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**THE NEED FOR FORMALIZATION OF INFORMAL LAND
HOLDINGS IN ETHIOPIA: EVIDENCE FROM PERI-URBAN AREAS
OF ADDIS ABABA**

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DECLARATION

I, Wakitola Chachu, hereby declare that this research paper represents my own original work and has not been presented or submitted before any institution. Further, I have duly acknowledged all sources used and have cited these in the reference.

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ACRONYMS

FDRE	Federal Democratic Republic of Ethiopia
GPS	Geographic Positioning System
GIS	Geographic Information System
ICCPR	International Covenant on Civil and Political Rights
ICESCR	International Covenant on Economic, Social and Cultural Rights
LULC	Land Use and Land Cover
NGOs	Non-Governmental Organizations
RLPUL	Rightful Local Peri-urban Landholder
UDHR	Universal Declaration of Human Rights
UN	United Nations

ABSTRACT

The peri-urban land of Addis Ababa and surrounding rural areas which have been held by local landholders/farmers and used for agricultural purposes are under increasing risk of being eroded and terminated due to urban expansion. The growing demand for land for urbanization exerts very strong pressure on peri-urban land use and land rights. As urban territories extend to adjacent peri-urban areas, the land rights of local landholders are being cancelled and transferred to the segments of society that can afford to pay for leases and the informal land holding and transfer have become the common practice in the area and the formal laws and institutions are unable or incapable to control it and as a result the rule of law is being undermined. Hence, this Thesis attempted to clarify the prevailing issues of what constitutes informal land tenure, the status of informal rural land tenure under the formal laws, the reasons for the prevalence of informal rural land tenure despite clear guidelines of the formal system, the approaches to informal rural land tenure and the approaches to be pursued. To this end, the thesis builds on policies and laws, interviews and focus group discussions, literature review, Court Cases and experience of other countries. This study revealed the widespread practice of informal land deals in peri-urban areas of Addis Ababa, which demonstrates that the formal land and housing delivery system in Ethiopia appears inefficient in meeting the needs of both urban poor and local peri-urban landowners. As a result, this study supports the notion that informal settlements are responses to and witnesses to the inefficiency and inadequacy of the formal urban land and housing delivery system. Thus, the Thesis recommends regularization of the current informal landholdings and stricter regulation as the only viable options since demolishing informal settlement areas would lead to the worst-case scenario of displacing communities and an aggravation of the local sense of insecurity. Moreover, the prevalence of informal land tenure leads to economic inefficiency, insecure land tenure, lack of law and order, and loss of revenue for the government.

Key Words: Peri-urban, Peri-urbanization, Informal Land Holdings, Land Formalization

CHAPTER ONE

Introduction and Overview

1.1 Background of the Study

The land is the most significant asset of a specific society. This is because everything exists on land, and it is a source of all other property rights. Even though its importance is boundless, it has overarching importance and is given higher significance in agrarian economies like Ethiopia. It is a basis for a socio-economic foundation for the overwhelming majority of people in Ethiopia and has a far-reaching implication for the wider national economy and politics.¹ Considering the profound importance of land, every country is expected to have a land tenure system guaranteeing, among other things, efficiency, and land tenure security. This can be insured by a sound land tenure system put in place. We can have as many lands' tenure rights as the number of mechanisms of acquisition of land. In broad terms, we can classify these land tenure rights, both in rural or urban settings, as “formal” or “informal”.² There can be perceptual problems with this approach as some so-called informal rights may, in practice, be quite formal and secure in their context.

Despite these perceptual problems, the classification of formal and informal tenure can sometimes provide the basis for useful analysis.³ In literature, formal rights are defined as those rights that are explicitly acknowledged by the state and which may be protected using legal means, whereas informal property rights are those that lack official recognition and protection. Under the FDRE Constitution, the ownership right of land is bestowed on the State and in the peoples of Ethiopia. It has been classified as the common property of the Nations Nationalities and Peoples of Ethiopia. ⁴Though the details have been provided by subordinate legislations, the same constitution infers the possible dichotomy between urban land and rural land. The FDRE constitution guarantees peasants and pastoralists the right to acquire rural land for free which the Rural Land Administration and Land Use Proclamation also affirm.⁵

¹MuraduAbdo (2014), State Policy and Law in Relation to Land Alienation in Ethiopia (University of Warwick) PH. D thesis, p. 198

²AO (2002), Land Tenure and Rural Development. FAO Land Tenure Studies 3, p. 11. Retrieved from <http://www.fao.org/3/a-y4307e.pdf> on 05 December 2021

³AchamyelehGashu(2014), Peri Urban Land tenure in Ethiopia, Royal Institute of Technology (KTH), PH. D thesis. Sweden, PP 50

⁴ Ibid

⁵ Ibid

The formal path of the property rights formation process refers to the process by which subdivision, transaction, and development of land are carried out within the formal regulatory framework.⁶ Expropriation is the single formal way of trading peri-urban/rural land rights into urban rights in Ethiopia. In the formal process of urbanization, local peri-urban farmers are expected to be displaced and dispossessed of their land and the expropriated land is expected to be redistributed to private developers to facilitate urban-based economic growth.⁷ That is why the first continuum of land rights path is said to be formal to formal, by which the movement will be from formal rural usufruct land rights to formal urban leasehold rights. On the other hand, informal rights refer to rights and interests that have emerged outside state regulatory frameworks in all aspects and include activities such as forceful occupation, illegal or unauthorized subdivision, transaction, and development of land by rightful local peri-urban landholders (RLPULs).⁸ RLPULs are local people who have acquired legally recognized landholding rights that can be used only for farming purposes. This means that RLPULs are not allowed to independently convert their agricultural land for urban uses when their land is needed for urban purposes. It is only after an expropriation decision that land in the peri-urban areas can be converted for urban uses and reallocated to different groups of society. However, state-controlled expropriation and reallocation of urban land through lease contracts is not always sufficient and efficient enough to satisfy the growing demands for land for housing.⁹ The poor have not been able to afford land for housing. Even for the middle class, it is becoming increasingly difficult to acquire land through the formal lease system. The inefficiency of the formal system is partly complemented by the supply of land from peri-urban areas through informal channels, such as the forceful occupation of state land and the purchase of land.

Coming back to the crux of the matter, as the global population continues to urbanize, increasing pressure is put upon urban centers and the carrying capacity of the already built-up areas.¹⁰ One way to meet these demands is a horizontal expansion, which requires new lands to become incorporated into urban centers. In most cases, this demand is met by converting peri-urban land into urban land as the urban center expands. These processes of expansion into the peri-urban, however, create tension regarding land use and land rights and may foster

⁶Achamyeleh Gashu (2014), *Peri Urban Land tenure in Ethiopia*, Royal Institute of Technology (KTH), PhD Thesis. Sweden, PP 50

⁷ Ibid

⁸ Ibid

⁹ Ibid, PP 51

¹⁰ Teklemariam, A.T.; Cochrane, L., *The Rush to the Peripheries: Land Rights and Tenure Security in Peri-Urban Ethiopia*. Land 2021, 10, 193. <https://doi.org/10.3390/land10020193>, PP.1

tenure insecurity if not well managed.¹¹As in many countries, Ethiopia is experiencing extensive urban population growth, and the peri-urban areas at the edge of urban centers are under pressure.¹² Hence, this study investigates the nature and manner of land deals and tenure security conditions of peri-urban farmers in the case study site of the peri-urban areas of Addis Ababa.

1.2 Statement of the Problem

In a country where the majority of the population resides in the countryside and basing its livelihood on agriculture, careful management of rural land is very important. Informal rural landholding in Ethiopia is becoming prevalent to the extent that it is getting out of the control of the government.¹³The FDRE Constitution directly prohibits acquisition of rural land outside of the state machinery.¹⁴According to the FDRE Constitution, the ownership of land is vested in the state and the peoples of Ethiopia.¹⁵It has been classified as common property of the Nations Nationalities and the peoples of Ethiopia. Although the details are governed by subordinate laws, the same constitution hints at a possible dichotomy between urban land and rural land, which is the subject of this paper. The FDRE Constitution guarantees farmers and pastoralists the right to acquire rural land for free¹⁶, which is also affirmed in the Rural Land administration and Land Use Proclamation¹⁷.

Despite the unconstitutionality of acquiring rural land through the informal mechanism, the informal system of acquiring rural land in Ethiopia is still in play. Especially, in areas like the peri-urban areas of Addis Ababa, where the land value is high, large land markets are going on against the formal law.¹⁸It has been observed that where the land is irrigable, a cash-crop area, or is peri-urban areas, land-based transactions are enormous thereby allowing informal land deals to go on.¹⁹ By the same token, people living in rural Ethiopia still give land rights to themselves through informal social arrangements that are not necessarily compatible with the prevailing laws of the country. This is mainly aggravated by society's adherence to the social mechanisms of acquiring rural land. In addition, factors such as land fragmentation,

¹¹ Ibid

¹² Ibid

¹³ Daniel Behailu and GemmedaAmelo, The Enigma of Informal Rural Land Deals in Ethiopia: Evidence from Peri-urban Areas of Hawassa City, HARAMAYA LAW REVIEW 6 (2017): PP57

¹⁴Article 40(4), (5) FDRE Constitution, Proclamation No. 1/1995, Federal NegaritGazeta, 1st Year No. 1

¹⁵ Article 40(3), FDRE Constitution, Proclamation No.1/1995, Federal NegaritGazeta ,1st Year No.1

¹⁶ Constitution 40(4)(5)

¹⁷ Article 5(1)(a) FDRE Rural Land Administration and Use Proclamation No.456/2005, Federal NegaritGazeta ,11th Year No.44, Addis Ababa

¹⁸ Daniel Behailu and GemmedaAmelo, *supra* note, at 15.

¹⁹ See in general chapter three in Daniel Behailu, Transfer of Land Rights in Ethiopia, Towards Sustainable Policy Framework, Eleven International Publishing, The Hague (2015).

shortage of capital and labor, movement of people and engagement in the non-agriculture economy, and the need for increased tenure security and property rights call for measures to be taken by the government. Different reasons could be listed down for the prevalence of informal landholding, but the main issue here is it's resulting in economic inefficiency and land tenure insecurity.

These problems call for higher attention from the state machinery to the informal landholding systems. Scholars have recommended varying approaches towards this prevailing problem. Accordingly, some countries give higher attention to these informal mechanisms of rural landholding systems and try to systematically approach the problem and introduce solutions according to the different propositions made by the scholars. On the other hand, some other countries give little or no significance to it.

Furthermore, the peri-urban land rights which have been held by local landholders/farmers and used for agricultural purposes are under increasing risk of being eroded and terminated due to urban expansion. The growing demand for land for urbanization exerts very strong pressure on peri-urban land use and land rights. As urban territories extend to adjacent peri-urban areas, the land rights of local landholders would automatically be cancelled and transferred to the segments of society that can afford to pay for leases, and the informal land holding and transfer will become the common practice in the area due to various reasons.²⁰ Thus, the issues which this paper investigates are regarding the nature and manner of informal land deals, and what its status is under formal law, court cases, and other land-related government organs. Hence, the purpose of this paper is to investigate the extent and trend of informal land deals in peri-urban areas of Addis Ababa city and surrounding rural areas.

It is also in the objective package that the nature, manner, and status of such deals shall be investigated vis-à-vis the state land laws and practice thereto. Moreover, the researcher will also try to uncover the prevailing issues of what constitutes informal landholding; the status of the informal rural landholding system under the formal laws; the reasons behind the prevalence of the informal rural land system despite the clear specifications of the formal system; the approaches towards informal rural landholding; and the lessons that need to be taken.

²⁰Achamyeleh Gashu. 2014, Peri Urban Land tenure in Ethiopia, Royal Institute of Technology (KTH), PH. D thesis. Sweden, PP 40.

1.3 Objectives

1.3.1 Main objectives

The main objective of this study is to examine the status of the informal landholdings system in Ethiopia and to assess the nature and manner of informal land holdings in the peri-urban areas of Addis Ababa and discuss the benefits of formalizing these informal landholdings.

1.3.2 Specific Objectives

- a) To investigate the pattern of informal land rights transactions and the process of new property/land rights formation in the peri-urban areas of Addis Ababa;
- b) To critically examine some ground-breaking decisions of Federal Supreme Court Cassation Division and Oromia Regional State Cassation Division regarding informal landholdings in the peri-urban areas of Addis Ababa;
- c) To illustrate how local peri-urban landholders/farmers become vulnerable and insecure as a result of urbanization and informal landholding practices in the area;
- d) To analyze the extent to which the current land tenure administration system in the peri-urban areas of Addis Ababa is addressing problems recurrently occurring in the vicinity.

1.4 Research Questions

The main question that this study ponders is examining the nature, manner, and status of informal landholdings in Ethiopia? Specific questions covered are:

1. What is the status of informal landholdings under the pertinent land legislations?
2. What is the nature and manner of obtaining informal landholdings in the peri-urban areas of Addis Ababa?
3. What is the court's praxis regarding informal land holdings in the peri-urban areas of Addis Ababa?
4. Why do we need to formalize informal landholdings in Ethiopia?

1.5 Methods and Methodology

In the endeavour to answer the questions raised above and achieve the objectives of the research study, the researcher employed the following method and methodology.

1.5.1 Research Design and Method of Data Gathering

The research adopted a mixed approach. Mainly this research employs interviews with some experts and stakeholders and for the doctrinal part, the researcher will rely on relevant

legislation such as the FDRE Constitution, Federal Rural land laws, Federal Urban land laws, Oromia Regional state rural land laws, and other secondary sources like government reports, books, journal articles, and other published or unpublished research works related to the topic at hand. This approach will set both the theoretical framework of the study and help to clarify and analyze the legal context of the research problem.

