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**Legal and Institutional Frameworks for Urban Landholding
Registration: A Case Study of Addis Ababa**

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SIGNED APPROVAL SHEET BY THE BOARD OF EXAMINERS

This is to certify that the Thesis prepared by Biruk Tadesse, entitled “Legal and Institutional Frame-works for Urban Landholding Registration: A Case Study of Addis Ababa”, submitted in partial fulfillment of the requirements for the Degree of Master in Constitutional and Public Law complies with the rules and regulations of the University and meets the accepted standards with respect to originality.

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DECLARATION

I hereby declare that this Thesis is my original work that has been carried out under the Supervision of Dr. Muradu Abdo, Associate Professor, of Addis Ababa University, School of Law, during the year 2017 as part of the Degree of Master in Constitutional and Public Law in accordance with the rule and regulation of the University. I further declare that this work has not been submitted to any other University or Institution for the award of any degree or diploma and all sources of materials used for the thesis have been duly acknowledged.

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Abstract

Nowadays, ongoing urbanization along with an increase in population has created a huge demand for urban land for different uses including residential, greenery, infrastructure, business and social services. This trend applies to Ethiopia as well as the city of Addis Ababa. However, there is a problem in identifying who holds what land, where, what size, which land is government and which one belongs to a private person. These problems hamper the efficiency of service delivery, planning and decision making. Land registration is considered to contribute to the solution of such problems.

In the contemporary situation of Ethiopia, in 2011 Government has adopted the Urban Land Development Management Policy, which have paved ways for the issuance of the Urban Landholding Registration Proclamation No .818/2014. This research is about legal and institutional framework for urban landholding registration in the case of Addis Ababa. The research argues that there are legal, practical and institutional problems in the implementation of urban land registration law in the city of Addis Ababa.

The findings of the study revealed that, the existence of burdensome provisions which impose a mandatory obligation on a person to file twice application (for adjudication and registration) and for having a provision that punishes a person who has made the right application at the right time due to the failure of other joint holder to submit the application for registration within the time specified by law, the silence of law towards the issue as to what procedure to be followed to adjudicate and register land parcels owned by embassies and international organization, and what the fate of such parcels where transfer of title has occurred in conflict with the law are the legal problems identified by the research. Besides, weak public participation, lack of public awareness about the process of land registration, poor cooperation between land registry institution, non-establishment of a security fund that will be used for the payment of damage caused to third parties and failure to deliver updated reliable information to clients using the current digital registration system are some of key identified practical and institutional problems identified and analyzed under the research. Finally, based on the findings of the study recommendations are forwarded.

In conducting the study, multiple methods were deployed including a desk review of primary and secondary materials, in depth interviews and FGD discussions with concerned experts, officials, surveyors and lawyers from AACGLRIA and Ministry of Urban Development and Housing (MoUDH).

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Lafto sub city offices of TATSPO

Annex 3: Interview and focus group discussion guides

List of Acronyms

AACGLRIA Addis Ababa City Government Landholding Registration and Information

AA-LIS Addis Ababa Land Information System Agency.

EPDRF Ethiopian People’s Democratic Revolutionary Front

FDRE Federal Democratic Republic of Ethiopia

FGD – Focus Group Discussion

IPRIA Immovable Property Registration and Information Agency

MoUDH Ministry of Urban Development and Housing

TATSPO Title Administration Transitional Period Service Project Office

Chapter One

Introduction

1.1 Back Ground

Land registration plays an important role for social, political and economic development of one country, as long as it functions well and fulfills the goals set by the society and the government. Although different countries and experts have different opinions on the issue, the following descriptions of land registration and cadaster, including the strong relation between them are generally accepted.

Land registration is a process of official recording of rights in land through deeds or title (on properties). It means that there is an official record (the land register) of rights on land or of deeds concerning changes in the legal situation of defined units of land. It gives an answer to the question “who” and “how” they owns/possess the land.¹

Cadaster is a methodically arranged public inventory of data concerning properties within a certain country or district (region), based on a survey of their boundaries. Such properties are systematically identified by means of some separate designation. The outlines or boundaries of the property and the parcel identifier are normally shown on large scale maps which, together with registers, may show for each separate property the nature, size, value and legal rights associated with the parcel. It gives an answer to the questions “where” and “how much” the land is.²

Legal cadastre: - is an updated landholding information system containing a record of the right, restrictions and responsibilities on a defined legal boundary for each land holdings demarcated as per urban land holding adjudication and registration parcel on map.³

A Cadaster is normally a parcel based, and up-to-date land information system containing a record of interests in land (e.g., rights, restrictions and responsibilities). It usually includes a geometric description of land parcels linked to other records describing the nature of the interests, the ownership or control of those interests, and often the value of the parcel and its

¹JaapZevenbergen(2004)’’A Systems Approach to Land Registration and Cadastre’’, Nordic Journal of Surveying and Real Estate Research.vol 1, PP 1

² Ibid, pp1-2.(*emphasis is added on the last part of the phrase*)

³Art 2(5) ,Urban landholding registration proclamation , no 818/2014,

improvements. It may be established for fiscal purposes (e.g. valuation and equitable taxation), legal purposes (conveyancing), to assist in the management of land and land use (e.g. for planning and other administrative purposes), and enables sustainable development and environmental protection.

Land registration is a complex process which involves at least technical, legal and organizational aspect which influences each other. All these aspect are involved in making a system of land administration function well. It will not come as a surprise that numerous countries do not have such a well-functioning system of land registration. It is not easy to operate an effective system of land registration in a country.⁴

When we look into Ethiopian legislation on immovable registration, we find the Civil Code. Though never come into force, the fundamental legislation on real property registration is the section of the Civil Code that deals with immovable property registration. One title, Title X, is devoted to this purpose and is entitled as “Registers of Immovable Property”. The title includes 93 articles governing this important area of high economic significance. These provisions are contained in 4 chapters. The Code does not provide different chapters or sections for cadastre and land register; it regulates cadastre and land registration in a unified approach. It is of particular importance to mention that the title on register of immovable’s is not yet applicable as its operation has been suspended. There are also applicable provisions relating to registration of property (Arts 1567-Art 1571), Register of Mortgages (Arts 1573, 1574), Register of Immovable (Arts 1575, 1576) and Register of Owners (Arts 1583-Art 1585). Urban Landholding Registration Proclamation No 818/2014, Urban Landholding Adjudication and Registration Regulation No 324/2014, and Urban Landholding Adjudication and Registration Directive No 45/2014 which this research study particularly focus is the other Legislations that is enacted to establish an effective urban land registration system in Ethiopia.

Consequently the above stated facts made clear that land registration is about ‘the process of recording’ the previously described interests. This recording process involves people and

⁴JaapZevenbergen (2002)” Systems of Land Registration Aspects and Effects (NCG Nederlandse Commissie voor Geodesie, Netherlands Geodetic Commission), pp 4.

instruments, brought together in organizations. Virtually every society which undertakes land registration has more than one organization involved in the recording process, which is divided into many tasks. Accordingly, when we look into the existing legal and institutional arrangement for Urban Land registration pursuant to Urban Landholding Registration proclamation No, 818/2014, the registration takes place within institutions established at state level. On the other hand at federal level it is the Ministry of Urban Development and Housing (MoUDH) who is given a power to follow up and ensure the proper implementation of this proclamation and its following regulations, directives and standards all over the regions and cause corrective measures to be taken where problems exist.

These registry institutions of regional states are expected to meet some standards (values) emanating from the law. To mention some the registry institution expects to establish transparent and accountable working system, to make registration of possession open to public,⁵ to take due care to safeguard the legal castor registered information kept on paper or in digital form from security risk⁶ and to establish a land registry system compatible with the rural land administration which supports the building of one economic community.⁷

Accordingly, when we see an Addis Ababa city administration current existence, the city administration has established Landholding Registration and Information Agency to undertake the land registration of the city. However, this institution unless it is said to be at the preliminary level, it lack to meet some of those standards listed above for one registry institution need to hold. On the other hand, from the legal point of view, this urban landholding registration legislation itself has some contradictory and burdensome provisions. Thus, it has paramount importance to identify the problems or the gaps that equate a problem brought land registration system and recommend the solutions. Besides, in the current situation of our country where foreign and domestic investor's investment on land is highly increasing, it is prudent to rectify the existing problems surrounding the land registration especially in the city of Addis Ababa which these research papers mainly focus. This would help the city to accommodate more investors and earn the income that will contribute much for the economic prosperity of the city and our country.

⁵ Supra note 3, Art 36.

⁶ Ibid, Art 31(3).

⁷ ibid Art 4(1)(*emphasis is added*)

In general, land registration is so important for a social, political and economic development of a country; the same importance, no doubt, can be claimed in relation to Ethiopia. But the land registration system of Ethiopia is replete with a number of problems associated with its legal regime, institutional framework and practice as well. A system of land registration has to achieve its goals to be functioning well. To determine this it has to be analyzed to see if it is fulfilling the functions needed to achieve its goals in a satisfactory way. Since this study concentrates on the goal of urban land registration in providing legal security to the owner/possessor and purchaser, that goal has to be achieved well. Hence this study will mainly emphasize on the legal and practical problem related to legal cadastre registration in Addis Ababa.

1.2 Research questions

The study addresses the following questions.

- What are the purposes of urban landholding? And to what extent can those be materialized?
- What are the major legal and practical problems related to urban landholding registrations?
- What are the major problems associated with registry institutions?

1.3 Objectives of the research

The research has the following general and specific objectives.

1.3.1 General Objective

The general objective of this research was to assess the Legal and Institutional Framework for Urban Landholding Registration using Addis Ababa as a case study and also to provide recommendations.

1.3.2 Specific Objective

The specific objectives are the following:-

- To identify and critically analyse gaps and other issues with regards to laws governing urban land registration.

- To assess the institutional arrangements and coordination of registry institutions
- To evaluate and discuss practical problems encountered in the enforcement of the normative aspects of urban landholding registration and
- Provide recommendations with regard to the issues examined in the Thesis.

1.4 Significance of the study

The study was focused on the problem of urban land registration. Hence it may hopefully contribute to the forthcoming amendment of the Urban Landholding Registration Proclamation No 818/2006 with respect to problems at hand. It will also have a certain contribution for the legislative body, the judges and lawyers in creating awareness and for those who are interested to invest in the area of real-estate. The study will also serve as a basis and may call the attention of those who want to conduct research in the field. Finally, it may serve as a reference material in the academic sphere.

1.5 Scope of the study

The whole study was concerned with the major problems of urban land registration in Addis Ababa. However, though not in detail the study has also included multipurpose and physical cadastre registration system for the purpose of clarifying the similarities and the distinction between legal cadastre and other cadaster registration systems. In addition, the nature and characteristics of urban land registration from some selected countries will be dealt for the purpose of comparison. As far as the geographical limit of the study was concerned information were collected from the Ministry of Urban Development and Housing (MoUDH) and Addis Ababa City Administration land holding Registration and Information Agency.

1.6 Methodology

The method emphasized in the investigation of the characteristics of land registration based on the Urban Landholding Proclamation No 818/2006, Urban Landholding Adjudication and Registration Regulation No 324/2014 and the following directive. Sample study land registered in Addis Ababa City Administration land holding Registration and Information Agency was considered. In the study both qualitative and quantitative methods were employed. The study is qualitative in a sense that it devoted to the reasons, justification or logical argument on legal provisions and decided court cases if it exists. Case would be

analyzed so as to show the practical problem of the land registration system at hand. It is quantitative because the study was depended on certain data, report and information collected from the Ministry of Urban Development and Housing (MoUDH) and Addis Ababa City Administration Land Holding Registration and Information Agency.

Data was collected from primary and secondary sources. Primary data were gathered mainly through interviews and focus group discussion. Moreover, the method of sampling technique used to conduct interviews and focus group discussion was also be purposive sampling technique in order to gather relevant information's easily which are essential to the research and to create conducive atmosphere to my research. The secondary sources are laws, domestic, and foreign literature related with the study.

1.7 Organization of the Study

The research has four chapters having sub sections and structured as follows. Succeeding this introduction chapter, chapter two highlights to discuss issues that helps to understand the general concept, purpose and principle of land registration in general. The chapter also briefly discusses definition of land registration, main purposes of land registration and timing of establishment of formal land registration system, type of land registration, conditions for successful land registration and the legal and organizational aspects of land registration. Furthermore, the chapter considers principles of land registration and good practices of countries based on the lessons drawn from Sweden and the Netherlands.

On the other hand chapter three discuss land registration in the context of Ethiopia through critically analyzing legal and institutional framework under the current urban land registration law and its practical implementation in the case of Addis Ababa .Consequently, throughout the chapter urban land policy development of Ethiopia, the overall assessment of the urban landholding registration laws, principles of urban land registration, institutional framework of the urban land registry law, the current legal and institutional status of urban land registration in Addis Ababa and legal and practical problems of the urban land registration law are discussed in detail respectively. Finally, chapter four presents the concluding remarks and ways forwarded.

CHAPTER TWO

General Overview of Land Registration

Introduction

This chapter aims to discuss issues that help to understand the general concept, principles and purpose of land registration. Accordingly, the discussion covers the definition of land registration, the main purposes of land registration and timing of establishment of formal land registration system, type of land registration, conditions for successful land registration and the legal and organizational aspects of land registration. Furthermore, the chapter considers principles of land registration and good practices of countries based on the lessons drawn from Sweden and the Netherlands. The chapter ends with a summary.

