

LAND REFORM IN ETHIOPIA: A CASE STUDY IN NON-DEVELOPMENT

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Land, for most Ethiopians, is central to life. From the land comes sustenance, status and often political power. In the agricultural societies of highland Ethiopia, to have rights over land is to be human: "To be landless is to be sub-human."¹ Yet, little is known in a systematic and scholarly fashion of the realities of Ethiopian land policy and practice.² "Land reform," as one necessity for national development, has been officially adopted in Ethiopia within the past decade, but the specific reform objectives have been developed without extensive knowledge of existing conditions in the field and without a solid understanding that no land reform can succeed in the absence of appropriate concurrent economic and political change.

The aim of this article is to consider, broadly, the goals of Ethiopian land reform as announced by Haile Selassie's government and to suggest some of the many reasons for the lack of significant progress toward the achievement of these goals. The story is one of studies, plans and new governmental agencies, not one of implementation. Whether, from the current tedium of non-development, a new phase will develop is not here predicted, nor is it assumed that implementation of the reform proposals which have been made by the country's planners would in fact bring significant progress in economic development.

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¹ Mesfin Wolde-Mariam, *Some Aspects of Land Ownership in Ethiopia* 1 (1965, unpublished); see also Mesfin Wolde-Mariam, *The Rural-Urban Split in Ethiopia*, 2 *DIALOGUE* 7 (1968) (Addis Ababa).

² For a recent tenure compilation, see P. Bell, *Land Tenure in Ethiopia—Bibliography* (Ethiopian Bibliographical Series No. 1, 1968); see also A. Schiller, *Customary Land Tenure among the Highland Peoples of Northern Ethiopia: A Bibliographical Essay*, in *AFRICAN L. STUDIES* 1 (1969).

To provide some notion of the complexity of the existing land tenure systems, which must be taken as the starting point in any program of reform, the major characteristics of several of them will first be briefly summarized. Recent legal, administrative and planning developments which pertain to land reform will then be reviewed and some of the more obvious political impediments to implementation of what has been planned suggested. Finally, the significance of land reform for Ethiopian development will be assessed.

I. CONTEMPORARY ETHIOPIAN LAND TENURE SYSTEMS

In every country the system by which rights over land are held shapes agricultural production and confronts land reformers with an initial obstacle to institutional change. Where many different tenure systems exist in a single country and where little reliable analysis and data are available for the vast majority of them, those who seek change within the existing order face serious problems. Such is the case in Ethiopia. There is, however, sufficient completed and reliable field work on tenure in several important regions of Ethiopia to allow summary, if tentative, characterization of the tenure systems of parts of three of the country's fourteen provinces. Such characterization for Gojjam, Eritrea and Shoa is offered as a necessary preliminary to an understanding of the context in which contemporary Ethiopian land reforms must be proposed.

A. Gojjam: Dega Damot

Some of the best material available for the highland plateau areas of Ethiopia, occupied by the Amhara people, treats part of a district in the province of Gojjam.³ This district, Dega Damot, is located within the bend of the Blue Nile in the northwestern portion of the country. It is entirely populated by Christians of the Ethiopian Orthodox Church, and it thus presents one of the "purest" populations of highland Ethiopia. Although for this part of Ethiopia it is often stated that "communal" tenure prevails,⁴ the reality is far more complex. In Dega Damot the geographical unit most important for social organization is the parish, an area served by a single church. Each parish is thought by its inhabitants to have been

³ See A. Hoben, *Land Tenure and Social Mobility among the Damot Amhara*, in PROCEEDINGS, THIRD INTERNATIONAL CONFERENCE OF ETHIOPIAN STUDIES (1967); A. HOBEN, THE ROLE OF AMBILINEAL DESCENT GROUPS IN GOJJAM AMHARA SOCIAL ORGANIZATION (1963) [hereinafter cited as HOBEN].

⁴ See, e.g., Lawrence & Mann, *F.A.O. Land Policy Project (Ethiopia)*, 9 ETHIOPIA OBSERVER 286, 314-15 (1966) [hereinafter cited as Lawrence & Mann].

founded many generations ago by a "chief father,"⁵ and it is from this chief father that most rights over land or tribute from land derive.

These rights are of two general kinds: *rist* and *gult*. *Rist* is the right to claim a share of the chief father's land on the basis of descent from him. The relationship is traced bilaterally, beginning with a male or with a female if the claimant husband has had children by her.⁶ The precise proportion an individual is able to claim and the physical parcel or parcels, in which he claims the share, depend upon his exact genealogical position. Theoretically, this system of rights is unworkable, because bilateral tracing through many generations should lead to so many claims for a share of a particular parcel that the areas being worked would be impossibly small. The system works in fact only because of certain practical factors which influence physical allocation. In particular, a claimant is more likely to succeed in his claim if a near ancestor has worked land in the area where the claim is made, if the land claimed is near the claimant's residence, and/or if the claimant has political influence and power.⁷

Gult rights in Dega Damot are of another order entirely. *Gult* is the right, normally non-hereditary, to all or part of the tribute ordinarily due from the occupant of land to the ruler. The assignee of this tribute has not only the right to revenue, goods or services,⁸ but also the responsibility to perform certain judicial and administrative functions. He is known as "the governor of the *gult*," for his functions are—or were, in the heyday of the system⁹—ultimately governmental. The right to tribute is as much control over people as control over land; for powerful men, tribute means followers. When an individual collects tribute as the assignee of the State, it is difficult to distinguish "tax" from "rent"—particularly in those

⁵ HOBEN, *supra* note 3, at 4.

⁶ *Id.* at 15.

⁷ *Id.* at 15-17.

⁸ In earlier days adequate supplies of money were lacking, and consequently tribute was generally paid by the provision of goods and services. See R. PANKHURST, *ECONOMIC HISTORY OF ETHIOPIA* 504-20 (1968). The names of these goods or services often came to be used as names for the tenures themselves: for example, the person who paid tax by weaving garments for the government was said to hold *yefetay maref*, "weaver's land." Gebre-Wold-Ingida Worq, *Ethiopia's Traditional System of Land Tenure and Taxation*, 5 *ETHIOPIA OBSERVER* 302, 309 (1962). The services common in earlier days have now been restricted, at least in theory. See text accompanying notes 149-51 *infra*.

⁹ Hoben's description is in the "ethnographic present" and pertains to conditions prior to the Second World War. As he notes, however, many of the institutions described have changed very little since then. HOBEN, *supra* note 3, at 19.

cases where the right to the tribute has become hereditary.¹⁰ At present the governmental responsibilities of those who receive tribute have been weakened by the growth of a centralized bureaucracy,¹¹ yet their social position is undiminished.

On occasion *gult* in Dega Damot has gone to those without roots in the area where the land for which the tribute is owed is located, but more often it has gone to people who also have *rist* rights over at least some of the land given in *gult*. This fact is of considerable consequence, for aside from strangers and members of outcast occupational groups, virtually every resident of Dega Damot has *rist* rights which might lead to *gult* rights. Since the basis for membership in the powerful "local gentry" is *gult*,¹² in theory most residents of the district could become part of that gentry. This potential for social mobility is important;¹³ although it is *rist* which allows the use of land, it has been *gult* which brings power and position.

B. Eritrea

Another part of Ethiopia for which valuable field material on land tenure is available is Eritrea.¹⁴ The Eritrean analogue of the Amhara *rist* is *resti*. This term embraces a series of different kinds of rights over land: "They have in common only these three features: their relative absoluteness; their hereditary nature; and their derivation from the historical right of a first possession by some remote ancestor."¹⁵ *Resti* rights are based on membership in an Eritrean descent group,¹⁶ so the principal is at least similar to the Amhara principle of *rist*. The enjoyment of a right over land of the *resti* variety makes one a member of the land-holding gentry, a social fact of enormous significance in Eritrean life.¹⁷

¹⁰ See note 25 *infra*.

¹¹ On the present legal status of *gult*, see text accompanying notes 55-59 *infra*.

¹² HOBEN, *supra* note 3, at 17.

¹³ Hoben notes that a fundamental difference between European and Ethiopian feudalism is "the absence in the traditional Amhara homelands of a marked difference in economic interests, cultural perspectives, or motivational commitments between members of the lower nobility and the peasants whom they rule." *Id.* at 1.

¹⁴ See Nadel, *Land Tenure on the Eritrean Plateau*, 16 AFRICA 1, 99 (1946) [hereinafter cited as Nadel]; see also AMBAYE ZEKARIAS, LAND TENURE IN ERITREA (ETHIOPIA) (1966) [hereinafter cited as AMBAYE ZEKARIAS]. F. OSTINI, TRATTATO DI DIRITTO CONSUETUDINARIO DELL'ERITREA (1956), contains a bibliography of books, articles and laws in Italian and Tigrinya on land tenure in different parts of Eritrea. See also note 2 *supra*.

¹⁵ Nadel, *supra* note 14, at 7. Ambaye terms *resti* "a generic name for all property in land," one used as a prefix to other words in order to distinguish particular rights over land. AMBAYE ZEKARIAS, *supra* note 14, at 5.

¹⁶ For discussion of varieties of *resti* in Eritrean land tenure, see Nadel, *supra* note 14, at 7-8.

¹⁷ Nadel noted that "[t]he social status founded on *resti* possessions is per-

A second major form of Eritrean land tenure is "village" ownership. For this tenure, residence in a village rather than membership in a descent group provides the basis for an individual's claim to use a portion of the available land. Rights to use land are redistributed periodically by means of lot. This "more equitable system of land tenure" is said to have developed in response to many waves of immigration into Eritrea "in historical times" and the consequent need to accommodate large numbers of "strangers" or "foreigners."¹⁸ The system of village ownership or residentially based allocation of rights over land cannot be viewed as entirely distinct from the *resti* system, for even in the former system the "original" families retain important social privileges based on their descent. Yet, it is the relative importance of village tenure which distinguishes Eritrean highland tenures from those of Gojjam.¹⁹

C. Shoa

Shoa, Ethiopia's central and dominant province,²⁰ presents a strikingly different tenure situation. In the north of Shoa, rights over land are generally based on family relationships and established in ways roughly similar to those which have been outlined for Gojjam and Eritrea. But the central and southern portions of Shoa consist largely of lands conquered—or "reconquered," depending on one's point of view—by northerners within the past hundred years. Conquest brought new tenures, although often the terminology of the north was used. Two tenurial consequences of conquest must be noted. First, the *rist* of southern Ethiopia is more individualistic than the *rist* of the north, although the individual incidents of and family constraints on southern *rist* have yet to be carefully studied. Second, in many southern areas local people who had held the widest rights recognized by their tenure systems became tenants to those from the north. The high rate of tenancy throughout much of southern Ethiopia today is directly related to the submission of these areas to the more powerful peoples of the north.

manent and inalienable, more so than are the possessions themselves. The owner of *resti* land can sell or let it; but the fact that he once owned *resti* will rarely be obscured." *Id.* at 9.

¹⁸ *Id.* at 12. This tenure, known as *diesa* in some parts of Eritrea and as *shehena* in others, was stated by Nadel to be "almost universal" in the Hamasien, Eritrea's central sub-province. *Id.* at 11.

¹⁹ This brief summary of the two principal forms of Eritrean land tenure should not obscure the fact that other important forms of tenure exist in Eritrea. Among these are *worki*, a tenure based on purchase; various tenures analogous to lease-hold; and *resti* based not on membership in a descent group, but rather on long occupation as a squatter. On *gulti*, the Eritrean form of *gult*, see *id.* at 6, 20.

²⁰ The renaissance of Shoa, begun under Sahle Sellassie in the first half of the nineteenth century, was completed by Menelik II, who ruled Shoa from 1865 on and who was Emperor of Ethiopia from 1889 until his death in 1913.

A recent field study of a sub-district southeast of Addis Ababa gives a picture of contemporary land tenure conditions in one part of southern Shoa.²¹ For the sub-district as a whole, it was found that about fifty-six per cent of the agricultural land was held in *gebbar*,²² the "taxpayer's" tenure.²³ About two-thirds of the balance was found to be held by the Ethiopian Orthodox Church,²⁴ with most of the remainder held as *rist gult*.²⁵ On eighty-three farms selected for intensive study,²⁶ however, only nineteen were wholly cultivated by

²¹ H. MANN, *LAND TENURE IN CHORE (SHOA): A PILOT STUDY* (Monographs in Ethiopia Land Tenure No. 2, 1965) [hereinafter cited as H. MANN]. For an excellent historical and analytical study of Shoa land tenure, see Berhanou Abbebé, *Evolution de la propriété foncière au Choa (Ethiopie) du Règne de Ménélik à la Constitution de 1931* (citations are to a preliminary, mimeographed edition submitted as a thesis to the University of Paris) [hereinafter cited as Berhanou Abbebé].

