopia The impact of land laws, industrial development, villagization and land-grab in rural areas pp.11

<sup>26</sup> Ibid

The main source of rural poverty, which is prevalent not only in Ethiopia but also in most of Sub-Saharan Africa and Asia, is the intricate interaction of several different elements, the most important of which is access to, security on, and sufficient amounts of land. The country's rising lack of arable land for the majority of agricultural households and the increasing subdivision of plots due to population pressure are what make poverty and vulnerability particularly severe.<sup>27</sup> While the details may vary from one locality to another, the overall picture shows land holdings are getting smaller with each passing generation. While some off-farm employment opportunities have been opened up in rural areas, particularly in localities close to urban centers, they have not been sufficient to satisfy the growing demand for employment by those unable to live by farming<sup>28</sup>.

Landlessness is now growing to be a significant problem, and, in some of the densely settled communities, it has reached crisis levels, causing serious concern among kebele and Woreda authorities. The problem is an indicator of poverty, and no program of poverty reduction can succeed without addressing it in a meaningful way<sup>29</sup>. There is a generational factor at work here: the tenure regime in place disadvantages young peasants who, by law, should have been provided farm plots by the kebele concerned but are not because there is no arable land to distribute. This generational divide has the potential to erode social stability and cohesion<sup>30</sup>.

In addition to this in land constrained countries under usufruct land right systems like Ethiopia, youth rely on periodic land redistribution, inheritance and informal land markets for access to land<sup>31</sup>. These typical problems related to access rural land must be solved in the way that considers present and future generation. Thus, this thesis aimed to conduct comprehensive national, regional and local assessment and analysis regarding the access of rural land to youths in Southern Ethiopia Wolaita zone, addressing the youth access to land in practice, the modes and subjects to access rural land in Southern Ethiopia.

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<sup>27</sup> Dessalegn Rahmato: Land, Landlessness and poverty in Ethiopia July 2016 pp3

<sup>28</sup> Ibid

<sup>29</sup> Ibid 4

<sup>30</sup> Ibid

<sup>31</sup> KATRINA KOSEC, HOSAENA GHEBRU, BRIAN HOLTEMEYER, VALERIE MUELLER, AND EMILY SCHMIDT: THE EFFECT OF LAND ACCESS ON YOUTH EMPLOYMENT AND MIGRATION DECISIONS: EVIDENCE FROM RURAL ETHIOPIA, December 28, 2017 pp.934

## **1.2 Research Questions**

The basic questions, this thesis aimed, are:

1. How access to rural land is recognized in FDRE Constitution, SNNPR constitution, subsequent federal and SNNPR laws?
2. How the current land laws and policy realized and protected the access to rural land in practice in Southern Ethiopia, Wolaita Zone?
3. What are the legal and policy gaps in realizing the rights to access of land for youths in Southern Ethiopia practically?

## **1.3 Research Objectives**

This research has both general and specific objectives.

### **1.3.1 General objectives**

The general objective of the study is to assess the status of the right to access rural land rights in Ethiopian legal and policy framework as well as its practice in the selected case study area.

### **1.3.2 Specific Objectives**

- ✓ To understand how the access to rural is recognized in the FDRE Constitution, Southern Regional Constitution and subsequent federal and regional land laws.
- ✓ To study how current land laws and policy realized and protected the rights to access rural land in Southern Ethiopia, Wolaita zone
- ✓ To evaluate the legal and policy gaps in realizing the access of rural land for landless youths in Southern Ethiopia

## **1.4 Description of the study area**

Southern Ethiopia Regional State is one of the twelve regional states in Ethiopia bordered by Kenya in the south, south Western regional state in the North West, Oromia region in the north and east, and south Western region in the south west. Southern Ethiopia regional state

is one of newly emerged regional state in Ethiopia. It was formed from the Southern part of the Southern nation, nationalities, and peoples' region on 19 August 2023 after successful referendum with multiple city approach by selecting Wolaita Sodo regional political and administrative capital.

Wolaita zone is among zones within Southern Ethiopia Regional State and structured with 16 Woreda administrations and 7 urban administrations. The total area of Wolaita Zone is 451170.7 hectare, in which there are various natural resources, biodiversity and the weather condition of Wolaita zone 35% Kola, 56% Weynadega and 9% dega. The population of Wolaita zone and the resources accessible to utilize is unbalanced. The general information regarding to rural lands in Wolaita Zone, graze lands registered in Wolaita zone is 51429.64 hectare it takes 11.4 % of the general land coverage of Wolaita Zone ,registered forest in Wolaita zone is 84081.97 it covers 18.63 % general land coverage of Wolaita zone. The land covered by shrub is 18164.44 that cover 4 % of total land sphere and Water covered area in general in Wolaita Zone is 3466.37 hectare and this is 0.76 of general land coverage of Wolaita zone. The land hold in construction purpose within Wolaita zone in hectare 13737.62 and this takes 3.04 % of the general land in Wolaita. Damaged and, eroded Land 12494.601 hectare and comprises 2.76% of the land within Wolaita. Swampy and moisture land in hectare 6063.63 and this holds for 1.34% of the land. Others that registered are 18050.23 that are of 4% of the land in zone<sup>32</sup>. Because of this reason even the lands that are not advisable to plough unyielding, lands with hills, swampy, forest lands are being ploughed. Additionally due to the absence of adequate rural land, the youths are landless and unable to access rural land because of that reasons currently youths are under poverty and unemployment in Southern Ethiopia Region, Wolaita Zone.

### **1.5 Design of the research**

The data for the research were gained via case study. This case study is a detailed study of the access to land for landless youth in Southern Regional state Wolaita Zone. In this research, case study is an appropriate research design because it is very important to gain concrete, contextual, in-depth knowledge about access to rural land for youths in Southern

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<sup>32</sup> Mاتي Yos Maskale; Wolaita Zone rural land administration officer

Ethiopia, Wolaita Zone selected areas such as Diguna-Fango, Abala Abaya in order to know the laws, policies and practices and reality on the ground. The selection criteria of the Woreda is based on the land existence and accessibility that in these mentioned areas specially in the lowlands there is land that can be accessed.

This research paper used doctrinal qualitative research method. The research has been done by employing qualitative research methodology. This method was selected because it is important to undertake comprehensive study on the access of rural land for youth, analyzing the legal and policy matters as well as practice on the selected research area, Diguna Fango and Abala Abaya.

#### **1.5.1 The Participants of the Study**

The core participants in these research paper were the youths who were above the age of 18 years who are landless and living in the case study area because the researcher's concern is the youth that are under the problem of land access to survive and those who have been denied the right to access land will be subjects of this research paper. Because the relevant data to research that collected from those youths were critical to evaluate the accuracy of the research. These youths were selected in non-random technique system. Additionally the participants will be the land department officers and officials in two Woreda, Wolaita zone land administration department official and Southern Regional state land administration department officials who present legal and policy implementation as well as the reality and practice on the ground because these government bodies are important to give viable information regarding to the access of rural land for youths in their respective powers.

#### **1.5.2 Sampling size and Sampling technique**

A minimum of twenty participants were selected from two Woreda based on purposive sampling technique. This figure is taken from Diguna Fango and Abala Abaya, where ten young people are chosen from each Woreda, for a total of twenty youths selected who were able to access rural lands and can provide enough information to carry out the research. The selection undertook was primarily taking into account the age, landlessness, and occupation of the subjects and the experience and positions of the officers and officials. However, even if the researcher selected 20 participants to collect relevant data due to the existence of data

saturation, the saturation principle was applied and in that fourteen youths were selected for the study.

### **1.5.3 Data gathering instruments and techniques of Analysis**

To conduct this research paper both primary and secondary sources were employed. The following instruments have been employed to gather the qualitative primary data.

#### **A) Primary sources**

Primary sources are the most direct evidence of a time or event because they were created by people or things that were there at the time or event. These sources offer original thought and have not been modified by interpretation. Primary sources are original materials, regardless of format. These secondary sources include: the FDRE Constitution, Federal Rural Land Administration and Use Proclamation No.456/2002, a proclamation to amend proc. No.56/2002; Proclamation No.110/2007 “The Southern Nations, Nationalities and Peoples Regional state Rural Land Administration and Utilization Proclamation, the regulation number 66/2007, the regulation number 131/2008. In addition to these the following primary sources were employed in order to collect relevant data to conduct this research. These are:

#### **1. Interviews**

As it is known interview is commonly used method of collecting information from people. Interview is a verbal interchange in here the researcher interview 14 youth from each of two Woreda in Wolaita Zone SNNPRS. There are two forms of interview in order to get vital data via verbal interchange. These are Structured and semi-structured interviews. For this research the researcher employed structured interview to collect data from land administration officers and officials. A semi-structured interview is a data collection method that relies on asking questions within a predetermined thematic framework. In research, semi-structured interviews are often qualitative in nature. They are generally used as an exploratory tool. Thus the researcher employed semi-structured interview with the youths attained 18 years old who has been denied the right to land access.

## **2. Focus group Discussion:**

A focus group discussion is a research method that brings together a small group of people to answer questions in a moderated setting. Thus two focus group that had ten members formed from two Woreda those selected to be case study. The group was chosen on the common interest and age; the questions were designed to shed light on a topic of land access for youth who has no rural land access.

### **B) *Secondary Sources***

In addition to data collected from primary sources the secondary data was also collected were analyzed in relation to access right to rural land. Regarding to this the researcher explored data from secondary sources including books, commentaries on statutes, articles, dictionaries, census reports.

### **1.6 Scope of the study**

This paper confined on the doctrinal analysis of laws by admitting the fact that the realization of right to access rural land subjects to factors other to laws. It only examined the problem by circulating around the legal axis and practice on the ground. From laws it examined FDRE Constitution, Federal rural land proclamation, the SNNPR Constitution and subsequent the former SNNP regional state laws and the practice on the case study area in Diguna Fango and Abala Abaya by springing from the basic norm, the Constitution.

### **1.7 Research Significance**

First, the research illustrated the concept of access of youth to rural land which is less researched topic and hence, it adds some new thing to scarce literatures on the subject. Further regardless of what the outcome counts, it serves as a spring board and glimmer of sights for prospective researchers on the subject matter to conduct research in agreeing with this document or opposing this paper. Since the land concern is unsettled issue many scholars, governmental organizations, non-governmental organizations, political parties ,policy makers and other youth access to rural land interested bodies may use this study as initial point to do more investigations and research.



Additionally it will help policy makers and legislative bodies to understand and adapt laws and policies as well as to evaluate the current land laws and policy towards the access of rural land for youths nationally and in the case study area to solve the access problems.

### **1.8 Limitation of the study**

This study has some limitations.

- ✓ **Subjectivity:** of the data collected from secondary sources by employing qualitative data collection system may incur subjectivity
- ✓ Lack of research experience of the author/the researcher

### **1.9 Ethical consideration**

The researcher did every effort to avoid unnecessary biases and ensure the objective analysis and interpretation of the collected data. Hence, the researcher gave due respect to the rights, needs, values and desires of my informants in the course of conducting this study.

Ethical considerations relating to qualitative research which requires the researcher to take particular care that should consider the research participant, their needs, and their relationship with the researcher and be reflexive in my approach to data collection, use, and dissemination in order to ensure that the decision-making processes within the research are clear and that should remain transparent, and accountable. Additionally I considered the confidentiality and privacy risks arising from the data used, both in relation to the data collected from the participant and the ways in which it is de-identified potential impacts on the participants when results are disseminated. Moreover, I assured my informants the fact that the information they gave me was only used for research purposes.

## **CHAPTER TWO**

### **THEORETICAL FRAMEWORKS TOWARDS ACCESS TO RURAL LAND IN ETHIOPIA**

#### **2.1 Defining land, land tenure and the access to lands**

Land might have different meaning and significance for different people, a point well-articulated as follows: Few people look at it as an area of ground or a structure that is not covered by water; few people look at it as the area for producing grains to feed themselves, their family and their livestock. For few people the land they belong to or where they live is like their dignity, that is why most of the people look at their country as their land and give it more respect than any other thing<sup>33</sup>. Land is the source of all material wealth; it provides us with all our needs to sustain on. It is also a major economic asset from which people and nations get significant profit. In many developing countries, land has been considered as an important economic and social asset where the status and prestige of people is determined<sup>34</sup>. However the Ethiopian rural land laws not tried to define land both the federal and SNNPR rural land proclamation.

After defining land and its nature it is important to define the concept of land tenure system. FAO has defined the land tenure as the relationship, whether legally or customarily defined, among people, as individuals or groups, with respect to land, it is an institution, i.e., rules invented by societies to regulate behavior regarding on how land accessed or used<sup>35</sup>. Similarly it is defined as a system of relations between people and groups expressed in terms of their mutual rights and obligations with regard to land, on the other hand land tenure defines the methods by which individuals or groups acquire, hold, transfer or transmit property rights in land<sup>36</sup>. Tenure rules help to define how land rights to access of rural land are allocated within societies. Land is the ultimate resource, for without it life on the earth

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<sup>33</sup> Demelash Shiferaw Reta (PhD):African Journal of Legal Studies 9 (2016) 100–123A Human Rights Approach to Access to Land and Land Dispossession: An Examination of Ethiopian Laws and Practices PP.102

<sup>34</sup> *ibid*

<sup>35</sup> FAO Corporate Documentary Repository, Land Tenure and Rural Development, Rome (2002), p. 7

<sup>36</sup> *ibid*

cannot be sustained and good stewardship of the land is essential for present and future generations<sup>37</sup>.

Additionally land tenure refers to the rules, authorities, institutions, rights and norms that govern access to and control over land and related resources. It defines the rules and rights that govern the appropriation, cultivation, use of natural resources in a given space or a piece of land. In addition to this it also governs who can use what resources, for how long and under what conditions. Land tenure systems are highly complex. At national and local levels they include a multiplicity of overlapping and at times contradictory rules, laws, customs, traditions, perceptions and regulations that determine how youth use, control and transfer land. This has significant implications for the analysis of land tenure issues and their significance in poverty reduction<sup>38</sup>.

Access to land refers to the ability to use land and other natural resources, to control the resources and to transfer the rights to the land and take advantage of other opportunities. Enhanced access to land includes strengthening land tenure security and land rights, increasing the amount of land that youth have access to, and improving the productivity of land<sup>39</sup>. There are two major types of land rights, which they named operational level land rights and collective choice land rights. Collective choice land rights include management rights (for example, to transform and use a resource); exclusion rights that is determine who is entitled to access and withdrawal rights and who decides about the transfer of such entitlements); and alienation rights the right to sell or lease a resource. Operational level property rights include the right to obtain the products of a resource (withdrawal rights) and the right to enter a defined physical property (access rights)<sup>40</sup>. Access right to land is an opportunity for temporary or permanent use and occupation of land for purposes of shelter, productive activity, or the enjoyment of recreation and rest short of ownership. Land access is obtained by direct occupation, exchange (purchase or rental), though membership of

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<sup>37</sup> Solomon Dessalegn Dibaba:Ethiopia history of land tenure and the present land governance: The case of Oromia region pp.33

<sup>38</sup> Access to land and other Natural Resources by the poor people, case study of Bangladesh: Selim Raihn, Sohani Fatein and Haque pp. 5

<sup>39</sup> ibid

<sup>40</sup> Della Schlager and Elinor Ostrom:Property-Rights Regimes and Natural Resources: A Conceptual Analysis pp.250-

family and kin groups, or by allocation by government, other land owners or management authorities<sup>41</sup>.

## **2.2 The Access to Rural Lands in Various regimes in Ethiopia**

### **2.2.1 The Access to Rural land in Imperial regimes**

Assessing the historical contour of access to rural land matters in analyzing the current situation, because mostly in the country, like Ethiopia that transforms from dictatorship and oppressive regime to constitutional democratic state the Constitutional rules and norms are basically meant to address the historical injustices and suppressions<sup>42</sup>. However, to understand what the post-1991 constitution tried to address, it is necessary to know what has happened in the past regimes. Historically during the imperial feudalist regime there was class difference in land governance that varies also in North and South Ethiopia. In North the classification was based on the family status the category were bale rist, bale abat and Chisegna. In South Ethiopia especially after conquer to central government the imperial regime treated the land of Southerners based the submission of their respective kings or leaders.

In the situation where there was strong opposition and bitter battle and in the situation there was smooth surrender the two different ways were employed to control the original land of the society. The first is a total denial of the access to land making the local society landless. This strategy was employed in the southern part of the country after Menelik's forceful expansion to control the area. In Societies who surrender peacefully, the emperor retained the local chiefs and the society exercised land and other property right. While in those provinces where there were battles new rulers from northern appointed and land was divided for those soldiers who massacred the people who refused to surrender peacefully. Wolaita was one of the kingdoms which refused to surrender in peace way that led to the bloodiest war in that time. Due to the strong and long lasted war the Menelik force used unbalanced war against Wolaita people and finally the war concluded with the victory of Menelik force that led to revenge Wolaita people in which the Menelik force dismantled the structures of

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<sup>41</sup> Shimelis Adane; Determining the scope of access right to rural land in light of FDRE Constitution

<sup>42</sup> FDRE Constitution, 1995, Preamble

Wolaita Kingdom and restructured the political system that centered Addis Ababa rather than the then capital of Wolaita nation. After that the Menelik Empire misappropriated and pillaged the lands of Wolaytans they settled in natively for their agricultural products. In this regard the communal and customary land tenure system avoided and the land was expropriated and distributed for the military of the Empire. After Menelik –Wolaita war Wolaita was oppressed the most and suffered due to the total denial to access rural land and the fruits of their labour entirely and then Wolaita people became tenants in its own original land.<sup>43</sup> The land tenure of that time was proved to be an unjust and harshly exploitative system, which privileged some and deprived others. Incorporation and the politically-imposed tenure system resulted in the emergence of dominant-subordinate relationships of actors between the privileged northern landowning and political elites, assisted by the coopted local chief's balabat and the marginalized people of the southern territories<sup>44</sup>. The second mechanism was a denial of the fruits of the labour of the society. Though the society was entitled to access rural land rights, they were denied the products of their labour. The lion share of their products was taken away by the state in the form of tax, tributes and tithe. In these two ways, the then regime had used access to rural land as a mechanism of political suppression of the society in which most the society denied the right to access rural land<sup>45</sup>.

After all these things happened emperor Hailesilassie took major land reforms in 1950's in order to ensure the access to land for subjects'. To press the land reform the regime engaged in the codification of its penal and private laws, a process which gave ample opportunity for the enactment of land reform measures in order to have legal base for the land rights in the country<sup>46</sup>.

Then after the aborted coup d'état for some extent changed the political context for land reform in Ethiopia, in December 1960. Gerame Neway the then governor of Wolaita and the leader of coup d'état had taken some reformed measurement in which Gerame distributed undeveloped land to the landless local peasants. The central issue of policy

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<sup>43</sup> Adane Ayza :Gabbar sirat be Wolayta pp. 104 -109 ,2015

<sup>44</sup> Abera Yemane-ab, All-Ethiopia Socialist Movement: Land to the Tiller: Unrealized Agenda of the Revolution

<sup>45</sup> Professor Bahru Zewde, 1991, pp. 13–14

<sup>46</sup> Harrison C. Dunning: LAND REFORM IN ETHIOPIA: A CASE STUDY IN NON-DEVELOPMENT Rev, 1970-1971 ,277

documents at the time of coup was placed great emphasis on Ethiopia's lack of progress in economic development, education and living standards; however, even if the land reform was not the issue of coup d'état, the regime did begin study of a number of reform measures including land reform. This post-coup effort to study the possibilities for the land reform first manifested itself in 1961 within the Ministry of National Community development<sup>47</sup>.

One important problem tackled by this committee was that of agricultural tenancy, which is treated by the Civil Code of 1960 as a simple contractual relationship. The Code's assumption glides directly in the face of the agrarian realities of southern Ethiopia, where tenants frequently occupy a position little better than that of serfs. Several measures of agricultural tenancy reform were proposed by the committee. Its draft proclamation would first have amended the Civil Code to limit the maximum share payable by a tenant as rent to between twenty-five per cent and fifty percent, depending on the inputs provided by the owner. Second, it would have prohibited personal services performed by tenants for their landlords. Third, it would have assured the agricultural tenant a minimum term of four years. These proposals were extraordinarily insignificant. The Civil Code, inexplicably, permits a maximum share rent of seventy-five percent, even though customary maximums apparently never exceed fifty per cent. Thus the reform of the draft proclamation was simply to bring the legal maximums in line with the customary ones<sup>48</sup>.

Another result of the establishment of the Land Reform Committee was a report by two United Nations Food and Agriculture Organization experts, Mr. J.C.D. Lawrence and Dr. H.S. Mann, on means of implementing certain land reform policy objectives. This report took as a starting point for the land reform objectives laid down by the Second Five Year Development Plan, promulgated in 1962, which was far more precise on the subject of land policy than the first plan had been. The second plan stated that the government would work for the achievement of four goals: (1) Improvement of landlord-tenant relations, (2) Progressive taxation, (3) Abolition of out-of-date holdings and (4) Cadastral surveys and land registration<sup>49</sup>.

