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Towards an Efficient Implementation of the Land Lease Policy of Ethiopia: A case-study of Hawassa

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Abstract

Hawassa, a city on the shores of Lake Hawassa in the Great Rift Valley in Ethiopia, dates back to a 1960 imperial declaration of the site as a resort settlement. Since then it has witnessed a phenomenal growth and under this condition of rapid urbanization competition for land has increased greatly resulting in high land prices, uncontrollable sprawl and the escalation of informality in the land use pattern. In 1993, the Urban Land Lease Policy was introduced to streamline the administration of land and to bring reasonable control to the market in terms of land prices. However, the policy has failed to achieve its goals. First, the policy comes without substantial legal backing and no enforcement provisions which have resulted in the proliferation of informal settlements. Second, the institutions mandated to manage land in the city do not have the requisite capacity to implement the policy. These challenges have given rise to avoidable bureaucratic hurdles in land transaction, wrongful misinterpretation of policy provisions, noncompliance, and violation of normal governance principles. The methodology employed here has relied mainly on primary and secondary data from an ongoing doctoral study into land management practices in the city. Additionally, interviews of city administrators and discussions with citizen's focus groups provided considerable information for this work. The paper finds that effective implementation of the policy requires an enabling environment and consistent effort to enforce legal provisions. **Keywords**: Land, Urban land, Land Lease Policy,Efficient Implementation

Introduction

Hawassa, the capital of the Southern Nations, Nationalities and Peoples' Region (SNNPR), is located on the eastern shores of Lake Hawassa. It lies on along the international high way via Moyale at a distance of 273 km from Addis Ababa. Geographically, the city is located between $38^{\circ}24' - 38^{\circ}33$ 'East longitude and $06^{\circ}54' - 07^{\circ}$ 05' North latitude occupying a relatively flat plain in the rift valley at an average elevation of 1690 meters above sea level. It has an administrative area of 157.2 km² divided into eight sub-cities with a total population of $329,734^{1}$.

Hawassa was established in 1960 by imperial declaration. The declaration extended to the provision of land for retired soldiers to build homes and, generally, to create a livable ambience around the palace that was under development then. The city is one of the few urban centers in Ethiopia established by formal planning concept with a Master Plan designed between 1958 and 1959before settlement begun, and guided the development of the Town until 1988the Federal Urban Planning Institute/FUPI(2006). The second master plan was prepared by FUPI in 1994 to guide its development for 20 years (Ibid). The third Integrated Development Plan (IDP) which currently functioning was prepared in 2006 by same to guide the development of city for 10 years. The total area of land designated for the establishment of the town was 120 hectares of which only 50-60 hectares was distributed to settlers to construct houses on 324m² parcel of land per household free of charge.

The settlement grew steadily until 1991, following the exit of the Dergue, when growth became more rapid as large populations descended on it. Since then, Hawassa has experienced a progressively high population growth rate, particularly during the census period between 1984 and1994 the growth rate was as high as 6.42%.

¹Projected population based on the 2007CenteralStatistical Authority Report

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The current rate of growth is, however, a modest 4.8%. Results of national sample survey conducted in 1962 and 1970 the population of Hawassa was 3,600 and 10,740 respectively (MOWUD/FUPI, 2006)¹. According to the population census reports of 1984, 1994 and 2010, it was 36,367; 69,169; and 183,027; respectively. Based on the 2007 National Population and Housing Census the current projected population of Hawassa is 329,734 of which 210,676 live in the city and 119,058 in the fringe and surrounding areas.



