AIDING DEVELOPMENT OR CORRUPTION?

The Effect of the Provision of Aid on the Rule of Law in Ethiopia

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THESIS DECLARATION

STUDENT

I hereby declare that this thesis comprises my own original work and does not exceed 12,000 words (Master of Criminology, Master of International Relations, Master of Public Policy & Management, Master of Social Policy) or 15,000 words (Honours & Postgraduate Diploma in Criminology, Politics & International Studies, Sociology, Anthropology & Social Theory, Development Studies, Master of Development Studies).

(Student’s signature)

SUPERVISOR

I hereby declare that I have approved this thesis for submission.

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Abstract

This thesis examines the relationship between the provision of aid and the Rule of Law in Ethiopia. Using a socio-historical approach the thesis provides an understanding of Ethiopia’s political association and how this shapes the peoples of the country’s conception of the Rule of Law. With this understanding the manner in which the aid agenda affects the political institution of the Rule of Law is examined. It is found that there is negative correlation between the provision of aid and the Rule of Law. The aid agenda allows for the Ethiopian government to use this aid to suppress the Rule of Law within the country and exercise control over its people for the government’s own ends. The thesis concludes with a call for further research in the country and ideas for how the aid agenda can be transformed to assist with development of both the country and the institutions of the Rule of Law.
Chapter One: Introduction

Ethiopia represents an interesting case for development scholars and practitioners. It is an African state which has become almost synonymous with poverty and hunger. Despite being one of the poorest nations of the world it has also registered one of the strongest economic growths in Africa. It is significant to this research that Ethiopia is also the only African country which was not colonised by an external power. Rather, Ethiopia itself was an aggressive and expansionist state during the periods of colonial growth (Beken, 2015). In the Post World War II world and especially since the coming to power of the Ethiopians People’s Revolutionary Democratic Front (EPRDF), Ethiopia has received an enormous amount of aid from international donors (Feyissa, 2011). In the last two decades the EPDRF has received USD $26 Billion in aid- an incredible sum. This is a quarter of the USD $103 Billion dollars (In 2015 Dollars) which was spent in reconstructing Europe after the Second World War. Despite this aid little advancement in indicators of development has been evidenced in Ethiopia (Feyissa, 2011). This state of affairs, coupled with the fact that Ethiopia is a non-colonial state in Africa, presents an interesting case for research on political institutional development, with a specific focus on the institution of the Rule of Law.

This research thesis aims to explore the relationship between aid provision and the development of the Rule of Law as a political institution. While much research has been conducted on the relationship between aid and the economic development of different countries, there is a dearth of literature on the effect of aid on political institutions, largely due to the fact that the development of political institutions is notoriously difficult to measure (Holt and Manning, 2014). Political institutions are nevertheless important as they often form bedrock as well as the gatekeepers of development. This research therefore seeks to examine the effect of aid on the political institution of the Rule of Law (Caceres and Caceres, 2015).
Statement of Research Problem

There is dissatisfaction in the developmental field of with regard to the effectiveness of aid. Much progress was made after the Second World War when developed countries, especially the United States of America, began to embrace the ideology that all people should enjoy the best possible quality of life, and that it was the moral countries which were more prosperous (or developed) to provide for those who were less fortunate/developed. Whilst this principle is not alien in the course of mankind’s history, it was the first time that it became an international norm (Frank, 1966). From the 1950’s onwards, aid in the form of money, materials and knowledge began to pour into countries like Ethiopia to assist with development. However, in examining the results of the receipt of such aid, questions arise – why has this huge amount of aid not transformed these countries into developed nations? I will focus on an examination of the relationships between aid and the development of the Rule of Law in Ethiopia; thereby providing one example of the relationship of between aid and the emergence of political institutions in a developmental context.

The research problem to be tackled here is essentially why, given the amount of aid poured into the country, Ethiopia still has a relatively weak Rule of Law. The point of departure for the research is taken from the work of Francis Fukuyama in “Origins of Political Order” as well as “Political order and Political Decay” (Fukuyama, 2011, Fukuyama, 2014). In these two works Fukuyama traces the development of the state, and political institutions such as the Rule of Law, bureaucracy and democracy. Whilst there are issues with this work Fukyama points out that the manner in which institutions develop is important for the development of the state. In the Post-Washington Consensus developmental world the idea that institutions matter has become standard (Bardhan, 1999), however it is not only the institutions themselves that matter, but also the manner in which they are developed. The socio-historical manner in which these developments take place is important to how the norms and values of these institutions
are expressed. In essence, a version of Western institutions cannot simply be “copy-pasted” into a developing country. There must be a fundamental understanding of the development of the institutions within the specific context of the developing nation. The Rule of Law is a necessary component for the development of a modern and developed political state.

This theory is the grounding upon which this thesis is based and will be analysed and evaluated through the research question:

“To what extent has development aid developed the modern political institution of the Rule of Law in Ethiopia?”

Rational

The Rule of Law is a necessity for the development of any state into a modern political system. The reason for this is also relatively straightforward. If citizens are not secure in their belief that their person, property and freedoms, are free from arbitrary attack from the elites of that state, then they will attempt to either protect their assets as far as possible or no attempt will be made to accumulate assets in the first place (Melleuish, 2012, Fukuyama, 2011). It is therefore vitally important to understand the relationship between aid, which is intended to develop the country, and the Rule of Law.

The initial outline of this thesis’ rationale is detailed above in Fukyama’s work. It is however important to note the historical trajectory of development thinking in institutions such as the World Bank and the International Monetary Fund (IMF). The Washington Consensus emerged in the 1970’s and 1980’s as the international development version of Neo-liberal polices espoused by the western countries in their domestic economies. The emergence took place in America under the leadership of Ronald Reagan, and in the United Kingdom under Margaret Thatcher (Gore, 2000). This swung the development onus away from state led enterprises towards market orientated reforms. This took the form of the Structural Adjustment
Programmes (SAPs). These programmes provided aid to developing nations such as Ethiopia on the condition that certain structural adjustments were made in the manner in which those states managed their national economies. These conditions generally included the requirement that the state “roll back” and that the size of the bureaucratic governance be limited. Furthermore that there be a liberalisation of trade in these countries, enabling a freer movement of capital (Taropa-Iacob, 2013).

Following this a review of the SAP’s took place in the 1990’s with the realisation that governance was just as important as economic reform, and thus was born the Good Governance agenda created by the IMF and World Bank. Again conditions were imposed upon the provision aid which demanded such things as judicial reform and other democratic institutions be put in place (Bertocchi and Guerzoni, 2012). Unfortunately these new conditions seems to have had little positive impact on the Rule of Law in Ethiopia. In order to understand this it is important to measure the quality of the Rule of Law in aid receiving countries.

The World Justice Project annually compiles an index of the Rule of Law in 102 countries. An index scale ranks the extent to which the citizens of a country adhere to the Rule of Law within that country. The scale ranges from 0.00 to 1.00, with 1.00 representing strict adherence. Ethiopia ranks 91st out of 102 countries, with a score of 0.42 (WJP, 2015). This is a frustrating figure for development practitioners and scholars, because it would seem that aid which was used specifically to develop good governance and adherence to the Rule of Law, has not succeeded. This thesis attempts to examine why this is the case and to what extent this aid has supported the development of the Rule of Law. This research will attempt to determine if there is a correlation between the provision of aid and the development of the Rule of Law.

This research is significant as there has been relatively little focus on the development of political institutions in Ethiopia with the specific focus on how they have been affected by the
aid agenda. Much work has been conducted on the effect of the aid agenda on economic phenomenon, such as trade and GDP (Gross Domestic Product) (UNDP, 2014). Significant research has examined the effect of aid on poverty and a number of other factors but little research has been conducted specifically on the Rule of Law. This provides a good research opportunity for drawing conclusion on how political institutions develop with regard to aid (Holt and Manning, 2014). To date, research has largely focussed on governance agendas, encapsulating political institutions and inadequate attention has been given to the Rule of Law. This research thesis will endeavour to examine the socio-historical context of the specifically Ethiopian institutions and how they have developed (Addison et al., 2005, Asongu, 2013). This research thesis thus attempts to look at some specific gaps in the current literature.

A Few Definitions and the Argument.

This thesis uses several terms that are defined relatively broadly by a number of different academics. For instance, Fukyama uses the terms such as state capacity and governance interchangeably; however these terms are not the same. It is therefore important to define terms used in this thesis.

Governance is a normative term when used by the development community, usually used in conjunction with adjectives such as “good” or “bad”. It is important to remove, as much as possible, the normative bias associated with this term. Singapore may be viewed as having poor governance when perceived from a democratic point of view; despite the fact that her people define themselves as having a good quality of life. This thesis will attempt to remove as much normative bias from the concept of governance other than that employed by the Ethiopian people themselves. Governance will be defined as the process of government. It is very important for this paper to define good governance as the quality of governance as judged by the Ethiopian people themselves rather than the definition taken for granted Western thinkers.
Governance includes all the bureaucratic and administrative mechanisms that are in place in order to run the state effectively. With the effectiveness being a subjective term defined by the people who are governed, in this case the Ethiopians (Moore, 2001).

The **Rule of Law** is a political concept defines the extent to which the law of the land is adhered to by its people. It advocates that all citizens and visitors to a specific state are placed under the law as a sovereign entity. This then necessitates the concept of the adherence to the Rule of Law that measures the level to which people, and especially elites within the country, adhere to the Rule of Law (Barendrecht, 2011, Skaaning, 2010). The assumption based on Fukuyama’s work and historical research is that the Rule of Law is fundamental to the creation of a well-functioning political entity (Oakeshott, 2007, Fukuyama, 2011). The substance of the law can be vary significantly in different socio-historical contexts however, as well as how justice is perceived in these contexts (Tremblay, 1997). It could well be that development practitioners and aid providers confuse the development of the Rule of Law with the implementation of the laws and forms of justice with which they are familiar (Tremblay, 1997). This can lead to these practitioners instituting changes in institutions that are not compatible with the underlying socio-historical concepts of the Rule of Law and justice (Tremblay, 1997).

This research therefore, argues that aid provision has not helped develop the institution of the Rule of Law because the Ethiopian state has attempted to establish institutions that are embedded within a western socio-historical context and which are not sensitive to the specific local needs. Consequently, there is an incompatibility between how the judicial process functions and how Ethiopian society conceptualises ideas of justice and political associations. This inconsistency has led to corruption and the contamination of the Rule of Law.
Methodology

The research methodology used in this thesis is desk based. A variety of sources have been researched in the formulation of ideas. Firstly, in order to gain an understanding of how the ideas of the Rule of Law have developed I have reviewed a number of historical texts. These are secondary sources written by academics from both within Ethiopia and beyond her borders. (Charmaz, 2008). The thesis also relies heavily on statistical data collected and analysed by other research institutions such as The Economist Intelligence Unit, The World Justice Project, Freedom House Democracy Index, The Human Development Report, Afrobarometer, the Corruption Perception Index as well as a number of singular reports. The thesis also draws on a number of theoretical perspectives as laid out by other scholars. Here the work of Fukyama, Oakeshott and Almond and Verba among others, is important. Other sources have been listed in the reference section.

