The Need for Modern Real Estate Management in Urban Ethiopia: the Case of Bahir Dar City

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SUMMARY

In Ethiopia, real estate management has been generally based on traditional and customary institutions and laws. Ethiopian Urban centers in general and Bahir Dar in particular, being the centre of one of the most populous regions in Ethiopia, Amhara Region, can not tolerate inefficient real estate management any longer. Socio-economic issues and issues of sustainable development encircle the need for effective cadastral and land registration development in Bahir Dar. If appropriate cadastral services are not put in place and examined from time to time as the urban expansion continues, the city will undoubtedly face high infrastructural costs and worse socio-economic problems. Neither will the urban development policy of the country be effectively applied in the city. This paper clearly shows the importance of effective or modern real estate management in the context of cadastre and land registration together with the basic features of same. The core of the paper is that it concisely puts the short history of cadastre in Bahir Dar and implicates its future trends as it is and as it ought to be. It assesses the factual situations with regard to cadastre and land registration in Bahir Dar and then evaluates the system based on the institutional, legal and technical evaluation criteria.

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1. INTRODUCTION

Bahir Dar, with an estimated population of 210,000 inhabitants, is the capital of the Amhara National Regional State, and is located at 565km North of Addis Ababa. The city lies at the southern extreme of Lake Tana, the largest lake in the country and the source of the famous Blue Nile (Abay) river. The city is picturesque with enormous tourism potential as well as being the centre of the Regional, Zonal, and Woreda administrations. The altitude of the city is around 1800m above sea level and according to the recently defined boundary; the area of the city is nearly 42,000 ha. (This area includes the adjacent rural Kebelles and the 3 satellite towns).

Historians say that the city has long history related to its ancient residents, but it was established in its present form in early 1930's, at the time of the Italians' occupation, and since then it has remained to be one of the fast growing cities in the country. In particular the city has made dramatic growth in population size and in area in the last two decades. The city has also scored a dramatic economic growth at the same time. The last 15 years average result shows that the population growth rate is nearly 7.5%, which is one of the highest in the country.

Bahir Dar was given the status of City Administration in line with the guidelines of the pertinent law (ANRS, Proc. No. 91/2003). Before the application of this law, the city was divided in to 17 Kebeles. But, now it is divided in to 13 Kebeles of which 9 are urban and the rest 4 are rural Kebeles. Apart from the above 13 Kebeles, the present city administration incorporates also 3 satellite towns; namely, Tis-Abay, Zegie, and Meshenti.

As it is the case in other cities in Ethiopia, there are two types of land administration systems which are in force in the city; land rent and land lease systems. All old holdings are rental and all holdings possessed after the lease proclamations are administered under lease system. The intention of the lease proclamation is to gradually transfer all urban land to the lease administration.

Housing problem, unemployment, inadequate social and physical infrastructure facilities, weak city administration capacity, spread of HIV/AIDS, flooding are the major problems that are threatening the development of the city. Lack of information on urban land is also one of the major problems in Bahir Dar. There is no comprehensive data on the number of housing units and land parcels in the city. The lack of adequate urban land related data, resulting among other things in inefficient tax collection system has hampered the city administration

from attaining the expected metropolitan socio-economic growth and tackling many of the other problems. It is to be noted that this problem of lack of urban land information system which makes real estate management inefficient and traditional is a common phenomenon of all major cities in the country, a fact, and not a mere assumption underlying this work.

2. LAND ADMINSTRATION, REAL ESTATE MANAGEMENT, AND REAL ESTATE REGISTRATION

Land administration and real estate (land) management are very crucial terms in the field of land and related issues. While they are not identical they are very similar to each other. Land administration is probably a wider term and it refers to the process of determining, recording and disseminating information about the tenure, value and use of immovables when implementing land management policies. It includes many elements including mainly cadastre, land registration and land information systems (UN-ECE, 1996). So by land administration we determine or decide, record and disseminate land related information or data. And this determination, recording and dissemination can be related to tenure, value and the use of immovables. Land tenure is concerned with the rights, restrictions, and responsibilities people have with respect to the immovable. For example, the right could be ownership, rental, or lease. Land value refers generally to the monetary worth of a property, good or service to buyers and sellers at a given time. But appraisers usually do not use the word value alone; instead they refer to particular types of value such as market value, use value, investment value, assessed value, and other specific kinds of value (Appraisal Institute, 2001). Immovables valuation is most commonly used in taxation, but it is also important in processes such as expropriation of land and compensation to affected persons during land consolidation (Fig, 1995). Land use here refers to the planning aspect. When the cadastre includes initial land allocation, subdivision or consolidation, this land use planning aspect becomes very important (Id.).

On the other hand, real estate (land) management is the process of managing the use and development of land resources. It is the process by which the resources of land are put into an appropriate use or effect. It encompasses all activities associated with the management of land, permanent attachments to the land, and natural resources that are required to achieve sustainable development (Enemark, et al, 2005).

