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Ethiopian Ethnic Federalism: Without a Space for ‘Indigenous Peoples’?

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ABSTRACT This paper examines ethnofederalism track-record on dealing with the indigenous communities who had lived in isolation from the rest of Ethiopia until very recently. The particular focus is on the Majang people, who inhabit the dense forests of Gambella region. In recent years, the Majang have found themselves in contact with rapid industrialisation, which brought in investors and settlers into their traditional lands. The Majang lack the modern resources to make use of the institutional possibilities brought by ethnofederalism. This indicates the need to move beyond the lens of ethnofederalism and incorporate analytical lenses from the study of indigenous movements.

Introduction

The Ethiopia’s foray into ethnofederalism in the 1990s was a remarkable political undertaking, considering how a strong degree of political centralisation had defined both the imperial as well as the *Derg* military regime which had come after it. It was not only the unprecedented level of territorial decentralisation that defined this radical political shift, but the 1990s was also the end of the coupling of the Ethiopian state structure with Amharic language and the Ethiopian Orthodox Church. As a result, there are now 11 regional-states, 77 officially recognised ethnic groups, an upper house of parliament that represents all these ethnic groups; and the constitutional door is open for yet other groups who could qualify to join this list. The system of ethnofederalism enshrined in the 1995 constitution therefore provides institutional opportunities for all the ‘nations, nationalities, and peoples’ of Ethiopia (Erk, 2016). Yet, as Yonatan Fessha demonstrates in the previous chapter, geography and history complicate the political feasibility of providing each group with territorial autonomy (Fessha, 2016). An additional layer of complexity is that of resources—broadly defined.

The particular focus of this chapter the indigenous Majang people, who inhabit the dense forests of Gambella regional-state in the south-west of the country. The Majang, who had remained mostly uncontacted and unknown until recently, have in the recent

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years found themselves in contact with a rapidly industrialising Ethiopia, which brought in settlers from both Gambella and elsewhere in Ethiopia into what used to be remote wilderness. In principle the Majang are one of the ‘nations, nationalities, and peoples’ of Ethiopia, and therefore, they have certain constitutional rights to autonomy under the constitution. However, as an isolated indigenous people, the Majang lack the modern resources to make use of the institutional possibilities. They lack the language skills to argue their rights both in terms of the official languages of the Gambella regional-state as well the national working-language, Amharic. They do not have many members with formal education who can pursue their rights in political and legal settings. They lack financial resources that are necessary to finance their cause. Furthermore, due to the fact that they have been often misled and deceived by some of their new neighbours, some Majang have turned to violence, which has not only been met with harsh response by the security forces, but such sporadic violence and protests has also cost the Majang support in the rest of the country. It seems not all ethnic groups are equal in ethnofederalism. As Jan Erk puts it in his introductory chapter, ‘in comparison to titular and settler ethnic-groups, [indigenous] groups are most often completely powerless to defend their rights in the game of ethnic politics’ (Erk, 2016). It seems the lenses of ethnopolitics and ethnofederalism have to be supplemented by that of indigenous movements (Hall & Fenelon, 2015).

From the Americas to the Antipodes, many indigenous groups have found themselves in similar positions to that of the Majang. For almost five centuries, indigenous peoples all around the world have been subjected to dispossession, cultural destruction, and even state terrorism and genocide (Jalata, 2013). Almost everywhere indigenous people lag behind in terms of healthcare, education, employment, and income. In addition to such markers of well-being, the traditional way of life as a collective group is also at risk. For instance, in federal Brazil, indigenous people not only live in poverty but also their ‘traditional way of life and culture are under ongoing threat from logging, land developers, agricultural expansion and resource extraction’ (Bryan, 2010, p. 85). The situation is not that different in the Global North. The gap between the indigenous and non-indigenous in terms of healthcare, housing, education, welfare is remarkable in a highly developed economy like Canada (Anaya, 2014). In Australia, due to the loss of their traditional lands and limited access to natural resource, indigenous peoples have become increasingly in need of welfare measures (United Nations, 2009, pp. 24–25). Similar patterns also exist in Africa where isolated indigenous societies have found themselves encircled by loggers, settlers, and oil industries and suffer from a number of particular human rights violations that are often of a collective nature (African Commission on Human and Peoples’ Rights [ACHPR], 2005, p. 25). Dominant development paradigms, such as large-scale agricultural projects, designed by mainstream societies and the modern state are seriously threatening the continued existence of indigenous peoples’ ways of life such as pastoralism, hunting, and gathering. Some even go as far as to label this ‘cultural genocide’ (see, Kwokwo Baruma, 2010, p. 57).

