

THE ROLE OF LEGISLATION ON URBAN LAND REGISTRATION ENFORCEMENT IN ETHIOPIA: THE CASE OF AMHARA NATIONAL REGIONAL STATE

Melkamu Belachew Moges*

Abstract

The Amhara National Regional State (ANRS) has undertaken urban land registration through the financial loan grant primarily from the World Bank since the early 2000s. However, the coverage of land registration practice remains low. This paper begins the journey of exploring the mechanisms in which legislative and other institutional processes could play a better role for the success of land registration systems. Such a study inquiring the casual relationship between legislation and land registration enforcement is unprecedented in Ethiopia. The paper utilizes project documents and mainstream secondary literature to construct conceptual framework. It applies qualitative research methods of data analysis with a case study approach. Descriptive, exploratory, and analytical research analysis were employed. The research explores processes, activities, and events in the form of narration. The paper concludes that gaps in the legislation development on land registration and land management have negatively contributed to the low performance of urban land registration in Ethiopia. The paper suggests that taking a few steps to fill the gaps in the current legislative framework could enhance the contribution of legislative development for improved land management in urban centers of Amhara region with implications for the whole country.

Keywords- Legislation, Land registration, Urban center, Amhara, Ethiopia

INTRODUCTION

Land administration systems play an unparalleled role for social, economic, and environmental development. Land resource is regulated and guided by land administration laws which, in Ethiopia, are separate for rural and urban areas. In general, the field of land administration has a well-developed conventional system that defines land in terms of the smallest unit, i.e. parcel, the users of the parcel, and the third parties who might have some stake on it.

Historically and in practice, land registration in Ethiopia dates to 1907, a period when Menelik II enacted a Decree for such purposes.¹ However, no standardized land registration system has been

* (LLB, Msc, Msc, Graduate Certificate, PhD, Hon. LL.D) Assistant Professor of Laws at Bahir Dar University, The Institute of Land Administration; Fulbright Scholar (2024), Georgia Institute of Technology, Georgia, USA Email: melkamu.moges@fulbrightmail.org The author would like to thank anonymous reviewers for their genuine and constructive comments.

in place until at least the dawn of the 2nd Millennium. With respect to urban areas, the first attempt of systematic land registration was intended to be developed for major regional capitals, namely Mekelle (1998), Bahir Dar and Hawassa (1999), and Adama (2000).² In Bahir Dar ground survey and socio-economic data collection for the purpose of land registration was carried out for 8 Kebeles out of 17.³ Although another attempt was made from 2006 to 2008, the Federal Government focused on developing the process of urban legal cadastre only since 2011. Development of legal cadastres for 23 major cities and towns (6 cities in ANRS including Bahir Dar) commenced in 2012.⁴ The introduction of legal cadastre triggered the adoption of new laws and institutions both at Federal level and at the regions. Thus, the Integrated Land Management Information System Project Office and the Federal Urban Real Property Registration and Information Agency were established for the design of cadastral systems and for real property registration respectively. Since 1 March 2017, the Amhara region publicized the commencement of adjudication and registry in six cities, namely, Bahr Dar, Gonder, Debre Markos, Debre Birhan, Dese, and Kombolcha.⁵ The momentum has continued, and the Land Bureau has adopted a 10-year strategic plan for the urban land sector in 2022.⁶ This Plan aims to implement legal cadastre for 77 urban centers (733,000 land parcels) to improve land management. Generally, the pilot registration systems in the cities had been slow to progress, and, given the historic failure of urban cadastral pilots in Ethiopia, the ability to complete and scale-up the current pilots remained a concern.⁷

Sound land governance is best understood through analysis of a legal and regulatory framework, operational processes, and capacity to implement land policies and land management strategies consistently within a jurisdiction or country in sustainable ways.⁸ The land management

¹ Melkamu, B.Moges. & Alelegn W. Agegnehu, *Issues on the Role of Formal Requirements for Validity of Immovable Transactions in Ethiopia: The Case of Amhara Region*, 6 Bahir Dar U. J.L. 49 (2015-2016), at 78.

² Birhanu, K.A. et al. *Evolving urban cadastres in Ethiopia: The impacts on urban land governance*. 42 Land Use Policy, 695–705 (2015), at 699; Melkamu, B. Moges. *The Need for Modern Real Estate Management in Urban Ethiopia: The Case of Bahir Dar City (Integrating Generations, FIG Working Week, 2008, Stockholm, Sweden 14-19 June 2008)*, at 6.

³ Melkamu, *supra* note 2, at 7.

⁴ Birhanu, K.A. et al, *supra* note 2.

⁵ Interview with Mr. Zerihun Beniam (name changed for anonymity), ANRS Land Bureau, October 14, 2023.

⁶ *Id.*

⁷ Ministry of Urban Development and Housing. *Review of the Legal Cadastre of the Government of Ethiopia, Issues & Policy Recommendations*, Report (2016), at VII.

⁸ Melkamu, B.Moges. *Critical Gaps in Land Governance with Respect to the Land Registration System in Ethiopia*, 15(2) Mizan Law Review, 419–454 (2021), at 427.

Paradigm developed by Enemark⁹ helps us to best understand the interrelationship between these key concepts. The Paradigm illustrates that the land management activities may be described by three components, namely, land policies, land information infrastructures, and land administration infrastructures, which underpin sustainable development.¹⁰ It further indicates that institutions and organizations run the land management activities whose arrangements and structures differ from one jurisdiction to the other and may change over time.¹¹ In short, this means land governance involves land management, land administration, land law and policy, land registration systems (commonly denoted by the words, “cadastre” and “land register”) and land tenure.

True, Ethiopia’s rural and urban land administration laws introduced the new concept of “land holding right” which embodies various rights including the right to transfer property produced on their land by their labour or capital by means of sale, exchange and bequeath.¹² Yet, Ethiopia’s urban land registration system has been affected by severe problems. There is ample evidence in research that shows the gaps in land governance with respect to the land registration system in Ethiopia. These include incomplete land registration; outdated land records and cadastral information; weak land information management systems and public access; insufficient capacity and resources; overlapping jurisdictions and institutional fragmentation; and weak land dispute resolution mechanisms.¹³ These challenges pose negative impact on land tenure security,

⁹ Enemark, S. “*Understanding the Land Management Paradigm*” (FIG Com 7 Symposium on Innovative Technologies for Land Administration 19 – 25 June, Madison, Wisconsin, USA, 2005), retrieved from https://www.researchgate.net/publication/228342504_Understanding_the_land_management_paradigm.