The most important means of achieving an effective or modern real estate management is real estate registration. By real estate registration, I mean the official recording of individual immovables as well as the legally recognised interests in the immovables. As we know, the official recording of individual immovables is cadastre, and that related to the legally recognised interests in land is land registration. Throughout this paper, real estate management is used in this context, i.e., in the context of real estate registration. Also the term real estate registration or real property registration, when applied is used in this context, i.e. to mean both cadastre and land registration.

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All said, land administration encompasses all the above elements. That is to say it includes real estate (land) management and real estate registration (cadastre and land registration).

3. CADASTRE: PURPOSE, MISSION, GOALS, STRATEGIES

Why does a society need cadastre? What are the justifications for an effective cadastre? How does it accelerate sustainable development? These questions must be clearly and adequately addressed to help policy and decision makers at various levels adopt a clear vision and strategy for land administration.

Firstly, a cadastre helps a society to ensure its sustainable development in quite many ways (Kaufmann, Studler, 1998, see also Fig, 1995). Effective or modern real estate management addresses many critical objectives: improves the efficiency of the use of land resource, provides incentives for development, including the provision of housing and basic infrastructure such as sewer and water facilities, protecting the natural environment from degradation, providing efficient real estate transactions such as sale and lease, and highly increasing government revenue through real estate taxation, and helps secure a guaranteed ownership or use rights.

Especially in countries with low economic development like Ethiopia, cadastre supports economic development. Once an effective multi-purpose cadastre is in place any interested individual or institution can get complete information related to a single land parcel. These helps the users save their time, energy and money. Economically, these savings will be passed on to the customers making products and services less expensive (Kaufmann, Steudler, 1998). Hernando de Soto is quoted to have said (Christensen,):

I predict that in the next 150 years the countries in Latin America and elsewhere joining these 25 (countries with a developed economy) will be those that spend their energies ensuring that property rights are widespread and protected by law, rather than those which continue to focus on economic policy.

A land administration system should have a mission, goals and strategies. According to Reinhold Wessely, the **mission** of a land administration is (Wessely,2002):
  - -Administration of all functions related to land (real property, i.e. the physical space needed for food and shelter, the protection of nature, the cultural roots of a society).
  - -Implementation of (otherwise) abstract rights of subjects on (physically) defined real property objects.
  - -Application of economic measurements to objects through a valuation process needed to facilitate transactions, to develop a land market and to enable property based taxation.

The **goals** of a land administration system are (Id.):
  - -To guarantee (private) real property ownership, security of tenure and other rights (such as mortgages) on real property.

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- − -To facilitate real property transactions through simple and efficient, transparent and affordable procedures.
- − -To improve land use planning and control and infrastructure development.
- − -To promote maintenance and improvement of buildings, particularly of housing.
- − -To protect the environment.

Some sample **strategies** that have to be developed to achieve the above goals are (Id.):
- − -Land reform: privatization, consolidation, agricultural land.
- − -Land policies: spatial planning, land use and urban planning.
- − -Cadastre modernization.
- − -Real property rights registration system.
- − -Land market promotion.

4. CADASTRE IN BAHIR DAR

4.1 Introduction to Cadastre in Ethiopia and Amhara Region

In Ethiopia, real estate management has been generally based on traditional and customary institutions and laws. This is true in all urban and rural areas though Addis Ababa has relatively better land registration system (Interview, Solomon, 2008). However, recently some decisive steps are taken to improve the land administration system in the country. After 1997 some policy initiatives are made towards establishing sound land management and land administration system through rural land registration and certification at least in Oromia, Amhara, Tigray and Southern Nation Nationalities People regional states.

Especially, in Amhara Region, major steps began to be taken in 2000 for laying down a modern rural land administration system. This was when the ANRS first law on rural land administration was issued (Proc. No.46/2000) following the issuance of the Federal Government Rural Land Administration Proclamation in 1997 (Proclamation No.89/97). This law was later replaced by a new law on rural land administration in 2006 entitled 'The Revised (Amhara) Rural Land Administration and Use Determination Proclamation No. 133/2006.' The latter law which is enforceable in the region at present is adopted following the replacement in 2005 of the 1997 Federal rural land administration law by the 'FDRE Rural Land Administration and Land Use Proclamation No. 456/2005.' The relationship between the Federal Land Administration laws with those of the Amhara region is that the latter are adopted to implement or facilitate the Federal land laws.

The ANRS rural land administration law regulates the surveying and land registration, or generally cadastral activities and procedures in the wider context. The task started following the systematic way of land registration, as opposed to the sporadic system. There are two types of registration in the region, namely the conventional (using modern surveying instruments like GPS) and non-conventional (using traditional and non-geometric methods) (Shewakena, 2007). The conventional systems of surveying, registration and mapping activities started in two pilot Kebeles (lowest administrative units in Ethiopia), namely

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Adisnaguilt and Gerado Endodbir (Ibid). The data obtained is kept both in manual and computerised form. The data in the permanent book of register is transferred to a computer data base system called Information for Land Administration (ISLA) (Id.). Thus automation is an important part of the real estate registration system in the region especially in the pilot areas (Id.).

