



# Addis Ababa University

## School of Law

### The Policy Implications of Land Use Planning: Analysis of Its Correlation with Tenure Security in Oromia,

(With Particular Emphasis on the Peri-Urban Rural Areas of East Shewa)

By

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Advisor: Dr. Muradu Abdo

A Thesis Submitted to School of Law Addis Ababa University

In Partial Fulfillment of the Requirement for the Degree of Master of Law (LL.M)

March, 2018

Addis Ababa, Ethiopia

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## **Abbreviations:**

LUP: Land use planning

NLUP: The National land use planning

RLUP: Regional land use planning

MDG: The Millennium Development Goals

MLR: The Ministry of Land and Resources

MFEDA: The Ministry of Finance and Economic Development of Ethiopia

MLR: The Ministry of Land and Resources

MLRA: The Ministry of Land Reform and Administration

MoA: The Ministry of Agriculture

LAUD: The Land Administration and Use Directorate

EMC: Environmental Management Council

MoLHUDRU: The Ministry of Lands, Housing and Urban Development of the Republic of  
Uganda

FAO: The United Nation Food and Agricultural Organization

UNDP: The United Nations Development Program

## **Abstract**

Land is limited and essential natural resource. On the other hand, the need for it is scaling up year after year with an increase in the number of population. Hence the finite nature of the land together with the growing needs for it calls for its efficient and sustainable utilization.

Land is everything and a chief area of concern in the context of emerging country like Ethiopia and Oromia (the Region) as state in particular. Because here land beside its economic values is a measure of identity and personhood.

In the study, therefore, the policy implications LUP, its correlation to land tenure and its roles for a constant growth has been under taken. At last it has found out that system of land allocation and exploitation is random in the Region. These conditions necessitate for the formulation of legal and policy framework that used to control land use system. Thus it has recommended that there have to be land use policy and policy devices.

Key words: LUP; land use policy; land tenure and peri-urban rural areas,

## Chapter One: Introduction

### 1.1. Background of the Study

Land, as noted in literature is one of the three major factors of production and the root of all development activities, yet, is a finite by nature. Growing population has initiated growing needs and demands for land for different socio-economic activities. Land is highly required in both urban and rural areas of all countries. Nations usually utilize it which, inter-alia, includes residential, commercial, industrial and agriculture purposes; as well, for open spaces, recreation, as areas for water supply and buffer zones.<sup>1</sup>

Given that land is a limited natural wealth, the question is how to compromise these two contradictory situations (i.e., limited nature of the land and unlimited needs for it).

The improper land utilization has numerous impacts on the land and land resources. Such as, land degradation; loss of vegetation and destruction of biological diversity; reduction in arable lands; wetlands ruin and pollution.<sup>2</sup> This inefficiency in land utilization, particularly visible in countries where there are unplanned land uses. Unplanned land use above all, is observable in developing nations like Ethiopia.

Competing and conflicting land uses are other outputs of improper land utilization. Competing is a struggle for the same parcel of land, such as, to use that land for cash or food crop.<sup>3</sup> While conflicting land uses involves contradiction with the exiting land uses; for instance, urban expansion on agriculture or urban waste disposal in peri-urban areas or in existing lakes and water bodies.<sup>4</sup> It should also be noticed that, competing as well as conflicting land uses are the typical causes of social conflicts<sup>5</sup> between the local communities and the authorities or investors or individuals in Oromia.

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<sup>1</sup> Wu Jun Jie, "Land Use Changes: Economic, Social, and Environmental Impacts", CHOICES the magazine of food, farm, and resource issues, (2008), p. 6, available at <http://www.choicesmagazine.org/.php>

<sup>2</sup> Ibid

<sup>3</sup> The National Land Utilization Policy framework for land use planning & management of India, 2013, preamble, The Draft National Land Utilization Policy, available at <http://dolr.nic.in/dolr/pdf>

<sup>4</sup> Ibid

<sup>5</sup> Ibid

On top of that, as a country grows urban areas get bigger and bigger while decreasing in the size of cultivatable land. Thus, unless the rate at which urban centers expanding is regulated, it will again lead to land misuse.

Thus all these necessitate for a system or a device or framework that uses to control the overall land utilization activities;<sup>6</sup> that foster growth by balancing the social, economic and environmental goals. That aids as a guiding principle; that which specifies permitted land use types and define norms for the different land categories as per the land units.

Land is treated as an immovable under the Ethiopian law;<sup>7</sup> and as one form of property that is a subject of ownership or other form of use rights.<sup>8</sup> Land as a foundation of economic development is a major area of concern in Oromia in particular. It represents an important resource for the economic life of the majority of people. Hence land use system is an issue that requires appropriate policy and legal consideration.

Because, the current land use system and management in the country as a whole and Oromia in particular, is uncoordinated and unsound. There are a number of disagreements over the use of land at the national and regional levels. These problems are considerably serious in areas with rapid urban spread out such as areas in the peri-urban rural areas. There are federal and regional lands and land related legislations. There are also sectoral laws having direct relation to land. Notwithstanding the existence of these laws and policies none of them deals in depth on how land is used and managed sustainably. Consequently, there is a gap in our legislations.

From this it follows that, at the moment we reached the point where the old land use system will not produce the quality of life we expect. For the land use system to be sustainable, we need to manage and regulate the land and all the activities done on the land responsibly for the current and the future generations.

Therefore, this research has been designed to examine how these gabs are going to be filled up; and whether the land use policies and policy devices are essential to the Ethiopian situation in general and Oromia in particular. Emphasis has been given in investigating whether LUP serves

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<sup>6</sup> The Ministry of Lands and Physical Planning of Kenya, National Land use Policy, Draft, May 2016, p. 51-52, <http://faolex.fao.org/docs/pdf>

<sup>7</sup> The Civil Code of Ethiopia, 1960, article 1130, Proclamation No. 165/1960, Negarit Gazeta, Extraordinary,

<sup>8</sup> Ambaye D.W., Land Rights in Ethiopia, (2015), p. 27, available at <http://www.springer.com/>

as a remedy to the current trend of land use system principally in the peri-urban rural areas. And finally solutions to improve the existing situations in the Region were proposed.

## 1.2. Statement of the Problem

Land use and management depends upon land policy and policy instruments.<sup>9</sup> However, many countries lack these tools and suffer from challenges of systematic land allocation and use.

The Oromia Regional State (the Region) is among the states in Ethiopia which are currently growing rapidly. The Region has gone through various structural adjustment and reform programs. It implemented Growth and Transformation Plan<sub>1</sub> (GTP<sub>1</sub>) and lately, it has started to put into operation GTP<sub>2</sub> in order to end poverty as an integral part of the national policy of growing to the middle income nations.

Despite these efforts, the Region, suffers from challenges of land use system common to all regions in the country. These are<sup>10</sup>:-

- Gaps in the legal and institutional framework for land use and management;
- Insecure land tenure (particularly in peri-urban rural areas);
- Un-harmonized land utilizations and administration;
- Absence of an integrated LUP and land use policy.

As a result, land use system in the Region is arbitrary. Land is allocated for a given purpose, without evaluating soil types, its effect on water resources, and without checking whether it is environmentally friendly or not. There is unregulated urban expansion primarily dominated by informal settlers. New towns and industries have been established in areas with fertile soils that should have been reserved for food production. Provisions of land to investors or for other activities, is mostly based on the personal interest of the individual investor (land seeker) rather than on the general principles of land use types as per the project.

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<sup>9</sup> der Molen Paul Van et al, A Comparative Study to Land Policy in 9 Countries in Africa and Asia, (2008), p. 1-4, available at, <https://www.fig.net/pdf>

<sup>10</sup> Tigistu Gebremeskel, Experience and Future Direction in Ethiopian Rural Land Administration: Paper Presented at the Annual World Bank Conference on Land and Poverty (2011), p. 9-11, available at <http://siteresources.worldbank.org/pdf>

Land allotment in the Region involves conversion of land that once used to generate income to holders into other purposes. As a result those communities settled there before have been disintegrated. The displaced local farmers from their lands have been suffering since their skills have little or no value in the new circumstances. Particularly older groups with limited or no educational background have faced lose or decline in their standard of living.

Accordingly, it is difficult to the country and the Region in particular, to put into practice its growth policy objectives sustainably through employing outdated land allocation and land use system.

This paper, therefore, tried to discover the different policies, policy instruments, the legal and practical setbacks of the Region in relation to land use and management. Stress was given to land use planning and possible impact of LUP on the peri-urban rural areas of Oromia.

### **1.3. Research Questions**

The researcher has formulated the following questions:

1. What are the features and contribution of land use plan and the peri-urban rural areas?
2. What is the policy impact (implication) of LUP?
3. Whether there are correlations between LUP and land tenure?
4. How far do the existing land legislations of the Region address LUP and challenges of land use in peri-urban rural areas?

### **1.4. Objectives of the Study**

The overall purpose of this research is to examine the impacts of land use plan; i.e. whether LUP serves as an input to the land policy; and whether it uses to ensure tenure security in peri-urban rural areas.

The specific objectives are:

1. To assess features and the impact of LUP and the peri-urban rural areas;
2. To examine the policy implication of LUP;
3. To investigate the correlations between LUP and land tenure;
4. To review growth of land legislations, and observe the place of LUP in these laws of the country and the current problems in land use system in the Region.

### **1.5. Scope**

The researcher has conducted both fieldwork and desk study; and has examined the roles of LUP for systematic and scientific land allotment and how it insures optimal land utilization. Analysis of land policies and legislation of the country and Oromia; as well as their scope in accommodating elements of efficiency, equity and sustainability were undertaken.

The researcher, furthermore, examined how the earlier and the current legislations and strategic documents treat the LUP and land management. Land laws and institutional framework of the Region, limitations and the practices on the ground were scrutinized. The study has examined land use system, the scope of land tenure security and the policy implication of LUP for efficient land use with emphasis to the peri-urban rural areas. In the end, recommendations have been pointed out based on the outcome of the research.

### **1.6. Significance of the Study**

This study has analyzed the existing land policies, laws, institutions and practices concerning land use system in Oromia. It has examined place of LUP in various legal instruments and assessed gapes.

Therefore, the research has the following contributions:-

1. It will serve as an input for designing land use policy, legislations and policy instruments that assists to ensure efficient land use and management in the Region;
2. It will assist the Region to adjust its institutional framework in order to harmonize land allocation and uses by different sectors;
3. The study will initiate policy makers to improve the current legal regimes pertaining to land use even in the country as a whole;
4. It will also be useful to other researchers for further inquiries.

### **1.7. Limitation**

The scope and depth of the research was wide; it would have to cover comprehensively large sample areas (rural and urban). Nevertheless, due to limited resources it has forced to be limited to some sample peri-urban rural areas.

## 1.8. Methodology

### 1.8.1. The Study Area

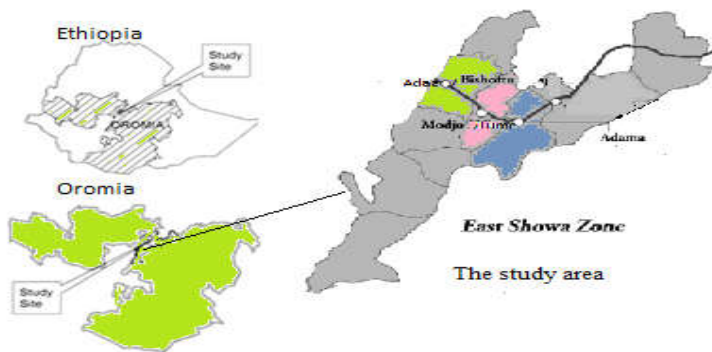
The study was conducted in East Showa Zone of Oromia. The zone was selected for three reasons:-

- First it represents areas with high urbanization and other investment activities.
- Second, it embodies rural areas characterized by urban rural boundary conflict and displacement for various reasons.
- Third, it represents most areas of the Region's climatic zones such as high, middle and low altitudes.

The Zone has a total population of 1,356,342; with an area of 8,370.90 square kilometers. 75% of the total population of the Zone is rural dwellers.<sup>11</sup>

The northern part of the Zone consists of land features suitable to produce different crops and vegetables. And known for the production of teff, wheat and sorghum; Ada Woreda (Bishoftu) is the main producer of teff in the Zone, even in Ethiopia for that matter.<sup>12</sup> The Zone has 11 woredas.

*Map 1: Showing the study area (East Showa)*



**Source:** Arranged by the writer from data Ethiopia-Oromia Region Administrative Map, available at <http://unocha.org/> and Map of Ethiopia, Oromia and East Shoa with Addis-Djibouti highway, available at <https://www.researchgate.net>

<sup>11</sup> From Wikipedia, the free encyclopedia available at, [https://en.wikipedia.org/wiki/East\\_Shewa\\_Zone](https://en.wikipedia.org/wiki/East_Shewa_Zone).

<sup>12</sup> Husen Jimma, Politics, Property Rights and Production in Arsi and East Shewa Zones, Ethiopia (1941-2004), (unpublished, 2004), p. 7-8, /

For the purpose of this study, the researcher limited the locality of the sample to three woredas (towns) since it was difficult to cover the entire areas of the Zone. These are:-

1. Bishoftu (Ada Woreda); as it represents the area with rich water resources and center of tourism and culture; however, suffers from high conflict over the land resources and land misuses,
2. Modjo (Lume Woreda), represents area of high farmers displacement due to various pressures and,
3. Adama , as a representative area with significant eviction of farmers for different investment purposes,

From each of these towns two peri-urban rural kebeles (6-kebeles in total) were included in the sample.

### **1.8.2. Data and Method of Data Analysis**

The researcher employed both doctrinal (library based) and empirical (field work) methods. A mixture of qualitative<sup>13</sup> and quantitative<sup>14</sup> data analysis techniques was used. Quantitative and qualitative data have been collected from primary and secondary sources.

The combinations of these methods were employed in order to verify the quality, validity and reliability of the information for the credibility of the result (to meet a triangulation technique).<sup>15</sup>

#### ***1.8.2.1. Nature and Sources of Data***

Data has been collected from direct and indirect sources (primary and secondary sources). As a primary data sources, the researcher conducted a fieldwork to collect data from farmers and key informants residing in peri-urban rural kebeles of the sample areas.

In addition, primary data were collected from experts (officials) of:-

- The Oromia Rural Land Administration and Land Use Bureaus
- The Oromia Urban land Development and Management Agency;
- The Oromia Urban Planning Institution;

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<sup>13</sup> Dobinson Ian and Johns Francis, "Qualitative Legal Research" Research Methods for Law, (2007) p. 16-19,

<sup>14</sup> Chui Hong Wing, "Quantitative Legal Research" Research Methods for Law,(2007) p.46-50,

<sup>15</sup> Creswell W. John, Educational research: planning, conducting, and evaluating quantitative and qualitative research, (4<sup>th</sup> ed., 2012), p. 259-260,

- The Oromia Urban Development and Housing Bureau;
- East Shewa Zone Rural Land Administration and Land Use Office,
- Rural land Administration and Land Use Offices (3) and
- Urban Land Development and Managements Agencies (3)
- Natural Resource and Environmental Protection Office (1) of the respective sample areas.