²² H. MANN, *supra* note 21, at 15. These figures were derived from government land tax records.

²³ The word *gebbar* is derived from the word for tax and has the connotation of "taxpayer," but its meaning varies with area and context. Mann in his study defined it simply as "a system of land tenure under which a person who has acquired land by purchase, grant or inheritance pays land tax to the Government as prescribed by law." H. MANN, *supra* note 21, at 12. Berhanou states that *gebbar* can only be defined negatively, as follows: "Le statut *gabbâr* de droit commun est le régime appliqué à la parcelle d'usage héréditaire d'un propriétaire qui n'est ni clerc, ni militaire, ni auxiliaire de corps d'armée, ni fonctionnaire, et qui de ce fait ne bénéficie d'aucune exemption fiscale" (the common law status *gebbar* is the tenure for a parcel used on a hereditary basis by an owner who is neither a cleric, a member of the military, an army aid, nor an official, and who therefore does not benefit from any fiscal exemption). Berhanou Abbebé, *supra* note 21, at 121. For many people in contemporary Ethiopia the term *gebbar* clearly connotes a greatly inferior status.

²⁴ H. MANN, *supra* note 21, at 14-15. This is *semon*, which is only one form of "Church land" in Ethiopia. One of the most pressing needs in the field of Ethiopian land tenure and administration is for a comprehensive study of the various rights over land and land revenues held by the Orthodox Church. For an analysis of "le domaine ecclésiastique" in Shoa, see Berhanou Abbebé, *supra* note 21, at 88-102, 167-86. Unlike Mann, Berhanou states that in *semon* tenure the primary interest in the land ("le droit éminent") is vested in the State, and the Church only has the right to collect land taxes. *Id.* at 167.

²⁵ *Rist gult* was defined by Mann as entitling the holder "to collect land tax from the landowners settled on the land at rates prescribed by law . . . and to exercise certain judicial functions." H. MANN, *supra* note 21, at 13. According to this definition and according to the general theory of *gult*, it should be possible for *gebbar* rights and *gult* or *rist gult* rights to exist over the same parcel of land, but Mann's statistics do not indicate this to be the case. *Id.* at 15-17. Although sometimes *rist gult* is defined in a way suggesting essentially an inheritable *gult*, e.g., Mahteme Sellassie Wolde Maskal, *The Land System of Ethiopia*, 1 ETHIOPIA OBSERVER 283, 285 (1957), other definitions of it suggest *gult* on land which is also the *rist* of the *gult*-holder. See, e.g., HOBEN, *supra* note 3, at 173. Berhanou states that there is a "delicate distinction" between *rist* which has become *gult*—a concession by the State which is revocable, so that the holder could someday be left only with *rist*—and *gult* which has become *rist*, i.e., which has been made hereditary and hence irrevocable. It is the latter, he maintains, which is the true *rist gult*. Berhanou Abbebé, *supra* note 21, at 47.

²⁶ These holdings were selected by "systematic random sampling" of the land tax register for each of the ten local governmental units within the sub-district. H. MANN, *supra* note 21, at 10.

the "owner."²⁷ Thirty were partially cultivated by the owner and partially cultivated by a tenant or tenants, while thirty-four were wholly operated under tenancy.²⁸ In most cases the tenancy agreement was unwritten and rent was paid according to a share-cropping agreement. By far the most common agreement required that ten per cent of the crop be provided the owner to pay a "tax in lieu of tithe" due the government and that the tenant pay to the owner one-third of the remainder as rent. The tax in lieu of tithe is, in principle, a liability of the owner rather than the tenant,²⁹ so that the effective share paid as rent by most tenants on the selected farms was forty per cent.³⁰ The high rate of tenancy, ethnic and cultural differentiation between landlord and tenant and the frequently onerous conditions of the tenancy combine to make the tenure problems of southern Shoa and much of the rest of southern Ethiopia far different in character from those of the highlands of the north. These fundamental regional variations cannot be ignored. To be effective, tenure and many tax reforms will have to be planned and implemented on a regional and even provincial or sub-provincial basis.

II. RECENT LEGAL, ADMINISTRATIVE AND PLANNING DEVELOPMENTS

Until the 1960's, land reform as a weapon for achieving economic development and social justice does not seem to have been officially considered in Ethiopia. There have been land reforms throughout Ethiopian history,³¹ but these have been reforms with a highly political flavor. They have been designed to reward one group or to punish another, and always ultimately to consolidate the power of the ruler.

During the latter half of the 1950's, Ethiopia engaged in the codification of its penal and private law, a process which gave ample opportunity for the enactment of land reform measures if such were desired. The drafts of the Civil Code were prepared by Professor René

²⁷ *Id.* at 20.

²⁸ *Id.*; but see *id.* at 21. In four cases there were more than twenty tenants on a single farm. The farms ranged in size roughly from twelve to six hundred acres. *Id.* at 18.

²⁹ Land Tax Proclamation, Proclamation No. 70 of 1944, § 6, NEGARIT GAZETA 4th Year No. 2 (1944). Before the tax in lieu of tithe was imposed, tithe in kind was payable by the cultivator, whether tenant or owner, Lawrence & Mann, *supra* note 4, at 322, so that payment of the tithe by tenants has some basis in custom. The tax in lieu of tithe has now been replaced by a tax on agricultural income for all except owners of unused land. See text accompanying note 62 *infra*.

³⁰ H. MANN, *supra* note 21, at 47.

³¹ See generally R. PANKHURST, STATE AND LAND IN ETHIOPIAN HISTORY (1966) [hereinafter cited as PANKHURST].

David of the University of Paris, who spent considerable time in Ethiopia in connection with this task.³² These drafts were then submitted to a codification commission whose membership included both foreign and Ethiopian jurists. In the draft of one chapter of the book on property, Professor David attempted to provide for some rather mild reform of the northern tenure systems, and to do so he borrowed ideas from one of the early Soviet kolkhoz laws.³³ His ninety-three article draft was cut, however, to a skeleton of twelve articles,³⁴ with only the mildest hint of reform for northern agricultural lands.³⁵ For the rest of Ethiopia, the land law principles of the Civil Code are drawn almost exclusively from the civil law of continental Europe.

At the time the Civil Code was in preparation there was, nationally, almost no attention paid to land reform. In the Five Year Development Plan for 1957-1961 considerable emphasis was placed on agricultural development, but that plan concentrated on technological improvements in the agricultural sector and on the organization of an agricultural extension service.³⁶ Only two points regarding land policy were made: One, that the settlement of unused land should receive "[s]pecial attention" and should be based on the organization of "large-scale modern farms producing for the market;" and two, that land tenure should be improved by making private ownership "more secure."³⁷ Security was to be obtained by the determination of "ownership rights, boundary lines and land

³² For a description of the process of codification and the sources used for the Civil Code of Ethiopia, see David, *A Civil Code for Ethiopia: Considerations on the Codification of the Civil Law in African Countries*, 37 TUL. L. REV. 187 (1963). See also Singer, *Modernization of Law in Ethiopia: A Study in Process and Personal Values*, 11 HARV. INT'L L.J. 73, 83-92 (1970); Vanderlinden, *Civil Law and Common Law Influences on the Developing Law of Ethiopia*, 16 BUFFALO L. REV. 250, 256-60 (1966).

³³ See David, *Les sources du code civil éthiopien*, 14 REVUE INTERNATIONALE DE DROIT COMPARÉ 497, 505 (1962); see also R. David, *Exposé des motifs et commentaire des documents C. Civ. 59 et C. Civ. 51, relatifs au domaine public, à l'expropriation, et à l'exploitation collective des biens* 5 (Civil Code document no. 63, July 2, 1957, unpublished).

³⁴ See CIVIL CODE OF ETHIOPIA, art. 1489-1500, analyzed in Bilillign Mandefro, *Agricultural Communities and the Civil Code: A Commentary*, 6 J. ETHIOPIAN L. 145 (1969).

³⁵ Typical is CIVIL CODE OF ETHIOPIA art. 1498(1):

The Ministry of Interior shall, as circumstances shall permit, encourage the revision of the custom of communities, so as to ensure the economic progress of such communities and the implementation of the principles of justice and morality enshrined in the Ethiopian Constitution.

To date no action has been taken by officials of the Ministry of Interior with regard to agricultural communities.

³⁶ IMPERIAL ETHIOPIAN GOVERNMENT, FIVE YEAR PLAN 1957-1961, at 61-81 (undated) [hereinafter cited as FIRST DEVELOPMENT PLAN].

³⁷ *Id.* at 70.

values," so that "a more correct assessment of taxes," a land market and investments for improving production would be facilitated.³⁸ There was thus no change suggested in the basic institutional framework for agricultural production.³⁹

The political context for land reform seems to have changed somewhat with the abortive *coup d'état* of December 1960.⁴⁰ Girmamé Neway, one of the leaders of the *coup*, had a longstanding interest in land reform, and as the governor of the district of Soddo-Wollamo he had undertaken to distribute undeveloped land to the landless.⁴¹ At the time of the *coup*, policy statements of the revolutionaries placed great emphasis on Ethiopia's lack of progress in "economic development, education and living standards."⁴² Although references by *coup* leaders to land reform were not particularly prominent,⁴³ the restored government of Haile Selassie did begin

³⁸ *Id.* The first plan also recommended "a broader credit policy" by the Development Bank of Ethiopia, but primarily to support the "[o]wners of large scale farms." *Id.* at 77. The priority apparently changed during the course of the plan, for in 1959 the Emperor promised five year loans at 2½% interest both to "those . . . who possess the land and labour but lack capital" and to "[t]hose who have neither land nor money." Speech of H.I.M. Haile Selassie I, September 18, 1959, in ETHIOPIA MINISTRY OF INFORMATION, SPEECHES DELIVERED BY HIS IMPERIAL MAJESTY HAILE SELASSIE 1ST EMPEROR OF ETHIOPIA ON VARIOUS OCCASIONS 162 (1960). After 1960, however, the Development Bank of Ethiopia discontinued, in effect, its program of small loans. See H. ROBINSON & MAMMO BAHTA, AN AGRICULTURAL CREDIT PROGRAM FOR ETHIOPIA 88 (1969).

³⁹ The plan did hint that such changes might take place in the future. One of the problems listed for research institutions to begin work on was the study of "existing conditions of land tenure with a view to introducing effective changes where they impede the development of agriculture and of the national economy." FIRST DEVELOPMENT PLAN, *supra* note 36, at 76.

⁴⁰ For views on this *coup*, particularly on the extent to which it was a revolution with popular roots as opposed to a traditional-style rebellion among the nobility, see R. GREENFIELD, ETHIOPIA: A NEW POLITICAL HISTORY 2 (1965) [hereinafter cited as GREENFIELD]; Hess, *Ethiopia*, in NATIONAL UNITY AND REGIONALISM IN EIGHT AFRICAN STATES 441, 506 (G. Carter ed. 1966) [hereinafter cited as Hess]; Clapham, *The Ethiopian Coup d'Etat of December 1960*, 6 J. MODERN AFRICAN STUDIES 495, 506-07 (1968).

⁴¹ See GREENFIELD, *supra* note 40, at 371.

⁴² *Id.* at 399.