Administratively or institutionally, the Environmental Protection, Land Administration and Use Authority, hereinafter called EPLAUA, is the regional equivalent of the Federal public agency called Ministry of Agriculture and Rural Development (MOARD), as it is responsible to the effective management, administration and use of rural land at the regional level (ANRS, Proc.47/2000). EPLAUA is hierarchically organised at four levels, namely at Regional, Wereda, Kebelle and sub-Kebelle levels, coordinated in a way to handle the vital task of real estate registration, i.e. cadastre and land register.

According to annual official report of EPLAUA, since registration started about 98.14% of households have their lands registered and measured and it is expected to be completed at then end of 2000 E.C. From this, 46.35% have received provisional land holding certificate. In addition to this, 49.8% of them have received first level book of holdings. In general, out of those whose land is measured and registered, 96.12% have received either of the certificates. This shows that the rural land registration in the region is being undertaken relatively effectively.

Unfortunately, presently the urban land in the region is being treated differently from the rural one and far behind the latter. There are quite a lot of differences between them in terms of organisational structure, legal framework, technicalities, scope, attention, and so on. We shall see this in a better detail in the remaining part of this work.

4.2 Cadastre in Bahir Dar: From Where to Where

4.2.1 Current Trends in Real Estate Registration of Bahir Dar: the 2006 Cadastral Project

Bahir Dar has started cadastre only in September 1999 by forming a steering committee that has five members, two from Bureau of Works and Urban Development and three from Bahir Dar City Administration (Tender document, 2006). The members were: the bureau head, the head of Department of Urban Planning and Development from the bureau, the chairman or vise chairman of the municipality, the head of the economic sector of the municipality, and the head of the Department of Urban Planning and Construction from the municipality.

The major task of the steering committee was to coordinate and supervise the over all activities of the cadastre project and it is chaired by the bureau head. There was a task force which was organized to undertake the operational activity of the project. At the time, the total number of human force involved in the cadastre work was 27 of which almost half were newly hired in contract bases only for this project. This number includes also the foreign technical advisor from German technical support (CIM) and one CAD operation expert from the bureau.

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Spatial data collection was done through detail topography surveying work. Parallel to the surveying work, field investigation (collection of attribute data) was done. When we see the scope of the project coverage and work performed at that time, ground surveying and socio-economic data collection work was completed in 8 Kebeles (former Kebeles 03,04,05,06,12,13,15 and 16) out of the former 17. The completed number of plots was 7,100 on an area of 820 hectares.

But, since 2004, the data collection and updating activities had stopped, which hampered the completion of the intended project. That means the real estate registration process had ceased to operate. The reasons for this are (Interview, Wondifraw, Dawit, 2008): lack of general awareness of cadastre, lack of understanding the significance of cadastre on the part of the administrators in the municipality, operating the system by simple guess with out clear guidelines and procedures (e.g., no regulations), lack of correct attribute and socio-economic data, lack of fairness and independence where the powerful people were advantaged at the cost of the weaker people, non-conformity with the physical planning resulting in such as closing roads. These problems in turn resulted in division of opinion among the task force themselves- whether it should continue or not in that way; and chaos in the urban people. What is more, the foreign technical advisor completed his contractual period.

It was not until late 2006 that a new project was designed to commence the stopped real estate registration system. We shall see this effort in the following sections. We can therefore observe four stages with respect to cadastre in Bahir Dar in terms of time as shown in the following table.

Before 1999	1999-2004	2004-2006	After 2006
No cadastre	Cadastre in 8 Kebeles/ project	Cadastre in 8 Kebeles, no further expansion	New project to commence the Cadastre

Table 1. The various stages of Cadastre in Bahir Dar

As we mentioned, in 2006 a new project was designed to keep up the cadastre in Bahir Dar. This project provides the objectives of the project, the scope of the work, the methodology, and a brief description of the major activities (Tender document, 2006). We shall see them soon.

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a. Objectives of the Project

The general objective of the project is to support the city development through completing stopped effort of establishing an efficient land management system in Bahir Dar. The main specific objectives include;

-establish an up-to-date and accurate land information system,
- -increase the income of the municipality through introducing an efficient land taxation system,
- -complete by updating and introducing GIS application to the eight surveyed Kebeles,
- -standardize and issue land certificate to all real property owners,
- -promote GIS supported decision making process,
- -introduce plot addressing system/ parcel-based cadastre.
- -modernize the urban land administration system by introducing IT and art of date skill,
- -improve the municipal service provision system by introducing transparency and efficient working procedures, and
- -produce a tourist guide map,

b. Scope of Work

The scope of the work in the project shall be seen in two contexts: first, the spatial coverage of the project and second, the depth or quantity of work to be performed. Spatially, the project will cover the city of Bahir Dar as it was delineated recently. This area includes the previous urban area, which includes the new 9 urban Kebeles and (the former 17 kebeles), and the 4 neighboring rural Kebeles, an area which is designated for future urban expansion.