The Ethiopian case, despite its particularities, is an instance of these broad patterns. What is particular to Ethiopia is that exposure to modernity and acculturation coincides with the introduction of ethnofederalism. In this variant of federalism, Ethiopia’s ‘nations, nationalities and peoples’ form the basis of collective group rights. Some get their own regional-states; some get territorial self-rule within regional-states. Depending on their numerical majority and corresponding territorial occupancy, each ethnic group

is granted autonomy at different tiers of self-administrative levels. Most of the country's ethnic minority populations had welcomed the Ethiopian Peoples' Revolutionary Democratic Front's (EPRDF's) constitutional guarantee of ethnic self-rule with enthusiasm in the 1990s, hoping that the historical pattern of domination and land appropriation would be reversed. This was especially the case in Ethiopia's remote lowland regions of Gambella, Benishangul-Gumuz, Somali, and Afar. Since their annexation by the Abyssinian Emperor Menelik II in the latter part of the nineteenth century, most of these peripheral regions had been subjected to systematic land appropriation (Markakis, 2011).

However, the current situation on the ground seems to suggest that the promises of ethnic self-rule for the indigenous remain unfilled. The pressing problem is that of 'land-grab', that is, acquisition of land without the informed consent of the indigenous community; and there are multiple actors involved in this land-grab. The culture of indigenous peripheral peoples is under dual pressure. First, the Federal Government is continuously directing investment to lowlands, without due concern to the livelihood and identity of the host community (Lavers, 2013, p. 1). Secondly, landless and poverty-stricken highlanders are making their way to the lowlands, where land is presumed to be abundant (Seyoum, 2014, p. 91). In the section below, the various legal and practical mechanisms that aim to protect and accommodate the cultural rights of indigenous peoples are reviewed. This is followed by a discussion on how these mechanisms fall short in protecting the Majang against encroachments by the Ethiopian state, domestic and foreign investors, and highlanders. The final section is a reflection on the interaction of ethnopoltics, ethnofederalism, modernisation, and indigenous movements.

Indigenous People vs. Minorities

The prevailing view among students of identity politics is that the issues facing indigenous peoples are of a different dimension than those facing ethnic groups who seek self-rule. Most indigenous peoples are not just another player in the game of ethnic politics—regardless of the ethnicity of the loggers and the settlers; and regardless of whether it is foreign or domestic economic interests that encroach upon their traditional land. Instead the indigenous face the entirety of the modern industrialised way of life, and are often powerless to defend their traditional ways against encirclement. For this reason, James Anaya argues in favour of a distinct 'indigenous peoples' category to correct past wrongs (1996). True, many ethnic groups have also faced historical injustices, oppression and dispossession, but due to their very recent contact with modernity, most students of identity politics tend to see indigenous peoples as distinct from other minorities and ethnic groups. For Will Kymlicka there are two types of national minority groups: stateless nations/ethno-national groups, and indigenous peoples (2001). Stateless nations/ethno-national groups refer to incorporated national groups who were contenders during the state formation processes that took place in the northern hemisphere; these are the groups who had lost the struggle to establish their own states (Kymlicka, 2001, p. 122). Catalans of Spain, Flemings of Belgium, Puerto Ricans of the United States of America, Scots of Great Britain, the Québécois of Canada, all fall into this group. Indigenous people, on the other hand, are groups who were totally isolated from the process of state formation and who had preserved a pre-modern way of life until very recently. This includes the Sami, Inuit, Maori, and American Indians. The difference between the two categories of national minorities is not one of degree but of kind. This means that the rationale,

and indeed the justification, for recognition and protection is different. As Kymlicka puts it, the basis for protecting indigenous peoples is 'not so much the scale of mistreatment in the past, but rather the scale of cultural difference' (2001, p. 129). Other students of identity politics seem to share this view. According to Thomas Hylland Eriksen, 'the cultural differences between majorities and the indigenous peoples are much greater than with stateless nations'. Their distinct and pre-modern way of life and culture renders them particularly 'vulnerable in relation to modernization and the state' (Eriksen, 2002, p. 125). Hence, their distinct culture 'needs protecting from the forces of modernization, secularization, urbanization, westernization' (Kymlicka, 2001, pp. 128–129).