As well, field observations have been conducted to collect primary data.

As a secondary data sources, the researcher referred to various literature such as journals, articles; case reports, books, policy documents and legislations on land and its use system. Some statistical datum and various studies on the subject matter were utilized. These materials were accessed from law library, via internet and from the library of the Oromia Supreme court. Other sources of data were documents from the Oromia Rural land Administration and Land Use Bureaus just to know how land allocation has been taking place (whether there was a pre defined land use plan or not).

#### ***1.8.2.2. Methods and Tools of Data Collection***

##### **1.8.2.2.1. Sampling Techniques and Sample Size**

A multi-stage sampling method was employed to decide on the number of sample areas:-

- At the first stage some woredas from the Zone were chosen purposively.
- At the second stage specific peri-urban rural kebeles were selected via non-random sampling (i.e. purposive sampling) method and 2 peri-urban rural kebeles per woreda, a total of 6 kebeles were included.

The selection of the specific kebele was based on the rate of urban expansion; the practice of land acquisition by the city administration; and on the rate of land dispossession and misuses.

Informants (land-holders) in the sample peri-urban rural kebeles who lost their land wholly or partially for urban or other developmental purposes were picked up via a snowball sampling method. This method was employed since it was not-easy to get complete and accurate number of farmers residing in the rural areas.

These groups were chosen; because they were the most injured and have information on the overall process of land uses. It was, again, anticipated that they know facts about dispossession

and its effects on land tenure rights. Based on this, a sample of 30 respondents ten (10) each from specified rural areas of town margins were selected (which means 5 farmers per peri-urban rural kebele).

Questionnaires were also administered to expertise (officials) of the respective bureaus and offices (which was 12 in number). These respondents were chosen purposively. The inclusion of these groups of professionals was for the crosschecking purposes; as they have deep information about the current trend of land use and land allotment system.

Interviews and focal group discussion with 11 representatives of the peri-urban rural community and 3 experts were carried out. The purpose of key informant interviews was for the verification of information gathered from other sources.

#### 1.8.2.2.2. Tools for Data Collection

Mixing data collecting tools is essential for the reliability of information. Thus the researcher has employed:-

- Questionnaires (closed and open-ended)
- Interviews and
- Field observations,

The questionnaire was developed to collect data from the peri-urban rural farmers and from different organs of the government. Its substances were focused on deficiencies and challenges in land use; feelings and inclination of the peri-urban rural communities towards the present land use conversion system.

Two sets of questionnaires were designed; one for the officials of the respective Bureaus (offices), while the second was for other respondents (farmers). The questionnaires were short and simple to ease the information gathering process /by taking in to account the perceptive capacity of the respondent(s)/.

The interview questions were developed in semi-structured and open-ended form to explore data from the representatives of the peri-urban rural societies.

The questionnaires and interview questions for the farmers were translated into Oromiffa to avoid language barriers and misunderstandings.

Direct personal observations by the researcher were also undertaken in some areas of sample peri-urban rural kebeles; where in particular farmers affected by inappropriate land use conversion and allocation. The checklists for the field visit were prepared. Photographs of various features in field observation had been taken.

#### *1.8.2.3. Methods of Data Processing, Analysis and Interpretation*

The collected raw data was condensed and organized; then followed by critical analyses on the bases of the nature of the datum. Datum were evaluated and interpreted qualitatively and quantitatively in relation to the basic questions of the research.

Qualitatively, the data was examined via interpretation of concepts and views, and by way of comparing and contrasting methods.

The quantitative data on the other hand, was scrutinized through easy statistics like percentages, and the Microsoft excels was employed. Finally, the results of the analyses were presented in tabulation and graphic forms.

### **1.9. Organization of the Study**

The research is arranged in to six (6) chapters. The first chapter deals with the back-ground information as an introduction and covers: organization, statement of the problem, research questions, objectives, scope, significant, limitations and methodology of the study.

The second, third and forth chapters concern about essence and significance, policy connotation and genesis of LUP in Ethiopia and the Region respectively.

The fifth chapter focuses on land policy, laws, and land use challenges in the peri-urban areas of Oromia. And the sixth chapter contains conclusion, findings and recommendations of the study. Finally, list of reference materials and papers of important information as appendices are annexed.

## **Chapter Two: Essence, Feature and Significance of LUP and the Peri-Urban Rural Area**

This chapter answers the basic research question of the thesis, i.e., the general features and contributions of LUP and essence of the peri-urban rural areas. It deals with how LUP applied to ensure land use system and tenure security exclusively in peri-urban rural areas. For this it starts with the assessment of the essence of LUP and peri-urban rural areas and their perspectives. Different types and ways of planning; important principles; roles of public participation; and goals of LUP are summarized. The chapter has dual purposes; in the first place it provides the reader with background information on a LUP and peri-urban areas. In the second it lays out a foundation for the next chapter (chapter-three) that focuses on the policy implication of LUP and its relationship with tenure security.

### **2.1. Essence of LUP and the Peri-Urban Rural Area**

#### **2.1.1. Land Use Planning (Plan)**

It is stated that land is a valuable asset;<sup>16</sup> and therefore used for different purposes. Of which agriculture is the dominant form of land use type largely in developing countries like Ethiopia. These countries use land for the production of both food crops and cash products or export products to earn foreign exchange.

People in the Region have thus special relationship with the land. Since land is the source of income, job, the source of identity and person-hood. Thus, the present land use practices, both in the Regional State and the whole country, necessitate for new way of land allocation system that will achieve sustainability and balance the needs and demands that people want to have. And LUP is the one likely to produce the desired output.<sup>17</sup>

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<sup>16</sup> Wu Jun Jie, cited above at note 1, p. 6,

<sup>17</sup> Ujamaa Community Resource Team (UCRT) and Fred Nelson, Participatory Land Use Planning as a Tool for Community Empowerment in Northern Tanzania, The gatekeeper series 147, (2010), p. 3, available at <http://pubs.iied.org/pdfs>

### **Coming to the notion of LUP:-**

The notion of the term LUP has been described by various organizations and bodies. For instance, the FAO<sup>18</sup> and the UNDP<sup>19</sup> descriptions of LUP focus on the systematic evaluation of the potential of the land and its alternatives of uses. This is for the decision making on the allocation of land to the uses that provide maximum and sustainable benefits; while the GTZ<sup>20</sup> definition emphasis on the participation of the public. Thus the overall notions of LUP according to the characterizations of the three organs are the following:

1. LUP involves the evolution of the potential of the land from the present situations;
2. LUP lists options for land use based on the evaluated potential of that land;
3. With the objective of decision making for land allocation to its best use alternatives.
4. That LUP should be participatory by way of consensus building.

Hence the future national and Regional LUP that are going to be prepared in Ethiopia and Oromia should accommodate and take into account all these elements of the notions of land use plan as much as possible.

### **Factors necessitate for the adoption of LUP in Oromia**

Decrease in land productivity; the need to integrate conservation and development activities; the need to meet the national, regional, sectoral development objectives<sup>21</sup> and conflicting conditions call for LUP;<sup>22</sup> because conflicts over the use of land between rural and urban centers or between farmers and investors, even between organs of the government in the Region are frequent. Therefore, LUP serves as guidelines in such cases by indicating which areas of the land are most valuable for what purpose.

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<sup>18</sup> FAO/UNEP, land-use-planning manual, (1999), p.14, available at, <http://www.giz.de/pdf>,

<sup>19</sup> Darabant Andras, Manual on Watershed-based Participatory Land-use Planning for Nagaland, (2013), p. 6, <http://www.in.undp.org/pdf>,

<sup>20</sup> GTZ, Land use-planning-manual, (1995), p.7, available at <http://www.giz.de/pdf>,

<sup>21</sup> DSE – GTZ, Community-based Land Use Planning for Sustainable Rural Development, (2002), p.51,available at <http://www.moa.gov.et>

<sup>22</sup> FAO, " Guidelines for land-use planning", FAO Development Series, No. 1, (1996, p.6, available at <http://www.fao.org/>

### 2.1.2. The Peri-Urban Rural Areas

A peri-urban rural area, as observed during surveying, is characterized by not having a clear boundary demarcation and as a result is continuously moving out-wards to rural areas.

The term “peri-urban rural area” is treated differently under diverse literature. For instance, some presents it as:

*“The term peri-urban uses; to designate a place or concept or a process; as a place, it refers to rural farm areas between urban built and areas predominantly rural agriculture. As a concept, peri-urban could be seen as an interface between rural and urban activities and institutions where rural and urban development processes meet, mix and interact on the edge of cities. As a process, it could be thought of as the two-way flow of goods and services between rural and urban.”*<sup>23</sup>

This denotes that, a peri-urban rural is the space surrounding urban areas; or areas in between urban and rural centers. It can be said that sometimes it is a gray areas that belongs to neither urban nor rural. So that as some ascertained, it is a place to which little or no attention is given by either urban or rural authorities.<sup>24</sup>

Webster and Muller, on the other hand, have described the term peri-urban areas as:

*“A transition zone between urbanized land and areas in predominantly agricultural use; it is characterized by mixed land uses and indeterminate inner and outer boundaries, and typically is split between numerous administrative areas.”*<sup>25</sup>

All the above descriptions denote the absence of clear boundary demarcation between the urban and peri-urban areas; and these are common in the Region. As a result, there are a continuing urban expansions; and has resulted in a paramount negative pressure on land holding security of the dwellers of these areas. However, the question is how to avoid these pressures and change into advantages?

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<sup>23</sup> Achamyeleh Gashu, *Peri-Urban Land Tenure in Ethiopia*, (2014), p. 15-16

<sup>24</sup> Ravetz Joe et al, *The Dynamics of Peri-Urbanization*, (2013), p. 41, available at <http://www.springer.com/cda/pdf>.

<sup>25</sup> Webster Douglas and Muller Larissa, “Peri-Urbanization: Zones of Rural-Urban Transition”, *Human Settlement Development*, Vol. I, p. 282, available at <http://www.eolss.net>

Experiences of other countries show that, the overall challenges on the peri-urban rural areas can be resolved through effective land governance, joined up land use policy and policy instruments that integrates urban-rural land uses.<sup>26</sup>

The other points that need to be noticed are the speed and kinds of driving forces for rapid changes in land uses of the peri-urban rural areas. For instance, the following are common factors in most developing countries<sup>27</sup> including ours:-

1. Urban expansion; which is the major causes of farmers eviction in the Region,
2. Large-scale industries (manufacturing) and floricultures; because peri-urban areas are attractive to investment for two reasons. First, availability of relatively large and inexpensive plots of land and the second is its accessibility.
3. Infrastructure backlogs; typically the need of land for settlement; this has two faces in our case, i.e., through formal and informal settlements.
4. Rural migration; stemming from push factors such as landlessness.

## 2.2. Typology and Methods of Land Use Planning

### 2.2.1. Types of Land Use Plan

Commonly land use plan can be applied at national, regional, district and local levels. For the purpose of simplicity the paper deals with two main types of LUP:-

**A national land use plan:** - may Serve as a policy guidelines or a master plan, with a long-term development objectives.<sup>28</sup> It is used for the allocation of the natural resources of the whole country by the National (federal) government. The NLUP is employed to balance the competing demands for land among different sectors and coordinates sectoral activities involving in land uses.<sup>29</sup>

Nonetheless, the national LUP is lacking in our country. Had there been a NLUP in Ethiopia, it would have served as guideline to both the federal and the Regional States by which they are

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<sup>26</sup> Piorr Annette et al, Peri-urbanization in Europe: Towards a European Policy to Sustain Urban-Rural Futures A Synthesis Report, (2011), p. 10, available at <http://www.openspace.eca.ed.ac.uk/>

<sup>27</sup> Webster Douglas and Muller Larissa, cited above at note 25, p. 283-286,

<sup>28</sup> Chen Wenbo et al, A Spatial Optimization Model for Sustainable Land Use at Regional Level in China: A Case Study for Poyang Lake Region, (2014), p. 37, available at <http://creativecommons.org/>

<sup>29</sup> Ibid

guided to allocate land for various purposes. It again would have served to avoid conflicting interests on the land between the two tiers of the state.

**The regional land use plan:** - of help in state structure like in Ethiopia. Since it sets land use types and designs areas necessary for regional development. It refers to land planning that falls at the regional level.<sup>30</sup>RLUP presents the proposed land use categories and the possible development priorities. The regional planning may begin at the village or group of villages or on particular areas of land etc; with its priorities drawn up by the local people to identify areas of regional interest.<sup>31</sup>

### 2.2.2. Methods of Land Use Planning

There are many methods of land use planning; the major ones are the “top-down”, “bottom up” and a “two-way” linking (communication) planning.

**Top-down planning:** - is common in Ethiopia and Oromia (in designing urban and sector specific plans). Since, a land-use planning as to this method, takes place without much involvement of the local communities and stakeholders. It has the advantage of speedy accomplishment.<sup>32</sup> Its disadvantage is that the local communities and many stakeholders may not understand the plan or not agree with it.<sup>33</sup> So, as observable in peri-urban rural areas of the Region people usually actively or passively resist the implementation of urban plans.

**The bottom-up land use planning:** - the “bottom-up” type of planning starts at the local level with active participation of the local people.<sup>34</sup> Principles dictate that particularly rural land use planning has to follow this approach. Since it takes into account interests, culture, religious and taboos of the local community. In that case it can be locally acceptable and successful provided that when there is a higher level organ’s support.<sup>35</sup> This presupposes that it would be better if in our case the federal and the Region employ this technique in their plan preparation.

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<sup>30</sup> Helsinki-Uusimaa Regional council, What is a regional land use planning? Finland, (2016), p. 4, available at, <https://www.uudenmaanliitto.fi/files/16094/pdf>,

<sup>31</sup> GTZ (ed.), Land Use Planning Concept, Tools and Applications, (March 2012), p. 190-191, <https://wocatpedia.net/wiki/pdf>,

<sup>32</sup> J.H. Venema, et al, Land Use Planning Guidelines for Somaliland, (March 2009), p.7, available at, <http://www.faoswalim.org/>,

<sup>33</sup> Ibid

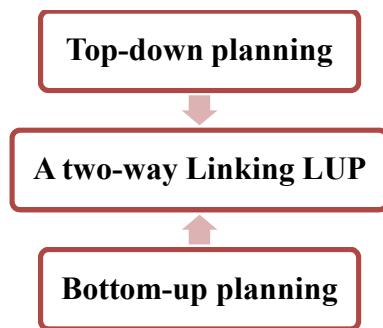
<sup>34</sup> Ujamaa Community Resource Team, cited above at note 17, p. 18,

<sup>35</sup> Ibid

**A two-way communication land use planning:** - may be useful to prepare NLUP in countries like Ethiopia. This is because the two-way communication land use plans links the local (regional) and national planning and is important for successful land use planning. It assures that local (regional) LUPs are in tune with higher level plans, interests and policies; and that planners and decision makers at the local (regional) to national level are sufficiently informed about the priorities identified by the local community.<sup>36</sup>

This method requires that land use planning activities at various levels should be ‘in tune’ with each other and should not to be contradictory. The regional land use plan should agree with national land use plan and vice versa. Sectoral land plans should be in line with the regional and national LUP. And all LUP should be in the framework of the regional and national land policies.<sup>37</sup>

*Figure 1: Illustrates kinds of planning techniques*



Source: Constructed by the writer based on the information from J.H., Venema et al, Land Use Planning Guidelines for Somaliland, 2009, p. 7-12,

### 2.3. Key Elements for Land Use Planning

Planning in land use is a continues process;<sup>38</sup> this is because on the one hand, there might not be enough information or knowledge about that land at the time of planning and on the other hand, the present land uses may be proven to be unsuccessful and may necessitate for some changes in it after some point in time. Besides, the LUP should consider principles of LUP and has to be participatory.

