

USAID COUNTRY PROFILE

PROPERTY RIGHTS AND RESOURCE GOVERNANCE

ETHIOPIA

OVERVIEW

Ethiopia's economy and the well-being of its more than 80 million citizens depend on the productivity of its natural resources, principally land and water that are used for production of crops and animals that provide more than 40% of Ethiopia's GDP. Governance of these resources is shared between the federal government and nine ethnically based regional governments. The decentralized approach to government further extends public sector oversight and involvement to district (*woreda*) and local (*kebele*) levels.

Government programs continue to substitute for market incentives in many areas of the Ethiopian economy. This has resulted in strong regulation of individual property rights, development and investment patterns constrained by public financial and organizational capacity, and a close relationship with international donors that provide significant assistance resources. In many areas, successive attempts by central authorities to demonstrate and exercise control over tenure relations has disrupted the role of customary institutions in land administration and allocation. Given Ethiopia's history, there is continuing lack of clarity or assurance regarding the rights of peasants, pastoralists, women and others to manage, access, or use land, forest, water, and mineral resources upon which they depend for their livelihoods.

Average farm sizes in Ethiopia are small with more than 85% of farming households operating less than 2 hectares and, in 2000, more than 40% having 0.5 hectares or less. Since the 1980s, Ethiopia has, been a major recipient of emergency food and cash assistance from the international community. Access to land is a critical issue for millions of farm households. Highly variable rainfall patterns have resulted in recurrent drought and crop/livestock loss, while in good years markets have been unable to absorb surplus production. Establishment of the Ethiopian Commodity Exchange is now helping to absorb this surplus by streamlining marketing and facilitating warehousing, financing and open price discovery via auction.

Since 2005, Ethiopia has achieved strong rates of GDP growth, in part due to good weather conditions, and because of the significant attention government has dedicated to boosting agricultural productivity, exports, and rural investment through public investment in roads, irrigation, and market facilities. Certification of land use rights has been tested and expanded to millions of households nationwide generally with positive results, although critics believe that more must be done to enhance tenure security and stimulate greater economic investments at the local level. Further, the federal government has had success in attracting foreign investors to the agricultural sector. This success has been controversial as it touches on the core issues of property rights and resource governance that are important to so many Ethiopians. Long-term leasing of land and water resources to foreign investors has been criticized for having ignored the property rights of local communities, especially to pastureland and seasonal water sources. While such investment holds promise for increasing agricultural productivity, job creation, management knowhow and capital, achievement of these outcomes in practice has been mixed and livelihoods of the poor and disadvantaged have sometimes been threatened.

KEY ISSUES AND INTERVENTION CONSTRAINTS

Sustained agricultural growth is fundamental to Ethiopia's future. As analysts have pointed out, however, -what to do about land and land tenure remains a sticking point which urgently needs to be tackled" (Gebreselassie, 2006). Donor organizations engaging with Ethiopia as it pursues its CAADP Compact and more detailed sector investment plans need to be sensitive to issues of property rights and resource governance issues that could, if left untended, disrupt the positive trends toward propoor economic growth and disenfranchise millions of Ethiopians.

- Continue to support the various levels of government to design and implement measures that increase security of tenure for smallholder land-users while allowing them to consolidate, expand, or better manage their agricultural plots. Several areas of support would be relevant: further develop and harmonize the legal framework at federal and regional levels to strengthen property rights in land and natural resources; continue to support the formulation and implementation of appropriate land policies and legislation in pastoral areas and broadening of land use rights by removing restrictions on transfer of land use rights; support rights awareness campaigns to improve landholder understanding of the rights they hold; improve the capacities of land administration authorities to demarcate, register land and store and manage land records; certification initiatives that promote joint titling and other measures that establish a clear claim to land on issued certificates; exploring methodologies for documenting land rental markets and facilitating other ways of effecting land transfers; and promoting female participation in *kebele* Land Administration Committees. *Donors, including USAID, might also usefully evaluate the outcomes of prior certification efforts supported to see where improvements might be made that would result in greater agricultural productivity and household incomes.*
- Support efforts to improve coordination among different institutions and levels of government with overlapping responsibility for administering tenure for specified resources. The need for coordination exists at multiple levels— coordinating the flow of land rights information between regional and federal levels, coordinating donor interventions to minimize conflicting demands on weak government capacity and to improve efficiency, and providing training and capacity building at all levels of government and private sector to help service delivery. *Donors. including USAID, could assist with policy development and program coordination, development of management information systems, and training and capacity development.*
- Promote and support national and regional initiatives to strengthen and protect pastoralist use and access rights to both water and land resources. Greater transparency in the processes of leasing land to foreign investors is needed, especially where seasonal access to pastures and water by livestock owners are likely to be involved. Donors, including USAID, could help the Government of Ethiopia to set up such systems, using better GIS and communication tools. Donors should also continue to explore methods for establishing effective communal tenure over common-use properties, including pastures, water sources, and forested areas.
- Provide support with decentralization and federal restructuring to improve resource governance. This could include devolving authority for forest management and expanding participatory forestry pilot programs, providing support to the Ministry of Mines and Energy and Regional Mining Bureaus to expand and strengthen mining permitting and monitoring systems and procedures, providing support to the Ministry of Water Resources to Integrated Water Resource Management initiatives, particularly those that expand and strengthen the participation of traditional water-user groups, and providing support for programs designed to strengthening local government and community capacity to manage conflicts, through training of mediators and provision of support for local institutions and community-government cooperation. *Donors, including USAID, could assist with institutional change management, decentralization and devolution of authority, and programs and systems to improve transparency and participatory decision making on the use of natural resources.*

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Keywords: Ethiopia, tenure, agrarian, land law, land reform, property rights, land conflicts, water rights, mineral rights

SUMMARY

Ethiopia is a large, ecologically diverse country with a rapidly growing population of more than 80 million people living in nine regions and two chartered cities (Addis Ababa and Dire Dawa). Following the defeat of the Derg regime that ruled the country from 1974 to 1991, the Federal Democratic Republic of Ethiopia was formed, with the regions largely defined on the basis of ethnicity or -nationality." Ethiopia's economy is heavily dependent on agriculture, with more than 80% of the population said to rely in whole or in part on the production of crops and livestock and more than 40% of GDP coming from that sector. Coffee and livestock dominate exports, and, although Ethiopia's floriculture sector has grown significantly in recent years, Ethiopia continues to run a negative trade balance. Ethiopia has no known economically viable oil or gas resources and, although its highland areas and rivers feed

BOX 1. MACRO INDICATORS				
	Year	Score		
Population, total	2008	80,713,434		
Population ages 0-14: 15-64: 65+ (% of total)	2008	43.9: 53.0: 3.1		
Population growth (annual %)	2008	2.6		
Rural population (% of total population)	2008	83.0		
Population density (people per sq. km)	2008	80.7		
Literacy rate, adult total (% of people ages 15 and above)	2004	35.9		
Land area: Surface area (sq. km)	2008	1,000,000: 1,104,300		
Arable land (% of land area)	2005	13.1		
Agricultural land (% of land area)	2005	33.9		
Permanent cropland (%of land area)	2005	0.8		
Irrigated land (% of cropland)	2003	2.5		
Forest area (% of land area)	2005	13.0		
Nationally protected areas (% of total land area)	2006	18.6		
Renewable internal freshwater resources per capita				
(cubic meters)	2007	1,551.3		
Annual freshwater withdrawals, agriculture: domestic:	2001	1,001.0		
industry (% of total freshwater withdrawal)	2007	93.6: 6.0: 0.4		
Crop production index $(1999-2001 = 100)$	2005	112.0		
Livestock production index (1999-2001 = 100)	2005	117.7		
GDP (current US\$)	2008	26,487,292,143		
GDP growth (annual %) Agriculture: industry: manufacturing: services, value	2008	11.3		
added (% of GDP)	2008	42.7: 12.6: 4.8: 44.7		
Ores and metals exports: imports (% of merchandise				
exports: imports)	2007	2.9: 1.4		
Aid (% of GNI)	2007	12.5		
Source: World Bank, 2009				

the Blue Nile as it flows north to Egypt, its use of this water for hydropower generation and irrigation is still limited, in part by the decades-old agreements with neighboring Sudan and Egypt. However, this has been changing in recent years. The Government of Ethiopia (GOE) in early 2011 announced that it is building the Millennium Dam on the Blue Nile that is capable of generating 5250 MW of electricity. Its plan is to boost power production from the current 2000 MW to 10,000 MW in the next 5 years. Similarly, GOE plans to increase irrigated acreage substantially as elaborated in Section 2.

Property rights have been a continuing source of controversy. Current property rules have evolved from the imperial period, which started in the mid-19th century and continued up to 1974. As the imperial regime expanded, it incorporated different approaches to land tenure, most based on usufruct that were in use in different areas of the country. In 1942, however, Emperor Haile Selassie returned from exile and established rules that led to the emergence of private property, a system that resulted in more powerful landlords and a deprived peasantry.