While the research conducted relies on some quantitative data to a certain extent, it draws primarily from qualitative studies. The nature of the question itself is inherently qualitative manner in which conclusions are drawn will adhere to this factor. This being said, the empirical data is vital to the eventual conclusions drawn and much quantitative data is elicited in order clarify concepts.

Chapter Structure

Firstly the research must begin with the contextual understanding of Ethiopia as a whole. Chapter Two includes a broad historical account of the formation of the Ethiopian state from around 1137 BC (beginning of Zagwe Dynasty) until the present day. The main focus however, is on a more relevant historical period from 1974 to the present day as this period has led to formation of the modern Ethiopian state (Beken, 2015). From this historical data it is possible elucidate the expression of Ethiopian political culture.
Chapter Three provides an analysis of Ethiopia by studying the writing of political thinkers such as Fukuyama and Oakeshott who postulated ideas of political evolution and ideology. It also draws from a number of other thinkers such as Gabriel Almond and Sidney Verba in order to create a definition of Ethiopian political association.

Chapter four provides an understanding of the significance of the Rule of Law means and how it is understood by the Ethiopian people. This allows for an understanding of how Ethiopians conceptualise ideas of justice and good governance. The thesis goes on to examine the justice system within Ethiopia and how the different forms of traditional and formal justice systems create competing ideas of the Rule of Law (Davies, 2011).

Chapter five analyses the status of the Rule of Law in Ethiopia, through the use of a number of indices as laid out above. This will lead to a deeper understanding of the extent to which the concept of the Rule of Law is faring in the country. Of necessity this must include a section on the reason why the Rule of Law is so important for the development of a country and for the wellbeing of its people. This latter section will be fairly straightforward and draw on standard political theory as laid out in the previous chapters and the issues that are inherent within the provision of aid (Oakeshott, 2007, WJP, 2015). Throughout each chapter the effects of aid are analysed in order to provide a broad understanding of the impact of aid on the Rule of Law.

With these ideas and data having been thoroughly laid out and dissected Chapter Six will provide a conclusion to the thesis and summarise the findings. This chapter will also make some broad recommendations and suggestions for further research.
Chapter Two: A History of Ethiopia

Introduction

The history of Ethiopia is a long and complex one, spanning a continuous period from before the 10th century BCE (Before Common Era) to the present. A state in one form or another has occupied the region for thousands of years, making it one of the longest inhabited lands in the world (Beru, 2013). Providing historical context is important to ascertain the political situation in Ethiopia in order to understand its present condition. This chapter therefore attempts to provide an historical background to the manner in which Ethiopians have conceptualised the idea of the Rule of Law and how it has been applied through their time as political subjects.

Due to the relative brevity of this thesis, this chapter will focus primary on the modern era of Ethiopia’s history. A brief discussion of the middle ages is provided for contextualisation, the rise of the Zagwe Dynasty and its effects on Ethiopia. The focus of this chapter is on an analysis of the modern period, to understand the current political scenario vis-a-vis Rule of Law in Ethiopia. This analyse begins with the rule of Tewodros II and Menelik II. Their rulership provides a background to the very important period of Ethiopia’s history, namely that of the rule of Regent and latterly Emperor Haile Selassie. Selassie is an extremely significant figure in Ethiopian history as he ruled during the period of Ethiopia’s conflict with the Kingdom of Italy. This conflict would give birth to the state of Ethiopia as we know it today.

The final two sections of this chapter will focus on the overthrow of Selassie in a coup by the communist Dergs. This communist regime ruled Ethiopia from 1974 to 1991, at which time the current government of Ethiopia, known as the Ethiopian People’s Revolutionary Democratic Front seized control (Feyissa, 2011).
The Zagwe Dynasty in the Middle Ages

The Zagwe dynasty (also spelt Zague) is the first period of Ethiopian history on which a number of records and histories can be found in comparison to its precursor Aksum (Berry, 1981). The Zagwe dynasty established two important aspects of Ethiopian culture. Firstly, it began the process of political centralisation which urbanised the hitherto rural country. Previously, the Ethiopians and the different ethnic groups they comprised, had been either nomadic or very rural. This latter way of life became scorned and devalued under the Zagwe dynasty.

Secondly, the Zagwe dynasty developed the notion of an Ethiopian identity as a whole. The Zagwe dynasty were regarded as usurpers of the Aksumite kingdom who were the decedents of Solomon (Negash, 2006). The Aksumite were perceived as true Ethiopian Christians whereas the Zagwe Dynasty was seen as having far too much influence from Egypt and Arabia. This is one of the reasons that sources on the Zagwe are relatively scarce in comparison to the Solomonic dynasty that would come later. The Solomonic dynasty that would come after, purposefully removed mention of them or specifically recorded them in a politically expedient light (Phillipson, 2012). Importantly this usurping power became a point against which Ethiopians could rally against. Ethiopian identity was beginning to form as Christian and importantly descended from the reign of King Solomon (Phillipson, 2012).

Historical records estimate that the Zagwe dynasty commenced rulership between 900 and 1140 BCE and ruled for 130 to 370 years. The one piece of concrete evidence is the foundation of the Solomonic Dynasty which effectively ended the Zagwe rule in 1270 BCE (Marrassini, 1990, Phillipson, 2012). Despite their brief rule, the Zagwe dynasty had a marked impact on Ethiopian culture: initially, through the establishment of an urban culture; and through the founding of a large capital at Adaffa, which was a religious, political and administrative centre. This is important as Ethiopia would not re-establish an urban culture until centuries later. The
contrast between urbanisation and nomadic administration would have a significant impact on the development of the Rule of Law (Negash, 2006, Beru, 2013). In terms of the Rule of Law this distinction exists today with two separate judicial systems in the country. A traditional system in the rural areas and a centralised modern system in the cities. Both of these have a distinctly different outlooks on justice and the Rule of Law. This will be discussed further in Chapter Four (Beru, 2013, Cecchi and Melesse, 2016).

Finally, the Zagwe dynasty established a unique feature of Ethiopian politics that existed until the 1970s. This was the gult system that allowed local leaders, through the authority of the king or local lords, to lease land to peasants in exchange for tribute and the promise of provision of military personal. This loosely structured almost federal system of disseminating political power was important for later Ethiopian development. It again helped to reinforce a distinction between centralised power and rural power and the concepts of law in these two contexts (Negash, 2006, Phillipson, 2012, Oakeshott, 2007). The Solomonic Dynasty continued this work of centralisation and the division between ruralisation and urbanisation.

**The Modern Era**

This chapter now focuses on the modern era and the rule of Tewodros II to that of Menelik II in the last half of the 19th century. The period between the rise of the Solomonic dynasty and the rule of Tewodros II is often referred to as “The Age of Princes” (Beru, 2013). It is a period in Ethiopian history characterised by the conflict of power between warlords and the landed lords who controlled rural and urban areas rather than roving bands of military men. It is also characterised by isolation from the rest of Africa and Europe. This isolation from the rest of the world had characterised the politics of the Zagwe and Solomonic dynasties. The reign of Tewodros II is important as it signifies the beginning of Ethiopia’s emergence from isolation, and the start of relations with colonial powers (Adamu, 2009). This is the beginning of the
relationship between Ethiopia’s government and the West, especially Europe, and is the foundation of Ethiopia’s reliance on aid (Adamu, 2009).

Tewodros II

Tewodros II was born Lij Kassa, and was the son of a local chieftain in Qwara. He is an important figure for this study as he is one of the first modernising figures in Ethiopian history (Crummey, 1969). Tewodros II was a ruler in a time when Africa was experiencing enormous pressure from European colonialism. He was aware that European countries such as England and France had designs on the region, and he was eager to seek relationships with these two powers in order to maintain Ethiopian independence (Crummey, 1969). At the same time Tewodros II was also an eager reformer and moderniser. He desired that Ethiopia to become a united state under his rule and therefore set out upon a fairly violent campaign of unification and modernisation (Crummey, 1971). This led him take a number of important steps in the creation of the modern state. Firstly, he concluded several agreements with colonial European powers which would allow them passage through his territory in return for weapons, technology and ammunitions. Secondly he used this new technological power to implement reforms in his state (Crummey, 1971). To further develop this modern technology which he believed was lacking in his country, he invited protestant and catholic missionaries to set up artisan trading schools and teach literacy. Whilst there appeared to be some confusion as to what the missionaries believed their purpose to be, whether proselytising or education, the letters sent by Tewodros II to the British government implied that he preferred modernisation to religious change (Appleyard and Pankhurst, 1987, Novati, 2007). While not entirely successful in his desire for a unified Ethiopia, Tewodros’ modernisation objectives set the tone for what was to come for Ethiopia. Anyone well versed in modern Ethiopian politics will know that the EPRDF characterises itself as a developmental administration. It’s absolute priority is the development of the country and the creation of a modern state. This ambition is not new
but one that has been present for centuries (Abegaz, 2015). The reign of Tewodros II did not accept aid in the sense it is currently understood, however he did make serious concessions to European powers and missionaries in order to gain modernising equipment and weapons (Abegaz, 2015). The rule of Tewodros II presents a familiar picture of Ethiopia which, similar to the dichotomy between the rural and urban life of the Zagwe dynasty, has carried through to present day. This focus, of the government, of rapid modernisation of the state and acceptance of a certain amount of reliance of foreign aid and technology, creates a foundation for the modern Ethiopian state and the issues that development practitioners must take into account today.

**Menelik II**

Menelik II claimed legitimacy to the Ethiopian/Abyssinian Empire due to the fact that he could trace his descent through his father to the line of Solomon. Menelik II was anointed as the Ethiopian/Abyssinian emperor in 1889. He was instrumental in the creation of the modern Ethiopian state as it exists today and is considered by many to be the father of modern Ethiopia (Keller, 2014).