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<sup>36</sup> J.H. Venema, et al, cited above at note 32, p. 7

<sup>37</sup> Id., p. 12,

<sup>38</sup> Id., p. 17,

### 2.3.1. Principles of Land Use Planning

Land use planning shall accommodate at least the following important principles;<sup>39</sup> and it would yield better output if the Oromia Regional State firmly follows them in its land use planning process;

- a) Compliance to the local conditions (situational assessment surveying<sup>40</sup>): such as temperature and rain fall; land forms and types of soils; vegetation; present land use system; present infrastructures (roads, buildings, health infrastructures etc.); population density; land tenure system;
- b) Consideration of the local knowledge (historical, cultural and traditional practices tied up with land uses);
- c) Rural development to be a "bottom-up" process (i.e., people who are affected by the planning have to be involved in the planning process);
- d) LUP must be based on communication and collaboration with various stakeholders and groups;
- e) LUP needs to be transparent;
- f) Differentiating diverse concerned groups and gender to detect various interests;
- g) It should be based on an interdisciplinary approach /with other technical disciplines and planning fields/;
- h) LUP is an iterative process (may lead to the revision and repetition of decision and steps);
- i) It should be capable of implementation.

Other pre-requests in LUP preparation that which again has to be considered in the Region too are: the first is institution, laws and regulations that affect land uses. The second is need assessment<sup>41</sup>: - before designing a LUP there has to be an assessment on the existing need and demand for land use planning; a political will to define land uses in transparent and participatory manner; legal security and rule of law to ensure that most parties stick to land use plan; and institutions and structures that integrate LUP into legally binding and enforceable one.

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<sup>39</sup> Amler B., et al, Land Use Planning Methods, Strategies and Tools, (1999), p.7-10, available at, <https://www.mpl.ird.fr/crea/taller-colombia/FAO/AGLL/pdfdocs/gtz-lup.pdf>

<sup>40</sup> Ecotrust Canada, BC First nations land use planning, (July 6, 2009), p. 5, available at, <http://www.newrelationshiptrust.ca/pdf>,

<sup>41</sup> GTZ (ed.), cited above at note 31, p. 121-122,

### 2.3.2. Public Participation

Some literature describes public participation in land use planning as the involvement of the local people actively both in decision-making and implementation on land matters.<sup>42</sup> The present trend seen in the Region and the country necessitates that the process of LUP to be participatory. Participation gives the community to realize whether the plan is socially desirable and economically viable; to ensure whether it considers and incorporates rural and urban interests; whether it considers and incorporates the local circumstances, cultural, actual needs, available resources, rules and regulations;<sup>43</sup> to make sure whether it concerns national, regional, local and sectoral land use and development plans.

Participation in LUP by the public, in general, is beneficial since it provides an opportunity to the local people to express their needs and their development priorities. As well as, it assists them to build a sense of ownership and responsibility.<sup>44</sup>

Who are these participants? The potential participants in LUP are all groups which are affected or to be affected by the decisions on land use in a planning area.<sup>45</sup> These include the local community (for instance, in this case farmers in peri-urban areas and urban residences in the Region). And also include those who are interested in the results of the plan, e.g., stakeholders. Those who are involved in a land use conflict and have a considerable influence on it, for instance, sectors of the government.

### 2.4. Process of Land Use Planning

There are ten steps in a land use planning.<sup>46</sup> Among these, land evaluation and land use allocation are the major stages in LUP. Land evaluation is a process in which the suitability of the land for the uses considered is assessed and the evaluation of environmental, economic and social impacts of the plan. While land allocation is the allotment of land to its optimum use type and this corresponds to the evaluation of land fitness depending on properties of the land.

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<sup>42</sup> Schwedes Silke and Werner Wolfgang, Manual for participatory land use planning facilitators, (September 2010), p.14-15, available at, <http://www.iapad.org/pdf>,

<sup>43</sup> Id., p. 18-19,

<sup>44</sup> DSE – GTZ, cited above at note 21, p. 80,

<sup>45</sup> Amler B., et al, cited above at note 39, p. 85,

<sup>46</sup> FAO, cited above at note 22, p.16-17,

In summary, land use planning involves the identification of the problems and determination of solutions from the existing alternatives; the process of choosing the best alternative and preparation of the plan; and finally putting the plan into action and see how it works.

## **2.5. Contribution of Land Use Plan**

Sustainable development consists of three pillars; environmental, economic and social sustainability.<sup>47</sup> And thus, land use planning has contribution to achieve these goals. Having LUP alone is not sufficient by itself it has to be put into action, regulated and monitored.

### **2.5.1. Social and Environmental Significance**

A majority of people of the globe depend on land and natural assets to satisfy their immediate needs. Studies show the world's population has been growing dramatically and is still increasing. For instance, the number of the world population was 2.5 billion in the year 1950; and expected to reach 9 billion by 2050.<sup>48</sup>

The mounting up of populations of the world is impacting Earth's systems. As a result changes to land resources due to human activities are aggravating. In consequence of such a heavy pressure on land, the size and quality of agricultural land has been declined. This is largely visible in developing countries like Ethiopia. Hence it calls for a multifaceted and interdisciplinary approach to land use management and land use system.

Hence, LUP plays its social roles through reducing land use conflict between the federal and the Regional state; between urban and rural; and among different sectors; by means of managing disaster risks and improving land governance.<sup>49</sup>

Some of the environmental benefits of LUP are manifested in its function to identify areas for buffer zones for exhaustion of gasses and traffic noise pollutions.<sup>50</sup> LUP helps to regulate the

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<sup>47</sup> Raith Jasmin, Legal Aspects of Land Use Planning In Namibia, (JUNE 2011), p.3, available at, <https://www.giz.de/fachexpertise/pdf>.

<sup>48</sup> The INTOSAI Working Group on Environmental Auditing (WGEA) (ed.), Land Use and Land Management Practices in Environmental Perspective, (June 2013), p.10, available at <http://www.environmental-auditing.org/>, p. 11,

<sup>49</sup> Koohafkan A.P., "Integrated Planning and Management of Land Resources: Guiding Principles for Food Security and Poverty Reduction and Sustainable Development", Land Use Planning and Policy, Ecological book, series-2, (2004), p. 72-74, available at, <http://unesdoc.unesco.org/pdf>

<sup>50</sup> Ibid.

current trend of waste disposal seen around towns in Oromia; as well aids to conserve biodiversity and ecosystem etc.

### 2.5.2. Economic Significance

It is frequently stated that sustained economic development dependence upon the allocation of land resource to its more productive use types. In principle the process of land allotment has to be based on a LUP that developed through participation.<sup>51</sup> This is in order to avoid the negative end results, for example, industrialization involves the reallocation of land from crop or plantation or livestock production to activities related to industry. Urbanization converts agriculture land into areas that provide residential, commercial and infrastructure services. Then LUP plays roles in economic development through compromising these needs, i.e., via establishing a prudent system of land exploitation, conservation,<sup>52</sup> and by lessening the social perish.<sup>53</sup>

Other contribution of land use planning to the national economy is by way of wildlife conservation and parks (as a source of income from tourism).<sup>54</sup> Through defining appropriate areas for housing, transportation roots, mining and basic services (like electricity, clean water etc). In the meantime, all economic decisions on manufacturing industry or agricultural development are the basis of the economic development and all of these use land.<sup>55</sup> So LUP aids to lead and regulate them.

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<sup>51</sup> Siddiqui Shawahiq and Chohan Shilpa, Legal Response to Institutionalizing Participatory Land Use Planning in Nagaland, (2015), p.16, available at, <http://www.in.undp.org/>.

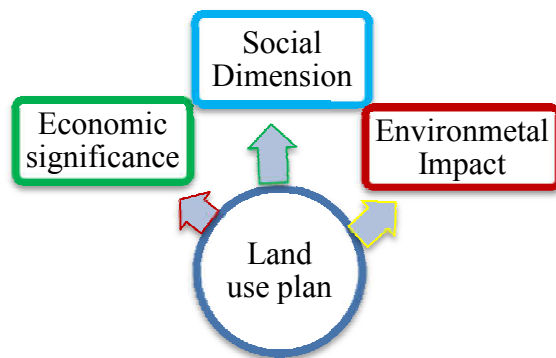
<sup>52</sup> The INTOSAI Working Group on Environmental Auditing, cited above at note 48, p. 9,

<sup>53</sup> EMC Natural Resources Committee, Land Use Considerations for the Broome County Plan for Sustainable Economic Development, (April 16, 2002), p. 1, 3, available at, <http://www.gobroomecounty.com/files/pdf>.

<sup>54</sup> Id., p. 32-34,

<sup>55</sup> Ibid

Figure 2: Shows the social, economic and environmental dimensions of LUP



Source: constructed by the writer based on the information from Raith Jasmin, Legal Aspects of Land Use Planning in Namibia, (June 2011), p.3,

The above figure illustrates how LUP balances environmental, economic and social objectives.

### 2.5.3. The Impact of LUP on Land Use System

Land use refers to the relationship between people and the land,<sup>56</sup> or a continuous socio-economic activity to generate one or more products or services from the land (i.e., it is about how use and “non use” of land is adapted and modified for human purposes).<sup>57</sup>

To that end a LUP serves to modify efficiency in land use system for Sustainable development in two ways. First, through classifying land in to its best use types; Second via curtailing random land use and maintaining land use system as per the plan (by directing ways of land development).

## 2.6. Chapter Summary

LUP is the concern of many countries these days. This is because the need for land has been increasing. On the contrary, land resource can be exhausted by the overuses. So its exploitation should not be random as currently discernible in the Regional State of Oromia.

The research is designed in the main, as discussed in the next chapter, to analyze the interrelationship between LUP, land policy and land tenure. For this reason, it has attempted to show what LUP and peri-urban rural areas; types and methods of LUP; and social, economic and environmental roles of LUP as well as its functions for systematic land exploitations.

<sup>56</sup> The Institute for Local Government, Understanding the basics of land use and planning: Glossary of Land Use and Planning Terms, (2010), p. 1, available at, <http://www.ca-ilg.org/pdf>.

<sup>57</sup> The INTOSAI Working Group on Environmental Auditing, cited above at note 48, p. 10,

## **Chapter Three: The Policy Implication of LUP and Its Correlation with Land Tenure**

The chapter outlines legislation that serves as basis for the LUP. Its principal task is to answer the research questions regarding how the policy implication of LUP reveals; and its correlation with land tenure in Oromia. For this, a particular emphasis is given to peri-urban rural areas of East Shewa Zone. In the end the chapter shows experiences of some countries in relation to LUP and land policy. Thereby to aid the future LUP preparation and land use policy formulation in the Region.

### **3.1. Basis of Land Use Plan**

#### **3.1.1. Regional and International Agreements**

LUP is a pressing issue in almost countries these days. That is why cooperation in sustainable land use implementation is becoming a priority for many countries;<sup>58</sup> and different regional and international bilateral environmental agreements have been signed by national governments, including Ethiopia. For example, The World Conservation Strategy by IUCN, UNEP, and WWF of the 1991 that dictates caring for the Earth, Agenda 21 (the 1992 Rio de Janeiro United Nations Conference) and the 1992 Convention on Biodiversity.<sup>59</sup> These imply that LUP has got the international support and that both regional and international agreements serve as a foundation for a LUP formulation. But, as there are no frameworks (instruments)<sup>60</sup> for their implementation in most states (including Ethiopia), these agreements have rarely been translated into practices.

#### **3.1.2. The National Policies and Legislation**

Experiences of many countries disclose that existence of LUP alone is not sufficient. The current arbitrary land exploitation seen in Oromia is partly attributed to lack of policy instruments even to enforce sector specific plans.

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<sup>58</sup> The INTOSAI Working Group on Environmental Auditing, cited above at note 48, p. 24,

<sup>59</sup> Kirk Michael, et al (editors), *Land Tenure and Policy Issues in Land Use Planning*, 1998, p.5, available at, <https://www.mpl.ird.fr/crea/tallercolombia/FAO/AGLL/pdfdocs/pdf>,

<sup>60</sup> The INTOSAI Working Group on Environmental Auditing, cited above at note 48, p. 24,

Basically, land use policy is an expression of the government's direction<sup>61</sup> in connection to land and natural resource use and management. This is because it sustains to address major policy objectives<sup>62</sup> which the government formulates to change the economy with the purpose of improving the social life of its communities.<sup>63</sup> Thus short of this policy instrument in the Region as well as in the Country opens the way to the prioritization of economic goals over the social and environmental objectives<sup>64</sup>.

The Regional officials during the field survey pointed out the lack of binding tools to control land uses; principles and guidelines<sup>65</sup> for the proper management of land resources; and tools that integrate plans of various sectors. A larger numbers of officials (experts) articulated the need for land use policy as a guideline for all decision making on land, for the regulation of executive actions and LUP implementation.

The present randomness in land allocation observable in the Region is due to lack of binding instruments. Because it is agreed by many where there is no instrument, land allocation decisions are determined by the discretion of individual Officers<sup>66</sup>. And land users are always confused how and for how long they use the land.

Land laws are another crucial element in land use planning. Some literature states land laws are essential for making LUPs a legally binding and enforceable instrument. Again the possibility of establishing land use plan as a regulation<sup>67</sup> that set out the legal effects of a plan and structures for its implementation.

