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Unsustain the sustainable: An evaluation of the legal and policy interventions for pastoral development in Ethiopia

Berihun Adugna Gebeye

Abstract

This article is a critical appraisal of the legal and policy interventions for pastoral development in Ethiopia under the Imperial, *Derg* and Ethiopian Peoples' Revolutionary Democratic Front (EPRDF) governments. Based on an extensive review of pastoral policies, laws and practices, it is found that the legal and policy interventions are not pastoral sensitive, and accordingly, they have been unable to bring the desired result. Moreover, they have created pressure on the pastoralists and the pastoral economy, as they do not consider pastoralism as a viable system. In particular, the policy of settlement poses a challenge to the very system of pastoralism, and threatens the pastoral culture, social institutions and identity. This article argues that Ethiopian pastoralists have a right to development in the manner that advances the enforcement of their human rights, and the Ethiopian state assumes a legal obligation to undertake pastoral development consistent with human rights-based approach. The article calls for the (re)consideration of the legal and policy interventions in line with international human rights standards, the bill of rights and the National Policy Principles and Objectives of the Ethiopian Federal Democratic Republic Constitution. Pursuing pastoral development based on agrarian and flawed assumptions not only affects the pastoral system, but also the continuous viability of pastoralists - for it makes the sustainable pastoral way of life unsustainable.

Keywords: Development, Ethiopia, Human rights, Law, Pastoralism, Policy, Settlement

Background

Pastoralism is one of the oldest systems which 14 % of Ethiopians rely on and is practiced within 61 % of the territory (PFE et al. 2010). Around 29 of the Ethiopian ethnic groups depend on pastoralism (PFE et al. 2010; SOS Sahel Ethiopia 2004). In order to boost the national economy and modernize the country, successive Ethiopian governments have been implementing different pastoral policies for the last half century. These policies are designed within the framework of agrarian societies and are driven by agricultural development. Unable to modernize the agricultural sector to date, it is quite surprising to design pastoral policies based on agrarian assumptions. The achievements so far have not been satisfactory, principally due to the policies themselves, as they have been pastoral unfriendly.

This article critically examines and explores pastoral policies, laws and practices of the Imperial (Haile Selassie I), the *Derg* (military) and the Ethiopian Peoples'

Revolutionary Democratic Front (EPRDF) governments. It offers some insights for pastoral development programmes by analysing the right to development of Ethiopian pastoralists with the National Policy Principles and Objectives (NPPO) provided by the Federal Democratic Republic of Ethiopian (FDRE) Constitution. It also discusses the human rights-based approach (HRBA) to development and its potential for pastoral societies. It is argued that any policy needs to pass the test of relevancy and feasibility to bring the desired result. With this view, I have submitted that a pastoral sensitive development programme is required, if pastoral societies are required to develop, prosper and flourish.

This article is organized into five sections. The first section provides the background about pastoralism as a sustainable way of life as a basis for the other sections. The second goes on to explore the right to development of Ethiopian pastoralists, while the third sheds light on the HRBA to development to inform the means for pastoral development. The fourth investigates pastoral

Correspondence: beron2546@gmail.com
Central European University, Budapest, Hungary

development policies, laws and practices under the Imperial, *Derg* and EPRDF governments, whereas the fifth and final section particularly assesses settlement as a pastoral development strategy.

Study area

The study area covers five out of the nine regional states in the Ethiopian federal state structure as seen in Figure 1. Pastoral societies are found in Afar, Ethiopian Somali, Oromia, Gambella and Southern Nations, Nationalities and Peoples regional states. Although pastoralists in these regions share a common way of pastoral life, they have their own distinct cultural, social and religious convictions. As seen in Figure 2, pastoralists are found in the north eastern, eastern, western and southern parts of Ethiopia, and accordingly, they have been situated across different latitudes and longitudes, with different rainfall, temperatures and population density. Regardless of these differences, they have been subject to similar pastoral

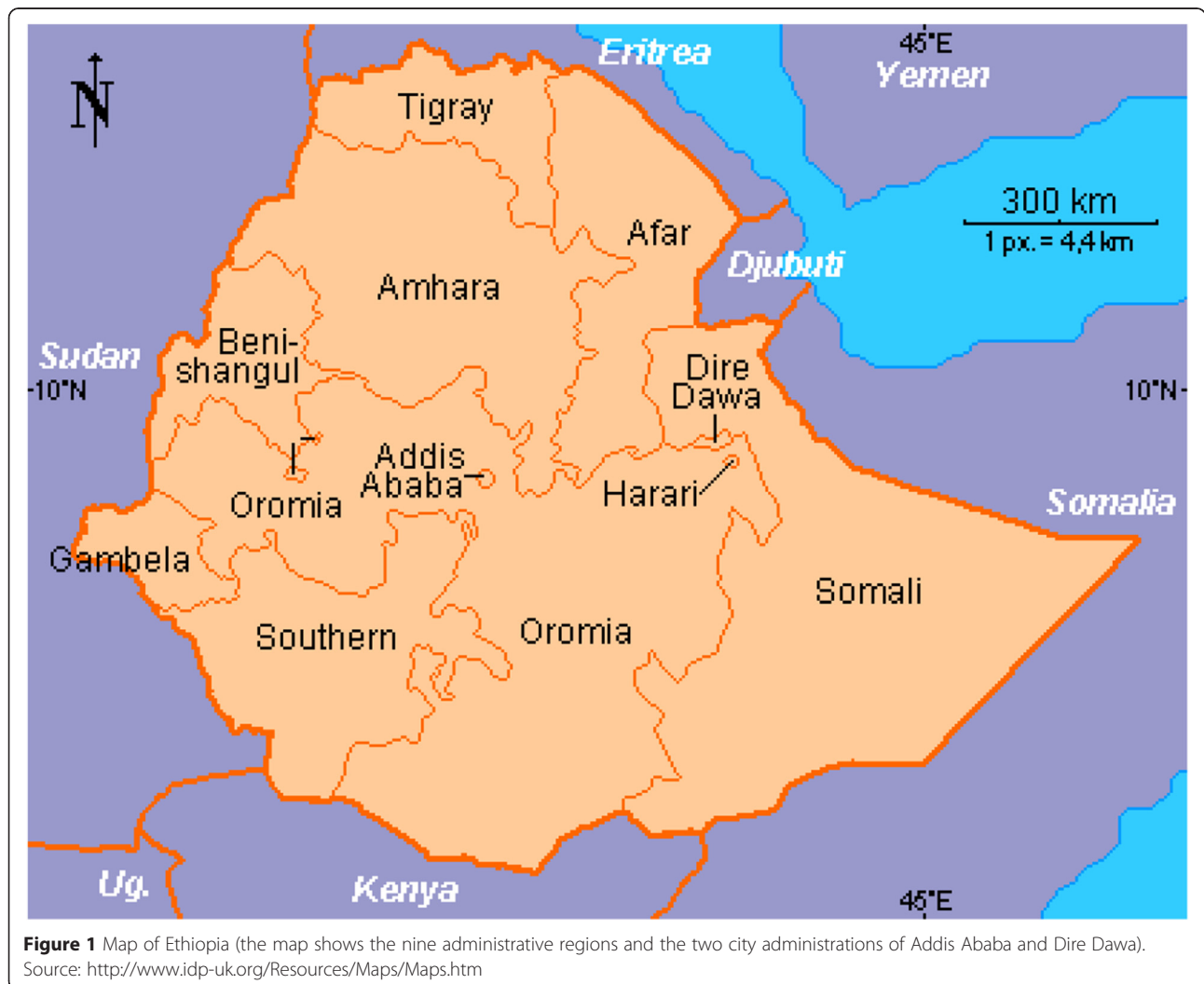
development interventions which challenges their sustainable pastoral way of life.