Like Tewodros II, he was concerned with keeping Ethiopia independent and with consolidating the state, he worked with European powers to make sure this occurred. During the scramble for Africa Italy, laid claim to the area that is now modern day Eritrea. In order to create a stable border between Ethiopia and the Eritrea, Menelik II signed a treaty with the Italians. However, this treaty had two versions. The Ethiopian version in Amharic (the state language at the time) stated that this was a mutual treaty that would allow the Italians to keep Eritrea, in exchange for respecting Ethiopian sovereignty. The Italian version claimed that Ethiopia was now a protectorate of the Kingdom of Italy (Novati, 2007). This led Ethiopia to reject the treaty and an eventual war between the two nations. Italy was soundly defeated by Ethiopia at the battle of Adowa in 1896. This was an historic moment - a European power had been defeated by an
African one. Menelik II established diplomatic relations with France and England. The ensuing peace negotiations resulted in an agreement that Italy could retain Eritrea but Ethiopia’s borders were to remain unmolested, ensuring the independence of the African nation (Keller, 2014). This important settlement strengthened diplomatic ties between Ethiopia and the European states which would lead to strong aid relationship in the future (Keller, 2014).

Menelik II was now in a position focus on the continued modernisation of his country. He was fascinated with modern technology and used modern guns and ammunition to subdue and unite chieftains and rival groups in both the North and the South East. While he favoured the Oromo people, who make up the majority ethnic group in Ethiopia, Menelik II knew the importance of a united Ethiopia (Marcus, 1970). It is during Menelik II reign that Ethiopia was struck by a massive famine. This famine not only showed the strength of Menelik as a ruler but also solidified links between his country and Europe. Menelik requested help from European allies and also began reforms that would instil modern European institutions into the country. Institutions such as a modern bureaucracy and executive cabinet were slowly introduced. This was an outcome of a growing aid relationship between Ethiopia and western donors (Marcus, 1970). It also allowed for the importation of modern European political institutions such as a formal legal system. The rule of Menelik II would thus have a direct impact on the current aid agenda as well as the Rule of Law in Ethiopia (Marcus, 1970).

Haile Selassie

Haile Selassie is perhaps one of the most famous historical figures in Africa and in Ethiopia in particular. Selassie became regent and heir to the throne of Ethiopia in 1916 and was crowned emperor in 1930 (Clapham, 1969). The first order of business with which he had to contend was the intention of Italy to seize Ethiopia. Italy had never forgotten its defeat at the hands of the Ethiopians, and Fascist Italy saw this defeat as a mark upon its national honour and resulted
in an invasion of Ethiopia by Italy in 1935. After a series of battles Selassie’s armies were defeated by the of the Italian’s superior technology. The global community largely condemned the use of aircraft and poison gas against what was considered the sovereign nation of Ethiopia (Demoustier, 2009).

Selassie was forced into exile and appealed to the League of Nations for assistance. However, due to the increasing power struggles in Europe as the time, the appeal was largely ignored. In 1940 however, Italy became embroiled in the Second World War (WWII) on the side of the axis powers and this meant that the allies had significant reason to intervene. Selassie skilfully used the situation to generate support for intervention. On the 5th of May 1945 a combined force of Ethiopians, British, French and South African forces defeated the Italians for good and recaptured, Addis Abba the capital of Ethiopia. Selassie returned as emperor of Ethiopia (Levine, 1961, Milkias, 2008). Again this further solidified the relationship between the Ethiopian state and the West, with the West providing support for the Ethiopian government (Demoustier, 2009).

After WWII Selassie was concerned with the modernisation of Ethiopia. Depending on which source is consulted he was either a moderniser who was pushing back the boundaries of outmoded thinking, or he was nepotistic patron to the Oromo people with little regard for others in the country (Keller, 2014). Being a modernist Selassie created a centralised government under the first constitution, with the capital at Addis Ababa. He began to remove power from the church, separating it from governmental work and creating a secular education system. This led to the creation of an educated and much more secular elite. This education was primarily western in its ideology and under a rather authoritarian model of state development, Selassie adopted a western capitalist model of production (Milkias, 2008). These changes were applauded by his western allies as a step in the right direction (Milkias, 2008). The introduction of Western secular thought however, also brought ideologies of Marxism and communism and
would eventually lead to the downfall of Selassie’s regime. The communist and socialist ideas that emerged in Ethiopia at this time still persist within the government to this day (Keller, 2014)

Unfortunately technological progress was slow and the country also had a period of extreme drought leading to some of its worst famines. While the new elites in the country enjoyed significant increase in wealth, this was not the case for the vast majority. Exacerbating tensions was the fact that the majority of the beneficiaries of this development were the Oromo people. With the perception that the Selassie regime was supported by, and were becoming puppets of, western capitalism, a large group of people began to develop communist sympathies. This lead to a socialist revolution in the form of a coup d’état in 1974. While this would be grounds for further study it is interesting to note that perceived Western influence had a strong influence on Ethiopian political thinking. In this case it resulted in the development of an anti-western mode of thinking (Levine, 1961, Milkias, 2008).

**The Derg and EPRDF**

The DERG Dictatorship and the beginnings of the EPRDF

Discontent with the rule of Selassie was wide spread and led to revolution and coup that unseated his government in 1974. This period brought to an end imperial age of Ethiopia and ushered the country sharply into the modern world. It was now a military communist dictatorship, and the Ethiopia of antiquity, had been destroyed. In terms of rulership the Derg saw their rule as one of attempting to create a truly communist Ethiopia (Weekly, 1978). Unfortunately they spent much of their time enriching themselves. They used terror and state power to control the population and did not continue much of the modernisation of the previous regimes. This created another famine situation in the 1980’s which created the image of Ethiopia as a famine torn state. The world’s attention was brought to the country and aid began
to flow into the country from sources such as Oxfam and LiveAid (Weekly, 1978). This money was supposed to be distributed among NGO’s in Ethiopia. Unfortunately it became apparent that much of this aid went into the pockets of the Derg government and was not used for its original purpose. It must be noted here, however, that the Derg government did attempt to create programmes that would alleviate the country’s problems. In October 1978, the Derg announced the National Revolutionary Development Campaign to mobilize human and material resources to transform the economy, which led to a Ten-Year Plan. This was designed to transform the economy in order to allow for the development of the state. This is reminiscent of Stalin’s five year plan. Unfortunately little development actually took place (Oakeshott, 2007, Keller, 2014). It should be noted as well that while aid from international NGO’s flowed into the country there was not a large amount of international governmental aid from the West, largely due to the fact that Ethiopia was a communist state in the middle of the Cold War. Aid flows from Western countries would resume only after the 1994 with the election of the EPRDF (Weekly, 1978).

During their rule the Derg was constantly battling the EPRDF, a coalitions of rebel groups seeking to remove the Derg from power. In 1991 the EPRDF managed to seize power from the Derg and it is to this final piece of history we now turn.

The EPRDF

During the dictatorship of the Derg a rebel coalition made up four rebel movements turned political parties, fought against the government. The coalition comprised: The Oromo Peoples’ Democratic Organization (OPDO), the Amhara National Democratic Movement (ANDM), the Southern Ethiopian People's Democratic Movement (SEPDM) and the Tigrayan People's Liberation Front (TPLF) (de Waal, 1992). This group led an open rebellion up until 1991 when it ousted the Derg government and created the now ruling coalition. This led to the creation and the acceptance of the 1994 constitution which is an incredibly liberal document. It grants
religious and ethnic freedom to all and is hailed as a great step forward by nations across the
globe. The first multiparty election were also held in 1994 during which the EPRDF gained a
majority of seats in the nations assembly (de Waal, 1992).

Unfortunately the EPRDF seems to have found itself in the midst of a paradox. It wishes to
create a free liberal democratic state but still largely embraces Marxist-Leninist ideology,
which advocates for a state led command economy. It wishes to be a state that leads
development but also allow for the freedom of its people. It is often the case that governments
that are developmentally orientated need to take a much more active role in the economy of the
state and the social life of its citizens. This can lead to a reduction of personal freedoms when
the state is attempting reforms that are not in line with the short term goals of its people. Large
scale government projects such as agricultural reform or dam building often leads to discontent
among people who are directly affected. This can lead to the governments taking unilateral
action against those citizens who oppose these measures (Frank, 1966). This has resulted in an
accusation against the Ethiopian government of being authoritarian and caring little for its
people (Bekele, 2009). The 2000 and 2005 election were contested by many in the population
for being largely unfair and rigged, and resulted in large scale violence and the death of
civilians. The anger against this government has been exacerbated by a change in weather
patterns across Ethiopia that has worsened the drought across the country (Gottesman, 2010,
Bekele, 2009). The EPRDF has also had to deal with the Ethiopian-Eritrean War and the
resultant independence of the latter country. This has cost the Ethiopian state a significant sum
of money, together with accusations of war crimes perpetrated by both states (Feyissa, 2011)

When considering this paradox, it is apparent that the Ethiopian government supports
development and modernisation. Its stated mission is one of transforming the country into a
state of economic and political stability. Similarly to many of the Ethiopian governments
referred to earlier, the EPRDF is developmentally orientated, wishing to see the country
develop out of its relative poverty. The government has therefore requested a huge amount of aid from the international community (Feyissa, 2011). In the last two decades the EPDRF has received USD 26 Billion in aid. However, despite the enormity of the extent of this aid, there has been little indication of advancement indicators (Feyissa, 2011).

Much of the development within Ethiopia is state led. It is interesting to note that the country does not have a strong civil society movement and the work of Non-Governmental Organisations (NGOs) is hampered by excessive red tape and a lack of infrastructure. This often means that groups who may oppose or indeed are motivated by development concerns only, as opposed to political concerns, are pushed to the periphery of the development agenda. This strengthened the accusation against the EPRDF of being largely authoritarian.

To this day the state struggles between the notions of development and freedom, between being authoritarian and allowing people to live as they see fit. The self-image that the government has of itself, that as an agent of development, has come to define the country as a whole, and almost all institutions are pointed towards the government’s developmental goals, including the formal institutions of the Rule of Law. Aid flows have played a huge part in this modern version of Ethiopia. This goal of development supported by aid has a large impact on the way the Rule of Law is conceptualised and affected. It is important to understand how the self-image in terms of the political association exists within Ethiopia, as this will provide an understanding of how aid flows affect the institution of the Rule of Law.
Chapter Three: The Modern Ethiopian Political Association

Introduction

This chapter examines the political association in Ethiopia today. The nature of the political association for any country is important when analysing political institutions such as the Rule of Law, as it is the political association that provides the foundation for the establishments of these institutions as to which they are aimed. In order to understand Rule of Law in Ethiopia, it is therefore important to understand how the political association have shaped these institutions.