¹⁰ *Id.* at 3.

¹¹ *Id.*

¹² While the idea of “land holding” was first introduced by earlier equivalent law (Proclamation No. 89/1997), the current law is Federal Democratic Republic of Ethiopia Rural Land Administration and Use Proclamation, 2024, Proc. No. 1324/2024, *Fed Neg. Gaz*, Year 30, No. 58, Art. 8. Also see Federal Urban Land Holding and Registration Proclamation, 2014, Proc. No. 818/2014, *Fed Neg. Gaz*, Year 20, No. 25, Art. 2 (3).

¹³ See Mitiku, A. E. et al, *Exploring institutional capacity of urban land delivery and administration for housing development in Bahir Dar, Ethiopia: Institutional analysis*, 9(2) Cogent Social Sciences (2023); Mekonnen, T. M. et al, *The peri-urban cadastre of Addis Ababa: Status, challenges, and fit-for-purpose prospects*, 125 *land use policy* (2023); Olira Kebede, *Land Administration: Securing Limited Resource with Skyrocketed Demand in Shashemene City of Oromia Regional State, Ethiopia*, 3(1) Pan African Journal of Governance and Development (2022); Hafte, G. Gebrihet & Pregala Pillay, *Urban Land Governance in Ethiopia: Empirical Evidence from Mekelle City*, 56(3) *Journal of Public Administration* (2021); Amanuel, Weldegebriel et al, *Spatial Analysis of Intra-Urban Land Use Dynamics in Sub-Saharan Africa: The Case of Addis Ababa (Ethiopia)*, 5 *Urban Sci.* (2021); Worku, Nega et al, 2021, *Evaluating Institutional Dichotomy between Urban and Rural Land Administration in Amhara Region, Ethiopia*, 13(16) *Sustainability* (2021); Nesru, H. K. et al, *Urbanization and*

efficiency and productivity and socioeconomic development in the country.¹⁴ Although the importance of legislation is well noted in this body of literature, this body of research does not show how legislation contributes to the sound enforcement of land registration in Ethiopia. The objective of this paper is, therefore, to explore the relationship between these weaknesses of the land registration system, on the one hand, and the land administration law, on the other hand; and to shed light on the issue of whether gaps in the latter contributed to the challenges of land registration system, and to evaluate the extent of the contribution. In this regard, the paper's significance and originality is considerable as it newly attempts to addresses the question through the empirical/case study and doctrinal investigation of land registration in the case of ANRS. Further, it shall inspire further research on the role of robust legislative framework for land administration.

The Article proceeds in the following order. Part 1 deals with the research approach and methods applied. Part 2 presents a bird's eye view of the legislative framework for urban land management and registration. Part 3 attempts at framing tools to evaluate land registration legislation and its implementation in Ethiopia. Part 4 highlights the major gaps in the substantive part of land registration legislation and its enforcement. The study ends with a conclusion and the way forward.

1. RESEARCH DESIGN

This study applied a qualitative research approach.¹⁵ “The idea behind qualitative research is to purposefully select participants or sites (or documents or visual material) that will best help the researcher to understand the problem and the research question” which “does not necessarily suggest random sampling or selection of a large number of participants and sites, as typically found in quantitative research”.¹⁶ The research applies qualitative research methods of data analysis. As part of this, a case study design has been employed where ANRS urban centers are used as as case studies with more focus on the city of Bahir Dar. A case study is more

urban land use efficiency: Evidence from regional and Addis Ababa satellite cities, Ethiopia, 117 Habitat International (2021).

¹⁴ See eg. Muradu Abdo, *Interrogating Land Policy Perspectives: Ethiopia in Focus*, 12(1) Oromia L.J. (2023).

¹⁵ Creswell, J.W. *Research design: qualitative, quantitative, and mixed methods approaches* (California, SAGE Publications, Inc. 3rd ed, 2009).

¹⁶ *Id.* at 166.

appropriate to study a well-defined aspect of an event that the researcher chooses for analysis especially where statistical methods and formal models are weak which is the case in this study.

¹⁷ It has relative advantages due to their potential for achieving high conceptual validity, their strong procedures for fostering new hypotheses, their value as a useful means to closely examine the hypothesized role of causal mechanisms in the context of individual cases, and their capacity for addressing causal complexity.¹⁸ Descriptive, exploratory, and analytical research analysis were employed which helped the researcher to explore and narrate the processes, activities, and events in the case study. The nature of the study as a case study demanded the researcher to get a better picture of the land registration enforcement on real time. To achieve this, consultation and discussion with major government offices on the ways and means of land use and management was undertaken. This is through field observation that included undertaking informal interviews, and looking at training materials and implementation reports of most relevant stakeholders, namely, the ANRS Land Bureau, ANRS Urban and Infrastructure Bureau, and Bahir Dar City Administration. The paper employed these informal sources, not as a main source of data by themselves but to enable direct and primary access to the practice and process or implementation of the cadastre on the ground. As such, the researcher preferred rigorous qualitative analysis and argumentation as well as interpretation of existing reality as found in legislation and enforcement of the same. Literature review of relevant secondary sources and visual materials about the characteristics of relevant issues, the problems and major impacts was undertaken. Legal document analysis, which is a primary source that involved a simple review and analysis of selected relevant proclamations and other legislation, was the other method.

ANRS was purposefully selected for the study. First, because, the region is one of the largest regions in Ethiopia with many urban centers, and second, as was mentioned before, it is one of the regions where national attention has been given for implementing urban cadastre. As such, the case study of ANRS would be helpful in developing a theory for the legislation-cadastre nexus with implication for the country as a whole (Section 4.2).

¹⁷Alexander L. George & Andrew Bennett, *Case Studies and Theory Development in the Social Sciences* (MIT Press, 2005), at 24.

¹⁸*Id.* at 25.

