

Overview of Ethiopia's Unconstitutional 'Land grab laws' and the demands of the Oromo People!

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The land ownership rights of the Oromo people remain front and center of the #OromoProtests! However, both the Ethiopian government and the Oromia National Regional State are still pretending not to see, hear or know this demands of the Oromo people. The 'war on terror' style "Command Post" that the Ethiopian federal government, not even the Oromia state, established killed more than 140 leaders of the protests, arrested over 5,000 of the other key leaders; and are now bamboozling the poor farmers with empty propaganda and in order to cow those intimidated with the hope of silencing the rest of the Oromo people. That is a tried and failed policy!

By focusing only on the so called 'Addis Ababa Master Plan' which the Addis Ababa City Administration vowed to implement even after the OPDO, the party that represents the ruling EPRDF in Oromia, claimed to have "stopped" it; the Ethiopian government is playing hide and seek with the Oromo people. It is evading the real issues including land, making Afaan Oromo federal working language, and implementing genuine federal structure where the Oromo people's rights to self-rule are asserted, and Oromo people's rights to jointly rule Ethiopia with others are respected! Both, the Ethiopian federal government and the Oromia National Regional State are giving blind eye and deaf ear to the Oromo people on all these issues.

Whether the so called "Addis Ababa Master Plan" is "stopped" as the OPDO claimed until it is "ordered to walk again" or still 'walking' and 'kicking' as the Addis Ababa City Administration asserted; the legal framework and institutional structure that allow the Addis Ababa City Administration, the Oromia Regional State and the federal to government to expropriate the Oromo farmers land freely and at-will are intact and fully in place.

The Ethiopian government, the feudal landlord of all Ethiopian lands, puts its urban and rural lands on sale over 10 years ago. The land grab law leaves the fate of all Ethiopian people whose fates were sealed as presumed plantation workers or rented slaves for the new landlords or their designated agents who call themselves investors.

I intend to briefly review only one out many similarly situated Ethiopian federal government issued "expropriation laws." This law authorized with stroke of a pen Woreda, Urban, regional, and federal government the feudal landlords of the Ethiopian people by turning both the rural and urban citizens into a brutal forms of serfdom unheard off in history. It is the mother of all land grab laws in Ethiopia!

This mother of all land grab laws was adopted by the Ethiopian federal parliament and signed into law by the Ethiopian titular President on July 15, 2005 just two months after the May 15, 2005 national elections. Since it was adopted at the time of national crisis in connection with the May, 2005 election, very few Ethiopians heard or knew about this law. The Oromo people are presumed not to know since the law is issued only in Amharic and English.

This law which made the Ethiopian government the sole owner all Ethiopian rural and urban lands; and transferred all the Ethiopian people into serfdom is officially known as "Expropriation of Landholdings for Public Purposes and Payment of Compensation Proclamation No 455/2005."

At its face value, this law looks like any ordinary eminent domain law common to every civilized government dedicated to provide public services such as roads, schools, and electricity, water and telephone lines to the people by through "public use" of their private land. Who hates and opposes such public utility services and basic infrastructures except the diehard anarchists?! Yes, that is the exactly the 'nobility' of the drafters of this law who managed to hide the poisonous in plain sight. In the inside of it, however, this law changed the Ethiopian people overnight into serfdom and the Ethiopian government individual authorities and cadres into the brute and barbaric medieval era European style feudal landlord. Since the adoption this law, over 2.2 million Oromo farmers and others Ethiopians were robbed and evicted of their ancestral lands, all in the name of development or 'public use' ----the development that changes one from land owner to rented slave status and

destitution.

I encourage and invite anyone who could read and understand either Amharic or English to read this short 9 pages doubled spaced proclamation. It is short, to the point and very concise law that made all Ethiopians, except the politically connected and the rich, landless poor ready for immediate & overnight rented slavery or plantation workers; if there is any willing buyer or slave renter out there. Let's see the important features of this law, the mother of all land grab laws in Ethiopia, maybe in the world. Let's start with the basics.

1. What is the constitutional basis of the expropriation Law (also known as eminent domain law) in Ethiopia?

The Ethiopian constitution gives the government the right to expropriate private property for "public purposes" under Article 40 Sub Article 8. That is pretty much standard public trust law which is common in any civilized society that picked the European state model of society governance and society organizing. The Ethiopian government issued the above "expropriation law" under this eminent domain clause of Article 40 sub article 8. Sub Article 8 of Article 40 of the Ethiopian constitution states that the government can expropriate private property including land for "public purposes" with payment of compensation. So far so good.