This chapter will draw heavily from the above chapter in order to detail the nature of Ethiopia’s political system. Political thinkers such as Hobbes and Locke see the political association as a product of the evolution of natural laws to civil laws. In Hobbes’ case the evolution is from the state of nature to that of the Leviathan. For thinkers such as Locke and Rousseau, the evolution flows to the social contract (Oakeshott, 2007). This manner of thinking can be reductive, as it can lead to the assumption that one political association’s institutions can be easily used in another historical context, as all humans necessarily adhere to the same natural laws. It is therefore important to draw on the work of two other thinkers namely, Oakeshott and Fukuyama. Oakeshott bases his philosophical theory on the evolution of human conduct and interactions with each other rather than assumptions of human nature and natural laws. This means that states can have appreciably different political associations based on their historical background (Oakeshott, 2007). Fukuyama furthers this with his analysis being firmly rooted in the history of human politics as well as human biology (Fukuyama, 2011).

There are two terms that are frequently used in reference to the specific nature of the political entity, political association and political culture. The idea of the political association is one that is used by Oakeshott to describe the nature of a given political entity (Oakeshott, 2007:212).
This is used in order to define his two sides of the political continuum, the civil and Enterprise Association. Each of these seeks to maximise their particular ideas of what their definition of the good life represents for their citizens (Parekh, 1995). The concept of political culture however, refers to “…a particular pattern of orientations to political action” (Körösényi, 1999). These terms are separated by the idea of the ends rather than the means. Whilst culture can be considered to be active and creating dynamic change in a society, it has no end other than the preservation of the culture and its people. The association on the other hand has a specific end in mind depending on the type of association. Having said this, these terms are incredibly close in conceptualisation and are open to interpretation. They are both concerned with the manner in which political action is carried out and to what ends this actions is directed. They also both attempt to provide a contextual definition of a state’s political nature. I have chosen to use the term political association though, as a point of clarity, and to highlight the fact that the political association has an end in mind (Oakeshott, 2007). The political culture can be seen as the basis of the political association, as its base component. I do not believe however that simply stating what the political culture of Ethiopia is, is enough, as culture provides a framework for action but does not necessarily dictate the actions taken. The political association not only takes into account the political culture but also examines the aims of the state and government, it is therefore a more preferable concept for this thesis. The political association will necessarily dictate the way in which aid is used and consequently how these funds will affect the Rule of Law.

This chapter will be laid out in a number of sections. Firstly a very short discussion of the original concepts of political culture will be discussed as it was employed by Gabriel Almond and Sydney Verba. This is to provide a conceptual basis for the identification of Ethiopia’s political association, its political culture. Secondly Oakeshott’s idea of the political association will be analysed in order to provide a similar understanding and build on the definition (Parekh,
Fukyama’s work on political development will be considered in order to develop this theoretical tool of conceptualisation into something practical.

Thirdly Fukuyama’s work will assist in the understanding of the development of the institutions of modern Ethiopia. In his work “On the Origins of Political Order” Fukuyama provides an interesting discussion of how political entities develop (Fukuyama, 2011). This will allow the chapter to reach its definitive section - defining the political culture, association and institutional development of Ethiopia. This will draw heavily on the history of the reign of EPRDF and will allow for an understanding of how aid has impacted upon the Rule of Law.

**An Understanding of Political Culture**

If general culture is defined as the rules, norms, values and behaviour of a specific group of people which are commonly held as normal behaviour by those people, then political culture is essentially similar but limited to the ways in which those people prefer to be governed (Laitin and Wildavsky, 1988). For the sake of this chapter the definition of political culture will draw on the slightly adjusted definition used by Gabriel Almond and Sidney Verba, according to which political culture is defined as “…the particular distribution of patterns of orientation towards political objects among members of the nation” (Almond and Verba, 1963b:14-15). It is important to note the word distribution in the above definition as Almond and Verba based their methods on fairly homogenous political cultures such as Western Europe. When this concept is utilised in areas such as Ethiopia, where the society is much less homogenous, it is important to note that there may exist multiple and possibly conflicting political cultures. (Chilton, 1988, Abbink, 1997).

Through a study of how these orientations interact with the objects spoken about above in the United States, Germany, Mexico, Italy, and the United Kingdom, Almond and Verba (1963a) developed a set of three possible categories of political cultures which have a maximum of six
subcategories. Here it must be noted that these five nations are embedded within a European political culture. It is for this reason that Almond and Verba’s concept of political culture is insufficient for an in-depth understanding of the nature of all political entities; and clarifies why I have combined their work with that of Oakeshott and Fukuyama. The table below outlines the different political cultures and their interaction with each other (Almond and Verba, 1963a).

Figure I: Political Cultures

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A Parochial political culture is one in which political systems are highly centralised. These cultures usually only exist at much smaller levels of human organisation. There is little division of political power and almost no checks and balances (Almond and Verba, 1963a). This is of course an ideal type in the Weberian sense of the word, as all these political cultures are, but almost all political systems may have some aspects of parochialism (Almond and Verba, 1963a, Verba et al., 1965, Chilton, 1988).

The Subject political culture brings those individuals and groups who may have lived fairly independent lives from the central political machinery into a subject relationship with the political core. All people are seen as being part of the political process and of contributing towards it. The relationship is one of subjection. The centralised political power has full
authority and power which it exercises over its subjects. In this culture the knowledge of the political systems is wide spread. Whilst people may be either happy or unhappy with the system, they understand that they are subject to it (Almond and Verba, 1963a, Melleuish, 2012).

Finally, the participant political culture shows an orientation of the people to every part of the political system. They are knowledgeable and take part in the process of politics. They understand how the systems work and how power is shared amongst them in order to exercise control. There is often a form of activism on the part of those who are unhappy and the system sees wide support from the majority of people - even amongst those who agitate against specific policies. This is of course the perfect democratic system that one would wish to see (Almond and Verba, 1963a, Formisano, 2001).

**Political Associations: The Civil and the Enterprise Association**

In consideration of Oakeshott, the political culture provides an overly rationalistic view of the classification of political systems (Chilton, 1988). Oakeshott argues against the view that the self can be separated atomisticly from society and that society is made up of these atomistic self’s, he states rather that “A self not only requires society, but in the fullest sense it is society”. “The self is the State and the State is the Self” (Franco 2004:33). Oakeshott states this to signify that the idea of the self against the state cannot be true as the will of the individual is the will of the state (Franco, 2004). What this means is that politics is not just about being, but about actively becoming something else. It is not sufficient to say that a political culture is Participatory or Subject, one must go further and analyse how the historical and cultural components come together to form the nature of the political association and direction taken by this association. In studying the use of aid in a state and its effects on an institution such as the Rule of Law, it is important to understand the political association and its characteristics.
The political association defines the use of the aid and will in turn show how this use affects the Rule of Law.

Oakeshott developed a continuum definition of political systems that allows for the categorisation of political associations. These are the Civil and Enterprise Associations that lie on either end of an ideal type continuum (Franco, 2003, Franco, 2004, Parekh, 1995). The Enterprise Association is created primarily to attain a specific purpose and human perfection. It therefore lies firmly within the notion that human beings have a purpose and that it is government’s role to utilise the resources of the state in order for humanity to realise those purposes (Oakeshott, 2007).

An important point in this view of politics is that the government is an essential player in this process, it is not an auxiliary, only making the situation easier for humans to achieve this state on their own, it is active and in fact, is the chief agent in this endeavour (Oakeshott, 1996). This of course can achieved through a number of mechanisms, either through the use of structurally adjusting the society to point it towards a specific goal, or indeed seizing all decision making in order to achieve the desired goal. The Enterprise Association is still an association of members of that society. It is necessarily a voluntary association of members who agree to the pursuit of perfection or enterprise within the society. Without this voluntary association the political experience becomes one of despotism and not part of the modern political experience (Franco, 2004).

The Civil Association on the other side of the continuum makes the assumption that human perfection lies outside the scope of government, and in fact may not be at all achievable (Fuller, 1991). The foundation of this form of politics is based upon a reading of human conduct, how humans act when brought into contact with one another (Oakeshott, 1996). The Civil Association assumes that humans and groups of humans pursue different goals in order to
maximise their happiness. At times these different goals may cause these groups or individuals to come into conflict with each other (Oakeshott, 1996). It is the role of the Civil Association government to limit and curtail this conflict and provide the greatest amount of freedom to all as long as this freedom does not prevent others from being able to pursue their own goals (Oakeshott, 1996). The activity of government is essentially a judicial activity. The importance of this cannot be overstated, while enterprise based politics is teleological in that it seeks a specific goal, the civil politics is nomological in that it seeks to uphold the law. Therefore this form of government will uphold, interpret and administer law in order to facilitate the maintenance of the rights, duties and avenues of redress within the association (Oakeshott, 1996, Franco, 2004). The government consequently becomes an umpire in the use of power of the state, thereby becoming the best possible liberal democracy.

It can immediately be seen how these two different typologies would have different uses for aid. It would be expected that the Enterprise Association would use the aid in an effort to meet the envisioned goal of the state, whilst the Civil Association would attempt to use aid to maximise opportunities and the freedom of their citizens.

**Fukuyama and the Development of Political Institutions**

Unlike the previous theories Fukyama draws much from other academic disciples, especially in terms of history and biology. For Fukuyama, as for Oakeshott, the way in which people interact with politics institutions is the product of socio-historical processes and biological human nature. However, unlike Oakeshott, Fukuyama takes into account the biological aspects of human nature as well, in order to derive his theory of political development and associations (Fukuyama, 2011). Biological research into our closest biological and evolutionary animals, chimpanzees and other primates, show that political organisation is not unique to humans. These animals are quite capable of forming complex groups with conflict management
techniques and hierarchies (Fukuyama, 2011). It is no leap of logic to assume that the common ancestor of both humans and our cousins, developed this cognitive ability to form complex social connections in order to develop strong groups capable of defending themselves from a hostile environment (Fukuyama, 2011). Humans are capable of much larger social groups. These were often kinship groups, surrounding a single family or were made up of a number of families (Fukuyama, 2011). What is of importance is that these organisations were biologically driven and were therefore universal to all humans. What is also common to all humans is the desire for the continuation of our genetic line. This causes humans to distribute resources in a hierarchical manner. Firstly, when resources are found they are initially distributed to the strongest members of the family, then to the weakest, then distant family members and finally to the band, tribe, community etc (Fukuyama, 2011). Human’s superior ability to communicate, reason and share resources have allowed us to develop groups and eventually societies far beyond that of other higher primates (Fukuyama, 2011). We are tempted to reallocate resources from the general “stockpile” in the first instance to our own immediate group of people, no matter how many they may be (Fukuyama, 2011). However in order to survive as a group, we have to extend beyond this number. As agriculture developed, and eventually manufacturing, the pool of resources grew much larger, allowing for greater allocation. Evidently, the groups that use these resources most efficiently are far more likely to survive as their numbers increase (Fukuyama, 2011).

