



LAND REGISTRATION AND CADASTER

DR. GEBEYEHU BELAY, AUGUST 2024

KEY MESSAGES

Land is a constitutional issue in Ethiopia. Article 40 of the FDRE constitution enshrines governing provisions about rural and urban land. Legislation power is given to the federal government (Article 51(5) of the constitution) despite this power can be delegated to regions (Article 50(9) of the same constitution), whereas administration power is allocated to regions (Article 52 (2(d)) of the constitution). The federal government has enacted rural and urban land administration and use Proclamations.

Land is the most scarce and valuable resource in Ethiopia. The importance of land in Ethiopia is not associated to economic value per se. Ethiopia’s economy is heavily dependent on land. Economic activities such as agriculture, forestry, fishing and hydropower energy industry, urbanization, etc. are all mainly dependent on land and water resources. According to a recent report (as of 2023) agriculture, forestry and fishing contributed to 35.79% of the GDP. Industry consisting of mining, quarrying, and construction and manufacturing are 100% dependent on land These sectors accounted for 23.11% of the GDP. Over the past decade, Ethiopia has been actively implementing large-scale rural land registration based on laws enacted by the federal government and subordinate regional laws. Some 30 million rural parcels are registered.

The scarce and valuable land resources must be registered to effectively implement the core land administration functions (Land value, land use planning, tenure and development control) and to facilitate data exchange between major stakeholders. The registration can also minimize conflict and litigation costs. Registration and cadaster as a result of their very nature need to be up to the standard and updated.



Dr. Gebeyehu Belay is currently a freelance consultant. He was an associate Professor of cadastre at Bahir Dar University, Institute of Land Administration Ethiopia. He specialized in cadastre and registration systems. Dr. Gebeyehu served in different capacities in the regional bureau of rural land administration and use of Amhara region Ethiopia and at the capacity of vice dean of ILA for more than 35 years in total.



Technical, legal, and institutional requirements have to be considered to develop a fit-for-purpose land registration and cadastral system for sustainable development. Land rights and associated benefits are the foundations of all wealth. Land registration processes are often slow, expensive, and inaccessible, especially for marginalized groups like women and the poor. Updating land records is equally important to the establishment of land registration and cadastral system.

To summarize the key message:



Registration and cadaster is the major data capturing, processing and dissemination engine for land administration purposes for both internal and external users.



Cadaster and registration system is the combination of textual (legal) information and spatial information to protect the rights of landholders with especial emphasis on weaker parties.



Digitalization of land records is increasingly becoming important.

The key challenges observed in Ethiopian land registration and cadastral system are:



Limited technical capacities regarding the selection of proper techniques and technologies to be adopted for fit-for-purpose cadastral system.



The institutional arrangement that can bring internal and external users satisfaction is demanding



Capacity limitation for effective land registration and cadastral system establishment and maintenance



Updating and maintenance of land records is difficult due to the fact that it is dependent on the awareness and willingness of users. Factors that can minimize motivation for updating are cost and distance related factors.



Lack of effective stakeholders integration and peoples participation is the common problem for urban and rural setting, however the participatory approach and protection of the rights of the weaker parties is on better level on rural land administration.

Regardless of its significance, there is no unified policy for land registration and cadastral system in Ethiopia.

However, there are encouraging especially in some regional states. The policy objective for land registration and cadastral systems should be the development of e-land administration.



BACKGROUND AND CONTEXT

The 1995 constitution is the supreme law in Ethiopia. The most important land related issues are enshrined in the constitution. According to the constitution land is not subject to sell or any other of exchange. The management and administration of land and natural resources is the responsibility of the federal government and the regional states (See article 52, sub-article 2d of the constitution of the FDRE). The federal government enacted a proclamation of rural land administration and use (proc., 456/2005 and the new 1324/24). The lease proclamation (Under review by th parliament) and supportive legal documents are the main legal instruments for registration of urban land. According to this proclamation, national regional states are mandated to enact their own land administration and use proclamation to administer the land in their administrative boundary. Land registration and cadaster are two of the main requirements to effectively administer land. Step by step and fit-for-purpose approaches were adopted to register land parcels in Ethiopia. The studies on the status of land registration and cadaster in different localities showed that encouraging results were observed in the implementation endeavor of fit for purpose land administration system in rural land administration. However, the existing cadastral system is incomplete, with many parcels lacking formal documentation and registration. The focus of registration was on individual holdings and little or no attention was given to register communal holdings. The effort to integrate customary tenure especially in pastoralist areas is limited.

