

LAND GOVERNANCE IN ETHIOPIA: TOWARDS EVALUATING GLOBAL TRENDS

*Daniel Behailu **

*Adisu Kasa ***

ABSTRACT

Land is a vital resource and a driver of economic growth and development. The way it is governed and administered therefore has a significant impact on a certain country's future. Land and the institutions that govern its ownership and use greatly affect economic growth and contributes in poverty reduction. Lack of access to land and inefficient or corrupt systems of land administration have a negative impact on a country's investment, climate and general wellbeing of the society. Well-functioning land institutions, land markets and easy access to credit facilities for entrepreneurs contribute for development.

Land governance must help to eradicate poverty, not contribute to it. Hence, Ethiopia needs to have a land governance policy that fosters transfer of land rights, fosters respect for human rights, and rescues the environment from imminent peril in line with the principles of sustainable development. Hence, this article contributes knowledge towards responsible land governance and evaluated the Ethiopian lands regime in line with the accepted norms of land governance. Thus, the method of analysis is doctrinal legal research.

Key Words: *Land, Land Governance, MDG, Sustainability, Poverty.*

Abbreviations

AA-Action Aid

EU-European Union

FAO-Food and Agriculture Organization of the United Nations

*LL.B (Addis Ababa University), LL.M (Delhi University), PhD (Giessen University, Germany), Assistant Prof. at Hawassa University; email address: d.behailu@yahoo.com

**LL.B (Dilla University), (LL.M Hawassa University); Lecturer at Meda Walabu University; email address: adisukasa@gmail.com

FDI -Foreign Direct Investment

GDP- Gross Domestic Product

IIED-International Institute for Environment and Development

IFAD-International Fund for Agricultural Development

ILC-International Land Coalition

IMF-International Monetary Fund

MDGs-Millennium Development Goals

NGOs -Non-Governmental Organizations

OECD-Organization for Economic Co-operation and Development

UN-United Nations

VGs -Voluntary Guidelines on Tenure of Land, Forests and Fisheries

WB -World Bank

1. INTRODUCTION TO LAND GOVERNANCE AND DEVELOPMENT

1.1. BACKGROUND OVERVIEW

Land is a vital resource and a driver of economic growth and development.¹ Land is one of the greatest resources in most countries. People require land and related resources such as forests and water for the production of food and to sustain basic livelihoods. Land provides a place for housing and cities, and is a basic factor of production as well as a basis for social, cultural and religious values and practices. Access to land and other natural resources and the associated security of tenure have significant implications for development and security. Nonetheless, the land rights of the poor and vulnerable are increasingly affected by climate change, violent conflicts and natural disasters, population growth and urbanization, and demands for new energy sources such as bio-fuels.²

While some progress has been made in improving secure access to land and other natural resources for the rural and urban poor, a number of longstanding challenges remain. Although ancestral rights to land and other

¹Amartya Sen, *Poverty and Famines: An Essay on Entitlement and Deprivation*, 1981.

² David Palmer et.al, *Towards Improved Land Governance*, 2009.

natural resources are a cornerstone of the livelihoods of indigenous people, the legal recognition and safeguarding of such rights has been uneven.

The paper argues that the quality of land governance is an important determinant of the number and scale of tenure-related problems. The quality of land governance, moreover, will also affect the outcome of reforms designed to address these same problems. Weak land governance has adverse consequences for society. It is found in formal statutory land governance as well as in informal and customary tenure arrangements. The poor are particularly vulnerable to the effects of weak governance as they lack the ability to protect their rights to land and other natural resources. In many cities, the poor live under the fear of forced evictions, or more commonly today, development based eviction.³

Weak governance promotes gender inequality as poor women tend to be less able to secure their rights. It fosters social inequality with potentially destabilizing consequences as the rich are able to benefit from opportunities to acquire land and the poor lose their rights to land and common property resources such as grazing lands and forests, jeopardizing community land rights. In addition, weak governance leads to environmental degradation as corrupt public officials and private interests collude to ignore controls on land use, the extraction of water and minerals, and the clearing of forests. The degradation of state land, including national parks, and its illegal appropriation are direct results of weak governance. The evasion of property taxes reduces municipal revenues that could be used to extend infrastructure and provide basic services. The arbitrary application of the rule of law discourages investment and constrains economic development. Weak governance in land tenure tends to flourish where the law is complex, inconsistent or obsolete, where people who work in land agencies lack motivation and are poorly trained and paid, or where decision-making processes are opaque and civil society is weak. Left unaddressed, land-related grievances can degenerate into violence and conflict.

In contrast, good governance of tenure can ensure that rights in land and natural resource are recognized and protected. By doing so, it helps to reduce hunger and poverty, promotes social and economic development and

³ *Ibid.*

contributes to more sustainable urbanization.⁴ Good governance can contribute to the achievement of a variety of development objectives, including the achievement of the Millennium Development Goals (MDGs), the goals are also aligned to the SDGs.

With respect to MDG1 (Eradicating extreme poverty and hunger) secure access to land and other natural resources is a direct factor in the alleviation of hunger and poverty. Rural landlessness is often the best predictor of hunger and poverty: the poor are usually landless or land-poor. Improved access to land may allow a family to produce food for household consumption, and to increase household income by producing commodities for sale in the market. Secure access to land provides a valuable safety net as a source of shelter, food and income in times of hardship. In cities, security of tenure is a prerequisite for poverty reduction. An estimated 700 million urban poor live in conditions of insecure tenure and an estimated 2 million people are forcibly evicted each year.⁵ Security of tenure for the urban poor promotes investment in homes, neighborhoods and livelihoods, including urban agriculture.

Again MDG3 (promoting gender equality and empower women) need to be considered while talking about land governance. Women often have fewer and weaker rights to land for a variety of reasons including: biases in formal law, in customs, and in the division of labor in society, as well as due to the HIV/AIDS pandemic and the increase in violent conflict and natural disasters that can increase the risk of disinheritance. Land tenure initiatives that promote gender equity can serve to increase women's power in agricultural production and help secure their inheritance rights. Rights to land are also linked to other access and resource rights, including water, pasture and to timber and non-timber forest products. Secure rights in land can also enhance political voice and participation in decision-making processes.

MDG7 (Ensure environmental sustainability) is also a factor that comes in matters of land governance. Through MDG7, Target 11, Governments commit to having “achieved a significant improvement in the lives of at least 100 million slum dwellers” by 2020. Today there are an estimated 900

⁴ Land Governance in Support of the Millennium Development Goals (FIG / World Bank 2009).