The 1975 overthrow of the Selassie regime by the Derg provided usufruct rights to large numbers of rural families while declaring all land to be the property of the state. Ethiopia's current tenure system reflects long-standing and competing historical themes, including feudal traditions and the effects of military rule to rectify feudal injustices. The prevailing constant, regardless of the form of governance, has been significant control by the state over the allocation and use of land. Continuing government resistance to private ownership of land is in part, a legacy of the injustices experienced under the feudal tenure system prior to 1974 (Crummey 2000).

The civil war that ended in 1991 with the defeat of the Derg reduced forced participation of farmers in agricultural collectives, but otherwise largely maintained the property rights regime. Debate has raged throughout the tenure of the Federal Democratic Republic regarding the appropriateness of this approach to property rights, with many arguing that the economic benefits of a more –privatized" approach to property would encourage investment in productivity-enhancing technologies and infrastructure and would, therefore, be of benefit to the country and others arguing for the social equity associated with the current approach. As a result, the question of land policy is highly politicized and characterized by fundamental ideological differences and assumptions being put forward by these various stakeholders.

In recent years, the government has undertaken two programs to expand productive land use: resettlement and long-term leasing to investors. The resettlement initiative was launched in 2004 through administrative decisions taken by regional governments and was intended to encourage farm families from the crowded highlands of Amhara and Tigray regions to move into the lowlands along the Sudan border to reduce their food insecurity and to improve livelihoods. While it was, in principle, a voluntary program, this program echoed the forced replacement carried out during the Derg years, and attracted considerable criticism both from the international community and many within Ethiopia. The more recent initiative to make <u>-u</u>nused" land available on long-term leases to foreign investors has also been controversial. Leases to foreign investors have so far been granted for more than 600,000 hectares (or 1.4% of land suitable for rain-fed agriculture, according to the FAO). Chinese investors are moving into sesame production, and there is an Indian venture focused on tea, biofuel, sugarcane and cotton. The transparency of theses leases, the reports of evictions of current residents, and fears that these leases will drive future conflict are all concerns (IFAD 2009; Deininger 2011).

I. LAND

LAND USE

Ethiopia covers an area of 1,127,127 square kilometers, of which an estimated 34% is agricultural, 9.6% is arable, an estimated 3.6 is forested, and 48.9% is covered by woodlands and shrubs. Only 4.5% of arable land is irrigated. Protected areas encompass 14% of Ethiopia's land area. An estimated 15 of Ethiopia's approximately 80.7 million people live in urban areas, making it one of the least urbanized counties in the world. This low degree of urbanization highlights the importance of land access for rural livelihoods. Eighty percent of all Ethiopians depend, either directly or indirectly, upon agricultural and livestock production for their livelihoods. In 2007, agriculture and allied activities comprised 43% of Ethiopia's GDP (WRI 2007; Seleshi 2010; CBD 2009; EIU 2008).

Smallholder agriculture is the most important sector of Ethiopia's economy. Agriculture accounts for about 45% of GDP, almost 90% of exports, and 85% of employment. Crop production contributes to 35% of GDP. Cereals account for 80% of crop production in both area and value while oilseeds and pulses contribute nearly 15% of the value. The steady rise of cereal production has provided Ethiopia with a growing source of food security. Oilseed production, while important for local consumption, is also expanding rapidly due to increasing exports to the Middle East and China (an eleven-fold increase in value of exports between 1987 and 2007). Ethiopia is reputed to be the origin of Arabica coffee that is in great demand for blending in the European, the US and Japanese markets. Coffee remains the major foreign exchange earner, generating about 35% of the total export earnings with oilseeds and pulses adding another 25%. There is a nascent floriculture and horticulture export sector industry that is growing rapidly with exports of flowers mainly to European destinations. The government is actively encouraging both the smallholder and commercial agriculture to produce exportable surplus of coffee, oilseeds, pulses, flowers and vegetables via a number of agricultural development projects, some privately funded and some supported by the donor community using a value chain development approach.

Ethiopia is also one of the largest livestock producers in Africa. Livestock accounts for nearly 10% of GDP and 30% of the employment of the agricultural labor force. Livestock exports to the Middle East – both live and as chilled meat – have been an important source of foreign exchange in recent years, second only to coffee. Permanent pastures comprise 63% of agricultural land. Despite the importance of livestock and pasture for the

agricultural sector, the claims of pastoralists to land and pasture, particularly in the South, are poorly recognized or upheld by Federal, regional, or state authorities. Conflicting claims on grazing resources have reportedly been a contributing factor to some violent clashes. In some arid lowland areas, government authorities are said to have undermined pastoralist livelihoods by expropriating land used by pastoralists as dry season grazing areas for agricultural projects (EIU 2008; UNSTATS 2007; Halderman 2004; Helland 2006; Hundie and Padmanabhan 2008; Beyene and Korf 2008).

LAND DISTRIBUTION

Successive national governments in Ethiopia have implemented differing approaches to the distribution of rural land. The imperial regime of Haile Selassie allocated land ownership to political supporters without regard to its occupation or use by farming populations. This created a feudal regime of landholdings in much of the country, with many farmers operating tenancies on lands held by absentee landlords. Growing popular anger and unrest over the oppressive and inequitable effects of this feudal tenure system, particularly the large-scale eviction of tenants to give way for commercial farming, were major factors leading to a coup in 1974 by a cadre of military officers (the Derg) and the overthrow of the Emperor. *Land to the Tiller*, the slogan and rallying cry of the opposition, mainly composed of high school and university students before the 1974 Revolution, became the basis for the Nationalization of Rural Lands Proclamation of 1975 and subsequent sweeping land reform.

Between 1976 and 1991, the Derg implemented a series of reforms in which –all rain-fed farmland in highland Ethiopia was confiscated and redistributed, after adjusting for soil quality and family size, among all rural households" (Devereux et al. 2005, 121).

The military Derg regime redistributed previously –privatized" land to farming households but went further than that, repeatedly redistributing land every year or two with the aim of achieving an equitable allocation of usufructory rights. Such frequent redistribution reduced land access and undermined secure ownership of land and natural resources, for both current land holder and inheritance by children. Moreover, the Derg retained state ownership of some large properties, setting them up as state-owned and -operated farms.

The government formed by the incoming Ethiopian People's Revolutionary Democratic Front (EPRDF) in 1991 largely maintained the policies of the Derg with regard to land, assigning ownership to the state and use-rights to farmers and livestock keepers, while prohibiting sales and collateralization, encouraging redistributions at the village (*kebele*) and district (*woreda*) levels to avoid landlessness, and permitting limited leasing and inheritance rights to be exercised. Gradually, more authority for land distribution policies was delegated to regional states, and several regional governments began experimenting with different approaches to land redistribution in order to increase rural tenure security. However, this changed in 2005, when the adverse effects of frequent land redistribution was recognized by federal government which limited forced land redistribution to only irrigation development areas in Proclamation No. 456/2005 (Holden and Yohannes 2001).

Though it is widely believed that Ethiopia's approach to land access and use has resulted in a highly equitable distribution of land, there is substantial evidence that this may not be true. The vast majority of rural holdings are small (less than 2 hectares) and fragmented (average holdings of 2.3 plots), many farms are less than one hectare and a not-insignificant number of households are landless (Rahmato and Assefa 2006; Abegaz 2004; Griffin et al. 2001; Gebreselassie 2006).

Additional land can only be acquired through leasing, as current policy restricts consolidation of holdings and prohibits the sale or purchase of holdings. Some researchers also contend that land distribution in contemporary Ethiopia is no more equal than in other African countries and that the unchallenged assumption of egalitarian distribution is used to reject private ownership of land. While the right of women's access to land is stated in the Constitution, anecdotal evidence suggests that women's role and involvement in decisions regarding the allocation and use of landholdings at the local level remains limited (Kebede 2008; Mersha and Githinji 2005; Stein and Tefera 2008).

Certification initiatives have resulted in an increase in the number of women with legally recognized rights as holders by including both spouses on the certificate in the case of joint ownership, and providing certificates to women in case of divorce, separation or death. However, widows do not receive the certificate of holdings until

the inheritance issue is settled and recognized by the district court. Women are issued with holding certificates during separation or divorce only if the property was jointly registered in both spouses' names. Women landholders are afraid to give out land for rent or for share-cropping to non-relatives for fear of tenants dispossessing them. Certification is helping to remove this fear and broaden access to those seeking land to rent or sharecrop. While small in scope, in the last few years, a small government and USAID-sponsored initiative has endeavored to increase access to urban agricultural land for HIV/AIDS affected women, orphans, and other vulnerable children in Addis Ababa and other urban centers in Ethiopia.