The empirical part is necessitated due to the need to explore the nature and manner of informal land deals in the study area and to know the practical challenges our formal courts and other land-related government organs are facing in handling the cases of informal rural landholdings. For this non-doctrinal part, the researcher will use semi-structured interviews (with farmers and key informants), via immersion in the study areas and participant observation, and through focus group discussions with the farmers in the peri-urban areas of Addis Ababa and informal settlers in the area, which will be supplemented by secondary data from different empirical pieces of literature. In addition, the researcher has also adopted a comparative experience from other countries. The researcher has drawn some lessons from Tanzania as Tanzania's land laws contain progressive elements. It recognizes customary land rights and grant them equal weight to formally granted (statutory) land rights. Moreover, in order to address informality in the land sector in Tanzania, the government has taken several initiatives. These include formalization and regularization of informal land, encouraging participation of the private sector as well as embracing public-private partnerships in land access services which was successful.

1.5.2 Population

As the topic of the research shows, the focus of the study is showing the necessity of formalizing informal land holdings by examining the status, nature, and manner of informal land holdings in the peri-urban areas of Addis Ababa. Hence, institutions that are directly or indirectly connected to the research topic is the respondent of the research.

Accordingly, the Oromia Regional State Land Bureau, the Oromia Regional State Supreme Court, farmers in the peri-urban areas of Addis Ababa, representatives of informal settlers in the peri-urban areas of Addis Ababa, researchers, and experts on Land has been the target population. The Oromia Supreme Court, the Oromia Regional states land Bureau has been asked about the status of informal land deals in the region. They have also been asked about the legal and practical challenges they encounter. The farmers in the peri-urban areas of Addis Ababa and informal settlers in the area has been interviewed about the manner they

have acquired land and how the transfer of land has taken place (if any) and the challenges they have faced. And finally, relevant researchers and experts on Land have also been interviewed. The target areas of peri-urban Addis Ababa were selected since these areas are a place where informal land dealings are commonly practiced.

1.6 Scope of the study

In substance, this research limits itself to investigating the nature and manner of informal land deals in the peri-urban areas of Addis Ababa, and what its status is under formal law, court praxis, and trends under other land-related government organs. Hence, the purpose of this paper is to investigate the extent and trend of informal land deals in peri-urban areas of Addis Ababa and surrounding rural areas.

With regard to the geographical scope of the study, it covered peri-urban areas located in between Addis Ababa City Government and Oromia Regional State. The question of accessing relevant interviewees for data collection is the criterion to select the areas. Specifically, peri-urban areas in Addis Ababa, which are highly affected by expropriation for an urban utility of informal land transactions due to the extensiveness of the city expansion. Accordingly, Lemi Kura Sub-city, Woreda 04 (Bole-Arabsa), and AkakiKality Sub City, Woreda 11 (KoyeFoche) in Addis Ababa are picked whereas the other government entities and courts has been interviewed via on-site visits.

1.7 Limitation of the Study

The first limitation that the research suffered from is the lack of sufficient literature written in this area, since research on the challenges of urbanization in the peri-urban land tenure system and the ongoing change in Ethiopia is limited, and the situations and actors interested in peri-urban land are constantly changing. Equally challenging is the difficulty of accessing key informants for interviews due to the Coronavirus pandemic. Two strategies for dealing with this problem are employed. The first way I tackled this is the facilitation of the data gathering process via a government body in the locality. The second solution I administered is the interview through phone calls. This is employed as a last resort when making interviews in person is practically very difficult.

1.8. Significance of the Study

This research has the following significance. First, as scant literature is over this topic it will be taken as a modest contribution to the knowledge in the area. Second, highlighting the gaps in the legal framework and the challenges thereto will serve as a catalyst for further and

deeper research. And finally, it will help policymakers and the legislature to come up with clear policies, detailed regulations, and procedures that will help the land dealings in the peri-urban areas of Ethiopia.

In general, this research deals with the local peri-urban people's land rights and livelihood issues in the process of urbanisation and development, which is an issue of central importance to those policymakers who wish to bring inclusive development to all groups of society. As a result, the findings may serve as an updated account for policy changes with regard to land rights in peri-urban areas where the existing land tenure system lacks stability and tenure security.

1.9. Organization of the Paper

The study is organized into four chapters. The first chapter, as natural to several studies, is the introductory chapter which includes the background of the study, statement of the research problem, research questions, research objectives, and the methodology. The second chapter has dealt with literature review and the conceptual framework of the study and some overview of preliminary issues. The third chapter is devoted to discussing the need to formalize informal rural land holdings in Ethiopia and see experiences of some countries on formalization of informal landholdings. This chapter has also unearthed the gaps within the existing laws, International bill of rights, resolutions and declarations on the matter and Court Cases (foreign cases especially cases decided by courts in other African countries or courts of continental nature). Finally, chapter four provides conclusion and recommendations.

CHAPTER TWO

Concepts, Constitutional and Legal provisions and Praxis

2.1 Understanding Peri-Urban Informal Landholdings in Ethiopia

The term ‘peri-urban’ has many different manifestations in contemporary literature. There is no single satisfactory definition for ‘peri-urban interface’ and different definitions are understood to apply in different circumstances and regions.²¹ The definitions may even change in the same location over time as a city expands; for example, as a medium-sized city becomes a large one, the spatial extent of the peri-urban zone also changes²². As the spatial extent of peri-urban zone is closely related to the growth and expansion of a city, it is often difficult to delineate a permanent peri-urban boundary. It is continuously shifting outward from the city. At the same time, the composition and interests of the socio-economic groups in the peri-urban areas tend to change over time.²³ However, for the purpose of this research as well as from the Ethiopian context, peri-urban land refers to agricultural rural land adjacent to municipal boundaries and held by local peri-urban landholders/farmers with holding rights (usufruct rights) for life²⁴. However, the risk of peri-urban agricultural land being converted into urban built-up property is very high, due to the growing demand for land for urbanization. Peri-urban areas in Ethiopia can also be described as incubation zones for new unauthorized/informal settlement areas without basic utilities.²⁵

These areas are areas between city administration and proper rural land and often its status is always in a legal limbo.²⁶ Determining what constitutes 'peri-urban informal land sales' in Ethiopia is, once again, a difficult process. It can be defined as any land transaction that is not permitted under formal land law. To put it another way, informal land dealings entail engaging in land rights entirely under banned circumstances, or failing to meet (or honor) the statutory regulations requiring legal transactions. Thus, in order to decipher informal rural land dealings, one must be able to respect and comprehend the official laws' limitations and restrictions on land rights transactions.²⁷ Transfer of rural land use rights is currently permissible in some circumstances under the formal law of the country. It should be noted

²¹MBIBAA, B. & HUCHZERMEYERB, M. 2002, Contentious development: peri-urban studies in sub-Saharan Africa. Progress in Development Studies, Vol.2, No.2, pp. 113–131.

²² Ibid

²³AchamyelehGashu, 2014, Peri Urban Land tenure in Ethiopia, Royal Institute of Technology (KTH), PH. D thesis. Sweden, PP.25

²⁴ Ibid

²⁵AchamyelehGashu , at Supra note 3

²⁶ Daniel Behailu and GemmedaAmelo, The Enigma of Informal Rural Land Deals in Ethiopia: Evidence from Peri-urban Areas of Hawassa City, HARAMAYA LAW REVIEW 6 (2017): PP46

²⁷ Ibid

that the FDRE Constitution and subsequent legislations establish public ownership of land and place strong restrictions on any transfer, whether by sale or otherwise. However, in the absence of a transfer of ownership, a transfer of use rights may be feasible, and there are certain legal avenues for transferring rural land by lease, rent, gift, or inheritance, subject to the land laws' constraints.

Thus, in Ethiopia, land rights must be transferred in accordance with the country's land policy, which prohibits the transfer of ownership. Transfer of land rights does not involve the sale or transfer of ownership title, according to the country's formal law, for obvious reasons. As a result, landowners can only transfer their rights to use the land. This adheres to the legal rule that "no one can transmit a better title than he has." That isn't always the case, though. For example, if an investor rents land from a farmer with merely usage rights, the investor may be able to mortgage the rented land.²⁸

2.2 The Nature, Manner and Status of Informal Land Holdings in the Peri-Urban Ethiopia

2.2.1 The Sale of Peri-urban Land Use Rights against the formal Law

Land is an exclusive common property of the state and the peoples of Ethiopia, according to Article 40(3) of the FDRE Constitution, and is not subject to sale or other means of exchange. As a result, selling land or land use rights is severely forbidden. Land ownership is shared between the state and the people, albeit this is unworkable, notwithstanding occasional land leasing (for consideration). The concept is that the state should hold the property as a trustee for the people (which is also true in practice), and that selling land should be illegal.²⁹ The law banned landholders, beneficiaries of land, or settlers on formerly state-owned land from selling or mortgaging their land by prohibiting them from doing so. This restriction was described as a temporary measure to prevent land reform program recipients from selling their land based on insufficient knowledge or in reaction to temporary challenges (preventing distress sales) or defects in product and financial markets.³⁰ The current government's position (following four decades of radical land reform) is likewise that market distortion leads to land acquisition by the few.

²⁸Proclamation No. 130/2007 on Oromia Rural Land Use and Administration. As a result, investors who rent land from the government or peasant farmers have the option of mortgaging their lease rights to banks as collateral. However, what is being mortgaged here is the lease right, which is the right to use the land for a set length of time, as land in Ethiopia is not private property.

²⁹Mamo Hebo, Disguised Land Sale Practices among the Arsii Oromo of Kokossa District, Southern Ethiopia, 353 ASIAN AND AFRICAN AREA STUDIES, Vol. 6 No. 2 (2007)

³⁰See in general, Dessalegn Rahmato, Agrarian Change and Agrarian Crisis: State and Peasantry in Post Revolution Ethiopia, Africa: JOURNAL OF THE INTERNATIONAL AFRICAN INSTITUTE, Vol. 63, No. 1, 36-55 (1993)

It could be argued that prohibiting land reform beneficiaries from selling their land in the medium term would reduce efficiency by preventing adjustments in response to differences in beneficiary abilities, and could result in large tracts of land being underutilized if combined with rental restrictions. Other methods could be used to reduce the risk of beneficiaries undervaluing their land, and the goal of preventing small landowners from selling out in response to temporary shocks would be better served by ensuring that they have access to output and credit markets, as well as technical assistance, and by providing safety nets during disasters to avoid distress sales.³¹ Hence, the formal law takes a strong stance against selling, mortgaging, or other types of land transfer in order to avoid the supposed consequence of depriving the landholder's permanent use rights. The government's simple way out is to outlaw private land ownership or to deny vibrant rental markets supported by a secure tenure. As a result, the law is being flouted, and there is a thriving black market for land.

2.2.2 Mortgage of Peri-urban Land Use Right

The use of land use rights as collateral for loans is prohibited by land laws. Agricultural investors, on the other hand, are allowed to collateralize their land use rights, whilst small scale farmers (and subsistence farmers) are not. This prohibition is justified by the need to protect rural landowners from loan sharks and land speculators, as well as to stem the flood of rural-to-urban migration.³² The administration also claims that banking institutions are unwilling to lend to landowners in rural areas. Many academics disagree, asking, "Why are investors who lease property for a limited time allowed to utilize their land use right as collateral yet small scale landholders who have a perpetual use right are not given the same privilege?" Furthermore, they doubt the government's claim that if smallholders default on their loans, they will lose the use rights they mortgaged and will be forced to relocate in large numbers to cities and towns, and that governments should fulfil the role of *pater familia*.³³ However, the vast majority of rural landowners are wise enough to avoid jeopardizing their families' livelihood.³⁴ Whatever rural landowner, excluding an investor, who has mortgaged his or her land use rights for any reason is now breaking the law.

³¹ Supra note 6, PP.47

³² See Margi Mcclung, Making Land Rental Markets Work for Ethiopia's Rural Poor, LANDS A BRIEF (2012)

³³ See in general chapter three in Daniel Behailu, Transfer of Land Rights in Ethiopia, Towards Sustainable Policy Framework, Eleven International Publishing, The Hague (2015).

³⁴ Ibid

2.2.3 Rent /lease of Peri-urban use rights against prescribed Conditions

Both the Federal Rural Land Administration and Land Use Proclamation³⁵ and the Oromia Rural Land Administration and Use Proclamation³⁶ allow for the rental of rural land under certain conditions. As a result, a peasant or pastoralist with landholding rights may, in theory, rent his or her land under the terms and conditions set forth by the law. In other words, rent is only permissible if certain conditions are met; otherwise, the transfer is unofficial or unlawful. The first criterion has to do with the size of the land. Peasants and pastoralists can rent their land and usage rights to other farmers/pastoralists or investors without displacing themselves. First and foremost, the farmer must be a legitimate landowner, as evidenced by a landholding certificate.