⁵*Ibid.*

million slum dwellers; this figure is projected to increase to 1.4 billion by 2020 and may reach 2 billion by 2030. These figures suggest that even if Target 11 is achieved, it will meet only a small proportion of existing needs and only seven percent of future estimated needs by 2020.⁶ Many informal settlements are located on hazardous land and are at risk from natural disasters and climate change. High land values in urban and pre-urban areas can also create opportunities to use the windfall gains to upgrade informal settlements while minimizing the need for relocation. Ensuring an adequate supply of affordable land is also critical to the prevention of the growth of new slums. Tenure also plays an important role in rural environmental sustainability. By defining access and security of rights to land and its resources, tenure affects how people decide to use the land, and whether they will invest in improvements to the land. Inappropriate tenure policies and inequitable access to land result in over-cultivation and overgrazing of marginal lands. Farmers are more likely to invest in improving their land through soil protection measures, planting trees and improving pastures if they have secure tenure and can thus expect to benefit from their investments over the longer term.

Improving tenure arrangements and governance can play a substantial role in the achievement of MDG8 (the development of a global partnership for development). This goal includes a commitment to good governance both nationally and internationally under Target 8.A (“Develop further an open, rule-based, predictable, nondiscriminatory trading and financial system”), and the recommendations of this paper are directly relevant to meeting that goal. There is a perceived need for a global partnership to improve coherence among donor approaches and to develop standards for the governance of land tenure. At the country level, the global partnership can also be reflected in strengthened efforts to improve donor coordination in the land sector in line with the Paris Declaration (2005).⁷

In addition, improved access and tenure security contribute indirectly to other goals. Legally recognized rights in land are often critical to establishing legal identity, which in turn is linked to access to other services such as education (MDG2) and health (MDG5). Secure rights also help ensure that

⁶ David Palmer et.al, *supra* note 2.

⁷ Paris Declaration, 2005.

women's land and property rights are not at risk of disinheritance due to HIV/AIDS (MDG6). Achieving good governance in land is not easy. Policy reforms to strengthen governance require the political will to overcome opposition from those who benefit from non-transparent decision-making and corruption. Improving governance demands the strong commitment of the people involved, and the development of capacity in order to make changes possible. A number of countries around the world have recognized the link between improved land governance, poverty reduction and the achievement of the Millennium Development Goals.⁸

However, in juxtaposition to the MDGs and development plan of Ethiopia, the land regime stands often either in conflict or that it lacks harmony and unity of purpose.

1.2. HIGHLIGHT OF CURRENT LAND GOVERNANCE IN ETHIOPIA

In Ethiopia, all land is under public/state ownership. While land is not subject to sale or other means of exchange, the government does recognize use rights and holdings. The country's legal and institutional structure with regard to land governance has been criticized for being unnecessarily complicated. The Ministry of Agriculture and Natural Resource is the key responsible organ (under the directorate for land administration and use) towards discharging federal roles in land governance and revisiting existing legislation and so on. The land regime is found in different legislation and again backed by also different customs. The typical feature, therefore, is plurality of laws and institutions. Moreover, Ethiopia's federal structure gives its regions a lot of autonomy, which, in turn, has led to a coexistence of different laws and institutions with at times unclear responsibilities at different levels.

1.2.1. Matters of Urban Land

Urban land administration is given under the federal constitution to city governments and municipalities. However, there is no common system to administer land in urban areas. Urban land is governed essentially through a

⁸ David Palmer et.al, *supra* note 2.

lease system, a perpetual permit system and separate legislation for condominiums.⁹ While the 2011 Urban Land Lease Holding Proclamation stipulates that the leasehold system will apply to all urban land areas irrespective of how they were acquired, relevant authorities have yet to adopt the leasehold system. This has led to the coexistence of different systems and a high level of informality. In addition, there is no real system to record rights and restrictions, and the registry faces multiple challenges. There is a standard registration fee of ETB 45 per registered property plus an additional stamp duty of 2% of property value.

Nevertheless, as property value estimates are considered to be very low due to the absence of a standard property valuation system, experts argue that there is a significant loss of potential revenue. The urban planning and expansion of Addis Ababa, the capital, is also a contentious issue. This is particularly in the context of urban investments and growth.¹⁰ The World Bank study highlights the encroachment of the city's master plan in current urban developments. For example, most of the green areas and some of the roads in the master plan have been allocated for private use. Moreover, the city's expansion also has consequences for the surrounding Oromia region. According to a new iteration of Addis Ababa's master plan, which has been met with opposition (and later on officially abandoned by the government) by Oromo residents, Oromia would lose an additional 36 towns and cities to Addis Ababa.¹¹ According to researchers, the city's expansion in the past has led to forced evictions and displacement of local farming Oromo residents. Protesters feared that seceding Oromo lands to Addis Ababa would lead to more losses in Oromo identity and culture. Thus, urban expansion here and there is being done at the expense of the surrounding farming community without proper compensation plan.

1.2.2. Matters of Rural Land

Rural land administration is afforded to the regions. These take the form of administrative bodies such as, for example, in the regions of Amhara and

⁹Belachew, M. and Aytenfisu, Facing the Challenges in Building Sustainable Land Administration Capacity in Ethiopia (FIG Congress, 2010).

¹⁰Yirsaw, B., Urban Land Lease Policy of Ethiopia: Case Study on Addis Ababa and Lease Towns of the Amhara, 2010.

¹¹ Think Africa Press, Protests Grow over Addis Ababa's Expansion, 2014.

Tigray, the “Land Administration and Use Bureau or Authority” or in the region of Oromia, the “Land Administration and Use Bureau. However, unclear responsibilities at different levels of government have led to overlaps. For example, in rural areas, both the land administration institutions and the investment authorities have a mandate to allocate land to investors.

In addition, land registration and certification is also delegated to voluntary, community-elected Land Administration Committees at *kebele* (village) and *woreda* (district) level. While these committees have been argued to build community trust in land registration, others point out that these committees are not always provided with sufficient resources. The Ethiopian constitution maintains that all rural residents are entitled to indefinite-term use rights to land. However, the transferability of use rights is primarily restricted to inheritance. Moreover, land laws also mandate that landholders either farm their land or risk losing it through redistribution or expropriation. In other words, rural landholders cannot lease out and stay away from their holdings and pursue nonagricultural livelihood strategies. For example, in the Tigray region, land use right can be lost if the holder leaves the *kebele* for more than two years.

Critics of the government-owned land system have argued that the fear of land redistribution have heightened the farmer’s sense of tenure insecurity and undermined investment in productivity. At the same time, critics also argue that it diminishes rural urban mobility as farmers are bound to a life of farming in order to remain landholders.