The scope of work can be grouped in to three major activities. These are:
1) *Raw data collection*; an activity which mainly includes the ground surveying and the socio-economic data collection activities.
2) *System Building;* this activity incorporates data entry, base map and data base formulation, detail plan study, and introduction of GIS application. This activity includes also the formulation of procedures and regulations.
3) *System implementation*; here, the preparation of title deeds, the preparation of tax bills, the production of GIS maps, the production of address maps and tourist maps will be incorporated, among other things.

Further description on each of the activities will be given later on.

c. Methodology

The data collection process mainly will be primary and in some cases secondary. The base map will be produced using the primary data which is obtained from the detail ground survey. The same applies to the data base development. Data will be collected from field using the socio-economic data questionnaire. The questionnaire will be completed by interviewing

property owners. In the case of the secondary data, individual files found in Municipality's archive will be used to cross check information collected from the field investigation.

Public awareness creation meetings will be held every time prior to entering to a new Kebele. This is done to inform the public about the project and ask their sincere cooperation in the process. Apart from the public awareness meeting, workshops will be organized to evaluate the progress of the work. The consultant is also expected to submit a monthly progress report to update the client on the timely status of the project.

d. Major Activities of the Project

Major activities are: updating the eight formerly surveyed Kebeles, graphic/ spatial data collection and base map production, attribute data collection, data entry, detail plan preparation, GIS application, producing working procedures and regulations, training, and system implementation

4.2.2 Cadastre from 1999-2004

a. Justification of Cadastre in Bahir Dar and Ethiopia's Urban Land Policy

Far more than any other time, Bahir Dar like all other Ethiopia's urban areas is in great need of an effective land administration system. Obviously, the objective of this system is the development of modern cadastral infrastructures that facilitate efficient land and property market be it through sale or lease, protect the land rights of the property owners/possessors, and support long-term sustainable development and land management (UN-FIG, 1996). It must protect land rights adequately and permit those rights to be traded efficiently, simply, quickly, securely and at low cost (Id.). And resources must be available to keep the cadastral system up-to-date with out which there is little or no justification for its very establishment (Id.).

Land Administration is just one component of Land Policy. And Land Policy is part of the wider National Policy on promoting objectives including economic development, social justice and equity, and political stability (Enemark, et al, 2005). Land Policies are usually concerned with security of tenure, real property markets, real property taxation, sustainable management and control of land use, natural resources and the environment, the provision of land for the poor, ethnic minorities and women, and measures to prevent land speculation and to manage land disputes (Id.). Tenure security is an effective tool for land policy (Deninger,2003); and land policies will invariably be affected by the presence of multiple market imperfections (Ibid.) such as insecure tenure.

In a similar way, the present Urban Development Policy of Ethiopia recognizes four components that are believed to bring about quick and fair development in the urban areas. These are expansion of micro-business enterprises, housing development, provision of lands and development infrastructure, development of social services, and setting urban classification, urban planning and environmental protection. We can see that here provision of

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lands is one major component the effective operation of which will promote urban socio-economic growth. This also could imply that the Urban Land Policy is included in the Urban Development Policy.

This provision of lands component itself incorporates seven principles (Urban Development Policy, 2006). Among these principles, real estate registration, provision of title deeds, and enhancing real property transactions is unambiguously provided (Id.). Therefore, with all its objectives and positive results, real estate registration in Bahir Dar has the strong backing of the national Urban Development and Urban Land Policies. From land policy principles point of view, this urban land policy together with the objectives indicated in the 2006 project sounds good though some other elements such as long-term strategic plan are hardly indicated anywhere.

It can be observed that the cadastral system that began in 1999 in Bahir Dar is equally a fresh attempt to facilitate effective real estate transaction, safeguard dwellers' real property rights, and contribute significantly to bring about sustainable development in Bahir Dar in particular, and at national level, in general.

b. Data Content and Type

Knowing the type of land information or data and what it contains is important as it helps to know the elements that are missing or ought to be incorporated. In the 1999 cadastral system of Bahir Dar, the data are set in six separate database tables connected by a common Code Number. The first is the Owner's Table. It has the code number, details of the owner (name, address, nationality), details of acquisition of the land (type, document, and date of acquisition), and a note of whether tax is paid or not. The second table is the Parcel Table. This includes the code number, parcel area (as to the document in the Municipal archive, and actual measurement), access to road (asphalt road, gravel road, etc.), type of tenure (lease, rental, other), access to street light, and liability to flooding. The third table is the Building Table. It consists of the code number, year of construction, ownership type (owner occupied, Kebele rented, R.H.A rented, public owner, religious, other), the number of storeys, building area (as per the document in the Municipal archive and actual measurement), use of building (residential, commercial, manufacturing, public, mixed), number of annex buildings, building material, type of roof, type of ceiling, and type of floor. The other is the Utilities Table. It contains the code number, type and use of toilet, details of the kitchen (private, shared, none), details of electricity (private meter, shared meter, none), type of use of water facility, and telephone description. Then comes the Dispute Table. It consists of whether or not there is a boundary dispute and if there is one the parcel number, and ownership dispute. The last is the PLOTADD Table which consists of the Code Number, Town, Wereda, Kebelle, Block, Parcel Number, Parcel Grade and House Number.

