

Contested Land rights: Oromo Peasants struggle for Livelihood in Ethiopia.



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Preface

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Abstract: Contested Land rights: Oromo Peasants Struggle for Livelihood in Ethiopia.

The questions of land rights, identity and power are related to what constitutes nation-states, the relations between nation state and their constituent peoples and territories. These questions are debatable in artificial African nation states emerged in the wake of European colonialism. The notions of territoriality defined in context of African nation states are more likely sources of frictions and contests than 'imagined community' notion of (Anderson 1991) used to reflect on historical origins of nation. This is due to the fact that international boundaries of African nation states were grounded on the denial and subjections of rights, cultures, world views and existence of indigenous peoples. Based on the contemporary ethnographic and historical data from Oromia regional state of Ethiopia the study examines complex relationships and contradictory processes of the effects of resource based-development policies of the Ethiopian regimes on land rights related to Oromo peasant livelihoods, environment and development.

The thesis discusses the rights to define; allocation and use of resources have been related to the fundamental questions of land rights, identity and power. The compressive analysis focuses on how the power to define resource use and rights are socio-culturally and historically constructed and ideologically driven. In concern to this humane issues students of society and culture have studied social and cultural changes unfolded related to the integrations of indigenous nations or peoples into nation-states, colonial regimes, and world capitalist economy. Indigenous peoples suffered from the asymmetric power relationships and assimilative packages of those forces. Some of the works view indigenous people as passive victims of those forces. However, this study suggests that indigenous Oromo peasants and pastoral communities resist and sometimes obstruct encroachments of those forces into their livelihoods.

But given the asymmetric power relationships, the question is how indigenous people with different views of rights encapsulated into modern nation states enjoy cultural continuity and their rights to existence as a people maintained within this framework, where their views of land rights connected to ethnic identity and development is not `legal`? Analytically , a new ethnographic paradigm of approaching the notions of land rights, power and resistance that problematize custom as static culture vs. dynamic understanding of culture opens up a more dynamic, practical , contextual and relational understanding of `rights`. The analytical paradigms that focus on historical context of cultural and legal processes of indigenous relations to their land and nation state-indigenous people relationships allows looking into the constraints and limitations of actions and practice of the governance of land rights .This thesis has selected four conflicts of interests over the use of land and natural resources among different stakeholders in Oromia with particular focus on the two recent court cases: the case of Inxoxilsh and Hidha Gamme in Alam Gana to examine the continuity of challenges of land rights of the Oromo peasants in Ethiopia.

Key terms: Land rights, culture, kinship, *gada*, *guluma*, power, legal rights, customary rights, customary use, environment, development, power, and resistance.

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Chapter1. Introduction

Themes and focus of the study

Land claims and rights are related to an emerging, multi-disciplinary field, studying nature-society relations. However, the questions of resource use and rights are accentuated with creations of colonial territories or other dependent territories and the emergence of the modern nation-states. The artificial international boundaries of African nation-states created by the Europeans for politics and administrations did not take into account cultural continuity. At the present, the questions of indigenous people to their traditional territory embedded in the ensuing revitalizations of ethnic identities once more have actualized the claims of resource rights. The debate is also related to the environmental movements and political ecology² of the modern time.

Thus the critical questions that will be investigated in this thesis are: what are the customary regulations that constitute the right to land and common pool resources in Oromia³ regional state of Ethiopia? How are customary rights distributed and transferred? What are the relationships between formal state institutions⁴ including the involvement of state licensed stakeholders and customary rights of the indigenous people of the Oromo in land use and appropriations of common pool resources?

To the point, the Oromo-state relations with respect to claims and rights to land and resources in the traditional Oromo territories are the main themes of this study. Although the relationship between the state and the local people is highly asymmetrical in African nation-states, particularly in Ethiopia, by no means people are passive recipients of government interventions to their livelihoods. Despite local actors ability to control their own and others engagements in their traditional land is stifled by asymmetric power relationships, the Oromo peasants or pastoral communities appears to

² Political ecology is used here in context of examining interrelations between culture, environment, and development.

³ Oromia is the term used to signify all traditional territories (land) of the Oromo people in North East Africa. However, in its official use of Ethiopian constitutions it is a regional state that constitutes the largest portion of the Ethiopian federations. Both the Federal state of Ethiopia and Oromia regional state share the capital Addis Ababa (Finfine) as center of their administrations.

⁴ Formal State institutions have the power to define who should be involved in management of land and common-pool resources

renegotiate, obstruct or subvert state and other outsider encroachments to their livelihoods or traditional land and resources' since the colonization's of their traditional territories.

Centered on this theme, the thesis focuses on how customary rights are articulated within the asymmetric power relationships that extend as far as global power. Further, the question is to what extent indigenous peoples and their institutions is reserved some power to act in the pursuit of their own interests and to what extent traditional rights are recognized in the legal system of the African nation-states. To be more precise in a contest between the Oromo and the state including the involvement of the state licensed stakeholders in land claim cases only one particular set of claim has a right to resources in the legal system of Ethiopia. Then who has the rights to the resources and what are the criteria? Can we agree in these criteria? Why do the governing institutions accept one particular claim and not the others? Given this theme and focus the main part of this chapter set out frameworks upon which to advance my perspective and arguments. First the framework underwrite the specific limitations of the previous enquires of the Oromo studies. Second, methodological tools and theoretical frameworks are set out (contextualized) to meet the notions of property rights connected to identities and power. I am aware the need to wave my levels of analysis and theoretical frameworks as required alternatively, from local to global and from the indigenous to the western. I will also make clear from the outset that the theories and the methods employed in my research are relevant but also sometimes overlapping in purist of knowledge and for the consistence of the enquiries. This opens up the space for waning and waxing the theoretical insights to examine the problems of land and resource rights.

Previous enquiries of Oromo studies

For my concern here I am not so much going to offer a detail source critic but reflect on the weakness of the view that the Oromo culture owes its origin to pastoral adaptations as static and unchanging. In anthropological literature the notion of understanding indigenous culture as static and unchanging is connected to structural-functionalist perspectives of British social anthropologists. These discourses had their own imprint as pioneers of Oromo studies analyzing their ethnographic data in terms of this tradition.

This is to say that the earlier works on Oromo society has been essentialists of the rituals or socio-political rituals. I will survey some of the previous enquiries in an attempt to advance a holistic and contextual understanding of the Oromo cultural adaptations.

The modern ethnographic studies of the Oromo began in the post world war II. Paul Baxter⁵ (1951-53) of Manchester University and Erik Haberland (1951-53) of Germany were pioneers of Oromo studies with social anthropological fieldworks. Baxter published his work in 1954b while Haberland published in 1963. The studies of Baxter among Borana of Northern Kenya and Haberland research in southern Oromo of Ethiopia inspired many other studies of the Oromo in the late 1960s and 70s. However, the limitations with the early anthropological studies of the Oromo lies in their emphasis on the study of social structure or cultural history (rituals) in historical reconstructions of speculations. Contextual analysis of their ethnographic data with participant observations appears to have been missing.

Lewis (1965) studies of the Jimma Kingdom of the Macha Oromo, Karl Erick Knutson (1967) impressive works on the continuity and changes in the Tulama- Macha authorities system, John Hinnant article on the Gujji gada system (1978) are extremely valuable anthropological sources to understand ritual and political dimensions of the Oromo life. The influential works of Asmrom Legesse (1973) in Borana society and his analysis of the complex gada system⁶ in African perspective and his latter work (2000) *Indigenous African political system: The Oromo Democracy* illustrates Gada as the model of the African indigenous democratic political organization. Levine's (1974) sociological studies of the Oromo: *Greater Ethiopia: The evolutions of multiethnic society* also illustrate the Oromo society as a sociological model for equity and egalitarian social structure bonded within the Ethiopian Empire. In brief, the Oromo studies of the 1960 and 70s with anthropological traditions of mixing data with participant observations in their analysis appear to have an enduring influence on the future of Oromo studies.

The insightful study of Torry (1978) on Garba cultural adaptations to their arid ecology in southern Ethiopia and northern Kenya that examine social organizations ,which allows society to adapt to ecological strains renders evidence on society-nature

⁵ Baxter claims that he managed to meet with Haberland in the weekends in Moyle-a border town between Kenya and Ethiopia during their fieldwork.

⁶ Gada system will be discussed in chapter two.

relations. Aneesa Kassam (1986) on related notions as well as her current work on (2002) “*Ethnotheory, ethnopraxis: ethno development in the Oromia regional state of Ethiopia*” are good sources in the study of the notions of material aspects of the Oromo culture. Ensminger (1984) study provides insights on the process of change in pastoral production systems of Orma, the southern most sections of the Oromo who live in the Tana River in central Kenya. His study highlights pattern of changes in the ecological and economic relations of people, livestock and natural environment and Orma use of fuel, firewood and logging from sedentrizations and increased involvement in the market economy. There are several studies on pastoral production system of the Borana, the largest pastoral territorial Oromo groups, inhabiting Kenya, Ethiopia and Somalia. A more recent works of Schlee (1989), Helland (1996, 1999), Oba (1996), and Hogg (1992) on challenges of the Borana and others pastoral adaptations and identities with increased state interventions in the Horn of Africa; offers very good insights about pastoral challenges and prospects of pastoral development.

The work of Braukamper (1980) on the relationships between Arisi and Hadiya and his studies of history and ethnogenesis of the Oromo, “*Oromo country of Origin: A reconsideration of hypothesis.*” are extremely valuable for the understanding of the cultural patterns of the Oromo past. The studies of Jan Hultin (1987⁷) *The Long Journey: essays, history, descent and land among the Macha Oromo* in Wallaga, give good data on the historical context of the population movements of the Far western Oromo, their settlement patterns, and inequality in land tenure under the imperial regime of Haile Selliasse. Hultin (1984a,) identifies the interconnectedness between descent and property with regard to cultural constitutions of land use among the Macha Oromo. However, he was ignorant how gada socio-political governance and kin group relations intertwined together to regulate land use and rights (distribute rights and duties or law of inheritance within the historical and material resources of the Oromo). To be precise Hultin overweighed the cultural (ritual aspects) of land use by ignoring socio-political organizations (relations) and governance of land use and rights. Thus, he argues in a more general polemic statement” ethnographic accounts have no legal content or even

⁷ Hultin deserted in 1987 his collections of essays for doctoral thesis at Uppsala University, department of cultural anthropology.

`rights`". This means that Hultin viewed his stuff of cultural constitutions of land use in terms of the criteria of legal traditions of the nation-state ignoring or homogenizing the differences in socio-historical and cultural organizations of rights between the two radically different views of `rights` or `law`. This study suggests that the problem is not with the Oromo notions of property rights or ethnographic accounts of rights but with analytical tools that define `law` or `rights` in a single terminology or in accordance with specific and static legality traditions of Abyssinians.

The seminal works of Mohammed Hassen (1990) *The Oromo of Ethiopia: A history 1570-1860* is the first modern academic history of the Oromo written in Gada chronology. With formerly unexplored historical and ethnographic sources, the works of Hassen establishes the foundations of aggressive medieval Amhara kingdom in the beginning of 14th century and ensuing creations of military colonies in southern Ethiopia that checked the movements of the pastoral Oromo. Perhaps, the devastations created by Abyssinian armies forced northern Oromo groups of Tulama -Macha and Barentu as well as other Cushitic people from their traditional territories. The studies of Hassen is the pioneer in questioning the `reconquest` myth of Abyssinian elites which trace the medieval enclaves of Semitic soldier colonies as a territory in south to justify the war of conquest against southern ethnic groups during the European scramble of Africa. The myths have been used to legitimize the confiscations of land and establishments of shoon soldiers and feudal lords in the conquered regions in the last quarter of the 19th century. The insightful works of Hassen also provide a general overview to understand the interaction between the Oromo and other groups and the process of fusion and fissions, from which emerged the Tulama-Macha society.

The constraints of Oromo studies is numerous, the general ones can be its focus on limited geographical territories. Most of the Oromo studies are concentrated on pastoral groups such as, the Garba, the Sukaye, the Orma in Kenya and the Borana, and agro-pastoral Gujji and agro pastoral sections of the Arisi group. Among the sedentary groups little work on the Tulama are available. Indeed ethnographic evidences are scarce or totally unavailable related to the developments in the northern Oromo of the Raya and the Azebo in Tigray, the Afran Qalo and the Borana in Wallo. There is only scarce evidence on eastern, northern, and southern Tulama. Last but not least no modern studies

have been made on the Oromo in Hararge, Ogden and Somalia in the east. In general, obviously there are regional biases to southern and western Oromo regions, as central, northern and eastern regions are left aside or little studied

Critical departure of the present study

Viewed generally the earlier Oromo studies are one side focused. Some of the works are essentialist of ritual aspect of the Oromo ethnicity and others are essentialist of ethno-politics, despite the holistic, practical and contextual nature of the Oromo social and cultural organizations. Other studies emphasize center-periphery dichotomy of Oromo ethnicity and Abyssinian nationalism. In brief, the most serious limitation of the Oromo studies in Ethiopia is an overweight provided to the complex ritual and political dimensions of the gada system leaving aside or ignoring how local gada descent system distribute land and resources among its members and how people in different regions of the Oromo land adapted to the physical and social environments. Hence, the Oromo studies in Ethiopia contain very little information on the material basis of Oromo life. Very little evidence and no modern studies are available on sedentary adaptations of the Oromo or peasant categories. We know that the majority of the Oromo are peasantries and Oromo are the majority in Ethiopia. Contrary to the Oromo studies in Ethiopia, the Kenyan Oromo studies focus much on material aspects of the Oromo life. One may be surprised how sedentary mode of productions-the backbone of the Oromo way of life-which they adapted since time immemorial or at least as far as the sixteen century has been ignored or given little considerations in Oromo studies.

The dynamics of the gada system, the role of the organizations in distributing resources to its members within the confines of socio-cultural and economic history of the Oromo society has been underestimated. Adapting a holistic and dynamic view of the Oromo culture, with particular reference to the rights to land and resource rights so central to the continuities of the Oromo culture this study attempts to bridge the gap of the Oromo studies devoid of its basic foundation.

Theoretical frameworks: practical and contextual understanding of property rights

Within the space of historical interactions of indigenous people and state, some students of culture and society ignore the effects of state organizations on stakeholders' competitions for resources and universalities and peculiarities induced in the process. On the other hand, some give overweight to effects of state organizations as if all ethnic processes are going on or generated by the state (Barth, 1994). This study hopefully mediates the two extremes in combining the two dynamics of traditions in an attempt to analyze social and cultural organizations of property rights in relation to land and resource use. The problems of local adaptations that I am dealing with are associated with traditional land and resource rights at global scale. Land claims and rights are related to ideas of culture, traditions and power. The ideas are also in turn associated with creations of the modern nation state in the last quarter of the 19th century in African context and the ensuing ethnic revitalization process at the global scale. At the macro level my problems questions the contents of legitimized traditions governing traditional adaptations of the Oromo in Oromia regional state of Ethiopia. I imbed my enquiry with a general theoretical frame on tradition, land use and rights employed by Bjerkli (1996) to question the contents of legal traditions of nation states with reference to indigenous people's quest for revitalizing their own traditional rights in the face of asymmetric power relations.

Tradional vs. legal rights

To problematize the concept of custom as static culture, vs. a dynamic understanding of culture (Bjerkli, 1996) opens up a more practical, contextual and relational understanding of `rights`. The hypothesis is that the challenges of the questions of `rights` is connected to the more general problem of cultural change. More specifically, the distinctions of the notions of `rights` into traditional vs. state with the basic assumptions of the legitimacy structure of cultural difference in views of hegemonic constructions of culture, unquestionably distort a critical understanding of rights. The notions of `rights` directly connected to the specific definitions of terms of `law` within the context of the nation

states exemplify the constructions of legal traditions of nation-states. In this sense the definition of law is a meaning that in turn is a product of cultural configurations of asymmetry of power relations between nation-states and indigenous people. To be critical the definitions of `rights` or `law` in static and specific cultural traditions is full of controversy centering on how rights should be defined, the dispute has increased when indigenous people, with their different cultures are investigated within specific definitions of rights.

The structural- functionalist school of anthropology used evidences of cross-cultural comparisons applicable to all cultures and humanity to draw a universal postulate or a general sociological theory on basis of western notions of law and philosophical assumptions. Radcliff-Brown (1952) proposed the view that dominated this school of thought with regard to sociology of law on property rights. He identifies that a right (individual or collective) `exists in and is definable in terms of recognized social usage` and the power to the exclusion of others, (ibid: 32). Within this context Radcliff Brown set up rights in relation to standardized legal usage and how rights are sanctioned by `recognized social usages` related to power of exclusions of others or legitimacy of rights. However, Radcliff Browns see custom as a static culture and leaning towards specific institutional tradition to define the concept of `rights`. Thus, he set up set up a new universal sociology of law in a piecemeal fashion in line with Roman law. What were the basics of his philosophical assumptions and theoretical foundation to set up rights and why did he analyze social organizations of rights in non-European societies in such a way? Obviously Radcliff Brown sought a `precise` definition of law or theories of sociology of law comparing western system of law with non-western societies. He underscored the law of property by inheritance and” politically organized legal system” as a yardstick for his comparison of the western and indigenous law. On the basic notions of the Roman law Radcliff Brown divided the notions of property into three kinds:(a)*rights over a person, Jus in personam*,(b) *rights over a person `as against the world`, Jus in Rem*, (c)*rights over a thing, i. e.some objects other than a person*(1952:32-33). He states that the later two kinds of rights are basically similar and only differ merely with reference to imposing duties up on others or exclusion of others in relation to `persons or things` or non infringements of legitimate rights in relation to usages of those

kinds. The basic distinction according to him is the difference between rights over a person *Jus in personam* and rights over the latter kinds of rights (property). In parallelism Radcliff Brown again divided indigenous people's rights in terms of Roman law and looked at it torn out of their socio-cultural context in comparing it with those criteria or traits within the Roman law. The clear demarcations that he has drawn between rights over a person and rights over a *rem*(Property) in accordance with the Roman law triggered him to suggest that non-European legal system` lack the most important aspects of property `rights`, that is, ``succession - the transmissions of property by inheritance” and “organized legal sanction” (ibid: 32) that regulate rights and duties.

A central critique of Radcliff Brown sociology of law has been his use of western notions of property as yardstick to all humanity by ignoring differences in social, cultural and historical organizations of rights in different societies. The case of the Oromo views of property rights could be exemplary for three basic and interconnected reasons to support the critique of this generalist postulate on notions of sociology of law. First this study suggests that in the Oromo culture the rules of descent (people) and land (property) are inseparable. In other words rights to property (land) and people are parcel of the same coin. Second, the son(s) inherit(s) the portions of the land of the ancestors known as *guluma* through his father. Entitlement to *guluma* also implies entitlement to common pool resources or corporate estates of the lineage. Third, the socio-political organizations of the Gada system and kinship regulate or distribute rights and duties within the historical and material resources of the Oromo. In other words, gada governance that cross cut each other with kinship has its own organized customary legal sanctions (but not necessarily mean the modern court) that regulates rights and duties within the historical and material resources of the Oromo.

This study suggests that the erroneous premises of the structural-functionalist school also reflected on Oromo studies in works of Hultin (1984a) that claim indigenous people donot have property law because they `lack` the most basics of the property law, that is, transmissions of rights by inheritance or that law should be defined in line with “organized legal sanctions” are unfounded assertions that doesn't take differences in social and cultural organizations of property rights. The Oromo notions of rights suggest that property rights or law can only be defined and trusted within the historical, social and

cultural contexts of the relationships between people and land. This means that a new paradigm of ethnographic approach of examining “cultural stuff” related to nature-society relations by its own rights could be valid analytical tools to examine property rights claims.