⁴³ In an address to university students one of the leaders of the *coup* is reported to have complained that "most of the land is owned by a few people and they add daily to their holdings without working at all," implying that land redistribution was necessary. *Id.* at 405. Subsequently in a speech broadcast on the radio the following was included: "People, especially those living in Addis Ababa, have been deprived of the right of owning land and building homes. No one can fail to comprehend their frequent sufferings. From this day onward every person will be given land according to his needs and will be able to live in peace. Moreover, those whose land has been taken away have, for a variety of reasons had but a little money cast in their direction. By returning this money they will from now on be entitled to take back their land." *Id.* at 417. One author states that according to "official government sources" Girmamé Neway advocated the nationalization of all land. Hess, *supra* note 40, at 509.

study of a number of reform measures, including land reform. This post-*coup* effort to study the possibilities for land reform first manifested itself in 1961 with the establishment of a Land Reform Committee within the Ministry of National Community Development.⁴⁴

One important problem tackled by this committee was that of agricultural tenancy, which is treated by the Civil Code of 1960 as a simple contractual relationship.⁴⁵ The Code's assumption flies directly in the face of the agrarian realities of southern Ethiopia, where tenants frequently occupy a position little better than that of serfs. Several measures of agricultural tenancy reform were proposed by the committee. Its draft proclamation would first have amended the Civil Code to limit the maximum share payable by a tenant as rent to between twenty-five per cent and fifty per cent, depending on the inputs provided by the owner.⁴⁶ Second, it would have prohibited personal services performed by tenants for their landlords. Third, it would have assured the agricultural tenant a minimum term of four years.

These proposals were extraordinarily mild. The Civil Code, inexplicably, permits a maximum share rent of seventy-five per cent,⁴⁷ even though customary maximums apparently never exceed fifty per cent. Thus the "reform" of the draft proclamation was simply to bring the legal maximums in line with the customary ones. The proposed prohibition of personal services as part of the institution of agricultural tenancy was a reform of more substance, although a start had been made some twenty years previously when a tax proclamation banned the payment of taxes through the perform-

⁴⁴ Early in 1962 this committee was transferred to the Ministry of Agriculture. Minutes for meetings in 1963 and 1964 of the committee have been published in mimeographed form as *The Imperial Ethiopian Government Study of Land Reform* (in Amharic).

⁴⁵ For an analysis of the agricultural tenancy provisions of the Civil Code, see Eyassu Ayall, *Agricultural Tenancy in Ethiopia* (unpublished paper on file in the library of the Faculty of Law, Haile Sellassie I University, 1966) [hereinafter cited as Eyassu Ayall]. The provisions themselves are found in Articles 2896-2944 and Articles 2975-3018 of the Civil Code of Ethiopia. A table of the rights and obligations of landlords and tenants under these provisions is provided in Lawrence & Mann, *supra* note 4, at 333-34.

⁴⁶ These percentages would have applied in the ordinary case where the landowner paid the land taxes. Where the owner supplied the seed and bullocks, the maximum share was set at 50%; where he did not, the maximum share was set at 30%, except for "non-resident" tenants where it was set at 25%. In the extraordinary case where the tenant paid the land taxes, the maximum share payable as rent was fixed by the draft proclamation at 5%, although the legal committee of the Chamber of Deputies raised this figure to 10%. A copy of this draft proclamation is on file in the library of the Faculty of Law, Haile Sellassie I University.

⁴⁷ Article 2991(1), Civil Code of Ethiopia.

ance of personal services.⁴⁸ The guarantee of a four year term for tenants was subject to a very broad limitation: "[I]f the tenant or his dependents fail to cultivate the land properly or refrain from using the land, or cause damage to the landowner in any manner whatsoever, thereby causing loss to the landowner,"⁴⁹ eviction could be had before the end of the term.

Despite the mildness of the draft legislation, it was not enacted by Parliament. The Chamber of Deputies approved it, but the more conservative Senate refused to do so. Some Senators displayed outrage at what they interpreted as an attack on the prerogatives of Ethiopian landowners, a group to which virtually all the Senators belong. Although a joint session of the two houses was held to consider the matter, the parliamentary recess took place before any agreement was reached.⁵⁰ Subsequently the draft legislation was not taken up by Parliament.

Another result of the establishment of the Land Reform Committee was a report by two United Nations Food and Agriculture Organization experts, Mr. J.C.D. Lawrence and Dr. H.S. Mann, on means of implementing certain land reform policy objectives.⁵¹ This report took as a starting point the land reform objectives laid down by the Second Five Year Development Plan, promulgated in 1962, which was far more precise on the subject of land policy than the first plan had been. The second plan stated that the government would work for the achievement of four goals: "(a) improvement of landlord-tenant relations, (b) progressive taxation, (c) abolition of out-of-date holdings, and (d) cadastral surveys and land registration."⁵² Detailed suggestions for achieving each goal were put forth in the report, suggestions which have had considerable influence on the draft legislation prepared in recent years within the Ministry of Land Reform and Administration.

This report also dealt with the administrative framework for land reform. Although none of the four major land reform objectives of the Second Five Year Development Plan, about which the report was primarily concerned, has been tackled seriously,⁵³ action has

⁴⁸ See note 150 *infra*.

⁴⁹ Article 3006(2), draft proclamation, *supra* note 46.

⁵⁰ See Eyassu Ayall, *supra* note 45, at 62. This failure to act occurred despite support for the draft legislation in the government press. See Addis Zemen, Yekatit 11, 1957 (Ethiopian calendar) (editorial in Amharic).

⁵¹ Lawrence & Mann, *supra* note 4. The report first appeared in mimeographed form in 1964. An Amharic translation of this report is included in the *Imperial Ethiopian Government Study of Land Reform*, *supra* note 44.

⁵² IMPERIAL ETHIOPIAN GOVERNMENT, SECOND FIVE YEAR DEVELOPMENT PLAN 1963-1967 327 (1962).

⁵³ An exception, at least in principle, might be the tenure reforms which may

been taken on the recommendations on administration.⁵⁴ Cynics might well draw from this disparity the conclusion that the true government policy has been to give the appearance of action on land reform while forestalling any true progress. In this respect, Ethiopia has distinguished company among other nations of the world.

Although legislation dealing directly with the four land reform objectives of the Second Five Year Development Plan was not enacted during the plan period, some tax reform legislation was approved. Two different enactments which have an important bearing on land reform problems must be noted. First, in 1966 Ethiopia's land tax legislation was amended to require owners of land subject to *rist gult* or *siso gult* rights to pay their land tax directly to the Government treasury.⁵⁵ The same amendment eliminates the special

indirectly be effected by A Proclamation to Amend the Land Tax Proclamation of 1944, Proclamation No. 230 of 1966, NEGARIT GAZETA 25th Year No. 9(A) (March 7, 1966). See text accompanying notes 55-59 *infra*.

⁵⁴ The report stressed the importance of establishing "a single organization" to plan and implement all aspects of land reform. Lawrence & Mann, *supra* note 4, at 287. This led in 1965 to the establishment of a Land Reform and Development Authority, an autonomous agency governed by a Land Reform Board with the Minister of Agriculture as Chairman and the Ministers of Finance, Interior and National Community Development as members, plus three additional members to be appointed by the Emperor. Land Reform and Development Authority Order, Order No. 40 of 1965, NEGARIT GAZETA 24th Year No. 12 (1965). This authority had hardly been created, however, when in 1966 changes in ministerial structure included the creation of a Ministry of Land Reform and Administration. An Order to Define the Powers and Duties of Our Ministers, Order No. 46 of 1966, § 18, NEGARIT GAZETA 25th Year No. 23 (July 27, 1966). The ministry was formed by grouping the Imperial Ethiopian Mapping and Geography Institute, a Land Administration Department which had been part of the Ministry of Interior and a Land Tenure Department which essentially consisted of the staff of the former Land Reform Committee in the Ministry of Agriculture. These constituent units of the new ministry have remained physically separated, however, and it is significant that the very small sums included in the national budget for this ministry have not been devoted primarily to new activities. In the Ethiopian fiscal year corresponding to the period from July 8, 1968, through July 7, 1969, just over US \$260,000,000 was provided for total governmental expenditures. Of this about US \$1,784,000 was allocated to the Ministry of Land Reform and Administration. Budget Proclamation for the Government Services, Proclamation No. 260 of 1968, NEGARIT GAZETA 27th Year No. 17 (June 17, 1968). Nearly 83% of this sum, itself only .7% of the governmental budget, was for mapping and geography and for the administration of government land. *Id.*

⁵⁵ A Proclamation to Amend the Land Tax Proclamation of 1944, Proclamation No. 230 of 1966, § 2(a), NEGARIT GAZETA 25th Year No. 9(A) (March 7, 1966). *Siso* means "one-third" and commonly is used in the southern provinces to refer to the parcel of land left to a local dignitary after a forced partition between the State and the dignitary. See Berhanou Abbebé, *supra* note 21, at 105; PANKHURST, *supra* note 31, at 136. In some cases the proportion taken by the government exceeded two-thirds, but the parcel left to the local dignitary was still called *siso*. One

tax status of those holding *rist gult* or *siso gult* rights with respect to land which they also own.⁵⁶ Since traditionally *gult* represented simply a discretionary grant by the sovereign to a private person or the Church of the right to collect all or part of the tribute due from certain lands, the withdrawal of a particular grant is quite in accord with tradition. But the 1966 legislation in effect abolishes the *gult* system altogether. If a person whose land has been subject to *rist gult* rights is henceforth to pay the land taxes directly into the Government treasury,⁵⁷ there is nothing left for the *gultenya*, the holder of the *gult* rights. His rights have, at a stroke, been eliminated.

The extent to which this legislative change has practical importance is at present difficult to estimate. In Gojjam, the *gultenyas* have reportedly been made government officials in every case, and Ministry of Finance officials acknowledge that Gojjami *gultenyas* are rewarded with a proportion of the tax collected for their services in inducing the peasants to pay tax.⁵⁸ Thus, although the formal "tenure" of *gult* is abolished in Gojjam, the local social, political and economic position of the former *gultenya* seems to be little affected. *Gultenyas* from other provinces have been compensated with grants of land in the southern provinces of Bale and Sidamo and cash grants for the development of this land.⁵⁹ Where this has

explanation of *gult* in this context is that it simply indicates reduced taxes on the *siso*.

⁵⁶ A Proclamation to Amend the Land Tax Proclamation of 1944, Proclamation No. 230 of 1966, § 2(b), NEGARIT GAZETA 25th Year No. 9(A) (March 7, 1966).

⁵⁷ In Ethiopia several different taxes make up "land taxes": a consolidated tax in lieu of tithe and land tax is imposed by the Land Tax Proclamation, Proclamation No. 70 of 1944, NEGARIT GAZETA 4th Year No. 2 (Nov. 1, 1944); an "education tax" is imposed by the Educational Tax Proclamation, Proclamation No. 94 of 1947, NEGARIT GAZETA 7th Year No. 3 (Nov. 30, 1947); and a "health tax" is imposed by the Health Tax Decree, Decree No. 37 of 1959, NEGARIT GAZETA 18th Year No. 14 (Aug. 31, 1959), *renumbered* Notice of Approval No. 5 of 1960, NEGARIT GAZETA 19th Year No. 6 (Feb. 29, 1960). Both the education tax and the health tax are levied on land and collected with the consolidated land tax. Previous tax legislation provided special treatment for the *gultenya* for the land tax, but not for the tax in lieu of tithe, education tax or health tax. See Land Tax Proclamation, Proclamation No. 70 of 1944, § 5(v), NEGARIT GAZETA 4th Year No. 2 (Nov. 1, 1944); Education Tax Proclamation, Proclamation No. 94 of 1947, § 2, NEGARIT GAZETA 7th Year No. 3 (Nov. 30, 1947); Health Tax Decree, Decree No. 37 of 1959, § 3, NEGARIT GAZETA 18th Year No. 14 (Aug. 31, 1959), *renumbered* Notice of Approval No. 5 of 1960, NEGARIT GAZETA 19th Year No. 6 (Feb. 29, 1960). The 1966 amendment states, however, that with regard to *gult* there will be paid directly to the government treasury "land tax . . . and the taxes payable under the Educational Tax Proclamation . . . and the Health Tax Decree . . ." A Proclamation to Amend the Land Tax Proclamation of 1944, Proclamation No. 230 of 1966, § 2, NEGARIT GAZETA 25th Year No. 9(A) (1966).

⁵⁸ Interview, staff of the Land Revenue Department, Ethiopia Ministry of Finance, in Addis Ababa, June 19, 1969.

⁵⁹ *Id.* Understanding of the present position of former *gultenyas* would be aided

happened, the long-term effects within the area where the *gult* had existed may be more significant. In any event, the abolition of *gult* does represent simplification of Ethiopian systems of land tenure and taxation.