2.1 Land Registration Defined and Historical Over View

One cannot speak about the registration of land, leaving undefined the subject matter of registration, since such an attempt would have no practical point of reference. Although there appears to be no universal definition of what exactly falls under land registration, and what does not, according to Jaap Zevenbergen land registration can be described as, “a process of official recording of rights in land through deeds or title (on properties). It means that there is an official record (the land register) of rights on land or of deeds concerning changes in the legal situation of defined units of land. It gives an answer to the question “who” and “how”.”⁸ It in other words connote, a public system of records concerning legal rights to land.

As far as the historical aspects of immovable (land) registration are concerned, land tenure and title featured prominently in early agricultural economies. Contracts entered into as early as the third millennium B.C. demonstrated that people needed tenure security in the land they cleared.⁹ The Bible tells of an early land transaction in the book of Jeremiah. In 587 B.C. Jeremiah bought his cousin Hanameels's field in a purchase of land that involved a sealed deed prepared in accordance with legal requirements.¹⁰

Although early efforts to establish comprehensive land records systems in Europe were mainly

⁸.JaapZevenbergen(2004)''A Systems Approach to Land Registration and Cadastre'',Nordic Journal of Surveying and Real Estate Research.vol 1, PP 1

⁹.Tim Hanstad, '' Designing Land Registration Systems for Developing Countries'', American University International Law Review 13, no. 3 (1998): pp 650 paragraph 2.

¹⁰. See Holly Bible Jeremiah 32:9-12.

for purposes of public taxation, there were also private needs for land records to facilitate effective land transfers. It was the need for land records that eventually provided the impetus for land registration systems.

It can be understood from the aforementioned illustration of the historical development of land registration that the existence of systems of land registration is often explained through an elaborate historic overview of its development. This historical development can by and large be seen parallel to the development of a more and more open immovable (land) market within a country. It is not so much the historical order of events that is important, but the functions society needed from the system of land registration in a more and more mature land market that set the pace

2.2 Why land registration is necessary?

Most scholars agree that Land registration plays an important role for social, political and economic development of one country, as long as it functions well and fulfills the goals set by the society and the government. Land is a fundamental resource that is most effectively used and exchanged when the rights to land are registered.¹¹ Thus designing a land registration system requires a comprehensive analysis of why land registration is necessary.

Accordingly, before addressing the issues of whether and when to establish a land registration system, government officials should understand the preconditions for a land registration system, the potential advantages and disadvantages of such a system.

Handstad argues that the following circumstances in a developing country indicate that a formal land registration system is desirable and such conditions that must present if such registration is to be successful.

a) Where land title insecurity, uncertainty, or inadequacy restrains development:

Though tenure security and land title security are related, they are not synonymous. A landholder has security of tenure if she perceives little or no likelihood of losing physical possession of the land within some future time period. Security of tenure, a question of fact, exists without documentary evidence. Security of title exists if the

¹¹.supra note 9,pp 652 second paragraph

landowner is secure in her legal possession of the land. Security of title cannot exist without documentary evidence.¹²

When landholders have insecure tenure they are unlikely to make the long-term investments needed to enhance economic development. Landholders need confidence in the future, which public policy provides through landholding title registration.

b) Where there is early development of a market in land

A market for private land rights will develop in any society that recognizes such rights. In such a society, land interests will pass by inheritance. Both sale and inheritance are likely to be more active under conditions of expanding population. Economists point to the importance of a market in land as a factor in production if latent energy is to be released and productive potentials realized. Thus, it becomes important to provide adequate and efficient machinery to safely transfer interests in land¹³

c) Where there is a high incidence of disputes concerning land

Uncertainties over the nature of land interests and over the position of ill-defined boundaries are a fruitful source of disputes in many developing countries. Litigating such disputes leads to a significant expenditure of time, capital, and scarce administrative resources. Land registration effectively reduces this waste of resources.¹⁴

d) Where there is a need to establish a credit base

The permanent improvement of land and other land related investment depend on the extension of credit. Money Lending institutions are typically unwilling to extend credit, if landholders and immovable property owners do not have well-defined and documented land rights to offer as collateral. In many less-developed countries, the absence of secure title registration has been an obstacle for accessing credit.¹⁵ Likewise, efforts to provide housing can be hampered if those seeking housing cannot offer documented land rights as collateral for a housing loan.

¹². Id ,pp 653 third paragraph

¹³. id,pp, 654

¹⁴. ibid

¹⁵ Id, pp 655 first paragraph.

e) **Where a redistributive land reform is contemplated**

If land reform measures are to be implemented, records of land rights provide significant assistance for that task. Important land reform implementation decisions, such as from whom land is taken and to whom it is given, are facilitated by the type of information contained in a landholding registration system.¹⁶ The system also helps provide secure land titles to land reform beneficiaries.

2.3 Conditions Essential for Success of Land Registration

Tim Handstad further states that there are also other conditions that must exist before such systems are likely to meet with success.¹⁷ These are:

a) **Landholders and others must generally understand and support the system's introduction**

The demand for land registration should be generated from within and outsiders should not impose the system on a reluctant landholding community. To this extent, it is important to assess user needs before designing the registration system. Public education about immovable registration both facilitates and supports an understanding of the system.

b) **Government must appreciate the expense and duration of the operation**

Land registration is essentially a long-term investment; therefore, policy makers must understand that there are few immediate benefits. Although the government's costs are reduced after the initial compilation stage, subsequent maintenance of the register is a permanent commitment. A policy vacillating between lukewarm support and neglect will prove more costly in the long run. If land registration cannot be conducted efficiently and continuously, it is probably better left alone.

c) **Property rights and property boundaries must be clearly recognizable and definable**

Property rights vested in claimants and the boundaries delimiting the extent of their holdings must be quickly recognizable and clearly definable if the introduction of a land registration system is not to be frustrated by endless dispute. Land registration

¹⁶ Id, second paragraph.

¹⁷Supera note 9, *Tim Handstad*,pp,655-657

should not be employed to create interest, but to record and confirm existing interests and definable future interests. Physical demarcation of boundaries by hedges, fences, decks, etc. can greatly assist the process and reduce the costs.

d) Qualified survey and registry staff must be available

Compilation and maintenance of a land registration system depend heavily on competent staff. Although education and training can fulfill a significant portion of this need, an existing core of qualified professionals is vital to begin the process and to assist in the training effort.

In developing countries, where there is usually a shortage of professional and technical staff to meet the day-to-day needs of most government departments, it must be realized that the land registration system competes with other government departments for the inadequate supply of educated personnel.

e) A developed system of property rights must exist

Before land registration can be successful, there must be a developed system of property rights. Land registration systems register legal rights in land. If such rights are ambiguous, non-existent, or poorly defined by law, registration of those rights is likely to be an expensive and wasteful exercise. Such countries should focus their initial efforts on defining property rights, perhaps in a comprehensive land law.

2.4 Type of Land Registration

There are two categories of land registration systems exist: registration of deeds and registration of title.¹⁸

Registration of deeds developed first. This system, called "land recordation" in the United States, involves registering or recording of documents affecting interests in land. It developed hundreds of years ago in several European countries to prevent double selling of land. With registration or recordation of the deeds at a government office, the priority of claims could be established in the event of double selling.

The second system is registration of title. This system was first introduced in Australia, in 1858, by Sir Robert Torrens.' Torrens believed that a land register should show the actual state of

¹⁸. Supra note 9 ,pp 650-661

ownership, rather than just provide evidence of ownership." Under this system, the government guaranteed all rights shown in the land register. Shortly after Torrens introduced the concept of title registration in Australia, a similar system developed in England.¹⁹

According to JaapZevenbergen(2002)" this two type of registration type are defined in the following way

Title registration: - title registration system means that not the deed, describing e.g. the transfer of rights is registered but the legal consequence of that transaction i.e. the right itself (= title). So the right itself together with the name of the rightful claimant and the object of that right with its restrictions and charges are registered. With this registration the title or right is created.²⁰

Deed registration: - A deed registration system means that the deed itself, being a document which describes an isolated transaction, is registered. This deed is evidence that a particular transaction took place, but it is in principle not in itself proof of the legal rights of the involved parties and, consequently, it is not evidence of its legality. Thus ,before any dealing can be safely effectuated, the ostensible owner must trace his ownership back to a good root of title.²¹

In general legally speaking the most elementary difference is that "deed registration is concerned with the registration of the legal fact itself and title registration with the legal consequence of that fact.

2.5 Purposes of Land Registration

Introduction of a formal landholding registration entails considerable costs. It is of great importance, especially in capital-poor developing countries, to give priority only to sound investments. Hence, the advantages of landholding registration should be carefully studied. The advantages depend on the prevailing conditions in the subject country and the type of landholding registration system to be established. Some of the general purposes of land registration conversed by different scholar in the field are discussed below.

¹⁹ id,pp,651

²⁰ . JaapZevenbergen(2002)" Systems of Land Registration Aspects and Effects (NCG NederlandseCommissievoorGeodesie, Netherlands Geodetic Commission), pp62

²¹ .Ibid

According to Susan.Nichols, though the specific objectives of land registration can differ from jurisdiction to jurisdiction, the following purposes are common to all land registration arrangements.

1. **Notice:** registration provides constructive notice of the land of land tenure interests, where by a person through inquiry in official public records or registers can find evidence that such interest exists.²²
2. **Validation:**-land registration is an official process which establishes an evidence of interest in land. Public validation ranges from a rudimentary check that documents being filed or registered meet the basic criteria such as plan size, signature, seals to a more rigorous examination and certification of the content of the document, a plan, or the title of the registers itself.²³
3. **Monitoring and Enforcement:** - a third function of land registration is monitoring land transaction and enforcing the laws and regulation affecting land tenure.²⁴
4. **Revenue:**-public revenue in the form of land registration or other taxes, and fees for registration, information services (e.g. Certified searches) is collected through the registration process.²⁵
5. **Management of land tenure information** :-from an information perspective, this is the primary function of land registration and how well the other function are carried out depends on the quality of management agreements.(e.g. For the collection of taxes there must be a means of identifying who must pay and how much)²⁶

2.5.1 Land Registration a Means to Convert Asset into Active Capital

Hernando De Soto, views land registration or formal property registration system as the practice that the west (developed nations) has been using for so money long period of time as a hidden means to convert asset into active capital. When Desoto discusses this issue very briefly, he starts by raising the following central questions.

“This may sound too simple or too complex. But consider whether it is possible for assets to be used productively if they do not belong to something or someone. Where do we

²² Nichols, S.E (1993).Land Registration: Managing Information for Land Administration. Ph.D. dissertation ,Department of Surveying Engineering Technical Report no,168,University of New Brunswick, Fredericton, New Brunswick,Canada,340,pp 133

²³ Ibid

²⁴ Ibid,pp,134

²⁵ Ibid

²⁶ Ibid ,pp,135

confirm the existence of these assets and the transactions that transform them and raise their productivity if not in the context of a formal property system? Where do we record the relevant economic features of assets if not in the records and titles that formal property systems provide? Where are the codes of conduct that govern the use and transfer of assets if not in the framework of formal property systems? It is formal property that provides the process, the forms and the rules that fix assets in a condition that allows us to realize them as active capital....”²⁷

Furthermore Desoto proclaims that

“...In the West, this formal property system begins to process assets into capital by describing and organizing the most economically and socially useful aspects about assets, preserving this information in a recording system - as insertions in a written ledger or a blip on a computer disk and then embodying them in a title. A set of detailed and precise legal rules govern this entire process. Formal property records and titles thus represent our shared concept of what is economically meaningful about any asset. They capture and organize all the relevant information required to conceptualize the potential value of an asset and so allow us to control it. Property is the realm where we identify and explore assets, combine them and link them to other assets. The formal property system is capital's hydroelectric plant. This is the place where capital is born.”²⁸

In short, according to De Soto, unless the property is registered in a formal property registration system it is extremely difficult to move such property into the market. This is because that any transaction require an enormous effort to determine basic information (right, restriction and responsibilities) about the property.