The step-by-step approach adopted in rural land administration of Ethiopia constitutes two main stages called first and second-level certification. The cadaster in the urban setting does not apply the two steps approach. The first-level land certification relied on the use of general boundaries (traditional location and size descriptions) to identify plot borders, which neither includes neither a map nor any spatial reference.

In contrast, the second-level certification has been done at the parcel level, has accompanying cadastral maps with more detailed spatial data, and is registered digitally. Standard cadastral maps were mandatory to be upgraded to second level certification.

In the Ethiopian context computerization of land records is also mandatory prerequisite for second level certification. Ortho photo based mapping is the main method, however, a mix of ground surveying methods suitable for local situations are possible to develop cadastral maps. The cost-benefit analysis is required before starting the costly land registration and cadastral activities.

The cadastral system is the database for both internal and external use. The ownership and data sharing modality must be clarified for the best use of the huge data that is created during the establishment and maintenance of cadastral systems. The studies on cadastral system and land registration in Ethiopia identified the following challenges:



Limited technical capability.



Limited platform for internal and external data sharing.



Shortage of resources for large-scale implementation.



The need to update legal and policy documents and fill gaps and inconsistencies.



Weak institutional capacity and coordination among land administration agencies.



Methodology

Literature review was the main method of this study. The review was made systematically. The key words that can represent the study subject were identified. The databases that are globally recognized were searched. All studies made on Ethiopian land administration were downloaded and summary tables for all relevant study reports were organized. Assessment report was prepared and was used as the base for developing draft policy briefs. The draft policy briefs were further refined and finalized considering feedback and comments gathered from stakeholders and the client.

Findings

The homemade step-by-step and fit-for-the-purpose approach is under implementation in the rural setting of some regions. Ethiopia managed to establish one of the fastest and cost effective land administration systems ever. The first and second level step-by-step approach contributed to increased efficiency and experience in conducting complicated cadastral surveys with local capacity. Some 30 million rural parcels are registered so far. Addis Ababa and other major cities is also working on registration but summarized figures are not yet released. The inclusion of land use planning responsibilities and obligations in the cadastral data is by now one of the emerging requirements. Likewise, the inclusion of value information in cadastral databases is another requirement for the implementation of property taxation and value capture. A significant drawback of the current cadastral and registration system is its limited accessibility to data users.

The enabling environment that is expected to be created by putting in place cadastral and registration systems is only a dream without efficient and effective accessibility and data sharing. National Data Infrastructure (NSDI) should be established to serve as a centralized data hub that integrates data from multiple sources and provides access to users and decision makers. This NSDI will serve as a base for supporting all development and control activities across the nation. The cadastral and registration system must therefore consider the

data needs of major users. Based on the findings of this study though encouraging results were reported the task ahead is still huge. Cadastral and registration systems are also expected to properly address the newly created demands such as land use and value information. The policy and legal frameworks, and institutional setup need to be critically reviewed and revised.

For instance, the pressing need for the establishment of legally recognized clusters and consolidated farms cannot be overlooked. The special requirement of kebele centers that are expected to be future towns has to be considered and synchronized with the requirements of urban settings. Cadastral systems must be enabled to create favorable situations for smooth transition of peri-urban areas too. The capacity limitation for the establishment and maintenance of a working cadastral and registration system is another challenge. However digitalization efforts are going on both in urban and rural settings.

Recommendations

Cadaster and registration has three major components, namely; technical, legal and institutional. Land registration and registration system in Ethiopia must target the creation of enabling environment for sustainable development. Registration and cadaster is a demanding undertaking that has to be planned carefully. The approach has to be a step by step and fit for the purpose.



Each of the steps has to be designed as a building block for the next step and need to have clearly defined deliverables and outputs. The methods and methodologies selected for each step have to be cost effective. However cost effective approach should not be confused with low cost low quality deliverables. Well-crafted institutional setting is one of the pillar of cadastral and registration systems. The institutional setting has to consider both the need to harmonized system and the need for decentralized decisions.

