

Facing the Challenges in Building Sustainable Land Administration Capacity in Ethiopia

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SUMMARY

Ethiopia is, in the last two decades, taking some legal and policy positive measures to improve the old long lasting poor land administration system. Land registration and certification is being implemented in the country though in quite varying scale and quality. However, there are several major gaps in the existing sustainable land management practices. The responsible organ for the implementation of the land administration laws at national level is the Ministry of Agriculture and Rural Development (MOARD). There is one unit called Watershed Management Team under the Natural Resources Conservation and Management Directorate of this Ministry which follows up and monitors all aspects of land administration development throughout the country. As it stands now, this structure does not give the required degree of autonomy and capacity to the land administration system in the country in the rural and urban areas. In the regions, this structure is being followed almost in all regions where the system is introduced.

There are various types of legislations regulating real property in the country. These include real property registration rules, lease laws, planning and building laws, and environmental and forestry legislations though some important matters such as real property formation, utility applications, joint facilities and joint property units are generally not regulated. The existing legislations are found in different titles and parts of the Civil code and in different rural land and lease proclamations on piece meal basis. Also the present land certification system in Ethiopia lacks basic spatial framework or a spatially referenced data capturing and maintenance system. Computerization is being implemented in some level but is being challenged by lack of other infrastructures especially Broad band Network telecom service. Finally, the gaps in the various aspects of land administration-institution, legislation, and IT system- should be identified clearly and solutions be suggested.

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1. INTRODUCTION

1.1 Overview of land tenure policy in Ethiopia

In Ethiopia land is a major socio-economic asset. The way land rights are defined influences how land resources are used and, hence, economic growth. The struggle over who controls the land which is the same with question of controlling power has played a significant role in the history of Ethiopia and could continue to do so. Three periods can be distinguished in relation to land tenure policy and changes: the pre-1975 land tenure system, the rule of the Derg until 1991, and the period since 1991¹.

The pre-1975 land tenure system which is some times called the Imperial regime was diverse in nature. The nature of the land tenure arrangement comprises private, state, church land, kinship and other forms. The emperor, like his predecessor, emperor Menelik the II, made extensive land grants to members of the royal family, the loyal members of the nobility, members of the armed forces and the police, top government officials and civil servants, and notable businessmen². The then immediate three most important consequences of land privatization were the eviction of a large number of peasants, the spread of tenancy, emergence of absentee landlordism³, and the displacement of pastoralists⁴.

In addition, the most typical problems in this regime include institutional inadequacy and the land owned by the absentee land lords was underutilized⁵. These were the most important obstacles to the country's development in general. The privatization of land in the south which was continued at renewed great speed and force in the period of three-and-half decades made important cause of political grievances and leading to the 1974 revolution that resulted in the overthrow of the regime for ones and for all⁶.

The Derg, in its land reform in 1975 appropriated all land and abolished the diverse tenure arrangements in the imperial regime. Landlords lost their land rights and land was distributed to individual households, with household System size being the main criterion for land allocation⁷. However, how did this policy affect tenure insecurity? And has the land reform in Ethiopia eliminated the influence and power of the land lords?

¹ Brihanu, A. and Feyra, A. 2005, P. 5.

² Mersha and wa Githinji, 2005, P.

³ Markakis, 1974, PP. 125-127.

⁴ Markakis and Ayele, 1976, PP. 56-59.

⁵ Action Aid Ethiopia, 2006, PP. 10-12. Rahmato, D. 2003, P. 8.

⁶ Markakis and Ayele, 1976, PP. 56-59.

⁷ Rahmato, D. 1994a, Ege, S. 1990, Pausewang, S. 1988, Alemu, T. 1999, Admassie, Y. 1995.

Of course, the “land to tiller” has provided land to the peasants and has done away with some of the land tenure problems like it avoided the land- lord tenant relations⁸. But Derg policies did not result in improving rural livelihoods and growth of agricultural production⁹. However, in addition to making all lands state owned, the Derg land policy prohibited land transfers through land sales, mortgage, and exchange¹⁰. As household sizes change over time and new households appear, there was also a need to redistribute land at later stages to improve or maintain the egalitarian distribution and to provide land to new landless households¹¹. Frequent administrative land redistributions, constrained access, caused tenure insecurity, fragmentation of land holdings, inefficient allocation of land, is discouraging rural-urban labor movement, and inappropriate land administration practices were among important features of the rural land policy from 1975 – 1991¹².