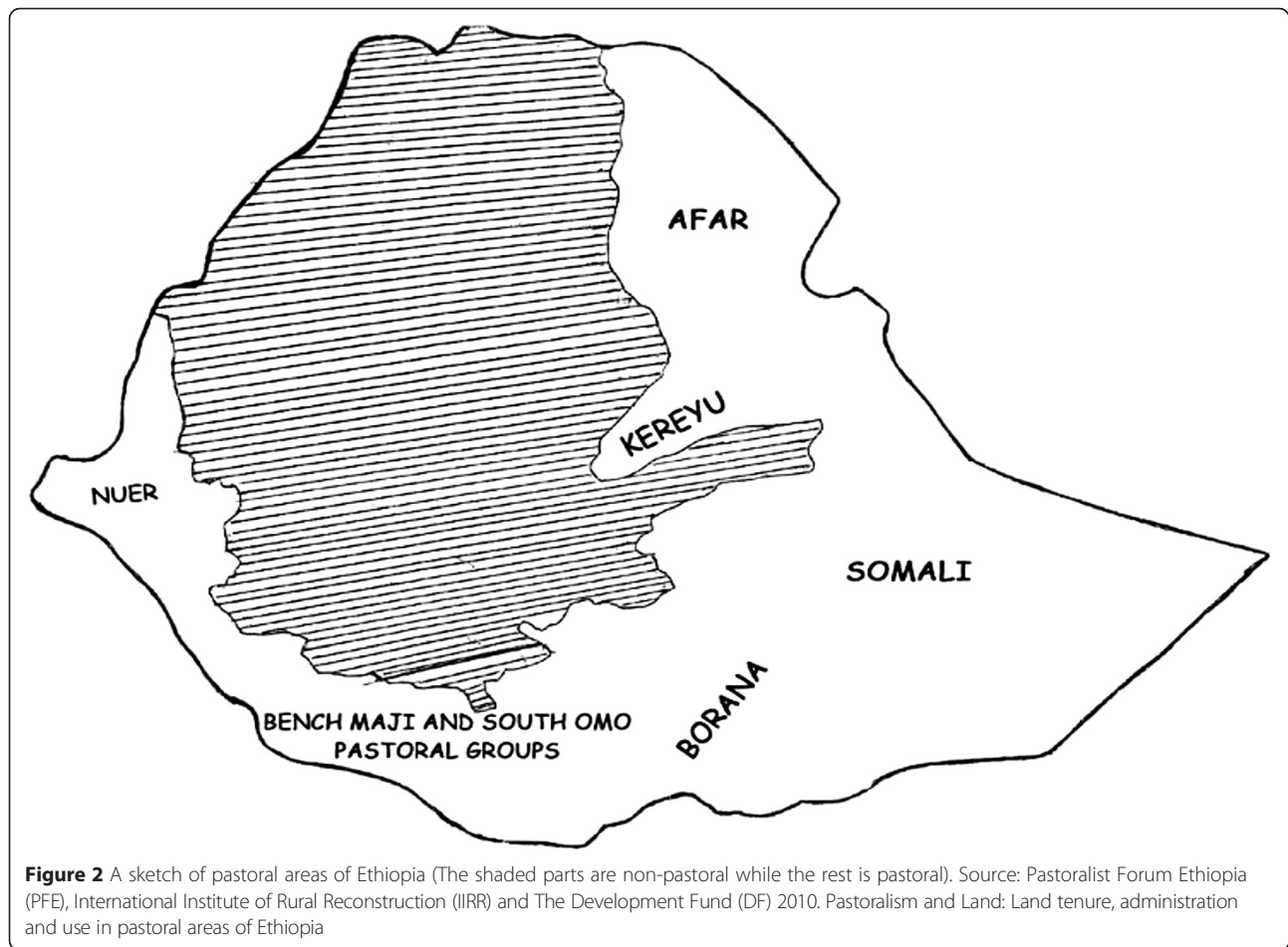
Methods

This study adopts socio-legal research methods to examine the legal and policy interventions for pastoral development in Ethiopia. By using primary data gathered from laws, policy documents, international instruments and reports, on the one hand, and by navigating through secondary sources, on the other hand, this article explores and examines the impacts of legal and policy interventions in pastoral areas and puts forward ideas to inform policy choices to sustain the sustainable pastoral way of life in Ethiopia.

Pastoralism: As a sustainable way of life

It is important to put some background notes about pastoralism before discussions on pastoral development and the urgent need of HRBA to development in Ethiopia. The objective here is to shed light on the value and





sustainability of pastoralism both as a way of life and as a production system in harsh ecologies where settled life is unsustainable.

Although there are different definitions to the term 'pastoralism', there are two which are particularly relevant. The most cited definition is the one which is given by Swift. According to Swift (1998a), pastoral production systems are those 'in which at least 50 % of the gross incomes of households come from pastoralism or its related activities, or else, where more than 15 % of households' food energy consumption involves the milk or dairy products they produce'. A more recent and comprehensive definition of pastoralism is offered by Republic of Kenya (2012) in its Policy for the Arid and Semi-Arid Lands. The policy document defined pastoralism as 'an economic activity and cultural identity' (Republic of Kenya 2012). It also goes on to explain what an economic activity and cultural identity mean in the context of pastoralism. It specifically provides that

[a]s an economic activity, pastoralism is an animal production system which takes advantage of the characteristic instability of rangeland environments,

where key resources such as nutrients and water for livestock become available in short-lived and largely unpredictable concentrations. Crucial aspects of pastoralist specialisation are: 1. the interaction of people, animals and the environment, particularly strategic mobility of livestock and selective feeding; and 2. the development of flexible resource management systems, particularly communal land management institutions and non-exclusive entitlements to water resources (ibid).