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<sup>47</sup> Ibid 280

<sup>48</sup> Ibid 281

<sup>49</sup> Ibid

However none of the goal was achieved and that failure at the national level to make significant progress on land reform has influenced other programs in which land reform might play an important part<sup>50</sup>. The main reason of land reform failure of Hailesilassie regime was that the Shewan ascendancy and soldiers of Emperor Menelik occupied abundant lands that was given during Emperor Menelik was under their control and in that Hailesilassie couldn't retake that lands and the power to administer that land from nobility whose ascendancy came from Shoa. In addition to this the newly formed structure Ministry of Land Reform and Administration was unable to gain control of the granting of land process in Ethiopia, but in practice institution that was the legacy of Menelik Ministry of Interior and in many cases the governors of the provinces and districts seem to have had effective control of the land grant process<sup>51</sup>.

Overall, the failure of the regime to provide meaningful land tenure reforms that improved the conditions and land tenure security of the peasants and pastoralists led to popular protest against the regime. The Tigray, Gojjam and Bale Peasants Rebellions, the 1960 aborted coup d'état with the absence of agrarian reform among its causes, and the students protests of 1960 and onwards under the slogan of "Land to Tiller," were the implications of how much the land tenure insecurity of peasants and pastoralists was perpetuated<sup>52</sup>. Finally the absence of a fundamental land tenure reform to secure access to rural land to agrarian society in the imperial–feudalist regime had forced political change calling for land to the tiller because of the frustration due to the prevalence of dramatic inequality of land distribution and exploitation by few<sup>53</sup>.

### **2.2.2 The Access to Rural Land in Dergue Regime**

In 1974 the military junta socialist Dergue regime had overthrown the last Emperor of imperial–feudalist regime, Emperor Haile Selassie I, in a creeping coup d'état. Following assumption of power, the socialist Dergue regime had fundamentally altered overall policy

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<sup>50</sup> Ibid 287

<sup>51</sup> Ibid 290

<sup>52</sup> Bhawana Baniya, Sudeep Kuikel, Roshan Saud, Rabina Twayana: Land tenure system in Ethiopia: Issues, challenges and opportunities

<sup>53</sup> Brightman Gebremichael Ganta: Access to Rural Land Rights in the Post-1991 Ethiopia: Unconstitutional Policy Shift pp. 9

direction of the country basically the issue of land and the access to land based on radical communist ideology<sup>54</sup>. The military socialist Dergue regime, that came to power in the political struggle against the political suppression of the imperial–feudalist regime, had also in paradox to the cause that brought it to power used access to rural land as a political weapon to suppress political oppositions. Like the previous regime, it denied the agrarian society from being the owner and beneficiary of the fruits of its labour. Through the means of grain acquisition, price fixing and demanding contributions for different social and political tasks, it had weakened the economic freedom of the society for the aim of political relinquishing or concession<sup>55</sup>. Besides, the PA's power to deny and deprive one's access to land for the sake of redistribution also paved the way for the state to suppress the agrarian society<sup>56</sup>.

The 1975 land reform by the Dergue has been considered by many as a radical measure that has abolished tenant - landlord relationships in Ethiopia. The reform was designed to alter fundamentally the then agrarian relations and make those working the land the owners; increase agricultural production; create employment; distribute land and increase rural income; and provide a basis for agricultural expansion. The provisions of the proclamation (No. 31/ 1975) include: public ownership of all rural lands; distribution of private land to the tiller; prohibitions on transfer-of-use rights by sale, exchange, succession, mortgage or lease, except upon death and only then to a wife, husband or children of the deceased; and in the case of communal lands, possession rights over the land for those working the land at the time of the reform. The power of administering land was vested in the Ministry of Land Reform and Administration (MLRA) through Peasant Associations at the grassroots level. The law provided 10 ha of land as the maximum a family can possess. No able adult person was allowed to use hired labour to cultivate their holdings<sup>57</sup>.

Since the 1975 land reform, the right to own land is vested in the state. Farmers access land through state-mandated peasant associations. Farmers have open ended usufruct rights (the

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<sup>54</sup> Ibid

<sup>55</sup> Pause Wang, 1983, p. 26

<sup>56</sup> Proclamation No. 31/1975, Articles 23 and 26

<sup>57</sup> Current land policy issues in Ethiopia - B. Nega, B. Adenew and S. GebreSellasie Ethiopian Economic Policy Research Institute, Addis Ababa, Ethiopia PP 3



right to use another's property) to land in peasant associations where they reside, but subject to proof of permanent physical residence, and ability to farm continuously and meet administrative dues and obligations. These use rights are inheritable. The common practice was to allocate land according to the number of household members. Other factors such as quality of land, size of family workforce and ownership of farm assets, which have substantial influence on ability to use land, are not given as much prominence as family size. Hence, there are farmers who hold equal size of land per household, but with significant variation in factor intensity, such as land per adult labour, land per oxen and land per working capital. As new claimants for land arise, these associations have continuously to meet the new demands for land. However, their ability to meet the growing demand for land, especially their capacity to balance other factors at farm level, has been limited<sup>58</sup>.

The Dergue regime came to power in 1975 under the slogan “Land to The Tiller” paradoxically dissatisfied the slogan and ended up in owning the land itself (state ownership) rather than giving it to the people. The Dergue announced its Land Reform program. The government nationalized rural land without compensation, abolishes tenancy, forbade the hiring of wage labor on private farms, ordered all commercial farms to remain under state control and granted each peasant family so called “possessing rights” to a plot of land not to exceed ten hectares. The Ethiopian Church lost all its land, and its clergy and lay people had to rely on stipends from the Dergue to live<sup>59</sup>.

During this period land was used basically as a significant political instrument for struggle against exploitative imperial regime. It was more propagated when Dergue used slogan land to the tiller as a political manifesto. In fact, this policy was applauded first by majority of farmers because this slogan promised to end the previous exploitative feudalism land owning system to allow farmers to own the land they were working. It seems a time the question of rural land get an adequate answer<sup>60</sup>. Actually it was radical land reform considering the difference in agrarian relations that had existed in the North and South prior

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<sup>58</sup> Current land policy issues in Ethiopia - B. Nega, B. Adenew and S. Gebre Sellasie Ethiopian Economic Policy Research Institute, Addis Ababa, Ethiopia PP 3

<sup>59</sup> Bhawana Baniya, Sudeep Kuikel, Roshan Saud, Rabina Twayana : Land tenure system in Ethiopia: Issues, challenges and opportunities pp. 4

<sup>60</sup> Teshome Chala: Analysis of politics in the land tenure system: Experience of successive Ethiopian regimes since 1930 pp. 114

to the reform, given that land distribution in the rist system was relatively more egalitarian for tenant cultivators (and landlords) in the South than for rist rights holders in the North<sup>61</sup>. In addition, the reform was the first uniform tenure system imposed upon Ethiopia as a whole with the purpose of abolishing feudal system in order to release human labor suppressed within such system for industry<sup>62</sup>.

The Dergue declared that land would be owned by the people. However, on March 4, 1975, the Dergue declared public/state ownership of all rural land<sup>63</sup>. In March 1975, a radical Land Reform Bill (LRB) was proclaimed in Ethiopia by a group of young military officers, NCOs and enlisted men (the 120-member Coordinating Committee of the Armed Forces, known as DERG) who had taken over state power on 12 September 1974 at the head of the popular movement of the February (1974) Revolution which overthrew a 2,000-year-old monarchy.

The basic provisions of the Bill were as follows:

- ✓ It abolished private property in rural land without compensation;
- ✓ The sale, mortgaging, lease or exchange of land was prohibited to prevent the reproduction of class relations based on property;
- ✓ It abolished all exploitation in agriculture (landlord-tenant relationships, wage-labour except for state farms and disabled persons) and money lending;
- ✓ It abolished all land-based litigations in the judicial system (40 per cent of all court cases) and set up separate mass-based tribunals under the peasant associations with only one court of appeal as opposed to more than half a dozen during the monarchy;
- ✓ Every working person was promised up to 10 hectares of arable land and the principle of equal distribution of land was proclaimed as well as the abolition of gender discrimination in land rights;
- ✓ It abolished the peasantry's debt to money-lenders, landlords, etc.

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<sup>61</sup> Ibid

<sup>62</sup> Ibid

<sup>63</sup> Proclamation 31/1975

- ✓ It nationalized all large-scale capitalist farms and their machinery; about a third of them were distributed to evicted tenants and other landless groups<sup>64</sup>.

It also declared the formation of producer and other cooperatives among the peasantry and allowed the formation of peasant associations (PAs) at local and regional levels from which landlords and other exploiting elements were barred from joining for at least a year. PAs were to be popular bodies for the implementation of the bill. Until PAs were set up and undertook land redistribution, every former tenant was to retain right of possession over land he or she tilled. Right to retain agricultural implements and a pair of oxen belonging to the landlord (the latter to be paid for over a three year period) was also guaranteed<sup>65</sup>.

The PA Consolidation Bill (December 1975) defined their functions as securing and safeguarding the political, economic and social rights of the peasantry, exercising self-rule, enabling the peasantry to participate in the struggle against feudalism and imperialism and for socialism: and creating organizations among the peasantry (women's associations, militia, units of production, consumption).<sup>66</sup>

The main reasons for the nationalization of rural land from the previous owners/holders and their transfers to state ownership are envisaged in the preamble of the proclamation as follows: Whereas, in countries like Ethiopia a person's right, honor, status, and standard of living is determined by his relation to land; that several thousand gashas of land was grabbed by insignificant number of feudal lords while the masses live under serfdom; that it is necessary to change the past injustices and lay a base upon which Ethiopians may live in equality, freedom and fraternity; that development could be achieved through the abolition of exploitation of many by the few; In order to increase productivity by making the tiller the owner of the fruits of his labour; to provide work for all rural people; it becomes necessary to distribute land and increase rural income and thereby laying the basis for the expansion of industry<sup>67</sup>.

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<sup>64</sup> Dawit Bekele: Peasant Associations and Agrarian Reform in Ethiopia PP. 60

<sup>65</sup> Ibid

<sup>66</sup> Ibid

<sup>67</sup> Preamble of the proclamation 31/1975

The proclamation ban usufruct rights of farmers including sale, mortgage, lease, and donation but with limited conditions. For instance, the plot size per family was restricted to a maximum of 10 hectares, and the use of hired agricultural labor was completely prohibited<sup>68</sup>. The positive contribution of the Dergue land tenure system was that it eliminated the landlord-tenant relations and the political as well as economic power of the land owning class. However, state monopoly of land ownership remained as it was and farmers provided only right to use with limited conditions. Even use rights were not allowed permanently; as they could not be sold, exchanged, mortgaged and even not leased except in particular circumstances<sup>69</sup>. Since the reform was restrictive in different ways, it affects democratic rights of citizens' property transferability given that in democratic state citizens have right to handover their property<sup>70</sup>.

Designed land proclamation itself was not clearly address land related questions. It did not adequately address capable government body responsible for administrating land issues. This facts on the other side, paves the way for arbitrary decision making by high-handed land administration of local authorities and political cadres. On the other side, like Imperial regime, Dergue also employed access to land as a mechanism of reward to those supports the regime and this led into arbitrary administration, corruption and favoritism at the local level. This in turn, created complaints among rural peasants concerning access to land, aside from the absolute shortage of land and unfairness during land distribution. Even though State effectively abolished of previous institutions land tenure systems, it took over the control to distribute access to land through state machinery called Peasant Associations<sup>71</sup>.

In the first place Peasant Association was established in order to promote local democracy, justice, and peasants rights. However, in a process membership in Peasant Associations was established as the central element of the state's rural bureaucracy and became mandatory for all farmers. The leadership of the Peasant Associations was entitled to expropriate land from the landholders and distribute it equally among its members, which made the collectivity of

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<sup>68</sup> Proclamation 1975, Article 5

<sup>69</sup> Ibid

<sup>70</sup> Teshome Chala: Analysis of politics in the land tenure system: Experience of successive Ethiopian regimes since 1930 pp. 114

<sup>71</sup> Ibid

the members of the Peasant Association proprietors/managers of the land. Interestingly, during distribution process many authorities were involved in the decision making including Woreda administration, Woreda peasant association, kebele administration, political cadres, and Woreda villagization task force. So, state used the Peasant Association as instruments of control rather than allowing them to develop and promote self-administration. Unfair division of land was also sustained due to the fact that peasant association officials favored their friends and relatives and those who gave them bribes with more or better quality land. The early achievement of land reform carried out by Dergue did not last long. It restricts the peasant independence in decision making and free choices about their lands and productions. Dergue replaced domination of land lord with peasant domination in order to build Socialist state and institutions. So, the combination of above mentioned problems in general and a land tenure issue particularly during this period was recognized as one cause of Ethiopia's overall development problems during Dergue regime in that the access to rural land policy and legal measurement failed finally<sup>72</sup>.

Dergue declared proclamation no. 31/1975 which nationalized all lands including rural land. It officially banned private ownership of land. It outlawed the then prevalent tenant-lord relations. The proclamation entitled any person to access rural land subject to conditions. By so doing, it marked the radical shift in the land tenure system from diverse to single and unified source, from discriminatory and exploitive conditions to uniformly applicable one and from custom and private oriented system to State controlled one<sup>73</sup>.

The post 1991 state of Ethiopia that had come into power in military struggle again challenging the act of the Dergue regime for using access to land as a political weapon for societal control and identified while manipulating the rural access to land for election. It used in its electoral campaign the promise of access to rural land for landless and at the same time threatening deprivation of the same to those who go for electing oppositions<sup>74</sup>. However, this was against the constitutional protection and rights of 'free access to rural and for all needy. Unlike the two previous regimes, the post-1991 political regime that

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<sup>72</sup> Ibid

<sup>73</sup> Shimelis Adane: Determining the scope of access right to rural land in light of FDRE Constitution pp 19

<sup>74</sup> Desalegn Rahmato, 2004, p.16

fundamentally adopted the free market principle of the economy had immensely engaged in the attraction of investments. One of the attraction elements it had involved in was making the land accessible to investors assuming it as a development opportunity and generating revenue, creating job opportunity, ensuring food security and resulting in the transfer of technology. As a principle, it is true that state can use access to land rights as a means of generating revenue for itself and enhancing the development of the country. Nevertheless, it must be made in observance of the Constitution that enacted to address the historical injustice in relation to access to rural land rights<sup>75</sup>.

Securing access to rural land help communities to manage their land more sustainably, to access credit, diversify activities and invest. It can boost farmers' productivity by 60 percent and more than double family income. This is a key strategy to increase global food production as the population continues to grow. Securing land rights for young people can create pathways for youth to participate in rural economies; with increased access and control over productive landholdings, rural youth are more inclined to engage in farming and less likely to move out of rural areas. Land is a limited and valued commodity which youth are often expected to access through adults, or wait for until they themselves are adults. It is a resource base for basic human rights such as food, shelter and prosperity. Land has more than a material or utilitarian aspect for youth. For many, their relationship with land is intertwined with their pursuit of identity, community and cultural expression. Socio-cultural meaning of land varies across the diverse categories of youth. It has a different meaning depending if you are a young man or woman; if it is customary or indigenous land it is imbued with sacred or cultural dimensions and land means fundamentally different things to the young farmer, pastoralist or urban dweller<sup>76</sup>.

### **2.3 The Significance of Access to Rural Lands for Youths**

Access to rural land rights play multi-faceted role for the overall wellbeing of the society and for the state's political legitimacy and suppression of the society. Its multi-dimensional role for both the agrarian society and the state well defines even the relation between the

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<sup>75</sup> Brightman Gebremichael Ganta: Access to Rural Land Rights in the Post-1991 Ethiopia: Unconstitutional Policy Shift

<sup>76</sup> Global Land Tool Network : Securing land and property rights for all

state and the society, because its roles towards the society depend upon the extent to which the state ensured and observed the society's access to land. Otherwise, the state's employment of access to rural land rights for its own benefit and interest of political legitimacy and suppression of society results in all in all destitution of the society. Its significance can be appreciated in multiple dimensions and perspective. From the viewpoint of the society, access to rural land rights defines their economic, social, cultural and political position<sup>77</sup>.

**The economic Significance:** the economic well-being and eradication of poverty for agrarian community depend upon having secured access to rural land. Because for those parts of society, land is livelihood from which they derive the necessary food, income and shelter to sustain their decent living. Moreover, it is a means of accruing of capital and bequeathing it to the coming generation. It is also fundamental for the realization of some economic human rights. For instance, for such society, the realization of the right to food, the right to housing and the right to work and subsistence depends on the secured access to land<sup>78</sup>.

That is why they have demanded States to 'protect the assets that are important for people's livelihoods' access to land in our case, and to conduct policy and legal reforms 'consistent with their human rights obligations and in accordance with the rule of law'<sup>79</sup>.

**Social significance:** In an agrarian society, a person's social status and position in the community depend on his/her access to land, because having secure access to rural land rights is a source of pride and self-esteem, and even it is sometimes regarded as a defining element of humanness.<sup>80</sup>

**The cultural significance:** the right to culture, among others, guarantees the freedom to 'follow a way of life associated with the use of cultural goods and resources such as land. From the perspective of political empowerment too, secured access to rural land rights plays

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<sup>77</sup> Brightman Gebremichael Ganta: Access to Rural Land Rights in the Post-1991 Ethiopia: Unconstitutional Policy Shift, *Journal of Land and Rural Studies* 7(1),2019

<sup>78</sup> ICESCR, 1966, Article 6; ICCPR, 1966, Article 1(2)

<sup>79</sup> Brightman Gebremichael Ganta: Access to Rural Land Rights in the Post-1991 Ethiopia: Unconstitutional Policy Shift, *Journal of Land and Rural Studies* 7(1),2019

<sup>80</sup> *ibid*

a key role, because it empowers the agrarian society, giving them the power to speak loudly and creating a foundation for democratic and participatory local government. Accordingly, the assurance of secured access to rural land rights for agrarian society is a way to realize their economic freedom, as for them land is a means of living<sup>81</sup>. Once a livelihood is secured, then the society tends to demand political freedom that secures their empowerment and participation in the decision-making on matters affecting their interest<sup>82</sup>. Thus from the angle of cultural human rights access to rural land determines the satisfaction of the right to culture of the agrarian society.

**Political significance:** Another viewpoint is politically it is perceived as a means of suppression and oppression, the state can use access to land to maintain its political power and control over the society. That is the assumption that the denial of the economic freedom of the agrarian society weakens their resistance and rebel against the state<sup>83</sup>. This tactic of the state has been used throughout the different political regimes of the country. The society that secured the access of rural land perpetually has the potential to bargain with the government. Thus the political significance of access to land for society is highly relevant to stop the governmental suppression that the government can do to oppress the society.

## **2.4Market and human rights based approaches towards the Access to Rural Land in Ethiopia**

The political and financial difficulties with land redistribution have led to renewed interest in finding other ways to make land accessible to poor farmers. Land transactions, whether through sales and share tenancies, loans or gifts have long provided a mechanism for providing access to land those who seek it and thereby for enhancing land utilization<sup>84</sup>.

Secure access to productive land is critical to the millions of poor people living in rural areas and depending on agriculture, livestock or forests for their livelihood. It reduces their vulnerability to hunger and poverty; influences their capacity to invest in their productive activities and in the sustainable management of their resources; enhances their prospects for

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<sup>81</sup> Brightman Gebremichael Ganta: Access to Rural Land Rights in the Post-1991 Ethiopia: Unconstitutional Policy Shift, *Journal of Land and Rural Studies* 7(1),2019

<sup>82</sup> *ibid*

<sup>83</sup> *ibid*

<sup>84</sup> Lorenzo Cotulla, Camilla Toulmin and Julian Quan: Better land access for the rural poor pp.23-24



better livelihoods; and helps them develop more equitable relations with the rest of their society, thus contributing to justice, peace and sustainable development.

Land issues affect the everyday choices and prospects of poor rural women and men. Land access and tenure security influence decisions on the nature of crops grown – whether for subsistence or commercial purposes. They influence the extent to which farmers are prepared to invest in improvements in production, sustainable management, and adoption of new technologies and promising innovations. Success of future endeavors to promote new agricultural technologies for climate change mitigation and/or adaptation will be predicated by the security of tenure. Land also acts as collateral and thereby influences people's access to financial services and their capacity to take advantage of markets<sup>85</sup>.

The other concern is related to human rights approach. The human rights approach considers access to land as an essentially human rights issue. Land is not a mere commodity, but an essential element for the realization of many human rights<sup>86</sup>. Human dignity is the basic and generally agreed-upon justification for the protection of human rights. Now, we have well-established civil, political, economic, social and cultural rights as well as other emerging rights such as the right to development. These rights are generally understood as natural, universal, interrelated and interdependent<sup>87</sup>. Human rights instruments also impose different obligations on states and non-state actors, with states being the primary duty bearers. One of the factors affecting the realization of fundamental rights is access to land. Without land, these rights are meaningless to many people for whom 'land rights and their protection are central to life'. Undoubtedly human dignity is at the center of the struggle for the full realization of fundamental human rights. Access to land is crucial for the enjoyment of many of the human rights recognized in universal, regional and national instruments. Despite some efforts, access to land has not been formulated as a human right. While the essentiality of ensuring this access can be recognized, it is an unfortunate reality that many people

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<sup>85</sup> Improving access to land and tenure security :IFAD Policy pp.5

<sup>86</sup> Demelash Shiferaw Reta (PhD) : A Human Rights Approach to Access to Land and Land Dispossession: An Examination of Ethiopian Laws and Practices, *African Journal of Legal Studies* 9 (2016) pp.103

<sup>87</sup> Ibid 102

worldwide do not have this access or else they are landless. Thus, clearly land rights or access to land is crucial for the realization of human rights and leading a dignified life<sup>88</sup>.