Indigenous peoples do not only exist in the industrialised world of course. There are indigenous movements in Latin America, Asia, and indeed Africa. The ACHPR, together with various indigenous advocacy groups, has been consistently calling for a distinct indigenous human rights regime, rather than using the standard platform of minority rights. According to ACHPR, while minorities rights are generally formulated in individual terms and can thus be exercised either individually or as a group, indigenous rights are worded in collective terms (ACHPR, 2005, p. 13). Unlike national minorities, the indigenous are characterised by a collective cultural connection to the land, territory, and natural resources, without which they would not exist as a cultural entity. The ACHPR maintains that without specific measures tailored to the needs of indigenous peoples, their continuation as a distinct people could be jeopardised (ACHPR, 2005, p. 14). In line with this understanding, at the international level various legal and political mechanisms distinguishing between minorities and indigenous peoples have been devised.

The United Nations Declaration on the Rights of Indigenous People (UNDRIP), effective since 13 September 2007, bestows extensive rights to indigenous peoples to enable them to maintain and develop their own culture, identity, and resources—though this is not a legally binding instrument. The Declaration emphasises indigenous peoples' collective rights to land which is indispensable for their existence, well-being and integral to their development and continuation as a people. Furthermore, Article 32(2) of the Declaration emphasises the importance of the free and informed consent of indigenous peoples to activities planned on their lands. Other international organisations have also adopted similar measures.

The International Labour Organization (ILO), for example, had passed the legally binding 'Indigenous and Tribal Peoples Convention' (No. 169) back in 1989. The Convention is specifically dedicated to the rights of indigenous people, and it clearly outlines the duties of governments to advance indigenous peoples' rights. It acknowledges the land and natural resources rights of indigenous peoples under Article 13(1). In the same provision, ILO requires states to recognise the rights of ownership and possession of indigenous peoples over their lands. According to the Convention, indigenous peoples 'shall not be removed from the lands which they occupy' unless under prescribed conditions and where necessary as an 'exceptional measure'. In these cases, the Convention then obligates consultation with the indigenous must done in good faith, in a form appropriate to the circumstances and with the objective of achieving consent (Art 6).

Some international mechanisms applicable to national minorities also contain provisions that could pertain to the indigenous. The United Nations 'Declaration on the Rights of Persons belonging to National or Ethnic, Religious and Linguistic Minorities' is the primary example of this. However, most measures approach the issue through the prism of individual rights, and lack the prerequisite collective approach along the view

of students of identity politics reviewed a little earlier. The ‘International Covenant on Civil and Political Rights’ (ICCPR), to which Ethiopia is a party, is framed in terms of individual rights for minorities. Article 27 of the ICCPR states that:

In those States in which ethnic, religious or linguistic minorities exist, persons belonging to such minorities shall not be denied the right, in community with the other members of their group, to enjoy their own culture, to profess and practice their own religion, or to use their own language.

The approach of the ACHPR is closer to position of Will Kymlicka et al. who advocate distinct collective measures. The ACHPR recently characterised hunter-gatherers, pastoralists, and small-scale farmers as ‘the most disadvantaged, marginalized and excluded groups on the continent’ (ACHPR, 2005, pp. 6–12). A typical example of this is the Endorois in Kenya. The Commission alleges that Kenya had violated the human rights of the indigenous Endorois community by forcibly removing them from their ancestral land to make way for a wildlife reserve. According to the ACHPR, this led to the disruption of the community’s pastoral enterprise and violated the right to practise their religion and culture (Centre for Minority Rights Development, 2003). The ACHPR ruled on 4 February 2010 that Kenya violated Article 8 (the right to practise religion), Article 17 (the right to culture), Article 21 (right to free disposition of natural resources), and Article 22 (the right to development). The Commission, among other measures, recommended recognising Endorois’ rights of ownership to their ancestral land and providing restitution.

The 2009 African Union ‘Convention on Internally Displaced People’ also contains provisions relevant to indigenous peoples (African Union [AU], 2009). Article 4(4) of the Convention stipulates, ‘all persons have a right to be protected against arbitrary displacement’. Sub-article 5 of the same provision further underlines, ‘State parties shall endeavour to protect communities with special attachment to, and dependency, on land due to their particular culture and spiritual values from being displaced from such lands, except for compelling and overriding public interests’ (African Union [AU], 2009). Article 10 which is dedicated to handle ‘displacement induced by projects’ obligate state parties, as much as possible, to *prevent displacement caused by projects* [author’s emphasis] carried out by public or private actors. Under sub-article 2 of the same provision, the convention obliges state parties to ensure that the stakeholders concerned will explore feasible alternatives, with full information and consultation of persons likely to be displaced by projects. Furthermore, under sub-article 3, it imposes on state parties to carry out socio-economic and environmental impact assessment of proposed development project prior to undertaking.