On the other hand scholars like Tim Handstadstates that the following are the main purposes or advantages of land registration.

a) Greater Tenure Security

Land rights in developing countries are often very obscure. Two situations exist, in particular, where land rights are likely to lack specificity and certainty. First, in countries with a significant degree of customary land rights, discrepancies often exist between unwritten customary rules and newer foreign concepts that cause uncertainty about land ownership and other rights. Second, in the numerous countries that are making the shift from state or other public ownership of land to private land ownership, the transition creates considerable uncertainty concerning land rights. Land registration provides a

²⁷ Hernando De se Soto,(2001) “The Mystery of Capital: *WHY CAPITALISM TRIUMPHS IN THE WEST AND FAILS EVERYWHERE ELSE*” pp.44

²⁸ Ibid,pp,44-45

degree of certainty and security to the owner as well as to others having rights in land. Such secure rights are particularly important for agricultural land. Economists and others have long argued that increasing security of individual property rights in land stimulates private investment and economic development because the individual is more willing to make long-term improvements. To the extent that landholding registration improves tenure security, one would expect it to increase productivity-enhancing investment.²⁹

b) Greater Access to Credit

The registration of rights to land establishes those rights in the eyes of the law and provides documentary evidence necessary to prove land rights. The holder of the land rights thereby becomes "creditworthy" and can pledge his land rights as security for a loan. Development of land and an efficient agriculture typically requires more resources than the owners command on the market or can borrow from friends or relatives. Mortgagees may rely on the register. Their risk is reduced, thus lowering the interest rate they charge for the loan.³⁰

c) Dealings in Land More Expeditious, Reliable, and Inexpensive

Without reliable land registers, land transactions may be expensive, time consuming, and ineffective. It is normally necessary to establish that the reputed owner actually has the legal right to alienate the property. This process may be complicated or confusing for the lay person. In many countries that lack a land register, property owners use legal experts to conduct title searches and to establish ownership. The costs are often considerable. A land registry not only makes extended searches of land rights unnecessary, but also makes it possible to use simpler, standard forms of conveyance. A formal land registry aids small rural landholders, who often cannot bear the cost of professional conveyancing assistance.³¹

d) Establishment of a Land Market

One difficulty facing many developing countries and former centrally-planned economies is the absence of a functioning land market. The reasons may be extreme

²⁹ Tim Hanstad, "Designing Land Registration Systems for Developing Countries", American University International Law Review 13, no. 3 (1998): pp 657 last paragraph

³⁰ Ibid, pp, 659

³¹ Ibid, pp, 660.

procedural difficulties in transferring land, lack of land market information, unclear delimitation of individual and group rights, insecure ownership, and so on. A land registration system can remove such obstacles and stimulate a land market. The necessity for a functioning land market will become increasingly apparent as the society is transformed into a market economy. A functioning land market permits economies to use land more appropriately, ease the eventual migration of labor out of the agricultural sector, and generally facilitate the establishment of efficient and consistent land policies.³²

e) **Improvement of Land Administration and Public Administration**

Because land is an important resource for every country and community, land administration is a very important function. It is almost self-evident that to plan land development, one must know the basic facts concerning the land. Better land use is encouraged through planning regulations. Such improved land use can occur through direct action like zoning, protection of ecologically sensitive areas, public urban development, land consolidation, irrigation projects, etc. But it can also be achieved indirectly by providing the suitable conditions for private development mentioned above, such as tenure security and access to credit. Land records based on well-defined land parcels are essential for all these purposes.³³

Other public land policy measures, in particular agrarian reform, are facilitated by land records of defined land parcels. Agrarian reform laws are difficult or impossible to implement when precise information concerning land tenure is not available. Virtually every agrarian reform will encounter strong opposition. The absence of a land register would increase loopholes available to reform opponents and slow the implementation of effective reform. Other land policy measures such as control of excessive fragmentation, control of foreign ownership, and prohibitions on excessive land ownership, even in the absence of an agrarian reform program, will be very difficult or impossible to implement without the type of organized information provided by a land registration system.

³² Ibid,pp,661

³³ ibid

Public administration in other areas is also enhanced by a land registration system. Administrators need lists of land and the people occupying the land for many purposes, including statistics, censuses, and elections. Public planning of all types will be greatly facilitated by maps and various data in the land register. The administration of every public service and every branch of national activity connected with land is greatly assisted in the execution of its work by the existence of an up-to-date and unimpeachable map and record of landed property throughout the country.

f) Reduction in Land Litigation

A well-designed and efficiently operated land registration system can greatly reduce disputes and litigation over land, resulting in better social relationships, less work for overworked courts, and less expenses for the individual. In a society with gradually changing attitudes toward group or individual ownership of land, as is typically the case when a market economy makes inroads in a customary society, conflicts and litigation over land rights are certain to abound. This results in private sector disputes, as well as conflicts between private and public interests. These disputes overwhelm the courts, which often do not have the capacity to handle increased litigation. In developing countries, as in most other countries, it is more difficult for a poor man to defend his property interests than for a wealthy landowner. Hence, in an environment of unclarified and undocumented land rights, the wealthy, large landowners often benefit at the expense of others.³⁴

g) Improved Basis for a Land Tax

Establishing a land registration system will also create a better basis for land taxation. A good land registration system based on maps and embodying the unique identification of each land unit, provides the information necessary for a successful tax system. An improved land taxation system provides several benefits, such as increasing revenues by making tax coverage complete, producing a fairer system because boundaries and land areas are more specifically identified, and providing information necessary to identify and punish tax evaders. A good land taxation system has other benefits. For example, to the extent land tax revenues are kept at the local level, an improved taxation system will

³⁴ Ibid, pp, 663.

augment the effectiveness of local authorities and institutions and become a powerful instrument to decentralize administration.³⁵

2.6 Disadvantages and Costs of Land Registration

According to Hanstad, while keeping the advantages mentioned above for land registration, the introduction of land registration does involve costs and can even lead to negative effects. Any government considering the establishment of a land registration system must consider the following factors.³⁶

1. High Cost of Compiling and Maintaining a Register

The high cost of implementing a land registration system is the main cause for hesitation on the part of developing countries.' An efficient land registration system is expensive. Various studies on the actual costs of conducting surveys and establishing land title registration systems indicate costs can be as high as \$240 per parcel. Establishment of a land registration system will likely take several years to complete and will use significant numbers of educated persons who could very likely be used for other development projects. Moreover, operation and maintenance of the land registration system, once established, will require significant additional costs. Although establishment and maintenance of a land registration system is expensive, refusal to establish such a system may be more expensive. One difficulty in comparing costs to benefits is that costs of registration are readily ascertainable and are available for all to review and criticize. But when there is no land registration system, costs incurred as a result of delayed or lost development opportunities are hidden and not available for scrutiny. It is difficult to measure the cost to the national economy of delays in the finalization of inheritance, or in the granting of leases or mortgages, or in the repeated investigations necessary in private conveyancing or in the unbridled litigation which titles registration could effectively curb.

2. "Fixing" the Status Quo May Be Problematic

Implementing a land registration system often "fixes," or solidifies, the existing landholding pattern, which may be problematic. If land parcels are fragmented, it may be prudent to consider some form of consolidation before land registration. The potential benefits of land registration in facilitating agrarian reform are discussed above. Fixing the status quo by implementing a land

³⁵ Ibid, pp., 664.

³⁶ Ibid, pp., 664-666.

registration system in a setting of inequitable distribution of landholdings is another possibility. In establishing a land registration system, however, there are serious dangers of strengthening the land rights of large landholders who might otherwise have uncertain claims to land.

2.7 Legal and organizational aspects related to the land registration

The given definition made clear that land registration is about ‘the process of recording’ the previously described interests. As with every other non-natural occurring process, this recording process involves people and instruments brought together in organizations. Virtually every society which undertakes land registration has more than one organization involved in the recording process, which is divided into many tasks.³⁷ The number of organizations involved and the exact division of tasks between them differs from country to country.

And in each country the background and educational level of the people involved and the level of sophistication of the instruments used seem to differ considerably. Sometimes academically trained professionals (especially lawyers and surveyors) are responsible for an important part of the actual process as private practitioners, in other cases technician level staff work for governmental organizations under the supervision of more qualified managers. In some countries traditional survey equipment (tapes, compasses or simple theodolites) and paper (books and files) are used, in other cases more advanced survey equipment (EDM, aerial photogrammetry, GPS) and computer based storage and manipulation ((administrative) databases and GIS) are used. Clearly land registration concerns a complex process which has many aspects. Three types of aspects that can be considered of prime interest are the technical, legal, and organizational ones.³⁸ Obviously these aspects do not stand on their own, but influence each other.

All these aspects are involved in making a system of land registration function well.³⁹ It will not come as a surprise that numerous countries do not have such a well-functioning system of land registration. It is not easy to operate an effective system of land registration in a country. Nevertheless projects are being undertaken in many countries (especially in developing countries and countries in transition) to improve land registration, or in some cases even start it from scratch.

³⁷. JaapZevenbergen(2002)” Systems of Land Registration Aspects and Effects (NCG Nederlandse Commissie voor Geodesie, Netherlands Geodetic Commission), pp,3

³⁸. ibid

³⁹. Id , pp,4

2.7.1 The legal aspects:-The legal aspects of land registration have even been described by Ruoff as "the most technical of all branches of the law"⁴⁰ Nevertheless they consist of an amorphous agglomerate of laws and regulations. ⁴¹The legislation dealing directly with registration of the legal relation between persons and land obviously contains legal aspects of land registration. Different sets of (legal) principles of land registration exist. Land tenure is organized differently in every jurisdiction in the world, and leads to different sets of rights and interests in land. Of course this influences the way the registration of these has to be set up.⁴² Legislation area should put a strong support on concerning acts and regulation for complete land information registration. It guarantees that data registered by the land registration system has an official legal sanctity, not merely as document or information enclosed .Therefore land registration needs support from legislation on regulation of registration content and maintenance of information.

2.7.2 Organizational aspects:-The organizational aspects could also have been referred to as the institutional aspects, but with that term often all non-technical aspects (including the legal ones) are implied. The main point of interest here is which (separate) organizations and private practitioners are involved in the process and how they compete with and complement each other. It includes institutional mandate and human resource. This is wider than strictly the question whether the 'registrar' is independent from the 'cadastre', or whether the surveys and the drafting of official documents are undertaken by government officials or private surveyors and notaries. The outlines of the way this is organized in a specific jurisdiction usually follow from relevant legislation, but in many countries the day-to-day practice differs significantly from this law-in-the-books.⁴³

As already can be seen from the description of each type of aspects, they are closely related. When looking at one type of aspects, the other types usually set some limits to what can be achieved by that type. This usually works both ways to some extent.

2.8 Major Principles of Land Registration and the Need for Good governance

⁴⁰Simpson.S.Rowton(1976) ,Land Law and Registration(book 1),London: Surveyors publication,PP 69

⁴¹. Ibid , 8

⁴². Ibid

⁴³ Ibid

An increasingly recognized and important role of the public sector is to establish and maintain institutions that define rights and make associated information on such rights freely available. The rules governing such behavior are of relevance in several respects. Governance in the sense of the quality of institutional arrangements, adherence to the rule of law, and focus on accountability and has long been shown to affect economic outcomes at the firm level.⁴⁴ Public spending in poorly governed countries has also been shown to have little, if any, positive effect. On the other hand spending resources on well-governed countries or sectors will help to maximize the effectiveness of the spending to enhance economic impact while attaining the proposed objective of the sector.⁴⁵

land has long been known to be one of the sectors most affected by bad governance—something that is not difficult to understand in light of the fact that not only is land a major asset, but also its value is likely to rise rapidly in many contexts of urbanization and economic development. The most authoritative survey of global corruption finds that, after the police and the courts, land services are the most corrupt sector, ahead of other registry and permit services, education, health, tax authorities, or public utilities (Transparency International 2009)⁴⁶.since ,land registry is one part of the land service , the effects of weak land registration will be particularly harmful for the poor in developing countries for whom land is a primary means to generate a livelihood; a key vehicle to invest, accumulate wealth, and transfer such wealth between generations; and a key part of their identity. Because land represents such a large share of the asset portfolio of the poor, providing or supporting the acquisition of—secure property rights to the land they already use can increase the wealth of poor people who cannot afford the (official and unofficial) fees needed to enter the formal system. Therefore, improved land registration institutional and legal frame work has great potential to directly and indirectly benefit the poor.

In short With regards to the land registry sector in particular, good governance is critical in a number of respect.

- Those who have only insecure or short-term land rights are unlikely to invest their full effort to make long-term improvements attached to the land. They may instead be forced

⁴⁴. Klaus Deininger,HarrisSelod and Anthony Burns, ‘’The Land Governance Assessment Frame Work(Identifying and monitoring good practice in the land sector)’’, The International Bank for Reconstruction and Development / The World Bank (2012)pp,13

⁴⁵. Ibid (emphasis is added)

⁴⁶. Ibid

to expend significant resources to defend the rights to their land, without producing benefits for the broader economy.

- If property rights are poorly defined or cannot be enforced at low cost, it will be much harder to have complete land information registration as well it will be difficult to transfer such land between different users.
- Setting up or expanding a business requires physical space—land. Nontransparent, corrupt, or simply inefficient systems of land registration constitute a major bottleneck that makes it more costly for small and would-be entrepreneurs to transform good ideas into economically viable enterprises.
- Registered land right may be used as collateral, their availability will reduce the cost of accessing credit for entrepreneurs, thus increasing opportunities for gainful employment and contributing to innovation and the development of financial systems.
- Finally, as a result of economic development, the increased demand for land, together with public investment in infrastructure and roads, tends to make land information more valuable. Consequently, setting proper legal and institutional frame work for land registration play important role for effective land registration.

The above-mentioned factors have prompted a number of initiatives both at national and international levels to set criteria's (principles) whereby the success or failure of land registration is measurable. First, an increasing number of countries implement far-reaching programs to improve land tenure, often with significant support from multilateral and bilateral institutions. One instance that proof this fact is, the Food and Agriculture Organization of the United Nations (FAO), in partnership with other United Nations institutions, is undertaking a worldwide, broad-based process of regional consultations, which is expected to result in a set of voluntary guidelines for good governance of land and associated natural resources.⁴⁷ Second, the rising recognition of the importance of good land governance at the political level is noticeable. For example, the African Union, whose heads of state agreed in 2009 to the Framework and

⁴⁷.supera note 42 ,pp, 15

Guidelines for Land Policy in Africa, has called for the development of benchmarks against which to measure country performance in terms of land governance (African Union 2009).⁴⁸

There are few existing sets of principles often used when describing (certain types of) land registration. Some of them are the following:-

Zevenbergen, based on Kurandt and Henssen works states that ,there are four basic legal principles of any type of land registration.⁴⁹ He describes each of the principles as follows:

- 1) “**The booking principle** implies that a change in real rights on an immovable property, especially by transfer, is not legally effectuated until the change or the expected right is booked or registered in the land register.
- 2) **The consent principle** implies that the real entitled person who is booked as such in the register must give his consent for a change of the inscription in the land register.
- 3) **The principle of publicity** implies that the legal registers are open for public inspection, and also that the published facts can be upheld as being more or less correct by third parties in good faith, so that they can be protected by law.
- 4) **The principle of specialty** implies that in land registration, and consequently in the documents submitted for registration, the concerned subject (man) and object (i.e. real property) must be unambiguously identified.”⁵⁰

On the other hand author’s like. Nichols describes the principle of land registration with the type of land registration. Accordingly, it is stated that deed registration has three main principles.⁵¹

1. **Security:** - registration of document gives the interest holder greater security that documents will not be lost or destroyed .In most systems, a duplicate of documents is made and thus there are two copies in existence.

