

## Countering Land-grabs by Establishing a Database of Customary Land Ownership Rights of Indigenous Peoples

Malkamuu Jaatee, Habtamu Dugo and Joanne Eisen<sup>48</sup>

### Abstract

Without modern deeds and documentation, indigenous peoples cannot prove ownership of their ancestral lands. This paper describes a proposal that will create land ownership records/deeds for indigenous people by recording their land boundaries using GPS technology. The recording process will begin in areas that are at highest risk for land grabbing and the data will be stored out of country. This should strengthen the position of those who have only informal title to their land and who do not have the ability to prevent land grabbing. We expect that short term benefits will include the promotion of *Oromummaa*, the development of Oromo leadership, the continuing education of the people about their rights and the right to Free, Prior and Informed Consent [FPIC] and the intimidation of prospective land grabbers by alerting them to brewing resistance. In the long term, if court proceedings are required, measurement of ancestral property and documentation of ownership offer a higher chance of a successful outcome. We show how the changing concept of FPIC and financial failures of previous land grabbing schemes may be contributing to an eventual slowing of the land grab process. Until that time, indigenous leadership should promote the timely local actions required to protect the people from despotic treatment.

**Keywords: Land-grabs, Property Rights, Deeds, Indigenous peoples, and Documentation**

### 1. Introduction

Land grabbing is an evil phenomenon born of the global population boom and consequent fear of future food and resource insufficiency. Increasing demand for land that supplies minerals, oil, natural gas, water, and agricultural assets is mainly driven by global economic development, population growth and climate change. The annual supply of water and land for agricultural production over the next 20 years would have to increase by 140% and 250%, respectively in order to keep pace with the expected global needs<sup>1</sup>. Developed countries are actively involved in the business of land grabbing in order to produce bio-energy abroad and to use global agro-industrial business as the insulator of global financial crisis. Corporate and government investors were driven by expectations that future food and agro-fuel demand would raise the value of agricultural products; institutional investors such as hedge funds, pension funds, and portfolio investors are primarily motivated by land investments as historically proven hedges against inflation.<sup>2</sup>

Countries which are dependent on imported food or energy are rushing to access land and water in order to achieve domestic food and energy security. In some countries the rising cost of food coupled with water scarcity provided the motivation to lower their vulnerability to future food price hikes by investing in agricultural land in foreign nations with the expectation of producing agricultural goods (IFPRI, 2009). However, various civil societies, researchers,

academics, and environmental and human rights activists have expressed their concerns regarding the adverse impact upon indigenous peoples of large-scale farmland acquisitions by foreign investors whose primary goal is the security of food and energy for their domestic markets.

Indigenous populations with informal documentation of their property rights are at the highest risk of land grabbing. This study focuses on land grabbing activities in Ethiopia. In 2011 about 3.5 million hectares of land of indigenous peoples were stolen and transferred to investors by the government of Ethiopia. The expected figure for 2015 will double to 7 million hectares.<sup>3</sup> Until it is possible for landholders to benefit from well planned, well implemented land usage projects, powerless landholders need protection from unscrupulous and/or incompetent swindlers. Increasing the security of property rights would be a good place to begin.

Because the Ethiopian Constitution states, "The right to ownership of rural and urban land, as well as all natural resources, is exclusively vested in the State..."<sup>4</sup>, the government of Ethiopia can claim the right to promote land deals that fit its political agenda. However, theft of property, using the cover of illegitimately gained sovereignty, ought not to be condoned under any circumstances.

Many documented deleterious effects of land grabbing on local populations, combined with a frenzied rush by the government to rent the land at bargain basement prices, may cause one to question the intent of the Ethiopian ruling elite regarding the future of indigenous peoples. We know they scramble to dispose of property by giving tax holidays and other incentives<sup>5</sup> and by charging rent that is considered a gift.<sup>6</sup> That very behaviour is proof that their attitude regarding the well-being of all of their citizens is not beneficent.

Because these deleterious practices seem to offer minimal benefit to the regime, we need to ask rhetorically if this is a manifestation of genocidal intent. Land is not only a fixed asset essential to produce sufficient amounts of crops and livestock to secure the supply of food, but land is the foundation of the identity (culture, language, history) of a nation. Changes to land use without the consultation with traditional owners of the land, which is accomplished mainly by forceful displacement of indigenous peoples will, in the long term, result in the disappearance of the culture, the language, and the history of the peoples traditionally dependent on ancestral lands. "*Genocide Watch considers Ethiopia to have already reached Stage 7, genocidal massacres, against many of its peoples, including the Anuak, Ogadeni, Oromo, and Omo nations*" (Stanton, 2013). It is not generally accepted that ethnic cleansing rises to the level of genocide, and indeed, it is a term often used to avoid that appellation. Nevertheless, ethnic cleansing is on a continuum of genocidal acts and the definition may not be stable. In December 1992, the UN General Assembly referred to "the abhorrent policy of 'ethnic cleansing,' which is a form of genocide."<sup>49</sup> Therefore, it is appropriate to ask: has the leadership of the government of Ethiopia latched onto land grabbing to achieve systematic ethnic cleansing that continues to destroy the lives and livelihoods of the peoples of the South in order to realize an internationally invisible genocide that would ensure minority elites' absolute and untested ownership of the land?

The BBC reported that Abera Deressa, a government Minister who has designed recent land policy, intends to change the status and lifestyle of pastoralists in the south. The minister told the BBC, "...at the end of the day, we are not really appreciating pastoralists remaining as they are...Pastoralism, as it is, is not sustainable."<sup>7</sup> Deressa suggested to the BBC that thousands of

jobs would result, but as previous land grabs show, that does not occur<sup>8</sup>. It would appear that in Ethiopia the well being of peoples of Oromia and Southern Ethiopia is not of particular interest to the rulers of Ethiopia. There is a great difference between the developing global norm and the current attitude of the government of Ethiopia.

Indeed, as we shall describe, global cultural attitudes and international expectation of justice are maturing and will, with time, control the abuses of those in power. Additionally, many land schemes are failing to achieve expected production targets and have become costly investment embarrassments. Yet, until the time arrives when these destructive behaviours do not occur, let us examine a path forward that may have several benefits for suffering populations. The study is conducted to constructively participate in the development process of programs and projects essential to combating evil consequences of land grabbing.