A second recent measure of tax reform legislation, part of which has implications for land reform, has brought changes in the Ethiopian system of income taxation. Under the system of income taxation in force until 1967, an exemption was provided for income from agricultural activities.⁶⁰ The cultivator owed no tax on income derived from his cultivation, nor did a non-cultivating landlord owe tax on the income derived from renting agricultural land. Both exemptions were eliminated by the income tax amendment of 1967,⁶¹ which makes income derived from agricultural activities taxable. The amendment also eliminates the tax in lieu of tithe, except for the owners of unused land.⁶²

With regard to land reform, the primary significance of these changes in the system of income taxation comes from the elimination of the tax in lieu of tithe. Landowners have not only been shifting this tax to the tenants,⁶³ but also in many cases they have made a profit on the transaction. Tenants have handed over to the owners one-tenth of the crop, but the owners have been obliged to pay the government only the "converted" tithe or "tax in lieu of tithe."⁶⁴ Where, as generally seems to have been the case, this amount has been less than the market value of the one-tenth of a crop, the gain has gone to the owner.⁶⁵ Elimination of the tax in lieu of tithe can therefore be viewed as a measure of tenancy reform, since for the small tenant the amount of tax owed on income derived from agricultural activities should be far less than the value of one-tenth of

by field research to determine whether they have asserted *rist* rights over land they had not previously claimed as *rist* but had held only as *gult*.

⁶⁰ A Proclamation to Provide for Payment of Income Tax, Proclamation No. 173 of 1961, § 4(b), NEGARIT GAZETA 20th Year No. 13 (June 2, 1961).

⁶¹ Income Tax (Amendment) Proclamation, Proclamation No. 255 of 1967, § 2, NEGARIT GAZETA 27th Year No. 4 (Nov. 23, 1967).

⁶² *Id.* at § 3(b). The tithe, as a percentage of the annual crop, bore in theory some similarity to an income tax. In practice, however, it had been difficult to prevent those liable for the tithe from concealing part of their crop in order to reduce the tithe. The tithe consequently had been "converted" to a fixed sum, which was payable even in the absence of any crop. Land Tax Proclamation, Proclamation No. 70 of 1944, § 4, NEGARIT GAZETA 4th Year No. 2 (Nov. 1, 1944). Thus in practice the tithe was a land tax.

⁶³ See text accompanying notes 29-30 *supra*.

⁶⁴ See Taye Gulilat, *The Tax in Lieu of Tithe and the New Agricultural Income Tax: A Preliminary Evaluation*, 2 DIALOGUE 17, 18 (1968) (Addis Ababa) [hereinafter cited as Taye Gulilat].

⁶⁵ *Id.* See also Lawrence & Mann, *supra* note 4, at 322.

this crop.⁶⁶ With this one exception, however, land and income taxation in Ethiopia have not been reformist in character.⁶⁷

The lack of major progress toward the achievement of institutional reforms in agriculture during the second plan period undoubtedly influenced those who prepared Ethiopia's Third Five Year Development Plan. This plan, which covers the period 1968/69-1972/73, takes the view that short-term progress in the agricultural sector can be obtained only by the rapid development of large-scale commercial farms producing crops for export.⁶⁸ It is planned that generally such farms will be established in the thinly populated lowland areas,⁶⁹ and it is assumed that foreign capital will be heavily involved in much of this development. For the peasant sector, measures planned are (a) the use of intensive agricultural develop-

⁶⁶ Taxable income is defined as gross income minus deductions for land taxes payable by the taxpayer, rent payable by the taxpayer and a deduction of one third of the gross income in lieu of an assessment of production expenses. Actual production expenses may be deducted where the taxpayer maintains accounts of his expenses. A Proclamation to Amend the Income Tax Proclamation of 1961, Proclamation No. 255 of 1967, § 2(L), NEGARIT GAZETA 27th Year No. 4 (Nov. 23, 1967). On taxable income not exceeding US \$120, the tax is US \$.60. To pay this little as tithe under the old system, a tenant would have had to have an annual gross product worth only US \$6, far below what the poorest tenant in Ethiopia can produce. Under the new system, farmers will owe 10% or more of *taxable* income only where it exceeds US \$3,600 per year, *id.*, and the taxable income will be greatly below the value of the gross production from which the tithe was formerly deducted. Although problems of administration, particularly corruption, may impede or even prevent fair and effective implementation of the agricultural income tax, it does in principle offer "promises of equity, revenue yield, and built-in flexibility" far superior to the tax in lieu of tithe. Teye Gulilat, *supra* note 64, at 27. If properly implemented, it will be an important measure of tenancy reform.

⁶⁷ When this income tax reform bill was before Parliament, an attempt was apparently made to amend it so as to impose a special tax on unused land. To the extent such a tax forces owners of large tracts of unused land to dispose of part of their holdings, it may bring about some land redistribution. The amendment, however, was not accepted. See The Ethiopian Herald, Dec. 6, 1967, at 1.

⁶⁸ IMPERIAL ETHIOPIAN GOVERNMENT, THIRD FIVE YEAR DEVELOPMENT PLAN 1968-1973 191 (1969) [hereinafter cited as THIRD DEVELOPMENT PLAN].

⁶⁹ The Awash Valley in eastern Ethiopia and the Setit Humera region in the northwest part of the country are given particular emphasis. Development in the Awash Valley has proceeded in part under the direction of the Awash Valley Authority, an autonomous authority of the Imperial Ethiopian Government the purpose of which is "to administer and develop the natural resources of the Awash Valley." Awash Valley Authority Charter, General Notice No. 299 of 1962, § 4, NEGARIT GAZETA 21st Year No. 7 (1962). Development in Setit Humera had begun "spontaneously" by the early 1960's and has proceeded on the basis of concessions to foreigners and grants to Ethiopians from other parts of Ethiopia. In the past several years the government has taken a great interest in what has happened in Setit Humera, and in the third plan it is treated as something of a model. THIRD DEVELOPMENT PLAN, *supra* note 68, at 374-75. For a description of land tenure in the area, including tenure disputes that have arisen from claims of the local people, see H. Mann, Saifu H. Mickael & Teame Beyene, Report on a Preliminary Study of Land Tenure in Setit Humera (1968).

ment projects in strategically selected areas "to increase output so much that significant surpluses become available for marketing outside the area . . . [and] peasants [are] introduced to the commercial market system;"⁷⁰ (b) the development of "[m]ulti-purpose agricultural co-operatives" as the institutional form for these projects;⁷¹ and (c) the provision of "a supply of incentive consumer goods" on which farmers can spend their newly acquired or newly increased money incomes.⁷² However, the expected increase in production in the peasant agricultural sector during the plan period is only one and eight-tenths per cent per year, "which is about the rate of increase of the population engaged in this sector."⁷³ In other words, no real progress for the peasants is expected.

Although in the third plan the need for "vigorous policies of land reform" is regarded as "evident" if progress in agrarian reconstruction and development is to be made,⁷⁴ the policies outlined are primarily those promulgated but not implemented for the second plan period.⁷⁵ The third plan does add two further objectives: development of land classification criteria and implementation of classification using such criteria in areas of intensive agricultural development;⁷⁶ and conditioning government land grants on exploitation, with priority in grants of government land to go to the tenants on it.⁷⁷

In view of the failure to achieve any of the four land reform

⁷⁰ THIRD DEVELOPMENT PLAN, *supra* note 68, at 194. The plan explicitly expresses a preference for such "package" projects, *id.* at 41, 193, which were first introduced in Ethiopia by the Swedish International Development Authority. See text accompanying notes 79-85 *infra*.

⁷¹ THIRD DEVELOPMENT PLAN, *supra* note 68, at 194.

⁷² *Id.*

⁷³ *Id.* at 44.

⁷⁴ *Id.* at 195.

⁷⁵ Tenancy reform is stated to be urgent, and legislation "with the main aim of protecting tenants against arbitrary eviction and replacing the share cropping system of paying rent with a fixed rent system" is promised. *Id.* at 196. Provision for "written leases, compensation for improvements made by the tenant, a right of preemption for the tenant on sale by the landlord and other measures designed to increase the security of the tenant" are also mentioned, *id.*, but the "control of absentee landlordism" which had been called for in a draft of the third plan is omitted in the final version. Cadastral surveys and the adjudication and registration of rights over land are again called for, in order to secure land titles and reduce litigation. *Id.* The problem of the existence of excessively large unutilized holdings is raised, and it is suggested that a "progressive land tax" would force the few persons with "[m]any of the potentially productive lands in the Empire" to put such land into production. *Id.* Finally, again paralleling the second plan, the third plan states that the "traditional communal system" of northern Ethiopia "seriously obstructs" investment, so that during the third plan period the Ministry of Land Reform and Administration "must complete necessary studies to formulate a tenure pattern which would solve the problems." *Id.* at 197.

⁷⁶ *Id.*

⁷⁷ *Id.* On development conditions, see text accompanying notes 138-40 *infra*.

objectives of the second plan, one can understand why the third plan proceeds with caution. A draft of this plan was candid in acknowledging the failures surrounding the second plan, failures which go far beyond the land reform objectives. These failures, or "disheartening results," were attributed to "[l]ack of policies" and "inadequacy of organization."⁷⁸ Actually, however, detailed policies on land reform had been developed by 1964 and a ministry had been established by 1966. What seem to have been lacking were the necessary legislative approval, the requisite funds and, most important, the will at top levels of the government to push ahead with the matter.

The failure at the national level to make significant progress on land reform has influenced other programs in which land reform might play an important part. An example, with regard to what is Ethiopia's most promising regional development project,⁷⁹ is provided by the Chilalo Agricultural Development Unit (CADU). CADU is a project brought into existence through the initiative of the Swedish International Development Authority (SIDA). Inspired by Israeli and Pakistani regional development projects, particularly the Comilla project in East Pakistan, SIDA in 1966 sent a team to Ethiopia to study the possibilities for a similar project there.⁸⁰ This team concluded that "integrated" regional development is necessary in rural areas,⁸¹ and it indicated Chilalo as the preferred location for a Swedish-Ethiopian project.⁸²

⁷⁸ Unfortunately, this frank evaluation of the results of the second plan was eliminated from the final version of the third plan. *See id.* at 30, where it is stated simply that the third plan is "based on a careful assessment of past performance."

⁷⁹ At present CADU seems to be the most carefully planned, best funded and best staffed regional development project in Ethiopia. Regional development in the district of Soddo-Wollamo, under the leadership of Kegnazmatch Wolde-Semayat Gebrewold, the district governor, has also made some progress. The Soddo-Wollamo project is noteworthy precisely because the initiative has come from local administrators rather than from foreign donors, although it appears that substantial assistance will be forthcoming from the World Bank for development in Soddo-Wollamo. USAID, which is already assisting a regional livestock project in Ethiopia, now appears also to be interested in aiding comprehensive regional development projects similar to CADU.

⁸⁰ A total of eleven reports or papers were published by this project preparation team or individual members of it. These are listed in an appendix to CADU, ANNUAL REPORT 1967/68 (Addis Ababa, undated). The most comprehensive, in three volumes, is SIDA PROJECT PREPARATION TEAM, REPORT NO. I ON THE ESTABLISHMENT OF A REGIONAL DEVELOPMENT PROJECT IN ETHIOPIA (1966). During the implementation period, CADU has published numerous reports and papers of very great value.

⁸¹ The team argued that, in view of the many physical and institutional barriers to development in Ethiopia, any isolated activity would have only limited effects. In the absence of resources for an effective national program, the best course appeared "intensive integrated efforts in limited areas of great potential." Such efforts aim to speed development in a small area and to develop "staff, methods and financial resources" for use elsewhere. *Id.* at 385.

⁸² Chilalo is a sub-province, *awraja*, in Arussi Province, a small province located

The report of the SIDA project preparation team led to the signing on September 7, 1967, of an agreement between the Swedish and Ethiopian governments to establish CADU. Organizationally, it is an autonomous unit of the Ethiopian Ministry of Agriculture which receives funds from both the Imperial Ethiopian Government and the Royal Swedish Government. Originally, action was contemplated with regard to both physical and institutional planning and development. In the detailed initial report, the latter was given as great emphasis as the former.⁸³ Yet, in the years in which CADU has been in operation, physical planning and development in fact have taken priority.⁸⁴ Important work has also been done on some institutional matters, in particular marketing, extension and credit, and a land tenure survey is being carried out. However, little is planned by CADU with regard to land reform. This is true despite the warning of Myrdal, whose ideas were frequently referred to in the report of the project preparation team, that integrated development will not succeed if land reform is ignored.⁸⁵

CADU officials themselves recognize very well the importance of land reform measures as part of a program of agrarian reconstruction, but several circumstances seem to prevent any immediate action. Within the project area itself there is undoubtedly suspicion on the part of landowners, particularly large landowners, of anything which smacks of reform, so that vigorous public support by CADU officials for measures of land reform might well prejudice the accomplishment of other objectives. The fact that most CADU officials are foreign makes the reform question, a subject of such domestic political importance, even more delicate. Many types of action would require legislation, and so far land reform legislation has not been forthcoming. The cooperation of other government departments, even on occasion that of the Ministry of Land Reform and Administration, has been difficult to obtain. And finally, it is clear

in the southern part of central Ethiopia. The initial CADU project area covers parts of four districts, *woredas*, in the northern part of the sub-province.