The present government’s land policy unlike that of the Derg is enshrined in the Constitution. Since 1991 some policy changes have been introduced. Fore instance, the frequency of land redistribution which is considered as cause of tenure insecurity is reduced. Some regions declared that they would not make any more administrative land redistribution while others restricted redistribution to irrigated land. Other land policy improvements comprise land transfer through (with some restriction) rental arrangements including mortgaging the use right by private commercial farms. After 1997 some policy initiatives are also made towards establishing sound land administration system through rural land registration and certification.¹³

In July 2005, the Federal Parliament enacted the Federal Rural Land Administration and Use Proclamation (No. 456/2005), which reaffirms ownership of rural land by the State, but confers indefinite tenure rights, rights to ‘property produced on the land’, rights to inter-generational tenure transfer, rights to rent out land, and lease rights to land users for commercial investments. The law makes provision for the registration and certification of tenure rights. The proclamation also specifically addresses degradation of rural land, including defining the obligations of tenure holders to sustain the land, with specific requirements depending on slope, requirements for gully rehabilitation, restrictions on free grazing, and protection of wetland biodiversity. This Proclamation also has provisions indicating that there will be no further land redistribution, except under special circumstances. Regional States have also enacted legislations to strengthen tenure security, modelled after the federal law.

On the other hand, 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

⁸ Action Aid Ethiopia, 2006, PP. 10-12.

⁹ Brihanu, A. and Feyra, A. 2005, P. 6.

¹⁰ Action Aid Ethiopia, 2006, P. 11.

¹¹ Holden and Yohannes, 2002, P.

¹² Action Aid Ethiopia, 2006, P. 10.

¹³ Action Aid Ethiopia, 2006, P. 11.

classification, urban planning and environmental protection. We can see that here provision of land and its development is one major component the effective operation of which will promote urban socio-economic growth.

The provision of lands component itself incorporates seven principles. Among these principles, real property registration, provision of title deeds, and enhancing real property transactions are unambiguously defined.

Despite the existing policy and legal measures, land related problems such as tenure insecurity, restrictions on transfer and lack of adequate land administration system still prevail¹⁴. Besides, absence of good governance, proliferation of informal settlements, poor urban land management, outdated and/or rigid development plans, urban decay, and capacity problems prevail especially in urban areas¹⁵. Especially in the rural areas, scarcity and landlessness of young peasants, women and re-settlers characterize the country's land resource administration¹⁶.

2. BUILDING INSTITUTIONAL AND ORGANIZATIONAL CAPACITY

Since robust institutions are the major vehicles of policy and legal enforcement, it is generally recognized that inappropriate institutional arrangements are often the biggest bottlenecks in undertaking land administration reforms. Thus, governments must address a number of major issues relating to institutional reform such as defining responsibilities, setting inter-governmental coordination, and promoting decentralization. In addition, they must clearly define and enhance public-private sector relationships and partnerships, and the operation of professional organizations pertinent to land administration.

Apparently, the responsible organ for the implementation of the land administration laws at national level is the Ministry of Agriculture and Rural Development (MOARD). There is one unit called Watershed Management Team under the Natural Resources Conservation and Management Directorate of the Ministry which follows up and monitors all aspects of land administration development throughout the nation.

In Regional states there are various institutional arrangements for land administration. In Amhara Regional State the Bureau of Environmental Protection Land Administration and Use (BEPLAU) which is accountable to the President of the region is responsible for setting up the formal land administration system and assuring the expected benefits out of it. Currently BEPLAU is organized having into two technical core work processes, namely, the Environmental Protection and Sustainability and the Rural Land Administration System Building. Among the two fundamental technical core work processes the later is the one which has profound role to attain the goal and objectives of BEPLAU.

¹⁴ Action Aid Ethiopia, 2006, P. 11. Rahmato, D. 2003, P. 7.

¹⁵ Urban Development Policy, 2006

¹⁶ Abab, S., 2007

In this region there are 10 Zonal offices having 14 positions each. Like wise there are 128 Offices at Woreda level which are supposed to have 17 staffs each. The structure of BEPLAU is also extended to Kebele level which is the lowest and grassroots level administrative structure. There are 3200 Kebeles' Land Administration Committees (KLAC). In addition, there is one land administration development agent in each Kebele.

In the Tigray region the main body that administers rural land is the regional Environmental Protection Land Administration and Use Authority (EPLAUA). The Authority is accountable to the regional Bureau of Agriculture and Rural Development. The land administration and use core work process has three teams: land registration and surveying, GIS and ICT team, and Research and Legal Drafting team. This structure extends to the Woreda level. At the Kebele level there is a land administration committee.

In the Oromia Regional State, the main administrative body for land is the Oromia Bureau of Land and Environmental Protection (OBLEP). The Bureau is made accountable to the President of the Oromia region. The Bureau has been given power to establish branch offices at the Woredas and towns of the region. Interestingly enough, the Bureau has the power to administer both rural and urban land, unlike the case in the other regions in the country. Including the newly planned Urban Land Administration Core Work Process, there are four basic core work processes within the Bureau: Rural Land administration, Land Use, and Environmental Protection. Especially, the Rural Land administration comprises of four major tasks, namely, land registration, surveying, valuation and land dispute resolution, and land use control. Similar arrangement extends to the Woreda level.