The major responsibility of the federal institution so far was to create a framework law that can contribute for streamlined and harmonized activities. The regions have the responsibility of administering the land in their administrative boundary. Systematic cadastral surveying and registration in rural setting will be undertaken for each Kebele while the legalization of data is at woreda level. In the urban setting the cadastral unit will be woreda and the legal unit will be kiflele Ketema. The legal system is another pillar that requires clear policy objectives. Cadastral procedures showing the exact arm and hand movement are required. Strong and transparent legal system can result reduced corruption. Cadaster is the hub for internal and external data sharing. Data must be collected, processed and stored considering the needs of major users. Participatory methods therefore are the backbone of cadastral and registration systems. The legal system have to include relaxed property rights for land users, better protection for communal holdings, data sharing and ownership requirements, cost recovery modalities etc.

Among others the inclusion of land use and value information in the cadastral system is a pressing need by now. The usefulness of a cadastral system is very much related with updating. The data in the cadastral and registration system has to be a mirror reflection of the ground reality.

Users' participation in reporting changes on the ground and application for updating the records is very important. However due to various reasons many of rural land holders are reluctant in reporting the changed situation. To encourage them there should be push and pull factors to update records. A systematic updating is recommended to revitalize the commonly known updating procedures. The systematic updating can be done in conjunction to the program of the inclusion of value and land use information. Direct and representative participation is required to better reflect societal needs. The policy objectives have to consider local needs and stratified based on administrative levels. As we go down to the administrative ladder the objectives have to be more detailed and approval of the created land rights by the local communities is very important. At national and regional levels the objectives have to target strategic needs and data harmonization.

The enforcement and implementation of land use plans is so important. Plans have to be prepared following administrative boundaries for better clarity in obligations and responsibilities. The leadership at all levels have to approve the land use plans as a development plan of a given administrative unit. The need for human power and other resources needed for plan implementation have to be clearly quantified and possible sources identified. Digitalization and inter and intra connectivity and data sharing must be promoted. A system should be crafted on cost recovery bases. Special attention should be given common pool resources and joint properties as they are usually missed. Fragmentation of parcels is a challenge for family operated farms in Ethiopia. Land use and land holding consolidation is a must to do activity for sustainable development. The policy objectives to promote land consolidation and permanent cluster farms are required. Kebele centers are the seeds for the coming urbanization.



The plan must be compatible with and acceptable by urban planning standards. The key infrastructure for cadastral systems is geodetic control points. Completion of the nationwide cadastral mapping and parcel delineation to ensure comprehensive land documentation is the task ahead in the near future. The management, maintenance and responsibility of establishment must be guided by clear policy objectives and centralized, digital land information system has to be established to facilitate data sharing and management.

Action Plan

Effective implementation of a fit for purpose land registration and cadastral system requires the existence of strong institution. The first action therefore will be resolving the institutional challenges. Land is the input for all development initiatives. Cadaster and registration therefore requires the involvement of all development actors. Users' participation and satisfaction is a requirement for the working cadastral and registration system.

The institution that is responsible for cadastral and registration system should have the authority for right creation and management based on cadastral procedures.

The next key function will be policy formulation. The policy formulation has to involve all stakeholders. The needs of all development actors have to be properly addressed in the policy provisions. Legal framework and enacting or modification of laws is the next important task. The legal status for the responsible institution and the plans approved by the institution is very important. Detailed and step by step cadastral procedure has to be crafted for efficient administration of property rights.

Clear strategy and action plan development is the next step. The policy and legal system needs to be strengthened by regulations, directives, manuals, procedures and standards. After the preparation and approval of the legal system capacity building is imperative. Among others the importance of short and long term need based and tailored training programs can never be overlooked.

CONCLUSIONS AND WAY FORWARD

The way forward is largely indicated in the action plan section. Land as one of the scarcest and valuable resource it has to be utilized in effective, efficient and sustainable manner. The efficiency, effectiveness and sustainability can only be realized by the implementation of step by step and fit for the purpose registration and cadastral system. Implementation challenges are more pronounced than policy formulation. Policy objectives have to be crafted in a way they can be implemented. Clearly defined mandates must be allocated for

implementing institutions. Land administration professionals must be capacitated to implement policy objectives. The policy objectives, clear strategy, and supportive legal provisions must be in place to realize the envisaged sustainable development. Mandatory steps and clear technical standards for each output are imperative. Mandatory direct and representative participation of land holders at all stages of land administration and registration and on every important decisions and approvals is needed.