This cadastral system also includes cadastral map showing the relative location of each property and its parcels in relation to other property, parcel number, parcel area, boundary,

and main roads- but id does not show such matters as land use, water and sewerage facilities, etc. (Interview, Aklilu, 2008).

Looking the system at a technical point of view, some problems or inefficiencies could be observed.

The first problem is related to the completeness of the data. While there is no a single, universally agreed data content in the cadastre, we can easily understand the major data components from global experience. The system does not include information about the value of the real estate. Tax value is the most important component of land information systems; and in fact it is historically the leading factor for establishing cadastral systems. No doubt, the Bahir Dar City Administration is driven by the same interest, given the very high need for revenue. But it seems paradoxical to fail to include this datum. Value may also include economic value, quality, and value of the improvements to the property (Fig., 1995).

The system does not have room for restrictions or encumbrances mainly mortgage and rights of use such as easement. A real property carries with it both rights and restrictions. Hence a cadastre must address both. Also mortgage plays a significant role to enhance transactions and investment by allowing credit for property owners. Further, the system does not have the description of the boundaries which may open room for disputes among the holders of the neighboring land parcels. Also it may be equally desirable if the system incorporates data on agricultural land, forest land, environmental quality, and demography (population statistics, consumer marketing data, etc.) (Id.)

The other shortcoming of the present cadastral system in Bahir Dar is the lack of a registration manual book supporting the data in the computer. There is only the field socio-economic and attribute data as questioned and filled out by the field investigator. But there is a need to prepare a large book having correct and complete version of the computerized version of the data. This could also partly be justified by the presence presently of the paper-friendly society, and the limited degree of IT familiarity on the part of the population.

The system also needs a good maintenance and updating systems to cope up with the fast changing urban circumstances in real property. Clear guidelines and procedures are required in this regard. In addition, clear guidelines on the role of different users to logging of access, monitoring and following-up of logging, and authorized approval of entered data is very important to keep the demands of safety and security of the information.

The type of data collection here is based on the systematic approach, i.e., the work is undertaken area by area, as opposed to the sporadic approach where the work is done on individual basis whenever there is a new land transaction. As the objective is or should be to extend the cadastre to a more comprehensive land information system within a reasonable time frame, the systematic approach is generally more effective than the sporadic approach though the latter is less expensive in the short term (Id.). In general, the systematic approach will reduce the time required to begin reaping direct benefits from the new systems (Id.). The

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cadastre system is carried out based on the conventional method with support of modern surveying instruments like total station and Global Positioning System (GPS).

c. Financing the Cadastre

A questionnaire to 13 pertinent persons in the Municipality shows that the Cadastre is run by the government's money through out. In fact, there is little contribution by the land holders called 'surveying fee' and 'stone planting fee', generally for the service given by the surveyors. But the system has not put any mechanism to sell the information for the users in general.

Question	Answer
The cost of the Cadastre is covered by:	Government:9 User:0 Both:4

Table 2.The way of financing the Cadastre in Bahir Dar.

On the other hand, the general trend in efficient cadastral systems is to seek financing more directly from the users (Ibid.). The system should be more dependent on income from selling its information and it is then that the cadastre will be more sustainable. In doing so, however, it is essential to maintain its completeness and quality, and define by law the ownership of the information and associated copyright rules (Id.).

5. LAND REGISTRATION IN BAHIR DAR

5.1 The Nature and Content of Land Registration in Bahir Dar

Land registration is the power of the Justice Bureau. It derives this power from Proc. No. 120/2006, and a directive issued there under. The registration is undertaken sporadically whenever application is made by the seller and buyer together. While the keeper of the register may not of his own motion effect registration, it is the duty of the contracting parties to initiate and effect registration of real property whenever there is transfer of ownership by contract or law. These parties must bring together the contract of sale, acquisition document, the parcel map, the design plan, and receipt for the current year's tax payment. Unlike the case of rural land registration where the parties to the contract of donation may directly go to EPLAUA without the practical need to go to the Justice Offices (in fact they often do), here they must go to the Justice Bureau to effect registration.

The land registration data is kept in a large book. It consists of the serial number, date of registration, file/registration code, the name and address of the seller, the name and address of the buyer, and the amount of tax paid/revenue. If the buyer afterwards sales the property, the same process starts afresh which means that there is no updating of the already recorded data unlike what is done in the rural land registration. Although there is a limited attempt to use computers, they repeat the same process as the manual one with out using an efficient updating system.

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With an effective cadastral system expected to be put in place by the Municipality and the inevitable trend towards the merging of all major real estate registrations (multipurpose cadastre), the quantity of land registration data kept by the Justice Offices may be adequate. Yet, it is very important to include the parcel identifier in the land registration book, and practice some surveying when land is subdivided or partitioned for transfer probably with the help of the Municipality. Apart from this, some problems are worth considering.