In the Southern Nations, Nationalities and Peoples Regional State, the Natural Resources Administration and Environmental Protection is organized under the region's Bureau of Agriculture and Rural Development as the Bureau's main core work process. The Rural Land Resource Development and Administration Team is established in this core work process having four professionals in surveying, land registration, land use and rural land development activities. This arrangement is followed in the Zones and Woredas.

In the Developing Regions of the country, though in varying degrees, a policy and legal development activities are underway. However, a critical shortage of resources is proved to be a bottleneck to these endeavors.

While Ethiopia has made considerable achievements in laying down sound land administration system and has established institutions at different levels, there is evidently lack of uniformity in terms of capacity, mandate, and level of progress. For instance, the Amhara and Tigray regional states where the institutions of land administration are organized as autonomous organs have proved a better land registration and certification. In the other regions where there is a different institutional arrangement, there is a very limited progress in the same activities. Above all, the absence of strong national institution that gives clear

policy, legal, technical, and financial guidance for both rural and urban lands in an integrated approach has resulted in uncertainty and duplication of efforts¹⁷.

The question is as to what should be the wisest institutional and organizational arrangement to build up for sustainable land administration capacity in Ethiopia. The institutional arrangement that should be suggested must adequately address the problems of uncertainty, intolerable diversity, and fragmentations of efforts and in the application of land laws and policies in the country. Further, land being the vital asset of the whole Ethiopian people, it is wise to think about balanced progress in the land administration practices. This in turn will facilitate equitable distribution of land related infrastructures all over the country thereby maintaining sustainable peace and order.

Presently, there are three alternatives for the establishment of institutions for land administration systems in Ethiopia under discussion among policy makers, development practitioners and academicians¹⁸. Almost all of these alternatives give great account to the existing land administration institutions and experiences obtained in the country. The first option is establishing strong Core work process directorate within the Ministry of Agriculture and Rural Development. The second alternative is to establish an entirely new federal ministry known as Ministry of Rural Lands and establishing three Sections, namely, the Rural Land Administration and Use Section, Surveying, Mapping, and Land Information Management Section, and Research, Training and Legal Development Section immediately under the Ministry. The third option is the establishment of a new federal body called the Ministry of Lands which administers both rural and urban lands in a unified manner. Under this Ministry, there will be four Sections, namely, the Rural Land Administration and Use Section, Urban Land Administration, Lease and Use Section, Surveying, Mapping, and Land Information Management Section, and Research, Training and Legal Development Section.

In the opinion of the authors, the third option is the best one with little modification as it implies the regulation of all types of lands by similar body. The justifications given for administering both rural and urban land in a unified fashion are many. Firstly, the nature, principles, objectives and significances, and technologies of real property registration in respect of both the rural and urban land are almost the same. Secondly, this approach saves human, financial and technological resources in a much better way. Thirdly, the responses given to various problems in land administration are relatively uniform. The fourth reason is related to payment of compensation during expropriation which 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 Ethiopia at an alarming rate. In the later case, with similar institutions and laws being involved in the land administration, it will be quite easy to administer the newly incorporated rural lands to the urban territory. Also one may note the current global trend towards multipurpose cadastre and cooperation.

¹⁷ Deininger, K., Zevenbergen, J., et al 2008

¹⁸ MoARD, five years strategic plan draft document, 2009

Therefore, the authors suggest that the national institution for administering sustainable land administration in Ethiopia must handle all types of land, i.e. rural and urban under one roof with similar decentralization of the same arrangement. Indeed, already the Oromia Bureau of Lands and Environmental Protection has set this kind of structure. However, we strongly claim that the separate treatment of rural and urban lands even in the same institution serves no purpose and may not bring a paradigm shift in the present institutional arrangements.

3. BUILDING LEGISLATIVE CAPACITY

A workable land administration is almost unthinkable without putting in place the appropriate legislative framework in sufficient detail and quality. Figuring out the already existing rules is very important; so is the suggestion of inclusion of at least some other important ones. So also an inquiry in to the form in which the various real property legislations are to be put is of tremendous significance for the purpose of effective and efficient land administration in Ethiopia.

3.1 Over view of Existing Legislations

3.1.1 Real property registration legislation

One critical area of Land Law that requires an active legal regime is registration of real property. Cadastre and land register are two important systems of effective administration of immovable properties. The problem is that in Ethiopia such laws generally do not exist at least in sufficient detail or when they exist, they are rendered inapplicable.