Second, the rent must not cause the rightful user of the land to be displaced. Furthermore, these factors must be considered and examined in conjunction with the necessity for each farmer to have a minimum holding size in order to avoid land fragmentation. As a result, a farmer who wishes to rent out land must have enough spare land to meet the minimum holding size requirement, and the property to be rented out must likewise meet the minimum holding size requirement.³⁷

The minimal holding size under the Oromia land proclamation is 0.5 hectare.³⁸ As a result, in order for a person to be allowed to rent and transfer his or her use right, the land must be at least one hectare in size; otherwise, displacement occurs. The lessee must also get a minimum land holding size, as mandated by consistency standards and the purpose for providing a minimum land holding size, which is to prevent land fragmentation. To exercise the right to rent, a landowner's holding must be at least one hectare in size. The contract's duration is the other criterion. The Federal Rural Land Use Proclamation gives regions the authority to set their own rent periods based on their circumstances.³⁹ As a result, the Oromia Region, like other areas, has established a rent period for rural land. The length of the lease varies based on whether the lessee is a farmer or an investment, as well as the land use mode. If the rent is

³⁵Article 8 of Federal Rural Land Administration and Land Use Proclamation No, 456/2005

³⁶ Article 10(1) of the Oromia Rural Land Use and Administration Proclamation No. 130/2007

³⁷ Daniel Behailu and GemedAmelo, at supra note 6

³⁸ Article 7(1) of the Oromia Rural Land Use and Administration Proclamation No. 130/2007

³⁹ Article 8(1) of Federal Rural Land Administration and Land Use Proclamation No, 456/2005, FEDERAL NEGARTI GAZETTA, 11th Year, No.44, Addis Ababa, 15th July, 2005 (hereinafter Federal Rural Land Administration and Land Use Proclamation No, 456/2005. This provides discretion to Regional States and thus Regional Rural Land Laws do not follow similar approach in the duration of the lease period. For instance, in Tigray, the peasant is allowed to rent his land for 20 years if the lessee uses modern technology, and 3 years if he/she uses traditional means of production. In Amhara Region, renting land is allowed for a maximum of 25 years irrespective of mode of land use.

paid by peasants to peasants, the maximum rent duration is 3 years; if the rent is paid by investors, the maximum rent period is 15 years.⁴⁰ The law provides for a longer lease time for investors, as well as the ability to provide his use right as security. It should be noted that the poor farmer's rent right over his land is limited to three years, with a variety of stipulations attached, and without the right to provide his use right as collateral.

The final condition is to obtain the approval of all family members who have the right to utilize the land (blood ties are not required) as well as registration by the competent government. The rent agreement must be registered and approved by Oromia Agricultural and Rural Development Bureau; thus the contract must be in writing regardless of the length of the rental time. As a result, any rent that does not meet the foregoing criteria (minimum land size, rent length, family approval, registration, and contract writing) is regarded an informal land deal or illegal land transfer.

2.2.4 Donation of rural land use right against the law

Transfer of rural land rights by donation or gift is permitted under certain conditions. The first requirement is that the donee be a member of the donor's family.⁴¹ Any person who permanently lives with a landholder and shares the latter's livelihood is considered a family member.⁴² As a result, it is clear that a blood connection is neither sufficient nor essential to be designated a family member and thus satisfy the criteria. To transfer, the donee (transferee) can be anyone who lives permanently with the donor and shares their means of subsistence, regardless of blood connections.

The second condition is that both the donor and the donee adhere to the minimal holding size.⁴³ In order to give a use right, a minimum holding size of 0.5 hectare must be satisfied, with the exception of irrigable property. To be able to transfer, the donor must have a minimum of one hectare. However, it is unclear whether the entire holding may be donated and farming operations ceased. The guiding premise is that the land user must not be displaced as a result of the donation.⁴⁴ To strengthen the structure of agricultural landholdings or to avoid further fragmentation and land shrinkage, the law established minimum farm sizes. Excessive agricultural parcel fragmentation can damage agricultural productivity in a variety of ways. It requires more land for paths and roads; it takes longer to get to plots; it

⁴⁰ Article 10(2) of the Oromia Rural Land Use and Administration Proclamation No. 130/2007

⁴¹ Article 9(1) of the Oromia Rural Land Use and Administration Proclamation No. 130/2007

⁴² Article 2(16) of the Oromia Rural Land Use and Administration Proclamation No. 130/2007

⁴³ Article-9(3) of the Oromia Rural Land Use and Administration Proclamation No. 130/2007

⁴⁴ Article 6(5) of the Oromia Rural Land Use and Administration Proclamation No. 130/2007

necessitates additional spending on fencing and boundary demarcation; it makes management, supervision, and pest control more difficult; and it makes investments in irrigation, drainage, and soil conservation, as well as the use of certain machinery, more difficult.⁴⁵

Another requirement is that the donee must be self-sufficient in agriculture. As a result, transferring land use rights by donation that does not meet the foregoing criteria (family member, minimum holding size, and agricultural purpose) is illegal and can be classified as informal land deals. In a word, to evade the rigors of the law, people participate in illegal land sales and use any other means at their disposal to obtain legal protection.

2.2.5 Inheritance of rural land use rights to non-family members

Inheritance is another key means of gaining access to and transferring rural land use in Ethiopia, and in the Oromia Regional State in particular, under certain conditions. The same rules that apply to donations apply here, with the emphasis on family membership requirements. According to the Federal and Oromia land proclamations, rural landowners have the right to pass on their rural land use rights to family members through inheritance.⁴⁶ The term 'family member' is defined in both proclamations as any person who permanently lives with the holder of the holding right and shares the latter's livelihood.⁴⁷ Unlike the Family Codes, which require blood and marriage ties to identify a family member, the federal and regional rural land proclamations require only that the holder of the right and the holder of the right live under the same roof and share the same livelihood.

By the operation of the law, even a non-blood related family member can inherit if they shared a common source of income with the deceased. As a result, a hired laborer who has lived with the farmer for years or a maid servant who also lives with the family could inherit the holding rights. This concept of family members is at odds with the nation's Civil Code, which expressly defines it in terms of blood ties. The law's rationale is to prevent children who are not sharing their deceased parent's livelihood from obtaining the land because they may have another source of income or because they are not true occupants on the land.⁴⁸ This demonstrates that present federal and regional land laws limit rural land inheritance to family members who live in rural areas, although the country's succession law has no restrictions on who can give one's property and rights.

⁴⁵ Ibid

⁴⁶ Article 9(1) of the Oromia Rural Land Use and Administration Proclamation No. 130/2007

⁴⁷ Article 2(16) of the Oromia Rural Land Use and Administration Proclamation No. 130/2007

⁴⁸ Daniel Behailu, *supra* note, at 13

Thus, in Oromia, inheritance is only possible to family members (i.e., a person who permanently lives with a land holder and shares the latter's livelihood), and thus testate (inheritance by leaving a will) is void if the beneficiary is not a family member as defined by the law. Such restrictions wreak havoc on child-parent relationships and natural resource conservation.

According to anecdotal reports, city-dwelling children are beginning to withdraw support from aging parents since they know they will not bequeath their parents' property.⁴⁹ Aging farmers are cutting down trees and giving less attention to conservation efforts, knowing that their children and relatives may not be able to profit from these resources after they pass away. In general, the existing method of transferring land rights without meeting certain inheritance standards is illegal and unconstitutional, regardless of the arguments made against it. Once again, the guise of inheritance is exploited to engage in shady land deals in order to prevent leaving property to aliens.

2.3 Status of Informal Rural Land Deals

2.3.1 Status of Informal Rural Land Deals Under Statutory Laws

Informal land deals are referred to as "illegal transactions" since they are carried out in violation of the FDRE Constitution and subsequent legislation. Because land is not a private property in Ethiopia, the effect of the status of an informal land deal is null and void in legal terms.⁵⁰ This position is well supported by the legal scholars like who once wrote:

The idea of making ownership over land *ex-commercium* is encapsulated under the Constitution which provides in Article 40(3) that “Land...shall not be subject to sale or to other means of exchange.” Thus, legally speaking, any practice or decision which authorizes transfer of ownership over rural land shall be of no effect for it contradicts with one of the tenets of the Constitution. This conclusion is in line with the supremacy clause of the Constitution that stipulates that “any ...practice or a decision...which contravenes this Constitution shall be of no effect” as Art. 9(1) of constitution. Article 1716 (1) of the Civil Code also stipulates that “A contract shall be of no effect where the obligations of the parties or of one of them are unlawful...” Thus it is unlawful for the transferor to assume an obligation to deliver ownership or even use rights over rural land to the transferee for

⁴⁹Solomon Bekure et al., Removing Limitations of Current Ethiopian Rural Land Policy and Land Administration (Paper Presented at the Workshop on Land Policies & Legal Empowerment of the Poor) 10 (The World Bank November 2-3, 2006, Washington D.C., 2006)

⁵⁰Interview with Mr. Dula Lata, Oromia Supreme Court Cassation Division Bench Judge (Addis Ababa, 3 May 2022)

consideration. Similarly, it is illegal for the latter to assume an obligation to pay for the transfer of ownership or use rights in regard to rural land.⁵¹

What we can draw from this is that the law is explicit enough about the effect of informal land deals, i.e., illegal land deals, which have no effect from the start and hence cannot be remedied. Scholars, courts, elders, civil society organizations, and even farmers themselves are perplexed by the illegality of informal land sales. Farmers engage in covert land sales, knowing that open land sales are illegal. As a result, they conduct business in an obfuscated manner, taking advantage of legal gaps and legal coverings with the help (at times) of government authorities. This indicates displeasure with the legislation rather than a lack of understanding. The lengths to which people try to get around the law demonstrates that the law is either not to their liking or that they do not have many options for achieving their goals.

2.3.2 Status of Informal Rural Land Deals Under Courts

The question of land deals that are in violation of the formal law perplexes the courts. The question here is how courts in the studied region (Addis Ababa's peri-urban suburbs) handle informal land deal disputes in light of constitutional requirements and subsidiary land laws that prohibit them. However, it should be noted that the majority of conflicts involving informal property sales are resolved through mediation by elders, chiefs, and family members or friends rather than going to court.⁵² Achamyeleh also stated that informal land transactions related conflicts are mainly solved by the intervention of elders and/or leaders of traditional social institutions in the village.⁵³

Conflicting parties prefer to take their issues to the village's socially regarded elders and leaders of *Idir*, a community-based social institution, who are adept at resolving such conflicts. The village elders then serve as mediators, bringing the conflicting parties together (face to face) and encouraging them to achieve an agreement by offering ideas. If the disagreeing parties are unable to reach an agreement, or if one of the contesting parties refuses to accept the mediators' suggestions, the declining party may be subjected to social sanctions, such as being excluded from community social events. In other words, disobeying

⁵¹MuraduAbdo, State Policy and Law in Relation to Land Alienation in Ethiopia, PhD Thesis, (University Of Warwick, School of Law 2014), PP 184

⁵²Interview with an Advocate in Oromia Regional State (Addis Ababa ,28 December 2022)

⁵³AchamyelehGashu, Introducing Land Readjustment as an Alternative Land Development Tool for Peri-UrbanAreas of Ethiopia, at 47, Paper Prepared for Presentation at The 2016 World Bank Conference On Land and Poverty, the World Bank - Washington Dc, March 14-18, 2016.

elders or leaders may come with a price. Nonetheless, that isn't to say that no cases involving informal land deals have been brought to court or that there aren't any pending cases. Once again, it is beneficial to carefully profile land-related cases in order to determine the nature of the transaction. Respondents frequently bring contract documents attesting to land purchases, inheritances, donations, or long-term leases, as well as witnesses attesting to the same facts.

Concerning this, Oromia Regional State Supreme Court Cassation Division Bench judge states that; as the value of land rises, the number of lawsuits involving informal land deals is increasing.⁵⁴The Oromia Regional State Supreme Court has decided certain cases. There are also pending cases in which the transferors transferred land 10 years ago and received money in return, and the transferees now seek recovery of the land through a possessory action. Where the transferees have built dwellings, planted trees, and grown other crops on it. Though the trials frequently involve rural property, their implications for peri-urban land, which is frequently purchased from farmers and resold, are evident.

The land-based dispute has far-reaching implications in cases where the transferor's family members invoke the idea of contract invalidation on the grounds that the land sale was illegal. They frequently claim that this contract contains a commitment to give land ownership or land use rights in violation of local law. Their case is based on constitutional provisions dealing to land alienation prohibition and enforcement (Articles 40(3), 9(2), and 13(2) of the FDRE Constitution), as well as Civil Code articles 1723(1) and 1727, which deal with written contracts.⁵⁵A contract whose goal is unlawful...may be annulled at the request of any contracting party or interested third party," according to Article 1808 (2) of the Civil Code. This is because "obligations to impart rights on objects if the latter are not in *commercio*, that is, are made non-transferable (non-conveyable) by law, are manifestly invalid," as an attempt to transfer land ownership in Ethiopia demonstrates.⁵⁶

He further stated that, regardless of the length of the transaction, the courts' present practice is to handle all informal land deals in the same way (i.e., invalidating the agreement and imposing reparations). This is because the effect of identifying a transaction as informal or illegal is clear: it is null and void. Also, the effect of a void contract is clear: it is treated as non-existent from the start and cannot be remedied by a limitation period. The view of the

⁵⁴ Interview with Mr. Abdusalam Siraj, Oromia Supreme Court Cassation Division Bench Judge (Addis Ababa, 3 May 2022)

⁵⁵For instance, the case between Mr. Feto Dangura vs Mr. Dubala Feto SNNPRS Supreme Court CassationBench File No. 64745, (08/11/2007 E.C.)

⁵⁶Muradu Abdo, *supra* note 31, at 189.

federal courts, including the cassation court, is to treat the case as an invalid contract.⁵⁷ The current trend in court practice is consistent with arguments made by scholars such as Muradu⁵⁸, who claims that SNNPRS courts are using contract principles embodied in the Civil Code to resolve informal land deal cases that purport to transfer land ownership in violation of the Constitution's spirit and letter.