## **2. Documenting Indigenous Land Ownership**

The lack of formal documentation of land ownership rights created serious problems for indigenous landholders. Although in the past, lack of evidence was not a problem, recent international legal trends require proof. If land ownership is not documented, it does not exist. According to The World Rainforest Fund, "if indigenous people do not have the boundaries of their land marked, and if they do not have deeds to their land, exploiters claim the indigenous people cannot prove they are the rightful owners."<sup>9</sup> White, et al write, "Land deals most frequently occur where people do not have formal land rights."<sup>10</sup> Africa is the main target of land grabbing, because land tenure insecurity gives the investors easy and cheap access to land. Naly Pilorge states, "Thanks to a lack of a functioning and systematic land titling system in Cambodia, the government is helping itself to just about any land it fancies."<sup>11</sup> Diana Arango of the US Office on Columbia maintains that "lack of titles...has facilitated the process of usurpation of the hundreds of thousands of Colombian rural families."<sup>12</sup>

Robin McLaren, director of Know Edge Ltd tells us that only 25% of the 6 billion global land parcels are formally registered in land administrative systems.<sup>13</sup> Lorenzo Cotula finds "only 2-10% of land in Africa is held in formal tenure."<sup>14</sup> If this modern documentation is to be the new standard, then governments should be helping their citizens to convert to it. So far that has not happened and that is the problem in a nutshell. If a government is loath to proceed to protect the populace, the populace must act to protect themselves. Jalata warns, "We are terrified by new ideas probably assuming that these new ideas may bring individual responsibility." And so they may. But to resist these new ways of thinking and acting is to stray from the path that leads toward freedom. Jalata also holds "the world is harsh and cruel, and it belongs to those who can seriously take care of themselves."<sup>15</sup> Problems associated with land grabbing become very complex in Oromia and Southern Ethiopia where the peoples are unrepresented by the government of Ethiopia. Though ethnic equality is constitutionally recognized, Oromo people in particular and peoples in South Ethiopia in general, are still politically marginalized because the government requires central control of local land resources and changes in livelihoods in order to protect its governance powers (Appendix A).

We suggest that self-reliant community documentation of existing land rights may be a good start, because the government of Ethiopia is not interested in the protection of smallholder farmers in South Ethiopia from the negative impacts of land grabbing on rural livelihoods. We suggest action at the local level. Rural populations of Oromia and southern Ethiopia in

Benishangul, Gambella, and Omo are at very high risk, because 94% of agricultural land transferred to investors by the government of Ethiopia is located in these regions (Jaatee and Mulataa, 2012). We provide partial lists of recent large land transfers to investors (Appendix B).<sup>16</sup>

We propose that civilians or villages, especially those in areas where land grabbing may be imminent, should document the borders of their property with simple GPS technology and create individual or communal records. The data can be used as a threat to land grabbers, multinational companies or countries, that thievery and injustice will be met with resistance. The records can also serve as proof that can be used in future sympathetic courtroom proceedings that theft was committed and restitution must be made. The data should be stored out of country for security and easy retrieval. For the security of the data, several copies can be made and stored in different countries. Indigenous peoples could contact Mormon and Jewish organizations, or Survival International, or other relevant organizations for mutual archival experience-sharing and capacity-building.

We do not trust Ethiopian authorities to participate in the process because protecting the land right of indigenous peoples is against their economic interest. Schneider described a situation in Cambodia where local officials who helped map out land for the population nevertheless aided land grabbers because of fear of reprisals from their government.<sup>17</sup> Social Watch Philippines described the situation in which the Indigenous Peoples' Rights Act of 1997 was distorted and abused by those in charge of implementing justice for the population.<sup>18</sup> According to State of the World's Indigenous Peoples' Report,<sup>19</sup> "only a few countries recognize indigenous peoples' land rights, but even in those countries, land titling and demarcation procedures have often not been completed, suffer delays or are shelved because of changes in political leadership and policies...: therefore the lack of legal security of tenure remains a crucial issue for indigenous peoples almost everywhere." For example, there is a forest mapping program that aims to mark forest areas covering over 5 million hectares across the Congo Basin. The program includes the majority of the tropical rainforest in the Central African Republic used by indigenous communities in order to help the people by influencing governments and international organizations when they make decisions about how rainforest land is used.<sup>50</sup>

### **Applications of eTrix20 GPS and Garmin BaseCamp Software**

Today's GPS technology permits one to walk the borders of one's land and record exact and reproducible boundaries. Peter Slingsby, a Welsh cartographer, told us that, "You can use GPS to map boundaries anywhere in the world. I should use one of the better quality Garmin GPS readers- they pick up to 12 satellites and give very accurate readings."<sup>51</sup> We note that the Garmin eTrex20 Handheld GPS costs about \$200. It gives you the coordinates of your location so you can walk the boundaries of a property and store the data. Other information such as names and dates can be added and edited as needed. The data is then downloaded into a computer which has Garmin's free BaseCamp program. The information can then be stored on thumb/flash drives. Two AA batteries last for 24 hours when used in the eTrex20. For example, the GPS technology is utilized to mark areas used by people of the Congo Basin for hunting and fishing. The routes for these activities are being plotted on the maps showing the access points for vital areas and the data will be used to challenge any plans to exclude the indigenous peoples from certain areas (Lavery, 2012).

While a step-by-step or detailed decryptions of the applications of eTrix20 GPS and Garmin BaseCamp are not necessary here, providing a brief overview of the most relevant functions of these technologies can enhance the understanding of readers of this article. Of over two dozen functions available on eTrix20 GPS, we have decided that “Mark Waypoints”, “Waypoint Manager” and “Waypoint Averaging,” are the most useful to this project. As mentioned more generally earlier, “Waypoints are locations you record and store in the device”<sup>52</sup> and import into BaseCamp and edit in ways that allow graphic and map-based visualizations of the geo-positions of smallholders’ properties. Marking waypoints allows project managers and their assistants to code data under the names of current and extended land owners and to provide documentation of surrounding neighbors; information that is found in almost any standard deed. Even before importing data into BaseCamp and editing it on computers, the eTrix20 allows users to insert names and additional notes on-site. Location calculations are done automatically. A researchers job is to record, label, store and analyze them. We deem that using these technologies requires basic separate training and we would desist from providing technical details in this paper.