⁴⁸. Ibid

⁴⁹JaapZevenbergen(2002)” Systems of Land Registration Aspects and Effects (NCG NederlandseCommissievoorGeodesie, Netherlands Geodetic Commission),pp,42

⁵⁰Henssen,Jo,(1995) Basic Principles of the main Cadastral System in the World,In:Modern Cadasters and Cadastral Innovations ,Proceedings of one day seminar in Delft on May 16,1996.FIG Commission 7and University of Melbourne ,pp 7

⁵¹ Nichols, S.E (1993).Land Registration: Managing Information for Land Administration. Ph.D. dissertation ,Department of Surveying Engineering Technical Report no,168,University of New Brunswick, Fredericton, New Brunswick,Canada,340,pp,102-103

2. **Evidence:** - registrations provides evidence but not assurance of title. Although systems differ, the contents of the documents (including parcel plans and descriptions) are examined only by the superficially upon registration. To establish the validity of the title and any transaction on it, the history of the interest must be traced through previous document.
3. **Notice of priority:**-registration of document gives public notice that a property interest may exist and in most jurisdiction, registration gives priority to interests in documents registered first if the interest was acquired without actual or constructive notice that an adverse interest existed.

Whereas, when we come to title registration, Susan.E.Nichols states that, there are three well known principle under this type of registration system⁵². These are mirror, curtain and insurance principle. To discuss them briefly:

1. **Mirror principle:**-the register reflects accurately and completely the current state of the title, although in practice there are many overriding interests that are not shown in the register.to achieve the mirror principle, the register must be based on parcels not document, and an adequate description and identification of each land units is required.
2. **Curtain principle:**-the register is the sole source of the title information. In theory there is no need to check historical documents to verify the information.
3. **Insurance principle:**-the register is responsible for verifying the information contained in the register and if an error occurs an injured party will be compensated for any loss .In many jurisdictions a fee is levied on each transaction to build and a compensation (or assurance) fund.

2.9 The Best Practice of Land Registration. Cases of Sweden and Netherlands

Good practice in land registration in these selected countries demonstrate the practical ways in which government ,communities and the private sectors work to gather to improve the service of land administration function and services. In these countries the system has improved itself mainly by close cooperation between different sectors, the community, qualified expertise and material resources other than trying to enforce the system through improvements of the law only.

⁵² Ibid ,pp,103-104

Under this section we take the cases of Sweden and the Netherlands that has best practice in the area of land registration system.

2.9.1 The cases of Sweden

Lantmateriet is a governmental authority that is represented through Ministry of Environment and it is a responsible organ for real property formation and official real property and geographic information in Sweden.⁵³ It has a regional organization in each county and local office in municipalities. Furthermore, it is responsible for the land information system supporting cadastral and land registration.

On the other hand Special Local Court is the responsible organ for land registration.⁵⁴ They update the land registry, which is an integrated part of the land information system. Additionally Taxation Authorities which is responsible for the real property taxation registry and the Population Registry both are linked to the land information system through the real property designation. In general land information from the files of the agency is used by the many government bodies, basically providing source data in order to support the government (at all level) interference in private property right justified by the general interest.

As all land in Sweden is divided into property units, changes to the division of property units is a continuous process i.e. Lands are amalgamated or sub divided and other cadastral procedures are carried out. Lantmateriet is responsible for guaranteeing legal security for individual's property owners and also participate in measures to improve and formulate legislation in this field and also responsible for the registry and for land registration system which shows ownership, mortgages, encumbrances etc., the custodian for that system is the national court administration. These registers are the basis in the Swedish land data bank system.

In general as can be gathered from the above short discussion some of the good practice of the Sweden land registration system are the following

⁵³ Vo Anh TUAN(2006),reengineering of land information system (LIS) for the Vietnamese land Administration, Thesis submitted to International Institute for Geo-information Science and Earth Observation in partial fulfillment of the requirement of the degree of master of science in Geo information science and observation, specialization :Geo Information management, PP 21

⁵⁴ Ibid

- The balance between the demands on the system from two ministries: the Ministry of Justice (national court administration), responsible for the land registration and Ministry of Housing (National Land Survey), responsible for the property information system). The registry are structured as one common data base with a number of different technical solutions transparent to the users of the system. The users have one single interface for accessing the data base. The most important factor in having this system is the use of common identifier and definition in every registry through the data base.
- The information in the data base are updated and maintained by different that is responsible for the data
- The registration system uses common identifier and definition in every register throughout the data base.
- The system provide the avenue for sustainable data management.
- Special laws like Swedish real property registry and the Swedish data protection act protect and uphold the system.
- Human resource requirement was reduced making the system more cost effective.

2.9.2 The Case of the Netherlands

Land registration and cadastral mapping are tasks at national level, which is assigned to the cadaster and land registry agency.⁵⁵ The agency comprises a head office and 15 regional offices.⁵⁶ In these offices of the registers are kept ,the boundaries surveyed, maps maintained and information disseminated.it is responsible for maintaining the registers on real state ,mortgages, cadastral map and the provision of cadastral information. It provides clarity about who a certain registered property belongs to and what its characteristics are. The notary public plays a major role in the procedure land transaction.⁵⁷

Public registers are registers in which notarial deed are recorded as they come in .The employees of the agency extracts the essential elements from the deed, these form on their turn to form the input for cadastral registers and maps, providing registers on name, parcel, and street address .In

⁵⁵ Ibid ,pp, 22

⁵⁶See JaapZevenbergen(2002)” Systems of Land Registration Aspects and Effects (NCG NederlandseCommissievoorGeodesie, Netherlands Geodetic Commission),pp 135.

⁵⁷ Supra note 50,pp,22

essence the cadastral registers and maps are auxiliary registers to provide access to the public registers. The public registers are kept in analogue format, books with paper deeds, copied to microfiche. Both cadastral registers and cadastral maps are 100% in digital format.

The organization has been redesigned as a front office (marketing and customer services department-MCSD) with a back office operating to support the front office requirements. All customers' requests, customer service inquires, complaints etc. through all possible means of communication are directed to marketing and customer service departments. The back office is responsible for registration, administrations, land surveying, large scale standardized information production, all based on agree products specification. The production of customized products is centralized and undertaken by the back office.

In general the summarized good practice of the Nederland registration system are the following

- The system guarantees quality of data and products by adhering to ISO standards and by implementing national triangulation network and ensuring authentic registration procedure.
- The system adopts a computerized registration procedure and simplifies the retrieval and process of data access, thus it can provide up to date information by timely available data to customers.
- The system has a sound product distribution strategies that adopts the one –stop shop strategy providing easy and access to customers.
- Compulsory registration of real estate transaction that guarantees the system is complete and available.
- The system is protected and legally upheld by the cadaster organization act, cadaster act and the land development act.

2.10 Summary

Making land registration as such mandatory (by law) in itself does not guarantee for success. When the disadvantages of going through a lengthy, expensive and bureaucratic procedure are perceived to be higher than the disadvantages of being an informal land holder, compulsion does not necessarily lead to completeness. Incentives to register (both by having a smooth procedure and by having clear benefits when registered are more likely to succeed than merely demanding registration.

Therefore, countries should seriously study the why, when, what, and how of land registration before starting registration. The answers are likely to be different for each country due to unique histories, cultures, geographies, legal systems, economies, and development processes. The framework for confronting the questions, however, need not be unique.

Furthermore, and more importantly the success of a system of land registration in the end depends on society's view on it. Society has to realize that it needs such a system, society has to support the system in place and society has to use and rely on the system of land registration and the information from it.

Since, land registration is about 'the process of recording' and this process of recording involves people and instruments, bringing together relevant organizations. Accordingly which (separate) organizations and private practitioners are involved in the process and how they compete with and complement each other is another important issue to be looked well for the success of land registration of a country. While still keeping the fact that land registration needs strong support from legislation on regulation of registration content and maintenance of information as this is very important for complete land information registration.

Chapter Three

Urban Landholding Registration in Ethiopia

Introduction

This chapter is the main part of the research that examines urban land registration in the context of Ethiopia through critically analyzing legal and institutional framework under the current urban land registration law and its practical implementation in the case of Addis Ababa. Bearing in mind the general concept, principles and purpose of land registration which we have discussed in the previous chapter, the chapter examines urban land policy development of Ethiopia, the overall assessment of the urban landholding registration laws, principles of urban land registration, institutional framework of the urban land registry, the current legal and institutional status of urban land registration in Addis Ababa and finally legal and practical problems of the urban land registration law are examined.

3.1 Urban Land Holding Policy Development in Ethiopia

Ethiopia has gone through a rich experience of different urban land tenure system over the last one hundred years from which one can draw lessons. During this time, politically the country has experienced far more radical changes. From feudal monarchy to military–communist, to ethnic base federalism.

Accordingly, under this section, we will discuss the land policies in each government administration, by dividing the time into the urban land policy before 1974, the Derg regime and the urban land policy of the current government.

3.1.1 Pre-1974 Urban land Policy

Immediately after Addis Ababa was established as the permanent capital of Ethiopia in 1886, Emperor Menilek granted large tracts of land to the nobility, important personalities of the state, churches and clergymen, Europeans living in the country, and foreign legations.⁵⁸ They were “allotted sections of land in the traditional manner round the royal area, and began individually to build their own dwellings”⁵⁹

⁵⁸ Richard Pankrust, (1996) state and Land in Ethiopian History, pp, 149,

⁵⁹ Ibid

Around the premises of the Rases and other important personalities, their faithful followers and dependants began to settle.⁶⁰ For the most part the neighborhoods or (safars) in which the nobility resided were called after their names. Thus, the “safars” became a typical feature of the settlement pattern of the city. Until now most neighborhoods are identified by safars, called often by the name of the lord who was originally given land grant by the emperor.

For over ten years after the establishment of the city, however, there was no legislation governing urban land holding. In 1907 Menilek ratified for the first time an urban land decree in which 32 articles were contained.⁶¹ The decree authorized Ethiopians and foreigners, for whom the Emperor gave permission, to purchase land in Addis Ababa. Title deeds were introduced for the first time.⁶² Purchase of land from both the government land and individual holders was allowed. The purchasers were required to register their land and get them mapped by an engineer, which could then be included in the cadastre of Addis Ababa. Upon the completion of the payment for land purchased, the owner was free to sell the land in whole or in part, to transfer it or use it to borrow money. If the government for some reason needed the land, compensation was to be paid.

According to Richard Pankrust, the registration of urban land and the granting of land character as of 1907 removed the air of impermanence and insecurity that had constantly hung over Addis Ababa.⁶³ Describing the significance of the urban land decree of 1907, Pankhurst states that,

“The city’s system of land tenure underwent important change... when temporary possession was transformed in to permanent occupation, the principle of more or less inalienable ownership of land being for the first time officially recognized.”⁶⁴

Consequently, from the above stated facts, it would be right to say that , the legal recognition of private ownership of urban land for the first time through the systematic land registration and issuance of title deeds was a radical departure from the past unsecured land ownership modality and massive step towards the privatization of urban land.

⁶⁰ Solomon Gebre,(1995)Urban land issues and policies,(Unpublished, Institute of Ethiopian Studies),pp.280

⁶¹Ibid

⁶²BahruZewde,A history of northern Ethiopia,(1966),pp,149

⁶³Supra note 55,Richard Pankrust,pp,154.

⁶⁴ Supra note 57,SolomonGebre,pp 280.

The private possession of extensive land in the hands of feudal landlords meant that most urban dwellers who came to the city later were denied access to urban land.⁶⁵ Nonetheless, whether or not the land holding right before the decree of 1907 was temporary possession is debatable.

With regards to this decree Berhanu asserts that, the 1907 decree in article 1 states that, one of the aim of the law was “to buy land in town of Addis Ababa” This means the law promoted the development of urban cadasters. Article 2 of the same decree also states that “the government shall assess the amount of the money to be paid for certain area of government land depending its values. This indicates that the cadaster also had a fiscal purpose. Following article 11 of the law, property boundaries were registered and mapped in Addis Ababa. In addition to this the law also allowed the registration of property transaction, as a means of guarantying security of ownership, as certificate named “yersitwereqet” literally means that a title deed was provided.⁶⁶

The recognition of private ownership of urban land that was laid down by Emperor Menilek, was further consolidated during the reign of Haile Selassie, because the 1931 Constitution dealt with this principle. The constitution states that,

“Except in cases of public necessity determined by the law, no one shall have the right to deprive an Ethiopian subject of any movable or landed property which he owns”⁶⁷

This shows that, the right of all Ethiopians, including the aristocracy, regional chiefs and ordinary citizens, to keep the land they privately owned would be respected. While keeping the fact that in the interest of the public, the government was given the right to dispossess private owners.