As the AU’s position makes clear, all the legal and political mechanisms at the international level need the cooperation of what the ‘Convention on Internally Displaced People’ calls ‘state parties’. Indigenous peoples’ moral victories at the international level hinge on whether or not these measures are incorporated into domestic legal frameworks. After all, ‘the real power remains vested in the hands of sovereign states, who can (and do) ignore international norms with impunity’ (Kymlicka, 2001, p. 132). This makes the national level of paramount importance. Though indigenous peoples’ cultural rights attract considerable international attention, legal recognition and political accommodation of indigenous peoples in domestic legal frameworks vary from country to country, and lack uniformity. But one can identify four general trends in the way international norms

are put into effect at the national level: (a) explicit constitutional provisions on indigenous peoples' rights; (b) special laws/legislation applicable only to the indigenous; (c) legal mechanisms that apply to all minority groups—including the indigenous; and (d) court decisions that take into account international norms.

Among countries that follow the first general trend of explicit constitutional recognition, Canada, Brazil, Australia, New Zealand, and India are the better known ones. Brazil, for example, gives constitutional status to the notion of indigenous lands. India has also provisions for special tribes in the 1950 constitution (Kwokwo Baruma, 2010, p. 204). Part II of the 1982 Constitution of Canada is also dedicated to the rights of aboriginal peoples. The second general trend of special laws/legislation is also very common. An example of this is the Philippines 'Indigenous Peoples Right Act' of 1997. In the African continent, we see similar special legislation/laws in the Central African Republic and the Democratic Republic of Congo (DRC). In most countries, however, indigenous rights are part of the overall legal mechanisms that apply to all national minorities. And in terms of fourth general trend of incorporating international norms into effect at the national level, court decisions are somewhat harder to clearly expose. It is difficult to identify a consistent line of jurisprudence since court cases contain a number of idiosyncrasies; the details of cases bring in other relevant issues; and legal systems differ across countries. Court cases containing indigenous rights issues can appear under administrative law, constitutional law, civil law, or criminal law; they can be under the jurisdiction of courts either at the national, regional, or local level. That being said, the day-to-day issues pertaining to the indigenous are more often than not settled in court cases. So regardless of this complexity and variety, it is imperative to examine individual court cases to trace how the rights of the indigenous are recognised, or indeed, stonewalled in practice. The following section examines Ethiopia's legal regime in light of these four general trends.

Accommodation of Cultural Rights of Indigenous Peoples in Federal Ethiopia¹

Ethiopia is a party to several international and regional human rights instruments such as the 'ICCPR', the 'International Covenant on Economic, Social and Cultural Rights', the 'Universal Declaration of Human Rights', and the 'African Charter on Human and Peoples' Rights'. Pursuant to Article 9 of Ethiopia's constitution, all international treaties ratified by Ethiopia are an integral part of the law of the land. Combined with the constitutional provision that provides institutional opportunities for all the 'nations, nationalities, and peoples', one would assume that adopting a distinct regime of cultural rights for the indigenous peoples of the south and south-west would be a rather straightforward affair. However, the Ethiopian state does not officially grant indigenous status to these groups (Laird, 2006, pp. 21–23). The country's constitution treats all ethnic groups uniformly. Constitutionally, the only category of ethnic groups in Ethiopia is covered under the blanket term 'nations, nationalities, and peoples'. The reluctance to adopt legal recognition in domestic legal frameworks is coupled with a reluctance at the international level. Ethiopia was absent during the voting stage of United Nations 'Declaration on the Rights of Indigenous Peoples' in 2007; and the country is still not a member of the International Labour Organisation's (ILO) 'Convention on Indigenous Peoples'. Yet, a careful and detailed examination of Ethiopia's 1995 constitution shows that there are certain provisions in the constitution that appear applicable to the indigenous Peoples.

These can be grouped under three categories: (a) self-determination rights; (b) cultural rights; and (c) land and resource rights.

As outlined in the introduction of this chapter, the 1990s brought a radical political shift to the state structure of Ethiopia. The new system of ethnofederalism enshrined in the 1995 constitution was marked by an unprecedented legal and political recognition of ethnic diversity; the constitution provided self-determination for all constituent ‘nations, nationalities, and peoples’. The constitution also recognised these groups’ right to self-determination—including secession. The constitution obligates the Federal Government to promote and support the self-rule of the ‘nations, nationalities, and peoples’ at all levels and to respect their identity of (Art 88). This could indeed work as a constitutional bridge-head for the indigenous, but it is not specifically directed at them.