LEGAL FRAMEWORK

The Transitional Government of Ethiopia established in 1991 initially continued the Derg's land policies. Under the 1995 Constitution, the state retained ownership of all land and the right to seize and redistribute as needed.

The Constitution affirms that -the right to ownership of rural and urban land, as well as all natural resources, is exclusively vested in the State and in the peoples of Ethiopia" and reserves the right of the government to stipulate the amount of land a citizen may hold. However, the Constitution also recognizes the right of peasants to -obtain land without payment and the protection against eviction from their possession." Pastoralists <u>have the right</u> to free land for grazing and cultivation" and -the right not to be displaced from their own land" (GOE Constitution 1995, Art. 40).

The Re-Enactment of Urban Lands Lease Proclamation No. 272/2002 provides the legal basis for leasing of land in urban areas (more below).

The Federal Rural Land Administration and Land Use Proclamation No. 456/2005 was enacted for the purpose of ensuring tenure security; strengthening property rights of

BOX 2. LAND TENURE INDICATORS Millennium Challenge Corporation Scorebook, 2009

Score

 Land Rights and Access (Range 0–1; 1=best) 	0.613
International Property Rights Index, 2009	
 Physical Property Rights Score (Range: 0–10; 0=worst) 	4.3
World Economic Forum's Global Competitiveness Index, 2008-2009	
 Property Rights (Range: 1–7; 1=poorly defined/not protected by law) 	4.3
World Economic Forum's Global Competitiveness Index	2.2
 Ease of Access to Loans (Range: 1–7; 1=impossible) 	2.2
International Fund for Agricultural Development, Rural Poverty Report, 2001 — Gini Concentration of Holdings, 1981-1990 (Range: 0–1; 0=equal	0.47
distribution)	0.47
International Fund for Agricultural Development, Rural Sector Performance	
Assessment, 2007	
 Access to Land, 2007 (Range: 1-6; 1=unsatisfactory access) 	3.2
Food and Agricultural Organization: Holdings by Tenure of Holdings	
 Total Number of all Agricultural Holdings, Year 	
 Total Area (hectares) of all Agricultural Holdings, Year 	
 Total Number of Holdings Owned by Holder; Year 	
 Total Area (hectares) of Holdings Owned by Holder; Year 	
 Total Number of Holdings Rented from Another; Year 	
 Total Area (hectares) of Holdings Rented from Another; Year 	
World Bank Group, Doing Business Survey, 2009	
 Registering Property-Overall World Ranking (Range: 1–181; 1=Best) 	116
World Bank Group, World Development Indicators, 2009	40
 Registering Property-Number of Procedures 	13
 Registering Property-Days Required 	43
World Bank Group, World Development Indicators, 1998	
 Percentage of Population with Secure Tenure 	
Heritage Foundation and Wall Street Journal, 2009	20
 Index of Economic Freedom-Property Rights (Range 0-100; 0=no private 	30
property) Economic Freedom of the World Index, 2008 (2006 data)	
 Legal Structure and Security of Property Rights (Range 0-10:0=lowest 	4.66
degree of economic freedom)	1.00
 Protection of Property Rights (Range 0-10; 0=lowest degree of 	5.23
protection)	
 Regulatory Restrictions of Sale of Real Property (Range 0-10;0=highest 	6.72
amount of restrictions)	

farmers; sustainably conserving and developing natural resources; establishing land data base; and establishing an efficient land administration in the country. Significant authority and responsibilities for land administration were transferred to regional governments, including authorities that provided the legal basis for piloting of land certification activities that are ongoing and broader in their geographic scope. These certification processes consist of adjudicating land rights for each parcel of land by ascertaining landholdings by village land committees in the presence of adjoining landholders. The landholder(s) of each parcel are given certificate of holding if the land rights of the parcel in question are not contested by another claimant(s). If the land rights are contested, the village land committee attempts to resolve the contest, failing which the contestants settle the case in the district

court. A landholding certificate is issued to such parcels only after the contest is settled (GOE Rural Land Administration and Use Proclamation 2005a)

The Federal Rural Land Expropriation Proclamation No.455/2005 mandated improvements to the land administration system, implementation of land-use planning, and compensation for expropriated lands. It may also have made it easier for federal and regional authorities to expropriate communal land of pastoralists for private investment and development projects. Amhara, Oromia, the Southern Nations, Nationalities and Peoples (SNNP) and Tigray Regions have subsequently enacted corresponding laws that are being implemented (Abdulahi 2007).

Regional governments issued land proclamations in Tigray (1997 amended in 2007), Amhara (2000 amended in 2007), Oromia (2002 amended 2007), SNNP (2004 amended in 2007), and Afar (2009) that specified implementation rules and regulations. Certain legal provisions in regional laws are believed to undermine security of land tenure, restrict access to land for in-migrants, or deter people working elsewhere to remit earnings back home. In Tigray, for example, the land laws require residency on one's holding; thus, individuals absent from the locality for more than two years risk forfeiture of their landholdings (GOE Tigray State Land Administration and Land Use Proclamation 2007c, Art. 12/1).

The legal framework clearly prohibits private ownership of land, although certification of use- and inheritance rights carried out by regional authorities is believed to convey some of the benefits of ownership to landholders. However, an ongoing and sometimes suppressed debate continues in Ethiopia over the question of private ownership of land and resulting risks and opportunities. The government maintains that state ownership of all land is essential to ensure equitable distribution of land to all rural people who may need it and to ensure the continued redress of historical injustices under the feudal tenure system. Critics contend that the continuation of this policy stifles agricultural investment and has led to fragmentation and excessively small and unproductive parcel sizes (Gebreselassie 2006; Crewett et.al. 2008).

TENURE TYPES

All urban lands (land inside perimeter fences) not expropriated during the military regime and lands given to individuals for purposes of building houses is held under a system of usufruct granted by permits After the coming into force of Proclamation 272/2002, the leasehold system was made applicable to urban land held by the permit system, or by leasehold system, or by other means prior thereto (GOE Reenactment of Urban Lands Lease Holding 2002, Art. 3.1).

In rural areas, communal usufruct and private ownership rights for cultivable land were recognized under the feudal system that was in place until 1975 when the imperial rule of Haile Selassie ended. The communal *rist* system was prevalent in the northern regions of Tigray and Amhara and was based on ancestral claims and customary law. By birthright, both male and female descendents could substantiate and claim their use-rights to a portion of arable land. The land was owned by the lineage or community rather than the individual, who was entitled to rent his or her use-rights but could not mortgage, sell, or give the land away. *Rist* rights were conditional upon payment of taxes or fulfillment of obligations to the family or community, who retained secondary rights to an individual's holdings, such as access to use or gather water, trees, or fodder.

Gult, a form of private ownership, prevailed mainly in the southern regions, consisting of large holdings granted by the Emperor or provincial authorities. Owners were entitled to collect taxes or labor service from tenant farmers, some of whom had been cultivating the same land under customary or community-property rights. *Gult* rights were often provided in lieu of salaries to imperial officials and soldiers. The *gult* system was characterized by greatly concentrated landholdings and absentee ownership, political patronage, and widespread share-cropping under penurious terms. Owners could lease, sell, or mortgage land while tenants were subject to numerous restrictions, steep taxes, mandatory labor services and arbitrary eviction. All *gult* rights were abolished by the Derg and tenants were entitled to claim the lands that were not reallocated as state farms (Crewett et. al. 2008).

A third form of tenure included lands granted by the Emperor to the Ethiopian Orthodox Church, which held an estimated 10–20% of all arable land; tenant farmers on these lands also provided tribute or labor in exchange for use-rights (Ofcansky and Berry 1991).

As noted above, all land is now vested by law in the government and people of Ethiopia. However, people have land use rights that are transferable through inheritance, gifting, divorce and rent. Investors can also lease land from government for commercial farming. Increasingly broad discretion is granted to regional governments to regulate and administer use-rights and several have issued decrees or passed laws that vary in the degree to which they allow broad rental rights. The current land tenure system of State control over rural arable land resembles the *rist* system and the system during the Derg, with the exception that the communal *rist* system is replaced by State peasant associations (Crewett et. al. 2008).

In pastoral and agro-pastoral areas of the country the customary land tenure system has been recognized under Proclamation 31/1975 by the *Derg Regime*; and under the 1994 Constitution during the EPRDF regime.

Pastoral lands in Ethiopia are largely managed by customary authorities using rules and regulations that evolved over a long period of time. Clans operate in a socially recognized territory over which they have exclusive primary land use rights. Such territories have dry and wet season grazing areas where members of the clan practice rotational grazing. River basins that are usually flooded during rainy seasons and valley bottoms whose soils retain moisture far into the dry season constitute dry season grazing areas. Neighboring clans who have similar primary land use rights over their territory also have secondary rights in their neighboring clan territories during droughts or failure of water resources. These secondary rights are based upon inter-clan negotiated reciprocity. When such reciprocities are practiced, the guest clan has to observe the rules and regulations of the host clan on the use of the grazing and water resources such as refraining from cutting trees, observing turns at watering points and not stealing livestock. There has been considerable pressure and interference on customary management of pastoral lands in Ethiopia, particularly in those pastoral lands that contain river basins in which the State has initiated irrigation developments since the mid-1950s. These interventions have excised out large areas of dry season grazing from pastoral landholdings, reducing their capacity to maintain their livelihood in the face of increasing population and occurrences of drought.