While land use is free for rural farmers, there are fees collected during rural land registration, namely for certificate costs. However, these are waived for first-time registration in some states. Registration fees range between ETB 5 to ETB 2 depending on the state. While experts have praised Ethiopia’s rapid, pro-poor and gender-sensitive rural land right registration over the past years, issues still remain.¹² For example, only five of the nine regions have actually enacted laws to register rural land holdings. In addition, Ethiopia does not have sufficient land record-keeping systems. This risks undermining

¹² World Bank, *supra* note 4.

the land registration process itself. The tenure insecurity that this causes is argued to lead to informality and hinder rural income diversification.¹³

2. LAND GOVERNANCE AND THE GLOBAL AGENDA

2.1. MEANING AND ESSENCE OF LAND GOVERNANCE

While the term “land” has a long-established history, the concept of governance emerged in its current form only in the 1980s. While many institutions have developed their own definitions, four specific characteristics of the concept are now generally accepted.¹⁴ First, governance is conceptually broader than government. An inclusive approach is fundamental because, in many countries, state actors co-exist with their customary, religious and/or informal counterparts. The stakeholders in land thus reflect a broad spectrum of state actors, customary authorities, non-state actors, and the private and professional sectors. Hence, land governance must bring together and network all stakeholders. Governance is more about cooperation than confrontation, and especially in land it is more about cooperation with all stakeholders.

Second, governance emphasizes processes and institutions. Processes define how issues are put on the agenda, how decisions are made and by whom, how those decisions are implemented, and how differences and grievances are managed. The focus on processes also highlights the importance of different ways actors can interact: dialogue, cooperation, conflict, unilateralism, negotiation, compromise, exit, etc. As interaction can change from one mode to another, a governance paradigm also implies dynamic system. From an institutional perspective, governance refers to the rules and the structures that govern and mediate relationships, decision-making and enforcement. As noted above, the rules and structure of land tenure can be formal (e.g. laws, regulations, and bylaws administered by parliaments, courts and municipal councils) as well as informal or customary (e.g. elders councils, social networks, patronage, etc.) or a combination. Hence, the concept of governance fits neatly with this pluralistic institutional framework

¹³ World Bank, *Diagnosing Corruption in Ethiopia: Perceptions, Realities, and the Way Forward for Key Sectors*, 2012a.

¹⁴ David Palmer et.al, *supra* note 2.

for land. This is important because the legal system in some countries does not effectively recognize or incorporate customary institutions.

Third, with its emphasis on authority, governance recognizes the importance of politics and power. Politics and power relations have a significant impact on the understanding of a given context or issue, and in developing approaches for reform. Land as a key resource can be manipulated to ebb a factor for ill- governance. Hence, political commitment is needed to use the potential of land for development than exacerbating poverty. Finally, governance is conceptually neutral. The quality of land governance can be good or weak, improving or declining. In order to determine whether governance is effective or weak, one must look at processes as well as outcomes. Thus, what is land governance all about?

2.1.1. Land Governance - A Working Definition

The following working definition for land governance is proposed:

“Land governance concerns the rules, processes and structures through which decisions are made about access to land and its use, the manner in which the decisions are implemented and enforced, the way that competing interests in land are managed.”¹⁵

Land governance encompasses statutory, customary and religious institutions, as well as informal institutions. It includes state structures such as land agencies, courts, and ministries and municipalities responsible for land. It also includes informal land developers and traditional bodies. It covers the legal and policy framework for land, as well as traditional practices governing land transactions, inheritance and dispute resolution. In short, it includes all relevant institutions from the state, civil society and private sectors.

Land governance is fundamentally about power and the political economy of land. Who benefits from the current legal, institutional and policy framework for land? How does this framework interact with traditional authorities and informal systems? What are the incentive structures for, and what are the constraints on, the diverse land stakeholders? Who has what influence on the

¹⁵ David Palmer et.al, *supra* note 2.

way that decisions about land use are made? Who benefits and how? How are the decisions enforced? What recourse exists for managing grievances? The answers to these questions vary from country to country, and from issue to issue within a given country.

2.1.2. Land Governance for Sustainable Development

Arguably sound land governance is the key to achieving sustainable development and to supporting the global agenda of the MDGs (now SDGs). Even in terms of standard indicators such as corruption, land has long been known to be one of the sectors most affected by bad governance, something that is not difficult to understand in light of the fact that land is not only a major asset but also that its values are likely to rise rapidly in many contexts of urbanization and economic development.

Beyond the negative element of reducing opportunity for corruption and bribery, good land governance is also critical as a precondition for sustainable economic development in a number of respects. First, those who have only insecure or short-term land rights are unlikely to invest their full efforts to make long-term improvements attached to the land and may instead be forced to expend significant resources to defend the rights to their land, without producing benefits for the broader economy. Land rights are particularly important for women (especially in case of inheritance or divorce) and for other traditionally disadvantaged groups such as migrants or herders.

Second, secure land tenure facilitates transfer of land at low cost through rentals and sales, improving the allocation of land. Without secure rights, landowners are less willing to rent out their land, something that may impede their ability and willingness to engage in non-agricultural employment or rural-urban migration, reducing the scope for structural change and reducing the productivity of land use in both rural and urban areas.

Third, setting up or expanding a business requires physical space, i.e. land. Nontransparent, corrupt, or simply inefficient systems of land governance constitute a major bottleneck that makes it more costly for small and would-be entrepreneurs to transform good ideas into economically viable

enterprises. Also, to the extent that easily transferable land titles can be used as collateral, their availability will reduce the cost of accessing credit, thus increasing opportunities for gainful employment and contributing to innovation and the development of financial systems.

Finally, economic development increases demand for land, and together with public investment in infrastructure and roads, tends to increase land values. But the lack of well-functioning mechanisms to tax land limits the benefit for society, in particular local governments, as much of the gains end up with private individuals and may fuel speculation. If land institutions function properly, land taxation provides a simple, yet efficient, tool to increase effective decentralization and foster local government accountability.

2.2 THE GLOBAL AGENDA IN LAND GOVERNANCE

There is no convention on land at global level yet, there are important guidelines that can be used for nations to improve their land governance system. Among these are the UN Voluntary Land guideline¹⁶, the African land declaration¹⁷ and the recent Africa women land declaration.¹⁸ These all instruments do not have a binding legal force yet they have more of political persuasive power capable of guiding the actions of governments. At the core of all these instruments is the idea of good land governance, or responsible land governance.

Land governance is about the policies, processes and institutions by which land, property and natural resources are managed. This includes decisions on access to land, land rights, land use, and land development. Land governance is basically about determining and implementing sustainable land policies and establishing a strong relationship between people and land.

Sound land governance is fundamental in achieving sustainable development and poverty reduction and therefore a key component in supporting the global agenda, set by adoption of the MDGs and SDGs. The contribution of

¹⁶Voluntary Guidelines on the Responsible Governance of Tenure of Land, Fisheries and Forests, 2009. The aim of the guideline is to explicitly strengthen people in developing nations, so that they can secure their livelihood by their own efforts.

¹⁷Declaration on Land Issues and Challenges in Africa, 2009.

¹⁸2017, Declaration.

the global community of Land Professionals is vital. Measures for adaptation to climate change will need to be integrated into strategies for poverty reduction to ensure sustainable development. The land management perspective and the role of the operational component of land administration systems therefore need high-level political support and recognition.