⁸³ See, e.g., SIDA PROJECT PREPARATION TEAM, *supra* note 80, at 386-88.

⁸⁴ This priority, perhaps inevitable, is reflected by the summary of project activities provided in CADU, SEMI-ANNUAL REPORT 1968/69 35-38 (Addis Ababa, Feb. 1969).

⁸⁵ "What is needed is a co-ordinated attack on inequality, poverty and low productivity, where land reform, community development, agricultural extension services, co-operation and many other efforts towards rural uplift are not isolated from each other but planned and pursued as a combined policy. *More specifically, without measures to reduce monopoly over land ownership it is unrealistic to expect these other reform efforts to accomplish much.*" G. Myrdal, Land Reform in its Broader Economic and Social Setting (1966, paper for the world land reform conference, FAO, Rome) *quoted in* SIDA PROJECT PREPARATION TEAM, *supra* note 80, at 127 (emphasis added).

that the lack of significant national emphasis on land reform influences the attitudes and possibilities of those engaged in local projects.

III. SOME POLITICAL OBSTACLES TO LAND REFORM

The legal and administrative developments of the last decade indicate that in Ethiopia the land reform efforts made thus far have been only of a token nature. At the same time, it must be recognized that the political obstacles to serious reform in contemporary Ethiopia are formidable, for rights over land play an important part in maintaining Ethiopia's current political system. Most importantly, they contribute to maintaining the Shoan ascendancy which has been well established since the time of Menelik II.

Although there is no comprehensive study of the southern land policies of Menelik, it is clear that, as he established his control and authority through Ethiopia's southern provinces, he rewarded his followers with generous grants of conquered land.⁸⁶ A process known as *siso* was followed, by which one-third of the conquered lands was left to the *balabats*, or local dignitaries, while two-thirds were taken by the government for distribution to Menelik's followers or for other use.⁸⁷ This policy of distributing southern lands to the faithful, who most often seem to have been Shoan, did not end with Menelik's death.⁸⁸ Even today, government land grants generally reflect this bias.

⁸⁶ See PANKHURST, *supra* note 31, at 136-37. It should also be noted that Menelik was considered a relatively generous and enlightened conqueror. *Id.* at 135.

⁸⁷ See note 55 *supra*. Distributed land was generally given as *rist*, but it could also be given in other tenures such as *maderia*. *Maderia* is "[g]overnment land granted to government employees in place of salary or as a pension for the period of office or for life." H. MANN, *supra* note 21, at 14-15. For a detailed discussion of the relationship between the development of *maderia* and the role of the army under Menelik, see Berhanou Abbebé, *supra* note 21, at 72-87.

⁸⁸ Because land measurement has not been carried out accurately or completely and because district land records are often hopelessly out of date, it is impossible to know at present how much land in the southern provinces is owned by the government. See text accompanying notes 128-33 *infra*. Surveys by the Department of Land Tenure indicate that, of the *measured* land in the southern provinces of Arussi, Sidamo and Gemu Gofa, approximately 17%, 45% and 78% respectively is owned by the government. These figures are derived from ETHIOPIA MINISTRY OF LAND REFORM AND ADMINISTRATION, REPORT ON LAND TENURE SURVEY OF ARUSSI PROVINCE (1967); ETHIOPIA MINISTRY OF LAND REFORM AND ADMINISTRATION, REPORT ON LAND TENURE SURVEY OF SIDAMO PROVINCE (1968); ETHIOPIA MINISTRY OF LAND REFORM AND ADMINISTRATION, REPORT ON LAND TENURE SURVEY OF GEMU GOFA PROVINCE (1968). In view of the fact that very little time has been allocated for these surveys—in most cases less than 2 months of field work per province is carried out—these figures can only be regarded as provisional.

In addition to the three reports cited above, the Ministry of Land Reform and

Until recently, authority to make land grants was vested in the Ministry of Interior,⁸⁹ and in many cases the governors of the provinces and districts seem to have had effective control of the process. Government land grants are now in theory the responsibility of the Ministry of Land Reform and Administration.⁹⁰ In practice, however, this ministry has been unable to gain control of the granting process in many areas. This failure can be explained in large part by the absence of adequate land records, the greater political strength of the Ministry of Interior and the de facto control of the governors of the areas where government land is located.

To the extent that grants of government land are made by provincial and district governors or by officials of the Ministry of Interior in Addis Ababa rather than by officials of the Ministry of Land Reform and Administration, they are likely to be "political" rather than "developmental." Grants are made on the basis of government orders,⁹¹ including speeches of the Emperor which are treated as official orders.⁹² Although the policy governing these land grants has at times been stated so as to emphasize the notion that every landless Ethiopian who wishes to farm will receive half a *gasha*,⁹³ in fact some unofficial estimates indicate that at least eighty per cent of the grants have gone to non-farming military officers and civil servants.⁹⁴ Such individuals have the contacts and knowledge of the system necessary to make an application for a land grant and, more importantly, to go through the generally lengthy and tedious process necessary for success. Provincial and district gov-

Administration had by Oct. 1, 1969 published reports of surveys of the following provinces: Shoa (1967); Wollega (1967); Welo (1968); Illubabor (1969); Tigre (1969); Kefa (1969); Eritrea (1969). As of the same date field work had been completed for Harrarge, Bale and Begemdir.

⁸⁹ An Order to Define the Powers and Duties of Our Ministers, Order No. 1 of 1943, § 36(e), NEGARIT GAZETA 2d Year No. 5 (1943).

⁹⁰ An Order to Define the Powers and Duties of Our Ministers, Order No. 46 of 1966, § 18(d), NEGARIT GAZETA 25th Year No. 23 (July 27, 1966).

⁹¹ Examples of recent orders are the Ministerial Order of Ter 26, 1959 (Ethiopian calendar), concerning the grant of land to different ranks of the armed forces, and the Ministerial Order of Tekempt 21, 1957 (Ethiopian calendar), concerning the grant of land to civil servants. Generally these orders are not published; for an exception, see the Silver Jubilee Order, General Notice No. 221 of 1956, NEGARIT GAZETA 16th Year No. 2 (1956). English translations of twelve such orders given in the past forty years can be found in Shibru Tekle Giorgis, *Compilation and Translation of Ethiopian Government Land Grant Orders* (1969, unpublished). Many of the earlier orders are found, in English, in Mahteme Sellassie Wolde Maskal, *supra* note 25, at 295-301, and Gebre-Wold-Ingida Worq, *supra* note 8, at 328, 330.

⁹² See, e.g., Gebre-Wold-Ingida Worq, *supra* note 8, at 328.

⁹³ At the standard rate of conversion, this is twenty hectares, which is equivalent to about 49.42 acres.

⁹⁴ Interviews, staff of the Ethiopia Ministry of Land Reform and Administration, in Addis Ababa, June 1969.

ernors are reported frequently to have granted government land to themselves. In some branches of the military, special departments assist an applicant. In these conditions, it is hardly surprising that most grantees are not landless peasants. Rather the grantees are individuals of position who lease the granted land to impoverished cultivators.

It is presently impossible to know how many of these grantees are Shoan by ancestry,⁹⁵ but it seems clear the fundamental policy is to reward with land Shoans and their supporters who have served the State faithfully and who remain loyal to the Throne. Hence, one aspect of the southern land policy of Menelik II is continued, although such grants are no longer necessary in order to govern the southern provinces. Clearly, those groups in Ethiopia benefiting from the philosophy now underlying land grants will oppose any substantial change in this philosophy, and, given the importance of these groups in maintaining the contemporary Ethiopian political system, such opposition seems likely to carry great weight.

Regional tensions related to the political ascendancy of Shoa are not confined to the recently conquered southern regions of Ethiopia. In parts of Eritrea, armed rebellion has been underway for several years. Even in "heartland" Amhara provinces such as Gojjam, there has been tension and dispute created by government land or tax policy. A recent example is provided by the "Gojjam tax revolt" of 1967-68, actually only the most recent in a series of such occurrences. The revolt was occasioned by the 1967 amendment of the income tax legislation which eliminated the exemption for income from agricultural activities.⁹⁶ Gojjam is one of the Ethiopian provinces treated for purposes of land taxation as a "tribute region." Land is not measured, and generally only local leaders know how the land tax burden is distributed among local holders of rights over land. Apparently because the 1967 legislation, albeit imposing a tax on income rather than on land, requires the assessment of each cultivator's income from his agricultural activities, it was interpreted in parts of Gojjam as introducing the Shoan system of measured holdings. This, it was thought, would lead to increased land taxation and possibly to the seizure of land by the central government. The

⁹⁵ Statistics on the provincial origin of grantees are unfortunately not available. The author of the most current and incisive study of Ethiopian government estimates that in the period of 1942-66 62% of the senior government officials were Shoan. C. CLAPHAM, *HAILE-SELASSIE'S GOVERNMENT* 77 (1969). Most provincial governors today are Shoan, and the percentage of Shoans in the provincial administrations seems to be even higher than in the central government offices in Addis Ababa.

⁹⁶ See note 61 *supra*.

revolt of the people was an armed one, and it was serious enough at the end for the government to send jet fighters to attack the massed peasants.⁹⁷ Developments such as this must give serious pause to those contemplating national reforms such as the survey and registration of all agricultural land.

Another political impediment to substantial land reform arises from the nature of the political system itself. One of the major accomplishments of the Emperor Haile Selassie I has been to develop a cadre of mobile government officials responsible to centralized imperial authority. This development has gone a long way to cut the importance of the local dignitaries, whose political power, as in the typical feudal pattern, has been closely associated with their rights over land. Nonetheless, the *balabat* or his equivalent remains a powerful figure in Ethiopian rural society, and one can legitimately expect resistance by most such individuals to any measure of land reform which further undermines their political, economic or social position. Since these individuals are heavily represented in the Ethiopian Parliament, one can expect that Parliament itself will constitute an important political impediment to Ethiopian land reform.⁹⁸

Another important political factor which must be mentioned, but which unfortunately cannot be discussed here in any detail, is the attitude of the Ethiopian Orthodox Church. The Church owns considerable amounts of land, and it has the right to collect the land taxes for additional land. Occasionally the State has carried out the physical collection of taxes and turned the revenue over to the Church,⁹⁹ but generally the Church collects its own taxes.¹⁰⁰ It thus has an autonomy approaching sovereignty with regard to these

⁹⁷ For detail on this incident, see A. Hoben, *Land Tenure and Social Mobility Among the Damot Amhara*, in PROCEEDINGS, THIRD INTERNATIONAL CONFERENCE OF ETHIOPIAN STUDIES (1967).

⁹⁸ Several years ago the Faculty of Law of Haile Sellassie I University offered a special course for Parliamentarians. The course included a section on the objectives and techniques of land reform, and the resistance of the Parliamentarians to the notion that any sort of land reform is needed in contemporary Ethiopia was notable. Significantly, this resistance existed among some of the most progressive Parliamentarians, those with some competence in English who were willing to undertake a course at the university.

⁹⁹ See Lawrence & Mann, *supra* note 4, at 330.