There appears to be a widely held belief that pastoralism is no longer a viable means of livelihood, resulting in pressure on customary systems of pastoral land rights and land management. Even during the Imperial regime and the Derg era, there were efforts to settle pastoralists on irrigated land in the river basins alongside the irrigated state farms that were developed on expropriated grazing lands. Because pastoralists lacked farming know-how, the State built the irrigation infrastructure and farm machinery services while the pastoralists provide labor for weeding and harvesting the crops grown, which was mainly cotton. These settlements were eventually abandoned in the late 1980s because the State was unable to sustain these services.

The EPRDF regime in the early 1990s returned the state farms to the Afar Regional Government, which, in turn, subdivided some of the state farm lands and distributed them to elite members of the pastoralist communities for farming purposes. Other state farms were given out on leasehold to local investors. The revenues from these leaseholds were distributed among the clans who have original land use rights on these lands. It is reported that poor members of the clan and women were not beneficiaries of either the land distribution for farming or the distribution of income from the leaseholds. Although the expropriation of land for irrigation development abated during the early years of the current EPRDF government, it is now on the rise as allocations for both private and state-run large sugar and cotton estates are being made. These allocations will once again erode the sustainability of the pastoralist mode of livelihood (Hundie and Padmanabhan 2008; Beyene and Korf 2008).

SECURING LAND RIGHTS

Securing the rights to use land in rural Ethiopia involves the concurrence of public authorities at some level: local (*kebele* or *woreda*), regional, or national. As already noted, successive national governments, including the current government, have taken interventionist approaches to land redistribution for various reasons (power, social justice, economic interests), with significant impacts on the rights of existing land-users. Crewett et al. (2008) distinguish between rights for access, withdrawal, management, exclusion, and alienation and review the complexities associated with the ways in which these rights are (or are not) made available to individuals and communities in different parts of the country. Proponents of private ownership claim that government's continued

ownership of all land raises fears of continued redistribution by the government, heightening farmers' sense of insecurity and undermining investment in productivity (Gebreselassie 2006).

Others counter that there is very little empirical evidence to support the claim that the continuing vestment of all land in the Government of Ethiopia results in widespread tenure insecurity (Crewett and Korf 2008).

However, several cases support the conclusion that rural land-users today have only limited security of their userights over specific parcels of land. The federal government intervened in Tigray and Amhara regions, for example, to honor the guarantee of the 1994 Federal Constitution and the subsequent federal and regional land proclamations regarding the rights of any adult over the age of 18 to access land free of charge if he chooses farming as his livelihood. Government land redistribution efforts undertaken without community consultation have caused significant tenure insecurity in these regions, leading to adverse effects on farm productivity and resource conservation, as well as attempts to rapidly individualize pasture and forest land. Subsequently, the Federal Land Administration Proclamation 456/2005, Article 9, limited redistribution of land by governments only under certain conditions; i.e. lands of deceased persons who did not leave heirs; lands affected by development of irrigation (e.g., upstream landholders losing land to flooding by dams compensated by redistribution of land downstream where irrigation development occurs); or upon the wish and resolution of a majority of land holders (e.g., more than 60% in the Amhara region) to redistribute land (Solomon Bekure pers. comm. 2010).

Land certification was introduced in some areas to reduce tenure insecurity by allowing rural landholders to certify their use rights. This system of rural landholding certification was first introduced in the Tigray region in 1997 followed by the Amhara region in 2003 and later by the Oromia and SNNP regional states to reassure rural land holders of their use rights and to promote tenure security. Since the introduction of land certification in 1998, over 20 million certificates have been issued (Deininger et al. 2008b).

Proponents of certification suggest it avoids the debate surrounding ownership, instead focusing on formalizing state recognition of the use-rights of holders. Empirical evidence has suggested that certification of land in Amhara has increased participants' perception of tenure security. Deininger et al., noting the value of certificates for prompt and fair compensation, state that -[t]aking of land by government – whether for urban expansion, outside investors, or internal redistribution – without use of certificates to determine compensation levels or prompt award of compensation could jeopardize credibility of certificates." (2008b, 16)

However, it is a big empirical question whether fair and adequate compensation is paid to certificate holders, particularly in the case of government takings for public investment in roads and development projects. For example, Addis Anteneh et al. report considerable variation in average as well as income foregone and actual compensation paid within and among regions (Addis Anteneh and Associates, 2008).

Regional land laws impose restrictions on both rental arrangements and inheritance. Small scale farmers who have land use rights in perpetuity are given the right to rent their land short term (2–5 years for traditional farming and 15–20 years if modern technology in the form of improved seeds, fertilizer, and machinery is used). However, they are not allowed to use their use rights as collateral for loans. Commercial farmers that rent land are given longer term leases (25–50 years) and are allowed to mortgage their land use rights. Landholders are not allowed to rent all of their holdings, and the lessee must dwell in the rural area and be engaged only in farming. Some regions allowed inheritance only to those children who are dependent on their parents and who live in the rural areas (Tigray and SNNP regions). The Oromia Regional Land Use and Administration Proclamation 56/2002 explicitly grants lifelong user-rights and forbids any further redistribution of granted plots, subject to three extenuating conditions: irrigated lands and lands needed for irrigation infrastructure such as pump houses and dams are exempt and the government retains the right to expropriate land for <u>-m</u>ore important public uses." (Crewitt and Korf 2008)

All of these restrictive rules have engendered a vigorous debate as to whether greater tenure security, all the way to private ownership of land in a market-regulated system, would be politically or economically feasible or desirable.

INTRA-HOUSEHOLD RIGHTS TO LAND AND GENDER DIFFERENCES

The 1995 Constitution, while affirming gender equality and prohibiting discrimination on the basis of sex, reflects customary principles in that the right of married women to land is based on their husband's claim as head of

household. However, any customary law or practice that contravenes the rights provided in the Constitution is null and void. The regional constitutions and land laws also affirm the equal rights of women. The land laws of the Federal Government and the regions also clearly provide that the holding certificate shall be issued in the names of both spouses. The wife also must give her consent where the husband enters into a transaction with the land jointly owned. The

BOX 3. LAND AND GENDER INDICATORS	
 <u>OECD: Measuring Gender In(Equality)</u>—Ownership Rights, 2006 Women's Access to Land (to acquire and own land) (Range: 0-1; 0=no discrimination) 	O.7
 Women's Access to Property other than Land (Range: 0-1; 0=no discrimination) Women's Access to Bank Loans (Range: 0-1; 0=no discrimination) 	0.5 0.5
FAO: Holders of Land Classified by Sex, 1993 — Percentage of Female Holders of Agricultural Land	

problem with the protection of the rights of women, therefore, is not the absence of laws but lack of awareness, traditional practices curtailing rights of women, and absence of strict observance of the laws by government institutions (GOE Constitution 1995).

Further, women's security of tenure may be undermined through the abrogation of provisions allowing the issuance of a certificate to a woman in a polygamous marriage, as well as through the role of traditional leaders who administer the first level of land disputes hearings (*ibid.*). The Revised Family Code of 2000 provides for community of property (with exceptions) for anything acquired after marriage and for common law unions lasting not less than three years, presuming joint ownership and consent of both spouses before the disposition or transfer of any property (Cotula 2007).

Land and property rights can be transferred to family members in Oromia and Tigray Regions, provided the size of the inherited holdings is not less than the legally mandated minimum area. Amhara Region allows transfer of rights to non-family farmers upon whom the right holder is dependent for farm labor and subsistence. While right-holders can lease their rights to others, these rights can be neither sold nor mortgaged (Teklu 2005).

While existing federal and regional laws recognize the rights of women to land, a number of factors continue to undermine women's ability to exercise their rights. Cultural sanctions against women having rights to land through their husbands or brothers and women's participation in community decision-making, the failure of institutions to protect and uphold women's rights, and the continuing dominance of men in decision-making in households all impede women's exercise of their land rights. However, one recent survey found that –the majority of conflict mediators, all of whom were men, considered joint certification and getting the name and picture of wives on the land certificates beneficial (i.e., that it would strengthen women's position in cases of divorce as well as death of their husbands)" (Stein and Tefera 2008, 6)

In the Tigray, Oromia, and SNNP regions, land certificates of married couples record both the name of the husband and wife, giving equal rights to the wife. However, in communities that practice polygamy in the Amhara, Oromia, and SNNP Regions, only the names of the husband and his first wife are recorded in the land certificate.

