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COLLEGE OF LAW AND GOVERNANCE STUDIES

LL.M THESIS ON:

**REGULARIZATION OF URBAN INFORMAL
LANDHOLDINGS: THE CASE OF ADAMA CITY**

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**A THESIS SUBMITTED IN PARTIAL FULFILLMENT FOR
THE REQUIREMENTS OF MASTERS OF DEGREE OF
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Addis Ababa

ETHIOPIA

Declaration

I, the Undersigned, declare that this thesis is my original work and has not been presented for degree in any other University and that all sources of materials used for this thesis have been duly acknowledged

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Acronyms

EPRDF- Ethiopian people's Revolutionary Democratic Front

FDRE- Federal Democratic Republic of Ethiopia

MLU- Multipurpose Land Use

MoDUC- Ministry of Urban Development and construction

NGOs- Non- Governmental Organizations

PLC- Private Limited Company

Abstract

This paper aims to assess the process of regularization of urban informal landholdings and compares with the law. In conducting this research, both primary and secondary data qualitative research methods are employed. The regularization program is complex in nature and the times given by the law is inadequate, As a result, delays in the implementation of this activity created fear or threat of forced eviction up on people. This is because they are afraid that someday the government may evict them from their landholdings. Regularization by itself causes evection because possessors who do not fulfill the planning and parceling requirement will be evicted from their possessions. On the other hand, regularization encourages others to grab state or community land in the hope of getting regularized. As a result, regularization triggers development of informal landholdings. Findings of the study show that there has been insufficient capacity of implementation in the city's land Administration. Thus the existing institutional set up and experts could not fit with the demands of the community who wants solution for the existing problems. The city Administration has no clear program to this regularization program and this shows that less emphasis was given to the program and there is no commitment to solve the problem of informal landholdings. There has no additional structure in the office for the regularization program and has no separate budget for the regularization program. The existence of strong social network in the community save many people from demolishing and evicted from their landholdings. Regularization has an effect on tenure security, economic development and political stability. As the Oromia regional state spent four years by formulating, amending and repealing regulation and directives. The city Administration executed regularization contrary to the law. For the program to be implemented effectively there should be well organized project office or department or team structurally at city level mandated to undertake regularization program which prioritizes prevention measure rather than regularization and eviction.

CHAPTER ONE

1. Introduction

1.1. Background of the study

Currently, urban informal Landholdings have become source of social, political and economic problems in parts of the country. Informal Landholdings are rapidly growing in all urban areas of Ethiopia. Adama is one of the biggest cities grappling with such challenge in the Oromia regional state. Founded 100 years ago, the city now includes 14 urban and 4 rural kebeles with total of 133.6 square kilometers ¹

The city of Adama is expanding in all aspects; it is center of economic, social, and political activities of the regional state. The rapid growth it registered has enable it to become ideal for conference tourism and trade hub. Despite such national and regional importance, Adama still requires urban quality and standard of city in its physical as well as in the level of infrastructure and service provisions. The largest part of the city, especially in the expansion area of the city, are occupied by unplanned informal landholdings and landholdings the living condition of informal land holders are also complex in those area of which, lack of infrastructure is visible problem .

Informal landholdings occupied the land without any evidence and construction permit by force, violating the law and without considering the land use zoning and planning. The occupied land may, according to the plan, be reserved for public purpose activities such as infrastructure, greenery, residence area, industrial and other different urban public activities. But the possessors held the land for residential purpose in many places of the city, and hence such illegally occupancy of lands might not be used for the intending purpose according to the city plan.

Informal Landholdings are not uncommon in many developing countries. There are informal landholdings in all urban areas of Ethiopia which means the problem is not only that of Adama but also of all urban areas in the country. People who live in informally are insecure for lack of guarantee for the land they occupy. Secure tenure is the right of all individuals and groups to get

¹Scio economic profile of Adam city ,June 2017 .p7

protection by the state against forced evictions. In contrast insecure tenure should thus be viewed as at risk of forced eviction.

To reverse the informality, regularization policy is found to be appropriate measure in the country. Besides, regularization is very important in urban areas to improve the life standard of the urban informal land possessors. Several empirical studies find that regularizations have impact on land markets through an increase in transactions and prices.² Thus regularization raises their property values to offer their properties as collateral or to gain access to credit, engaged in business activity create job opportunity and enhance their incomes as a result reduce poverty.

As we know informal land holders do not pay tax unless when regularized and became owner of legal property holders; the city administration also generate revenue from such legal property provide infrastructure thus, improve the social and economic life of the city. Adama city administration attempts to regularize few informal landholdings at different times, for instance regularization measure implemented in Kebeke 03, 14 and 16 of Adama city which was undertaken before the enactment of the Urban Land Lease Holding Proclamation No712/2011. That regularization did not have a legal backing, except an administration decision taken to take such measure to regularize informal landholdings.

Besides, the city administration has taken measures to demolish the informal landholdings in different areas, but the demolished structures were soon replaced by new ones. This shows that the city administration has attempted to mitigate the expansion of informal landholdings by formulating various strategies. However, such corrective measure of an administration experience was not well organized and documented to be used by the present city's decision maker's administration body. Existing rules and procedures were supposed to be followed by current administration body in order to regularize or demolish the informal landholdings. Lessons from the past decision makers were told orally which could not be of help for the present decision makers. Due to this, there is nothing to be learned from experiences of previous decision makers.

Similarly, after the enactment of the urban land lease holding proclamation 721/2011, the city administration relocated few informal land holders because the place which the informal land

².EdésioFernandes, (2013) "Regularization of Informal Settlements in Latin America" <https://www.lincolnist.edu/default/files/pubfiles>.

possessors occupied was wanted for infrastructural development. For instance Addis-Adama Railway and Addis-Adama high way project areas were occupied by informal land possessors and the city administration was pressured by the federal government to clear the area in a bid to avoid any delay in the project. Hence the city decided to remove the holders and gave replacement land for 299 informal land holders with lease benchmark price; in addition to a paid compensation³. That act of administration was against the lease proclamation. Because, the proclamation prohibits urban land possession and permission other than lease holding.⁴ Regularization is also permitted when the possessions which have found to be acceptable in accordance with urban plans and parceling standard⁵. But the proclamation does not permit relocation. Such possessions will be demolished.⁶

Nevertheless, the effect of such measures is not surely known. On the one hand it can be said that regularizing informal landholdings even by giving additional compensation money may encourage others also to do so, but on the other it may be said that it is their human right to get replacement land and compensation in lieu of the demolished houses. Such practices here and there in Adama city cannot change the real problem of informal land possessors, the city continued with the problem of informal landholdings because the solution is not formulated by understanding the nature and real cause of the problem of urban informal landholdings.

Ethiopian government has attempted to reverse the problem of urban informal landholdings by formulating various laws. Accordingly, urban land lease holdings proclamation No.721/2011 is one of the efforts made by the government to allow urban informal landholdings to become formal⁷. The law enacted six year ago and gives only four years to regularized informal landholdings. But still now informal landholdings are not regularized according to desire of the law. Regularization process is not yet under taken in many urban areas in Ethiopia particularly Adama city.

The law allowed urban informal landholdings to be regularized. However, the implementation has been facing challenges. There is a law but peoples can't exercise by that law, due to different

³Adama city administration cabinet /executive body minute 07 /09/2005E.CAdama

⁴ Urban land lease holding proclamation No.721/2011, Fed. Neg. gaz. year 18th No.4. art.5

⁵ Id. art.6(4)

⁶Oromia regional state Urban land lease regulation no155/2012 issued to implement FDER urban lease holding pro.no721/2011

⁷ Cited above note 4. art6(4)

administration and legal procedure .Thus in practice the law un enables to solve the problem of urban informal landholdings.

The city administration even has not yet completed the inventory and survey about informal landholdings area. There is no data compiled on the settlers in the last five years. An estimated of 28, 000 up to 30,000⁸ people are living holding the land informally in the city, but the city administration manages to compile the data related to about 11, 994 landholdings in the last five years. As the data reveals among these collected data, only 5,348 plots compliance with plan and parcel standard and the rest 3,850 plot not conform to plan and parcel standard. According to the law, all these landholdings will be evicted. So this paper focuses on the regularization process of urban informal landholdings in Adama city to describe, to assess the process of regularization, urban informal landholdings it also examines the law and the requirement of the regularization.

1.2. Statement of the problem

It is estimated that 3 billion people lives in the cities around the world,⁹ which represent half of the world population. In developing countries, due to rapid growth of informal landholdings, today the total number of people living in informal settlement worldwide is estimate to be 924 million¹⁰. This again represents one third of the world's urban population.¹¹ Ethiopia is one of the developing countries where its urban area witnessed such problems as that of Adama city.

The rapid growth of population, urban rural migration and expansion of urbanization in Adama increases the demand of land for different purpose including shelter, investment, social services, public projects, etc. In our country, the demand for urban land increases.¹² But there are restrictions and majority of the people cannot access it from state for different urban purposes. These lead peoples to occupy land illegally by violating the laws. In other cases people illegally purchase land from peasants and land speculators in expansion areas, due to this and other reason informal landholdings grow in urban area.

⁸Interview with Ato Kemal Jemal ,Adama City Urban Land development and management agency deputy manager ,April 2018 Adama .

⁹ .Patricia Boshe ,”Land regularization” [http:// www.academia. edu.\(792304\) online](http://www.academia.edu/(792304) online)

¹⁰ United Nations Human Settlements Program: the Challenge of Slums Global Report on Human Settlements 2003

¹¹ .Ibid

¹² For instance in Adama city over 8000 people request plot of land for house and paid municipality fee and wait for over 10 years without get land this indicate the demand of urban land increase and miss much the demand and supply

The growth of informal land holdings has impact on development of city in planning and land use. The life standard of informal possessors is also low due to lack of infrastructure and improper social services. To convert these problems, regularization becomes one of the fundamental issues in the current Ethiopian urban area.

The urban land lease holding proclamation No.721/2011 allows regularization of informal landholdings which have found to be acceptable in accordance with urban plans and parceling standards¹³. The Oromia regional state for the implementing of this proclamation issued regulation and directives¹⁴ and thus, launched regularization program. Adama is one of the regional cities that launched regularization of urban informal landholdings, but the city administration so far regularized few informal landholdings and forced to terminate it after certain efforts due to known and un known reasons. Even, there are no identified and complete data of total number of settlers, size and type of the land to be occupied by such people.

Though the proclamation permits regularization of urban informal landholdings, it has its own problems. Inadequate time for the completion of regularization is one of these problems. The law provides only four years to implement it in all urban areas of the country, but in practice it was not enough. As a result, delays in the implementation of this activity created fear or threat of forced eviction up on people. This is because they are afraid that someday the government may evict them from their landholdings.

On the other hand, the regularization program may itself create illegal land transaction. Informal land holders sub-divide and sell their plot in the hope one day will be regularized. Similarly, regularization encourages others to grab state or community land in the hope of getting regularized. As a result, regularization triggers development of informal landholdings. As expressed above, informal possessors occupy land without consideration of land use and planning of the urban centers, which became burden for the city administration in the provision of infrastructures. Moreover, it has own impact on the urban development and creating so many socio-economic problems.

¹³Cited above at note 4 art.6(4)

¹⁴ Cited above Note 6and Oromia regional state directives no 1/2007E.Cand directives No.5/2008E.C issued to implement FDRE urban land lease holding proclamation No.721/2011.

On the other hand, the law puts the requirements for regularized plot. In addition, planning and parceling standard, among others, are part of the requirements in which the size of the land that the possessors held is determined. If one does not fulfill the planning or parceling standard, the result will be demolition of any construction and eviction of possessors from the plot.

As expressed above, in Adama city 3,850 landholdings not conformed to urban plan and parceling standard become unfit for regularization. Per the law, all these landholdings going to be demolish and evict, Thus, regularization creates an eviction .Because of Such problems became difficult to undertake regularization in Adama city. The case studies clearly indicate that the world has largely begun to realize that forced evictions and slum clearance are no real option.¹⁵ And UN-habitat targeted by 2030, ensure access for all too adequate, safe and affordable housing and basic services and upgrade slums.¹⁶So, as Ethiopia is a member of this organization taking such eviction measure could be obstacle to achieve the targeted goal .However due to the above mentioned reasons and others the problems is continued in all urban areas and in Adama as well without significant solution. Though the law permits regularizing of urban informal landholdings but the implementation has been facing challenges.

The paper focus on the problems and the study will attempt to describe, assess, examine and analyze the process and implementation of regularization of urban informal landholdings in the city and compares with the law.

1.3. Objectives of the study

1.3.1. General objectives

The general objective of the study is to assess the process of regularization of urban informal landholdings and compares with the law

1.3.2. Specific objectives

- Analyze the steps and requirements for regularization
- Assess the effects of regularization on tenure security, economic development and political stability

¹⁵Supra note 10,p198

¹⁶ UN-Habitat Global activity report2017.p21

- Asses factors contributing to delay of regularization
- To examine the institution execute the regularization process in the city
- To indicate how regularization reduce urban poverty
- To identify the implementation level of regularization

1.4 Research questions

The basic research question that would be given attention in the course of the study includes:

- Are there adequate institutional and legal frame woke for the regularization program?
- What are steps should be required for regularization process?
- What are the effect of regularization on tenure security, economic development and political stability?
- What are factors that have contributing for delay of regularization?
- What is the implementation and status of regularization process in the city?
- Does the city administration have a clear program to regularizing urban informal landholdings?
- How and why do urban informal landholdings develop?

1.5. Methodology of the study

In conducting this research qualitative research methods are employed. Both primary and secondary data were collected in the following methods.

1.5.1. Primary sources

1.5.1.1. Interview

This method was employed to obtain primary data through face to face interview with different Adama city officials, land management and Administration agency, kebele official, community leaders and concerned body from the Oromia regional state Urban Land Development and Management bureau. The Bureau is give opinions about the status of urban informal landholdings and process of regularization of urban informal landholdings in the city. And also people with different professionals, planner, and lawyer give their opinions. Besides, farmers

who sold their farm land, informal land possessors', residents will be used as in put for the study.

1.5.1.2. Observation

Physical observation on the researchable area, watched the area and type of land occupied by informal possessors and the living conditions and situation of informal possessors to be observed by researcher himself.

1.5.1.3. Group Discussion

The researcher also collected information through group discussion. People who settled illegally in the study area, community leaders, kebele officials and representatives of informal land possessors and experts participated in the discussion and gave their opinions.

1.5.1.4. Documents

The researcher used primary sources including the FDRE constitution ,the formers and current urban land lease holding proclamation :i.e. hence ,the proclamation to provided for the lease holding of urban lands proclamation No80/1993 , the re-Enactment of urban land lease holding proclamation No.272/2002 , and urban land lease holding proclamation No.721/2011 , analyze was made in relation to urban land holding system and regularization of urban informal landholdings . Besides, the draft model regulation prepared by the ministry of urban development and construction (MOUDUC) in the 2012 for comparison and some other relevant laws; i.e. Oromia regional state regulation and directives issued for implementation of the urban land lease holding proclamation No712/2011.

In addition building proclamation No.624/2009, urban planning proclamation, proclamation No574/2008 has been used in analyzing research problem .The former and the present urban land holding systems and the creation of urban informal landholdings and regularization of urban informal landholdings was analyzed from the urban land law perspective.

1.5.2. Secondary data

The study used the relevant literature materials as secondary sources like journals, Reports, books, newspapers and reviewed other relevant government and municipal documents in order to arrive at reliable finding.

Finally obtained data has been analyzed and interpreted with subjective narrations.

1.6. Limitation of the study

There are factors that may limit the quality of this study. The major limitations among these factors are: absence of relevant literatures on regularization of urban informal landholdings in Ethiopia in general and on Adama in particular. Thus absence of sufficient literature is the limitation of this paper.

The other limitations are lack of adequate well organized and documented information related to informal landholdings and regularization of urban informal landholdings. So there may be much difficulties for the researcher to get organized and readily available information on the issue from Adama city and regional bureau. Another limitation is lack of willingness by few officials and individuals in providing relevant information for the purpose of this study.

1.7. Significance of the study

Currently regularization of urban informal landholdings has become a fundamental social, economic and political issue, in the country. Thus this study will contribute to the effort being made to strengthen the legal framework and actions being taken by government organs concerned with urban informal landholdings and regularization in Adama city. Moreover, it will also be a base for researchers to conduct further studies on the issue.

1.8. Structure of the study

The study is organized in four chapters. The first chapter is the introductory part which includes back ground of the study, statement of the problem, objectives of the study, scope of the study, research questions and methodology as well as literature review of definitions and concepts in the subject under study .

Chapter two deals with urban Land holding systems in Ethiopia whereas Chapter three is all about the development of urban informal landholdings in Adama city and the importance of regularization. Chapter four presents the main body of the research on the regularization of urban informal landholdings in the case of Adama city, along with conclusions and recommendations

1.9. Description of the study area

Adama is found in Oromia regional state in East show zone, at a distance of 99 kilometers south East of Addis Ababa in the Great Rift Valley of East Africa. The Djibouti Addis Ababa rail way was one of the main attributes for establishment of the city. The pattern of physical layouts of the city had gradually grown to the east direction following the railway line that was stretched from Djibouti to Addis Ababa.

It passed through several stages and gradually grew from a hamlet in to a hub of industry, trade, conference tourism, recreation and Administration center .Rapid population growth, expansion of trade and high migration from rural area contributed to significant growth in size of residents and physical area coverage of the city.

According to the Ethiopian population and housing census which was held in 1994 Adama had a total population of 127,842 of whom 61,965 were males and 65,877 were females. The third Ethiopian population and housing census which was conducted in 2007 also revealed that the total population of city 356, 334 of whom male 176,487 and 179,857 female. The data shows that the population of the city has increased by more than 228,502 people within 13 years.

The city is destinations of many migrants where they are more likely come to the city find work. According to the result of housing and population census conducted in 2007, the 59.2% of the residents of the city were migrants.

Adama stretches from $8^{\circ} 33' 11''$ to $8^{\circ} 36' 11''$ north latitude and $39^{\circ} 11' 15''$ - $39^{\circ} 21' 15''$ longitudes . In addition it is found at an altitudinal range of 1600 to 1700 meters above sea level.

One of the causes for the emergence and expansion of informal landholdings is migration of people from rural to urban center and the above figure confirms this reality. In estimation 30.000 informal landholdings are found in the city .The city Administration has six subs cities and 14 urban and 4 rural kebeles .The regularization program has been under implementation in all subs cities.

1.10 .Conceptual definition of urban informal landholdings and regularization

1.10.1. Informal land holdings

Informal landholdings is defines Possession held without the authorization of the appropriate body or occupied the land without the permission of the government, proclamation 721/2011Article 6(4). Officials sometimes say illegal possession. People also call the building erected on these possessions “*yecheraka betoch*”. The term *yecherekabet* in its Literal Translation means “ house of the moon” implying the illegal construction of houses overnight using moon light, thus they are defined as a settlement built on land occupied or used without the consent of the city Administration and without having any construction permit guarantee by the city.

Thus, literatures use informal settlement for such building. Of course, a clear definition of informal settlement is hardly available. Various related expressions have been used in literature to refer to informal settlements. These include spontaneous, irregular, unplanned, marginal, and squatter settlements¹⁷. Some literatures have used the term slums and informal settlements interchangeably¹⁸. While a clear definition for informal settlement is still elusive, some organizations have given description of informal settlements and slums.

The UN Habitat categorizes informal settlements in to two:¹⁹ Squatter settlements- settlements where land and/or building have been occupied without the permission of the owner.

Illegal land development- settlements where initial occupation is legal but where unauthorized land developments have occurred (e.g. Change of land use that breach zoning plans, building extensions without building permit, subdivisions without regard to services and infrastructure, etc.)