The land registration personnel in the Justice Bureau are low in terms of number (not more than five) and competence. They do not have the opportunity to get training which otherwise could appreciate the ways and consequences of registration. The responses five persons in the Offices gave to questions about these matters confirm these.

Question	Answer
The personnel involved in the land registration is:	High:0 medium:1 Low:4
Trainings and related opportunities to personnel involved in land registration:	Exist: 0 Not Exist:5

Table 3. The land registration personnel in Bahir Dar and training and capacity building opportunities in Bahir Dar.

Regarding financing the land registration, though it is run by public budget, some percentage is charged from the value of the property transferred. This amount changes from time to time, but presently it is 2% of the sale price or some times of its value as estimated by the Municipality's land administration unit. Though this is a good measure regarding revenue consideration, more income could be obtained by encouraging access to the information recorded and then selling same by a fair price.

Finally, not only is an effective computer soft ware needed but also the technical system must allow mutations by avoiding the need to start a new process whenever hands change with regard to same land object.

In conclusion, land registration in Bahir Dar has a long way to go to meet the institutional and technical principles.

5.2 Land Registration Procedures

For land registration to be effected, there has to be some act or decision based on which ownership is transferred from one person to the other. This could be sale, donation, succession, or court decision for debt. The direct observation of the practice reveals that the procedure is different depending on the cause of transfer.

In the case of sale and donation, the parties must first go to the Justice Office. Whereas in the case of succession or will they need not go to the Justice Office and instead can go directly to the Municipality though the Office can register the will document in case of request. This is

true of transfer due to court decision with regard to debt. The Municipality checks and receives the court decision and transfers ownership title to the applicant. In these cases of succession and debt based transfer, the amount of fee to be paid by the applicant is decided by the court.

Looking at the steps of land registration in the more common situations of sale and donation, the procedure is the result of the interplay between the Justice Office and the Municipality. The parties to the contract must bring together the valid contract of sale, acquisition document, the parcel map, the design plan, and receipt for tax payment during their application for registration. The 'notary' ensures that all these are fulfilled before ordering further process.

Having insured the fulfilment of all required documents, it sends a letter to the Municipality requesting to check if the building is really located in the place as mentioned in the sale contract, if it is free from debt or court attachment, and requesting the estimated value of the property. At the same time, it sends another letter to the Ethiopian Commercial Bank if the Bank has not taken the building as security for debt. The requested bodies respond accordingly including statement as to the date of acquisition, the type of land use, address and area of the property.

Then the Justice Office sends the estimated value of the building to the Finance Unit (located in the Municipality's compound) in a letter. This Unit charges 2% of the value as tax and the Justice Office is notified about this fact.

Finally, the Justice Office approves the sale or donation contract, and maintains its own file for each applicant which contains the contractual document, acquisition document, the parcel map, the design plan, and receipt for tax payment. It then sends a letter to the Municipality stating that it has approved the contract and requests the transfer of ownership title to the applicant. The Municipality does so and opens a new file for the new owner. The file of the transferor is considered as dead file but is kept in the archive for any future reference.

In the land registration process time is an important factor. The fact that both the seller and buyer must appear together in the Justice Office, including three witnesses; and the long time taken by the municipality to check the location and size of the property, any mortgages and court attachments, and estimation of value and charging taxes, render land registration to be quite a long and bureaucratic process in Bahir Dar and other towns in the region. Sadly, this is a practical phenomenon which hinders real estate transaction and investment thereby hindering sustainable development. It also puts the institutional and legal principles or requirements in to question.

6. THE LEGAL FRAMEWORK OF REAL ESTATE MANAGEMENT

One of the main distinguishing features of cadastre in Bahir Dar is that there is not any binding legislation regarding any aspects of the cadastre such as the organs having power on

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cadastre, the number and competence of personnel, the type and quality of data, the technical matters such as IT, updating the cadastre, and so on.

Question	Answer
Law governing different aspects of cadastre in Bahir Dar:	Exists:0 Does not exist(but only minutes of meetings, policy document…):13

Table 4. Responses of 13 interviewees on the legal aspect of cadastre in Bahir Dar.

On the other hand, as we mentioned before, one feature of an effective cadastre is that it is founded on a strong and practical legislation. All systems depend on a sound legal framework of land laws and specific laws on land registration and cadastre (Manthorpe, 2003). Land laws must establish an effective cadastre and indicate registrable rights including those other than ownership (Id.). In this regard, governments must play the role of facilitating the operation of a land and property market, enable a mortgage market to function and ensure that citizens enjoy security of tenure by providing particular laws (UN-ECE, 1999).

In land administration, the same problem of lack of governing laws is observed. In fact, here it is clear who has the power to handle land registration. As we mentioned, Proc. No. 120/2006 and a directive there under regulates that this is the power of the Justice Bureau. However, except the general provision that it shall keep land registration, no other things such as what kind of people will handle same, what content (types of rights) and quality the data should have, what procedures and requirements have to be observed, what kind of relationship should there be with other involved organs such as the Municipality and Banks, and so on are not regulated resulting as we said in poor and protracted land registration system. Similarly, the law does not tell us whether the deed system or the title system shall be followed though we can imply from the practice that it the deed system which is followed.