LAND ADMINISTRATION AND INSTITUTIONS

The federal Ministry of Agriculture is supporting a broad titling and certification initiative that is being implemented in Amhara, Oromia, SNNP, and Tigray Regions. Regional governments are the principal administrators and regulators of land, including the assignment and granting of use-rights and regional land-use planning and administrative authorities are responsible for recording, documenting, and administering use-rights. In urban areas such as Addis Ababa, the city council is authorized to approve permits for land and building. In rural areas, it is the Land Administration Committees at the *kebele* level that are most relevant to the process from the perspective of most Ethiopian farmers. A number of projects are working with local authorities to improve

their capacity to plan and administer land allocation and use. However, there are reports of interference in the administration of land by regional and *woreda* administrations that are not consistent with these processes. Furthermore, a directorate within the Ministry of Agriculture has recently taken over the administration of contiguous land in excess of 5000 hectares.

Implementation of land administration at the regional and local levels is constrained by a shortage of trained staff and finance, exacerbated by the intent to further decentralize land administration to Land Administration Committees at the *woreda* and *kebele* levels without always providing sufficient resources. However, USAID and other donors are supporting initiatives for rapid and relatively cheap land demarcation and certification and strengthening village-level institutions for land allocation and conflict management. Land certification efforts have been particularly successful and are being expanded (Deininger et al. 2008a).

The Institute of Land Administration (ILA) was established at Bahir Dar University in 2008 to offer training in land administration, geodesy and geomatics at the B.Sc. level with technical assistance of the Royal Institute of Technology (KTH) and financial support of SIDA. The institute also initiated the formation of a national association for land administrators in 2009. The Haromaya University's Department of Law is in the process of establishing a Land Tenure Institute that will conduct research in land tenure and administration issues.

LAND MARKET AND INVESTMENTS

Restrictions in Ethiopia's land laws regarding transfer of property have inhibited the emergence of even an informal market for rural and agricultural land. Existing federal and regional requirements for residency on or near one's holding and restrictions on transfers limit access to land for immigrants and constrain the movement of people to areas of greater availability of land for fear of losing existing holdings. There is, however, an active market in land leases for both short- and long-term periods.

The federal government has recently taken responsibility for leasing contiguous land areas in excess of 5000 hectares in order to expedite development of such lands for export and industrial crops. The Agricultural Investment Support Directorate was created in 2009 within the Ministry of Agriculture to identify, delineate and transfer such lands to investors. As of 2011, it had identified a total of 6 million hectares of land that would be made available to investors, with the majority of this land located in Gambela Beneshangul-Gumuz Afar and Southern Nations, Nationalities and Peoples (SNNP) (GOE 2009).

As of mid-2010, a total of 1.2 million hectares have been allocated to local and foreign investors. The distribution by regional states is Gambela (535,000 hectares), Oromia (380,000), Benishangul-gumuz (191,500), SNNP (60,500), Afar (20,000), and Amhara (18,000) (Deininger and Byerlee 2010).

Agro-climatological data is made available to potential foreign and local investors on its website, the Ethiopian Investment Commission offices and Ethiopian embassies abroad. Investors in need of land in excess of 5000 hectares apply to the Directorate with a complete business plan that is vetted for technical and financial feasibility and environmental and social acceptability. A long-term land lease ranging from 25–99 years is issued and the investor given support to facilitate implementation of the business plan. Investors seeking land less than 5000 hectares go through the same procedure by applying to the regional state's investment bureau and signing lease agreements with the regional agricultural land administration agency.

Critics have noted that this long term commercial leasing process is not always participatory, stakeholders including current users of the land are not always adequately consulted, and the terms of the leases and the allocation process are not transparent, making it unclear whether each land allocation is beneficial to the economy in general and to the local communities in particular. This has contributed to an active debate as to whether further steps toward establishing markets for land would be useful in terms of encouraging investments and increased productivity. Some economists have argued that Ethiopia's restrictions on rental, mortgage, and land sales have caused inefficient land use, unrealized productivity, and food insecurity. They argue that a liberalization of restrictions, allowing the sale of land, will lead to the development of a robust land market and a net gain in agricultural productivity and economic performance (Grover and Temesgen 2006; Deininger et al. 2003).

Others have found that incentives for only certain kinds of investments (e.g., permanent soil conservation structures, irrigation) are affected by lack of clear titles to and lack of ownership in land (Benin et al. 2005).

COMPULSORY ACQUISTION OF PRIVATE PROPERTY RIGHTS BY GOVERNMENT

The Federal Constitution vests in the government the power to expropriate private property in the public interest, provided it pays compensation prior to acquisition and in an amount commensurate with the value of the seized property (GOE Constitution 1995, Art. 40.1).

Enacting laws promulgated by the Federal Government include Proclamation No. 455/2005 on the Expropriation of Landholdings for Public Purposes and Payment of Compensation and Council of Ministers Regulation No. 135/2007 pertaining to the Payment of Compensation for Property situated on landholding expropriated for public purpose.

However, the modality of compensation payment in the case of regional infrastructure projects such as rural roads and various water works constructions is not standard. In many cases, the implementing agencies do not involve themselves in the issue of compensation. There is widespread belief among the staff of these agencies that they are not supposed to pay compensation because land belongs to the government, the law allows them to use quarry materials for free, or they assume that since communities compete with each other to have a road pass through their villages that they are not interested in compensation (Addis Anteneh and Associates 2008).

In the case of urban expansion, including the zoning of industrial parks, compensation is paid by municipalities in cash, in-kind (providing urban plots) or a mixture of both. Urban expansion problems were not anticipated early enough and the municipalities were not at all prepared for the eventuality of compensation payments. In the early days of urban expansion, most farmers were left uncompensated. The problem is one of both legal and financial capacity. The municipalities had limited financial capacity, while a weak legal framework provided insufficient guidance on how to value and determine compensation.

Articles 3 (1) and 4 (3) of Proclamation 455/2005 clearly indicate that compensation in cases of expropriation is to be made in advance of the eviction of the holder. Many cases of expropriation without payment of compensation have been exposed by participants of focus group discussions and landholders. Local officials have also admitted, in several instances, that they have had to use force to evict landholders, even though the latter have not received compensation. In addition, mechanisms for the submission of grievances and complaints are not often used. Except in rare cases (Tigray, Oromia), landholders do not yet have a good understanding of compensation issues and how they are dealt with. They do not know what their rights and obligations are in the event of being expropriated. In some instances, the courts also do not have knowledge of Proclamation 455/2005 and are unaware of the fact that the Proclamation empowers them to specifically look into cases concerning expropriation-related compensation (Addis Anteneh and Associates 2008).

Regional State governments are expected to draft language for implementation of these Federal mandates. However, as of spring 2010, only the Amhara regional government had issued directives related to the Federal proclamations and a number of existing provisions in state laws addressing expropriation and compensation possibly conflicted with the Federal laws. Currently, there is no legally recognized right to challenge in the courts government's determination of –public purpose" when expropriating property. However, a landholder can challenge the amount offered as compensation (Tamrat 2010).

LAND DISPUTES AND CONFLICTS

Weak government and customary institutions, population growth, frequent drought, resource degradation, and encroachment or expropriation of rangelands are some of the causes of inter-pastoral conflicts and between pastoralists, the government, and farmers (Hundie 2006; Michael et al. 2005; Rahmato 2005).

Lack of adequate demarcation, registration and record keeping has led to overlapping land claims stemming from inheritance that is beginning to result in conflict. There is evidence that violence and intimidation are used against women who attempt to use the law to establish and defend their right to landholdings (Stein 2008).

The Constitution allows the resolution of disputes between individuals using customary laws and practices and may apply to land-related disputes. The State has generally ignored the administration and adjudication of pastoralist tenure. While this has resulted in the loss of crucial rangeland to crop cultivation, sometimes as a result of government expropriation, it has meant a continuing role for clan-based tenure regimes (World Bank 1999; Crewett et al. 2008).

KEY LAND ISSUES AND GOVERNMENT INTERVENTIONS

Access to productive land and the security of tenure on that land are issues of critical importance across Ethiopia. Many farm households experience moderate to extreme land scarcity, while others have access to adequate acreage but find the quality of the land inadequate to generate sufficient incomes through either crop or livestock operations. Transfer of rural populations to urban areas has been constrained by the potential loss of rights to land left behind in rural areas as well as by the difficulties of acquiring rights to land and property in towns and urban areas. Until recently, foreign investment in Ethiopia was constrained by restrictions regarding access to productive rural lands or urban space. Government institutions at all levels – federal, region, municipal and local (*woredas, kebeles*, villages) – must play a role in addressing these land issues as government owns, and ultimately controls, all of the country's land resources and market forces have been given little role in resolving issues related to the sustainable use and development of land.