The UN Habitat Program provided similar description, accordingly informal settlements defined as:

I) Residential areas where a group of housing units has been constructed on land to which the occupants have no legal claim, or which they occupy illegally;

¹⁷Lamba, A.o, Land management systems in informal settlements: the case of Nairobi, maser Thesis ,(2005),p2thesis <http://www//tc.ni>uom>sirueri> .com access feb.2005

¹⁸ UNHSP (2003c), Slums of the World: the face of urban poverty in the new millennium, United Nations Human Settlement Program, Nairobi,p82-83<https://en.wikipedia.org/>

¹⁹ibid

II) Unplanned settlements and areas where housing is not in compliance with current planning and building regulations i.e. unauthorized housing.²⁰

Whereas slums define as: a contiguous settlement where the inhabitants are characterized as having inadequate housing and basic services. A slum is often not recognized and addressed by the public authorities as an integral or equal part of the city²¹.

Other similar definitions are provided in many policy documents; for example, the Cities Alliance Action Plan describes slums as follows: Slums are “neglected parts of cities where housing and living conditions are appallingly poor”. *“Slums range from high-density, squalid central city tenements to spontaneous squatter settlements without legal recognition or rights, sprawling at the edge of cities. Slums have various names, favelas, kampungs, bidonvilles, tugurios, yet share the same miserable living conditions”*.

On slums, UN Habitat has adopted an “operational “ definition that explains a slum as an area that combines, to various extents, the following characteristics (restricted to the physical and legal characteristics of the settlement, and excluding the more difficult social dimensions):

- Inadequate access to safe water;
- Inadequate access to sanitation and other infrastructure;
- Poor structural quality of housing;
- overcrowding and;
- Insecure residential status.

The term slum appears to have different usage in the developed and developing countries. In the developed countries, it is often used to describe formal housing whose condition has deteriorated due to neglect and which is progressively occupied by lower income groups. In the developing countries, however, the term is used to refer to -low-income densely population settlement that lack basic services and infrastructural amenities. The term informal settlement, on the other hand, is mostly used to denote the tenure status of a residential area.²²

²⁰Id,p92

²¹ UN-Habitat, (2003), the challenge of slums: global report on human settlements 2003, the United Nations human settlement programme. <https://coupeworks2.columbia.edu/files/598474/download> ,p10

²²Note16,p2

According to the UN habitat Slums represent part of the unfinished business of the MDGs by 2020 improves living condition of 100million slum dwellers or part of the “old” urban agenda that must be addressed by the new urban agenda. This is why Target 11.1 of Goal 11 of the sustainable development agenda seeks to ensure by 2030, access for all too adequate, safe and affordable housing and basic services and upgrade slums.²³

Slums are seen in practically all parts of the world but with higher concentration in the developing world cities.²⁴

The rampant rapid urbanization around the world continues to be a global concern, with over 60 per cent of the world’s population expected to live in cities by 2030’ and nearly 70 per cent by 2050, the need for addressing urban development challenges for poverty reduction becomes a crucial step towards achieving human progress and sustainable development.²⁵

The case studies clearly indicate that the world has largely begun to realize that forced evictions and slum clearance are no real option. Rather, wholesale urban renewal programmes, slum regularization, upgrading and community based slum networking are increasingly attracting the attention of city managers worldwide.²⁶

1.10.2. Definition of regularization

Regularization is the process of transforming informal landholdings from landholdings with insecure land tenure and poor living conditions into officially recognized parts of the city²⁷. Regularization measures are usually initiated by public authorities in urban areas.

Lamba distinguish two approaches of regularization: i.e. Juridical (or tenure) regularization and physical (or material) regularization

Tenure regularization is concerned with legal recognition of informal landholdings .examples of tenure regularization tools include:

²³(UN habitat global activity report 2017 sustainable development Goal 11,p.13)

²⁴Supra note 10p.2

²⁵UN habitat global activity report 2017 sustainable development Goal 11,p2

²⁶Supra note 10, p198

²⁷Note 16,p31

- Formalization –this refers to the political and administrative acknowledgement or recognition of informal landholdings and the absorption of such landholdings in to the formal city; this may include action such as settlements areas as “urban renewal” zone or enactment of anti-eviction laws. Such actions include the landholdings in the official process of urban planning and expose settlements to urban economic opportunities that can improve their livelihoods.
- Legalization- this refers to the process of providing legal backing to the tenure system in informal landholdings this can be achieved through the maintenance of legal records of land rights at the community or municipal level. This process may require legislative and administration adjustments.
- Tilling –this refers formal adjudication, cadastral survey and registration of individual or group rights in the legal land register and the issuance of certificates of title.

Physical regularization is concerned with the material creation and /or improvement of physical infrastructure including shelter, social amenities and basic urban services such as education ,health, water and sanitation facilities ,sewage and drainage systems ,etc .This is sometimes referred to as physical upgrading .

Regularization programs are increasing being used by national and local governments to improve tenure security in urban informal landholdings.

Some literatures also defines regularization is; Legalization of interest in the land, in which owned and or acquired irregular and thus lacking legal status²⁸.While other literature using the word regularization and formalization interchangeably and define Formalization is a process by which informal tenure is integrated into a system recognized by public authorities²⁹. It is often presented as a means to ensure tenure security that can be achieved through two different channels, depending on whether public authorities administratively recognize occupation or deliver real property rights³⁰:

Durand Lasserre stress that *de jure* formalization—through titling or administrative recognition—is not the only way public authorities can ensure tenure security. Protection against

²⁸Patricia Boshe, Land Regularization in Tanzania :The Revolution in Land laws and a tool to millennium Development Goal 7 target 11, ” <http://www.academia.edu>

²⁹Durand Lasserre,p7

³⁰Ibid

evictions can also be ensured through political commitments or administrative practices that lead to a *de facto recognition of occupancy* in informal settlements without the provision of personal or real rights.

However, regarding the conceptual definition of what regularization is, there is internationally a dispute of paradigms: whereas some programs have only proposed the upgrading of the informal areas, others have focused merely on the legalization of the areas and individual plots. Ideally, regularization programs should combine several dimensions so as to guarantee the sustainability of the public intervention: physical upgrading; legalization; socioeconomic programs aiming at generating income and jobs; and cultural programs to overcome the stigma strongly attached to the residents and to the informal areas.³¹

³¹Edésio Fernandes, (2013) “Regularization of Informal Settlements in Latin America” https://www.lincolnist.edu/default/files/pub_files

Chapter Two

2.1. Urban Land Holding System in Ethiopia

The issue of land rights in Ethiopia has been a vital and sensitive topic throughout the country's history. ³²From a property rights regime perspective, the history of Ethiopia is divided into three regimes:³³ the pre-1974 imperial regime; the *Derg* regime (1974– 1991); and the current land tenure regime, post-1991.

2.1.1. The pre-1974

Urbanization in Ethiopia is a recent phenomenon conditioned by historical factors³⁴. This means Ethiopia was under-urbanized even by African standards³⁵. Studies conducted in the area show that many of the middle sized towns in Ethiopia were founded during the nineteenth century for politico-military reasons that characterize the birth of towns in earlier periods of Ethiopian history³⁶

The establishment of the city of Gondar in 1636 as the permanent capital in the history of the country after Axum was believed to be an event which marked an important break with tradition.³⁷, the establishment of Gondar as the fixed capital seems to have produced a more stable and settled type of life than had existed. The city was founded by establishing camps in the traditional manner. It is also assumed that the establishment of the city could have led for allotment of land in the area by the government to the principal lords where a very highly concentrated form of land ownership came into existence. Existing items of evidence also show that the purchase of land became more widespread during the later Gondar period.³⁸

³²Achamyeleh Gashu, Peri-urban Land Tenure in Ethiopia, Doctoral Thesis in Real Estate planning and land Law .Royal institute of technology(KTH) Stockholm,Sweden,2014 ,p.100

³³ Ibid

³⁴Molla Mengestu, (2009),The Ethiopian Urban Land holding system : An assessment of The governing legal Regime ,in Muradu Abdo (Ed.) Land Law and policy and changes, Ethiopian Business Law series, Addis Ababa University ,faculty of law, vol.iii,p146

³⁵ Ibid

³⁶ John Markakis, Ethiopian Anatomy of A traditional polity ,Oxford: Clarendon University press, (1974) ,p160

³⁷*Id.p,147*

³⁸ R. Pankhurst, state and Land in Ethiopia History ,Addis Ababa –institution of Ethiopia study (1966),p55

Thus, the emergence of Gondar as an urban center necessitated the development of private land tenure to be fit for urban land utilization and administration of private land tenure, which gives exclusive and comprehensive right to the land owner to exercise the right relating to land as he thinks fit for his interest without the interference of other persons.³⁹ A detailed study of earlier land tenure in the 17–18th century urban Gonder also shows that land was held in private hands and subjected to free sale and exchange.⁴⁰ Thus, urban land in Ethiopia, from the beginning, was held in private ownership.⁴¹

The birth of Addis Ababa was also an important event for urban development, urban land allotment and the evolution of urban land tenure in Ethiopian history.⁴² The birth of Addis Ababa made it the third most important capital city in the history of the country after Axum and Gondar.⁴³ Following the establishment of the capital in 1886, a sizable settlement began to grow around the palace and portions of land were allocated to important personalities of the state and to groups of servants or soldiers.⁴⁴ The significant characteristic of the city was in fact the extensive granting of land to the nobility.⁴⁵ This has resulted in the high concentration of land ownership in the hands of a small number of people.⁴⁶ This can be clearly understood when we see the survey of the city's 212 square kilometers made in 1961 which states that 58% of the total area was owned by 1, 768 proprietors each with an average of 71,000 square meters. The government and foreign embassies and legations also owned 12.7% of the land.⁴⁷

Generally, in 1970, besides Addis Ababa, Ethiopia had about two dozen towns which had a population of over 10,000 each. However, most of these towns were on their way to becoming significant urban centers and were developing the administrative foundations and other necessary conditions.⁴⁸

³⁹ Cited above at note ,p

⁴⁰ Daniel W/Gebriel, Land rights and Expropriation in Ethiopia , Doctoral Thesis in Real Estate Planning and Land Law .Royal institute of technology (KTH) stockholm,swden,2013,p59

⁴¹ Ibid

⁴² Cited above at note 34,p147

⁴³ BahruZewde, A history of Modern Ethiopia 1855-1991,Addis Ababa University press,(2002),p68

⁴⁴ Cited above at note 34,p,148

⁴⁵ Ibid

⁴⁶ Ibid

⁴⁷ Cited above at note 43,p54

⁴⁸ Cited above at note36,p162-3

Even though this was the factual situation in the land tenure system, at the initial stage of the beginning of urbanization in Ethiopia in general and in Addis Ababa in particular, there was no centrally adopted uniformly applicable legal regime to recognize and govern urban land rights in the country. Particularly the land tenure of Addis Ababa underwent an important change only in the early twentieth century when temporary possession was transformed into permanent holding, the principle of more or less inalienable ownership of land being for the first time officially recognized relating to urban land right.⁴⁹

Due to illness of emperor Menelike the nobilities feared that the coming emperor might take their land and so they forced Menelike to give them title deed and issue a law that expressly prohibits the expropriation of land in Addis Ababa except for public purpose.⁵⁰ Emperor Melelike promulgated a decree in 1907 that recognized private ownership of land, and allowed its free transfer through sale.⁵¹ The decree also created land cadastre system which enabled the registration of every sale of land and the giving of land ownership certificates to owners.⁵² Further, it gave a guarantee against arbitrary confiscation of land by providing compensation in the event of land expropriation for public purpose activities. This gave property holders greater security and a stake in the fate of the city. Not only did the land charter become the most prized certificate of any urban household but it also contributed to activating the urban economy through sales and mortgages.⁵³

This rule has generally contained provisions which specify the rights and obligations of land owners and government officials in utilization and administration of urban land. Particularly, the requirement of measurement and of registration of urban law as well as issuance of title certificate was an important step to secure property right of urban land holders.⁵⁴

The stated rules issued by emperor Menilek II were important landmarks to the evolution of the traditional temporary land allocation of a royal land tenure system by recognizing private and government ownership.⁵⁵

⁴⁹ Cited above at note 43, p154-6

⁵⁰ Richard Pankhurst, A brief Note on Economic History of Ethiopian from 1800-1935 91965, p136

⁵¹ Cited above at note 40, p59

⁵² Ibid

⁵³ Ibid

⁵⁴ Cited above at note 34, p 149

⁵⁵ Id, p150

In the discussion of urban land tenure before the revolution the 1955 Revised Ethiopian Constitution has entitled every citizen to own and dispose private property, which mainly consists of land, and the government to own all unoccupied land.⁵⁶The civil code was an elaboration of such constitution protection. The civil code recognized the private ownership of urban land in particular underlining the applicability of Articles 1535-1552 governing individual ownership right over land within town-planning areas.

However, it would appear that there was no stringent/ strong / planned public guidance or control over housing development in Addis Ababa during the first 10 to 15 years after liberation. As a result, most of the housing was built without any permits. For that matter, it appears that as late as the early 1970s, only about a quarter of the housing units produced in Addis Ababa had municipal permits. Except for the fact that most of the housing units thus built were small and substandard, the city apparently did not suffer from any alarming housing shortage when the February 1974 revolution broke out.⁵⁷

About 95 percent of privately-owned land in pre-1974 Addis Ababa was in the hands of only about five percent of the population.⁵⁸ This reveals much of the land in the city was controlled by few elites.⁵⁹

Another important effect of the pre-revolutionary land tenure system was that it deterred the development of squatter settlements. The power of the property owners was so strong as to discourage illegal occupation of land by anyone. What it encouraged, though, was sustained production of unauthorized housing by the property owners themselves. As it turned out, the notorious discrepancy between the total number of annual municipal building permits and actual housing starts and extensions in pre- revolutionary Addis Ababa reflected the fact that most property owners boosted rental incomes through increased supply of unauthorized dwellings. Moreover, it was common practice among tenants to share their rented spaces with needy individuals or households based on various informal living arrangements.⁶⁰

⁵⁶The 1955 Revised constitution of Ethiopia ,Art.44and 130 (d)

⁵⁷United Nation Human Settlements Program (UN_HABITAT),Nairobi,(2007)Situation analysis of informal settlement in Ethiopia .p10

⁵⁸ Ibid

⁵⁹ Cited above at note 40,p60

⁶⁰ Cited above at note 57,p10

During the eve of the revolution, Addis Ababa was by far the biggest⁶¹ City and center of economy and politics. The city grew fast, inhabiting a considerable population, which was estimated to be between sixty and one hundred thousand in 1910 to about 1.1 million during the revolution in 1974.⁶²

2.1.2. The Derg regime (1974-1991)

The issue of land was one of the motive forces behind the February 1974 revolution in Ethiopia⁶³. In February 1975 and under strong influence of the then popular revolutionary slogan “land to the tiller”, the Derg issued a proclamation that nationalized all rural land. In July 1975, Proclamation No. 47 nationalized all urban land and rental dwellings in Ethiopia.⁶⁴

As the previous topic /section / express about 95 percent of privately-owned land in pre-1974 Addis Ababa was in the hands of only about five percent of the population.⁶⁵ Thus the major objectives of public ownership of urban land proclamation No47 of 1975 were stated in the preamble as follows:

- Abolishing private ownership of urban lands as a step towards socialism
- providing sufficient land for dwelling house construction by putting privately owned lands under government control
- central planning for proper development of urban areas
- Doing away with court cases involving urban land disputes

Article 3 of the proclamation nationalized all urban lands without any compensation. It prohibited private ownership of urban land by declaring it to be “government property”. By doing so, the proclamation brought a radical change to urban land tenure coming up with totally new concept of urban land tenure which did not exist in Ethiopia land tenure history before. Even in comparison to public ownership of rural land .Public ownership of urban land was

⁶¹ Cited above at note 40, p.59

⁶² Ibid

⁶³ Cited above at note 57

⁶⁴ Government ownership of urban land and extra house proclamation No.47/1975 Art.3 and 13

⁶⁵ Cited above at note 57, p.10

totally new in all its features.⁶⁶Communal and “rist” system of rural land had some similarities with public ownership of rural land.⁶⁷

As earlier mentioned Proclamation 47/1975 under Article 3(1) declares that all urban lands should be property of the Government; and no person, family or organization was allowed to hold urban land in private ownership (Article 3.2). Besides, all extra houses, houses other than one residential house and another business house were nationalized (Article 13). Houses owned by minors were immediately nationalized (Article 15) unless his/her parents did not own their own residential house. It further declares that no person would be compensated for the loss of urban lands (Article 3.3 but said to be compensated for the loss of houses (Article 18.1). However, in reality no compensation was paid for the nationalizations of houses.⁶⁸But, for those persons whose livelihood was depended on rent, collected from the nationalized extra-houses, government allowed payment of pension allowance.⁶⁹

The proclamation prohibited the transfer of urban land in any form such as sale, lease, mortgage or inheritance.⁷⁰ Therefore, urban land could be held only by those who personally use the land either for dwelling or business house. A person who was allowed to hold urban land for business purpose such as parking and play field could not lease such holding to third parties.⁷¹If he could not want or was unable to run such business himself, he should give up his possessory right on the land. therefore, nobody could obtain possession of land unless permitted by the ministry of public works and housing as per art5(1) or by law as provided under art5(1) ,art6(2) and art(1) of the proclamation unlike rural land in private ownership areas, there was no automatic redistribution of urban to urban dwellers rather extra lands were made to remain under government possession for further distribution to those who notify to the ministry of public works and housing their intention to construct dwelling or business houses.⁷²

The maximum size of urban land for dwelling house was allowed 500m² for lifetime use right. But the maximum size of land for business house was left to the ministry to be determined.

⁶⁶Mesiganawekifelew ,Urban Land Tenure System in Ethiopia and Its Application in Addis Ababa, Master Thesis, Addis Ababa University school of graduate studies ,p16

⁶⁷Id,p.17

⁶⁸ Cited above at note40,p61

⁶⁹ Cited above at note ,64,article .2

⁷⁰ Id, Article ,4

⁷¹ Id.art.2(5)

⁷²Id,art,5

Previous urban land holders either tenants or land owners, were allowed to remain with their holdings provided such holdings did not exceed 500m². This means tenancy right and ownership rights were converted in to possessory rights with reduction in holding size.⁷³

Also, those who used to live in private rental houses were allowed to continue possessing the houses, but made to continue paying a reduced rent to the state. It seems, the state once again replaced the urban landlords in controlling urban land and houses and exacting rent there from.⁷⁴ This means the state was the only legitimate organ allowed to let properties and receive rent.