In 1928, Emperor Haile Selassie issued a land decree. The essential purpose of this particular decree was nothing but to improve land tax system of the city of Addis Ababa. The same principle was respected in the Revised constitution of 1955, i.e. private ownership of land was

⁶⁵ Id, pp, 290.

⁶⁶ Berhanu Kefale Alemie (2015), Urban Cadaster for Urban land governance: A Socio – Technical Analysis, (Dissertation to obtain the Degree of Doctor at the University of Twente), PP 51.

⁶⁷ ART 27, THE 1931 CONSTITUTION OF ETHIOPIA, Established in the Reign of His Majesty Haile Selassie I, July 16, 1931 (1).

maintained.⁶⁸ The right to own and dispose of property was given the legal recognition in various articles of the Civil Code Ethiopia.

The city of Addis Ababa began to develop as political, economic cultural center of Ethiopia. It, then, bit by bit began to attract the growing number of migrants who were looking for farm employment opportunities. As far back as the 1920's the value of urban land and house rent began to register continuous increases.⁶⁹ The problem was further aggravated in subsequent years particularly in 1950's and 1960's.⁷⁰ Needless to say that large tracts of land were under the control of a few landlords and hence the late comers began to experience difficulty of access to urban land. For those who could not afford to buy the cheaper alternative was to lease land from landlords on a contract basis and build their shelter.

The private possession of extensive urban land in the hands of a few aristocrats gave rise to a situation where most urban dwellers who came to the city in subsequent years lacked to obtain urban land.⁷¹ A striking characteristic of Ethiopian urban center during the pre-1974 period was the predominance of renters and the construction of low standard rental houses.⁷² The most affected sections of urban dwellers were the low income groups who were relegated to low standard rental houses with the minimum of facilities.

3.1.2 Urban Land Reform of the Derg Regime

In early 1974 the imperial regime was shaken by a series of mass protests, occurring in the major urban areas but later spreading to country side. These protests were accompanied by unrest in armed forces, leading to a number of mutinies by soldiers and junior officers in several military camps.⁷³ The aging Emperor was disposed in September of that year and the Dergs assumed

⁶⁸ Solomon, Supra note 57, pp 290

⁶⁹ Mesfinewoldemariam, problems of urbanization, (unpublished, proceedings of the third international conferences of Ethiopia studies, Haile Selassie I, university of Addis Ababa, 1996), pp, 28

⁷⁰ Ibid

⁷¹ Solomon, supra note 57, pp. 279

⁷² Ibid

⁷³ Dessalegn Rammato (2009), "Peasants and Agrarian Reforms: The Unfinished Quest for Secure Right in Ethiopia" in Janine Mubini, Andre J. Hoekema and Willem J. Assies (eds), *Legalizing Land Right, local practice, state responses and tenure security in Africa, Asia and Latin America* (Leiden university press), pp 40

power without much protest.⁷⁴ One of the Dergs measure to dismantle the political and economic power of the old empirical regime was the radical land reform of March 1975.

According to Dessalegn, there is very little information about how the legislation was drafted and took its final form. Moreover, the Derg did not promote any public opinion or views of interest groups or peasant representatives. In fact for the entire period the Derg was in power, it was secretive about most of its reform legislations, on ground that prior knowledge would, it believed, give the losers of reform opportunities to sabotage the measures.⁷⁵

Following the government control of rural lands, the proclamation to provide for Government Ownership of Urban Land and Extra Urban Houses (Proc. No.47 of 1975) was issued in July 1975. The proclamation was the major proclamation defining the urban land and house policy of the Derg Regime; several others were promulgated in subsequent years.

The preamble of proclamation No.47/1975 lists the major problems with the then prevailing pattern of land use and objectives of the policy. It pointed out that a few landlords, aristocrats, high government officials and capitalists controlled extensive areas of urban land and houses. By misusing their political and economic powers the landowners had created artificial shortages in supply of urban land; this in turn inflated land value and obstructed the improvement of urban areas and the quality of urban dwellers.⁷⁶ Moreover the absence of control on the rent of houses and the rising up of rents had rendered deplorable the lives of the masses of urban dwellers.

From the reading of the proclamation one can set two major policy objectives. These are:-

1. To provide the broad urban dwellers with credit facilities and urban lands for the construction of dwelling and business houses;
2. To appropriately allocate disproportionately held wealth and income as well as the inequitable provision of services among other dwellers.

With regard to urban land the new policy declared that the relationship between landowners and tenants was abolished and all urban lands became the property of the government.⁷⁷ No urban

⁷⁴ Ibid

⁷⁵ Id ,pp,41

⁷⁶ A proclamation to Provide for Government Ownership of Urban Lands and Extra houses ,1975,proc.No,47,Neg.Gaz,year 34,No.41.

⁷⁷ Id,Art.3(1)

land was to be transferred by sale, antichresis, mortgage, succession or otherwise.⁷⁸ A person requiring land for the purpose of building a dwelling house was to be granted free of charge up to 500m² in accordance with the directive of the Ministry of public Works and Housing.⁷⁹ The maximum limit on urban land grant was considerably lowered in subsequent years.⁸⁰

The proclamation allowed ownership of only a single dwelling house.⁸¹ The transfer of private houses by succession, sale and barter was permitted.⁸² All extra houses became government property and no person, family and organization was allowed to obtain income from urban land or house rent.⁸³ Along with the major landlords several small properties, including low income, who invested their saving on rental houses were expropriated.⁸⁴ The policy promised a fair compensation to houses transferred to government ownership, but this was never materialized.⁸⁵ Individuals from which houses were taken and who had no income other than the rent were allowed to obtain up to a maximum of Birr 250 depending upon the rent, until they earned income by working.⁸⁶

3.1.3 Current Urban Land Policy

Following the overthrow of the Derg Regime in May 1991 the current Ethiopian People Democratic Revolutionary Front (EPRDF) led government came to power. When EPDRF came to power it has become clear that no major change was to be made to the previous land tenure system.

The 1995 Federal Democratic Republic of Ethiopia (FDRE) Constitution that was subsequently adopted by the government unequivocally stated that ownership of all rural and urban land as well as all natural resources is exclusively vested in the state and the people of Ethiopia.⁸⁷ Furthermore, the constitution states that, the exclusive mandate to enact laws for urbanization and management of land and other natural resources in Ethiopia is given to the Federal

⁷⁸ Id ,Art.4(1)

⁷⁹ Id ,Art.5(1)

⁸⁰ Solomon, supra note,3,pp.285

⁸¹ Proclamation 47/1975,Art,11(1)

⁸² Id ,Art.12(1)

⁸³ Id ,Art.20(1)

⁸⁴ Id ,Art.19

⁸⁵ Id ,Art.18

⁸⁶ Id ,Art.21(2)

⁸⁷ The Constitution of the Federal Democratic Republic of Ethiopia Proclamation,1995,proc,no.1 Fed.Neg.Gaz,year 1,Art.40(3)

government,⁸⁸ while keeping the power to administer land and other natural resources based on the laws of the federal government is in the hands of nine regional states.⁸⁹

However, though the ownership of urban land during the Derg era and the current government is in the hands of the state, it should be noted that the mode by which the state exercises the ownership right is different between the two regimes. During the Derg Regime, the state played the role of the good 'paterfamilias'. It only allotted the land to private citizens, collected fees, preserved the land and so on. Whereas in the case of the present Regime the state owns the land as any private person. It will enter into a juridical act as any private individual on the subject matter of urban land. During the Derg Regime urban land was not the subject of lease but it is the subject of lease in the current system.

The introduction of the urban lease holding system was started even before the issuance of the FDRE constitution in December, 1993 by proclamation 80/1993 during the period of transitional government of Ethiopia. However, this law was consequently amended by proclamation 272/2002 and proclamation 721/2011. According to the lease hold proclamation the lease holder has a right to use and develop the land.⁹⁰ The right to transfer leasehold right through inheritance, gift and sale is also allowed if there is an improvement or development on the land.⁹¹ Furthermore, the leasehold right can also legally be used as collateral for bank loans, at least for the lease amount already paid.⁹²

Though the lease hold system is established over urban lands, it seems not possible for government to ensure the existence of effective, efficient, transparent and reliable urban land development and management system over urban areas. Considering this, one of the major and most important measures taken by the government with regards to urban land policy and land registration is the introduction of Urban Land Development and Management Policy in 2011 and issuance of urban landholding registration proclamation 818/2014 respectively.

Under the urban land development and management policy it is clearly stated that in order to achieve a goal of helping country join middle income countries the issuance of the urban land

⁸⁸Id,Art 51(5)

⁸⁹ Id ,Art,52(2)(d)

⁹⁰Urban land holding lease holding proclamation no,721/2011,Art.21(1)&(2)

⁹¹Id.Art 24

⁹²Id .Art. 24(1)

development and management policy and ensuring the existence of effective, efficient, transparent, and reliable urban land development and management service delivery system over urban areas is a must. Additionally, the policy asserts that one of the strategies that need to be followed to put the policy into implementation is to create a legal frame work where by modern land and land related information registration institutions are established and preserve a system by which urban centers know the land available at their disposal through inventory (land adjudication) and registration, so as ensure that reliable transactions related to immovable properties build on land and possession right of citizens over their land is secured.

From the above explanation of the policy of urban land development and management policy, it is possible to assert that government has taken the establishment of modern land and land related information system. The system is expected to assure transparent, accountable, efficient and effective land development and management service delivery system that to be provided by the registry institution established for the implementation of the urban land registry law. The next coming part of the research discusses some major aspects of the urban landholding registration proclamation no 818/2014 and it's consequently issued regulation and directive.

3.2 Overall assessment of the Urban Landholding Registration Laws:

The main objective of this research is to identify the legal and practical problem of the laws governing urban land registration. Taking this into consideration, under this topic we will discuss some major points related to the urban landholding registration proclamation no 818/2014 (Proclamation) and its consequently issued regulation of the urban land holding adjudication and registration regulation no 324/2014 and urban land holding adjudication and registration directive no 45/2014, as this is very important to grasp some basic points that would be helpful for the assessment part.

The proclamation was issued in February 2014 in accordance with Art 55(2) of the FDRE constitution. But now the pertinent question should be what was the rational for having this proclamation? What is the objective of the proclamation? What are the principles of land registration? What institutional framework does it declare?

Some of the major reasons for the new urban landholding proclamation are given in the preamble of the proclamation. These are:-

1. To realize the right of Ethiopians to immovable property they build on the land as provided under Art 40(7) of the FDRE Constitution.
2. To address the fundamental institutional requisite for registration of urban land so as to generate reliable information for the country's economy which will be utilized for the required service, especially to give security for the possession right of citizens and thereby accelerate economic, social and environmental development of cities.
3. To minimize disputes raised related to land and immovable property through establishing transparent, accountable working system and making government service efficient and enable the possessor to enjoy the property it develops in accordance with the law.
4. To put in place a legal framework which is up-to-date, efficient and compatible with the market transaction that facilitate registration of right, restrictions and responsibilities related to land and immovable property and enhance land and immovable property to the development of free market economic system and to certify land and immovable property right to the possessor who develops on land and to ensure his possession security.
5. Where it become necessary to implement legal cadastre principles such as registration of possession ,getting the consent of possessor during transaction ,making registration of possession open to public, clearly identifying the possession and possessor through unique identification code.

Moreover, the proclamation with regards to land registration has two broad objectives,⁹³ namely,

- To ensure uniform protection of landholding rights of private, joint holders, associations, government and nongovernmental institutions, by enabling urban centers know the land available at their disposal through inventory and create integrated national landholding system compatible with the rural land administration which supports the building of one economic community; and
- To accelerate the economic, social and environmental development of urban centers by ensuring land holders security of landholding right and recognition of title to immovable property by certifying the right through registration.

⁹³Art 4,urban landholding registration proclamation no 818/2014

These broad objective of the urban land registration of the proclamation are specified into four objectives under the Urban Land Holding Adjudication and Registration Regulation no 324/2014(Regulation)⁹⁴.These are:-

- To enable urban centers to identify their land resource and create conducive situation in making decision on land ,through having legitimate information in relation to who holds the land ,when was it is acquired ,use of land ,form of holding or for how long it has been held.
- To benefit a person who has landholding right from the economic, social and local development of urban centers by enabling him/her mortgage properties built on it.
- To create a conducive environment in which land holders use right, landholding service type and transaction of immovable property on landholding is substantiate with acceptable evidence and thereby enable to put a working system that is transparent to all persons.
- To create a conducive environment for the community to ascertain their land holding use right and to spend their time on development activities by enabling urban centers to provide guarantee for landholding right, restrictions and responsibilities permitted by organ empowered to permit land use right and to reduce landholding related disputes.

Therefore, from this declaration of the law, it possible to affirm that, in implementation of the urban land registry law in each urban land holding registry institutions that to be established by each of the nine regional states in accordance with article 50(1) of the proclamation (both at regional or urban level) has a duty to meet this objective of the law. To be more specific the registry institution has a responsibility to adjudicate all land parcels situated within the boundary of the particular city of the regional state and insure the implementation of a secured, reliable, trustful and efficient legal cadaster registration and information system that is integrated with the national land holding system and compatible with the rural land administration of that particular region.