In fact, there are both rural and urban land laws in the Region. As revealed by the interviewed experts, the problem has many faces. In the beginning, there is no law that puts principles and guidelines for classifying land into various use categories. In the other, there is no legislation that

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<sup>61</sup> VAN d. Paul et al, A Comparative Study to Land Policy in 9 Countries in Africa and Asia, (2008), p.3-4, available at, <https://www.fig.net/pdf>

<sup>62</sup> MoLHUDRU, The National Land Use Policy, (June 2006), p.6, available at, <http://mlhud.go.ug/wp/pdf>,

<sup>63</sup> Hoa Ho Dang and McPherson Malcolm, Land policy for socioeconomic development in Vietnam, (2010), p.44-46, available at, <https://ash.harvard.edu/pdf>,

<sup>64</sup> Koohafkan A.P, Cited above at note 49, p.69,

<sup>65</sup> The Ministry of Lands and Physical Planning of Kenya, cited above at note 6, p.8,

<sup>66</sup> Deininger Klaus, Selod Harris, and Burns Anthony, The land governance assessment framework, (2012), p.96-97, available at, <https://openknowledge.worldbank.org/>

<sup>67</sup> Raith Jasmin, cited above at note 47, p.21-22,

safeguards the plan. For example, forest law incriminates a person who clears the forest but not for violating the forest land use plan. The other situation, for instance, in urban planning there is no rule that guides how urban areas are classified for different uses or coerces their enforcement. That is why towns are frequently changing their plans contrary to existing situation on the ground.

In general, the effect of laws on LUP can be tested under different circumstances:<sup>68</sup>

1. The implementation of LUP through legislation;
2. The implementation of LUP without legislation and
3. Existence of LUP with no implementation.

When LUP is executed through legislation, it becomes legally binding so that it is enforceable against any person (legal or physical). In contrast, when LUP is implemented in exclusive of legislation; under such instance LUP may serve as an instrument to guide the authorities (decision makers) to follow it as a binding instrument for themselves i.e., put their decision or action in the framework of it; hence it has an indirect legal effect.

The third condition is existence of either endorsed or non endorsed LUP;<sup>69</sup> here the LUP has no legal effect and thus is not followed or even taken as consultative guides; and therefore it has to be avoided.

Therefore, this leads us to conclude that the exiting sector specific LUPs in the Region have no legal ground from the beginning and have not been accepted by the decision makers and implemented through legislation.

### **3.2. The Policy Implication of LUP**

The policy connotation (implication) of land use plan is the core area of the research; and to do with how LUP can be applied widely for the realization of the general land policy objectives.

The Ethiopian government has formulated its major policy goals on the bases of which the regional States would again design their goals. The national policy objectives of most

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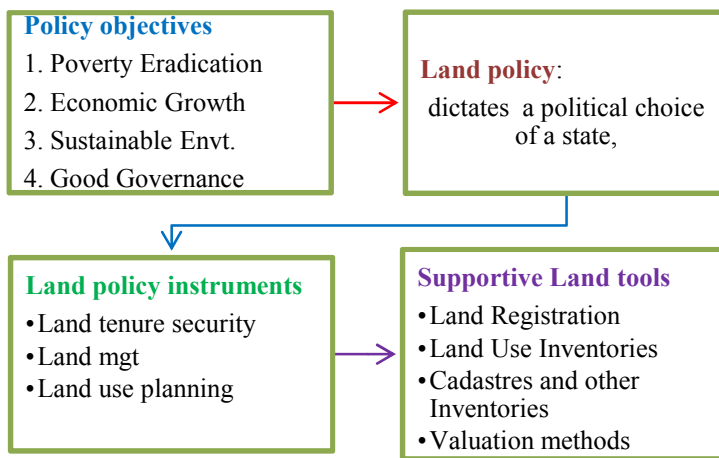
<sup>68</sup> *Id.*, p. 4,

<sup>69</sup> *Id.*, p. 5,

countries<sup>70</sup>; including Ethiopia are economic growth, poverty eradication, good governance and environmental sustainability.

A land policy as a political document uses to identify a political and ideological stance of a government and the general principles of good governance, rules of law, the allocation of land resources.<sup>71</sup> For this, it requires intervention instruments for the implementation of policy goals. These instruments incorporate kinds of land tenure (forms of land rights and the legal security); LUP and land management. For the application of the land policy instruments, one needs supportive land tools, such as Cadastres.<sup>72</sup>

*Figure 3: The relationship between government policy objectives, land policy and policy instruments*



Source: *Reconstructed by the writer based on, VAN d. Paul et al, A Comparative Study to Land Policy in 9 Countries in Africa and Asia, (2008), p.5-6*

The figure; illustrates how land policy assists to put into practice the overall policy goals of a state via land policy instruments and supportive tools.

<sup>70</sup> VAN d. Paul et al, cited above at note 61, p. 3,

<sup>71</sup> *Id.*, p. 5-7,

<sup>72</sup> *Id.*, p. 5-13,

## **Contribution of LUP to the policy objectives**

A land policy, as pointed out earlier, determines land tenure (use rights or ownership) through its emphasis on the distribution, utilization, alienation and management of the land.<sup>73</sup> For instance, the FDRE and the Regional constitutions make use rights to the individuals while keeping ownership over the land to the State. As well, as indicated earlier the federal government has policy objectives (e.g. poverty eradication etc.). And this is the policy aspiration of the Oromia Regional State as well. For these purpose there need to be a land use policy, LUP, land management and land administrative institutions in the Region. Because the experiences of other states show<sup>74</sup> that land tenure, LUP and land use policy are fundamental variable (policy instruments) for the accomplishment of policy goals. As well they determine the economic, social and political stability of a given state via facilitating the productive and sustainable use of land.

On the bases of this relationship, land use policy should be issued in twin with land policy goals. And it is agreed by many scholars<sup>75</sup> that LUP serves as policy device for the implementation of land policy; thus land policy, land use policy and land use plans feed one each other and should be dynamic to suit the changing needs and conditions.

Despite the fact that LUP and land use policy have significant roles in land policy<sup>76</sup>, there is no land use policy in the Region and the country as a whole. The field survey, divulged the fact that there is no uniform and a wide spread understanding about LUP by the concerned expert or officials (40%). All of them equivocally accepted that they do not apply the existing sector specific plans in accordance of the principles. There is as well lack of legal instruments even to enforce the existing land use plans.

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<sup>73</sup> Ministry of Lands, Housing and Urban Development of the Republic of Uganda (MoLHUDRU), cited above at note 62, p. 6,

<sup>74</sup> Kirk Michael, et al (editors), cited above at note 59, p. 22-38,

<sup>75</sup> Zemen Haddis et al, Ethiopia's Move to a National Integrated Land Use Policy and Land Use Plan, (2017), p.8-13,

<sup>76</sup> Ibid

### 3.3. The Correlation of Land Use Plan with Land Tenure Security

The term ‘land tenure’ is derived from the Latin word “tenere” which means to hold. Tenure defines the social relations between people, either as an individual or group, in respect of the object of the tenure<sup>77</sup> (in this case land).

Land tenure is the rights and obligations<sup>78</sup> held by the people on how to acquire, exploit, preserve, and transfer land and related resources, i.e., determines who can use what resources for how long and under what conditions.

FAO<sup>79</sup>, on the other hand, tried to define land tenure in a way that encompasses those property rights recognized and enforced both under the law and customary systems. The customary rights are evolved indigenously within the local people.

As a consequence the following are the major categories of land tenure types:<sup>80</sup>

- Private land gives exclusive rights to a private individual or a group or a corporate body;
- Communal land where each member has a right to use independently the holdings of the community;
- Open access where access to the land is generally open to anyone;
- Land as a state property.

It is often alleged that the issue of tenure insecurity is a common drawback in the context of Ethiopia in general and Oromia in particular. As can be seen from the chart below, 70% of the total household farmers of the sample areas articulated that they are not satisfied with the current trend of land use system and feel insecure. They expressed their feeling that they are not even sure whether they continue possessing existing landholdings. Because, decisions on land are not rule based and not guided by a plan. Holders who have some land, fear losing of their property rights over the land and associated income at some point in the future. Most of them prefer for

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<sup>77</sup> Waiganjo Chege and E. N. Ngugi Paul, The Effects of Existing Land Tenure Systems on Land Use in Kenya Today, 2001, p. 2, available at, <https://www.fig.net/pdf>,

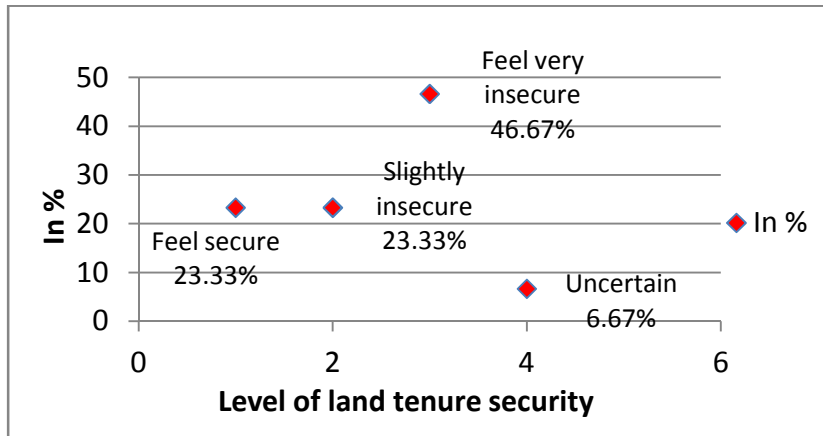
<sup>78</sup> Shimelles Tenaw et al, Effects of land tenure and property rights on agricultural productivity in Ethiopia, Namibia and Bangladesh, Discussion Papers no 33, 2009, p. 6, available at, <http://www.fao.org/pdf>

<sup>79</sup> FAO, land tenure and Rural Development, (2002), P. 7, available at <ftp://ftp.fao.org/pdf>,

<sup>80</sup> Shimelles Tenaw, et al, cited above at note 78, p.6-7,

the enactment of a law that gives an utmost attention to the system of land exploitation, control displacement and incriminate actors those who violate the proposed land use classes.<sup>81</sup>

*Chart 1: Illustrating views of farmers on the recent land tenure security in the Oromia Regional State*



Source: Constructed by the writer based on survey data, 2017

The first cause of tenure insecurity in the Region, especially in earlier times<sup>82</sup> was the fear that the next round of land redistribution will take place any time. The second factor that prompts tenure insecurity is the arbitrary violation of farmers land use rights via land use conversion or arbitrary urban spread out above all in per-urban rural areas. Third, as attested by all informants are lack of public engagement in land use decisions and land law drafting. Because, participation allows the local community to have a say in their welfare, take part in site selection, fix time for utilization and play a part in land allocation decision.

For this, a LUP uses as a tool to improve tenure security because:-

- a. LUP maintains the moment process of land registration and certification (titling) taking place all over the Region to assure tenure security;
- b. Serves as a single source of information on land use categories,<sup>83</sup> thereby helps to reduce competing and conflicting land uses;

<sup>81</sup> Survey data (Oct. 2017),

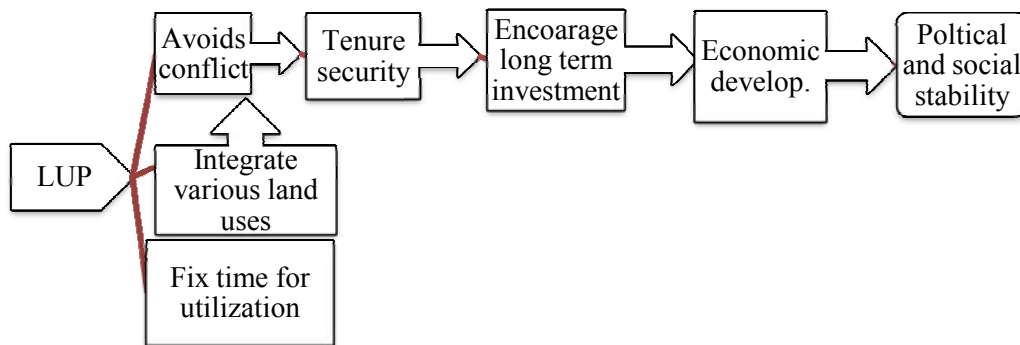
<sup>82</sup> Samuel Gebreselassie, Land, Land Policy and Smallholder Agriculture in Ethiopia: Options and Scenarios, (2006), p. 6,

<sup>83</sup> Fitzpatrick Daniel and Compton Caroline, Beyond Safe Land: Why security of land tenure is crucial for the Philippines' Post-Haiyan recovery, (2014), p.3, available at, <https://www.oxfam.org/sites/www.oxfam.org/>

- c. Reduces untimely displacement due to land conversion<sup>84</sup>; for instance, the allocation of land for agricultural purpose by the LUP means protection against evictions for other development;
- d. Serves to integrate various land uses into a single process, coordinates fragmented land planning across different government organs and insures a holistic approach to land;
- e. LUP assures tenure rights via eliminating anxieties and uncertainty in land tenure, i.e. initiates holders to use land in a sustainable manner.

Thus, these signify that there is a positive relationship between LUP and tenure security. Since a LUP indemnifies tenure rights. Secured tenure system encourages holders to make long term investment by applying technologies and inputs to increase productivity for sustainable development.

Figure 4: Shows the correlation between LUP and land tenure



Source: Constructed by the writer based on the information from, Fitzpatrick Daniel and Compton Caroline, Beyond Safe Land: Why security of land tenure is crucial for the Philippines’ post-Haiyan recovery, (2014), p.12

### 3.4. The Land Use Plan: Experience of Some Countries

It is not easy to have a good policy tool from a single source that goes with the cultural, social and factual circumstances of the Region. Hence the researcher is resorted to treat experiences of some countries having different land tenure system and policies.

The United State of America is preferred since the federal structure in Ethiopia is relatively looking a lot like that of the USA. The situation in USA indicates the likelihood of regulating

<sup>84</sup> Fitzpatrick Daniel and Compton Caroline , cited above at note 83, p. 12,

land matters at the states and local levels. There are not national LUP and Land Use Policy and the federal government does have some powers over land affairs regarding more than one state.

China is selected to analyze LUP and land use policy in the state where land is owned by the government akin to Ethiopia. Still China has given emphasis to the importance of LUP and land use policy and has fine experience in wise land utility via adopting these instruments.

The Russia, the Republic of the Union of Myanmar and Kenya are picked up to have an idea about way of drafting LUP through public participation; that is enforceable via legislation; and that which is coercive in nature.

So, these countries are selected with the intention of analyzing their policies and policy devices. Thereby show the Region to take the best principles from them, mix and adjusts to its social, economic, culture and environmental factors in the formulation of its Land use policy and LUP.

#### 3.4.1. **The United States of America**

There are two contradicting views on LUP in many countries of western liberal economy. Some people take land use planning and legislations as interference in the market and as an infringement on their rights. Conversely, others believe that LUP and legislation are necessary tools for the development of common good even if they have constraint on the market interaction and individual property rights.<sup>85</sup>

The recent understanding in the **United States of America** indicates a greater interest in and acceptance of state-level planning and regulation, chiefly in regions of the country facing high-growth rates and threats to environmentally sensitive lands. However, unlike many other countries, the USA does not have a national land-use planning law. And no national land use policy that guides national executive or legislative actions.<sup>86</sup>

In short the following are reasons for the absence of national land-use planning in USA:-<sup>87</sup>

- Specific constitutional, historical, cultural, and economic elements;

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<sup>85</sup> Rowley Thomas, Development by Design: Land use planning and Regulation in Rural Communities, Contractor Paper 01-01, (January 2001), p.2

<sup>86</sup> S. Kayden Jerold, National Land-U se planning in America: Something Whose Time Has Never Come, Washington University Journal of law & Policy, Volume 3, (2000), p.447,

<sup>87</sup> Id., p. 452,

- The very size of the United States,;
- Existence of privately owned lands which is roughly estimated to be 60% of all lands;
- The inclination of many individuals towards the local control over their lands.

