



Press Release from the SMNE:

May 11, 2011. **Major Loopholes in Land Lease Contracts Raise Many Questions**

The Ethiopian Minister of Agriculture and Rural Development recently released the *Land Rent Contractual Agreements* for land leases between the Federal Democratic Republic of Ethiopia (FDRE) and twenty-four companies or individuals; now available for downloading from the SMNE's website: <http://www.solidaritymovement.org/110510EthiopianAgriculturalPortal.php>. This comes unexpectedly after many months of frustration among those seeking to find out the exact terms of these previously opaque deals; yet, seeing them now only raises more questions!

The first question is whether the release of this information has anything to do with recent public debate between the FDRE and the largest land lessee in Ethiopia, Karuturi Agro PLC of India regarding the terms of that contract. On April 29, 2011, reports were made publicⁱ <http://farmlandgrab.org/post/view/18549> by Esayas Kebede, head of the FDRE's land investment support directorate, that the government had slashed Karuturi's land concession by two-thirds—reducing it from over 300,000 hectares to 100,000 hectares—claiming it was too much for any one company to develop; after which Karuturi's stock took a deep nose dive.

The next day, Karuturi's Chief Executive Officer Sai Ramakrishna Karuturi denied it in a press release; <http://www.solidaritymovement.org/downloads/110510KaruturiGlobalDeniesReports.pdf> asserting that the reports were completely baseless; making the stock surge upwards in a fast recovery. At the same time, the previously non-public Karuturi contract was posted on the FDRE website; which seemed to infer in Article 3.6 that Karuturi may have been right. Under Rights of the Lessee it states that Karuturi would have the right to: "Get additional 200,000 ha land upon accomplishing the 100,000 ha within two years as specified in sub article 4.4." In this sub article, it states that "lessee [Karuturi] must develop half of the leased plot of land within the first years." In the FDRE's public statement, made by Esayas Kebede, he acknowledged that Karuturi was meeting this requirement.ⁱⁱ <http://farmlandgrab.org/post/view/18549>

The question here is, why this public spectacle of this dispute between the FDRE and Karuturi when it all apparently came to nothing? Was it to please critics of the land deals? Was it to intimidate Karuturi in some way by using misleading information to influence stock prices—which could be considered a crime under securities law in most countries? Was it meant to give an open door to any opportunistic "insiders" to make some lucrative investments at the time the stock reached its lows? Whatever the motivation, it makes one wonder!

A few days later, the other 23 aforementioned contracts surfaced. Now that we can see the details—or actually, the surprising lack of details in all of these contracts—we are more amazed at the willingness of these lessees to invest millions or hundreds of millions of dollars into projects whose future is only as secure as the whims of a dictatorial government or as solid as this unpopular regime's ability to hang on to power despite the mounting anger from a highly discontented citizenry who have had ENOUGH!

Predictably, within the contracts, the FDRE appears to have most all the advantages in terms of calling the shots; yet surprisingly, the investors seem to have all the advantages in terms of reaping the financial benefits. For example, Karuturi's CEO recently called the agricultural prospects now being developed on their current 100,000 hectare site in the Gambella region of southwestern Ethiopia, "green gold." You can click at the following link: <http://farmlandgrab.org/post/view/18542> to watch 55 minutes documentary entitled: *Planet for Sale*.

The foreign investment climate in Ethiopia has exploded as these “dirt-cheap deals” are being offered at unheard of prices. You can click at the following link <http://www.guardian.co.uk/world/2011/mar/21/ethiopia-centre-global-farmland-rush?CMP=twg> to watch 12 minutes video by *John Vidal on Ethiopia's land rush* and read The Guardian article entitled: *Ethiopia at centre of global farmland rush*.

In **Karuturi's** signed lease agreement for the first 100,000 ha, they have been given the land for fifty years at a total cost of only **100,000,000 birr (\$5,928,758.42 USD); or only \$59.28 (USD) per hectare** for full use of prime agricultural land. What will this be worth in fifty years or even next years? According to the terms of the contract, executed on October 28, 2010, **the yearly rent for this parcel is only 2,000,000 birr (\$118,575.17 USD) or 20 birr per hectare (\$1.19 USD).**

This land has been or still is home to thousands of Ethiopian citizens; but not for long. **Article 6.1 states:** “The lessor [FDRE] shall be obliged to deliver and hand over the **vacant possession of leased land free of “impediments.”** This obviously means the people living there if one considers the lessor’s {FDRE} agreement to deal with any backlash from the people; some of whom may certainly defend their homes and livelihoods. **It gives support for police or military action against any resistance:** “*The lessor [FDRE] shall ensure during the period of lease, lessee [Karuturi] shall enjoy peaceful and trouble free possession of the premises and it shall be provided adequate security, free of cost, for carrying out its entire activities in the said premises, against any riot, disturbance or any other turbulent time other than force majeure, as and when requested by the Lessee.*”

Already, the FDRE has shown its willingness to commit human rights crimes related to punishing those who oppose these land leases and those resisting resettlement. This now proves the direct relationship between these crimes and this land agreement.

If one analyzes this Karuturi contract, which is similar to the others, **nowhere does one find any statement regarding any benefits to the indigenous Ethiopian people or communities affected by these land leases. Early on, the FDRE promised that such investment would benefit the people in terms of jobs, clean water, improved health care and schools, but within the contract, investors are not obliged to offer any services to the people. Instead, Karuturi is simply “given the right” to build infrastructure as they want and need. Nowhere does it state that such services should be extended to the local people.** Now, the FDRE is retracting earlier connections made between these land leases and increased benefits.