Figure 1. Population of Hawassa City (1962-2013)

Source: Compiled from city Administration and CSA Census Reports

During the same period the housing stock also grew from a steady rate to a rapid one. In 1994, there were 13,851 housing units accommodating 14,958 households as per housing census report by the Central Statistical Authority. The ratio of households to housing units then was 1.08, thus, indicating that the average occupancy ratio is 108 families living in 100 housing units. In 2010, as per housing census report, the number of housing units grew to 39,972 accommodating 41,853 households indicating an occupancy ratio of 1.05. Though, this meant an improvement in the occupation standard [as 105 households were now occupying 100 housing unit], the phenomenal growth in both population and the housing stock of the city signaled an equally disturbing underlying dynamic in the land market. Clearly, the existing land policy was failing in reconciling land supply to the rising demand to build more houses

Background

In Ethiopia, there are three distinct periods in relation to land policy. These are the Imperial Regime which predates the 1975 Dergue Regime, followed in 1991by the EPRDF Regime. During imperial times the landholding policy was a feudal one by which the Emperor owned the land and distributed large parcels to his nobility to hold both in trust and for their economic sustenance. This form of land tenure essentially disposed the greater part of the people rendering them landless and, thereby, also condemning them to a life of interminable peasantry. The nobility not only benefited economically from the Emperor's largesse but also, and more importantly, used the privileged position to advance political power based on mass landlessness as a policy tool for social stability. The land tenure system of the period has been described as the most diverse and most complex compilation of landholding in Africa(Joireman, 2000) which, incidentally, survived for several millennia until the 1975 socialist revolution.

In September 1974 the Imperial regime was overthrown by a military junta that came to be known as Dergue. As a socialist oriented government one of the first major acts was to implement a land reform policy through a radical socialist program where ownership of all rural and urban land was transferred to the State. The Urban Land and Extra Housing Reform of 1975 fundamentally changed both the ownership of urban land and housing by abolishing private ownership of urban land that had existed for several years. Proclamation No. 47 of 1975 nationalized all land and private ownership of land was abolished and replaced by the state monopoly of land ownership. Land owners lost their land without compensation and land were no longer subject to sale, mortgage, donation, and lease and so on (Daniel, 2011). The mainobjective of this proclamation was to get rid of and weaken the power and wealth of those social classes vested with the land and income of rental houses.

After the down fall of the Dergue regime in 1991, the Ethiopian Government asserted state ownership of land in the constitution. The federal and regional constitutions as well as land related laws enacted so far to implement the constitution decrees declared that all land (rural and urban) in the country is state property. Article 40 of the 1995 Ethiopian constitution states that:

"the right to ownership of rural land and urban land, as well as of all natural resources is exclusively vested in the state and the peoples of Ethiopia. Land is a common property of the nations, nationalities and

¹MOWUD/FUPI: Ministry of Works and Urban Development/Federal Urban Planning Institute

peoples of Ethiopia and shall not be subject to sale or other means of exchange" (FDRE, 1995, article 40). The Ethiopian government has introduced lease holding land tenure system by Urban Land Lease Proclamation No.80/1993, then revised in 2002, and finally repealed in 2011. According to these laws new land allocation will only be carried out through lease system with use right for defined period but ultimate ownership and rights of re-possession retained by the State. All urban land held before the land lease policy was governed under the land rent law. If the existing land holdings transferred to other person due to different reason, except inheritance, were ruled by lease system.

Theories and Concepts

Two theories exist regarding land tenure - the collectivization theory and the evolutionary theory. The arguments from these theories raise the issue of fairness versus efficiency and how the respective principles play out to determine land supply/availability.Until the mid-1980's land tenure practicewas bipolarized between these two theories(Jose Negrao, 2004).The argument of the collectivization theory was that land allocation, housing and the provision of infrastructure was the responsibility of government whereas the citizen's duty was payment of fees intended for maintenance cost recovery (Ibid). Proponents of this approach built their argument on the social equity paradigm broadly subsumable under the general principles of equity and fairness.Accordingly, the state ownership of landwas regarded as the most appropriate means to ensure access to land for needy citizens.