Thus, LUP and regulation have mainly occurred at the state and local levels. States have constitutional authority under their so-called “police powers” to plan and regulate the use and development of land.<sup>88</sup> They have instituted the structure within which land-use planning and regulation takes place.

This is not to say, however, that the national government lacks the authority. Pursuant to the interpretive power given to the United States Supreme Court the national government enjoys supreme authority to enact land laws that govern matters affecting the interests of more than one state, even if individual states or citizens disagree.<sup>89</sup> And in the case of land-use problems that suggest national solutions.<sup>90</sup>

### 3.4.2. The People’s Republic of China

Of the world populations 22% are Chinese; while the country has only 7% of arable land. The total area of cultivated land in China which was 130.1 million hectares in 1996 was reduced to 125.5 million hectares by the end of 2003.<sup>91</sup> This shows quite a lot of hectares of cultivated land have therefore been lost each year as consequence of rapid urbanization and industrialization. These strains, in the country, are now escalating the need for an integrated and sustainable<sup>92</sup> move towards planning and managing of land resources.

The Ministry of Land and Resources (MLR) has been in charge for the general administration of land use in China. The Land Administration Law of the country grants the foundation for the land planning system as well as for annual land utilization plan; it as well provides<sup>93</sup> for the method of farmland protection, and land allocation for building and non-building purposes.

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<sup>88</sup> Shibata Byron, Land- use Law in the United States and Japan: A Fundamental Over view and Comparative Analysis, Washington University Journal of law & policy, Volume 10, (January 2002), p.169,

<sup>89</sup> S. Kayden Jerold, cited above at note 86, p. 450,

<sup>90</sup> Id., p. 453,

<sup>91</sup> Koohafkan A.P, Cited above at note 49, p. 312,

<sup>92</sup> Id., p. 313,

<sup>93</sup> Id., p. 314,

Thus, there are two sets of spatial plans in China: the first is the **national land use plan**<sup>94</sup> that consists of the overall land use plan (master plan) and the sector specific LUP established under the responsibility of Ministry of Land and Resources and the second sets are **urban and rural plans**.

### 3.4.3. Russia

Land is considered as the foundation for life and the activities of the people in Russia.<sup>95</sup> The constitution provides for the existence of an enabling environment to every person; and this can happen when land is properly allocated.

Principally, LUP in compliance with the Law on Land Use Planning is the groundwork for land use in Russia.<sup>96</sup> Thus, there are numerous laws regulating land use as stated in the Land Code and other legal acts. Among which the 2001 Law of the Russian Federation on Land Planning establishes the legal foundation for land use planning with the purpose of rational use of lands and their protection, creation of enabling environment and natural landscape improvement.<sup>97</sup> Planning has, furthermore, other legal bases in Russia for instance, the town planning laws.<sup>98</sup>

The special feature of these laws in Russia is the degree of their coerciveness; because any person found to be in violation of land use planning laws are accountable for disciplinary, financial, administrative, criminal and civil responsibility.

Content wise, LUP in Russia includes mapping of land status, planning and organization of the harmonious exploitation of land and the protection and maintenance of soil fertility. As long as, systems of LUP is concerned in Russia, basically there are three levels of land use planning system; at the national, regional, and municipal levels; and the Public participation at all levels of

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<sup>94</sup> Chen Wenbo, et al, cited above at note 27, p. 37,

<sup>95</sup> The Constitution of the Russian Federation, 1993 (rev. 2008), article 9 and 42, available at, <http://www.constitution.ru/en/>

<sup>96</sup> Bykov Pavel, Comparison of Russian and Finnish Planning Systems and Land Use Laws, (Thesis 2012), p. 51-54,

<sup>97</sup> The Law of the Russian Federation on Land Planning, 2001, preamble, available at, <http://www.arcticcentre.org/>

<sup>98</sup> Bykov Pavel, cited above at note 96, p. 51,

planning is an obligatory.<sup>99</sup> Meanwhile, all information about land use types are contained in national land use guidelines and regional land use maps.<sup>100</sup>

#### 3.4.4. The Republic of the Union of Myanmar

The Republic of the Union of Myanmar has various nationalities residing collectively and widely in seven regions, seven states and Union territory.<sup>101</sup>

The country has enacted the national land use policy to manage, administer and use land with special attention. The policy aims to harmonize and implement all existing laws related to land; and as well guides decisions by all relevant bodies to be in accordance to that policy framework.<sup>102</sup>

The national policy of Myanmar dictates that land classification should be based on land use types. It again deals with land information management, LUP, mapping and land use conversion.<sup>103</sup> It consists of principles as a framework for LUP, particularly, those emphases on participatory approach;<sup>104</sup> and classifies land zoning map as follows:<sup>105</sup>

- i. Urban and rural development zone;
- ii. Agriculture zone;
- iii. Protected area or national security zone;
- iv. Commercial, industrial or mining zones;
- v. Forest zone and others

Land use conversion in Myanmar is not an easy task. There are strict rules and procedures to be followed during land use type conversion. The policy coerces land use conversion even by the individual shall be on the bases of the grant of permission; and the grant of permission shall be based on the result of environmental, economic and social impact assessment.<sup>106</sup>

The national land use policy of Myanmar obligates the exiting and newly drafted and enacted land laws to be guided by the principles of the national land use policy for the harmonization of

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<sup>99</sup> *Id.*, p. 54,

<sup>100</sup> *Id.*, p. 52,

<sup>101</sup> The national land use policy of the Republic of the Union of Myanmar, (2016), part-1, p. 1, available at <http://faolex.fao.org/pdf>

<sup>102</sup> *Id.*, part-1, p. 2,

<sup>103</sup> *Id.*, part-2, p. 8-11,

<sup>104</sup> *Id.*, part-3, p. 12,

<sup>105</sup> *Id.*, part-3, p. 14,

<sup>106</sup> *Id.*, part-3, p. 16-17,

all laws in the country. It provides that drafting land laws shall be via the public participation and consultation process.<sup>107</sup>

#### 3.4.5. Kenya

Kenya has land policy that determines land use policy; land use policy that considers the way land and natural resources are used and managed.<sup>108</sup> The country has as well the overall policy that is formed by the prevailing political authority; and LUP as one of the most important means of land use policy.<sup>109</sup>

In Kenya the overall policy determines land policy which again determines land use policy, LUP and management. This process has a down and upward effect in principle in Kenya.<sup>110</sup>

Decision on land use is very complex and is made on the bases of the physical nature, location etc. in Kenya. It needs assessment on the types of land uses, intensity of uses; environmental, social and cultural influences and form of management. The country has employed the national land use policy to regulate and harmonize decisions on land use by:<sup>111</sup>

1. Individuals;
2. Public policies of various sectors and
3. Policies of local government that designed to alter or preserve exiting land use patterns.

#### 3.4.6. Experiences Acquired

The current situation in all countries shows the need for LUP irrespective of their economic policy and of developmental stages; in whatever types of land tenure.

However, there are slight differences among them. For instance, the situation in the USA implies the importance of the local land use policy and LUP over the national ones due to the difficulty of regulating things at the center. This shows the possibility of having regional land use policy and LUP in matters strictly concern a regional state.<sup>112</sup>

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<sup>107</sup> *Id.*, part-10, p. 33,

<sup>108</sup> Hermunen Taru, *Land Use Policy in Kenya: Experiences from Taita Taveta district*, (2004), p. 5-6, available at <http://www.helsinki.fi/science/pdf>

<sup>109</sup> *Id.*, p. 7

<sup>110</sup> *Id.*, p. 9

<sup>111</sup> *Id.*, p. 34-36

<sup>112</sup> S. Kayden Jerold, cited above at note 86, p. 449-450,

The reduction in the amount of arable land in the People's Republic of China due to urban spread-out compel matters of land to be guided by an integrated LUP.<sup>113</sup> The practice in the PR/ of China, therefore, signifies the possibility of having LUP and land use policy in the state where land is predominantly owned by the state.

LUP in Russia is a rule based.<sup>114</sup> Thus, this implies the likelihood of formulating LUP backed by strict law the violation of which makes a person criminally and civilly accountable.

When it comes to the Republic of the Union of Myanmar;<sup>115</sup> the country has given emphasis to the significance of land use policy to regulate LUP, land management and land administration. Land use policy comprises of strict principles; induces every law and decisions concerning land have to be in-compliance to that policy.<sup>116</sup> Therefore, the circumstances in Myanmar and Kenya dictate, the possibility of formulating LUP back by strict land use policy for the harmonization of various laws, plans, and decisions regarding the land.

### **3.5. Chapter Summary**

The chapter illustrated the relationship among LUP, land policies and land laws. The policy implication of land use plan has to do with how it can be applied widely as intervention instruments for the realization of the general land policy objectives. There is also a positive relationship between LUP and land tenure security.

The chapter serves as a foundation for the next chapter that examines land, land legislations and genesis of LUP in the country and the Region. It is of assistant via demonstrating tools and experiences of other countries for the adoption and enforcement of LUP and land use policy in the Region.

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<sup>113</sup> Koohafkan A.P, Cited above at note 49, p.313,

<sup>114</sup> Bykov Pavel, cited above at note 96, p. 51-54,

<sup>115</sup> The national land use policy of the Republic of the Union of Myanmar, cited above at note 101, part-1, p. 1,

<sup>116</sup> Id., part-3, p. 14,

## **Chapter Four: Land, Land Legislation and Genesis of LUP in Ethiopia and Oromia as the Regional State**

The chapter describes aspects of land, land legislation and genesis of LUP in Ethiopia and Oromia. It is devoted to provide answer to the research question which is how far the existing legislations address LUP in the Country and the Region.

### **4.1. General Overview**

Land tenure system in our country has long history and of different features. For instance, the pre-1975 land tenure system was characterized as exploitative; land was concentrated in the hands of a few and underutilized.<sup>117</sup> There were endless litigations over land rights; and complete eviction from holdings.<sup>118</sup> These show that the then land allocation and land use system was inefficient and unfair.

Land tenure during the Derg regime was distinguished as diminution and fragmentation of holdings. Land tenure was insecure; restricted transfer, lack of appropriate land use and administration. Hence the question of efficiency was at stake during the Derg too.<sup>119</sup>

Currently, the 1995 FDRE Constitution and the federal and regional rural land administration proclamations more or less tried to combine efficiency considerations by allowing hired labor and leasing the land. They tried to combine fairness as they permit to hold and use land free of payment.<sup>120</sup> However, land tenure insecurity due to dramatic land use conversion is still persisting.

### **4.2. The Land and Its Aspects in Ethiopia and the Regional State of Oromia**

#### **4.2.1. The Socio-Economic Aspect of Land**

The perception towards land in Ethiopia in general and Oromia in particular, like in other developing countries,<sup>121</sup> is much more intertwined with the people's economic activities and

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<sup>117</sup> Daniel Behailu, "Land Use Legislation in Ethiopia: A Human Rights and Environment Based Analysis", Jimma University Journal of Law, Vol. 3, No. 2, (2011), p. 1,

<sup>118</sup> Ibid.

<sup>119</sup> Shimelles Tenaw, et al, cited above at note 78, p.13,

<sup>120</sup> Crewett Wibke & Korf Benedikt, "Ethiopia: Reforming Land Tenure", Review of African Political Economy, (2014), p. 207-208, available at, <http://www.efdinitiative.org/pdf>,

<sup>121</sup> Daniel Behailu, cited above at note 117, p. 2,

livelihood. These compel us take care in deciding on land-related matters in order to do away with public resistance and emotional responses.

It is known that the majority of the people of the Region live in rural; and make their livelihood on land. For this, use of land for agricultural purpose is the major economic activities. It provides basic social needs and goods for domestic and exports.<sup>122</sup> Thus it is possible to conclude that here land is the foundation of economic development and transformation.

#### 4.2.2. **The Socio-Cultural Perspective of Land**

Land is also a measure of identity and person-hood<sup>123</sup> particularly in rural areas of the country and the Region. This kind of perception towards land obligates matters of LUP, land use law and policy to be analyzed from the perspectives of religious, identities and cultural values of the people.

This is because our communities that have settled in a given land over the years consider that land as a cultural inheritance from their prior generations. They believe that their spiritual life is closely connected to that land and local geological formations like as mountains, valleys, forests water bodies etc.

On contrary, the physical and cultural survival of these people is dependent upon the protection of their land and its resources. These relations, the people have with the land and its resources may be eroded because of forced removal from their traditional lands and sacred sites.<sup>124</sup> The introduction of new programs or formulation and implementation of new policies related to land without local peoples' consultation or participation may also result in social disruption<sup>125</sup> since it introduces competition on already scarce resources and forced removal from their traditional lands. So how to entertain and compromise these situations in the LUP, land use policies and legislation in the Country and the Region?

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<sup>122</sup> Darabant Andras, cited above at note 19, p. 6,

<sup>123</sup> Daniel Behailu, cited above at note 117, p. 2,

<sup>124</sup> Ministry of Lands and Physical Planning of Kenya, cited above at note 6, p. 24-25,

<sup>125</sup> Id., p. 25,

### 4.3. Land Legislation and Genesis of LUP in Ethiopia and the Region

#### 4.3.1. Land Legislation

##### 4.3.1.1. Land Policies

Land policy<sup>126</sup>, as aforesaid, deals with how land is allocated, transferred (sales, lease, loan, gift or inheritance); and focus on how land is taxed or how the process of land dispute is taking place.

Land policy is essential and a government particularly in developing countries<sup>127</sup> like Ethiopia has to have a land policy to achieve a rapid economic growth. But care should be taken, because there is no uniform and universally accepted and appropriate land policy<sup>128</sup> that fit to all. Its bases and efficiency differs from country to country and partly depends on socio-cultural and geographical variables.