This presents a problem for natural human organisation. We are still biologically driven to allocate resources based on the number of people we consider to be in our immediate kinship group or clan (Wellman, 2012). When humans have access to levels of resources that are present in the state, we are still biological driven to favour our own people first. In order to curtail this natural tendency humans developed complex checks and balances, in the form of political institutions, which have evolved over the centuries and adapted to the environment.
and cultural context in which different groups existed (Fukuyama, 2011). One of these institutions is the Rule of Law. The Rule of Law may be present at varying degrees, at different levels of society and expressed in different ways, but the idea that there should be some law that supersedes all others is expressed in almost all societies. It is part of the developmental process (Fukuyama, 2011). When institutions are captured by groups in society and resources redirected from the society at large towards personalised groups, this is labelled as corruption. More frequently this is carried out by the elites of a particular society, such as political elites or powerful families, who have much greater access to the workings of these institutions. When such a phenomenon is applied to the institution of the Rule of Law, to a large enough extent, the government can become tyrannical and leads to what Fukuyama labels political decay (Fukuyama, 2014).

The question posed by this thesis is whether aid allows for the seizure of the Rule of Law or whether it strengthens the Rule of Law. With the above theory in mind, we can now conceptualise the Ethiopian political associations.

The Political Association of Ethiopia.

Ethiopia suffers from very high levels of public sector corruption (see Ethiopia’s Corruption Perception Index (CPI) (2015). The CPI constructs a perception of corruption index based on a total of twelve independent sources. This takes into account organisation such as the African Development Bank and the World Bank (Transparency International, 2015). Ethiopia attains a score of 33 out of 100 with 100 being the least corrupt rating. This ranks it as a very corrupt nation as 133rd out of a total number of 167. This means that the people of Ethiopia view the public sector as largely corrupt (Transparency International, 2015).

The Economist Intelligence Units Democracy Index (2015) provides information on a country’s democratic health, ranking countries with a score out of 10 with 10 being the best score.
Ethiopia currently ranks as an Authoritarian regime, effectively stating that Ethiopia’s
democratic culture is severely lacking, with a score of 3.83 out of 10. This places Ethiopia at
123rd out of 167 countries. An alarming fact is that Ethiopia has been becoming more and more
authoritarian under the ruler of EPRDF, in 2006 it had a score of 4.72 which has been steadily
decreasing to the present (EIU, 2015).

Of note to this thesis is how the EIU breaks up this score. The first factor is Electoral Process
and Pluralism. This measures how well the electoral process functions and how many political
parties or groups take place in this process. Recently Ethiopia has had a problem with the
democratic process, scoring a dismal score of 0.00, essentially recording that there was almost
no pluralism in the democratic process. This was apparent upon examination of recent
elections, at which time the EPRDF was accused of rigging the elections in their favour
(Abbink, 2006). The Functioning of Government examines the scope and capability of the
government in its exercise of state power. Ethiopia scores only 3.57 here meaning that the
centralised EPRDF government does little to provide its citizens with a good government (EIU,
2015). Political Participation is the next factor that is examined; here Ethiopia scores a
relatively high number of 6.11. This means that Ethiopians are relatively politically active,
attempting to take their government to task for their lack of service delivery. This bears a strong
impact on the political association as it shows that Ethiopians are not just passive but are in
fact much more active than a parochial political association would suggest (EIU, 2015, Almond
and Verba, 1963a). The Political Culture aspect of The Democracy Index measures how much
democracy is part of the Ethiopian political association. Here Ethiopia scores 5.63 meaning
that there is a trend to take part in democracy but it is not strong. This is brought into clearer
light when the Civil Liberties factor is examined, here Ethiopia scores 3.82, meaning that
Ethiopia has a relatively low level of civil liberties. This is likely due to the rather authoritarian
nature of the EPRDF and how Ethiopians may be scared to go against their government (EIU, 2015, Hagmann, 2006).

Finally the Human Development Report (2015) measures the development of people with a number of countries. Ethiopia has shown year on year growth in Human Development of 3.35%. While this is comparatively small when compared to other developing countries, it coincides with a high level of economic growth. The EPRDF is an extremely developmentally focused government constantly telling its people how it is using the countries resources to improve their lives. This has a huge impact on the perceptions of that government when the people are asked about their satisfaction with it. A growth in human development goes a long way to providing support for the EPRDF (UNDP, 2014)

Taking the above into account, Ethiopia’s political association could therefore be conceptualised as Subject-Participant with diminishing levels of a parochial political association. The Parochial nature of Ethiopia’s political association is due more to economic situation rather than to its people’s norms and values. There is a relatively low level of urbanisation at this time and because certain regions such as the Ogaden still maintain a level of autonomy from the central government, many people are cut off from the political process taking place in Addis Ababa (Hagmann et al., 2012). Since the reign of Menelik II the country has become more centralised and developed a sense of unity. This is a much better representation of the Ethiopian political association in general (Marcus, 1970). Ethiopia is defined primarily as a subject political association due to the fact that in general, people’s views on government differ widely from the views expressed by the reports above. When surveyed by the organisation AfroBarometer (2016) 81% of respondents stated that they felt that their country was either a complete democracy or that the democracy and economy were headed in the right direction. When analysed from the outside many experts such as Jon Abbink (2006)
have called Ethiopia deferred, and stated that elections are not transparent nor are they free and fair.

The main reason for this discrepancy is the extensive control the EPRDF has over its mass media and the severity of its suppression of dissident voices. Since coming into legitimate power in 1994 and the contested election in 2005, the EPRDF has embraced a view of revolutionary democracy, claiming to be using state power for the good of the people and broadcasting this view to the people through their control of the mass media. At the same time the Ethiopian economy is one of the fastest growing economies in the world at a growth rate of 7% and this bolsters the people’s perceptions that their government is doing well (Abbink, 2006, Hagmann, 2006, Mattes and Teka, 2016). There is also the fact Ethiopians understand democracy in a fundamentally different way than the Western thinkers (Mattes and Teka, 2016). Democracy is not just a way to express liberty but is a way for the state to claim guardianship and paternalism over the people in order to develop and move the state into the correct direction (Mattes and Teka, 2016).

This also allows us to get a sense of the overall Oakeshottian political association that is present in Ethiopia as well. It is most certainly an Enterprise Association where the good human life is qualified by the state and the government is democratically elected to carry out this vision over its people. Of course there are factors that indicate that Ethiopia has some tendencies of the Civil Association as well, such as the relatively high level of political culture and interest in the democratic process. The very fact that Ethiopia is a democracy at all is a factor of the Civil Association; it is however on the Enterprise side of the continuum. (Parekh, 1995, Mattes and Teka, 2016).

With the removal of the ruling monarchical elite which were concerned mainly with Amhara ethnic groups and the removal of the Derg in 1994, the EPRDF attempted to divide resources
as evenly as possible across the citizenry (Vaughan and Tronvoll, 2002). Unfortunately the power vacuum and the relative lack of administrative and bureaucratic expertise allowed for the other ethnic elites within the country to gain powerful positions of authority within the centralised administration (Abbink and Viveen, 2009). With access to a much more centralised power base these elites managed to capture institutions and redirect resources away from the state in general and back towards their own groups. This plays out exactly as described by Fukuyama, with resources flowing to patron groups within ethnic leadership and their communities. Combined little mass media and very little political accountability corruption becomes a significant concern (Hagmann, 2006).

The political association of Ethiopia can be conceptualised as a Subject-Participant with elements of parochial political culture embedded within an Enterprise Association where elites have managed to capture state institutions for their own benefit. This also allows for a prediction of the use of aid in the political association. As demonstrated in the next chapter, the increase in aid has led to a decrease in the quality of the Rule of Law as the power of the political elites has been strengthened, allowing for a greater level of institutional capture. It is to the nature of the Rule of Law that we now turn to in the next chapter.
Chapter Four: Ethiopian Rule of Law.

Introduction

The Rule of Law is one of the primary institutions of a modern political system. Whilst in essence a very simple concept it is one that is hounded by complexity. At its heart the Rule of Law is a concept through which all people in a state are equally subject to the law. No person is above the law and all people are subject to the rulings of the courts within a country. At face value this appears to be a relatively simple concept and one that is inherently good. The Rule of Law is necessary for the development of any state into a modern political system. If citizens do not feel secure that their persons, property or freedoms are secured from arbitrary power of the elites of that state, then they will attempt to either protect their assets as much as possible, by either hiding these assets from the state, or violently opposing the state. Or citizens may not accumulate assets in the first place. A good example of this principle is the concept of private property (Fukuyama, 2011). The protection of private property has long been considered to be one of the cornerstones of a capitalist free society. People will leverage their private property as capital in order to start businesses, take out mortgages and build capital assets. If private property is not secure, in that political elites can seize this property without consequence, it is unlikely that private citizens will use this capital to create further wealth for fear that this wealth may be seized. Rather surplus capital will be used immediately, rather than reinvested into business ventures or other benefits to society. Therefore for any country to develop a greater surplus capital it becomes important for the private property rights to be protected (Kleinfeld, 2006).

This is a highly simplistic example, assuming as it does that capitalism is a primary means of development. It does show, however that the Rule of Law is fundamental for people to trust the political regime. This immediately raises concerns when the real world is examined. China
has almost no institutionalised Rule of Law, as the Communist Party can overrule any law that it sees fit. In recent years however, the Communist Party, through self-interest has indicated that property rights will not be extensively violated. This factor has restored sufficient confidence for businesses to operate within the country. This demonstrates that in reality it is entirely possible to have a good enough Rule of Law; dependent upon the good will of leaders (Fukuyama, 2011).

The laws themselves must also be considered. The laws may be universally applied and generally followed, but what if those rules are unjust? What if the courts favour one ethnic group over another or one group of people over another? It could be argued that the Rule of Law was strong in Apartheid South Africa as racism was a legal system. This was of course absolutely unjust. This is why the Rule of Law is only one factor in a well-run state. This chapter will provide a brief conceptualisation of the Rule of Law as a political institution. What is important for this chapter is how the political association of Ethiopia has created the Ethiopian variant of the Rule of Law. It will analyse how the provision of aid has shaped this concept and the effects that this has had on the citizens of the country.