The evolutionary theory, on the other hand, projected the concept of private ownership of land. This neoclassical economic approach regards the land as a piece of merchandise and the market as a tool to regulate land supply and demand. Ultimately, allocation of land for different uses only takes place when a user is able to pay the prices based on the aggregate market demand and supply. This approach renders land a neutral quantity whose production and consumption depends on relations developed without planned organization but rather based on individuals competing with one another for it.Negrao, J (2004: 22) explains this theory as follows:

"The second theory considered land and related services as merchandise which allocation depended on the offer and the demand, in other words, on the market. The lesser the Government's interference in land allocation and more free is the determination of the selling and purchase prices of land and housing, the more perfect would be the market performance and, consequently, the benefits of the citizen. The responsibility of the State was then to elaborate an urban plan and to monitor rigorously the fulfillment of the rules during its implementation".

The benefits of the two forms of tenure to any society are not easy to discern without a full understanding of the mechanisms employed in either system to deliver land. Moreover, it must be appreciated that these systems operate within clearly distinct and defined ideological frameworks; socialism for the collectivization theory and capitalism for the evolutionary theory. Though the market has proven to be a sufficient means for the effective transfer of land under private ownership, imperfections in the form of negative externalities and inequalities do still exist. In the case of public ownership of land government toutsits ability to satisfy the need of the larger society, butthe practice is considered inefficient, bureaucratic, non transparent, non-probity and prone to corruption(Belachew, 2010).

An alternative approach has recently dominated land policy discussions. The new approach advocates large scale government interventions that take into account positive aspects of the neoclassical approach. According to the advocates of this approach intervention throughpublic ownership would eliminate speculative behavior inherent in the free market through a planned supply of landby sale or lease or license¹"....Thus the solution to ineffective and counterproductive urban land policies is not to do away with governments interventions andpolicy initiatives, but to find the proper balance between the public and private sector regarding urban land development and management" Clarke, G. and Dowall, David E. (1991:6). These new debates about the ownership of land do not exist at a theoretical level only. Recently, many former socialist countries have applied this third alternative in the form of land use regulations, planned supply, land banking, sales, leasing and issuance of licenses. The approach did not only bring a peaceful resolution to the difficult land tenure situation following the demise of communism, it has also been radically used to generate substantial revenue to cover expenses incurred in urban renewal and re-development. This is the case in Ethiopia where land is owned by government and the allocation is determined by both administrative decisions and market principles.

However, this paper is neither intended to dwell on land ownership as a subject of interest nor on the beneficiaries of allocation, be it for private or public entity. Rather, the task here is one of efficient management of urban land with reference to the implementation of the land lease policy. According to Stevens and Jabara (1988), the allocation efficiency does not depend on the entity which executes it but rather on the institutional framework within which it operates. The allocation efficiency can therefore be achieved if the management framework and processes are transparent and participationis open for all, independent of whether the supply is for public or for private use. As Payne (2000) argued the most challenging part is not the type of tenure

¹ Temporary permits determinable at very short notice anytime

arrangements that matters but it is how to formulate and implement land policies which encourage efficiency and equity in land use. The central issue in urban land policy thus becomes how best to achieve the objectives of efficiency and equity in land management. These objectives can be attained using different instruments. Policy objectives and respective policy instruments vary depending on numerous factors such as the prevailing regime, constitutional provisions, urbanization rate, and other historical factors; in other words, institutional and legal frameworks recognized throughout the world as policy instruments to achieve policy objectives whether land is publicly or privately owned.

Every country has its land policy influenced by the institutional and legal frameworks within which it operates (Macedo, J., 2000); thus, it becomes fundamental to analyze policies according to the particular context in which they were implemented. The institutional and legal instruments are set to realize the expectations that the land policy can achieve and 'failure to achieve the promises of the policy frustrates the intended land policy reform and brings the effort to a standstill'(Addis Ababa Chamber of Commerce, 2009). Thus, the discussion should focus on designing specific instruments that can best achieve the intended objective.