The Land Governance for the 21st Century theme focused on adapting and improving our approaches to land governance to be more sensitive to and supportive of these new challenges and to make stakeholders fully aware of the incentives to adopt this paradigm shift. Good land governance must not only control and manage the effective use of physical space, but must also be holistic to ensure sound economic and social outcomes. The World Bank's land governance assessment framework provides countries with an opportunity to assess and improve their current approaches to meet these global challenges, especially climate change. Land governance must be further democratized by developing tools for all stakeholders to increasingly participate and form partnerships in policy formulation, implementation and monitoring all within more realistic timeframes. The international community must also provide guidance and contract evaluation tools and services to mitigate the risks for countries negotiating international land acquisition contracts – the so called 'farmlands grab.'

2.2.1. INDICATORS OF GOOD LAND GOVERNANCE

The Land Governance Assessment Framework (LGAF) is intended as a first step to help countries deal with land governance issues.¹⁹ It is a diagnostic tool that is to be implemented at the local level in a collaborative fashion, that addresses the need for guidance to diagnose and benchmark land governance, and that can help countries prioritize reforms and monitor progress over time. The core version of the LGAF comprises a set of detailed indicators to be rated on a scale of precoded statements (from lack of good governance to good practice) based, where possible, on existing information. These indicators are grouped within five broad thematic areas that have been identified as major areas for policy intervention in the land sector:

¹⁹ Klaus Deininger et al., *The Land Governance Assessment Framework: Identifying and Monitoring Good Practice in the Land Sector* (World Bank, 2012).

A) Legal and Institutional Framework: Indicators related to the legal and institutional framework are designed to help policy makers assess (a) the extent to which the range of existing land rights is legally recognized, (b) the level of documentation and enforcement, the cost of enforcing or gradually upgrading these rights, and (c) whether regulation and management of land involve institutions with clear mandates as well as policy processes that are transparent and equitable.

B) Land Use Planning, Management, and Taxation: The intention of this category is to assess whether (a) land use restrictions are justified on the basis of the public interest, (b) necessary exemptions are granted promptly and transparently, (c) the process for land use planning is efficient, and (d) taxes on land and real estate are transparently determined and efficiently collected.

C) Management of Public Land: A focus on public land management aims to help assess the extent to which (a) public landholdings are justified and transparently inventoried and managed; (b) expropriation procedures are applied in the public interest through clear, transparent, and fair processes involving the compensation of all those who lose rights; and (c) the transferor devolution of state land is transparent and monitored.

D) Public Provision of Land Information: Indicators related to this category assess (a) whether land information systems provide sufficient, relevant, and up to-date data on land ownership to the general public and (b) whether land administration services are accessible, affordable, and sustainable.

E) Dispute Resolution and Conflict Management: This fifth set of indicators can be used to assess (a) whether a country has affordable, clearly defined, transparent, and unbiased mechanisms for the resolution of land disputes and (b) whether these mechanisms function effectively in practice.

3. CHALLENGES OF LAND GOVERNANCE IN ETHIOPIA

The challenges of land governance in Ethiopia can be contrasted to the global standards. However, there are a number of elements in Ethiopia's current land governance system that can create potential entry points for corrupt activities to occur. These include: lack of clear policies, weak institutions, lack of transparency, and limited public participation, and capacity challenges. These points relate to both urban and rural land.

3.1. LACK OF CLEAR LAND POLICIES GEARED TOWARDS DEVELOPMENT

The Ethiopian land governance system is troubled with a high degree of informality. One of the main causes of this is the absence of clear legislation as well as confusion about the applicability of legislation. Indeed, where there is legislation, implementation guidelines are oftentimes lacking, which creates confusion. No single document sets out Ethiopia's land policy. Moreover, with guidelines or without, the enforcing institutions are weaker.

Instead, laws and policies must be inferred from federal laws, together with laws and directives set by regional and municipal governments. In some cases, there is confusion on the applicability of laws. The country lacks comprehensive land policy. Lack of compressive land policy and strong institutions which help in the implementation of the policy at a federal level has been a major flaw of the land governance regime. The laws lack consistency and coherence because they lack a policy guide which gives general guide to the laws put in place.²⁰Ethiopia's legal framework comprises its constitution, federal laws (the civil code, the 1997 rural land law as anew enacted in 2005 (it is also being revised now, draft level), and the 1993 urban land lease law, revised in 2002, and enacted anew in 2011 and regional laws and directives.²¹Besides, the customary land governance

²⁰Daniel Behailu, *Transfer of Land Rights in Ethiopia: Towards A Sustainable Policy Framework*, 2015.

²¹For rural areas, see the Rural Land Administration Proclamation (No. 89/1997) and the Rural Land Administration and Land Use Proclamation (No. 456/2005) issued at the federal level; the Revised Amhara National Regional State Rural Land Administration and Use Proclamation (No. 133/2006); the Regulation for the Implementation of Proclamation 133/2006 (Regulation No. 51/2007); Oromia National Regional State Proclamation (No.

institutions are at large. However, the formal laws stipulate that all land is owned by the government, but use rights of holdings are recognized: private individual; communal, in rural areas; and condominium, in urban areas. Some heterogeneity occurs across regions, which are assigned responsibility for land management and administration by the constitution.

In matters of rural areas, almost all regions had passed implementing legislation or regulations to issue land certificates that recognize individual rights.²² Thus far, registration and certification of rural private holdings have covered close to 100% percent of rural households in the major four regions. Though individual rights are recognized, their transferability is restricted in a number of ways.

Private holdings cannot be sold or otherwise transferred except through inheritance, which is restricted also to family members.²³ Although rents are allowed, in most regions only part of a holding can be rented out fulfilling many precondition (minimum holding, consent, certification, etc.), and there is also upper limits on the lease period.²⁴ The constitution maintains that all Ethiopians can get rural land use for free on condition that one is of age and is willing to live on agriculture.

This may significantly limit tenure security. Subdivision below a minimum parcel size of 0.5 ha in rural areas and 2.0 ha in resettlement areas is also

130/2007), Proclamation to Amend Proclamations 56/2002, 70/2003, 103/2005 of the Oromia Rural Land Administration and Utilization Proclamation; Southern Nations, Nationalities, and Peoples Regions Rural Land Administration and Utilization Proclamation (No. 110/2007); Tigray National Regional State, Rural Land Administration, and Utilization Proclamation (No. 97/2006); and Tigray Land Administration and Utilization Regulation (Regulation No. 37/2007). For urban areas, see Proclamation No. 80/1993 and the Lease Proclamation No. 272/2002.

²²However, some regions (Afar, Benishangul-Gumuz, Gambella, Harar, and Somali) lack implementing legislation, making it difficult to formally recognize or enforce peasants' and pastoralists' rights. Afar is reported to have issued a rural land administration proclamation recently.