A combination of these definitions can be adopted as they reinforce each other and give a comprehensive definition to pastoralism. Thus, any reference to the term 'pastoralism' in this article is within the framework of these definitions.

Pastoralism maintains the livelihoods of millions of people living in harsh environments where alternative land use systems are highly risky (Secretariat of the Convention on Biological Diversity 2010; Sommer 1998; Mohammed 2004; Getachew 2004; Ayalew 2001; Yohannes 2003). It is particularly well suited to life in arid grasslands and semi-deserts (Iyodu 2009; UN OCHA Pastoralist

Communication Initiative 2007). In these areas, the land will not sustain agriculture, but it can be used for animal husbandry (ibid).

Pastoralism is a system composed of people, natural resources, livestock and social relations (PFE et al. 2010). Pastoralists work together in maintaining water points, resolving conflicts and managing grazing of common land (PFE et al. 2010; Iyodu 2009). To this end, they use indigenous knowledge to make the best use of humans, the environment and livestock (PFE et al. 2010). Pastoralism contributes both to national and regional economies and provides environmental services such as carbon sequestration, fire prevention and biodiversity conservation (World Initiative for Sustainable Pastoralism 2006).

Pastoralism is not only a production system but also a viable system which should be supported by governments and development donors. For one, pastoralists are experts at maximizing the use of rangelands, as shown by research (UN OCHA Pastoralist Communication Initiative 2007). For instance, studies by Cossins and Upton (1988) show that Ethiopian Borana pastoralists had higher returns of both energy and protein per hectare than industrialized ranching systems in Australia. Other research shows similar results in countries such as Zimbabwe, Kenya and Botswana (Hatfield and Davies 2006). The livestock sector is growing at a rate of up to 7 % per annum, much faster than the agricultural sector as a whole, and by 2020, it is predicted to be the most important sub-sector (Scoones and Woolmer 2006; UN OCHA 2007; Krätli and Schareika 2010). Especially in East Africa, scholars note that the pastoralists' long engagement with trade in livestock marketing has a future of expansion and improvement (McPeak and Little 2006).

Studies over the last three decades have shown that pastoral systems are relatively productive and represent an ecologically sustainable way of using arid and semi-arid lands globally (UN OCHA 2007; Krätli et al. 2013). There are indications from a number of African countries (Botswana, Ethiopia, Mali, Mozambique, South Africa, Tanzania, Uganda, Zimbabwe) that traditional pastoral systems can produce up to 10 times more food per unit area than can modern ranching (Scoones 1995). This is due to the multiple uses of resources and the multiple functions of livestock (ibid).

Within Ethiopia, pastoralists keep about three quarters of all goats, one quarter of the sheep, one fifth of the cattle and all of the camels (UN OCHA 2007;). The livestock sector ranks second after coffee in generating foreign exchange for Ethiopia (SOS Sahel 2004). Pastoral areas not only provide most of the domestic meat demand but are also the main suppliers of livestock for export, generating about 50 million US Dollars per annum (Yakob and Catley 2010). The livestock sector contributes 47 % to the agricultural GDP and 32 billion Ethiopian Birr

or 3.2 billion US dollars by excluding the economic benefits derived from livestock and 113 billion Birr or 11.3 billion US dollars including the economic benefits of livestock in 2009 (IGAD 2013; Behnke and Fitaweke 2011; Behnke 2010). The actual figures may be even higher, as substantial cross-border trade takes place, which escapes official statistics (UN OCHA 2007).

Pastoralists have developed 'successful mechanisms to deal with natural variability in climatic conditions' (Yohannes et al. 2010a, 2010b). Related to this, the study by Krätli et al. (2013) reveals that pastoralism is an asset for food security under global climate change and the study urges policymakers from 'replacing pastoralism to developing pastoralism' as pastoralists turn environmental instability to an opportunity for food production. However, exclusion from their grazing areas is increasing pastoralists vulnerability to climate change, as it restricts their adaptation. This is pointed out by Devereux (2006) based on his research among Somali pastoralists in Ethiopia. He notes that 'it is not meteorological drought that makes the pastoralists more vulnerable; rather, it is the increasing marginalisation of their drought-response mechanisms.' Restrictions on mobility, disregard of indigenous knowledge, lack of political power and incompatible land tenure system are some of the reasons which have brought this marginalization (Yohannes and Waters-Bayer 2002, Mebratu 2009; UN OCHA 2007).

Hence, pastoralism is not a problem to be solved but a way of life and a production system to be improved. As Krätli and Schareika (2010) note, 'pastoralism is better understood as a *sui generis* production system, that deliberately exploits the transient concentrations of nutrients that represent the most reliable feature of dryland environments; a system geared at maximising the production of economic value while stabilising its performance in environments where 'uncertainty' is harnessed for production.' What follows is that pastoral development interventions should begin with the recognition of pastoralism as a viable and sustainable way of life which can be enhanced by pastoral-friendly policies.

Pastoral people's right to development

Development is a human right which governments are obligated to deliver to their people. It is neither a charity to their people nor a means for accumulations of wealth. The aim of this section is to explore the legal right of Ethiopian pastoralists to development. The objective is to examine the compatibility of pastoral policies and laws with pastoralists' right to development and whether or not the former has the potential to advance the latter.

The African Charter on Human and Peoples' Rights (ACHPR 1981), the mother instrument of the African

human rights system, recognizes people's right to development. It provides that 'all peoples shall have the right to their economic, social and cultural development with due regard to their freedom and identity and in the equal enjoyment of the common heritage of mankind' (ACHPR Art 22(1)). As clearly stated in ACHPR, people's right to development is not only about the right to socio-economic and cultural development but also such development should consider their freedom and identity in the process.

Although nowhere in the ACHPR (1981) is the term 'people' defined, the jurisprudence of peoples' rights reveals that the notion of people refers to the population of a state as a whole and a section of the population of a state (Solomon 2006). Pastoralists as a section of the population of a state can qualify for people's status and can be subjects of the right to development under the ACHPR. Accordingly, they have the right to socio-economic and cultural development in the way that advances their freedom and protects their identity.