Review of the Current Ethiopian Land Lease Policy

In Ethiopia,all land is currently nationalized and held under ownership and control of the central government which further plays akey role in defining land use policy whilst practical administration remains at the local level. Accordingly, regional and city administrations have for a long time enjoyed the power to pass laws to regulate and administer landincluding allocation, disposal, use, registration and adjudication; of course, all laws passed must derive from a superior one concomitant with the subject-matter. The following is a brief contextual discourse of relevant proclamations, regulations and decrees issued and enacted by the Southern Nations Nationalities and Peoples Regional State [SNNPRS]:

- Urban Land rents and lease holding regulation No. 1/1995
- Urban Land Rents and Lease Holding Proclamation No. 79/2004
- Urban Land Lease Holding Regulation No. 103/2012

The Urban Land Rents and Lease-holding Regulations No. 1/1995, promulgated to follow the Federal Proclamation No. 80/1993, brings all urban lands under the direct administration of local government. The lease period varies between 60 and 99 years depending on the use or purpose for which the acquisition is sought and leases attract varying rents depending on location; for Hawassa residential land rent ranges between 0.18 Birr to 0.32 Birr per square meter. Other uses attract relatively higher rents ranging between 0.40-1.50 Birr per square meter. The implementation of this regulation was further detailed in Decree No.1/1995 which contained detail provisions and mechanisms for land allocation through the lease and permit system. The main objectives of the lease policy is for the regions to generate revenue for urban development by assigning monetary value to land under a free market principles in the management of publicly owned land and to control undesired urban expansion by expediting efficient and effective use of land. The basic problem with this law and regulation was the creation of what has come to be known as 'double track system' whereby former holders of land prior to coming into force of the legislations are exempt from payment of rent. This is considered as unfair by those who are required to pay rent for the same national product.

Following the replacement of ProclamationNo. 80/1993by Proclamation No. 272/2002 the SNNPRS issued Proclamation No. 79/2004 to revise lease administration. As is required, tworegulations - Regulation No 26/2004 and Regulation No 27/2004 - and two decrees - Decree No. 1/2004 and Decree No. 2/2004 – were also promulgated to provide detailed guidance for land administration. The major improvement made this timewas the introduction of *negotiation* as an essential function of the land acquisition procedure and this, without doubt, contributed to the acceleration of economic development as is the case in Hawassa. Precisely, Regulation No 27/2004 and Decree No 2/2004 are for administeringthe allocation of land on leasehold basis using any of the following prescribed transaction modes: auction, negotiation, lottery, direct allocation, and as a prize. The decision as to which mode to apply depends on several factors such as value, location, or housing use. The other most important legislative improvement is the provision to utilize at least 90 percent of lease revenue for the provision of infrastructure. Although not exactly a lease, a land permit has important social and economic role to play and does also benefit from meticulous legislation. Regulation No 26/2004 and Decree No 1/2004 are applicable to plots to be allocated and administered through permit system. Of course, land obtained through permit system cannot be used as collateral for loan except when occupied by a building.

Several problems have attended implementation of these laws. For example, land administration is explicitly the task of the municipality but decisions on land allocationand lease pricinghave beenmade and/or influenced by other bodies. Also, applicants for land by negotiation do not follow through with further payments after making the initial down payment expected to be ten percent. A study conducted by GTZ/IS (2006) shows that in reality most allotees by negotiation pay only three percent. Another problem relates to the provision that allows the city administration to grant land without auction to encourage desirable investment. This provision contains a loophole for corruption since the criteria for determination were not specified. To address these problems the Urban Land Lease Proclamation No.721 of 2011 was promulgated to repeal Proclamation No.

272/2002. For implementation, the SNNPRS passed the Urban Land Lease Holding Regulation No. 103/2012. The new law recognizes *leasing* as the only way for land in urban areas to be acquired or granted. The intension of government in these legal provisions is to improve urban land management through land market mechanism rather than administrative interventions.