As they clear the land of the people, it is called “**voluntary resettlement**” marketed as way for the people to gain access to basic services; however, none of those services are being provided and many of the displaced people are still living under trees. Now, as the rainy season begins, some are being told that they can temporarily move back to homes that they had been forced to destroy and abandon.

The FDRE also claims to the legitimate authority of the land; despite the fact that the 2005 and 2010 elections were deeply flawed. Within the Karuturi contract, **Article 11**, the FDRE claims to be “a representative and the highest authority of the FDRE;” assuring the lessee that despite the absence of any registration that they “can guarantee the validity of the agreement” (**Article 14**) and “have full ownership and property rights of the leased area. However, as they state that “the governing law for the operations under the agreements are the laws of Ethiopia” (**Article 12**), **they themselves are in violation of those very same laws as they fail to uphold the rights and liberties of the people affected by these land leasing transactions. This will eventually not be binding once this government is gone.**

This all puts the investors in a precarious position not only in the future; but also in the present as investors have little recourse should they come under the “disfavor” of the FDRE or should the FDRE find a more profitable arrangement. For example, in the Karuturi agreement, the FDRE is allowed to amend the rent costs as they see fit and to terminate the contract for “**any socio-economic benefit**” or as in written in many of the contracts, for their “**own good cause.**” ***They can also terminate the contract for failure to develop the land or to fulfill other such obligations that can easily become political in nature. The only requirement in terminating the lease is to give a six months advance written notice—a dangerous loophole for an investor.***

After a lessee invests months or years into developing the land, infrastructure and possibly an irrigation system, the contract can be terminated. Under these conditions, the lessee supposedly has a right to their property, but not the land. They may be eligible to receive some compensation for improvements on the land; however, if there is any dispute to such a termination, rent increase, compensation for improvements or other aspects of doing business in Ethiopia, it will be heard in the Federal Court of Ethiopia, which everyone knows is controlled by the **FRDE**. ***The lessee can also terminate the contract with a six-month notice, but of course, once they make the investment or once profits are realized, they are in a weakened negotiating position with the current government.***

What happens with these land leases in the future is up for grabs; however, ***the SMNE is actively working along with many other Ethiopians to lay the groundwork for a genuinely democratic government.*** Under such a government, those companies with ethical business practices and who ensure some benefits to the people of Ethiopia will be most assured of a continued presence in the country. ***Such a future government is also far more likely to commit to genuine win-win agreements rather than offering deals that are unsustainably “too good to be true.”***

Lastly, ***what is missing from these contracts is best stated in a question; if the people of Ethiopia are not benefiting, some within the ruling government of Ethiopia (TPLF) must be profiting; or otherwise, why would they sell out Ethiopia for next to nothing?*** In other words, what incentives do these Ethiopian officials have to not change the rules midstream or to simply terminate a contract in the future, such as with **Karuturi and Saudi Star**, when another investor might offer them 10, 20, 50 or 100 times more in a few years?

These present companies must have considered this in making these deals for otherwise, these contracts make no sense. We can be sure that these companies are not headed by foolish, naïve and inept business leaders that would fall for deals where they could lose millions. Instead, one can assume they are headed by smart, experienced and profit-oriented management that would never risk so much if these contracts could so easily be terminated for almost any reason, but where is their leverage?

A logical explanation may be one of several possibilities or combinations of possibilities: 1) they may have underestimated the deviousness of this regime, 2) they may have been blinded by seeing “green gold,” or, 3) they may have found a means to incentivize the regime to cooperate; using varied perks such as giving access to shares in the companies, board membership, kickbacks, money laundering or other such incentives.

In Ethiopia, the climate for government corruption is high and those institutions in charge of holding violators accountable are controlled by the regime; so those reputable, compliance-oriented investors should self-monitor in order to avoid future legal trouble or public embarrassment.

These FDRE contracts and business dealings with foreign investors should continue to be analyzed by experts and concerns should be reported to the appropriate authorities in the countries involved; particularly where violations of the law, securities fraud, insider trading, bribery or conspiracy to commit money laundering. Some of these crimes can be addressed under such laws as the U.S. Foreign Corrupt Practices Act (FCPA) when companies have subsidiaries in the U.S. or are on the New York Stock Exchange. Other countries have other enforceable laws that may need to be applied in lawless places like Ethiopia where corruption is endemic within its own government.

Keep in mind, the TPLF/FDRE is not a legitimately elected government with the vested authority given by the people to act on their behalf. The FDRE is committing and has committed human rights violations in relation to these land lease agreements and those in partnership with them may be found complicit. Lessees should be hereby notified!

In conclusion, the **Solidarity Movement for a New Ethiopia (SMNE)** welcomes investment in the country but is convinced that under the present repressive and illegitimate regime, unsuspecting partners will be at risk of potential financial losses and may become entrapped in schemes that will backfire. *What investors do in Ethiopia impacts Ethiopians, who are already living difficult lives; yet, as a result of these deals, many are suffering even more. It is a matter of time before Ethiopians rise up to end this corrupt regime. When this happens, whose side will you be on? Our humanity goes beyond our borders and is not given only to a few who can trample of the rights of the most vulnerable.*

May God continue to give us strength, wisdom, love, courage and perseverance to protect and preserve this ancient land of ours.

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Please do not hesitate to e-mail your comments to Mr. Obang Metho, Executive Director of the SMNE, at: obang@solidaritymovement.org. For a full archive and other resources, visit <http://www.solidaritymovement.org/> You can join us on the Face book page: <http://www.facebook.com/pages/Solidarity-Movement-for-a-New-Ethiopia/113717508659699>

ⁱ See William Davison's report

ⁱⁱ See William Davison's May 5th report