The unequivocal constitutional restriction that property ownership may not be alienated under any circumstances or by any actor is one clear violation of the Constitution's foundations. Furthermore, the use of the Civil Code's period of limitation provision is not compelling. Contracts tainted with unlawful objects are not subject to prescription, according to the first limb of Article 1845 and Article 1810 (1) of the Civil Code read together. Because the word "unless otherwise provided by law" appears in article 1854, this is the case. When one reads Article 1810 (1), it becomes clear that "no contract shall be invalidated unless an action to that effect is instituted within two years of the ground for invalidation having vanished." One could argue that the premise for contract invalidation based on an unlawful object vanishes when the statute that made the object unlawful is repealed, in our example by permitting rural land ownership or use rights to enter into commerce.

Nullifying the contract of informal land deals, on the other hand, has socioeconomic consequences. For example, if a large family has invested in the land (or their livelihood depends on it) and has lived on it for many years, and has no alternative land, these aspects must be taken into account while adhering to the constitution's ideals. Furthermore, the seller has sold willingly to meet his or her need, and then requests restitution of land in bad faith, ignoring the increase in land value under the guise of contract illegality. Although nullifying informal transactions is legal, it solely punishes the buyer (transferee). Both parties were involved in the illegal transaction and must bear the consequences of their actions. In this case, the courts simply declare the informal land sale null and void and order restoration of the land without addressing the issues of property on the land, price repayment, and other related issues.

2.3.3 The Practice of Gov't Institutions

There are additional actors outside the courts, such as the Oromia Land Administration and Use Office, which registers and issues land holding certificates. The agency is required to administer land; however, there are obvious structural problems and a manpower shortage.

⁵⁷ Interview, supra note 34

⁵⁸ MuraduAbdo, supra note 31, at 192.

Additionally, this office is unable to regulate shady land dealings. The expert who works on registration and certification asserts that:

Before the end of the E.C. in 1996, there was no certification or registration that would have allowed the office to regulate shady land deals. The region's first phase of registration, which used traditional methods, covered 99.9% of the lands from 1996 to 2003 E.C. This doesn't adequately explain the plot. This made it possible for the owners of the nearby properties to exchange land sales. In order to combat this, the office signed a contract with a German company to employ GPS and GIS in the direction of modern registration and certification, and the first trial started on January 9, 2017 G.C. However, occasionally it can be challenging to determine whether a transfer is a sale or an authorized transfer, such as a donation of land or the sale of property on the land, even when there is a good registration and certificate. For instance, only family members are allowed to donate land in the area, which is considered to include anyone who can show they permanently reside with the transferor and depend on him or her for their livelihood. Using these information, anyone applies for the registration of a landholding transfer and the issue of a certificate in the transferee's name. But in actuality, a transfer is only made for consideration when both parties consent to it, especially when land is sold. In such circumstances, the office lacks justification to refuse transfer registration and the issuance of a certificate in the transferee's name.⁵⁹

As a result, the lack of contemporary registration and certification has made it easier for informal rural land dealings to take place because the parties trade on a basis of trust and because the government cannot precisely determine the size and location of each farmer's allotment. Modern certification and registration, on the other hand, we will not completely regulate informal property transfers because the transferor and transferee can agree to a sale directly, but they can also use a donation, an inheritance, or any other legal justification for registration.⁶⁰ What one can easily understand from the existing reality around government institutions is that local property rights are not recognized by the state, which has an impact on people's socio-economic security and hinders development. The nation's peace and security will be affected, as it already is, by the people's resistance, which includes using force against the government because their expulsion is making their lives miserable.

⁵⁹Interview with Mr. Merga Ayana, Rural Land Registration and Certification System Expertsat Oromia Land use and Development Bureau (Addis Ababa, 26 May 2022)

⁶⁰ Ibid

Furthermore, it is apparent that the government representatives participate in and facilitate shady land deals.

2.3.4 Under International Law

The necessity of providing access to land in order to facilitate the realization of human rights has been considered in several international principles and interpretive documents⁶¹ but no international right to land is explicit in the international legal framework. Moreover, the obligation of states towards individuals and land access has not been given adequate attention. However, a review of the international human rights framework⁶² as it stands makes clear that while not wholly defined, land rights are invoked in a number of key areas, suggesting that further consideration by the international community is necessary.

Within the international bill of human rights namely, the Universal Declaration of Human Rights (UDHR), and the two binding Covenants, the International Covenant on Civil and Political Rights (ICCPR) and the International Covenant on Economic, Social and Cultural Rights (ICESCR)—a number of articles are directly tied to rights to land. The UDHR and ICESCR protect the right to an adequate standard of living; the UDHR and ICCPR protect privacy and property rights. Numerous economic, social and cultural rights in the UDHR and ICESCR are intimately connected to access to land, including the rights to housing, food, health, and work.⁶³ The right to adequate housing is particularly relevant and land is a critical element of fulfilling the right. Indeed, “Land is often a necessary and sufficient condition on which the right to adequate housing is absolutely contingent for many individuals and even entire communities.”⁶⁴

Housing is a fundamental human right which has been included in numerous international documents. Clarity on the scope of the right to adequate housing has been provided by two

⁶¹ See Roy L. Prosterman & Tim Hanstad, *Land Reform in the Twenty-First Century: New Challenges, New Responses*, 4 SEATTLE J. SOC. JUST. 763, 763 (2006)

⁶² International humanitarian documents also relate to land, displacement as a result of internal and international conflict, and circumstances under which restitution for confiscated property may be appropriate. The role of land within the international humanitarian framework is beyond the scope of this paper

⁶³ See, e.g., United Nations, *Universal Declaration of Human Rights (UDHR)*, art. 23, 25, Dec. 10, 1948, available at <http://www.un.org/Overview/rights.html#a25> [Hereinafter UDHR]; United Nations *International Covenant on Economic, Social, and Cultural Rights (ICESCR)*, art. 2, open for signature Dec. 16, 1966, available at http://www.unhchr.ch/html/menu3/b/a_ceschr.htm [Hereinafter ICESCR], at art. 6, 7, 11, 12. The ICESCR is binding on States Parties, obligating States to “take steps . . . to the maximum of its available resources, with a view to achieving progressively the full realization of the rights recognized in the present Covenant by all appropriate means.” See also Committee on Economic, Social and Cultural Rights, General Comment No. 3, *The nature of States parties’ obligations (art. 2, para 1)*, UN doc. E/1991/23 (Dec. 14, 1990).

⁶⁴ Commission on Human Rights, *Report of the Special Rapporteur on adequate housing as a component of the right an adequate standard of living*, Miloon Kothari, 41, U.N. Doc. E/CN.4/2005/48 (March 3, 2005).

General Comments⁶⁵ of the Committee on Economic, Social and Cultural Rights, and also by the work of the special rapporteur on the right to adequate housing as a component of the right to an adequate standard of living. General Comment 4 on the Right to Adequate Housing emphasizes that the right to housing is not to be interpreted narrowly, but “should be seen as the right to live somewhere in security, peace and dignity.”⁶⁶ The General Comment outlines key elements to the right to adequate housing, including availability of services, habitability, location, and affordability.⁶⁷ Security of tenure and the protection against forced eviction is often a touchstone with respect to identifying where the right to adequate housing is protected, and these elements are also necessary with respect to access to land.

The prohibition against forced evictions and the legal obligations on states in carrying out evictions merit particular attention. General Comment 7 of the Committee on Economic, Social and Cultural Rights notes that “forced evictions are prima facie incompatible with the requirements of the International Covenant on Economic Social and Cultural Right (ICESCR) Evictions are prohibited except when carried out in accordance with international human rights law .Under article 2(1) of the ICESCR, states are obligated to use “all appropriate means”⁶⁸ to realize the right to housing, which includes “refraining from forced evictions and ensuring that the law is enforced against its agents or third parties who carry out forced evictions.”

The global context of regularization of informally accessed land includes the United Nations Conference on Human Settlement in Istanbul on the recognition of insecurity of tenure and poor infrastructure in unplanned areas, and the subsequent declaration on access to land and security of tenure as a condition for sustainable shelter and urban development. In 2016, the United National Assembly adopted resolution 71/256 of the New Urban Agenda. Among other things, the agenda calls for improvement of slums, tenure security and informal settlements through regularization. The Sustainable Development Goal target 11.3 calls for enhanced inclusive and sustainable urbanization and capacity for participatory integrated and sustainable human settlement planning and management in all countries by 2030. The Agenda 2063 for Africa also underlines this ambition. This specific goal and commitment

⁶⁵ General Comments, adopted by the Committee on Economic, Social and Cultural Rights, are authoritative interpretations of the ICESCR

⁶⁶ Committee on Economic Social and Cultural Rights (CESCR), General Comment 4, The right to adequate housing (Art. 11(1)), 7 (Dec. 13, 1991) [Hereinafter CESCR, General Comment 4]

⁶⁷ Ibid

⁶⁸ ICESCR, supra note 63 at art. 2(1).

calls for the international community to address the chronic problem of insecure land tenure and property rights, particularly in the informal settlements of developing countries.

2.4 Chapter Summary

The first section of this chapter begins by discussing and defining concepts which helps to understand peri-urban informal land holdings in Ethiopia. There is no single satisfactory definition for ‘peri-urban interface’ and different definitions are understood to apply in different circumstances and regions. However, for the purpose of this research as well as from the Ethiopian context, peri-urban land refers to agricultural rural land adjacent to municipal boundaries and held by local peri-urban landholders/farmers with holding rights (usufruct rights) for life.

The second section of the chapter entertained the nature and manner of informal land holdings in the peri-urban Ethiopia. Under this section the chapter explained and discussed the nature and manners of informal land holdings which are common in the peri-urban areas of Addis Ababa. The nature of informal rural land deals which are discussed in this section includes transferring land use rights through donation and inheritance without fulfilling legal conditions related to family member, minimum holding size, and willingness to live on agriculture by the transferee, and in a manner that does not displace the landholders. It also includes sale and mortgage in any manner, and rent without following preconditions such as minimum holding size, rent period, consent of the family, registration and written contract.

The third and the last section of the chapter deal with the status of informal landholdings under formal law, court practices, other land related government organs and International law. Moreover, the chapter also investigated the extent and trend of informal land deals in peri-urban areas of Addis Ababa City and surrounding rural areas. It also entertained the nature, manner and status of such informal land deals vis-à-vis the state land laws and practices thereto which helps to properly understand major concepts addressed in this research and lays a foundation for the subsequent chapter or chapter three.

CHAPTER THREE

The Need to Formalize Informal Landholdings in Ethiopia

3.1. The Rationale behind the Prevalence of Informal Landholdings in the Peri-Urban Ethiopia

Despite the constitutionality of rural landholding in Ethiopia, a number of informal rural landholding systems still in play. Peasants still use informal rural settlements and acquire and transfer land rights. As discussed previously, this could be done through the machinery of donation, inheritance, informal land deals like sharecropping arrangement, renting land for cash and disguised land sale.⁶⁹ In order to address the issues of informal rural landholding, one first needs to understand the rationale behind its prevalence. Answering this question predominantly reduces much of the uncertainties when it comes to how to systematically approach the problem and finally resolve it.

In general, people may engage in informal land transaction unwittingly using customary or unconventional land tenure mechanism. They generate these land rights based on social practices. They give land rights to themselves through informal social arrangements, not necessarily compatible with what is written in the law. In fact, in contradiction with what is written in the constitution or subsidiary laws. On the other hand, some engage knowing that explicit land sale is prohibited. Thus, they are transacting in a disguised form and using legal loopholes and legal overs with the assistance (at times) of government officials.⁷⁰ Specifically, scholars have positioned different reasons for the prevalence of informal rural landholding system of which the following are raised as the major ones.

The first reason could be lack of agricultural support system such as loans to enable people living in the countryside to become beneficiaries of their land. ⁷¹One of the reasons for the predominance of informal landholding system is distress sale by peasants. This is the result of the government's failure of putting in place a system that keeps the rural landholders from self-dispossession. This includes providing access to loan and other complementary services.

The second reason could be associated with the expropriation law of the country. The federal and regional governments of Ethiopia are empowered to acquire land through expropriation subject to the satisfaction of the 'public purpose' and the 'compensation' formalities. The compensation is made to the improvement on the land not for the land. This resulted for the

⁶⁹Daniel B.; Gemmeda A.(2017), The Enigma of Informal Rural Land Deals in Ethiopia: Evidence from Peri-urban Areas of Hawassa City, Haramaya L. Rev. 6, 43, p. 6

⁷⁰ Ibid ,58

⁷¹ Ibid

compensation to be very low. As the amount of compensation by the government is very low, rural landholders tend to sell their landholding to speculators instead of expecting the ‘low’ government compensation.⁷² This is especially overriding in rural landholdings near to urban areas.

Thirdly, it could also be the result of inappropriate laws. For example, the minimum size of a farm may be defined by law whereas in practice farms may be much smaller as a result of informal subdivisions among heirs.⁷³ Land fragmentation is an issue in rural Ethiopia. Whenever land is being transferred from generation to generation through the machinery of inheritance, the holding of an individual is apparently going to decrease from time to time, as it will be divided to multiple descendants. As a result, a Peasant might acquire land informally below the legal minimum or could sale it to other people.