In his study of land use, traditionalism and rights Bjerkli (1996) argues that a new set of paradigm of rethinking the relationships between traditional vs. legal rights become more complicated if traditions are defined in context of specific institutional and static terms. Thus the narrow and static definitions of rights in line with notions of modern nation states don't perceive indigenous peoples customary rights to their traditional land and resources as a right. In view of nation states, indigenous peoples, with different notions of land use and rights and incorporated into the state, don't have rights over their traditional territories. Bjerkli (1996) contends the applicability of the specific definitions of cultural traditions in context of land use and rights with legitimacy connected to state power. In this view a critical understanding of traditional land use and rights appears crucially significant as it exposes the old understanding of traditions which legitimizes the way in which “cultural knowledge” are used as instruments of power in the hands of few to subordinate or to alienate the majority (Oromo of North East Africa in this case) from rightful resources or positions.

Adaptations (material dimension of cultures) are embedded in practical knowledge and meanings that changes over time (Bjerkli, 1996). Thus a critical understanding of the context embedded in local adaptations and relationships; social institutions and notions related to land that govern human interactions with physical and social environments are very important. The Oromo have their own traditional adaptations and institutions that govern their own behavior in appropriations of their natural environments and their interactions with each other or the outsiders. In a more dynamic view of culture (ibid) the traditional adaptations of the Oromo embedded in practice can only be defined and trusted in practical contexts. In the traditional adaptations of the Oromo, the powers to define and to assign meaning of relevant cultural expressions are differentiated according to social relations of kinship and the gada system in historical times.

The historical context of the inventions of the Ethiopian Empire-state and the asymmetric power relationships established between the Abyssinian state and the Oromo challenged the cultural continuities of the Oromo. Questioning the legitimacy of systems of the asymmetrical power structure that define `rights` requires a relational paradigm of power (Foucault, 1972). In this view the contents of traditional rights of the Oromo to their traditional territory can only be better understood if it is studied in relation to social organizations which generates it and inversely the understanding of contents of customary rights of the Oromo contradict with `legal` system which encapsulated it. Perhaps it is through a dynamic view of culture, traditional adaptations and a relational view of power⁸ (Foucault, 1972) that we may understand the dichotomy between `legality` in Ethiopia and the Oromo customary rights. Like the concept of cultural knowledge (Foucault, 1972), the notions of ethnic identities are a relational concept in a dynamic process through negotiations and constructions (Barth, 1994) however; Barth hasn't demonstrated the relationships between ethnicity and culture. Vermeulen and Govers (1994:3) identified three basic relationships between ethnicity and culture. Accordingly "ethnicity refers to the consciousness of culture, to the use of culture, and at the same time is part of culture" (Vermeulen and Govers, 1994:3). If we view ethnicity as social organizations of cultural difference that regulates boundaries (Barth, 1994), and ethnicity as an element of culture that is aware of differences (Vermeulen and Govers, 1994); the critical understanding of the coexistence of culture and ethnic identity formation are unquestionable. By and large both relational views of power and relational views of ethnicity developed by Foucault and Barth respectively lack clear terminology on historical context or time dimensions of interactions in their analysis. The studies of social and cultural organizations of land and resource rights in relation to state power and the context of the relational views of ethnic identity and the relationships between ethnicity and culture have a far wider significance. The applications of the dynamic views of cultural adaptations, relational views of power and ethnic identity to the Oromo studies

⁸ Foucault views power as a relational concept. He defines power as an act "mode of action on actions" (Foucault 1976 cited in Herzfeld, 2001:122). This means that he emphasized how power is practiced in pragmatic ways up on actions of others. In this view power creates what is real and rational. Accordingly the traditional vs. legal rights are the effects of asymmetry of power between nation states and indigenous people. Foucault proposes that critical understanding power solicit a discourse between two entities and the probability that the actions of one party require response from the others. He also claims that where there is power, there is resistance.

hopefully serve to understand how far the Oromo notions of property are associated with the gada system. Second social organizations of kinship and the understanding of Oromo notions of property may shed light on the glaring weakness of the Ethiopian legal system (legal traditions of African nation- states in general) in refuting cultural diversity. Third, the understanding of the Oromo notions of property rights may enhance the advocacy of cultural pluralism in the Multi-ethnic Ethiopian state or redefinitions of the self-determinations of different cultural groups in the pursuit of their own development. Thus ethnographic paradigms of reflective comparativism of treating “cultural stuffs” in their own rights offers a very good space to understand different notions of traditions in land use and rights.

It is generally assumed that the conceptual difference in territoriality of the African nation-states and the notions of traditional land use and rights are the sources of the problems of local adaptations in Oromia. Differential accesses to strategic power between Abyssinians and other ethnic groups when Ethiopia merged into Empire have been the source of ethnic conflicts. Questioning the source and ideologies of hegemonic structures in Ethiopia reflects on how power is connected to the pursuit of those who creates and use it. Keesing (1981, 87) draws some analytical questions to be posed in order to understand culture (traditions) in connections to power and identities” who creates and defines cultural meanings and to what ends” (Keesing, 1987:161 emphasis added) and “we need to see the realities of power: who has it, who uses it, in what ways, to what ends” (Keesing, 1981:299). The analytical approach of Keesing allows to look closely how imperial land alienations of the Qalad system instituted into land law in the Abyssinian legal traditions still serves the interest of the Abyssinians who creates and use the legal system of Ethiopia in subordinating the Oromo and other ethnic groups in the south.

`Hegemonic` views of state power and peasants struggle to local autonomy

Ortner (1995) rightly observes the glaring weakness of the seminal works on resistance studies, that is, exclusions of ethnographic perspective, what she labels ethnographic refusal. She persuasively argues an ethnographic stance⁹ grounded on “thickness and if thickness has taken various forms and still takes many forms...ethnographic refusal involves a refusal of thickness, a failure of holism or density which itself may take many forms” (ibid: 174). Ortner's reflection on literature of resistance studies offers insights into reasons and effects of refusal on critical understanding of social-historical and cultural dynamics inherent in resistance. Ortner convincingly argues resistance studies are ethnographically thin. It is thin as the result of `internal politics of the dominated groups and cultural authenticity of those groups` as well as due to `crisis of representations; possibility of truthful portals of others and capacity of subaltern to be heard` (ibid, 190). Often most literature of resistance holds the hegemonic view of power and undermines the peasant's reactions to their subordination. Scott's (1986) label of `every day forms of peasant resistance` to their subalterns challenges this hegemonic view of power by redirecting the peasants as historical actors responding to oppressions. Scott's perspective sets out a more analytical understanding of power in suggesting to detect what forms of power are at work in agrarian social situations as did Foucault focus on to detect a less institutionalized and more every day forms of resistance (Ortner, 1995). Scott focused on investigating the unwritten, hidden and concealed forms of peasant resistance against structure of dominations. He argues that the subordinates were `routinely` `contesting their exploitations in subtle fashions of `foot dragging, dissimulations, evasions, theft, false compliance, pilfering, feigned ignorance, slander, arson, sabotage, and so forth` (Scott 1988:6). This suggests a new paradigm of exploring contexts and situations either people comply to or challenge hegemony of power. On the insights of this approach to examine how peasants display non-compliance and the possible reasons why the peasants resist hegemonic value systems, ideologies and power structure are

⁹ Ortner defines the ethnographic stance as an intellectual (and moral) positionality, a constructive and interpretative mode as it is bodily process in space and time. It is related to what Geertz called ethnographic thickness either produced in field work or not (Ortner 1995:173-74).

crucial concerns. The approach of every day forms of peasant resistance allows some distance looking into it closely. Scott's approach of everyday forms of peasant resistance linked Marxist political economist views of class struggle and neo-classical perspectives of class struggle. Scott's paradigm combines these two perspectives that peasants react in `utilitarian` and `individualistic` manner against the outside forces that undermine their traditional rights (White, 1986).

However, Scott is obsessed to the material and utilitarian dimensions of resistance by ignoring the practical or ideological role of culture in social and historical process of resistance formations. Scott label of every day resistance reduce the dynamics within a complex culture of resistance which raises more complicated questions such as what is resistance and what is not? When a poor steal from a rich man, is this resistance or a survival strategy? (Ortner, 1995:175). Thus, Scott classified" any acts fit into a fixed box called every day resistance" (ibid 175). Opposed to Scott's view of subaltern resistance as "false consciousness", this study suggests that the Oromo peasants are social actors engaged in resistance against colonializations of their land or its manifestations within the nation-states. This means that the peasant state-relations in Oromia are ethnic and questions of ethnic identity embedded in use of land and resources, in other words, the rights to cultural continuity. Individual or village resistance to the grand state and the global policies of environmental policies and private development schemes imply non-compliance for the collective ends or alienations of customary rights.

Above all Scott's political theory of peasant resistance doesn't provide social analysis on how everyday resistances gradually develop into oppositions as well as other forms of negotiations. Thus, the theory of everyday resistance stops somewhere on daily routine resistance, it doesn't go beyond to provide a critical context of socio-cultural and historical situations that affects the social process and actions of peasant-state relationships. More over, I share with (White, 1986) the critics of Scott political theories of the peasant for not suggesting, or non-optimistic, for an alternative mechanism how to address the problem of asymmetric power relationships. The positive insight how to reorient the hegemonic authorities in favor of oppressed peasants or any possibility of negotiations has been missing (ibid).

The challenges of the Oromo in questions of rights and social contexts of resistance suggest that the Oromo has been actors to resist the outsider forces that affect their livelihood connected to identity. Often peasants attempt at the protections of their rights in Oromia often go beyond everyday resistance as far as appeal to the court or the political offices depending on how power is implied on it.

Williams as in Ortner (1995) labored to locate the interconnectedness or linkage between materialism and idealism to propose the focus on how `structure of exploitations and dominations` are at the same time material and cultural. This study suggest a new paradigm of resistance beyond every day approach that take into account ethnographic perspectives which combine the approach of primordial views of culture with constructions of culture (coexistence of ethnicity and culture) in orienting resistance studies rather than regarding the two stances as polar opposite. In Inxoxlish case, for example, the peasants are diverse in residence, in local descent groups, and status. However, peasant resistances to the outsiders are oriented by pan Oromo culture and ethnicity. Thus internal heterogeneity of peasants and common solidarity against outsiders based on belonging to the pan-patrilineal gada socio-political organizations of the Oromo that regulate rights and duties in resource use suggests that ethnographic concepts of land rights, identity and power are not static, fixed but relational, practical and dynamic.

The ethnographic approach of bridging the material and cultural dimensions of culture to the perspective of ethnographic based resistance studies seems to offer insights how to detect forms of peasant engagement in Oromia a struggle to create a more just and better form of society: to free themselves from exploitative systems and the recognitions of their dignity and cultural values .

The Oromo context of the problem of peasant rights

There is a need for a classification system that could accommodate heterogeneity of adaptations and the problems of rights in Oromia under one single rubric of rights. Thus in broader context of material basis, the Oromo in the highlands are sedentary agriculturalists producing grain crops, coffee and chat (kat) and animal husbandry:

cattle,¹⁰ sheep, goats, horse, mule, donkeys and poultry. In the lowlands they live as pastoralists. In the intermediate altitudes agro-pastoralism has been practiced. Although we emphasize highland sedentarians relations with the state here, my analysis have implications for all Oromo categories or Oromo ways of life. In all economic adaptations to different ecological zones what is central or common denominator to the material life of the Oromo is land and common pool resources and the questions of rights to manage those traditional resources.

In this thesis the concept peasant implies rural societies (households) who usually live by farming, producing for their own subsistence as well as for trade and tribute, organized into peasant associations by the communist government of 1974. The capitalist economic system (liberal market economic policies) of “the federal state” has been introduced within the socialist structure without articulating the reform programs to meet the theoretical reorganizations of the state and society in the post 1991 periods. Historically, the fundamental problems of the questions of rights in the Oromia regional state of Ethiopia have been the result of outside forces in the form of imperial land alienations, socialist or capitalist transformations. Thus, in what is today the “federal” legal system of Ethiopia, different stakeholders have overlapping entitlement of rights in land and resource use.

Combining the micro-level and macro-level analysis of the existing property rights structures in domain of land use and rights suggest the persistence of the value conflict and clash of interest between stakeholders claiming rights due to those contradictory policies. I believe the questions of rights in Oromia offers a comprehensive understanding of rights beyond the local level. The contesting overlap of rights can be illustrated with reference to peasant situations in the districts of Walmara and Alam Gana. In liberal market policies of the ” federal” Ethiopia private firms has a right to lease any categories of land for private investments or public development. The regional state claims Oromia land districts in Shawa as “investment zones” for private or public development. Schemes claim that they are advancing public developments. This of course can be questioned. In a way surveying development schemes in Shawa provide an

¹⁰ Cattle rearing are the traditional occupations of the Oromo. It is believed that cattle, especially the bull led the Oromo settlement to their traditional territories.

overview of the contesting rights in the notions of development activities. For example the urban developers in Shawa claim to own the land for urban expansion so as to resolve the problem of urban housing. Finfine Forest Development Enterprise claim land to environmental protection and to save bio-diversity. Mining and rose industry claim induce revenue and job opportunities. The local peasantries claim their traditional grazing lands and forest as the basis for their livelihoods. How do the Oromo peasants at crossroads today challenge the assumptions of ideologies of the private and state policies of encroachments to their traditional livelihoods? How the problems of local adaptations could be solved or negotiated in the legal systems of Ethiopia begs the attentions of concerned researchers and development planners.

In this context, the analytical points of the problems of rights cannot be separated from the concept of culture that involves values and property relations. Claims and rights of land and resources are connected to human rights and cultural continuities. Indigenous people relationships to land and resources often involve intimate relations in the form of kin group relations and belonging to descent group. Possessions and belonging to the land of ancestors (*guluma*) are inalienable and grounded in belief that property is a result of social relations. This opens up the way for analysis of the contestations and negotiations of meanings involved in traditional vs. legal rights.

Methodology

Methods are a means to achieve the desired objectives. Like most social science research I am dealing with culture that involves claims of values and rights, which cannot be quantified in number. Hence, Qualitative method of data collection is employed in this study.

Fieldwork and interviews

I have conducted my fieldwork for three months from June to September 2005 in Walmara and Alam Gana districts of west and southwest zonal administrations of Oromia respectively. The fieldwork consists of interviews with the peasants on traditional land use, allocations and distributions of land rights. I have also spent significant portions of

my time on learning informally and formally of events and actions of peasants in their resistance to state regulations. Furthermore, interviews with authorities in charge of local resource management and different state licensed stakeholders have been conducted.

I have collected interview data on traditions of the Oromo which may constitute customary resource rights among the society which I guess differ from the criteria of the court in talking about the right to land and resources. My interview data with groups and individual elders in the Rogge Axaballa peasant association, particularly from Adaha and Meta villages on kinship, descent, settlement, and resource use may be useful to examine the relationship between property rights, kinship and, resource use in Oromo land. I think the elders narrate continuity and change in land and resource use and right in their localities due to internal dynamism and state regulations. Further in the Inxolish site I have conducted selected group and individual interviews with peasants in the Rogge-Axaballa, Qoche-Waggido, urban dwellers of Sabata 01, and the guards of the FinfinneForest Development Enterprise. The interview was very long and conversational; I hope every body talks his mind on the nature of the controversial claims, resource use, depletion, and resource rights etc. I have attempted to cross-check the interview data from the different authorities to prove the reliabilities of the sources. In order to avoid memory failure I have also brought elders together for the interviews.

Group and individual interviews has been conducted among different social categories of peasant households in the area surrounding the Suba state forest and Inxolish community forest. A group of land owning-it implies here groups with usufruct, and landless peasants, women, head of the peasant associations, elders has been selected from Wachacha, Nannoo Suba, Gafarsa Gujje, Qoche-waggido, Rogge-Axabala Kebele's¹¹ for the interviews. I think the method serves to investigate the use pattern of land and common pool resources and the traditional social organization of the community in resource use and rights. In addition the elders told stories about the changes in the land and common pool resources and property relationships. Individual and group interviews with the peasants of Adaha, Meta, Qoche, and Dhamotu Galgal capture changes in use patterns, peasant evictions out of traditional land and violation of customary rights.

¹¹ Kebele means peasant associations

Document study and court cases

Legal documents are valuable sources of this study as different stakeholders write what they regard as their legitimate claims and perceptions to other stakeholders who contest for the resources. Naturally it is easy to observe and study the intercultural confrontations in court cases. Two recent court cases, the cases of Hidha Gamme and Inxoxlish in Alam Gana have been special relevance for this study. Those court cases were a meeting place for intercultural confrontations of claimants with different values and worldviews claiming land rights. Thus the court cases allow different stakeholders to create a dialogue on their particular claims. The cases also served to identify the positions and perceptions of the insider and outsiders views of rights. However, the claims of the peasantry are typewritten files but the decisions of court are handwritten. Thanks to the assistance delivered to me by the record officer of the court who allowed me to photocopy it, I managed to understand the content of the files. I have also crosschecked the court decisions and positions of the stakeholders in the successive interviews I made with villagers and mining firms.

The file data contains testimonies which peasants claim to show that the land belongs to them such as recipient of payment of agricultural and land taxes. The file also contains two letters written to the Agricultural and Rural Development Office of Alam Gana to prove the status of the land under claim (either the land in claim is pasture land of the local village or unused land) and the decisions of the court.

In some offices mixed kinds of information and study could be possible. I also came across statistical data, file data and Interviews, from the office of Finfinne Forest Development Enterprise, the Kebele's, the court, the municipality and the Alam Gana Agricultural and rural Development offices and the peasants. In most of the offices the statistical data are fragmentary. Some times, the experts or the head of the office filled the gap during the interview time. However, some officials and experts were busy in some other activities. This means there was a problem of access to information. For instance, I faced problems to get the head of the municipality of the Sabata town as he was busy in land allocation schemes. Instead I talked with other experts who were

reluctant to give information. Government papers, travelers' accounts, information from interviewees and some research findings were discovered.

Methods of analysis: From data to text

The major sources for comparative analysis are the politico-legal processes, interviews, and documents written by conflicting stakeholders: peasants, Finfinne Forest Development Enterprise, Municipal offices, Suba Forest Authorities, Mining firms, Rose industry and state management regimes. In chapter one methodology and the theoretical tools to investigate the social and cultural organizations of customary rights in governance of land and common-pool resources over the contesting notions of property rights in the legal system of Ethiopia have been developed. In chapter two the general set up of the social and cultural organizations of land use and rights in Oromo culture with focus on the relationship between kinship, the gada system and property (land) are examined. Equally, the challenges of customary rights of the Oromo in context of historical interactions between the Abyssinian state and Oromo will be operationalized. In chapter three and four the relationship between customary rights and state regulations: comprehensive analysis of claims of `rights` in relation to different stakeholders is identified. Four conflicts are chosen with emphasis on the two recent court cases. Relevant legal and political documents are examined and cross-checked with interviews collected from the villagers and outsiders to find out to what extent, there exists negotiations to accommodate customary rights in the legal and political systems and what ideologies lay behind the decision of the court and peasant resistance. Chapter five ends with some concluding remarks on challenges of rights.

Chapter 2. General outline of peasants in Oromia, Ethiopia.

The applications of historical perspectives to the process of interactions between the Oromo and African nation-states illustrate the concrete changes in land use and rights in traditional Oromo territory over the past century. In the forthcoming chapter I shall endeavor to examine the historical context of the Oromo-State relations that goes back to the 1880s in an effort to investigate the practical context of the incompatibility of customary rights and legal rights in land use and rights in Oromia.