In short, BaseCamp is a data editing and management software.<sup>53</sup> It is an application that is used to edit and map specific geo-files termed waypoints above. The software allows for uploading thumbnails or pictures of smallholders on top of a map that contains information about the coordinates of specific properties. Just like there is a need for a separate training in basic functions of eTrix20 GPS, there is a need to develop modules and conduct training for project managers and project associates who will use these technology. It suffices to say that the training for eTrix can be grouped into 4 phases over a two day crush time: a) introductory phase in the use of eTrix20 GPs, where users will learn the basic functions of the GPS; (b) training with on-site recording of coordinates of simulated smallholders so that users will be as comfortable and as accurate as possible when they work in the field; (c) introductory training with BaseCamp in editing geo-files; (d) integration training with the aim of enabling trainees to import, save and back-up data from the device and edit them in BaseCamp. Once the four phases of training is complete, trainees will be ready to use the technologies in the field.

### **3. Immediate and Long-term Benefits of Deeds**

#### **1) Short Term Benefit: Promoting Oromummaa and Warning Multinational Companies of Resistance by Land Owners:**

**A) Leadership creation:** Such local action can have immediate benefits which include the training of Oromo leaders and the promotion of Oromummaa among the population. Asafa Jalata says that "Leadership as an activity involves intellectual directives and organizing activities."<sup>20</sup> We expect that by performing the needed tasks, such a leadership group will form who become familiar with the needs of the local populace, and vice versa. Jalata advises, "Members of the Oromo political leadership need to be effective political leaders who can engage in the processes of cognitive liberation and self-emancipation; they must struggle to develop in themselves and their followers' personal leadership skills, such as self-control, discipline, ability to communicate, and a deep sense of social obligation or commitment."<sup>21</sup>

**B) Education of the Populace about Rights and Oromummaa:** These leaders will transmit knowledge so that the people will have a greater understanding of the program, and of their

rights, including the right to refuse a project. The leadership will teach an understanding of Free Prior and Informed Consent (FPIC). We would expect that the program will educate the populace and teach them about rights that are being denied them. We would expect all participants to become more prideful of their Oromo origin. We would hope that this would strengthen Oromumma and help unify the rural community. If or when the time comes for legal action, the populace will be prepared to act. As Lorenzo Cotula asserts, "Greater awareness of rights and greater capacity and confidence to exercise them can be powerful tools."<sup>22</sup>

**C) Show of strength exhibited by the people:** Multinationals and countries who participate in the land theft may be intimidated by the strengthened legal position, that such documentation and knowledge give to the present landholders. Also, the mapping behaviour exhibits the presence of resistance to injustice and the ability to dispute abuses committed under the cover of Ethiopian national law. These companies know that international law is changing and may not wish to invest cash if they expect a problem to arise in the short and the long term.

**2) Future Benefits: the International Courtroom:** People who have made a credible attempt to prove land ownership rights and who have the understanding that they were denied the full process of FPIC as it is now being applied elsewhere will be able to enter the future national and international courtrooms with some hope of success. If a completely successful land theft were to be challenged in the future, any kind of documentation of ancestral ownership /legal possession of land will be beneficial. We don't know what court or what type of law will govern Oromia in the future, but in any court, if you can produce credible documentation, you have a better chance of winning with your case. If the Oromo and other indigenous peoples living under tyrannical illegitimate government want to be prepared to defend against challenges to their ownership of ancestral lands, they need to create and provide credible documentation that can be produced in future courts.

Documentation of property ownership depends upon several factors, especially credibility. For example, if witnesses believe that the deed is accurate, it has increased credibility. That means the owner/owners and surrounding neighbours should endorse the documents. In the case of GPS program generated deed coordinates, the data must be reproducible. The margin of error of typical GPS machines run approximately 3 –5 meters, and it is possible to reduce that margin of error by running the boundary several times and taking the average of the coordinates, although this should not be theoretically necessary.

Although the devices are inexpensive and easy to use, one would expect the program to be implemented slowly. One would begin in areas at highest risk and as data are gathered, expand into the next problem areas.

#### **4. The Importance of Free Prior Informed Consent**

In order to understand why we believe that changes occurring now in international fora will benefit indigenous landholders in the foreseeable future, one needs to know that Free Prior and Informed Consent [FPIC] has become a reality. The concept does not include the coerced consent that has been used to fool those observers who do not wish to believe the reality of human misery resulting from land grabs. It does include the ability of the landholders to refuse consent to leave the land. Nevertheless, the government of Ethiopia does not practice any of the principles of FPIC during the land grabbing processes. Reports from Human Rights Watch and Survival International documented violations of human rights during forced evictions of rural

communities from ancestral land in South Ethiopia and those reports might be used in the future in an international courtroom to prove flagrantly uncaring and illegal misbehaviour (Appendix C).<sup>23</sup>

Irene Sosa, analyst of Sustainalytics, defines FPIC as follows: "It can be understood as consent that is given by fully informed indigenous people, without coercion, intimidation or manipulation, before any activity begins and according to their own decision making processes."<sup>24</sup> The UN suggests that FPIC alone is insufficient and "may require a number of accompanying measures to be truly meaningful"<sup>25</sup>. For example, while FPIC is not legally binding at this time, The World Bank reports "Past decades have witnessed significant advances in the legal recognition of indigenous land rights and customary land tenures."<sup>26</sup> One can see that a narrow definition of FPIC can lead to widespread abuse such as "elite capture", among other abuses, where local, educated elites use the process to their own benefit.<sup>27</sup> Such abuses have contributed to a growing recognition among NGOs and other rights based organizations that enhancements to the concept of FPIC are necessary and inevitable.