**The Concept of the Rule Law**

The Rule of Law is made up of two complementary conceptual frameworks (Kleinfeld, 2006). The first is an ends based institutionalisation, the ends that the Rule of Law seeks to achieve. The second are the fundamental institutions that are put in place to achieve these ends. When attempting to strengthen the rule of law development practitioners will look for the institutions that lead to a good quality of the Rule of Law, or attempt to achieve the ends of the Rule of Law, and bolster these institutions and ends through development programmes. While programmes will often attempt to strengthen both institutions and ends often they will focus on one more than the other (Kleinfeld, 2006). These different approaches provide a way for us to conceptualise the Rule of Law in the development context.
The first framework attempts to highlight specific characteristics of the state. These characteristics can be summed up into five different goals, making the state abide by law, ensuring equality before the law, provision of law and order, provision of efficient and impartial justice, and upholding human rights (Kleinfeld, 2006). In analysing the principles individually, problems begin to emerge. Whilst aiming to ensure that the state abide by law is a laudable goal - but to which bodies of law should the state be answerable? Should the reply be that the state is answerable to whichever body of laws which create the country’s governance, a further problem reveals itself. Even in the west there are strong differences in the governing laws. Each country will has its own system of legal rulings based on its history and the manner in which it discourages the state from seizing too much power (Tremblay, 1997, Kleinfeld, 2006). The institutions that exist within these countries are the product of this historical process and may not be able to function well in a different context. The Rule of Law’s purpose as an institution is to protect the society from arbitrary power. In the European tradition this usually entailed curtailting the power of the monarch. The King often needed to be stopped from arbitrarily seizing lands or imprisoning people for standing against him. While all political associations need to be protected from arbitrary power, they don’t all need to be protected from a King. Ethiopia for instance needed to curtail the power of a much larger group of military leaders and landed councils of elders. The laws that were drafted were different because they dealt with different issues that the society faced at the time. The Rule of Law therefore, was conceived in a different manner as the laws themselves were different. A western idea of the Rule of Law cannot be transplanted to other contexts as the question must be asked Rule by which Law (Tremblay, 1997, Kleinfeld, 2006).

The other four factors run into similar issues. Supplying law and order becomes problematic in a state that has competing ideas of the interpretation of the law. When dealing with traditional systems of laws in the countryside and the more modern systems prevailing the cities, police
and courts must arbitrate between different and possibly conflicting sets of laws. The Rule of Law must arbitrate between these different ideologies and produce a concept of the Rule of Law that is acceptable to the citizens of that state (Kleinfeld, 2006, Cho, 2014, Bloch, 2016). It is therefore not sufficient to simply define the Rule of Law by the ends that a development initiative wishes to achieve. There are other reforms within a society that must take place for the Rule of Law to be able to operate effectively within a particular state. A respect for the idea of the Rule of Law must exist, requiring a multi-level reform of a number of state and cultural institutions (Galanter and Trubek, 1974).

The second framework for the conception of the Rule of Law is to examine the institutions that are part of the concept (Kleinfeld, 2006). It has now become an accepted axiom in development circles that institutions matter, that if strong institutions are not established effectively within a state, the ends that those institutions are attempting to achieve are unlikely to be met (Bardhan, 1999, Fukuyama, 2004) The institutions required to create a strong Rule of Law are assumed to be simple and culturally neutral. These are; a set of laws, such as contract, criminal and civil laws, which are publicly known and are relatively settled. They are not transitory and subject to constant change. In most countries there is usually a higher law such as a constitution that sets the framework for other law making and interpretations (Kleinfeld, 2006). There must be a judicial service that is knowledgeable about the law, are efficient and capable of carrying out their legal responsibilities and are free from political interference (Kleinfeld, 2006). Finally, there need to be institutions that have the ability and capability to carry out the law - a well-funded police force, sheriffs, bailiffs and other professions who can protect the people and bring them to justice (Fukuyama, 2004).

The above discussions about the nature of the ends and institutions show what the Rule of Law is, in an abstract manner but they immediately raise concerns in specific African contexts (Cecchi and Melesse, 2016). For instance when dealing with legal systems that combine both
traditional and modern legal systems how can the courts have a coherent set of edicts that are put in place? What practices should be put into place? Are traditional norms to be followed or a new modern form of legal system, that may rely on precedence or some other form of justice? This is not to say that there is judgement here about which system works best, what is important to note is that the Rule of Law is not a neutral system. It is one that has been generated from an historical process and is inherently laden with norms and values of the civilisation in which it exists (Beru, 2013). For now it is possible to summarise the definition of what the Rule of Law is. A set of institutions made up of; a body of laws that are stable, a court system that is accessible to all and a body of professionals and institutions that can carry out the law. These institutions are set up in order to achieve the ends of making the state abide by law, ensuring equality before the law, supplying law and order, providing efficient and impartial justice, and upholding human rights (Kleinfeld, 2006).

The Ethiopian Legal System: Traditional and Formal

One of the primary factors addressed above is that legal systems should be as formalised and as centralised as possible. The argument runs that if there are multiple legal systems in place then these systems may come into conflict with each other and may in turn create opportunities for corruption and a diminishing of the Rule of Law, this is the case in Ethiopia and indeed in a number of developmental contexts (Galanter and Trubek, 1974). Ethiopia has a number of traditional judicial systems, these systems are based on the traditions of different ethnic groups within Ethiopia. These traditional or customary judicial systems enforce very specific sets of laws that apply only to a small group of people. A diversity exists, today there are customary courts that have jurisdiction over the Amhara, Oromo and a number of other ethnic groups, as well as the Sharia courts that preside over disputes in the Islamic sectors of Ethiopia’s population (Cecchi and Melesse, 2016). These traditional courts are also legally recognised by the formal court system are given authority by the constitution. Chapter 9 Article 78 Sub-
Article 5 of the Ethiopian constitution states “The Council of Peoples Representatives and State Parliaments may, in accordance with Article 34 Sub-Article (5) of this Constitution, establish or recognize religious and customary courts of law” (ETHIOPIA, 1994). The formal court system maintains supremacy over the customary court systems. The formal court system maintains supremacy over the customary court systems which deals with issues that arise within a specific community and is limited to matters such as marriage, land claims and other non-criminal matters (Beru, 2013).

There is also a formal court system that operates at a federal and state level. The system was designed to allow the central government to take control over the judicial systems of the entire country. It is important to note here that the formal legal system is based on civil law. This is a European system that has been passed down from Roman law and the legal practices of the Middle East and the beginnings of civilisation (Vaughan and Tronvoll, 2002, Abbink, 1995). This legal system focuses on the interpretation of the law leaving the creation of laws to the legislature. The legal system is often placed under a primary constitution as is the case in Ethiopia. This is opposed to the common law system which exists in Britain and which creates laws based on precedent and the interpretation of a large body of law. The formal system in Ethiopia is supposed to have complete monopoly over criminal matters as well as any interpretation of the constitution (Beru, 2013). As explained earlier the customary system can only deal with matters that arise within the specific community (Beru, 2013). While this de jure distinction is codified in the country’s legal system, upon examination the purview of the two different systems is far murkier.

These customary courts have existed alongside the formal courts for as long as Ethiopia has had a centralised judicial system. When political power was centralised under Menelik II, and again under Selassie the customary courts were allowed to continue under a de facto principle. Under the communist Derg government the courts were not recognised and the Derg
government made some attempt to remove them. This was one of the factors that lead to the resistance against the Derg regime (Clapham, 1969, Vaughan and Tronvoll, 2002, Beru, 2013). Customary courts operate on a different jurisprudential doctrine than do the formal civil courts. Firstly judges and court officials are not necessarily trained but rather are elders within the community. When issues are brought before the court an attempt is made to arbitrate between the two parties. Rather than treating justice as a way for victims to be compensated and perpetrators to be punished, the customary courts see the social cohesion and health of the community as the primary concern. Therefore the creation of arbitration and reaching consensus is the primary method of delivering justice. The use of social norms and values to place pressure on people who have received judgments is the method by which judgments are upheld, rather than by creating a legally binding proclamation (Cecchi and Melesse, 2016, Vaughan and Tronvoll, 2002).

While this system may seem good for those involved it has been shown to be unfair when dealing with women or other ethnic groups. These courts often rule in favor of a man, or in favor of the person who belongs to the ethnic group of the court in question. The gender differences are especially notable when dealing with marriage claims or the problems of inheritance, in that the courts seek to maintain the status quo of male domination. When it comes to criminal matters, this also has a significant impact as customary courts may not have any de jure jurisdiction but in actuality enjoy de facto control over certain criminal matters (Cecchi and Melesse, 2016). Formal courts are accessible on paper across the country but the high cost of these courts are unaffordable for the majority of the population precluding them access to justice from formal courts. This is often also due to the fact that simply getting to the courts may be difficult as they may be very far away. Understanding court proceedings is difficult when a population has a low level of education and hiring a legal expert is nigh impossible (Vaughan and Tronvoll, 2002, Cecchi and Melesse, 2016). The courts are perceived as punitive.
rather than conciliatory, which conflicts with the people’s idea of justice. Ethiopian ideas of justice are not the same as those of the west which seeks to punish those who have done wrong. The formal courts are often perceived as unfair, especially when dealing with ethnic rivalries. This leads to people being more likely to take even criminal concerns to the customary courts instead of the formal courts and this of course leads to the same issues highlighted above. The customary courts as well as the formal courts show little equity before the law which is fundamental to the Rule of Law (Cecchi and Melesse, 2016).

**Ethiopian’s Conception of the Rule of Law and the Issues with the Formal System**

It must be noted at this point that the Rule of Law is fundamental for the development of any country. Without the Rule of Law there can be little trust in development and corruption can run rampant. When elected or indeed any other form of official is allowed to do whatever they will, a country is unlikely to develop. This being said the form of the Rule of Law can be different in different historical contexts. Its expression will be shaped by the political association. With an understanding of the Ethiopian political association given above, the Ethiopians’ view of the Rule of Law is of a far more paternalistic fashion than their western contemporaries (Abebe, 2012).

When the people were questioned whether they would prefer to have the government act in a parental role, 71% of respondents replied in the affirmative; with only 22% saying that the government are the employees of the people, and 6% saying they did not know (Mattes and Teka, 2016). 42% of respondents felt that the country’s judges were corrupt to one degree or another; interestingly, 42% also responded that they did not know and 16% said that they were not corrupt at all (Mattes and Teka, 2016). This is noteworthy as it demonstrates that most Ethiopians have little knowledge of the workings of the formal legal systems, or they are distrustful of them. It is also useful to note here that prior to the introduction of formal ideas of the Rule of Law and government in Ethiopia many languages in the country did not make a
distinction between the state and government. This distinction is significant as classical political theory states that when the government is seen as the same as the state there is a large scale possibility for the corruption of the Rule of Law (Fukuyama, 2004, Kleinfeld, 2006). This notion is confirmed when one considers how often the ruling of judges is in favour of the central government; it would appear that the separation of powers is not as healthy as the reading of the constitution would seem to suggest (Vaughan and Tronvoll, 2002).

