

Peri-urban land rights in the era of urbanisation in Ethiopia: A property rights approach

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Abstract

All land in Ethiopia is owned by the state and granted to the people with holding right, and the land-holding arrangement is dichotomised into rural and urban systems. In-between urban and rural spaces, there is a transitional peri-urban agricultural area on which growing urbanisation has been exerting unprecedented pressure. Thus, this study mainly aims to examine and highlight the challenges and pressures imposed on the land rights of local peri-urban landholders, as a result of the growing demand for land due to urbanisation. To achieve the purpose of the study, both the desk review research approach and an analysis of previous survey research results are employed. Existing contemporary literature and theories on property rights, and current laws and policies focusing on land rights in Ethiopia are reviewed in detail. Finally, evidence shows that the new recipients of land from peri-urban areas, through the urban land lease system, are provided and can enjoy better and thicker bundles of land rights than the indigenous, local, peri-urban landholders in the process of urban development.

Keywords: Ethiopia, landholder, leaseholder, peri-urban, property rights, urbanisation

1 Introduction

Urban centers across Africa are growing rapidly, both demographically and spatially. Population projections show that by 2030, about 50 per cent of Africa's population will inhabit urban centers (UN-HABITAT, 2010). In the early 2040s, African cities will collectively be home to one billion, which is equivalent to the continent's total population in 2009. Cities are becoming the future habitat of the majority of Africans. Moreover, megacities, inhabited by more than ten million people, are emerging in different parts of the continent, such as Cairo, Lagos and Kinshasa (Obeng-Odoom, 2011; UN-HABITAT, 2010). The rapidly growing urban areas are affecting land relations and exerting pressure on peri-urban land located immediately beyond urban boundaries (Cotula & Neve, 2007). The process of urbanisation is accompanied by the erosion of existing local peri-urban land tenure relations and the emergence of a new and urbanised form of man-to-land relationship.

As in most other sub-Saharan countries, transitional peri-urban agricultural areas in Ethiopia which are located close to urban jurisdictions are experiencing major social and spatial transformation (Adam, 2011). Local peri-urban farmers around cities are more likely to be displaced from their land when such land is

required for urban development. Moreover, as urban settlements expand, different groups of people with diverse interests can be drawn and attracted to peri-urban agricultural areas. Existing man-to-land relations and the property/land rights of local peri-urbanites are significantly being affected, and are continuously changing as a result of the heightened rate of urbanisation.

Property rights are sets of actions and behaviours that the possessor/holder of an asset may or may not be prevented from undertaking, in relation to a benefit or income stream (Bromley, 1991). Together, these sets of authorisations or land interests relating to how to use a resource, make up bundle of rights (Rodgers, 2009). The most common elements in the bundle of rights are the right to access and use, the right to control and to exclude non-owners, and the right to transfer (Schlager & Ostrom, 1992; FAO, 2002). The content of property rights exercised by right-holders vary from country to country, depending on national legislation (Deininger, 2003), history, and other political choices (Boydell & Arvanitakis, 2012). Legislation and provisions determine who has which rights to enjoy the benefit streams that emerge from the use of those assets. Therefore, sets of land rights (as a collective or in part) can be assigned to an individual, group of individuals collectively, or to nobody, based on national legislation. In addition, property rights can also pertain specifically to the land or to a development on it (Payne, 1997).

From the property rights assignment point of view, article 40 (3) of the 1995 Constitution of Federal Democratic Republic of Ethiopia (FDRE) asserts that all land in Ethiopia belongs to the state and to the peoples of Ethiopia. Individuals are entitled to access land via holding (usufruct) rights (FDRE, 1995). The land-holding arrangement is bifurcated into rural and urban systems, based on the usual spatial rural–urban demarcation. The rural land-holding system applies to those agricultural lands located in a rural jurisdiction, where land can be provided free of charge, for lifetime use, to those who want to engage in agricultural activities to earn their livelihood (FDRE, 2005b). In urban territories, a leasehold arrangement is the only formal land-supply mechanism which accommodates the growing demand for land, for use in different urban development purposes (FDRE, 2011). However, in-between the two geographical spaces there is transitional peri-urban land held by local peri-urban farmers which is strongly subjected to change and to pressure from urbanisation.

Land in peri-urban areas is in high demand, specifically for urban development purposes. In response to the growing demand for such land, the Ethiopian government has been largely expropriating land from peri-urban areas and reassigning it to urbanites. Land rights in the peri-urban areas of Ethiopia are rapidly changing from the rural holding system to the urban leasehold system. Therefore, the primary purpose of this study is to highlight the challenges which urbanisation and urban development pose to the land rights of local, peri-urban landholders who are engaged in agricultural activity, and how this impacts their property rights. The article also focuses on how and by which rights Ethiopian landholders in general and peri-urban

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landholders in particular are connected to the land. This study differs from existing recent research on land rights in Ethiopia (e.g., Adal, 2002; Crewett *et al.*, 2008; Ambaye, 2012) which tended to analyse the nature of property rights under three different political regimes in Ethiopia. This study also differs from recent research which focused entirely on large-scale agricultural land-grabbing in remote rural areas of Ethiopia (Makki & Geisler, 2011). The study therefore fills an important gap in explaining the effect urbanisation has on man-to-land relationships in peri-urban areas where the property system is vibrant and is changing institutionally.

This study is divided into five sections: The introduction is followed by a section explaining the methodology and analytical framework used in this study. The third section elaborates on the nature of land rights in Ethiopia, from the perspective of the property rights analytical framework. The fourth section investigates the pattern of land rights in the peri-urban areas of Ethiopia. The final section comprises a conclusion, which highlights the main findings of the study.