The condition of landlessness threatens the enjoyment of a number of fundamental human rights. Access to land is important for development and poverty reduction, but also often necessary for access to numerous economic, social and cultural rights, and as a gateway for many civil and political rights. Land is a cross-cutting issue, and is not simply a resource for one human right in the international legal framework. And yet, while rights have been established in the international legal framework that relate to land access for particular groups (e.g. indigenous people and, to a more limited extent, women), numerous rights are affected by access to land (e.g., housing, food, water, work), and general principles in international law provide protections that relate to access to land (e.g., equality and nondiscrimination in ownership and inheritance), an explicit consideration of the legal implications of access to land for a broad range of human rights is necessary<sup>89</sup>. Moreover, access to land affects a broad range of fundamental human rights. In both urban and rural areas, individuals rely on the availability of adequate plots of land for shelter and the availability of resources. In rural areas in particular, the realization of the right to food is intimately tied to the availability of land on which to grow crops. Additional rights, including the right to water, the right to health, the right to work, are all tied to access to land. Identity, particularly for indigenous groups, is also tied to land. In some domestic contexts, recognition of citizenship is also attached to ownership of land, limiting the ability of landless individuals to travel and participate in the political process. Without secure land rights, individuals and communities live under the constant threat of eviction, impacting a range of fundamental human rights<sup>90</sup>.

The realization of economic, social and cultural rights is tied to the accessibility of the land. From an economic perspective, land is a vital source of capital and provides a potential for a higher income, and so it has an impact on economic rights. Secure access to land provides a

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<sup>88</sup> Ibid 101

<sup>89</sup> Elisabeth Wickeri & Anil Kalhan, Land rights issues in international human rights law, Institute for Human Rights and Business [Online]. Available at [https://www.ihrb.org/pdf/Land\\_Rights\\_Issues\\_in\\_International\\_HRL.pdf](https://www.ihrb.org/pdf/Land_Rights_Issues_in_International_HRL.pdf), 2 accessed on November ,2023

<sup>90</sup> Ibid

valuable safety net as a source of shelter, food and income in times of hardship, and a family's land can be the last available resort in the event of disaster<sup>91</sup>. Undoubtedly, 'for rural poor people, access to productive land is an essential prerequisite for the realization of a range of human rights, including access to food, livelihood, and shelter. In rural areas, land is a source of livelihood and a means of satisfaction for many of the economic and social rights, including the rights to: an adequate standard of living, food, housing, health and work. Clearly, the realization of the right to food is intimately tied to the availability of land on which to grow crops<sup>92</sup>.

Tenure security in land or secure usage rights in land, in the form of formal legal, customary or religious rights, can provide more predictability and secure access to fundamental rights, including to food, housing, water, and health. The right to housing and the prohibition against forced evictions, both of which relate to land access, have been defined in numerous international documents, but the right to land, and the broader implications of access to land in the international human rights framework, remains imprecise<sup>93</sup>.

## **2.5 The Access to rural land in Northern and South Ethiopia pre 1974**

In the context of rural land tenure, the North of Ethiopia refers not only to geographical location, but also to the place of privileged socio-economic life, where the nobility and the ruling class of the country associates themselves and belong, and also to the power base of the authorities. In this part of the country, the two land tenure systems revolving around peasants were well known to define land tenure security<sup>94</sup>. These two land tenure systems were the way to access entire land in that region. These were the Rist system that confers usufructuary "land use rights" and the gult system that entails "fief-holding rights". Thus, the determination of the objective land tenure security of peasants here is the outcome of

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<sup>91</sup> Demelash Shiferaw Reta (PhD) : A Human Rights Approach to Access to Land and Land Dispossession: An Examination of Ethiopian Laws and Practices, *African Journal of Legal Studies* 9 (2016) pp.104

<sup>92</sup> *ibid*

<sup>93</sup> Elisabeth Wickeri & Anil Kalhan, Land rights issues in international human rights law, Institute for Human Rights and Business [Online]. Available at [https://www.ihrb.org/pdf/Land\\_Rights\\_Issues\\_in\\_International\\_HRL.pdf](https://www.ihrb.org/pdf/Land_Rights_Issues_in_International_HRL.pdf), 2.

<sup>94</sup> Brightman Gebremichael Ganta: The post-1991 rural land tenure system in Ethiopia: Scrutinizing the legislative frameworks in view of land tenure security of peasants and pastoralists pp.63

these two<sup>95</sup>. Thus the ways to access rural land in the Northern Ethiopia were Rist and Gult system. In most of the northern Ethiopia, the dominant tenure arrangement before the land reform of 1975 was a communal form called the Rist system. Rist has several different layers of meaning. Its most basic sense is one of a general right to inherit the patrimony of one's parent's birth rights<sup>96</sup>. The Rist tenure system was a form of corporate landholding based on descent that granted usufruct rights – the right to appropriate the return from the land. It was a right with which a holder could claim a portion of land from his or her ancestors who had originally held the land. Under this system, individuals' rights over Rist landholding were decided essentially on the basis of his/her membership to a village community, and by virtue of their blood ties to the “founding fathers”. Access to Rist land rights was also tied to other conditions. Besides establishing the bloodline, a person was expected to be a follower of the then dominant religion of Christianity – Ethiopian Orthodoxy. As disadvantaged and discriminated groups in the north, the followers of other religions, especially Islam, Bete-Israel “House of Israel” and artisans did not have access to it. Otherwise, it was assumed that it recognized the principle of equality of descendants regardless of sex<sup>97</sup>.

In the Rist system, land is commonly owned by members of a lineage that are supposed to be descendants of the first settler or occupier of the land or the area. Although most peasants with Rist rights are not tenants, there were evidences of tenancy in the northern part of Ethiopia which otherwise is the typical land tenure system of the southern part of Ethiopia during the late 19th century and 20th century<sup>98</sup>.

Rist rights, in contrast to gult rights, were land-use rights. In principle, they were hereditary and could be held by lords and peasants alike. Rist rights were land use rights claimed by a member of a kin from members of his/her generations of same ancestor. As stated, a single estate of gult land, comprising a few square miles, included within its boundaries strip fields, held as Rist by scores or even hundreds of farmers. The gult holder might also hold some

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<sup>95</sup> Ibid pp. 63

<sup>96</sup> Bereket Kebede, Land Tenure and Common Pool in Rural Ethiopia: A Study Bases in Fifteen Sites (2002) pp.9

<sup>97</sup> Ibid p 64

<sup>98</sup> Ibid 9

fields as Rist within his estate of gult land<sup>99</sup>. In the Rist system, land is ‘communally’ owned by members of a lineage that are supposed to be off springs of the original settler of an area.

In other words, in the Rist system, land is commonly owned by members of a lineage that are supposed to be descendants of the first settler or occupier of the land or the area. Although most peasants with Rist rights are not tenants, there were evidences of tenancy in the northern part of Ethiopia which otherwise is the typical land tenure system of the southern part of Ethiopia during the late 19th century and 20th century<sup>100</sup>.

Another and more genuinely communal land use pattern found in the north was the village or diessa tenure, in which land was redistributed to family heads every 5-7 years, with lots being drawn in each of three fertility grades<sup>101</sup>. Any individual that can prove his/her descent from the original settlers has Rist right. Since the original settlers in many cases are dead from one to two hundred years ago the number of people with Rist rights generally is very large. The number particularly is high because rights to Rist land can be claimed through any combination of male and female ancestor’s.<sup>102</sup>

The South was marginalized society in the process of the formation of the modern state Ethiopia in the reign of Emperor Menelik II. The southerners were politically marginalized in two ways. First, since they were followers of Islam or traditional religion and not Christianity; they had no political authority in a Christianized state. Second, their pastoralist lifestyle and their being a non-sedentary, non-ploughing society, caused them to be considered “uncivilized”. Due to these factors, they were given peripheral status in the socio-political dynamics of the time. Moreover, they were not absorbed into the northern socio-economic order.<sup>103</sup>

Historically, the people of the southern part of the country had interacted with the highland kingdoms for long. In addition to long-distance trade, conquest of the south by stronger

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<sup>99</sup> Ibid

<sup>100</sup> Solomon Desalegn Dibaba :Ethiopia history of land tenure and the present land governance: The case of Oromia region p 34

<sup>101</sup> Ibid

<sup>102</sup> Bereket Kebede: Land Tenure and Common Pool Resources in Rural Ethiopia: p 119

<sup>103</sup> Brightman Gebremichael Ganta:The Post-1991 Rural Land tenure system in Ethiopia: Scrutinizing the legislative framework in view of land tenure security of peasants and pastoralists 71

states of the highland north and invasions of the north by southern armies had existed at different periods of time. The massive migration and occupation of the north by the Oromo people from the south in the fifteenth and sixteenth centuries was an important development. But most of the southern parts of the country were incorporated into the ‘modern’ Ethiopian state by the end of the nineteenth century during Emperor Menelik’s regime<sup>104</sup>.

Before the incorporation of the south into the Ethiopian Kingdom, there were well-organized Oromo kingdoms in the Gibe river basin. Centralized kingdoms in Wolaita, Jimma, Kembata and other places were flourishing from the control of long-distance trade<sup>105</sup>. Similar to the diversity in the forms of state structure, the land tenure system before the incorporation into the Ethiopian kingdom also seems diverse<sup>106</sup>

In places where the native chiefs peacefully submitted and accepted the dominance of the Ethiopian empire, the people were allowed to keep their lands intact. All the confiscated land was distributed to the Ethiopian Orthodox Church, to the emperor’s soldiers as a reward for their service in the expansion process, to local chiefs to maintain their support, and to the state itself<sup>107</sup>. Moreover, to create effective control over newly conquered territories, northern people were encouraged to settle in the south. As a result, almost the entire native population, which formerly cultivated land on a community and clan base, was left landless gabbars<sup>108</sup>. The northern socio economic order was introduced, and they became servants and tenants to the northern peoples up until the 1974 Ethiopian Revolution.

Holders of such rights, such as the powerful officials and loyalists of the Crown, had the privilege to transfer the land through sale, mortgage or exchange, subject to payment of a land tax. This status quo, in turn, resulted in the emergence of dominant-subordinate relationships of actors, and social stratification, with the privileged northern landowning and

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<sup>104</sup> Bereket Kebede : Land Tenure and Common Pool Resources in Rural Ethiopia: A Study Based on Fifteen Sites pp. 123

<sup>105</sup> Ibid

<sup>106</sup> Ibid 124

<sup>107</sup> Ambaye Land Rights (n 42) pp. 44-45; Weldegebriel (n 31) p 3.

<sup>108</sup> Brightman Gebremichael Ganta: The Post-1991 Rural Land tenure system in Ethiopia: Scrutinizing the legislative framework in view of land tenure security of peasants and pastoralists pp. 71

political elites, assisted by the co-opted local governor or balabat dominating the people of the southern territories, who were marginalized to a large degree<sup>109</sup>.

Further, it created a high rate of tenancy, with land access for locals contingent on landlord-tenant agreements, characterized by great inequality. The local population's land tenure system became tenancy and their status was reduced from being peasants to being tenants and servants to the northern absentee landlords<sup>110</sup>. It was in other words not freehold, but the tenancy land tenure system that defined the southern peasants' land tenure. Thus, the evaluation of their legal land tenure security can be done by looking into the terms of the landlord-tenant agreements<sup>111</sup>. The terms of the landlord-tenant and servant agreement were not set by their mutual negotiation. Rather the tenant/servant was bound to the exploitive terms of the landlord and assumed indenture servant status to access land. The tenants and servants were uncertain about the duration of their land use. It was up to the whim of the landlords to determine their use or their eviction. The tenants were not even given a long-term lease, which would provide security for investment on land<sup>112</sup>.

Moreover, the tenant's access and use of rural land were conditioned with onerous burdens and duties. They were required to cover the total cost of cultivation and expected to pay for the use of land and tributes for agricultural products to the government in kind. There was no legal limit on the amount they were expected to give the landlord. It ranged from 35 to 55 percent of the total product. Moreover, as a tribute, they were duty bound to pay tithe to the government. They remained only with 25 percent of the total product and 75 percent was relinquished to the landlord and the government<sup>113</sup>.

Besides, the conditions of the tenants were worsened by the added burden imposed on them in the form of compulsory labour. They were forced to serve the northern settlers through cultivating their land, building houses and so on, for free<sup>114</sup>. It in effect implied the

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<sup>109</sup> Ibid PP 72

<sup>110</sup> Ambaye Land Rights (n 42) p 46. Tenancy was also to some extent prevailed in the North, but it did not affect the majority and applied on the disadvantaged and discriminated groups of the North.

<sup>111</sup> Ibid pp. 72

<sup>112</sup> Brightman Gebremichael GANTA: The Post-1991 Rural Land tenure system in Ethiopia: Scrutinizing the legislative framework in view of land tenure security of peasants and pastoralists .pp. 72

<sup>113</sup> Ibid

<sup>114</sup> Ibid 73

introduction of a limited form of slavery to the southern local people. Accordingly, they were not only deprived of their customary land rights prevailing before the annexation, but also of their labour and the humanity that they were born with. However, through the enactment of the 1960 Civil Code some reforms on the tenancy arrangements were introduced to improve the conditions of the tenants<sup>115</sup>.

The gult system was also introduced to the South through Menelik's conquest. However, unlike in the north, where gult rights were reserved for the imperial family and provincial nobles, in the south, it extended to civil and military officials and supporters of the state. Moreover, unlike in the North, granting of a gult right in the South was aimed at achieving two purposes: payment of compensation for the services the individuals rendered to the state and control of the native peoples in the newly occupied areas<sup>116</sup>.

Professor Bahru Zewde in his book "A history of Modern Ethiopia" stated the situation existing at that time as that only in the Northern provinces did the old communal kinship system of land tenure continue to wage a defensive struggle against the pervasive influence of privatization. In the South, private tenure increasingly became the norm. The process had three facets. Firstly, northern settlers who had acquired tributary rights over southern peasants, the *gebbar*, ended up by owning the land together, through purchase from the distressed *gabbar* or through forcible seizure. Secondly *maderia* land given to those in government service in lieu of salary was made convertible to freehold. Thirdly, and this appears to have been the most prevalent pattern, the government made extensive land grants from its large reserve, which came under the conveniently vague rubric of government land<sup>117</sup>.

As a result, the entire native population, which formerly cultivated land on a community and clan base, was left landless *gabbars*, and they became servants and tenants to the northern people up until the 1974 Ethiopian Revolution. Then, the access to land for locals was contingent on landlord-tenant agreements, characterized by great inequality. For the local

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<sup>115</sup> Ibid

<sup>116</sup> Brightman Gebremichael Ganta: The Post-1991 Rural Land tenure system in Ethiopia: Scrutinizing the legislative framework in view of land tenure security of peasants and pastoralists pp. 73

<sup>117</sup> Bahru Zewde :A history of Modern Ethiopia PP 191



populations, land tenure system became tenancy and their status reduced from peasants to tenants and servants to the northern absentee landlords due to that the access to rural land completely denied<sup>118</sup>.

The ultimate objective of these government grants was evidently to broaden its basis of support. Begun soon after Liberation, the policy reached its peak during the last decade of Haile-Selassie's life, as the regime became more and more desperate for political support in face of mounting opposition. The main beneficiaries of these grants were patriots, exiles, soldiers and civil servants. Subsequently, the policy was given egalitarian and developmental façade by extending it to include landless and unemployed Ethiopians'. But the overall pattern of all land allotment left no doubt as to the target group of the government policy, that is, those who served it in war and in peace<sup>119</sup>.

## **2.6 The main cause behind land reform and the right of access to rural land**

Before looking into these land tenure reforms in light of the legal constructs of land tenure security, it is important to analyze the reasons forwarded for the change, because it helps to understand whether the historical land reform questions were given attention and whether the detailed reforms fit into the justifications mentioned. These justifications mentioned in the preamble of the rural land law were shaped by four basic principles: personal dignity, historical injustice, agricultural development, and egalitarianism<sup>120</sup>.

The personal dignity principle justified land tenure reform in relation to the importance of land for agrarian society. It propounded that in a society like Ethiopia "a person's right, honor, status, and standard of living is determined by his relation to the land. Thus, it provided insurance of that relation by granting land rights for all, or at least the needy whose plight had necessitated the reform. The assumption was that the monarchical-feudalist regime had denied the mass of ordinary peasants' access to land as a means of livelihood

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<sup>118</sup> Brightman Gebremichael Ganta: Access to Rural Land Rights in the Post-1991 Ethiopia: Unconstitutional Policy Shift pp.8

<sup>119</sup> *ibid*

<sup>120</sup> Proc. No.31/1975 the preamble

and that the peasants had, due to this lost their basic rights, honor, status and standard of living and were converted and minimized into serfdom<sup>121</sup>.

This claim of reform was further justified on the principle of rectifying historical injustice. The reform had recognized the historical injustices committed against the peasants by the monarchical-feudalist regime. The reform was justified with the need to overcome the exploitative character of feudal agrarian relations prevailing before<sup>122</sup>.

It is noted that the lion's share of agricultural products of northern peasants and southern tenants was taken away to the landlords and the government in the form of tribute and tithe, and in the South also rent. The peasants and tenants were not the owners of the fruits of their labour - the landlords and the government were. Thus, to deal with this problem the Dergue rural land tenure reform had the objective of abolishing the exploitive system<sup>123</sup>.

“It stated that: “to make the tiller the owner of the fruits of his labour, it is necessary to release the productive forces of the rural economy by liquidating the feudal system under which the nobility, aristocracy and a small number of other persons with adequate means of livelihood have prospered by the toil and sweat of the masses<sup>124</sup>”.

Several systems of land ownership have been developed within the world under the influence of historical, cultural, political and socio economic factor. The type and system of ownership are susceptible to continuous process of flexibility and dynamisms .Hence; there are commonly known types and systems of ownership, such as state ownership, collective and communal ownership and private ownership. In the type of state ownership the land is under the auspices and control of the state, in such ownership the state has the widest right with respect to the land under its control. The second type of ownership the land is owned by a group of individual, the ownership right rests over that group of individual .the third types of ownership in contrast to the others types of ownership, in such instance private

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<sup>121</sup> Ibid

<sup>122</sup> Brightman Gebremichael Ganta: The Post-1991 Rural Land tenure system in Ethiopia: Scrutinizing the legislative framework in view of land tenure security of peasants and pastoralists

<sup>123</sup> Proc. No.31/1975 the preamble

<sup>124</sup>ibid

individual have full and widest rights over the land one hold to the extent of disposing and alienation<sup>125</sup>.

After the over throwing of the imperial régime, the Dergue had managed to made land under the state ownership under the justification of reacting the previous existed dominant feudalistic land tenure system and to abolishing of such system and to made land available for all, specifically to the tiller. Through the enactment and promulgation of the public ownership of rural land proclamation No.31/1975, it banned totally private ownership of rural land. Consequently, it left private individual with respect to land only with usufructuary right which totally diminished the scope of right on such property, the government alone became the sole owner and it made access to rural land narrowed and it were only from the government. In connection of making land under public ownership, the proclamation prohibited different modalities of transferring property rights under art 5 of the proclamation such as sale, mortgage, exchange, succession and another means of transferring holding from one to another. The government was made the only source to access rural land. Hence, a person was not able to access to rural land through sale, exchange, mortgages or leases, succession, donation. Apart from this prohibition, the proclamation had managed to provide an exception that as can be inferred from the last wording of the this provision, upon the death of the holder the wife or husband or minor children of the deceased or if the aforementioned persons not survived, any child of the deceased who attained majority would have the right to hold the land. This exceptional situation was applied between husband or wife and their children; it did not go beyond the first descendants<sup>126</sup>.

Even if the reform was justified on the basis of the principles of personal dignity, historical injustice, agricultural development and egalitarianism, however, a content analysis of this reform also showed different results of legal land tenure security between peasants and pastoralists, and among the northern and southern peasants. For the pastoralists the reinstatement of their customary land rights was a great progress in ensuring their land tenure security. Also, for the southern tenants, the abolition of the feudal system and

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<sup>125</sup> Ibid 20

<sup>126</sup> Ibid 21

nationalizing all rural land without compensation to adopt the public ownership of land, granted them with land rights which they were denied in the monarchical-feudalist regime. That is, in relation to the nature and duration of land rights, the reform put the northern and the southern peasants in the same feet. They were entitled to a perpetual possessory right, defined as bundle of rights approach, with a list of prohibited land rights. The exclusion of the right to lease, mortgage and sell and strong restriction on inheritance narrowed the bundle of rights the northern peasants used to have in the Rist system before, in a modest form. Thus, it was not logical to expect that the northerners would welcome the reform<sup>127</sup>.

Moreover, the prohibition of the use of hired labour, and the introduction of the grain acquisition program that required the peasants to sell their products at a government fixed price denied the peasants from being owners of the fruits of their labour. Above all, the periodic redistribution and conditioning of land rights with the requirement of physical presence in the area where the land was located and membership of the PAs, and the incorporation of unclear expropriation rules that failed to define when the compensation was to be paid to the peasants and pastoralists, had serious negative implications for the assurance of land rights. Furthermore, the outlawing of legal action against the acts of the government in relation to land rights, and the empowerment of the PAs to carry out the judicial function together with their administrative task through the establishment of the tribunals to entertain land disputes, undermined the enforceability of the peasants' and pastoralists' land rights in an independent judiciary. This problem was further intensified by the failure to adopt a genuine registration and certification system of land rights in the reform<sup>128</sup>.