However, it is still equivocal that FPIC gives the landholder the right to refuse change. A more expanded definition has been presented by UN-REDD.<sup>28</sup> Their definition of consent is of great interest to us, as it implies that the landholder controls negotiations. In 2011, UN-REDD reports "the collective right to give or withhold consent..." and so one would expect that FPIC included the right to say "No!" However, in 2005, a UN document describing a workshop on FPIC stated that, "...this principle does not mean, however, that a lack of consent will be sufficient grounds under the Convention (Indigenous and Tribal Peoples Convention, 1989) to block a development program or project."<sup>29</sup>

However, current attitudes, if not current practices, confirm that FPIC includes the right to decline a proposal without retaliation. Another UN document in 2005, describing another workshop to define FPIC said, "The participants reached a basic common understanding of the meaning of the principle, as the right of indigenous peoples, as land and resources owners, to say "No" to proposed development projects at any point during negotiations with governments and/or extractive industries."<sup>30</sup> And there has been continuing agreement. Survival International wrote in 2010, "The power to refuse consent is an indispensable prerequisite to the negotiation of any agreement. IPs must be made aware that they have this power, and be armed with the information they require to exercise it responsibly."<sup>31</sup> Oxfam's 2010 Guide to Free Prior and Informed Consent agrees, and also assumes protection from land grab under International Law.<sup>32</sup>

We sum up with Tara Ward, who writes, "What becomes clear in this analysis is the size of the gap between the norms being developed within international human rights jurisprudence and State practice."<sup>33</sup> She continues, "Although there does not appear to be an existing customary international legal principle of the right of indigenous peoples to FPIC, there does appear to be a minimal norm developing that requires consultation in good faith...Even though it is not articulated as consent, the developing norm of consultation in good faith, if applied as a standard that requires States to consult with indigenous peoples in such a way that the goal is to reach an agreement or consensus, might well become a de facto obligation that ensures that indigenous peoples' FPIC is sought and respected."<sup>34</sup>

## **5. How We Know That Changes Are Coming**

Irene Sosa explains why there is a growing acceptance of the need for change. She wrote,

"Poor relations with indigenous communities can result in very tangible regulatory and financial risks for mining companies."<sup>35</sup> She also explains the use of excessive force to quell protests has led to human rights law suits and damage to corporate reputations. We can assume that there is an understanding by governments that change is coming, however slowly and that they will be held to account for their behaviour. Schneider writes, "More organized and structured forms of political contention by rural poor and their allies mainly Nongovernmental Organizations (NGOs) are slowly emerging."<sup>36</sup>

We know corporations are changing, in great part because failures of land grab projects and resulting financial losses have been common. An example is the failure of the establishment of a bio-fuel project on 72,000HA of farm land used by 84,000-124,000 smallholders in Eastern Oromia.<sup>37</sup> As far as most crop production is concerned, corporations are becoming aware that large farming enterprises are not always as productive as expected, resulting in loss of profit. The World Bank says, "Where large-scale land acquisition has taken place, experience has not been encouraging."<sup>38</sup> The World Bank suggests that instead of benefits to all, failure has not been an uncommon outcome, and losses, instead of profits, have been the result.

Rebecca Adamson, President and founder of First Peoples Worldwide describes changing values in multinational corporations and corporate willingness to "include this guidance into their own policies and operation standards."<sup>39</sup> Part of this change stems from the growing global recognition of that abuses of indigenous peoples rights will have repercussions in international courts, resulting in reparations and consequent loss of profits for companies. Part of these changes result from the resistance of populations who have not seen any benefit. For example, oil output in the south of Nigeria is often markedly reduced because of resistance of local populations. In 2003, oil production was decreased by up to 40%<sup>40</sup> and such decreases in production have been common.

The government of Ethiopia, investors, and international agencies claim positive effects on rural development from global attempts to benefit from indigenous land. Host governments and investors argue that these new policies will result in an increase of crop production and economic growth that will increase food security, create employment opportunities, facilitate technology transfer to smallholders [peasant farmers], promote energy security, and improve social infrastructure. The government of Ethiopia and the World Bank have wrongly argued that global land business is an essential factor in modernizing agricultural land practices in order to increase food production and economic growth (MOARD 2008, 2010, and World Bank 2010).

But, do land governance and investment policies support the theoretical arguments of the government of Ethiopia, the investors, and the international agencies? Their theories appear to be failing, with resultant high costs and losses for the greedy investors.<sup>41</sup> The World Bank admits that owner operated farms may be more productive in the long run. The World Bank confesses, "As residual claimants to profit, family workers will be more likely to adjust and work hard than wage workers, who have an incentive to shirk and require costly supervision...they will produce more efficiently."<sup>42</sup>

## **6. Conclusion and recommendations**

It should be possible for land deals to benefit all concerned, but we are far from that day. The World Bank describes preconditions that could lead to profits for all who wish to participate. They say, "To create these preconditions, local people need to be aware of their rights, the value



of their land, and ways to contract, and have assistance in analyzing investment proposals, negotiating with investors, monitoring performance, and ensuring compliance."<sup>43</sup> Disadvantaged land holders cannot wait unprepared for the time when justice will prevail for all. Until that time arrives, it's up to their leadership to take action. As Jalata writes, "We do not have the moral power to blame others if we are doing little or nothing. **THERE ARE NO EXTERNAL POWERS OR UNKNOWN PERFECT LEADERS THAT WILL LEAD US TO THE PROMISED LAND OF LIBERATED OROMIA.**"<sup>44</sup> Indeed, if the government of Ethiopia has its way, and the Oromo leadership does not act, there may be no more Oromo nation and Oromia.

Therefore the implementation of the following recommendations essentially contributes to limit systematic extinctions of indigenous peoples and will have positive effects on multidimensional struggles for self-defence and survival:

- I. Political organizations or movements against the evil phenomenon of land grabbing in Oromia and Southern Ethiopia should act properly in order to save the peoples legitimately represented by them. Political cooperation between the peoples of Oromia, Ogaden, Sidama, and Afar in fighting injustice to defend peace should inclusively expand to peoples of Benishangul, Gambella, and Omo in order to improve efficiency of organizational resources.
- II. NGOs in general and religious institutes and human rights organizations in particular should include collection and organization of data of customary land ownership rights of indigenous peoples in relief and development programs to defend human beings and ecosystems exposed to destructive activities of land grabbers.
- III. International communities in general and the United Nations in particular should establish independent commissions of justice both at regional and global levels to investigate the negative effects of unfair land grabs that threaten the existence of indigenous peoples in order to enable victims of land grabbing to fairly access justice for all humanity.