Ethiopia as a state party to the ACHPR, since 1998, assumes an obligation to implement the right to development for its pastoralist people. The ACHPR recognizes Ethiopian pastoralists' legal right to development, whereas it imposes duties on the Ethiopian state. Moreover, the FDRE Constitution recognizes the right to development of the Ethiopian people, including pastoralists. It specifically stipulates that '[t]he Peoples of Ethiopia as a whole, and each Nation, Nationality and People in Ethiopia in particular, have the right to improved living standards and to sustainable development' (FDRE Constitution Art 43(1)). It also guarantees the right to participation of Ethiopian nationals in the development and implementation of policies and projects (FDRE Constitution Art 43(2)). Hence, Ethiopian pastoralists both as people and as nationals have the constitutional right to development and participation in their development endeavours.

Furthermore, the FDRE Constitution requires that any development programme (including pastoral development) should take into consideration the NPPO (FDRE Constitution Arts 85–92). The economic, social, cultural and environmental objectives provided in the Constitution, are crucial in furthering the Ethiopian peoples' quest for development, in general, and pastoral peoples, in particular. In the economic field, the government is obligated to provide special assistance to Nations, Nationalities and Peoples that are least advantaged in economic and social development (FDRE Constitution Art 89(4)). It should also promote the participation of the people at all levels in the formulation and implementation of national development policies, strategies and programmes (FDRE Constitution Art 89(5)). As pastoralists have been on the margin for a long time, such constitutional stipulation is very significant

for their development, as the usual top-down policy interventions are neither desirable nor acceptable.

Regarding culture, in a similar vein, the government assumes the duty to support, on the basis of equality, the growth and enrichment of cultures and traditions that are compatible with fundamental rights, human dignity, democratic norms and ideals and the provisions of the Constitution (FDRE Constitution Art 91(1)). It also has the duty, to the extent its resources permit, to support the development of the arts, science and technology (FDRE Constitution Art 91(1)). In the pastoralist context, any development initiative should not hinder the development of a pastoral culture, way of life, art, science and technology. It should nurture indigenous knowledge and enhance pastoralists' experience in arts and sciences.

Moreover, all development projects should be environmentally friendly and the government should ensure that all Ethiopians live in a clean and healthy environment. The design and implementation of programmes and projects of development in particular should not damage or destroy the environment (FDRE Constitution Art 92(2)). As part of the development programme, people have the right to full consultation and to the expression of views in the planning and implementation of environmental policies and projects that affect them directly (FDRE Constitution Art 92(3)). Hence, any development programme in the pastoral societies should be in line with the environment, so that it will be sustainable.

All these NPPOs are cardinal constitutional principles which guide the Ethiopian state and people in the implementation of the Constitution, laws, policies and strategies. Adhering to these constitutional principles is of paramount importance not only in fulfilling the constitutional aspirations of liberty and equality but also in achieving development and prosperity. Thus, due consideration of these constitutional principles in the quest for pastoral development is not only necessary but also mandatory, which needs urgent action.

Although it does not have a legal force, the policy framework for pastoralism of the African Union, developed by the Department of Rural Economy and Agriculture (2010), sheds light on the kind of pastoral policies African states need to adopt. The policy framework urges African states to consider pastoralism as a viable way of life, and the rights of pastoralists should be given primary consideration in the design of pastoral policies (Department of Rural Economy and Agriculture 2010). As a member state of the African Union, Ethiopia is required to take this policy framework into account in the design of its pastoral policies.

Therefore, Ethiopian pastoralists have the right to development in a manner which advances their rights as enshrined in the ACHPR and the FDRE Constitution.

The African pastoral policy framework gives direction for the design of pastoral policies which is consistent with pastoralism as a way of life and the pastoralists' quest for development. Thus, the Ethiopian state assumes a legal obligation to pastoral people's right to development in a way which furthers their rights and interests.

Human rights-based approach to development

HRBA rose from the paradigm shift in development thinking from mere economic growth to human development - where the human person is at the centre of development - on the one hand, and the development of human rights norms in general and right to development in particular. HRBA is a process of human development which is based on human rights standards and aims to promote and protect human rights (Australian Council for International Development 2010; Hamm 2001; Sengupta 2002; Nanda 1983–1984; Sen 1999). It seeks to analyse inequalities and redress discrimination and unjust distributions of power which affect development progress (Bares 2010; Nwauche and Nwobike 2005). Under HRBA, the plans, policies and processes of development are designed in a system of rights and corresponding duties established by human rights law (Bares 2010; Sano 2000). This helps to promote the sustainability of development by empowering people, especially the most marginalized, to participate in policy formulation, and hold accountable those who are responsible (Bares 2010; Saugestad 2004).

What follows from HRBA is that pastoral development initiatives should be informed and guided by these principles and approaches. The development undertakings in the pastoral areas are not out of charity but out of a legal and a moral right to development, out of a quest to live a dignified life consistent with one's culture and identity. This age-old quest for development should be undertaken in the framework of HRBA for two reasons. First, the process of development, in and of itself, is a human right as it envisages a human development which leads to the enlargement of human freedoms and the flourishing of dignity. Second, it is the only sustainable way of development as it places the human at its centre.

Legal and policy interventions for pastoral development

This section examines the pastoral policies, laws and practices of the Ethiopian state under the Imperial, the *Derg* and the EPRDF governments. The objective is to assess their capability in bringing pastoral development whether or not they have been successful and what has gone wrong if they are not.

Imperial and *Derg* government

The Imperial and *Derg* regimes designed and implemented pastoral policies and laws in their venture to

modernize the state and build the national economy. The experiences of these two regimes are discussed together due to the similarity of their assumptions and views for pastoral development, despite their contradictory imperial and Marxist world views.

As different scholars note, the formulation of pastoral policies in Ethiopia has been based on flawed assumptions and generalizations about the backward nature of pastoralism (Ayalew 2001; Getachew 2004; Yohannes 2003; Mohammed 2004). As noted by Ayalew (2004), the interests of successive Ethiopian governments in pastoralism have always been to extract an economic surplus to the national economy. As a justification for their extractive policies, they refer to serious faults presumed to be inherent in the pastoral mode of subsistence. Pastoralists are stereotyped as irrational and destructive users of land and a main cause for the problem of overpopulation and overgrazing in the lowlands (UN OCHA Pastoralist Communication Initiative 2007; Getachew 2004; Ayalew 2001; Melesse 2009; PFE et al. 2010). Thus, their pastoral development interventions aim to rectify these wrongly assumed pitfalls of pastoralism.