Efforts since 2004 to convey more secure tenure rights through low-cost certification of plots have been wellreceived by rural Ethiopians as well as many external donors who believe that such measures will underpin greater rural investment and poverty reduction (Deininger et al. 2008).

However, these certification schemes do not address common property holdings (pastures, forests, watersheds) that contribute to degradation of land, nor do they facilitate rental of land or permit mortgaging. Further, while they are judged to have reached the poor, they have not always been supportive of women's rights to land. Efforts to enable land-poor Ethiopians in some highland areas to relocate to less densely settled lowland areas have been perceived as less successful in sustainably expanding access to land (Kassa 2009).

Since 2007, the government of Ethiopia has approved 815 foreign-financed agricultural projects and leased the land that makes these investments possible. This has led many to question whether Ethiopia is facilitating a –land grab" by foreigners to produce food for export while Ethiopia's own farmers are unable to escape poverty (Vidal 2010).

All of these government initiatives and rural Ethiopia's persistent poverty have made land policy and questions of tenure the subjects of ongoing debate and generated widely differing views regarding state and private ownership and the potential consequences of liberalized land markets. Donors and scholars have provided aid and sometimes unwelcome advice regarding land policies and their implementation. They argue that current policy prevents long-term investments in agricultural productivity by farmers and a robust trade in land such that agricultural land would end up in the possession of those most able to make productive use of it (Grover and Temesgen 2006; Lemma 2006; Ali et al. 2007).

Countering these arguments, the Federal government, regional officials, and others argue that Ethiopia's feudal history, characterized by inequitable land distribution and servitude of peasants, justifies land policy prescriptions that restrict absentee possession, foster equity among households by imposing a ceiling on the size of holdings, and enable the government to manage lands wisely on behalf of all Ethiopians.

Crewett and Korf, in their analysis of this ongoing political debate, suggest that donors are -likely to fail" in their attempts to significantly change Ethiopian government policy regarding land privatization as the government will not want to relinquish a significant source of power among rural constituencies, namely the distribution and allocation of land. However, distribution offers government little room for exercising such power as it has been banned by Proclamation No. 456/2005 (Crewett and Korf 2008).

In order to address the lack of tenure security accompanying state ownership of land, certification programs of use-rights have been carried out and have increased perceptions of tenure security and resulted in economic benefits for participants (Deininger et al. 2008b; USAID 2008). It has been only eight years or less since land administration development activities have been implemented in the four regions. Despite the brevity of the

experience, notable benefits have been registered. Preliminary findings of studies confirm that GoE's regional land certification program is appreciated by rural landholders and is resulting in increased sense of tenure security leading to attitudinal change from short term exploitation to long term protection and development of land with multiple positive benefits. Recorded benefits include: increased soil conservation; increased planting of perennial crops including timber; increasing intensive production; enhanced land rental market; gender equality in tenure rights; and significant reductions in land disputes. In some *woredas* reported court cases are down, and the cadastral-based modern method of land certification appears to be enhancing farm households' confidence and security of tenure (Negatu et al. 2009).

DONOR INTERVENTIONS

The Ethiopia Strengthening Land Tenure and Administration Program (ELTAP), funded by USAID from 2005 to 2008, was implemented by the Ministry of Agriculture (MOA) and four regional land administration and land use agencies. It focused on the implementation of a land certification system in the four regional states of Amhara, Oromia, SNNP, and Tigray. Components were designed to strengthen tenure security and improve systems of land dispute resolution, streamline and improve the effectiveness of land titling and administration by standardizing rural land registration and cadastral surveying methodologies, increase capacity through training and provision of materials, and increase support of public information and awareness about land laws, regulations, and procedures.

The Ethiopia Strengthening Land Administration Program (ELAP), funded by USAID from 2008 to 2013, continues the work initiated under ELTAP, extending certification and survey activities to new areas, including Afar and Somali regions that have considerable pastoral lands, formulating land policies and preparing land laws and regulations, broadening the scope of public information awareness, improving coordination among federal and regional governments responsible for land administration, building and coordinating support among donors for federal and regional land administration strengthening, and developing the potential for commercial land investment.

The Urban Agriculture Program for HIV-Affected Women (UAPHAW), implemented with the support of city/town administrations and *kebele* authorities, provides urban land for garden and farm plots to HIV/AIDS-affected women and children. An estimated 11,000 HIV-infected women, orphans, and vulnerable children have received access to productive urban agricultural land through this initiative (DAI 2009).

The Netherlands is providing funding to FAO to facilitate land registration activities in Kafa Zone, Southwest Ethiopia and support of regional and national fora and workshops regarding the practical impacts of land policy (Tessemaker et al. 2007).

The Swedish International Development Cooperation Agency (SIDA) has supported land registration in the Amhara region of Northwest Ethiopia, the results of which has supposedly included a reduction in land conflicts, increased investments in farming equipment, and improved agricultural production (Orgut Consulting 2010).

Finland is finalizing a project to support land administration in Benshangul-Gumuz regional state and the growth corridor of the Tana Beles river basin in the Amhara regional state. The project will support policy, legal and institutional reform, cadastral surveying and mapping and capacity building of the land administration agencies of the two states and the federal government.

Realizing that Ethiopia's development is increasing the demand for an appropriate policy and legal framework for governing land, and an effective land administration system to deliver rights, the GoE is demonstrating commitment to further improve land administration and use management. Some of the most recent efforts include establishment of a Directorate for Rural Land Administration and Use under the Ministry of Agriculture (MOA) and a concept note proposing a Land Administration and Land Use Development Project (LALUDEP), prepared by the MOA in 2010 with assistance of ELAP.

In the past, the MOA did not have a specialized unit dealing with land administration matters, but it recently established the Directorate for Land Administration and Use, reporting to the State Minister for Natural

Resources. Key responsibilities of this Directorate are to implement the Rural Land Administration and Use Proclamation by providing professional support to the regional land administration authorities, coordinating work between federal and regional agencies, and helping to harmonize federal and regional land policy and legal reform. The professional capacity of the MOA in terms of skilled and specialized experts is expected to be built up further under LALUDEP to lead the proposed national program in land administration. The Concept Note for LALUDEP provides a sound basis for developing a program to improve land administration in Ethiopia by strengthening the legal and regulatory framework; improving administrative capacity and operational efficiency; and expanding provision of effective land administration services. GOE has presented the LALUDEP concept note to several development partners including USAID and the World Bank to mobilize technical assistance and financing for its implementation.

2. FRESHWATER (LAKES, RIVERS, GROUNDWATER)

RESOURCE QUANTITY, QUALITY, USE AND DISTRIBUTION

Average rainfall is 848 millimeters, but varies significantly both temporally and spatially, ranging from 100 millimeters annually in the northeastern Afar region to 2000 millimeters in areas of the southwest. The extreme variability signifies a very high risk of drought in many regions of the country (FAO 2005a).

Seventy percent of freshwater run-off occurs in June-August. As a result, many rivers flow only seasonally and there is minimal perennial flow below 1500 meters. Freshwater lakes comprise approximately 7000 square kilometers. Total estimated renewable freshwater resources were 122 billion cubic meters/year, with only an estimated 3% remaining within Ethiopia's borders (ibid.). The estimated amount of yearly groundwater recharge of the country is about 28,000 cubic meters According to UNESCO, 75% of Ethiopia's 80 million people lack access to clean drinking water (UNESCO 2006; GOE 2010b; IRIN 2010).

The time required for girls to travel long distances for potable water is one reason cited for the disparity in numbers between boys and girls for school attendance nationwide. Despite the low total usage compared to the total available freshwater supply, some regions are facing shortages and unsustainable demands on both surface and groundwater resources (UNESCO 2006).

Irrigation and livestock watering account for the chief uses of freshwater resources, consuming an estimated 5,200,000 cubic meters/year. Government-sponsored irrigation schemes have historically been developed and managed with little focus upon or involvement from rural people, and thus did not serve their needs. However, the current emphasis is on development of small scale irrigation. Of the current 15 million hectares of land cultivated in Ethiopia, a little more than 4% is irrigated. Cognizant of the high potential of irrigation expansion to increase agricultural production and growth, the government has an ambitious plan of increasing the irrigated area under government sponsored irrigation schemes from about 640,000 ha to 1.2 million hectares in a period of five years. Two-thirds of this expansion (0.8 million) is expected to be small-scale irrigation development (UNESCO 2006; Seleshi 2010).

In addition, as of 1999, an estimated 40% of irrigated land was watered through traditional irrigation schemes, built by water user co-operatives comprised of 20–30 households. In these water-user groups, each participating household is entitled to equal access to water (*ibid*). In some areas, robust forms of customary water management persist, wherein elders, known as –water fathers" or –water judges," are elected to mediate and adjudicate water disputes.