Up on the death of an urban land holder, his holding right was to be transferred to his spouse or descendants.⁷⁵ So by this proclamation spouse and children were made heirs of the deceased but ascendants were excluded. Because there was a possibility for every urban dweller to obtain urban land from the ministry either for dwelling house or business. Urban land could be held only as long as the holder utilized the land for his own dwelling house or operates the business himself. Nobody was allowed to own more than one urban dwelling house in Ethiopia.⁷⁶

In fact, prohibiting transfer of urban land possessory (use) right is in line with the objective of the proclamation, otherwise, individual would be able to possess more than 500m² in urban areas which leads to accumulation land in the hand of a few and artificial shortage of urban land. Moreover, the proclamation did not want anybody to generate income from urban land.⁷⁷ As express above, the proclamation did not prohibit sale, donation, or inheriting of urban house.⁷⁸ This implies the possibility of transferring the possessory right on urban land, the premise of urban house. However, this same proclamation absolutely forbade leasing of urban house except by the government.⁷⁹ Proclamation No.292/86 strictly forbade sale and donation of urban house except the government or to a co-owner.⁸⁰

However, allowed to mortgage a house or to transfer it by succession. Mortgage does not transfer possession until the debtor is unable to pay and even at this stage the mortgagor had to sale the

⁷³ Cited above at note 66, p

⁷⁴ Cited above at note 40, p 61

⁷⁵ Cited above at note 64, art 5(1)

⁷⁶ Id Art. 11(1)

⁷⁷ Id, Art, 20(1)

⁷⁸ Id, Art, 12(1)

⁷⁹ Id, Art, 20(1)

⁸⁰ Construction and use of Urban house proclamation No. 292/1986 Art. 8 cum Art 10(1)

house to government.⁸¹ Only succession of house might appear to indirectly transfer possession of land without express permission of law or government. Even in this case there is rare possibility for accumulation of urban land in the hands of a few because as provided by art 11 of proclamation No47/1975 nobody was allowed to have more than one dwelling house in urban areas. The number of business house inherits urban house he was forced to sell the extra to the government.⁸²

In the derge regime the land holders were subject to two types of annual payments to the government. These payments are rent and dwelling house tax. The obligation of payment of urban land rent was applicable on almost all holders while the payment of tax was applicable only on business and dwelling house.⁸³

The other significant change this proclamation introduced was the reduction of the monthly rent from 15 to 50% for nationalized urban dwelling and business house the monthly rent of which did not exceed Birr 300.00 on the date of the issuance of the proclamation. For example, the monthly rent of up to Birr 25 was reduced by 50%, rent of above Birr 25 but not exceeding Birr 50 was reduced by 40% - monthly rent of above Birr 200 but not exceeding Birr 300 was reduced by 15%. No rent reduction was, however, given to monthly rents exceeding Birr 300.⁸⁴

The next important question relates to the basis of determination of the urban land rent and urban house tax. In this connection, Proclamation No 80/1986 has provided that rent shall be based on the grade of the urban land while the amount of tax shall be based on the estimated annual rental value of the house.⁸⁵

This proclamation makes distinction between dwelling houses and business houses in the determination of the amount of rent. Accordingly, the annual rent payable for urban land used for dwelling house ranges, based on the grade of the area and the size of the land, from Birr 0.06 to Birr 0.12 per square meter per year. The annual rent for urban land used for business houses, on

⁸¹ Ibid

⁸² Cited above at not 66 ,p18

⁸³ Urban Land Rent and Urban House Tax Proclamation No80/1976, Art.5a, and MollaMengistu,(2009),The Ethiopian Urban Land Holding System :An Assessment of The Governing legal Regime, in MuraduAbdo /Ed.)Land law and policy since 1991:continuities and changes, Ethiopian Business Law Series ,Addis Ababa University ,Faculty of Law ,vol. II ,p.151

⁸⁴ Cited at not64,Art20(4)

⁸⁵ Cited above at note 64Art6(1,2)

the other hand, ranges from Birr 0.02 to Birr 0.06 per square meter per year. The annual tax payable on urban houses also ranges from 1% to 4.5% of the annual rental value of the house.⁸⁶

The administration of houses which rented 100 birr and below was given to local cooperative societies (Kebeles), while the administration of those houses that rented above 100 birr per month was given to the Ministry of Public Works and Housing.⁸⁷

As Doctor Daniel Waldegebriel Express, the low rental charges, left little room for investment in the Kebele houses resulting in physical and structural deterioration owing to the lack of appropriate management and maintenance. The idea is that people were encouraged to live in Kebele houses (because they were cheap) rather than constructing their own houses. Secondly, since all the rental revenue was transferred to central government, there was not much left for maintenance and construction by the Kebeles. Further, new land provision for construction was highly restricted, halting the expansion of the city, which only led the inner city to be densely populated. Later, squatter settlements and illegal land transactions intensified, and this forced the Derg to adopt self-help housing cooperatives that helped to tackle the problem.⁸⁸

2.1.3. The current urban land holding system

Currently Ethiopia is a federal state that have nine national states and two other special administrative cities (Addis Ababa and Dire Dawa) the cities are accountable to the federal government .The power and function of the federal and regional government are provided in the FDRE Constitution .

The constitution is empowering the federal government to issue laws for the utilization and conservation of land and other natural resources.⁸⁹Regional Governments are empowered “to administer land and other natural resources in accordance with the federal laws”.⁹⁰

The FDRE constitution Article 40(3-7) provides a skeleton of Ethiopian land tenure in general and urban land tenure system in particular .This constitution concerning land ownership in Ethiopia Article 40(3) states that:

⁸⁶ Id, see schedules 1 and 2

⁸⁷ Cited aboe at note 64,art20(5) and 20(15)

⁸⁸ Cited above at note 40,p.62

⁸⁹ FDRE Constitution proclamation No1,1995 Fed ,Neg.gaz .year1,No1.Article51(5)

⁹⁰Id Article 52(2)(D)

“The right to ownership of rural and urban land, as well as of all natural resources, is exclusively vested in the State and in the peoples of Ethiopia. Land is a common property of the Nations, Nationalities and Peoples of Ethiopia and shall not be subject to sale or to other means of exchange”.

Regarding its means of acquisition, Sub-Article 4 states that Ethiopian peasants have the right to obtain land without payment and the protection against eviction from their possession. Likewise, sub-Article 5 declares that Ethiopian pastoralists have the right to free land for grazing and cultivation as well as the right not to be displaced from their own lands.

Concerning urban land, the Constitution said nothing about the acquisition and transfer of land by urban dwellers Article 40(6) of the constitution say that private investors may get land on the basis of payment arrangement.

So concerning urban land acquisition and means of transfer we discuss on the former two urban lease holding laws and on the current urban land lease holding laws as follows.

2.1.3. A. Proclamation NO.80/1993

Up to the down fall of the Derge in 1991 urban land was administrated by proclamation No.47/1975 which was applied during the Derge period, after the down fall of the Derge the transitional government was adopted the new law. Accordingly in 1993 in Ethiopia for the first times a lease system was introduced as a mode of urban land holding system.⁹¹

As earlier discussed the Constitution does not say anything about urban land allocation, the urban land lease holding proclamation was enacted before the constitution adopted. Since the urban lease law was earlier and the constitution was the latter. So this urban land lease law was not emanating from the constitution. So I can say not constitutional. In other words the constitution is not basis for the urban land lease law. So it can be argue that this proclamation was the base for the current urban land holding system, although its constitutionality is questionable.⁹²

The objectives of the proclamation, as indicated in its preamble, were summarized By Doctor Daniel as follows: to create equitable distribution of land, to control the growth of city centers, to

⁹¹Urban Land Lease Holding Proclamation, proclamation No. 80/1993. Neg.Gaz. Year, 53, No. 40.)

⁹² Cited above at note40,p75

increase urban revenue to finance urban infrastructure, to expedite construction of urban houses to alleviate the existing shortage, to provide land utilization value[market value of urban land] which was not in existence, to ensure transparency in land transfer and avoid land speculation, to promote the economic development of urban centers through involvement of investors, and to ensure tenure security by providing land rights of longer durations.⁹³

The lease proclamation No.80/1993 did not define land lease .This proclamation has classified urban land into three categories, namely, those allotted before the issuance of the proclamation for the construction of dwelling houses, lands allotted before the issuance of the proclamation to be utilized for purposes other than dwelling houses, and lands to be allotted for any purposes after the issuance of the proclamation. The second and third categories of urban lands were to be governed by the provisions of the new lease proclamation while the first category was to be out of the scope of the lease system and to be governed by permit system which is also referred to as the rent system adopted by the Derge regime.⁹⁴

According to Article 3(2) of the proclamation is requires land utilized for dwelling house to be converted in to lease holding if sold or donated ,Article 15,which requires all holding utilized for non-dwelling house to be converted in to lease holding .

The said lease proclamation contained three important principles which distinguished it from the previous permit system. These are the allocation of urban land to recipients based on three different modes, i.e. by auction, negotiation, and lot; the allocation of urban land in lease only for a fixed period of time, and the allocation of urban land based on payment of the annual lease price instead of payment of rent. ⁹⁵

The proclamation fixed the period of lease, based on the grade of the place and the purpose the land was to be allocated, i.e. 99 years as the maximum and 50 years as the minimum; the former to be applicable on leases for the construction of private dwelling house and the latter on leases for purposes other than private dwelling houses such as industry, dwelling house for rent, education, science and technology. ⁹⁶

⁹³Id,p181 ,and the preamble proclamation 80/1993

⁹⁴ Cited above at note 34,p.153

⁹⁵ Cited above at note 91,Article 4(1),5(2),13

⁹⁶ Id, Article 7

The modes of allocation of urban land provided by the proclamation are allocation by auction, allocation by negotiation and allocation by grant. Article 5(2) and 13 of proclamation, No.80/1993

The proclamation is allowed a free transfer of lease right in the form of sale, mortgage, and to use it as capital contribution.⁹⁷ However, prohibits the lease holder to benefit from transfer of lease holding. The “lessee may not, on transferring his right of lease, collect income which is higher than the rent of land he paid; nor may he mortgage such right at a value which is higher than the rent”.⁹⁸ Where the lessee collects or gains higher than what he actually paid as ground rent, he has the duty to pay back the difference to town administration.⁹⁹

2.1.3 B. Proclamation No.272/2002

The objectives of proclamation, No.272/2002 were mainly two; to collect income from land lease in order to assure fair share from urban land wealth, and transform the permit system into a lease system.¹⁰⁰

This lease proclamation defines lease under article 2(1) which did not define in proclamation 80/1993. The definition of lease also given by proclamation No.272/2002 “lease hold system in which use right of urban land is transferred or held contractually”.

This lease proclamation has been issued to be applicable in all urban areas of the country. Even though this proclamation has provided about its applicability on all urban lands, including lands allotted before the adoption of the lease system, unlike the preceding lease law, its enforcement on urban lands allotted before the establishment of the lease system in the country has been suspended until detail rules are issued. (Art 3 of proclamation. That means Art 3(2) and Art 15 of proclamation No.80/1993 were repealed by proclamation No. 272/ 2002 which is suspended the application of lease system to all permit holdings until detail rules are issued. The proclamation left to the regional city governments to determine the time of conversion of the permit system into the lease system.¹⁰¹

⁹⁷ Id, Article 10(1)

⁹⁸ Id, Article 10(3)

⁹⁹ Id, Article 10 (4)

¹⁰⁰ The preambles of Re-Enactment of urban lands lease holding proclamation, No.272/2002 Fed. Nega. Gaz., 8th year, No19

¹⁰¹ Id, Article 18(4)

Article 2 of proclamation NO.272/2002 includes the definition of “public interest “which did not exist in proclamation No 80/ 1993 besides courts were denied the power to entertain any possessory action against expropriation order of the government.¹⁰² However, courts can complain on the amount of compensation appeal.¹⁰³

Proclamation No .80/1993 does not mentioned about clearance of illegal possessors of urban land but proclamation No. 272/2002 of Article 16(2) expressly declares clearance of illegal possessors.

The said lease proclamation has provided important principles and procedure about the administration and allocation urban lands and about the rights and obligations of lessees. The allocation of land only for fixed period of time, the allocation of land on the ground of auction and negotiation (Art 4(1)(a) of proclamation No272/ 2002). Addis Ababa city Government includes three methods land allocation as per the interpretation of Art 4(1) (c) of proclamation No272/2002, these are lot, assignment and award.¹⁰⁴

Unlike the previous lease law ,proclamation No272/2002 allowed free transfer of lease right with the full advantages of the enhanced value of the lease land but as earlier express proclamation 80/1993 required the lessee to pay back the difference to the government that an enhanced land value gained by the leaseholder during transfer of the lease right . (That means proclamation 80/1993 requires the lessee to pay back the difference in the profit between what he paid as a lease rent and the sale price)

C. Proclamation No.721/2011

2.1.3.1 Objectives of the urban land lease holding proclamation No. 721/2011

As the same the preceding urban land lease laws we begin by stating the objective of the proclamation .Accordingly the objectives of the proclamation No .721/2011; are:

¹⁰² ibid

¹⁰³ Id,Article18(2)

¹⁰⁴ Mesganawkefelew (2009),The current urban land tenure system in Ethiopia ,in muraduAbdo (ed.)Land law and policy in Ethiopia since 1991: Continuities and changes, Ethiopian Business Law series ,Addis Ababa, university, faculty of law ,vol.iii,p169

-Providing with an appropriate urban land administration which is efficient and responsive to the continuous and increasing urban land resources demand created due to the sustainable rapid economic growth registered across all economic sectors and regions in the country, and

-Ensuring the prevalence of good governance which is a foundational institutional requisite for the development of an efficient, effective, equitable and well-functioning land and landed property market, the sustenance of a robust free market economy and for building transparent and accountable land administration system that ensures the rights and obligations of the lessor and the lessee.¹⁰⁵

Unlike the preceding two urban land lease holding system this proclamation incorporated /declare/the fundamental principle of the lease proclamation. The general principles of lease such as why lease is made the cardinal land holding system of the country, how the offer of lease tender and land delivery are administered, what principles are followed during lease tender and land delivery and why such principles are adhered to, Accordingly the No. 721/2011proclamation General principles are declares under Article 4 of the proclamation.

1/ the right to use of urban land by lease shall be permitted in order to realize the common interest and development of the people.

2/ the offer of lease tender and land delivery system shall adhere to the principles of transparency and accountability and thereby preventing corrupt practices and abuses to ensure impartiality in the process.

3/ tender shall reflect the prevailing transaction value of land.

4/ the urban land delivery system shall give priority to the interests of the public and urban centers to ensure rapid urban development and equitable benefits of citizens and thereby ensure the sustainability of the country's development.

2.1.3.2. Prohibition of Land possession and permission other than lease holding

ProclamationNo721/2011Article 5 proclaims that Land Possession and Permission other than Lease Holding is prohibited. The prohibition is strict that no person is even allowed to enclose

¹⁰⁵ See The preamble of urban land lease holding system proclamation No. 721/2011.Fed.Neg.Gaz,8th No.4 cited above at note 4

and use any plot of land adjacent to his lawful possession without the permission of the appropriate body. Of course exceptionally transfer of old possessions in the form of inheritance out of lease is allowed Article 6(3).

Moreover, regional cabinets are allowed to specify urban centers to which the Proclamation remains inapplicable for a certain period; provided, however, that such transitional period, with in which the Proclamation remains inapplicable in any urban center, may not be more than five years starting from the date of the coming into force of the same.¹⁰⁶ Within the given five years grace period residents of such urban centers will obtain land based on the permit system and their possession will be considered as old possession. Thus such urban centers can within the transitional period, permit urban land holding through tender and the bid bench mark is said to be the annual land use rent of the locality.¹⁰⁷ Accordingly, residents of such urban centers will be permitted to use urban land after winning a competitive tendering and will be forced to pay annual ground rent.

Moreover, article 5(3) of the draft model regulation provides that a title certificate will be issued to winners according to the old rules, but the obligation to develop the land and the measures following non- compliance of the same will be like what is followed in lease towns.

2.1.3.3. Old possession

The current lease holding proclamation, after providing under article 5 that “it is prohibited to administer land other than the lease holding system”, states that “the modality of converting old possessions into lease hold shall be determined by the Council of Ministers on the basis of a detailed study to be submitted by the Ministry; provided however, that the process of such study may not preclude a revision of the existing rental rate applicable to old possessions”.¹⁰⁸

The term ‘Old possession’ is also defined under article 2(18) of the lease holding proclamation as “a plot of land legally acquired before the urban center entered into the leasehold system or a land provided as compensation in kind to persons evicted from old possession”. Article 2(7) of the draft model regulation on the other hand defines ‘old possession’ as “a plot of land legally acquired before the urban center entered into the leasehold system or a land provided as

¹⁰⁶ Id. Article5(4)

¹⁰⁷ Id. Article 5(5)

¹⁰⁸Id .Article ,6(1)

compensation in kind to persons evicted from old possession or a land which didn't have title dead but currently recognized." The last one is an addition made by the regulation. Thus, all in all, old possessions are possessions which were acquired during the imperial era, Derg era and before as well as those acquired then after through a means other than lease hold.

Of course, the intention of the government to convert old possessions in to lease hold is not new. The repealed proclamation no. 272/2002 after stating under its preamble that lease will be the cardinal and exclusive urban land-holding system, provided under article 3(2) dealing with its scope of application that "this Proclamation shall be applicable to an urban land held by the permit system, or by lease-hold system or by other means prior thereto, as well as to an urban land permitted hereafter." Moreover, the idea of converting all land for trade and industry in to lease hold was incorporated under the first urban land lease holding proclamation No.80/1993, Article 15(1) In fact, these provisions were not implemented.

However, the current proclamation as indicated above has clearly declared that there is a proposal on the part of the government to convert all old possessions in to lease hold. But as to the modality of converting such possessions in to lease hold the ministry of urban development and construction will conduct a detailed study and submit it to the council of ministers. Thus it is based on this study that the council of ministers will determine such modality of conversion. Of course, the time when such conversion will be effective is unknown.

It provides that; without prejudice to sub-article 1 of article 6 of the proclamation and article 6 of the draft model regulation old possessions will not be converted to leasehold when:

1. An old possession obtained through inheritance is allowed to be partitioned among the Successors,
2. Husband and wife legally partition their old possession following divorce,
3. An old possession stated under no. 1 and 2 above is transferred to one of the persons who are legally entitled to take part in the partition after paying the value of the possession which is due to the others,
4. A substitute land is given to old possessors whose possession is expropriated for public interest purpose and when possessions which did not have title dead acquire the same as per the directives that will be issued by the concerned region or city administration,

5. When a possession legally obtained or recognized but did not have title deed, is granted with the required title certificate as per the decision made following a directive issued by the concerned region or city administration.

On the other hand old possessions will be converted to leasehold system in one of the following events:

- Where a property attached on an old possession is transferred to a third party through any modality other than inheritance (Article 6.3)
- Informal settlements that have been regularized pursuant to the regulations of regions and urban administrations (Article 6.4)
- Where an application to merge an old possession with a lease hold is permitted,(Article 6.6)

As to the total conversion of old possessions to lease holding some people say that, taking in to account the interest of the government to have a clear and uniform system of land administration it seems that old possessions will be converted in the near future

2.1.3.4. Leasehold Permit of Urban Land

The proclamation provides that an urban land shall be permitted to be held by leasehold: 1/ if its use is in conformity with the urban plan guidelines or, if the urban center does not have such guidelines, as per the regulations issued by the region or the city administration; and 2/ through the modality of tender or allotment.¹⁰⁹

The proclamation recognizes lease holding system as the only way for one to get land in the urban area. As to the modes of land acquisition, previously, as mentioned by the federal and state lease laws, there were four means of urban land acquisition: auction, negotiation, assignment and lot. Now, since most of them failed to collect proper fees due to personal connections or corruption, the law recognizes tender and allotment as the only two basic means of leasehold right transfer from government to citizens.¹¹⁰ Thus in principle, land needed for any purpose, will be transferred by tender and bidders will use the minimum lease price of the area as a base to offer their price.

¹⁰⁹ Id, Article 7

¹¹⁰ Id, Article 7(2)

2.1.3.5. Tender

As per the proclamation, urban land lease holding is granted through public bid. It is provided under article 8 of the same that the ‘*appropriate body*’ which is also called ‘the *concerned body*’ under article 2(4) of the draft model regulation shall ascertain that:

- 1/ Prior to advertising urban lands prepared for tender, the lands: a) Are free from legal claims of any party; b) Are prepared in conformity with the urban plan; c) Have access to basic infrastructure; d) Are parceled, delineated, and assigned with unique parcel identification numbers; e) Have site plans and fulfill other necessary preconditions; and
- 2/ the tender process are implemented in a manner that secures the appropriate price of the land following the rules of transparency and accountability.