As one tool for the modernization of agriculture, the Imperial government embarked upon large-scale commercial farms in the pastoral areas (Getachew 2004; Eyasu and Feyera 2010; Ayalew 2001; Hogg 1990). For instance, large-scale commercial farms and plantations in the Upper, Middle and Lower *Awash* valley; in *Erer, Harrage*; and in *Bilate, Sidamo*; and government-owned agricultural enterprises in *Awassa, Arbaminch*, in *Gamu Gofa*; and *Boter* on the border of the provinces of *Shoa* and *Kaffa* were some of the notable examples. To generate power and create favourable conditions for irrigation, there were also constructions of dams especially in the *Awash* valley. In addition, there were developments of national parks in several regions of the country for wildlife conservation and as a means of attracting foreign tourism (Pankhurst and Piguet 2009; Ayalew 2001). These large-scale commercial agriculture developments took place mainly in the areas of the *Awash* River basin primarily inhibited pastoralists. Nothing of this sort took place in highland areas as they were densely populated and their carrying capacity had progressively deteriorated due to rapid population growth and environmental deterioration (Ayalew 2001, 2004). Hence, this makes large scale development interventions in the pastoral areas inevitable and it was not meant to develop the pastoral areas and pastoralists *per se* but as a means to modernize and enhance the agricultural performance of the state.

During the *Derg* regime too, these large-scale agricultural development projects were expanded. The mechanized farms that had belonged to private local and foreign concessionaries were converted into state-owned enterprises.

After the establishment of the National Revolutionary Development campaign and the Central Planning Supreme Council in 1978, the government gave priority to the expansion of State farms as a means of increasing the production and marketable supply of food grains, industrial raw materials and export crops (Ayalew 2001). A 10-year plan (1983/4 to 1993/4) gave high priority to the expansion of irrigated farming, which would permit the realization of dependable and adequate domestic food supplies and enhance the country's export capabilities (Ayalew 2004). To make this happen, pastoralists had been displaced with little or no means of survival (Ayalew 2001).

The other policy intervention was the rangeland development projects. Since the mid-1960s, a broad rangeland and livestock development policy, targeting the country's lowland regions, had been carried out by both the Imperial and the *Derg* governments.

Although the lowlands to the West and South-West have rich grazing potential, they were not selected due to their distance and the prevalence of trypanosomiasis (ibid). Those which met the project criteria were the *Jijiga* Rangeland Development Unit, the Northeast Rangeland Development Unit, and the Southern Rangeland Development Unit (ibid). Thus, the development of the pastoral economy and pastoralists was not of concern for the state.

In addition to these policy interventions, the main legal and policy framework which has a huge impact on the lives of many pastoralists is the issue of land. Throughout the history of modern Ethiopia, pastoral land has always been under direct state control. For that matter, land - a 'commodity of par excellence' - has been at the centre of socio-economic and political discourse in the Ethiopian state (Fasil 1997). Coming back to pastoral lands, traditionally, all unsettled or permanently uncultivated land in Ethiopia was considered as no man's land and hence was considered state land. Especially in the Imperial era, there was a series of legislations concerning pastoral land. Proclamation No. 1 of July 1944 grants a *gasha* of land to each patriot who fought during the war against Italy, to nationals who spent the periods of Italian occupation in exile and to survivors of persons who fell in battle. Accordingly, pastoral land was distributed and one of the consequences of this was that pastoralists whose land had been taken away were turned into agricultural workers on lands now owned by the new landlords (Ayalew 2001, 2004). Proclamation No. 70 of 1 November 1944 more clearly defined the status of a landowner and thereby rationalized the tax system. The proclamation defined a landowner as a person whose title of ownership of the land is recognized by law (Proclamation No. 70. 1944 Art 3). Titles were officially registered and entered into the tax roll. Thus, pastoral land continued to be owned by the state and pastoralists were not

landowners. Article 130(d) of the 1955 Constitution especially stipulates that

All property not held and possessed in the name of any person, natural or legal, including all land in escheat, and all abandoned properties, whether real or personal, as well as all products of the subsoil, all forests and all grazing lands, water sources, lakes and territorial waters, are state domain.

Moreover, the civil code stipulates that 'the possessor who had paid for 15 consecutive years the taxes relating to the ownership of an immovable property shall become the owner of such property' (Civil Code Art 1168). Accordingly, pastoralists could not qualify for land ownership since they did not pay land tax. The civil code further provides that 'immovable assets in Ethiopia which are vacant and without a master shall be the property of the state' (Civil Code Art 1194). Hence, the central government can administer, dispose and distribute the land to potential users with the capacity to invest in modern agriculture and thereby puts pastoralists at the mercy of the state.

The land policy was similar in the *Derg* regime too. The agrarian reform proclamation of March 1975 made all rural lands and its natural resources public property under the custody of the State. It also reaffirmed the State ownership of all pastoral lands, although it extends usufruct rights to pastoralists. Article 24 of the proclamation states that 'as of the effective date of this proclamation, nomadic people shall have possessory rights over the lands they customarily use for grazing or other purposes related to agriculture'. This proclamation contributed to the perpetuation of the long-standing insecure status of the pastoralists concerning land tenure.

The pastoral development policies of the imperial and *Derg* regimes were incompatible with the ideal of human development discussed above as the policies were neither in line with the HRBA nor in conformity with the pastoralists' right to development. For one, the development interventions were top-down even without proper consultation and participation with pastoralists. For another, the pastoral development endeavours were a means to modernize the agriculture sector and build the national economy, not an end in and of itself for the pastoralists.

The results of these pastoral development interventions were not successful in achieving economic development or human development. Especially, it was devastating for the pastoralists and the pastoral economy. The effect of large-scale commercial farms appears to have been severe on pastoralists, in general, and those in the *Afar* valley, in particular. The concrete manifestations of the misfortunes that have befallen pastoralists include massive displacements, removal of large tracts of prime grazing land for irrigation, game reserves, large closure for conservation

projects and hosting new resettlement programmes (Getachew 2004; Yohannes 2003; Ayalew 2001).

In addition to the introduction and expansion of commercial irrigated farms, the establishment of different parks in the pastoral areas exerted pressure on the sustainability of the pastoral economy. The establishment of national parks in important grazing areas, notably the *Awash* Park in the east, *Netch Sar* Park in the south and *Omo* and *Mago* Parks in the south-west, have brought additional constraints to pastoral livelihoods (Pankhurst and Piguet 2009). What is more damaging was that compensation to the pastoralists was not paid (Ayalew 2001). This resulted in confrontations and sometimes outright conflicts between the pastoralists and the Park authorities (Harbeson and Teffera- Worq 1974).