LEGAL FRAMEWORK

The Constitution (Art. 40) vests the ownership of all natural resources, presumably including water, in the State. Proclamation No. 4/1995 established the Ministry of Water Resources (MWR) as the federal authority responsible for oversight of water development throughout the country. The Ethiopian Water Resources Management Policy further declares that water is a *-eommon* property of all Ethiopians" (GOE Water Resources Management Policy 1999, Sec. 2.2.13.C.1).

Proclamation No. 197/2000 defined the responsibilities and powers of the Ministry and defined water permit and dispute resolution guidelines.

The Ethiopian Water Resources Management Policy states that water development should be based on rural centered, decentralized management and participatory approaches (Sec. 1.3.4), through the participation of -user communities" (Sec. 1.3.6) and support for -eommunity self-initiatives in water resources management." (Sec. 2.2.9.5) It also mandates community participation, as feasible, in the development and management of dams and reservoirs (Sec. 2.2.3.G.4) (GOE Water Resources Management Policy 1999).

TENURE TYPES AND ISSUES

The Constitution (Art. 40) vests ownership of all natural resources in the State and the legal framework mandates a permitting system for different types of water use. However, despite existing legislation, the institutional capacity to systematically administer a water permitting system remains rudimentary and largely –defunct" (Adams et al. 2006, 13).

Water permits are required to construct waterworks, supply water for one's own use or others, water transfer from a primary source or supplier, and the discharge of waste into water bodies. Permits are not required for development of sources or use of water from hand-dug wells, for traditional irrigation, artisanal mining, animal rearing, or water mills. Permits may be transferred to another person at the request of the permit holder and with the approval by the relevant authority. Use-permits are appurtenant, that is, tied to a specified method for withdrawal and use, area, and quantity over a specified time frame (GOE Water Resources Management Proclamation 2000, Arts. 11.1, 12.1; GOE Water Resource Management Council of Ministers' Regulation 2005b).

Under the law, the relevant state authority with jurisdiction over a dispute between water permit holders, or between a permit holder and another party, may arbitrate and decide the dispute as well as set the appropriate level of compensation (if any) (Proclamation 197/2000 9.1). The decision may be appealed to a court of appropriate jurisdiction within 60 days (GOE Water Resources Management Proclamation 2000, Art. 9.1–2).

GOVERNMENT ADMINISTRATION AND INSTITUTIONS

The Ministry of Water Resources is authorized to manage and allocate the flow and use of water across regions. Regional water bureaus are responsible for water management contained within their regional boundaries. As in other sectors, devolution of authority is continuing as regional bureaus transfer functions and authority for water management to the *woreda*-level. –Water desks" have been established and assigned responsibilities for planning, budgeting, implementing, monitoring and follow-up of water projects and programs in their respective localities (UNESCO 2004).

In Ethiopia, –there is still lack of effective coordination among stakeholders in general. Coordination among key stakeholders such as Federal and Regional Public water institutions, NGOs, Multilateral and bilateral agencies and the private sector itself is still an issue that still needs improvement" (UNESCO 2004, 25).

GOVERNMENT REFORMS, INTERVENTIONS AND INVESTMENTS

The Government of Ethiopia reserves all surface and groundwater resources as the common property of both the government and people of Ethiopia. Though the Ethiopian Water Resources Management Policy explicitly provides for rural centered, decentralized management and participatory approaches and participation of -user communities" in water management, government-sponsored irrigation schemes have historically been developed and managed with little focus upon or involvement from farmers; such schemes have been run by -technical and managerial elite" working for foreign investors, state, or parastatal enterprises (Rahmato 1999).

According to Rahmato, the failures of the Derg to encourage water development that served the needs of peasants and to involve water scheme beneficiaries in their planning, development, and management should be instructive for Ethiopia's current government. However, he noted the continuing failure to develop institutions and processes that directly involve primary stakeholders in the governance and management of water projects. The subsequent policy recognizes generally the value and right of stakeholders for such involvement in water development. Water development-related projects are cited as a cause of disagreements –between different users over the allocation of

waters, land rights, or maintenance issues or conflicts between users and the authority responsible for the project over inappropriate design of infrastructure, peasant relocations, water charges, or management issues" (Ramato 1999).

In the Awash River Basin, the introduction of irrigation and other water infrastructure development projects and insufficient consideration and respect for customary rules and practices pertaining to water resources have resulted in conflicts involving pastoralists and other groups (Edossa et al. 2005).

The federal government has developed a Water Sector Strategy and Water Sector Development Strategy (2002–2016) and Fund to pay for its implementation. The Strategy includes fostering stakeholder involvement, particularly that of women, in the management and use of water resources. The federal government has been involved in the development of hydroelectric and irrigation schemes. The actual degree of NGO and citizen participation in water management remains a challenge; government consultation with civil society organizations remains limited and often done as a result of donor requirements (WaterAid 2005).

DONOR INTERVENTIONS AND INVESTMENTS

The UK Department for International Development (DFID), through the Overseas Development Institute (ODI), is supporting a research consortium and series of projects called –Research Inspired Policy and Practice Learning in Ethiopia and the Nile Region (RiPPLE)." The purpose is to identify and disseminate evidence-based learning on water supply and sanitation financing, delivery and sustainability to improve equity of access for the poor focusing on the various aspects of collaboration and management in water supply and sanitation.

Water Aid-Ethiopia is implementing the Ethiopian Country Water Partnership on behalf of the GWP, the focus of which is piloting Integrating Water Resources Management (IWRM) and watershed management in several areas of the country. USAID and State Department, through the Ethiopian Country Water Partnership and Global Water Partnership (GWP), supported a pilot project on Integrated Water Resource Management in Ethiopia during the period 2006–2008. It was an initiative involving various stakeholders at the *woreda*-level with the objective of promoting application of IWRM principles and practices at the catchment level (GWP 2008).

The World Bank is providing support for Integrated Water Resources Management in the Tana and Beles areas. Water is a key focus of France's bilateral assistance to Ethiopia through 2010, focusing on water policy, water infrastructure planning, and development of urban water supplies (Government of France 2010).

DFID-UK is also providing support for continuing policy development in the water sector.

3. TREES AND FORESTS

RESOURCE QUANTITY, QUALITY, USE AND DISTRIBUTION

Forests and other wooded lands cover an estimated 52% of Ethiopia; the estimated annual rate of deforestation is 1.1%. While the estimated contribution of the forest estate to GDP is only 2.8%, 90% of the population relies on various forms of biofuels, 68% of which comes from woody biomass. Use of non-timber forest products such as honey, medicinal and spice plants, fodder, and the benefits of environmental services are essential aspects of people's livelihoods. Forest clearance for agricultural expansion and settlement, habitat fragmentation, and the impact of uncontrolled grazing and fire upon forest regeneration are all drivers of deforestation in Ethiopia. Encroachment on state forest reserves and associated illegal logging and arson is a significant problem in Ethiopia (FAO 2005b; CIFOR 2006; CBD 2006; Owino and Ndinga 2004).

LEGAL FRAMEWORK

The Constitution (Art. 40) vests the ownership of all natural resources in the State. However, The Forest Conservation, Development, and Utilization Proclamation No. 94/1994 provides for the conservation, development, protection and utilization of the forest resource and mandates three tenure types, including State forests held by Federal and Regional governments, and private forests.

The Forest Development, Conservation, and Utilization Proclamation No. 542/2007 recognizes state (encompassing both Federal and regional) and private forest ownership. However, the revised proclamation does

not explicitly address participatory forest management, indicating a continuing absence of policy direction from the Federal government in support of community authority over forests (Jirane et. al. 2007).

However, Oromia (Forest Proclamation of Oromia, No. 72/2003) region has promulgated a law regarding forest management and utilization. This same proclamation, as well as Proclamation 110/2007 of the Southern Nations, Nationalities, and People's Region (SNNPR), recognizes communal forest and landholdings subject to common use, establishing a legal basis for community forest ownership (Bane et al. 2007; MELCA 2008).

TENURE TYPES AND ISSUES

State forests include all forests held by the federal or regional state governments. Private forests include all forests outside state control and include those held and managed by individuals and groups, including community forest associations (USAID 2008).

Critical questions regarding resource governance underlie the potential for sustainable management of the forest and woodland estate in Ethiopia. Ethiopian and international forestry experts stress the need to distinguish forest tenure issues from those of land and land policy and address issues that are pertinent to forest management and use. In particular, there is a need to assess the policy environment and enabling circumstances of the evolution of community forest management and to clarify land and forest-use rights in forest areas (Bane et al. 2007).

In some forest areas, robust, complex customary rules and practices governing forest utilization persist, despite continuing claims of exclusive authority by some government forest authorities. Perceived insecurity of tenure, including restrictions on transfer rights and the potential for government seizure of holdings was found to have a robust negative impact on farmers' willingness to invest in perennial crops such as chat and coffee, as well as the planting of trees (Stellmacher and Gatzweiler 2005; Dercon and Ayalew 2007).