2 Methodology and analytical framework

This research employed both a desk review research approach and a study of previous survey research results. Desk reviews are mainly dependent on an analysis of the existing literature and theories on property rights, as well as current laws and policies focusing on land rights in Ethiopia. Such research helps to explain existing issues with facts obtained from a wide variety of secondary sources of data (UNDP, 2007). Thus, the review materials used in this research included journal articles, books, legal and policy papers, and other documents relevant to the study. A property rights analytical framework was employed to analyse the provisos of land rights in the bifurcated rural and urban land-holding arrangements of Ethiopia. The link between urbanisation and the man-to-land relationship is explained using this same framework.

Property right is a socially recognised and enforceable individual or group interest exerted over an asset (Ostrom, 1999). It broadly shows relationships between individuals, groups and the government, with respect to land and its resources. It is through rights that a person/groups of persons can be linked to a plot of land (see Figure 1). Each plot of land has its own unique set of property rights which are bound together as a bundle of rights (the right to exclude non-owners from access, the right to appropriate the stream of rents from use and investments in the resource, and the right to sell/transfer permanently to another party, etc., (see Libecap, 1989). The bundle of rights can also describe the quantity or thickness of rights and the duration of rights attached to land (FAO, 2002).

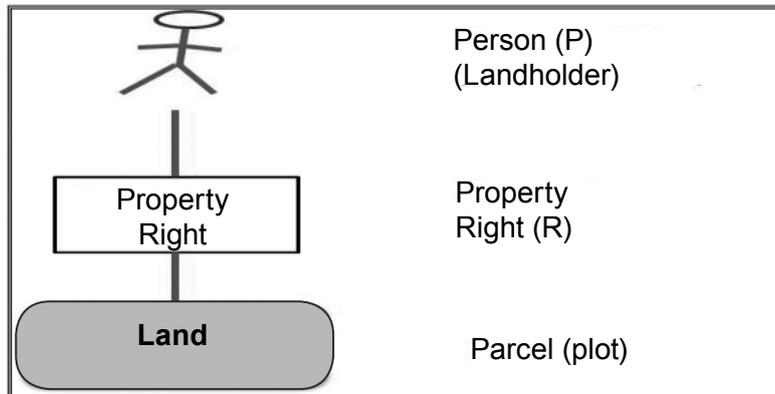


Figure 1: Man-to-land connections through property rights

Source: Henssen (1995, pp. 2)

Property rights serve as a medium for connecting a person/subject and the land/object (see Figure 1). It is not the piece of land or the resource itself that is owned/possessed, but the rights connected to the use of the land or resource (Alchian & Demsetz, 1973). A plot of land will nearly always have one or more rights attached to it as a bundle of rights. The right of ownership is very strong, it is commonly connected with land and executed by the legal owner/holder, according to the legislation in the country in question. If the link between land and a right-holder is missing, no individual holds property rights to the land. In such a case open access to land emerges, by which everyone is free to utilise resource benefits without limit. This may, however, lead to the overexploitation or abuse of resources (Hardin, 1968). In terms of the open access system, therefore, the connection between the land owner/holder and the parcel of land is direct, without property rights functioning as a medium between the two parties (Mattson, 2004).

Property rights are social institutions which comprise systems of allocation in respect of the rights, responsibilities and duties of individuals or groups to specific assets, such as parcels of land (Snare, 1972). For every right an individual or a group holds, there is also a rule that defines an individual's or group's interest over an asset. The rules related to property rights can derive from either formal or informal institutions. Formal property rights are derived from statutory laws such as constitutional provisions, statutes and judicial rulings, and are enforced by the state. Informal/customary rights are derived from customs and conventions, and are enforced by customary authorities (Aredo, 2003). Land, in the customary system, is usually held by clan leaders and accessed on the basis of group membership and social status in the clan (Cotula & Neve, 2007).

The attributes of rights within the bundle can be split into five different levels of actions and restrictions, ranged in order from the least authority of 'access' with a lot

of restrictions, to the greatest authority of ‘alienation’ with less restrictions, which usually equates to ownership (Schlager & Ostrom, 1992). The five categories of rights include the right to access, withdrawal, management, exclusion and alienation. The right of alienation is the highest-level right; it usually equates to ownership rights and is practised in a private property system. These rights can be separately assigned to different individuals, cumulatively to collectives or to single individuals as full ownership rights (Ostrom, 1999).

- a. Access right: The right to enter a defined physical area and enjoy non-subtractive benefits (e.g., hiking, canoeing, sitting in the sun);
- b. Withdrawal right: The right to obtain resource units or products of a resource system (e.g., catching fish, diverting water);
- c. Management right: The right to regulate and improve the resource providing units for withdrawal, i.e., to determine how, when, and where harvesting from a resource may occur, and whether and how the structure of a resource may be changed;
- d. Exclusion right: The right to exclude any particular person wanting to assert access, withdrawal and management rights; and
- e. Alienation right: The right to transfer, for a period or forever, of any or all of the above rights.

Attached to the above lists of rights are five distinctive right-holder classes at different levels of authority when it comes to exercising those rights. These right-holders with their different levels of authority are authorised entrants, authorised users, claimants, appropriators and owners respectively (Schlager & Ostrom, 1992). The difference in the positions of right-holders (users) and their respective actions can be ascertained by comparing owners who hold alienation with a complete set of rights, to all other right holders who do not hold a complete set of rights (see Table 1).