These legal land tenure measures that worsened insecurity and has been considered as simply replacing individual-landlordism with state-landlordism, particularly for the northern peasants, coupled with other social, economic and political reasons led the emergence of various oppositions from insurgent groups in the countryside in order to bring the solution for the long lasted land problem. Because of this, the socialist regime introduced further

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<sup>127</sup>Brightman Gebremichael Ganta: The Post-1991 Rural Land tenure system in Ethiopia: Scrutinizing the legislative framework in view of land tenure security of peasants and pastoralists pp 109

<sup>128</sup> Ibid

rural land tenure reform with the change of the economic system to the mixed economy in 1990 and the adoption of a new Constitution in 1987. With the incorporation of the Bakerian protective function of property in the PDRE Constitution; these further reforms were aimed at liberalizing the nature of land rights like allowing for the use of hired labour, leasing and free inheriting of land, and withdrawal of grain acquisition. Moreover, in relation to the assurance of land rights, it halted periodic land distribution temporarily and guaranteed protection against arbitrary eviction, declaring that the eviction be done only exceptionally and in accordance with law. Unfortunately, the Dergue regime was too late in introducing such further reforms, as the insurgent struggle reached its climax, which brought an end to the regime in the next year, 1991<sup>129</sup>.

Thus, from Feudal Imperial long lasted regimes to the 17 years of Dergue Regime and EPRDF the access to land specifically and land issues in general became unsettled and stand still question except some modifications. Now in this paper the access to rural land of the youth in Southern Ethiopia regional state Wolaita Zone under current land laws and policy will be discussed.

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<sup>129</sup> Ibid

## **CHAPTER THREE**

### **ANALYSING LEGAL AND POLICY FRAMEWORKS TOWARDS THE ACCESS TO LAND FOR YOUTH IN WOLAITA ZONE**

#### **3.1 Recent Ethiopian Land policy Frameworks in guaranteeing Access to Rural Land**

After the Dergue regime was overthrown on the 28th of May 1991, in November 1991, the Transitional Government of Ethiopia published an economic policy statement, which espoused the main principles of a free market economic system. The policy document emphasized a limited economic role for the state and established a basis for liberalization of the economy. Regarding the issue of land ownership rights, the policy document stated that “until the issue is settled by a referendum after the transition period, there will be no changes in the policy of public ownership of rural land” (TGE 1991). It was only in 1994, with the drafting of the new constitution, that it became apparent that the Ethiopian People’s Revolutionary Democratic Front (EPRDF), the ruling party, was in favour of maintaining state ownership<sup>130</sup>. The constitution states as “The right to ownership of rural and urban land, as well as of all natural resources, is exclusively vested in the State and the peoples of Ethiopia. Land is a common property of the Nations, Nationalities and Peoples of Ethiopia and shall not be subject to sale or to other means of exchange<sup>131</sup>”.

##### **3.1.1 The Constitutional Base of Rural Land Policy in Ethiopia**

In Ethiopia, the issue of land ownership is provided for in the constitution. While it is not the practice in most countries to specify issues of land ownership in the constitutional, in Ethiopia, this issue has been made a constitutional matter on account of the special role land plays in the economic and social life of Ethiopian society. Considerable debate has arisen on whether land ownership should be private or government owned. However, this issue should not be taken in isolation of our vision on land use and accessibility. For a full appreciation of

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<sup>130</sup> Kassa Belay ;Question Regarding Land ownership Rights in Ethiopia p 120

<sup>131</sup> FDRE Constitution Art 40(3)

the significance of our land policy, one should take a holistic view to what is provided in the constitution<sup>132</sup>.

The constitution states that land belongs to the people and that the government, particularly regional governments, should administer it on behalf of the people and indicates what role the federal government should assume in this respect. But what is actually meant by a government-administered resource owned by the people? To understand this, it is necessary to consider in some detail the rights that farmers do and do not have over land<sup>133</sup>.

A closer look at the EPRDF's land policy reveals that it is not fundamentally different from that of the Dergue regime. Like the Dergue's land ownership policy, the current land policy states that land is state-owned and cannot be sold or exchanged or mortgaged. One noticeable difference between the two policies is that, in the current system, farmers have not only user rights on the land, but they can also rent it out to other people<sup>134</sup>. According to the official statements of the government, state ownership of land helps prevent: large numbers of farmers from selling, mortgaging or transferring their land and becoming landless; land concentration in the hands of a rich peasantry; and urban and non-indigenous businessmen and elite from buying up rural land, leading to an increase of tenancy, eviction, rural-urban migration and political unrest. In this respect, it is important to note that the current government made the point that although land belongs to the state, the farmer may use it freely forever without any limit in time; he/she can transfer his/her rights on the land to his/her heirs<sup>135</sup>.

The constitution contains a provision whereby any person who is willing to personally cultivate land could be allotted with land. More precisely, it states: "Ethiopian peasants have right to obtain land without payment and the protection against eviction from their possession. The implementation of this provision shall be specified by law<sup>136</sup>.

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<sup>132</sup> Government of the Federal Democratic Republic of Ethiopia Rural Development policy and strategy: Ministry of Finance and Economic Development Economic Policy and Planning Department Addis Ababa, April, 2003 P 23

<sup>133</sup> Ibid

<sup>134</sup> Kassa Belay ;Question Regarding Land ownership Rights in Ethiopia p 121

<sup>135</sup> Ibid p 122

<sup>136</sup> Article 40 sub-article 4 of the FDRE Constitution

The policy is that every Ethiopian who wants to make a livelihood from farming is entitled to have a plot of land free of charge. Furthermore, private investors, who wish to engage in large-scale agricultural activities, have a right of access to land on a long-term lease basis. The government, as a custodian of the land, is responsible for land distribution and has the right to re-distribute existing holdings whenever it needs to do so to ensure access by all who require land as a means of engaging in an agricultural livelihood. It can also utilize land not being used by farmers for various purposes, as it deems necessary. If the government, for whatever reasons, takes land from peasants, it will fully compensate them for the capital and other resources invested on the land. It is in this context that land is referred to, as being government owned in Ethiopia<sup>137</sup>.

Because land is publicly owned, it cannot be sold, exchanged for other property or mortgaged. Farmers do not have the right to sell land. On the other hand, a farmer who has been allocated a plot of land, as a source of his/her livelihood, has the right to use it free of charge and virtually forever. In fact his/her rights may even be bequeathed to heirs. Furthermore, the farmer does not only have user-rights on the land. He/she can rent it out to third persons, may use own or family labor to cultivate it or may hire labor from outside. In this respect, the rights on land are significant and comparable to private ownership. However, these land rights are not absolute. We have already indicated that, when necessary, the government may redistribute land or use it for a public purpose in which case compensation is paid for capital invested and any improvement made on the land<sup>138</sup>.

### **3.1.2 Dispersed policy documents regarding Land Use Policy**

Ethiopia has no comprehensive national land policy though national land use policy and national integrated land use plan are speculated to be underway. As a result of the absence of national land policy, land-related issues are found scattered in several other policies, strategies, development programs, agricultural development projects, plans, and proclamations. Land use policy matters are documented in scattered manner in various

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<sup>137</sup>Government of the federal Democratic Republic of Ethiopia Rural Development policy and strategy: Ministry of Finance and Economic Development Economic Policy and Planning Department Addis Ababa April, 2003 P 24

<sup>138</sup> Ibid



policy documents in current policy frameworks. The following policy documents contained the land issues in their contents rarely. Some of the land tenure and agricultural development policies were developed since 1991. Such as Rural land policy and Ethiopia's agricultural development led industrialization policy (ADLI), Poverty reduction strategy paper in Ethiopia in relation to land policy documents can be mentioned. Unfortunately ADLI missed to include the unresolved issue of land tenure and access to land entirely. In the completion process of the preparation of the poverty reduction strategy paper, consultative meetings were held both by the government and by civil society institutions, and similar results were found regarding poverty in Ethiopia and its possible causes. All the findings from these consultations indicate a significant increase in poverty over the past 5 years and in almost all regions of the country. In terms of increasing rural poverty, one of the most frequently cited reasons was the unavailability of land and the declining fertility of the soil. This is clearly related directly to the existing land policy. Unfortunately, the issue of land policy was not vigorously debated in these consultations as the discussions were deliberately focused on the government's development strategy (ADLI), the Interim Poverty Strategy Paper and the government's five-year development program. Although there was no prohibition in discussing issues outside this framework, a discussion on land policy certainly was not encouraged.<sup>139</sup>

All the land use policies enacted after 1995 give the impression that they are based on the Constitution of the FDRE Article 40 in which only usufruct rights are given to landholders. Directly or indirectly, the existing land tenure impacts all the above-mentioned strategies and has implications for poverty reduction, food/nutrition security, rural development, employment creation, economic growth, agricultural investment, and land administration and use. Access to land has considerable influence on household income and food security, to the extent that small farm sizes appear to be one of the major constraints for farm development and intensification efforts<sup>140</sup>. Despite the above policy measures, land related problems still prevail such as restrictive transfer of land use rights through rent hampers to have vibrant land transactions and access to rural land simply. Growing number of

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<sup>139</sup> B. Nega, B. Adenew and S. Gebre Sellasie : Current land policy issues in Ethiopia - Ethiopian Economic Policy Research Institute, Addis Ababa, Ethiopia pp. 4

<sup>140</sup> Ibid 9

landlessness particularly young peasants/couples, land scarce peasants, pastoralists, women and other disadvantaged groups is other problem faced in contemporary Ethiopia. The rush to large scale agricultural investment land acquisitions following the 2007/8 sharp food price spike and bio fuel demand, national mega projects development in the arid lowland parts of the country, the unprecedented urbanization process, and climatic changes are the major challenges ahead that could affect the land tenure regime of the country in which the access to rural land faces challenges. In conclusion, access to land is an important issue for the majority of Ethiopian people who, one way or the other, depend on agricultural production for their means of livelihoods. Recognition of land tenure rights is therefore continuing to be of heart of the political economy public policy, as they have been at several junctures in Ethiopia's history<sup>141</sup>.

### **3.2 The debate and Criticism on Current Ethiopian land policy**

#### **3.2.1 The Debate on current Ethiopian land policy**

Even though the constitutional provision that securely vested the ownership of land to the state, rural land policy in Ethiopia has remained one source of disagreement and focus of debate among politicians, academics and other stakeholders. An assessment of the land policy debate in present-day Ethiopia shows that there is an unfortunate focus on ownership issues and a dichotomy of views on state versus private ownership<sup>142</sup>. The government and the ruling party advocate state ownership of land whereas experts and scholars in the field, Western economic advisors, and international organizations such as the World Bank and opposition political parties favour private ownership. The main plank of the view advocating state ownership is that private ownership will lead to concentration of land in the hands of few people who have the ability to buy, resulting in the eviction of poor peasants and thus aggravating landlessness and potentially leading to massive rural - urban migration of

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<sup>141</sup> Assessment of Ethiopian Land Policymaking Practices: Center of Excellence International Consult (CEIC) PLC : 2021 p 11

<sup>142</sup> B. Nega, B. Adenew and S. Gebre Sellasie -Current land policy issues in Ethiopia - Ethiopian Economic Policy Research Institute, Addis Ababa, Ethiopia p5

people left without any alternative means of livelihood and in that the right to access rural land fall under question<sup>143</sup>.

On the issue of what measures were taken on rural land policy immediately after the fall of the *Dergue*, there are different views. Some scholars confirm that the Transitional Government of Ethiopia (TGE) that replaced the *Dergue* continued enforcing the *Dergue*'s land policy. However, other scholars rejected this idea and argued that the TGE temporarily refrained from dealing with the thorny land tenure issue. Those who rejected attributed their avoidance to two reasons. Firstly, the Ethiopian People's Revolutionary Democratic Front (EPRDF) had been strongly criticizing some aspects of the *Dergue*'s land tenure reform and blamed it for failing to maintain tenure security for small farmers and pastoralists. On the other hand, replacing the command economic with the free market principle, the EPDRF was demanding that land should be reformed along with market principles. Later when it announced its land policy, however, EPRDF declared "Peoples „ownership of land"<sup>144</sup>.

In this regard, some scholars argue regardless its promise to decide the land issues in a referendum, the TGE and the ruling party kept state ownership of land that there is no difference between the *Dergue* and EPRDF in their land tenure policies. According to other scholars the TGE kept the basic elements of the 1975 proclamation like, for example, public /state ownership, universal free access to rural land and prohibition land transfer through sale retained unchanged. Others on their part confirm that even if it kept state ownership, the ruling party lifted restrictions on some tenancy relations. Unlike the *Dergue*, the EPDRF led government allowed sharecropping and renting land allowing gifts or borrowing, fixed rent tenancy and share tenancy. No matter whether land use and management are guided by state or federal laws, the Ethiopian government insisted on making land to be vested on the state and the "people`s ownership of land" got legal protection<sup>145</sup>.

In the constitutional making and thereafter, one of the hotly debated and contested matters has been the issue of land rights. Taking the issue of land played in the political history of the country and how the past regimes had used it for political control of agrarian society,

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<sup>143</sup> Ibid

<sup>144</sup> Ethiopian Land Tenure from Heterogeneity to Uniformity: A Historical Perspective with Emphasis to Southern Provinces p 16

<sup>145</sup> Ibid

policy and academic discourse on it have continued in the post-1991. Fundamentally, the discourse has centred on the nature of the land ownership and in between two antagonistic views. Nevertheless, both sides have raised the issue of access to land and state control of the agrarian society in their justifications. The proponents of the ‘state and people’s ownership’ adopted in the FDRE Constitution Article 40(3)) argue from the perspective of the egalitarian principle of social equity and security paradigms<sup>146</sup>. Accordingly, from the perspective of social equity paradigm, they claim that the state and people’s ownership provides the state with the chance to secure free access to land for needy. To enable any needy with a means of livelihood, the status quo land ownership must be maintained. Moreover, in social security paradigm, they also claim that by prohibiting sale of land, the existing form of land ownership protects the agrarian society from losing their land rights in distress sale and from being tenants of the urban bourgeoisie<sup>147</sup>.

Conversely, the opponents of the status quo, who profound on the introduction of land ownership that allows transfer of land through sale privatization or associative ownership, have also based their views on two accesses to land-related basic justifications. First, they argue from the perspective of economic efficiency and productivity<sup>148</sup>. The status quo land ownership form does not provide any right to the entrepreneurs who do not have access to land but are willing to engage in agriculture easily. At the same time, those who have access to rural land may not have the interest or the know-how and capacity to productively utilize the land resource. Thus, the incorporation of the land ownership that makes land to be easily transferred through sale enables landless entrepreneurs to access land and makes productive use of it<sup>149</sup>.

An aggressive political debate about the appropriate land tenure policy that was reemerged during this period (1991-1995), continued as a controversial issue between different parties and scholars that lined up into two groups; one in support of privatization basically with justification for efficiency and the other group arguing in support of state /public/ ownership

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<sup>146</sup> Crewett & Korf, 2008, pp. 204–205; Constitutional Assembly, 1994, pp. 8–9)

<sup>147</sup> Ibid

<sup>148</sup> Constitutional Assembly, 1994 pp. 9-10

<sup>149</sup> Brightman Gebremichael Ganta: Access to Rural Land Rights in the Post-1991 Ethiopia: Unconstitutional Policy Shift

basically for maintaining fairness and addressing historical injustice. Advocates of privatization associate efficiency in land use to private ownership and argue that the state's effort to move towards market economy while controlling the basic means of production, land, is futile effort. For them, unless land is freely sold and freely transferred from one owner to another just like a commodity land cannot serve as a means of development. Critics of the state ownership such as Ethiopian Economists Association (EEA) argue that "One cannot move towards a market economy while keeping land-the most vital means of production on agricultural economy-outside the operations of the market". They also rejected state ownership and argue that state ownership cannot be a guarantee for efficiency and tenure security. In support of this idea noted that one of the original objectives of the state ownership is to provide tenure security and to solve problems of landlessness. But he argues, in his own words "both during the Dergue regime and the current government, landlessness refuse to disappear" and the overwhelming majority of peasant population has become insecure due to extreme poverty<sup>150</sup>.

On the Policy document that is written for whole issues, it argued as the prospect of economic growth provides a long-term solution to the problem of land access, more current solutions are obviously necessary. The issue of land access for young peasant farmers can be tackled by applying a combination of strategies. Firstly, improvements in land use and productivity should allow a situation whereby land may be redistributed without disrupting the small holder system. Secondly, voluntary land settlement and resettlement programs can be used to alleviate land shortage as well as to develop hitherto uncultivated lands. Thirdly, the introduction of modern labor-intensive technologies may be a reliable solution for engaging young farmers particularly farmers whose capacity has been enhanced through training<sup>151</sup>.

In addition to this the policy document states the rational of policy as such in tis counter argument against criticism. In short, the simple reality of land being publicly owned does not mean that land should be periodically redistributed. In fact, as the constitution elaborates the land policy, it states that land can be bequeathed to heirs. Thus, the intent of the policy is

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<sup>150</sup> Ibid 17

<sup>151</sup> Ibid 26

not to redistribute land. Nor is land redistribution inherent within the policy. The issue of redistribution arises not from the nature of the land policy, but from the reality of a pool of potential young farmers whose access to land is severely limited. As stated above, their situation will, in the long run, be solved through rapid economic development. In the short-run the issue is addressed through the application of a combination of measures that does not necessarily entail land redistribution. In such a way, security of land tenure is guaranteed and accelerated development may be ensured. Public ownership of land poses no impediment whatsoever and the criticism of the land ownership policy based on this argument is thus without a real foundation<sup>152</sup>.

On the other hand some scholars who wrote in support of its position recommend state ownership of land for equity reasons. They strongly opposed land privatization and argue that reinstating a western style property right and making land saleable like a commodity would led the country to its pre-1974 situation during which large number of peasants were made to be landless and forced to join the urban destitute. They also supports state ownership and expounded that even in countries where land privatization prevailed the government has ultimate power overland issues. Amidst the ongoing debate, the EPRDF and top government officials repeatedly notified that debating on constitutionally resolved land issue is a ‘sterile’ argument<sup>153</sup>.

In post 1991 period, EPRDF in its constitution has made clear that ownership of land and natural resources vested in the state and in the peoples of Ethiopia. Though its critics including some opposition parties, which stood in favor of privatization of land, blamed the current government for continuing to enforce the public landownership, it has making effort to address two basic land tenure issues of faire/equity as a socialist and efficiency as adherent to free market economy in land use. On the other hand, the arguments on both sides that imply land will bring to the country better political, economic and social progress than state ownership of land or vice versa is more of ideologically motivated<sup>154</sup>.

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<sup>152</sup> Ibid 27

<sup>153</sup> Ibid 18

<sup>154</sup> Ibid 18

### 3.2.1 The Criticism on the Current Rural land Policy

Critics of the current landholding system and those who advocate freehold largely base their arguments on the behavior of economic agents and familiar property rights arguments partially backed up by empirical results from Ethiopia and other countries because most of the arguments are variations on the same theme. Individualization of land tenure (leasehold and freehold ownership) increases tenure security of the landholder, thereby reducing economic costs of litigation over land disputes. Individualization increases investment by increasing tenure security and reducing transaction costs. Higher tenure security increases expected investment returns, thereby increasing the demand for capital (including credit) for fixed-place investment. Land will be transferred to those who are able to extract a higher value of product from the land as users who are more productive bid land away from less productive users<sup>155</sup>.

This is the essence of the land policy. Several criticisms have been leveled against this policy both from people who have understood it and people who have not quite grasped its significance. The government rejects these criticisms not only because it has a constitutional responsibility to do so, but also because it believes that most of these criticisms are wrong. In what follows we will consider more closely some of these criticisms<sup>156</sup>.

Some people argue that land should be privately and not publicly owned as an ideological position. In doing so, they fail to examine the implications of private ownership for our agricultural and overall economic development efforts. Land is a factor of production like capital and labor. The question of land ownership should therefore be considered from the point of view of output growth and broad welfare objectives and will open the door for meaningful discussion on the topic. We do not want to debate the question of private land ownership for its own sake. After all, it is not a sacred issue that has to be upheld in its own right. It is therefore difficult to attach much weight to criticisms of this kind<sup>157</sup>.

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<sup>155</sup> Ibid

<sup>156</sup> Government of Federal Democratic Republic of Ethiopia Rural Development Policy and strategies: Ministry of Finance and Economic Development Economic Policy and Planning Department Addis Ababa April, 2003 24

<sup>157</sup> Ibid

There are those who criticize the land policy on the ground that potential large-scale commercial farmers cannot have access to land because land is held by peasants in small and fragmented plots which by law cannot be sold or exchanged. They argue that this has constituted a major bottleneck to the development of modern farming in the country, thereby also arresting overall agricultural growth. As this criticism at least views the land issue from the standpoint of economic development, it is worthy of consideration. This does not, however, make the argument any less erroneous<sup>158</sup>.

Another criticism related to our land ownership policy relates to the fact that land cannot be used as collateral for bank loans and credits. As a result, the critics point out that banking and financial services cannot be expanded in rural areas which is an important impediment to rural development. There is no argument over the importance of expanding banking and financial services for accelerating agricultural development. Moreover, it is recognized that banks must request collateral as a safeguard against their loans. Furthermore, although land is not the only property that can be held as collateral, it is a fact that it can serve as such. However, in the Ethiopian objective reality where a large number of people are settled on fragmented plots of land, land is a poor instrument for the expanding banking services into rural areas whether it is private or under public ownership. With fragmented land holdings as collateral, banks have no incentive to foreclose in case of credit defaults<sup>159</sup>.