²³Investors can pledge their use rights over the remaining lease period as collateral.

²⁴For instance, the SNNPRS land administration law (Proclamation No. 110/2007) provides that land rent among peasants can be for a duration of up to 5 years and for investors for a duration of up to 10 years, or rent may extend up to 25 years if the investor is cultivating perennial crops (Article 8). The Oromia Land Administration Law (Proclamation No. 130/2007) provides a duration of up to 3 years if the land is rented out to traditional farmers and up to 15 years for mechanized farming and also limits the land to be rented out to half of a peasant's landholding (Article 10).

prohibited. Though these restrictions may appear justified from a perspective of equity or productivity, they may in practice contribute little to either or even have perverse effects, and may lead to informality, or may hinder rural income diversification.

The laws are also not clear with regard to communal landholdings because they lack provisions about the nature of those rights and of ways to record or enforce them. The resulting legal vacuum threatens to undermine equity and effective management of common property resources. This hazard is particularly relevant for pastoralists (15 percent of the rural population), whose rights, despite a communal use pattern, appear to be treated as individual ones. Besides, community lands in the highlands are also of prime importance as they are keys in livelihood diversification via providing grazing land. Often community land is not registered yet at times, without a clear definition, *ad hoc* practices have often been adopted in land certification, with such lands often registered in the name of the *kebele* (village) government. This practice is not conducive to effective management and may lead to encroachment and poor management of such lands.

In urban areas, the previous and the current Urban Land Lease Holding Proclamation No. 721/2011(the Lease Proclamation) stipulates that land is allocated through lease system yet regularities are also common feature. The law does not provide criteria to determine as to how the lease system is to operate (via auction, or negotiation or lots). There is also a problem of coexistence of the old permit system (permits granted prior to 1993), under which an annual land rent is paid to the government, and the new lease system (from 1993 onward), which requires payment of the agreed-on lease amount to the relevant government within a period of time to be determined by regions or city government within the lease contract. The Lease Proclamation stipulates that the leasehold system will apply to all urban lands irrespective of how they were acquired. However, the fact that the relevant authorities have to first adopt the leasehold system, something that has rarely happened, leaves ample room for discretion.²⁵ For example,

²⁵The Lease Proclamation (No. 272/2002, Art. 12/2) states that urban land use may be changed only through a permit granted in writing by the appropriate body. Subsection 3 of the same article provides that the period of a lease for urban land, performance of payments,

whereas large towns in Amhara have moved to the lease system, smaller towns have adopted a permit rent system on a virtually permanent basis.

Even under the lease system, payment schedules are excessively complicated, and amounts collected total only a fraction of market values, suggesting that local governments lose large amounts of revenue and the system may not be sustainable.

In contrast to practices for rural land, urban leases or permits are fully transferable except the curtailment introduced in the new lease proclamation of 2011.²⁶ However, the lease proclamation fails to deal with formalization of informal residential holdings. Rules of adverse possession (long-term peaceful use without legitimate challenge over a period of 15 years) that are still operational under the civil code may provide some legal basis for recognizing squatters' rights. However, because the code refers to private rights only, its applicability is far from certain. Also, transfer of rights through sale or change of use for commercial purposes will convert the permit into leasehold.

Condominium holdings, which have become widespread in urban areas, are also recognized under Condominium Proclamation No. 370/2003. That document provides clear rules regarding the management of the building, but it lacks clarity regarding the rights to the land beneath the common property.

Apart from condominium holdings, there is no legal recognition of communal holdings such as green areas, forestland, playing fields, and so forth in urban areas, although such holdings exist and are identified in urban plans. Thus, registration of individual holdings in urban areas is lagging rural areas; in 2006, the share of registered housing units was estimated to be 95 percent in Adama (Oromia), 65 percent in Addis Ababa (Oromia), 50 percent in Bahirdar (Amhara), 75 percent in Hawassa (SNNP), and 90 percent in Mekelle (Tigray).²⁷

and tax rates are to be changed upon such conversion. This part seems intended to allow the government to capture a share of benefits arising from land use changes.

²⁶Article 13 of the Lease Proclamation (No. 272/2002) stipulates that any leasehold possessor can transfer or mortgage the right of leasehold.

²⁷ Klaus Deininger et al., *The Land Governance Assessment Framework: Identifying and Monitoring Good Practice in the Land Sector* (World Bank, 2012)

If one takes into account that a large number of holdings have not yet been formalized, only about 25 percent of the existing individually held urban properties are estimated to be registered in these offices. Between 35 percent and 45 percent of land registered to physical persons is estimated to be registered in the name of women, with variations across regions.

In Amhara, more than 85 percent of certificates name a woman as individual or joint holder, but this share is lower in Oromia and SNNP, where polygamy is more common and holdings are registered in the name of individuals rather than households. Still, there is no doubt that the campaign to register land has significantly improved women's land rights. The requirement in Amhara and Oromia not only to list females' names on certificates but also to have their pictures attached appears to have had a very positive effect in this respect.

Though informal settlements account for up to 30 percent of residential holdings in Addis Ababa, no policies or procedures require the systematic regularization of informal holdings. In fact, formalization projects have no basis in federal legislation, and the few sporadic initiatives to formalize existing settlements (in Addis Ababa, *Diredawa*, and Hawassa) were very costly and of a discretionary nature. Established by *ad hoc* municipal directives, they lacked transparency and were discontinued without reaching their targets.

3.2. WEAKER INSTITUTIONS

As with legislation and policies, there is a lack of clarity regarding the roles, responsibilities and mandates of institutions. In principle, assignment of responsibilities for policy making and implementation is unambiguous: the federal level formulates policies; regional or municipal governments are responsible for implementation and management of land administration; and the judiciary resolves disputes that might arise in the process. The practice is more complex and could give rise to concerns regarding governance.

Although no single document sets out Ethiopia's land policy, principles can be inferred from federal laws, together with the laws and directives promulgated by regional and municipal governments. However, the wide delegation of federal mandates to lower levels of government, without

sufficient policy guidelines or laws to clearly define the roles of various levels of government, causes ambiguities and vertical overlap.²⁸ In fact, the mandates on land allocation and administration to the different levels of government within a regional state are usually determined by unpublished administrative directives that often change quickly and without public notice. These practices are not in line with principles of good governance. This problem is mirrored on the side of the judiciary, where unclear mandates of federal first-instance courts, municipal courts, and land clearance and appeals commissions create temptations for forum-shopping and contradictory rulings.

In addition to unclear responsibilities at different levels of government, horizontal overlap is an issue. In rural areas, both the land administration institutions and the investment authorities have a mandate to allocate land to investors. In Addis Ababa, there is lack of clarity regarding the roles of the central administration and the 10 sub-cities in allocating land and administering rights over land.