In this regard, it is extremely important to see the contents and status of the civil code provisions on registration of immovables under Title X of the Ethiopian Civil Code.¹⁹ There are 93 articles governing this important area. They regulate cadastre and land registration in a unified approach. Interestingly, they provide the responsible body for real estate registration²⁰, the major types of registration (registration of immovables-both private and public, of owners, of mortgages, of acts/documents, and envisage even others), contents of the register and rights which are registerable, procedures and forms of registration, some aspects of updating the register, and the effects of the registration²¹. They also provide other important features or principles of real estate registration namely publicity of the register, financing of the register by charging of fees, individualisation of registered immovables 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

¹⁹ Melkamu, fig Stockholm, pp.16

²⁰ Civil Code, 1960, Art. 1554

²¹ Ibid

and land registration and could, if applied, contribute quite significantly to the country's development.²²

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 government²³. Sadly, no government has ever issued such order leaving the real property registration matters unregulated or subjecting them to the awkward customary practices at least until very 1997.

On the other hand, the recent rural land registration laws, which were discussed before, that exist in few regions are not only inadequate in their content but also have covered a few parts of the country (Amhara, Tigray, Oromia, and SNNPs) in varying degrees. In fact, the start by itself is quite encouraging and there is a lot of progress going on in the country.

3.1.2 Lease Legislations

3.1.2.1 Land Lease

In Ethiopia, there are two major types of lease, namely, house lease and land lease. House leases may be residential or commercial. There are two systems of rental of buildings: private and public. The government owns a lot of urban houses after the nationalization measure through Proc. 47/1975, a proclamation to provide for the ownership of urban land and extra houses. The Rental Agency administers these houses. It puts a regulated and mostly fixed rate of rent for its tenants. On the other hand, private owners of residential and commercial houses are at liberty to put the market price for rent. This is governed by the civil code tenancy provisions in detail (2896-3018).

Concerning rural land, there are generally three types of lease arrangements in Ethiopia. These are lease to other farmers, lease by farmers to investors, and lease by state to investors. On the other hand urban land, lease is the cardinal and exclusive land holding system to transfer urban land to users in accordance with the master plans of each urban area. Urban land lease is governed by a special legislation known as the Lease Holding of Urban Lands Proclamation No. 272/2002. The scope of application of this law is "to an urban land held by the permit system, or by lease-hold system or by other means prior" to the coming of this proclamation as well as to an urban land permitted after the adoption of the same law. The period of lease shall vary depending on the level of urban development and sector of development activity or the type of service and shall have, in any town in Ethiopia. The maximum ceiling is, however 99 years.

3.1.3 Planning and Building Legislations

The Civil Code of Ethiopia has one chapter (Chapter 4) under Title IX dealing with town planning areas. The rules in this Chapter envisage the establishment of town planning, town plan, building permit and compensation during expropriation. However, almost all of these

²² Melkamu, fig Stockholm, pp.16

²³ Civil Code, 1960, Art. 3363

and other matters in this part/chapter of the Civil Code are regulated in sounder manner under the recent laws which we shall subsequently discuss. Hence it appears that Chapter 4 of the Code (including the above provisions) is impliedly repealed by the newer legislations.

The present basic law on urban planning is the Urban Planning Proclamation No. 574/2008, adopted at national level and repealing the Preparation and Implementation of Urban Plans Proclamation No. 315/1987. The objectives of this law are establishing a legal framework in order to promote planned and well developed urban centres; and regulating and facilitating development activities in urban centres and thereby enhance economic development of the country.

Based on the national and regional development strategies and schemes three hierarchy of plans shall be considered. These are national urban development scheme, regional urban development plan, and urban plans. Further, the law recognizes two types of urban plans. They are city wide structure plan and local development plan.

As it is usual in other matter legislations, this law gives the regional states powers and duties to implement it which is commonly accomplished by adopting a similar legislation.

The other laws are related to buildings. The first building law is Ethiopian Building Proclamation No. 624/2009. The general objective of this law is to determine the minimum national standard for the construction or modification of buildings or alteration of their use in order to ensure public health and safety. Another law relating to buildings concerns condominiums. Specially, condominiums are recent phenomenon in Ethiopia. The law issued at national level is called Condominium Proclamation No. 370/2003. The main objectives of this proclamation are to implement other alternatives of urban land use in addition to plots basis urban land use, to narrow the imbalance between demand and supply of housing, maintain beauty of the urban areas, and to improve land use and supply of house.

3.1.4 Environmental and Forestry Legislations

Environmental legislations are available both at federal level. At present, at the federal level, there are three proclamations dealing with the environment. These are the Environmental Protection Organs Establishment Proclamation No. 295/2002, the Environmental Pollution Control Proclamation No.300/2002, and the Environmental Impact Assessment Proclamation No. 299/2002.