The rangeland management projects were not successful either. Notable among the failed projects in this regard is the Southern Rangeland Development Unit in *Borana*, which tried to introduce water into dry places. This led to the removal of the traditional clear distinction between dry season and wet season pasture in *Borana*. As a result, the movement of herds is greatly restricted with herdsmen grazing all the year round in the vicinities of their permanent settlements (Hogg 1987; Helland 2000; Ayalew 2001). This has resulted in a process of resource depletion in the area (Hogg 1987).

The pastoral development interventions of the Imperial and the *Derg* governments failed not only due to the poor policy interventions but also due to poor physical infrastructure, uncoordinated development efforts, low levels of pastoralist participation, lack of emphasis on the socio-cultural and ecological aspects of pastoral production systems and poor institutional and capacity building mechanics (PFE et al. 2010). In other words, the policies were neither relevant nor feasible.

Thus, the pastoral development interventions of the Imperial and the *Derg* governments were not a success story even in achieving the desired objectives of modernizing the agricultural sector and building the national economy. However, they have brought negative effects on the pastoral economy and pastoralists by disturbing the pastoral way of life, especially of land use, use of water points and mobility which are essential for pastoralists.

EPRDF government

As a new government, which assumed state power in 1991 by revolution, the government has tried to address the needs of marginalized peoples such as pastoralists. EPRDF has enacted policy measures which directly or indirectly impacted on the life of pastoralists. One of the policies is the pastoral extension systems. Like its predecessors, the pastoral extension programme fails to

adequately address the problems of pastoralists. It is simply dictated by the rationales of agricultural extension programmes. In this regard, Ayalew (2001) notes that the Ministry of Agriculture extended the pastoral extension programmes to the pastoral communities without proper contextualization.

Moreover, the policy assumptions are similar to the Imperial and *Derg* regimes as I will detail in the following paragraphs. . These are first, in the EPRDF's national five-year development plan (2000 to 2004), there is a clear reference to pastoralism. The plan aims 'to strengthen agricultural development activities in pastoral areas to raise the standard of living, strengthen foreign exchange earnings, and improve nomadic livelihoods step by step' (National Five Year Development Plan 2000). As part of improving the pastoral lifestyle, it recommends settlement with the introduction of small-scale irrigation (ibid).

Second, the Sustainable Development and Poverty Reduction Program (SDPRP) which was adopted in 2002 envisages settlement as the ultimate objective. It in particular states that

[s]elective and voluntary settlement programmes are believed to be the only viable options in the long run; as this change goes beyond a change of location for pastoral people and entails a drastic alteration in their cultural life, settlement will be conducted over a long period of time with the aid of training and initiative work (SDPRP 2000).

Although there is an objective to improve food security and income of pastoral communities, the strategies of pastoral development in the document place more emphasis on supporting sedentary agricultural livelihoods and thereby consider pastoralism as an unsustainable way of life.

Third, the rural development policies, strategies and instruments (RDPS) adopted in 2002 came up with short, medium- and long-term strategies towards pastoralism. The short- and medium-term strategies emphasize the mobility of pastoralists. The RDPS particularly states that '[s]ince the livelihood of the people is based on pastoralism, our development endeavor and activities must be based on pastoralism itself' (RDPS 2002). Regarding the long-term strategy of RDPS on pastoralism, however, sedentarization based on the development of irrigation is posited to be the only way.

Finally, EPRDF adopted a pastoral policy in 2002 which brings an end to the scattered pastoral policies and programmes (Ministry of Federal Affairs 2002:5). The pastoral policy has the following visions:

- *Phased voluntary sedentarization along the banks of the major rivers as the main direction of transforming*

pastoral societies into agro-pastoral systems, from mobility to sedentary life, from a scattered population to small pastoral towns and urbanization.

- *Complementing sedentarization by micro and small-scale enterprises development in the urban centres and off-farm activities in the rural areas.*
- *Undertaking integrated development based on irrigation and focused on livestock production, complemented by static and mobile education and health services as well as rural roads, rural energy and water supply, rural telephone services.*
- *Co-ordinated and concerted federal support for programme ownership by the Regional States and communities, with capacity building to enable them to lead development at all levels.*
- *Allowing, enabling and coordinating the private sector and NGOs to play a positive role in line with the policy direction and within the framework of the broad programme and strategy, after mobilizing their own resources.*
- *Tapping indigenous knowledge and skills on animal husbandry and rangeland management.*

The overall objective of the pastoral policy is to settle pastoralists and thereby provide various social services and infrastructure. A recent study in the Afar valley by Behnke and Kerven (2013:26) confirm this as

[t]he government officials responsible for promoting the development programme assert that mobile pastoralism was an economically appropriate use of the valley thirty or forty years ago, but that falling rainfall levels and recurrent droughts now make it necessary to abandon pastoral mobility for settled livestock and crop farming.

Thus, the vision of the pastoral policy is no longer pastoral - it is sedentary agriculture.

Unlike the settlement programmes on which all three regimes have had a similar stand, the EPRDF government differs by recognizing the pastoralists' right to their ancestral lands. Rural and urban lands are within the exclusive domain of the State and the common property of the Ethiopian Nations, Nationalities and Peoples (FDRE Constitution Art 40(3)). Although the land is the property of the State and the Ethiopian people in general, the Constitution grants Ethiopian pastoralists the right to free land for grazing and cultivation as well as the right not to be displaced from their own lands (FDRE Constitution Art 40(5)). However, the Constitution also allows the State to give land to private investors on the basis of payment which will be determined by law (FDRE Constitution Art 40(6)). Hence, the Constitutional rights of pastoralists to land will be exercised within the limits of State development activities.

Although there are some improvements from the previous regimes, at least in policy making, there are huge similarities between the three regimes in holding settlement as a pastoral development strategy and in expanding commercial irrigated farming in pastoral areas to boost the national economy. Thus, the policy interventions are fundamentally similar. However, reports and studies from the government side show the improvement of the lives of pastoralists (Omondi and Odhiambo 2009; Shanko 2013; Abdi 2013; Somali Regional State of Ethiopia 2012). For example, both the government and some researchers claim that there is participation from NGOs such as Pastoralist Forum Ethiopia, Pastoralist Concern, the pastoralists themselves and donor agencies regarding pastoralism and pastoral policies including sedentarization (ibid; Mohammed 2004). In these forums, the views of pastoralists may be heard and incorporated in the policies and strategies, so that a fertile ground for implementation will be created (ibid). Nonetheless, the participation of NGOs and even the pastoralists themselves, if there are any, is mere tokenism as the EPRDF government follows a developmental state model and the views and concerns of the government take primacy, as is evident for more than two decades (see also UNDP Ethiopia 2012). Moreover, there is little space for meaningful civil society and NGO participation, especially after 2009 due to the hostile legal framework (see Charities and Societies Proclamation 2009; Adem 2012).