With regard to the legal aspect of real estate registration, it is extremely important to see the content and status of the civil code provisions on registration of immovables under Title X. There are 93 articles governing this important area of high economic significance. They regulate cadastre and land registration in a unified approach. Interestingly, they provide the responsible body for real estate registration (Civil Code, 1960, Art. 1554), the major types of registration (registration of immovables-both private and public, of owners, of mortgages, of acts/documents, and envisage even others) (Ibid.), contents of the register and rights which are registerable (Ibid.), procedures and forms of registration (Ibid), some aspects of updating the register (Ibid.), and the effects of the registration (Ibid.). They also provide other important features or principles of real estate registration namely publicity of the register (Ibid.), financing of the register by charging of fees, individualisation of registered immovables (Ibid.) by giving parcel identifiers, and completeness, though they fail in some features mainly state guarantee of the register by paying compensation during loss or error.

Although, these provisions may not be complete and up to date due to the various changes that occurred in Ethiopia after their adoption, they meet the minimum standards for cadastre

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and land registration and could, if applied, contribute quite significantly to the country's development.

Nevertheless, what is paradoxical and even shocking is the fact that the same civil code has suspended their application until an order setting a date for their application is issued by the government (Ibid.). Sadly, no government has ever issued such order leaving the real property registration matters unregulated or subjecting them to the awkward customary practices. This is a serious economic failure that requires an urgent action. All said, the real estate registration in Bahir Dar greatly fails to meet the legal principles.

7. INSTITUTIONAL ISSUES

Though it is difficult to trace a legal basis, today cadastre of Bahir Dar is handled by the Municipality. There is a very small unit in the Municipality named Cadastre Team. This unit shares responsibilities with some elements of the Urban Works and Development. The Bureau of Works and Urban Development is in charge of direct control or following up of the Municipality (Proc. No. 120/2006, Art. 18(10)). It is taking the cadastral task as its meaningful objective as partly evidenced by its monitoring of the 2006 new cadastral project.

Presently, the total number of personnel including the surveyors who constitute the largest proportion in the Cadastre Team is not more than 12. Of all surveyors, there is only one Degree holder, the team leader, and some three Diploma holders. The rest are only twelve complete. These small numbers of cadastral staff not only are very far from being adequate but also they do not get any kind of training about the land management; neither is there any plan so far.

The response from 13 persons half of whom are the cadastre staff and the other half administrators in the Municipality and the Urban Works and Development Bureau confirms this strongly.

Questions	Answers
The personnel for implementing cadastre/ land management in Bahir Dar is:	Adequate: 0 medium:1 low: 12
Is there any cadastral capacity building such as training or similar opportunity, or any plan in this regard?	Yes: 0 No: 13

Table 5. Human resource in the Bahir Dar Cadastre

There is no private surveying institution in Bahir Dar which would fill the big gaps in the land management system. Accessibility of cadastral service, accountability for responsibilities, and gaining legitimacy and legality are far from being realized with out the necessary human resource and strong institutional base. On the other hand, it is a common principle of administration that any public body such as a cadastral one must be structured in such a way that they can execute their powers with out triggering grievances to the people (Melkamu,

2003). Therefore, it is clear that the cadastre in Bahir Dar given its present conditions does not generally conform to the accepted institutional principles required for effective real estate registration.

Indeed, one of the most important issues in the land administration of Bahir Dar is the issue of which public organ must be in charge of real estate registration-which I call the Municipality/ the EPLAUA dilemma.

The responses from 20 interviewees (10 from EPLAUA and 10 from the Municipality and Bureau of Urban Works and Development) have clearly shown that the EPLAUA is better suited to handle all real estate registrations.

Question	Answer
Of the two real estate registration authorities (the Municipality/EPLAUA) which do you think is better to effect real property registration?	EPLAUA: 16 Municipality: 4

Table 6: Institutional arrangement in operating real estate registration in Bahir Dar.

The justifications given for choosing EPLAUA for the real estate registration are many. The first is the far better available human, legal, technical and financial resources already available in EPLAUA. As compared to the Municipality, EPLAUA has at least 15 specialists on land (MSc. holders), there is a law governing rural land administration (Proc.133/2006), there is already a computer system called ISLA (Information System for Land Administration), and public budget allocated for same purpose. The second justification is related to the commonality of the nature, principles, objectives and significances, evaluation frameworks and technologies of real property registration in respect of both the rural and urban land. The third reason is the saving of human, financial and technological resources. The fourth is related to the need for the uniformity of the responses given to similar various problems in land administration. The fifth reason is related to payment of compensation during expropriation. This needs to be done based on similar rules to attain the required fairness and equality. The last reason pertains to the urban expansion that is happening in Amhara region at an alarming rate. With similar institutions and laws being involved in the land administration in the region, it will be quite easy to administer the newly incorporated rural lands to the urban territory. We can add to these the current global trend in the world towards multipurpose cadastre and cooperation.