The first proclamation assigns responsibilities to separate organizations for environmental development and management activities with the view to establish a system that fosters coordinated but differentiated responsibilities among environmental protection agencies at federal and regional levels.

The major legislation is the Environmental Pollution Control Proclamation No. 300/2002. This law has been adopted to protect the environment, to safeguard human health and wellbeing, to maintain the biota and the aesthetic value of nature, and to eliminate or mitigate

pollution as an undesirable consequence. More specifically, the law addresses control of pollution, management of hazardous waste, chemical and radioactive substance, and management of municipal waste.

The Environmental Impact Assessment Proclamation No. 299/2002 is the third legislation of importance. This law regulates such matters as considerations to determine impact, environmental impact study report, public participation in environmental impact study report, and others.

Forests are also regulated. Normally, in the Civil Code, trees are intrinsic elements of the land on which they stand and, as a result, are immovable properties. Historically, there were a number of legislations on forests. These include the State Forest Proclamation No.225/1965, Private Forest Conservation Proc. No.226/1965, and Putative Forest Proclamation No.227/1965. At present, all these laws are repealed. The main legislations which regulate forest conservation, development and utilization are the Convention on Biological Diversity, 1994, to which Ethiopia is a party, the Forestry Conservation, Development and Utilization proclamation No.94/1994 and the Trade of Saw Logs and Veneer Logs Regulation No. 351/1968. Proclamation no 94/1994, provides for three types of forests, namely, state forests, regional forests, and private forests.

3.2 Code on Immovable Property: Land Law in Prospect

Presently Ethiopian general immovable property legislation is found in different titles and parts of the Civil code and in different proclamations on piece meal basis. For example, the definition for immovable property is found in Title VI, some rights in rem, i.e. real property such as usufruct, servitude, in Title VIII, public domain, expropriation, association of land owners, and town planning in Title IX, register of immovable property in Title X, and contracts relating to immovable properties such as sale, lease and mortgage in XVIII of the Civil Code.

Today, land and legal practitioners such as judges, land administrators, etc in Ethiopia actually find it difficult to apply the legal provisions in the Civil Code. In fact, it is not unusual to find a judge who even is not well aware of the meaning and existence of some provisions such as those on town planning and registration. No doubt, lack of adequate curriculum addressing real property has been one major factor for this. However, the location of those economically significant laws at different parts and contexts in the Civil Code and other legislations is even more important contributing factor for the problem.

Starting from any conceptual analysis, real property or immovable property, on which quite much of our life is dependent especially in our agrarian society, must be dealt with comprehensively, covering all subjects of importance about the subject. Even a slight confusion in this regard means a lot in terms of the implication in the economy and life. Because in the absence of simple and complete legislation, land administration in Ethiopia at

all levels will simply be impossible thus curtailing the effort towards sustainable land administration.

Therefore, the collection of all titles of the Civil Code dealing with immovable property and restructuring them in a comprehensive, simple, and logical order is a decisive measure which the present condition of the country seeks a lot. Quite many countries in the world are following this trend with many visible fruits of development and prosperity. For example, in Sweden, many matters relating to real property are regulated in a single legislation called “Land code”.

Some of the advantages of having a systematically arranged legislation on immovables are:

- Immovable properties will get the degree of attention needed taking into account their importance to the economy,
- Practitioners and others involved in the subject will find it easy to apply in any dealing with real properties,
- Immovable legislation will start to contribute, as it must, vibrantly to our growth while it will stop to be an “untouchable zone”,
- Immovable will be efficiently managed or administered thereby bringing the highly sought sustainable development,
- It will create a favourable condition to create other legislations while capitalizing on history and culture.

The unified land law, therefore, has to be reformulated in such a way that any user, be he practitioner or researcher, can have an easy access to land related legal information in optimum clarity and comprehensiveness. The prospective law has to clearly and realistically define land, buildings, the relationship between a piece of land and a building. It has to encompass all major subjects of land legislation in a single code with the best possible content, clarity and logical coherence. That is rightfully when we can say that the capacity of the real property legislation is properly built. The major subjects to be dealt with should include real property, fixtures, different use rights to real property, tenancy, lease, cadastre and land register, easements, and mortgage. Moreover, the code should regulate matters of real property formation, utility applications, joint facilities and joint property units. This is not to say that these are the only matters to be addressed; one should deeply and critically look at any other subjects that can best be included such as environmental legislations and expropriation laws.

4 LAND ADMINISTRATION IN PRACTICE

Formal land registration and conventional cadastral system is a recent development in Ethiopia particularly in rural settings. In the past six years, astonishingly, in the implementation of the system, Ethiopia managed to register and distribute close to 8 million land holding certificates in an innovative and pro-poor approach within a relatively short time. The system implementation is characterized as a home grown adjudication process, massive

in scale, pace and cost effectiveness, participatory and public process. It is worthwhile to explain and communicate the achievements of the process at this stage for the rest of the world.