Unfortunately, the performance report is not good. The Hawassa City Administration's poor and inadequate professional and technical capacity to manage the land administration job efficiently has become evidently clear. For example, the 2013 report indicates that only 151 plots (of which 123 plots is for residence and 28 plots for commerce) were released into the market creating a backlog of more than 11,000 applications. As a result of this land prices have escalated and the situation is responsible for growing illegal settlements and dwindling public revenue.

Methodology

This paper is based on the analytical results of an ongoing doctoral research into the urban land management of Ethiopian cities with a view to achieving a modern market-oriented land leasing system for efficient land administration. The research study is based on primary and secondary data collected in Hawassa. Additionally, consultations with city administrators and discussions with citizen's focus groups in relation to practical issues associated with land leasing were carried out in preparing the paper.

Findings

Findings from the study suggest that the new land lease proclamation has become a source of worry to many citizens of the city. The paper found a high level of *perception-to-reality*situation in the population and this has greatly ruined the confidence of players in the Hawassa land market. For instance, there is a popular belief that policies and laws have been deliberately put in place to benefit the rich rather than the poor who, incidentally, cannot participate due to unaffordable pricing. Again, a clear majority of respondents in the study felt that the lease system is not capable of enabling them own their own homes. The untenable situation has, quite expectedly, driven a large proportion of the potential market to seek lands in unplanned and unauthorized locations popularly referred to as 'informal land markets'. The informal market has become a veritable competitor to the formal channel and appears to be doing much better in delivering land resources for development in Hawassa.

The paper found thatthe City Administration lacked the capacity to properly interpret and implement rules and regulations contained in relevant policies and laws passed. The table below shows that more than two-thirds of the study's respondents perceived the implementation process as bogus and inefficient. Interestingly, the strengths of opinion of both formal and informal respondents are almost the same across the response categories (see Table-1). This has been also further witnessed by **Mann Whitney** *U* test and p-value (U=12731.5, 0.211>0.05) that there is no statistically significant difference between formal and informal settlers on implementation of Policy and Law. This implies that both formal and informal settlers do not differ in their views on the implementation of policy and legal frameworks relating to land management

	Types of settlement					
Responses	Formal (n=312)		Informal (n=88)		Total	
	n	%	n	%	n	%
Poor	213	68.3	54	61.4	267	66.8
Average	64	20.5	21	23.9	85	21.2
Good	35	11.2	13	14.8	48	12.0
Total	312	100	88	100	400	100

Table 1. Perception of Respondents on Implementation of Policy and Law

Formal land delivery problems in Hawassa are further confirmed in Figure2 below which illustrates the views of study respondents on the dearth of compliance with the policies and laws. About 59 percent of the respondents believe that land delivery in the city does not follow the policy and law.



Figure2: Perception of Respondents on Compliance with Policy and Law

The paper also found that the difficulties encountered in the administration process may be traced to the lack of community consultation/participation in the formulation of policies and laws as well as in subsequent implementation phases. Indeed, about 79 percent(see Figure 3 below) of respondents in the study indicated that they were not aware of any sort of consultation either prior or post formulation of policy and laws.



Figure 3Perceptions of Respondents on Consultation/Participation

Planning is a useful tool for implementation of urban land policy and in Hawassathis has been the main guidance for urban growth since the city's foundation.Plans, basically, set out in great detail the different land uses to be allowed for now and for futureexpansion. The rigidity in these plans and the inability of local authorities to modify them make it difficult for practical and flexible application. To make things worse, the Federal Planning and Compensation Laws are yet to be adapted by the Regional Government to enable implementation of its provisions at the local level, including Hawassa.

Discussions with municipal officials charged with the responsibility of implementing plans revealed that there were no strategic land management practices to predict composite future demand for land and to prioritizeland supply according to the needs of the market. Discussions with citizen's focus groupsalso divulged that the plansare unrealistic andignore local conditions. Most of the city's land resource have been haphazardly released and allocated in an uncontrolled manner without resort to proper land use and development control measures/mechanisms resulting in an overly-expanded, low-density, inefficient utilization of urban land. The consequence of all this is that in Hawassa today the formal channels to access land are non active while the informal market is hyperactive. The figure below shows the over majority of respondents have little or no regard for the municipal authority's role in the city's land administration particularly in terms of controlling land use

and development.