¹⁰⁰ *Id.* The legal basis for the collection of taxes by the Church now appears to be Church Administration Order, Order No. 48 of 1967, § 3, NEGARIT GAZETA 26th Year No. 9 (1967). See also Definition of the Powers and Duties of the General Manager Regulations, Legal Notice No. 364 of 1969, § 4, NEGARIT GAZETA 28th Year No. 11 (1969). Previously authority to collect land taxes was acknowledged by Regulations for the Administration of the Church, Decree No. 2 of 1942, NEGARIT GAZETA 2d Year No. 3 (1942).

lands, and one can presume that land reforms which changed this system would meet with opposition. In view of the influence of the Church over the highland peasantry, such opposition might well be shared by the very peasants whom the reforms would be designed to aid. Landowners on occasion dedicate land to the Church and receive the benefits of a less efficient tax collection system, so the opposition in the countryside to any reform of the present system might be practically unanimous.¹⁰¹

IV. LAND REFORM AND DEVELOPMENT

The establishment of ineffective governmental agencies and the issuance of unheeded reports and studies may be regarded by some as wrong per se, but they can be more fully condemned if the policy objective to which they pertain is one of demonstrated importance. If we accept "development" as a legitimate ultimate goal, would land reform in Ethiopia help achieve that goal? Is land reform in Ethiopia a policy objective of demonstrated importance? Although no firm answer can be given here, some aspects of this problem may be developed.

A. *Economic Development*

We can begin from an economic point of view. Two points in the case for land reform are crucial: First, "modernization" of the peasant agricultural sector is necessary for national economic development; and second, such transformation requires at least some implementation of measures of land reform.

The first of these two points is certainly the easiest to establish. Nearly ninety per cent of the people of Ethiopia are engaged in peasant agriculture.¹⁰² They produce over half of the annual gross domestic product,¹⁰³ although this figure is difficult to estimate because a large part of all production is consumed on the farm and

¹⁰¹ One of the questions about land in Ethiopia most urgently in need of study is "Church Land"—how much of it there is, where it is located, how it is administered and what the attitudes held by the Church authorities toward it are. Unfortunately, those provincial studies thus far published by the Department of Land Tenure in the Ministry of Land Reform and Administration yield very little information on such land. Some figures on Church revenues from land taxes in 1961/62 can be found at Lawrence & Mann, *supra* note 4, at 336.

¹⁰² See, e.g., Assefa Bequale & Eshetu Chole, *The State of the Ethiopian Economy: A Structural Survey*, 1 DIALOGUE 34 (1967) (Addis Ababa).

¹⁰³ The most recent statistics indicate that in 1967 agriculture contributed roughly 58% of Ethiopia's gross domestic product at current factor cost, but this includes production from "commercial farms," i.e., large farms producing almost exclusively for the market. ETHIOPIA CENTRAL STATISTICAL OFFICE, ETHIOPIA: STATISTICAL ABSTRACT—1967 AND 1968, at 126 (1969).

accurate statistics for such consumption are lacking.¹⁰⁴ It is equally difficult to estimate annual per capita income in Ethiopia, but this is clearly extraordinarily low even by the standards of the developing African countries. Generally, annual per capita income of US \$40 to US \$50 is estimated.¹⁰⁵ In most provinces illiteracy in rural areas is well over ninety per cent,¹⁰⁶ and the illiterate, subsistence farmers generally have little contact with the modern monetized sector of the economy. They make small purchases in local markets—spices, clothing, tobacco—and sell a small part of the produce of their farms.¹⁰⁷ Although in terms of its impact on the few urban centers urbanization can be regarded as rapid,¹⁰⁸ the impact on the peasant sector itself of people moving to towns is numerically small: It is estimated that only eight and one-tenth per cent of Ethiopians presently live in urban areas.¹⁰⁹

In these circumstances, it is clear that even very rapid development of other sectors of the economy—industry, tourism, natural resources, “commercial” agriculture—can have only a marginal effect for many years on the bulk of the Ethiopian population. Manufacturing industries at present employ well under 100,000 people,¹¹⁰ out of a population estimated at 23,667,400 in 1967,¹¹¹

¹⁰⁴ One study estimates that only 15% of the produce of Ethiopia's economy enters the market. Assefa Bequale & Eshetu Chole, *supra* note 102, at 40.

¹⁰⁵ The United Nations gives a figure of US \$49 per capita income for 1966, based on gross domestic product at factor cost. UNITED NATIONS, STATISTICAL YEARBOOK 1967 576 (1968). This figure can be compared with US \$289 for Ghana, US \$233 for Zambia and US \$107 for Kenya. Only Malawi (US \$49) was rated as low in per capita income as Ethiopia, although 1966 figures were not given for some countries. In a preface to the Third Five Year Development Plan, the Prime Minister of Ethiopia refers to evidence indicating the figure may range from US \$50 and US \$80. THIRD DEVELOPMENT PLAN, *supra* note 68, at 20. Although all these statistics must be used with considerable caution, they do illustrate Ethiopia's relative poverty within Africa.

¹⁰⁶ Literacy figures have been published by Ethiopia's Central Statistical Office in a series of provincial surveys.

¹⁰⁷ For figures on annual expenditures of peasant households in Chilalo, see L. LEANDER, A CASE STUDY OF PEASANT FARMING IN THE DIGELU AND YELOMA AREAS, CHILALO AWRAJA, ETHIOPIA 73-80 (1969).

¹⁰⁸ See, e.g., Mesfin Wolde-Mariam, *The Rural-Urban Split in Ethiopia*, 2 DIALOGUE 7-9 (Addis Ababa) (1968).

¹⁰⁹ ETHIOPIA CENTRAL STATISTICAL OFFICE, *supra* note 103, at 26. “Urban” is used broadly by the Central Statistical Office: the term includes all towns which “have town chiefs appointed within the framework of administrative authority.” *Id.* at 23. About 45% of those living in urban areas live in towns of over 50,000 in population. *Id.* at 29.

¹¹⁰ For 1959 in the Ethiopian calendar (1966/67 in the Gregorian calendar), the Central Statistical Office gives the number of employees in manufacturing industries as 58,694. *Id.* at 57.

¹¹¹ *Id.* at 26.

and they contribute only about four per cent of the gross domestic product.¹¹² If handicraft, construction, mining and the production of electricity are added, the contribution reaches about sixteen per cent.¹¹³ No matter how great the gains of the industrial sectors of the economy each year, dramatic national improvement cannot take place so long as an enormous and stagnant peasant agricultural sector is barely able to feed the country.¹¹⁴ Tourism and natural resources development could be important sources of the foreign exchange earnings needed to finance new development projects, but thus far the gains from these sectors are meager.¹¹⁵ Commercial agriculture perhaps contributes more directly through wages paid to people who have left the peasant sector only recently and often temporarily, but at present only a tiny fraction of those who work in Ethiopia are employed on commercial farms.¹¹⁶ The conclusion that for significant national economic development to take place in Ethiopia there must be modernization of the peasant agricultural sector seems inescapable.¹¹⁷

The second point which must be established to show that land reform is essential for national economic development is more difficult: It rests on a number of assumptions which may or may not prove to be correct. The problem can perhaps be best discussed if the situations that particular reform measures are designed to change are considered one by one.

¹¹² *Id.* at 126.

¹¹³ *Id.*

¹¹⁴ On the possibility that Ethiopia may face a serious food crisis in the years ahead, see J. Fischer, *An Approach to an Agricultural Development Program for Ethiopia at A-1* (1967, unpublished).

¹¹⁵ In addition, the revenues available to date have not been allocated for agricultural development. One author states that, as of 1967, government expenditures on agriculture in Ethiopia had never exceeded 2% of the total public sector budget. *Id.* at A-2. Although such expenditures are increasing somewhat, the budget for 1961 in the Ethiopian calendar (1968/69 in the Gregorian calendar) for the Ministry of Agriculture was still under 3% of the total government budget. To this should be added relatively small sums expended by other government bodies on agriculture development.

¹¹⁶ Comprehensive figures on the number of people employed on commercial farms in Ethiopia are not available, but some indication is given by a recent document indicating that about 6,000 persons are employed on commercial farms in Shoa. ETHIOPIA MINISTRY OF COMMUNITY DEVELOPMENT, *LIST OF 1798 BUSINESS ESTABLISHMENTS IN SHOA PROVINCE I* (1967).

¹¹⁷ Obvious as this conclusion may seem, it was not stated with force in Ethiopia's second five year plan. Two Ethiopian economists observed recently that government policy has "tended to show indifference" to Ethiopia's agricultural situation. In support of this conclusion, they cited the low budgetary allocations made each year for agriculture and the failure to fulfill investment targets of the second five year plan. Assefa Bequele & Eshetu Chole, *Toward a Strategy of Development for Ethiopia*, 1 *DIALOGUE* 56-57 (1968) (Addis Ababa).

1. Tenure

In view of the lack of analyses by agricultural economists of the operation of particular farms in the "communal" tenure regions of northern Ethiopia and of the effect on such operation of the tenure system itself, it is difficult to be specific regarding the economic case for tenure reform. In many northern areas the following basic conditions seem to exist. Most rights over land depend on a claimant establishing a link with a "founder" of the village, so that "new" claims can at any time lead to "new" rights. Farms largely consist of several parcels or fragments, sometimes located at considerable distance from one another, and the system of inheritance tends to perpetuate this fragmentation, for fairness is thought to require each heir to take part of each parcel over which the deceased had asserted rights. In addition, the total cultivable surface which constitutes a farm or holding is often less than the manpower available on the farm could exploit, so that there is considerable "under-employment."¹¹⁸

Several undesirable economic effects are generally assumed to be caused by these conditions. The Lawrence and Mann study, which was prepared following visits to parts of the northern provinces, assumed the following ones: a lack of incentive to improve the land stemming from insecurity of tenure—in fact, it was assumed that, in a system where new claims on presently worked parcels can always be made, "improvement of a particular piece of land may even encourage claims which would not have been made if the land had not been improved"; a lack of continuity in farming owing to the ease with which a farmer can claim land in several different localities; and restricted access to agricultural credit because of the inability of cultivators to offer the land cultivated as security for a loan.¹¹⁹ In addition, it was assumed that fragmentation of farms has undesirable economic effects—presumably, these derive from the waste of the farmer's time and effort in going from one parcel to another and inefficiencies in farming due to the fact that cultivated areas are of a smaller size than necessary.

Until further field studies are performed, it will be difficult to accept some of these points as anything more than unproven assumptions. For example, the degree to which improvements on parcels

¹¹⁸ See, e.g., Debebe Worku, *Land-tenure System in Mekkara*, 2 *ECON. J.* 35, 41, 44 (1966). For the contrary view that "labour in Ethiopian agriculture is fully employed in producing its present output" with its present technology, see K. Gabathuler, Report to the Government of Ethiopia on Small Agricultural Implements 3 (1953, FAO paper).

¹¹⁹ Lawrence & Mann, *supra* note 4, at 315.

would attract new claims *which would discourage further improvements* may well depend on the degree of social solidarity felt by the cultivators. Where strong bonds exist, the person who initiates improvement may be willing to share the benefits with claimants who are close relatives. Alternatively, claims to a share of land may be satisfied only from the supply of unimproved land, so that improved land is protected. One undesirable economic effect, at least partially attributable to the tenure systems of the north, can however be mentioned with greater certainty. Between 1951 and 1960 the Development Bank of Ethiopia attempted a program of loans to small farmers.¹²⁰ Borrowers were required to provide security interests in their land, but because of the lack of individual titles in the northern regions very few loans were extended there.¹²¹ This, of course, was as much a function of the credit system designed as it was of the tenure systems in existence. Furthermore, the credit program failed in the southern provinces because loans were used for non-agricultural purposes and there was a high rate of default,¹²² and one may suppose that the same might have occurred in the north had the Development Bank seen fit to extend numerous loans there. Nevertheless, to the extent future agricultural credit programs require individual farmers to provide lenders with security interests in the borrowers' land, the northern tenure systems will be a bar to economic advance through the use of such credit.

2. Tenancy

The economic case for agricultural tenancy reform in Ethiopia, like that for tenure reform, has to date been based only on fragmentary data and assumptions borrowed unquestioningly from western agricultural economics. Agricultural tenancy is more common in Ethiopia's southern provinces, but it would be erroneous to regard it as limited to the south. One study of a village in Begemdir, one of the Amhara heartland provinces the tenure systems of which are similar to those of Gojjam, found that agricultural tenancy there comes about in one of three ways: "outsiders," who have no family relationship with members of the community and hence cannot assert *rist* rights, rent land; members of minority religions in the province, *e.g.*, Islam or the "House of Israel"—a Judaic sect known as Falasha—who by tradition are not permitted to own land, rent it; and regular members of the community rent from others when

¹²⁰ H. ROBINSON & MAMMO BAHTA, *supra* note 38, at 88.

¹²¹ Lawrence & Mann, *supra* note 4, at 315.