## 7. Appendices

### 7.1. Appendix A: Analysis of land grabbing politics of Ethiopia (Jaatee & Mulataa, 2012)

*Military, political, and economic powers of successive regimes of Ethiopia are directly linked to land grabbing. Each regime distinctively designed land governance system to maintain colonial ownership of the land of peoples of Oromia and Southern Ethiopia. After incorporation of South Ethiopia into the Abyssinian (North Ethiopia) empire at end of the 19<sup>th</sup> century the relationship between the South and the North is characterized by inequality and exploitation. The power of domestic colonial politics is highly centralized with absolute land ownership right in the hands of Abyssinian elites who sustain the rule of dictatorship through chains of colonial agents at regional, provincial and local levels. The government of Ethiopia (the TPLF regime) is the owner of land, but the rights of individuals and communities are 'holding (use) rights' (Proclamation No. 456/200550). Land tenure politics of both imperial and military or TPLF regimes share a similar political goal, i.e. the manipulation of land use rights to maintain a monopoly of governance powers. The commercialization of land has served as a political advantage for the state because it enhances greater concentration of authority in the hands of illegitimate governors, i.e. the agents of the regime. For example, a woreda (district) or an urban administration shall have the power to expropriate rural or urban landholdings for public purpose where it believes that it should be used for a better development project to be carried out by public entities, private investors, cooperative societies or other organs, or where such expropriation is decided by the appropriate higher regional or federal government organ for the same purpose (Proclamation No. 455/200558).*

*The TPLF regime intentionally violates the land accessibility right of rural communities of Oromia and Southern Ethiopia to achieve the political goal of suppressing the national struggles of colonized peoples. The regime has already institutionalized practices of human right violations through manipulation of the constitution. It formulated politically motivated proclamations (1) to limit humanitarian activities of NGOs using charities proclamation and (2) to crush political opponents through manipulation of the anti-terrorism law in order to protect its monopolistic ownership of military, political, and economic powers. The regime has not hesitated to practice arbitrary arrest, long detention, or extrajudicial killings of tens of thousands, and torturing people suspected of being supporters of opposition political organizations in order to generate fear in civil societies. The regime is systematically advancing the level of insecurity by aggravating poverty, expanding the borders of food insecurity, manipulating conflicts, degrading the safety of the ecosystem, and advancing human rights violations to produce the poorest of poor peoples. Thus it can easily use victims of poverty as political subjects through manipulation of land use right. The 80 million people in rural areas are directly controlled by the regime; i.e. the support of rural communities for opposition political parties is easily regulated by controlling subsistence livelihood. Therefore rural people are not free to vote for opposition political parties during elections because they lose land use rights if they do so.*

*The power of the regime is dependent upon external aid. During 1974 –1991 financial, material, and technical support of the international donor communities was channelled through political NGOs of the TPLF to areas under its control to support both military and emergency programs. Foreign aid was used to increase peasant-based supports for the regime, legitimacy*

*campaigns among civilian population. Ethiopia also used aid resources in order to support the ruling party organizational structure, and to build the regime's quantitative capability in feeding the army. The regime received very huge sums of financial aids since 1991. The regime is manipulating foreign military and development aid as the instrument to suppress peaceful transfer of political power since 1991 through marginalization of opposition political parties. Human Rights Watch reported that the government of Ethiopia used donor-supported programs, salaries, and training opportunities as political weapons to control the population, punish dissent, and undermine political opponents—both real and perceived—that local officials also deny these people (i.e. supporters of opposition parties) access to seeds and fertilizer, agricultural land, credit, food aid, and other resources for development. Policies of aggravating poverty through destruction of livelihood of rural communities are systematically implemented by the TPLF regime to prolong political manipulation of aid because either emergency or development aid is the political instrument for the regime to coerce political support. Increasing the level of poverty is a tactic used to compel the peoples to vote for the regime. The regime frequently manipulates food aid distribution to crush supporters of political opponents. It uses food aid as an instrument of achieving political objectives and of protecting its hegemonic powers. The land grabbing policy of the regime is systematically intended to increase the number of people dependent on food aid in order to secure political support because those who depend on food aid must support the ruling party to survive the threat of systematic assassination. Therefore political loyalty to the state and the ruling party (the TPLF regime) are preconditions to the very existence of rural communities of Ethiopia.*

1.1. Appendix B: Partial List of Large-scale Land Transfers in Ethiopia (Rahmato, 2011): Large-scale means 2000 hectares or more.

Investor	Foreign	Land Size (ha)	Crops	Location
Al Habesh	Pakistan	28000	Sugar estate	Wollega
Chadha Agro	India	122000	Sugar, Biofuel	Not specified
Djibouti Gov't	Djibouti	3000	Food crops	Bale
Dubai World	Dubai	5000	Tea	Illubabor
Emami Biotech	India	80000	Biofuel crops	Not specified
Flora EcoPower	Germany	13000	Biofuel crops	East Harage
Karuturi	India	11000	Rice, Biofuel	Bako
P. Morrell	USA	10000	Wheat	Bale
PetroPalm	Germany	50000	Biofuel	Rayitu, Bale
Sunrise Indust	India	15000	Food	Not specified
Tomaisin	Israel	10000	Food crops	Not specified
Vatic	India	20000	Biofuel	Borena
United Farm Bus	Domestic	3000	Food crops	Bako
Yehudi Hayun	Israel	10000	Biofuel	Not specified
Not specified (Lavers, 2011)	Germany	60000	Biofuel	West Harage
Not specified (Lavers, 2011)	Germany	60000	Biofuel	Bale & Arusi

Table1: Large-Scale Land Transfers in Oromia

Investor	Foreign/Domestic	Land Size (ha)	Crops	Location
Ambassel	Domestic	10000	Biofuel crops	Metekel, Benishangul