Following the introduction of the land registration program to any given Kebele, a Land Administration and Use Committee (KLAC) that is directly elected by popular vote, assumes responsibility for implementation in a labor-intensive and field based process. The traditional measurement is the way of parcel boundary demarcation and definition merely in non-geometric methods. The boundaries are marked by leaving a small strip of land unused and letting weeds grow there. Measuring area and registering parcels details in the field sheets has been done systematically. With this approach, determining the extent of rights would just be a task left for rightful holders and the assumed committee members of the KLAC locally with little assistance from the Woreda land administration experts and surveyors.

Parcels are registered by naming the bordering parcel holder name. The measurement instruments highly vary from Woreda to Woreda across regions based on the resource and availability of personnel and this is implemented regardless of their professional background. Some Woredas used tape meters and graduated ropes, others used compass, and still others simply used the local area measurements. The type of data collected include property attribute data (identification of parcels, area, bordering names, fertility status, means of acquisitions, and locality of the parcel where it is situated), land holder information and legal rights and encumbrances. According to the legal documents the benchmark for the registration is the recent redistribution that varies from region to region and even in the same region. For instance, the recent land redistribution is carried out spontaneously in 1997 in Amhara region only as a means of creating equity among rural community²⁴.

During adjudication, each land holder should be on his/her parcel when KLAC and the Woreda expert(s) arrive. If one is not there, adjudication will proceed based on local information (LAC-members, neighbors who are around). During hard time in adjudication the rightful holder of a particular parcel should present either written document or people who executed the then redistribution in person as evidence. There is also another chance to present claim and complaints on the public hearing meetings. If one is not there, one might run risk of others claiming his or her land. It is possible that changes are made compared to the captured data before the certificates are finalized. In this method there is no mapping or even sketch maps. Therefore, based on these mechanisms there is an attempt to maintain the data quality and the information in the register.

Once registration has been completed and results checked by the public the rightful land holders receive a provisional certificate identifying their holdings that serve for one year. Upon entry and completion of all the information for a Kebele registry book a permanent first

²⁴ In his research report entitled “The Promised Land”, Ege Svein (1997) provided a detailed and first hand account of the motive, nature and consequences of the Amhara land redistribution that suddenly took place in 1997.

level land holding certificate is issued, the holders' pictures attached thereto. For security reasons copies of the registry book are to be kept at Kebele and Woreda offices though this is not implemented yet at Kebele level.

On the other hand, the second type of land registration is carried out conventionally with support of modern surveying instruments like total station, precision GPS, Hand Held GPS, preparation of Kebele registration Index map by using HRSI. The Use of precision RTK GPS has been tested at pilot level. The piloting is objectively designed to develop "a way of working" with innovative approach to the new envisaged land administration system throughout the region in particular and to the nation at large. The cadastral surveying, mapping and registration in this way is carried out mainly in the two pilot kebeles of the region. Data collected in the field were converted into a map showing the boundaries for the properties in the pilot project areas. The maps were then used as a basis for registration of properties, each with its respective designation number. With some modification in methodology the RTK GPS is currently used in irrigation potential areas as one option of surveying.

The present land certification system, despite its being innovative in a number of aspects, limits itself totally to administrative records which lack basic spatial framework and registry maps. This makes updating practically difficult and relatively time taking when there is a change in parcels boundary due to property formation measures. The situation basically calls for the urgent need to look into an operational and affordable solution for spatial referenced data capturing and maintenance.

Recent development elsewhere in the world has shown that a corner stone in a modern land administration system is a computerized register which comprises detailed information at individual land parcel level. In recognition of this, Ethiopia is making considerable efforts to automate the land administration system. Especially, the Amhara Region has been exerting its effort to modernize the rural land registration and surveying operation by introducing IT infrastructure. The Information System for Land Administration (ISLA) software was developed in 2004 for land record management. The software is redesigned in 2006 and further developed in 2007. Significant achievement is obtained in introducing the system at Woreda level. Up to now, the regional Bureau managed to help 38 Woredas to computerize their land records using ISLA of which 20 Woredas are supported financially by SIDA land administration project in the region. The system basically manages the attribute information of holdings which is linked to the spatial dataset. In this regard poor condition of the telecommunication infrastructure challenges the introduction of the automation in the land administration sector. Consequently, the computerization is working in a stand alone environment though it is possible to work in client/server and networked environment. Besides, shortage of trained man power in database administration and the need to employ much labor for digitization of the land record requires huge resources, which remains a challenge to be faced.