Fourthly, bad land administration and dispute settlement mechanism could also be raised as a reason for the prevalence of informal rural landholding. Establishing sound land administration and dispute resolution mechanism is important. Failure to do so could lead self-dispossession through dispossession disputes. This is a mechanism by which people closer to the system bring in disputes over the land against the holder forcing the landholder dispose his/her possession out of frustration. Similarly, efficient procedures allow transactions to be completed quickly, inexpensively, and transparently. However, in many parts of the world especially in countries residing in the global south, including Ethiopia, formal land administration procedures are time consuming, bureaucratically cumbersome and expensive, and are frequently non-transparent, inaccessible to much of the rural population, and are handled in languages and forms that people do not understand. In such cases, high transaction costs may result in transfers and other dealings taking place off-the-record or informally.⁷⁴

Finally, the adherence of people in the countryside to the informal system could also be associated with the lack of information in certain societies. Even though two decades have passed through since the enactment of FDRE Constitution, there are still places where the influence of the Constitution is yet to be seen. These are places in which the customary land

⁷²Zerfu Hailu (January, 2016); Land Governance Assessment Framework Implementation in Ethiopia, World Bank Final Country Report, p. 85

⁷³ FAO (2002), land Tenure and Rural Development. FAO Land Tenure Studies 3, p. 11. Retrieved from <http://www.fao.org/3/a-y4307e.pdf> on 05 March 2022

⁷⁴ Ibid, pp 15

tenure system is deeply rooted in the society and the state machinery is not given that much of significance.

3.2 Approaches towards Informal landholdings

In a country where majority of the population resides in the countryside and basing its livelihood in agriculture, careful management of rural land is very important. Informal rural landholding in Ethiopia is becoming prevalent to the extent that it is getting out of the control of the government. The FDRE Constitution directly prohibits acquisition of rural land outside of the state machinery. Despite the unconstitutionality of acquiring rural land through the informal mechanism, the informal system of acquiring rural land in Ethiopia is still in play. This is mainly aggravated by the society's adherence to the social mechanisms of acquiring rural land. In addition, factors such as land fragmentation, shortage of capital and labor, movement of people and engagement in non-agriculture economy and the need for increased tenure security and property rights call for measure to be taken by the government. Scholars present different approaches towards informal rural landholding, the main theme of it being ensuring economic efficiency and land tenure security. On the one hand, some scholars suggest for the government to exercise its power of law enforcing and evict the informal.⁷⁵ Different theories have been proposed by scholars when it comes to addressing the issue of informal rural landholding. Eviction or demolition and formalization regularization are the most common types of intervention mechanism.⁷⁶

3.2.1 Eviction/Demolition

This is one of the unpopular approaches towards informal rural land ownership. Through this mechanism, the government evicts the informal landowners and destroys the settlements. The approach is that the government uses coercion to make the informal landowners leave the land they acquired informally. This refers to all forms of legal and non-legal actions that result in the forcible eviction of the illegal settlers. Proponents of this approach usually cite the deterrence effect as justification. This approach has been used since before the 1960s. At that time, informal settlements were considered a social evil and the response of many governments in developing countries was to evict informal residents and demolish the settlements.

⁷⁵Meine P. (2010), Formalization and In-formalization Processes in Urban Ethiopia: Incorporating Informality; p. 74

⁷⁶ Ibid

3.2.2 Formalization/Regularization

Formalization is a process by which informal tenure is integrated into a state-recognized system.⁷⁷ This approach was presented as an alternative to eviction. This approach was first introduced by De Soto in his book "The Mystery of Capital: Why Capitalism Triumphs in the West and Fails Everywhere Else". For him, formalization or regularization is the more beneficial and appropriate approach to informal land ownership than eviction or classifying the system as "illegal." Regularization creates security of tenure, which serves as an incentive for squatter communities to mobilize to improve their property.⁷⁸ This is because informal settlers feel that the land they have acquired as part of their informal tenure will not be demolished and that their investments will last forever and can be inherited by their relatives. Security of tenure is a guarantee against eviction and harassment, creates access to basic infrastructure, and ensures the efficient use of the land within the law. Also, from the governments' perspective, formalization improves tax collection, legal identification of land rights holders, integration of the formal and informal land and housing markets, and better management and economic use of land.

Formalization is often presented as a means to ensure tenure security; it can be achieved through two different channels.⁷⁹ First, the administrative recognition of occupancy rights by the state or by local authorities consists in delivering personal rights to households in informal settlements. It usually takes the form of an administrative permit to occupy or short-term leasehold. Although such rights can be renewable, they are temporary (lasting from one year to several) and conditional; (the land must be used or developed according to standards set by public authorities). Some restrictions are usually imposed relating to the use of the land and its transfer.⁸⁰

Second, the delivery of real property rights a process also known as land titling consists in delivering freehold titles, surface rights, or registered long-term leaseholds. These rights can be opposed to a third party, transferred through sale and inheritance, and mortgaged. This

⁷⁷Alain Durand Lasseve and Harris selod, (2016) the formation of urban land tenure in developing country [http://: www.link.springer .com](http://www.link.springer.com). accessed on May .2022.

⁷⁸H. De soto (2000), The mystery of Capital: Why capitalism Triumphs in the West and Fails Everywhere Else, (London: Black Swan Books)

⁷⁹ Ibid

⁸⁰ Alain Durand Lasseve and Harris selod, (2016) the formation of urban land tenure in developing country [http://: www.link.springer .com](http://www.link.springer.com). access on May .2022.

type of formalization, which can be sporadic or systematic, provides rights that are authenticated and guaranteed by the state.⁸¹

3.3 The Legal and Institutional Framework for Regularization of Land in Ethiopia

3.3.1 Institutional Framework

In the implementation of legislative instruments and policies, institutional structure is one of the most crucial components that contribute to the success of land administration systems. According to popular belief, institutional mandates must result from legal provisions. The 1995 FDRE constitution established the division of authority between the federal government and the regional states in the Ethiopian legal system. According to Article 51(5) of the FDRE Constitution from 1995, the constitution requires the federal government to create laws for the use and conservation of land and other natural resources. On the other hand, Article 52 (2d) of the FDRE Constitution from 1995 specifies that regional states have the authority to manage land and other natural resources in conformity with federal regulations.

We can infer from these constitutional provisions that, with regard to the responsibility of administering land, the two tiers of government the federal and regional governments have distinct roles to play. Here, the regional governments are tasked with administering and using land in accordance with the federal government's framework legislation, while the federal government is tasked with enacting framework legislation. In order for regional governments to implement their own rural land administration and use legislation and develop institutions tailored to their regional conditions, the federal rural land administration and use proclamation No. 456/2005 offers a general framework (Article 17 (1) of Proclamation No. 456/2005). The majority of the regional states have currently passed their own local land use and administration laws and created institutions for land administration based on the framework legislation. Institutional structures vary at the regional level, and each regional state has a unique approach to its institutional structures for land administration. Accordingly, of the four highland regional states in the nation Amhara, Oromia, SNNPR, and Tigray three regions (Amhara, Oromia, and SNNPR) have established their own land administration and use authorities, but Tigray regional state lacks a land administration department but has maintained the same organizational layout as the federal government ministry department. However, we still don't have an institutional framework regulating peri-urban land which is the focus my study which shows the fact that peri-urban land is left unregulated.

⁸¹Ibid

3.3.2 Legal Framework

According to Article 52 (2d) of the FDRE Constitution from 1995, regional states must have the authority to manage land and other natural resources in conformity with federal regulations. Accordingly, Article 17 (1) and (2) of Proclamation No. 456/2005, the Federal Rural Land Administration and Use Proclamation, grants regional states the authority to enact rural land administration and use laws and establish institutions so as to implement the proc. No. 456/2005 within their respective regions. This need led to the present proclamation No. 130/2007 in Oromia National Regional State. There are regulations governing urban informal landholdings and the eventual conversion of these into formal ones in terms of the legal framework. These legislations include the Oromia Regional State Regulation No. 155/2013 and the Federal Urban Land Lease Holding Proclamation No. 721/2011, Urban Landholding Registration Proclamation and the Expropriation Proclamation No.1161/2019.

The Expropriation Proclamation No.1161/2019 is issued with the view of defining the basic principles that have to be taken into consideration in determining compensation to a person whose landholding is going to be expropriated. The Proclamation is applicable on both rural and urban lands. The general condition for which land and property can be expropriated is for public purpose defined as use of land by the appropriate body or development plan to ensure the interest of citizens to acquire direct or indirect benefits from the use of the land and to consolidate sustainable socio-economic development. The basis and amount of compensation payment is prescribed under Article 12 of the Proclamation No. 1161/2019. According to this provision: The landholder whose land is expropriated shall be paid compensation for the property on the land and the permanent improvement made on the land , the amount of compensation for the property on the land shall able to cover the cost of replacing the property anew , the minimum compensation payable to a housing unit, may not, in any way, be less than the current cost of constructing a house per the standard, Compensation for permanent improvement to land shall be equal to the current value of capital and labor expended on the land. Where the property on the land can be relocated and continue its service as before, the cost of removing, transporting, and erecting the property shall be paid as compensation. Valuation methods to determine compensation for various properties and detail prescriptions applicable is provided under regulation No.472/2020.The Government of Ethiopia has issued a new proclamation which addresses the public's concern on the previous proclamation No.455/2000. The new proclamation has included many changes in provisions including the provision of livelihood restoration of people beyond compensation of the lost

asset and property. The new proclamation defines the basic principles that have to be taken into consideration in determining compensation to a person whose landholding is going to be expropriated. The Proclamation is applicable on both rural and urban lands. The general condition for which land and property can be expropriated is for public purpose defined as use of land by the appropriate body or development plan to ensure the interest of citizens to acquire direct or indirect benefits from the use of the land and to consolidate sustainable socio-economic development. According to Article 2 (3) of the proclamation, compensation is paid to those who have legally occupied the land and those who have property on such land developed through their labor and capital. Lawful occupants are expected to produce evidence for their legal landholding. The most important evidence for this could be the landholding certificate.

As per article 13 of Proclamation No. 1161/2019 valuation of displacement compensation for communal landholding is based on the use of the communal land; or the lost benefits and livelihood of the displaced people through identifying communal land clearly. The method of allocating the displacement compensation money or the use of it in kind to all members of the communal landholding community shall be clearly determined. In addition to compensation according to Proclamation No. 1161/2019 Article 13(1) displacement compensation shall be paid equivalent to 15 times the highest annual income he/she secured during the three years preceding the expropriation of the land. Compensation will be in an amount sufficient to reinstate displaced people to their economic position prior to displacement; the regionally relevant administration is required to give another piece of land to any person who lost his land in favour of a public project⁸². The assessment of compensation does not include the value of the land itself but the property and any development made on the land because land is a public property and not subject to sale in Ethiopia. A rural landholder whose landholding has been permanently expropriated (where substitute land is not available) shall be paid displacement compensation, in addition to compensation payable for property situated on the land and for permanent improvements made to such land, the land holder shall be paid displacement compensation which is equivalent to 15 times the highest annual income he generated during the last 3 years preceding the expropriation of the land.⁸³

Regarding peri-urban land, the Compensation and Resettlement Proclamation No.1161/2019 under article 15 discuss the issue of residential housing for peri-urban landholders

⁸² Article-13 of Compensation and Resettlement Proclamation No.1161/2019

⁸³ Ibid

incorporated in to Towns. Under this proclamation a peri urban rural land holder whose residence is removed shall be entitled to not more than 500 sq. meters of land for building per the standard of the urban as it is decided by cabinet of the Regional state, Addis Ababa and Dire Dawa City Administrations. Child of the displaced, peri urban land holder the age of 18 and above shall be provided with the minimum size of land per the standard of the town or city. The total land size may not exceed the total residential area of the displaced land holder. Residential area under sub article 3 of this article includes the area within the perimeter fence of the displaced land holder. The detail implementation of this article shall be determined by the directives issued by regional state, Addis Ababa and Dire Dawa City Administrations.

Additionally, in 2014, the government has adopted Urban Landholding Registration Proclamation No. 818/2014 to realize real property rights of individuals, provide reliable land information to the public at large, minimize land related disputes and modernize the country's real property registration system and urban landholding adjudication and registration regulation No. 324/2014, including cadastral surveying regulation No. 323/2014, directives, and standards have been enacted concerning urban landholding adjudication and registration and cadastral surveying matters. Though limited in scope (as it does not regulate registration of rural real property), this proclamation is applicable throughout the country. But the primary reference for all laws that establish urban landholding registration and information agency is the federal urban real property registration and information agency establishment council of minister's regulation No. 251 of 2011.

A peri-urban land is found in between rural administration and an urban one. Literally speaking, this is the land found in the peripheries of towns and cities. Originally, such land was part of the rural administration, but because of urban expansion, it was acquired by urban administration through expropriation process. The reason that this case is examined separately is because the modality of compensating landholding farmers is slightly different from that of the other rural farmer. One of the common features of such area in Ethiopia is the widespread informal land transfers to urban speculators. In the anticipation of regularization of their possession at a later stage, many urban speculators and landless people informally buy land from the farmers. The farmers on their side, by weighing the compensation that they would be paid (upon the expropriation of the land) and the sales price they are receiving, prefer selling the land. The whole process is hazardous for the buyers compared to the sellers, since land sale is illegal. A vacuum peri-urban is created when the urban administration adopts a revised master plan that includes the nearby rural farmlands

without actually expropriating and adding them to its land bank. This new territory now falls under no one's jurisdiction. For this reason, farmers try to transform their agricultural lands to residential area by subdividing and then selling the plots without any interference from government bodies. Sometimes, city officials bulldoze the built area in fear of later contentions with residents. When one looks into the compensation modalities, farmers are compensated for their properties on the land and the improvements they bring about to the land, in the manner discussed above

The prohibition on land possession and permissions other than lease holding is stated in ProclamationNo.721/2011 under Article 5. No one is even permitted to enclose and utilize any parcel of property that is next to his legitimate possession without the consent of the relevant authorities due to the stringent restriction. And according to article 5(3) of the proclamation, "no region or city administration may permit or transfer urban land in a manner inconsistent with the provisions of this proclamation," as was previously stated, the proclamation permitted regularized possessions held without the approval of the appropriate body, the possessions that were determined to be acceptable in accordance with urban plan and parcelling standard. Four years after this proclamation enters into force, the regularization shall take effect. The plots that have been regularized will be managed through lease holding. The issue of urban informal landholdings is covered in detail under ProclamationNo721/2011.