Thus, “The Land policy” of Ethiopia like in that of the majority of African countries is based on a pending ideological outlook and existing problems.<sup>129</sup> For instance, the pre 1975 land “policies” of Ethiopia were based on a feudal system; characterized by accumulation of land in the hands of few absentee landlords and tenure insecurity.<sup>130</sup>

The Derg launched the Marxist-oriented (socialist) land policy in 1975 and made land a public property<sup>131</sup> (usufruct rights to a large number of rural families); while declaring all land to be the property of the state.<sup>132</sup>

After 1991 the current government committed to a free market philosophy; however, it has made little substantive changes<sup>133</sup> in land tenure system. The existing government largely maintained

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<sup>126</sup> Zemen Haddis et al, cited above at note 75, p. 6-13,

<sup>127</sup> ARD Inc., Ethiopia Land Policy and Administration Assessment, Final Report with Appendices, (May 2004), p. x, available at, <http://www.globalprotectioncluster.org/>

<sup>128</sup> Osada Mamoru, “Emerging Long-Term Factors Derived from the World Population Growth for Monitoring and Evaluation of Land Use Planning”, *Land Use Planning and Policy*, (2004), p. 58, available at <http://unesdoc.unesco.org/pdf>

<sup>129</sup> Tesfaye Teklu, “Emerging Informal Land Markets: A Quest for Equitable and Efficient Land Tenure Systems”, *Western Michigan University*, (2001), p. 1, available at, <http://scholarworks.wmich.edu/cgi/>

<sup>130</sup> ARD Inc., cited above at note 127, p. 3,

<sup>131</sup> *Id.*, p. 3,

<sup>132</sup> Public ownership of rural lands proclamation, 1975, article 3 and 4.5, proclamation No. 31/1975, *Neg. Gazeta*, No.26,

<sup>133</sup> ARD Inc., cited above at note 127, p. 3,

the policies of the Derg. Nonetheless, it permits limited leasing and inheritance rights to be exercised.<sup>134</sup>

Policy matters in relation to land in Ethiopia are not found in a single legal instrument. However, currently the FDRE Constitution serves as a principal policy document. As to the constitution the right to ownership of rural and urban land, as well as of all natural resources exclusively belongs to the State and the peoples of Ethiopia.<sup>135</sup> It grants land as a common property of the Nations, Nationalities and Peoples of Ethiopia and that it shall not be subject to sale or to other means of exchange.

The constitution tried to address issues of sustainable land use through empowering the Federal Government to enact laws for the utilization and conservation of land and other natural resources including historical sites.<sup>136</sup> Article 52 (2) (d) grants the power of administering land and other natural resources to the regional states in accordance with the Federal laws. Under its Article 89(5) it proclaims that the government has the duty to hold land and other natural resources on behalf of the People and to deploy them for their common benefit and development.

#### 4.3.1.2. *Land Use Policy*

Land policy and land use policy differ in scope; because land policy is a political document of the state, while land use policy is a document by which a state addresses its policy goals regarding sustainable land use and management. It is used to direct the planning process and goals; harmonize sectoral interests at all levels; integrate LUP of rural and urban areas.<sup>137</sup>

Consequently, there is no comprehensive land use policy in Ethiopia and Oromia with guiding principles that defines about an integrated land use plan and assists for the allocation of land to its best social, economic and environmental sustainability; that can be cascaded to the regions so that they can issue their own policies.<sup>138</sup>

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<sup>134</sup> The Constitution of the Federal Democratic Republic of Ethiopia, 1995, article 40, Proclamation No.1/1995, Federal Neg. Gazeta, Year 1, No.1,

<sup>135</sup> Ibid

<sup>136</sup> Id., Article 51(5)

<sup>137</sup> Zemen Haddis et al, cited above at note 75, p. 14,

<sup>138</sup> Ibid

#### 4.3.1.3. *Land Laws*

The pre-1975 land laws: - In the pre 1975 two kinds of land tenure system existed in Ethiopia; one in the North and the other in the South. Land tenure system was classified, among others as, rist (kinship), village and private, state and church land holdings.<sup>139</sup> The rist (linage)<sup>140</sup> system was prevalent in the northern part; while Gult,<sup>141</sup> a form of private ownership, was prevailed mainly in the southern regions of the country.

The Proclamation No. 31/1975:- proclaimed in 1975 by the Derg; introduced fundamental changes in land tenure system by providing public ownership of the lands. It made lands to the tillers by nationalizing all the land in the country;<sup>142</sup> abolished tenancy and private ownership over the land;<sup>143</sup> liberated the poor peasant from all types of duties to the landlords.<sup>144</sup> However, the proclamation prohibited transfer of land by sale, lease or mortgage;<sup>145</sup> provided peasants only with use rights and prohibited hired labor.

The Rural Land Administration and Use Proclamation No. 456/2005: - was issued by replacing the previous federal Land Administration and Use Proclamation of 1997; based on Article 51(5) of the Constitution. The objectives of the proclamation are, among others, to ensure sustainable rural land uses and to establish a favorable environment for rural land administration.<sup>146</sup>

The proclamation is, therefore, defined a rural land use plan as such as ‘a practice whereby the options that give greater economic benefits without causing land degradation and environmental pollution are determined and implemented from among the different use options a rural land can give on the basis of physical, economic and social information’.<sup>147</sup>

Article 16 (1-3) of the proclamation is about the responsibility of the Federal Ministry of Agriculture and Rural Development (MoARD), among which:

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<sup>139</sup> Husen Jimma, The politics of land tenure in Ethiopian history: experience from the south, (2004), p.1-5,

<sup>140</sup> Daniel Weldegebriel, Land Rights in Ethiopia: ownership, equity, and liberty in land use rights, (2012), p. 2,

<sup>141</sup> Husen Jimma, cited above at note 139, p. 4-5,

<sup>142</sup> Public ownership of rural lands proclamation, 1975, article 3 (1 and 2), proclamation No. 31/1975, Neg. Gazeta, No.26,

<sup>143</sup> Id., article 4 and 5,

<sup>144</sup> Id., article 6(3),

<sup>145</sup> Id., article 5,

<sup>146</sup> The FDRE Rural Land Administration and Land Use Proclamation, 2005, article 2(2), Proclamation No. 456/2005, Negarit Gazeta, Year 11, No.44,

<sup>147</sup> Id., article 2 (6),

1. Developing new policy ideas, and the amendment of the existing policy, as necessary on the basis of the information gathered at national level and those to be obtained from time to time through monitoring and evaluation;
2. Creating the system for the exchange of information between regions and the Federal Government pertaining to rural land administration and use.

The proclamation empowers each regional state to enact rural land administration and land use law, which consists of detailed provisions necessary to implement this Proclamation.<sup>148</sup> It also allows regions to establish institutions at all levels that implement rural land administration and land use systems.<sup>149</sup>

In the end we can conclude that, notwithstanding the existence of all these legislations, they do not provide adequately about the details and guidance on how to undertake an integrated land use planning and on how to regulate and enforce it.

#### 4.3.2. Genesis of LUP in Ethiopia and the Region

The Ethiopian economy depends largely on the performance of agriculture.<sup>150</sup> The influence of the agriculture sector on the economy depends on effective land exploitation;<sup>151</sup> which again depends on land policy instrument (LUP etc.).

Though having LUP was useful in providing an overall picture of land use capability at a national and regional scale but there has not been comprehensive LUP in Ethiopia. This does not mean that, Ethiopia in general and Oromia in particular, have not got any land use plan. As indicated before there are varieties of un-integrated plans by different sectors.

Accordingly, there were various attempts to have LUPs in different times in the country. The Derg established the Land Distribution Department under the Ministry of Land Reforms and Settlement which later changed to Land Use Planning and Distribution Department. In 1977 the Ministry of Land Reform and Administration (MLRA and the Ministry of Agriculture (MOA)

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<sup>148</sup> Id., article 17(1),

<sup>149</sup> Id., article 17(2),

<sup>150</sup> Ethiopian Economic Association (EEA), “Unemployment Challenges and Prospects”, Report on the Ethiopian Economy, Volume V, 2007, p. 11,

<sup>151</sup> Deininger Klaus, Selod Harris, and Burns Anthony, cited above at note 66, p. 31,

were amalgamated and the `Land Use Planning and Distribution Department was formed under the MOA.<sup>152</sup>

The national level land use planning was conducted in Ethiopia in 1983-1986 in selected areas of the country.<sup>153</sup> There are also land use plans in urban areas although not detailed and not conducted through more information collection process. Most urban plans are prepared at a center, often with little link to reality on the ground, without publication and exclusive of public consultation.<sup>154</sup>

Besides, there were various programs to prepare land use plans based on river basin. For instance, ‘Integrated land use and development plans’<sup>155</sup> which were planned at sub-basin level by Oromia regional state from 2010-2014.

Recognition has also been given to the importance of LUP under the following strategic, official documents and laws:

- 1) The Growth and Transformation Plan GTP<sub>1</sub> and GTP<sub>2</sub> mention agro-ecological zoning and various LUP activities for the integrated development and utilization of the resources;<sup>156</sup>
- 2) The 2003 Rural Development Policy and Strategies as developed by the Ministry of Finance and Economic Development (MFED); recognizes a need for detailed development plans for each agro-ecological region to accelerate and sustain the overall agricultural development;<sup>157</sup>
- 3) The Plan for Accelerated and Sustainable Development to End Poverty (PASDEP) which again developed by the Ministry of Finance and Economic Development (MFED) in

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<sup>152</sup> M. Cohen John and H. Koehn Peter, Rural and Urban Land Reform in Ethiopia, (1978), p. 45, available at, <http://pdf.usaid.gov/pdf>

<sup>153</sup> Tigistu Gebremeskel et al, Scaling up Responsible land governance, Annual World Bank Conference on Land and Poverty, (2016), p. 9-11,

<sup>154</sup> Deininger Klaus, Selod Harris, and Burns Anthony, cited above at note 66, p.97-98,

<sup>155</sup> Zemen Haddis et al, cited above at note 70, p. 3-4,

<sup>156</sup> MoFED, Growth and Transformation Plan (2010/11-2014/15), Volume I: Main text(2010) and MoFED, Growth and Transformation Plan (2015/16-2019’20), Volume I: Main text, (2015),

<sup>157</sup> Ministry of Finance and Economic Development of Ethiopia, Rural Development Policy and Strategies, (2003),

2006 calls for the integrated development and utilization of the resource (land, soil, water and forest) for a better living and sustainability;<sup>158</sup>

- 4) The Ethiopia Sustainable Investment Framework for Sustainable Land Management (ESIF/SLM), launched in 2008 mentioned about LUP at federal, regional and local levels;<sup>159</sup>
- 5) The 2010-2020 Agricultural Sector Policy and Investment Framework (PIF);<sup>160</sup>
- 6) The Rural Land Administration and Land Use Proclamation No 456/2005 of 2005, recognizes a land use planning based on different agro-ecological zones of the country. It states that “A guiding land use master plan, which takes into account soil type, landform, weather condition, plant cover and socio-economic conditions and which is based on a watershed approach, shall be developed and implemented by the competent authority.

The Oromia Regional State has planned to formulate an integrated land use planning in five sub basins<sup>161</sup>:-

- Upper Awash Sub Basin,
- East-West Harerge,
- Borana (Dawa) Sub Basin,
- Guji-Bale and
- Guder-Abaya Sub Basins.

Of these the first to third has already been developed; and Guji-Bale and Guder-Abaya sub basin are in the process. The planning process is conducted under the responsibility of, previously called, The Oromia Rural Land and Environmental Protection Bureau; now replaced by The

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<sup>158</sup> Ministry of Finance and Economic Development (MoFED), A Plan for Accelerated and Sustained Development to End Poverty (PASDEP), Volume I: Main Text, (unpublished, 2006),

<sup>159</sup> Ministry of Agriculture and Rural Development, Ethiopian Sustainable Land Management and Investment Framework, (2008),

<sup>160</sup> The Ministry of Agriculture and Rural Development (MoARD), Ethiopia’s Agricultural Sector Policy and Investment Framework (PIF) 2010-2020, (2010),

<sup>161</sup> Interview with Ato Alemayo Amde, Expert of the Oromia Rural Land Administration and Use Bureau, Oc. 2017.

Oromia Rural Land Administration and Use Bureau. The planning activities have been performed mainly by the Oromia Water Works Design & Supervision Enterprise (OWWDSE).<sup>162</sup>

These plans show major land uses based on the existing situations without putting land use alternatives based on the evaluation of the potentials of a given parcel of land. It has not been participatory and the planning process was a top-down approach.

This is against the principles of land use planning that dictate the planning (particularly rural land uses) has to be a bottom-up approach. The plan, further, does not consider areas with ground water regeneration and not propose on how to manage their quality; it does not have both policy and legal backing for its implementation. Hence most executives as revealed during surveying have not got the knowledge about it and so no one takes it even as a guideline for themselves.<sup>163</sup>

From these we can say, despite these schemes to prepare LUP and land management, in the first place they are not wide in scope. In the second their implementations have failed due to the absence of enforcing legislations. Mean while there are lack of awareness as a result of lack of public participation in the planning process; and absence of coordination and limited execution capacity.

The practices from other country show that LUP should be a multi-sectoral and integrated and needs to involve all stakeholders.<sup>164</sup> Nonetheless, currently both the federal and regional governments have not got an integrated land use plan that would be implementing via legislations in Ethiopia. And that is why there is no enforcement and understanding about LUP equally among all the executives.<sup>165</sup>

Therefore, land use system in the Region is random even in urban areas where there is a city master plan. And in rural areas there is an inclination to a long tradition that people have been using land in unplanned and uncontrolled way; and these problems are still persisting.

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<sup>162</sup> Ibid

<sup>163</sup> The Oromia Rural Land and Environmental Protection Bureau, The Upper Awash Sub Basin Integrated Land Use Plan, (2014), p. 5-10, 114-131,

<sup>164</sup> Samuel Tefera et al, Pastoralists Do Plan! Community-Led Land Use Planning in the pastoral areas of Ethiopia, (2016), p. 14,

<sup>165</sup> Survey data, cited above at note 81,

#### **4.4. Chapter Summary**

Land is both the basis of the economy and personhood in the Region. There were various attempts to have LUP in the Country and the Region in different times. However all these schemes have not been successful; owing to lack of public participation in the planning process and absence stipulations for their implementation. Hence this chapter lays a foundation for treating major land use problems in peri-urban rural areas of Oromia as has dealt in the next chapter.

## **Chapter Five: Land Legislations and Land-Use Challenges in the Peri-Urban Rural Areas of Oromia**

This chapter focuses on the principal research question, i.e., about the overall land use system and challenges on land tenure in the peri-urban rural areas of the Region.

### **5.1. The Regional Land Policy and Laws**

There is no single document in the name of land policy in Oromia as in that of the country. However, the region has formulated different legal instruments as per the federal and Regional constitutions. Based on these, the Region has been enacting laws dealing with on how land can be accessed, used, transferred, managed and conserved.

Thus the Rural Land Use and Administration Proclamation No 56/2002 was endorsed in 2002. The proclamation grants better tenure security than the other regional land laws. Because it ruled out the redistribution of land plots and grants ‘lifelong usufruct rights’;<sup>166</sup> and grants land free of payment to peasants and pastoralists<sup>167</sup>.

The proclamation put some grounds in which the violation of lifelong usufruct rights on land can take place. Among which expropriation when the land is required for ‘more important public purposes’.<sup>168</sup> It as well imposes a number of obligations on holders to manage the land (conservation) as a condition for the usufruct rights.