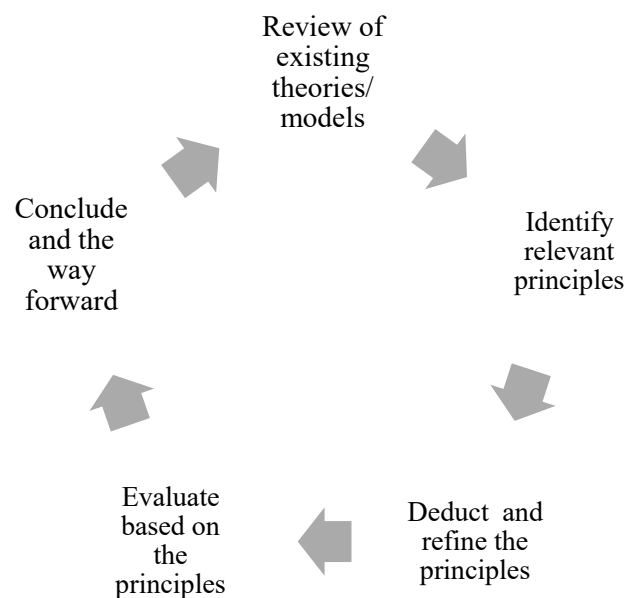


Figure 1: The conceptual framework to evaluate land registration legislation (Source: Author)

2. OVERVIEW OF URBAN LAND REGISTRATION LEGISLATION IN ETHIOPIA

2.1 National Level

Land institutions refer to policies and laws and organizations enforcing property rights.¹⁹ In other words, urban land management is an outcome of the country's policies, programs/projects, legislations, and enforcement institutions. Ethiopia's urban land management legislation is diverse in its nature. It covers land holding and registration, land tenure, design planning and environment, and the expropriation and compensation procedure. The land tenure and ownership aspect is the basis for all other legislation. This basic component is found in the Constitution and the lease legislation. The former provides that urban and rural land and all other natural resources are owned by the state and the people, which is known as collective or public ownership of land.²⁰ The urban land tenure is leasehold (as opposed to land ownership concept) which is provided currently by the lease proclamation.²¹ The lease law provides for the allocation of rights

¹⁹ Feder, G. and Feeny, D. Land Tenure and Property Rights: Theory and Implications for Development Policy", 5(1) *The World Bank Economic Review*, 135–153 (1991), at 137.

²⁰ Constitution of the Federal Democratic Republic of Ethiopia Proclamation, 1995, Proc No 1/1995, *Fed Neg Gaz*, Year 1, No.1, Art. 40 (3).

²¹ Urban Lands Lease Holding Proclamation, 2011, Proc No.721/2011, *Fed Neg Gaz*, Year 18, No.4.

to use land through urban leases, prohibits land possession and permission other than lease holding and provides for the administration of urban land lease holdings. It applies to all urban lands prospectively irrespective of how the lands were held previously.²²

Urban land registration is governed by a handful of legislations in addition to many standards and manuals (Table I).

Table 1: Urban land registration legislations (Source: Author)

Legislation	Description
Urban Land Holding and Registration Proclamation No. 818/2014	It provides for the registration of rights, restrictions and responsibilities relating to urban land and the principles of a legal cadastre and landholding adjudication and registration system.
Urban Land Holding Adjudication and Registration Regulation No. 324/2014	It provides the objectives and principles of landholding registration and adjudication, and further detail on the implementation of Proclamation No.818/2014.
Cadastral Surveying Regulation No. 323/2014	It provides the principles of cadastral survey system implementation, specifies survey measurement and calculation activities and procedures.
Cadastral Surveying Directive No. 44/2015	It provides directions to surveyors on cadastral survey and preparation of the cadastral base maps.
Revised Urban Land Holding Adjudication and Registration Directive No. 61/2018	It provides guidelines and directions on the implementation of Proclamation No.818/2014, including details on the application for landholding adjudication and registration, the implementation of systematic and sporadic landholding adjudication and registration, responsibilities, and grievance handling.
Lease Proclamation 721/2011	It embodies the urban land tenure system, i.e. leasehold.

Urban land holding and registration law is the umbrella law for the urban land tenure registration. It provides for the different rights, restrictions, and responsibilities that need be

²² *Id.* at Art.3.

registered.²³ It further stipulates “the registering institution shall be liable for damage caused to third parties who acted in good faith relying on the proof of registration of right, restriction or responsibility on a registered landholding”.²⁴

2.2 Regional Level

Basically, urban land legislation in Ethiopia is more centralized as it is national by its nature and scope. That means regions are governed by national legal framework. A good indication is that the urban land registration proclamation and regulations and directives issued under it are binding to all regions.²⁵ However, there seems to be no clear practical direction regarding the power of the Federal Government and the regions on law making on land issues.²⁶ That is why sometimes regional-level legislations have been enacted and this trend seems to grow in line with institutional growth and needs for improved land management.

In ANRS, the land registration function has become more formal after the enactment of the regional cities’ powers and duties establishment legislation in 2004 (Proc No 91/2004) which is later replaced by legislation.²⁷ Specifically, this legislation provides that a city administration shall have the powers and duties to “administer and develop, in accordance with law, the lands and natural resources found within the boundary of the city in an efficient and effective manner; and to that end establish urban land title data system”.²⁸ There are, however, more specific land tenure and registration legislations. They include the following:

➤ Leasehold Regulation No. 103/2011 and Directive No. 1/2012

The Regulation is enacted to implement the national lease Proclamation No.721/2011 and the Directive is enacted to implement the Regulation in full scale.

²³ See Urban Land Holding and Registration Proclamation, *supra* note 12, Art. 30.

²⁴ *Id.* at Art. 40 (1).

²⁵ *Id.*, at Arts.3, 50(1), 54.

²⁶ Thus, with regard to rural land, both the Federal Government and the regions adopt proclamations, regulations, etc. The regions’ law making power derives from Art. 60 (2) Proc. 1324/24. In theory, however, the law making and administrative power of the Federal Government and the regions regarding land is set out under the FDRE Constitution. See at Arts. 52(2)(d) cum. 55(2).

²⁷ The Revised Amhara National Regional Cities’ Establishment, Organization and Powers and Duties Determination Proclamation, 2017, Proc No.245/2017, *Zikre Hfig*, Year 21, No.25.

²⁸ *Id.* at Art. 11(2).

- Directive to Provide for Provision of Land Holding Certificate for Land Holdings which do not have Complete Land Holding Certificate No. 4/2022 (replacing previous several directives on the matter)

This legislation provides for the provision of land holding evidence for holdings, which, for various reasons, have not received current land holding certificate.

- Sporadic Adjudication, New Registration and Fees Determination Directive No.15/2022

This Directive is enacted under national level legislation, namely, Proclamation No.818/2014, Regulation No. 324/2014 and Directive No. 61/2018. Its purpose is to address land adjudication requests submitted sporadically by landholders in urban areas where systematic land adjudication and registration has occurred. It also addresses service fee determination for these services.