The information relating to urban land prepared for tender shall contain the land grade, the lease benchmark price and other detailed relevant data. Where the urban land prepared for tender requires a special development program and implementation action plan and such development program and action plan shall be included in the information.¹¹¹

Moreover, the tender process to be transparent, accessible and free from corruption, the law allocates more detailed provision to the tender process.¹¹²

2.1.3.6. Allotment of Urban Land

“Allotment” is defined in the proclamation as “a modality of land use right transfer applied for providing urban lands by lease to institutions that could not be accommodated by way of tender” (Article 2.10)

The proclamation provides that allotment of urban lands upon decisions of the cabinet of the Concerned region or the city administration shall be permitted for institutions such as office premises of budgetary government entities; social service institutions run by government or charitable organizations; public residential housing construction programs and government approved self-help housing constructions; places of worship of religious organizations; manufacturing industries; use of embassies and international organizations as per agreements entered into with the government; projects having special national significance and considered

¹¹¹ Id, Article 9(1&2)

¹¹² Id, Article(8-12)

by the president of the region or the mayor of the city administration and referred to the cabinet.¹¹³

Concerning persons displaced due to urban renewal, article 12 (2) of the proclamation provides that such persons will be entitled to allotment of a substitute plot of land. It is clearly provided under article 23(1-3) of the draft model regulation that it is only lawful old possessors and lease holders who are displaced due to urban renewal program who will be entitled to a proportionate substitute plot of land. It is also provided under sub-article 3 of article 23 of the same regulation that when a possessor who obtained such status illegally is displaced for any reason, no compensation will be paid for the property on the land and no substitute land will be provided.

Moreover, it is also mentioned under article 23(7) of the model regulation that farmers who are displaced due to urban development will in addition to the compensation to the property on the land which will be determined based on the relevant law, be provided with a substitute proportionate land as an old possession within the urban center based on the directive issued by the region or city administration.

Thus under the model regulation in addition to the totally new additions such as the case of illegal possessors and farmers mentioned above, some terms of the provision of the proclamation are changed or some other terms are added. For instance, the phrase ‘any person’ is changed by ‘lawful possessor’ and the term ‘proportionate’ is added before the term ‘substitute’

The current lease proclamation Article 12(2-4) also provides that a lawful tenant of government or kebele owned residential house in a region or Dire Dawa is entitled to allotment of residential plot of land at bench mark lease price if displaced due to urban renewal program and could not be provided with access to substitute housing; provided, however that he shall deposit money, as determined by the appropriate body, in a blocked bank account to show his financial position, while a lawful tenant of government or kebele owned residential house in Addis Ababa is entitled for facilitated purchase of condominium housing unit if displaced due to urban renewal program.

The proclamation under 12(5) also provides that “a lawful tenant of government or kebele owned business house shall be accommodated as per the decision of the concerned region or city administration if displaced due to urban renewal program.”

¹¹³ Id, Article ,12(2)

Article 13 of The proclamation also declares that a request for urban land lease holding through allotment shall be accompanied by: a/ support letter from the supervising authority of the requesting institution or from pertinent sectoral bodies; b/ detailed study of the project to be implemented at the requested site; and c/ evidence showing the budget allocated for implementing the project.

2.1.3.7. Lease price

The proclamation provided that every plot of urban land shall have a benchmark lease price and the valuation method shall be determined on the basis of the objective conditions of each urban center in accordance with regulations issued by the respective regions and city administrations. Moreover, a price map shall be prepared based on the benchmark prices of different locations computed, and the benchmark lease price shall be updated at least every two years to reflect current conditions.¹¹⁴ As per article 20 of the proclamation a person permitted urban land lease holding may be given a period of lease payment taking into account the payback period of the investment. However, the amount of down payment, to be determined in accordance with the prevailing factors of the region or the city administration, may not be less than 10% of the total lease amount of the urban land. Then the remaining balance of the lease amount shall be paid on the basis of equal annual installments during the payment term.

2.1.3.8. Grace period

The lease holding proclamation under article 15 provides that any person who is permitted urban land lease holding may be allowed grace period depending on the type of the intended development or service the details of which shall be determined by regulations to be issued by the regions and city administrations. The grace period shall commence from the date of the conclusion of the lease contract and may not last beyond the date of completion of construction.

It is also provided that any lessee should commence construction within the period specified in the lease contract. However, the period of commencement of construction may be extended depending on the complexity of the construction and in accordance with regulations to be issued by the concerned region or city administration.¹¹⁵

¹¹⁴ Id Article 14(1-3)

¹¹⁵ Id Article 22(1&2)

The proclamation declares that the time limit for completion of construction is also given as a) up to 24 months for small construction projects; b) up to 36 months for medium construction projects; c) up to 48 months for large construction projects. According to Article 23(4) of the proclamation The period of completion of construction may also be extended depending on the complexity of the construction and in accordance with regulations to be issued by regions or city administrations; provided, however, that the total completion period may not exceed: a) two years and six months for small construction projects; b) four years for medium construction projects; c) five years for large construction projects.

2.1.3.9. The contract of lease

The law provided that “any person permitted urban land lease holding in accordance with this proclamation shall concluded a contract of lease with the appropriate body”.

The lease contract includes the construction start-up time, completion time, payment schedule, grace period, rights and obligations of the parties as well as other appropriate details.

Once a person gets land by auction or allotment s/he is entitled to get leasehold title deed or leasehold certificate that proves the lessee’s rights to the land and such certificate includes particulars like full name of the lessee including grand father’s name, size and location of the plot, the type of service, land grade and plot number, the total lease amount and down payment, the amount of the annual lease payment and the time of the final lease payment to be effected and the lease period.¹¹⁶

Currently in Ethiopia unlike rural land, most urban land is granted to urban dwellers and investors on the basis of time restriction and use rights are provided for a specific period obtained from the landowner who shall be the state through ground rent payment. Hence, the duration of the lease period might be a critical issue. Article 18 of proclamation No721/2011 provides different lease periods for difference purpose there is also difference between Addis Ababa and other cities towns, ranging from 15 years for urban Agriculture and short-term economic and social activities to 99 years for residential housing based on different types of ground leases.

¹¹⁶ Id Article 17(2)(a-f)

The renewal of contract should also be taken in to account, in connection with the lease duration. Under article 19 of the lease proclamation the period of lease may be renewed upon its expiry on the basis of the prevailing bench mark lease price and other requirements; provided, However, that the lessee may not be entitled to compensation where the lease period could not be renewed.

2.1.3.10. Utilization of Urban Land Lease holding

As provided under article 21 of the lease proclamation in principle a lessee of urban land is expected to use the land for the prescribed purpose within the period of time stated in the lease contract. For example, the lease holder cannot construct G+5 while he is allowed to construct G+0 or G+4 building or he cannot utilize a building for a dwelling house while he is allowed to use it for business.¹¹⁷ Failure to use the land for the prescribed purpose is one ground of termination of the lease contract except for the reasons where the lessee ascertains that the land has not been used for the intended purpose as a result of force majeure as provided under the civil code, where the appropriate body may authorize time extension to compensate time lost due to the force majeure situation.¹¹⁸

2.1.3.11. Transferring and Mortgaging of Leasehold Right

Leasehold right is subjected to any form of transaction including sale, lease/rent, inheritance, donation, mortgage, and as capital contribution. But, the right to mortgage is limited to the “extent of lease amount already paid” (Article 24.1). This means A lessee may transfer his leasehold right or use it as collateral or capital contribution to the extent of the lease amount already paid within the relevant use of the land and period of lease.

Now, however, the proclamation provides that “if a lessee, with the exception of inheritance, wishes to transfer his leasehold right prior to commencement or half-completion of construction, s/he shall be required to follow transparent procedures of sale to be supervised by the appropriate body and in this kind of transfer of leasehold right; a) the effected lease payment including interest thereon, calculated at bank deposit rate; b) value of the already executed construction; and c) 5% of the transfer lease value; shall be retained by the lessee, and the remaining balance shall be paid to the appropriate body”.¹¹⁹

¹¹⁷ Cited above at note 104,p175

¹¹⁸ Cited above at note 4,Article ,25(1a)and 25(2)

¹¹⁹ Id, Article 24(2and 3)

Regarding the transfer price the regulation provides that the appropriate body is entitled to decide any transfer of lease right on which construction is not commenced or below half completed based on lease sale/transfer price.

Therefore, a lessee, who wishes to transfer his/her leasehold rights before commencement of construction or half-completed constructions, will get first, the effected lease payment including interest thereon, calculated at bank deposit rate; second, value of the already executed construction; and thirdly, 5 percent of the transfer lease value.

Besides, the proclamation prohibits people who repeatedly transfer leasehold right without completion of construction, in anticipation of speculative market benefit, from participation in future bid.¹²⁰

Generally the lease holding proclamation almost blocks the chance of using bare land as Collateral, a lessee may transfer his leasehold right or use it as collateral or capital contribution to the extent of the lease amount already paid”.¹²¹

On the other hand, if the construction completed or becomes more than half, then there is no limitation as to the value the sale price.¹²²Hence, the whole purpose, behind limiting the right to the transfer of half completed properties seems to encourage owners to complete construction and there by alleviating the housing shortage.¹²³

2.1.3.12. Termination of Leasehold and Payment of Compensation

The proclamation also provided the ground of termination of lease hold rights. A contract of lease is made for a definite period. Like other contracts a lease contract can be terminated for various reasons. Article 25(1) of the proclamation provides that the leasehold of urban land shall be terminated where:

- A) The lessee has failed to use the land for the prescribed purpose within the period of time stated in the lease contract.
- B) It is decided to use the land for other purpose due to public interest; or

¹²⁰ Id 24(7)

¹²¹ Id24(1)

¹²² Cited above at note40,p85

¹²³ Ibid

C) The lease period is not renewed either because of the failure of the leaseholder to request for renewal within the required time or the appropriate body did not approve the application for renewal. Article 26(3) of the proclamation confirms that except in the case of the above three situations “no lease hold land right may be terminated and the lessee cleared from the land.”

2.1.3.13 .Clearing Urban Land

The appropriate body shall have the power, where it is in the public interest, to clear and take over urban land upon payment of commensurate compensation, in advance, for the properties to be removed from the land.¹²⁴

According to Article 25(4) of the current lease holding proclamation “the lease hold is terminated in accordance with sub- article 1(b) of the article, the lessee shall be paid commensurate compensation in accordance with the relevant law” due to a person whose lease contract is terminated on account of the fact that the appropriate body has decided to use the land for other purpose due to public interest. Article 26(1) unlike to article 25(4) does not refer to the relevant law for the same purpose. It simply says that commensurate compensation will be paid in advance of clearing and taking over the property.

According to Article 26(2) a person whose land is taken over due to this action shall be provided with a substitute plot of land within the urban center the size of which shall be determined by the region or the city administration.

However, unlike legal holders who are given adequate clearing order and compensation with a substitute land, illegal settlers (squatters) are to be evicted from the land they hold without any payment of compensation and only by merely serving a written notice of seven working days.

The appropriate body in this case has the power, without the need to issue a clearance order and payment of compensation, to clear an illegally occupied urban land by merely serving a written notice of seven working days to the occupant in person or by affixing it to the property situated on the land.¹²⁵

¹²⁴ Cited above at note 4 Article 26(1)

¹²⁵ Id, Article ,26(4)

2.1.3.14. Clearing Order

The proclamation provides that where urban landholding is decided to be cleared the possessor of the land shall be served with a written clearing order stating the time the land has to be vacated, the amount of compensation to be paid and the size and locality of the substitute plot of land to be availed.¹²⁶ In this case the period of notification to be given which will be determined by regulations to be issued by the regions and the city Administrations may not, in any way be less than 90 days.¹²⁷

2.1.3.15. Grievances Relating to Clearing Order or Notice

The proclamation further stated that a person served with a clearing order or any other person alleging infringement of his right or benefit as a result of the order may submit his grievance to the appropriate body, together with evidence substantiating his cause, within 15 working days after receipt of the order.¹²⁸ Any person with an illegal settlement who is served with a notice may submit his grievance to the appropriate body, together with evidence substantiating his cause, within seven working days after receipt of the notice.¹²⁹

2.1.3.16 .Appellate Tribunal

The lease proclamation under its article 30(1-9) declares that an urban land clearing and compensation cases appellate tribunal shall be established by regions and city administrations.

2.1.3.17. Appeals against Decisions of the Appropriate Body

Under article 29 of the proclamation an applicant who is aggrieved by the decision of the appropriate body rendered as mentioned before is entitled to appeal to the Appellate Tribunal mentioned above within 30 days from receipt of the decision.

Moreover, the law provides that decisions of the Tribunal, except relating to compensation, on issues of law and facts including claims for substitute land shall be final.¹³⁰ Under 29(4) of proclamation No721/2011 a person dissatisfied with the decision of the Tribunal on the issue of compensation may appeal, within 30 days from receipt of the decision.

¹²⁶ Id, Article ,27(1)

¹²⁷ Id, Article ,27(2)

¹²⁸ Id, Article ,28(1)

¹²⁹ Id, Article ,28(2)

¹³⁰ Id, Article 29(3)

2.1.3.18. Takeover of Land

The proclamation provides that the appropriate body shall take over urban land from any person who has been served with a clearing order within 90 days from the date of payment of compensation, or if the person refuses to take the payment, from the date of depositing the compensation in a blocked bank accounts in the name of the appropriate body; provided however, that the appropriate body shall pay the deposited amount whenever the entitled person intends to take the payment.¹³¹

2.1.3.19. Regularization

ProclamationNo721/2011Article 5 proclaims that Land Possession and Permission other than Lease Holding is prohibited. The prohibition is strict that no person is even allowed to enclose and use any plot of land adjacent to his lawful possession without the permission of the appropriate body. And article 5(3) of the proclamation “no region or city administration may permit or transfer urban land in a manner contrary to the provision of this proclamation” as express earlier the said proclamation allowed to regularized possessions held without the authorization of the appropriate body, the possessions which have found to be acceptable in accordance with urban plans and parceling standard. The regularization shall be effective within four years of the coming in to force of this proclamation. The regularized plots shall be administrated by lease holding. We will see in detail the treatment of urban informal landholdings and whether regularization contrary to the lease law in the next chapter.

2.1.3.20. Criminal responsibilities entailed as a result of violations of the provisions of the new lease holding proclamation

Unlike the preceding the current lease holding proclamation prescribes very harsh penalties in terms of fine and imprisonment for the violation of any of its provisions under article 35. The proclamation stated that “grants an urban land in contravention of the provisions of this Proclamation is punishable with rigorous imprisonment from 7 to 15 years and with a fine from Birr 40,000 up to Birr 200,000”Article 35(1)(a)(1)of the proclamation .

The proclamation comes up with serious penalties for all act omission under article 35 (1/3. thus all omission punishable by imprisonment and fine. Generally there are no faults which can be

¹³¹ Id, Article 31(1)

passed simply by administrative correction under the proclamation. Those omissions can happen due to lack of capacity lack of required facilities or due to reasons which are beyond ones reach are punishable.

Thus the proclamation trying to penalized all omissions including those minor ones through rigorous imprisonment and fine

This shows the government seems trying to prevent land and land related corruption through imposing serious penalties and fine rather than behavioral change, and the issue of urban land issues are sensitive, serious and restricts in all direction. Besides the government seems want achieving the objectives of the proclamation by imposing serious imprisonment and fine then preventing corruption and promote good governance.

Chapter Three

The Development of Informal Landholdings in Adama City and Importance of Regularization

3.1. The Development of informal landholdings in Adama city

The city of Adama is established in 1916 following the Ethio-Djibouti railway line and got municipal status in 1945 during which it also saw its first plan prepared by an Italian expert by same year. According to the latest City's Profile released in November 2016, the city plan had been revised several times. The current structural plan prepared in 2004 shows that it covers an area of 133.6 km².¹³²

Land is one of the basic resources that need to be planned for better utilization. One of the spatial planning methods is zoning which entails the creation by law of the section or zones to be used for different urban functions.

The 2004 city's structural plan enabled the city's land to be set aside 40% for housing; 20% for parks, urban agriculture, recreation, and mineral resources; 10% for business and commerce; 10% for public facilities, 10% for manufacturing and storage; and the rest 10% for infrastructure, utilities and transportation.¹³³ But, the current urban policy and strategy indicates that out of the total urban land, 40% should be allocated for building, 30% for greenery and the rest 30% for infrastructure.¹³⁴

Urban planning is one of the most important tools for urban management. It guides the socio economic and spatial/physical development of a given urban center. Hence, urban development effort without the guidance of urban planning is like walking blindfolded.¹³⁵

Urban planning is a tool for urban development that helps to answer the basic questions of what, where, when, whom and how in undertaking various urban development activities. Planning

¹³² Cited above at note 1,p.16

¹³³ Ibid

¹³⁴ Ibid

¹³⁵ YohannesDukale, (2012) Assessment of urban plan& Design implementation &management in Ethiopia secondary Town, Addis Ababa University ,Department of Urban Design & Development MSc thesis,p23.

shows ways and means of developing urban areas with some guiding principles. Planning in its formal sense implies having the power to guide the future development of an area.¹³⁶

Therefore, urban planning is a future oriented activity for spatial arrangement of economic, social and environmental resources towards pre-determined goals in a compatible manner coordinated with accompanying policies and regulations to guide urban development in order to bring about betterment on wellbeing of the entire town residents. Once it is approved by an authorized body, it is mandatory to follow and implement a plan. The existing Adama city plan has went through challenges in the in the implementation process among which urban informal landholdings is the major one.

3.2 Historical development of urban informal landholdings in Adama city

There is no sufficient written document as to when informal landholdings emerged in the city of Adama. However, various sources indicate that squatting in Ethiopian cities and towns has come after the downfall of the Derge Regime. Because, no one had the right to construct his house on privately owned land in the imperial era. Thus the construction of residential house on the public land without the consent of any concerned body increased greatly after the fall of the Derg Regime.¹³⁷

However, a few sources subscribe to the idea that the first informal landholdings occurred in Adama before 1974 in the form of as feudal settlement. They emerged in the surrounding of the city and in areas where development is less dense. Informal landholdings in the city have been flourishing over the last three decades. The land use and physical survey undertaken in 1991 shows that, these settlements were very limited in some areas. The survey estimate indicates that the area of these landholdings accounted for only 60 hectares and the number of housing units were only 720. Since then, however, informal landholdings have been increasing.¹³⁸

The data also reveals that within 9 years in 2000 the number of informal landholdings estimated to have reached 7,411.¹³⁹ Informal landholdings have been flourishing in different parts of the city particularly at its peripheries. The housing study conducted by Adama Master Plan Revision

¹³⁶Urban planning and implementation manual ,p23

¹³⁷ Daniel Lirebo, (2006) Informal settlements in Addis Ababa, Addis Ababa University ,Department if architecture and Urban planning MSC, thesis ,p23

¹³⁸ National Regional state of oromia ,Adama Master plan Revision project office Document (2004),p9

¹³⁹ Ibid

Project in 2004 shows that, the number of such housing units were estimated to be more than 10,000.¹⁴⁰ According to the survey result, the majority of these informal landholdings in the city occurred during the EPRDF government.

The data collected by the Technical Department of the Adama Special Zone shows that the highest number of informal housing about 31% were constructed between 1986-90.E.C.

Review of different studies show that Adama experienced the highest proportion of informal landholdings even more than Addis Ababa and Dire Dawa during that period. The percentage of such landholdings from the total housing stock in Adama was 30% whereas it was 25 and 20 per cent in Addis Ababa and Dire Dawa respectively.¹⁴¹

Informal landholdings have been expanding from time to time; recently, a number of housing units have been built in different parts of the city. Though study was not undertaken on the current informal landholdings in the city, it is estimated that 28,000-30,000¹⁴² informal landholdings are found in Adama city. This data shows that the issue of informal landholdings is becoming more serious than ever.