European colonial scramble for Africa: The historical context of Oromo relations with nation states of the Horn

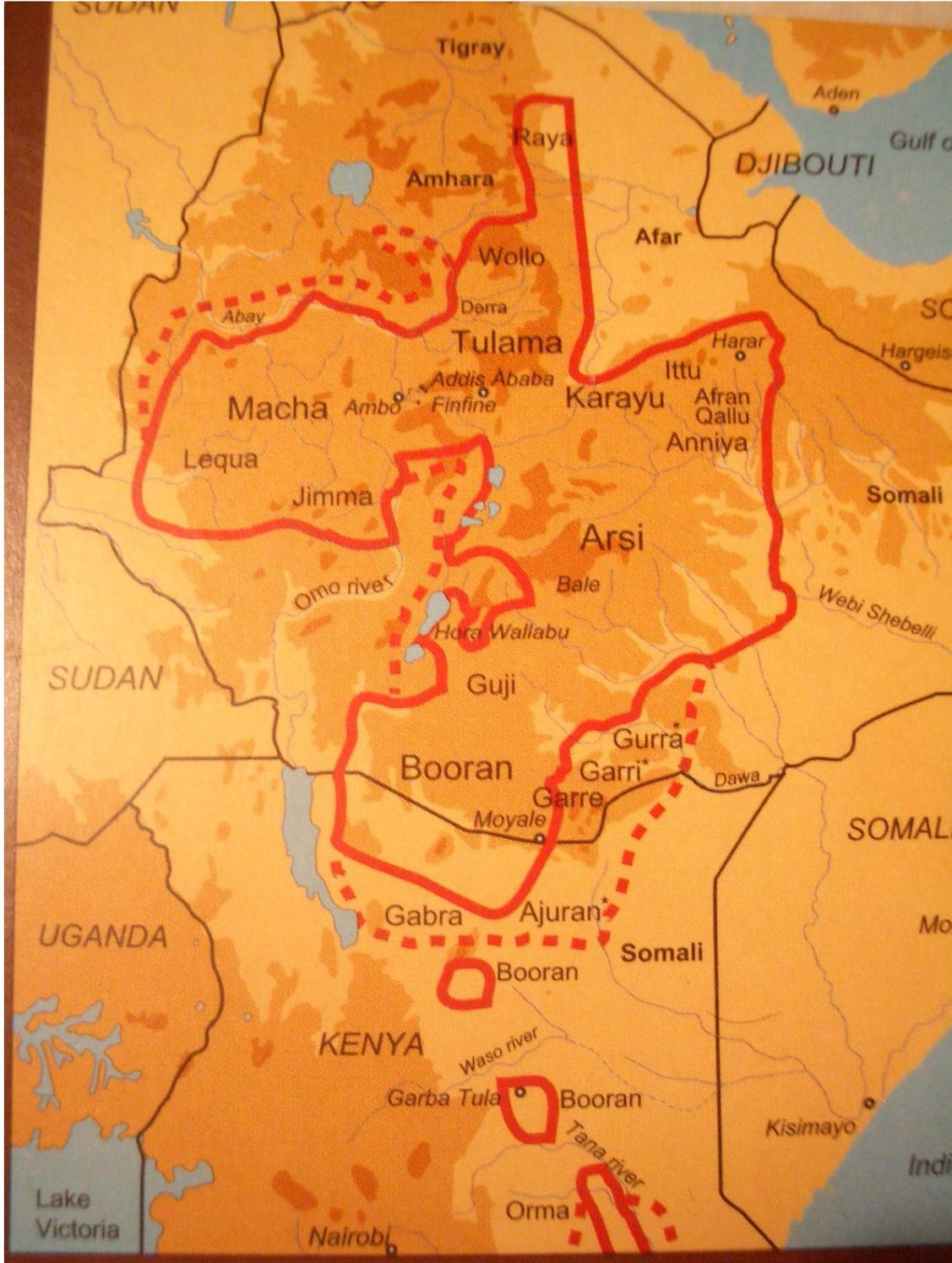
The Oromo are one of the indigenous Cushitic people of the Horn of Africa divided among three modern nation-states: Ethiopia-where they constitute the major ethnic group, Kenya and Somalia. Traditionally the Oromo settled over a vast country from the Abyssinian province of Tigray in north to the region of Tana River in central Kenya, some 12000 kilometers to the south and from the arid savanna of the Ogden in the east to the rainforest of Kaffa in the west (Braukamper, 1980,Hultin, 1987). All Oromo speak a mutually intelligible language and share common cultural heritage despite their territorial dispersal, religious diversity, local social organizations and forms of livelihood (Kassam, 2002). Traditionally the Oromo appropriated their vast ecological niches as part of their economic units, which included nomadic pastoralism, hunting, gathering, and plough agriculture (ibid).

Closer look at the historical context of European colonial expansions and the invention of dependent colonial Ethiopian empire illuminate the discussion of land claims and rights in Oromia regional state of Ethiopia. For the purpose of this study I am highlighting the major developments unfolded pertinent to territoriality notions of nation states and Oromo views of land rights. To begin with the European colonial scramble for the Horn Africa intensified in the last quarter of the 19th century because of the involvement of the late unified and industrialized European nation states such as Italy and Germany in the venture. Hence, stiffest competitions for market and territory on the

Horn between the already established powers: Britain and France, Emperor Menilik ¹² and the newcomers. Unfortunately the traditional Oromo territory was divided among: Britain, Italy and their dependent colony of the Ethiopian Empire locally ruled by Menilik. Colonialism divided the Oromo traditional territories into the now modern nation-state of Kenya, Somalia, and the then Italian colonial administrations of Ogden and dependent colony of Ethiopia. Ogden, an Italian colony which Britain overtook after the defeat of the fascist block was ceded to Ethiopia of Haile Selliase in 1947. The concern here is to assess the relationships between the territoriality of modern nation-states and the Oromo traditional territories and inherited contradictions in these two different notions of territoriality. The contextual understandings of the political history of the two notions of territoriality may broaden the conceptual clarity of social and cultural organizations of rights in both domains of territoriality. Hence, my analysis encompasses the rights of Oromo to their traditional territory whether they are living in nation- states or any regional states of Ethiopia, with focus on the Oromo traditional territories under the dependent colonial empire of Ethiopia or the ` modern ` nation- state of Ethiopia

¹² Menilik- king of shoan Amhara of the broader Abyssinian group.

Map¹³: Traditional territory of the Oromo



Adapted from Baxter, Hultin and Triulzi (1996).

The creation of the dependent colonial empire of Ethiopia

Freidman (1994:23) identified three kinds of structures of global system: center-periphery, independent and dependent structure. She defined the dependent structures as entities that depend on the larger system for their reproduction but is neither center dominating their own peripheries nor dependent on the center. One can read the creation of the Ethiopian empire state in the lights of Freidman's system analysis. The European colonial power that calculated the possibly of accessing resources of the Horn of Africa through establishing trade with Menilik recognized Menilik as "their partner" in the scramble and carving of Africa. Addis Hewot 1974 as cited in Abate (2000:62) identified two major motives and justifications of Menilik for conquest of the Oromo and other people's territories. The first reason was the control of "the green and lush Oromo lands and their boundless commodities: gold, ivory, civet, coffee". Second, Menilik justified that "if power at distance comes forward to partition Africa between them: he do not intend indifferent spectator". Thus the invention of the Ethiopian Empire state as a dependent colony of Europeans under Menilik¹⁴ of Shoa Amhara culminated the autonomous existence of the Oromo as a society in the 1880s, with firearms and technical support from the major European powers of the time. Practically it appears that the degree of exploitation of the Oromo under Menilik and his successors surpass European colonialism. One of the basics that demonstrated the brutal and chauvinistic nature of Menilik conquest was the introduction of the exploitative land tenure systems known as *Qalad or gasha*- the Amharic meaning of the term denotes the land which Abyssinians settled on; they expelled the Oromo from it by their `mighty`. Basically, in the first place

¹⁴ Shale Selliase (1813-1847) the grand father of Menlik started Shoan expansion to the Oromo land in new spirit with his two related polices. The first one was political marriage .The second one was rendering military support during internal conflicts among Tulama chiefdoms so as to increase his influence over ruling elites.Menlik continues with his traditions by successfully combing the two policies of his grand father in manipulating the Abyichu tribe of, Gobana and others in grand designs of Abyssinian long age ambitions of controlling the major trade routes that run from Kaffa in the south west crossing Shawa either to the Read-sea and Mediterranean world or to the Indian ocean through the Somali ports to the middle East . The arrival of Europeans with new firearms,Gobana as broker between Oromo and Menlik and European recognitions of the Menlik as" equal" partner in the scramble invented a new historical classical Empire of Ethiopia in the new modern world(see Legesse,2000 and Abate 2000)

Menilik proclaimed all the conquered territory as land of the imperial crown. Secondly; the Emperor measured and redistributed the land to his soldiers, the church and political leaders in return for their service. Only 1/3 to 1/4 of the total land in the south was granted to the chiefs who co-opted with Menlik in subduing their people. They were represented to the office of Menlik as local administrators. 3/4 of the total area of the conquered land in the south were partly reserved for the crown and some of the lands were granted for the military generals of Menilik who stationed in military garrisons known as *Katama*-which later evolved into towns and cities (Ståhl, 1974). The system introduced in the wake of Menlik conquest was a feudal production relations in which peasants had been serfs and paying tribute in kind and cash, labor service to the crown and feudal lords. This system of relationship is known as Gabar system.

The establishment of dozens of *Katama* in Oromia, particularly the foundation of Addis Ababa (Finfine) in 1890 as the capital of the Empire facilitated the situations under which indigenous populations could be manipulated and administered from that center. Thus, the new emerging centers acted as a channel of colonizing institutions with the aim of expropriating rural resources to support administrative, economic, and military modernizations of the state (Baker, 1994). The exploitive feudal system and the attempt of totally eradicating community based systems of land tenure through various legislations reached its climax in the 1960s under the governments of Haile Selassie. The imperial government of Haile Selassie adopted various legislations that even more exacerbated the evictions of peasants and pastoralists out of their traditional territory (Ståhl, 1974). For example, the Afar and the Karrayu Oromo in the rift-valley were pushed out of their grazing land for cotton plantations- the project in which the crown itself was the biggest shareholder. In Sidamo and other southern provinces similar processes of evicting peasants for personal landlords, multinational corporations and government was the cornerstone of the imperial polity (ibid).

The Derg `revolution` of 1974

Obviously the profound cause of the Ethiopian “revolution” was the gabar system imposed on the non-Abyssinian south. Thus, land was the basis of the socio-political contradictions that led to the dawn fall of the imperial regime in 1974. The provisional military government that deposed Haile Sellase believed that it was impractical to win legitimacy without resolving the problems of the political and economic exploitations of the old imperial order (Pausewang, 1994). The land reform of 1974 that had been influenced by socialist ideology in agrarian societies addressed the problems of inequality of the land distributions and feudal obligations by abolishing all land rents and all forms of service to land lords (Ståhl, 1977, Pausewang, 1994, Rahmato, 1994). The land reforms of the Derg can be summed up: the Derg nationalized all rural lands and made it public property with abrogation of all feudal obligations; Private ownership of land was prohibited, and the size of land for peasant household was limited to 10 hectares to the outmost; hiring of labor for agricultural work was forbidden except for handicapped individuals; Land transfer through sale, mortgage, lease, inheritance was made illegal; Large private commercial farms were to be reorganized as state farms or allotted to peasants (ibid). I agree with others in that the Ethiopian “revolution” abolished the chauvinistic qalad land holding system of Abyssinian feudal lords in the non-Abyssinian south. However, state ownership of land remained intact.

Oromo ethno-political movements

A brief look into the relationships between the Ethiopian state and Oromo ethno political movements perhaps furthers the understandings of the prospects of the ethno national questions related to cultural continuity. Organized Oromo movements for self-determinations were started in the early 1963 in Shawa with formation of the Macha-Tulama Self-Help Association (MTA¹⁵) and peasant rebellions (1963-1970) in the south eastern Oromo regions of Bale¹⁶ (Gebru, 1991). Both movements were a reaction against

¹⁵ Interview with Waldewanis Abdii, member of the association in all its up and downs as he said; now he is a very old man of 83 living in Addis.

¹⁶ The Bale peasant rebellion also has religious dimensions. The predominately Muslim Oromo Populations of Bale out rightly opposed the Christian Abyssinian dominations and non-tolerance of their religions. The foundation of MTA clearly triggered the Bale rebellion. The leadership of the peasant uprising was

the escalated colonial situations of the Oromo that increasingly diminished them to the status of subjects on their own land. The MTA was established by Oromo elites within the army with officers like General Tadesse Biru, Colonel Alamu Qixessa and Mamo Mazamir. The objective of MTA has been to alleviate discriminatory acts or marginalization of the Oromo under imperial orders by building schools, clinics and roads in Oromo regions so as to eliminate illiteracy, improving health care and rural infrastructures. Despite the difficulty the association faced in the hands of the imperial order¹⁷ the movement promoted pan-Oromo identity and ethnic consciousness. Thus, pan-Oromo views of Tulama-Macha Self-Help association became a model for a more organized ethno political movement in the early 1970s by the educated Oromo elites with the formation of the Oromo Liberation Front (OLF) in 1973¹⁸.

The EPRDF¹⁹ rule of 1991

It was through the joint campaigns and struggle of those national or ethnic liberations movements against oppressive Ethiopian rule such as Eritrean People Liberation Front (EPLF)²⁰, Tigray People Liberation Front (TPLF), Oromo Liberation Front and others that the Derg military juntas were overthrown in May 1991.

The relation between the two major parties who later formed the Transitional government of Ethiopia (TGE) in 1991 began to worsen earlier when TPLF had created a surrogate party known as the Oromo People Democratic Organizations (OPDO) from war prisoners in the summer of 1990 to form TPLF-led EPRDF to widen support and

overtaken by army officer; General Waaqoo Gutu. The Bale peasant rebellion under Waaqoo was proved to be a serious test for the imperial regime of Haile Selassie. In Bale, religion and common grievance united the Oromo and Somali against northern dominations. Waaqoo was also supplied and supported by the government of Somalia. The rebellion was only suppressed with the support of the government of United States of America. However; Gebru (1991) reduced the Bale peasant resistance embedded in strong ethnic and religious nationalist movement as a class struggle (see Gebru).

¹⁷ Despite the fact that MTA was legally operating as a local NGO under the constitution, the Emperor Haile Sellase I has seen MTA as threat to the imperial order. Thus, few years later the imperial regime closed the office of the association, confiscated its property and amassed and threw its members into jail. Many of them were made to serve life imprisonment and one of its prominent leaders, Mamo Mazamir was sentenced to death.

¹⁸ OLF had limited influence in the 1974 Ethiopian revolution as the organization was very young. This statement should not be confused with undermining the role of Oromo ethnicity and the Oromo elites in the move to topple down the monarchy. However, the roles of peasants and the Oromo elites in the Derg revolutions were not written well in state historiographies.

¹⁹ Ethiopian People Revolutionary Democratic Force that established the transitional government in 1991.

²⁰ EPLF created an independent state of Eritrea.

influence among the Oromo(Kcrylow,1994). The Oromo Liberation Front that viewed the acts as re-colonization of Oromia has participated in the transitional government reluctantly. Thus, the OLF finally walked out of TGE complaining that the dominant TPLF regime undermined the democratic process and the elections of 1992(Kassam 2000). Afterwards, the OLF resumed armed struggle now with the neo-Tigrrian dominated state²¹. Like its predecessors the EPRDF government knew it could not possible win legitimacy without promising to solve the questions of self-determinations of ethnic groups merged into empire in wake of the conquest of the Menlik.Thus,TPLF opted for a “federal state” system. EPRDF introduced “federal arrangements” that articulates the rights of nations, nationality and peoples of the Ethiopian federations to self-determinations including sessions in its article 39(1) of the 1995 constitutions. In preamble of the constitution it is stated that `multi-ethnic based federalism` has been designed to maintain the viability of the state as an entity and to end the era of subjugation, oppression and domination of one ethnic group over multitude, or the herald of `democratic unity in diversity`. In the new constitution, Ethiopia is the federation of nine ethnic states including Oromia. However, the theoretical “federal arrangement” failed to extend the significant local autonomy let alone broader self-determination because the EPRDF whose core is TPLF exercise a total monopoly of power both at the central and regional level through its satellite and affiliate parties like the OPDO, similar to the old game of Abyssinian Menilik traditions. Although the institutions of the federal arrangement itself is a top-down business without the consent of the people governed right from the start, the institutions of the theoretical “federal arrangement” has some practical achievement, the peoples of the major nations of the federations enjoyed the right to use their own language at local level. However, the enjoyment of similar language rights for the minorities merged as peoples or nation and nationalities²² in the south and south west has still been questionable. The rhetoric of self-determinations also

²¹ Kassam (2000) rightly argues` hitherto none of the Oromo groups has been able to pose credible challenge to the dominant minority. This is in part because the Oromo ethno political movement is not a unified one. It is splinted into a number of factions and is divided along regional and religious lines. Moreover, there are political differences between those nationalists who are striving for an independent state of Oromia and those nationalists who are pursuing local autonomy within Ethiopian state` (Kassam, 2000:69).

²² Peoples, nations and nationalities are concepts used by EPRDF.

produced discourse among different ethnic groups to questions how to redefine local autonomy or the continuing existence of Ethiopia as a viable state in its present form.

Different from the Derg the EPRDF adopted a liberal market economy with aim to encourage privatizations and to meet the demands of the western donor agencies. When it comes to land and resource management the EPRDF government inherited the policy of the socialist government as status quo. Conventionally, authorities and policy makers in “defense of status quo²³” argue that the Ethiopian revolutions of 1974 that overthrew the imperial state abolished the Gabar system (Feudal land holding system) and liberated “millions of Ethiopian peasants from the bondage of tenancy” (Hussein, 2000). According to this view it is not necessary to ask any further land reform arrangements or needless to talk about customary land rights. To be precise my argument is that the reforms of post-imperial regimes substantively don’t go far from their predecessors; though there are some differences of technicality. For instance, the departure of the EPRDF from the Derg could be only allowing the farmer to lease their plots of land for a specified time and the process certifying usufruct rights in some regions have been started. Thus, in the pre- revolutionary period peasants were tenants of a big landowner including the imperial state. In the post imperial periods the state owns all lands and natural resources of the country; all peasants are the tenants of the state and state bureaucrats or state licensed stakeholders. The patterns of the peasant subordination to outsiders remain intact. Thus it can be questioned that the Ethiopian “revolution” or “ethnic federalism” abolished the Gabar system of relationships between state and peasant or violations of rights. Despite the theoretical shift of regimes from feudalism to socialism and then ethnic federalism the Oromo peasants’ remains serfs (tenants) to the Abyssinian state and its agencies.

²³ The argument of course developed in the defense of the state policy against other pro-privatizations groups championed under Amhara based political parties. In Practical sense I guess the two views are different versions of the same Abyssinian traditions that claim Peasants or pastoral communities couldn’t own or manage land of their traditional territories; they must be marshaled either by the market or the Abyssinian state.

Traditional social organizations of the Oromo peasants

The holistic understanding of the Oromo traditional organizations, more specifically how the patrilineal kinship system²⁴ of the Oromo coupled with the gada descent set and land is of concern to this study. The critical understanding of traditional organizations hopefully broadens the dynamics of land and resource rights of the Oromo peasants in the quest for the pursuit of their own development. Hence I will sketch a brief point relevant to the material aspects of the Oromo culture particularly the feature that demonstrate the interplay between kinship, the gada socio-political system, land and resource use and rights.

The Gada system

The purview of the symbolic, ideological, cosmos values of the gada system appears critically useful to examine how the Oromo's and Abyssinians use of their images of the past to constitute or reinforce present interests. If not we may entangle our selves that a single historical narrative of Abyssinians is sufficient to capture a peoples past. To begin with Oromo social organizations; Gada is a holistic system to put it in the words of Legesse" it is a concept standing for the whole way of life" (Legesse 1973:159). This social organization comprises a number of institutions within itself social, political, economic, religious, philosophical, art, kinship and history of the society. The Gada system owes its origin to a pastoral mode of production. For the purpose of this study concept of the Gada may be defined as a socio-political organization of patrilineal descent system that organize the Oromo society into productive classes on age and generations set to distribute rights and duties within material and historical resources of the Oromo.