B&D Food	USA	18000	Sugar estate	Aw, Amhara
Chadha Agro	India	122000	Sugar, Biofuel	Oromia
E. Africa Agric	Domestic	6500	Food crops	Pawe, Benishangul
Finote Selaam	Domestic	5000	Sesame	Guba, Benishangul
Fri El Green	Italy	30000	Biofuel crops	Omo Valley, SNNP
Global Energy	Israel	10000	Biofuel	Wollaita, SNNP
IDC Invest	Danish	15000	Biofuel	Assossa, Benishangul
Kanan D Hills	India	10000	Tea	SNNP
N. Bank Egypt	Egypt	20000	Food crops	Afar
Omo Sheleko	Domestic	5500	Cotton, palm	SNNP
SHAMPORJI	India	50000	Biofuel	Benishangul
Spentex	India	25000	Cotton	Beni shangul
Sun Biofuels	UK	5000	Biofuel	Wollaita, SNNP
Sun Bio (NBC)	UK	80000	Biofuel	Metekel, Beni shangul

Table2: Large-Scale Land Transfers in Southern Ethiopia (Benishangul, Omo, etc)

Investor	Foreign/ Domestic	Land (ha)	Major Crops	Location/woreda
Alehilegn Worku	Domestic	2000	Cotton, sesame	Abobo
Bazel	Domestic	10000	Cotton, sesame	Abobo
BHO**	Indian	27000	Rice, sesame	Itang
Fiker PLC	Domestic	2000	Cotton, sesame	Abobo
Hussen Abera	Domestic	2000	Sesame	Abobo
Karuturi	Indian	300000	Rice, palm oil	Itang & Jikaw
Lucky Exports	Indian	5000	Tea	Godere
Muluken Azene	Domestic	2000	Cotton, sesame	Abobo
Ruchi Soya**	Indian	25000	Soya, palm oil	Goge
Sannati Agro	Indian	10000	Rice, pulses	Dimi
Saudi Star	Saudi Arabia	139000	Rice, Soya	Abobo, Goge, Jore woredas
Solomon Kebede	Domestic	3000	Cotton, sesame	Abobo
Tewodros Abraham	Domestic	3000	Sesame	Gambella Zuria
Yemane G/Mesk	Domestic	3000	Sesame, maize	Gambella Zuria
Yetimgeta Mamo	Domestic	2000	Sesame, maize	Itang

Table3: Large-Scale Land Transfers in Southern Ethiopia (Gambela)

## 1.2. Appendix C: Reviews of human rights violations in Ethiopia (Jaatee & Mulataa, 2012)

*The violation of human rights by the government of Ethiopia under the leadership of the TPLF regime is advanced through the implementation of a very dangerous policy of land grabbing in Oromia and Southern Ethiopia. It includes direct and systematic crimes against humanity. The direct crimes include physical mistreatment such as beating, raping, detaining, torturing, and killing during the forced eviction of rural communities from their ancestral lands. The systematic violations mainly involve limitation of accessibility to basic human needs through destruction of livelihood assets of the people. The violation of the legitimate right of indigenous people to access ancestral land has*

*systematically resulted in (1)an increase of population living in extreme poverty; (2) the reduction of subsistence crops and livestock production; (3) unsafe drinking water and shortage of food: (4) poor health conditions; (5) increase internal displacements and refugees; (6) financial disability to access basic needs; and (7) reduction to the status of forced manual laborer.*

*Direct human rights violations committed by the the regime in Omo and Gambela regions of South Ethiopia demonstrate atrocities of the land grabbers. Survival's director, Stephen Corry, said that, "The Ethiopian government and its foreign backers are bent on stealing tribal land and destroying livelihoods: they want to reduce self sufficient rural communities to a state of dependency, throw all who disagree into prison, and pretend this is something to do with progress and development." The HRW reported that human rights violations in the lower Omo valley are characterized by arbitrary arrests and detentions,beatings and mistreatment, governing through fear and intimidation, and violations of economic, social, and cultural rights. The government and its police of cracking down, jailing and torturing indigenous people and raping women in the Omo region so that the people do not oppose the land grabs.Survival International reported that about 200 Bodi, 28 Mursi, and 20 Suri of Omo region are in jail and the indigenous people now fear that the security forces may start killing people and they said, "The arrests are a show of force, to intimidate us not to oppose the land grabbing policy: 'we lived here in peace, in the heart of our land, the place where all of our cattle were grazing during both the rainy and dry seasons; but now, in this place there is a plantation owned by a rich Malaysian company who trained 130 soldiers and armed them with 130 machine guns by the government: if our people oppose the land grabbers, the soldiers are ready to kill us.'" In an HRW report based on more than 100 interviews in May and June 2011, a victim from Gambella said, "My father was beaten for refusing to go along [to the new village] with some other elders, he said, 'I was born here – my children were born here – I am too old to move so I will stay ', but he was beaten by the army with sticks and the butt of a gun, he had to be taken to hospital, and he died because of the beating."*

*Implementation of global land grabbing policies directly limits socio-economic power of the rural communities to access primary human needs (water, food, house, clothes, and medical services). The right of rural communities to access agricultural land is the most important factor to achieve primary standard of living because agriculture is the foundation of the livelihood assets of rural communities. The right to feed households and family is realized in rural areas of Sub-Saharan Africa with the right to access agricultural land to produce sufficient food through crop and animal production. Failure of African governments to protect and guarantee sustainable use of land and water for food production by subsistence peasants constitutes a violation of the right to food because assuring a long-term supply of food is part of their obligations in relation to the right to food. Agricultural investment policy of the TPLF regime encourages export oriented crop production. Agricultural investment does not address national food insecurity because 95% of crop production is export oriented. Violation of land accessibility rights of rural communities has resulted in the increase of starvation rate through dramatic reduction of subsistence agricultural production.*

*Access to land is an essential element of the right to an adequate standard of living and the realization of the right to work (art. 11 and art. 6 ICESCR). Land grabbing resulted in forced displacements and refugees. The right to housing is directly linked to the right to be protected*