Table 1: Rights and rights holders

Rights	<i>Rights holders</i>				
	<i>Authorised entrant</i>	<i>Authorised user</i>	<i>Claimant</i>	<i>Proprietor</i>	<i>Owner</i>
Access	✓	✓	✓	✓	✓
Withdrawal		✓	✓	✓	✓
Management			✓	✓	✓
Exclusion				✓	✓
Alienation					✓

Source: Schlager and Ostrom (1992, p. 252)

1. **Authorised entrants** are those users who can get access to a resource in a very limited sense, such as a person who buys an operational right to enter and enjoy the natural beauty of a park, but does not have the right to harvest forest products or remove flowers from a park. Such a user solely holds access rights.
2. **Authorised users** are people who can access a resource and withdraw products. They have access and withdrawal rights, but lack the authority to devise their own harvesting rules.
3. **Claimants** possess the operational rights of access and withdrawal, plus the right to manage a resource. Claimants' rights include decision-making powers concerning the construction and maintenance of facilities, as well as the authority to devise limits on withdrawal rights. Claimants do not, however, have the right to exclude others from using the resource.
4. **Proprietors** hold the same rights as claimants, in addition to having the right to determine who may access and harvest from a resource. They also dispose of exclusion rights. Most of what are known as common property regimes fall in this category. However, proprietors do not possess the right to sell rights, even though they most frequently have the right to bequeath such rights to members of their family.
5. **Owners** possess the right of alienation and hold all other rights, such as access, withdrawal, management and exclusion.

The quantity of the rights exercised by property holders affects the incentives individuals face, the types of actions they take, and the outcomes they achieve (Cole & Ostrom, 2012). Exclusion rights for both proprietors and owners produce strong incentives to make current investments in resources, because proprietors and owners can decide who can and cannot enter a resource, or they can capture for themselves for their offspring benefits from investments they make in a resource. In addition, owners and proprietors can devise their own access rights that allow them to capture the benefits produced by the withdrawal rights.

The allocation of rights varies from one property rights regime to another. Right-holders or users of rights in a given property regime can exercise the rights within a bundle either separately or cumulatively, depending on the level of authority provided. Property rights regimes describe how rights to a particular resource are assigned and defined (Ekbäck, 2009). A property rights regime can also describe how the different attributes are distributed among the rights holders. Based on the possibility of assigning property right elements, four property right regimes are identified (Bromley, 1989, p. 872):

- a. **Open access**: it is a non-property system by which all rights are held by no one. In this property regime, there is no defined group of users/owners and so the benefit stream is available to anyone.
- b. **Common property**: all rights are assigned to a community/group of individuals collectively. The management group (collective owners) has the right to exclude non-members, and non-members have a duty to abide by such an exclusion.

- c. **State property:** it is a property system over which the state exercises ownership and governance. In a state property regime, individuals have the duty to observe use/access rules as determined by the controlling/managing agency. Agencies have the right to determine use/access rules.
- d. **Private property:** all elements of property rights are assigned to individual or legal persons such as companies. Right-holders have a right to undertake socially acceptable uses, and have a duty to refrain from socially unacceptable uses.

A private property system which is typically characterised by the alienation of land rights is often considered superior to the other property systems listed above (Demsetz, 1967). Exercising the right of alienation implies that an individual (i.e., owner) can exercise the full set of rights and can transfer any or all sets of rights for a period or permanently. Thus, the possibility of excluding and transferring land rights can generate incentives that tend to lead to higher levels of productivity than other forms of property management (Cole & Ostrom, 2012). The right to transfer land rights can produce a strong incentive for owners to undertake long-term investments on the land. Transferability rights can also ensure that resources are allocated from low to high-yield uses. Moreover, the transferability of land rights permits a resource to be shifted from a less productive to a more productive use.

3 Land rights in Ethiopia from a property rights perspective

The issue of land rights in Ethiopia has been a vital and sensitive topic throughout the country's history. Ethiopia has a long legacy of state intervention in land-to-man relationships (Crewett *et al.*, 2008). The country differs somewhat from a number of other African countries in respect of its property rights system (Jemma, 2004). As Ethiopia was never colonised, it does not have the kind of colonial heritage or legacy which is pertinent in other sub-Saharan African countries and societies – there was no land grabbing by foreigners, and therefore no system to contribute to the establishment of a private property right system. Moreover, the state in Ethiopia has exerted considerable influence on traditional or customary land rights throughout different political regimes (Jemma, 2004).

From a property rights regime perspective, the history of Ethiopia is divided into three regimes (Adal, 2002): the pre-1974 imperial regime; the *Derg* regime (1974–1991); and the current land tenure regime, post-1991. The pre-1974 land right system was characterised by a feudalistic man-to-land relationship, with major inequities based on social class. During the imperial regime land was in the hands of a few individuals or groups of individuals such as the nobility, government bureaucrats, the military and the church. The largest proportions of the population consisted of landless tenants who were subjected to exploitation by land owners. As in many other countries, Ethiopia's land-related tensions were among the key sources of social conflict and political unrest in the early 1970s, culminating in the military coup of 1974 that overthrew the imperial regime.

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The *Derg* government that emerged from the coup abolished the feudal system of land ownership. In 1975, the new government declared that all land, whether rural or urban, is state property, and organised Marxist structures of collective farming and production. In its new land reform measures it announced and executed a subsequent land redistribution programme that has opened up an avenue for landless tenants to have access to land (Crewett *et al.*, 2008).

The current government, which came into power in 1991, eliminated the Marxist aspects of land use and, at the same time, maintained the notion that land is state property to which Ethiopians are entitled access via usufruct (holding) rights. Article 40 (3) of the 1995 Constitution of Federal Democratic Republic of Ethiopia (FDRE) states that the right to ownership of rural and urban land, as well as of all natural resources, is exclusively vested in the state and in the peoples of Ethiopia (FDRE, 1995). The 1995 constitutional provision asserts state ownership of land and prohibits private ownership. In addition, all national and regional land development policies, legislation and goals are benchmarked on the total and complete state ownership of land. According to the 1995 federal constitution, Ethiopia is a federal state composed of nine autonomous regional states and two city administration councils (see Figure 2).