This shows an understanding of jurisprudence which believes in the legitimacy of authority and rulership, something that is expressed in both the traditional and formal systems. While this may not be an issue if the institutions are protected and are actively involved in the lives of the poor to establish equality before the law, it also creates the scope for mass corruption. The trust that the Ethiopian people place in their leaders allows these leaders to act in the interest of the elites. This is often done by redirecting funds to their own pockets and taking large bribes from wealthy citizens (Flores and Mousseau, 2013). Building institutions that surround the Rule of Law, as referred to above, does not necessarily lead to a better Rule of Law. This is because a strong enough government that is inseparable from the state is able to seize these institutions for their own ends (Erbeznik, 2011). What happens in this case is the rule by law. This concept highlights the fact that the law is used to rule over the people rather than used to protect them. The Ethiopian government has used its ability to enact laws at most levels of government in order to construct a legal system that reinforces their own power (Abebe, 2012).

The EPRDF propagates an East Asian style of developmental government which believes that economic growth and political stability requires the firm hand of a strong government. In this light the EPRDF has created a number of laws that allow it to curtail the rights of its citizens in order to achieve its aim of development. This easily leads to a situation where the EPRDF as both government and state can use its power to enact corrupt laws and redirect resources to
itself and its clients. In theory the idea of a strong government that is the vanguard of development seems tenable; however this is not the case in Ethiopia. The government is becoming more authoritarian and corrupt as is indicated by the indices provided in Chapters Two and Three (Abebe, 2012, Feyissa, 2011). There is little separation between the judiciary and political processes; the courts are used to enforce laws that are created at the legislative and executive level. There can be little Rule of Law when the government is using the law to rule (Abebe, 2012, Tremblay, 1997).

With the combination of the paternalistic and Enterprise nature of the political association as well as the resource seizure of the government the people are not provided with a strong Rule of Law in a meaningful way. It is therefore not surprising that the poorest people in the rural areas turn to their traditional judicial processes that supply them with what they consider to be a more just system. Access to the formal system is prohibitive in terms of costs, physical access and just decision’s (Erbeznik, 2011, Abebe, 2012). The aid agenda will have a marked impact on this process. Aid flows from organisations such as the USAID and the European Aid Agencies towards the Ethiopian government. It therefore in effect flows towards the EPRDF. Any aid flows that support a government which is in reality damaging the Rule of Law in the country, will evidently have an adverse effect on the system. With the understanding that the nature of the Ethiopian political association, in addition to its authoritarian character not being conducive to the creation of the Rule of Law, let us now turn towards the aid agenda in Ethiopia.
Chapter Five: The Aid Agenda and the Rule of Law

Introduction

The history of Ethiopia shows the country has long been committed to the idea of centralisation, modernisation and development. The country has a strong sense of paternalism, tough rulership and a government which sees itself as the vanguard of development. The political association lends itself to a strong government with a huge respect for central authority. At the same time the country has two concepts of the Rule of Law, one that is traditional and bounded by ideas of conciliatory justice, and a formal Rule of Law system that establishes a more punitive system. When there is development of the judicial system it flows to this formal system, with the traditional system having to support itself (Abebe, 2012). A strong government does not necessarily mean that there would be a weakening of the Rule of Law, as stated in Chapter Four, a strong Rule of Law has to be in place in order for economic enterprise to feel safe to operate in the country. This is demonstrated in China where the Rule of Law can be considered to be good enough (Fukuyama, 2004). What happens however, in a situation where the government has a large amount of its revenue taken care of by external aid flows? Without the need to rely on internal sources of funds a government may not have a strong enough incentive to establish a robust Rule of Law. When this is combined with an Enterprise Association where people are treated largely as subjects of the government, it could be expected that the Rule of Law may be weak, further weakened by the provision of aid.

This chapter therefore considers the aid agenda, and its interactions with the Ethiopian political systems, affect the Rule of Law in the country, given its specific history, political association, and concepts of the Rule of Law. Firstly the aid agenda in Ethiopia will be examined since 1994 with the establishment of the EPRDF government. The manner in which the EPRDF government utilises aid and to which sectors of the economy and political association, this aid...
flows. Secondly, the chapter will examine the measurement of the Rule of Law using indices from the World Justice Project’s Rule of Law Index. This section attempts to create a longitudinal analysis of the provision of aid against the Rule of Law, where this long term data is available. Finally, the chapter will end with an explanation that draws on the above chapters to explain why this relationship is as it is.

**Aid and Ethiopia**

Ethiopia has long been a “poster child” for the reception of aid (Flores and Mousseau, 2013). This is due to the fact that whilst Ethiopia has relatively strong economic growth in comparison to other North African states, at the same time it has continual problems with hunger and poverty. Ethiopia is also significant in the world of aid due to the fact that so much of its national budget is made up of aid. In recent years the country has received $3.5 Billion and it has received more than $26 Billion since the EPRDF came to power. This represents an average of 50-60% of the national budget (Flores and Mousseau, 2013, Feyissa, 2011). This aid comes from a number of different sources mainly bilateral aid agencies such as USAID, The EU, and individual European countries, England, France, Russia and China. The country also received a large amount of aid from Intergovernmental Organisations such as the World Bank and the IMF. By the far the largest donor to Ethiopia to date comes from the United States (Feyissa, 2011).

This aid is largely used for economic development and structural adjustment programmes (SAP’s). With the fall of the Derg government in 1991 and the creation of the EPRDF government in 1994 aid flows started to increase to the new government. This government knew that it had to soften its ideological stance on socialism and communism in order to obtain the funds it needed from international donors. It also needed to acquiesce to the structural adjustment demands imposed by organisations such as the World Bank and USAID (Feyissa,
It is interesting to note that this was also a time when institutions such as the World Bank and the IMF as well as USAID were moving towards an understanding of development that included institutional development. It was not enough for government to embrace austerity and cut back on public spending in order to stimulate the free market, but economic institutions needed to be put in place to protect that free market. Institutions such as property rights protection and enforcement of contracts needed to be implemented within the country (Bardhan, 1999). Furthermore, there was a request to review, not only the economic factors of the country, but also to look at the governance of the state. The good governance agenda was put in place that continued some of the neoliberal economic policies of the SAPs. It was recognised that underdeveloped countries were not only less developed economically but were in fact also politically underdeveloped. Often when aid donors asked why this was the case the answer was institutional deficit. It was professed that institutions that create good governance in these states were simply either not present, or not sufficiently developed. The solution would appear to be fairly simple, install these institutions within the country (Moore, 2001, Balamoune-Lutz, 2012).

This being said however, aid donations are still mainly focused on economic institutions. This is exemplified by the aid agenda of USAID. In 2015 there was a total aid provision of $579.2 million to Ethiopia. The largest part of this aid was designated for Health Assistance which totalled $207.4 million (USAID, 2015). This included things such as the building of new hospitals and the prevention of disease such as malaria and HIV/AIDS. Ethiopia received $67.5 million for economic development which focused on capital developmental, trade and investment, and the financial sectors (USAID, 2015). The total for democracy and governance aid provided was only $1.00 million and this includes the development of the Rule of Law and human rights which only totalled $0.5 million (USAID, 2015). This is similar across other donor programmes (USAID, 2015, Flores and Mousseau, 2013). It would appear that while the
donor organisations remain committed to the development of institutions such as the Rule of Law on paper, there is in fact little substantive commitment.

It can be seen that the vast majority of funds coming from donor organisation are therefore used for the development of economic programmes and for the financial and business sector. The aid is also largely used for agricultural productions. Whilst this is not a waste of money, Ethiopia is a country that has suffered the effects of climate change in the form of famines and food shortages. The development of a stable agricultural sectors is of the utmost importance for the country (Flores and Mousseau, 2013). This being said the Ethiopian government is also incredibly paternalistic and centralised. Understanding the definition of its political association laid out in Chapter Three, it should come as little surprise that the Ethiopian government sees itself as somewhat of a father figure in the lives of its people. When confronted with political opposition the government has been known to react with a crackdown on opposition voices and any free press (Weekly, 1978, Milkias, 2008).

There are a few ways that the Ethiopian government uses its aid funds for purposes that actually limit the freedoms of its people and the Rule of Law. Firstly the fact that such as large percentage of the government funds come from aid donations mean that the government is less beholden to its people then it would be if its financial support came from its electorate. This argument is similar to that of the resource curse that affects so many African countries, (Moyo, 2009). When a government has a way of generating its own funds rather than taxation it provides less scope for the people to hold it to account. To a certain extent taxation forms the most basic form of political accountability in the form of a market exchange. The people pay for goods and services with taxes and receive them from the government. If the people do not receive these goods and services but continue to pay, they will likely end up revolting against the government (Fukuyama, 2011). If the state has another source of revenue however, such as a large resource allocation that it can exploit, or large amounts of foreign aid it is not as
necessary for them to be responsive to the needs of their population and thus, aid creates a dependency on the side of government on funds coming from foreign donors (Scheiden, 2011, Moyo, 2012). Of course this also allows for a scope of government violation of human rights using this aid directly. The Ethiopian government has used funds that are to be used for agricultural modernisation to remove people from their land and force them onto new farm land for the sake of agricultural modernisation. In this way aid funds may be used explicitly as a mechanism of government oppression (Flores and Mousseau, 2013).

In many other circumstances the Rule of Law would be a way for people within the country to hold the government to account. Civil society organisation can organise and take their government to court for using their power in a way that goes against the laws of the land and the constitution. The problem here arises when these civil society organisation do not have the support they need in order mobilise such a protest and in Ethiopia this is the case (Feeny et al., 2015). In 2009 the Ethiopian government adopted the Proclamation to Provide for the Registration and Regulation of Charities and Societies (CSP). This proclamation states that organisations that receive more than 10% of their funding from overseas sources cannot be considered to be Ethiopian civil society organisation and in fact must be registered as international organisations. This limits the scope for intervention in government policies that affect institutions such as the Rule of Law. Thus any organisation that wishes to operate against the government to change government policies is forced to seek funding from the government itself. This makes it very difficult for civil society organisation to work within the country as there are limited local resources that can be leveraged for social change. The EPRDF also uses the CSP to shut down any NGO that it deems are not in the best interests of the country. This effectively allows the government to curtail any opposition from civil society NGOs (Flores and Mousseau, 2013). This obviously makes any opposition minded civil society organisation difficult to generate. It essentially stops these organisations from being able to operate to
support institutions like the Rule of Law and protect them from the government (ETHIOPIA, 1994, Moyo, 2012, Flores and Mousseau, 2013).