3. EVALUATION TOOLS FOR LAND REGISTRATION LEGISLATION AND ENFORCEMENT

Land management legislation is one of the key tools for successful land policy system. “The foundation of any system of social order is the framework of laws, which reflect the Constitution of the country, governs the administrative processes, and expresses the rights and obligations to the citizen.”²⁹ Legislation is one of the crucial components to establish a good and sustainable land registration governance system. To achieve its intended purpose, legislation should meet sound criteria and enhance the values of completeness, uniformity, consistency, coherence, equality, fairness and rationality.³⁰ For the purpose of this paper, we need criteria against which we can evaluate the land registration legislation in Ethiopia.

However, evaluative criteria for land registration legislation systems are rarely made and this part builds on these rare efforts to develop evaluative criteria.³¹ From a broader and legal theory point of view, Fuller has coined eight excellences of the law, which according to him, a legal

²⁹ Enemark, S. Building Land Information Policies, Denmark (UN, FIG, PC IDEA Inter-regional Special Forum on The Building of Land Information Policies in the Americas Aguascalientes, Mexico 26–27 October 2004). Retrieved from https://www.fig.net/resources/proceedings/2004/mexico/papers_eng/ts2_enemark_eng.pdf

³⁰ See Melkamu, *supra* note 8, at 428–429.

³¹ See *Id.* at 433–436. This effort should continue until a more robust framework is developed for easy adaptation to future research.

system needs to possess or exhibit as a minimal amount of respect and dignity for those affected by it and which, together, give the law its existence. These are generality of law, promulgation, prospectivity, clarity, consistency or coherence, possibility, constancy, and congruence between official action and declared rule.³² Interestingly, Fuller calls these rules “implicit laws of lawmaking”.³³ The study takes these principles as relevant to assess Ethiopia’s land law and policy because the principles are so universal in their nature which any legal system should adhere to.

Some specific indicators or measures of activities of good land governance including legislative principles are developed by the Land Governance Assessment Framework (LGAF) developed by Klaus Deininger et al.³⁴ The “Land Administration Tool Box” principles developed by Williamson also recognize sound legislative development as one of the tools for proper land management.³⁵ As such, they are quite relevant to measure Ethiopia’s land registration legislation from a wider land governance and policy perspective.³⁶

According to United Nations Economic Commission for Europe, the following indicates what land administration laws should include when drafted:

- Define and distinguish legal forms of land tenure (ownership, leasehold, use of land).
- Distinguish between real and movable property.
- Define who determines rights; and how land rights are transmitted.
- Establish an independent public land registration institution.

³² See generally Fuller, L. *The Morality of Law*, Rev. Ed. (New Haven: Yale University Press, 1969), at 46–91.

³³ Lon L Fuller, *Anatomy of the Law* (New York: Praeger, 1968) cited in Kenneth I Winston (ed), *The Principles of Social Order: Selected Essays of Lon L Fuller* (Hart Publishing, 2001), at 159.

³⁴ See generally Deininger, K. et al. *The Land Governance Assessment Framework: Identifying and Monitoring Good Practice in the Land Sector* (The World Bank, 2012). Retrieved from <https://documents.worldbank.org/en/publication/documents-reports/documentdetail/862461468327558327/the-land-governance-assessment-framework-identifying-and-monitoring-good-practice-in-the-land-sector>; Legislative component of LGAF is discussed in, Burns et al. *Implementing the Land Governance Assessment Framework*, (FIG Congress 2010 Facing the Challenges - Building the Capacity Sydney, Australia, 11-16 April 2010), at 5–6, retrieved from https://www.fig.net/resources/proceedings/fig_proceedings/fig2010/papers/ts03a/ts03a_burns_deininger_et_al_4640.pdf.

³⁵ Williamson, I.P. *Land Administration “Best Practice” Providing the Infrastructure for Land Policy Implementation* 18(4) *Land Use Policy*, 297–307 (2001), at 303.

³⁶ For possible use of other models or paradigms to evaluate land governance, See Solomon, D. Chekole et al. *Performance Evaluation of the Urban Cadastral System in Addis Ababa, Ethiopia*, 9,505 *Land-MDPI*, 2020.

- Ensure that the State guarantees registered rights.
- Establish simple administrative systems for land transfer and property formation.
- Establish quick and simple procedures for mortgage and forced sales.
- Co-ordinate legislation related to planning, land-use, land value, land registration.
- Ensure clarity of responsibilities, roles and powers of the authorities involved, and
- Specify the administrative role of the agencies and actors involved.³⁷

Nevertheless, we need to deduct the most important and relevant evaluative criteria from the discussion above for simplicity and clarity. These are presented textually as follows:

- Clarity, consistency or coherence, generality, constancy, reliability, and completeness
The land registration rules are clear in their meaning and scope especially in defining all major functions of land administration namely land tenure, land use planning, value and development, there is no contradiction among different legislations, the legislations are made to address all individuals in similar manner, the rules do not change in application or in enactment without justifiable and rational cause, and are trustworthy, acceptable or legitimate in the eyes of citizens and all major stakeholders.
- Congruence between official action and declared legislation.
This entails enforcement of land rights recognized by law or enforcement of legislation and prevention and resolution of violations of the rules in legislation.
- ‘Continuum’ of rights
This refers to the existence of mechanisms for recognition, description and definition of land rights, restrictions and responsibilities including customary rights and the land rights of public offices, public lands, and lands held by religious and social institutions.
- Clarity of institutional mandates
This entails coordination in institutional relations in central–local and local-local institutions.
- Accessibility, cost–effectiveness, responsiveness, and sustainability

³⁷ United Nations Economic Commission for Europe Working Party on Land Administration Social and Economic Benefits of Good Land Administration (HM Land Registry, London, Second Edition, 2005), at 14, retrieved from https://unece.org/sites/default/files/2022-01/benefits_landadmin_ed2.pdf.

This signifies the ease at which users and stakeholders access the information, the quantity and quality of land information, the cost of service, and the level in which fast responses are provided when so requested by urban dwellers.

- Transparency, participation, and good governance

The working system, procedure and requirements, service delivery, decisions, and determinations, etc. are made in a manner all can understand and access to, mechanisms to detect and deal with illegal staff behaviour exist in all registry offices, and all cases are promptly dealt with.

The following Section shall evaluate the land registration legislation against these criteria (Table IV).