3.3 Types of informal landholdings in Adama

Depending on the duration, type and system of development of informal landholdings, the Adama master plan revision project identified two types of informal landholdings in the city. These are:

Type A: Informal landholdings that occurred before 1974

These landholdings were those lands allocated by the landlords and inhabited by their descendents. These are mostly found in the periphery kebeles of the city and were developed before proclamation 47/75. Parts of the land occupied in such circumstances were sold to others and they are densely inhabited. Some of these landholdings occupy large area of land. Wider plots have been parceled down and occupied by household members and their descendants. Settlements were spontaneously developed.¹⁴³

¹⁴⁰ Ibid

¹⁴¹ Ib,p13

¹⁴² Interview with Kemal Jemal ,Adama city Urban land development and management deputy manager Apir 2018 Adama

¹⁴³ Cited above at note138,p9

Type B: Farmers settlements

These are landholdings developed through the peasant resettlement and villagization program during the Derg Regime. Parts of these landholdings were sold to urban dwellers. Children of farmers have built their residences in these areas. The four peasant associations are found within the area of the city and contributed to the emergence and expansion of informal landholdings in the area of the city. The following are the then peasant associations.¹⁴⁴

1. Lugo Peasant Association
2. Dhaka Adi
3. KurfaGutu
4. Soloke

Lugo is different from other associations in that, it is highly contributed to the expansion of informal landholdings. The northern part of the farm area owned by the peasants is sold to urban dwellers and migrants coming from other areas. This is mainly due to its proximity to built-up areas, infrastructure and social services.¹⁴⁵

Various studies have been showing that, the magnitude of informal landholdings in different countries is considerable. Different reasons have been suggested for the emergence of urban informal landholdings in different countries. They have become the fastest growing type of human settlements in developing countries. Their growth is closely linked to rapid urbanization that has been taking place in most developing countries over the past three decades. In most cases it seems, therefore that, the absolute quality of land is rarely problematic. The gap lies in the system of providing land to urban poor which makes it legally accessible and often aggravates the problem.

3.4 Factors causing for informal landholdings in Adama

Different sources indicate that informal landholdings in urban area are caused by migration from rural areas, and high population growth. The first problem for people to move cities is to get a shelter. Of course, land and housing are determinant in the struggle for survival. Migrants to cities generally arrive without income or skills and often continue to grapple with poverty. As a

¹⁴⁴Ib,p13-14

¹⁴⁵ ibid

result, squatting, street dwelling, slum, and overcrowding have produced new residential situation in the rapidly growing cities¹⁴⁶

This phenomenon holds true for Adama city. According to the housing and population census conducted in 2007, 59.2 % of the city's residents were migrants¹⁴⁷. As explained above the peasant associations found at the environs and within the boundary of the city contributed to tremendously to the expansion of informal landholdings in the city as the peasants were selling their farm lands to urban dwellers and migrants coming from other areas.

Among others, kebele 03 commonly known as TikurAbbay, experienced high expansion of informal landholdings by displaced Eritreans and people displaced from Arsi zone and settled in the area in 1991. Besides, people living around Wanji Sugar Factory were those displaced by Awash River flood in 1997settled in the same area.

The researcher conducted an interview with Ato Moges Bizuwork, Geremaw Benteyiwalu and W/roTsigie Gemechu who, migrated from Arbagugu district, Arsi zone in1990 and 1992 respectively due to ethnic group conflict occurred in the area. It was at that time they came to Adama and bought land from peasants, built house and then settled there. They have been living there for over 18 years without any evidence about their landholdings.

Sources also indicate that in this kebele some 3,876 housing units in which, about 98% of the possessions were informal identified in 2005. Thus, almost all landholdings in kebele 03 were informal at the time. According to information obtained from the city Administration, the so called kebele 03 mainly established by these possessors in 2005. This kebele is separated from kebele 10. This shows that the number of settlements and migrants were enormous at the time. Though the city Administration has taken actions to regularize and minimizing the problems, yet the problems have not been addressed.

Similarly, kebele 14 is one of the kebeles where informal landholdings flourished as in kebele 03. Kebele 14 informal possessors are migrants from other areas, inhabited there since 1992. Similarly, the researcher conducted interview with AtoEshetuBesha who was chairman of the kebele from 1992-2000. He noted that, migrants came from other areas particularly from Arbagugu district of Arsi zone and different areas for different reasons purchased land from

¹⁴⁶ UN-Habitat human settlements program (1977),p

¹⁴⁷ Cited above at note 1,p20

peasants and built houses. Then other possessors came to the area following their relatives or fellow kin members who have already settled there before their arrival. Many other urban dwellers followed this trend and used other connections to settle in the area. This shows that once an individual successfully settled, they tend to pull other relatives or kin members to the area. In general, the main reasons for their migration to Adama were seeking employment opportunity, searching for education, family relocation, marriage arrangement and following conflicts and famine displacement.¹⁴⁸ Many people also are witnesses that kebele 14 was peripheral area of the city 10 to 15 years ago. But nowadays the area has become intermediate of the city.

3.4.1 The Problem with land provision

There are a number of factors that give rise to the emergence of informal landholdings. Some of these factors are sitting specific while others are applicable at all levels. In general, there is one common ground to the emergence of all forms of informal landholdings i.e. shortage of affordable housing or affordable plots especially to the urban poor. Almost in every city and town, the demand for urban land is elastic due to various socio-economic and demographic factors, while the supply is somewhat inelastic. Under such circumstances, it is very common to have a mismatch between demand and supply. But, what matters is that “degree of scarcity or the gap between demand and supply”. In a situation where there is high scarcity in price of land and housing become very high and, in the mean-time, it becomes unaffordable to the urban poor. Such conditions, therefore, forced the victims (the poor) to look for other salutations. One of the most common solutions has been “informal landholdings”.

The supply of land in Adama was and still very sluggish and the system as a whole was inefficient which caused and have direct negative impact on the study area. Furthermore, the supply of land has bounded by so many preconditions and criterion that makes the situation unbearable to the urban poor. Land and land related problems, which aggravated the situation of informal landholdings, are diverse and interrelated. Failure at one point or another process definitely caused another, however, the factors are explained below in Adama context.

For instance, the government promised people to provide plots of land in 2007 in which they paid municipality fee and received receipt but the city administration was not able to avail land

¹⁴⁸ Cited above at note 138,p24

due to various reasons. People waited for over eight years to get access to the promised plot of land. Accordingly, some 8,000 people are waiting to be served as part of the backlog plan in the city Administration.

The issue of this backlog has become part of socio-economic and political discourse even at state level because people tend to raise questions on taking advantage of meetings. This enforces the regional state to issue directive No. 1/2015 in order to handle the backlog complaints and execute land provision as promised 10 years ago. The directive was amended by directive No8/2016 Participating different institutions and experts to screening the backlog case.

Based on the directive, the committee was established involving different institutions and different professions and has been screening the case for the past years. As it has grabbed attention of both state government and city administration, the backlog directive enabled to provide land to 7,756 people who claimed to be served under the backlog plan. The backlog issue has been formidable challenge in the region particularly in Adama. Though measures have been taken currently over 400 people not getting the land and cases of some 200 people are under investigation due to suspicion of the legality of their receipt.

This shows there is a huge gap between demand and supply. The delay in providing land, insufficient institutional set up, unfavorable procedures and requirements in land supply etc are among the major factors worsening the situation of land supply .Besides, land management and delivery system, inefficient bureaucracy by many preconditions and criterion. This has opened way for people to occupy land illegally and purchase illegal landholdings as the legal process is complicated.

3.4.2. The Influence of urban land price

The Influence of urban land price is also another factor which contributed to the development of informal landholdings in the city. The price of land is so high and people could not afford the lease bid price. The lease bid price in the city in 2013 was above 6,000 birr per m² of land and the average bid price in the city is birr 2,970 per m². This shows that leave alone the poor the middle class could not afford for housing. It is becoming very difficult to acquire land through the formal lease system.

Besides, even if the law does not allow putting land for sale in Ethiopia, in reality urban land in underground is commercialized in all Ethiopian cities. In Adama city the price of land is very high in that 200m² residential lands is being sold 600,000-2,000,000 Ethiopian birr privately. Due to this people are forced to be engaged in informal land market. This high price of urban land contributes for the expansion of informal landholdings in Adama city.

3.4.3. Low compensation Payment for farmers who give up lands

In Adama, farmers sell their agricultural land by dividing it in to smaller parcels regardless of the future land use planning. Of course, the act of farmers is illegal on one hand as they convert land use from agricultural to residential and on the other hand, they illegally transfer their use right without having disposal .Though complaints have been lodged as the government is paying low compensation during expropriation in expansion areas, issues related to displacement compensation in the city administration is yet executed as per Article 8(1) of Proclamation No. 455/2005 which is equivalent to ten times the average annual income he secured during the five years which amounts to birr 53.45 per meter square in ten year. In other words, a farmer who displaced a hectare of land gets 534,500 birr .Farmers still complaining about payment because currently they are selling per m² of land for 400 to 1000 birr informally.¹⁴⁹ Of course land could not be sold and bought according to the FDRE Constitution but in practice people buy and sell in underground and an open.

Therefore, farmers living in expansion areas have fear in that the government will someday expropriate their land for city expansion giving them low compensation that is why the farmers sell their farm land illegally. Besides, in Adama the lease benchmark price for residential land is birr 425.7¹⁵⁰. Three years before, in 2014, the highest bid price offered was birr 6732 per m².¹⁵¹ The government sells at high price but give low price that pays birr 53 for farmers. For this reason farmers sell their plots illegally without considering the areal plan and land use because farmers feared that they might be obliged to give up their land just getting low compensation. Due to this farmers live in an expansion areas are forced to sell their land for illegal settlers or speculators and other urban dwellers.

¹⁴⁹ Interview with AtoTeferisShumi,AtoRetaBadada, Ato Demise Ararsa and AtoAshebrArarsa Expropriated before two year for industry park,Adama march2018 .

¹⁵⁰ Cited above at note 6,

¹⁵¹ Adama city Urban land Administration and management agency 2013 annual report document.

3.4.4 Rural to urban migration and absence of affordable house for rent in the city

The other cause for development of informal landholdings in the city as mentioned earlier is migration. Today urbanization in Ethiopia is growing rapidly. The rapid growth of population, migration of people from rural to urban and expansion of urbanization contributed to increasing the demand for land for different purposes. In addition, in Adama city 59%¹⁵² of the residents were migrants, especially for dwelling there is no land delivery system for urban dwellers no affordable shelters due to this and other similar reasons people seek options and purchasing plot of lands from farmers and obliged to opt for informal land possessors that means, purchasing land in expansion areas and people buy existing informal building on their own way. This shows that land can be bought directly from farmers or the original owner and retailed to many other owners or possessors. Besides, some people occupy or purchase land from farmers to put aside land for their children.

3.4.5. Regularization

A. Regularization before the lease Proclamation No. 721/2011

At different times in the past, the city administration took regularization measures to curb the expansion of informal landholdings by legalizing some plots. However, regularization program by itself contributed for the creation or development of other informal landholdings in the city. The regularization measures taken so far by previous mayors managed to regularize a few plots of land in the city.

For instance, the so-called kebele 03 was established by informal landholdings as explained above. The city administration regularized few informal landholdings in 2005 by administration decision. It regularized around 200 informal landholdings in that kebele at that time. The city administration also attempted to regularize informal landholdings of kebele 01 and 09 but it did not succeed due to different reasons. One reason is that regularization program was not formulated by identifying the root causes of the problem. Therefore, ultimately this act of city

¹⁵².cited above at note 1,p,20

administration paved the way for the expansion of informal landholdings in the city because people hoped the city administration will someday regularize their plots as others.

B. Regularization after proclamation No. 721/2011

As explained earlier, the urban land lease holding Proclamation No.721/2011, also allowed informal landholdings changing to formal landholdings when they fulfill certain requirements. Among the requirements are planning and parceling standard. In case anyone not fulfilling the requirements will not be regularized. The fate of such possessions will be demolition with no replacement of land and compensation. Following the proclamation, the Oromia regional state issued regulation and directives for execution of the proclamation. The regulation allows regularization of informal land possessions that built before the regulation No. 155/ 2013 issued. Thus, the regulation takes into consideration the length or duration of occupation for determination of regularized plots, besides, shall be compliance with planning and parceling standards as in accordance with the proclamation. In case one may not fulfill planning, parceling standards or period of occupation, will be demolished with no compensation and substitute of land.

Though this is what the law states, the city administration by breaching the law, legalized some illegal plots in 2012. After the enactment of the urban land lease holding proclamation No.721/2011; for instance Addis-Adama Railway and Addis-Adama Express way project areas were occupied by informal possessors and the city administration pressured by federal government to clear the area in a bid to avoid any delay in the project decided to remove the settlers and gave replacement land for 299 informal possessors with lease benchmark price, in addition to paying compensation.¹⁵³ That action of the city administration was against the lease proclamation as it prohibits urban land possession and permission other than lease holding.¹⁵⁴ As it has been mentioned above, regularization is only allowed when “the possessions which are found to be acceptable in accordance with urban plan and parceling standard”¹⁵⁵. But, the regulation does not allow relocation of such possessors which are expected to be demolished.¹⁵⁶

¹⁵³ Cited above at note 3

¹⁵⁴ Cited above at note 4 Article 5

¹⁵⁵ Id.art,6(4)

¹⁵⁶ Cited above at note 6, Article 9(2).

Though the regulation doesn't allow replacement of land for informal landholdings which did not compliance with urban plan and parceling standard, there were occasions whereby the city administrations allow people access to land for the construction of their homes without compensation.¹⁵⁷ However, this act has contributed to the creation of illegal occupation of lands in the city because people think that the government may give them such chances same for others.

Besides, in 2016 around 700 informal possessors occupied government land by force and built illegal houses in BokuShanankebele. In the Same year, the city Administration demolished all informal landholdings from the occupied area was already allocated for establishment of factory /industry/. However, the possessors refused obeying the order of the city administration and challenged and soon replaced the house in the same place.

In the end, the city administration removed and relocated the possessors to other places those who violated the regulation. The act of the city administration eroded the laws and this is evidence for informal possessors forcibly occupies public land and develops an assumption that one day the government legalizes others too.

Moreover, the public misunderstood the proclamation/regulation; it was generally believed that informal landholdings are going to secure legal status. Thus, the regularization created misconception that all informal landholdings will be legalized one day in the future. Contrary to this, there are conditions stated in the regulation in which informal landholdings would be subject to demolition.

However, many people were misled and continued buying and selling of illegally built houses. Brokers and speculators have been buying lands with the expectation that the area will be legalized. The data reveals that after the proclamation promulgated the growth of informal landholdings are increased. Again the data reveal that illegal land transaction has been increasing after the lease proclamation was promulgated.

¹⁵⁷ Daniel Weldegebriel (2011) ,Informal settlements in Ethiopia: the case of two kebeles in Bahir Dar city ,p20.

Accordingly, in Adama city after the regulation No 155/20012 issued, 7,301¹⁵⁸ informal house units were built, among these 2,511 informal housing units got demolished by the city administration. Even, Proclamation No. 721/2011, Article 5 proclaims that land possession and permission other than lease holding is prohibited and the proclamation strict that no person is even entitled to a plot of land adjacent to his lawful possession without the permission of the appropriate body .Taking part in an unlawful possession will lead to serious penalties which is rigorous imprisonment and fine.

However, expansions of informal landholdings of houses did not show the tendency to decline. As the data reveals that illegal land transaction has been increasing after the lease proclamation promulgated. This also shows that people are highly involved in the expansions of informal landholdings due to false information or lack of clear information thinking that someday the government will regularize all informal landholdings .This is why the lease Proclamation or the regional regularization by itself contributed to the development of informal landholdings

Of course, the lease proclamation does not make it clear that informal occupation made after the coming in to force of the proclamation will never be regularized. But the Oromia regional state regulation No 155/2012 and directives No .1/2013 issued for the execution of proclamation 721/2011clearly stated that informal possessions occupied or houses built after the issuance of regulation No. 155/2012 will never be regularized.¹⁵⁹ It also states that such buildings will be demolished with no replacement of land and no compensation paid to the possessors.¹⁶⁰ As a result, a significant number of people, mostly the poor, will be exposed to economic crises. This shows that people are paying unnecessary sacrifices and exposed the country to loss of large resources.

The following are also other causes for the proliferation of informal landholdings in Adama:

1. Land speculation: Land speculation is found to be the main driving force in the proliferation of informal landholdings in Adama .Based on the data collected from different sources it can be concluded that about 50% of informal or illegal housing developments are caused by land speculation.¹⁶¹

¹⁵⁸Interview with Ato DebelaKumsaAdama city Land development and management agency plan and program Experts, Adama, April, 2018.

¹⁵⁹ Cited above at not 6,Art.9(2),(9)and Directive no 5/ 20013,Art31(2-9)

¹⁶⁰ Ibid

¹⁶¹ Cited above at note 138,p.38-40

2. Lack of accountability and weaknesses in planning, regulation and control
3. Lack of land registration.
4. The absence of affordable housing development for low-income groups
5. Renting from housing developers in unaffordable and high price of land
6. Absence of clearly demarcated urban-rural boundary
7. Weak controlling mechanisms to stop parcel of land for the urban poor illegally by farmers
8. Land controlling system is very poor

Generally, the cause for informal landholdings is many and diverse that ranges from social, economic, procedural and institutional to political problems.

3.5. Characteristics of informal landholdings in Adama

There are essentially three defining characteristics that help understand informal landholdings: the Physical, the Social and the Legal with the reasons behind them being interrelated.

a. Physical characteristics: Informal landholdings, due to its inherent “non-legal” status have services and infrastructure below the “adequate” or minimum levels. These services are both network and social infrastructure, like water supply, sanitation, electricity, road and drainage, schools, health center, market place etc.

b. Socio-economic characteristics: Most households that reside in informal landholdings belong to the lower income group. They are either working as wage laborers or engaged in various informal sector enterprises, urban poverty and unemployment.

c. Legal characteristics: The key characteristic that delineates informal landholdings from other landholdings is its lack of ownership of the land parcel on which they have built their houses.

3.6. Impact of informal landholdings in Adama

- They create obstacles to planned development because the activities are not undertaken in a planned way.
- They Result in spontaneous growth and sprawl, hence, inefficient utilization of land and infrastructure.
- They Create difficulty to integrate with the existing built-up area
- Their quality of construction is poor

- They encourage unlawful act. Thus, both selling and buying of land is illegal or in contravention with the rule and regulation stipulated.
- They Decreases municipal income and revenue
- They Poses difficulty in providing the necessary services and infrastructure
- Farmers who sell their land are being displaced without the prearrangement of their livelihood and long-term survival. Once they sell their land they would be exposed to unemployment and eventually migrate from where they lived in search of making their livelihood.

As it is discussed above informal landholdings create obstacles to planned development. In Adama city these settlements are built on areas reserved for green area, industry, commerce, social services, etc. Most of the 2004 Master plan proposals are challenged by these landholdings. There are some of the indicators of the prevailing problem in Adama and it will also be discussed below in brief.

3.6.1. Infrastructure case and public services

Plan is a law that determines the land use for different purpose and more emphasis for infrastructure and public service. Adama city plan denotes that 10% is for infrastructure. But the point is how to implement this percent according to the plan. The city administration planned to construct 7.5 km asphalt road in the city by the year 2009 allocating 147 million birr for the project and was a two year project. But the place for the intended project was occupied by informal landholdings and the city administration struggled to expropriate or remove them from the place. But the informal possessors objected the decision of city administration saying “we are citizens” the city administration made efforts for two to three years to remove the informal possessors.

In the end, the city administration removed informal landholdings and replaced other land for informal possessors.¹⁶² The project delayed for three years and still not yet completed. The public did not benefit from the project and the growth of the city also delayed.

¹⁶² Interview with AtoMengestu lemma ,Adama city municipality construction department team leader March 2018

Other infrastructural cases particularly Addis-Adama Railway project was undertaken by the federal government. This project area also touched part of land occupied by informal possessors the areas Boku-Shanan, DabeSoloqe and 09kebeles inthe city .The city administration pressurized by the federal government to clear the area in a bid to any delay in the project decided to remove the informal landholdings replace other land for 299 informal possessors with lease benchmark price.¹⁶³This is against the lease holding proclamation and violates the law because it prohibits urban land possession and permission other than lease holding.¹⁶⁴ Regularization also permits when the possession which is found to be acceptable in accordance with urban plan and parceling standard¹⁶⁵.