The issue here is that the government itself is the largest receiver of foreign funds, with a total almost 60% of its national budget. This means that any decisions made by that government have to be financially supported by this aid agenda. It would seem that the provisional of aid to Ethiopia does not only go towards the underdevelopment of the Rule of Law, but may tacitly cause its corruption. This chapter will now turn to the measurement of the Rule of Law and see how the data fares when confronted with the provision of aid.

Aid and the Rule of Law

The Rule of Law is measured by an index put out by the World Justice Project (WJP) this index uses a number of factors to develop its assessment of the Rule of Law. These are the; Constraints on Government Powers, Absence of Corruption, Open Government, Fundamental Rights, Order and Security, Regulatory Enforcement, Civil Justice, and Criminal Justice (WJP, 2015). These indicators have been used since 2008 to measure the quality of the Rule of Law around the world. Unfortunately Ethiopia was only included for the first time in 2011 thereby only giving a comparatively small data set with which to work. When looking at the data from the WJP the state of the Rule of Law in Ethiopia is not good. In 2015 Ethiopia scored a 0.42 which is a coefficient score with 1 being the best possible score. This ranks Ethiopia as 91st in the world out of a total of 102 countries. Ethiopia scored 0.43 in 2011 and then 0.42 every year until 2015. This means that Ethiopia’s Rule of Law score has remained relatively static, but still very low (WJP, 2008, WJP, 2009, WPJ, 2011, WPJ, 2013, WPJ, 2014)

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48
There are few points that are of note with regard to the different factors that may shed some light on the developmental side of this phenomenon. The Constraints on Government Power has the lowest score over all the years, meaning that the Ethiopian government has resisted any attempt to limit its power and authority. This figure has also remained static over the last five years. The figure that determines Order and Security has steadily increased over the last five years, meaning that the Ethiopian government has taken steps to maintain order and security and has constantly poured resources into this sector. This may seem like a good thing given that part of the discussion in Chapter Four highlighted the need for resources that go to police and investigative staff. This increase in security however, comes at the same time as a decrease
in the figures that represent Fundamental Rights, Access to Civil Justice and Effective Criminal Justice. This would seem to indicate that the Ethiopian government is enforcing their security apparatus without the enforcement of the Rule of Law and civil legal systems that hold this system up. (WPJ, 2014, WPJ, 2013, WPJ, 2011, WJP, 2015, WJP, 2009, WJP, 2008).

![Change In Indicators of Ethiopia's Rule of Law Over Time](image)

Fig. 3


This conclusion is backed up by news reports and analysis of the current political situation in Ethiopia. Along with the Civil Society Proclamations spoken about above, the Ethiopian government has also enacted a series of anti-terrorism laws. These laws are fully supported by the major aid donors to the country such as USAID, The World Bank and Europe, as Ethiopia is considered a Christian bastion in an area that is largely Islamic. It is also in a geographically strategic area for these aid donors. This echoes the relationship between Ethiopian and Western nations prior to the formation of the Derg government. The rule of Haile Selassie and the regimes prior to him were supported by European nations as the interest of Europe and Ethiopia.
were similar with regard to security concerns in the region (Feyissa, 2011). The anti-terrorism laws place a large burden on civil society organisation and anybody speaking out against the current regime. The wording is vague and states that any language that may encourage tourism, or could be understood by some members of the public as encouraging terrorism can be stopped and the perpetrators imprisoned (Abebe, 2012). This is obviously far too vague a proclamation for any anti-terrorism and the government has used this to squash dissenting voices. (Abebe, 2012, Gottesman, 2010). The form of this oppression differs from place to place but has resulted in the imprisonment of journalists, some academics as well as civil society leaders (de Waal, 1992).

Consequently, whilst the WJP shows a very poor Rule of Law in the country, this index includes the capability for the imposition of security and order. Resultantly, in a situation such as Ethiopia, where security has increased significantly so as to keep order in the country, the broad index of the Rule of Law may remain the same. There are other indices that can be used to paint a broader picture, such as Freedom House’s Freedom in The World Index, in 2011 Ethiopia went from a Partially-Free state to one that is now Not-Free. The index also shows a steady decrease in political freedoms over the last five years (Abebe, 2012, Aghekyan et al., 2015). Given the discussion in Chapter Four and the understanding of the Rule of Law, the concept is not just about the provision of services and security but about the provision of justice. Without the reassurance that all citizens are equally subject to just laws that coincide with citizens concept of justice, there can be very little Rule of Law. This is given more credence by the analysis provided in Chapter Two of the authoritarian nature of the Ethiopian government and the continual removal of civil freedoms (EIU, 2015).

The status of the Rule of Law is fairly low in Ethiopia but does that have anything to do with the aid agenda? There is certainly a correlation between the provision of aid and the decrease in the Rule of Law, or at least with the suppressed status of the concept. Correlation, however
does not suggest causation. The causation emerges in when aid funds are used for the suppression of human rights and the transformation from the Rule of Law to the rule by law spoken about it Chapter Four (Abebe, 2012). It is absolutely important for aid funds to flow to Ethiopia in order to promote development, the way in which these aid funds are used often cause problems for the poorest citizens. The agricultural resettlement programmes in 2011 are a good example, Ethiopian National Defence Force Soldiers (ENDF) forced villages from the South Omo region of Ethiopia to move to a new location. They not only forced them to move but leave behind a large amount of their livelihoods and harvested crops. This was done under the auspices of agricultural programmes that are funded by DFID and USIAD. There was very little legal recourse for these villages as they were unable to appeal to the courts against the government. Traditional courts have no jurisdiction over governmental polices and the formal courts systems are under the control of the federal government (Flores and Mousseau, 2013). This is a demonstration of aid being used as a direct means to exert political pressure on the poorest citizens, removing their human rights, and thereby decreasing the Rule of Law. When aid is used in this manner it has a direct impact of the quality of the Rule of Law.
Chapter Six: Conclusion, Recommendations and Call for Further Study.

Ethiopia provides a fascinating study for developmental scholars. It is a country that is at once both culturally and historically complex and sophisticated while economically and politically underdeveloped. The history laid out in Chapter Two shows a country and people that have long sought to develop their country into a strong and independent nation. It also shows a country that displays an exception to other African states, one that is mostly Christian, independent and having historical ties with Western states. It also has a turbulent recent history having undergone dramatic changes from an Empire under the rule of Haile Selassie to a communist state to a final democratic nation in less than a hundred years. When this is taken into account the upheavals in the country are not surprising.

The Political Association of the country demonstrates a different form of political understanding than that which is experienced by Western citizens. The governing elites are seen as paternal figures in the lives of the country’s people and the people are also happy to live under the protection of these elite. The Enterprise nature of the Political Association provides an example of a state with a very specific end in mind. One that is geared towards the modernisation of the country. The combination of this Subject-Participant culture and the Enterprise nature of the Association makes it incredibly easy for elites to seize institutions and use them for their own ends. One of the institutions that suffer from this is the Rule of Law.

Given the dual nature of Ethiopia’s legal system and the inability of the majority of people to access the formal court system in the country, the citizens do not have a strong access to the Rule of Law. This lack of access is not the only factor that must be considered when analysing the Rule of Law, but also the fact that Ethiopians may not agree with the justice of the formal court systems. Chapter Three established how Ethiopians conceptualise justice in the form of conciliation rather than punishment for judicial conflicts. This means that not only do the
citizens not have access to the formal systems but they prefer to access the traditional system as it gels well with their own views of justice. This has ramifications for the trust in the Rule of Law and its strength. If people do not respect the formal system then there cannot be a strong sense of the institution.

This issue is only exacerbated by the provision of foreign aid to the country. The Ethiopian government uses this aid to support the formal system and not that of the traditional legal courts. This results in the traditional notions of Rule of Law being omitted from the government agenda. At the same time the government of Ethiopia does not use this aid to promote the formal Rule of Law but rather uses the aid to transform the Rule of Law into the Rule by Law. The EPRDF has enacted a series of laws that allow them to stop the growth of civil society movements that may oppose them as well as using anti-terrorism laws to arrest those who may speak out against their rule. The aid is also used in order to enact government policies that the EPRDF considers to be in line with their development agenda, but which may go against the basic rights that are the foundation of the rule of law, such as the protection of private property. The seizure of land and the forced relocation of people do little to support the institutions of the Rule of Law and in fact corrupts it.

The government use aid to achieve this directly with 60% of its revenue coming directly from aid allocations the provision of aid allows for the EPRDF to force the implementation of legal institutions that are not based in the country’s own legal history and Political Association. This aid is also used to underdevelop the formal system of the Rule of Law within the country. If there is to be development of the Ethiopian state aid must be used to create a Rule of Law that is native to the country and it understood by the people over which it precedes. If aid is not used in this manner then the development agenda becomes imperialist, dictating change rather than developing the institutions that are already present in the country.
Accordingly, It is thus possible to draw not only conclusion from this thesis but also a few recommendations for further development. This thesis is broad in both its historical scope as well as it understanding of the Rule of Law within Ethiopia. It must therefore be understood that any recommendations would require further study. Firstly the development agenda need to be adjusted to allow for the removal of the CSP and allow civil society organisation to grow and stand up against the EPRDF. Given the government reliance on aid it is possible for development agenda to achieve this end in order to create a stronger civil society. Secondly the development agenda should be adjusted to force the EPRDF to change their anti-terrorism legislation to make it much more specific. It is understood that Ethiopia absolutely needs to have anti-terrorism laws in place but these need to be structured in order to provide protection against would be terrorist without targeting political dissidents.

The third and most important recommendation is that aid flows need to be adjusted to target the integration of the formal court system with that of the tradition systems. This would allow the conception of the Rule of Law that is inherent within the Ethiopian political association to be brought into the centralised court system. It is not for the development practitioners and aid providers to choose the Rule of Law that they deem best, but rather for this aid to be used to promote the Ethiopian people’s vision of justice. This will allow for a more inclusive justice system. Any aid that flows towards this project must also create projects that assist the disadvantaged poor to access justice and provide equality before the law.

Finally it must be noted that this thesis set out to provide a correlation between decrease of the Rule of Law and the provision of aid in Ethiopia. It has been shown that any increase in aid to Ethiopia under the current system will lead to a decrease in the quality of the Rule of Law. The recommendations above are possible solutions to this problem but would require much further research. Issues of political sovereignty come into place when dealing with changes to SAPs and this needs to be considered and studied carefully. The multiple natures of Ethiopia s legal
systems would also need to be analysed carefully before any integration is possible. Finally the people of Ethiopia in different regions must be consulted about the best way to integrate these system. This calls for a series of primary data base studies. Therefore it is my belief that significantly more field work is required. This thesis provides scope for further research into the phenomena of how aid decreases the quality of the Rule of Law.


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