4. Synthesis of Key Findings: Practical Gaps and Their Implication

4.1 Analysis of Land Registration Problems and Gaps

Several studies investigated many land governance matters in relation to diverse issues of land management such as cadastre,³⁸ peri-urban land and informal settlement,³⁹ planning,⁴⁰ corruption,⁴¹ land acquisition,⁴² urban land development and renewal,⁴³ and institutional organization,⁴⁴ in Ethiopian urban centers especially Bahir Dar and Addis Ababa. Their insight was critical to better understand the gaps in the land registration and governance system. Consistent with the findings of other studies, documentary review of various reports and documents in the ANRS Land Bureau and Bahir Dar City Land Holding Registration and

³⁸ Birhanu, K.A. et al, *supra* note 2; Solomon, D. Chekole. et al, *supra* note 36.

³⁹ Abebe M.Wubie. et al. Synthesizing the dilemmas and prospects for a peri-urban land use management framework: Evidence from Ethiopia, 100 *Land Use Policy* 105122 (2021); Berhanu, K.A. et al. A socio-spatial methodology for evaluating urban land governance: the case of informal settlements, 60(2) *Journal of Spatial Science*, (2015), at 289–309.

⁴⁰ Genet, A. Urban Plans and Conflicting Interests in Sustainable Cross-Boundary Land Governance, the Case of National Urban and Regional Plans in Ethiopia, 13, 3081 *Sustainability* (2021).

⁴¹ Misganaw, G. B. Corruption in the post-1991 urban land governance of Ethiopia Tracing major drivers in the law, 4(1) *African Journal of Land Policy and Geospatial Sciences*, (2021), at 33–52.

⁴² Dereje, T.A. & Birhanu, G.A., The Practice of Peri-Urban Land Acquisition by Expropriation for Housing Purposes and the Implications: The Case of Bahir Dar, Ethiopia, 7 *Urban Science*, (2023), at 1–19.

⁴³ Meskerem, Z. Inner City Urban Renewal: Assessing the Sustainability and Implications for Urban Landscape Change of Addis Ababa, 36 *Journal of Housing and the Built Environment*, (2021), at 1249–1275.

⁴⁴ Solomon, D. Chekole. Analyzing the Effects of Institutional Merger: Case of Cadastral Information Registration and Landholding Right Providing Institutions in Ethiopia, 10, 404 *Land-MDPI* (2021).

Information Agency shows that the following are the major indicators of existing problems found in the legal cadastre system of ANRS urban centers. These include:

- The land creating institution does not provide complete land holding file and documentation and fails to give fast response when a file is returned to them for verification.
- Basic land right documents are not protected, there is intentional loss of them thereby illegally transferring the lands to non-owners and putting them in a state of difficulty in maintaining transparency and accountability.
- Survey control points are damaged by other infrastructure activities.
- Limited cooperation between the land creator and land registration office expecting that the jobs performed by the right creator will be taken over by the land registration office.
- Resources necessary for land adjudication are not supplied adequately.
- Burden on the human resources in land adjudication registration and service delivery due to inefficient organizational structure.
- Pre-adjudication activities such as block partition were not done in some adjudication Sections.
- Conflict between document adjudication and survey adjudication information makes it hard to provide services such as produce map/plan.
- Parcels not being made ready for adjudication and difficulty of giving land registration service for these parcels.
- Surveying equipment being damaged and shortage.
- Shortage of budget for activities such as land holding filing and map preparation; lack of complete documentation for Kebele and public rental houses, green area parcels, public and religious institutions, and informal parcels.⁴⁵

As consequence of these problems, urban land registration coverage is too low generally in all urban centers in ANRS⁴⁶ as it is the case in the whole country.⁴⁷ Out of the 718,000 parcels

⁴⁵ See example. ANRS Urban Land Holding Registration and Information Agency, Training Material, 2017, at 14–16; Presentation by Bahir Dar City Urban Land Holding Registration and Information Agency, July 2017.

⁴⁶ See Annual Plan Implementation Report, ANRS Bureau of Land, 2022/2023, at 40.

estimated to be found in 14 urban centers of the region, only 4 % are registered. The difference between parcels adjudicated and registered/certified is huge, less than half of the adjudicated being certified. For example, in Bahir Dar alone, out of 95 000 parcels, only 14% are adjudicated and only about half of them are certified. This problem is hampering project intervention. What is more, each year the plan for land adjudication and registration is far less than the number of parcels existing in the urban centers (Table III).

Table II: Legal cadastre coverage in ANRS from 2018-2023 (Source: Land Bureau, 2023)

No .	City	Total parcel	No of parcel adjudicated by document	No of parcel registered	No of parcel certificate issued
1	Bahir Dar	95,000	13671	8953	7853
2	Gondar	95,000	9109	2523	2400
3	Dessie	95,000	14880	3776	3776
4	Debre Markos	40,000	2959	2474	2474
5	Debre Berhan	40,000	8720	4738	3700
6	Combolcha	35,000	3697	537	478
7	Woldia	30,000	2481	185	122
8	Debre Tabor	30,000	5060	1773	1773
9	Enjibara	18,000	4425	3497	2393
10	Fenoteselam	18,000	1369	758	719
11	Bure	180000	1314	746	746
12	Debark	12,000	2430	89	89
13	Kemissie	18,000	4050	285	285
14	Lalibela	12000	144	26	26
Total		718,000	74309 (10%)	30360 (4%)	26834 (3.7%)

Even out of the plan (which is far less than actual parcels), only about half of the planned parcels are given land certificate (Table IV).

⁴⁷ Solomon, D. Chekole. et al. *supra* note 36, at 3.

Table III: Urban land registration plan and achievements in ANRS in the year 2022/23
(Source: Land Bureau, 2023)

No.	Activity	Planned	Achieved (%)
1	Transfer of land holding from right creator to right registration office	42,000	30,288 (72%)
2	Land adjudication by document	42,000	28,180 (67%)
3	Opening adjudicated parcel information to the public	42,000	26,702 (64%)
4	Give land holders evidence of adjudication	42,000	14,419 (34%)
5	Deliver adjudication evidence to land registration office	42,000	21,361 (51%)
6	Undertake land holding registration	29,400	17,413 (59%)
7	Issue land holding certificate	29,400	16,244 (55%)

The coverage of land registration in Bahir Dar, the capital of ANRS, is also too low (Fig. 1). Out of the total parcels in the city (95000), only 9414 are adjudicated (about 10%).