²⁴ The Oromo nation is divided into two moieties: Borana and Barentu. This in turn constitutes a number of patrilineal descent groups. Originally, the Tulama-Macha had a common gada organization together with the other segments of the Borana at Harro Walabu in southern Bale. After the northward expansion of Tulama-Macha they established their own chaffe center at Oda Nabi -30 km south east of the present Addis Ababa (Hultin 1987).

Relationships between land, Kinship and the gada system

In this section I shall endeavor to illuminate the role of gada in resource management in reference to Northern Oromo of Tulama-Macha who traditionally share a single patrilineal gada descent system. In the context of resource management and rights the most important gada organization was the lowest level. Gada descents of the lowest level, (Luba council) ²⁵ of the Tulama-Macha manage the transmissions of property rights to the legitimate son through agnation and filiations, called Guluma. To illustrate the functions of the lowest level of the gada system (how it distribute rights and duties in a land use and rights) I will sketch a brief overview of the traditional structure of the judicial and political functions of the gada office. Knutson (1967) identifies three levels of the gada political hierarchies with clearly defined bodies and non-personal offices, which he compared with bureaucratic society studied by Weber. The authorities to govern the tribal affairs and justice were delegated for specific periods of time²⁶. In the lowest hierarchy of gada council, local Luba council supervised the passage of men through the gada system. Local Luba council also serves as a local judge who enforces gada laws in their respective jurisdictions and chairs the local meetings to solve local problems through discussion.

Each level of gada governance (local, tribal, confederate) had similar parliamentary organizations of the Chaffe²⁷. It was normative for any level of gada government to discuss issues, formulate policy and to settle intra and inter-tribal disputes (Knutson 1967). However, the supreme political and judicial authorities were vested in the confederations of the inter-tribal council. At the end of the specific term (gada) the inter-tribal office left office, the law was symbolically suspended until the new gada set adapt` new` traditional law. At the beginning of the new reigning set major changes in the

²⁵ Luba council means gada set (class) of power responsible to govern the over all affairs of the society. Representations to the office of Luba council at each level of gada governance has been elective on basis of achievement and experience from the members of reigning gada age-set. Luba councils only serve eight years and transfer power for the next gada age-set. There are five Luba classes succeeding each other. This system of governance neatly fit to the principle of democratic participations of people in their own governance.

²⁶ Gada has a time dimensions of its own, see Legesse, 1973.

²⁷ With different internal organizations of parliamentary representation on the basis of their peculiar localities.

tribal custom would be debated. If accepted the `new` law would be binding for the next eight years (ibid).

Tulama-Macha formed a large number of territorial groups. It appears that the expansion of different Tulama-Macha groups to different territorial sections included kinship relations: cooperation's and conflicts, dynamic re-arrangements of political and tribal genealogies. However, within the territory of local clans or lineage groups there is a correspondence between geographical space and genealogical lines. A dozens of patrilineal lineages, usually exogamous segments, which I may call Lammii, live in homesteads and villages. People count their genealogy to ten generations. Marriage may be allowed in some cases if the genealogical lines among the lammii segments exceed usually nine or sometimes seven generations. Always men and unmarried women living in the same plains or ridges are agnatically related. They share common ideology, estate, communal rights, and collective legal responsibilities and so on. The lammii has been the basis for political recruitment and political alliance and socio-economic cooperation. It constitutes more closely related segments of social group's; balabla-door and warra-families, which mainly are concerned with household welfare. To describe the merits of common ideology among lineage and its flexibility to adapt to challenging and changing situations Holy (1996) quotes M.G. Smith as" [lineage] assumes invariance and uniformity in the constitution and reflections of different units, while permitting their internal differentiations, cohesion, or development according to circumstances and rationalizing these departures as consistent with it" (Smith in Holy 1996:86). This is a basic cultural elements and values of the gada system still intact as described in chapter three.

Political organization of the peasants in Oromia

The most important resource of the Oromo is land .The Oromo control of land and common pool-resources; forest and pasture are to a large extent dependent on Abyssinian legislations and Abyssinian institutions. At the most lowest level state-organized Peasant Associations (Kebeles) determine access to land and resources on the basis of state-drawn boundaries enforced by formal legislation. Hence, the fundamental problems of the Oromo to their own resources have been curtailment of their customary rights through

these institutions. I will endeavor to highlight the origin of the peasant political organizations that might illustrate how far the organizations are used for manipulations of peasants for state control of their own destiny. The peasant organizations emerged out of the land reform proclamations of the Derg in 1974. The land reform of the Derg claimed to abolish the exploitative feudal institutions and relations of production. In the wake of the reform a new type of local political organizations known as peasant associations were established (Ståhl, 1977). The Kebele were established to implement a land reform and redistributions of land on the basis of household size. The duties of these associations were redistributing land, solving disputes between members, carrying out agricultural cooperative service and electing committees to supervise the schemes. Latter proclamations transferred the peasant associations to a legal entity with the basic functions of maintaining law and order within their respective boundary area of some 800 hectares. The peasant associations were widely believed to have replaced the old feudal institutions and served to create links between individual farmers. The proclamations issued in 1976 under the title “strengthening and consolidation” of the new local institution founded the militia (Ståhl, 1977). The militia must be recruited from member of the associations with the aim of defending their interest. The Peasant Associations were gradually transformed to local administrations with an executive committee, a judicial committee and a militia. The executive committee is accountable to deal external relations with other Kebele’s and local administrations, and handles economic matters such as periodic land redistributions. The judicial committee (social committee currently) resolves internal conflicts and has the power to sentence members to short term imprisonments. The major duty of the *militia* (peace keeping committee currently with more or less the same duty) has been to maintain peace and order.

Pausewang (1994) observed peasant participations during the early phase of the land reform in the southern provinces and the gradual change of the institution to be instrumental in government exploitations of the peasants. Rahmato (1994) describes the process of direct state involvement in affairs of the local setting as` interventionism and statism` “The first assumed that frequent intervention of rural agents are necessary to impose discipline and uniformity and to inspire success in the development activity” while the second was grounded on the notion that the state was the chief actor, thinker,

planner, and provider of all benefits. It was common for example, for rural agents to frequently remind peasant audience that it was the revolutionary Derg that gave them the land they are farming” (Rahmato, 1994:1)

However, despite such notions of rural agencies of the state the peasants never abandoned their claims of ancestral land even when the crown has totally taken their land and they were totally serfs. Therefore, the words of the local agencies of the Derg were unpalatable for the peasants. In my opinion development policy in general and peasant development policies in particular lack clear understanding of indigenous culture, organizations and institutions to the present as the government doesn't respect customary rights of the peasants while designing `development` schemes. The local community resistance to environmental policy of the Derg in the 1970s and more specifically forest demarcations of the 1980 has been the case in point.

Peasant organizations in the `Federal Democratic Republic` of Ethiopia

In principle the theory of state reorganization along ethnic federal arrangement under EPRDF articulates to promote decentralization with an increased awareness of the role of local level institutions and their inter-relation with regional and international institutions. However, there is no departure in the political organizations of the peasants as well as land and property right laws with its predecessors, except some technical reforms in due of seeking local co-options. Example of such technical reforms are changes of size of Kebeles and the land lease, in which households may lease their land for the specific period, which was totally forbidden under the communist government.

The two latest regimes basically share similar policy of excluding informal institutions such as kin networks, local cultural administrative structures, customary rights to resources, and indigenous practice of grazing and use of forest. The two regimes also share similar policy of land tenure systems that is state ownership of land. All category of land is owned by the state and the government allocates usufruct rights to individual farmers through the PAs. The right to property No.1/1995 article 40(3) states, “The right to ownership of rural and urban land, as well as of all natural resources are vested in the state and the peoples of Ethiopia. Land is a common property of nations, nationalities and peoples of Ethiopia and shall not be subject to sale or to other means of transfer.” However, the controversy lies in the sense that the state claims to own the land

and the peasants are tax paying tenants of the state while peasants regard the traditional land and resources of their traditional territory as theirs taken by the state. There is no attempt to link the informal institutions with formal institution in administration of land except some attempt to establish an elder council known as *Jarsa Biyya*²⁸-for mediating some conflicts outside the court system during the period of transition. They were active in the transitional period to maintain peace and order as reorganization of the court system took much time for the new regime. In principle the PAs have jurisdictions within their respective 1600 hectars of land in the new Kebele boundaries re-drawn recently with the average inhabitants of 1700to 3500 peoples. Like in the case of the Derg the restructuring of Kebele administration in the current regime by pass social and cultural organizations of the peasants.

Relationships between formal and informal institutions

Normally it is assumed as if state institutions of property rights and customary rights are mutually exclusive. However, practically the informal institutions of local land use of descent and property relations had been in juxtaposition with formal institutions in Oromia. In most instances Kebeles administrations or higher administrative Abyssinian institutions are coincidentally instituted in line with former descent groups or internal tribal boundaries. Thus in most cases peoples of one Kebele, district or zone belong to the same line of descent in rural Oromia. Thus, customary resource use practice and rights continued informally. For example, the informal property relations of internal use and access to common pasture in Axabala are determined by the social consent of small sections of villagers of 20 households. Again informally the traditions of recruiting sons to ancestral land and estate continue to date in Oromia.

Above all peasants have been members of both formal and informal institutions. Thus, the role of peasants on the local scene overlaps²⁹ and reinforces each other. Local

²⁸ Jarsa biyya is an elders councils, derived from the former tribal office following the modifications of gada system in to petty-states. Knutson (1967) write as informal advisory council to Moti (king) or Abba biyya.

²⁹ A simple example of the overlaps of the practical activities of peasants can be made on the role of Mekonnen Lammecha, the present head of Rogge-Axabala peasant associations. On one hand he is in charge of formal Kebele administration managing land on behalf of the state. On the other hand he was one

networks of gada descent have their own role for access and mobilizing force to access the formal institutions. Obviously, individuals with more local influence in informal networks have a better chance of access to land and resources distributed by the Kebele. At the present as farm lands had been in hands of already established peasant associations during the land distributions of 1975 and the Kebele has no land to distribute for the newly married youngsters. Thus in practical terms access to farmland has been done through *guluma* transfer. In case of the farmland the role of the Kebele management in some cases are much negligible. The role of the Kebele naturally is heightened when common-pool resources and the farmlands of peasants are required for "investment" as the formal owner of the land and natural resources has been the state.

Despite the overlap of informal and formal roles of the peasants in practical matters at local level, however, the local institutions were not recognized either by the imperial regimes or the two latest regimes. The relations between informal institutions and formal institutions have been characterized by mutual suspicions. Apart from a brief period of transitions at the end of the Derg and in the early periods of EPRDF, when local institutions were given some sort of autonomy, the state institutions tended to control access to land and resources. Attempts by donors and local-NGOs to promote participatory natural resource management by involving indigenous institutions and world views have been viewed with mistrust by the state. Kassam (2002) argues that the attempts of the local NGO—known as Hunde³⁰ to bring socio-economic change on the basis of Oromo views of development (ethno-development) faced oppositions from the state.

the representative of peasants at Hidha Gamme court case defending his own local interest and livelihood as we shall see in the next chapter.

³⁰ Hunde means root. Hunde believes that socio-economic development or social change could be possible from within without loss of identity. The ethno-development notions of Hunde were based on Borana elder's view of development. It rendered financial and technical support in micro-credit and training for local peasants to effect socio-economic change. Obviously Hunde operations in central Oromia (Shawa) that might be related to cultural revival of the subjected ethnic group was a source of fear for Abyssinian state (TPLF) and its regional surrogates (see Kassam, 2000)

Chapter 3. Land use patterns of the Oromo peasants

Introduction

In this introduction I shall endeavor to illustrate the problems inherent in the official land use classifications in Oromia through the example of the Rogge-Axabala Kebele in the district of Alam Gana. The capital of Alam Gana, Sabata is 20 kilometer from Addis Ababa, along Addis-Jimma road. Topographically, the altitude of the Alam Gana ranges from about 3385 meter above sea level to 1700 meter above sea level. Average temperature ranges in 8.3-28.0 degree centigrade through the year. In local classifications, the central highlands of Shawa fall within *Badda* (highland) and *Badda Dare* (intermediate highland) zones. The terrains of hills, ridges, and gorges along with intermediate plains make up the scenic-beauty of the area. There are two rainy seasons. While the major wet-season usually known as *Ganna* fall in June through September, relatively small rains, *Afrasa*, are expected during the months of February to April. Annual rainfall ranges from about 866 mm to 1200mm.

The statistical data on classifications of land use in the Agricultural and Rural Development Office of Alam Gana hopefully illustrate the overall view of the deficiency of state land use patterns in Oromia. The total land of the district is officially estimated to be 87,532 hectares of land; "Agricultural land" makes up 76,306 hectares of land, Pastureland consists of 3,644 hectares of land. The land under forest is 2,538 hectares. Construction make up of 1125 hectares of land. Lake and water body covers 1475 hectares of land. The categories termed as "unused" and reserved for industrial establishment make up 1624 hectares of land. It should be noted that the land classifications statistics is an ideal estimate that doesn't fit at all with actual grounds and practical uses of the locals. Officially it appears that other uses of peasants except plots of land for agriculture seem understood in most cases as non-uses. Other traditional uses of peasants including pasture lands are not taken into considerations as such in land classifications at practical terms. A good example is the view of the outsiders, including agricultural experts, that see the water valleys and related traditional pasturelands of the peasants as "empty land" affiliated to a more general category of "unused land". Nevertheless, the peasants perceive these lands as the solid foundations of their

traditional livestock breeding especially cattle rearing areas as well as other traditional uses. In brief there is a wide gap between official classifications of land and its practical uses in all over Oromo land.

Dynamics of local adaptations in the Rogge-Axabala

At the present the local adaptation of the Oromo peasants appears in critical dilemma due to population pressure and outsider's encroachments. On one hand the adaptation must adjust to government regulations and official allocations of land use, on the other hand it should meet the demands of the society in providing basic livelihoods and cultural survival. It appears very difficult at practical level to imagine or to devise a strict control over traditional adaptations like rain fed agriculture which depends much on ecology, climate, availability of rains etc that inherently require flexibility. The problems of land use associated with state ownership of land owe a great stumbling block for flexibility of local adaptation as discussed. But in spite of the government interference in land use management and local autonomy, however, local adaptations seem to have been far from static. The local adaptations in Oromia seem to cope up with man made and the natural dynamics to be productive and liable for the peasant households. Individual farmers devise and combine different strategies to meet the demands of their livelihoods by sustaining the dynamics of the requirements of their adaptations. This is to say that the Rogge-Axabala farmers use their agricultural land and pastureland alternatively for their rearing of animals and productions of crops depending on the situations. For example, individual farmlands are reserved for cattle rearing depending on the nature of holdings rather than only relying on common pasture and other traditional grazing lands.

Although officially and ideally land use is classified into categories by the state as exemplified, the actual uses of land by peasants are flexible and infringe "legality" of government regulations. Peasants used to graze what government classifies as "unused" or "empty land" that of course is their traditional grazing lands. Against the views of the local state officials, the practice of the traditional land use that Rogge-Axabala peasants have developed over time continues. Typically the traditional adaptation of moving cattle and other livestock to uncultivated and non-water holding hilly highlands in wet winter

season continues. This traditional adaptation reduces the problems related to flooding of parts of the plain and shortages of agricultural land.

There are some local variations in Rogge-Axabala on the use patterns of pastureland at the present. The Axaballa villagers of Hidha Gamme basically depend on Hidha Gamme commons for wet-winter seasons. This common is physically a stony land along the Valley of Sabata River that naturally doesn't hold water in wet-winter. The villagers enclose part of the pasture during the wet-season from July to September. In September-January the villagers either graze the land dividing into plots or harvest the grass dividing among households depending on local social consent. They told me that their consent depends on the nature of the grass already on the ground and whether forecasts.

Common to all peasants, may be all over Oromia, a shortage of pasture in the dry season is resolved through a system known as *gadhisa*, that is, to relax control over cattle and common pasture as dry season progress and animals' couldn't graze the traditional commons any more. It is processes of letting free livestock's for grazing anywhere including harvested farmlands. In general dependence of peasants on rearing of animals and farming relies on the peculiarities of their ecology. In the compound Kebele³¹ of Rogge-Axabala there are minor variations between two villages. The Rogge villagers are heavily relying on farming and nearby Golge-Mogle forest for both pastureland and selling of firewood to the adjacent towns. In the plains of Axabala villager practice more dynamic adaptations and shifts their activities between animal rearing and farming. Some peasants, apart from dry farming, also emphasize small-scale manual irrigation for the production of vegetable for the market along Sabata River valley.

There are differences of land holdings among peasants. Some peasants have a large tract of land and others have very small plots. There are also landless peasants. May be the difference among the peasants households in land holding are connected to negotiation of power of the individual farmers with both formal and informal networks and the nature of household compositions. Therefore, mediations and flexibility with units of productions is affected both by ecology and other human factors.

³¹ The two former separate Kebeles of Rogge and Axabala were merged into the compound Kebele of Rogge-Axabala recently under the EPRDF regime.

In notions of the flexibility of local adaptations, agriculture may be defined as an activity in which individual farmers combines and mediates between farmlands, pasture as well as hilly forests on the nature of climate and government regulations and local networks depending on the availability of space in alternative ways to increase productivity. Thus, productivity and attachments of peasants to either rearing of animals or crop productions depends on negotiation power of the farmers as a community or individually, both with the state regulations and coping with ecology. In brief, the combining and mediating practice of managing land alternatively by shifting from farmlands for pasture, grazing community forest as well as relaxing livestock during the dry seasons are common land use patterns of the peasants in most cases in highland Oromia.

Traditional Social and cultural organizations in land use and rights

In most African societies recruitment to descent is synonymous with membership in corporate estates. In other words birth to a descent groups implies status to a corporate lineage estate (Fortes 1969). However, among the Oromo internally too, birth is one set of dimension to status but not the only criteria for rights. The simple understanding that a birth is a sole and exclusive source of rights in a descent for entitlement to land doesn't work among all the Oromo. This is to mean birth should be socially approved and a son must initiate rites to be a complete right and duty-bearing unit, a social person.

The father devolves a plot of land to his eldest son, as *guluma*- owns land, between 12 to 15 years³². The boy farms the land for himself and disposes the crop and buys livestock. Entitlement to *guluma* implies entitlements to common-pool resources. His herds graze on traditional common. After some years a boy will have his herds of livestock and economic assets, which ensure his marriage arrangements. Usually in the twenties marriage is arranged to a boy by his families, *warra*. A boy and his wife continue to live with or share every thing with father family until a father allows a boy to build his own house. This is often after a boy begot the first child. Father, devolves additional portion and some herds of cattle to a son that of course depend on the wealth and land possessions of the father. In general this marks the beginning of recruitments to

³² Interview with Obbo Irre Gutaa and Hirpha Gutaa, Axabala July 10, 2004.

a corporate lineage territory. Similar, rites to portions of fatherland, *guluma* entitle the remaining son(s) to land and resources. The *guluma* shares of ancestral land by father to a son confer social identity. Thus, social identities of a son are defined both in terms of land and genealogical relations. Hence, the process of sharing *guluma* to a son is a ritual of filiations or domestic domains of kin relations. In case of shortage of land, traditionally a young son(s) was moving to search new land in the name of his descent, not in his own name. In this regard the eldest son has a privilege position to remain on his fathers land. This means priority in birth or priority in land use holds true among the Oromo. Inheriting land to a son continues in some instances. Fathers devolve portions of their plots of land to their son(s) informally. Eldest sons are not often sent to schools or migrate to towns leaving aside their fathers land. In formal legal system of Ethiopia inheriting land to a son *guluma* particularly for non-residents in the Kebele is totally prohibited.