¹²² H. ROBINSON & MAMMO BAHTO, *supra* note 38, at 88.

their own land is insufficient.¹²³ The fragmentary indications which exist suggest that in the northern provinces the proportion of holdings operated at least partly under tenancy may be as high as twenty-five percent.¹²⁴

Although in the northern provinces only individuals from minority religions or occupational groups are without any land of their own, in the southern provinces the majority of the population appear to own no land. The few figures available must be used with care, partly because different observers have different notions of who is and who is not a "tenant" in the south.¹²⁵ In pilot studies carried out in two southern areas, however, it was found that well over half of all cultivators operated all their land under tenancy.¹²⁶

Adverse economic effects are assumed by many outside observers to result from such a high rate of customary tenancy, much of it on a share-cropping basis. For example, tenants, lacking the pride and security of an owner, are thought to be unwilling to invest effort and funds beyond the minimum necessary to subsist. This reluctance is thought to be compounded where, as in a share-cropping tenancy, a portion of the gain from extra investment must be turned over to a landlord who bears none of the extra cost.¹²⁷

These assumptions contain considerable common sense, and they are based on phenomena observed in other countries where much more is known of the precise effects of tenancy on development. It is nonetheless unknown to what extent contemporary tenancy conditions in fact prevent agricultural development in Ethiopia, where many possibly more serious obstacles exist. It has not been shown, for example, that an innovation-minded tenant in

¹²³ Debebe Worku, *supra* note 118, at 39. The author notes that in another part of Begemdir there is a special area where Moslems are permitted to own land. *Id.*

¹²⁴ ETHIOPIA MINISTRY OF LAND REFORM AND ADMINISTRATION, REPORT ON LAND TENURE SURVEY OF TIGRE PROVINCE 51 (1969). This study also indicates that 33% of the total cropped area consists of holdings which are partly (26%) or entirely (7%) rented. *Id.* at 54.

¹²⁵ Thus Pankhurst treats the *gebbar* in Shoa as a tenant, PANKHURST, *supra* note 31, at 108, while Berhanou treats him as an owner, *see* note 23 *supra*. The surveys carried out by the Ministry of Land Reform and Administration show that in many parts of the southern provinces a substantial number of farmers own part of the land they cultivate and rent the rest. Statistics dividing all farmers into either "owners" or "tenants" are thus necessarily misleading.

¹²⁶ In southern Shoa, 90% of the individuals cultivating parcels on 83 selected farms were found to be tenants. H. MANN, *supra* note 21, at 20-23. In a subsequent study of 134 selected farms in another southern province, 60% of the cultivators were found to be tenants. ETHIOPIA MINISTRY OF LAND REFORM AND ADMINISTRATION, FIELD STUDY IN SYSTEMS OF LAND TENURE AND LANDLORD TENANT RELATIONSHIPS IN TABOR WEREDA (SIDAMO) 16-19, 24 (1967).

¹²⁷ *See* H. MANN, *supra* note 21, at 8-9.

southern Ethiopia cannot easily obtain the long-term written lease on a fixed cash rent basis which would provide ample security for investment. The problem is that innovation-minded tenants scarcely exist. Possibly the best reason for maintaining that tenancy reform would contribute to economic development is that a dramatic improvement in tenancy conditions imposed from above could help in the mobilization of tenants for development. If peasant mobilization is the key factor, however, redistribution of rights over land may be far more effective than requirements for written leases or for fixed rents.

3. Insecurity

Another factor observers regard as a brake on modernization in the Ethiopian agricultural sector is insecurity. Insecurity may be simply a concomitant of "communal" tenure or of an undefined and uncontrolled tenancy relationship. In Ethiopia it may also occur for other reasons, two of which will be noted here. First, insecurity may arise from the lack of reliable land measurement, land records and population records. Traditionally land has been held in productivity units rather than in areal units. A *gasha* of land, for example, has been larger in less fertile areas than in more fertile areas.¹²⁸ In the past century landholding on the basis of areal units has been introduced,¹²⁹ but measurement has been sporadic and often highly inaccurate. Land records established on the basis of such measurement, or on the basis of an estimate without benefit of any measurement whatsoever, are inherently unreliable. Those with rights over a parcel of land are not sure what boundaries for the parcel will be acknowledged by their neighbors or recognized by the State. Their insecurity is increased by the knowledge that on re-measurement the State may seize all or part of any surplus which is discovered.¹³⁰

Difficulties created by the lack of accurate measurements are compounded by the fact that land records are not kept up to date, and in many areas adequate population records are not maintained

¹²⁸ See Mahteme Sellassie Wolde Maskal, *supra* note 25, at 284. The size of the *gasha* has also apparently varied in relation to other factors such as the political status of the holder.

¹²⁹ The *gasha* is now standardized as a unit of forty hectares, which is approximately 98.84 acres. On the history of the *gasha*, see Pankhurst, *A Preliminary History of Ethiopian Measures, Weights, and Values (Part 1)*, 7 J. ETHIOPIAN STUDIES 31, 52-53 (1969).

¹³⁰ See Mahteme Sellassie Wolde Maskal, *supra* note 25, at 295-96, for the text of a 1930 law "relative to land found to be in excess of the official measurement." This provides that in specified circumstances such land may be given to persons other than the former owner. Field research on contemporary local practices with regard to such surpluses is badly needed.

at all. Various sorts of land records have in the past been maintained by the Ministry of Interior,¹⁸¹ the Ministry of Finance and the Church. The district land tax records of the Ministry of Finance appear to be the most comprehensive, but recent studies of these records confirm that they are often hopelessly out of date.¹⁸² To avoid tax consequences transfers of rights are frequently not recorded,¹⁸³ so that often land remains recorded in the name of a person who has been deceased for many years. Whole generations of heirs or other transferees continue to pay the land taxes in the name of the deceased.

A second source of insecurity is the prevalence of land litigation. This might be regarded as simply the inevitable consequence of other factors already mentioned, such as the inadequacy of land records, but it seems also that land litigation is an activity valued for its own sake. A farmer can raise his status more easily through litigation than through agriculture. Litigation can therefore be regarded as an independent factor possibly inhibiting agricultural development. Two recent studies of land disputes do not substantiate earlier estimates that seventy-five per cent of all civil cases in Ethiopia concern land disputes, but the figures established by these studies are nonetheless very high.¹⁸⁴

As with tenure and tenancy, the relationship between insecurity of those with rights over land and modernization of the peasant agricultural sector in Ethiopia has been little studied. It is assumed that the insecurity arising from frequent litigation over land can be reduced through introduction of a reliable and comprehensive system of land records.¹⁸⁵ Reasonable as this assumption may be,

¹⁸¹ These are the records of the Land Administration Department, which is now part of the Ministry of Land Reform and Administration. See note 54 *supra*. The municipalities, which are controlled by the Ministry of Interior, maintain separate records for land within their jurisdiction.

¹⁸² See, e.g., A. LEXANDER, *THE CHANGING RURAL SOCIETY IN ARUSSILAND 27* (1968).

¹⁸³ *Id.* at 28.

¹⁸⁴ One study, based on a year's court records for one district and one sub-province in southern Shoa, shows that in both courts roughly one-third of all civil cases involved land disputes. ETHIOPIA MINISTRY OF LAND REFORM AND ADMINISTRATION, *A PILOT STUDY OF AGRICULTURAL LAND DISPUTES IN LUME WEREDA AND YERER & KEREYU AWRAJA COURTS (SHOA PROVINCE)* 42 (1969). A similar study carried out in the western part of Hararge establishes that in the district court roughly 37% of all civil cases consisted of agricultural land disputes, while the comparable figure for the sub-provincial court was 12%. ETHIOPIA MINISTRY OF LAND REFORM AND ADMINISTRATION, *A STUDY OF AGRICULTURAL LAND DISPUTES IN KUNI WEREDA AND CHERCHER AWRAJA COURTS (HARER PROVINCE)* 6 (1969). This study also shows that about 20% of all criminal complaints filed for the year studied were based on disputes over agricultural land, while about 45% of the criminal appeals taken to the sub-provincial courts were land cases. *Id.* at 49.

¹⁸⁵ See, e.g., Lawrence & Mann, *supra* note 4, at 297.

other factors may mean that the increased agricultural development expected to follow upon establishment of a land registration system will not in fact materialize. To the extent that land litigation has a social basis, the settlement of rights and boundaries may mean that farmers will simply find other aspects of their land situation over which to litigate. To the extent that there is underemployment in the peasant agricultural sector, the time saved from litigation may not lead to increased production. This is not to suggest that a program of land survey and registration should not be undertaken, but merely that the underlying assumptions are untested and that consequently expectations should not be overly high.

4. Government Land Grants

The government land grant system may also have a bearing on the modernization of peasant agriculture and hence on long-term economic development. Until very recently, the relationship between land grants and development has not been publicly considered by the Ethiopian government. The possible importance of the system for agricultural development is, however, at least twofold: First, if land grants are used to provide land for the landless, they can relieve population pressure on the land in overcrowded areas and provide an escape from tenancy, thus indirectly putting pressure on landlords themselves to improve the conditions of tenancy in order to hold tenants; and second, they afford an opportunity for close governmental control of cultivation in the interests of development.

Some small settlement projects for landless peasants have in fact been begun on government land in southern areas,¹⁸⁶ and these represent some change in the official attitude toward the use of government land to promote development. Such settlement, however, is taking place in lowland areas which have not ordinarily been used for land grants. Grants of choice government land in the highlands continue to be made in the traditional manner. The continued use of the land grant system primarily to provide rewards for those who are loyal and well-placed will substantially inhibit any measures designed to give the system a more developmental orientation.¹⁸⁷

¹⁸⁶ Settlement projects are underway in both Soddo-Wollamo and the Awash Valley, as part of the programs referred to *supra*, notes 69, 70. The Third Five Year Development Plan promises more such settlements in other parts of the lowlands. THIRD DEVELOPMENT PLAN, *supra* note 68, at 192, 373-74. Some of the present settlements deliberately contain a mix of peoples of different tribal origins, so that they represent a social experiment as well as a plan for agricultural modernization.

¹⁸⁷ The third plan does contain the statement that the Ministry of Land Reform and Administration will "take all steps necessary to grant ownership rights to tenants of government land, particularly where tenants are otherwise landless." *Id.* at 197. Implementation of this policy would bring a significant change in the current system.

The second possibility—government control of cultivation on granted land—could be achieved in several ways. Development conditions attached to grants have been used successfully in other African countries,¹³⁸ and, in fact, the Third Five Year Development Plan states that “[i]n connection with already approved programmes of distribution of government lands to private citizens, the Ministry of Land Reform and Administration should make these grants conditional on the full and proper exploitation of the land within a reasonable time.”¹³⁹ Such conditions might well be an efficacious means of forcing grantees to follow patterns of development which will eventually lead to a modernized agriculture. A system of development conditions, however, requires the State to recover land not developed in accordance with the conditions. The political realities of contemporary Ethiopia suggest that any hope of recovering land granted, say, to a high military officer who had failed to develop it in accordance with the conditions imposed would be illusory. It is apparently for this reason that the Ministry of Land Reform and Administration aims simply to grant the better parcels of land to grantees who accept contractual development conditions, with other parcels granted without conditions. Since the Ministry does not even control the actual making of grants in many parts of the country,¹⁴⁰ and since the pressure for good land from prospective grantees will presumably be intense, even this modest goal may be unobtainable.

5. Large Landholdings

Finally, the aspect of the Ethiopian land system upon which least of all is known must be considered: large landholdings. Occasionally spectacular cases of large tracts held by royalty or nobility are reported,¹⁴¹ but generally the size of large holdings is not known.¹⁴²

¹³⁸ See, e.g., McAuslan, *Control of Land and Agricultural Development in Kenya and Tanzania*, in *EAST AFRICAN LAW AND SOCIAL CHANGE* (G. Sawyerr ed. 1967). For suggestions regarding development conditions in Ethiopia, see Belayneh Negatu, *The Use of Development Conditions on Government Land Grants in Ethiopia: Practice and Prospects* (1969, unpublished).

¹³⁹ *THIRD DEVELOPMENT PLAN*, *supra* note 68, at 197.

¹⁴⁰ See text accompanying note 90 *supra*.