Under the category of cultural rights, we see more directly applicable constitutional provisions. The preamble of the constitution confers ‘the nations, nationalities, and peoples’ the right to continue to live with their rich and proud cultural legacies in territories they have long inhabited. The right is further recognised under Article 39 which guarantees the cultural rights of Ethiopia’s ‘nations, nationalities, and peoples’. Specifically, each group has the right to express, develop, and promote its culture. Article 39(2) guarantees their right to preserve their history. Furthermore, the constitution obliges the state to protect and preserve historical and cultural legacies (Art 40(9)). This provision reflects Ethiopia’s international legal obligations such as Article 18(1) of the ‘ICCPR’ and Article 8(22) of the ‘African Charter on Human and Peoples’ Rights’.

The final category is the land and resource rights contained in the 1995 Ethiopian constitution. The constitution guarantees pastoralists the right to free land for grazing and cultivation as well as the right not to be displaced from their own lands (Art 40(5)). The constitution also prohibits land sale or other means of exchange (Art 40(3)). Pursuant to Articles 43(2) and 92(3) of the constitution, the government has also the duty to consult peoples (though this does not imply consent) with respect to policies and projects affecting their community. These provisions have the potential to protect the land rights of indigenous peoples since they are designed to address historical injustices related to land tenure and ownership. The provisions also reflect Ethiopia’s other international obligations such as Article 26 of the United Nations ‘Declaration on Indigenous Peoples’, and Article 21 of the ‘African Charter on Human and Peoples’ Rights’. In sum, the existing legal regime might not explicitly recognise the indigenous, but it could still be the constitutional basis to justify distinct collective rights. By taking the Majang people as a case study, the section below will trace whether or not the rights of the indigenous are recognised, or indeed, stonewalled in practice.

The Majang People

The Majang people, who live the deep in the forests of Gambella region in the south-west of Ethiopia, had only sporadically come into contact with outsiders in the past. For centuries they had lived in isolation in the remote wilderness away from the rest of Ethiopia. Their way of life had remained largely untouched throughout the various political upheavals marking Ethiopia’s history. The only contact they had with the rest of the country during most of this time was the occasional slave-raid into their lands. As their ancestral lands slowly became accessible to outsiders, they fled further deeper into the remote forest. The Majang were never treated as citizens in any form or shape. Little was known about

them and they were mostly seen as one of the primitive forest-dwelling bands who used to retreat deep into their forest whenever they came into conflict with other groups (Stauder, 1971). Although their ancestral lands are relatively isolated and mostly inaccessible to outsiders, their ancestors had faced oppression whenever they came into contact with the rest of the country; either in the form of slave raiders, the Ethiopian state, or ‘highlander’ settlers (a collective name given to various non-Nilotic Ethiopians who have come to the Gambella region from various parts of the country’s northern and southern highlands). In subsequent struggles, the Majang further lost large expanses of territory to outsiders and retreated even further into the remote corners of the deep forest (Seyoum, 2015a).

At first instance, this appears as just another episode of ethnic competition over land and the subsequent displacement and migrations defining African history. But for the Majang this was the loss of lands that had been an essential part of their sense of self-identity. In both material and cultural sense, Majang way of life and culture is highly adapted to a way of life that is strongly conditioned by their land/forest landscape (Fukui, Kurimoto, & Shigeta, 1997). They had been the exclusive inhabitants of the forest who had lived for centuries making a livelihood through hunting, gathering, bee-keeping, and shifting cultivation (Stauder, 1971, p. 12). One of the most visible features of the Majang vis-à-vis other indigenous peoples in Gambella region is their forest-based lifestyle. Forestland features prominently in Majang identity discourse and practices. In this regard, the Majang self-description is inalienably linked to the forest in existential terms: ‘The Majang out of the forest is like a fish out of water’ (Seyoum, 2014, p. 72).

With the introduction of ethnofederalism—*de facto* in 1991 and *de jure* in 1995—the Majang became one of the self-governing sub-regional units, named Majang Nationality Zone (MNZ) within the Gambella regional-state, with its own autonomous executive,