They will face difficulties and considerable cost in selling individual land holdings, renting or directly managing the holdings to recoup loan defaults. Clearly, the possibility for modern banking to expand into rural areas is limited irrespective of the policies on land ownership given that the majority of holdings are small scale. Also, since following up and administering small rural credits is extremely costly, rural banking is not usually an area which modern banks are interested in. For this reason, banking and financial services in countries where private ownership of land is allowed and agriculture is based on small holder farming are even weaker than is the case in Ethiopia<sup>160</sup>.

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<sup>158</sup> Ibid 25

<sup>159</sup> Ibid

<sup>160</sup> Ibid 26



Yet another criticism leveled against the land ownership policy is related to the question of land seizure and redistribution which the government, in principle, has the right to exercise. According to the critics, farmers do not have full trust in their user-rights over their land as the government can at any time confiscate the land or redistribute it. As a result, farmers are reluctant to improve the land. Such reluctance towards investing in land would, of course, exert a negative impact on agricultural development<sup>161</sup>.

In connection with this argument, it should be noted that governments have the power to put land to public use even in countries where land is privately owned. Government may have to pay compensation, but its power to seize land when it deems necessary is legally recognized. By the same token, in Ethiopia if the government wishes to take land from farmers, our land policy stipulates that the government must pay adequate compensation. The fact that land is publicly owned makes no difference in this regard. Since the amount of land to be taken by the government for social purposes is very limited, the negative impact on the incentive of farmers to invest in their land holdings is minimal. Redistribution of land is a slightly different issue. Even if land is not periodically reallocated in actual practice, the very possibility of redistribution creates insecurity, which is detrimental to investment in peasant land holdings. But this is only one facet of the issue. Regarding to redistribution in order to respond the land access question of the youth redistribution is one way to redress that problem. However, there needs the standards to redistribute the existing land, such as the size of the land; the nature of the location must be taken in to consideration. If the existing land fulfills the standard the redistribution may be necessary. In this regard the SNNPR Rural land proclamation states the minimum land that can accessed in which if it is rain fed agricultural land the minimum land holding size shall not be smaller than half a hectare that should in to consideration the land consolidation<sup>162</sup>. Thus I argue in favour of this argument because if the land is very small and it doesn't fulfill minimum requirement there will have land fragmentation. In order to secure the access right for youths there needs other way outs that can guarantee the youths as well as consolidate the lands. Allocation of lands that is not

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<sup>161</sup> Ibid 26

<sup>162</sup> Proclamation No 110/2007 the Southern Nations, Nationalities and Peoples Region Rural Land Administration and Use Proclamation Art 11/1(a)

distributed, providing agricultural land in group to secure the land question of the youths is important.

The people who have not had the opportunity to obtain land through an initial land distribution would be rendered landless if there is no prospect for land redistribution potentially causing unemployment and considerable labor wastage. Hence, the conflict between equitable access to land and security of land holdings must be resolved in a manner that takes all aspects of the issue into account. What we follow, as a matter of principle, is be not to periodically redistribute land. Simply because land is publicly owned does not mean that it should be re-allocated every so often. Land ownership and redistribution are two separate issues. What in fact has been the practice in the past ten years is not to redistribute land. Furthermore, as a means of protecting farmers' rights to existing land holdings, a system where such holdings are registered and a certificate of user-rights given has been introduced. In this connection, the government guarantees that land will not be redistributed for a period of time ranging from 20 to 30 years. That some regional administrations are implementing this kind of land policy is a step in the right direction. The policy will be further consolidated and improved in regions where it is already being put into effect and should commence in regions where it has yet to be put into practice. Clearly, such mechanisms to protect farmers' land use rights will help address issues of land security that are often raised in connection with our land ownership policy. But, as argued above, this is but one aspect of the problem. The issue of the lack of access to land by young farmers and others who for one reason or another were never allocated land and other land remains a concern<sup>163</sup>.

There are important improvements in tenure stability and security of land rights over the years in administratively allocated land. These gains are due to the private efforts of individual landholders, and incremental policy and legal measures. However, there are still unmet demands for certainty in land rights because of inherent instability in tenure associated with rising excess demand pressure for land, temporal decay in value of use rights

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<sup>163</sup> Ibid 26

certificate, deficiency in design and practice of land expropriation and compensation laws, and weakness in land governance and rural of law<sup>164</sup>.

Unlike the economic policy of the country that is based on the free market principle the constitution has defined access to land on the foundation of egalitarian social equity paradigm. Particularly, the constitutional makers have perceived access to rural land rights from the perspective of securing means of livelihood for all. Rather than the economic value of land, what mattered most for constitutional makers of Ethiopia was to use access to rural land rights for guaranteeing all needy nationals with the means of living? That is through granting 'free access to rural land for all needy nationals' (FDRE Constitution, 1995, Articles 40(4) and (5). Therefore, the right to free access to rural land rights for all needy nationals is a separate constitutional right provided for the nationals. It has nothing to do with the nature of ownership adopted and the realization the right does not depend on the state's willingness. It imposes rather an obligation on the state to respect, promote and fulfill the right to free access to rural land of the needy nationals<sup>165</sup>.

The danger of land fragmentation is also used as the criticism against our land ownership policy. The criticism runs as follows. As land cannot be sold but can be bequeathed, it follows that land will continuously be re-divided as it is; inherited by succeeding offspring, ultimately making its size uneconomical to operate. On the other hand, if land can be sold, it will progressively be consolidated<sup>166</sup>.

Another criticism of our land ownership policy argues that farmers are tied to small plots of land. Unable as they are to sell their holdings, they are impeded from seeking employment opportunities outside peasant agriculture and are thereby forced to eke out a meager livelihood on their small plots. It is argued in fact that the land tenure structure arrests the

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<sup>164</sup> Tesfaye Teklu :Rural Land Rights and Security in Cultivated Highland Ethiopia: Incremental Reform but Persistent Uncertainty pp. 101

<sup>165</sup> Brightman Gebremichael Ganta: Access to Rural Land Rights in the Post-1991 Ethiopia: Unconstitutional Policy Shift

<sup>166</sup> Government of The Federal Democratic Republic of Ethiopia Rural Development policy and strategy: Ministry of Finance and Economic Development Economic Policy and Planning Department Addis Ababa April, 2003 PP 27

mobility of rural labor towards other sectors where it can be employed more productively, hence impacting negatively on overall economic efficiency.<sup>167</sup>

### **3.3 Access to rural Land according Proclamation 456/2005**

Proclamation No. 456/2005 defines three tenure types. In article 2 sub article 11, it defines private holding as rural land in the holding of peasants, semi-pastoralists and pastoralists and other bodies entitled by law to use rural land. The communal holding is defined as rural land which is given by the government to local residents for common grazing, forestry and other social services that the society requests in legal way<sup>168</sup>. Furthermore, private investors that engage in agricultural development activities have the right to use rural land in accordance with the investment policies and laws at federal and regional levels.

#### **A) Acquisition Right of rural land According to Proclamation 456/2005**

1. Rural land will be given free of charge and for an indefinite period to peasants, pastoralists and semi-pastoralists who are or wish to be engaged in agriculture<sup>169</sup>.
2. To investors through lease/rent for a specified period of time<sup>170</sup>.
3. According to the proclamation, rural land can be acquired either by distribution (distribution of government land, communal land, other unoccupied land and land with no inheritor), redistribution, settlement programs, donation or inheritance<sup>171</sup>.
4. Farming households can also rent land either in the form of fixed rent or sharecropping and acquire land as a gift or inheritance.

#### **B) Transfer of rural land use rights as one way of access to rural land**

Transfer of rural land use rights is one way of access to rural land that is promulgated in this proclamation. These rights are provided as Peasant farmers, pastoralists and semi-pastoralists can transfer their rural land-use rights through a donation to members of their

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<sup>167</sup> Ibid

<sup>168</sup> Ibid Article 2 sub article 12

<sup>169</sup> Proc. No. 456/2005, Art.5( 1)( a)

<sup>170</sup> Ibid Art 5/4/a

<sup>171</sup> Ibid Art 5/2

family in which the youth can access the rural land<sup>172</sup>. Secondly Peasant farmers, pastoralists and semi-pastoralists can transfer their rural land-use rights through inheritance to members of their family<sup>173</sup>. Finally Peasant farmers, pastoralists and semi-pastoralists can also rent/lease part of their holdings to other farmers or investors for a specified period that ensures the access rights of the youths for temporarily.<sup>174</sup>.

### **3.4. The Legal Frameworks of SNNPR State towards the access right to rural land**

#### **3.4.1 SNNPR Constitution**

The FDRE constitution empowered the regional states to administer land and other natural resources in accordance with Federal laws<sup>175</sup>. To administer land and other natural resources regional states enacts laws including in their respective constitution. It also recognized the access to rural land as the Federal Constitution for various groups. The farmers of the State have the right to obtain land without payment and not to be displaced from it<sup>176</sup>. The another groups that the access to rural land ensured is the nomads of the State who have the right to get the land necessary for farming or grazing free of charge and not to be displaced from their land<sup>177</sup>. It also enshrined the access to rural land for private investors. It stated as without prejudice to the exclusive right of people to ownership of land the State shall ensure the right of private investors to use land on the basis of payment arrangements to be determined by law<sup>178</sup>. But the way the private investors' access rural land is different from that of peasants and pastoralists. There are two preconditions for private investors to access rural land in the region. The first precondition to access rural land for investor is the arrangement of the payment which peasants and pastoralists access freely. Secondly the private investor accesses the rural land without prejudice to the exclusive right of people to ownership of land. Except the naming difference, the SNNPR State constitution is clear copy of the federal constitution regarding the land rights.

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<sup>172</sup> Proclamation No 456/2005, Art. 5/2)

<sup>173</sup> Ibid Art. 8/5

<sup>174</sup> Ibid Art.8/1

<sup>175</sup> FDRE Constitution Art 52(2)(d)

<sup>176</sup> SNNPR constitution Art 40/4

<sup>177</sup> Ibid Art 40/5

<sup>178</sup> Ibid Art 40/6

### **3.4.2 SNNPR Rural Land Proclamation 110/2007**

Following the promulgation of the SNNPR Constitution and the Federal Rural land use proclamation SNNPR Rural land proclamation 110/2007 stipulated to administer rural land in the region. The proclamation has various objectives that obliged the promulgation of the law. Among them the first purpose of the proclamation is that it is necessary to sustainably conserve and develop natural resources and pass over to the coming generation through the development and implementation of a sustainable rural land use planning based on the different agro-ecological zones of the region encourages private investors in pastoralist areas where there is tribe based communal land holding system<sup>179</sup>.

#### **Acquisition/Access Right of Rural land according to proclamation number 110/2007**

Peasant farmers, pastoralists and semi-pastoralists engaged in agriculture shall have the right to access rural land free of charge<sup>180</sup>. Any resident of the region, eighteen years old or more, who wants to engage in agriculture, has the right of rural land holding and use. Women who want to engage in agriculture shall have the right to get and use rural land<sup>181</sup>. Rural youths who wish engage in agriculture shall have the right to get & use rural land which is possessed by the community or government<sup>182</sup>.

Rural land will be given free of charge and for an indefinite period to peasants, pastoralists and semi-pastoralists who are or wish to be engaged in agriculture and to investors through lease/rent for a specified period of time<sup>183</sup>. According to the proclamation, rural land can be acquired either by distribution (distribution of government land, communal land, other unoccupied land and land with no inheritor), redistribution, settlement programs, donation or inheritance. Based on this, rural kebele administrations allocate land within their jurisdiction to farming households, and regional states allocate land through resettlement programs.

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<sup>179</sup> Final part of the preamble SNNPR Rural land proclamation

<sup>180</sup> Art 5/1 of the SNNPR Proclamation number 110/2007

<sup>181</sup> Ibid Art 5/2

<sup>182</sup> Ibid Art 5/3

<sup>183</sup> SNNPRS, Proc. No. 110/2007 Art. 7.

Farming households can also rent in land either in the form of fixed rent or sharecropping and acquire land as a gift or inheritance<sup>184</sup>.

Most of the land used by farming households is allocated by rural kebele administrations. Investors can lease farmland from Woreda administrations, regional states or federal government depending on how much land they wish to acquire. The other major feature is that unlike the federal proclamation Art. 4, which states ‘this proclamation shall apply to any rural land in Ethiopia’, regional government proclamations restrict access to rural land by making residence in that particular region a condition for acquiring rural land free of charge<sup>185</sup>.

### **B/ The right to transfer Rural Land as a means of land access**

The federal government states that peasant farmers, pastoralists and semi-pastoralists can transfer their rural land-use rights through donation<sup>186</sup> or inheritance to members of their family<sup>187</sup> and can also rent/lease part of their holdings to other farmers or investors for a specified period<sup>188</sup>. The federal rural land proclamation on land transfer through donation and inheritance clearly states that being a rural resident and engaged or wishing to engage in agriculture is a condition of eligibility, while transfer through rent/lease can be for rural and urban residents who are or wish to be engaged in agriculture.

The same is true of rural land proclamations by different regional states including SNNPR Rural land proclamation. In the Southern Ethiopia regional State, the proclamation says that transfer through inheritance only applies to rights holders in the family<sup>189</sup>. It makes being a rural resident a condition for inheriting rural land. The rural land proclamation in SNNPRS also allows any rural landholder who has a holding certificate to transfer the land through rent/lease to any person in a manner that it shall not displace the landholder<sup>190</sup>. The remaining holding should be enough to produce enough food for the family’s annual

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<sup>184</sup> Ibid

<sup>185</sup> Proclamation No 110/2007 Art. 5.2 For the SNNPRS.

<sup>186</sup> FDRE, Proc. No. 456/2005, Art.5.2) or

<sup>187</sup> Ibid Art. 8(5)

<sup>188</sup> Ibid Art 8(1)

<sup>189</sup> SNNPRS Proc. No. 110/2007, Art. 8.5

<sup>190</sup> Ibid Art.8.1)

needs<sup>191</sup>. The duration of the contract between farming households is up to five years, from farming household to investors up to 10 years and from farming households to investors who cultivate perennial crops up to 25 years. Given the small size of landholdings in the country, the rule that allows only part of the land to be leased will further split farmlands into small plots that are economically unviable.

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<sup>191</sup> Ibid Art8 (1)(c)



## **CHAPTER FOUR**

### **THE CONDITIONS, MODAITY AND CHALLENGES OF ACCESS OF RURAL LAND FOR YOUTHS: IN SOUTHERN ETHIOPIA, WOLAITA ZONE**

#### **4.1 Which Youth is Eligible to Access Rural Lands?**

##### **4.1.1 Peasant and pastoralists youths**

###### **a) Who are peasants?**

The FDRE constitution is silent to define peasant but the federal rural land use proclamation under its preamble defined peasant as "a member of a rural community who has been given rural land holding right and, the livelihood of his family and himself is based on the income from the land<sup>192</sup>. Regional land law took cognizance of access right of peasants and remarkably adapted it by experimenting changes from its parent legislation, the FRLAU proclamation. Thus it is defined under Southern Ethiopian Region Rural land use proclamation as a member of a rural community who has been given rural land holding right and, the livelihood of his family and his livelihoods rebased on the income from the land<sup>193</sup>. This definition is similar with that of the federal rural land use proclamation. The FDRE Constitution generally recognizes the rights to get rural land that Ethiopian peasants have right to obtain land without payment and the protection against eviction from their possession<sup>194</sup>. Generally, peasants for whom the Constitution accords access right to rural land free of payment are the resident of the Southern region who are engaged or wish to engage in agriculture for a living. Pre-Conditions to access rural land for peasant youths in Southern Ethiopia Regional State are discussed as following.

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<sup>192</sup> Art 2(7) of the proclamation 456/2005

<sup>193</sup> Art 2/7 of Southern Ethiopia rural land proclamation

<sup>194</sup> Art 40(4) of the FDRE constitution

### **A) Being Resident of the region**

The Federal rural land proclamation does not actually lists the residence requirement as a condition to exercise access right to rural land. It instead provides “peasants and pastoralists” without any sort of residence qualification. The federal Constitution on the contrary requires the state of being Ethiopian national and by so doing, it ruled out foreigners from being the subject of access right to rural land free of charge<sup>195</sup>. The Southern Ethiopia Regional State land administration and use proclamation and respective land law clearly replaces instead of the nationality requirement in the proclamation to mean “any resident of the region”<sup>196</sup>. As per this regional land proclamation, any person who is a member of a peasant, semi pastoralist and pastoralist family can access rural land from the government as well as from individuals through bequeath and donation if they are the members of the region. In this regard membership of the peasants, semi-pastoralists and pastoralists is necessary to access rural land from government and individuals. Regarding to residency issue in the SNNPR Rural land use proclamation and the regional constitution, there are issues that need to be discussed. First both the Federal and regional constitutions not clearly envisaged the residency criteria to access rural land. Rather FDRE Constitution and federal rural land use proclamation stipulated the citizenship criteria to access rural land. This is clear implication that the government protects the exclusive interests of citizens to access rural land because it is stated that the right to ownership of rural and urban land, as well as of all natural resources, is exclusively vested in the State and in the peoples of Ethiopia. Land is a common property of the Nations, Nationalities and Peoples of Ethiopia and shall not be subject to sale or to other means of exchange<sup>197</sup>. Thus this public right cannot be compromised in any way.

When we look the constitutional and other laws of SNNPR there is difference between the Federal and regional legal stipulations in which the federal rural land laws envisages the citizenship criteria the SNNP Regional rural land laws envisages residency as criteria to access the rural land. But it is possible to argue and criticize the stand of SNNP Regional

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<sup>195</sup> Ibid

<sup>196</sup> Proclamation 110/2007 Art 5/2

<sup>197</sup> FDRE Constitution Art 40(3)

rural land laws that takes residency as criteria to access rural land and rather its stand ought to follow the approach of the federal rural land laws that considers the citizenship. In the interview process with SNNPR rural land administration department team leader ,the issue he raised was the failures of the regional rural land use proclamation that it ignored to define what is residency, the proclamation under article states that any resident of the region who wants to engage in agriculture shall have the right to get land by settlement without defining who is resident in which it failed to indicate who can be considered as resident in the region that he/she can access the rural land<sup>198</sup>.

### **B) Interest to engage in agriculture**

Southern Ethiopia Regional state Rural land proclamation states that rural youths who wish to engage in agriculture shall have the right to get & use rural land which is possessed by the community or government<sup>199</sup>.The proclamation left details to be determined by the regulation. The regulation stated as rural youths who wish to be engaged in agriculture shall have the right to participate voluntarily in settlement program to get and use rural land. It also stated that the youth shall get and use rural land from communal land governments holding; from competent authority<sup>200</sup>. Thus the regional law provides the interest to engage in agriculture to access rural land. Who has to determine whether a person is ready to engage in agriculture for a living in practice? In the Southern Ethiopia Regional state, the regulation provides that an application to get rural land has to be made to the pertinent kebele administration by stating as he engages himself or wishes to engage in agricultural activities.

Regarding to the interest to engage in agricultural activities the practice on the ground shows that in Southern Ethiopia Regional state, there is an interest to engage in agricultural activities, however there is no free land for youths who are interested in agriculture. According to the interview conducted with one young who is in the agricultural activity around Bilate river area, the youths who are interested in agriculture work access the rural

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<sup>198</sup>The interview with Mr. Terefe Teka team leader of the SNNPR Land administration.

<sup>199</sup> SNNPR PROCLAMATION 110/2007 Art 5/4

<sup>200</sup> SNNPR REGULATION 66/2007

lands in other means rather than free allocation based on their interest to engage in agricultural works<sup>201</sup>.

The regional proclamation on rural land addresses the issues that the rural youths who wish to engage in agriculture shall have the right to get & use rural land which is possessed by the community or government<sup>202</sup>. The regulation enacted to discuss the issue in detail stated similarly as those rural youths who wish to be engaged in agriculture shall have the right to participate voluntarily in settlement program to get and use rural land and shall get and use rural land from communal land governments holding; from competent authority.

SNNP Regional state stipulated directive number 131/2015 to establish Regional Job opportunity creation and development Agency to fulfill the rural land request of the region's land seeking youth. The Agency is empowered with detailed powers to play its role in the region. This is the latest approach to reduce the unemployed youths in SNNP Region. But in the practice in SNNPR Wolaita zone the reality is different from the laws.

### **C. Attainment of majority**

The Federal rural land proclamation qualifies the right to use rural land for persons attained 18 years of age<sup>203</sup>. It entertains the issue of children who lost their mother and father due to death or other situation shall have the right to use rural land through legal guardians until they attain 18 years of age. This provision lays down the condition of majority actually for use right to rural land. It did not regulate access right to rural land. The further articulated the right of any person, without age qualification, to get rural land from his family by donation, inheritance or from the competent authority. For this case membership to peasant farmer, Semi pastoralist and pastoralist is enough to access land<sup>204</sup>. Regarding to age limitation to access rural land, there is exception to access rural land below years old is through legal guardians. The proclamation stated as children who lost their mothers and fathers due to death or other situation shall have the right to use rural land through legal

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<sup>201</sup> Interview with respondent three

<sup>202</sup> SNNPR Proclamation 110/2007 Art 5/4

<sup>203</sup> The Federal rural land proclamation under Art.5 (1) (b)

<sup>204</sup> Ibid Art. 5(2)

guardians until they attain 18 years of age<sup>205</sup>. The SNNPR Rural land proclamation also included the age limitation to access land in addition to the residency requirement<sup>206</sup>. The regional regulation also uses the same age requirement to access and administer rural land.<sup>207</sup> But the regional directive that is stipulated to establish regional job creation and development agency doesn't mention the age limitation because the directive gives special priority to those who are graduated from higher institution and jobless and the peasants with small land and who has no rural land<sup>208</sup>. Finally the absence of age restriction in the federal land law does not mean that the entry card is not required to be age qualified. Rather it hopes to be determined by regions bearing their peculiarities because administration of natural resources existing in regions is bestowed for regional governments. Thus, the Southern Ethiopia Regional state laws incorporated the age limitation for precondition in order to access rural land in the region.