Yet, another startling finding of the study was the discovery of the level of professional and technical manpower paucity of the land administration office within the Hawassa municipality. Discussions with experts in land administration and urban planning bemoaned the general lack of qualified personnel with the requisite skills to manage the city's land resource. Survey results from the study in respect of how respondents perceived the abilities and competencies of the staff of the municipality indicated it as poor. Associated with the poor staffing condition is the fact that those at work are also not well equipped, well trained, and well motivated. Associated with the poor staffing condition is the fact those at work are also not well equipped, well trained, and well motivated. It is, therefore, difficult to get competent personnel and easy to understand the prevalence of rent-seeking¹ behaviors.

Fig.5 Perception of Respondents on Unauthorized payment for professional services



Respondents were asked to know their perception about rent-seeking behaviors of municipal staff in the normal discharge of their land administration functions and about 85 percent perceived that the staffs of the municipality seek to pay unauthorized payments for their services (see Figure 5). Conclusions

With the introduction of market-oriented economic policies in Ethiopia the land management process has changed significantly over the past two decades. Substantial work has been done at both Federal and Regional levels in the form of laws, policies, and regulations; as well as the setting up of organizations to handle land as it increasingly takes on the status and character of a transferable commodity by lease. In this situation, the role of municipalities in the development process is expected to be dynamically transformed so as to provide positive guidance and renewed coordination of land market activities. Indeed, the city administration has been making considerable effort towards the general improvement of itsadministration and management functions. However, in the area of land management it is obvious that important and urgent changes in practices would be needed to achieve full implementation of Federal Government urban land reform policies. The paper presents the following suggestions for consideration:

¹Quest for bribes and corruption

Land Banking

In a rapidly growing city like Hawassa the rate of developmentdepends on the availability of land in the market. Therefore, the municipality of Hawassa should develop a more dynamic and responsive land delivery scheme that copes with current land demand to ensure sustainable supply of suitable land. This can be achieved through the establishment of land banks that will accumulate land resources by both governmental transfer and market acquisition and, subsequently, supply the market according to demand. Sites identified for transfer into the bank must be free from ownership and legitimate use and must not be restricted by existing planning provisions. This will help the municipality to effectively coordinate the city's development and build strategies for efficient utilization of land.

Dynamic Plan Implementation

The planning process is inadequate to deal with the prevailing rapid urbanization and concomitant land demand in the city. Serious attention should be given tothe implementation phase of the planning processsupported by urban information systemsto enable frequent update of data and to develop more responsive and prompt action to cope with the development needs of the city. Further, morecoordinated effort at city level is required for the implementation of the plan together with effective monitoring of resulting outcomes. This requires improvement in institutional, technical and financial capacity. Therefore, changes in these sectors would be necessary to assure better development order in the city. This should be supported by adequate technical and financial resources coupled with appropriate tools and legal backings to fully implement the policy reform.

AutonomousLand Administration

The proper implementation of the land lease policy depends largely on the effectiveness of land administration. Effective land administration, in turn, depends upon a number of factors such as responsibility, independence, professionalism, financial and technical capacity. It is difficult to see an efficient implementation of policy reforms without strong, self-accountablemanagement team with full control of the land resource and the capacity to adeptly regulate the land market. Therefore, it is recommended that the control and administration of land in Hawassa by an independent body with functional mandate should be given due consideration. Thepresent municipality staff in charge of land administrationshouldbe retrained and equipped with the necessary skill and resources to constitute the skeletal team of the proposed body. It is not enough for the personnel to be technically competent to implement the land policy effectively and efficiently, but also it should not be corrupt. It is, therefore, essential that the new staff be well motivated to with a good remuneration package in order to reduce the occurrence of corrupt practices.

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