2. Who owns the land in Ethiopia?

Closer reading of the Ethiopian constitution establishes that the Ethiopian people are sole and only owners of land which is consistent with the centuries of common law private and communal ownership of land both in north and south of the country. I will return to the common law land ownership laws later.

Under Article 40 Sub Article 3 of the Ethiopian constitution "the right to ownership of rural and urban land, as well as of all natural resources, is exclusively vested in the State and in the peoples of Ethiopia."

Pursuant to this Article of the constitution, the State (the regional state, not the federal government) and the peoples are exclusively owners of urban and rural land as well as of all natural resources. At face value, this law seems to imply that the state and the peoples as the "joint owners of land and all natural resources." Creating this perception is exactly where the Ethiopian political class and the 'deep state' deceived the Ethiopian people.

Strict interpretation within all corners of the law gives different understanding this "joint ownership" concept which now the government transferred to only government ownership in spite even what the above provision mean. The government violated the constitution here. The above provision simply means "the people owns the land and all natural resources."

The people are natural persons while the government is a fictitious body created by the people for limited purpose and for limited time. The Ethiopian people can change, modify or abolish the so called government anytime. The Ethiopian people can give, take, add or reduce any power they bestowed on their government.

The Ethiopian people did not give or transfer their land ownership rights to this fictitious legal person called government at any time under the current government or under the current constitution. The Ethiopian government itself never demanded and campaigned asking the people to transfer all land ownership rights to the government. As much as there is no documents indicating the government asking for these rights; and there is no documents indicating the Ethiopian people consenting and giving away their rights to own the land and all natural resources to the government either.

Therefore, the Ethiopian people are the only and sole owners of the Ethiopian land and all natural resources. The Ethiopian government authorities and cadres unlawful usurpation and adverse possession of the Ethiopian people's land and all natural resources of the people is in clear violation of the Ethiopian constitution, and is deemed unconstitutional.

After formally establishing the sole land and all natural resources ownership rights of the Ethiopian people, let's see if the "Expropriation of Landholdings for Public Purposes and Payment of Compensation Proclamation No 455/2005" has any constitutional basis under the eminent domain clause of the constitution?

3. Does the Ethiopian government's land grab law has any constitutional basis under the eminent domain law clause of the Ethiopian constitution?

The above "Expropriation Proclamation" of the Ethiopian government is unconstitutional under the Ethiopian constitution for four major reasons. First, the proclamation is unconstitutional since it unlawfully and adversely snatched the Ethiopian peoples' ownership rights on their land and natural resources in clear violation of the constitutionally enshrined provision. Second, the Ethiopian government issued the said law at the time of national crisis, after an election that saw nationwide crisis and when it clearly knows that it doesn't have the mandate from the people to do so. This law is the backdoor usurpation of peoples land and resources by the deep state of the Ethiopian government. Third, the expropriation law that expropriate all Ethiopian peoples of their ownership rights to land and all natural resources all at the same time do not meet the strict application of "public purposes" standard of eminent domain laws under the Ethiopian laws and of similar practices around the world. There is no public purpose behind the wholesale expropriation of all Ethiopian lands and natural resources by the unaccountable and corrupt officials to benefit their cronies and international benefactors. Fourth, Ethiopian government violated international human rights laws that Ethiopia ratified by reducing all of Ethiopian the status of slave and serfdom by an obscure "expropriation" laws.

Therefore, Ethiopian government's taking of Ethiopian people's land for the personal benefits and self-enrichment purposes of the government authorities, relatives, domestic and international political benefactors are unconstitutional. It violates the land ownership rights of Ethiopian farmers, pastoralists and other rural residents as well as urban dwellers. The expropriation proclamation also violets the century's common law land ownership rights of Ethiopian farmers to individually own farmlands and homestead, and collectively or communally own their grazing (pastoral) lands, disestablishing communities, sawing chaos, and engineering civil war in the country.

4. The Expropriation proclamation that takes away peoples land ownership willy-nilly to give it to Government authorities is unconstitutional under the Oromo People's Common law.

The main objectives of the government in transferring Ethiopian people's land and all natural resources to few government authorities, their relatives, cronies, and political benefactors is to create new forms of feudal landlords, national oligarchy, and a capitalists system that will support the deeply entrenched 'Ethiopian deep state' in perpetuity by transferring all national wealth to them. These practice are unconstitutional and immoral that will not last a day under the common law system of the Oromo people once this unlawful law comes to the public light.