¹⁴¹ One author reports a case from a district of Chercher subprovince of over 900,000 hectares (2,223,000 acres) held by one individual as *rist gult*. SILESHI WOLDE-TSADIK, *LAND OWNERSHIP IN HARARGE PROVINCE* 19 (Imperial Ethiopian College of Agricultural and Mechanical Arts Experiment Station Bulletin No. 47, 1966). He reports further that only 1.1% of this holding is recorded in the tax register. It should be noted that since the holding is of *rist gult*, further inquiry would be necessary to determine how much of this land the holder has the right to possess. See note 25 *supra*.

¹⁴² As Sileshi notes, information on individual holdings in Ethiopia is “available

Studies by the Department of Land Tenure in the Ministry of Land Reform and Administration, which provide the beginnings of a statistical outline for some aspects of Ethiopian landholding, yield practically nothing with regard to distribution patterns. The causes seem to be the familiar ones: inaccurate measurements and unreliable records, compounded by the political invulnerability of large landholders to attempts by administrative officials to determine the size of their holdings.

There is no reason at present, however, to believe that large landholdings in Ethiopia either greatly contribute to or greatly restrain agricultural development. There are isolated cases where the existence of large tracts has facilitated the development of commercial farming,¹⁴³ and other cases where large tracts have notoriously been left idle.¹⁴⁴ But many such tracts seem to have been divided and leased to tenants, so that large landholding apparently has roughly the same impact on agricultural development as the absentee landlordism of smaller owners.

At times official statements of the Imperial Ethiopian Government have taken pains to state that there is no need for land redistribution in Ethiopia. Generally it is noted that, unlike most countries facing land reform, Ethiopia is a "land-rich" country.¹⁴⁵

only to a very few government officials in the Ministry of Finance." SILESHI WOLDE-TSADIK, *supra* note 141, at 5.

¹⁴³ Thus large tracts of land in Hararge Province which were donated by the Emperor to the Haile Sellassie I Prize Trust in 1963 are operated as modern commercial farms. See *Annex, Charter of the Haile Sellassie I Prize Trust*, in HAILE SELASSIE I PRIZE TRUST 7, 22 (1964); see also *Speech by Director, id.* at 4, 5.

¹⁴⁴ See THIRD DEVELOPMENT PLAN, *supra* note 68, at 196.

¹⁴⁵ Thus in the Emperor's Speech from the Throne of November 2, 1968, it was noted that "[t]he presence of large, rich and uncultivated tracts of land throughout the country is sufficient proof that there is no shortage of land in Ethiopia." *Id.* at 10. This statement followed the observation that measures of land reform must be in accord with a country's "particular traditions and social system," rather than consist merely of "imitation of measures adopted elsewhere." *Id.* The implication that there is no need for redistribution of private land seems clear. The statements on land reform in this recent speech are mild in tone and lack the urgency of some earlier statements. The strongest statement on land reform to have come from the Emperor is found in the Speech from the Throne of November, 1961, when the following—in reference to "a sweeping programme of land reform" upon which the government was said to be embarking—was stated: "The fundamental obstacle to the realization of the full measure of Ethiopia's agricultural potential has been, simply stated, lack of security in the land. The fruits of the farmer's labour must be enjoyed by him whose toil has produced the crop. The essence of land reform is, while fully respecting the principle of private ownership, that landless people must have the opportunity to possess their own land, that the position of tenant farmers must be improved, and that the system of taxation applying to land holdings must be the same for all. It is Our aim that every Ethiopian own his own land . . ." The Ethiopian Herald, November 4, 1961, 1. The Emperor at the same time announced that lands in Arussi Province "heretofore administered by Our Ministry of the Imperial Court" had been distributed to the tenants working on them. *Id.*

When one considers the over-all density of population,¹⁴⁶ this is perhaps true. But the basic fact is that Ethiopia consists of relatively crowded highland areas and a very sparsely populated lowland. Government policy statements favor the development of new settlements in the rich river basins of the lowland,¹⁴⁷ but such settlements are expensive and consequently can only provide opportunities for a small fraction of the peasants who are landless or without sufficient land. The peasant cultivators now live in the highland areas where many of the large tracts are located, not in the river valleys where some settlement may prove feasible. Economically redistribution may not be the most satisfactory solution for large highland tracts; large-scale development through private "commercial" farming, co-operatives or state farms might prove far better. But at present, the official policy is clearly to avoid even the study of alternate government policies toward the country's largest holdings.¹⁴⁸

B. *Social and Political Development*

As speculative as it is to comment on the probable economic effects of land reform in Ethiopia, one can at least isolate certain economic development objectives, such as a rapid increase in agricultural production, and consider how various land reform measures might assist in achieving them. With regard to social and political development, it is difficult to go even that far. To date the Ethiopian leadership does not appear to have adopted, formally or informally, any clear set of social or political objectives regarding land toward which the nation can work. What kind of agricultural sector do Ethiopian leaders hope to have in twenty or thirty years? Family units wedded to ancestral lands and traditional tenure and use practices as at present? Family units freed of traditional bonds and

¹⁴⁶ The most recent statistics indicate a national population density in Ethiopia of 19 per square kilometer. ETHIOPIA CENTRAL STATISTICAL OFFICE, *supra* note 103, at 26. This figure can be compared with 33 for Ghana, 17 for Kenya and 5 for Zambia. UNITED NATIONS, *supra* note 105, at 78-79. The provincial variation in population density in Ethiopia is enormous, from 1 per square kilometer in Bale Province to 47 per square kilometer in Arussi Province. ETHIOPIA CENTRAL STATISTICAL OFFICE, *supra* note 103, at 26.

¹⁴⁷ See, e.g., THIRD DEVELOPMENT PLAN, *supra* note 68, at 192, 373-74.

¹⁴⁸ A draft of the third plan noted that important change in farm structure in Ethiopia would be a "long process" which would require "a great outflow of agricultural population outside of agriculture" and "very radical land reform measures such as re-distribution of land." The latter, which were not recommended by the draft for the third plan period, are not mentioned at all in the final version of the plan, although there is mention of concentration of land ownership "in a small group" as one cause of "the apathy . . . of the agricultural population." *Id.* at 195. Other causes mentioned are "inequitable land tenure patterns," "insecurity of tenure" and "exorbitant rent or share cropping arrangements." *Id.*

operating within a society characterized by a high degree of mobility and an economy with a developed land market? Large co-operative units working under close state control? An agricultural "proletariat" developing state farms? A mixture of these systems? Some rough answers to such questions would help one to consider the possible role of land reform measures in future Ethiopian social and political development.

Despite the failure to define and articulate future goals for the Ethiopian peasantry, there have been in the past quarter century some indications that continuation of past patterns is not desired. Isolated steps have been taken to undermine key elements of the traditional rural order. Among the most important has been an attempt to eliminate personal services performed by peasants on behalf of their "lords." Traditionally, in most parts of Ethiopia one who owes tribute to another has been expected to perform various personal services for the other party. The construction of fences, repair of houses or preparation and harvesting of crops are typical instances of such tribute.

After Ethiopia's liberation from Italian occupation in 1941, steps were taken to prohibit such personal services.¹⁴⁹ A 1944 tax proclamation repealed all "taxes, services and fees" previously payable and substituted for them taxes payable in money.¹⁵⁰ Personal services, however, had traditionally been rendered not only as "tax" but also as "rent," and the 1944 legislation did not purport to affect these services. Nor did the Civil Code of 1960 clearly prohibit personal services by a tenant in performance of his obligations, and the tenancy reform bill of 1964, which would have explicitly barred personal services by tenants, was never enacted. Consequently the achievement of the limited social objective of eliminating personal services has yet to be accomplished on paper, much less in practice.¹⁵¹

¹⁴⁹ Even before the Italian occupation, measures had been proclaimed to restrict personal services. Mahteme Sellassie Wolde Maskal, *supra* note 25, at 296-97 gives the text of a "law abolishing all obligations of personal service."

¹⁵⁰ Land Tax Proclamation, Proclamation No. 70 of 1944, § 4, NEGARIT GAZETA 4th Year No. 2 (Nov. 1, 1944). Nonetheless in some cases holders of rights over land have been required to perform personal services for the State, services which generally are in lieu of payment of land taxes. Silver Jubilee Order, General Notice No. 221 of 1956, § 1(iii), NEGARIT GAZETA 16th Year No. 4 (1956) provides that holders of *maderia* previously required to render constabulary services are henceforth to be paid for such services, but reportedly this order has not been widely enforced. Three years after the 1944 land tax legislation was promulgated, an exception was made for certain services traditionally due to the Church. See Land Tax (Interpretation) Proclamation, Proclamation No. 93 of 1947, § 2, NEGARIT GAZETA 7th Year No. 21 (Oct. 31, 1947).

¹⁵¹ A very recent study notes that "landlords are entitled to require their tenants

Beyond the elimination of personal services, it is difficult to name an objective related to land and designed to improve the social and political position of the Ethiopian peasantry toward which even partial action has been taken in the past quarter century. Even public discussion of such objectives has not occurred. With guidelines so unclear, it is fruitless to attempt to evaluate the contribution which land reform could make in these areas of national development.

V. CONCLUSION

It should be abundantly clear that Ethiopia in practice has yet to accept and develop land reform policies designed to promote national development. The proposals of the last decade have never been widely debated within either the society as a whole or its leadership. In some instances they have been reduced to draft legislation,¹⁵² but the chances for enactment and implementation at the present time are slim.

In view of the absence of real progress toward reform, one may question why the government sought outside advice and then established a ministry charged with the study, proposal and implementation of land reform measures. Although the abortive *coup* of 1960 may have provided the initial impetus, the subject could later have been quietly abandoned. Perhaps the idea has been kept alive simply to placate the younger elite within the government or to maintain satisfactory public relations with the "outside world" of donors, the United Nations and supposedly more progressive African neighbors. Perhaps, however, the leadership simply misjudged its own effective constituency of landowners, who have apparently reacted more vigorously against the idea of even mild land reform measures than was anticipated. This reaction may well have been shared by provincial and district governors anxious to avoid difficulties within their areas of jurisdiction.

to work on their land once a week and render other personal services like gathering wood and helping the landlords' household during festivities. In the words of some of the persons interviewed, the landlord uses his tenant as he pleases." ETHIOPIA MINISTRY OF LAND REFORM AND ADMINISTRATION, A STUDY OF AGRICULTURAL LAND DISPUTES IN KUNI WEREDA AND CHERCHER AWRAJA COURTS (HARER PROVINCE) 61-62 (1969).

¹⁵² Three draft proclamations had been submitted to the Council of Ministers by July 1, 1969: a Proclamation to provide for the Registration of Immovable Property; a Proclamation to provide for the Regulation of Agricultural Tenancy Relationships (a proposal far more elaborate and interventionist than the draft tenancy legislation referred to at text accompanying notes 46-49 *supra*); and a Proclamation to provide for a Tax on Unutilized Land. As of October 1, 1970, none of these drafts had been submitted to Parliament.

In considering the prospects for land reform in Ethiopia, it is impossible to divorce these prospects from the general political development of the country. Land reform, even the milder sort not involving redistribution, is a highly political act. Both those who may gain and those who may lose from land reform will understand this, and one may expect many from each category to act accordingly. In Ethiopia today, serious political pressure for such reform does not exist. Proposals have come not from peasant organizations or their representatives, but from an occasional government official or advisor, often an expatriate one. This is not to suggest that the proposals are not sound, but merely that they lack political support. They are, therefore, at present unlikely to be accepted or, if accepted, implemented. In Ethiopia as elsewhere, land reform "cannot be advised into existence."¹⁵³ The only identifiable group in the society which has indicated strong support for land reform consists of students,¹⁵⁴ and although the situation could change rapidly there is now nothing to indicate that student influence over national policy is anything more than marginal. The peasants, the vast mass who stand to gain the most from reform, seem either totally ignorant of the aims of land reform measures or hostile to the whole notion. Without changes in peasant attitudes and organization, important grass roots pressures will not emerge. Significant action will occur only when intensive domestic political pressure for measures of land reform develops. Such pressure in turn is contingent upon a wider political evolution hardly as yet in process in Ethiopia.

¹⁵³ D. WARRINER, *LAND REFORM AND DEVELOPMENT IN THE MIDDLE EAST: A STUDY OF EGYPT, SYRIA, AND IRAQ* 9 (1957).

¹⁵⁴ Within Ethiopia, university students demonstrated for land reform when the first tenancy bill was before Parliament in 1965, and a congress of the national student union passed a resolution calling for land reform in 1967.