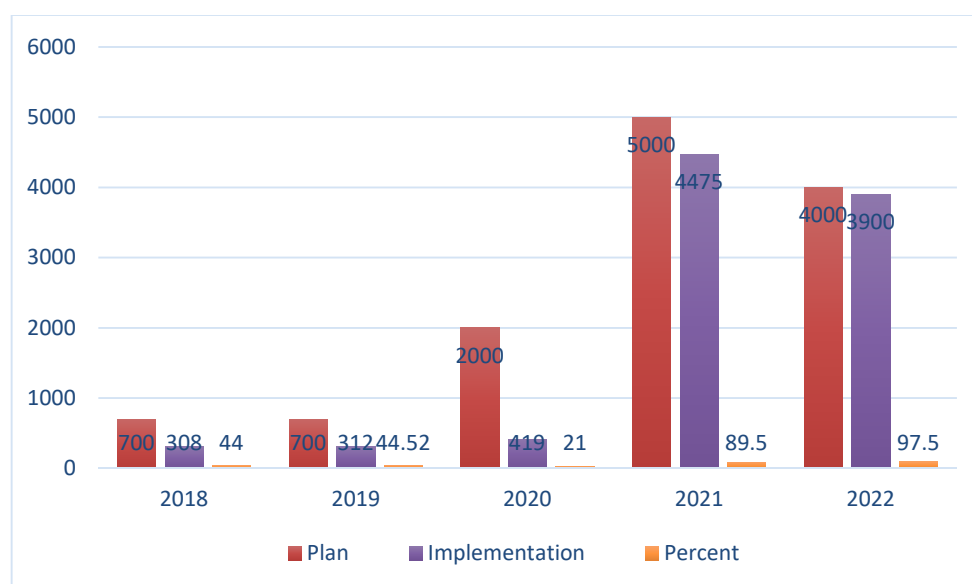


Figure 2: Annual performance of land registration in Bahir Dar for 5 Years (2018-2022)
(Source: Land Bureau, 2022)

4.2 The Contribution of Legislative Gaps to Weak Land Registration System

Under this Section, we attempt to see how gaps in the legislative framework contributed to the existing problems in land registration, and, more broadly to land management. From the problem analysis outlined in the earlier Section, a few outstanding issues can be distilled which need to be discussed for better clarification and to cater for alternative mechanisms to mitigate the problems. These are the type of cadastre, the nature of land rights, relationship between right creator and right registration office, formal parcels and informal parcels, and unsupported practices.

- **The type of cadastre**

The present land registration system is a legal cadastre.⁴⁸ This type of cadastre focuses on the registration or formalization of land parcels, the benefits or interests they provide and the beneficiary or owner. This may happen in a systematic manner, i.e. once for given number of parcels at a given time; or in a sporadic manner, i.e. whenever there is a specific request for land adjudication following a transaction.⁴⁹ This type of cadastre is limited in scope. That means it does not provide information on land developments such as infrastructure and parcels other than individually owned ones such as green areas and public holdings. Therefore, we need to cater for legislation that provides better cadastre so that project intervention brings better results for the stakeholders. The cadastre this study proposes is a multipurpose cadastre. This type of cadastre gives wider room for more diverse information on land and users, and it provides for a more holistic and integrated land management system. Moreover, it strengthens land development for various cases be it infrastructure or other.

- **Clarity of land rights and land development**

Present land management legislation, especially lease legislation and land holding, and registration legislation lack clarity as, for instance, they do not define land rights in full.⁵⁰ As we know, land management and land administration cover four major functions, namely, land tenure, land use, land value, and land development. While the first three components are defined relatively clearly by mainstream legislation, namely, lease

⁴⁸ Urban Land Holding and Registration Proclamation, *supra* note 10, Art. 6.

⁴⁹ *Id.*, at Art. 2 (6) & (7).

⁵⁰ See also Solomon, D. Chekole. et al, *supra* note 44; Abebe M.Wubie.et al, *supra* note 39.

legislation, land holding and registration law, and planning laws, the last or land development is not defined. The FDRE constitution provides that landholders have the right to undertake development on their parcel and make dealings with it.⁵¹ But land development may be a wider concept which may indicate the production of property through the application of resources like labor and skills on different land parcels like road infrastructures, public domain property, religious holdings and common public facilities like green spaces and stadiums, intrastate and interstate boundary marks, and so on. This major tenet needs to be defined and addressed in adequate detail by legislation, especially the urban land holding and registration legislation. Not only should the whole meaning and process of land development be defined but also the legal relationship between a particular parcel of land and development made on that land should be clearly defined. Lack of clarity in this regard has made land development an alien concept to land registration practice in Ethiopia. For instance, how infrastructure development such as roads and utility infrastructure is to be related to the land registration system needs to be road-mapped.⁵²

- **Relationship between right creator and right registration office**

Land management power in ANRS is divided between the Bureau of Urban Development and Infrastructure and the Land Bureau. Some of the duties of the former, which seem to be most relevant for land management in the context of this study include:

- Render the appropriate response and register for transfer of property requests presented by urban holdings, timely transfer changes taken place on land holding to concerned body.
- Follow up urban centers found in the region to be led by plan and urban plan, and support hereof; and

⁵¹ FDRE Constitution, *supra* note 20, Art. 40 (7).

⁵² For a discussion of the relationship between water covered lands and wetlands and dry lands in land registration, see Melkamu, B. Moges *Towards a Land Administration Approach to Water Resource Management in Ethiopia with Particular Focus on Lake Tana Watershed*, 17(2) *Mizan Law Review* (2023).

- Receive any land found outside boundary of urban structural plan and prepared by concerned body, transfer it to third body, develop same economically, administer and control it.⁵³

On the other hand, some of the specific powers and duties of the Land Bureau are:

- Study, register and maintain the type and amount of rural as well as urban land available in the region, follow up and supervise its administration and use thereof.
- Study and determine the land use found in the region; follow up that land users take care of their land holdings in various ways; devise various incentive methods for those who hold their land properly and take an appropriate measure on those who do not discharge their own duties.
- Identify land used for different services through study, enter same to land bank, cause same to be prepared in sufficient condition, devise procedures how they are transferred to the concerned body, follow up and control the implementation fairness thereof.⁵⁴

In practice, the Bureau of Urban and Infrastructure Development is known as landholding right providing institution or simply “right creator” which is different from the registration institution. Accordingly, it undertakes what is referred to as right creation over a parcel of land for landholders. There is some back up of rules for this stipulation as evidenced by the urban land holding and registration regulation, which implies distinct institutions for “rights creation” and “rights registration”.⁵⁵ This creates conflict with the emerging change in land management with land management functions required to be consolidated in one institution.⁵⁶ In practice too, this diversion is, as was mentioned in Section 5.1, creating many problems of urban land management. Therefore, legislation needs to be modified to bring better land management by clearly transferring land management and registration to the Land Bureau. Particularly land transfer needs to be done by the right registering institution and the idea of right-creation needs to be moved to the Land Bureau.