In one case, this complexity led to allocation of public use areas to construction of housing and commercial buildings. Although the municipal agency responsible for management of parks and green areas in Addis Ababa belatedly identified the trespass of its mandate, no action was taken, because construction had already begun. The fact that the allocating authority felt secure in its mandate to manage the concerned areas, together with the delayed and ineffective response by the agency that was by law responsible for making decisions, illustrate the extent to which mandates are confused and the effect on land governance.

Some institutions have prerogatives for both policy making and implementation, which may lead to conflicts of interest. Three prominent cases are (a) the Ministry of Agriculture, regarding management of forestland and wildlife; (b) the delegation of legislative powers on important policy issues to regional and municipal land administration authorities, in addition to the authorities' primary policy implementation mandates; and (c) the fact that members of the executive who decide on expropriation may sit

²⁸ These lower levels of government that receive mandates are the village (*kebele*), district (*woreda*), municipality, zone, and region.

with the Clearance Order Appeals Commission that decides appeals in expropriation cases.

The widespread practice of assigning members of legislative councils and executive committees to serve on land administration committees and lease boards, which have both executive and adjudicatory functions, can also create conflicts of interest. This possibility is not only theoretical; the fact that these committee members sit concurrently on the respective regional or municipal executive councils is reported to have led to the issuance of directives that were specifically targeted to influence the resolution of specific cases.

In addition to the constitutional provision that gives every rural Ethiopian the right to a plot of land, rural land laws explicitly recognize land rights of orphans and women. The corresponding urban land lease laws have provisions making reference to women and persons who have disabilities or who are physically challenged.²⁹ However, the equity effect of land policies is not systematically monitored in a way that allows public scrutiny. Although land institutions submit periodic reports, the source and reliability of the underlying data are not always clear. Also, though participatory procedures for lawmaking are enacted and further reinforced by the apparent decentralization of decision making, many laws were developed by experts with little or no public consultation prior to draft laws being forwarded to the legislature. Even in cases of consultation, as in the case of developing the building code, input was by invitation only, something that may exclude many relevant stakeholders such as the academic community and other non-state actors.

3.3. LACK OF TRANSPARENCY AND PUBLIC PARTICIPATION

Another key issue is the lack of transparency and access to information. Lack of transparency is seen to permeate almost all aspects of land administration. For example, some of the policies that govern land administration are determined on the basis of unpublished directives, as mentioned above. This creates a system of uncertainty and lack of clarity for those involved in land

²⁹ See, for example, The Rural Land Administration and Land Use Proclamation No. 456/2005, Art.5.

administration. Only about 25% of individually held urban properties have been recorded and the records are not reliable or conclusive. About 70% of rural holdings have been registered, but the records are not being kept up to date, which reduces their usefulness.³⁰ Ethiopian land administration also lacks an inventory of public land systems. Rural areas have no maps of registered holdings and urban areas have limited mapping of registered property. This makes the issuing of forged documents easier.

There is also lack of transparency in the allocation of public land. For example, due to the lack of transparency around tendering for land leaseholds, many people resort to corrupt means to gain land. Moreover, the lack of transparency heightens the insecurity of many land users who are unaware of their rights.

Experts agree that there is limited participation in the land administration process. This affects, for example, the preparation of land use plans. Limited public consultation leads to very limited public awareness of policy and public engagement with policy implementation. Ethiopia's commercial leasing process to foreign investors has also been criticized for lacking transparency and public participation. It is argued that the leasing process does not adequately consult with stakeholders (including current users of the land) and the terms of the leases are not transparent. As such, there have been some cases large-scale agricultural projects that are not being used as intended. Similarly, it is argued that Addis Ababa's master plan was developed with little public participation of Oromo people.

3.4. LACK OF CLEAR PROCEDURES FOR UPDATING LAND RECORDS AND REGISTRATION

Rural land certification in Ethiopia's four main regions is one of the largest and most cost-effective land registration programs worldwide. Over a period of three to five years, the initiative has registered some 25 million parcels. It has been implemented effectively and in a participatory, pro-poor, and gender-sensitive manner. The program significantly departs from the approach of the traditional land titling interventions in a number of ways: (a) by issuing usufruct rights certificates rather than full titles; (b) by promoting

³⁰ Klaus Deininger et al., *supra* note 27.

gender equity with joint land ownership; (c) by using a participatory, decentralized process of field adjudication; and (d) by using low-cost community identification of boundaries.

All of these helped establish the basis for a low-cost land administration system in rural areas. The cost of registering a property transfer is low, particularly in rural areas. The only fees collected on rural land registration relate to certificate costs, and even these are waived for first-time registration in Amhara. Rural landholding certificates are issued to landholders for free in Amhara, for ETB 5 in Oromia, and for ETB 2 in SNNP. The direct costs of land registration have been calculated at about ETB 29.5 per household or ETB 8.3 (less than US\$1.00) per plot, excluding the cost of the certificate and the annual maintenance cost once the cadastre is established. Registries operate as part of the general administration rather than on a self-sustaining basis.

There is practically no capital investment in the rural land registration system, something that jeopardizes the financial sustainability of the registry.

For sustainability of the gains from first-stage certification in rural areas,³¹ land records need to be properly maintained, in particular, those involving the registration of changes. Procedures specify that duplicate registry books be maintained at village (*kebele*) and district (*woreda*) levels, but lack of registry books by many *kebeles* requires travel to the *woreda* to make changes. The type of books of possession issued to landholders varies widely across regions, with some being parcel based and some being holding based. Agreement on a common computerized system is lacking, and fundamental questions remain unresolved.

No clear procedures exist for updating records, and neither registry books nor landholding certificates are structured in a way that would facilitate recording of changes in rights over time.³² There are no clear rules on when

³¹ The first stage involves the issuance of textual holding certificates that identify neighbors. They do not include boundary descriptions that are to be provided by cadastral maps, which are to be generated in a second stage.

³²For example, landholding certificates in Oromia and SNNP provide no space for updating. Registers used in Amhara, Oromia, and Tigray provide spaces for transfer through inheritance or expropriation. Short-term transfers are not considered in the registers of any region.

and how registers must be updated (for example, inheritance or short-term transfer) or what sanctions may be incurred if that is not done. This lack of requirements suggests that no information is available on recorded (or actual) transactions.

Because none of the regions have developed ways to prepare cadastral maps on a large scale, rural land records lack a spatial reference. Neither private encumbrances nor public restrictions are recorded, and the records in the registry can be searched only by holder name. Although some rural areas have *ad hoc* standards relating to requirements for services and a time frame for service provision, there is no evidence of their publication. Instead, customers are normally informed of applicable standards at the time of their request. Even where individual rights have been registered, little, if any, of the land held under communal tenure has been mapped and recorded, which reportedly gives rise to significant encroachment.

Given the lack of a formal urban registration system, registration in urban centers is normally linked to the provision of land for new holdings or transfer of ownership for existing holdings. Cadastral plans often identify parcels on A4-size plans prepared in AutoCAD that are printed and appended to the file or, in the case of Addis Ababa, are printed directly on the title certificate.