In all parts of Oromia, still, the land ownership rights of the Oromo people are largely regulated and governed by centuries old common law system of the Gadaa System. The Oromo people's common law under the Gadaa System, which the Ethiopian constitution recognizes as customary law, recognizes two types of land ownership rights. Under the Oromo common law, individuals own farmlands and homesteads privately which they can pass in perpetuates as inheritance to their heirs from generation to generation. In this respect, the Oromo people's common law is similar to the British and American land ownership laws.

One of the major distinction of the Oromo people's common law land ownership system from that of the British and American common law, where all land is privately owned, is that under the Oromo common law recognizes communal ownership of grazing or postural lands. Under the Oromo common law, grazing and postural lands are communally owned by specifically designated communities. However, if individuals convert their farmlands into grazing and postural lands, that grazing land is considered privately owned. No communal trespass is allowed on such land. On the other hand, through the agreement of the community, communally owned grazing or postural lands could be transferred to private ownership to accommodate population growth, scarcity of farmlands or homesteads.

The Oromo common law system of land ownership is recognized under the Ethiopian constitution. Article 34 and Article 78 of the Ethiopian constitution recognizes common laws for all personal and family laws which includes landownership rights. The Oromo people to the present day settles all land related disputes and ownership rights issues through this centuries old common laws of the

Gadaa System.

Similarly, Article 9 Sub Article 1 the Ethiopian constitution, under its “supremacy clause” “recognizes the common law practices of the Ethiopian people to the extent that these common law practices are not in conflict with the constitution. The Oromo people’s common law land ownership laws are consistent with and in harmony with the Ethiopian constitution.

On the land ownership rights itself, the Oromo people’s common law land ownership system is fully consistent with Article 40 Sub Article 3 of the Ethiopian constitution. Both laws recognizes the people’s ownership rights of land and all natural resources.

Similarly, both the Oromo people’s common law and Article 40 Sub Article 3 of the Ethiopian constitution do not recognizes the government ownership of land and natural resources. Therefore, the Ethiopian land expropriation proclamation number 455/ 2005 is unconstitutional both under the Oromo people’s common law land ownership system and Article 40 Sub Article 3 which recognizes exclusive ownership of land and all the natural resources only by the Ethiopian people, not the Ethiopian government as established above.

Moreover, the Ethiopian government’s land expropriation law that transfers land ownership to the Ethiopian government authorities by denying the Oromo people private and communal ownership rights to their land destroys the social fabric of the Oromo people. This unconstitutional and invalid law that violates both the Ethiopian constitution and the Oromo people’s long settled land ownership laws are major recipe for national chaos that will lead to civil war. No Oromo person, be it young or old, present or future generation, will never accept this unconstitutional law that will uproot our communities and centuries of established social fabrics and memories, our identity and history. The Oromo people might not know the Ethiopian government laws that is always issued in a language the Oromo people neither read or nor speak; but they knows their land and their laws that they will defend and protect to the end for generations to come.

5. Does the “the expropriation law” of the Ethiopian government meets the eminent domain law’s “public use” or “public purposes” standards?

The Ethiopian government’s “Expropriation of Landholdings for Public Purposes and Payment of Compensation Proclamation No 455/2005” does not meet the “public use” “public purposes” standards of eminent domain laws anywhere in the world.

The universal concept of eminent domain laws enables governments to expropriate private lands for “public use” or “public purposes.” The eminent domain laws around the world applies strict standards to enables governments, with the electorates and individual owners consent, to expropriate privately and communally owned lands for schools, road and railways construction, and to provide utilities such as telephone lines, water and home heating gas pipes, and electricity lines after paying fair market values of the land expropriated for these purposes. In few instances, the governments may also use mix of eminent domain laws and zoning laws to protect and preserve wild animals’ parks and sensitive ecosystems. These “public use” or “public purposes” laws are well developed and well established all around the world leaving no confusion in their understanding or applications.

The “expropriation law” of the Ethiopian government does not meet the bare minimum of any “public use” or “public purposes” standards of eminent domain laws anywhere in the world.

Under part two Article 3 sub Article 1 of the “Expropriation of Landholdings for Public Purposes and Payment of Compensation Proclamation No 455/2005” the Ethiopian eminent domain law states as that a Woreda or Urban or Regional or federal authorities “have to power to expropriate rural or urban landholdings for public purposes where it(either one of these authorities) believes that it(the rural or urban landholdings) should be used for a better development projects to be carried out by public entities, private investors, cooperative societies or other organs.”