Proclamation No.130/2007 was issued in 2007 as Proclamation to amend Proc. No.56/2002, 70/2003, and 103/2005 of the Oromia Rural Land Administration and Use presumably on the basis of the Federal Laws. It has taken into account most of the provisions of the earlier laws. Besides there are some new inclusions in it in connection to the right to mortgage the property acquired on the land by the investors and issuance of certificate of holding in the name of the rightful person.

Under its article 25 the Proclamation dictates for the proper management and conservation of the land by abstaining from activities that aggravate soil erosion, forest clearing and tiling

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<sup>166</sup> The Oromia Rural Land Use and Administration Proclamation, 2002, Article 6 (1), Proclamation No.56/2002, Megeleta Oromia, 9th Year, No.2

<sup>167</sup> Id., article 5(1),

<sup>168</sup> Id., article 6(4),

sloppy land and by refraining from planting tree species that may cause damage to the land and eradicate weeds that cause harm to the land. Yet, without any measure on those who violate these prohibitions.

It tries to mention about the protected areas; and also provides for the establishment of Rural Land Administration Commission to administer the land.<sup>169</sup>

Although the proclamation states that land use plan shall be prepared by the state organ with the participation of the community, yet not practiced in the Region; and it has very few and incomplete provisions that use to guide and to regulate LUP.

## **5.2. Land Use Challenges in the Peri-Urban Rural Areas of Oromia**

### **5.2.1. General Overview**

The Oromia Regional National state is the one among the regional states in Ethiopia with a larger population size. The number of population in the Region was 33,691,991 in 2015 of which more than 87% of the people<sup>170</sup> live in rural areas. The land area of the Region is estimated to be 354,000 Km<sup>2</sup> which represents 30% of the total area of the country.<sup>171</sup> A large area of the Region has sufficient rainfall suitable for agricultural activities. Nonetheless most areas of the east and southeast of the region suffer from inadequate rainfall.<sup>172</sup> The highlands of the Region are densely populated and characterized by sedentary agriculture with a mixture of crop-livestock system;<sup>173</sup> and the lowlands are inhabited mainly by pastoralists. The Region, furthermore, has considerable potential of mineral assets; and both surface and underground water resources.

The land in the Region is under pressure through man-made and natural processes. Small landholdings are particularly common in highland areas. Thus steep slopes are being cultivated,

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<sup>169</sup> The Oromia Rural Land Administration and Use Proclamations, 2007, Proclamation No. 130/2007, Megeleta Oromia, 15th Year, No.12,

<sup>170</sup> Ministry of Environment Forest and Climate Change, Oromia Forested Landscape Program (OFLP) Social Assessment (SA), (2017), p. 54,

<sup>171</sup> DSE – GTZ, cited above at note 21, p. 38,

<sup>172</sup> Id., p.39,

<sup>173</sup> The Oromia Regional State, A Strategic Plan for the Sustainable Development, Conservation, and Management of the Woody Biomass Resources, final report, (unpublished, 2002), p. 25-44,

soil fertilities are degrading. Forest cover in the Region has declined and water bodies are under threat from waste disposal.<sup>174</sup>

Conflicts over the land as observed in the study area (east Shewa Zone) are other man-made risk in the Region. There are varieties of disagreements over land uses between farmers and sectors of the government, farmers and investors or between government sectors themselves (as shown in table below).

*Table 1: The Scope of land use Conflict between investment activities and the rural communities;*

<b>Is there conflict?</b>	<b>Number</b>	<b>In %</b>
Yes	22	73.3
No	7	23.3
Uncertain	1	3.33

Source: Constructed by the writer based on survey data, 2017

To this 73.33% of the informant farmers of the sample areas verified the incidences of contradiction over the land use between the local communities and different investment activities. The major forms of conflict in this aspect are entering into and taking farmers land more than that which allowed by the concerned organ (boundary conflict); disposing wastes and chemicals into farm lands, rivers and into residence areas; air pollution; establishing industries which are environmentally unfriendly and enclosing the way-out to farmers.

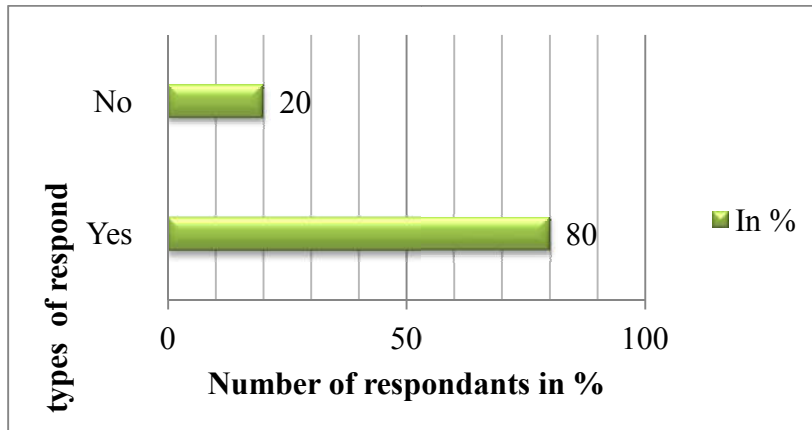
As stated before, different institutional and legal frameworks for land administration have been established during the last decades in the Region. However, they have not been effectual in addressing these evils and unable to regulate and guide the process of urbanization, industrialization and investment activities.

Some important reasons for these are short of integrating conflicting interests on land among different organs; absence of land use policy and binding laws; lack of public participation in land matters; and deficiencies in coercive legal provisions for proper suitability assessment and assessment of the consequences to other resources.<sup>175</sup>

<sup>174</sup> survey data, cited above at note 81,

<sup>175</sup> Ibid

*Chart 2: Level of contradictory or overlapping decisions on land allocation between the federal and Regional governments*



Source: Constructed by the writer based on survey data, 2017

There are as well situations in which conflicts between the Regional and federal States arise due to conflicting or overlapping decisions over the use of land. For instance, the majority (80%) of the officials (experts) as identified during the field surveying reflected the presence of high level of contradiction or overlapping decisions in land allocation between the two tiers of the government. This is due to the fact that, in the first place, there is no instrument that is used to guide decision makers and regulate their action to be in the framework of the stipulated guideline. In the second, violation of the existing sector specific land laws and LUP by the Organs of the state. Most experts admit that the federal government sometimes gives decisions in violation of the power of land administration granted to the Regional state. For this reason, a large number of the experts (officials) propose that there should be an integrating instrument showing decisions and priorities identified by the local or federal governments.<sup>176</sup> In addition, there should be land use policy and the policy instruments that bind both the federal and regional states to act accordingly. These instruments in the first place assist to integrate sectoral plans. In the second they use to regulate activities of various organs on the use of land. Finally they use to avoid tension between the two levels of the government.

<sup>176</sup> Survey data, cited above at note 81,

In some instances contradiction occurs during monitoring those investment activities that secure investment permit from the federal government. Since they are reluctant to obey the Regional laws and regulation and not act accordingly.<sup>177</sup>

On top of that, land use system in the Region is random and suffers from frequent land use changes without community consultation and participation. For instance, over 83.33%<sup>178</sup> of the farmers witnessed the nonexistence of public participation during land purpose conversion and opposes the moment land use purpose alteration method.

### 5.2.2. Impact from Urbanization

As was observed in the field survey, urban centers have been expanding tremendously in the sample Zone. The rate at which these centers are expanding into areas surrounding towns in the Zone is high. As a consequence, there are a number of urban-rural boundary conflicts and disagreements. And the followings are identified in the fieldwork as major challenges: -

- Urban-rural boundary conflicts, due to the lack of specified boundary demarcation and absence of an organ that coordinates the two centers,
- Intrusion to rural land by urban administrations to satisfy their demand for land for lease, without consulting the local people and in exclusive of impact and need assessment,
- Fear of the local communities to be engulfed and lose their land use rights (fear of displacement),
- Absence of the overall socio-economic and socio-cultural study during urban expansion;
- Lack of transformational activities to change farmers to become familiar to the new circumstances; such as intensive farming system on small plots of land, training and others;
- Unregulated urban and industrial expansion on farmlands and farming livelihood,
- Informal settlement and resistance from informal settlers not to be displaced,
- Implementing urban plan without convincing landholders,
- Non consideration of the existing residence areas of the local community,
- Waste disposal into farm lands and rivers; and air pollution (by urban and industries).

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<sup>177</sup> Interview with Ato Ishetu Nagawo, Team leader at the Ada Woreda Natural Resource and Environmental Protection office, (Oct. 2017),

<sup>178</sup> Survey data, cited above at note 81,

These imply that urban expansion in most of the time takes place at the expense of conversion of agricultural land and displacement of farming communities in the peri-urban rural areas. Rapid and unplanned urbanization, commercial development is the typical characteristics of the Region.<sup>179</sup> In the meantime, the small towns are usually expanding into the nearby towns without maintaining a space in between as a buffer zone and areas that generate surface or ground water.

Proper and sustainable land allocation both at the federal and regional level remain a pressing problem. So the urbanization plans implemented in different period of time in the Region hitherto have not been participatory and not guided by land use plan; all urban master plans failed to balance urbanization, the protection of arable land and natural resources; they failed to adjust to the demands of society and the reality on the ground.<sup>180</sup> Thus this has been negatively influencing the livelihood of farmers on the peri-urban rural areas.

Several hectares of arable land have been losing every year as a result of land use conversion. Some farmers completely lost their farmlands and became landless.<sup>181</sup> These changes in land use from rural to urban in addition can have adverse effects on ecological, environmental, social and cultural values. Therefore, it is impossible to stop urbanization, but appropriate land use policy and land use plan for sustainable development of both urban and rural areas is crucial to turn the problems into advantages.

### **5.2.3. Challenges from Industrialization and Investment Activities**

The current trend of land allocation for investment in Oromia does not consider social, economic, cultural and environmental suitability. It is because there is no instrument as a guideline which serves to regulate the process of land allotment. For example, a donkey slaughter center at Dibayu Kebele of East Shewa Zone (in the periphery of Bishftu town).<sup>182</sup> Had there been a tool that takes into account the Religious and cultural values of the local community, the center would have not been established and there would have not been public resistance and irritation.

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<sup>179</sup> Survey data, cited above at note 81,

<sup>180</sup> Ibid

<sup>181</sup> Ibid.,

<sup>182</sup> Ibid.,

Of course, the industrial sector is in its early stage as compared to the agriculture sector that accounts for 45% of the national GDP and offers job opportunities to 85% of the labor force; while the industrial sector contributes only to about 13% in 2011 to the GDP and less than 5% in job creation in Ethiopia.<sup>183</sup> However the current situation shows that industrialization has adverse impact on arable land and the environment visa vise to its contribution to the economy. It has led to drastic farm land conversion in the Region which resulted in the reduction of cultivated lands and amount of production at the household level. For instance, the study conducted in five kebeles surrounding Gelan and Dukam towns of Oromia proves a land conversion rate in the peri-urban rural areas is high.<sup>184</sup>

In the same manner, the current progression of industrialization in the Region is against the principles of the trickle-down effects of investment activities. As these activities are not moving in favor of the local peoples' expectations.<sup>185</sup> Because, on the one hand, there are rapid conversions of cultivated lands, on the other hand, there are slow industrial and low investment activities on the converted areas.

#### **5.2.4. Pressure from Informal Land Deals**

Fundamentally, informal land transfers are those that are not explicitly recognized by the state and have no legal backing for their enforcement when the rights are violated.<sup>186</sup> However, the informal land deals are among the major challenges predominantly in the peri-urban rural areas of Oromia; even though, both the federal and Regional constitutions plus land proclamations exclude the freedom of selling or buying land from the bundle of rights given to the landholder.

#### **The extent of informal land transfer in peri-urban rural areas of Oromia**

As has been revealed from the field survey, there are numerous reasons for the informal land deals. In the initial, urban plan by itself is more often initiates farmers to sell land informally; because farmers know the money they get through compensation is not sufficient to sustain their life and of their families. Even, sometimes they are not sure how much they earn via

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<sup>183</sup> Diriba Dadi et al, The Impact of Industrialization on Land Use and Livelihoods in Ethiopia: Agricultural Land Conversion around Gelan and Dukem Town, Oromia Region, (2015), p. 37-38,

<sup>184</sup> Id., p. 47,

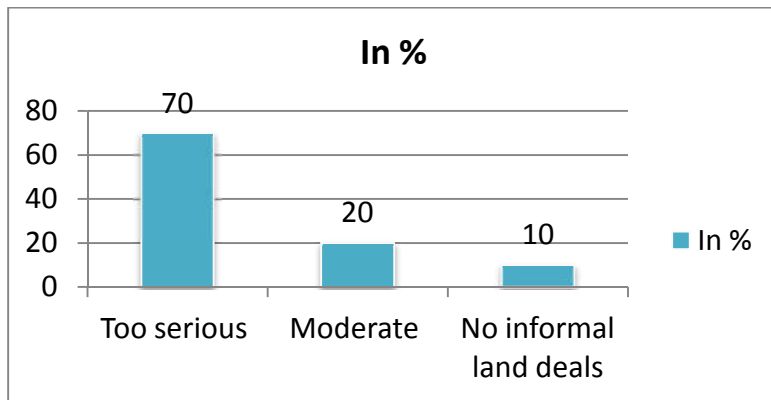
<sup>185</sup> Id., p. 49-50,

<sup>186</sup> Daniel Behailu, Transfer of land rights in Ethiopia towards a sustainable policy framework, (11<sup>th</sup> ed., and 2015), Netherlands, p. 110,

compensation and not sure whether they secure timely payment.<sup>187</sup> In subsequent, the reality in the study areas demonstrates ample situations in which farmers are displaced from their land without prior payment. These conditions instigate for the expansion of informal land deals which at the end impedes urban plan implementation, resource management and land use system.

There is also supplementary empirical evidence from the sample areas showing the degree of informal land deals:-

*Chart 3: Demonstrating degree of informal land deals in peri-urban rural areas*



Source: Constructed by the writer based on survey data, 2017

The chart shows that 70% of the experts support the fact that land garbing for residential is so high in peri-urban rural areas ahead of urban expansions.

The current trend of informal land sells possibly will negatively impact future land allocation for urban as per their demand. That is, it has contribution to the random situations in land use categorization.

The data from the survey areas indicates the following as the major causes of informal land deals:- Population growth; unfair resource (land) distribution; corruption; population inflow due to displacement etc.; and of all lack of LUP, legal and institutional framework that coordinate urban and rural development based on the needs and interests of the local communities.

<sup>187</sup> Survey data, cited above at note 81,

Most respondents strongly agreed on the presence of land tenure insecurity, as the government evicts holders from their old possession at any time. As a result they transfer their land illegally to win the land grabbing conflict between them and the government.