Moreover, other research also confirms that pastoralists are under pressure due to EPRDF policy undertakings. Unsystematic settlement patterns, development of water schemes without careful planning, lack of consultation/participation of local communities, state marginalization and the peripheral status of pastoral areas have caused range degradation among the Borana pastoralists, which ultimately affects their livelihoods (Flintan et al. 2011). Similarly, the introduction of *birkas* (underground water tanks) without due consideration of their impact on the whole rangeland and pastoral systems, agricultural development and a breakdown of customary institutions have caused Harshin Somali pastoralists a rangeland fragmentation (ibid; Gomes 2006; Nassef and Belayhun 2012). In addition, development projects such as commercial sugar plantations and the declaration of the Parks have caused land degradation, declining of the number of livestock, vulnerability to drought and famine and resource-based conflicts to the southern Ethiopian pastoralists (Eyasu and Feyera 2010).

As with the case in the Imperial and the *Derg* pastoral development interventions, the EPRDF pastoral development intervention has brought pressure on pastoralists on coping with the environment, as their traditional system has been disrupted. Nonetheless, it is important to mention that the impacts of the EPRDF pastoral interventions discussed here are current trends but could bring a disastrous result unless

some measures are taken. Related to the long-term consequences, Behnke and Kerven (2013:9) observe that

[m]uch of the riparian forests that once supported traditional Afar pastoralism have been bulldozed under and replaced by irrigated or abandoned fields. It is difficult to conceive of these areas—many of them now damaged by soil salinity and bush encroachment—ever returning to natural vegetation and pastoral use. For the Awash valley there probably is no turning back.

They further compare the economic and environmental profits of pastoralism and large-scale commercial irrigated farms and concluded that the former is far more profitable. In their own words,

[d]espite considerable investment by government, pastoralism is consistently more profitable than either cotton or sugarcane farming while avoiding many of the environmental costs associated with large-scale irrigation projects. As we enter an increasingly climate constrained world, our findings suggest that pastoralism is a surer investment in the longer term resilience and economic stability of Ethiopia's dry lowlands. (Behnke and Kerven 2013: 7)

This is, of course, without forgetting the eviction of Afar pastoralists for the sake of expanding state-owned sugar plantations. Despite the economic profitability and environmental sustainability of pastoralism, the government (EPRDF) considers it as 'a primitive, unproductive way of life doomed to extinction, an economic dead end that poses no credible alternative to modern, technologically advanced and input-dependent forms of irrigated agriculture' and comparisons with these state projects are a forgone conclusion (Behnke and Kerven 2013:7). Hence, like its predecessors, EPRDF considers pastoralism as a problem to be solved rather than a way of life to be improved.

Settlement: as a pastoral development strategy

Some of the pastoral laws, policies and practices of the Imperial, Derg and EPRDF governments have been discussed. In all three regimes, pastoral settlement is the central theme and looks like a panacea for pastoral development. Due to the centrality of the policy of settlement, it is worth discussing whether or not it is a viable and sustainable option to improve the lives of pastoralists. Settlement as a pastoral development strategy is a paradox regardless of its potential in transforming the lives of pastoralists and their economy. The use of settlement as a pastoral development strategy seems to be a misnomer as there is nothing pastoral in pastoral settlement. This is due to the fact that settlement changes pastoral identity and personhood.

Since the beginning of Western colonialism, many governments have attempted to settle pastoralists into an agricultural economy, often considered to be more 'civilized' than pastoralism (Fratkin and Roth 2005). Such projects have frequently failed as they have been unsustainable and incompatible with the environment (Pantuliano and Wekesa 2008). Pastoralism is the only possible way of life in these environments, and it would have been improved by pastoral-friendly interventions. In this regard, researchers have suggested that traditional pastoralism can be modernized and pastoralists can fit into the changing socio-economic and political dynamics of their states (UN OCHA 2007). Rather than developing and improving their pastoral life, a sedentary life had been imposed on pastoral communities, confined on permanent rangelands where they were supposed to benefit from public services more easily (Department of Rural Economy and Agriculture 2010).

Even after the post-colonial periods, most African states have followed the Western model of modernization through the commercialization of agriculture characterized by the shift from subsistence to commercial farming, from pastoral communal ownership to privatization of pastoral land and from pastoral traditional institutions of land management to seemingly modern ones (ibid). However, such development interventions have failed to deliver development to pastoralists (Omondi and Odhiambo 2009; Pantuliano and Wekesa 2008; Fratkin and Roth 2005).

Both the Imperial and the Derg regimes in this regard promoted the idea of settling pastoralists by considering that pastoralists occupy vast and excess land which is not utilized (Getachew 2004; Fikadu and Korf 2008; Little et al. 2010a). They attributed such low utilization to poor infrastructure, mobility, communal land use and tenure, destructive resource use and lawlessness (Little et al. 2010a; Getachew 2004; Ayalew 2001, 2004; Kejela et al. 2007; Helland 2006; Getachew et al. 2004). Based on similar assumptions, the EPRDF regime too has insisted on policies that aimed at transforming mobile pastoralists to law-abiding, modernized and productive citizens (Getachew 2004). In this venture, pastoralists are coerced to settle down in sedentary agricultural villages (Hundie and Padmanabhan 2008; De Wet 2004; Markakis 2004; Shanko 2013).

However, empirical studies in Ethiopia and other countries show that pastoral sedentarization has often been disappointing (Getachew 2004; Devereux 2006). Settled pastoralists are poorer in their standard of living, malnourished, unemployed, unhealthy, impoverished and socially and physically marginalized than are unsettled pastoralists (ibid; Fratkin et al. 2006; Eneyew 2012; Ekaya 2005; Overseas Development Institute 2010; Hogg 1987). Sedentarization does not result in a higher standard

of living for settled pastoralists, environmental conservation, or food security nor increase settled pastoralists' contribution to the national economy (Krätli et al. 2013; Fratkin et al. 2006; Fratkin and Roth 2005; Fratkin 2001; Hogg 1987). Studies further confirm that government-led and government-managed sedentarization of pastoralists, urbanization and expansion of large-scale mechanized farming in the pastoral areas often result in the depletion of natural resources, vulnerability to natural calamities, conflicts and impoverishment (Ayalew 2001, Helland 2000; Hogg 1987; Getachew 2004; Yohannes 2003; Gebre 2004).