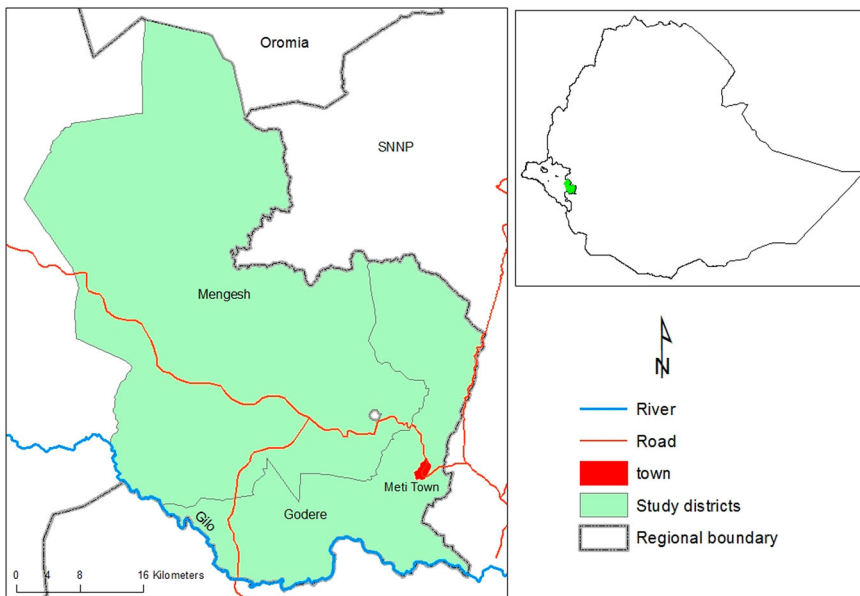


Figure 1. Majang Nationality Zone.
Source: Pact Ethiopia (2012).

judiciary, and legislative nationality council and two administrative *woredas* (districts); namely, Godere and Mengesh (see Figure 1). Even if handpicked by the new regime of EPRDF, it was the indigenous Majang elite who were enlisted to run new MNZ. EPRDF's constitutional guarantee of ethnic self-rule, the promotion and protection of minority rights, and the party's pledge to empower ethnic minorities were naturally welcomed with enthusiasm by the Majang, as was the case with virtually all of the country's nations, nationalities and peoples (Seyoum, 2015a, p. 113).

What complicates all this is that the 1990s was not only the beginning of ethnofederalism but also the beginnings of Ethiopia's rapid economic growth. Large-scale infrastructure projects made the remote parts of the country accessible; foreign and domestic investments into commercial agriculture quickly took over the country's tradition subsistence and small-scale farming; poverty-stricken highlanders poured into the lowlands with the hope of finding arable and pasture; and in the meantime, rapid industrialisation was changing traditional ways of life. The 1990s had brought in ethnofederalism, which in principle provided opportunities to indigenous peoples like the Majang, but this coincided with exposure to modernity and acculturation, threatening the very existence of their collective identity. In sum, two cultures and two worldviews collided. The Majang operate (*de facto*) with their own cultural model of communal ownership of land. Entitlement to land is based on ancestral or first-come grounds. Superimposed on this is the Ethiopian state's (*de facto*) *modus operandi* which assumes that all land belongs to the state. This creates an incompatibility between the Majang's holistic understanding of land which includes symbolic, ritualistic, and identity-based facets, and the new Ethiopian state structure on the other hand, which rests on a paradigm of modernisation and economic development.

The Magnitude of Encroachment and its Impact on the Cultural Rights of Majang

In the last 10 years, the Gambella region has witnessed an unprecedented scale of land transfer to commercial farming. Both foreign and domestic commercial investors, and self-initiated migrants from the highlands, are taking control of the fertile and untapped land of the indigenous in the lowlands. According to the Ethiopian government, all land belongs to the state, but land could be leased from the state for long-term commercial and private purposes. As of June 2010, more than 500,000 hectares of land was transferred to both domestic and foreign commercial farmers in the region (Dessalegn, 2011, p. 231). Saudi Star (500,000 hectares), Kuruturi (100,000 hectares), Ruchi Soya (25,000 hectares), and BHO (27,000 hectares) are some of the examples of this. This trend of extensive land-leasing will likely continue since the government has already identified 42% of the surface area of the region for investment (Lavers, 2013, p. 12). One critic describes Gambella as 'the scene of the great grain robbery' (Kaufman, 2014, p. 36).

Especially, the MNZ has experienced some of the most serious egregious forms of land-grab (i.e. the acquisition of land without the informed consent of the indigenous community). Apart from industrial logging, as of 2015 MNZ has attracted at least 26 investment projects with a registered total area of 21,523 hectares of land with a lease period of 50 years—without the consent of the Majang (Seyoum, 2015a, pp. 153–182). Land was leased to investors without proper environmental and social impact assessments, and without consultation with the local community as provided by the constitution as well as international legal obligations.