⁵³ The Amhara National Regional State Revised Executive Organs Re-Establishment and Determination of its Powers and Duties Proclamation, 2021, Proc No 280/2021, *Zikre Hig*, Year 26, No 18, Art.18 (1), (5), (6).

⁵⁴ *Id.* at Art. 17.

⁵⁵ See Urban Landholding Adjudication and Registration Council of Ministers Regulation, 2014, Reg No.324/2014, *Negarit Gazetta*, Year 20, No 83, Arts. 2 (5) and (8).

⁵⁶ For example, ANRS and Oromia region have merged urban and rural land management under the same institution.

- **Formal parcels vs. informal parcels**

Currently, legislation is focusing on formal land rights as it clearly provides for the adjudication and registration of formal rights, restrictions, and responsibilities. The law and the land management system in general does not provide for continuity with informal holdings.⁵⁷ But urban areas are dominantly held under informal settings.⁵⁸ Some land administration models approved both internationally and nationally provide that land rights exist in continuum and, as such, legal protection should be given to land rights that exist outside formal recognition. The field of land administration knows of various theories or models regarding this matter.⁵⁹ Thus, at international level we have the Social Tenure Model.⁶⁰ This model has been adapted to Ethiopia's context and referred to as Ethiopian Land Administration Model (ELADM).⁶¹ According to ELADM, rights, restrictions and responsibilities have been developed to match with Ethiopian current and possibly future legislation by including customary rights and usufruct.⁶²

⁵⁷ Berhanu, K.A. et al., *supra* note 39.

⁵⁸ See eg, Fentaw Baye et al, *Administrative failures contributing to the proliferation and growth of informal settlements in Ethiopia: The case of Woldia Township*, 9Heliyon (2023), at 2; Amanuel, Weldegebriel et al, *supra* note 13, at 3-4.

⁵⁹ See generally Melkamu, B.Moges. *Modelling Legislation for a Sustainable Cadastral System* (PhD thesis, University of Melbourne, Melbourne Law School, 2015), at 54–71.

⁶⁰ Augustinus, C. *Social Tenure Domain Model: What It can Mean for the Land Industry and for the Poor* (International Federation of Surveyors, 2010), at 7.

⁶¹ Ministry of Urban Development, Housing and Construction, *Ethiopian Land Administration Domain Model (ELADM) No.-02/2015*, Jan.2015.

⁶² *Id.* at 77.

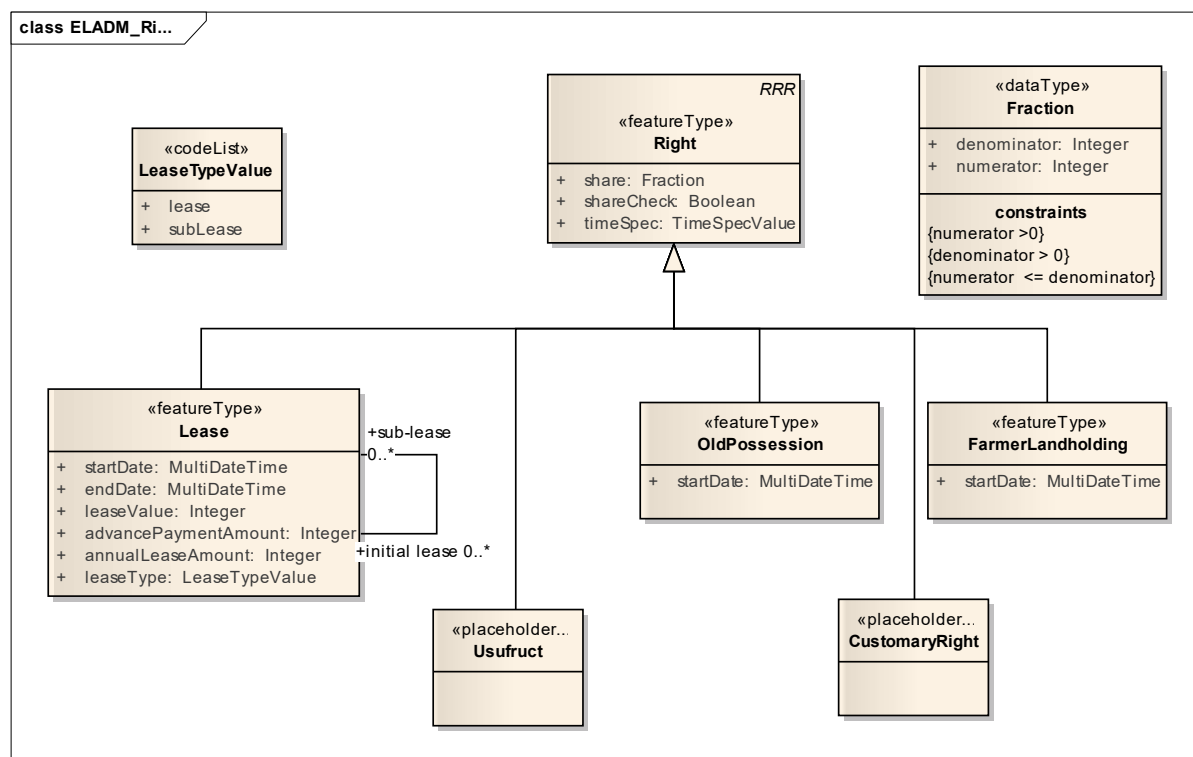


Figure 3: Right and sub-types (ELADM) (Source: Ministry of Urban Development and Housing, 2016)

It should be noted that the ANRS Bureau of Urban and Infrastructure has enacted directives for the recognition of some types of informal holdings. So, we have the Informal Holding Administration Directive No. 4/2022 which has replaced similar previous directives No.2/2012, 8/2014 and 2/2018. While the idea of regularising informal possessions is a great idea, it needs to be addressed at higher/Proclamation level to ensure transparency and enforce-ability. So, the law needs to have rules on how to enforce this.