However, all aforementioned legislations deal with urban land or rural land not peri-urban land. We still don't have a separate legal regime governing peri-urban land while we have a bifurcated legal regime governing urban and rural land separately in the country which implies to what extent the peri-urban land denied attention and left unrecognized by Ethiopian government whilst the degree of problems which stem out of this area is quite massive.

3.4 Drivers of informal land transformation from Peri-Urban areas of Addis Ababa

Addis Ababa is the capital and largest city of Ethiopia. It also serves as the regional capital of Oromia. The city is surrounded by the Special Zone of Oromia and is populated by people from the different regions of Ethiopia. Established in 1886 and with four million populations, Addis Ababa is one of the oldest and largest cities in Africa. At an average altitude of 2400 meters, it is also one of the highest. Its geographic location in the center of Ethiopia, combined with lack of development policies in other urban centres have given the capital the

majority of social and economic infrastructure in the country. As a result, it has been a melting pot to hundreds of thousands of people, coming from all corners of the country in search of better employment opportunities and services. This high rate of rural urban migration accounts for about 40 percent of the growth. Coupled with rapid natural population growth, Addis Ababa one of the fast growing cities in Africa, posing critical challenges, including high rate of unemployment, housing shortage, high degree of peri-urbanization and environmental deterioration.

Peri-urbanization rarely has a single cause according to many scholars who studied land.⁸⁴ It is the outcome of a complex interaction of contextual elements, each of which includes a variety of localized specialized forces⁸⁵. Spatial, political, economic, social, institutional, and environmental factors all have a role in the drivers⁸⁶. Forces interacting at global and local scales are the drivers.⁸⁷ In Addis Ababa, the following two forces have been highlighted as the key drivers of peri-urban development.

3.4.1 Urbanization Forces

Peri-urban areas are the result of a city's extension that swallows its surrounding land.⁸⁸ Peri-urbanization is defined as a type of urbanization that expands onto the territory adjacent to the city, both physically and functionally, in contemporary works. Ex urbanization and counter urbanization are two concepts that can be used to conceptualize peri-urbanization as a process driven by urbanization dynamics⁸⁹. Both accounts concentrate on the city's outward migration and the labelling of the new spatial phenomena that results in urban growth. This is due to a rise in the demand for additional land to accommodate new urban services.⁹⁰ The development, nature, and forms of the city's/peri-urban town's area are all influenced by the forces that drive urban growth. Urban population growth (demographic forces), urban economic growth (economic forces), expansion of urban infrastructure and services (physical forces), gentrification (planning forces), changes in settlement patterns (spatial forces), and changing neighbourhood

⁸⁴ Rauws, W. S., & de Roo, G. (2011), Exploring transitions in the peri-urban area: Planning Theory & Practice, 12(2), 269–284

⁸⁵ Bryant, C., & Charvet, J.-P. (2003), Introduction: the peri-urban zone: the structure and dynamics of a strategic component of metropolitan regions/Introduction: la zone periurbaine: structure et dynamiques d'un composant strategique des regions metropolitaines. Canadian Journal of Regional Science, 26(2–3), 231–250.

⁸⁶ Bowyer-Bower, T. A. (2006), The inevitable illusiveness of 'sustainability' in the peri-urban interface: the case of Harare. Routledge, London.

⁸⁷ Webster, D., & Muller, L. (2009), Peri-urbanization: Zones of rural-urban transition. Human Settlement Development, 1, 280–309.

⁸⁸ Eshetayehu Kinfu (2019), Peri-Urban Land in Ethiopia : Genesis ,Dynamics and Planning, a Ph.D. dissertation at the faculty of Agricultural and Environmental Sciences at the University of Rostock. PP.28

⁸⁹ Ibid

⁹⁰ Supra Note, 44

structures are all examples of these forces. The peri-urban is created as a result of these urbanization dynamics, which result in horizontal expansion and subsequent land use changes near the peripheries.⁹¹

3.4.2 Policy Forces

The policy forces that drive peri-urbanization can be explained in terms of the numerous policies that influence peri-urban growth. They take into account macro-political shifts in the state's function and dominant ideology (the nature of land policies, national development policies, especially urban development policies, and their interactions). For example, some claim that the advent of capitalist economies, as well as the creation of real estate markets and private residential developments, has resulted in huge land development at the periphery.⁹²

In terms of land policies that drive peri-urbanization, the right of public authorities to appropriate private land, for example, can drive peri-urbanization. Farmers in peri-urban areas are at risk, and tenure insecurity is increasing. Many academics believe that conflicting pressures within urban and rural land policies can lead to unhealthy land use competition, exacerbated urban spill over and sprawl, and peri-urbanization.⁹³ The expansion of peri-urban settlements has been attributed to urban development policies such as relocations from both the city center and rural areas for slum gentrification and big projects, as well as a lack of public housing and site and services plans.

3.5 Process and Modalities of Informal Land Transaction: A case study in the Peri-Urban areas of Addis Ababa

Land transactions in peri-urban settings have established their own set of unwritten rules. The informal process of purchasing and transferring a block of land is not anarchic, but follows its own set of rules. The major activities or behavioural patterns of key actors, as well as the methods, norms, and events by which actors acquire and hold a plot of land from the informal market, are more or less predetermined. In other words, it has its own established set of rules and 'traditional' (shadow) institutions.⁹⁴ The following are the essential activities/stages in the process of informal land acquisition an1) Identifying a plot; 2) showing an interest in the plot;

⁹¹ Ibid

⁹² Winarso, H., Hudalah, D., & Firman, T. (2015), Peri-urban transformation in the Jakarta metropolitan area, Habitat International, PP. 49, 221–229.

⁹³ Binns, T., & Maconachie, R. (2006). Re-evaluating people-environment relationships at the Rural-Urban interface: How sustainable is the peri-urban zone in Kano, Northern Nigeria. The Peri-Urban Interface: Approaches to Sustainable Natural and Human Resource Use, PP. 211

⁹⁴ Daniel Behailu and Gemmeda Amelo, The Enigma of Informal Rural Land Deals in Ethiopia: Evidence from Peri-urban Areas of Hawassa City, HARAMAYA LAW REVIEW 6 (2017): PP51

3) studying the behaviour of the transferee; 4) undertaking price negotiations; and 5) concluding and evidencing the transaction by traditional agreement or contract.⁹⁵ Besides, 6) in case of peri-urban areas getting tips from the inside circle of the government as to the future of the land, especially on its fate of being regularized development.⁹⁶

Disguised land sales, share tenancy contracts/crop sharing arrangements, rent-out land for cash/fixed rental arrangements are modalities of peri-urban land transactions. Many people take advantage of informal land dealings to circumvent the rigors of the law and for the sake of convenience.

3.5.1 Disguised land sales

Despite what the public claims and government legislation mandates, land sales do take place under many guises and in a number of formats. Whether the arrangement is written or oral, the term "land sale" is carefully avoided and replaced by words like "contract," "gift," or "inheritance," and "land exchange."⁹⁷ This type of hidden land sale is common in high-value locations including peri-urban, cash crop, and water accessibility. On the one hand, the fear of peri-urban local landholders having their land taken (expropriated), and on the other hand, the acute demand for land from urban dwellers, fuelled the inefficiency of providing affordable housing to low-income people in the inner-city, have created a huge informal market for land to be sold and bought.⁹⁸

My research also shows that, at present among these modes of land acquisitions in the Peri-urban areas of Addis Ababa, disguised land sales is probably the dominant mode of land transfer. Respected members of the community from both sides are summoned to witness the transaction and the agreements that underpin it in every case.⁹⁹ Written property deals are intentionally vague, with confusing phrases or even records that tell substantially different stories than the ones agreed upon by the parties. Peasants (and the general public) are aware of state-sanctioned land sales and have devised a number of creative ways to get around these restrictions. In the target region, there are three key ways that people are concealing land sales at the moment: -

⁹⁵ Achamyelash Gashu, Introducing Land Readjustment as an Alternative Land Development Tool for Peri-Urban Areas of Ethiopia, at 47, Paper Prepared for Presentation At The 2016 World Bank Conference On Land And Poverty The World Bank - Washington Dc, March 14-18, 2016

⁹⁶ Supra note ,pp. 71

⁹⁷ Interview with an advocate in Oromia Region (Addis Ababa ,28 May 2022)

⁹⁸ Supra note 70.

⁹⁹ Ibid

1. Sale of property such as perennial crops and cash crops without mentioning the land in general;
- (2) In the form of a farm field rent/contract (known locally as *kontraata*), specifying that the rent is for life, fifty years, or thirty years;
- (3) In the form of a donation/inheritance, but in actuality the transferor receives money/price for the land.

In all situations, transactions are carried out in the presence of elders and by the signing of contracts on a piece of paper including the seller's and buyer's signatures as well as the signatures of witnesses. Typically, the contract is written with the signatures of Two to Five elders from each side.¹⁰⁰ The written contract stipulates, among other things, steep fines for a party who chooses to terminate the relationship, with part of the fine going to the state budget and part to the elders. This is coupled with the transferor's obligation to refund the entire transaction price if restitution is sought.¹⁰¹ Furthermore, a separate loan arrangement may be agreed with to ensure that the provisions of the land sale deal are not violated.¹⁰²

When the transferee comes to register the land, the local land administration office is frequently perplexed. The parties now conceal their original agreement (when they approach the government for registration) and come up with a fabricated cover contract that is built to the letter of the law but aids the transferee in obtaining legal titles. Land dealers (brokers) and government officials frequently assist in this process.

In general, formal regulations barring land sales do not prevent informal rural property transactions. In order to conduct land transactions, peasants have bypassed and manoeuvred those policies. In the peri-urban areas surrounding Addis Ababa City, such adaptation techniques that are camouflaged as land sales by claiming to have sold plants (crops) and trees, having transferred farm fields on contract (*kontraata*), and land donation are some of the ways to transfer land informally.

3.6 Impacts of Peri-Urbanization on the Peri-Urban Addis Ababa

The effects and perceived repercussions of the peri-urbanization process were briefly explored in this section of the research. This component of the study did not provide a comprehensive effect analysis. This was due to two key factors. First, it was too soon after the observation to detect long-term effects. Peri-urbanization in Addis Ababa is a recent

¹⁰⁰ Ibid

¹⁰¹ Ibid

¹⁰² Ibid

phenomenon that has not yet reached maturity. It was still a work in progress. Second, by definition, the scope of impact evaluations should be broad and multifaceted. This needs a multifaceted strategy. The impact evaluation of peri-urbanization in the communities would be a comprehensive research that looked at the phenomenon's multiple elements, including socioeconomic, geographical, environmental, and political factors. The researcher was limited to focusing on the qualitative effects of earlier expropriations based on quick assessments of socioeconomic effects, LULC analyses, and environmental concerns and risks in the settlements. These were taken to demonstrate the city's ongoing peri-urbanization and to assess some of the impact factors in relation to the policy response-regularization program.

3.6.1 Impacts of Previous Expropriations on the Peri-Urban Addis Ababa

All of the respondents believed that Addis Ababa's peri-urbanization had both positive and negative socioeconomic consequences. The engagement of rural dwellers in the metropolitan system, which allowed residents to modify their socioeconomic situation, was one of the beneficial outcomes. Many people (who moved their land without being expropriated) made more money, and agrarian economies were changed into urban-based ones. The increase of social and economic services and infrastructure benefited residents; women were involved in income-generating activities, and a few had built homes in the city. On the other hand, policymakers, particularly politicians, have slammed peri-urbanization for its disproportionately negative consequences.

Policymakers saw peri-urbanization as an illegal development with political, geographical, socioeconomic, and physical negative implications that resulted in the formation of slums and a squatter settlements-slum people cycle. The derivation and execution of regularization as a policy response, as detailed in the next section, are based on these assumptions and presumptions. The elders and residents who responded agreed that it harmed the majority of the farming households. Expropriations in the past were like "sudden death" because no proper compensation was paid. By leaving their homes, the majority of these expropriated households fled to distant locations. Because they couldn't find work, some of them became beggars, and their children were forced to live on the streets. Some of them resided on the outskirts of the city in substandard housing built by the government.

According to officials from Oromia Land Use and development bureau, the expropriations had a significant impact on the expropriated Oromo households. 'Previous expropriations amounted to forced evictions,' he added. They harmed the households because the majority of

them were abruptly expropriated and underpaid.' 'The majority of the households have been battling with acute poverty,' he continued.¹⁰³ They lost all of their property and were impoverished. Their children grew up to be day labourers and street kids. Because of the failures to manage the modest settlement money, most couples were harmed and even dissolved.¹⁰⁴ The regional officials also acknowledged that the previous expropriations had some fundamental flaws, such as the legal framework failing to account the farmers' and family members' long-term livelihoods. The elders developed land selling procedures as an adaptive preventive response to the evictions due to the harmful effects of land expropriations.

3.6.2 Land Use Land Cover (LULC) Changes in Addis Ababa

Another consequence of peri-urbanization was a shift in land use and cover. This was discovered after a thorough examination of the city over several years. Another consequence of peri-urbanization was a shift in land use and cover. This was discovered after a 20-year LULC examination of the city (1985-2017). Because of the city's fast growth at the time, this period was examined.