3.2.1 Principles of urban land registration

According to the Regulation there are six principles of land registration.⁹⁵ These are the following

⁹⁴ Art 3 urban land holding adjudication and registration regulation no 324/2014

⁹⁵ Id Art 36

- a) Any land holding right and corresponding restrictions and responsibilities of any person shall be registered.
- b) Registration of landholding rights shall be carried out for landholdings for which rights are created by legally authorized body.
- c) Unless contrary evidence is produced any registration of land holding shall serve as conclusive evidence for the landholding use right and ownership right of immovable property built on the land.
- d) Any right, restriction, and responsibility and related dealing on land holding may be invoked against only if they are registered.
- e) No person may benefit from his claim that he is not aware of the right, restrictions and responsibilities registered under the landholding right registered, provided that if such lack of awareness is created due to the mistake or fault of registering institution, the registering institution is liable.
- f) Any right, restrictions and responsibilities on land holding shall be registered if it successfully passes through the adjudication process.

3.2.2 Institutional framework of the urban land registry law

As Ethiopia is following a federal system it with this alignment that land registry institution are also framed under the proclamation. One substantiating fact that affirms this assertion is that there is a land registry institution both at federal and regional level having different mandates designation emanating from the proclamation.

According to the proclamation each regional state of Ethiopia has a responsibility to establish or designate an appropriate organ both at regional and urban center level which will be a responsible for the discharging the urban land holding proclamation and its respective regulation, directives and standards.⁹⁶

On the other hand Ministry of Urban Development and Housing (MoUDH) is the institution at federal level which is designated for follow-up and for ensuring the proper implementation of the urban land holding proclamation ,regulation, directives ,and standards all over the regions and cause corrective measures to be taken where problem exists.⁹⁷ Furthermore MoUDH has a

⁹⁶ Art 50(1),urban landholding registration proclamation no 818/2014

⁹⁷ Id.,Art.49(1)

responsibility of providing technical support and training assistance to regions on legal framework and to serve as a national information resource center on urban land registration and related information.⁹⁸ Mandate arrangement between the federal and regional state institution appears to confirm the power division arrangement stated under the FDRE Constitution.⁹⁹

Accordingly, when one attempt compares the responsibilities of the registry institution at federal and regional level, without any inquiry the tasks of the regional institutions are wider than that of the federal institution. This is because that, while the regional registry institutions are in charge of implementing the wide range tasks stated under the urban land laws ,the federal institution would only reserve its self to the tasks stated under article 49 of the proclamation.

Although, the regional states land registry institutions are expected to implement the wide range of tasks given for them under the urban land registration proclamation, considering the issues in relation to the purpose, the principles and most essential conditions for the success of land registration (which we have discussed in the previous chapter) alongside with the research paper objective of identifying the legal and practical problem of the legislations governing urban land registration, we selectively discuss some of the major tasks of the regional state land registry institutions .

3.2.2.1 The Federal and Regional Land Registry Institution

Some of the major obligations of the regional land registry institution in attaining the objective of land registry mentioned above are the following:-

A. Public participation

As land adjudication mandatory for land registration, the land registering institution has a duty to conduct the adjudication course in an area which has local development plan and where illegal land holding are completed.¹⁰⁰ Furthermore it is duty bound to cause the public to be aware of the significance of land adjudication, required procedure, grievance submission and decision making process and to allow public representatives to participate in the process as an observer and decision maker through involving in adjudication grievance handling tribunal that has to be

⁹⁸ Id,Art.49(1)&(2)

⁹⁹ The Constitution of the Federal Democratic Republic of Ethiopia Proclamation,1995,proc,no.1 Fed.Neg.Gaz,year 1,Art.51(5)& 52(2)(d),declares that the exclusive mandate to enact laws on land and other natural resources is given to the Federal government, while keeping the power to administer land and other natural recourses based on the laws of the federal government is given to the nine regional states.

¹⁰⁰Art 10(10),urban landholding registration proclamation no 818/2014

established in an area where an adjudication to be conducted.¹⁰¹ Since, the law put limitation on the period time within which adjudication must be completed the registering institution is obliged by law to complete adjudication within the maximum period time specified by the law.¹⁰²

B. Protection and Updating of the information

According to the proclamation the land registering institution has a duty to prepare a paper or paper and digital formats which the records of the registry can be kept and safeguard the registered information from any kind of security.¹⁰³ Additionally the registering institution has an obligation to update the registered information in the course of providing the land registry services sated under the proclamation.¹⁰⁴

C. Accountability

The registering institution shall be held liable for the damage caused to the third parties who acted in good faith by relaying on proof of registered information received from the registry. In relation to this the registering institution is also duty bound by the law to establish a security fund to discharge liabilities coming out of such situation.¹⁰⁵

D. Transparency

The registry institution has a duty to provide a certificate of land holding right for a person whose land holding is registered by the registering institution. According to the urban land registration law the person whom such certificate is issued shall be deemed to be considered as the possessor of the land indicate in the certificate and owner of the immoveable property situated on the land.¹⁰⁶ Beyond and above, the registering institution has a duty to make the information registered open to public.¹⁰⁷ This is because that under the proclamation any claim by any person, that it didn't know a registered right, restriction and responsibility entered in the records of the registry institution is inadmissible.¹⁰⁸ Besides this there is also a clear declaration

¹⁰¹ Art 16(1)(2)&(3),urban landholding registration proclamation no 818/2014 and also see Art 12of the urban land holding adjudication and registration regulation no 324/2014

¹⁰² Art 21(1)urban land holding adjudication and registration regulation no 324/2014

¹⁰³ Art 31(1)&(3) ,urban landholding registration proclamation no 818/2014

¹⁰⁴ Id,Art 38

¹⁰⁵ Art 40(1) & 41(1),urban landholding registration proclamation no 818/2014, Art 72 of the urban land holding adjudication and registration regulation no 324/2014 and also see Art 74 of the urban land holding adjudication and registration directiveno 45/2014

¹⁰⁶ Id,Art 33 & 42

¹⁰⁷ Id,Art 36

¹⁰⁸ Id,Art 46(1)

under the law that a land holding use right or immovable ownerships right, unless registered in the records of the land registry institution it cannot be set up against any person.¹⁰⁹ Even court judgments ,decisions or orders which acknowledge ,transfer, modify ,extinguish or retain a right on land holding can only be set up against the registering institution from the date on which such judgment, decision or order is registered in the land registry institution.¹¹⁰

3.2.2.2 Other Institutions

In addition to the land registry institution mentioned above, there is also another institution that is well recognized under the proclamation. This institution is the land administration organ (The Former Land Registry) that is having a duty to submit all documents evidencing the right it has already granted and the restriction and responsibilities it has already registered regarding each landholding to the newly established urban landholding registry institution while land adjudication is conducted.¹¹¹ In short this institution is the former or old land registry institution that exists before the establishment of the new land registry institution for the implementation of the urban land holding registry proclamation.

Consequently, since one of the basic principle land registration proclaims - that land adjudication is mandatory for land registration,¹¹² without the full cooperation of the former land registry in providing documents evidencing right, restriction and responsibilities already registered in a land holding, conducting of land adjudication will not be possible and subsequently there will not be possible to register land and achieve the objectives proclamation. This fact clearly shows how the role of former land registry institution is important.

Accordingly to the proclamation, the former land registry has the following three major obligations while land adjudication is conducted by the newly established land registry institution for the implementation of the proclamation.

- To organize and submit to the registering institution, documents evidencing the right it has already granted and the restriction and responsibilities it has already registered regarding each landholding.¹¹³

¹⁰⁹Id,Art (1)

¹¹⁰Id,Art 39

¹¹¹Id ,Art 10(5)&(6)

¹¹²Art 36(6) urban land holding adjudication and registration regulation no 324/2014

¹¹³Art 10(5)&(6) ,urban landholding registration proclamation no 818/2014

- Whenever there is inconsistency between documents submitted to the registry institution and the matter is referred to it to decide on, it shall notify its decision to the registry institution within fifteen working days.¹¹⁴
- Until the completion of land adjudication is announced, it stops or suspends transfer of landholding title in the selected adjudication area.¹¹⁵

The other important point to be known about the former land registry organ is that, through gradual period of time it handovers all services it has been providing before to the newly established land registry institution and it ceases to exist.¹¹⁶ Or in other word after land adjudication is completely conducted in every plot of land of the urban center, it is the newly established land registry organ that is going to provide service on land holding like ,transfer of title, registration and cancelation of encumbrance, registration of merging of land holding, registration of splitting of land holding, updating land holding registration information, issuance of certificate ,cancellation and correction of certified registration and issuance of replacement of certificate. However, until the land registration is completed in the urban center the former land registry organ will continue to provide the aforementioned land services on landholdings that were not adjudicated by the newly established land registry organ.

3.3 The Current legal and institutional status of urban land registration in Addis Ababa

It was ten years after the establishment of Addis Ababa as a capital city of Ethiopia, that Minilik ratified the first urban land decree in 1907 discussed above.¹¹⁷ Since then land registration and its respective service in Addis Ababa have gone through many institutional and organizational arrangements.

Following the enactment of the Urban Landholding Registration Proclamation no 818/2014 of the federal government, the city government of Addis Ababa has made quick response to establish a land registry institution which is assigned to achieve the following two objectives.

¹¹⁴ Id ,Art 14(3)

¹¹⁵ Id ,Art 13(1)

¹¹⁶ Art 55 ,urban landholding registration proclamation no 818/2014 and also see Art 74 of the urban land holding adjudication and registration regulation no 324/2014

¹¹⁷ . Solomon Gebre,(1995)Urban land issues and policies,(Unpublished, Institute of Ethiopian Studies),pp.280

These objectives are

- To adjudicate all parcel situated within the boundary of Addis Ababa City and insure the implementation of a secured, reliable, trustful and efficient legal cadaster registration and Information system,¹¹⁸ and
- To maintain efficient, reliable, transparent and accountable land holding registration service and provide immovable property information from Addis Ababa Cadastre Information System to support land management, land use planning and property valuation to foster the economic development of the City of Addis Ababa; and for the use of Citizens and private sectors.¹¹⁹

Addis Ababa city government landholding registration and information agency (AACGLRIA) is the institution that is established by the City Government Proclamation 45/2015 to undertake such wide range duties or responsibilities of land registry institutions mentioned under the Federal Urban Land Holding Registration Proclamation no818/2014. However it should be noted that the establishment this institution goes back to year 2010, which is even before the enactment of the federal urban landholding registration proclamation of 818/2014. With regards to this point ZerihunAmdemariam (by the time who is General Manager ILIS Project Coordination Office of City Administration of Addis Ababa) and TarekZein (International Consultant HansaLuftbild Consulting International GmbH)states that in September 2009 the Addis Ababa City Government called for tenders for the development of a real property registration and land information (cadastre) system. The tender's scope of work includes the updating of existing cadastre map data, the design and implementation of a street addressing system and support for the establishment of municipal real property registration offices. The contract was awarded to the German company HansaLuftbild¹²⁰ and consequently, by Proclamation No. 22 /2010 city government of Addis Ababa has established the Immoveable Property Registration and Information Agency (IPRIA)¹²¹ and Addis Ababa real property registration system (AA-CADIS)

¹¹⁸.Art 5(1),Addis Ababa City Government Land Holding Registration and Information Agency Re-Establishment Proclamation 45/2015

¹¹⁹ Id .Art 4(2)

¹²⁰ZerihunAmdemariam and TarekZein, Implementation Practice: Real Property Registration Systems in Developing Countries: Confluence of technological, institutional and organizational requirements in the Addis Ababa Project, Annual World Bank Conference on Land and Poverty' The World Bank - Washington DC, April 8-11, 2013.pp 3-4

¹²¹.Ibid

and the Addis Ababa land information system (AA-LIS), was developed by HansaLuftbild.¹²² Soon after this, Proclamation 22/2010 was amended by Proclamation 24/2011¹²³ and Proclamation 45/2015 and finally the current land registration institution AACGLRIA come to appear to be a land registry institution established for the implementation of the Federal Urban Land Registration Proclamation.

Some of the main duties of AACGLRIA are the following

- Control and assert registration, renewal, correction and cancelation of information about land holding rights, responsibilities and restriction and also other land holding services according to registration law.
- Maintain principal archive on paper and digital form, organize, analyze, update and use data about land holding registration information and provide information to public and private users.
- Facilitate conditions in which the registry of immovable property shall be made open to the public.

The preamble of the Addis Ababa City Government Land Holding Registration and Information Agency re-establishment Proclamation No 45/2015 states that it is due to the institutional requisite for ensuring the prevalence of good governance through development of an efficient, effective, equitable and well-functioning land holding rights, and build transparent and accountable registration system that ensures the rights and obligations of the holders, and additionally due to necessity of establishing an institution that can build reliable and secured legal cadaster registration system in line with the federal urban land holding registration proclamation that AACGLRIA was established by Addis NegariGazeta of the city(city proclamation 45/2015) .

The other important point to know about AACGLRIA is that it is fully accountable to the Mayor Addis Ababa and has a head office at the City level and Registration office at the Sub-city

¹²².id ,pp 5

¹²³ See Addis Ababa city Government amendment proclamation 24/2010 Of Immovable Property Registration and Information Agency. (This amendment was made to shift the direct accountability of the agency from city manger to the city mayor so that the agency could be independent out of the due influence of other land institutions who are under the control the city manager) and also see Art 20(1) of Addis Ababa City Government Land Holding Registration and Information Agency Re-Establishment Proclamation 45/2015.

level.¹²⁴ Beside this, currently there is also a land adjudication project office both at city and sub city level that is established and controlled by AACGLRIA.