- **Inappropriate practices**

Considering that land is a scarce resource and the most basic resources for the citizens, land management in general and land adjudication and registration system in particular needs to be undertaken under existing strict, transparent, and disciplined working procedures laws and policies. However, the system is full of many drawbacks as discussed under Section 5.2. Further, unlawful, irregular and inappropriate practices could hamper the land registration development and sustainability in ANRS. One first issue is organizational because the Land Bureau has not yet handled all major urban land administration functions, i.e. it is merely symbolic. The Land Bureau must be strong and complete by itself and needs to handle all

basic land management functions. In this sense, the relatively good practice of land management already established in the case of rural land needs to be integrated into urban land management.⁶³ The establishment of a Land Bureau is only the first step; the institutional merger needs to be implemented at a lower level (city administration and lower levels) and a merger of legislation is pivotal. Further, the establishment of other support organizations must be done in a manner that does not frustrate regular enforcement in a predictable manner. In this regard, we can mention the decision of Ministry of Urban Development and Infrastructure decided that World Bank budget be used for urban land adjudication, registration and related services in 2019/2020 to be carried out by the support of professional entities (established as small micro enterprises) with the view to create job opportunities for the youth.⁶⁴

A second issue relates to the checking of unsupported practices which we can observe from the operations of the land registration system in ANRS. In this sense, we can raise the practice of adjudication which is divided into adjudication by documentation and adjudication by survey measure. Further, we can recall the issuing of two certificates, namely, land adjudication certificate and land registration certificate. Land registration needs to be certain and uniform in its procedure and outcomes. So, there needs to be an improvement of legislation in this regard. Finally, we can raise the issue of financing urban land registration in ANRS. Land registration activity is a regular and most demanding and useful task for social, economic and governance development in line with the aspirations of existing laws and policies. If so, financial management for the task needs to be in line with these needs and goals as defined in legislation. In practice, however, land adjudication and registration are undertaken fundamentally by World Bank grant/loans. Unless this is smoothly unified with a robust land management system, it will contribute to the low performance and discontinuity of the system. Further, it will encourage the use of grant money for temporary and personal needs rather than contributing to sustainable urban land governance. Therefore, a regular financial supply needs to be in place if we need to have genuinely prosperous, smart, and enjoyable urban centers.

⁶³ Suggestions for urban-rural land institution integration have been made by several researchers. See Melkamu, *supra* note 2, at 16-18; Abebe M. Wubie. et al, *supra* note 39, at 11 & Solomon, D. Chekole., *supra* note 44.

⁶⁴ ANRS Urban Land Holding Registration and Information Agency Term of Reference for Undertaking Land Adjudication by Associations in ANRS Urban Centers (Amharic), August 2020.

The following table summarizes the problems in the urban land registration system and evaluates them against the set criteria.

Table IV: Evaluative criteria and their implication to sustainable land registration in ANRS (Source: Author)

Problem/gap characteristics	Implication to sound land registration legislation and its enforcement
The land registration system is backward and un-supported by modern technology.	Reliability and completeness
Attempts for land registration are not supported by the proper institutional system and they are unsustainable (inconvenient or lack of offices, risks and damages, low salary, etc.)	Sustainability
The system favors corrupted and rent seeking practices and it is contributing to bad land governance	Transparency and good governance
The system is inconsistent, un-integrated and as a result is threatening tenure security	Clarity, consistency or coherence, generality, constancy, “continuum” of rights
Land information is inaccessible to appropriate stakeholders and causes trouble and burden to land users, shifts the economic benefit which urban centers should have driven from land sector to illegal brokers	Accessibility, cost-effectiveness, and sustainability
Lack of awareness or commitment on the part of leaders and stakeholders about land registration	Congruence between official action and legislation
Failure to cooperate and provide timely response when problems occur during implementation	Clarity of institutional mandates, responsiveness
Lack of commitment and understanding on the part of dwellers in doing what is expected of them during adjudication and registration	Participation and good governance

CONCLUSION AND RECOMMENDATIONS

Despite a century-old urban land registration attempts in Ethiopia, full-scale legal cadastre begun since 2011 through establishment of institutional, policy and legislative frameworks. Similarly, the ANRS urban centers (including its capital, Bahir Dar City) implemented cadastre since early 2000s. However, the land registration system in Bahir Dar and other urban centers of ANRS are fraught with many problems and it is not successful. The study has forwarded the argument that institutional and legislative gaps have contributed to this failure. These, among other things, relate to the limitation of the scope and nature of cadastre to legal cadastre, poor definition of

land rights mainly the right to land development, confusion and overlapping regarding the powers of land management between the Bureau of Urban and Infrastructure Development and Land Bureau (and all bodies under each), the failure to accommodate informal rights and rural lands in urban centers, and practices contrasting with the law and formal system of land registration. As such, the legislative gap has affected the reliability, sustainability, transparency, congruence, institutional mandate, responsiveness, and over all urban land governance.

The author recommends the following to amend these gaps. First, legislation needs to expand the type of cadastre from legal cadastre to fiscal and multipurpose cadastre. This helps to improve the potential of the land registration service by integrating with the management of different public functions such as government held property. This also leads to clear power division within implementing institutions.

Second, legislation needs to provide all land rights in detail along with the four main functions of land management, namely, land tenure, value, use and development. Especially, the right to land development needs to be elaborated in the land holding proclamation and should not be hidden under abstract ideas such as land rights, land tenure including lease rights. Land development must be at the center of the land management system because land development is the most powerful engine for economic development that the country needs most.

Third, powers and duties of executive bodies' legislation need to categorize the functions of land bureau and urban development bureaus clearly. Particularly, land management functions like land transfer and registration should be given to the Land Bureau.

Fourth, legislation needs to set mechanisms whereby informal rights would properly evolve into formal rights. Legislation needs to meet practical scenarios so that institutional role is high and in line with good governance principles enshrined in all relevant legislations and policy prescriptions in the country (e.g. principles of leasehold laid down in urban leasehold law). This is also helpful for a sustainable and predictable land management system in urban areas of ANRS.

Fifth, practices, which are not in line with legislation and formal institutional set up should be avoided. These include unnecessary dissecting of land administration functions like land

adjudication and registration, provision of different certificates like adjudication, registration, and lease certificates. A landholder needs to have a single powerful and accurate land holding certificate. Finally, future research should be increasingly carried out on land management legislation development, enforcement, and evaluation and monitoring.