In cultural context kinship and property are intertwined together. These two basic aspects of cultural construct derive context and meaning from each other. The notion of Kinship is a derivation of a descent construct and a notion of property. On the other hand, the Oromo notions of property are derivations of the notions of kinship. Property (ancestral land) is a way to legitimize birth. Entitlement to land (*guluma*) is a means to acquire status of filiations, legitimate fathers and sons. Legitimate son (agnation) is instrumental for property, for making legitimate fathers of land (*Abba lafa*³³). To sum up, the composite term *Abba lafa* means –*Abba* is a term of patrilineal descent (genealogical continuum) of fatherhood, and *lafa* is a corporate estates. *Abba lafa* as composite word give the meaning of” fatherhood” to *guluma* portion of land or to a corporate descent estate. This is to say that descent construct and land (property) are parts of the same coins in Oromo culture.

Cosmology of the interdependence between the rule of descent and land

The practice of local land use and rights is related to the preliminary ideas of the religious values of the Oromo or cosmologies. In the creation mythology of the Oromo

³³ The term *Abba lafa* (office) should not be confused with a feudal lord; a meaning it implies in the post-monarchical periods.

the first man fell from Waaqaa (God) and found women already on the earth. Therefore, the Oromo see Waaqaa and lafa (earth); men and women inseparable. The Oromo regard that Waaqaa is their father and lafa is their mother.” When a baby is born, the midwife touches its head and says `mother is earth` (hadhi lafa). Then the head is held high while she says father is the sky or god (Abba Waaqaa) (Hinnant, 1978). For the Oromo, Waaqaa is like a father and earth is like the mother. The former gives them rain and help the earth grow grass and plants on which the life of their cattle and themselves depends. The pray for peace, rain, fertility are central to the indigenous Oromo religion or cosmology.

The bond between man and land is interestingly complex as among the Tulama where the land is a basic unit for survival. In Tulama conception of land use, a descent or tribal territory are interconnected. The link between *waaqaa* and *lafa* and observance of the customary law associated with them are central in the analysis of resource use and rights. There is also a general notion in exclusive nature of land rights (Hultin, 1987) connected to a customary law, Sera and saffu³⁴-harmony, respect, boundary, avoidance and distance among different groups of the Oromo society (Hassen, 1990, Abate, 2000). A notion or principles of internal boundaries in customary rules and norms which I shall call *Saffu* rules are visible among different Tulama groups when it comes to land use. The ideas of adhering saffu principles and rules in land rights are associated with believes of the Oromo that land is acting against a person who wrongly use it or stepping boundaries to others. If you push boundaries and step on people boundaries to evacuate them out of their original occupations or the right positions by force and settle on it or use it”lafti of irrati sin baatu” meaning earth acts up on you and will not carry you. This implies land itself has a will. Because the deeds are against rules of waaqaa and lafa (God and earth), which is implicitly associated with rules of ancestors or descent construct.

In general the content of customary law of the Oromo combines the social rules of genealogical ancestors and cosmology related to creation. Social rules and obeisance to rules of uuma (creations) of *Waaqaa* and lafa is pillars of the Oromo customary law.

³⁴Hussan associate saffu with a philosophical man of Macha -Makko Billi and localize the use of the term as the Macha formal rules of gada coined by Makko Billi. However, I believe the term is a universal Oromo notions of common law and norms derived from the cosmology and creation myth. I use the term Saffu as universal Oromo notion which includes Hooda and Duudha. Oromo says saffu waaqa fi lafa, meaning truth of God and earth, rules of ancestors or creation rules(descent construct)

Saffu is connected to the social rules associated with custom, *dudha and hooda*. In narrow sense distinction can be made between, saffu rules connected to custom and Sera. In gada councils there are more formal customary laws, Sera made and enforced actually by the gada office. However, it is not possible to proclaim every legal principle or customary principles orally. Thus, distinctions between Sera and saffu are inadvisable as the term Sera itself implies not only Oromo law but Oromo ways of life (Knutson, 1967). The Oromo customary law derives its meaning and sanctions from the gada office and saffu. Therefore, the Oromo customary laws have public legitimacy in contrast to private legitimacy of rights.

The Oromo views of land rights

Basically, the Oromo notions of land and rights are embedded in practical and spiritual relationships between the Oromo and their land. First the notions of continuity and transformative ideas of land use and rights could be exemplified with reference to the Adaha descent groups of Tulama Oromo claiming continuities of their tradition in the Hidha Gamme Court case. Then, how the Oromo notions of property rights inherently contradict with legality notions of nation-states will be discussed. Let us start with the first point. The Adaha considered here recognize themselves as a local Tulama descent group and trace their line to the Galan tribe-the eldest in the Tulama gada system. They expanded from the ritual site of Oda Nabi in Adaha-Liban districts of East Shawa to the southwest and settled in the Sabata River valley. The spatial organizations of the local Adaha descent groups and the kin group relationships within the groups can be seen as part of the process of fission and fusion of ethnic process in the Horn of Africa in general and the northern Oromo society of the Tulama-Macha and the Barentu in particular long generations ago in line with the demands of their flexible socio-cultural adaptations. The Adaha local groups in Axabala form a corporate estate known as *Qabiyyee*. Their corporate estate possess immunities against the encroachments of others to land and resources of their *Qabiyyee* and duties to perform in line with rights. Customary law, *Sera* makes distinction between rights of control of land which are vested in hands of Adaha *Luba* council and internal rights of use and access. A good example of how kinship and land distributions are intertwined can be illustrated with reference to the

settlement patterns of the Adaha villagers living in the plains of the Rogge- Axabala. If we look closely at peoples settlement in the village near Hidha Gamme pastureland, Irre Gutaa, Hirpha Gutaa and their paternal cousin Mekonnen Lammecha are closest neighbors, their second and third cousins live a little further away in a plain. The spatial distance and settlement patterns of Adaha villages in Rogge Axabala ideally³⁵ correspond to segmentations of lineages. The settlement patterns of Axabala villagers in Hidha Gamme and their claim to the common pasture suggests that the Adaha in Hidha Gamme village forms a corporate gada owning class, share social identity of the local descent group and common history. In this sense a social and cultural identity of a person in Adaha society is defined in relation to another person as well as in connection to descent and land. Further, the Adaha corporate estates in Axabala are a chronicle and archive of Adaha local history and identity. Talking about land is to Adahas ways of talking about kinship. On the other hand taking about kinship is a practical archive of the very use of land in time. At the present the Ethiopian formal law has ultimate authority to decide the land use and rights in Oromia. Thus, customary resource use practice and rights continue only informally³⁶. For example, despite state ownership of land the informal ways of internal use and access to common pasture in Axabala is determined by consent of small sections of villagers of 20 households. Again informally the traditions of recruiting sons to ancestral estate continue to date in Adaha. The problem of Oromo land rights has been the question of continuity of the Oromo ways of land ownership and management in face of state ownership of land and resources. I have pointed out that in the Oromo culture, land and people are seen together as one not separate or interwoven to maintain the harmony of all social and natural worlds vital to their survival. In effect, the customary law of the Oromo appears to have existed and continued to maintain socio-cultural order or Oromo ways of life: fertility³⁷, peace and rain on which the Oromo welfare depends. Naturally the analysis of the Oromo law, exactly contrast with Ethiopia legal system. Thus, the analysis of the Oromo rights to land and resources in terms of a western

³⁵ However, this doesn't account that Adaha are only living in Southwest Shawa at the present or traditionally. Historically, Adahas are scattered in all over Tulama land. There are Adahas in east Shawa, West Shawa, north Shawa and Wallo.

³⁶ The Hidha Gamme court case in the next section shows the conflict between state management of land and customary practices.

³⁷ Kassam (1986, 2002) identifies different kinds of fertility notions: ` human, vegetal, animal, abstract or spiritual`.

conception of land use and rights are distorting ethnographic facts unless we take the socio-cultural context into consideration. When we analyze Oromo land law, in line with legal systems of nation-states one should take in to account not only socio-cultural context but also the ideologies these radically different notions of land law serves. The Oromo talk about ancestral land, kinship and gada system, not about a land law with reference to Ethiopian “legal” system. The gada legislations talk ample of time about kinship relations, recruitment to descent, peace and harmony among different Oromo groups or social and natural world through obeying gada and Waaqaa, but not a single word in reference to the notions of private property or usufruct rights to a land. In the case of the Tulama (Owns land or abba lafa title), which the son gets from his father through the initiation of Guluma, does imply the legitimacy of son to land of ancestors. In the Oromo notions of property the term ancestral land and legitimacy to that land through filiations or social recognitions, succession to socially approved sons or groups imply customary rights to land. However, the notions of a legal land rights in modern-law: defines ownership rights interms of- the right to sell, mortgage, transfers to anybody or heirs, etc. The Oromo conception of Abba lafaship (legitimate father of land) is radically different and cannot be interpreted interms of private ownership rights. The Oromo conceptions of rights are also different from a land law conception of usufruct rights. Once, a son became abba lafa to ancestral land through the process of *Guluma* his right to recruit a legitimate son as well as his spiritual connections to the land of his ancestor though the rules of descent couldn't be curtailed. However, in usufruct rights of Ethiopian legal system, the state may curtail the rights, if it wishes any time. This is to say that the Ethiopian law doesn't care about cultural continuities of the Oromo as well as the inseparable spiritual connections between Oromo and their land. To specify the particular force of its manifestations, I will illustrate the challenges of the customary rights of the Oromo peasants with reference to a conflict between private industrial development and the peasants.

Customary use and rights meet the court: The Hidha Gamme case in Alam Gana

I shall try to offer a more nuanced view of the case by dividing it into two sections. First I will give a brief summary of the peasant presentations of the case to the court of Alam Gana through their own representatives. This may provide an overview of the controversial claims between the primary resource users and the private development licensed by the state and how in the initial phase the peasant presentations were loaded with the questions of customary rights. The Second section deals with how power structures and peasant protest acts along with election campaigns and shaped their presentations and the decisions of the court proceedings.

At the start the peasants of the Rogge-Axabala presented their claim on Hidha Gamme commons to the court of Alam Gana in charge No.L/G/Aj.376/96 (2004) with their representatives (Irre Gutaa, Hirpha Gutaa and Mekonnen Lammecha). The charge was against 1) Alam Gana district Desk of mineral and energy office that leased the lands in question, and 2) Mr.Birhaanu Kafani 3) Mr.Binyam Admaasu and 4) Mr.Fissaha Fiqiru, private investors of gravel marble and other constructions minerals. These private investors are residents of Sabata and Addis Ababa. As stated, thus, the content of the first charge deals basically with the significance of the Hidha Gamme pastureland for the traditional occupations of peasants: cattle breeding, and traditional construction materials and the illegitimacy of the act of leasing their traditional commons vital to their survival to individual mining firms. In brief, the substance presented has the content of customary rights and the illegality of leasing their land in their own views. At this moment the peasants never referred to statutory law directly.

Apparently the appeals of the peasants received no ear as such either from the court or the political authorities. In spite of the peasants appeal to the court and the political offices, the survey of the mineral and constructions continued. Of course, the court sent first a letter to the Agricultural and Rural Development Office of the district to assess the status of land under claim on its procedure. The first team of `experts` from the Agricultural and Rural Development Office went to the area along with the investors in accordance with court procedure to investigate the status of the land.

Peasant protest against mining of marble and gravel stones in Hidha Gamme

The peasants had suspected, as it might be, the first investigations being biased to the outsiders. The reason for the peasants of Axabala to react more cooperative and consistent in the protest as well as in the discourse of the legal-political process can be accounted to the role that ideology could play in social protests. We have seen that peasants of the Axabala share common social and cultural identity. Thus the Axabala peasants of Hidha Gamme who have strong ties and kin group solidarity directly reacted to stop the construction works. It appears that peasants of Hidha Gamme who built grievance towards outsiders, in one particular incident on the twenty-sixth of March 2005 came together and chased the workers of the mining firms out of their localities. Following the Hidha Gamme incident the local authorities sent police to the area to stop the violence and to keep the construction materials from destruction. In order to minimize tensions and violence, the court ordered to stop constructions and surveying until a final verdict was decided upon.

In addition to the role that the ideology of descent for the acts of peasant protest in Hidha Gamme, the larger context of the economic and political situation, which cross cut each other had also their own part in the peasant resistance. The complex context of the discursive process surrounding peasants' resistance has a significant role. To be sure the proximity of the area to the center and the coincidence of the protest with the "May 2005 election campaigns in Ethiopia and the presence of the opposition political party in nearby area contributed for the media access and publicisations of the case. Perhaps it might be the first local land claims case the media of governments said to have presented through TV screen and radio. However, the objective of publicizing by the ruling party was not intended for securing land rights of the peasants but rather to publicize that the ruling party has been working in accordance with law and constitutional order. To say that the government acts were dramatized with more specific objective to demonstrate as if the peasants have nuanced freedom and rights locally that go as far as bringing government before its own court. Given the theory that peasants have been the staunch supporter of the EPRDF government after 1991, and the visibility of the case to the opposition party, and a limited amount of media access provided to the opposition parties

for the” election campaign”, the political office took the issue of the Hidha Gamme case in a unique approach. Had, the authorities continued in the old way of putting down protest in guns, the political parties would achieve a good recent model at center to galvanize peasant grievance against the ruling regime.

Strikingly within this context the Hidha Gamme peasant protest transformed into a serious test for a moral commitment of the ruling regime to their constitutional and political orders. To elaborate, the protest and agitations for “elections” imposed heavy pressure on the court and the political offices to see the case more analytically than may be any case the court have seen before at that particular region. Thus in an unusual procedure the court ordered to stop mapping and construction works for further investigations until a final verdict. This evidently attests that the protest and external dynamism has its imprint on the decisions of the court.

The social context of dialogue between the outsiders and peasants might have a number of repercussions on the way peasants perceive the law and present their charge on one hand and how the court and the political office perceive peasants on the other hand. I think it is logical to start with how power and surrounding environments affected the peasant notions and understandings of `legality`. The protest affected not only commitments of the political and judicial office but also the perceptions of the peasants at large. This is to say in a revised file charge No.00321/97(2005) peasants presented their case in substantive words, in more articulated ways through their advocate in a constitutional fashion to illustrate their positions. The main points in the revised peasant presentations are this.³⁸

They are the inhabitants of ganda (Kebele) just like other members of peasant associations since the establishment of the Kebele in 1975. In a way Kebele allocated the land as their commons, which they have used for generations. They have used the land in their possessions for cultivation and grazing until forcefully occupied on 21/6/ 2004. The common is in their possessions and they pay gibra (from Gabar land and agricultural “taxes”). However, mineral and mining desks of Alam Gana became provider of their land and a second group of individuals (2-4 on above lists) became the takers of their pastureland, which they have used for generations as commons. Further the file change says:

1) They are peasants in possession of Hidha Gamme commons .The commons is the backbone of their livelihoods. They use the common for wet-winter grazing, for getting grass for covering the ceiling of

³⁸ My translation from the Oromo language to English, the former is the official language of the court in the Oromia regional state.

houses, and a place to collect stones for traditional constructions. They are peasants hence their commons have immense value by far greater than crop production itself as crop production itself depends on the welfare of their livestock. Therefore, the claim of the outsider is an illegal act. Hence peasants appeal the court to let the outsiders to stop their aggression on their land.

2) Ethiopian constitution article 40(4), proclamations No.52/1993, and regulations 1994 states that peasants are not forced out of the land in their possession due to the mere reason that their land possess minerals. If the land in possessions of peasants are required for the development of minerals exploitations or mining, peasants should be compensated in accordance with constitution Article 40(4), proclamations No.52/1993 article 24. The rule stipulate that the land of peasants are measured in karee meters and peasants are compensated. Nevertheless, their common is taken illegally without any compensation.

3) According to the rules of mineral exportations No.182/1994 article 6, when land is demanded for mineral exploitations, the questions of request should be notified in newspapers (Gazeta) and the site must be studied before hand. However, the license given to the private investors have been done without fulfilling the preconditions stipulated in legal procedure.

4) The license for mineral exploitations are given illegally to the litigants and we appealed to the concerned authorities on the basis of proclamation No.182/194 article 7. They are waiting for the final decisions of the authorities while the defendants posed aggressions on their land. Therefore, litigants ask the court to stop aggressions.

5) The license of mineral exploitations given to the individuals according to the law is lower level mineral exploitations "omisha albuda gadi-aanaa" ("Traditional ones") gravel, marble and other stones. They have not got the chance of discussions or asked their view on their Qabiyyee, possessions and on any possibility of change for local adaptations. Furthermore, the persons taking their lands are not legal mining firms organized in associations. Therefore it is wrong to give their lands to private investors at their expense.

The peasants' arguments and testimonies are summed up in these points.

1) Recipient of agricultural and land taxes which indicate the peasants use of the land under claim

2) The investigations of files of land in claim according to the Derg land reform of 1975 and the recent land allocations made in the area for the process of giving certificate to the peasants for usufruct rights of land use and river drainage development schemes. Evidences are available at Kebele administrations of Rogge-Axabala peasant associations and agricultural and rural development office of Alam Gana.

3) Persons who know about land in claim possessions: Abarraa Tolessa, Isheetu Ariti, Tadasa Tolessa, and Nugusu Lagasa, residents of the Kebele in question.

The defendants on their part claim that the land under question is `empty land` along the Sabata River valley. Hence, they have the intentions to invest on the land according to mineral exploitation rules and regulations of the country. They have officially leased the land from the desk of the mineral and energy office of Alam Gana district. They claim that peasants do not have the rights to check the license or

permissions of work. The mineral and energy office also say that the land is "empty land" along the Sabata River valley. In a new land use scheme government plans to include such lands for "drainage development". In principle investors have the rights to invest any place in the country. In the new land use scheme the government have the will to encourage investors and Alam Gana is part of that grand design of an "investment zone". They have also talked with investment officers of the district concerning lease issues and have studied the land under claims by their own experts.

The adjudications of the case on specific legal traditions of Ethiopian law: Rejection of legal pluralism

Indeed as suspected by peasants the first group of experts had viewed the land in question as "empty stone land" along the river valley and nothing to do with agricultural as well as pastureland or any other peasant activities. The testimonies of the first groups of "experts" implied that land in the valley of the Sabata River should be under the new scheme of the land use policy of drainage development. Implicitly they recommended that it fits to investment for mineral mining. As we have seen the oscillations of protest within the social-political context forced the court to go a head with further investigations. Thus the court sent a second letter to the agricultural and rural development office of Alam Gana asking to send another team of experts and to report whether the land under claim is pastureland, agricultural land, river valley drainage "development" or any other category.

The final verdict of the judiciary started with the investigation of the first and second groups of agricultural and DAs expert witness. The district court recognized the investigations of the second groups of experts, which confirmed the land under claim had been a grazing land for Hidha Gamme villagers of 20 households of Axabala, contrary to the testimonies of first groups of experts. The investigation of the second group was based on two criteria: 1) proclamations of the Derg of 1975 which allocates land to the plaintiffs, and 2) available documents at the Agricultural and Rural Development office on recent measurement of land for providing certificates of usufruct rights to the households. Second, the court accepted the recipients of agricultural and land taxes presented to the court by plaintiffs, which by itself confirm the usufruct rights of the

peasants to land. Third, the court recognized the rights of the Desk of mining and mineral office of Alam Gana to lease the land to investors along with the investment office on the basis of investment regulations of the country. However, legal procedures and monetary compensations for the plaintiffs according to Ethiopian constitutions Article 40(4), proclamations No.52/1993 article 24, Article 40(4) proclamations No.52/1993, and regulations 1994. No.182/1994 article 6, No.182/1994 article 7 must be negotiated or paid to peasants who proved to have usufruct rights on the land before hand. But the desk of mineral and energy office leased the land without following the legal procedures. Fourth, the peasant protest and resistance and election campaigns have living effects on the decisions of court and political offices, although the scopes of the decision are limited to the specific court criteria of `legality`.