It was argued that since they were illegal possessors without any legal evidence of occupation and permit of construction, no compensation should be paid. The expropriation law does not simply include such areas in its compensation package.¹⁶⁶The compromise may that every Ethiopian citizen has a right to get access to land and since they are also Ethiopians they should be allowed to get land for the construction of their homes. But, no compensation for the demolished houses was allowed.¹⁶⁷

3.6.2 .Public services case

Public services such as education, health and other services included according to the 2004 the city's structural plan. Kebele 03, "TikurAbaySefer" reserved for primary school and health center but this area is already occupied by 296 household informal possessors. They built houses and were living for more than 20 years. The city administration can't remove the informal landholdings or regularize the informal landholdings. However, the land is simply idle without appropriate use. Similarly, kebele 04 "medhanialem church" area reserved for school but occupied by informal possessor, without any decision the land sit without use of its intended purpose.

¹⁶³ Cited above at note 3

¹⁶⁴ Cited above at note 4,Article 5

¹⁶⁵ Id Article 6(4)

¹⁶⁶ Cited above at note 157,p20

¹⁶⁷ Ibid

3.6.3. Investment project case

Investment has a great role in creation of job opportunity and contributing to national economic development. Accordingly, in Adama various investment projects undertaken and some project fails because the city administration can't deliver the land according to their agreement. Among these, "Ansif PLC" is one of the projects which the city administration issued land holding Certificate with reference no. 737131/99 dated 02/06/98 for school purpose with an area of 10,000m² in kebele 03. Due to the land was occupied by 65 informal possessors the city administration has not been able to fix the problem and the case is pending at court.

Another case is the one that of athlete Fatuma Roba, who handed over the land holder certificate of reference no.2147/200 dated 12/05/2000 for commercial purpose in kebele 09 an area of 1000 m² G+ 3-6 building in a similar way with that of "Ansif Plc".

Still another case with "Ansif PLC" who received land holding certificate for hotel and shopping purpose in kebele 03 an area of 1500m² with reference No.6055/2000 dated 27/12/2000 for building G+3-6. Here again with the same reason the city administration can't provide the land for this project too.

Generally, from the year 2000 up to now, there are 9 investment projects issued with landholding certificate however, by the same reason mentioned above, the city administration can't deliver the land and these projects are unable to be operational. Hence, the city administration couldn't implement the plan and the land administration and management office of the city is weak and this shows there is no accountability and responsibility.

At the time of conducting this study, the experts told to the researcher that, the cause of failure of the implementation of the city plan is interference of administration bodies/political bodies/ to the plan in order to get support from informal possessors and lack of awareness of plan to the public.

In conclusion, due to such failure of investment projects, the city lost revenue had it been these projects are operational and loss of job opportunity for unemployment. On the other hand, the impact of these informal landholdings is a potential challenge for the future development. The other problem is, since these informal possessors located at potential expansion areas of the city, it hinders planned development and as a result exposed to improper misuse of land resource and infrastructure.

In general, informal landholdings have negative and positive impacts.

Negative impacts

- Spontaneous growth and sprawl (unplanned growth) resulting in difficulty of integrating them with the existing city structure.
- Settlements are susceptible to hazards (flood, fire etc) and could cause sanitation problem and environmental degradation (in some areas). Quality of construction is also poor (significant percentage were built with temporary scrap materials) creating slum areas at the peripheries.
- Encouraged unlawful act and also decreases municipal income (revenue) from land and building tax.

Positive impacts

Provide shelter for those that could not be provided by the formal housing provision system especially the urban poor. Thus, it needs to bridge the gap between population increase and housing supply.

3.7 Government /institutional/effort to prevention and control of informal landholdings

In the city in the earlier period, there was department under municipal office for prevention and control of informal landholdings / illegal buildings on public land/. The power and duty of this department is to prevent, control and take measures on illegal construction. Therefore, the land must be acquired through legal means and they need building permit. This department has the power to take measures on illegal building (informal possessions) such as demolishing the building and punishment with fine or taking an administration measures.

Currently, there are two organs which are established following issuance of regulation No 155/2012, and directives No 1/2015 and directives No 05/1016 which is promulgated for the execution of proclamation 721/2011. Accordingly, a team was established in urban land Administration and Management Agency. It has a detail working procedures and its duty is the same to the previous one in which its duty is to prevent, control and take measures on those individuals who constructed without legal evidence and building permits. The structure of the

team is there from kebele up to city level but not fulfilled with proper human power. At the city level in the Agency only one professional is there and from 14 kebeles only three kebeles has such professional individual assigned for this task. The rest kebeles, they have no man power. This team is not performing its duty properly because of lack of man power and logistics. The performance is weak and not functional.

Another team was established as committee at city level up to kebele for the same purpose. The committee is responsible to the mayor of the city and involved different departments such as police office, administration and security office, justice office, Land development and management agency etc. However, the committee is still not functional .Thus, illegal construction has not been stopped or reduced and the problem of informal landholdings is not properly addressed. However, at present the government is taking corrective measures towards regularized informal landholdings.

3.8 The contributions of governmental institutions for development of informal landholdings

As Achamyeleh explained the process of acquiring a plot of land in informal way is not chaotic but follows its own process.¹⁶⁸ Government institutions participate in the process of informal landholdings. As discussed below they have their own contributions to development of informal landholdings in the city.

3.8.1 The Role of kebeles

As it has been mentioned earlier, informal possessors in the city may build houses purchasing land from peasants in an expansion area or purchasing existing house from speculator or purchase land from earlier possessors who have spacious plots of land and now divide that land into small plots for sales. Then the kebele Administration register new possessors as one of the kebele resident or family of the seller of the land and provide to the buyer kebele identity card. The possessors paid some of contributions for the kebele as one of the kebele resident and get receipt by bringing the period sometime 10 years back. Which a forger is as paid before 10 years. This receipt is used as evidence as if this person lives in the area before 10 years. These persons

¹⁶⁸ Cited above at note 32 ,p46

have been paying to the kebele executives 3,000 -15,000 birr in an informal way.¹⁶⁹ This is the reason why in expansion areas when illegal buildings were executing, no one wanted to claim because they got their share through their channel.

On the other hand, some people previously occupied spacious plots of government land then at different times sub dividing those plots and build small houses and sale the house to other person. Moreover, peasants not only participate by subdividing their farm land, but also construct small houses in the farm land and then sell those houses. This act contributed to increase the number of informal / illegal houses.

As express the government bodies at different levels also contributed to the expansion of these illegal possessions in different ways. These are: issuing illegal ID cards, remaining indifferent during construction of illegal buildings, providing office information to illegal settlers even, writing supportive letters for informal possessors for basic utilities.

3.8.2. Role of governmental utility offices and organizations

Government institutions have their own contributions for development of informal landholdings such as water and sewerage office by installing water line and Ethiopian Electric power office installing electricity to informal landholdings. These actions of government institution have also their own contribution to development of informal building in the city without any evidences. This basic service easily got informal unit of house have great role for the transaction of informal house unit especially for speculators and encourage others to do the same to others and easily subdividing the large plots of land to sell it and easily access those basic services.

3.2. The Importance of regularization

In the previous sections I tried to discuss about the development of informal landholdings in general and particularly the case of Adama city. Thus To reverse this situation regularization is necessary. Thus, the importance of regularization programs provide individual security of tenure and protection against forced eviction ; minimize conflicts; promote some degree of economic

¹⁶⁹ Interview, with AtoGirmaTolcha legal Expert,andAtoGetukumsa Land Expert at Adama city Urban Land Administration and management agency, Adama April, 2018.

realization of rights as well as of sociopolitical stability; increase taxation; clarify legal (land) regimes and facilitate investments; and so on.¹⁷⁰

The researcher's findings address the three main points of De Soto's agenda concerning regularization; that is access to credit; investment in housing; and poverty alleviation¹⁷¹

According to the finding, regularization may have some association with poverty alleviation. Of course, effective poverty eradication requires consistent and significant investments in public goods such as infrastructure, education, and social policy, as well as in employment and income generation strategies.¹⁷² Even with their existing shortcomings, socio spatially integrated regularization policies can have enormous social and economic importance. They can promote the socioeconomic development of the communities, their political stability, the rationality and efficiency of urban management, and the reduction of social and environmental impacts. They certainly will not end urban poverty, but they can improve the housing and living conditions of millions of people.¹⁷³

Several empirical studies find that regularization has an impact on land markets through an increase in transactions and prices.¹⁷⁴ A counter argument is that regularization directly benefits residents and raises their property values. It can also play a role in empowering vulnerable communities and individuals. When granted to women or jointly to couples, it can increase the decision making role of women in family decisions and in turn affect women's choices concerning fertility—potentially reducing it or their labor force participation—potentially increasing it.¹⁷⁵

As it has been mentioned above informal landholdings is an unplanned building by regularizing the informal landholdings can become the city plan. Standard of land and land use enhances the standard and quality of the city and to manage the land, according to urban plan standard and land use. Equity and efficiency is enhanced by changing the status can change the life standard of informal possessors; people upgrade their house according the plan and land use have basic services, such as water, electric power, road, health as well as enhance healthy environment.

¹⁷⁰ Edesio Fernandes, urban land regularization programs :state of knowledge,p.186

¹⁷¹ Cited above at note 2 p29

¹⁷² *Ib.* p30

¹⁷³ *Ib.*, p.33

¹⁷⁴ Cited above at note 2

¹⁷⁵ Cited above at note 29.p13

People create capital by transferring and mortgaging their property engaged in business activity, create job opportunity and enhance their income; as the result, reduce poverty.¹⁷⁶ Needless to state, informal possessors do not pay tax unless when regularized and become owner of legal property holders; the city Administration also generate revenue from such legal property, provide infrastructure, improve the social and economic life of the city, improve good governance, growth and it becomes livable city.

Generally the importance of regularization is to:¹⁷⁷

- promote tenure security and offer protection against forced eviction;
- assist government in carrying out their responsibilities to ensure the Social right to housing;
- ensure that proper compensation is paid to residents in times of relocation;
- minimize future family and neighborhood legal conflicts by clarifying property rights;
- define land and property regimes to secure future investments by residents and others, within the conditions imposed by regularization policies;
- make it easier for residents to offer their properties as collateral, or to gain access to other types of formal housing or consumer credit;
- strengthen communities, recognize basic citizenship rights, and promote sociopolitical stability;
- redress gender imbalances; and
- Generate data on plot boundaries and existing buildings for the local property tax system.

¹⁷⁶ Desoto, Hernando (2000), The mystery of Capital: why Capitalism Triumphs in the west and Fails Everywhere Else (Newyork, NY: Basic Books).

¹⁷⁷ Cited above at note 2 ,p37

Chapter Four

4.1. Regularization of urban Informal Landholdings: The Case of Adama City

The preceding chapters tried to explain urban land holding system and its transfer and how informal landholdings expanded and its proliferation in urban areas of Ethiopia in general and in Adama city in particular. The magnitude of informal landholdings has been increasing; hence nowadays it is so large that measures of demolishing as a means of curtailing the settlement could no longer be feasible.

Today the problem is serious and becomes a cause for socio-economic, political, as well as of good governance problems. The measures taken by urban land administration authorities vary from country to country. Earlier, demolition of informally built houses was a common measure, but these days for economic and human right reasons, regularization of these possessions is a preferred one¹⁷⁸. The Ethiopian government has also opted for this principle, regularization of the possession. The government has been making efforts to reverse the problem of urban informal land holdings by formulating various laws. Accordingly, urban land lease holdings proclamation No.721/2011 is one of the legal frameworks adopted by the government to permit urban informal landholdings to become formal landholdings. The law enacted six years ago and gave only four years period to legalize all urban informal landholdings.

However, regularization process is not yet completed in many urban areas in Ethiopia particularly in Adama city. Still now urban informal landholdings are not regularized in accordance with the law.

In this regard, though it has been working towards regularization of urban informal landholdings, the city Administration has not achieved its goal. The regularization process in the city is discussed below.

The law allowed urban informal landholdings to be changed into formal landholdings, but due to different administrative and protracted legal procedures, people were deprived of their rights.

¹⁷⁸ Cited above at note 157,p.3

The legal framework is in place but the administration has not been able to implement it for reasons discussed hereunder.

4.2. Legal and institutional framework for regularization

4.2.1. Institutional framework

There is an institution established by law that works on urban land development and management issues¹⁷⁹. Urban land Development and Management Agency was established for a modern and effective system of urban land development and administration which enables the realization of achieving development, growth and good governance of the cities.

According to this proclamation, urban land management means: administering and leading urban land and land related property in a modern way¹⁸⁰.The agency has the power and responsibilities to implement urban land development and management policy and strategy to be implemented, follow up, and setting modern urban land development and administration system; cause to be provided; support; control and follow up.¹⁸¹It also gives detail power and duties for the agency to undertake activities concerning urban land by interpreting the mandate of regularization program left to this agency.

Accordingly, the city has established urban land Administration and management agency at city level based on the said law. The agency has structure at sub-city and kebele level. But in order to implement the regularization process, no team or unit has been established. There is no team or unit organized to undertake regularization at the city level. The work is considered as regular task (duty). This regularization program is an additional duty for the agency as well as for the experts and workers. But regularization of urban informal landholdings is huge, complex, and time taking which requires effective and strong institutional and financial frameworks to execute the operation efficiently. Such institutional framework clearly determines whose responsibilities, tasks and obligations are in the regularization from preparation to actual implementation.

Apart from ensuring consistency of development project with the master plan requirements, the urban Land development and Management agency is also responsible for activities in relation to

¹⁷⁹ Proclamation to establish Oromia regional National state urban land development management agency No.179/2013 magalataOromia year 21.no.5

¹⁸⁰ Id Article 2(4)

¹⁸¹ Id Article 8(1&2)

the implementation of regularization. Regularization is currently carried out at sub-city and kebele urban Land Development and Management agency.

Therefore, for effective implementation of regularization of urban informal landholdings, there is a need to have proper organizational framework, proper staff and adequate financial sources. In this regard, the researcher conducted group discussion with four contract experts of the agency who served for over one year in the regularization program. Below is the summary of discussion. The regularization was not regularly undertaken as the experts were doing it as additional task. When the need arises, they quit the task and focus on the other activities. Therefore, there was no targeted goal to achieving in the year 2018. This shows the city administration has been working regularization program as one of the usual activities and without clear plan. As a result, the performance is found to be low.

In the city most of the tasks of the program are carried out by few kebele experts as an additional task and by contract workers. The fact that transferring these experts from kebele to kebele, reveals high shortage of experts and skilled manpower to carry out such kind of complex and huge activities appropriately. This again shows lack of adequate staff in the city to implement the regularization program.

Interview with experts, informants and concerned officials confirms that, currently only few experts in kebele level are supposed to handle issues associated with the regularization tasks along with other activities. The involvement of the kebeles as local institutions is very weak. These shows, the co-ordination between the institutions involved in the process of implementation is weak. The predicted goal of the regularization on urban informal landholdings cannot be achieved with such arrangements.

According to the deputy manager of the city's urban land development and management agency, the activities of regularization has been undertaking by regular experts and on annual agency budget. There is no special structure in the office for the regularization program and rather the task is simply carried out as an additional duty of the experts and the agency is on top of other huge activities and tasks. Facts from the interview confirm that there is no separate budget for the regularization program.

For this reason, most of the tasks of the regularization have not been carried out. The program as it is operated now and then and could not be described as "regularization" in the real sense. No

specific department or unit is setup specifically for these huge tasks within their organizational structure for proper implementation. The absence of specific department to carryout tasks of regularization program was not structurally organized at the city, sub-city and kebele level. Thus, the existing institutional setup and experts could not fit with the demands of the community who are seeking solution for the existing problems. The interview with concerned officials in the sub-cities also confirms that, this activity highly requires the well organized institutional, financial and policy frameworks so as to achieve the major tasks set by law.

4.2.2. Legal framework

Concerning legal framework, there are laws related to urban informal landholdings and the gradual change of these to formal ones. These are laws like the Federal Urban Land Lease holding proclamation No. 721/2011, Oromia Regional State Regulation No. 155/2013 issued to implement the lease proclamation. This regulation was amended by regulation No 182/2016 and there is a directive No 9/2013 which was amended and replaced by directives No, 1/2015. Again this also amended by directives No 05/2016. In addition, there is model regulation issued by federal working and urban development bureau / minister. Therefore, there are institutions and laws to perform the regularization program.

4.2.3. Lack of technical capacity:

As it explained above, the program has no departmental arrangement, and the technical capacity for implementation of this regularization program is insufficient. Generally, there were very limited or no technical personnel. The researcher observed that very few experts are working around in different kebeles. This clearly shows that skilled man power is thus a serious problem facing the City Administration in executing the task of the program. Thus, this huge and complex task carried out by limited experts who can lead to corruption and ineffective implementations and associate the problem with lack of appropriate institutional capacity in terms of mandate, manpower and financial resources.

4.2.4. Financial Aspect

As we can learn from experiences and practices of many cities in other countries, public expenditure is one of the key development inputs in the process of regularization activities.

Government expenditure is required both to meet costs of public work and to assist other urban actors involved in the process of operation of the regularization program.

In the case of Adama city, practices do not prove that such regularization program initiatives are matched with allocation of the necessary financial resources from the government coffer. Facts from the interview confirm that there is no separate budget for the regularization program. Apparently, the agency did not prepare the necessary required financial plan for the regularization task/ activity/ and also have no clear plan and program for the regularization and necessary man power for this program. And also there is no approved plan for execution of the regularization and the activity is undertaken as the usual day to day activity of the Agency. The annual budget is allocated for the Agency in block account including this program; but the budget does not consider the tasks of regularization program are challenging. This financial problem might be one of the major drawbacks to employ skilled manpower for the success of implementation. However, allocation of a separate budget is necessary for the effectiveness of implementation of the regularization.

4.2.5. Role of stakeholders

This section deals with the participation of relevant stakeholders in the process of implementation of regularization in the city. There is no co-ordination and integration among institutions and stakeholders. For lack of appropriate institutional framework, the city and sub-cities cannot act in the long term in the process of promoting tenure regularization and integrating the settlements into the city. Thus, poor integration and coordination among kebeles, sub-cities, and the Agency has been a serious challenge that highly impeded the process of implementation. However, regularization programs and recognition of rights should be carried out in close collaboration with local authorities through integration.

No specific department or agency or unit is setup specifically for this huge task within their organizational structure for proper implementation. Thus, the existing institutional set-up and experts could not meet the demands of the community who need solution for the existing problems.

4.3. Requirements and steps of regularization

4.3.1. Requirements for Regularization

The urban land lease holding proclamation Article 6(4), after allowing urban informal landholdings to change into formal landholdings; the proceeding sub Article states the requirements of regularization of urban informal land holdings. Among the requirements, one is planning and the other is parceling standard of the city Administration. The regularized plots shall be administrated by lease holding. The regularization process to be undertaken by regions and city administration shall only be an effective in four years of the coming into force of this proclamation is another requirement to put by the said proclamation. And the lease proclamation delegates the power to enact regulation to Regional governments and city administration.

Accordingly, the Oromia State Government enacted for the first time regulation No 155/2013 and directives No 9 /2013 for the execution of the Federal lease proclamation. The Regulation amended by regulation No182/ 2016 and the directives also amended by directives No1/2015. Further, the directive for the third time amended by directives No.05/2016 surprisingly, this directive was issued after the expiry of the 4 years time given by the lease proclamation. Because four years dead line is November 2015 and this directive issued after 4 months time lapsed.

In respect of regularization, these regulations and directives add two requirements: one is the length of the occupation of the informal landholdings or duration of the occupant. That is to say, informal landholdings built after the issuance of regulation will never be regularized. The fate of such informal landholdings will be demolition and no compensation will be paid and no replacement of other land will be provided.¹⁸²

As per the directive No. 05/2016 Article 24-26 stated as another additional requirement for regularization by Oromia regional state, i.e., the informal landholdings (building / house) should be used for residential purpose. Other than residential purpose, it could not be regularized, and the person must live in the house and may provide additional evidence in which one of the following documents: among other things electric/water bill which is paid by his/ her name before January 2013 which means before the Regulation No. 155/2013 issued. Such documents evidence that, the building was existed before the said regulation issued. The person shall attain

¹⁸² Cited above at note 5 and re-enactment of oromia regional state regulation No.182/2008E.C issued to implement FDRE urban land lease holding proclamation No.721/2011

majority age at the time of settling in the area. The person also shall provide evidence that he/she has no other house in the city for residential purpose by his name or spouse. Aerial photo taken in January 2013 is also additional requirement set by regulation and directive. This means the building of the informal landholdings must be in existence before the aerial photo was taken.