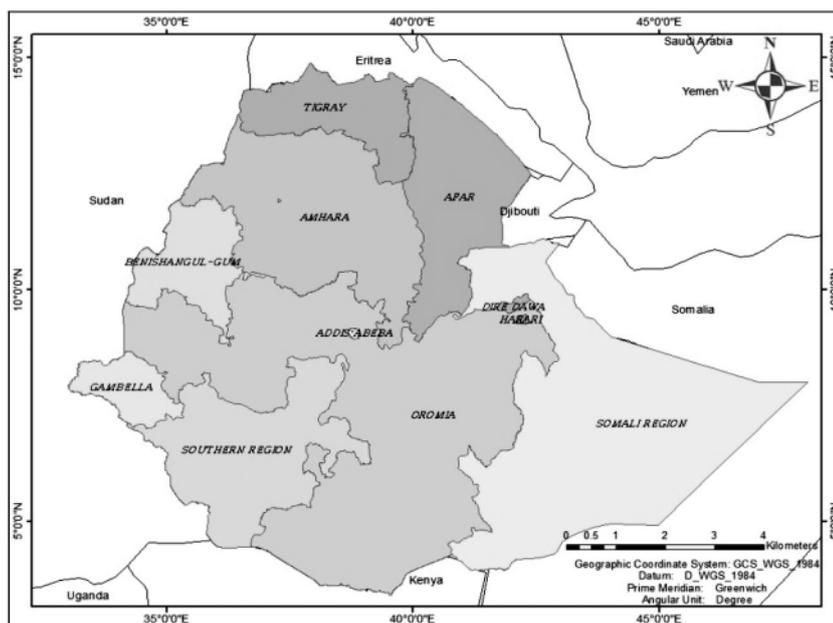


Figure 2: Regional states of Ethiopia

Source: Author.

The state as the owner of land assigns holding rights to the people, mainly without the right of alienation by sale. The way of assigning land rights differs for rural and urban land, and the property system is bifurcated into rural holding/usufruct right

and leasehold right (see Figure 3). Rural land can be granted, with holding rights, free of charge and without a time limit. Any resident of the rural areas who wants to engage in farming activity for his/her livelihood can receive holding rights to plots of rural land for his/her lifetime (FDRE, 2005b). Those who receive rural land for agricultural purposes have the authority to use and harvest the land, to rent it out, donate it, bequeath it and do sharecropping, but cannot sell or mortgage the land. Urban land assignment is carried out by means of the leasehold rights system (FDRE, 2011). Rights to urban land can be transferred through a lease contract, with a fee payable, for the duration specified in the lease contract. Urban land leaseholders can exercise the right to develop on it, the right to bequeath it, the right to donate it, the right to use or develop on it, and the right to use the land as a security for a loan, along with the right to sell any improvements on such land. Therefore, the land-holding arrangement in Ethiopia is divided into rural and urban, with different legislations and institutions governing in each.

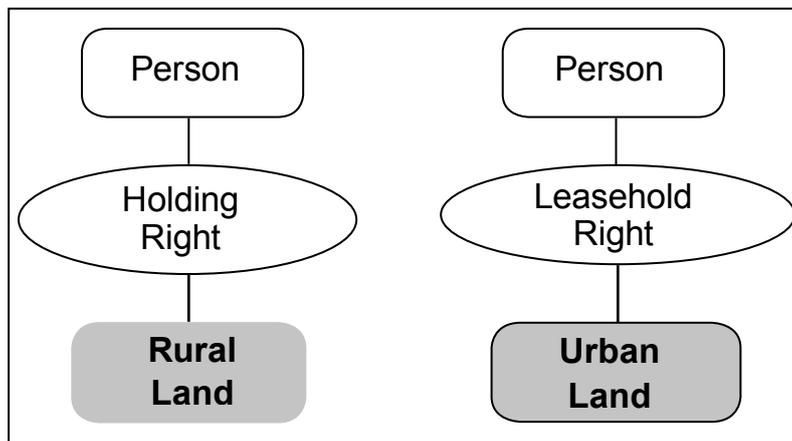


Figure 3: Man-land relationships in the context of Ethiopia

Source: Amended from Henssen (1995)

The power to assign land rights to the people, in accordance with the federal land laws, is given to the regional states. Article 52(2) of the Constitution of the Federal Democratic Republic of Ethiopia empowers regional states to administer land and natural resources within their boundaries, in accordance with federal law (FDRE, 2005b and 1995). Regional states are also empowered to issue their own regional land legislation within the framework of federal legislations. Most regional states have made use of the powers vested in them to formulate their regional land tenure policies in accordance with federal land legislation. All regional land policies validate state ownership of land and the land-holding arrangement is also divided into rural and urban.

In this study, the rights exercised by both rural and urban landholders are analysed using a property rights analytical framework, with the aim of describing the pattern of land right reassignment and transfer from peri-urban areas, for urban purposes.

3.1 Analysis of rural land-holding rights

Rural land rights, both at federal and regional level, are governed by rural land administration and use proclamations. All regional states' rural land administration and use proclamations, issued at various historic stages, grant agricultural land to all rural residents of their respective regions, free of charge, as a holding right. For instance, article 6(1) of Amhara National Regional State's (ANRS) land administration and use proclamation, 133/2006, states that any resident of the rural areas whose livelihood depends on agriculture, and who is above the age of 18 years, shall have the right to obtain land as a holding right, without any discrimination based on gender or any other basis, and for free (ANRS, 2006). The land rights specified as parts of holding rights are the right to use; the right to create an asset on the land; the right to transfer an asset s/he created by gift or inheritance; and the right not to be displaced from such holdings. The duration for exercising holding right is not specified in either the federal or the regional legislation pertaining to land. Thus, the rural landholder is assumed to exercise the holding right without time limit.