In this limited scope the court of the Alam Gana district ruled the case in favor of the plaintiffs in its proceedings or trial of 13/9/ 2005 in recognizing usufruct rights of the 20 peasant households over Hidha Gamme pastureland. In other words, the court ruled the decisions in favor of the plaintiffs in accordance with the principles already specified in constitutional rules of Ethiopia. In more comprehensive terms the Hidha Gamme court case imply a situation in which litigation for land claims are requested within the framework created and administered by the Ethiopian legal system in the wake of the inventions of Ethiopia. The term gibra a tribute (land and agricultural income tax) from the Gabar system of land use as testimonies accepted by the court as a living proof of use, illustrate the continuity of the rulers traditions .The use of such classical terms denoting the ruler and the ruled in the notions of gibra explain the belief that peasants do not have rights in land at all on their own premises. Moreover, the court welcomed the evidence of the Agricultural and Rural Development and their current measurement of pasture and agricultural land for providing certificate as well as land proclamations of the Derg as a major watershed for the decisions. The judiciary emphasis on land proclamations of the Derg and the process of measurement of land to usufruct certificate titles to land at present implies their biases for individual rights as well as the state property notion at the expense of the community ownership of land.

We see from the verdict of the litigation that the court defines legality in accordance with Ethiopian constitutions, not in a cultural relativity viewpoint by

accepting customary rights as of immemorial antiquity. The evidences presented by plaintiffs in person are oral testimonies with the content of local history and local land use connected to customary rights. However, the court says nothing about the oral evidences in the final judgment. Had it not been that the peasants presented their case for the second time in constitutional fashion, or else the mining firms had fulfilled preconditions of investment regulations in legal terms and peasant protest and election campaigns fueled the issue, one would imagine what the decisions of the court could be. Perhaps, the likely outcome of the decisions of the court would be to eradicate the peasants' tolerated rights to their traditional adaptations or ways of life. Of course this is implicitly stated in the statement of the court while recognizing rights of the Desk of Mineral and Energy Office to lease land in accordance with investment regulations of the country.

It can be argued that the court systems in Ethiopia are part of the executive body of the state, which, enforce legality from one parts tradition (rulers traditions). Viewed in this sense the Hidha Gamme court case symbolizes a situation in which asymmetric power structures shape the way to present and rule cases. In the asymmetrical power relationships between the outsiders and insiders, the peasants of Axabala were forced to address their case in a constructive way to conform to the demands of the judiciary. The first presentation of the peasants to the court and the political office that directly deals with local adaptations as a means of survival seems to have been unacceptable to authorities. This concern henceforth forced the peasants to create new ways to conform to legal requirements specified in the legal rules of Ethiopia. Peasants couldn't continue with the questions of customary rights in their own terms. However; peasants couldn't escape from elaborating their traditional adaptations as the only means to their cultural survival. Thus, the peasants base their claims on their traditional adaptations on one hand and Ethiopian legal traditions to protect their rights on the other. On the other hand, the court and the political offices couldn't continue with their usual traditions "no body won over state and its private stakeholders in its own court" and continue to mediate within confine of their legal traditions forced by peasant protests and election campaigns. In the limited sense of the legal history of Abyssinian traditions the Hidha Gamme court case is relatively a progressive development. However, in overall the case exemplifies that

African nation states are reluctant to respect usufruct rights, let alone the rights to broader self-determinations.

Thus, basically it can be argued that Hidha Gamme court case in Alam Gana represents an overlap and inconsistencies in two domains of rights, customary and legal rights in the court and the positivism of the judiciary to the specific law. The inconsistency lies not with the presentations of the peasants but on absence of legal pluralism, recognizing there is not just one legal system or a simple division between statutory and locally practiced rules. In analyzing property rights to look neither at official status, nor at customary law in isolations seems to avoid cultural relativity. In Ethiopia it is widely believed that change in government alone implies change in property rights and relations at the local level. I think authorities missed the track in that change in government implies change in property relations. Perhaps, it may be missing the track to say that the creation of the Ethiopian Empire or changes of the regimes eliminated the society-nature relationships. Contrary to the practical reality of the validity of local adaptations and property relations at its practical field for the survival of the peasants, the legal system doesn't take into account the locally practiced rules and cultural survival in examining the issue of property rights.

The problem with the verdict of the Hidha Gamme court case suggest that to understand property rights in practice the court should learn not to start with the formal laws defined by any system, be it state law or customary law but to begin to look at what are notions, ideas, values, and other institutions that are part and parcel of local adaptations and property relations. In my opinion, it is useful to employ the perspective of legal pluralism in land claims litigations rather than to think that there is just one legal system in ruling property rights in multi-cultural states of ethno-cultural landscapes.

Chapter 4. The Inxoxilsh case in Alam Gana

In this chapter a complexities of resource rights connected to environmentalism and development will be discussed. The Inxoxilsh case is a striking example in which inherent conflicts of rights between state and peasants moved beyond the local-level and linked with international environmentalism. Looking closely at the case this chapter examines how the demarcations of traditional grazing lands, forest and plots of agricultural land connected to peasant livelihoods fueled resistance of the peasants' right from the start. It also assesses how conflict steadily emerged between state licensed stakeholders: Finfine Forest Development Enterprise and the urban expansions scheme of the Sabata municipality. Finally, the chapter investigates how primary stakeholders has been concealed in the court or only drawn into it indirectly.

Traditional usage of the forest

Traditionally Mogle-Golge-Qoche hills (officially, Inxoxilsh) are a reserved forest for a wet-season or farm season grazing land. The most disputed part of the hills is the Golge hills and the immediate plain-Inxoxilsh. It is located among the towns of Sabata-01, Rogge-Axabala and Qoche-waggido peasant associations. The total area of the land demarcated for afforestation of the community forest in Mogle–Golge-Qoche circle has been 233 hectares. Hunting, grazing, and gatherings of underbrush and fallen leaves, medical herbs, thatch for roofs, multi-purpose bamboos, firewood, charcoal, compost, wood for furniture and tools, edible wild plants and converting parts of the forest to farmland are traditional use patterns of the Oromo peasants adjoining the hills.

Descent groups could enter the commons to obtain those items of the common pool resources on their own specific set of rules. Historically the use patterns of the forest appear to have been far from static. In addition to the customary practices of use in some instances the last period of imperial regime saw some feudal lords totally logging for commercial purpose. The two categories of use in official scale are commercial logging under Finfinne Forest Development Enterprise and the use of the peasants for domestic purpose and controlled grazing in some part of the forest. In all its dimensions local adaptations of the area are flexible and have devised mechanism of coping under the challenges of different socio-political regimes. In the present perhaps more than one

thousands livestock's from towns and peasants associations graze the field per day from both the rural and urban centers. Cattles, sheep, goats are from the rural peasants `modern` cattles are from the towns. Donkeys and horses are owned both by urban and rural dwellers, as they are useful for dragging the carts and used as pack animals.

Social and cultural organizations of rights to the forest

Traditionally the forest and related outlying field is used as a commons of local peasants of three Tulama descent groups: Adaha, Meta and Gafarsa (Bacho). According to traditional authorities and history of place names the interconnected hills lay in the territory of the three-lineage groups who have their own internal boundaries and customary laws, Sera related to the management. What is interestingly associated with traditions about the forest in Alam Gana and Walmara are the overlap between the name of the forest and descent groups. Suba is the name of the Tulama descent group and one of the largest state forest in Ethiopia as well as the name of two surrounding Kebele's (PAs)- Nannoo Suba, 1 and 2. Mogle, Golge and Qoche, are hilly forests. The first one is associated with the present Meta Abbo beer factory established under the hill. The second and the last hills are also the name of the Kebele in Alam Gana. All the names are associated to the sub sections of lineages or descent groups.

It could be possible to assume from the history of lineage archives or oral sources of these areas and settlements patterns of descent that there are patterns of internal boundaries of use among different descent groups of the Oromo. Golge is part of the Adaha sections of the Tulama local clan which they traditionally use for winter-grazing and domestic use of the wood products. The Mogle hills and surrounding forest appears as the traditional hilly forest of Meta descent groups. Qoche hills are connected to the Gafarsa lineage of the Bacho descent group. The interrelated hills and related pasturelands are also archival to discuss inter-group interactions over the use of natural resources as the chains of forests lies between three different descent groups. The stories of the places or hills are archival in the sense that it contains the dynamics of activities, historical interactions intra-ethnic relations of the locality. The existence of so many place names associated with descent groups or lineages itself tells about man appropriations of the forest in internally demarcated boundaries.

We have seen in the last chapter that the gada descent set in the socio-cultural domain identifies and determine groups or individuals to the corporate resource and has the integrative roles in the managements of conflicts over the common pool resource at inter-descent groups' level. In retrospect the rights of access to land and resources vary across different groups of people and often governed by kinship, ethnicity, status, and residence that have been established historically as the result of conquest, alliances, collaboration, and competitions between different groups. However, what is more visible of the continuities of the gada tradition at the present is that the peasants have firm stands to be the co- owners of the forest despite their divisions into different local identities and administrative categories for a century. At present, informally the local peasant exercise customary practices of use of the forest. Local level customary rule and practices for resource use is continued. However, customary practices of use are unacceptable for the State and other outsiders. On the other hand, government and other outsiders believe that land managements and rights to the resources are vested in the hands of the state or its bureaucrat's. Nevertheless, such assertions of the outsiders are illegitimate to the local communities.

The state development policies and the local peasants

We have seen in the preceding chapters that the challenges of the local Indigenous peoples to their traditional resources or territory have often been connected to external forces in the form of the nation- state or the state licensed stakeholders. Three interrelated developments that used to colonize rural land in Shawa have been urbanizations, environmentalism and Rose industry³⁹. Here I will emphasis the two former development schemes entered into a conflict while advancing their own specific interest in Alam Gana, despite the difficulty of distinctions between the three development schemes, which reinforces one another for colonizing more land. To illustrate the overview of the complexity of the expansions of different interest to the livelihoods of peasants let us

³⁹ Rose industry is a multi- national agro business industry that licenses large tracts of land form the state. The product of the rose industry is exclusively meant for export. Easy access to the air port to transport, a fresh flower abroad made the Oromia districts in the vicinity of Addis Ababa, a site of the industry. Thus there have been a number of conflicts between peasants and the industry. But; I do not have enough space to consider the conflict between each stakeholder with peasants in the region over the utilizations of resources.

look into the effects of the expanding towns on local peasants in Shawa. As described earlier the history of urbanizations in Ethiopia has been associated with military garrisons *Katama* of the conquest of Menilik. Since then the migrations of people from the north to the south seems to have been a basic tradition in search of better opportunities in the south. The bulk of these migrations thus come from the resource deficient and the famine prone regions of the north. Perhaps, 5-10 percent of these migrants settle in small towns in Shawa such as Sabata and Holota. Seen generally the rate of urbanizations grew steadily in Shawa. However, relatively urbanizations appear as a striking feature of central highlands of Shawa since the Second World War, meaning after the Italian occupations of Ethiopia.

It was apparent that the villigization policy of the communist regime also forced some surrounding peasants to migrate to towns instead of village resettlements. Moreover, the later liberal market policy of the” federal “state adds additional dimensions to the land use problems licensing land for multinational rose industry in the area around Addis Ababa. The outsider expansions on peasant livelihood make multi-dimensional socio-economic problems for the peasantries. I do not have enough space to consider the overall dynamics of the effects of evictions on the life of peasants. In more general, terms the evictions of peasants out of their land and livelihood result in rural-urban migrations where the evicted peasants live as daily laborer. Further, it in turn reinforces the problems of housing in urban centers. The overall result is conflict over land between different stakeholders.

The next most important dynamics of the conflict between peasants and state or state licensed forest enterprise has been grounded in the forest policies of the Derg. The forest proclamations No.225 and 227 of 1975 states forests, either natural or man-made, is under exclusive jurisdictions of the state, and the authority to conserve and manage public resources rests in PA administration within their domain except the protected state forest. To illustrate these points according to the 1975 land proclamations natural and plantation forests found within 800 hectares of boundaries of PA should be under the jurisdictions of the local administrations to benefit the members of the PA with wood products. However, community forest regulation No.386, of 1978 delegate state officials (forest regimes) with responsibility to select a plantation site for forest expansion from

the community land, at least 20 hectares, either from private or state holdings in a Kebele. In the case of the private holdings, private owners were compensated in advance from the “community fund,” and if unwilling the land was expropriated in accordance with the law” (Legal notice.No.348).

However, compensations were not practically offered to peasant household for the loss of common or private lands. The term community forest creates ambiguities for the critical understanding in terms of ownership to land and resources in Ethiopia. It is void to talk in critical terms about community forest⁴⁰ on state owned land and state owned forest. Critically and practically state or community forest plantations are state owned schemes. Thus the expansions of these schemes on traditional grazing land and lands of cultural and ritual significance to the local peasants added fuel to oppositions against the schemes. In brief, environmentalism faced strong resistance from the local peasants depending on the resources.

The 1980 forest proclamations of the Derg

The proclamation as 1980 has more to do with global discourses of environmentalism. The backing of the project by external forces made the policy more radical than its predecessors. The new proclamations delegated the state Forest and Wildlife Conservation Development Authority (FaWCDA) to demarcate any land suitable for forest and wild life conservations or to save biodiversity loss on their own authorities. The proclamations totally curtailed the voice of the community in local resource management as it empowered central institutions to act independently in the decisions that affected the local ways of life.

To exemplify the substantial increase in state appropriations of land for the forest development schemes of environmentalism I shall take the case of the Suba protected state forest. According to government and local sources⁴¹, the Suba state forest had the size of 3500 hectares prior to the 1980. The holding of the Suba state forest suddenly

⁴⁰ Community forest is used to mean forest within the official boundaries of the PAs in which a limited kind of the use of wood products are tolerated while State forest is to mean a protected forest where any kind of use is legally intolerable.

⁴¹ Suba management authorities and forest management regime of Alam Gana and Walmara disclose the occurrence of expansion.

enlarged to 9557 hectares in early 1980s through the forest demarcations schemes of occupying the traditional pasturelands, agricultural and community forest of the adjacent peasantries found within their 800hectares. However, the Suba forest authorities claimed that the land reforms of 1975 entitled them to frame “a buffer zone” between the forest and the surrounding communities. However, they admit that some expansions were done in the 1980s without the consent of peasants in line with the forest proclamations of the 1980.

Not only the demarcation for the state protected forest but also the demarcations for the community forest endure inherent contradictions. I will illustrate this state of affair in reference to the community forest demarcations of the Mogle-Golge–Qoche hills. The process of the expansions of the community forest programs had been launched in Alam Gana and Walmara earlier in 1975-76. However, the central state forest authorities were unsuccessful in acquiring land and labor with negotiations with peasants. The difficulty of persuading the peasants for expanding the community forest in districts surrounding Addis Ababa for afforestation scheme has been indicated in the FaWCDA report of 1976-77. The authorities account the case of local resistance to “anti-revolutionary” forces that counter-act socialism. The reports of the authorities disclose that those “anti-revolutionary” elements propagate propaganda that “if government appropriate land and afforest with natural trees, the local communities would lose the land for ever”. However, in using the term “anti-revolutionary” to local resistance against its unacceptable policies the Derg attempted its best to rationalize and conceal people’s resistance. However, it can be argued that the local resistances to alienations of their traditional lands have been not the result of “reactionary” elements but peasant’s conscious struggle for their social and ethnic identities with the objective of safeguarding their collective rights.

International environmentalism and local afforestation

A new institution known as Addis Baha, now Finfine Forest Development Enterprise, was established in 1979 to implement the project of making the capital a “green belt” by planting trees” extending (covering) forest from Addis Ababa to Bahir Dar. It was intended to cover the highland hills of Shawa with Bahir Dar, the capital of Amhara

regional state at present. Naturally, the hills were interrelated and the intention was to cover them with natural forest such as juniper, Podocarpus, Chordia Africana etc. In addition to the specific objective at the national level the broad objective of the scheme was to reduce global warming. Thus, a more articulated program of afforestation had begun in the 1980 when donor agencies: the World Bank, the Swedish government and world food program promised a grant of money and food aid to the program. Hence, the government introduced a new environmental policy of direct interventions in local resource management.

In order to make the program more secure and to minimize conflict between the forest regime and the local communities an attempt was made to demarcate the boundaries between the community forest and farmlands. It is said that the aerial mapping of the Addis Baha project was drawn over districts surrounding Addis in helicopter. The technical workers of Addis Baha witness that from the outset the problem with mapping was that the aerial map and the actual task on the ground was different. As a result major disagreement immediately emerged between the peasants and the authorities on demarcations⁴². It could be noted that the Addis Baha Forest Development Enterprise not only incorporated hills and related pasturelands but also farmlands surrounding the hills. Precisely the aerial map never identified the plots of land for farm, grazing fields and areas convenient for the forest. Peasant resistances to the scheme came swift out. But despite the peasant opposition to the afforestation program, the military junta called the heads of the Kebele to sign a contract with the forest regime as if peasants were willing to cede the land for forest development. The aim of environmental projects at international and national level through the initiative of the World Bank said to have been meant for conservations of natural resources or to save biodiversity through the natural resource conservations. However, ironically the authorities applied it to eradicate the rights of the peasants to their traditional land and resources, which gave rise to unending conflicts between the state and the local communities.

Broadly speaking the 1980 forest proclamations of the Derg abolished the limited rights of local communities obtained in the wake of the 1975 land reform and forest

⁴² Interview with Obbo Girma the then technical worker of Addis Baha and the current president of the court of Walmara district. He accounts most court cases between peasants associations and Addis Baha – emerged from this ill demarcations.

proclamations. Thus this proclamation ruled out the earlier jurisdictions of the peasant associations to manage and administer or conserve public property such as forest on behalf of the state within their respective legal boundary. The same proclamation delegated the power to conserve and demarcate land suitable for the scheme to forest and wildlife conservation authorities at the center.

Rights to the Mogle-Golge-Qoche forest?

Thus who is the owner or the resource users in the case of the chains of hills in Alam Gana? This appears problematic at the outset deciding who has a `right` to use forest or is the owner of the forest .The judgment is problematic because it is loaded with value judgment. Interestingly in case of the contested hills the peasant associations claiming rights over the Mogle Golge and Qoche hills see one another as coowners of the resources. Thus, it appears more logical to define the local community who use the resources directly for their survival as primary stakeholders. The stakeholders who use the forest indirectly are defined locally generally as outsiders or secondary stakeholders. The outsiders include urban planners, forest Development enterprise, forest product traders, and the state.

From the classifications as well as notions of customary use patterns it is clear that the stakeholders are diverse in ethnicity, rural-urban background, type of use, or interests in the forest and the degree of dependence upon it. Inevitably, they will have widely differing perceptions of the forest and views on how it should be managed. In the interviews I made with different stakeholders it is clear that the perceptions of resource users of the Mogle-Golge-Qoche hills are heterogeneous, overlapping and incompatible. They have differing views on how the forest should be managed. The urban poor fear the forest to be either private or in community ownership as both will limit their access to it. The local community needs the resources to be in their own control. If own control is impossible, it appears that they prefer government ownership, probably as they know that the government cannot control the resource without the willing or support of the local interest. The local community bitterly opposes privatizations of forest on individual basis, which they assume totally destructive as they have drawn lessons from the imperial time.

The urban rich or outside investors argue that privatizations of urban and rural lands are the only way to eradicate poverty in Ethiopia.

The analysis of stakeholders' relations at this particular moment hints how customary rights of the primary resource users are affected due to overlapping entitlements of rights. The local community or traditional resource user's sees each other, as co-owners of the hills and the involvements of the outsiders to their traditional resources are an illegal historical event that must be corrected. On the other hand, the outsiders perceive the peasants as having no legal claim to it. Conflicts among residential users can be worked out within their own de-facto legal framework although the resource users who are not part of the local culture or collaborators of outsiders for personal opportunities sometimes break it. Conflicts between insiders and outsiders cannot be worked out locally and must be settled within a de jure legal system

Local resistance

The term local resistance may be defined as the struggle of indigenous peasant to revitalize customary land and resource rights. To exemplify civil disobedience and peasant reactions against the system that threaten their rights appears a day-to day activities of the peasants in the Walmara and Alam Gana borders of the Suba state forest and Inxolish community forest. In the case of Suba state forest the peasant grievances against the forest regime is more pronounced than may be anywhere in the country. Peasants told me that the central forest regimes wrongly encroached to their farmland, pastureland, and ritual sites while the socialist government for resettlement forced them. The forest regime believes that some expansions were actually done without the consent of the community in the 1980s but in accordance with environmental law. Some negotiations on boundaries between the peasant associations and the state forest authorities have been conducted many times in the 1990s and early 2000s. But negotiations couldn't resolve the problem and unending conflict between the forest regime and the local peasants' persisted.