*from forced evictions. Violation of the rights to live somewhere in peace is defined as the permanent removals of individuals, families, and/or communities from their homes and/or lands that they occupy, on either a permanent or temporary basis, without offering them appropriate measures of protection. The HRW reported the displacement of 270000 indigenous peoples from the western Gambella and Omo regions to new villages by the government of Ethiopia details the involuntary nature of the transfers, loss of livelihoods, deteriorating food situation, and ongoing abuses by the armed forces against the affected people: and shows that many of the areas from which people are being moved are leased by the government for commercial agricultural development. Survival International argued that “the rural communities of Omo valley of South Ethiopia are neither ‘backward’ nor need ‘modernization’, they are as much a part of the 21<sup>st</sup> century civilization as the multinationals that seek to appropriate their land; but forcing them to become manual laborers will certainly lead to a drastic reduction in quality of their life and condemn them to starvation and destitution like many of their fellow countrymen.”*

*Governments and private investors believe rural community accessibility to the job market compensates for the loss of land and livelihoods. However, income derived from daily wages never replaces livelihood assets of rural community, which are constantly and directly derived from land use. Large shares of commercial agriculture jobs are characterized by very poor working conditions, very low payment, low-skilled daily work, seasonal fluctuation, without health insurance, very high risk of accidental death without insurance, violence, harassment, and employment of underage children. Case studies in Oromia and Gambella regions indicate widespread unfair treatment and frequent abuse. For example, two women laborers at Karuturi farm in Western Oromia told the interviewers that they had suffered physical abuse and sexual harassment at work. The land grabbers pay a daily wage of less than 0.5\$ per day, which is 50% less than the daily wage scale for wage laborers in the productive safety net (PSN) program. Deputy Head of a school (Tigaba Tekle), near the Karuturi farm in Gambella region said that only 5 out of 60 students occasionally attend class because most of them are working at agricultural fields of Karuturi. Land commercialization will never establish sustainable and safe employment opportunities for peoples of Oromia and Southern Ethiopia, because colonial governance system has never defended the security and dignity of oppressed peoples. Therefore unsustainable and unsafe employment conditions don't equate with compensation for loss of livelihoods of rural communities.*

### 1.3. Appendix D: Summary of case study from Eastern Oromia (Lavers, 2011)

*72000ha farm land is grabbed by a foreign investor of bio-fuel crop in 2008 to establish castor crop as out grower schemes on land used by 84000 to 124000 smallholders in 240 peasant associations (PAs) in East and West Hararghe provinces. Community meetings were held in each peasant associations to establish the project. Investors paid incentives to members of committees of PAs and traditional leaders to convince the people to join the project. Committees and investors signed contracts on behalf of the smallholder farmers. The company leased another 60000ha of land deliberately misclassified as ‘unused’ in West Hararghe to establish plantation. The company received 30 million birr loan from an Ethiopian bank to establish a biodiesel processing factory. It hired agronomists, accountants, and supervisors. Large sums of money were spent on pesticide sprayers, peeling machines, motorbikes and cars. The project failed because castor yield was massively over-estimated at 70 quintals/ha. Instead of expected yield (i.e. 70 quintals/ha), the average seed yield was only 3 to 4 quintals/ha. It took only three*

*days to process all the seeds bought. The managers fled the region in April 2009 facing the failure of the project. The investor left massive debts and no money to pay wages or buy the remaining seeds from the out-growers. Most of the PAs are chronically food insecure, because average landholding is less than 0.5ha per family and annual rainfall is erratically distributed. The major impacts of bio-fuel project on livelihoods of peasant farmers include loss of up to 50% of annual crop production by switching from food crops to castor cultivation, the pesticides killed bees and resulted in loss of extra income of beekeeping, some had to sell cattle to buy food, increased peoples depending on food aid and the company has abandoned out-grower schemes without compensation. The project shifted to large scale farming on 60000ha in West Hararghe and 100000ha in Arsi and Bale provinces. Even though the land is classified as 'unused' it is grazing land for livestock production activity of pastoralist communities. It is resulted in loss of communal grazing land.*

#### 1.4. Appendix E: Analysis of land governance & investment policies of Ethiopia under the TPLF regime (Jaatee & Mulataa, 2012)

*Because the regime has juridical ownership of the land, it has used its statutory right of ownership to confiscate land from those who have customary rights and rights of longstanding usage, and transferring it to investors without consultation or consent. The regime is juridical owner of the land, but peasant farmers and pastoralists have the right to use only. The land use right of landholders is dependent on residence in a kabele or locality or district, personal engagement in agriculture, "proper" management of the land, and other restrictive conditions. Holders (users) who are found to have violated any of the conditions are subjected to penalties, including the revocation of their right to use the land. The regime has a constitutional right to expropriate land used by smallholders, where it believes that it should be used for investment projects; however, it is unfair to expect independent smallholders to invest in the same agricultural technology as large-scale investors in order to improve the production potential of agricultural land. Agents of the regime have an enormous power of land administration; but smallholders have a little possibility for appeal (FDRE article 3(1)). One of the main examples of smallholder displacement is the expansion of the flower industry, in particular in central Oromia, where the regime has tried to limit migration of displaced peasants to Addis Ababa by requiring investors to employ them as daily (sporadic temporary) workers.*

*The regime defined agricultural land narrowly as a cultivated area that includes only land used for crop production. The terms 'unused', 'empty' and 'uncultivated' are often used interchangeably from perspective of settled agriculture. Definition of agricultural land disregards pastoralists as communities passing through the land, rather than 'using' it and the regime considers nomadic land as 'unused' areas. Equating 'cultivation' with 'use' dismisses the importance of other land uses. Therefore it is impossible to tell whether the land is unused or just unregistered. However agricultural land includes nomadic land for livestock production, agro-pastoralist for mixed farming (crop and livestock productions), communal grazing land, agro forestry land, shifting cultivation, and land though which water, energy, and other vital natural resources are accessible to rural communities. There are three very important types of land in populated areas: communal grazing land, individual holdings, and state farms. Like land in pastoralist areas, most of the communal lands are unregistered and transferred to investors because the regime ignores the valuable role of communal land in local livelihoods.*