Even with these consequences, the settlement projects did not succeed. The settlement of *Afar* pastoralists is a notable case. However, the attempt to settle the *Afar* pastoralists is a failure story (Getachew 2004; Behnke and Kerven 2013). Similarly, the settlement practices of other pastoral communities as a mitigating factor for the development pressure are also a failure (Ayalew 2001, 2004). The outcomes of the present settlement practices, however, are too early to judge. The research and report outcomes which come from the government side and other independent researchers, activists and organizations are contradictory. For instance, reports and studies from the government side have been telling the success story of pastoral settlement programmes. Shanko (2013) notes that the commune programmes in pastoral areas of the *Afar*, *Somali*, *Oromia*, *Gambella*, *Benshagul/Gumuz* and Southern Nations, Nationalities and Peoples are successful. He further notes that due to the settlement programmes, pastoralists are able to diversify their way of life and thereby improve their income. Abdi (2013) also observes that due to demographic, socio-economic and political factors, Ethiopian pastoralists are 'settling down-triggering unprecedented growth of small towns and the creation of small towns throughout the pastoral lands of Ethiopia,' thereby opening market opportunities to the pastoralists. Other researchers also add that there is a suitable policy environment and success is on the way (Hundie and Padmanabhan 2008; PFE 2008; Getachew et al. 2003).

In contrast, many Ethiopian and foreign scholars who have spent many years studying pastoral development in Ethiopia and the Horn of Africa note that sedentarization is simply a wrong prescription for pastoralists, based on their empirical studies (Little et al. 2010a, 2010b, 2010c; McPeak and Little 2006; Swift 2004; Mohammed 2004; Lamprey and Reid 2004; Fratkin et al. 2006; Getachew 2004; Ayalew 2004; Gebre 2004; Pankhurst and Piguet 2009). Thus, the outcomes of the present settlement practices are likely to be no different from past experiences. However, the magnitude and the intensity of its overall impact will be tested in the years to come.

Although settlements have negative impacts on pastoralists, their effects vary from individual to individual, from household to household and from group to group; they vary also between generations/different age groups, wealth and political status in time and space (ibid; Fratkin et al. 2006; Fratkin and Roth 2005; Fratkin 2001). In this regard, Hogg (1987, 1989) notes that settlement schemes in the pastoral areas are highly biased in favour of wealthy individuals as it could not be sustained without heavy government and donor capital. Hogg (1987) suggests that 'it makes little economic sense, even less conservation sense to try to settle pastoralists at irrigation schemes which neither government nor local people can afford to run and which have the inevitable result of restricting mobility and creating localized dust bowls.' He further notes that 'over the years something has gone terribly awry. But in most pastoral areas there is still just time for constructive and supportive policies to be devised and to be implemented which will save the people from life as permanent paupers and at the same time save the grazing lands from falling into unproductive degradation.'

Thus, pastoral settlement is not a viable and sustainable option for pastoral development. Even if settlement may offer opportunities for some pastoralists, it needs huge investment from governments and donor agencies to maintain and the continuity of which is not guaranteed. Past failed settlement experience informs, on the one hand, and the lack of state capital to maintain and finance the settlement policies coupled with the inability of pastoralists to sustain settled life due to their poverty and lack of experience in settled life, on the other hand, make settlement as a pastoral development strategy unsustainable and unworkable. Above all, settlement changes pastoralists' way of life, identity, culture and indigenous knowledge which ultimately challenges their personhood and being. This puts the issue of pastoral development, in general, and settlement, in particular, within the human rights framework of human development. Hence, as far as settlement is not enhancing the capability of pastoralists to live a dignified life, it does not make any sense to pursue it, regardless of its economic benefits if it has any.

Concluding remarks

The legal and policy interventions for pastoral development in Ethiopia under the Imperial, *Derg* and EPRDF regimes share a great deal of commonalities, despite their inherent differences in political ideology. Their interventions have been based on wrong assumptions that pastoralism is backward, extravagant and unfit for the modern way of life. In order to rectify these alleged problems, the regimes have pursued large-scale commercial agriculture, the establishment of national parks and the settlement of pastoralists. However, none of these interventions have worked for three reasons. Firstly,

pastoralists have not been at the centre of development. Although pastoralists have a right to development, and HRBA to development is the means for human development, the successive Ethiopian governments have been advancing development at the cost of pastoralists, which has been neither successful in developing the economy nor in 'modernizing' the pastoralists. Nonetheless, these legal and policy interventions have challenged the sustainable pastoral way of life and production systems.

Secondly, these policies and laws consider pastoralism as a problem to be solved, not a way of life to be improved and modernized in its own way. However, pastoralism is a viable way of life and production system in itself. Settlement is simply unsustainable in such climatic conditions, and there have been huge flaws in the visions of these pastoral policies and laws. There is no strong rationale for designing pastoral policies and laws based on agrarian assumptions - for the agricultural sector is traditional and has not shown significant improvement for centuries.

Thirdly, the governments have not been equipped with the proper infrastructure to implement their policies, and they could not be able to help 'settled pastoralists' forever, as the government has also not been able to help millions of settled poor farmers. Unable to modernize the lives of these poor farmers, who have been settled thousands of years ago, it is surprising to design a pastoral policy whose aim and vision is to settle pastoralists.

Thus, the legal and policy intervention in general, and their settlement policy, as a pastoral development ultimatum in particular, have not been working in the Ethiopian state. A pastoral-sensitive policy which recognizes pastoralism as a viable system, observes HRBA to development and furthers pastoralists' right to development should be designed. To this end, the policy-makers need to (re)consider pastoral policy in line with the FDRE Constitution, the international human rights instruments which Ethiopia ratifies and the policy framework for pastoralism in Africa. They should also learn from the past and present pastoral development practices. But, if they continue to unlearn and fail to design pastoral-sensitive policies, the continuous viability of the pastoral system and pastoralists will be put in question.

Note

I have used the first names of Ethiopian authors, both in the text and references, as it has been the practice in Ethiopian scholarship.

Abbreviations

ACHPR: African Charter on Human and Peoples Rights; EPRDF: Ethiopian Peoples' Revolutionary Democratic Front; HRBA: Human rights-based approach; NGOs: Non-governmental organizations; NPPO: National Policy Principles and Objectives; PFE: Pastoralist Forum Ethiopia; PRSP: Poverty Reduction Strategy Paper; RDPS: Rural development policies, strategies and instruments; SDPRP: Sustainable Development Poverty Reduction Program.

Competing interests

The author declares that he has no competing interests.

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