### **5.3. Other Factors Enhancing Problems in Peri-Urban Rural Areas of Oromia**

We have seen that, in the Region the economy is largely reliant on agriculture and the majority of the population lives in rural areas. We have also seen that, land continues to be the main security for the livelihoods of most families in rural and peri-urban rural areas (suburbs).

In view of this, strengthening the land tenure security of the local communities of these areas does have a crucial role; and securing land tenure would in turn help prevent random land utilization.

The experiences of other countries indicate that improving land conservation and utilization have considerable importance; and that these experiences could be implemented within the contexts of poor countries as well. For example, there are good experiences in countries such as China while land is owned by the state, so it is possible to make improvements in land utilization and administration in the Region too.

Currently, our country is in a situation where it has to review the policy and the legal issues which lead to efficient and sustainable land utilization and administration. Though the Oromia Regional State has implemented the registration of rural land which is considered as one of the largest action, this by itself has not been found to be sufficient to realize land tenure security.

In general, the followings are problems in land use system in the Region:-

- a) Problems attributed to legal framework;
- b) Absence of a holistic (integrated) LUP;
- c) Existence of sector specific contradictory laws and LUPs;
- d) Weak institutional capacity;
- e) Non public participation in land use conversion and law drafting;
- f) Information gaps about land use types.

### 5.3.1. Problems Attributed to Legislation

Both the FDRE as well as the Regional constitutions provide for the enactment of the laws on the conditions in which land has to be utilized and administered. However, there are gaps in legislations issued by federal and regional states as treated below.

#### 5.3.1.1. *Lack of Legal Stipulations for Rural to Urban Land Conversion*

With regard to urban-rural interface, the basic problem is the way in which rural lands are changed into urban lands. The current procedures<sup>188</sup>, as inferred from the field study, indicate that when rural lands are changed into urban lands, the concern is on the settlement of the compensation and transferring the land for public use. This procedure is not preferable in light of the current practice at the global level.<sup>189</sup> The international experience shows that when rural land is transferred to urban land, the holders (possessors) of the land have to get, in addition to the compensation for the land, a payment which enables them to lead, if possible, the life better than before the expropriation, or at least equivalent to their previous living conditions<sup>190</sup>, i.e., rehabilitation and transformation measures should be there in addition to compensation. It is important to replicate this experience and readjust the legal framework in this context in our country as well.

#### 5.3.1.2. *Gaps in Land Legislation*

There is no land use policy that binds and in the framework of which rural and urban land policy instruments as well as proclamations for holistic land utilization are enacted and enforced in the Region, even in the country. As a result, the establishment and expansion of urban centers, including other land exploitation activity, has become uncontrolled<sup>191</sup>. This has a negative effect on the land tenure rights of farmer's dwelling in the peri-urban rural areas. Hence the lack of legal and institutional framework which regulate and administer both urban and rural land utilization are issues which require a priority.

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<sup>188</sup> Survey data, cited above at note 81,

<sup>189</sup> Interview with W/ro Kebebush Gidelewu, expert at Ada Woreda Rural Land Administration and Use Office, (Oct. 2017),

<sup>190</sup> Galgani Pietro et al, towards a protocol on fair compensation in cases of legitimate land tenure changes: Input document for a participatory drafting process, (2016), p. 33-39, available at, <http://landportal.info>

<sup>191</sup> Survey data, cited above at note 81,

At the moment, there are a number of federal and regional land laws in relation to land in the country. Within the Region there are urban, rural and sectoral land legislation and policies. The Regional land policies, as constantly stated, are contained in many disparate legal documents including development Plans and other sectoral policies and strategies. As a result, all these have culminated into uncoordinated and inappropriate land exploitation.<sup>192</sup>

### 5.3.2. Absence of Integrated LUP

In Oromia as in that of the whole country, there is no an integrated land use plan on the bases of which land for different activities is zoned. As a result, the land that should be used for agricultural activities, that which should be used for urban residential areas or that which is better used for industrial purposes is often used for less viable purpose. The absence of a ratified plan as to when and how urban areas should be expanded through the participation of the society at large has been impacting the peri-urban rural areas and has raised the land tenure insecurity.

The plans prepared by the urban areas, as identified in the fieldwork, are not presented to the wider concerned community for discussion (not transparent). For this reason, they are not accommodating the needs of the society; do not clearly indicate the ways in which environmental protection and conservation activities are managed. Urban sectors do not have general policy guideline for planning; and thus, they face difficulty during implementing the plan or at the moment of utilizing the land for the intended purposes. They sometimes interfere in the rural areas whenever they want land for lease in the name of urban expansion.<sup>193</sup> In doing so they often affect land tenure security of landholders (farmers)' in different ways. It is well known that residences of the peri-urban rural areas are not consulted and not transformed when they are incorporated into the urban jurisdictions; and they do not even know the advantages and disadvantages of the incorporation.<sup>194</sup>

In the meantime, there is no coordination between urban plan implementation and rural land use system as evidenced by the experts (100%). Similarly, there is no legally stipulated time limit for rural to urban integration and no instruments that determine the distance between towns (as

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<sup>192</sup> Survey data, cited above at note 81,

<sup>193</sup> Ibid

<sup>194</sup> Ibid

confirmed by 81.82 % of the informant experts). Consequently, the fact that this problem is grave necessitates a thorough attention.

### 5.3.3. Existence of Sector Specific Contradictory Laws and LUPs

Various sectors and government agencies have different land use needs. For example, agriculture sector needs fertile land; industrial segment wants areas with full infrastructure. Transport, forestry, wildlife, urban development and social services have different needs for land. On contrary, there are no instruments with a common guiding principle that takes into account all these needs. As a result each sector has its own land use action plan and laws, which are not integrated with those of other segments.<sup>195</sup> Along with this, each sector or institution sticks to its objectives rather than the overall goal in land use planning. These disharmony in land uses by various sectors always causes of conflict and land under utilization in the Region.<sup>196</sup>

### 5.3.4. Weak Institutional Framework and Implementation Capacity

The success of a good land use policy largely depends on a well-structured institutional and legal framework both at the national and regional levels. Currently, the Ministry of Agriculture (MOA) is responsible for administering and coordinating land issues at federal level in Ethiopia.

Each Regional State has its own institutional arrangement; for instance, the Bureau of Land and Environmental Protection (OBLEP) in Oromia, now called as 'The Rural Land Administration and Land Use Bureau' and 'The Urban Land Development and Management Agency.'

The responsibility of administering land-related issues in urban areas is entrusted to urban administrative bodies. While in rural areas, land administration and the daily management of land issues is delegated to woreda and kebeles. These institutions can get support on land administration from zones and the Region.

In general, land administration and management in the Region is categorized into urban and rural sectors and is complex.<sup>197</sup> That is land use activities involve uncoordinated multiple players. There are jurisdictional and legal separations over the matters of land.

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<sup>195</sup> Survey data, cited above at note 81,

<sup>196</sup> *Ibid*

<sup>197</sup> Survey data, cited above at note 81,

The fact that urban and rural land administration is separate and there is no institution which brings these two together has resulted in lack of cooperation and coordination between the two sectors and opened a door for unsustainable land utilization.<sup>198</sup>

There is no as well national or regional land use policy in line which a land use allocation is controlled with. This hinders land governance, threatens the reliability of tenure security and even pushes users into informality.<sup>199</sup>

### 5.3.5. Non Public Participation in Land Use Conversion and Law Drafting

In the field study it was discovered that nearly all farmers (86.67%) have not ever participated even if they prefer partaking in land law drafting as well as in land use planning as indicated below.

*Table 2: Level of public involvement in land law drafting;*

<b>Public participation in land law drafting</b>	<b>Number</b>	<b>In %</b>
Yes	2	6.67
No	26	86.67
Uncertain	2	6.67

Source: Constructed by the writer based on survey data, 2017

They stated that participation gives them the chance to express their needs and interests. Because public engagement in the making of the law in relation to land is necessary to conform to the realities of the day and the place; to raise awareness of the community. However, there is no a trend of public participation in law drafting and in LUP in the Region.<sup>200</sup>

### 5.3.6. Information Barriers about Land Use Types

There are no means by which the information about land and its potential is disseminated to various sectors, agencies, landholders, investors and stakeholders in the Region, especially in rural areas.

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<sup>198</sup> Ibid

<sup>199</sup> Ibid

<sup>200</sup> Ibid

Datum in relation to land is limited to a few institutions, i.e., urban municipalities and in some Kebles with no means of dissemination to the public. Hence there are challenges related to data availability, access and diffusion in the Region.<sup>201</sup>

#### **5.4. Chapter Summary**

The chapter summarizes challenges in land uses in the Region; impacts of urbanization and other investment activities on land tenure security (especially, in peri-urban rural areas). It has considered how LUP and land use policy assist to resolve the land tenure insecurity and upgrade land use system.

It focuses on the field study to reach at the findings and conclusions as indicated in the next chapter. Hence this part has nexus to the conclusion and recommendation part of the research.

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<sup>201</sup> Survey data, cited above at note 81,

## **Chapter Six: Conclusion and Recommendation**

This is the last chapter of the research. It puts the overall essence of the paper as a conclusion; findings and possible recommendations.

### **6.1. Conclusions and Finding**

#### **6.1.1. Conclusions**

Land is the foundation of the socio-economic and the space where human beings survive. Land and land resources are limited by their nature. Yet, the need for them is ever increasing. Consequently, this calls for efficient and sustainable land consumption in order to compromise these limitations.

Studies reveal that efficiency and sustainable land exploitation depends largely on the system of land classification which is based on its optimal use types. To this, different countries employ land policies, policy instruments and legislation.

LUP is one of the policy devices by which to ensure efficiency and sustainability in land exploitation. At the same time it improves conservation for the best use of limited land resources; avoids conflict over the land via categorizing and integrating various land needs; and through indemnifying tenure security. For instance, arranging land for agriculture means securing farmers on that land.

Land policy determines the economic direction a state wants to follow, i.e., whether socialist or liberal or mixed economy. It outlines the national goals and strategies for achieving objectives related to land. The policy provides about and determines the nature and kinds of land tenure, adjudication and administration of land rights and land valuation issues. In a broader term it dictates about the land use policy, land use management, and the role of land administrative institutions and adjudicating organs.

Land Use Policy in the mean time embraces LUP and land management depending on circumstances of a country. Principally a land use policy provides a framework for a land use planning process and its goals; describes a legal and institutional framework for effective land administration.

The present land use system in Oromia as well as in the country as whole is random. Therefore, the need for the land use policy and policy instruments are greater.

### 6.1.2. Findings

The study indicates the following as the main findings:-

1. Short of systematic land allocation;
2. Absence of impact assessment, public participation and consultation during land use conversion,
3. Lack of policy framework (national and regional land use policies) and LUP that assist to guide the executive or sectoral decision on land utilities,
4. Absence of institutional and legal framework that align urban, rural and sectoral land uses,
5. Limited knowhow and non implementation of even sector specific land use plan properly,
6. Absence of pre planned procedures for the integration of rural areas into urban (training and other transformational activities that help farmers to become familiar to the new circumstances),
7. Lack of legally binding stipulation with time frame for urban expansion,
8. Non participation of the public in land law drafting,
9. Disharmony and lack of consultation among sectors during their specific LUP and land law formulation; sticking to own objectives by these sectors rather than the overall goals in land use planning,
10. Occurrence of frequent inconsistencies among the federal, Regional and sectoral decisions on the use of land and as well as discrepancies among sector specific LUPs,
11. Informal urban expansion.

### 6.2. Recommendations

- The Region has to establish transparent and participatory land use allocation and use system through the instrumentality of land use policy and land policy devices such as LUP,
- The Region has to have an integrated LUP with the following decisive qualities:-
  - A LUP Showing different land use alternatives,
  - That which enacted via public participation,

- That which is mandatory and enforceable through legislation,
  - That which aligns urban, rural and sectoral land uses.
- The Region has to issue and disseminate land use policy and land policy devices as binding guidelines to all levels to foster uniform land use system. Review outdated laws to conform to the LUP and land use policy,
- The government (both the federal and Regional) should amend land use conversion laws through public participation,
- Land use conversion must be participatory; for more beneficial purposes; must be based on impact assessment, should at least consider the local people's needs and interests,
- Enhance public participation in land law drafting to conform to the realities and interests on the ground,
- Strengthening institutional framework and facilitating distribution of information about land use types,
- Establishing land governance for land administration that gives due attention to the rural areas surrounding the urban centers.

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## Appendices

### Sample Areas and Informants:-

	Woreda (Town)	Kebele	Number of respondents and methods			
			Farmers	Method	Key informants	Method
1	Ada (Bishoftu)	Delo	5	Questionnaire	5	Group discussion
		Ganda-Gorba	5	Questionnaire	1	Interview
2	Lume (Modjo)	Sharra-Dibandiba	5	Questionnaire	1	Interview
		Kolba-Godde	5	Questionnaire	2	Interview
3	Adama	Dabe-Solloke	5	Questionnaire	1	Interview
		Meleka-Adama	5	Questionnaire	1	Interview
	Other officials				3	Interview
	Total		30		14	

Primary data were also collected from experts (officials) of the following institutions:-

	Place	Name of the Institution	Number
1	Oromia	Oromia Rural Land Administration and Use <b>Bauru</b>	1
		Oromia Urban Land Development and Management Agency	1
		Oromia Urban Development and Housing <b>Bauru</b>	1
		Oromia Urban Planning Institution	1
2	East Shewa	Rural Land Administration and Use Office	1
3	Ada Woreda	Ada Woreda Rural Land Administration and Use Office	1
		Ada Woreda Natural Resource and Environmental Protection Office	1
		Bishoftu City Land Development and Management Agency	1
4	Lume Woreda	Lume Woreda Rural Land Administration And Use Office	1
		Modjo Town Land Development and Management Agency	1
5	Adama Woreda	Adama Woreda Rural Land Administration and Use Office	1
		Adama City Land Development and Management Agency	1
	Total		12

In total, 30 farmers, 12 experts (officials) and 14 key informants were questioned and interviewed. Out of which 75% were male and the remaining 25% were female.

About 37.04% of the household farmers, key informants and experts (officials) were in the age group between 18 and 35 while the remaining 62.96% were in the age range of 35 and above. Out of the total number of famers and key informants 23.81% had no formal education; 9.52%

primarily junior school; 14.29% were high school complete and the remaining 52.38% were certificate and above. All expert (officials) had first degree and above.

#### Number of informants

No	Informant	Male	Female	Total
1	Farmers	20	10	30
2	Officials /experts	11	1	12
3	Key informants	11	3	14
	Total			56

Declaration

I, the undersigned, declare that this Thesis is my original work and that all sources of material used for the Thesis have been duly acknowledged.

Name: Degife Hailu

Signature: \_\_\_\_\_

March, 2018

Confirmation

This Thesis can be submitted for examination with my approval as a university advisor

\_\_\_\_\_  
Muradu Abdo (PhD)

March, 2018