According to the Addis Ababa City Government Land Holding Registration and Information Agency re-establishment Proclamation No45/2015 there is also another institution known by the name "Title Administration Transitional Period Service Project Office"¹²⁵ which is responsible to give land holding services on those land holdings where the adjudication is not completed and registered by AACGLRIA¹²⁶. Furthermore, this same institution has a responsibility to organize, verify and transfer to the AACGLRIA all important Information about concerned files and documents which are under its possession¹²⁷, so that landholding adjudication and registration can be easily be conducted by AACGLRIA.

Hence, from this declaration of the law it is possible to affirm that in the case of Addis Ababa, Title Administration Transitional Period Service Project Office (TATSPO) is the former land registry organ. TATSPO is expected to gradually handovers all landholding related services it has been providing before to the newly established land registry institution AACGLRIA and legally ceases to exist upon completion of land adjudication overall land parcels situated within the boundary of the city of Addis Ababa.

3.4 Legal and Practical Problems of the Urban Land Registration Law

In the previous section we have discussed how legal and institutional framework of Addis Ababa look likes. In this section we will look into practical and legal problems of the urban land registry law identified in the course of analyzing the implementation of the urban land registration law in Addis Ababa. Accordingly, first we will examine the legal problem and then we shall the practical problems encountered in implementing the urban land registration laws.

¹²⁴ Art 6(1). Addis Ababa City Government Land Holding Registration and Information Agency Re-Establishment Proclamation 45/2015

¹²⁵ Id ,Art 2(13)

¹²⁶ Id, Art 18(2)

¹²⁷ Id ,Art 18(1)

3.4.1 Legal problems of urban land registration law

3.4.1.1 Burdensome provisions of the law

- Under the urban land registration law any person clamming to have land holding use right shall first submit an application for land adjudication¹²⁸ and upon the completion of the adjudication, again has duty to make an application for registration of the adjudicated right, restriction and responsibilities on the parcel¹²⁹. Together with the application the person has to bring documents evidencing urban land holding map confirming use right ,lease certificate, contract of rent, or evidence of old possession given by the organs empowered to permit urban land use right.¹³⁰ This same law additionally states that what is to be adjudicated and registered is the right that is created by legally authorized body. Or in other words, what is to be registered is a land holding right, restriction and responsibilities ascertained to be similar with that of information kept and known by the former land administration institution.

Accordingly, my informants¹³¹ stated that, so long as the land adjudication and land registration task is carried out by one land registry institution to be established for the implementation of the urban land registration law, forcing a person to make application twice in a busy world that considers time as a gold is a burdensome and despotic.

Form the reading the urban land registration law one can assert that, the main reason behind the requirement of the second application for registration is service fee. This is because, under the law systematic adjudication is conducted mandatorily¹³² at the expense of government and land registration has some service payment¹³³. Accordingly the person makes twice application one for adjudication and the other for registration.

However as it stated in the summery of the pervious chapter, making registration with bureaucratic procedure doesn't not grantee success or completeness .what matter most for

¹²⁸ Art 13(1) urban land holding adjudication and registration regulation no 324/2014

¹²⁹ Art 21(2) and 27(1),urban landholding registration proclamation no 818/2014

¹³⁰ Art 31(1)(d) urban land holding adjudication and registration regulation no 324/2014

¹³¹FGD made with 4 senior right registration experts of AACGLRIA, conducted on 19 Match, 2017

¹³² See Art 11(1) of urban landholding registration proclamation no 818/2014 and Art 13(4) of urban land holding adjudication and registration regulation no 324/2014

¹³³ Art 27(2),urban landholding registration proclamation no 818/2014

the success is having a smooth procedure and clear benefits of registration .Accordingly the law expected to support the land registration by setting smooth and efficient procedures whereby people can easily register their land without unnecessary waste of time .which is not happening in this particular case.

Furthermore, as we can assert from the land registration law one of the objective behind its enactment is to create a conducive environment whereby land holders spend their time on development activities by enabling the urban centers to provide guarantees for the land holding rights¹³⁴.The contrary reading of this declaration shows that the law has an intention to avoid the waste of time that people dwell in order to secure their right over their land. Hence, the law should set a means whereby adjudication and land registration to be conducted at one time (single) application.

- The other legal problem that is identified by this research is the issue of penalizing a person who has made an application for registration within the time specified by law due to the fault or non-appearance of the other joint holders to apply for registration within the time specified by law. The core point of this claim is that, under the urban landholding registration law, any person who has received a verification document evidencing the fact that the parcel is adjudicated has a duty to apply for land registration within 30 working days from the date receiving such certificate. If such application is not made within the time specified by law, there will be a penalty payment.¹³⁵ beside this, with regards to a land held by two or more joint holders, the law sets mandatory requirement that application for registration to be made only by all joint holders or their joint agent. From the reading of the urban land registration law one can infer two justifications behind such criteria. One is simply because, as long as the land is held jointly by two or more persons, any application with regards to such parcel expects to be made jointly by all joint holders.¹³⁶On the other hand the other reason is that, though the parcel is held jointly there are conditions were by the proportional share of right on the parcel may be different between each joint holders ¹³⁷ and consequently in order to

¹³⁴ Art 3(4) urban land holding adjudication and registration regulation no 324/2014

¹³⁵ Art 27(4),urban landholding registration proclamation no 818/2014

¹³⁶ Art 13(3) & Art 30(3) urban land holding adjudication and registration regulation no 324/2014

¹³⁷ Art 14(5),urban landholding registration proclamation no 818/2014

prevent a means were by one joint holder affects the other joint holders right, the law has set such mandatory criteria of application for registration to be made by all joint holders. However, though the second rational is acceptable for the case of adjudication (because unless no document verifying the proportional right that each joint holders have is provided to the registry institution, the law presumes that land to be adjudicated as if all joint holders have equal share of right over the parcel),it does not work for land registration. This is because that, what is to be registered in the first registration is the result of the adjudication or in other word what is going to be registered is the already adjudicated right, restriction and responsibilities of the parcel.¹³⁸ Consequently, there is no means at all were by application for registration made by one of the joint holder will affect the right of the other joint holder.

Nevertheless, according to my informants¹³⁹ due to the existence of these burdensome criteria for registration in the law, problems are appearing were by one of joint holder who comes to make application for registration within the time specified by law get punished with penalty due to the fault of other joint holder for not making the application within such time, which is unfair and not just. While accepting the application made by one of the joint holders create no tangible problem or harm to the right of the other joint holders over the parcel.

One exemplary situation where such kind of issues arises is that, after the completion of adjudication there are times whereby, due to conflict between the joint holder or negligence or some other unknown reasons if, one of the holder fail to make an application for the registration within the time specified by law, the other joint holder will get punished .even though, such person has comes to make the application to the registry institution within the time specified by law.

3.4.1.2 Gaps of the law

- The Urban Land Registration Proclamation states that until the completion of land adjudication is announced transfer of land holding title are forbidden or suspended for a period of five months. But practically there are situations whereby knowingly or

¹³⁸ Art 4(2)& 36 (2) &(6) urban land holding adjudication and registration regulation no 324/2014

¹³⁹ Interview Conducted with AbehamTibebu ,registration officer at Gulele sub-city of AACGLRIA, conducted on 27 March ,2017 and interview conducted with Interview Conducted with HassenMossa and MahletMengistu, Right Registration Directorate Director and Document verification and Authentication Directorate Director respectively from AACGLRIA.conducted on 20 March ,2017

unknowingly transfer of landholding title will occur as like the case of Addis Ababa¹⁴⁰. However, except for stating the fact that such act is not allowed under the law, the law does not state the fate of of such parcels where transfer of title has occurred in conflict with the law. My informants¹⁴¹ intimated to me that due to such gaps of the law, land holders of such parcels are facing problems in getting any service either from TATSPO or AACGLRIA.

- The other gap we see in the law is the issue of adjudication land parcels which are owned by embassies or international institutions. According to the law when systematic adjudication is conducted in a selected area, the registry institution is duty bound to ascertain the existing rights on all land holdings within a defined area subject to adjudication.¹⁴² Consequently, in cities like Addis Ababa there are some areas where land parcels are owned by embassies and international organization. Under international law this land parcels are assumed to be like lands of the country which they are representing. Taking this into consideration ,when such kind of parcels are found to exit in the selected adjudication area ,except stating the fact that every parcel shall be adjudicated¹⁴³ the law is silent as to what to do with such parcels? Or how such parcels can be adjudicated or registered? What procedure to be followed? These are unanswered questions. My informants,¹⁴⁴ in kirkos and bole sub city there still some issues that has occurred due to such gap of the law.

¹⁴⁰ See the annex document of the research that shows the list of the transfer of title conducted by kollfe and Nifas Silk Lafto sub city offices of TATSPO.

¹⁴¹ Interview Conducted with AtoBulchaBerecha, Registration Directorate Director under the Ministry of Urban Development and Housing at the Federal Urban Land and Landed Property Registration and Information Agency.conducted on 13 March,2017

¹⁴² Art 2(6) ,urban landholding registration proclamation no 818/2014

¹⁴³ Art 15(1) ,urban landholding registration proclamation no 818/2014

¹⁴⁴ Interview Conducted with HassenMossa and ZelalemAbate , Right Registration Directorate Director and Land Adjudication Project Office Directorate Director respectively from AACGLRIA.conducted on 20 & 24 March, 2017 respectively

3.4.1.3 Conflicting provisions of the law

The Urban Land Registration Proclamation article 14(1) and article 15(2) respectively declares that land adjudication shall be conducted by verifying the consistency of the evidences presented by the person claiming to be right holder with evidence coming from the former land registry organ that has legal right to permit such right. Furthermore the law also states that the non-appearance of a person claiming to have land holding right will not stop the adjudication process and in such cases the parcel shall be adjudicated based on the permit landholdings and land lease use right information provided by the land holding administration.

However, contrary to the Proclamation and the Regulation, article 7 of the Directive states that if a person who is claiming to have right on landholding fails to apply for adjudication of his right within the time specified by law such parcel shall be adjudicated sporadically upon payment and request of such person. Hence, as adjudication is mandatory for registration this conflicting provision on how to adjudicate a parcel, when a person claiming to have a right fails to apply for the adjudication has to be resolved. An informant told this researcher that this problem is being¹⁴⁵ solved using a canon of interpretation which says the provision of regulation prevail over that of a directive and proclamation prevails over a regulation.

3.4.2. Practical Problems of the Urban Land Registration Law

In this section we discuss issues and challenges that are faced and identified in the practical implementation of the law in Addis Ababa.

3.4.2.1 Reliability of the registered urban land information.

Currently AACGLRIA use land information both on paper and digital format. However, most of the records are kept in paper format. If we simply take the final report of the registry institution of year 2008¹⁴⁶ of E.C out of 15087 title records 15,087 are registered on paper format and 8665 are registered on the digital format of the registry. According to Berhanu¹⁴⁷ the reason for such big gap the records kept in digital format and paper format is because of the **low** performance of the

¹⁴⁵FGD made with 4 senior right registration experts of AACGLRIA, conducted on 19 March, 2017

¹⁴⁶ See the attached report of AACGLRIA that is attached with this research.

¹⁴⁷ Interview Conducted with Berhanuwedajo, the current Deputy General Director of AACGLRIA conducted on 23 March, 2017

digital format. Due to this there is a big backlog of records to be registered in the digital registration system and it is not possible for the agency to deliver updated reliable information to its clients using the digital registration system. What's more surprising is, it's only AACGLRIA that is using unique parcel identification number to identify the a land parcel registered in the agency. Other land sectors¹⁴⁸ are not using a common data base or common unique identification number that AACGLRIA is now using to identify a land parcel. Hence this fact shows that under the current situation of Addis Ababa delivery of integrated land related services to the client is far from the reality.

3.4.2.2 Accountability and transparency

According to federal urban land registry law and the establishment proclamation of the agency itself, AACGLRIA has a duty to make the registered information open to public and establish a security fund that will be used for the payment of damage caused to third parties who acted in good faith by relying on information given from the AACGLRIA itself. However under the current situation Addis Ababa there is no security fund that is established by the city government¹⁴⁹. On the other hand with regards to the information registered, though it made open to public to individuals who have vested interest on the parcel or to legally authorized person, unless through personal appearance there is no means where by one can easy access such information either Internet or modern computerized system.

3.4.2.3 Poor Institutional integration and competence

A. Poor institutional integration

According to the urban land registration law the new land registry institution established for the implementation of the urban land registry proclamation and the former land registry institution need to make smooth cooperation and integration for the achievement of the objective s of the land registration stated under the urban land registration proclamation. However when we look into the practical case of Addis Ababa there is poor coordination between AACGLRIA(the new one) and TATSPO (former one).one evidence that proof this fact is that, in 2008¹⁵⁰ fiscal year

¹⁴⁸See other land sectors like Integrated Land Information System Instructions Project Office, Urban Plan Institute, Land Bank and Transfer Office, Land Development and City Renewal Agency, and Building Permit and Control Agency ,established under Addis Ababa City Government Executive and Municipal Service Organs Reestablishment Proclamation No 35/2012

¹⁴⁹ Ibid

¹⁵⁰ See the attached report of AACGLRIA that is attached with this research

report AACGLRIA stated that out of 51,620 parcel file requests TATSPO has summited only 41,358 or 80% of the request. Additionally, out of 9867 parcel files that found to be inconsistent and referred to TATSPO to give answer on it, only about 1101 had been sent to AACGLRIA. Beside, even though TATSPO has an obligation by law to stop or suspend the transfer of landholding title in the selected area until the completion of land adjudication announced by AACGLRIA or for the period of five months¹⁵¹ TATSPO is conducting transfer of land holding title while land adjudication is being conducted in the area where such parcel exists.