Because of two factors, the city's LULC analysis helps to explain peri-urban consequences. First, Addis Ababa displayed a horizontal, primarily inside-out, expansion trend that resulted in the expropriation of farm/rural/land on the outskirts. Second, the peri-urban villages were absorbed by the increase in the latter decade. Because of two factors, LULC analysis assisted to explain peri-urban impacts.

The majority of these land-use changes occurred on the outskirts of cities, where peri-urbanization was taking place. Addis Ababa's expansions impacted farmland and depleted the livelihoods of local farmers. This emphasizes the implications and consequences of urbanization due to the consumption of peri-urban and nearby rural land for diverse purposes that supported the ecosystem. The growth of the built environment had a number of ramifications. In the absence of sufficient planning and management measures, changes in land use and land cover also suggest possible risks for linked socio-economic and spatial repercussions, i.e. slums, urban sprawl, and social segregation and conflict

¹⁰³Obbo Teshale Didha, Deputy Head of Oromia Land Use and Development Bureau, Interviewed on May 25, 2022 at 8:00 local time.

¹⁰⁴ Ibid

3.6.3 Environmental Problems and Hazards in Peri-urban Addis Ababa

The amount of solid and liquid garbage generated in Addis Ababa is directly proportional to the city's population increase, industrial expansion, and people's economic standing. The city's daily per capita solid waste generation is projected to reach 0.4 kg. Around 80% of the total solid garbage created each day is collected.¹⁰⁵ The remaining 20% of garbage is disposed of in open areas, drainage channels, rivers, valleys, and city streets. Even collected solid trash is thrown in an open dumping site with no daily soil cover, leachate containment or treatment, rainy drainage, odour or vector control, or fence. The city's open dumping site, Repi, is already overflowing and bordered by homes and institutions.¹⁰⁶

Liquid waste, in addition to solid waste, is a significant source of pollution in Addis Ababa. Only 7.2 percent of liquid waste is properly disposed of, while the remaining 92.8 percent is improperly disposed of in rivers and rainwater channels¹⁰⁷. The number of sewerage line consumers is projected to be only 4000 households, excluding newly erected condominiums and real estates.¹⁰⁸ Furthermore, industrial wastes are a significant source of contamination in river water. According to Leulseged, the majority of Addis Abeba's 2000 registered industries are located around riverbanks. Approximately 90% of these companies lack on-site treatment facilities to some degree, and any effluents are then discharged into nearby streams.¹⁰⁹

For peri-urban areas, river and spring water are vital supplies of residential and irrigation water¹¹⁰. However, improper solid and liquid waste disposal pollutes water, land, and air in urban and peri-urban areas. According to talks with peri-urban people in the study region, certain peri-urban water sources have become obsolete as a result of improper waste disposal.¹¹¹ There were additional reports of human and cattle health issues. Gebre and Rooijen came to the same conclusion¹¹². They tested the water quality in the city's Great and Little Akaki rivers, which are major sources of irrigation for the city's agricultural. They

¹⁰⁵SWMA (Solid Waste Management Authority - Addis Ababa City Administration), 2010. Overview of Addis Ababa City Solid Waste Management System.

¹⁰⁶ *ibid*

¹⁰⁷Leulseged Kasa and other Co-Authors, Impacts of Urbanization of Addis Ababa City on Peri-Urban Environment and livelihoods, Unpublished paper presented for 10th International Conference on Ethiopian Economy, PP.16

¹⁰⁸ *Ibid*

¹⁰⁹Leulseged Kasa, Impacts of Urbanization of Addis Ababa City on Peri-Urban Environment and livelihoods, Unpublished paper presented for 10th International Conference on Ethiopian Economy, PP.16

¹¹⁰ Interview made with ChalaNurgi, resident of the peri-urban Addis Ababa (AkakiKality Sub-city), (Addis Ababa ,3 May 2022).

¹¹¹ *Ibid*

¹¹²Gebre, G. and D. Van Rooijen, 2009, Urban water pollution and irrigated vegetable farming in Addis Ababa. Paper presented for 34th WEDC International Conference, Addis Abeba, Ethiopia

discovered that the waterways were extremely/extremely filthy.¹¹³ This demonstrates that peri-urban residents and their animals are extremely vulnerable to a variety of health issues. As a result, several households have stated that they have destocked or stopped raising animals.¹¹⁴

3.7 Why Formalization for the Informal landholdings in Ethiopia?

A lot has been written about the benefits of formalizing land titles and establishing a national formal land rights system in developing countries. According to De Soto, introducing formal property rights systems to informal landholding will have at least six positive benefits. First and foremost, it will help to activate the economic potential of real estate as a source of capital. In layman's terms, this means that by making information, references, and enforcement mechanisms available to the public, one can establish credibility and pique the market's interest, which will support and promote economic growth. The second benefit mentioned by de Soto is the ability to consolidate and concentrate information into a single system, which will aid in the transition of the non-legal to the legal sector.¹¹⁵ Today, this information is dispersed and in some cases inaccessible totally.

According to De Soto, the third benefit of formal property rights is the building of credibility for market actors by holding them accountable for their activities. People who lack collateral will obviously be less credible as contractual partners, and contracts will be made primarily between actors who are previously acquainted, such as relatives and family. This severely restricts contracting options. By isolating the physical object from its economic qualities, de Soto says that a fourth result of formalizing property rights will be to make property fungible (flexible). When it comes to formalizing property rights and securing tenure, the immaterial representation of property rights in the form of a deed or other legal document will suffice to ensure contracting partners' solvency. It will also be possible to obtain information on the properties that surround the property of interest, allowing one to design more consistently and in accordance with the surrounding area. This means that by making property more accessible and easily negotiated, it may be used more flexibly, resulting in increased value and growth.

¹¹³ Ibid

¹¹⁴ Supra note ,pp56

¹¹⁵ People and businesses operating outside the legal market; unregistered and unsupervised by authorities. The extra-legal sector is often very large in peri-urban areas in developing countries like Ethiopia. According to de Soto (2000) there are places where the legal sector constitutes the exception from normality because of the size of the extra-legal sector

The fifth benefit of formalizing property rights is that it will connect people in a network by tying them together through their ownership of land, resulting in mutual dependency. This will increase the incentives for collaborative action and infrastructure investment. Because information about customers is accessible and trustworthy, transaction costs associated with creating infrastructure such as water and electricity would be minimized. De Soto claims that the sixth and final result of property formalization will be the protection of transactions by registering and making them public. As a result, it will be easy to follow a trail of transactions relating to a single plot, simplifying the process of evaluating the property's assets because all transactions will be public and protected.

Due to the aforementioned point of arguments I strongly commend the Ethiopian government to formalize or regularize the informal land holdings in the peri-urban areas of Addis Ababa in particular and in Ethiopia in general.

3.8 Comparative Experience from Tanzania

Before directly delving into the crux of the matter, the reason why I picked Tanzania as opposed to other countries in Africa is that Tanzania's land laws contain progressive elements: they recognize customary land rights and grant them equal weight to formally granted (statutory) land rights. The law also devolves decision making at the village level, primarily through the Village Council, an elected body which is required to have 25 percent women members. Moreover, even if, informal land tenure system is predominant in peri-urban areas of Tanzania. In order to address informality in the land sector in Tanzania, the government has taken several initiatives. These include formalization and regularization of informal land, encouraging participation of the private sector as well as embracing public-private partnerships in land-access services.¹¹⁶ Some cases of informal land tenure system have characteristics of customary land tenure system; for instance, an individual can purchase land informally but then pass it on, to the next generation. Therefore, the person whom the land has been given is considered to have inherited it.

In Tanzania, statutory, customary and informal land tenure systems exist.¹¹⁷ Statutory land tenure system is reflected in two forms: on land granted by the state in planned and surveyed areas or lease hold between 33 and 99 years provided by the state. Under the leasehold, the

¹¹⁶ J.-P. Colin and P. Woodhouse, "Interpreting Land Markets in Africa", Africa, 2010, Vol. 80, No. 1, pp. 1-13 and A. Locke and H. Giles, "Urbanisation, Land and Property Rights", Overseas Development Institute, 2016, www.odi.org.

¹¹⁷ Said Nuhu, Land-access systems in peri-urban areas in Tanzania: perspectives from actors, International Journal of Urban Sustainable Development, PP 2

duration of lease can be revoked before the expiry period if the leaseholder does not abide by the terms and conditions or if the state (grantor) deems it fit to revoke the agreement in the interest of the public). Customary land tenure system refers to land occupied by the traditional communities, or clans, or families as a whole, and in perpetuity. Its use and access is guided and bound by shared customary values and norms which vary from one society to another.¹¹⁸ Although customary laws are not documented or coded, the state provides legal jurisdiction over customary rights. Informal land tenure system manifests when willing sellers and buyers engage in land transactions outside the government procedures and it operates through individuals' decisions and action. The parties may or may not possess any binding documentation, while others may illegally invade vacant land¹¹⁹. In this case, such occupiers will be considered squatters. Different land tenure systems may be prevalent in same geographical location; however, there may be a degree of dominance of a particular tenure system in a specific locality. Statutory land tenure system for instance, is dominant in the urban areas, while customary land tenure is popular in rural areas and to some extent in peri-urban areas.

Tanzania has put in place various policies to promote urban land use planning and surveying, with the support of the private sector. The participation of private firms in land use planning and surveying is underlined in the National Human Settlements Policy of 2000. Section 3 of the policy emphasizes the engagement of private sector actors and civil society organizations in planning, development and management of human settlements.

The study in Tanzania showed that, amidst the multiple challenges they faced, private firms appreciated the government initiatives to promote their role in delivering land services, and government officials applauded the efforts of private firms. It was acknowledged that the work of private firms was supplementing government efforts in providing land services and thus reducing the backlog of planning and surveying activities in the land sector. The services of private firms have contributed particularly to the transformation of peri-urban areas. This has increased the land value in peri-urban areas and attracted many actors, both land service providers and consumers. During FGDs, participants concurred that the services of private firms would contribute to increasing the value of land in the area. This would enable the landholders in future to parcel out or sell their land at reasonable market prices. It was also mentioned that, should the government require land from occupants for public use,

¹¹⁸ Ibid

¹¹⁹ Ibid

landholders could turn to private firms to survey their land at short notice, allowing them to reap more benefit from the land compensation plan than if the land was not surveyed. The regularization of land would also enable the holders to offer their land as security in order to access financial services.

The services of private firms have also played a role in fulfilling the government mandate of providing access roads in areas where land planning and surveying services are embraced by the community members. There was general agreement in the FDGs that land planning and surveying services by private firms had contributed to the reduction of land disputes associated with trespassing and encroachment, as a result of poor demarcation of plot boundaries. This was also emphasized by one of the local leaders: His saying goes ‘in my area of jurisdiction, I have noticed that ever since people started planning and surveying their plots, over the years, cases of land disputes reported in my office have been minimal.’”

It was noted that land inheritance disputes in particular had been reduced through the land regularization services offered by private firms, which had facilitated legal documentation of formerly inherited land. This legal documentation reduced the risk to landholders of their land being snatching by members of the family lineage. The research also revealed that the services of private firms in the land sector had contributed to broadening the tax base in two ways; the private firms themselves pay taxes, while on the other hand landholders of surveyed land are expected to pay land rent tax. Participants acknowledged that the accrual of taxes enabled the government to provide infrastructure services in the area such as water, electricity and road maintenance. During interviews with local leaders, it was observed that employment opportunities had been created in the land sector for both professionals and non-professionals. Officials from the private firms confirmed that they had been hiring skilled and unskilled people within the community.

The study revealed that most private firms employ at least 10 professionals, excluding temporary workers. This has enabled planners and surveyors, most of whom are not employed by the government, to gain work experience and expertise, and even to establish their own companies. Private firms have thus played a role in building skills and contributing to professional advancement in the land service delivery industry in the peri-urban lands of Tanzania.¹²⁰

¹²⁰ Said Nuhu&Wilbard Jackson Kombe (2020): Experiences of private firms in delivering land services in peri-urban areas in Tanzania, International Planning Studies, DOI:10.1080/13563475.2020.1752158, PP 11-12 .

Generally, in order to address informality in the land sector in Ethiopia, the government has to take several initiatives like Tanzania. These include formalization and regularization of informal land, encouraging participation of the private sector as well as embracing public–private partnerships in land-access services. Moreover, introduction of multitudes of tenure system will also help since the translation of customary land into formal land rights can be best observed in peri-urban areas in the cases where pluralistic tenure system is introduced like that of Tanzania.

3.9 Chapter Summary

The first section of this chapter has dealt with the rationales behind prevalence of informal landholdings in the peri-urban areas of Addis Ababa in particular and Ethiopia in general. Despite the constitutionality of rural landholding in Ethiopia, a number of informal rural landholding systems are still in play in many parts of the country. Peasants still use informal rural settlements and acquire and transfer land rights, this is being done through the machinery of donation, inheritance, informal land deals like sharecropping arrangement, renting land for cash and disguised land sale.

In order to address the issues of informal rural landholding, one first needs to understand the rationale behind its prevalence. The major rationales uncovered by my doctrinal and empirical researches under this chapter are; among others, lack of agricultural support system such as loans to enable people living in the countryside to become beneficiaries of their land, problems associated with the expropriation law of the country, the result of inappropriate laws. For example, the minimum size of a farm may be defined by law whereas in practice farms may be much smaller as a result of informal subdivisions among heirs, bad land administration and dispute settlement mechanism could also be raised as a reason for the prevalence of informal rural landholding. Last but not least, it could also be associated with the lack of information in certain societies

The second section of the chapter has dealt with approaches towards informal landholdings over the world. Different theories have been proposed by scholars when it comes to addressing the issue of informal rural landholding. Eviction or demolition and formalization regularization are the most common types of intervention mechanism over the world.