Therefore, the contents of rural holding rights from the property rights perspective include rights ordered from access to exclusion and granted to be fully exercised. The rural landholder has a right to use the land for agriculture and natural resource development, to decide what to crop(s) to grow, to withdraw products from it, and to maintain the productivity and fertility of the land. The landholder also has the right to protect and exclude others who want to assert access, withdrawal and management rights on their holding. However, the right to transfer the rural holding right, either for a period of time or forever, is highly restricted.

It is clearly stated in the constitution that rural land should neither be transferred permanently through sale, nor be used as collateral for borrowing money (FDRE, 1995). The permanent transfer of rural land-holding rights is only possible through inheritance and a gift to a family member (FDRE, 2005b; ANRS, 2006). Upon the death of the landholder, the holding rights can be shared among the heirs. If there is a will where land is to be divided among heirs, will is treated as a transfer application, and the land administration office subdivides the rights among the heirs. If there is no will the case is taken to a civil court, which decides who the rightful heirs are and how much they stand to inherit. The court's decision is treated in the same way as a will. In some cases inheritance rights may also extended beyond the core family, for example, land can be bequeathed to people outside of the family who assisted the landholder in times of need.

When it comes to transferability of land rights by gift, two types of gift are prescribed in the law: One, with conditions, is traditionally called a living inheritance; this is when retired parents give their land to family members, often children, with the condition that the parents have the right to remain on the property and to be supported by the children. The second type is an unconditional gift within the family, since the law stipulates that a landholder is only allowed to donate land

to family members. For instance, parents can donate land to their children when they get married, without the precondition that they be supported (ANRS, 2006).

Holding rights, held jointly by husband and wife, can also be subdivided into two parts in the case of a divorce. Holding rights can also be exchanged for another holding right, if the purpose is to improve the structure and productivity of the land. Therefore, the holding rights of rural land can best be represented by the rights to access, withdrawal, management and exclusion (see Table 2).

Table 2: Rural land rights and landholder’s position in Ethiopia

Land rights	Rural landholder’s position
Access	✓
Withdrawal	✓
Management	✓
Exclusion	✓
Alienation	Inheritance and gift to family members
Holder’s position	Strong proprietor

Source: Adapted from Schlager and Ostrom (1992)

As Table 2 shows, rural landholders have the authority to exercise rights ranging from access to exclusion. In addition, they are entitled to transfer holding right through gifts and bequests (inheritance) to family members. Thus, according to the property rights analytical framework of Schlager and Ostrom, the right-holder who is entitled to exercise these lists of rights can be considered the proprietor. A proprietor is someone who holds the rights exercised by authorised entrants, authorised users and claimants together, and in addition has the authority to determine who may have access and may harvest from a resource (Schlager and Ostrom, 1992; Ostrom, 1999). But rural landholders in Ethiopia have certain additional rights that cannot be exercised by proprietors, such as the right to transfer holding rights to family members through gifts and bequests, and the right of exchange. This shows that the position of the rural landholder is neither that of proprietor nor of owner, but is positioned in-between the two right holders and is known as a *strong proprietor*.

3.2 Analysis of urban leasehold rights

Urban land within the administrative boundary of an urban centre is governed by the urban leasehold system (FDRE, 2011) – a means devised by the state, as the owner of land, to transfer urban land rights to the people through lease agreements with lease price payments. The price of the land to be leased is determined either through tender (auction) or allotment (leasehold right transfer without auction). The land needed for residential housing, business (urban agriculture, industry or services), etc. can only be transferred by tender. However, the administration of the city, based on the decisions of the regional state cabinet, may see land being awarded

through the allotment (without auction) of select areas which are of paramount importance to society, such as government office premises, charitable organisations, public residential housing construction programmes, places of worship or religious institutions, diplomatic missions, etc. In addition, people who are displaced from their homes as a result of urban renewal, or expropriation for other public purposes, are entitled to receive land through allotment. All recipients, except the latter, would pay the lease price based on benchmarks set by the municipality/city administration.

Urban leaseholders who are granted land either through auction or allotment would have to conclude a contract of lease agreement with a regional state representative, most likely from city administration (FDRE, 2011). The details of the lease contract include the date of commencement of construction, the completion date, lease price per m², grace period, and the rights and obligations of all the parties. Once the lease contract is signed between the leaseholder and a representative of the state, the leaseholder shall be issued a leasehold right certificate containing the name of the leaseholder, the size and location of the plot, the land use type, the amount of the initial lease price payment, the total amount of the lease price, the date of the final lease payment to be effected, etc.

The duration of leasehold rights varies, depending on the purpose for which the land is requested and the level of urban development. The maximum lease-holding duration is 99 years for the construction of residential houses, science and technology centres, research centres, government offices, and buildings housing charitable organisations and religious institutions. There is a minimum duration of 15 years for urban agricultural land. The lease period can be renewed upon expiry, on the basis of the prevailing benchmark lease price and other requirements at that time. However, the leaseholder may not be entitled to compensation, if the lease period cannot be renewed.

The leasehold right system defines the rights of the leaseholder over urban land, and the obligation to use the land for the prescribed purposes, within the specified time. The leasehold rights provided to the leaseholder include the right to use and develop on the land. The right to transfer leasehold right through inheritance, gift and sale is also permitted, if there is an improvement or development on the leased land. The leasehold right can also legally be used as collateral for borrowing money from the bank – at least for the lease amount already paid (FDRE, 2011).