Though the practice is not consistent, municipalities in major towns mainly keep ledger books (registers) for transfers, mortgages, and title deeds separately. Urban ledger books for title deeds, the nearest thing to a register in some of the urban centers, are stored as files for each property identified by a physical address. Private encumbrances, if registered at all, are thus listed in separate documents, and the fact that registers are held separately from each other without clear cross-referencing makes it difficult for third parties to access them.

The extent of timely access to relevant urban property records varies across urban areas as well as institutions within the same municipality. Although authenticated copies of title deeds and transfer contracts are swiftly provided upon request in Addis Ababa, other municipalities without computerized systems have cumbersome procedures that take significantly more time. Misplacement or even loss of files is also a serious problem in municipalities

and semi-urban areas. Available information indicates that service standards exist only for a few aspects related to property registration in urban areas. Even these incomplete standards are rarely published and may change at any time without notice.

In urban areas, information on land rights is available to interested institutions upon written request at no cost. But the absence of relevant information, such as encumbrances over property, makes it very difficult to access land information in practice. Registration fees can be obtained by asking, although they depend on property values. Only intermediaries can obtain copies or extracts of documents, which usually takes more than a month. Mechanisms to handle complaints on land registration include the Office of the Ombudsman at federal and regional levels, as well as complaint committees in most major towns and in rural areas. Because these operate outside the registry system, there is little monitoring of staff in the registry or proactive systems to discourage illegal activity by registry staff.

The costs of adding a title plan to a certificate is about ETB 250. Similarly, the only fees directly related to registration are rather low, at ETB 45 per registered property. In urban areas, an additional stamp duty of 2 percent of property value must be paid. Given widespread under declaration of property values, actual amounts paid are low, contributing to insufficient capital investment in the system.

3.5. LACK OF AN EFFECTIVE DISPUTE RESOLUTION MECHANISM

Disputes over land are common over the world: for example, neighbors disagreeing over boundaries, two parties disputing ownership over a piece of land, conflicts between landlords and tenants, disputes over use rights on common property or collective land, intra-household disputes, inheritance disputes, etc. The critical governance issue regarding disputes, however, is not whether there are disputes, but rather what rules, processes and mechanisms are in place to address grievances, manage disputes and to enforce agreements.

The lack of an effective dispute resolution in the land administration system gives officials a lot of discretion in resolving disputes (World Bank 2012b).

Rules for access to land are not clear and some have better access than others, largely due to relationships or payment of bribes. The private sector usually cannot rely on or wait for the lease or auction process, so it looks to other means.

Despite a system of village-level courts to complement first-instance courts at the *woreda*, access to justice is difficult. Judges are often ill-informed, because it is difficult to obtain copies of regional legislation for purchase. Courts can be physically distant, especially from pastoral communities and peripheral areas; are often not functional; and may refuse to hear arguments in nonofficial regional languages. Where formal conflict resolution institutions are not functional, as well as in the lowlands, traditional and religious dispute resolution mechanisms have become the most important dispute mechanisms to replace the formal justice system. Decisions of these entities are recognized by the formal system. However, decisions by the traditional elders at the local level may not always be equitable or gender sensitive.

Parallel avenues for conflict resolution also exist, with a number of alternative forums available, including land administration boards, land clearance appeals commissions, municipal courts, regional courts, federal courts, and other institutions with adjudication mandates. There is no mechanism to share information, so collaboration between these institutions is very limited and often informal. As a result, three or four venues may entertain the same case at the same time, especially when one of the parties has the resources. In litigation on land issues, decisions at the first-instance court normally tend to favor the government. Courts are clogged with long-standing land disputes. This backlog is exacerbated by parties lodging parallel actions. It is estimated that land disputes in Ethiopia constitute between one-third and one-half of all cases within the formal justice system.

Overlap also occurs between different conflict resolutions institutions at different administrative levels and in cases of outside investment.

3.6. RESOURCE BASED CHALLENGES

Capacity limitations are also one of the challenges of land governance. In this case, capacity is seen to mean both human resources as well as technical and financial resources.

One of the drivers of corruption has to do with staff funding. Underfunded staff with low motivation that operates in an environment of complicated procedures can have a direct impact on corrupt activities.

In addition, capacity constraints are seen as a major hindrance for the Ethiopian government to carry out its land administration and record land rights. While computerization is being implemented in some level, it is challenged by lack of other infrastructure, such as broadband telecom services. Non-computerized systems have cumbersome procedures that take significantly more time.

In addition, there are issues of misplacement and loss of files. Lastly, financial unsustainability of the land registry is noted as an area of concern. For one, there continues to be limited investment in land administration. In addition, the fees for registering land, both rural and urban are noted to be especially low and not conducive to financial sustainability.

Similarly, lack of clear land valuation system has led to very low rents that do not reflect economic values of properties, which results in local governments forgoing large amounts of potential revenue, which could be used to provide services and infrastructure. While the rural registration process has been commended for positively impacting registration levels among women and the poor, it has also been criticized for allegedly creating an environment of corruption. According to the World Bank study, low fees can provide scope for petty corruption as higher, informal fees become routine in some contexts.

4. CONCLUSIONS AND RECOMMENDATIONS

4.1. CONCLUSIONS

Land is the ultimate resource, for without it life on earth cannot be sustained. Land is both a physical commodity and an abstract concept in that the rights to own or use it are as much a part of the land as the objects rooted in its soil. Good stewardship of the land is essential for present and future generations.

Effective and democratized land governance is at the heart of delivering the global vision of our future laid out in the MDGs. However, the route to this vision is rapidly changing as a series of new environmental, economic and social challenges pervade and impact every aspect of our lives. Land Professionals have a vital role to play and we must understand and respond quickly to this on-going change. Our approaches and solutions across all facets of land governance and associated Land Administration

Systems must be continually reviewed and adapted so that we can better manage and mitigate the negative consequences of change. Central to this is our response to climate change, food security and poverty alleviation.