Scott's (1986) political theory of resistance is deficient to offer critical and contextual views how resistances develop beyond everyday contest. With reference to peasant resistance in Oromia, how peasant resistances go beyond Scots label of everyday

resistance will be illustrated. Peasant resistance to oppressions appears more situational depending on how power is employed on it. The case at hand suggests everyday resistance is a local day-to-day strategy when peasants realize that the existing power relations don't allow the peasants for any alternative forms of addressing the denial of rights. In another way there are situations when peasant everyday resistance develops into more open conflicts in by passing central repressive institutions.

Beyond everyday resistance: Peasant resistance to environmentalism in Oromia

It is argued that subordinates often imagine an alternative social system. In a hegemonic structure, Scott asserts peasant submission to the power holders is a conscious calculation that open confrontations incur loss. However, open protest or direct confrontations and negations are also parts of peasants resistance as the case in Oromia suggests. Scott argues with reasons that peasants definitely examine the degree of dominations imposed on them as well as their capacity to succeed in overt rebellions against their subordinates. It seems apparent that often during the formative period of the socialist government, the Oromo peasants in Ethiopia resorted more into such a hidden everyday resistance against heavy odds of the repressive institutions instituted at all levels of the state apparatus. However, the argument that peasant resistance often confined to a silly resistance and often stifled by heavy odds couldn't be maintained as a general rule. For instance, the report of the FaWCDA 1976/77 disclose that villages of two peasant associations in the vicinity of the Suba state forest came out en masse and confiscated tens of hand saws, axes, and other tools and chased away laborers of the forest authorities to stop the expansions of forest at the expense of their traditional livelihoods. The report also discloses that the forest authorities had negotiated with the PAs. In the negotiations after the conflict the authorities agreed to hand over ten hectares of eucalyptus plantations to the peasant associations. By the same token, the peasants agreed in return the harvest of the remaining sites by the authorities.

Denying labor service

For a more nuanced understanding of the routine resistance of peasants to the environmental agenda I shall begin with denial of labor. Available sources attest that the magnitude of the problems of the denial of labor to the planting of trees in the districts adjoining the capital has been great. The report of FaWCDA 1976/77 indicate that the consistent persuasions made by the authorities to win the support of local peasants to cede land as well as labor service to the afforestation program of the “Green belt” had frustrated due to peasant resistance to the scheme.

International donors planned to address the problem of famine through planting trees and by that saving biodiversity. When it came to labor the idea was that anybody who was supposed to get food aid through those agencies should plant trees on selected sites for the forest expansion program through a scheme-known as food-for-Work. My informants told me that contrary to the general principles of the schemes the local peasants of Alam Gana refused labor service for planting of trees. Thus, the peasants opposed the environmentalist move right from the beginning in the 1970s. In the situation where the state interest had been synonymous with external threats and appeals seemed impossible, every day resistance such as non-cooperation thorough refusing labor service appears to have been a means to resist the grand state policies.

Despite peasant resistance in denial of labor all throughout the period of the socialist government, the enterprise resorted to use the labor of the urban poor to implement the program. However, the expansions of the rose industry with multinational corporations began to trap the labor of the urban poor in the late 1990s and 2000s following the free market economy of the Federal state. In effect the Finfine Forest Enterprise couldn't withstand competition with multinational corporations to draw labor from the urban poor.

Strictly speaking the limitations of labor had restricted the activities of the Finfine Forest Development Enterprise into certain enclaves of the lower side of the hills. The peasant resistance through the mechanism of refusing labor service, which appears silly at the beginning, steadily but surely weakened the activities of the Finfinne Forest Development Enterprise over time.

The theft of woods and uprooting of seedlings

Afforestation programs on farmland and grazing lands have been resisted in uprooting of seedling. Peasants were reported to uproot the seedlings in the night right from the start of the afforestation project in Oromia. According to informants⁴³, resistance through uprooting of seedlings was most endemic peasant acts at the initial phase of the projects although they are not uncommon even at the present. The extent of uprooting of seedlings seems situational. In Inxoxilsh or elsewhere in community plantations site of the "Green belt", individual peasant or small villages of peasants were said to have uprooted sometimes parts of the field or in some instances the overall field of the afforestation encroached to their respective holdings. I am told that it was efficient for farmers who have farmlands nearby the afforestation sites little by little encroachment to forest by uprooting and then converting it to farmland. In some places where grazing lands were enclosed for afforestation just peasants let livestock purposely to the new seedling sites to destroy the young seedlings. These acts were common in Inxoxilsh site at the present and Suba state forest plantation sites in the former times. However, this doesn't mean that these acts are again uncommon in other community plantation sites.

The action of uprooting of seedlings and illegal wood thefts, usually seen by authorities as sabotage, occurred in the night .It seems a trivial form of resistance, but has a wider practical and symbolic significance to convey a message to the government and public at large in the claims to reaffirm customary rights. The actions of uprooting of seedling and wood theft and the failure of the armed guards to patrol the territory of the forest has been the result of common solidarity advanced as part of the symbolic acts of the local peasants. Given the situations of civil disobedience, the successes of armed guards appear minimal. For instance, the Finfine forest development of Alam Gana branch has only six guards for day and night at the present. At the same time the armed guards are underpaid. Naturally the Six guards of the enterprise couldn't actually patrol the large area of 233 hectares and illegal cutting or uprooting often occurred at night. Thus, the chances of catching the culprits have been limited.

By the same token even the capacity of the guards in the theoretically highly protected Suba state forest was limited. According to informants of Walmara and

⁴³ Interview with guards of Finfine forest development and Suba state forest.

evidences of the court cases the illegal logging of big trees of Suba is not simple, as it seems. The surrounding peasants have participated in illegal logging of the forest not merely on individual basis but more of in collaboration or in small groups. The big trees of Suba couldn't fall in one single day by single individual labor. Thus groups of peasants cut the trees in more than one day, hidden from guards at night. Then they prepared the wood for different marketable items and took it through their traditional means of transport at night to the capital or the other major towns for sale. In one-night groups of individuals said to transport with as much as 20 donkeys. It is said that some of the guards feared for their own security and preferred to avoid direct confrontations with these illegal loggers. In general the relationships between the state forest regimes and local people have been marked by the attempt of successive regimes to counteract through armed guards and checking posts at the entrance of the major towns with little or no success to stop the activities.

Heightened resistance during transition

The last weeks of May and Early June 1991 saw a considerable anarchy and chaos in Ethiopia .It was a time when the socialist dictatorship collapsed and the new government had not yet consolidated its power. The anarchy occurred particularly while Mengistu Haile Mariam, the then president of the country took a flight to Zimbabwe on May 21 until the northern rebels managed to control Addis Ababa and southern regions. The collapse of public authorities and the break down of the former repressive authorities had triggered peasants to attack what they believed a source of their oppressions. Thus peasants concentrated their attack on repressive rural institutions, governments and parasitic agencies. I have pointed out that one of the erratic policies of the communist government had been environmentalist that ended in unending conflicts of interest between the local peasants and the state. Hence, the collapse of the repressive power of the state was seen by peasants a very good opportunity” to liberate” their land from illegal occupations by the environmental policy of the Derg.

We don't have accurate data on the magnitude of the forest destructions that occurred in Walmara and Alam Gana during the collapse of the Derg. With reference to Inxolish the estimations of the Finfine Forest development enterprise of Alam Gana

branch indicate that perhaps 25-30 percent of the forest covers of the Mogle-Golge-
Qoche hills were destroyed during the collapse the Derg and the transitional period.

The destructions of the Suba forest not only include entering the forest with axes but also entering the forest with fire. In Suba the local communities often entered the officially state owned forests, cut big trees, destroyed young ones, and set fire in clearing the forest for farming and settlements. The Peasants claim that their deliberate actions were to recover as much as possible of their traditional land from the illegitimate state occupations. Some of my informants hotly told me that they are unwilling to starve looking at their own traditional land and resources occupied by the Abyssinian state. It appears that the rate of forest destructions in the Suba state forest exceeded that of Inxolish in the early 1990s.

Appeal to the new EPRDF regimes for concessions

The theoretical reinstatement of the state along federal line in 1991 appeared to the peasants as the end of hegemony and subordinations. However, the hope of peasants dashed when the new regime restructured the state with new satellite parties created to safeguard the interest of the center at expense of the peasantries. The new “federal state” also accepted the socialist land use regimes as status quo, thus in absence of any change the likely outcome could be the persistence of the resistance of the peasants. After the reinstatement of the state the peasants continued to resist the environmental policy in their everyday resistance as well as through appeal to the political offices. The problems of peasants exacerbated more and more in the end of 1990 and in the 2000s due to the expansions of the rose industry and expanding towns that evicted peasants both from their farm lands and common pool resources.

In view of an alternative social order the local peasants appealed to the administrative office of Alam Gana district to reconsider the case of the Mogle- Golge-
Qoche hilly forest in 2003. The aim of the appeal was not only for the limited access or tolerance for the forest products under the forest enterprise but reviving the customary rights. Some of my informants underscore that” it is extremely immoral for the government to protect us from our traditional grazing land during wet-seasons or in the world of the huge scarcity of pasture and farmland today”. However, according to the

peasants the response of the office was,” we are not going to allow you to destroy the forest.” Some told me that their future plan will be to appeal to the court and other peasants told me that they had applied to the officials in 2003 but ending with negative results. Some other explains the fear that they couldn’t win over the government in its own court. The opinions of peasants imply an asymmetric power relationship between the peasants and outsiders on one hand and the impartiality of the court from the political office. It appears that peasants are aware that”law” sanctions interests of the government and outsiders. Thus, some of the peasants believe that the only mechanism is to appeal to the political offices. On the other hand, the peasants told me that” no body forced” them to stop to use the forest, since the fail of the socialist regime, for grazing and they continue to use the hills except the immediate lower hills grazing lands enclosed by the forest enterprise.

New conflicts: Urban expansion vs. forest enterprise

The Rose industry and the urban expansion after 2000 exacerbated the land issue in an extraordinary way in Walmara and Alam Gana. In general a question of land rights and claims among stakeholders aroused a fresh conflict not merely between peasants and outsiders, but between outsiders themselves. At its climax in January 2005 the claims of rights over the hills between the forest enterprise and urban developers was taken to the court. In the first instance, land for constructions in square kilometers was divided for individual urban residents from the lower plains of Inxoxilsh by the urban municipality of Sabata. The guards of the Finfine Forest Development Enterprise opposed building of fences and houses, which they claimed as illegal encroachment on the land under the possession of the forest enterprise.

The conflict between individuals thinking they legally owned land and guards of the Finfinne Forest Development Enterprise responsible to protect the territory of the Forest Enterprise oscillated into violence. On the spot, the guards told me, that city police imprisoned them for two days. The officers of the Finfine Forest Development Enterprise then presented the case to the court. Instead of the urban planners of Sabata, the charge of the enterprise was concentrated on the individual urban residents who built houses and the individual city police participating in the process of arresting the guards.

The interviews with the officers of the Finfinne Forest Development Enterprise provided a vital overview of claims of the enterprise over the land. Accordingly, Inxoxilsh had been in possessions of the enterprise by the environmental policy of the Derg regime and reconfirmed in regulation No.07, 1998⁴⁴ of Oromia regional state. The forest development enterprise also connects their claim to save the forest and as if their action went with the interest of tolerating customary use of the forest by peasantries. They claim that enclosures of the forest only last up to the growth of seedlings. Hence, they have tolerated selected grazing and firewood collection of dead trees, leaves and branches. I asked them about the recent controversy between the city administration and their institution? The officers said that the municipality of Sabata shifted the directions of its expansion from lower side to forest under their ownership illegally. At the same time the office complained that those lands might be provided for residents or non-residents illegally for those who have intimacy with officials of urban planners in political loyalty or other forms of relations in the name of urban expansion. However, the paradoxical claims of the Finfine Forest Development to safeguard the interest of the peasants appear wrong manipulations of the term customary rights. Despite the every day oppositions of the peasants against the forest enterprise the presentation of the forest enterprise in the court or elsewhere by articulating the theoretical logic of respecting rights must have been intended to conceal the customary rights of the peasants.

The municipality office of Sabata on their side claim⁴⁵ that the immediate plains and hills of Golge have been in their possession since 1980 and before the forest proclamations. The Municipal administrations claims to have a master plan of the Inxoxilsh since 1980s. They claim that they have the duty to distribute land to urban residents run in shortage of housing in accordance with the urban expansion policies and the specific master plan of the town. They admit that the land has been given to the urban residents of Sabata run shortage of houses and say the actions of the guards of the Finfinne forest development was illegal acts. The court of Alam Gana appointed the case to October 2005 for each side to present evidences of their claims.

⁴⁴ Letter written by Finfine Forest Development Enterprise written to the court, and interview with Dabala Tefari: interview with officials of Agricultural and Rural Development offices

⁴⁵ Letter written by Sabata city administrations to the court and interview with urban development experts.

The final verdict of the November 2005 proceeding of the district court of Alam Gana states that individual urban dwellers of Sabata wrongly and unknowingly occupied the land in possessions of the Enterprise, as the land had been theirs according to regional government order No.7 1998. Those individuals provoked aggressions on the guards of Finfine Forest Development Enterprise in January 2005. The court realized that those individuals passed the law unknowingly; if they repeat the same act again they would be punished in advance imprisonments of two years (conditional punishment). It appears that the court finally interpreted the case as it erupted between the Forest Development Enterprise and individuals' involved in house constructions illegally, rather than intricate institutional claims and conflicts between city administrations and the Enterprise as well as ill-development schemes. The court said nothing about the customary resource users, the peasantry in the final verdict.

Summary

Compared to Hidha Gamme the Inxoxilsh case is more complex. In case of the pasture land of Hidha Gamme the resource users are more or less `homogenous` groups of people claiming common descent and ethnic origin as their stand in the dialogue and discourses in Hidha Gamme court case reveals. In the latter case too the peasants trace pan-Tulama Oromo descent and regard each other as co-owners of the forest. However, resource users and stakeholders interests or how management should be in the Inxoxilsh case are much more heterogeneous than the former as the result of historical political and cultural processes of the past one hundred years. Yet local ethnic identity embedded in resource use has significant portions in creating awareness to groups involved in the acts towards their physical as well as social environment. In these complex and interactive historical situations both sources of ethnic identity formations (awareness) coexisted, in the word of Roosens(1994) ethnic identity is not only induced from boundary mechanism but also an issue of identifications to common descent, origin (`kinship metaphor`⁴⁶) as well. Further, similarity worth of note unfolded in both cases studies is that of the impact of the

⁴⁶Roosens (1994:86) rightly claim that the genealogical dimension of ethnic belonging seems to be perceived by the actors as more invariable, more stable and more context dependent and more relevant than cultural differences.

external ideologies of development. The two cases clearly demonstrate that international, national and regional development regarding land redistributions; environmental management and private investments have direct bearings on local land use and rights. The overall atmosphere of historical assessment of the state managements of resources suggests that national policies in Ethiopia were intrusive in local resource managements. The State policies themselves were shifting with global ideologies. The Derg ideology of interventionism in natural resource management stemmed basically from an alliance to the socialist policies advocated by the Eastern Block. At the same time, the Western aids after famine and global views about linkage between drought and deforestations promoted the environmentalist policies of the Derg. The afforestation schemes in effect reinforced state power and undermined the involvements of peasants in local resource management. The results have been unending conflicts between forest regimes and the communities of the resource users.

The current western donor promotions of privatizations in Oromia reflected in rose industry over conflicting claims and rights of the primary resource user itself reveals that the nature of stakeholders participating in land claims and external funding agencies to the development schemes have their own preponderant portions in legal and political adjudications concerning land and resource claims. In the instances of the mutual cooperation's between the state and its external funding agencies, ironically the claims of peasant was concealed and marginalized. The practice and ideologies of the complex process of the global environmentalist movements reflected in the Finfine Forest Development during the Derg and the newly emerging rose industry demonstrate those dynamics. The Finfine Forest Development Enterprise at its most weakened time at the present began to talk or misuse the word tolerance of customary rights to peasants to defend their own case. In conclusion the case of Inxoilsh reveals the incompatibility of the schemes and external ideologies driven by the donor agencies with the realities of the local social practices of development and the actual negative effect of environmentalism on natural resources and customary rights of the concerned peasants.

Chapter 5 .Conclusion: Challenges in Questions of rights

Land rights

A critical approach that problematize the concept of custom as static culture, vs. dynamic understanding of culture (Bjerkli, 1996) opens up a more dynamic, practical , contextual and relational understanding of land claims and rights. The hypothesis is that the challenges of the questions of `rights` is connected to the more general problem of cultural change. This is to say that the distinctions of the notions of `rights` into traditional vs. state with the basic assumptions of the legitimacy structure of cultural difference in views of hegemonic constructions of culture, unquestionably distort a critical understanding of rights. The notions of `rights` directly connected to the specific definitions of terms of `law` within the context of the nation states illustrate the constructions of legal traditions. In this sense the definition of law is a meaning that in turn is a product of cultural configurations of asymmetry of power relations between nation-states and indigenous people.

Radcliff Brown (1952) identifies that a right (individual or collective) ` exists in and is definable in terms of `recognized social usage` and the power to the exclusion of others, (ibid: 32). Within this context Radcliff Brown set up rights in relation to standardized `social usage` and how rights are sanctioned by `recognized social usages` related to power of exclusions of others or legitimacy of rights. However, the insights of Radcliff Brown lack contextual, dynamic, relational and historical understanding of rights. This means that Radcliff Browns see custom as static culture and leaning towards specific institutional tradition to define the concept of `rights`. Thus, he set up set up a new universal sociology of law in a piecemeal fashion in line with Roman law.

To be critical the definitions of `rights` or `law` in static and specific cultural traditions is full of controversy centering on how rights should be defined, the dispute has

increased when indigenous people, with their different cultures are investigated within specific definitions of `rights`. Bjerkli (1996) argues that a new paradigm of reconceptualizations of land rights become complicated if traditions are defined in static and specific institutional terms. In other ways, confusions in empirical findings stems from lack of clarity of the scale at which one apply the analytical tools to measure the complex notions of cultural practices, more specifically property rights (land rights). An analytical tools developed on static and specific cultural standards (legal traditions) confuses a critical understanding of the dynamics inherent in property rights or the meaning and content of the terminology of law in general. Much of the controversy arisen from arguments about the word `law` or `rights`, apparently are based on the assumption that it must have a single meaning (Radcliff Brown, 1952). It was a search for a single precise terminology that triggered the generalist school of anthropology to argue that institutions of indigenous people “lack the most important aspects of property law”, transmission of property by inheritance and “legal” institutions that regulate rights. Do institutions of indigenous people `lack` the basics of property rights or laws that regulate rights or do they have different ways of social and cultural organizations of rights?

The case of the Oromo notions of property exemplify that indigenous people have their own developed ways of organizing rights basically different from western notions of law. The most basic differences between western notions of property, for instance, how Radcliff Brown set up criteria of law on Roman notions of property and Oromo notions of property is how rights are organized. Roman law divides notions of property into three with clear demarcations with regard to rights to a person (people) and property. However this study evidently made clear that property rights (ancestral land or fatherland) and rule of descent (law) are inseparable in Oromo views of property rights. In other words, land and people are part and parcel of the same coin. In Oromo culture a son inherits a portion of ancestral land known as *Guluma* from his father. Entitlements to *Guluma* also mean entitlement to common-pool resources of the corporate lineage estate. Further, the Oromo have their own socio-political organizations of governance, the gada system, which legislate customary law that regulate and distribute rights and duties within the historical and material resources of the Oromo society.