In Wolaita zone Diguna Fango and Abala Abaya Woredas during field visit observation and interview as well as focus group discussion with youths shows that there are youths who are residents of the Woreda but still couldn't have rural land for agricultural activities. The FDRE Constitution and other federal and regional legal frameworks state that the peasants living in some local and residents are eligible to access rural land for free. In the interview with youths who are living in Bilate Monopoly kebele they stated that they cannot access rural land for free. In the Bilate Monopoly there is Bilate Tobacco Enterprise which controlled entire Kebele and have more than 2000 hectare in which they cultivate in rotation system of production. This Enterprise hold land which can do respond the land question of the entire Woreda youths. The local youths are denied social, economic and other basic rights including the right to access the rural land. It is obvious that any youths who are interested to engage in labour service in Enterprise are free to work in the position they match in. Also the needy youths who are interested to engage in the agricultural activities have also the constitutional right to access the rural land freely. In our discussion and interview with youth they stated that they denied their interests to engage in agricultural

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<sup>205</sup> Ibid Art 5/1/b

<sup>206</sup> Art 5(2) SNNPR Rural land proclamation

<sup>207</sup> Art 5(3)(a) SNNPR Rural land proclamation

<sup>208</sup> Art 5 of SNNPR directive

activities in the land provided. And the researcher also observed that this issue was the long lasted question of the local society. Having great enterprise like that was in one part good opportunity to those who engaged in labour and professional service also the opportunity must be created for those have the interest to engage in agricultural activities<sup>209</sup>. Thus, the issue is that person who is the resident of that area who has the interest to engage in agricultural activities and who attained majority is not accessing the rural land due to various reasons.<sup>210</sup> There is one typical case in which the denial of access to rural land for youths in Bilate Chericho occurred in which the investors marauded the land provided for youths from two kebele who are organized to involve in the agricultural activities. The youths organized and gain access to the rural land to involve in agricultural activities in the area called Sa'a Tusa the place where there is fertile land that is comfortable for agricultural works. In the interview with youths in Bilate area stated that after longtime question of rural land the Woreda administration prepared 25.5 hectare of the rural land for youths who have interest to engage in agricultural activities<sup>211</sup>. After that in the case of mischief in Diguna Fango the 25.5 hectares of land given for the investor, due to that those youths who were organized to access rural land were denied the right to access completely.

#### **4.1.2 Pastoralist and Semi-pastoralist youths**

Pastoralists are people who live in the lowlands of the country depending on animal husbandry. They do not have a plot of land like the highland farmers to settle on; they are always on the move in search of food and water for their animals. The Federal Rural Land proclamation stipulated the working definition as follow: "pastoralist means a member of a rural community that raises cattle by holding rangeland and moving from one place to the other, and the livelihood of himself and his Family is based on mainly on the produce from cattle<sup>212</sup>. Semi-pastoralists means at member of a rural community whose livelihood is based mainly on cattle raising and to some extent on crop farming<sup>213</sup>. The difference between the pastoralist and semi pastoralist here is in pastoralist community they only depend on cattle

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<sup>209</sup> Interview with youth in Diguna Fango

<sup>210</sup> The interview with youths In both Woreda

<sup>211</sup> The interview with youth in Diguna Fango

<sup>212</sup> The Federal rural land proclamation, Art 2(8)

<sup>213</sup> Ibid Art 2(9)

whereas in Semi pastoralist community their life for some extent depends on crops. Thus both federal and regional rural land proclamation entitles them to access rural land<sup>214</sup>. Most of the peasants in lowland areas are semi-pastoralist in that they involve in livestock in one side and involve in crop production in other ways in Wolaita Zone Diguna Fango and Abala Abaya Woredas. The SNNPR State Rural land proclamation defined it as a member of a rural community that raises live stocks by holding rangeland and moving from one place to and other, and the livelihood of himself and his family is based mainly on the produce from live stocks<sup>215</sup>. According to both federal and SNNPR rural land proclamation, the definition actually envisaged three cumulative conditions to be regarded as pastoralist<sup>216</sup>.

#### **A) Being a member to the rural community**

Rural land is defined in the federal proclamation as it mean any land outside of a municipality holding or a town designated as such by the relevant law<sup>217</sup>. From the Constitution it is further laid down as access right to rural land is for Ethiopian nationals alone. Contextually, rural community refers a segment of the Ethiopian society residing in the rural land of the country. Accordingly, to be regarded as pastoralist, the person shall be an Ethiopia whose membership belongs to a segment of a society residing outside from municipal holding.

#### **B) Raising cattle as a livelihood**

The other important definitional element is “raising cattle.” By definition, pastoralists support their livelihood through raising livestock’s. Thus, subject to the first element if any Ethiopia rely on livestock production as their main source of revenue like breed cattle, goats, sheep, camels and donkeys; will be regarded as pastoralist irrespective of the number of cattle he or she owned. Pastoralists actually may lead their livelihood by raising cattle either partially or entirely. The important question at this juncture may be do we have a legal framework for diversified utilization of land for instance operating both livestock and crop production. For this issue both the federal and SNNPR Regional rural land legislation

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<sup>214</sup> Ibid Art 5(2)

<sup>215</sup> SNNPR Rural land proclamation Art 2/10, Federal rural land proclamation Art 2(8,9)

<sup>216</sup> Federal rural land proclamation Art 5(2)

<sup>217</sup> Federal rural land proclamation art 2/1

recognized it as semi-pastoralist. The provision under Federal rural land proclamation provides that "Semi - pastoralist" are a member of a rural community whose Livelihood' is based mainly on cattle raising and to some extent on crop farming<sup>218</sup>. Whereas the SNNPR State rural land proclamation states semi pastoralists as member of a rural community whose livelihood is based mainly on livestock raising and to some extent on crop farming<sup>219</sup>.

### **C) Mobility**

Accordingly in order to be considered as pastoralist subject to the above two requirement must be mobile or move from one place to another. Mobility is customary in pastoral society. It is a strategy suitable to the fragile land on which pastoralists live, which allows communities to best use limited pasture and other resources. Pastoral communities make well-planned and targeted movements between wet and dry season. Mobility allows pastoralists to balance and conserve rangelands through careful management<sup>220</sup>.

Regarding the pastoralist area the proclamation aims to establish a conducive system of rural land administration that promotes the conservation and management of natural resources, and encourages private investors in pastoralist areas where there is tribe based communal land holding system<sup>221</sup>. Generally as stated by the former SNNPR Rural land expert Mr. Dawit Abota, generally land tenure system of the pastoralist community is not included in the existing regional land proclamation and it is disregarded. Thus the pastoralist and semi-pastoralist community governs their land in traditional way. But good initiation now is that the regional rural land proclamation is in the way of amendment that can entertain land tenure system of pastoralist also<sup>222</sup>.

In Wolaita zone there are pastoralists and semi-pastoralists in lowland areas including Diguna Fango and Abala Abaya Woredas. These pastoralist settlers moving from Sidama Regional state and informal settlers in Wolaita zone in these two Woreda. In Wolaita Zone in Diguna Fango Woreda there are 223 household pastoralists who are settled in more than 127 hectare land informally moving from Sidama regional state .These pastoralists have no

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<sup>218</sup> Federal Rural land proclamation Art 2(9)

<sup>219</sup> SNNPR Rural land proclamation Art 2(11)

<sup>220</sup> Ibid

<sup>221</sup> Preamble of the SNNPR

<sup>222</sup> An interview with Dawit Abota



land holding certificate which entitles them to have formal land holding and for the long time they were requesting the land holding certificate<sup>223</sup>. But the law entitles them to access rural land for free of pastoralist purpose even if they denied the right to access rural.

#### **4.1.3 Investors**

According to FDRE Constitution, the federal rural land as well as SNNPR state rural land administration proclamation envisaged private investors' access right over rural land on the basis of payment arrangements. Neither the Constitution nor the federal and SNNPR state rural land proclamation entitled private investors to claim rural land to access freely. The means of acquisition is all about contractual deal whose attainment preconditioned on payment of commensurate fee. SNNPR state Constitutions again replicated it by stating in literally that private investors have use right over land on the basis of payment arrangements established by law<sup>224</sup>. It states as without prejudice to the exclusive right of people to ownership of land, the state shall ensure the right of private investors to use land on the bases of payment arrangements to be determined by law. The SNNPR state rural land proclamation provides the investors to access land by means of payment. It states as subject to giving priority to peasants, semi pastoralists and pastoralist, Private investors that engage in agricultural development activities shall have the right to access rural land in accordance with the investment policies and laws at federal and regional levels.<sup>225</sup>

In the study area where the youths gave the interview and in the focus group discussion the issue they similarly raised is different from what the regional and federal laws and policy state. The reality on the ground is that the rural youth who wants to engage in agriculture as well as the member of local community who are above 18 years old youths state that they have no rural land access rather the government prioritizes the interest of private investors over the local youths<sup>226</sup>. The regional government devised one strategy to reduce the number of unemployed youths in the way that accessing rural land for youths in group. To implement this regional strategy the Regional state established the institution that leads the issue. This established institution empowered to organize the youths, to evaluate the process

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<sup>223</sup> An interview with Mamo Makalo Diguna Fango Woreda rural land officer

<sup>224</sup> SNNPR Constitution Art 40(6)

<sup>225</sup> SNNPR Rural land proclamation Art 5(15)(a)

<sup>226</sup> Interview with respondent 2 in Bilate area

and finally preparing the rural land for the youths and transferring land for youths who are organized in association. In the interview with respondent 2 he stated that in the Bilate basin the government organized and gave them irrigation land for agriculture, but unfortunately private investor took their land and the government shifted them from irrigation land to rain dependent land that is left for many years due to infertility of that land. This clearly depicts that the right to access rural land for investor is as of right. This also compromises the rights of rural youths to access rural land freely because the investor who comes to access the rural land invade the entire communal and government land in the name of investment. Due to the aggression by private investment the local community and youth denied their natural right to have arable and agricultural land.

Both regional and federal constitution stipulated that the right of private investor should be treated in the way that doesn't prejudice to the exclusive right of the people to ownership of rural land. The issue in its depth requires balancing the interests of local youths who are interested to engage in agriculture and those private investors who engage in huge agricultural activities which can help national economy. To balance the interest of local youths and private investor the government shall play its role in arrangement and allocation of the rural land for every interested body. To this effect there are regional state structures that govern the rural land.

Structurally the rural land administration is structured under regional agriculture bureau of the region. The government structure that leads the rural land is rural land Agency which is deputy head status of agriculture bureau. The FDRE Constitution stipulates that the power is entrusted to regions to administer land and natural resources in accordance with the law<sup>227</sup>. Accordingly this institution is established to administer land and natural resources in the way that it is necessary to sustainably conserve and develop natural resources and pass over to the coming generation through the development and implementation of a sustainable rural land use planning based on the different agro-ecological zones of the region.

The SNNPR State Rural Land Administration Agency is also empowered to establish a data base system for different types of land holdings such as private, communal and state land

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<sup>227</sup>The preamble of former SNNPR Rural land Use proclamation

holdings so that it may enable to identify land use rights.<sup>228</sup> But the Agency is established to resolve problems that arise in connection with encouraging individual farmers, pastoralists and agricultural investors and establish best system of rural land administration.

However, the reality on the ground regarding the investment land access shows that the practice favors the private investors to access rural land than the ordinary youths in reality. As Mr. Terefe Teka, the team leader of rural land administration of SNNPR states the existing rural land in the region is accessible for only the private investor. Literally, an investor is a person who uses the land for business activities and his main objective is to reap profit. Therefore, recognizing as of right to relieve them from government prerogatives cannot justify it. In these two Woreda there are the most invaded areas by investor in Wolaita zone due to the existence of communal fertile rural land and half of it is covered by irrigation<sup>229</sup>. Generally in Diguna Fango there are private investors and Enterprises that grabbed large scale investment lands. Only Bilate tobacco Enterprise grabbed more than 2000 hectare in Diguna Fango Woreda. In Diguna Fango Woreda including Bilate Tobacco Enterprise there are 12 investors who invaded rural land that is more than 5000 hectare<sup>230</sup>. The Minimum hectare per individual investor in Diguna Fango is 50 hectare and maximum hectare per individual investor is more than 1200 hectare that belongs to private investor called Dagne Dhaba. But in the same area the youths living in that area couldn't access half hectare per person to engage in agricultural activities. The free access of rural land for youths in Diguna Fango is challenging issue that they cannot achieve simply. Whereas it is simple for the private investors to access rural land, that is communication with government and preparing bank statement with investment business plan is enough to access multiple hectares of rural land<sup>231</sup>. Similarly Abala Abaya is also investor invaded Woreda where the most rural land is transferred to private investors in Wolaita Zone. In Wolaita zone Abala Abaya Woreda there are 26 investors that are selected for agricultural activities and non-agricultural activities. The highest rural land holding size is owned by Wolaita development association which is measured as 1226 hectares that is for agricultural purpose. The next to

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<sup>228</sup> Ibid

<sup>229</sup> Interview with Mr. Matiyos Maskale Wolaita zone rural land administration officer

<sup>230</sup> Investment report of the Diguna Fango Woreda in 2015

<sup>231</sup> Mr. Esayas Wolaita zone rural land administration officer

WODA, Belayneh Kindie is the highest rural land holding with 550 hectare that is also selected for agricultural activities. Another rural land that are selected for non-agricultural activities are two investors are awarded 5 hectares each that's selected for lodge purpose and one organization that selected 89 hectares of land for generating hydroelectric power<sup>232</sup>. The other point worth discussing is that of competitive claims to get rural land between private investors and peasants or / and pastoralists. Right, the claim of peasants and pastoralists to get rural land unlike the claims of investors has constitutional backup and hence it will have priority. On this regard, The FRLAU proclamation ensured private investors use right to land subject to priorities to peasants and pastoralists. SNNPR Rural Land Use proclamation clarified in respect to access to land by providing that private investors would have access to rural land so long as it does not contradict with the interest of the peasants of the region<sup>233</sup>. This theoretically safeguards access right of peasants and pastoralists to rural land. In practice however art. 40(6) of the Constitution which declared expropriation of private properties for public purpose are elevated to include engagement of investors in agricultural activities. The government is allocating large scale rural lands in the cost of access right to rural of peasants and pastoralists. This is criticized by some as being a danger venture against the right of peasants and pastoralists.

Here, we shall ask whether this actually infringes upon Constitutional rights of peasants and pastoralists to get rural land. Though the government argued that unused lands are given for investors, it is indicated that many young people in rural areas of the country work on farmlands of other people due to their inability to get access to farmland<sup>234</sup>. Majorities of farmers are leading their life by a small piece of land. In the year 2000, for example, 87.4 percent of rural households cultivated lands of less than 2 hectares, 64.5 percent cultivated lands of less than 1 hectare, and 40.6 percent cultivated lands equal to or less than 0.5 hectare<sup>235</sup>. This demonstrates as the two, peasants and pastoralists in one hand and private investors on the other hand, established converse relation to one another in their demand to

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<sup>232</sup> The reports of investment activities of the Abala Abaya Woreda

<sup>233</sup> SNNPR Rural land Use proclamation Art 5(15)

<sup>234</sup> Feleketadele : Migration and Rural-Urban linkages in Ethiopia: Case Studies of Five Rural and two Urban Sites in Addis Ababa, Amhara, Oromia and SNNPs regions and implications for policy and development practice 292006)

<sup>235</sup> Samuel Gebreselassie, future agricultures, land, land policy and smallholder agriculture in Ethiopia

the rural land. The government's tendency to promote FDI and the actual escalation of rural agriculture investment will have the effect of degrading the right of peasants and pastoralists to access rural land.

## **4.2 Modalities of access of rural land for youths' in Southern Ethiopia**

With regard to obtaining land from a competent authority there are some ways rural land access can be conducted. Land administrators may distribute unoccupied land, convert community land into individual farm land or redistribute existing farm lands. It has been argued that the fear of redistribution has been an important source of insecurity in the past and had negative impact on farmers' investment on land. Accordingly modalities of access to rural land there are some major sources that the access to rural land settled to youths in Southern Ethiopia Regional state. These are sources from government, private and family. In the modality in which the government provides rural land to youths the government is obliged to supply rural land according to what the proclamation states these are allocation, resettlement, and special allocation to youth association. Family based access to rural land for youths are donation, inheritance and some others. Private sources are rental land, share cropping and land lease. These all modalities are the modalities which will be discussed.

### **4.2.1 Allocation of Rural Land**

Allocation is one of the modality in which the government provides the rural land for those who have no access for rural land and for those who have small land. The SNNPR rural land proclamation defined distribution/allocation as activity of distributing holding of land to individual (s) applicable only on the irrigated land or on the land its necessity being determined by the law<sup>236</sup>. Successive national governments in Ethiopia have implemented divergent approaches to arrangement of rural land. The present government land policy principally made no significant departure from its predecessor, Dergue. It made free access to land within the constitutional radius. The possibility of rural land reallocation was maintained in proclamation no. 89/ 1997 and the repealing proclamation no. 456/ 2005 again confirmed allocation as one modality of accessing rural land. The SNNPR State rural land

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<sup>236</sup> SNNPR Proclamation 110/2010 Art 2(20)

proclamation defines rural land allocation as an activity of distributing holding of land to individual applicable only on the irrigated land or on the land its necessity being determined by the law. The SNNPR State rural land laws included the allocation of rural land as one means to access rural land for youths, peasants who have small land and for those who have no rural land at all<sup>237</sup>. It indicated that the rural land which can be allocated for others. Accordingly there are three sources of rural land which can be allocated or distributed for those with small land and for those who have no rural land at all. These are farmlands whose holders are deceased and have no heirs, farmlands whose holders have gone for settlement and finally the farmlands whose holders left of the locality on own wish and stayed over a given period of time. The problem regarding to third issue is that which mentions time stayed over a period of time is undefined. Provided that for how long must the farmland holder stay over a given period time is not clearly defined both in SNNPR proclamation and Regulation this kind of ambiguity opens the door for abuse of access right to land.

The present SNNP Regional legal frame work states that allocation has made distinction between irrigable and non-irrigable lands<sup>238</sup>. It stated as allocation may be undertaken on irrigable land constructed by the expense of the government and held by peasants, semi pastoralists or pastoralists in order to use irrigable land properly and equitably. The regulation discussed the reallocation in detail. Accordingly there are two kind of reallocation. Rain fed land reallocation and re-allocation of Irrigable land. Regarding to rain fed land allocation the regulation states the reallocating lands for landless youth and peasants. These are the public or communal unoccupied cultivable lands, based on the benefit of the local community and the region in general state owned land, when peasant farmers went from densely populated areas to relatively sparsely populated areas by resettlement program, they shall get farmland through allocation, the final land which is possible for allocation is Possession with no inheritor. These are what the regional land laws provided for allocation. Regarding to practices currently Mr. Terefe Teka the team leader in land administration, regional rural land agency he states that currently there is no rural land allocation in SNNPR State. Land-related constraints to rural livelihood in Southern Ethiopia

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<sup>237</sup> Ibid Art 9( a),(b),(c) and regulation number 66/2007 Art 9( a)(b)(c)

<sup>238</sup> Ibid 9(2)

regional state are not, of course, limited to size of holdings and landlessness but also include various other dimensions such as: land degradation and soil fertility decline, loss of common property resources and environmental deterioration, and weak land rights and tenure insecurity. This reminds us that there is no one single land issue or problem. It is also important to note that the various land-related constraints are not separate or isolated problems, but are interrelated and mutually reinforcing: for example population pressure and land scarcity aggravate land degradation, while weak land rights and tenure insecurity discourage sustainable land management which in turn contributes to land degradation; land and environmental degradation exacerbate vulnerability to shocks such as drought etc. which together create a vicious cycle of vulnerability and livelihood insecurity. The reasons mentioned are land scarcity, long lasted land redistribution, land fragmentation and the minimum rural land holding size principle<sup>239</sup>. There is rural land scarcity in central zones due to highly densely population such as Wolaita, Gedeo, Sidama and Kembata. The highland zones of SNNPR are the most densely populated areas in the country and are characterized by acute scarcity of land. The decline in the size of landholdings has reached such a critical stage that one of the key questions related to land and rural livelihoods is whether and to what extent secure livelihood would be attainable for the majority of households operating extremely small holdings, commonly characterized as “micro” holdings and “starvation plots. A related but separate challenge with even more serious implications is the issue of landlessness: in the densely populated and land scarce highland areas of SNNPR the land frontier has closed decades ago and it is now almost impossible to establish long term access to viable plots<sup>240</sup>. These areas are the places where several land allocations and arrangement settled. This long lasted land allocation in the region creates land fragmentation. Both SNNPR Rural land proclamation as well as the regulation set the minimum rural holding size<sup>241</sup>. It defined. “Minimum size holding” as size of rural land holding, the productivity of which can ensure the food security of a peasant , semi-pastoralist and pastoralist family, or which suffices for crop farming, perennial crop farming, grazing, house building and

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<sup>239</sup> Interview with Mr. Terefe Teka

<sup>240</sup> Teketel Abebe and MelessawShanko: Land, landlessness and poverty in Ethiopia, p 125

<sup>241</sup> SNNPR Rural land proclamation Art 11/1

garden<sup>242</sup>. Also the proclamation states that without prejudice to the existing farmer holding or farm plot size of the family, if the plot is meant for rain fed agriculture its size shall not be larger than half a hectare. If it is irrigable land constructed by the expense of the government which is to be given to peasants, pastoralists or semi- pastoralists, the size shall not be larger than half a hectare<sup>243</sup>. One is the minimum size holding of which the federal land law and SNNPR too incorporated bearing it to be the least necessary land to satisfy food security. SNNPR regional land laws provides that the minimum size holding as it is 0.5 for lands cultivated by rain and not more than 0.5 hectare for irrigable lands<sup>244</sup>. The main aim of minimum land holding size is to redress the problem of land fragmentation in the region. It is intended to prevent land fragmentation. Minimum size holding on the other boomed food security and access to land indeed valued in term of being means of livelihood. Regarding to the allocation of rural land in SNNPR Wolaita zone the practice is not different from that of what the proclamation states. In both interview and focus group discussion done in Diguna Fango and Abala Abaya the respondents stated that the allocation of rural land for rural youth is unthinkable. They stated that the current land tenure system arranges the rural land for only investors. Respondent 2 who is living Bilate Chericho stated no youth can access the rural land via allocation in their locality.

