

Land Tenure in Eritrea

By

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FIG Working Week 2015

Theme: 'From the Wisdom of the Ages to the Challenges of Modern
World'

Sofia, Bulgaria, 17 – 21 May 2015

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- The paper presents:
- Brief synopsis of the country history and geography
- Traditional land tenure systems
- Motives for land reform
- Land Law
- Land administration vis-a-vis global perspectives
- Concluding remarks

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1. Country Background in Brief

1.1 Geography

- Eritrea is located in the Horn of Africa
- 124,320 sq km (including 390 islands)
- About 3.5 million people
- Six administrative divisions: Anseba, Debub, Gash-Barka, Maekel, Northern Red Sea & Southern Red Sea regions
- It has 57 sub-regions, 699 administrative environs & 2,564 villages & towns

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- Six agro-ecological zones: based on broad similarities of moisture & temperature, natural vegetation cover, soils & land use
- These are Moist Highland Zone, Arid Highland Zone, Moist Lowland Zone, Arid Lowland Zone, Sub-humid Escarpment Zone, & Semi-desert Zone
- Mean temperature varies from 18°C in the highlands to 35°C in the lowlands

1.2 History

- Ottoman Turkish Occupation 1557 -1857, Egyptian rule up to 1889, Italian colonial rule 1890 -1941, British protectorate 1941 -1952, UN sponsored federation with Ethiopia 1952- 1962
- 1962 - Federation is abrogated unilaterally by the Emperor of Ethiopia
- Liberation War followed 1961 – 1991
- Formal independence 1993, under UN sponsored referendum in which 99.8% of the people voted for independence

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- Inherited physical & social institutional infrastructure severely dismantled by war & negligent colonial policies
- Human development low, economy devastated by war, drought & inappropriate economic policies & in short left in utter destruction & deprivation
- In addition, 'Border War' with Ethiopia (1998-2000), situation of 'no war no peace', Ethiopia not abiding by the final & binding ruling of the Boundary Commission of April 2002

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2. Background to Land Tenure System in Eritrea

- Land tenure is the 'manner of holding rights in & occupying land'/ownership or leasehold
- Eritrea has an agrarian economy, 65% of the people live in rural areas
- Land is the basic resource for all development purposes
- Land tenure: mainly communal; kinship or village owned

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2.1 Varieties of land tenure (LT)

- Three varieties of LT existed before the advent of Italian colonialism

a) *Risti* or extended family ownership

- *Risti* or *meriet risti* defined as land 'inherited from one's forefathers' & currently under one's possession'
- The term incorporates individual & collective ownership in land
- Extent - in Central Plateau & pastoral nomads
- *Tselemi* or *tselema* is called when *risti* ownership is legally shifted from collective to individual

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- *Risti* system is deeply rooted in the social structure & peasants spoke of it as 'fundamental' right & sacred
- Disputes on *risti* are fought on *enda* level
- *In absence of male inheritors females were entitled to family land*
- *Tselemi* was the predominant type of *risti* right
- '*Meriet worqi*' or 'land of gold' is another variety of *risti* system
- *Deqi arba'a*: undisputed occupation for 40 years also constituted legal ownership of land tantamount to *risti*
- 'Squatter's right', its variety '*quah mahtse*', meaning 'stroke of axe', of initial clearing of long-time uncultivated land

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b) *Diesa* or shehena communal ownership

- Land is common property of indigenous inhabitants (*ristegnatat*) of a village
- Late immigrants in the village were called '*maekelai aliet*'
- Allowed the *endas* to make collective decision that provided guidance to village chief in periodic distribution (5-7 years) of land
- *Maekelai aliet* were excluded in the decision-making process
- Qualified members got their share of land at family, immigrants & women (widowed, permanent immigrants, unmarried) levels
- *Allotted land graded according to fertility to ensure equity of distributions: most fertile, medium quality & poor quality*

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- Nadel (1946): *diesa* 'represents a system supremely adapted to a country where land is of very unequal value & where the pressure on land is great'
- Equal share impact on communal responsibility & spirit in conservation of soil & retention of soil fertility by fallowing, building terraces, crop rotation, etc.
- In some cases, *risti* was converted to *diesa* with consensus of people to redress uneven distribution of land among the *endas*
- Both varieties of communal tenure systems maintained relative equity within the village & kinship, & deep communal spirit

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c) *Gulti* tenure or land given by royal power

- Land given to individuals or legal entities for services provided – military/political support, collection of taxes, etc
 - In this way land was granted to military leaders, district chiefs, religious institutions, & few monasteries- *Debre Bizen & Enda Selasie*
 - *Gulti* granted to religious institutions is called '*rim*'
 - *Two varieties: gulti* as entitlement to certain proportion of land production & *risti gulti*, that is, *risti* right over *gulti*
 - *All gulti* lands were free of tribute
 - *Gulti* land was neither absolute nor unchallenged
- A fourth variety of land tenure was introduced during Italian rule*

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d) *Demaniale* or state land