The specific rights which an urban land leaseholder is permitted to exercise, and the position of the individual leaseholder can be explained/demonstrated using the property rights analytical framework. Leaseholders, after being granted urban land through a lease agreement, have full rights in terms of exercising use, development and management rights. More specifically, leaseholders have the right to decide what and how to build according to plan and in terms of the lease contract. Despite certain restrictions and preconditions, the permanent transfer of lease rights is also permitted under the leasehold system. That means the urban leaseholder is permitted to transfer rights through inheritance, gift and sale, if – and only if – there is a development or an improvement on the leased land. Therefore, the urban land leaseholder can fully

exercise rights of access, withdrawal, management and exclusion, but the right of alienation only partially (see Table 3).

Table 3: Leasehold rights in the urban areas of Ethiopia

Leasehold rights	Leaseholder's position
Access	✓
Withdrawal	✓
Management	✓
Exclusion	✓
Alienation	Improvements on land can be transferred through bequest, gift, sale; and the lease right can also be used as collateral to borrow money from the bank.
Leaseholder's position	Weak owner

Source: Adapted from Schlager and Ostrom (1992)

Table 3 shows that the rights provided to urban land leaseholders are close to ownership rights, except for restrictions related to transferring land if there is development on it. Although land in Ethiopia belongs to the state and the people collectively, individual urban leaseholders can exercise most of the rights that can be exercised by owners within a private property system. Therefore, in this study the position of the urban leaseholder is categorised as that of a weak owner, due to certain restrictions on the transferability of leasehold rights.

The leaseholder's right to alienate through sale and obtain benefits from it depends on the level of construction and improvement on the land. For example, if a leaseholder wishes to sell his/her leasehold rights before commencing construction or if construction is half completed, the leaseholder will get only the effected lease payment, including interest, but minus the cost of the already executed construction, plus five per cent of the remaining sale value (FDRE, 2011). The remaining 95 per cent goes to the landowner (the state). Thus, transferring only the leasehold rights of bare land, or the leasehold rights with only a half-completed structure on it, has only minor benefits for sellers of leasehold rights. Moreover, the leaseholder's ability to use the lease right as collateral will be influenced by the lease price paid. That means the bank's valuation of the property/building depends on the lease price already paid to the state. The right to transfer lease rights through gift or inheritance is permitted to family members only.

4 Patterns of land rights in the peri-urban areas

The urban development strategy in Ethiopia is largely based on the expropriation of land from the transitional peri-urban areas located immediately beyond municipal/urban boundaries. Before the decision was made to expropriate, land in peri-urban areas was held by local and indigenous landholders and was governed in terms of

a rural land-holding arrangement. The distinguishing features of rural and urban land-holding arrangements are clearly outlined in legislation. However, there is no clear-cut boundary between these two land-holding arrangements, and it does not always align with the usual spatial rural–urban demarcations, due to the continuous conversion of peri-urban areas into urban areas (Solomon & Mansberger, 2003). Land development or the conversion of land use from rural to urban in transitional peri-urban areas involves an institutionalised change in terms of land rights and transfers. Therefore, the land-holding arrangement in peri-urban areas is in a perpetual state of flux, as urban areas expand into the surrounding peri-urban territories.

In peri-urban areas, the land-holding system is governed by rural legislation and institutions. Landholders in the area are expected to exercise holding rights similar to those of rural landholders, which have no time limit. In practice, however, as the land is claimed through urbanisation, the local government/city administration expropriates the land from peri-urban landholders and transfers it to urban-oriented individuals/companies (private residential house developers, real estate developers, government organisations, etc.) through lease contracts. Expropriation is a widespread practice in Ethiopia’s peri-urban areas. In terms of expropriation legislation, the state has the power to expropriate land and to offer compensation if it is in the public interest (FDRE, 2005a). State expropriation is the predominant tool used to convert land use from rural to urban, in peri-urban areas.

The rural–urban dichotomy of the land-holding arrangement forces the government/city administration to expropriate and re-assign land rights every time urban areas expand into transitional peri-urban areas. The re-assignment of land rights from peri-urban areas for urban development purposes passes through three major steps (see Figure 4): 1) land expropriation by the government/city administration from peri-urban areas; 2) changing the land-holding arrangement to a leasehold right system; 3) transferring land between the government/city administration and potential leaseholders – obviously, the potential leaseholders are not the original peri-urban landholders. That means the subjects of right holders will change immediately after the area is included into urban territory and expropriation decision has been made.

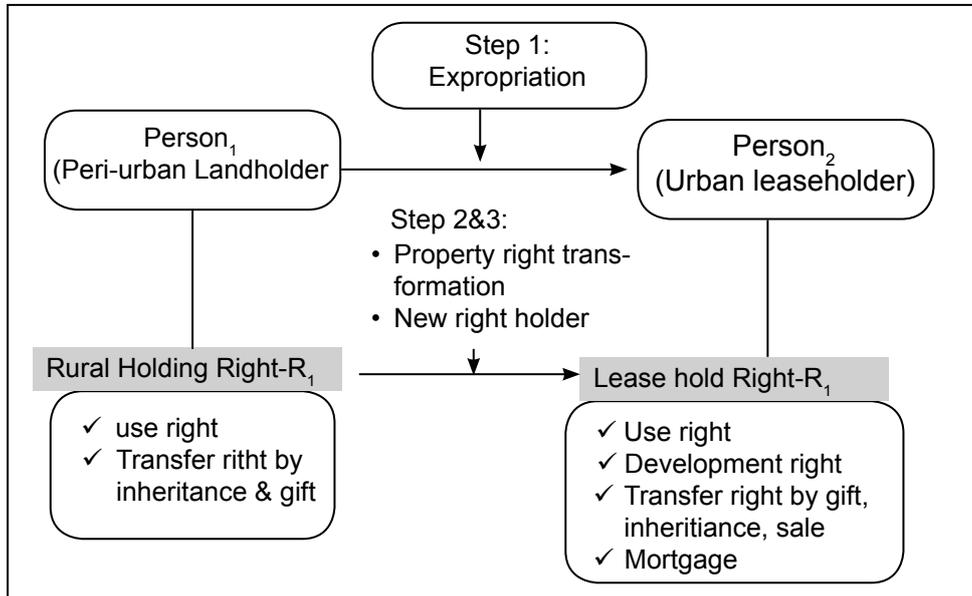


Figure 4: The process of man-to-land connection change in peri-urban areas of Ethiopia

Source: Author.