Please read this Article 3 sub Article 1 again and again! You don’t need to be a lawyer to understand this! It says Woreda or urban or regional or federal government authorities have the power to expropriate rural or urban landholdings (the land belonging to rural or urban poor) if either one of these authorities believes the expropriated land shall be better used by public entities, private investors, cooperative societies or other organs. Read that again. This is what passed as “public use”

or “public purposes” law in Ethiopia to enrich the regime’s cronies and political cadres by evicting Ethiopian farmers’ and urban poor at-will and without any legal recourse by the Ethiopian poor against these evils! At times, I wonder about the abundance of patience and tolerance of our people. Had this happened in any other place in the world: that country or that community or that government would have been on fire and in flames!

As a son of an Oromo farmer, I wept and cried when I first read this paragraph of this obscure law that no Ethiopian might know. More than 2.2 million Oromo farmers, who just looks like my father and family, and maybe that of your father and family, if you are from among the 85% rural population of Ethiopia, were evicted and dispossessed of their ancestral land and homestead that they lived on for centuries under this colonial powers mirrored law. I could not even imagine what might have happened to other millions all over Ethiopia particularly in Gambella and the greater Southern Ethiopia!

It makes me emotional. Please close your eyes and think of the Oromo farmers and other poor Ethiopians who were evicted from their rural or urban lands or soon to be evicted from their lands to give it to Ethiopian government authorities, their relatives, cronies and political supporters! If their plight rings deep in your heart and consciousness, please stand with them, for them, and fight for them!

6. Is there any compensation paid for the expropriation of their land by the Ethiopian government?

No compensation has been paid for expropriating the land of the so called rural or urban “landholders”. Because, the landholders, the Ethiopian people, are not the owners of their land under this unconstitutional and slave masters expropriation law. The Ethiopian people are mere disposable chattels that could be removed and disposed whenever and wherever the Ethiopian authorities believes the land that the poor rural and urban owns, in their eyes, could be better used by themselves, their relatives or cronies who all the financial and political power access anytime they want.

This unlawful proclamation under its definition part calls an urban or rural poor condemned for eviction a “landholder.” Under the definition part of the proclamation, a landholder is person who “has lawful possession over the land to be expropriate and owns property situated thereon.”

Two qualify as “Landholder” one has to meet two mandatory conditions simultaneously. One, he or she has to be in lawful possession of the land. Two, he or she has to have property situated on the land to be expropriated. Unless one meets these two conditions he or she will not quality as holder, and, therefore, will not get the nominal compensation paid for the property situated on the land, but not the land!

Understanding the definition of “landholder” is very critical to understand the so called the government compensation scheme. If the evicted person does not have legal possession of the land and personal property situated on the expropriated land at the time of the eviction, he or she will not get any compensation. The government will only compensate the farmer if he/she has huts or harvests not yet collected on the farmland. The government will not compensate the evicted “landholder” for the fair market value of the land. The landholder has no rights to the land.

In a farming communities or pastoralist areas, communally owned grazing lands are considered res nullius, i.e., nobody’s property. The government will not pay any compensation for such communally owned community properties. Because, the farming or pastoralist communities do not meet the two mandatory conditions of the proclamations “landholder” definition. Farming and pastoralist communities are not in lawful possession of the land, and they don’t have property situated on their communally owned grazing or public utility lands. These communally owned community lands are fully and completely transferred to woreda, urban, regional and federal government authorities who could give it to anyone to whom it pleases them under the above expropriation proclamation. You read it right. They can give it to anyone they like and they believe will make better use of the land. Done deal!

Just imagine Oromo farming communities, in fact all Ethiopian farmers, who follow mixed farming system of cultivating crops and rearing cattle. This law passed death sentence on these communities, which constitutes about 85% of the Ethiopian population. Their cattle, which do not

have a legal person or physical person status under Ethiopian law, do not have the right to live. The farmers whose community owned grazing lands are expropriated must either sell their cattle or kill them all. If you know rural Oromia, just imagine the life Oromo of a farming communities without their cattle!?