*The central government still makes key decisions about the livelihoods and land of historically marginalized peoples of Oromia and Southern Ethiopia without consulting them, despite the ethnic federal system. The regime is centrally controlling local resources and livelihoods by maintaining the land dependency of rural communities through its hegemonic authorities of land ownership and management in order to increase the insecurity of rural people. Federal regions are constitutionally responsible for land management (FDRE article 12), but the growing importance of global land grabbing business enhanced the central control of land management by organizing Agricultural Investment Support Directorate (AISD) to allocate very large areas of land to foreign and domestic investors. The AISD can transfer land to investors without consulting land holders or communities irrespective of negative effects on livelihoods. The regime is claiming that the lands transferred to investors are unused land and that will not harm the livelihood of people, the agro-ecosystem and the natural environment. However, land transferred to investors are arable land, cultivated land, communal land, state farms, land inside national parks, protected areas, wildlife sanctuaries, land used for grazing, wood and forest land, and savanna grassland. The regime is not protecting these lands for future generations and it is not bearing in mind that land not utilized at present will inevitably be used in the future due to population increase. The negative impacts of land grabbing on livelihoods of rural communities are beginning to be evident in many ways: aggravation of poverty, expansion of boundary of food insecurity, intensification of conflicts, degradation of ecosystem, and advancement of violation of human rights. Case studies from Gambella, Omo valley, and Oromia regions clearly indicate the negative effects of land grabbing on livelihoods of rural communities. Therefore, the reality of the land governance policy of the TPLF regime does not support rhetorical claims or statements of the positive impacts of land grabbing stated by the regime, investors and international aid agencies.*

*The investors involved in land grabbing include international corporations, sovereign wealth funds, foreign governments, private equity firms and domestic actors. The largest investors in Ethiopia are companies from Asia, the European Union, the Middle East, USA, and others; but the secrecy surrounding investment policy of the TPLF regime makes it difficult to determine the extent of their influence on development of the political economy of Ethiopia. The regime has adopted the most favorable conditions for investors in Oromia and Southern Ethiopia. The procedure of application for acquiring investment land is very simple. Investors fill out a standard application form and present a business plan with written request of land; but neither the application form nor the business plan requires strong commitments and there are no mechanisms for checking the accuracy of the information provided by investors. Furthermore, there are no contractual obligations of investors to provide social services. Investors pay no compensation for land, but make informal promises that they will contribute to community development by building schools or clinics, and providing employment. The investors did not sign contractual obligations to provide social services to the communities concerned or invest in basic infrastructure; on the contrary, in a number of cases, it is the government that constructs some of the infrastructure such as roads and irrigation schemes used by the projects. The provisions in the contracts are neither aimed to achieve food security nor to contribute in improvement of social infrastructures essential to minimize poverty.*

*The regime has formulated financial incentives to attract investors. It has exempted foreign agricultural investors from paying customs duties and taxes on imports of capital goods and there are no employment limits on foreign staff. Investors are allowed to import free of customs*



*duty capital goods, construction materials and spare parts for establishment or upgrading of their enterprises. Investors in remote areas like Gambella, Benishangul, and Omo valley are eligible for tax-free years (FDRE article 4). In addition, areas not previously under cultivation are prioritized by exempting investors from land use fees for up to five years if they use improved seeds and irrigation (ONRG article 2). Investors are eligible for 5-year income tax holidays if they export more than 50% of their production; but investors exporting less than 50% of agricultural production are entitled to only two years of tax holidays. The Land rent is very cheap ranging between 14 to 135 Birr/ha per year for a period of 25 to 50 years. It is a fixed rate of rent despite growing financial depreciation and inflation.*

*The regime established attractive investment policy at the expense of the livelihoods of rural communities. It offers protection for investors by being a member of the Multilateral Investment Guarantee Agencies that the agreements guarantee investors' rights without providing opportunities for those affected by activities of investment projects to challenge the agreements and to call for adequate compensation. For example, the agreement signed with the Netherlands on the encouragement and reciprocal protection of investment offers considerable incentives to the private corporations wishing to invest in Ethiopia: i.e., it guarantees transfers of profits, interest, or dividends in freely convertible currency of payments related to investments, that a Dutch company investing in Ethiopia would not have to pay tax and that profits can flow back to the Netherlands without any restrictions. Foreign investors have the right to fully repatriate, in convertible currency, profits and dividends, principal and interest payments on external loans, proceeds from technology transfers, and from asset sales in the event of liquidation of the investment. Investors are guaranteed against expropriation. Full compensation is paid at the prevailing market value: foreign investors can repatriate compensation paid in foreign currency, if expropriation is necessary.*

*The regime has redefined the agrarian structure of the country as shifting towards large-scale agriculture with priority given to exports. Those investors producing for the domestic market are given lower priority. The regime has strongly encouraged export of most or all of agricultural products. It ignores the need for domestic food security and it has increasingly marginalized the rural population. For example Saudi Star, a company with a strong Saudi interest, and which acquired 10000 hectares of land in Gambella in 2008, was recently given permission by MOARD to add another 129000 hectares to its project in the same region to grow rice for export to Saudi Arabia and other countries in the Gulf. The aim of the company is to get sufficient land to produce one million tons of rice annually for export in order to earn one billion dollars in exports yearly. The company is seeking a total of 500,000 hectares with 300,000 ha in Gambella and the rest in Benishangul and Oromia regions. This example clearly indicates that investors freely choose which crops to grow and that there are no obligations to supply food crops for local or national markets. Therefore, the investment policy of the TPLF does not support the theoretically positive impacts of land grabbing "business" stated in the self-serving arguments of the regime, the investors, and the international aid agencies.*

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## Endnotes

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<sup>48</sup> Habtamu Dugo graduated from George Mason University with an M.S. in Conflict Analysis and Resolution. Habtamu Dugo is an Adjunct professor of Communication and Media Arts at The State University of New York's Westchester Community College. Dr. Joanne Eisen graduated from the New York University College of Dentistry and is a Senior Fellow for Criminal Justice at the Independence Institute. Malkamuu Jaatee graduated Masters of Agricultural Science and currently an Independent Researcher of National Liberation Struggle of Oromo People in Ethiopia.

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