With this I have answered the first questions of the thesis articulated to examine what constitute customary regulations and rights and how customary rights are transferred and distributed. Contextually, this study demonstrated that the content of property rights in Oromo culture has been not a frozen concept or homogenous and static, but a dynamic set of cultural practices developed over time. It is a result of social interactions (Barth, 1994) of the Oromo both with their human counterparts and nature. Land rights and related ethnic identity formations (Vermeulen and Govers, 1994) has been the result of dynamic socio-cultural processes of interactions and the use of land and resources as well as historical, cultural, social and spiritual connections of people to land and resources. Thus, land and resource rights connected to ethnic identities or local identities are socio-historically constructed, culturally modeled or a dynamic practice. In brief this study suggests that the approach of contextual enquiries of society-nature relations embedded in value and meaning offers best analytical understanding how institutions of kinship and gada system are coupled with governance of land and resource use and rights in Oromia.

Related to the present discourses of land rights and related notions of continuity of ethnic identity, the indigenous people's claims and rights to their traditional land and resources often inseparably constitute two dimensions of rights: political rights, claim to self-government and autonomy, and property rights. In Oromo view property rights are often much broader than a claim to powers of mere management. This means that ownership and managements are intertwined. The two broad categories must be seen interwoven and the severance of the political rights from property claims can not be treated separately. Thus indigenous peasant claims to ancestral land and resources in Oromia (property rights) are connected to cultural integrity and self-determination. Indigenous claim to ownership to traditional land and resources which often seen by the state as public property under state ownership heighten legal questions about state and indigenous people's relations to those resources.

Then how does indigenous people with different views of rights encapsulated into modern nation states enjoy cultural continuity and their rights to existence as a people maintained within this framework where their views of property right and development is not `legal`?. This study suggest that the problem arise from law notions based on

asymmetric power relations , grounded on such specific definitions of rights and static views of culture in governing property rights and claims. The state colonization of Oromo land through the Qalad system had been grounded on these premises that ` we` pushed the Oromo out of their traditional land by `our` `mighty`. This principle continues to alienate the Oromo majority in Ethiopia from the rightful resources or positions. Thus in accordance with the definitions of rights in the legal system the Oromo does not have rights based on their own use of land and resources within their traditional territories.

The court cases and political process exemplified that law is produced by and reflects social relations between state and indigenous people. The continuing challenges of the Oromo in questions of property rights is revealed in the two latest court cases in Oromia where customary rights meet the Ethiopia legal system instituted to serve the interest of Abyssinians who created it. As illustrated from the two court cases legal processes create a window of discursive social processes, including productions and distributions of power and wealth. In cases of resources such as land and common-pool resources, the link between law, power and wealth is direct and fundamental to the continuity social structure. The comprehensive analysis of the four conflicts chosen with focus on the two court cases: Inxoxlish and Hidha Gamme in Alam Gana illustrates the overlapping and inter-cultural confrontations on views of rights and non-recognition of customary practices or rights by the state in appropriations of land and common pool-resources. Control of land and resources have been foundational to the colonial occupations of Abyssinians, and remain fundamental in the development of the state power. It is for this reason that recognitions of customary rights and traditional law have faced strong oppositions in the processes of the political offices and the legal processes beyond the prejudged court criteria of `legality`. The result appears as anarchy in the use of the land and common-pool resources, hence overexploitations of resources and violation of customary rights of the indigenous people. The violations of ownership and management rights of the peasants by global and national forces have undermined the institutions that have managed the resources. The open access and state observance of the situation imply inefficiency of the existing property right regimes. Customary resource use continues in some respects. However, the tolerance has more to do with incapacity of

the state management regimes rather than recognitions of the customary practice to continue.

Thus, the overall atmosphere in the legal and political processes offers insights to interpret the complex problems of `rights` and ambiguity of legal procedures in ruling law in Ethiopia. For example, in the final verdict of the case of Inxolish the court narrowed the scope of the complex of global processes of environmentalism and its effects to a mere conflict between local stakeholders or as if it emerged more specifically between the guard of Finfine Forest Development and individual house builders unaware of the law of environmental regulations. The gap between practical realities and legal proceedings opens up ambiguity of legality. This in turn results in inefficient resource use (anarchy in resource use). I will argue that the institutional structure that underweight, assigns to wrong parties and neglect certain existing or potential property rights is the basic dilemma of development schemes in Ethiopia.

Resistance

Anthropologists appear to agree that the socio-cultural changes, changing of beliefs and values, change in relative values of resources, new technology and increased social interdependency may all require the development of new property rights. With such changes externally imposed property rights would possibly replace the old system. The imposed property rights will develop and be accepted when relative values shift to make defining and enforcing these rights worthwhile (Kottak, 1991). In Ethiopia we do not deny that conquest and environmental policies of the Derg, and developments of the `modern` market for wood, market-oriented development schemes had its own impact on homogeneity, flexibility, and adaptability of the local adaptations. Nevertheless those socio-cultural shifts forcefully imposed couldn't penetrate to induce change on customary practices of resource use as well as imposing new governance of access and exclusion rights. Hence, local adaptation has resisted interventions. For instance, state imposed legal property interventions of the past one hundred years: privatizations, nationalizations and environmentalism in principle alienated resource users and customary practices; however they could not altogether stop the local users from using the common pool resources. Local community devised various forms of mechanism to resist state

regulations. Their resistance is more successful when central government is weak or engaged in the need of local support for political ends. Like peasant protest and resistance “to liberate” their land, from environment government regulations in the post 1990s or resistance to private development encroachment in 2005. On the other hand, in the first case the state and forest enterprise has resorted to counter-act community encroachment activities through the use of armed guarding and punishment. At the entrance of the major towns and cities there were check-points to stop illegal transportations of wood products. The local communities are aware that the government sees their traditional use of the forest as a means of survival as a crime. However, they don't see the use of forest and other common pool resources for their livelihoods as a crime.

Thus in retrospect peasant routine resistance and protest to the oppressive system that deny them customary rights to land and resources in Oromia exemplifies how local resistance of the peasants who lack significant legal, economic and political resources attempts to redefine political games in combining every possible means. The case suggests that everyday resistance and protest of local peasants to the social structure within which they have been subjected indicate that peasants are social actors, not only victims of power.

Dynamic and practical views of resistance

Earlier literatures of resistance studies hold the view that resistance was comparatively an unambiguous category of binary notions of domination vs. resistance (Ortner, 1995). In classical literature domination appears as fixed given and institutional forms of power while resistance was basically opposition to hegemonic power. The seminal works on resistance studies somehow reconceptualized the notions of binary oppositions in posing critical reflections on how to detect forms and interplay between resistance and domination (ibid). Scott's (1986) perspective set out a more analytical understanding of power in suggesting to detect what forms of power are at work in agrarian social situations as did Foucault 1978 as in (Ortner 1995:175) focused on detecting a less institutionalized and more every day forms of resistance. Scott focused on investigating the unwritten, hidden and concealed forms of peasant resistance against structure of dominations. He argues that the subordinates were `routinely` contesting their

exploitations in subtle fashions of “false consciousness”. This suggests a new paradigm of exploring contexts and situations either people comply to or challenges hegemony of power in false consciousness or in active engagements with sources of marginalization.

Resistance to environmentalism and private mining firms: Contexts beyond every day resistance

Scott’s approach of every day forms of peasant resistance allows some distance to look into resistance studies closely; how peasants display non-compliance and the possible reasons why the peasants resist hegemonic value systems, and power structures. Scott’s linked Marxist political economist views of class struggle and neo-classical perspectives of class struggle. Scott’s paradigm combines these two perspectives that peasants react in `utilitarian` and `individualistic` manner against the outside forces that undermine their traditional rights (White, 1986). Scotts approach view peasants as class or interest groups connected merely to purely material motivations. Thus the perspectives of every day resistance reduce the dynamics within a complex culture of resistance which raises more complicated questions such as what is resistance and what is not?(or how resistance went beyond his box of every day) When a poor steal from a rich man, is this resistance or a survival strategy? (Ortner, 1995:175). Thus, Scotts classified” any acts fit into a fixed box called every day resistance” (ibid 175). Opposed to Scott’s view of subaltern resistance as “false consciousness”, the Oromo peasants are social actors engaged in resistance against colonializations of their land or its manifestations within the nation- states. The challenges of the Oromo in questions of rights and social contexts of resistance suggest that the Oromo has been actors to resist the outsider forces that affect their livelihood connected to identity. This means that peasant-state relations in Oromia are ethnic and questions of ethnic identity connected to or embedded in use of land and resources, in other words, the rights to cultural continuity. This is to say that individual or village resistance to the grand state and the global policies of environmental policies and private development schemes imply non-compliance for the collective ends or alienations of customary rights.

However, it seems that Scott's perspective is obsessed to the material and utilitarian dimensions of resistance by ignoring the practical or ideological role of culture in social and historical process of resistance formations. Scott's approach obsessed with material dimensions of culture doesn't take into account the spiritual and ideological, cosmological dimensions of culture that orient resistance. The ethnographic data in Oromia concede with what Williams as in Ortner (1995) labored to locate the interconnectedness or linkages between materialism and idealism to propose the focus on how 'structure of exploitations and dominations' are at the same time material and cultural.

It is worth noting that there are often two way communications as well as ambivalences in power relationships. I agree with Ortner (1995) with her remarks of ambiguities and subjective ambivalences of the actors engaged in resistance as the ethnographic data at hand implicitly or explicitly suggests. In historical circumstances of the asymmetric power relations between ruler and subaltern, the ruler's calculations to offer 'something' with the objective of continuing in power can be applied to the historical situations of the Oromo peasants. The situation of peasant resistances and then negotiations at the beginning of the new ruling regimes reflected on land reforms of the Derg 'revolution' of 1974 and the 'federal arrangement' theoretically based on 'ethnic identity' in post 1991 reveals the context of such ambivalences in the relations between peasants and state. This also indicates that the contents and practice of conflicting relations and points of negotiations are not static and but somehow changing.

Internal diversity in locality among the Oromo peasants and common solidarity based on belonging to the pan-gada patrilineal socio-political governance that regulate rights and duties in resource use and rights in Oromia suggests the significance of combining primordial and constructivist stances in culture and society studies, and society-nature relations. In practical and historical contexts the emergence of ethno-political movements of the Oromo in the early 1960s in Tulama Macha (Shawa) and Bale is connected to dynamic processes of socio-historical interactions. The historical incidence that the Oromo ethno-political movement started in Shawa and Bale itself has wider relevance to support this analysis. The Oromo are more integrated to the Abyssinian state in Shawa and some were core actors in the Abyssinian politics than any other Oromo

groups. Heightened interactions⁴⁷ between Shawa Oromo groups and the Abyssinian concretely increased ethnic awareness⁴⁸ of the Oromo elites in Tulama-Macha. Second, despite internal strife among the Oromo in Bale and Shawa on religious dimension, both resisted the Abyssinian ruling elites on pan-Oromo ethnicity. This means that Gada governance and kinship system of the Oromo allow internal diversity on local adaptations. At the same time, Pan-Oromo identity embedded in material and cosmology of the Oromo maintains ethnic identity in relation to others.

Scott's material political theory of peasant resistance doesn't offer socio-cultural and historical contexts of interactional analysis on how every day resistances gradually develop into other forms of negotiations. For instance, peasant negotiations with the forest regime in post-conflict as revealed in forest authorities' report of 1976/77 related to 'Green belt' notions of international environmentalism and local afforestation in Oromia demonstrate that peasants hold some power and are actors rather than passive victims of power. Critically the theory of every day resistance view resistance as every day contest as a fixed given, static and confined to silly rebellions or dominations vs. resistance (Ortner, 1995). The materialist and static understanding inhabited in Scotts political theories of the peasant do not suggest, or are non-optimistic, for an alternative mechanism how to address the problem of asymmetric power relations (Ortner 1995, White, 1986). The positive insight how to reorient the hegemonic authorities in favor of oppressed peasants or any possibility of negotiations has been missing (White, 1986).

The case of peasant resistance in Oromia suggests that resistance is a dynamic cultural practice more than routine resistance or opposition, and transformative to other multiple forms such as negotiations with the power holders. Ortner appreciate how resistance took multiple forms of praxis's in which actors engaged and multiple ways in which practice of resistance aware actors or creates internal contest and ambiguities (ibid). Resistance studies that bridge the primordial views of culture with constructions of culture rather than binary notions of dominations vs. resistance could be the best analytical tools to understand dynamic practice of resistance (ibid). This study illustrate

⁴⁷ This is in accordance with ethnic theories that emphasize relation between groups as a basis for development of consciousness' (Barth, 1969).

⁴⁸ The historical context of the independence of other African nation states from European colonial power might have its own contribution on feelings and imaginations of the pioneers of the Oromo ethno political movements to claim similar rights for their nation.

that the approach of combing the dynamic views of material and cosmology, spiritual or ideological dimensions of culture embedded in use of land and natural resources and dynamic views of identity, and power beyond the Scotts approach of routine resistance offer insights to detect how peasants in Oromia have been engaged in a struggle to create a more just and better form of society: to free themselves from exploitative systems and the recognitions of their dignity and cultural values.

Law, Customary use and Development

Anthropologists have studied social and cultural changes unfolded related to the integrations of indigenous nations or peoples into nation-states, colonial regimes, and world capitalist economy (Kottak, 1991). In the end indigenous peoples suffered from the assimilation packages of those forces (Ibid). The experiences of the indigenous self-help associations and local NGO of Hunde⁴⁹ to pursue developments on the basis of Oromo world views reveal that Abyssinian regimes have seen local initiatives and local organizations as a greatest challenge to their athourtiy. It can be argued that the Oromo in Ethiopia has been denied not only the rights to land but also the right to purse of their development and organizational rights on their own views of development. Despite the practical overlap between local practice and the role of local actors with formal state management institutions in some sense development plans elsewhere in Oromia are guided with some kind of intervention philosophy, ideological justifications for outsiders to direct indigenous people towards particular goals. Thus most of development related conflicts between government and state licensed stakeholders arise out of the outsider interest to exploit resources within the traditional territories of the Oromo ethno nation. In Oromia there have been large scale intrusions on indigenous livelihood and ecology in the form of imperial colonizations, agro-business enterprises (for example, over innovative imperial, cash cotton and rice plantation along Ethiopian rift-valley that affected the pastoral Afar and Oromo groups (Ståhl, 974), and the cases of environmentalism, rose industry, mining and urbanizations considered in this study.

⁴⁹ Both hunde and TMA were closed down in 2004 by the current regime. Hunde operated since TGE. While TMA operated for forty years with similar setbacks in the hands of the imperial, the Derg and the EPRDF regimes.

However, this doesn't mean that indigenous people in Oromia are passive victims of schemes that claim their livelihood strategies. Collective resistances in some cases were effective in obstructing those schemes as the cases at hand illustrated.

In general the complex and intricate case of Innoxlish and Hidha Gamme inherently (not in line with `objective` of court or `politically` driven decisions) ,along with two conflicts related to urbanization and rose industry offer a vital overview of the glaring weakness of resource management laws. Land and resource right laws in Oromia reflected in development schemes don't take into account social and cultural considerations. The cases of simple appropriations of lands belonging to peasant by claiming land districts surrounding Addis Ababa as an "investment zone" or "empty land" exemplifies the incompatibility of development schemes and customary rights. I believe that the mere impositions of legislations of legal property rights over contesting values or state appropriations of land related to peasant livelihoods never sanctions and change the old customary practices of resource usage. In brief, I suggest that net improvements in efficiency and equity of resource rights are likely to result if customary rights of the primary resource users are recognized or defined in plural terms in the legal system.

There are ample Anthropological evidences that establish a close link between the revitalizations of traditional institutions of property rights to socio- economic changes or global forces. For instance, (Kottak, 1991) in his study of development and descent observed in the post independence Madagascar from the French colonial rule, developments and descent groups are coupled successfully to improve the material basis of the people of Madagascar. A Malagasy administration seems to have devoted to revitalize a policy of participatory and democratic economic development tied to local traditions. He argues the fact that the state officials in the post-independence period was either peasantry or associated to the peasantries through the descent system facilitated a democratic road to economic development (ibid).

In Ethiopia the rhetoric of participatory development and "ethnic federalism" is connected to the international trend in the post cold war developments. Participatory development is connected to decentralizations and self-determinations. At least in theory participatory development and decentralizations involve local people in planning,

decision-making, excisions and management of development projects (Agrwal, 1995). In theory, a process of decentralizations of administrations and politics of participation is going on the basis of local ethos. Again at least in principle, there is a process of shift of power from central to regional states. Donors, international organizations, humanitarian agencies see the inclusions of the principles of decentralizations and politics of local participations as a radical shift involving development by making it more appropriate, sustainable and locally empowering people. However, the legal processes exemplified through the case of Inxoxilsh and Hidha Gamme, and Rose industry and urbanization processes in Oromia illuminate the contradictions between the rhetoric at global and national level with local realities and the negative effects of environmental discourses and market-oriented economic systems on indigenous people's rights related to livelihoods as well as on the environment.

The approach of combining (waxing and waning) the micro-level with the macro-level alternatively demonstrated in this study might offer an informed perspective of contextual anthropological enquires to dig out the most intricate or hidden national and global politics. The discipline of anthropology often concern for the marginal society seek to ask questions about the centers of power that affect the rights of indigenous people to their traditional adaptations and cultural continuity. However, to be sure it might be challenging for anthropologists to influence the dominant paradigm of homogenizing rhetoric of the African nation-states in their findings to influence positive socio-economic development compatible with local praxis. To me this scholastic enterprise has been the most challenging, as it is to ask once unthinkable questions about the invalidity of the divisibility of the long-cherished assumptions of the Abyssinian legal system and the indivisibility of Amhara tradition of `Greater Ethiopia` as observed by Levine(1974). In Ethiopian development context, for example, the indigenous people have been dramatized as a source of a problem for development. To be sure the biggest `burden` to the Abyssinian` policy makers` and `developers` in Addis Ababa appears to have been how to push southern peasants or pastoral communities out of their traditional land and resources at best for settlement, and at least for private investment . Chiefly, the public policy of Ethiopia has been designed in practical terms at the simple harvesting and processing of the rich natural resources in Oromia or southern territories. Incredibly,

the rich natural resources in those traditional Oromo territories such as coffee, gold, Kat, skins and hides, pulses ...etc, that make up the major economic activities and major income generating means of the Ethiopian nation-state are at the forefront to meet those grand designs. The notions of indivisibility of state ownership of land and common-pool resources emanates from such considerations.

However, the conceptions of indivisibility of the legality and the view that the Abyssinian state is the only source of power and authority as well as the ultimate power in resolutions of conflict appears outmoded practical realities to be argued against. Instead new legal paradigm shifts that undermine the prevailing assumptions about the notions of the indivisibility of legality of the legal traditions of the Abyssinian state over customary rights of the Oromo and multitude of others may be required. The indigenous people's control of their resources could be a solid starting point for their strategic positions and influence at national and global level. This involves the freedom to make use of land and common pool-resources in their traditional territories, which offer them a material power basis for their distinctive cultural development. There is an extremely strong cosmos of the holistic view and intimacy between the `natural` and social world in Oromo views of rights. Ownership to ancestral land symbolizes property rights, social identity, common history and distinctiveness. Ownership to land of ancestors thus included the questions of cultural continuity and human rights. In Oromo culture to exemplify few: cattle breeding traditions, grain cultivations and coffee productions are basic sources of livelihoods that need land and common pool-resources to harvest. These are the arguments behind the empowerment of the Oromo and other indigenous peoples, in the Horn regions for the managements of land and common-pool resources within their traditional territories.

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