The second implication of the definition of “landholder” is closely related with the first one. For an Ethiopian farmer to qualify as a “landholder” he/she has to have “property situated on the land to be expropriated.” That means a farmer does not have “landholder” rights on his farmland to claim compensation after he/she collected the harvest. Since, the farmer does not have any property on the farmland after he/she collects his/her harvest, the land will be considered *res nullius*, i.e., nobody’s property which the government authorities could give it to anybody who could make better use of the land! All Oromo farmers land around Addis Ababa and throughout Oromia were expropriated this way without any compensation whatsoever after the farmers collected their harvest!

The World Bank, UN, US, UK, IMF and EU funded and promoted this “development model”, and their media outlets called this death sentence on Oromo farmers and families including their cattle the “Ethiopian Renaissance(I am baffled on how the death of the Oromo people will bring about Ethiopia’s rebirth)”, “the African Tiger” or “unmatched development” or #EthiopiaRising! Shame on them!

7. How long will it take to evict the rural or urban “landholders” from their ancestral land that they lived on for centuries?

In short, only 30 or 90 days depending on the specific situation of the land. If the “landholder” does not have any property situated on the land, the lawful “landholder” will be removed or forcible evicted within 30 days of receiving notice from either one of urban, woreda, regional or federal authorities. There is no jurisdiction problem between the federal and regional states as anyone of them can order the eviction. The condemned poor have legal recourse to defend himself, in the court of law or otherwise, except to obey or get killed by the authorities or imprisoned if he or she resists.

On the other hand, if the person to be evicted has property situated on the land, he or she should remove himself or herself with a maximum of 90 days of receiving notice from woreda, urban, regional or federal authorities. If he or she will not comply, he or she will be forcibly evicted by the police or the military. Yes, that is it. Just imagine. Your ancestral family homesteads are gone in matter 30 or 90 short days leaving all values, history and identity you attach to your land.

Once evicted, Ethiopian farmers have nowhere to go. Most Oromo farmers who were evicted this way from around Addis Ababa, about 200,000 households, were either died or are leading dehumanized life as prostitutes, beggars, and homeless street dwellers in Addis Ababa. Others exiled to Arab and neighboring countries facing untold misery. Families are broken up. The husband is a guard in one corner of the city while the wife is a maid in other side of the city with no ability to rent a place they could call home. Their children are prey of human traffickers. This is the new normal and the new World Bank driven ‘development’ for the dehumanized Oromo people!

8. Does the “landholder” has any legal recourse to defend his/her property rights at the court of law? No. The expropriation law will not allow the “landholder” to take any legal action against eviction and dispossession orders of the Woreda, Urban, regional or federal authorities. The decisions of either one of these authorities will be final. The “Landholder” has no appeal rights either through administrative procedures or regular courts.

In fact, regular courts have no jurisdiction to hear expropriation of land belonging to “landholders”! There is no appeal on the compensation values the evicted farmer or the poor urban dwellers are given at the discretion of Woreda, Urban, Regional or Federal government. The compensation values will be determined by the above listed authorities who will handpick upto five but not more than five individuals of their choice to estimate the value of the farmers’ hut or any property situated on the land to be expropriated.

9. How does this unconstitutional land grab law protects newly minted “leaseholders” at expense of the evicted Ethiopian farmers and urban poor?

The new owner, the leaseholder, have full protection of the law on his or newly acquired land under

this unlawful slave masters law. The lease holder who took the land from government authorities have by far superior rights than the ancestral “landholders”. For instance, the government cannot evict the “lease holder” from the land he or she acquired through expropriation for public purposes. The only ground eviction of the newly minted leaseholder are 1) the lessees failure to honor the obligation he or she assumed under the lease or 2) if the government wants the land for government works.

10. What is the way forward out of this mess?

The simplest and easiest thing to do is for the Ethiopian government to immediately and unconditionally repeal this law; and reinstate and restore evicted Ethiopian farmers and urban dwellers to their ancestral lands or make them part owners in the investment on their land if there is business investment on the land.

Failure to take these measures by the Ethiopian government will throw the country into uncharted water. If the Ethiopian government fails to respond immediately to the demands of the Ethiopian farmers, it is more than likely that Ethiopian farmers will resort to individual or collective self-defense and defense of their property rights. The latter scenario might end up in lose-lose situation for every parties involved in this government engineered national disaster and crisis.

#OromoProtests.

Read the copy of this proclamation on the webpage of the Ethiopia Ministry of Agriculture @ <http://www.moa.gov.et/documents/93087/512013/Federal+Gov+proclamation+on+land+holdings+%26+payment+of+compensation.pdf/69dc0aee-2fed-44bb-bf7f-e51fdbad5890>

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