As illustrated in Figure 4, the peri-urban land governed by the rural land-holding arrangement restricts use to agricultural purposes. Transferability is limited to family members, through bequests (inheritances) and gifts. Once the land is expropriated by the government and transferred through lease contract to the potential leaseholder for urban purposes, the leaseholder enjoys a thicker bundle of rights compared to those of the original peri-urban landholder. For instance, urban land leaseholders can sell the lease right and can use it as a mortgage for borrowing money from the bank.

Another challenge and gap on the peri-urban land rights emanates from the omission of the duration of rural holding rights. Neither in the federal nor in the regional rural land-holding arrangement legislation is any mention made of the duration of holding rights (Dessalegn, 2004). The omission of the duration of holding rights entitles the government/city administration to take land from peri-urban landholders for urban development purposes at any time, thus creating tenure insecurity. Landholders in peri-urban areas are never certain for how long they can keep their holding rights, thus creating the impression that they are temporary. Hence, land which is in high demanded (for improved, high-value urban development purposes) is taken and transferred to urbanites with thicker rights to practise. Local or indigenous peri-urban landholders, on the other hand, receive compensation calculated for agricultural land, without taking into consideration the value of any future development on the land.

Therefore, the rapid rate of urbanisation and the resulting high demand for land for urban purposes have resulted in frequent instances of land dispossession and cases of land contestation in peri-urban areas. In addition, mechanisms to convert peri-urban land rights held by local peri-urban landholders/farmers into urban rights are non-existent in this process of urbanisation. This proves that local peri-urban landholders do not benefit from the increasing value of land and urban development. Land re-assignment and allocation from peri-urban areas seem skewed in favour of urbanites. The vast majority of local peri-urban landholders, who are poorly educated and used to engage in agricultural activities, seem at great risk of losing their livelihood in the face of urbanisation. Thus, the overall process and implementation of urban development has the potential to generate widespread tenure insecurity and land disputes between municipalities and local peri-urban landholders.

5 Conclusion and recommendation

The property rights analytical framework is useful for explaining and detailing both rural and urban land rights in Ethiopia. This study found that the land rights exercised by urban leaseholders are thicker and more similar to the rights of owners in a private property system, than they are to the rights exercised by rural landholder. Moreover, the study investigated the deficiencies of transforming rural land-holding arrangements into urban leasehold systems in transitional peri-urban areas adjacent to municipal boundaries.

Urban expansion and development in peri-urban areas involve a constant change in land-holding arrangements and in the transfer of land rights to new recipients through lease contracts. Land in peri-urban areas is constantly being transferred from the original peri-urban landholders to urban leaseholders through government-controlled expropriation. Although the land in the specific area is held by those who are engaged in agricultural activities for their livelihood, the land is in high demanded for urban development purposes. To satisfy those demands, the government takes and transfers the land to urbanites, granting them thicker rights when it comes to practices such as the right to use, develop, transfer by gift, bequeath and sell land, than the original peri-urban landholders were entitled to. Therefore, original landholders engaged in farming activities have clearly become temporary landholders, who say with certainty how long they will keep their holding rights.

This study also found that the land holding arrangement in Ethiopia favours urbanites, rather than people from the rural/peri-urban areas – particularly as regards the transferability of land rights. Land rights in peri-urban areas cannot be sold or assigned a higher value by local peri-urban landholders themselves, except as a gift or an inheritance to family members, to use for the same agricultural purposes. Moreover, sooner or later land in peri-urban areas adjacent to municipal boundaries is expected to be expropriated by the municipal authority/government for development purposes. Then, high-value urban land will be transferred to urban-oriented leaseholders with better and more relaxed land rights, which can be exercised through lease agreements.

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Finally, the issues raised in this research may provide an updated account of policy changes with regard to land rights in peri-urban areas of Ethiopia. Also, the article offers a foundation for further discussion and academic research. Further studies may include how peri-urban landholders' rights can be brought into line with urban land rights, so that they can also benefit from the urban development programmes, rather than merely receiving cash compensation calculated based on the value of agricultural land.

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Acknowledgment

I thank Associate Prof. Peter Ekback, Prof. Hans Mattsson and Dr. Jenny Paulsson for their input and patience in reading multiple drafts of this article. My utmost thanks also go to Dr. Franklin Obeng-Odoom, Editor of *African Review of Economics and Finance* (AREF) and the two anonymous referees for their invaluable comments on the earlier drafts of this work. Any errors in this article remain my own.