In addition to commercial farming, since the 1990s the Majang have also witnessed an influx of highlander settlers in increasing numbers. At the time of the study, highlanders constituted 80% of the total population of the MNZ. As a result, the two *woredas* (districts) of MNZ are almost fully under the control of highlanders. Out of 14 *kebeles* (that is the lowest unit of local administration in Ethiopia) in the district of Godere, migrant highlanders have come to control the land in 9 *kebeles* by clearing forestlands for coffee cultivation and intensive agriculture which has led to complete deforestation. In these *kebeles*, those few surviving Majang have very small land-holdings only for residence. Particularly after 2005, highlanders have aggressively entered deep into district of Mengesh. Many of these highlanders who had arrived as poverty-stricken settlers in the 1990s have now remodelled themselves into local investors. Though accurate figures are not available, it seems that without the backing of any legal basis, some of highlanders have taken possession of 200–300 hectares of unregistered coffee land (Seyoum, 2015a). The acquisition of land especially by settlers of Tigray and Amhara ethnic groups reflects the existing power asymmetry in the region (Seyoum, 2015b, pp. 164–166).

In the previous section, the importance of the forest for the Majang traditional way of life, and indeed their self-identity was discussed. But the cultural and material threats come together. The Majang first experienced large-scale displacement when the Tapi State Farm displaced about 4,000–5,000 indigenous people from land belonging to the four fertile *kebeles* without their knowledge and financial compensation, and without any provision of alternative livelihoods (Dessalegn, 2011). By 2011, approximately 600 households were evicted from their land following a land-lease agreement between the government and domestic investors to establish a coffee plantation (Majang Zone Security Administration Bureau, 2013). The land leased to investors and the land occupied by highlander settlers happen to be prime watershed areas, collective communal lands and prime forestland. Prime forests are now converted to agricultural land for foreign and domestic investors in MNZ. For instance, the Indian Verdanta Harvest PLC, Green Coffee Estate Share Company has leased dense forest areas in the zone (Gambella Regional-State, 2004). Verdanta Harvest PLC's presence has directly affected more than 794 and 540 households in Kabo and Gumari *kebeles*, respectively. The area was once preserved through indigenous peoples' traditional forest management mechanism (Lavers, 2013, p. 9). This land used to be under the collective ownership of the community, but the Federal Government holds that the land leased to investors are from the 'empty land' areas that were submitted to the federal land bank (Dessalegn, 2011).

While the land leased for large-scale commercial agriculture is claimed to have been designated 'empty' by the federal land bank, most of the land grabbed by highlander settlers is where the indigenous people were already farming. For the Majang, both large-scale and small-scale land-grab has meant the loss of small traditional individual '*jang*' (the term for land ownership rights in Majang language) holdings and communal lands. According to the constitution, the entire territory of Ethiopia belongs to the state and the Ethiopian people (Art 40(3)). The argument put forward by the ruling EPRDF is that state ownership of land is the best means 'to protect peasants against market forces' and a means provide them with usufruct rights that bring tenure security (Weldegebriel, 2012). The usufruct rights of subsistence and smallholders, that is the right to cultivate the land, are protected by the constitution. So this means that the transfer of lands used for subsistence farming to large-scale commercial agriculture violates the constitution. And it is not only the land that is given to foreign and domestic investors, but also the

water resources that exist on that land. The MNZ is the place of origin of about 12 streams flowing into the Gilo and Alwaro rivers. The zone is the source of several micro and critical watersheds, particularly in the district of Godere.² Due to the lack of proper potable water in MNZ, most of the local community is dependent on rivers for household water needs. Statistics shows that only 17.8% of the population in Godere has access to potable water sources (Pact Ethiopia, 2012). But commercial investment, especially the pollution caused by the waste from coffee processing machines, is threatening not only the quality of available potable water but also the entire forest ecosystem (Seyoum, 2015c, p. 62).

Chased off most of their traditional lands, the Majang have been restricted to smaller areas. This means that they can no longer practise their centuries-old traditions of shifting cultivation, easy mobility, hunting and gathering, and bee-keeping without obstruction or distortion (Seyoum, 2014, p. 80). Furthermore, the ecological damage and loss in soil fertility cause decline in crop yields. There is a substantial decline in honey production due to deforestation; and what remains is systematically collected by the new honey-farm investors in MNZ and in the neighbouring Sheka Zone (Seyoum, 2014). Some view all this as an inevitable part of modernisation; and believe that development will bring infrastructural improvements, an increase in living standards, and jobs for the locals. For example, the Ministry of Agriculture is of the opinion that mechanisation in agriculture will bring benefits for all.³ But as this chapter goes to print, there are no visible economic benefits the Majang get from commercial farming, except for the provision of some rudimentary social services. Investment projects in MNZ have indeed opened employment opportunity to more than 8,000 people, but almost all of the employees are from outside the zone, and overwhelmingly from highland Ethiopia (Seyoum, 2015c, p. 60).