The other fact that shows the absence corporative working relation between the two institutions is the non-compliance of ensuring the land adjudication to be conducted in an area where local development plan and illegal land holdings are regularized, this is because AACGLRIA 2008 report shows that there are informal land holding in the selected adjudication area that require the attention of TATSPO to create right for them which is not happening right now.

B. Institutional competence

Currently, AACGALRIA has about 900 staff; out of which about 400 are assigned to the project office and the rest one are in the registry institution. Nerveless, most of the informants asserted that the registry institution does not have enough qualified surveyor and registry staff .Furthermore there is high turnover of employees.

The other issue in relation to this institutional competence of the registry institution is the compatibility of the registered information with national and rural land registry system .The law strictly imposes an obligation on the registry institution to make information registered under the land registry institution to be compatible with the national land registration system.¹⁵² Accordingly AtoBerhanu¹⁵³ and AtoBulacha¹⁵⁴ the current digital system being used by AAGCLRIA to register land information is not compatible with the national registration system. Consequently without taking further delay and time this registration system has to be adjusted quickly.

¹⁵¹ See the attached report of AACGLRIA that is attached with this research

¹⁵² Art 4(1) ,urban landholding registration proclamation no 818/2014

¹⁵³ Interview Conducted with Berhanuwedajo, the current Deputy General Director of AACGLRIA conducted on 23 March, 2017

¹⁵⁴ Interview Conducted with AtoBulchaBerecha, Registration Directorate Director under the Ministry of Urban Development and Housing at the Federal Urban Land and Landed Property Registration and Information Agency.conducted on 13 March, 2017

C. Poor public participation

As we have discussed in the previous section of this chapter the urban land registration law declares that ,the land registry institutions has a duty to cause public awareness about the significance land adjudication and registration, required process, grievance Submission and decision making process and to allow public representatives s to participate in the process. However in the case of Addis Ababa, tough there are planned awareness programs, almost all of my informants have asserted that there is inadequacy of public awareness raising initiatives about the whole process of land registration.

Hence lack of public awareness on the side of the public on the benefits of being registered and the risks that they take in not registering transactions is a big practical problem that AACGLRIA is facing in the current situation of Addis Ababa.

3.5 Summary

During the Imperial and Derge regime there were no appropriate policies and law for modern land registration development. Rather the policy of the imperial regime was in favor of tenancy system that is dominated by renters and the construction of low standard rental houses. Whereas the policy of the Derge regime is aimed to create an equitable landholding system.

Though the current regime of EPRDF has established the lease holding system over urban land it seems not possible for government to ensure the existence of effective, efficient, transparent and reliable urban land development and management system over urban areas. Accordingly, in 2011 the Government has adopted the Urban Land Development Management Policy, which have paved ways for the issuance of the Urban Landholding Registration Proclamation No .818/2014.

The proclamation has the objective of achieving uniform protection of landholding rights of private, joint holders, associations, government and nongovernmental institutions, by enabling urban centers know the land available at their disposal through inventory and create an integrated national landholding system compatible with the rural land administration which supports the building of one economic community. Additionally, it also has the objective to accelerate the economic, social and environmental development of urban centers by ensuring land holders security of landholding right and recognition of title to immovable property by certifying the right through registration.

Under the urban land registry law it is stated that are land registration institutions that to be established both at federal and regional level. Furthermore, each regional states of Ethiopia has a responsibility to establish or designate an appropriate organ both at regional and urban center level which will be a responsible for the discharging the wide range of tasks stated under the Urban Land Holding Proclamation and its respective regulation, directives and standards.

When we comes to assess the practical implementation of the urban land registration law in the city of Addis Ababa, though there is an established institutional framework in alignment with the Urban Land Registration Proclamation, we have identified that, the existence of burdensome provisions which imposes a mandatory obligation on a person to file twice application (for adjudication and registration) and for having a provision that punishes a person who has made the right application at the right time due to the failure of other joint holder to submit the

application for registration within the time specified by law, the silence of law towards the issue as to what procedure to be followed to adjudicate and register land parcels owned by embassies and international organization, and what the fate or consequences of such parcels where transfer of title has occurred in conflict with the law are the legal problems identified by the research.

Beside these, weak public participation, lack of public awareness about the process of land registration, poor cooperation between land registry institution, non-establishment of a security fund that will be used for the payment of damage caused to third parties and failure to deliver updated reliable information to clients using the current digital registration system are some of the key identified practical and institutional problems under the research.

Chapter Four

Conclusion and Recommendation

4.1 Conclusions

Throughout this research, an attempt is made to explore the legal and institutional frame work for urban landholding registration with a view to addressing questions of what the purpose of urban landholding registration and to what extent that can be materialized. Furthermore, the major legal and practical problems related to urban landholding registrations as well as issues associated with registry institutions have been examined

Land registration is about ‘the process of recording’ and this recording process involves people and instruments, brought together in organizations. Accordingly which (separate) organizations and private practitioners are involved in the process and how they compete with, cooperate, coordinate and complement each other is another important issue to be looked well for the success of land registration of a country. While still keeping the fact that land registration needs strong support from legislation on regulation of registration content and maintenance of information as this is very important for complete land information registration.

It is also noted that among the most essential conditions for the success of land registration is the society view, more decisively a system of land registration in the end depends on society’s view on it. Society has to realize that it needs such a system, society has to support the system in place and society has to use and rely on the system of land registration and the information from it, despite the fact that government appreciation of the expense and duration of the operation, availability of qualified survey and registry staff and existence of a developed system of property rights is also important for the success.

Additionally, it’s also discussed that, the urban land registration law has the purpose of attaining the objective to enable urban centers, to identify their land resource and create conducive situation in making decision on land ,through having legitimate information in relation to who holds the land ,when was it is acquired ,use of land ,form of holding or for how long it has been held; to benefit a person who has landholding right from the economic, social and local development of urban centers by enabling him/her mortgage properties built on it; to create conducive environment in which land holders use right, landholding service type and transaction of immovable property on landholding is substantiate with acceptable evidence and thereby

enable to put a working system that is transparent to all persons and to create a conducive environment for the community to ascertain their land holding use right and to spend their time on development activities by enabling urban centers to provide guarantee for landholding right, restrictions and responsibilities permitted by organ empowered to permit land use right and to reduce landholding related disputes.

When comes to assess the practical implementation of the urban land registration law in the city of Addis Ababa, though there is an established institutional framework in alignment with the Urban Land Registration Proclamation, the research has revealed that, there exists legal, practical and institutional problem in implementing the law. Therefore, the following conclusions are drawn from the thorough investigation made by the researcher.

1. Concerning the legal problem, the appraisal made by this research discovers that, the urban land registration law has burdensome provisions which impose a mandatory obligation on a person to file twice application (for adjudication and registration) and for having a provision that punishes a person who has made the right application at the right time due to the failure of the other joint holder to submit the application for registration within the time specified by law. Additionally, the research has revealed that, the law suffers from some omissions that pose a challenge to the work of urban land registration. This is because that, except for stating the fact that the transfer of land holding title is forbidden or suspended until the completion of land adjudication is announced, the law doesn't state what the faith or consequences of such parcels, where transfer of title has occurred in conflict with the law. In a similar manner, considering the peculiar nature that embassies or international organizations have under international law, the law is also silent as to what procedure to be followed to adjudicate and register land parcels owned by embassies and international organization, if such kind of parcels is found to exists in the selected adjudication area. Furthermore, the research has revealed that, there is a conflict between the provision of the directive and the provision of the proclamation and the regulation, concerning the issue of adjudication (systematically or sporadically) a parcel where a person

claiming to have a right fails to apply for the adjudication within the time specified by law.

2. When comes to address the practical problem in implementation of the urban land registry law in Addis Ababa ,we have identified that though AACGLRIA uses to register land information both on paper and digital format, most of the registration are kept in manual or paper format and there exists a big back log of records to be registered in the digital registration system and it is not possible for the agency to deliver updated reliable information to its clients using the digital registration system of the agency. Besides, the research has revealed that, other land sectors are not using a common data base or common unique identification number that AACGLRIA is now using to identify a land parcel. There is also poor participation of the public and lack of awareness on the side of the public about the whole process of land registration due to insignificant awareness creation programs conducted by the land registry institution both at the city and at sub city level of the city administration.

It is to also noted that with regards to transparency and accountability issue the research has revealed that though AACGLRIA has a duty to make the registered information open to public and establish a security fund that will be used for the payment of damage caused to third parties who acted in good faith by relaying on information given from the AACGLRIA itself. Until now AACGLRIA has not established the security fund and unless through personal appearance there is no means where by one can easily access such information either via internet or modern computerized system.

3. Moreover, while looking into the practical institutional problems related the urban land registration law, the research has revealed that in the current situation of Addis Ababa, there is poor coordination between AACGLRIA and the former land registry institution (TATSPO).furthermore AACGLRIA has no enough qualified surveyor and registry staff and the current digital system of which AAGCLRIA are using to register land information are not compatible with the national registration system.

4. Generally, the research has revealed that, among the most essential conditions indicated for the success of land registration, the new land registration institution established for the implementation of the urban land registration law (AAGCLRIA) lacks qualified surveyors and registration staff. Beside this, it can't be possible to assume that, the public has full support for the registration system (as there exist poor participation of the public and lack of awareness on the side of the public about the whole process of land registration). Therefore, unless the legal, practical and institutional problems identified above ceases to exist or solved properly the purposes of urban land registration mentioned under the Urban Landholding Registration Proclamation cannot be possible to be achieved or attain at the current status of the city of Addis Ababa.

4.2 Recommendation

In order to suggest effective responses to the challenges thus identified, the researcher suggests the following set of recommendations.

❖ Concerning with the legal problems raised, a formal amendment of the law is necessary:

- (a) To avoid the requirement for the second application for registration and allow the registration to be carried on the primary application lodged for adjudication.
- (b) To allow additional option where by application for registration of land holding held by two or more persons to be made by one of the joint holder.
- (c) To add a clear set of clauses:
 - That sets the procedure whereby parcels held by embassies or international organization can be adjudicated and registered and
 - That solves the issue as to what the fate or consequences of land parcels, where transfer of title has occurred in conflict with the law before the announcement of the completion of the land adjudication.
 - That avoids the conflict between the directive and the proclamation concerning on issues how to adjudicate (systematically or sporadically) a parcel where a person claiming to have a right fail to apply for the adjudication within the time specified by law

❖ Pertaining to the practical and institutional problems

- Though, AACGLRIA has both paper and digital format registration system, because of the low performance of the digital registration system most of the registrations are kept in manual or paper format. Hence, AACGLRIA should identify and address the system gaps or issues and establish a digital registration system that is compatible with the national registration system and must provide up to date information. In addition, since qualified human resource is decisive for the sustainability of systems, enhancing the skills of staffs should be prioritized.
- Furthermore, taking the best practice of Sweden through contextualizing to the country and city situation, in order to have uniform and integrated information about every single land parcel of the city, other land sector of the city and AACGLRIA should use common data base and common identifier in every register of a parcel throughout the data base.
- Since public Participation is crucial for the success of land registration and for enhancing transparency, trust and empowerment of citizens over the land registration system, AACGLRIA should encourage the participation of public and stakeholder land adjudication and registration through enhancing the awareness of the public about the benefits of being registered and the risks that they take in not registering transactions.
- Following the mandatory obligation of the law, as soon as possible AACGLRIA should establish a security fund that will be used for the payment of damage caused to third parties who acted in good faith. Otherwise the issues of accountability would remain at question.
- Concerning the institutional integration problem that exists between land registry institution established for the implementation of the urban land registry proclamation and the former land registry institution, MoUDH should develop comprehensive standard operating procedures where by such problem can easily be solved. Additionally, both institution have to resolve the problem by assigning a team (whose having members coming from both institution) with the power to solve common issues that arise in the adjudication process. This is because, establishing a mechanism for collaboration would fosters integration between the

two institutions. In addition, human resource is crucial for the sustainability of systems such as cadastral and land administration systems. Thus, this should also be prioritized in future implementation.

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- Interview conducted with ,Ato Hassen Mossa, Right Registration Directorate Director of AACGLRIA. Conducted on 20 March, 2017
- Interview Conducted with Mahlet Mengistu ,Document verification and Authentication Directorate Director of AACGLRIA, conducted on 20 March, 2017
- Interview Conducted with AtoBulcha Berecha, Registration Directorate Director under the Ministry of Urban Development and Housing at the Federal Urban Land and Landed Property Registration and Information Agency .Conducted on 13 March, 2017
- Interview Conducted with Zelalem Abate, Land Adjudication Project Office Directorate Director from AACGLRIA. Conducted on 24 March, 2017
- Interview Conducted with AtoBerhanuWedajo, the current Deputy General Director of AACGLRIA , conducted on 23 March, 2017
- Interview Conducted with AbehamTibebu, Registration officer at Gulele sub-city of AACGLRIA, conducted on 27 March ,2017.

4. Annexes

- Fiscal year 2008 E.C report of AACGLRIA
- Document that shows, the list of the transfer of title conducted by kollfe and Nifas Silk Lafto sub city offices of TATSPO.
- Interview **and focus group discussion guides** Gide