5 OPPORTUNITIES FOR INTERVENTION

It may be important to figure out the possible positive opportunities for any development partner at different levels who are willing enough to support sustainable land management in Ethiopia. Though there are quite different measures being taken by the regional government at varied levels, we shall consider two major measures being taken especially by the government of Ethiopia through the MOARD. Let us take up each of these measures.

5.1 The Five Years Strategic Plan for Land Administration in Ethiopia

The Federal Republic of Ethiopia has recently adopted a five year strategic plan for sustainable land administration in the country. The plan addresses the SWOT analysis of the existing land administration system in practice and potential areas of intervention. The planned activities include²⁵:

- Finalize the first level registration and certification in one year,
- Complete coverage of the nation in cadastre in the coming five years,
- Computerize the land record in three years,
- develop a strategic master plan for the nation in 3 years, and develop local level development plans in appropriate scale,
- Review and prepare operational legal framework,
- Strengthen the existing once and establishing land administration organs where it does not exist, and
- Build the necessary human and material capacity.

These activities clearly indicate the different areas of intervention or cooperation by the government and any other organization that can support these vital initiatives. For instance, one area of such intervention is the human resource capacity building. The strategic plan clearly outlines the different levels of education and training required to put in place sustainable land management in the country. Thus by 2015 it is planned to produce nearly 56,000 professionals in land management. Out of this 22,500 will be trained in certificate (3 months), 27,500 in diploma, 4,640 in under graduate degree, and 60 in post graduate degree. For these levels of education and training the important resource institutions are the Institute of Land Administration of Bahir Dar University, Adama University, the experienced staff in the Bureaus of environmental protection, land administration and use, and the Technical and Vocational Training Colleges. In addition, it is planned to open land administration departments into two other domestic universities taking the model of the Bahir Dar University. Therefore, any governmental and non governmental institutions local or foreign have a very good opportunity to support and facing the challenge through the support of the human resource capacity building at any levels.

5.2 The Ethiopian Sustainable Land Management Investment Framework (ESIF)

²⁵ MOARD. Five Year Strategic Plan, PP.7

The Federal Democratic Republic of Ethiopia has also embarked upon the establishment of what is called the Ethiopian Sustainable Land Management Investment Framework (ESIF). This Framework provides a holistic and integrated strategic planning framework under which government and civil society stakeholders can work together to remove the barriers, and overcome the bottlenecks, to promoting and scaling up sustainable land management (SLM) in Ethiopia.

The goal of the Ethiopian Sustainable Land Management Investment Framework (ESIF) is to “Serve as a national level strategic planning framework for guiding the prioritization, planning and implementation, by both the public and private sector, of current and future investments targeted at addressing the interrelated problems of land degradation and rural poverty”²⁶.

The ESIF envisages five major activities or components which fall in one, or more, of the following areas:

- Component 1 – Building the ESIF SLM Knowledge Base
- Component 2 – Improving the enabling policy, legal, institutional and financial environment for SLM
- Component 3 – Building the capacity of public and private sector SLM advisory and other support services providers
- Component 4 – Investment in field based projects and programs for promoting and scaling up SLM
- Component 5 – Management and implementation of the ESIF.

From this, it is evident that sustainable land management is the focus of the framework. Among the activities under component 2, sub-component 2.1 deals with rural land certification and administration. This sub-component would support efforts to expand the coverage and enhance the land certification process aimed at providing rural households with the secure land user rights they require as a prerequisite for investing in SLM. In due process, the alternative approaches for land registration and certification in the most cost-effective ways from the perspective of promoting SLM would be reviewed. It is also considered to look at the need for area-specific variations in the land certification process, in particular to make provision for protecting and enhancing customary rights and management responsibilities for the use of communal land resources.

In relation to the rural land certification and administration sub-component, there have been several projects undergoing. These include mainly the SIDA Land Administration Project, the USAID Ethiopia Land Administration Project, the Austria International Development Cooperation, and the World Bank Sustainable Land Management Project.

Regarding building of the financial capacity for sustainable land management, the ESIF considers both national and extra-national sources. Generally, a variety of existing and pipe

²⁶ MOARD, Ethiopian Sustainable Land Management Investment Framework. Pp.12

line projects would be brought together under the auspices of the ESIF and would provide the initial base line funds required. Additional incremental funding would be sought from a variety of different sources including: (i) federal, regional and Woreda level governments; (ii) development partners (both donor agencies and NGOs); (iii) the Global Environmental Facility (GEF) grants; and (iv) the private sector and civil society (including cash and in kind contributions from the beneficiary rural communities)²⁷. Therefore, this could be another area of cooperation by way of helping build the financial capacity thereby supporting the government's commitment. Otherwise, the planned activities are, pragmatically speaking, too ambitious to be fully implemented within the prescribed period, i.e. in five years.