On top of everything, for the Majang their land is also a historical burial ground and a sacred shrine location. In particular, the 79 hectares of land leased to Verdanta Harvest PLC carries such a cultural significance (Seyoum, 2015b, p. 155). But the owner of the company, Mr Barkatky has claimed that 'some powerful groups want to take land from the company in the "name of culture" with the support of some local corrupted officials'.⁴ So it seems it is not only the state that is oblivious to claims that the forest carries cultural significance for the Majang self-identity. The author had written about this risk before it had reached its current scale: 'letting the sale and free transfer of land rights will have the effect of endangering the identity, livelihood, and cultural survival of indigenous peoples within the country' (Seyoum, 2010, p. 55).

To challenge forestland encroachment, the Majang have unsuccessfully tried to use the existing legal and institutional framework. Since 1991, the Majang have continuously requested the regional and the federal government, and the upper house of the parliament, that is, the House of Federation to protect their territory. The community was able to send a group of its representatives to Addis Ababa to bring the case to the attention of the former president. The then president wrote a strong letter to the Environmental Authority and the Ministry of Agriculture protesting the transfer of forestland to an investor echoing the concerns of the communities concerned (Seyoum, 2015a, p. 310). But there has been no adequate response from either the government or the House of Federation.

The official position of the Ethiopian state is that all people are indigenous to Africa. The constitution thus treats indigenous peoples similar to other minority groups. There is no constitutional recognition of communal ownership of land; neither are there provisions specific to the indigenous peoples' inherent rights to land/forest. As mentioned earlier, the right to ownership of all rural and urban land, as well as all natural resources,

is exclusively vested in the Ethiopian state in the name of the Ethiopian people (Art 40(3)). But Article 40(6) allows the government to lease land to private parties. To this end, the state also can relocate people even if it adversely affects their livelihood and identity (Art 44(2)). There is a requirement of consultation, but this does not equal informed consent. The indigenous cannot veto investment projects that would entail relocation. The usufruct rights of subsistence and smallholders to the land can thus be terminated if deemed necessary since the Ethiopian state enjoys 'plenipotentiary powers to allocate land and determine its use' (Makki, 2013, p. 89). According to a prominent critic of regime, the government uses the discourses of development, federalism, and revolutionary democracy as a means to control the territory and resources of peripheral indigenous peoples (Jalata, 2005). At the end of the day, it seems that as an isolated and under-privileged indigenous people, the Majang have not been able to take advantage of ethnofederalism's promises. They lack the prerequisite resources—linguistic, educational, cultural, financial—to pursue their collective rights; and indeed seem like fish out of water in the modern world that has suddenly arrived at their doorstep.

Conclusion

The last two decades of EPRDF rule in Ethiopia is characterised by the new governance system of ethnofederalism which replaced a history of political centralisation and nation-building defined by Amharic language and the Ethiopian Orthodox Church. The last two decades is also defined by rapid industrialisation and modernisation. But for the previously uncontacted indigenous groups living deep in the forest of the south and south-west, the last two decades started with isolation but ended with existential insecurity. The preceding section examined the persistent economic and demographic onslaught into the traditional lands of indigenous peoples. The case of the Majang people in the Gambella regional-state is an instance of this pattern. The Majang have been unable to protect their land and forest resources from the dual encroachment of self-directed highlander migrants who started to flock to the Majang land on the one hand, and the state-licensed domestic and foreign investors who have entered Majang land without proper consultation and consent of the people. Ethnic nationality zones within regional-states—such as the MNZ—were originally created for reasons of ethnic territorial autonomy, but large-scale agricultural projects and uncontrolled migration have undermined any sense of real autonomy. The Majang collective identity that is wedded to a particular landscape (i.e. physical appearance of a territory, its climate ecology and resource-base) is threatened by state-sanctioned agricultural policy and internal migration. The Majang way of life in the remote wilderness as they knew it might be over, and this puts the entire Majang identity, culture, and livelihood at risk. The case affirms the view that institutional/constitutional engineering on its own is incapable of delivering the intended results. Without modern resources, the Majang—just like dozens of other indigenous communities—cannot take advantage of the institutional possibilities that ethnofederalism makes available to the 'nations, nationalities, and peoples' of Ethiopia.

Notes

1. This paper largely follows Siegfried Wiessner's framework of analysis which conceptualises indigenous rights as 'cultural rights' (2011).

2. Interview with Sahilu, Meti, June 2014.
3. Tefera Deribew, Ministry of Agriculture: MEET-ETV Talk Show, 16 May 2014.
4. Interview with Manojet Barkatakey, Verdant Harvest PLC Manager, Tapi, 23 June 2014.

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