#### **4.2.2 Special procedure of Land allocation for youth in Southern Ethiopia**

After miscarriage of regional formal land allocation per individual in various modalities Southern Regional state devised another strategy to relieve aggravated rural land question of the youth. To solve the youths unemployment problem in Southern Region, especially after voluntary settlement is abandoned the regional government established regional youth job opportunity agency that led by regional vice president. This regional agency is empowered with powers that enable it to solve existing land access problems of youth in general and to create job opportunity for youth specifically. The objective of the agency is to create sustainable job opportunities for job seeking youths who are vulnerable of unemployment due to various reasons in the rural areas of the region and who have been trained in various

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<sup>242</sup> Ibid Art 2(12)

<sup>243</sup> Ibid

<sup>244</sup> Ibid



professions and education in different educational institutions to create and employ them in agriculture, agricultural and non-agricultural fields of jobs, create wealth and contribute to the economic development of the country<sup>245</sup>. This strategy planned to create agricultural and non-agricultural works for organized youths in association by allocating lands that are rehabilitated, recovered, conserved and stated owned land. The directive defines recovered land as the land which is not giving agricultural service due to the damage occurred in various ways and recovered by community participation, by governmental organization and by non-government organization support and commitment<sup>246</sup>. This recovered land is allocated for the youths who are organized in association in their willing with the duty to conserve their lands<sup>247</sup>.

There are conditions to access rural land in special allocation in Wolaita Zone. The Southern state government devised the optional strategy in order to answer the regional youth rural land quest. Accordingly there are some criteria that enable the regional youths and peasants to access agricultural lands. The regional strategy that is aimed with solving regional joblessness and the agricultural landlessness devised various techniques to avert the problem from very root. Accordingly the youths who are between the age limitation 18 and 29 who have no their own rural land or there is no rural land provided by the government or in other means. In addition to the regional youths the regional peasants are also can access the rural land for different purposes. Other categories who can access rural land are the youths who are graduated from higher education institution and still not employed by government or non-governmental organization. These youths access the rural lands for various purposes in association. The association comprises members grouped in their willing to engage in agricultural and non-agricultural activities that longs for short, middle and longtime duration. The longest time provided is 15 years and the initial time provided is 3 years only<sup>248</sup>. Diguna Fango Woreda is one of the Woreda in the South Ethiopia regional state of Ethiopia. It is a part of Wolaita zone located in the Great Rift Valley and it is bordered on the Southwest by Damota Woyde, on the West by Damota Gale, on the north by the Hadiya

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<sup>245</sup> Art 5 of the directive number 131/2008

<sup>246</sup> Directive number 002/2009 Art 1(6) I

<sup>247</sup> Ibid

<sup>248</sup> SNNPR Directive number 002/2009 6.4

zone, on the northeast by Oromia region and on the east by Bilate River in which it separates Sidama region<sup>249</sup>. This Woreda is established in 1998 E.C from Damota Woyde Woreda and populated as 130,224<sup>250</sup> and it has 401.50 km square. Generally its total population density is 324.4/km square<sup>251</sup>. In this Woreda regarding to rural land access the regional job opportunity creation Agency strategy practice seems the following. What the first thing that the Woreda job opportunity creation office's task is distinguishing the rural land that can be accessible for local youths and peasants. Accordingly in Diguna Fango Woreda in 2015 E.C 321 hectare rural land transferred to the youths and 239 hectare prepared to be transferred in 2016 E.C for local youths who are grouped for 5-15 members in which minimum size per individual in association is above 0.5 hectare<sup>252</sup>. In the procedure of organizing youths in Woreda two offices are stakeholders namely Woreda rural land administration office and Woreda rural job opportunity office in which land isolation, land preparation, organizing the youth in associations are the specific works of Woreda job creation office and the Woreda rural land administration office is obliged to prepare contract and issuing land use certificate for the associations<sup>253</sup>. Regarding to land preparation to youth associations, there are types of land prepared to provide to those organized association, these are communal lands and recovered land. Communal lands are lands that are fertile and suitable for active agricultural activities provided for youth associations that are organized to produce crops such as cash crops, cereal crops, whereas recovered lands are lands that are damaged due to land derogation, erosion and deforestation and recovered in the active participation of community, engagement of the governmental and non-governmental organizations<sup>254</sup>. In the interview conducted with youths in Diguna Fango Woreda the youths in Bilate Chericho and Bilate Monopoly and Fango Damota kebele gave the same indication that they have no option to access rural land in association that the job opportunity creation office stated. One respondent in Bilate Chericho stated that the Woreda government tried to provide the rural land in the area the so called Sa'aa-Tuussa/ Batiya in order to alleviate the rural land problem of those local youths who have either no land or the youths with small land

<sup>249</sup> [https://en.wikipedia.org/wiki/Diguna\\_Fango](https://en.wikipedia.org/wiki/Diguna_Fango) accessed on October 7

<sup>250</sup> Ethiopian central statics population 2022

<sup>251</sup> Ethiopian population size by zone and Woreda accessed in June 26, 2023

<sup>252</sup> An interview with Tigilu Domboba: Diguna Fango Woreda job opportunity officer

<sup>253</sup> Ibid

<sup>254</sup> An interview with rural land officer :Mamo Makalo

size<sup>255</sup>. In this strategic action devised by the Southern Ethiopia region the practice depicts that the strategy ignored rural youths unless those who are graduated from university and unemployed by government or non-governmental organization. But the directive issued equally treats those peasants living in the local area to access the rural land in order to survive for their life. Thus almost the right to access rural land for those peasants is clearly compromised in Diguna Fango in reality.

Abala Abaya is a Woreda in Wolaita Zone of South Ethiopia Regional State, Ethiopia. The Woreda is established in 2019 from the surrounding Woredas. And those surrounding Woredas formed border to the Abala Abaya Woreda. Abala Abaya is bordered on the south by Lake Abaya, on the west by the Offa Woreda, on the north by the Humbo Woreda, on the east by Hobicha Woreda<sup>256</sup>. In this Woreda most of huge agricultural investment projects are situated due the existence of government owned large land and due to the existence of best irrigation system in that locality. This Woreda is endowed with abundant natural resources like carbon, lake and communal lands most of the communal land is provided for investors. According to Mr. Bereket Belete the land administration officer in Abala Abaya Woreda there is enough rural lands to provide for youths. The communal land that can be accessed for local youths is more than 1000 hectare in that Woreda. But the land administration system of Abala-Abaya Woreda is not modernized still now the land registration is undergoing land certification is not started as done in Wolaita zone other Woredas. Regarding to land access not only youths but also those with small land size that means the land with less than 0.5 hectare, the youths who are interested to engage in agricultural activities, the youths who served the military and retired now are the bodies accessed the rural land in this Woreda<sup>257</sup>. Currently any youths who are interested to engage in agricultural activities the Woreda government arranges the rural land for those youths organized in group by rural land office and Enterprise office jointly<sup>258</sup>. Regarding to the access of rural land in association, this practice is not such familiar in that Woreda. In that Woreda the youth associations which accessed the rural land are only two. The land prepare

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<sup>255</sup> Interview with Respondent 3

<sup>256</sup> <https://snnprswolaitazone.gov.et/node/23> accessed on October 7, 2023

<sup>257</sup> Interview with Birhanu, the rural land officer in job opportunity creation affair in Abala Abaya

<sup>258</sup> An interview with Bereket Belete, Abala Abaya rural land administration officer

in the interest of the youths who are interested to engage in agricultural activities. Accordingly 20 hectare rural land accessed for two youth groups as they required engaging in that area in agricultural activities. In the same way 185 hectare of land is prepared to provide the youths in associated for 70 enterprises who are interested to engage in agricultural works<sup>259</sup>. In this process two Woreda government structure involve to transfer the rural lands to youths who are organized to engage in agricultural works. These are Woreda rural land administration and Woreda job opportunity creation office in which land preparation, land measurement and contract preparation by Woreda rural land administration and the youth preparation and land transfer by Woreda job opportunity creation office<sup>260</sup>. The youth in Abala Abaya states that they want to have rural land in association or privately, but they complain the procedure in which local Kebele administration plays large role in allocating the land whether in group or in person that the procedure is open for corruption in which he/she who give some money will access best rural agricultural land on time without further delay<sup>261</sup>.

#### **4.2.3 Resettlement**

Resettlement is defined as moving people from one place to other area due to various factors. Its main aim is relieving population pressure and land shortage, and promoting land consolidation and sound agricultural in area of high population. Settlement may be undertaken to rehabilitate population that have been adversely affected by natural disaster, unfavorable climatic behavior, and/or political conflicts<sup>262</sup>. Resettlement has also been seen as a means of creating employment for urban, for rural youth or for both. Resettlement programs have been successful where planners have pursued limited objectives, and where the programs have been significantly designed to deal with one major problems and success depends on careful advance preparation, choosing the right people and the right place and fashioning a flexible organizational and tenure policy. But in Ethiopia the policy inconsistency and lack of purposeful goal orientation has characterized the country's

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<sup>259</sup> Birhanu ,officer in job opportunity creation in Abala Abaya Woreda

<sup>260</sup> Ibid

<sup>261</sup> The interview with respondent one in Abaya kebele

<sup>262</sup> Desalegn Rahmato; Resettlement in Ethiopia in 1980's

settlement efforts in the whole period<sup>263</sup>. The earliest resettlement policy in Ethiopia developed out of two principal concerns. The first concern is economical concern and the second concern is that of political. These concerns revolved around the question of how to rationalize land use on government owned land and thus raise state revenue on the one hand and on the other hand to provide additional resources to the hard pressed in northern peasantry in South region. The then resettlement policy was double edged in which it relieve the population and land pressure in the overcrowded area and at the same time serve as a means of distributing land to needy and those who with insecure tenures<sup>264</sup>.

Resettlement is still one modality of accessing rural land in Ethiopia in several areas. The federal rural land use proclamation states that a settlement and villagization program to be undertaken at the request and participation of the community shall be undertaken taking into account the objective of land consolidation<sup>265</sup>. Not only the federal but the Southern Ethiopia regional rural land proclamation included the settlement issue as that of the Federal rural land proclamation. It stated settlement and villagization which is undertaken by the request and participation of the community shall be accomplished considering land consolidation<sup>266</sup>.

According to both proclamations there are three preconditions to conduct settlement. The first one is the settlement should be at the request of the community. The second requirement is the settlement should be conducted at the participation of the community. And the final requirement is the settlement should be in the manner that ensures the land consolidation<sup>267</sup>. One of the modality by which government provides the rural land for youth in South Regional state is voluntary resettlement program which is long lasted until 2006 E.C that was undertaking within Southern Regional state. The voluntary resettlement that lasted for years resettled abundant number of peasants from Central zones where there is densely population those were Wolaita, Sidama, Kembata and Gedeo to Basketo, Malo and to the current South Western Regional State zones such as Kaffa, Sheka, Benchii where there

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<sup>263</sup> Ibid

<sup>264</sup> Ibid

<sup>265</sup> Proclamation 456/2009 Art 11/5 of FRLUA

<sup>266</sup> Proclamation 110/2009

<sup>267</sup> Ibid

abundant fertile rural land<sup>268</sup>. As Mr. Terefe Teka stated currently there is no regional rural land resettlement from 2006 E.C to present due to the existing insecurity within nation as well as in the region. Because of that the local governments in which rural land exist refuse to accept the peasants out of their ethnic groups specially who came from another regions and zones to access rural fertile land that is unused for long time. Another reason next to refusal of local government to welcome new comers to their areas the security issue is another big issue. The regional rural land proclamation orders the settlement to be done with some pre conditions. These are firstly the settlement program must be conducted in the request of the community where the communal rural land exist, secondly in addition to the request of the community the public participation is necessary to have successful settlement and finally the settlement must be in the way that ensure land consolidation. However the settlement program banned before ten years due to the reasons mentioned above<sup>269</sup>. There is one popular case in which many new settlers entertained insecurity and hardships many died and injured; the case of Gura-ferda<sup>270</sup>. Teketel Abebe and Melessaw Shanko states as that what makes the problem of landlessness more serious is the fact that one of its main features is what we may call a “generational divide”: the main group suffering from landlessness is the rural youth or the younger generation. Although many factors influence youth motivation and interest in agriculture, the problem of access to land is the main cause which is pushing the majority of young people in rural areas away from smallholder farming as a preferred livelihood option. It goes without saying that youth landlessness coupled with limited access to alternative non-agricultural employment opportunities creates conditions full of serious social, economic and political implications and consequences<sup>271</sup>.

Regarding to resettlement in Wolaita zone, there are some exceptions in that is different from the regional practice. Even if the resettlement in Southern Ethiopia is stopped in regional level but still there is an internal settlement in Zonal administration exceptionally in the case of natural disaster and for some extent with the intention to change demography in some local area. Accordingly in the case of natural disaster Wolaita Zone one of the region’s

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<sup>268</sup> Interview with Mr. Terefe Teka the SNNPR rural land administration team leader

<sup>269</sup> Interview with Terefe Teka

<sup>270</sup> Ibid

<sup>271</sup> Teketel Abebe and Melessaw Shanko: Land, landlessness and poverty in Ethiopia

zonal administrations in which natural disaster happened and in large number of people and their property destroyed and demolished and those with small land were resettled<sup>272</sup>. In 2003 E.C there was local settlement in Abala Abaya in which more than 100 people who have the small land size, the youth who have no rural land for survival from Faracho to Maraka the place where huge communal land exist settled in that local area and provide the rural land between 2 hectare and 5 hectare. Additionally there are peoples who moved from other localities to access rural land by clearing forests to allocate the land in their own initiations. In the interview with one of them, he states that he is living in Shello-Abore in Sidama regional state Bilate Zuria Woreda<sup>273</sup>. In the interview with them regarding to the settlement in forest around Abaya they raised the main causes that pressed them to live in wilderness. One of the settlers states that he worries for the future to live in the area he lived for long time because of the existing conflict in that area between Guji Oromia and Sidama ethnic. There was ethnic based war in that area for the last 10 years and both ethnics threatens them to leave their original land and to migrate to Wolaita. In addition to this the settler in Abala Abaya also said that the existing land in Shello-Abore is not enough to survive and to grassland the cows and other domestic animals in order to support their economy<sup>274</sup>. These settlers in their wish started to clean forest to arrange the land for agricultural works in the area called Chaw-kare in that no government structure support the activities but those persons who worry for their future began to remove the forests and shifting the forest land to agricultural land.

#### **4.2.4 Land Lease/ Renting**

The Southern Ethiopia rural land proclamation defines rural land rent as a system by which investors or other legal bodies rent in rural land from peasants for specific period of time<sup>275</sup>. It is one mode of land transfers from one person to another person in legal way. The Southern Ethiopia regional state rural land proclamation under the topic of Transfer of Rural Land Use right states that Peasant farmers, semi-pastoralist and pastoralist who are given land holding certificates can rent out land for farmers or investors from their holding of a

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<sup>272</sup> Interview with Mr. Matiyos Meskele Wolaita zone rural land department land expert

<sup>273</sup> Interview with one of the settlers in Abaya

<sup>274</sup> Interview with one of settlers

<sup>275</sup> Art 2(21) Of the Southern Ethiopia Regional state rural land proclamation

size sufficient for the intended development in a manner that it shall not displace them.<sup>276</sup> Regarding the duration of the contract it has respective different duration of the contract, if it is from peasants to peasants, the duration shall be up to five years<sup>277</sup>. If it is from peasants to investors, the duration shall be up to ten years<sup>278</sup>. And provided that it is from peasants to those investors who cultivate perennial crops shall be up to 25 years<sup>279</sup>. The emerging of land rental market in developing countries is an important attempt to address land use efficiency, equity and poverty reduction. In the absence of land sale as it is made in Ethiopia and factor market imperfection such as labor, oxen, and credit, the land rental market plays an important role in adjusting land to non-land resource endowment ratio. In the reverse share tenancy, where a tenant is relatively wealthier than a landlord, the land use right transfer from land rich, but poor in non-land resource to land poor, but rich in non-land resource, has generally been benefited the poor especially aged and female-headed households. Secured land use right encourages poor households to rent out their land to the efficient operator, and they get better income and reduce the severity of food deficiency<sup>280</sup>. After instituting the market-based economic system in Ethiopia in 1991, the government has lifted the restriction of land used transferred and land leased that was practiced during the command economy. Waiving this restriction has created a favorable condition for the emerging and facilitation of the land rental market process among smallholder farmers. The institutionalization and endorsement of national rural land use proclamation in Ethiopia (proclamation no. 89/1997) have also confirmed a solid ground for the formalization of land rental market process among smallholder farmers<sup>281</sup>. In the discussion with Focus group members in Diguna Fango they unanimously agreed in one voice that the simple way to access rural land in their locality is via rural irrigational land rent and share cropping. Rural irrigational land rent in their local area is familiar to access for youths who have financial capacity and capital to engage in agricultural activities to make profit. In Diguna Fango Woreda especially Bilate river basin the familiar way to

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<sup>276</sup> Art 8(1)

<sup>277</sup> Art 8(1)(a)

<sup>278</sup> Art 8(1)(b)

<sup>279</sup> Art 8(1)(c)

<sup>280</sup> Menasbo Tesfay : Factors affecting renting in and renting out of land in a semi-arid economy of Tigray, northern Ethiopia: a generalized random effect ordered probity model pp. 1

<sup>281</sup> Ibid



access rural land is rural irrigational land rent. Because the area is endowed with naturally gifted with irrigation and non-irrigational fertile land that abundant number of youths and investors interested to engage in agricultural activities that they make profit by supplying for local and far markets in that they keep doing this works. The procedure of this rural irrigational land rent is managed by that rural land rent contract that both parties deal the price, the size of the land, the time framework to return back that land for original land holder. Most of agricultural activities in Bilate river basin are in the lands which are accessed via land transaction most of them are for short period of time. The number of land renting youths differs from season to season and from local area to local area<sup>282</sup>. The rental agreement has to be accomplished based on the agreement of the family of the land holder and shall be approved and registered by the competent authority. When the contract agreement with duration of up to two years that contract shall be registered at kebele Administration office. When the contract agreement with duration of more than two years shall be registered at Woreda level and the Southern Ethiopia rural land proclamation enables the land holder to use his rights as well as to undertake development activities jointly with an investor.<sup>283</sup> According to the rural land administration office of Abala Abaya the rural land officer the Woreda government controls, regulates and coordinates the rural land transaction from one party to other one. One way of rural land transaction in Abala Abaya is rural land rent in which the Kebele administration is empowered to register and regulate the rural land rent contract that is in time frame up to 2 years. The Woreda land administration registers and regulates the rural land contract their term is more than 2 years<sup>284</sup>. The good thing for land leasing is it has no precondition to access rural land like that of peasants. In order to access rural land for peasants there are preconditions that are residency requirement, interest and age limitation. In other way land lease or rent has no precondition to access rural land however this right is temporary in its nature. Concerning to family based mode of land access like donation and inheritance these modes are another familiar ways to access the rural land in both Abala Abaya and Diguna Fango Woreda. As we know donation is a contract whereby a person, the donor, gives some of his property or

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<sup>282</sup> Mamo Makalo Diguna Fango rural land officer

<sup>283</sup> Southern rural land proclamation 110/2007 Art 8(2) (3)

<sup>284</sup> An interview with Bereket Belete Abala Abaya Woreda rural land officer

assumes an obligation with the intention of gratifying another person, the donee.<sup>285</sup> Inheritance is among the modalities of accessing rural land which has got recognition in the FDRE Rural land administration and land use proclamation which in fact rooted in a land holder's right to transfer his holding and use right to another person<sup>286</sup>. In addition to this it states that any holder shall have the right to transfer his rural land use right through inheritance to members of his family<sup>287</sup>. The Southern rural land proclamation also replicates the same phrases with that of federal rural land proclamation in which the land holder can transfer their rights especially for the young persons who are interested to engage in agricultural activities and establish his own family the land given to him/her the rural land in order to support himself and his family. In Focus group discussion in Diguna Fango among there were group members who accessed the rural land in the mode of donation in following the establishment of the new family. This land is known as 'darkkuwa' translated as a piece of land provided by his family to support his new family. The persons who can get rural land by donations are those who are a family member, who has engaged in agriculture and who doesn't have land. The size of the land depends on the extent of land having for the family who is donation to their child. In the discussion group members stated that the general size of the land donated is not more 0.25 hectare<sup>288</sup>. This gifted land become the private land for the person who is donated and this donation done for every male children in that it denies the right of land access of females. But one important step to legible donation is register and approve by Woreda rural land office. Thus the role of Woreda rural land office concerning donation and inheritance is registration and approval of that land. Simply the heritance and donations are the traditional way of land access in Ethiopia from long time. This kind of land access cannot respond the hot and active land questions of the youths in both Diguna Fango and Wolaita zone in general.