The neighbors are also considered as witnesses for such residence in the area. He has to live in the house using it for residential purpose and prove it to the committee by signature and finally approved by kebele Administration. There are other requirements which are not in the federal or regional laws but added by individual professionals / employee/ for regularization which requires that the number of building / house / existed in one compound shall be only one; however, the number of houses in one compound is beyond what is set as requirements by law. The researcher identified this requirement to be different from kebele to kebele even in one sub-city. The other kebeles do not take this as requirement and hence no limit on the number of houses in one compound. Even some kebeles register one roof for two people when the house is found on aerial photo and has two doors.

This shows that there is no clear and uniform system of regularization (registration).It is depends on personal discretion of the experts.

The law also states the need of committee for regularization program and puts the requirements for committee selection process.

4.3.2. Steps of regularization

The first steps for the regularization process is contacting with the concerned people through meeting for awareness creation about regularization. Detailed open discussion will be made with people on settles informally in the area and its requirements for regularization.

The second step is selection of committee among the people. The selection of committee is supposed not to include the people who participated in illegal expansion of building.¹⁸³That means it does not include informal landholdings who settled illegally or who occupied the urban land illegally. But the practice or experience is differing from the law as per the interviews and the observation of the researcher. The law prohibits selection of people who participated in

¹⁸³ Article 26(3) of the Oromia regional state directive No 05/ 2016 issued for the execution of regularization of informal settlements in the regional state and for the implementation of urban land lease hold proclamation No.721/1011.

informal house building directives No5/2016 art26 (3) ,but in reality in the city the practice is different, because the committee selected from informal landholdings or members of the committee were those already participated in illegal building. Contrary to the law most of the committee members are illegal possessors.

The third crucial step is that, registration of urban informal landholdings involves identification of informal possession by undertaking of inventory home to home surveying; identify the size, area and number of informal landholdings means category of informality based on the above requirements.

The fourth step: After identifying the size, area and number of informal landholdings, know the number of compliance with urban plan and parceling standards. Identifying the number of regularized plots and unfit for regularization that does not confirm to the urban plan and parceling standard.

The fifth step is, demarcating the settlement area for parceling or subdivision the plots of land according to the standard of the city for regularization. At this stage, widening existing road, paving new road, creating public space, and upgrading existing utility lines are mandatory in compliance with the master plan. Reduction of size of plots according to the minimum standard is fundamental readjustments, re-plotting and re-blocking are there. At this stage, identifying the number of informal landholdings is going to secure legal status.

The sixth step is, placing some fee like lease payment, payment for certificate lease agreements, and other payment if any. At this level focusing on implementation of payment of taxes and duties. The last step is preparation of title deeds, certificates and issuance of ownership certificate or delivery or distribution of the certificate. The standard land for regularization is a minimum size of 105m²and maximum size of 140 m² in Adama city.

4.4. Examining cases

On how the activity is being undertaken in Adama, the following information was obtained through interview and discussion from possessors of informal landholdings, experts undertaking regularization , kebele experts as well as Adama urban land development and management the agency deputy manager. I also approached Oromia regional state urban land development and management agency deputy manager.

4.4.1. The case of kebele 03 ketana 6

As it was mentioned earlier, kebele 03 is one of the kebeles in which informal landholdings are highly expanded. The kebele was established by informal landholdings itself; therefore, regularization in this kebele is very critical. In 2015, in this kebele ketana 6, a registration was undertaken based on the above mentioned requirements and entered into demarcation and parceling the plots of land.

The block demarcated for parceling in 140 m² size of land as a result, some of the possessors were evicted from their landholdings due to the parceling standard. The plot is not sufficient for all possessors. The agency returned it to the public for discussion to seek solution. The problem needs solution from the people. After discussion, the people provided solutions to the problem and that is parceling the plot of the land at its minimum standard of the city that is 105m². They also noted that they have strong social relationship as they lived for long period of time.

So, no one evicted from his/her landholdings and regularize all informal landholdings. Surprisingly, these questions were raised in connection with landholdings' compliance with plans and parceling standards. Their reason was also stated that, we have been living for long periods; we have common interest such as *idir* and *ikub*, create kinship through long period so there have strong social networks. Thus, they don't want to separate from each other. Therefore, people support each other through their social network.

Moreover, people demolishes their house and compound facilitating the way for regularization by their willing and want to remain there and want to continue to develop their social networks. They want living together, maintain and continue to develop their social networks. Besides, we have been establishing strong useful social and cultural linkages through time, they stated.

As a result, regularization program in this ketana succeeded with public participation and make it exemplary for other sites and regional cities as well as for the country itself. So many people were saved from eviction and secured their tenure through their social networks and public participation. As a result, it has an impact on social network in the regularization process. This shows that when public participate in the regularization program, the result will be successful.

4.4.2. The case of kebele 03 ketena11

As express Earlier kebele 03 have been living at the area for long period in securing their landholdings, due to their illegality. Due to this, people in this area are eager for regularization. But performance is almost nil in this kebele as information obtained from kebele 03 urban land administrations and management agency in the last 5 years, few informal landholdings regularized. For instance, in ketena 11 registration undertaken in 2016; at the time all informal landholdings registered according to the requirements; even took photos of owner/ head of households/ with their house for additional evidence, all appropriate bodies such as committee signed and filed documents of the settler, waited till 2017, still living there in fear of eviction because one day the government may evict from their landholdings because they have no tenure security and the time given by law also lapsed .However , again in 2017, registration undertaken for the second time.

People are eager to know about the second registration process. The first question raised is why the need to re-registration for the second times? The people were complaining about this second registration and lost their hope due to suspension of the government action on registration however, no change on their action assuming that this registration may be false. The reason given for this question from the current experts or workers at the office is that, there is no well-organized document in the office about the registration and informal landholdings. It scattered in different places and the previous (first) registration is unable to convince the current experts. There is no full information in the office about past registration as a result; registration is ongoing for the second time on that area.

The second reason is, this second registration comes with additional requirements which was not in the preceding registration and also not provided or state in the regulation and directive that is in one compound only registered one house or household. In the preceding registration, this is no such requirement, all possessors registered and also taken photo of head of household for additional evidence or for identification of an individual. In 2017 registration be undertaken with this requirement due to this, the informal possessors oppose the registration and suspended this second registration. Regarding compound, the directive said nothing however, the directive clearly set the existence of the house before January24/ 2013, and the house which has been used

for residential purpose and the possessor resided in. But the existence of the compound is not set as a requirement in the law for informal landholdings.

In many areas the researcher observed informal landholdings not having compound and not suitable for construction of the fence. Because contiguous. This may open the door for corruption and against the individual interest. Thus, the regularization becomes a blessing for individual experts (workers). In the same city there is no uniform registration requirements; as a result, no uniform regularization program. The law is objective but the implementation or the practice is subjective. Due to this, registration terminated for the second time as discussed above. This shows that due to unclear requirements and misunderstanding; some informal landholdings are easily regularized while others are going to demolish and evicted from their possessions.

4.4.3. The case of kebele 14 ketena 8

According to the requirements stated by laws and steps explained above, in the so called ketene 8 for launching regularization in two blocks that are about 200 households exist in the block. The agency planned registration of informal landholdings began in 2013. After completing registration and demarcation the parceling of plots of land according to the plan and standards set by the law and identifying the number of compliance with plans and parceling standards; some plots need reduction and re-plotting and re-parceling for regularization according to the plan and parceling standards. This caused controversy between public and the agency. The cause for the controversy was, people who occupied spacious plots of land was reduced from their plots and claiming for that plots of land and they need all plots to be legalized or remained for their children, because they have been living there for over 20 years.

The agency responded, such regularization is not allowed by law; the law allows when it is agreed with plans and parceling standards, maximum standard for the city is 140m² and minimum 105m², therefore as per the law, hence, your question is not acceptable and your children couldn't get the land. Accordingly, the complaints have no legal grounds but, the people couldn't accept the decision made by the Agency. The agency couldn't solve the problems and couldn't agree with the complaint group. The complaint group also applied to the regional agency, due to this the regularization terminated, in 2014 in this area and regularization failed or suspended up to directive No. 05/2016 issued .

After the issuance of regulation No.182/ 2016 and directives No. 05/ 20016, in 2017 in this area registration has begun for the second time, before launching the second registration people held for meeting for awareness creation about the regularization. At that stage people were asking where it has gone the reduced of plots of land from their informal landholdings .The manager of Dabe Soloqe sub-city of the Agency responded contrary to the law for the people who held reduced keeping for their children. Due to this act, the manager was suspended from his position.

As a result, people subdivided the existing plots even open for a house two doors because the manager promised at meeting their children will get if the land left over. In this case, in one compound it is not limited to one house unit. Even he let he plots their children if the plots are available and enough for them. Due to this people registered their house for rent, and kitchen. Unfortunately, this act is under investigation by the city Administration after identification may registration order for the third time.

According to information obtained from the discussion, the complaint group may have their interest because they have spacious plots and have been subdividing and selling the land illegally and subdividing the plots for their children. Thus, indirectly these complaint groups had hidden interest in that, their plots to be regularized. Due to this regularization program was challenged. The government action (measure) was also weak regarding such situation.

4.4.4. The case of kebele 14 ketana 9

According to information obtained from discussion, with the possessors in this ketana registration has been going on according to the requirement sated by law. Controversy arisen when the plot of the possessors demarcated (block) for parceling because from around 200 households around 40 households became out of the program due to their area reserved for school according to the plan. But the possessors were not willing to accept this information. The complaint group reasoned out that, we have been living here for over 25 years in the area. Due to this, the agency couldn't solve the problem. The people went to the Regional agency to lodge their complaints then the regional agency ordered to terminate the regularization in the area.

4.4.5. The case of Kebele 14 ketana 6 condominium area

The result of group discussion and interview held with the people in the area who participated in the registration is presented below. Some of the area occupied by informal landholdings reserved

for condominium houses. The people applied for regional state, the regional state accepted the application and changed the land use plan from condominium to residential to allow the plots parceling for the possessors.

The land use changed by the regional urban land development and management agency but again caused another problem. After completing the registration process according to the requirements set by the law, they demarcated the block and plot the area. The plots parceled at the minimum standard of the city size are 105m^2 contrary to the kebele 03 ketena 6 people complained standard of plots. They claimed that, we should get 140m^2 plot of land not 105m^2 . The agency responded that, according to the blocked demarcation the standard of the parceling is only 105m^2 not 140m^2 because the block is not possible to parcel the plots in 140m^2 , it depends on the length and width of the land or it is determined on the length of the land, thus it is impossible to parcel the plots in 140m^2 . The people also requested the remaining plots of land must be provided and be 140m^2 because the law supports us they said. By not accepting the decision of the agency, then the claimant group went to the Regional Agency. Then the regional agency interfered and ordered to terminate the regularization in the area. From this information we can easily understand that, the practice and the law differing, when complaints arise, interfere and terminate the program. Termination is not a solution for the other people. There is no follow up and controlling mechanisms and corrective measures, as the people complain taking termination measures is not solution for the problems.

This situation has complicated the already existing problem of regularization. The problem can easily be solved because the minimum and maximum allowed land for housing is known. This indicates lack of institutional capacity to act or exercise his powers and duty properly.

Generally, this situation shows some weak controlling and regulatory mechanisms in the process of implementation, because some controversies arise with such simple questions whether proper or not but in minor cases regularization program interrupted repeatedly by trying to show some few cases above. This also shows the absence of accountability and responsibility, and weak institutional arrangement, and less commitment.

4.4.6. The case of Kebele 04 ketana11

This area located beside Geda Recreation Center. The settlement covers an area of 8040m^2 . These informal possessors came from Eritrea following the downfall of the Derg Regime and occupied

the area. According to the 2004 city master plan, the area was reserved for MLU (multipurpose land use). That means the ground of the building is for commercial and the rest for residential purpose. Due to this registration was not undertaken in the area and left without registration by observing the land use plan .As Per the law, this informal landholdings will be all in all evicted from there .because the area of plan is not reserved for residential purpose so that not compliance with the urban plan. The fate of the possessors forced evicted with no compensation will be paid and no replacement of land will be provided. This shows regularization by itself caused eviction. The possessors have been in high degree of fear of eviction at the time of conducting interviews and discussion. The government did not consider construction time of the building but came after 20 years with the solution of demolishing, thus the act of the government is unfair in the eyes of the possessors.

Generally, in the city, there are 3,665 informal landholdings in compliance with parceling and planning standard. The fate of all these possessors will be demolishing and eviction from their landholdings. Therefore, regularization by itself has caused forced eviction.

4.4.7. The Case of kebele 03 ketena 04

In this area around 200 people were living over 20 years but like kebele 04 ketana 11; the area is reserved for commercial purpose for building G+3 and above. The size of a plot for commercial building is also 250 m² in the city .The possessors used the land for residential purpose but the plan reserved for commercial purpose, so they could not fulfill the requirement set by law of that plan standard. So the fate of these housing units will be demolition and eviction from their landholdings. But the kebele agency registered all informal landholdings for parceling the plots in 140 m² for residential purpose and agreed with the people if the government can change land use from commercial to residential and sent to the sub city with application for changing land use from commercial to residential.

In these two cases the same agency in one city took different measures. In the earlier case, leaving without any effort only by observing the land use of the area, but in the later case, some efforts for changing the land use plan. This shows that there is no equal treatment and no clear and uniform system of registration and regularization in one city.

4.4.8. The case of kebele04 ketana 10

The area is located behind Medhanialem Church. There are around 225 household there, as discussed above the registration program carryout according to the requirement and steps set by the law. Demarcated or blocking the landholdings areas for parceling the land according to the standard of the city. After demarcating the land, the land administration agency knows the land not subdividing/parceling for all possessors. Some people evicted from their landholdings when subdividing or parceling a plot of land with maximum standard of the city 140 m², so the agency resumed discussion with the people on the reality and solution from the people, after discussion agreed, the people equally subdivided the land for all possessors in a minimum standard of the city without anyone evicted from the area. Then the land is subdivided for all possessors according to the consent of the possessors in 105 m².The city Administration also succeeded due to public participation in the regularization process. This is also a good experience to other sites in the city and for any city administration in the region as well as the overall cities in Ethiopia. This also shows the regularization performance is succeeded with public participation in the process of regularization.

4.5. The committee members

As Per the preceding regulation and directives as well as per the new amended Regulation No 182/2016 and Directives No.05/ 2016,the requirement for the establishment of the committee whose members are from various section of community, and the committee members shall not include a person who participate in illegal land occupation. That means, the committee members shall not participate in illegal building¹⁸⁴.Based on this, each ketena site selected and established has seven member committees. The committee has the power to approve the existence of house and the illegal occupants reside and living in the house before the issuance of regulation No.155/ 2013 means before January24/2005 E.C.

The researcher learnt through discussion and observation that most of the committee members were already engaged in illegal building / informal landholders / not only informal possessors , but also they have spacious plots and have been subdividing and selling their plots of land and were giving it to their children. So they have their own interest in the regularization program.

¹⁸⁴ Ibid

Due to this, in most areas the committee members were the cause for the controversy in that directly opposing the activities and indirectly pushing the people to hinder the regularization program. As shown above, most of the cause for the controversies are unreasonable and have no legal ground as shown above and could be solved based on the law and requirements. But the committee members deliberately caused controversy for their own interest and repeatedly terminate the regularization program in different areas as shown above. The agency as a decision maker did not provide solution for the problems based on the law and procedure; thus, when controversies exist simply terminate the program rather than giving the solution. This was one of the causes for delay of regularization in the city.

There is fundamental lack of political will to solve the problems on side of city Administration. These are major facts that can complicate the proper implementation of the regularization program. The committee wants their additional plots and housing unit to be legalized through pressurizing the land administration agency using public.

4.6. Problems related with poor data recording system

According to an interview held with informants, and my observation, there is no organized and digitalized data that deal about informal landholdings in the city. Due to this it couldn't address informal landholdings matters properly and efficiently. This problem directly affects implementation of regularization. There is a general lack of up-to-date data system to provide the required information on informal landholdings for regularization.

Information on informal landholdings, plots, technical infrastructure, network and their condition is hardly documented let alone being updated. This indicates very poor database system. However, information from the Urban Land Development Management Agency and key informants show that there is no organized data on informal landholdings. The existing data system does not contain full informal landholdings' information, because the figure on the land and in data mismatches.

In general, in the city level, there is no well-organized data available. The information related to informal landholdings and regularization is very difficult and not convincing and sufficient data is not recorded; the data has been scattered in different places. The data is not organized institutionally; it simply recorded individually, the reliability is also another problem with data.

There is no responsible person for that data; there is no accountability and responsibility. Anyone can do the task but when that person leaves the work or shift to another place, it is difficult to get that because the system of data recording and management is very weak. When one leaves the work, the data also goes with him. There is no compiled data system in one place it relied on individual not institutional.

Therefore, there is no well-organized compiled data in the city and kebele level regarding informal landholdings and regularization. The data varies from time to time and person to person. As explained above, that is why re-registration undertaken by the new team /group /due to suspicion of the preceding registration. So the document was not well organized institutionally. One person registers and puts it somewhere and when another person or new one comes it is impossible to get that data because it is not well organized and documented institutionally.

4.7. Factors contributing for delay of regularization

One of the factors that contribute for the delay of regularization in the city is absence of uniform and clear requirements for registration and regularization. As it has been mentioned above, it varies from place to place depending on individual interest. The individual leaves the law and exercises his/her individual interest. Due to this, there always exist controversies at different times and place and terminate the regularization program repeatedly in the city as the cases examined.

The government's measure is also another factor for the delay of regularization in the city. For instance the Oromia Regional State Urban Land Administration and Management Agency ordered by letter written dated 27/10/ 2007 E.C, the regularization program terminated till the directives re-enacted.

Due to this circular regularization suspended till the directives issued July24/ 2008E.C. almost it has been suspended for a year. The other factor is lack of coordination and follow up mechanisms. The other reason identified by the researcher is absence of clear program of the regularization program in the city level. The urban land development and management agency has no plan for regularization; the activity executed without any targeted goal. Lack of finance and human resources, absence of institution, absence of mandated project or team for regularization program are factors contributing for delay of regularization.

4.8. Gaps related with the law

As it was explained in the preceding chapter, the proclamation after allowing regularization of urban informal landholdings and the regularized plots administrated by lease holding; the regularization process to be undertaken by regions and city administration in accordance with sub article (4) of this article shall only be effectives within four years of the coming into force of this proclamation. The regularization program completed within four years period. The law allowed four years to complete the regularization program.

However, the regularization program is complex in nature in that the time given by the law is not enough. The size of the informal landholding is also so large in comparing with the time given. Thus the time is not adequate. As a result, the performance or implementation of regularization process in most of the Ethiopian cities is weak particularly in Adama city. The Oromia regional state issued regulation No 155/2013 to implement the proclamation No. 721/2011. This regulation issued after the lease proclamation issued one year and 3 months passed. This shows that one year expired on the process of regulation and again the regional sate issued the first directive No 9/ 2013 for the execution of the said proclamation and regulation. And this directive amended by directive No 1/ 2015 in October which means after three years of the issuance of the proclamation.

Surprisingly, the regional state amended it for the third time after the four-year period given by the proclamation is over in July directive No 05/ 2016. The directive issued for guiding of the regularization program after 8 months expired the time given by the proclamation. This shows that in Oromia region the time given by the proclamation expires by issuing and amending and/or repealing of laws. The legality of the directive is also questionable. On the other hand this also shows the complexity nature of the regularization, and evidence for inadequacy time given by law.