- Aim of Italian colonialism: Make Eritrea a settler colony
- *Demaniale* was introduced during Italian rule (1890 – 1941)
- *Demaniale* applied to all lowlands & some in populated highlands
- In the highlands this led to confrontation that forced the regime to rescind, & from 1896 some lands returned to original owners & the policy of settlement shelved
- By 1941, 60,000 Italian settlers lived in cities & towns
- Expropriation of land degraded the local people, once land owners to tenants of the colonial regime
- State lands retained under subsequent colonial regimes, the British & Ethiopian

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3. Motives for land reform

- During successive colonial periods, the two communal land tenure systems (*risti* & *diesa*)were very useful
- Nadel (1946) 'it represents a system supremely adapted to a country where land is of very unequal value and where the pressure on land is great'
- But later neither retained merits nor cause for continuity
- Traditional hospitality ceased, tendency of exclusion of settlement of foreigners; land rights to be defended by physical force hindering peaceful growth
- Traditional land use practices in farming & deforestation of land, negative impact on food security – cause of famine & poverty

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- Popular understanding supporting the need for more radical land reform
- The two Liberation Fronts (ELF, EPLF) introduced land reforms, but EPLF's reforms based on advanced version of *diesa* had broader popular acceptance
- Land policy: generally related to economic development, social justice and equity, security of tenure, political stability, etc.

Why land reform?

- Former systems of land tenure and laws too obsolete and incompatible with development strategies of the government;
- Land disputes were increasingly resurging;
- Land degradation: diminished land productivity, depletion of forests and vegetation;
- The rising of population growth and break-down of rural institutions, traditional conservation measures culminated in land shortages, fragmentation, overgrazing, overharvesting of forests, etc

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4. Land Law

- Land Law issued to address the problems of land tenure
- Main tenets of Land Proclamation NO. 58/1994
 - All land is owned by the state ;
 - The state determines the allocation and use of land;
 - Land is not transferable except when the holder dies leaving minor children;
 - Citizens (≥ 18 years) have equal right to *tiesha* land (residence plot in village);
 - Farm land is allotted on usufruct basis to those who earn their living by farming for life-time of the individual;
 - Leaseholds are provided for housing, commercial and other social services, and lease period varies from 10- 60 years, but contract can be renewed;
 - Women have equal rights to land as men;
 - The state has the powers to take land deemed necessary for national development by paying fair and adequate compensation for property built on it

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5. Constraints for implementing land reform

- No comprehensive mapping & land use planning
- Institutional reform instruments not in place
- In addition, financial, professional & material

6. Attempts for implementing land reform

- Pilot project for implementing land reform – providing usufruct land rights for life, initiated in five villages of Serejeqa sub region, in Maekel Region
- It is expected to serve as a learning process & a spring board for allotting usufruct land rights in other regions

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7. Some observations from the Land Law

- Land concessions of commercial agriculture making encroachments on grazing lands, need for delineating grazing lands
- Need for gradual transforming nomadic life to modern way of livestock breeding
- Need to encourage nomads become partners in commercial agriculture
- With rising population, to avoid further land fragmentation, the need for gradual transformation into modern agriculture

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8. Eritrean LA vis-à-vis Global perspectives

- Mission of the Land Department: 'to ensure the implementation of sustainable land management and guarantee optimum use & fair distribution of land'
- Land capability study completed in only three out of six regions
- Usufruct land rights not enforced, & security of tenure not guaranteed through registration
- Land use mainly carried out on demand basis; no comprehensive land use planning (LUP)

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- LAS provides the infrastructure required for land policies & strategies for land management to support sustainable development, but such infrastructure & accurate information are unavailable
- Similar to many developing countries, informal & customary tenures are excluded from formal registration system
- Although statistical data is unavailable informal settlement is a serious problem

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9. lessons learned

- Need for pro-poor LA system, the STDM that allows recordation of all tenures to be gradually updated in future
- To properly respond to the challenges of climate change, food shortages, environmental degradation & natural disasters LAS need to be integrated with cadastral components
- Although Capacities in LA require a long time to develop, enhancing efforts are required at society, org'l & individual levels
- Land not owned & not entitled for mortgage, immovable property erected over land entitled for credit & mortgage
- Eritrea can learn a lot & apply the global LA perspectives not by 'one model fits all' but applying it skillfully

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10. Concluding Remarks

- Land reform requires comprehensive LUP & comprehensive LUP needs technological & infrastructural capacity develop't
- Institutional reform instruments need to be in place
- Enhancing comprehensive capacity develop't efforts at social, org'l & individual levels is imperative
- To ensure security of tenure 'fit-for –purpose' cadastres need to be adapted & skillfully introduced
- Land policies need to reflect objective reality & thus Land Law needs constant revision to match with dep't purposes – farming, pastoral life, mining, industry, etc.
- Practicing global LA perspectives needs time, but can be shortened through responsive application of land reform law in the light of overall dep't agenda & alignment with global trends in LA

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Thank you!

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