There are guidelines, frameworks, and principles adopted and recommended by the UN, AU and EU, which could all serve as a reference point for rethinking the reform efforts in Ethiopia. However, it is to be noted that there are no binding legal documents on land governance both at the international and the African level. In the absence of such global binding laws or treaties, it is essential to pay attention to the guidelines. The guidelines give considerable flexibility and room for adjustment where there is a political will to reform the land policy.³³

4.2. RECOMMENDATIONS

Ethiopia lacks a comprehensive and versatile land policy which is detailed with proper legislation reinforced by effective implementing institutions. The

³³ Daniel Behailu, *supra* note 20.

availability of the comprehensive land policy geared towards sustainable development is not only essential but mandatory.³⁴

Policy recommendations for Ethiopia have identified the necessity to provide guidelines for the implementation of federal laws, to have harmonized and realistic restrictions on land rights, to strengthen the legal recognition of women's rights to rural land, to review participatory process in land policy and legislation, to design federal policies of formalization, to create a federal institution for land valuation, to consistently consider land values when land is transferred, to establish a complete mapping of land types, to ensure sustainability of the land registration system, and to improve local capacity.³⁵

A) Policy and Institutional Guidelines: Policies and legislation must recognize the many facets of land rights and usage. Above all, poor rural people must be empowered to participate in policy formulation to ensure that their needs and rights are addressed and protected. Although land legislation is the mandate of the federal government, key policy choices have been delegated to regional states. However, detailed guidelines on how federal laws, proclamations, regulations, or directives are to be implemented, and the hierarchy of legislation, are missing. There is no monitoring of implementation, precluding an assessment of the degree of adherence to policies and the reasons for this adherence. An institution to monitor implementation of key laws and regulations in a uniform and consistent manner would be desirable. Define roles and responsibilities of different institutions, including standards for the separation of responsibility for policy formulation, implementation and handling of disputes as well as an agreement on appropriate oversight arrangements.

B) Reasonable Restrictions on Land Rights: In rural areas, some of the restrictions on land use by peasants may be difficult to justify or implement consistently. For example, limiting inheritance to family members actually living on the land may run counter to the land policy's equity and nondiscrimination objectives and may stymie development of the nonagricultural economy. Constraints on the share

³⁴*Ibid.*

³⁵ Klaus Deininger et al., *supra* note 27.

of land that can be leased out may similarly limit incentives for investment and nonfarm employment. In fact, despite the existence of land registration, urban residents have, in practice, rights that are more robust than those of their rural counterparts. A review of land transfer restrictions is warranted, with a view to ensuring rural-urban equity in landholding rights, and in light of experience thus far. In urban areas, land use restrictions often are not enforced because laws may be conflicting. Injunctions to protect the possessory rights of persons found in violation of land use legislation are also a serious issue. Though this issue can be sustainably resolved only through a review of the 1960 civil code, its potentially irreversible impact calls for immediate resolution through specific legislation. Such legislation may also consider harmonizing adjudicatory mandates among judicial bodies at the federal, regional, and municipal levels.

- C) Appreciation of Women’s Rights to Rural Land:** Though the rights of women to have access to land on equal footing with men have been explicitly stated in the relevant federal and regional laws, and major strides to secure these rights have been made through rural land certification, two gaps remain. One is that laws in Oromia and SNNP do not clearly address the rights of women in polygamous unions. A second gap is that laws promoting female equality are limited to agrarian contexts, and guidelines are lacking for women’s rights in the context of communal landholdings in pastoral areas. A review of rural land use legislation at all levels is recommended to clarify the status of the women’s land use rights, together with follow-up actions to encourage effective exercise of these rights (for example, through female participation on land certification committees).
- D) Participatory Decision Making on Land Issues:** Carry out comprehensive public awareness campaigns, including systems to capture public feedback. Though highly desirable, decentralization in the design and implementation of land policy, legislation, and land use planning has not led to the expected levels of public participation. Thus, a review of the decision-making processes relating to land issues in light of federal policy on local government and decentralization will be useful. This effort should include a review of

the extent to which equity and nondiscrimination in land policy and legislation can be mainstreamed and integrated into existing policy frameworks. It can be combined with an assessment of the results of the implementation of rural land policy thus far and the suggestion of monitoring indicators for the future.

- E) Formalization in Urban Areas and Prevention of Informality in Rural Areas:** Informality, through squatting and non-formalized holding rights, is a problem of increasing importance for land use and policy in Addis Ababa and other towns. Yet, efforts to address the problem have been limited and piecemeal, often in the context of ad hoc measures that lacked clarity and uniformity. Given the size of the problem, it would be more appropriate to address the issue through policy decisions at the federal level. Informal settlement by peasants in forestland or other public land is also likely to become a serious challenge to rural land use, and policy measures to address the problem at an early stage are needed, preferably at the federal level.
- F) Property Valuation Institution:** Gaps and problems in property valuation are widespread. A contributing factor is the absence of a uniform system of land valuation in line with Ethiopia's land tenure system. This uniformity can best be achieved by creating a specialized institution to set guidelines for land and property valuation in urban and rural areas. Such an institution would be most effective if supported by legislative provisions at the federal level. Moreover, to the extent that the current infrastructure-based valuation system is to be maintained in urban areas, the outdated studies used as the basis for valuation need to be updated.
- G) Transfers to Take into Account Land Value Consistently:** A key factor underlying the discrepancies between the land rent and taxation systems and the market is the fact that land value is not taken into account in assessing the value of properties. Though apparently consistent with public policy considerations, the current system is unrealistic. Such deficiencies are particularly serious for compensation and relocation assistance in cases of clearance and expropriation. Mechanisms to base these cases on market values are a priority. Also,

although laws provide for compensation for clearance of land in rural areas, current practice has led to uncompensated clearance of peasants in some areas because of a failure to clearly identify the party responsible for payment of compensation. Analysis of the gaps is recommended, with identification of immediate measures to protect peasants having to clear their landholdings for urban expansion.

H) Complete Mapping of Publicly, Privately and Communally Held

Land: Although land certification had very positive effects in terms of perceived tenure security and female empowerment, incomplete registers and maps reduce its effectiveness. Efforts to put in place cadastres in urban areas are encouraging, but they should be comprehensive (covering state, private, and communal land) and clearly linked to land rights. Also, because many problems with the current land use planning and policy framework can be traced in part to absence of comprehensive and up-to-date land use information, prompt compilation of such information (including up-to-date benchmarks for valuation) is needed. Finally, there is need to ensure that institutions using land-related information share databases to avoid duplication of effort and confusion. In land dispute adjudication, absence of a mechanism to share information led to extensive forum shopping and parallel processes. Establishment of a networking system such as the one between police, prosecution, and courts in criminal cases is recommended.

- I) Sustainability of the Rural Land Registration System:** Ensuring the sustainability of rural land registration requires at least a minimum level of investment in equipment and human resources for maintenance. Such investment will need to be linked to monitoring of registry performance and establishment of financing arrangements (for example, clear user fees and possibly some cross-subsidies from urban areas) to ensure sustainability of the registration system at federal, regional, and local levels. Federal standards can greatly reduce the cost of such maintenance.

J) Strengthening of Local Governance: A very positive aspect of the current land administration system is its high level of decentralization.

However, though authority for most decisions rests at the local level, guidance to inform officials at *woreda* and village levels is lacking. Defining local governance structures, roles, and mandates in land governance should be considered. Because limited capacity of local implementing structures at the local level is a pervasive problem, building the capacities of these structures should continue to be a policy priority. Capacity-building efforts should also be considered by putting in place the necessary federal and regional laws, regulations, and guidelines as well as making technical support available.