GOVERNMENT ADMINISTRATION AND INSTITUTIONS

There is no single federal authority responsible for all forestry sector policies and programs, although the Ministry of Agriculture has authorities for most federal forestry policies. Both federal and regional authorities are responsible for designating and demarcating State, regional, and protected forests. Fifty-eight National Forest Priority Areas (NFPA) were designated in 1985; responsibility for their management as Regional Forest Protected Areas shifted to regional authorities upon promulgation of the 1995 Constitution (Wakjira and Goleb 2008).

The Forestry and Wildlife Conservation and Development Team within the Ministry of Agriculture and Rural Development is responsible for forest policy and oversight of forest management by Regional governments. The Ethiopian Agricultural Research Organization and a number of other government authorities are also directly and indirectly involved with management and research in the forest sector. Despite the promulgation of a forest policy and proclamation (No. 542/2007), lack of enforcement regulations and shifting responsibilities among different levels of government weaken forest management and enforcement efforts. Nonetheless, the Federal and regional governments have taken steps to improve the policy environment. In 2007, the Oromia Region government established the Oromia State Forests Enterprises Supervising Agency (OSFESA), with the mandate to support the establishment of community-based forest enterprises and facilitate the expansion of participatory forestry efforts (FAO 2004).

GOVERNMENT REFORMS, INTERVENTIONS AND INVESTMENTS

In the mid-1990s, the regional Bureau of Agriculture supported an initial assessment and trial of participatory forest management in the Amhara Region that failed to meet its objectives to build effective participation and management by stakeholder communities. Lack of clear policy directives regarding joint management and insufficient training to build the capacity of community stakeholders to participate in the process were cited as reasons for its failure (Sjöholm 2007).

Since 2000, the Governments of Germany and Ethiopia have collaborated to implement the Integrated Forest Management Project, which supported a community forestry trial project in the Adaba-Dodola Forest Priority Area. Under the WAJIB initiative (WAJIB in local language stands for *Waldayaa Jiraatoota Bosonaa*, which

means Forest Dwellers' Association), forest dweller associations, consisting of a maximum of 30 members, were formed with exclusive user-rights to blocks of forest averaging 360 ha. As of 2007, 77 registered user-groups had legally recognized management and use-rights to 77 forest management blocks totaling 35,000 hectares (Neumann 2007).

As a result of the success of the WAJIB initiative, the practice of participatory forest management, including defined rights of management and use to demarcated forest areas, has been extended to other areas throughout the country. A similar initiative by FARM-Africa and SOS Sahel is supporting participatory forest management activities in Oromia and SNNP Region. To date, an estimated 90,000 hectares are being managed as community forests, with authority granted to a combination of forest cooperatives and associations. There is a need for legislation that regulates and assures the continuous use of the forest resources by communities (Jirane et al. 2007).

DONOR INTERVENTIONS AND INVESTMENTS

SIDA is providing substantial support to the forestry sector through FAO and directly to the Wondo Genet Forestry College and has supported both forestry research and training. UN FAO is also providing forestry sector support through its National Forest Program (NFP) facility.

The European Commission is providing extensive support for projects developing forest livelihoods, payment for environmental services, and sustainable forest management in SNNP and Oromia regions. The EC recently announced a six million Euro grant to expand the scope of participatory forest management in the Ethiopia.

FARM-Africa and SOS-Sahel are continuing their support to expand the WAJIB participatory forest initiative to other areas of the country.

The World Bank is supporting the Forest Carbon Partnership Facility, of which Ethiopia is a member. The initiative will focus on building Ethiopia's capacity to participate in carbon markets through Reduced Emission due to Deforestation and Degradation (REDD) efforts.

The World Bank is also supporting the expansion of the Former Women Fuel Carriers Association (FWFCA) to 30,000 members, focused on securing the access rights of female wood gatherers to eucalyptus plantations where wood-cutting is allowed, developing alternative livelihood options, and providing training in forest management and sustainable harvesting techniques (Baldauf 2007).

USAID conducted the Ethiopia Biodiversity and Tropical Forests Assessment in 2008, mandated by U.S. law as part of its country planning process (USAID 2008).

4. MINERALS

RESOURCE QUANTITY, QUALITY, USE AND DISTRIBUTION

Ethiopia produces various types of minerals such as gold, silver, gemstones, soda ash, tantalum, kaolin, construction materials, particularly colorful dimension stones, and mineral water. These industries contribute approximately 2.5% to GDP. Illegal and unmonitored mining operations have contributed to deforestation, water pollution, and extensive erosion; Ethiopia lost an estimated \$25 million USD in 2001 due to illegal mining and smuggling (GOE 2007b; Yager 2005; *Mining Weekly* 2001).

LEGAL FRAMEWORKyh

As with forests and land, the government retains ownership of all minerals, but grants prospecting and extraction rights to licensees. Mining (Amendment) Proclamation No.118/1998 to the existing Proclamation No. 52/1993 vested in regional governments the authority for oversight and licensing of –artisanal mining, prospecting, exploration and small-scale mining as well construction minerals mining licenses undertaken exclusively by domestic investors" (2.2).

Laws and regulations now pertain to both State-owned mining companies as well as domestic and international investors. Under the 1993 proclamation, licensees have the right to sell extracted minerals either domestically or internationally.

TENURE TYPES AND ISSUES

Traditional mining as a customary practice was not legally recognized until 2003 and artisanal associations have produced only a small portion of minerals for the domestic and international markets. In mineral-rich Oromia region, approximately 5000 artisanal mining and 400 small-scale mining permits have been issued. Artisanal mining is a significant source of employment for the unskilled, women, disabled, and other vulnerable groups (Gebremarian 2008; Centre for Development Studies 2004).

State-owned, domestic, and international exploration and mining companies must secure a license for mineral prospecting, exploration, and extraction in Ethiopia. The Ministry of Mines and Energy issues prospecting non-transferable, non-renewable licenses granting exclusive prospecting rights to designated areas (up to 50 square kilometers) for one year. Small-scale mining licenses entitle the holder to extract for 10 years (up to 5 years renewable), for industrial and construction minerals over area up to 20,000 square kilometers. Licenses for large-scale mining grant exclusive rights to an area ≤ 10 square kilometers for metals and $\leq 200,000$ square kilometers for industrial minerals; both licenses are good for 20 years with an option of 10 years renewal (GOE 2007b).

Artisanal licenses are granted to Ethiopian nationals, either individuals or groups, seeking to engage in nonmechanized mining. Artisanal mining licenses are valid for one year and can be renewed annually without limit. The license to the claim can be transferred, assigned, encumbered, or inherited

The Regional authority can rescind artisanal licenses with 90 days notice if the extraction of the full estimated potential production requires more advanced exploration and mining methods The licensing authority may be required to compensate the holder of a rescinded license. (GOE Mining Proclamation 1993, Ch. 3, Secs. 1.14.2; 1.15.2; 1.15.4).

An ongoing conflict in the Ogaden region of eastern Ethiopia between the Ogaden National Liberation Front (ONLF) and the Government of Ethiopia is reflected in ongoing threats and claims over potential oil reserves in the region. The ONLF has opposed any mineral, oil, or gas exploration in the region until such time as it has achieved self-determination for the region and can benefit from its natural resources. The Government of Ethiopia has signed agreements with foreign oil companies to explore oil and mineral resources in the region but has been unable to guarantee their security. The ONLF has issued repeated threats and warnings and attacked workers at an exploration field in 2007, killing 74 people (*Reuters* 2009).

GOVERNMENT ADMINISTRATION AND INSTITUTIONS

Licensing authority for mining other than artisanal mining rests with the federal Ministry of Mines and Energy, a ministry that includes the Mineral Operations Department, Regional Mining Bureaus, and the Ethiopian Geological Survey. Authority and responsibility for artisanal and small-scale mining, the administration and licensing of construction materials, and exploration and prospecting has been delegated to Regional Mining Bureaus. Due to limited personnel, monitoring and inspection of operations is nearly non-existent (Gebremarian 2008).

GOVERNMENT REFORMS, INTERVENTIONS AND INVESTMENTS

Although the Regional Mining Bureaus have the mandate to administer artisanal and small-scale mining, the federal government continues to extend its support for artisanal mining. In 2006–2007, The Ministry of Mines and Energy provided technical and material support to build the capacity of artisanal mining; as a result, 26 new artisanal mining associations were formed. An additional nine associations were provided assistance to export their gold production through the National Bank of Ethiopia (GOE 2007a, 92).

DONOR INTERVENTIONS AND INVESTMENTS

The Governments of Germany and Ethiopia signed a Memorandum of Understanding in 2009 under which German Technical Cooperation (GTZ) will assist the Federal government to revise its existing energy policy (Mulugeta 2009).

The World Bank sponsored the development of an artisanal diamond policy and the establishment of a mining cadastral system with the Ministry of Mines and Energy (GOE 2010a).

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