In conclusion, it is highly recommended that EPLAUA should handle real estate registration with respect to all lands-urban or rural- in Amhara region. In fact, there is also another softer position where EPLAUA can have some degree of involvement in the urban real estate registration by the Municipality with out complete takeover of it (Interview, Palm, 2008). But the problem with this position is that not only will it be difficult to define the limit of that relationship but also it requires not less commitment and resources to effect it than required by what we referred to above as better; and most important of all it will bring less effective land administration of the Amhara urban land.

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Finally, it is important to note the matters that must be considered following the policy decision to the effect that urban land of Amhara region will be the responsibility of EPLAUA. These are the changes that have to be made with regard to the present legislations, institutional reengineering, recruitment of additional staff, and the financial and technical implications. In addition, there is a great need for cooperation/coordination and political awareness.

Other bodies are involved in the cadastre especially as users. The Finance and Economic Development Bureau could take information about the area of a certain land parcel or building for subsequent valuation for taxation. This frequently happens when the Bureau of Justice requests it to levy the tax on the transfer of real estate after which the Bureau approves the transfer contract. (We shall see this in greater detail later on). In fact, this does not seem to be popular in the minds of the people in the Tax Unit of the Finance and Economic Development Bureau situated inside the Municipality's compound (Interview, Haileyesus, 2008).The Banks can probably take the same kind of information for mortgage valuation. It should be noted that this use of land information from the Cadastre unit of the Municipality is extremely low both in quality and quantity primarily because the cadastre system is premature.

This participation in the real estate management makes coordination essential. This can be both within and outside the Municipality. There are many noticeable cases of a loose coordination. One striking example is, however, worth mentioning here. In the same Municipality and just very close to the Cadastre Unit, there is another small office (Server Room) named Bahir Dar City Administration Management Information system also called Tilahun 1960. The software estimated at least at 350,000.00 Birr was given to the Municipality gratuitously by an ITC specialist and consultant by the name Aleazar Tilahun. It has two functions, namely, Land Information System and File Information System. A close observation reveals that the LIS part is performing exactly the same function as the Cadastre Unit, as there is very insignificantly different type of database from the Cadastre Office. For example, the data include the details of owner/possessor, map number, area of parcel, land acquisition date and others. There is presently one person primarily running this office/software ('Data Encoder') and four other persons who collect the raw data from the Municipality's archive (Interview, Abyou, 2008). From the perspective of this function, it is not sound to create this office for a similar function to that of the Cadastre Unit as it creates wastage of the meager resources and confusion among the public. The second function is called File Information System and has the task of locating the movement of files from one office to the other in the Municipality for different purposes. Its data content is the name of the client, the office where the file is located, the name of the person handling the file, office number, the day and hour when the file entered the office and so on. While the very separate establishment of the software can be justified by this latter activity, it is purposeless for it to engage in land information system for the reasons mentioned above.

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8. CONCLUSION AND RECOMMENDATION

This paper has shown that the young and present real estate or land management in Bahir Dar is far behind what is considered to be a modern land management. This is true with respect to the institutional, legal and technical standards. As to the institutional criterion, the major problem is related to the administrative body managing real estate registration. The Municipality is not only lacking clear enabling law to effect real property registration but also it has failed to undertake same with coordinated, predictable, long-term and strategic way as the cadastre has once started and then stopped and again attempting to commence recently. The cadastral and land registration personnel are few in number and lack the required specialisation and capacity building. The same functions of LIS are also unnecessarily given to different units in the municipality resulting in wastage of the limited resources. The land registration procedure is time taking and awkward taking months or years.

From the legal standard point of view, the urban cadastre which is of very limited spatial coverage is not backed by any legislations and guidelines which can be a possible ground for its failure. Many matters of the land registration are also unregulated caused mainly by the paradoxical and shocking suspension of the Civil Code provisions on registration of immovables which is still not lifted.

From the technical point of view, though there is a good start in the cadastre of Bahir Dar, some matters such as valuation data and data on restrictions or encumbrances mainly mortgage are missing. Also it is not supported by a manual registration book. The security and updating systems are not efficient. Moreover, the land registration in Bahir Dar is not supported by computer data base software and there is no system of mutations. Here, generally the computerisation system is underdeveloped.

In order to develop an effective and modern real estate management system in Bahir Dar, some major steps or measures should be taken. The boldest of these measures is that the administrative function of the urban real estate registration should be moved from the Municipality and the Justice Bureaus to the experienced and better equipped EPLAUA. A wise administrative approach to the real estate registration in Bahir Dar by way of shifting the task from the Municipalities to EPLAUA is the only sound way of solving all the institutional, legal and technical problems that is prevailing in the all Municipalities in the region and in Bahir Dar Municipality in particular. It is also good to remember that the global and modern trend nowadays is toward the multipurpose and a single roof system of real estate registration. Last but by no means least this arrangement will set forth an interesting model for all other urban areas in Ethiopia which need a modern real estate management; in as much as the Amhara rural land management can be a model for rural land management in other parts of the country.

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