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<sup>285</sup> Art. 2427 of the 1960 civil code of Ethiopia

<sup>286</sup> Federal Rural land administration and use proclamation Art 5/2

<sup>287</sup> Ibid Art 8/5

<sup>288</sup> The FGD discussion in Diguna Fango

#### 4.2.5 Inheritance

In many societies, one of the main means youth to access land is through inheritance. Inherited land is intrinsically important to young men and women and provides other benefits than productive purposes and tenure security. With urbanization and shifts from the extended to nuclear family, it is unclear how inheritance and customary land tenure practices are evolving. Increasing impoverishment of rural families has led to selling of family land that would have otherwise been inherited by the next generation. A recurring question is how youth are impacted by the alienation of family land, especially in light of other research which has noted that youth seem to be more interested in investing in education and other non-land wage employment as they are focused on opportunities in the cities. What we find, however, is that there is significant discrimination against women's equal inheritance rights both in customary and statutory systems. It is among the modalities of accessing rural land which has got recognition in the FDRE Rural land administration and land use proclamation which in fact rooted in a land holder's right to transfer his holding and use right to another person<sup>289</sup>. The SNNPR Rural land proclamation states that any person who is a member of a peasant, semi pastoralist and pastoralist family have the right to use rural land that may be obtained from his family by gift or inheritance or from the competent authority<sup>290</sup>. This provision illustrates that to obtain rural land from family requires the membership of the peasant, semi-pastoralist and pastoralist. Practically in entire Wolaita and Southern Ethiopia the dominant modes of access to rural land is inheritance. In the interview with the youths in field, in the focus group discussion and the discussion with government officials from Woreda to Regional state anonymously presented that the most dominant way in which the youth access the rural land was via inheritance. One criticism against the inheritance mode practically is that it denies the rights of women to access rural land via inheritance<sup>291</sup>. During the interview with youths in both Diguna Fango and Abala Abaya Woreda states that they accessed rural land via inheritance that provided for him from family. These all depicts that the youths in South Ethiopia are vulnerable to access rural land in Wolaita Zone.

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<sup>289</sup> Federal Rural land administration and use, No. 456/2007 art. 5(2)

<sup>290</sup> SNNPR Rural Land Administration and use no 110/2007 Art 5(11)

<sup>291</sup> An interview with Mr. Terefe Teka SNNPR Rural land expert

## **CHAPTER FIVE**

### **5. CONCLUSION, FINDINGS AND RECOMMENDATIONS**

#### **5.1 Conclusion**

Access to rural land is one from the bundle of property rights to land and it is the opportunity to have physical control and establish usufruct right over rural land. Access right to rural land involves three basic variables which are subjects, conditions and modalities to access rural land. Subjects are right holders. They are persons who are entitled to claim the enforcement of the right per se. Regarding to subjects of access to rural in Ethiopia subjects varies across different political regimes which manifested the political trend of their time. Before the military junta, the country was mainly characterized by north south dichotomy of the land tenure in terms of an institution which determines access, use and other rights to land.

In this time large amount of population lives in rural part of Ethiopia in which their life depends on the land. In this rural part of Ethiopia there are also landless youths who request the government to supply agricultural land in order to survive their livelihood. In Southern regional state Wolaita zone there are also youths who suffering due to the lack of adequate rural land to access in which they become landless and hopeless. It was also the long time issue in Ethiopia from Imperial time to the current regime. Of course the land tenure system of the current regime is different from that of the past government is that its policy and legal framework regarding to land access is already locked in the constitution in which it banned any sell and buy of the rural land. After banning the sell or buy of the rural land the FDRE constitution stated that peasants, pastoralists, semi-pastoralists and investors are entitled to access rural land freely except investors. Peasants and pastoralist community are entitled to access the rural land free of charge and any expropriation they will get compensation according to respective legal framework. The peasants and pastoralists can access the rural land via land allocation, resettlement, inheritance, donation and other modes of land delivery system in Ethiopia. In this paper the reality shows that currently neither the peasants nor pastoralists are accessing the rural land for their survival rather the investors who are motivated for profit are accessing the rural land in the size and place they want. Thus except

the investors the rights of peasants and pastoralists to access rural land deprived of at all. In northern parts of Ethiopia, rist was predominant tenure from which persons establishing their line age can avail access right to rural land. It was applicable unlike to lords and low class citizens. The other accustomed tenure in the northern was gult. Gult was fee as a return for official service and hence, ordinary peasants were not possible to access rural land through it. The Ethiopia Orthodox Church was one other beneficiary from the gratuitous gift of the then Ethiopian governments by gult. In the southern Ethiopia unlike its northern counterpart the land tenure marked by significant departure from what it had been due the arrival of the then Abyssinian king, Menelik II in the region.

After Hailesilassie removal, Dergue brought radical shift on the entire land tenure and made to that effect, all lord- tenancy relations and rist- gult affiliations an obsolete relation. Any person regardless of sexual difference was allowed to enjoy access right to rural land and ability to plough had been a condition to stand as legible claimant. Dergue emphasized equitable distribution of rural land and hence, modalities to access rural land were mainly from the government. Frequent distribution and redistribution was lunched. To the opposite, access to rural land from private individuals was too restricted. The federal choice, which replaced the Dergue, actually followed Dergue indoctrination. Land remains public property and government's role in access to rural land legally sensitized. The Constitution recognized needy peasant's and pastoralist's access to rural land freely to that effect; the FRLAU proclamation also duplicated the notion of the Constitution.

Regarding to investors access to rural agricultural land the law states it on payment arrangement only. There is no other criterion to access rural land for investors but only payment arrangement. When we compare this to both peasants and pastoralists the modality in which the investor accesses the rural land is relatively unpretentious. Generally three conditions which are attainment of civil majority, readiness or interest to engage in agriculture for a living and residence requirements are attached to exercise access right to rural land for peasants. Not only that the current data shows that most of the rural land is invaded by the private investors in SERS Wolaita Zone. In relation to modalities of access of rural land for youths there are modalities in which rural land can be Wolaita Zone accessed and these are allocation/redistribution of land, resettlement, rural land lease/renting

and inheritance. Regarding to redistribution, non-irrigable lands redistribution is too restricted alternative. From private individuals, land may be acquired by rent, donation and inheritance. Thus in order to alleviate these problems of access to rural land for youths in entire nation and in SERS Wolaita zone multiple policy and legal choices must be taken in the way that can respond the rural land request of entire peasants and pastoralist youths.

## **5.2 Research Findings**

In this research paper the following main findings are discussed.

### **1.The absence of Comprehensive, flexible, sound and market oriented land policy and policy actions to Increase youths access to Land**

To overcome the challenges faced by youth accessing land and using it to undertake modern agriculture, policy actions have to be undertaken that would ensure access to: land; financial services to acquire the land and farm it; and technical assistance to develop entrepreneurship skills. Access to these services as an integrated package is important for youth to acquire land and use it to undertake successful commercial agriculture.

Ethiopian government need to undertake appropriate land policies and associated agrarian reforms to make that happen. It is important to support initiatives to develop policy actions to enable the youth acquire land and contribute to the modernization of agriculture in Ethiopia and these policy actions include:

And currently due to the stubborn stand of the FDRE constitution regarding the land concern still now the current government led by Prosperity party has also no clear rural land policy and program. The Prosperity Party led government seems to keep-up the existing old land policy and still now there is no new progress to bring fundamental land policy in Ethiopia. The beginning of national dialogue that is undergoing in constitutional issue may set land policy as agenda in order to be discussed in public. Still know the problem will continue is the perception of connecting land with ethnic identity. That means thinking the land situates in Oromia as Oromo ethnic and arranging for only Oromo peasants, pastoralists and other parts of society. Finally regarding the access of rural land for youth in Diguna Fango Woreda and Abala Abaya the reality on the ground shows that most of youths are suffering

because they cannot access the rural land simply. It is big challenge to access rural land in Wolaita Zone in both Diguna Fango and Abala Abaya.

## **2. The mode of land access is shifted from individual to the group to access the rural land**

The access of rural land of the youth in the research area is shifted from individuals to organized youths rather than those who claim rural land individually. In this mode of land allocation, land is accessed to any youths regardless of gender, educational background and the only thing considered is the interest to engage in agricultural activity. In this case it is better than both donation and inheritance regarding the issue of gender. Because in donation and inheritance the women cannot access the rural land due to the gender biased attitude of the community. But the mode of land delivery for the organized youth treats every youths regardless of their sex, education background and other social status. Now since the government is the regulating body of the rural land, the access of the rural land of youth is targeted with prioritizing the interests of the youth who are organized in an association than those who claim land in private. Even it is possible to conclude that accessing rural land for youths in private is at the stage of impossible in the research areas. The issue of private land holding is remaining at this time. The drawback of this system of land delivery system is that it is temporary right over land that is limited from 3 years to 15 years. After the mentioned period of time the youths who hold the land leave and their right related to land is expired. In addition to this, unlike the private investors the youths who hold the rural land in group cannot mortgage their land to the banks in order to get loan. Because their land holding time limited and they have no land holding certificate at all. So still now this way of rural land delivery system is not that much effective and efficient in the extent to solve the critical land requests of the youths in Ethiopia.

## **3. Structural diversity of rural land governance**

There is role diversity in government structure concerning rural land administration. Theoretically both the federal and regional rural land proclamation empowers the respective rural land administration offices to govern, to regulate and administer the rural land from federal to Woreda rural offices. However presently the respective rural land offices are replaced by other government structures and became idle. Rather than land administrators

offices Investment commission and rural job opportunity agency which established under the bureau of Enterprise take the role of land administration offices. This kind of structural failure leads to manipulation of the youth rights wrongly. Another viable finding of the research is that the current land tenure system favors the private investors rather than small land holders as well as the rural youths.

#### **4. Priority given to Private investors rather than the ordinary society to access rural land in Wolaita Zone**

As it is shown above the existing rural land proclamation limits the transfer rights of people that from peasants to peasants and it gives long time for investors who rent the lands from peasants. Thus the existing rural land laws are pro investor and it provide little attention to the huge question of the rural youths. The other gap existing in securing the youth's access to rural land is the rural land laws and their implementation difference. The federal constitution states that the priority to access rural land is for peasants and the investors are entitled to access rural land without prejudice to the right of Ethiopian people on the basis of payment arrangements established by law. Subsequent to this the SNNPR Rural land proclamation states the same concept that subject to giving priority to peasants, semi pastoralists and pastoralist, private investors that engage in agricultural development activities shall have the right to use rural land in accordance with the investment policies and laws at federal and regional levels. However the practice clearly shows that the priority principle applied for investors rather than the local youths. Due to this mismatch of the laws and practice in reality the private investors invaded the agricultural lands in Wolaita Zone in both Woredas. The land size regional peasant's access is limited, but the land size provided for investor is not limited in law.

#### **5. Legal gap and policy absence to secure youth's land access**

Generally in the way to secure the access to rural land there are legal and policy gaps that challenge the youths not to access rural land. Due to the absence of comprehensive policy options and existing legal gaps the youth's right to access rural land in Ethiopia is challenged and finally denied. The legal gap existing begin with giving little attention to the issues of the youths access to rural land in Ethiopia. In Ethiopia with an ever growing youth population, struggles to access land are expected to intensify in developing nations like



Ethiopia. In addition to this land grabbing and corporate investments in large scale industrial farming have made land prices unaffordable and out of reach for the youth. And these legal and policy gaps should be narrowed in order to secure access to rural land. Both the rural land laws and policy must protect the interest of youths who wish to engage in agricultural activities. In addition to this some modes of land delivering system smoothly systematically became idle. It is possible to mention that of resettlement.

Because the existing current laws have not indicated the progressive way out to secure the access to youth in Wolaita Zone in which many youths are denied the access to rural land except inheritance. The existing rural land laws in which land provides for different parts of society couldn't accommodate the land request and demands of youths. Since Ethiopia comprises huge part of youths in society the rural land laws and policy must be enacted and devised in the way that accommodate and response the land request of the youths in rural.

### **5.3 Recommendation**

Based on the preceding discussion the following few points are suggested as the researcher recommendation.

#### **1. Formulating flexible, responsible sound and market oriented land policy in order to revise the current land tenure system: Youth responsive Land policies**

Land is central to security of tenure, shelter needs, food security, livelihoods, economic opportunities and quality of life of young men and women. By determining the priorities and needs on behalf of youth rather than building on inputs from the youth themselves, land policies are likely to miss the target. To ensure youth responsiveness of land policies and appropriate responses to the needs of youth with regards to land participation and consultations are pre-requisites. In order to entertain the land question of the youths and to revise the current land tenure system the government has to formulate flexible, sound and responsible land policy. In Ethiopia there is no comprehensive land policy for the long time that administers the land due to the persistent stance of the government. The Dergue regime proclaimed that the land's ownership belongs to the public and the state. The proclamation was targeted to break feudal system that owned the most of nations land. Rather than formulating the comprehensive and responsible land policy that can answer the land

questions of the future generation and it was not pre designed rather it was formulated in campaign. The EPRDF Regime also continued by locking the land policy issue in the constitution of the 1995. The comprehensive policy that is the most important tool in land administration, in its most basic function, it provides a roadmap for the development of a community's most limited resource, the land itself. More than just a rigid set of directions, however, the comprehensive policy lays out a community's vision for the future, providing guidance as to how the community will grow and thrive while striking an appropriate balance between competing interests. Additionally it means generalized, coordinated land use map and policy statement of the governing body of the local government that inter-relates all functional and natural systems and activities relating to the general land tenure of land. Regarding to land policy and policy actions the following issues must be considered in order to bring vibrant land governance to secure the access of the rural land for youths in Ethiopia in practice. The most important is the market-improving policy action must be applied in order to ensure the youths access in Ethiopia. Even if inheritance is the primary means of youth access to land, it is an inadequate mechanism because, with average per capita family landholdings declining over time, the land passed on to the youth is inadequate and too unpredictable and unreliable especially in terms of size, quality and timing of acquisition. It simply cannot support small and medium-size commercial farms which Ethiopia needs to transform its agriculture and its economies. Therefore it is important that land markets, both sales and rental, be developed and made transparent and accessible to youths so that the youth can use it to access farm land or to top-up what is acquired through inheritance. This policy action must be taken in Ethiopia in order to secure the rural land questions of the youths. This is concomitant with the question of constitutional amendment in which it should allow the free land market approach that is currently blocked.

## **2. The constitutional and other laws amendment:**

The constitution and other laws have to be amended to have flexible legal framework that can change the general land tenure system that can ensure the right to access of the rural land of the youths in Ethiopia. Provided that the constitution is rigid and inflexible no stretchy law can be formulated in order to answer the rural land concern of the youths. Thus constitutional amendment that allows the free market of the land in which the youths can

access the rural land via various approach of land attainment system including transfer of land permanently. The constitution has to be open that can entertain different land tenure system other than that of public land ownership of the land. Also the Federal rural land proclamation must be amended in the ways that ensure the access to rural land for youths. Indeed currently the Federal rural land proclamation is in the way of amendment regarding the use rights of rural lands to enable the landholders to mortgage their land and to get loan from financial institutions in order to solve agricultural inputs that the landholders suffers.

For instance the former SNNPR State rural land proclamation had gap in ensuring the pastoral community rural land concern. So the new Southern Ethiopia rural land proclamation has to be drafted in the ways that accommodate the pastoral community in order to access grazing lands for their livestock. Additionally in the situation of access to rural land from the government is unflattering, the land market (rent) has to be regulated in the manner it can be a workable and potential modality of addressing issues about access right to rural land. Considering the policy of equity in the land policy, it is better to regulate the object of lease and leaser contract in the manner rent can be one preeminent modality to access rural land. By lifting restriction in rented land size, Southern Ethiopia regional which is the newly established must enact laws that are supposed to enhance land seekers opportunity to access rural land. In addition to rural land rent the other ways of rural land access is providing the rural to youths who are organized for association has to be modified in the manner that can solve the landless problems of the youth by permitting for long time and creating conducive environment to get bank loan by mortgaging their holding they have in group. Thus the researcher recommends that rent and group land holding as a better modality to access rural land to be one policy consideration in determining the length and rented land sizes as well as the duration of the land holding.

### **3. Avoiding Structural diversity and forming one single institution to provide diverse rural land governance service in Ethiopia**

In Ethiopian federal government structure rural land is structured under the Ministry of agriculture. Institutional setup in the land administration system plays a crucial role in the successful functioning of modern land administration that ensures the citizens land demand. The institutional setup, whether separated for urban and rural land administration or unified,

is responsible for implementing the legal and policy framework. The weakest part of Ethiopian land administration institution setup is the institutional dichotomy between urban and rural land. Separating institutions into urban and rural land is based on land administration core processes and key functions in Ethiopia. Also in Southern Ethiopia Regional State, the institutional setup is separated, which results in increasing difficulties to administer land efficiently. In Ethiopia, two separated institutions are responsible for the management of land. Rural land is administered by the Ministry of Agriculture, while urban land is administered by the Ministry of Urban Development and Construction at the federal level. In addition to this large scale lands are governed by federal Investment commission and respective regional states. The corresponding regional Bureaus of the two federal ministries are responsible for the urban and rural land administrations separately at the regional levels in Southern Ethiopia region. In the time the research was undergoing what the rural land administration structure officials from region to Woreda alleged unanimously that their institution is not independent and currently the two institutions already are accomplishing the works of land administration offices by replacing them informally. These institutions are investment commission and Rural job Opportunity Agency which is structured under Federal Ministry of Labor and Enterprise bureau in region and below structures. In this research what ensured is that the rural land administration has no saying and authority in the process of land preparation, land transfer and license, rather this work is done by the investment bureau and rural job opportunity creation agency. This is the reality that researcher ensured the fact from regional state to Woreda level and the officers and officials have the same claim. Thus, what we need now is structural change in which that establish integrated land management in the status of Ministry that provide diverse service including rural land access, urban land access, investment land access and the way to provide youth the land in the form of rural job creation under one Ministry in order to accommodate every interest of the citizens, to promote the latest modern land administration system that enable to provide one stop services from one window for citizens and foreign investors including the access of the youth to secure rural land. Thus what we need is forming single land administration institution that provides diverse rural land services.

#### **4. Reconciling an existing legal and practical gaps**

In addition to the existence of legal and policy gaps to realize the access of rural land to the youths the existing legal and practical gap must be reconciled in order to secure the access to youths in Wolaita zone. In the above discussion we have one prominent case in which the interest of the private investor prevailed over the interest of the youths. In that case there were 40 youths who were organized by Diguna Fango Woreda job creation office in order to provide more than 25 hectares of land to hold in group to engage in agricultural activities. At that time the investor claimed that 25 hectares belong to him that he cannot claim legally that the Woreda administration provided the communal land for youths. Finally the private investor took the land that the youths held in group to engage in agricultural activities. So this is a clear practical gap that violated rural land laws including the FDRE constitution which states that the peasants, pastoralists and semi-pastoralists have the priority right to access rural land without any payment. Thus this kind of practical gap must be concomitant with the laws that administer the rural land in Ethiopia.

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- Interview with Mr. MerkinahMalako, team leader in SNNPR Job Creation Agency
- Interview with Mr. ZelekeAfato the top expert of the SNNPR Job creation Agency
- Interview with Ms. Selamawit Samuel Wolaita zone Rural land department official
- Interview with Mr. Matiyos Meskele Wolaita Zone rural land officer
- Interview with Mr. Isayas Wolaita Zone rural land officer
- Interview with Mr. Tesema Beyene Diguna Fango rural land official
- Interview with Mr. Mamo Makalo Diguna Fango rural land officer
- Interview with Mr. Bereket Belete Abala Abaya rural land officer
- Focus group discussion in both Diguna Fango and Abala Abaya

## **APPENDIX**

Guiding questions for depth interview with senior experts and officials regarding to youths access of rural land in SNNPR, Wolaita zone, Abala Abaya, Diguna Fango are the following.

1. How the rural youths access to agricultural land ensured in SNNPR Wolaita zone?
2. What are the approaches to answer the rural land question of the youth in the region?
3. What are the challenges and opportunities to access land in SNNPR?
4. What best models can be mentioned in responding the land question of the youth in SNNPR?
5. How the law and policy implementation in practice seems regarding to access to rural land in SNNPR?