However the regularization is undertaking based on the new directive No. 5/2016, it came with its own problem even the implementation of regularization after the expiry period of the program on Proclamation No. 721/2011 is questionable. Still in 2010E.C/2018G.C after two years of expires of the law regularization ongoing in Adama city but the implementation is weak. Thus, it amending the law is crucial than continuing the program.

4.9. Implementation of regularization of informal landholdings in Adama city

In this section we discuss the implementation of regularization in Adama city in comparison with the law that means, after the issuance of Proclamation No. 721/ 2011, in the city of Adama following the issuance of, the regulation and directive the city Administration attempted to regularize informal landholdings in the city. Some of the regularization undertaking in the city is a bit different in experience of the city. When compared to the law, it is contrary to the law.

In the first case as explained earlier, the urban land lease holding proclamation No.721/2011, allowed informal landholdings to convert formal landholdings when they fulfill certain requirements. Among the requirements are planning and parceling standard. In case one may not fulfill the requirements, it will not be regularized. The fate of such houses will be demolition with no replacement of land and compensation. Following the proclamation the Oromia regional state issued regulation and directives for execution of the proclamation.

The regulation allowed regularization of informal landholdings built before the regulation No. 155/2013 issued. Thus, the regulation takes into consideration the length or duration of occupation for determination of regularized plots. Besides, it has to be compliance with planning and parceling standards as per the proclamation. In case if one may not fulfill planning or parceling standards and period of occupation, it will be demolished and no other land will be replaced and no compensation will be given.

Though this is what the law states but the city administration by breaching the law legalized some of informal landholdings in 2012 After the enactment of the urban land lease holding proclamation No.721/2011; for instance the Addis-Adama Railway and Addis-Adama Express Way project areas were occupied by some informal possessors and the city administration pressured by federal government to clear the area in a bid to avoid any delay in the project decided to remove the possessors and gave replacement land for 299 informal possessors with lease benchmark price; in addition of payment of compensation.¹⁸⁵ That action of the city administration was against the lease proclamation as it prohibits urban land possession and permission other than lease holding.¹⁸⁶

¹⁸⁵ Cited above at note 3

¹⁸⁶ Cited above at note 4 Article 5

As it has been mentioned above, regularization is only allowed when the possessions which are found to be acceptable in accordance with urban land plan and parceling standard¹⁸⁷. But, the regulation does not allow relocation of such possession is expected to be demolished.¹⁸⁸

Though the proclamation doesn't allow replacement of land, there were occasions whereby the city administration allows people access to land for the construction of their homes without compensation.¹⁸⁹. However, this act has contributed to the creation of illegal occupation of lands in the city because people think that the government may give them such chances as it did for others.

Recently, in 2016 around 700 people occupied government land by force and built illegal houses in BokuShanenkebele. In the Same year, the city Administration demolished all buildings as the occupied area was already allocated for establishment of factory. But the settlers refused to obey the order of the city administration and challenged the city administration and soon replaced the house in the same place.

In the end, the city administration removed and relocated them to other places that violated the regulation. The act of the city administration eroded the laws; this indicates that the implementation of regularization is contrary to the law. Because as it mentioned above, the regulation clearly states that land occupied / house build / after the issuance of regulation will never be regularized.

On the other hand, the city Administration regularized only 1,535 informal landholdings from 2013-2018. In accordance with the plan and parcel standard of the city. Today informal landholdings are expected to reach 28,000-30,000 which indicates poor implementation of regularization program. In five years only 5% of the total informal landholdings completed in which case the regularization program in the city has not yet succeeded.

¹⁸⁷ Id.art,6(4)

¹⁸⁸ Cited above at note 6

¹⁸⁹ Cited above at note 157,p 20

Conclusion and Recommendations

Conclusion

The FDRE constitution Article 40(3-7) states a skeleton of Ethiopian land tenure in general and urban land tenure system in particular. Accordingly, Article 40(3) states that “The right to ownership of rural and urban land, as well as of all natural resources, is exclusively vested in the State and in the peoples of Ethiopia. Land is a common property of the Nations, Nationalities and Peoples of Ethiopia and shall not be subject to sale or to other means of exchange”.

Concerning urban land, the Constitution said nothing about the acquisition and transfer of land by urban dwellers. Article 40(6) states that: private investors may get land on the basis of payment arrangement. However, today urban land in Ethiopia is administrated by lease holding system. The current urban land lease holding proclamation No 721/ 2011 prohibits the acquisition of urban land other than through lease holding system and designs a general direction through which all urban land holdings will in the future be converted to lease system. Besides, it comes up with serious penalties punishable with rigorous imprisonment. The proclamation clearly forbids that, no person is even allowed to enclose and use any plots of land adjacent to his lawful possession without the permission of the appropriate body.

Even if the proclamation strictly prohibited the allocation of urban land other than lease holding system, contrary to this, after the issuance of the lease proclamation, it aggravated the expansion of informal landholdings in the city.

The size of informal landholdings have been increasing that, so far measures of demolishing as a means of curtailing the landholdings are not feasible. This forced the government allow informal landholdings changing to formal landholdings by lease system.

Regularization created the expectation that, all informal landholdings will be legalized. This expectation further enhances informal developments especially on public lands and this again created land speculators buy parcels (illegal building) in the expectation of that the area will be legalized sometime in the future. It is generally believed that, all informal landholdings are going to secure legal status. Hence, regularization is aggravating the expansion of informal landholdings instead of minimizing or mitigating the proliferation of informal landholdings in the city.

Regularization requires the well-organized institution, financial and policy frameworks so as to achieve its objectives. The agency structured at sub-city and kebele level. However, in order to regularize, there is no team or unit structurally organized having mandate to undertake regularization at the city, sub-city and kebele level.

The task is simply carried out as additional duty of the experts and the agency with other huge activity. Moreover, there is no separate budget for the program. The annual budget is allocated for the Agency in block account including this program; but the budget does not consider the tasks of regularization program is challenging. As a result, most of the tasks of regularization have not been carried out.

Similarly, the agency has no clear plan and program for the regularization and necessary man power for this program. And also there is no approved plan for execution of the regularization; the activity is undertaking as usual day to day activity. The program as it is operated now could not be described as “regularization” in the real sense. Thus, the existing institutional setup and experts could not fit with the demands of the community who need solution for the existing problems.

The city administration show less emphasis to the program and there is no commitment to solve the existing problem. Therefore, there is no targeted goal to achieving in 2018 because, there is no approved plan for execution of the regularization, in other way, this shows there is weak controlling and regulatory mechanisms in the process of implementation. Thus, the performance has become low.

There exists absence of any approval of clear plan to execute regularization without mandated institution, department, and budget. There is no organized, digitalized and up-to-date data system that deals about informal landholdings in the city. Due to this, it couldn't address informal landholdings matters properly and efficiently, the existing data system does not contain full information, because the figure on the existing land and the data mismatches, hence, contributed to delay of the program.

On the other hand, the absence of well-organized data system institutionally, caused for re-registration of landholdings by the new team due to suspicious of the preceding registration was not well organized institutionally. This re-registration ,under taken at different times which

caused for the wastage of resources and delay of regularization and created suspicion and fear of the government act on the side of the settlers.

The Oromia Urban Land Development and Management Agency at different times gave suspending order of regularization, due to people appeared with complaints; similarly give another order to suspend regularization till the regulation and directives will be amended and the regional government at different times amended, repealed repeatedly regulation and directives. Such interference of suspending order without definite times and clear solution contributed for delay of regularization in the city.

Regularization has an effect on tenure security, economic development and political stability. Because regularized property is assumed to be no risk of forced eviction and legally protected. There will be legal transaction and this transaction increases the economic value of the property. Moreover, the possessors can mortgage their property engaged in business activity. In the legal property transaction, the municipality also collects tax which increases the revenue of the city. As we know informal possessors will not pay tax due to their properties have no legality, Therefore, if regularized, the city will collect tax from legal land holders, which increases the revenue of city.

In conclusion, regularization has an effect on tenure security, economic development and political stability. Similarly, regularization ultimately has the role to reduce urban poverty by improving urban life. In Adama, due to delay of regularization, the informal landholders feel tenure insecure.

The Oromia regional state has been amending and/or repealing regulation and directives concerning regularization. Thus ,the regional state amended directive No. 05/ 2016 for the third time after the four-year period given by the proclamation is over in July 2016.The directive issued for guiding of the regularization of informal landholdings after 8 months expired the time given by the lease proclamation no 721/2011. This shows that the region has been issuing, amending and/or repealing of the laws in this four years-time. The legality of the directives is questionable .The regularization program implemented after the expiry of the proclamation 721/2011 also questionable. This shows inadequacy of time given by the proclamation and regularization is complex in nature as it takes longer time.

It is rather better amending the proclamation than proceeding the regularization program. Still in 2018 after two years of expiry of the law, regularization keeps going in the city. But the implementation is weak and also its legality is questionable. Therefore, we can say regularization is executing contrary to the law in the city.

The law clearly prohibited the person engaged in occupation of informal landholdings from selection of committee members. However, in Adama contrary to the law the committee members are informal possessors by themselves. Due to this the committee members became the cause for the complaints and suspending of the regularization program in the city repeatedly at different kebeles.

There are some steps and requirements provided by law to regularize plots, however, in Adama city context, registration requirements are not clear and uniformly applied. This is not only contrary to the law, but also opens the door for corruption. For instance, some kebeles need the existence of house before January 2012, that is before the regulation issued, and other kebeles need the house in his own compound separately, i.e. in one compound, it should exist only one house in which case contrary in other kebeles if the house exist in Aerial photo and has two door and living in two persons registered for two person. This shows no equal treatment and no clear and uniform system of registration and regularization at the city. Therefore, there is no clear and uniformly registration requirements and thus, no uniform regularization in one city. In addition, contrary to the law, some plots are simply regularized others evicted from their landholdings. Hence due to unclear requirements and misunderstanding, some informal landholdings are easily legalized while others evicted.

At different times complaints raised on the side of possessors in different kebeles on the process of regularization. The complaints went up to regional urban land development and management agency for seeking solutions but the regional agency as well as the city administration could not take corrective measures. The agency as a decision maker did not provide solution for the problems based on the law and procedure; thus, rather terminate the program than providing solutions. Due to this regularization process suspend at registration level at different times .This proves that regularization under taking without clear plan and improper duty and responsibility. Generally, the situations show some weak controlling and regulatory mechanisms in the process of implementation. This act of Termination or suspending without solution it indicates lack of

institutional capacity to act or exercise powers and duty at city or regional level. Such lack of institutional capacity also becomes the major facts that complicated the proper implementation of the regularization program.

There is high social network in the informal landholding area. The existence of this strong social network saved many people from demolishing and evicted from their landholdings. Because people want to remain in the area together equally share the plots of land and maintain their social network. Thus, I can say, social network highly affect the regularization program and this results social network has impact on regularization.

Generally, the implementation of regularization in the city is not properly undertaken .Thus, the existing institutional setup and experts could not fit with the demands of the community who want solution for the existing problems. As a result, the implementation is insufficient and contrary to the law. The regularization program in the city failed as it operating now is not “regularization” in the proper term.

Recommendations

Based on the foregoing discussions and findings, the writer would like to recommend the following few points.

1. The issue of informal landholdings should be controlled appropriately if not, creates social, economic and political instability. Government should emphasize on prevention measures than regularization. Because, regularization created the expectation that all informal landholdings will be legalized, and encourage expansion of informal landholdings. Thus the problems may not be solved only by regularization. The regularization may cause mass eviction and create social, economic and political crisis in the country. Therefore government should follow relocation policy, and give mass recognition or group right rather than eviction policy for informal landholdings in compliance with urban planning and parceling standard. Because, possessors are citizens and for socio-economic and human right reason eviction is not acceptable. Moreover, UN-habitat targeted in 2030, ensure access for all inhabitants' adequate, safe and affordable housing and basic services and upgrade slums. So, as Ethiopia is a member of this organization taking such eviction measure could be an obstacle to achieve the targeted goal.
2. Government should encourage housing program through cooperative association and should facilitate access to land, access to credit and finance for those individuals who are evicted from their informal landholdings due to non-compliance with planning and parceling standard.
3. The implementation of regularization is highly complex and challenging issue that requires well-trained and skilled manpower, adequate financial resources for its success. Therefore, it needs capacity building training to the existing staff and allocation of adequate financial resources for its success.
4. Regularization should be reinforced by technical capacity and needs political commitment because, the program is highly complex and dynamic that requires active participation of potential stakeholders, partnerships and strategic alliances and effective institutional and financial frameworks while developing and implementing the program.
5. The city administration should first undertake inventory on informal landholdings and gather socio-economic data and then identify according to the requirements set by law. After

identifying the number of compliance with plan and non-compliance with plan and parceling standard, then operate the regularization program. It needs computerized land records to be maintained to avoid any disputes and re-registration at different times and wastages of resources.

6. Regularization process suspended at registration level at different times. This proves that regularization undertaken without clear plan and improper duty and responsibility. Therefore it needs uniform and proper registration procedure and rule for regularization.
7. The financial problem might be one of the major drawbacks to employ skilled manpower for the success of implementation. Therefore, it should allocate a separate budget for effectiveness of the implementation of the regularization on informal landholdings.
8. As explained, the program has no departmental arrangement, and the technical capacity for implementation and insufficient staff member. Thus, it should be to established project office, mandated, man power and financial sources for the execution of regularization program.
9. Regularization executed after the time given by law expires is contrary to the law, and also some regularization undertaken contrary to the law. Therefore, it should be compatible with the law and follow the rule and procedure provided for the regularization.
10. It should need strict follow up of its implementation, controlling mechanism and corrective measure when complaints arise rather than taking suspending or terminating measures.
11. The Agency should be exercising its power and duty according to the law and needs capacitated skilled man power.
12. It needs sufficient time to implement regularization and should be amending the law.
13. To avoid the unnecessary dissatisfaction of beneficiaries, procedures, rules and regulations currently at work need to be transparent and sufficiently publicized.
14. It is possible to make communities aware of their rights and obligations during claims. Different mass media institutions and other means of communications need to be utilized for this purpose.

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List of interviewees

Interview with AtoBelachowAyana ,planner at Adama city Urban land Development and Management agency April 10,2018,Adama

Interview withAtoMengestulemma ,Adama city municipality construction department team leader march22, 2018

Interview withAtoTeshomaJarso ,AtoMelakuWari , AtoEshatuBesha ,AtoAberaTolaurch 27,1018,

Interview with AtoDebelaKumsa plan and program expert at Adama city urban Land Development and Management agency ,April2018 Adama

Interview with AtoGeremawBenteyiwalu,AtoMarkosBezawork ,AtoTsfayGelanW/roThigeKebede April 2018

Interview with AtoGirmaTolcha legal Expert, and AtoGetuKumsa Land Expert at Adama city Urban Land Administration And management agency ,Adama April, 10,2018,

Interview with AtoLegeseKebedeAdama city urban land development and management agency deputy manager,Adama, ,April 22,2018

Interview with AtoTeferisshumi,AtoRetaBadada, Ato DemiseArarsa and AtoAshebrArarsa Expropriated before two year for industry park,Adama march 12,2018

Interview with AtoWakumaAbebe,oromia urban land development and Management agency deputy Manager Addis Ababa ,4,2018

List of members of Group discussion

Ato Yusuf Tahir,AtoAbdelaMidegso,AtoGadisKebed, AtoBelachawAyanaAtoGosaTola,GezehagnRegas , andAtoAshenafiKebe engineers, planners, and surveyors at Adama city Land development and management agency .May 04,2018.

And AtoEshetuBesha ,AtoTesfayeGelan,AtoGeramawBenteyiwalu ,AtoMarkosBezawork,AtoMelkaWari,w/roTsigeeKebede, AtoShiferawBekele, Ato,AmehaAsefa, GezahagnNegash,AtoAntenehAdmase,MulugetaMekasha ,W/roEtabesawGeramaw,W/roZenebechMengiste,AtoTadeseJarso and AtoMehammedAsabel.

Questions prepared to different bodies for this research.

1. How was informal settlements / illegal construction / started in Adama city? How was expanded? Tell us the story? _____
2. When and where was started? What was the reason? _____
3. Prior to lease proclamation No 721/ 2011 in Adama city, was informal settlements legalizing? When?
4. Whenever informal settlements were legalized on what legal base it was executed?
5. Around which area / kebele it was executed?
6. How many households (plots) were legalized?
7. As Adama city is there any measure taken on informal settlements prior to lease proclamation no 721/ 2011? If there is measure taken let it mentioned? _____
8. As Adama city how many illegal house was constructed before lease proclamation No.721/ 2011? _____
9. Among this how many of them fulfills the regularization requirement set by the directive requirement? _____
10. As Adama city how many informal settlements has been legalized? _____
11. What is the fate of those who does not fulfill the requirement?
12. Pursuant to lease proclamation enacted in 2011 year means lease proclamation No 721/ 2011, though it was declared to regularizing informal settlements executed in four years, why it was not completed legalizing in planned time? _____
13. Apparently, though the legal provided time was passed legalizing illegal houses is continued .thus, currently what is the legal base to regularizing informal settlements? _____
14. After legal time provided by proclamation was passed what was the reason for continuing of regularizing informal settlements? How is it legitimate? _____
15. What where the treat that you faced in legalizing? What are the solutions given for this treat? _____
16. For what reason was informal settlements place was hold in the plane? For what purpose was intended or reserved? _____
17. How many illegal houses was constructed in Adama city after lease proclamation No.721/ 2011 proclaimed or after regulation No 155/ 2012 issued? _____
18. Pursuant to the proclamation on how many of them was measure taken? What were the measures taken? _____

19. Why not abolishing illegal construction? What are the reason expansions of illegal construction? What are the treats? _____
20. As Adama city how many hector or m² of land occupied by informal settlements?
21. As Adama city how many house are available?
22. Among this total house how many of them are informal settlers? In number___ in percent _____
23. Do you believe that the current law to solve the problem of informal settlements? If your answer is yes tell as your reason? _____

If your answer is No tell as your reason? _____

24. Do you think that regularizing informal settlements by its self cause for expansion of informal settlements? Why? _____
25. Apparently, can you say regularizing informal settlements cause to eviction? If your answer is yes tell as your reason? _____

If your answer is no, tell as your reason? _____

26. What measure shall be taken as a solution on problem connected with informal settlements Regularizing program? _____
27. In informal settlements regularization preceding what is the stake holders' role? Who are the stake holders? _____
28. In regularization proceeding what types of professional and what types of profession are required? _____the current available expert together with their educational types _____
29. As an individual what is your wish regarding informal settlements? What do you need to see? _____
30. As Adama city in this year 2017/ 2018 for how many people plot of land issued?

A. Number of private individual _____issued land area m2_____

B. Number of association _____issued land area m2 _____

31. Regarding illegal construction or informal settlements what type of policy need to be available?
32. To do you think four years is not enough regularizing informal settlements?

33. As your opinion what are the measure problem seen on regularizing informal settlements?
34. What type of amendment is necessary?
35. Do you think that abolishing informal settlements /illegal house that do not fulfill the requirement provide solution?
36. Do you think that the informal settlement has impact on development of the city? What type of impact?
37. Which one is better among abolishing informal settlements that not fulfill the requirement or amending the plan?
38. Do you think four years period is enough for regularizing informal settlements?
39. Are there adequate institutional and legal frameworks to solve the exiting informal settlements problem?
40. What measure has been taken to solve the problem of informal settlements?
41. What are factors that have affect regularization?
42. Are the law achieved the expected targets?
43. What are the main problems in regularization program?
44. Are the laws properly addressing the problem of existing informal settlements?
45. Does the city administration have a clear program to regularizing informal settlements?
46. Why regularization program delay in the city?
47. What is the impact of the delay of regularization on the city development?
48. What to expect from the government?
49. How and why do informal settlements develop?
50. Is there adequate institution exist in the city performing regularization process?
51. What steps should be required for regularization procedure?
52. What are the effect of regularization on tenure security, economic development and political stability?
53. What factors contributing for delay of regularization process?
54. What is the implementation and status of regularization process in the city?
55. How can regularization reduce urban poverty?