The third section of the chapter has also considered the legal and institutional framework for regularization of land in Ethiopia over which the researcher observed the absence of specific law governing formalization of peri-urban land in Addis Ababa while fourth section of the

chapter dealt with the major drivers of informal landholdings from peri-Urban areas of Addis Ababa. The section has discussed the two key driving forces behind peri-urban development in the peri-urban Addis Ababa, which are the urbanization forces and Policy forces.

The fifth section of the chapter entertained process and modalities of informal land transaction in the peri-urban areas of Addis Ababa over which it discussed the he major activities or behavioural patterns of key actors, as well as the methods, norms, and events by which actors acquire and hold a plot of land from the informal market and it substantiated the issue of disguised land sales in detail. The sixth section of the chapter have also discussed the impact of peri-urbanization on peri-urban community of Addis Ababa over which it discussed impacts like expropriation, land use land cover change and the environmental impacts that the peri-urban community faced.

Finally, the researcher concluded the chapter by discussing the issue of why formalization is needed in the peri-urban areas of Ethiopia and drawing a lessons or experiences form Tanzania by emphasizing on the role of private firm and public-private partnership in formalizing the peri-urban land of Tanzania.

CHAPTER FOUR

Findings, Conclusion and Recommendations

4.1 Findings

This study has revealed several critical issues that need urgent policy attention. The urban development strategy seems to be skewed towards urbanities while urban expansion and development and expansion to the peri-urban areas is accompanied by problems like wide spread sense of tenure insecurity or fear to loss land, unregulated land development, informal transaction of land and proliferation of informal settlements. A large percentage of peri-urban agricultural land owned by local farmers in peri-urban Addis Ababa is in great demand for informal settlements. An increasing number of people are attempting to meet their housing needs by obtaining land from peri-urban areas informally. Low-income families looking for a place to live are the main actors interested in acquiring a parcel of land informally from inaccessible peri-urban locations. They are primarily urban poor who cannot afford to pay rising housing rents or to purchase a condominium unit in the city. Local peri-urban landholders (farmers) who received land for agricultural purposes, on the other hand, are the primary land providers for the informal market. They also play an important role in the construction of illegal and substandard dwellings on their own agricultural land. The widespread practice of informal settlement in peri-urban areas demonstrates that the formal land and housing delivery system in Ethiopia appears inefficient in meeting the needs of both urban poor and local peri-urban landowners.

As a result, this study supports the notion that informal settlements are responses to and witnesses to the inefficiency and inadequacy of the formal urban land and housing delivery system. Hence, the government's best option if the legislation falls short of meeting social needs is to change it to permit unrestricted land sales. To provide a practical solution to the problem at least it would be better to legitimize that property rather than destroy it. Again, it is prudent to prevent the issue from arising in the first place. Destroying unlawful settlements, for instance, will have a significant negative impact in terms of crises, security concerns, and property damage.

In general, the difficulties associated with informal land deals are genuine and ongoing, and the task of abating them via regularization or other means alone is impossible. The government is forced to legalize it, especially in peri-urban regions, because the concerned government organs are unable to manage it (worse, some are feeding it). Additionally, the

current land rules that restrict land transactions are ineffective and do not meet societal demands today. A law that is ineffective in practice is not a law; it is at the very least an inconvenience or a barrier. The government should be wise to reconsider its approach and focus more on using land for security and development as opposed to using it to impose control, create division, and foster corruption.

4.2 Conclusion

In a country where majority of the population resides in the countryside and basing its livelihood in agriculture, careful management of rural and peri-urban land is very important. Informal landholding in Ethiopia is becoming prevalent to the extent that it is getting out of the control of the government. The FDRE Constitution directly prohibits acquisition of rural land outside of the state machinery. Despite the unconstitutionality of acquiring rural land through the informal mechanism, the informal system of acquiring rural land and peri-urban land in Ethiopia is still in play. This is mainly aggravated by the society's adherence to the social mechanisms of acquiring rural land.

In addition, factors such as land fragmentation, shortage of capital and labor, movement of people and engagement in non-agriculture economy and the need for increased tenure security and property rights call for measure to be taken by the government. Scholars present different approaches towards informal rural landholding, the main theme of it being ensuring economic efficiency and land tenure security. On the one hand, some scholars suggest for the government to exercise its power of law enforcing and evict the informal Landholders. The advocates of this approach mainly present the deterrence effect of eviction. However, recent developments lead to expansion of rights over rural and peri-urban land through the mechanism of formalization or regularization. Formalization is a mechanism of ensuring the rights under the informal system are incorporated into the formal system. The FDRE Constitution has left as enough space for the Federal and regional land laws to accommodate as much use rights as possible and craft suitable and workable legal instruments.

Thus, it is the firm belief of the author of this research that in order to insure land efficiency and rural land security in Ethiopia, the formalization approach should be adopted and informal landholding system should be given a place under the formal laws of the country and be formalized.

4.3 Recommendations

The researcher, based on the discussions so far, recommends the following measures to be taken and the concerned organs should take them seriously:

4.3.1 Policy Measures

The major policy issues and recommended actions which can help to address the constraints of urbanization and urban development in the peri-urban areas from the perspective of land rights of local peri-urban agricultural communities are the following:

a) Formalization/regularization of informally obtained Landholdings

One-line of Policy strategy should be to legalize informally acquired landholding in peri-urban areas and further restrain its spread. People engage in informal land deals, particularly in peri-urban areas where state-controlled land distribution is pricey and frequently insufficient and inefficient to meet the needs of the ever-increasing population. As a result, land for homes has been out of reach for the really poor. The formal leasing structure is making it harder and harder for even middle class people to buy land. Part of the inefficiency of the formal system is complemented by informal transactions. Thus, a regularization of the current informal settlement and stricter regulation are the only viable options because the worst-case scenario of demolishing informal settlement areas would be the displacement of the community and an aggravation of the local sense of insecurity.

b) Unifying the legal and institutional framework of land in Ethiopia

One of the key causes of the establishment of a power vacuum zone in the transitional peri-urban areas is the split institutional architecture for urban and rural land governance, as well as the lack of coordination between the two institutions. Because of the mismatch between urban and rural land administration organizations, policies, and legislation, ill-informed and biased decisions on land acquisition and distribution have been made. Furthermore, the separation of urban and rural land governance institutions does not promote peri-urban integrated land development.

c) Incorporating peri-urban land right and livelihood issues as a priority agenda

One of the conclusions of this study was that urban expansion projects in peri-urban areas provide urbanities with better livelihood options than local peri-urban populations. This means that urbanization is posing a threat to the livelihoods of the people living in the peri-urban areas. Loss of landholding rights or farmlands that were historically the livelihood base

of local communities is becoming a major constraint suffered by local peri-urban farmers in the course of urbanization, owing to expropriation decisions made by municipal governments. Thus, in order to promote fair development, the Ministry of Urban Development and Infrastructure in general and city administrations in particular must make peri-urban livelihood issues a priority in the creation and execution of urban policies.

d) Improving land administration institutions and establishing an independent peri-urban land administration unit

Establishing united rural and urban land administration institution at the federal and regional levels that can accept long-term responsibility for all land administration issues, including peri-urban land, is sensible. However, for the time being peri-urban land issues should be addressed by specialized units reporting to each city government, such as peri-urban land administration offices.

4.3.2 Legislative Measures

The legal restrictions on land transactions in place in Ethiopia at the moment are ineffective and do not satisfy societal needs. A law that doesn't work in reality isn't a law rather it is a hindrance or hurdle for the societal need or interest. Hence, the existing rural land laws in Ethiopia and regional legislations governing land should be revamped for the best interest of Ethiopian Rural Community.

4.3.3 Reconsideration measures

- a) It is wise to expand and enhance rural landowners' ability to obtain mortgages and credit. Farmers who require money for agricultural inputs and related expenses can produce more effectively if rural land use rights can be mortgaged. Additionally, such an effort needs to be supported by the establishment of an agricultural bank that would provide loans to farmers for small-scale modern farms and farm-related companies.
- b) This study's findings also revealed that the informal transition of peri-urban agricultural land into urban built-up property benefits lower-income populations by providing shelter. The informal settlement and development process in peri-urban areas not only reveals the flaws in the formal system, but it also provides significant lessons for improving it. As a result, the government's or local authorities' unfavourable attitude toward informal settlements, as well as the use of destruction as a remedy, should be reconsidered.

- c) The courts are also encouraged to encourage the parties to settle land disputes amicably while the legal system is still being adjusted to reflect the actual situation.
- d) Strengthening Institutions that can manage and oversee performance of housing sector as a whole by bringing together all the major public agencies, the private sector, representatives of NGOs, and community-based organizations which can make sure that policies and programs benefit the low-income group.

4.3.4 Extension of Experiences from other Countries

- a) This paper has offered an insight into the experiences of private firms delivering land use planning and surveying services in peri-urban areas of Dire Dawa City. Private firms have emerged as important actors in land markets and urban development, enabling land regularization and thus enhancing security of tenure. This has promoted land use efficiency and contributed to reduction of land use disputes. Hence, Ethiopia is expected to allow private firms to enable land regularization and ensure security in the peri-urban areas of Addis Ababa.
- b) On the basis of the lessons learned from this research and theoretical reviews, this research proposes the introduction of a modified land readjustment model applicable to the peri-urban contexts of Ethiopia. The recommendation of Land Re-adjustment as a peri-urban land development tool is based on four various justifications, inter alia, it is participatory and negotiable; it protects and maintains the land rights of the local peri-urban community; it helps minimize illegal subdivision, land transaction and development of land; and it generates more desirable urban development.

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3. Shaleka Getnet Tarko Vs Jemila Ali, Federal Cassation Decision File No.100671, Volume 18, PP. (227-230),30/11/2007 E.C

4. Mamo Tulu Vs Abebe Abera, Federal Cassation Decision File No.128650, Volume 22, PP. (71-73), 25/01/2010.

5. Debre Tadese and nine others Vs Abera Mengistu, Oromia Cassation Decision File No. 335298, PP.5-9, 21/07/2013

List of Interviewees

1. Interview with Guyo Wario, Vice President of Oromia Supreme Court (Addis Ababa, 3 May 2022)
2. Interview with Mr. Dula Lata, Oromia Supreme Court Cassation Division Bench Judge (Addis Ababa, 3 May 2022)
3. Interview with Mr. Abdusalam Siraj, Oromia Supreme Court Cassation Division Bench Judge (Addis Ababa, 3 May 2022)
4. Interview with Mr. Merga Ayana, Rural Land Registration and Certification System Expert at Oromia Land use and Development Bureau (Addis Ababa, 26 May 2022)
5. Interview with Solomon Burka, an Advocate in Oromia Regional State (Addis Ababa, 28 December 2016)
6. Interview with Teshale Didha, Deputy Head of Oromia Land Use and Development Bureau, (May 25, 2022 at 8:00 local time.)

Focus Group Discussions

1. FGD with Merga Tolcha, Samuel Barsisa, Bekele Debisa, Gamachu Tadele, Ararso Hika and Lata Zerihun at (Lemi Kura Sub-city, Woreda 04 or Bole-Arabsa), May 12 ,2022 at 4:00 local time).
2. FGD with Robera Disasa, Teshale Ayana, Bariso Fita, Talila Deresa, Shimalis Hundesa, Taresa Urgii, Gamada Olana at (Akaki Kaliti Sub City, Woreda 11 or KoyeFoche), May 14 ,2022 at 8:00 local time).
3. Various Focus Group discussions were held with residents of the two sub-cities and the farmers in the area with in their respective date of field Visit.

Annexes

Annex I: - Interview Guides

Interview Questions for the Government Officials and residents of peri-urban areas of Addis Ababa.

A. Interview Questions regarding Legal, Constitutional and Institutional Framework of Informal land holdings

1. What is the status of informal land holdings under statutory laws?
2. What is the status of informal landholdings under regional and federal Courts?
3. What is the status of informal landholdings in government institutions?
4. What is the practice of relevant government institutions regarding informal landholdings?

B. Interview Questions regarding Praxis of informality of landholdings

1. What is the nature and manner of obtaining informal landholdings in the peri-urban areas of Addis Ababa?
2. How does Courts in Oromia regions treat informal land deal disputes in context with Constitutional Provisions?
4. Is the case load of informal land deals in Oromia regions increasing or decreasing in the areas neighbouring Addis Ababa?
5. How do you see uniformity of decisions in handling land matters in the country and in your regions particularly?
6. Is there any circular or directives enacted to bring uniformity or consistency of decisions in handling the cases related to informal landholdings in the country or in Oromia regions?

C. Interview Questions regarding Conceptual Framework of Peri-urban areas of Addis Ababa

1. What is the impact of urbanization on peoples living in the peri-urban areas of Addis Ababa?
2. What is the role of government institutions in enhancing informality of landholdings?
3. Is there adequate institution existing in the city performing regularization process?
4. Do you believe that the existing law can solve the problem of informal landholdings? If your answer is yes telling as your reason?
5. What steps should be required for regularization procedure?
6. What are the effect of regularization on tenure security, economic development and? political stability?
7. What factors contributing for delay of regularization process?
8. What is the implementation and status of regularization process in the city?

9. How can regularization reduce urban poverty?
10. Regarding illegal construction or informal settlements what type of policy need to be available?
11. Are there adequate institutional and legal frameworks to solve the existing informal landholding problem?
12. What is the process and modalities of informal land transaction in the peri-urban areas of Addis Ababa?