6 CONCLUSION

As elsewhere, in Ethiopia land is a major socio-economic asset of tremendous importance. The way rights related to land are defined influences how land resources are used and, hence, economic growth. The present day Ethiopia is surely well aware of this determining fact and hence land related property is regulated by the country's most supreme law, i.e. the Constitution. In addition to this decisive measure, the country has introduced some policy changes since 1991: the frequency of land redistribution is highly reduced; various ways of transfer of real property are defined; some land laws are issued; and rural land registration and certification is introduced with an obvious developing interest and commitment.

Despite the exciting progress in a pro-poor sustainable land management, there is following a big challenge especially in relation to enforcement institutions, legal framework, and automation of the land administration.

Not only is the present national land institution, i.e. the Ministry of Agriculture and Rural Development, lacking the necessary and efficient arrangement with respect to land management, but also at present rural land and urban land are enforced separately in an unpredictable and fragmented fashion. Since robust institutions are the major vehicles of policy and legal enforcement, the appropriate institutional arrangement has to be set. In this regard, governments must address a number of major issues relating to institutional reform such as defining responsibilities, setting inter-governmental coordination, and promoting decentralization. Therefore, the existing Ministry of Agriculture and Rural Development must be restructured or another new organ be established in such a way that all types of land, i.e. rural and urban are handled under one roof with similar decentralization of the same arrangement to the regions.

Legislative capacity needs to be built side by side with any practical measure in land administration be it registration, property formation, or automated measures. A workable land administration is almost unthinkable without putting in place the appropriate legislative framework in sufficient detail and quality. Figuring out the already existing rules is very important; so is the suggestion of inclusion of at least some other important ones. Real property must be dealt with comprehensively, covering all subjects of importance about the

²⁷ Ibid, pp.31

subject. Even a slight confusion in this regard means a lot in terms of the implication in the economy and life.

Presently Ethiopian general immovable property legislation is found in different titles and parts of the Civil Code and in different proclamations on piece meal basis. For this reason, today, land and legal practitioners such as judges, land administrators, etc in Ethiopia actually find it difficult to apply the legal provisions in the Civil Code. The collection of all titles of the Civil Code dealing with immovable property and restructuring them in a comprehensive, simple, and logical order is a decisive measure which the present fast developing sustainable land administration seeks a lot.

The unified land law, therefore, has to be reformulated in such a way that any user, be he practitioner or academician, can have an easy access to land related legal information in optimum clarity and comprehensiveness. The prospective law has to clearly and realistically define land, buildings, the relationship between a piece of land and a building. It has to be developed in such a way that it encompasses all major subjects of land legislation in a single code with the best possible content, clarity and logical coherence.

The present land certification system, despite its being innovative in a number of aspects, lacks basic spatial framework. The situation basically calls for the urgent need to look into an operational and affordable solution for spatial referenced data capturing and maintenance. It is also true that computerized register which comprises detailed information at individual land parcel level is an optimum approach to land management. In recognition of this, Ethiopia is making considerable efforts to automate the land administration system. Especially, the Amhara Region has been exerting its effort to modernize the rural land registration and surveying operation by introducing IT infrastructure. The Information System for Land Administration (ISLA) software was developed in 2004 for land record management. The software is redesigned in 2006 and further developed in 2007. Significant achievement is obtained in introducing the system in different Woredas. It has been found out that the poor condition of the telecommunication infrastructure challenges the introduction of the automation in the land administration sector which further indicates the need for coordination between the land institutions and the telecommunication authorities.

It is obvious that as a developing nation, the country must exploit every possible resource to achieve the grand objective of putting a sustainable land management in the country. In addition to the national capacity, the cooperation of developmental partners elsewhere in the world seems to be crucial in this regard. At present, there are a number of positive opportunities for this. On top of the different measures and incentives made by the local governments, the Federal government is taking two major steps. Firstly, it has recently adopted a five year strategic plan for sustainable land administration in the country. One area which is given a lot of attention is the human resource capacity building. The strategic plan clearly outlines the different levels of education and training required to put in place sustainable land management in the country, namely, medium term training, undergraduate program, and post graduate program. The partners have, therefore, this fertile ground to

support the human resource development depending on their interests, capabilities and conditions.

Secondly, the government has embarked upon the establishment of what is called the Ethiopian Sustainable Land Management Investment Framework (ESIF) for the purpose of laying down a national level strategic planning framework for guiding the prioritization, planning and implementation of current and future investments targeted at addressing land related problems. Regarding building of the financial capacity for sustainable land management, the ESIF considers both national and extra-national sources where a variety of existing and pipe line projects would be brought together under the auspices of the ESIF and would provide the initial base line funds required.

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