References

- Adal, Y. (2002). 'Review of landholding systems and policies in Ethiopia under the different regimes', Ethiopian Economic Association, Working paper No.5/2002, Addis Ababa.
- Adam, A.G. (2011). *Peri-urban land tenure transformation in Ethiopia*, VDM Verlag Dr. Muller GmbH & Co. KG, Saarbrücken, Germany.
- Alchian, A. and Demsetz, H. (1973). 'The property rights paradigm', *Journal of Economic History*, vol. 13, no.1, pp. 16–27.
- Ambaye, D.W. (2012). 'Land rights in Ethiopia: Ownership, equity and liberty in land use rights', FIG Working week, Rome, Italy, 6–10 May 2012.
- Amhara National Regional State (ANRS) (2006). 'Rural Land Administration and Use Proclamation', *Amhara National Regional State Proclamation No. 133/2006*, Zikir Hig. Bahir Dar, Ethiopia.
- Aredo, D. (2003). 'Review of theories on land tenure and country experiences', The Ethiopian Economic Association Working Paper series no. 4, Addis Ababa.
- Boydell, S. and Arvanitakis, J. (2012). 'Five questions on the republic', *Altitude: An e-Journal of Emerging Humanities Work*, vol. 10, no.1, pp. 1–22.
- Bromley, D.W. (1989). 'Property relations and economic development: The other land reform', *World Development*, vol. 17, no. 6, pp. 867–877.
- Cole, D.H. and Ostrom, E. (2012). 'The variety of property systems and rights in natural resources', in Cole, D.H. and Ostrom, E. (eds.). *Property in land and other resources*, Lincoln Institute of Land Policy, Cambridge, pp. 37–66.
- Cotula, L. and Neve, B. (2007). 'The drivers of change', in Cotula, L. (ed.). *Changes in customary land tenure systems in Africa*, Russell Press, UK, pp. 15–34.

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- Crewett, W., Bogale, A. and Korf, B. (2008). 'Land tenure in Ethiopia: Continuity and change, shifting rulers, and the quest for state control', CAPRI Working Paper No. 91, International Food Policy Research Institute, Washington, DC.
- Deininger, K. (2003). *Land policies for growth and poverty reduction*, World Bank and Oxford University Press, Washington, DC.
- Demsetz, H. (1967). 'Towards a theory of property rights', *The American Economic Review*, vol. 57, no. 2, pp. 347–359.
- Dessalegn, R. (2004). 'Searching for tenure security? The land system and new policy initiatives in Ethiopia', Discussion Paper no. 12, Forum for Social Studies, Addis Ababa.
- Ekbäck, P. (2009). 'Private, common, and open access property rights in land: An investigation of economic principles and legislation', *Nordic Journal of Surveying and Real Estate Research*, vol. 6, no. 2, pp. 57–74.
- FAO (2002). *Gender and land tenure*, Food and Agriculture Organization of the United Nations (FAO), Rome.
- Federal Democratic Republic of Ethiopia (FDRE) (1995). Constitution of the Federal Democratic Republic of Ethiopia (FDRE), *Federal Democratic Republic of Ethiopia Proclamation No. 1/1995, Negarit Gazeta*, Addis Ababa, Ethiopia.
- Federal Democratic Republic of Ethiopia (FDRE) (2005a). Expropriation of Land Holdings for Public Purpose and Payment of Compensation Proclamation, *Federal Democratic Republic of Ethiopia Proclamation No. 455/2005*, Addis Ababa, Ethiopia.
- Federal Democratic Republic of Ethiopia (FDRE) (2005b). Rural land administration and use proclamation, *Federal Democratic Republic of Ethiopia Proclamation No. 456/2005*, Addis Ababa, Ethiopia.
- Federal Democratic Republic of Ethiopia (FDRE) (2011). Urban Lands Lease Holding Proclamation, *Federal Democratic Republic of Ethiopia Proclamation No. 721/2011, Negarit Gazeta*, Addis Ababa, Ethiopia.
- Hardin, G. (1968). 'The tragedy of the commons', *Science*, vol. 168, pp. 1221–1312.
- Henssen, J. (1995). 'Basic principles of the main cadastral systems in the world', in *Proceedings on Modern Cadastre and Cadastral Innovations*, FIG Commission 7 Working Group Cadastre 2014, 16 May 1995, Delft, The Netherlands.
- Jemma, H. (2004). 'The politics of land tenure in Ethiopian history: Experience from the south', XI World Congress of Rural Sociology, Trondheim, Norway, 25–30 July.
- Libecap, G.D. (1989). *Contracting for property rights*, Cambridge University Press, New York.
- Makki, F. and Geisler, C. (2011). 'Development by dispossession: Land grabbing as new enclosures in contemporary Ethiopia', International Conference on Global Land Grabbing, University of Sussex, 6–8 April.
- Mattsson, H. (2004). *Property rights and registration in a perspective of change*. MIIGAiK University, Moscow.
- Obeng-Odoom, F. (2011). Special Issue of African Review of Economics and Finance Editorial, 'Urbanity, urbanism, and urbanisation in Africa', *African Review of Economics and Finance*, vol. 3, no. 1, pp. 1–6.
- Ostrom, E. (1999). 'Private and common property rights', Workshop in Political Theory and Policy Analysis and Center for the Study of Institutions, Population, and Environmental Change, Indiana University.

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- Payne, G. (1997). *Urban land tenure and property rights in developing countries: A review*, Intermediate Technology Publications, London.
- Rodgers, C. (2009). 'Property rights, land use and the rural environment: A case for Reform', *Land Use Policy*, vol. 26, pp. 134–141.
- Schlager, E. and Ostrom, E. (1992). 'Property rights regimes and natural resources: A conceptual analysis', *Journal of Land Economics*, vol. 68, no. 3, pp. 249–262.
- Snare, F. (1972). 'The concept of property', *American Philosophical Quarterly*, vol. 9, no. 2, pp. 200–208.
- Solomon, A. and Mansberger, R. (2003). 'Land policy, urban-rural interaction and land administration differentiation in Ethiopia', 2nd FIG Regional Conference, Marrakech, Morocco, 2–5 December.
- UN-HABITAT (2010). *The state of African cities 2010: Governance, inequality and urban land markets*, United Nations Human Settlements Programme (UN-HABITAT), Nairobi.
- UNDP (2007). *Governance indicators: A user's guide*, 2nd edn, United Nations Development Programme, New York.