

Corruption in the Post-1991 Urban Land Governance of Ethiopia: Tracing Major Drivers in the Law

Abstract

The recent rapid urban population growth and spatial expansion in Ethiopia have brought unprecedented demand for land making urban land governance an essential national developmental agenda. The dramatic shifts in urban land tenure from Feudal System (pre-1974) to Socialist Land Policy (1974- 1991) and to the current Developmental State type (post-1991) have left the urban populations uncertain about their property rights. The historical context coupled with the complex legal and institutional structure and the absence of proper records of rights and restrictions have invigorated corruption in the land sector. Even though the government has made changes in the land and anti-corruption laws and institutions, it brings no benevolent changes. Allocation and administration of land under the least system is highly susceptible to corruption. This paper aims to answer why corruption and rent-seeking rampant in the urban land governance incongruous to the anti-corruption aspirations of post-1991 laws. In this regard, it examines corruption in urban land governance based on five common urban governance agendas: the political economy of urban land governance, lease based land acquisition and lease contract administration, urban planning and development, land registration and regularization, and urban land dispute settlement. It employed a qualitative research design to identify and understand gaps under the legal framework for urban land governance that appeal to corruption and rent-seeking. Laws in the current urban land governance regime are selected and analyzed and further triangulated with interviews and documentary sources such as official plans and reports in Bahir Dar and Addis Ababa.

This paper argues that, despite legislative and institutional undertaking, the post-1991 urban land governance opens a loophole for corruption due to its contents lacking clarity and non-transparent implementations, which attract many in the line to exercise administrative malpractices such as partiality, favoritism, working with illegal brokers and the of course corruption. The paper, in tracing major drivers in the law, puts emphasis on the deleterious role of the metaphor 'appropriate body' introduced in almost all urban land laws. It finally recommends urgent revision into the laws and diminishes discretionary powers given to the executive organ of the government as a means to get out of this vicious circle setting.

Key Words:

Urban Land Governance, Corruption, Legal Framework, Ethiopia, Post 1991

I. Background

Urbanization as manifested by an increase in urban population and spatial expansion has brought several land governance issues including corruption acute. According to the 2018 Revision of World Urbanization Prospects produced by the Population Division of the UN Department of Economic and Social Affairs (UNDESA) 55% of the world's population lives in urban areas, which is expected to increase to 68% by 2050.^[1] Ethiopia, a predominantly agrarian and one of the least urbanized countries in the world with only 20.8% of urban population (the African standard is 43%), has one of the highest rates of urbanization (6% per annum), the same source confirms. In developing countries, the rapid physical growth of many of the cities has mostly been horizontal into rural lands, where both formal and informal settlements are common.^[2] Similarly, the recent rapid urban

population growth and spatial expansion in Ethiopia have brought unprecedented demand for land and firm competition in urban and peri-urban areas. Though the government is trying to satisfy the growing demand for land (through expropriation and relocation of the poor in urban and peri-urban areas), land governance has continued to be a red-hot national developmental agenda in the country.

As of the 1940s and 1950s, Ethiopia has undergone dramatic politico-economic changes from market economy (until 1974) to command economy (1974-1991) and then back to the 'camouflaged market economy i.e. developmental state' (post-1991) essentially as part of Post-WWII global development trajectories. Under the current land policy of the country, which is the result of changes and continuities in the past fifty years, all urban and rural land is constitutionally the property of the state and the people and, accordingly, sale and other exchange means of exchange is prohibited.[\[3\]](#) This grand policy direction has been reinforced by other federal and regional land laws that define and regulate land governance in the country. Regarding urban law, the lease system is proclaimed as a sole means of urban landholding in the country since 1993. The first lease law i.e. Urban Lands Lease Holding Proclamation No. 80/1993[\[4\]](#) has been amended three times as Proclamation No. 272/2002[\[5\]](#) and Proclamation No. 721/2011[\[6\]](#). The lease regime is further corroborated by other urban laws such as the Urban Planning Proclamation No. 574/2008[\[7\]](#) and the Urban Landholding Registration Proclamation No. 818/2014[\[8\]](#). All these legislations have primarily aimed to fight corruption and rent-seeking by ensuring transparency and accountability in urban land governance.[\[9\]](#) This aspiration forms part of the anti-corruption legal regime and the Federal Ethics and Anti-Corruption Commission (FEACC) strengthened since the turn of the new millennium.

However, this objective of combatting corruption appears to be a nightmarish statutory prophecy owing to cavities under the law itself and in the course of enforcement. In the first place, like many developing countries in Africa, corruption has increased through time and it presents itself as a devastating economic, social, political or cultural phenomenon in the country to which the land sector can't be an exception. The permeating scale of corruption in the country is best established by the World Bank study, which estimates that corruption can reduce a country's growth rate by 0.5 to 1.0 percentage points a year.[\[10\]](#) Secondly, doctrinal and empirical studies have established that the lease system could not fight and discourage the widespread unethical practices both from the government and non-government side (corruption, favoritism, partiality, delayed response, unnecessary autocratic red tapes, abuse of power, rent-seeking behavior, speculation, illegal

brokering, etc). [11] For example, the second national corruption survey of the Federal Ethics and Anti-Corruption Commission (hereinafter FEACC) in 2014 confirms that land-related corruption has been critical in Ethiopian urban centers.[12]

The question, therefore, is why corruption and rent-seeking rampant in the urban land governance incongruous to the anti-corruption preambular stipulations of post-1991 laws. It is to counter this oxymoronic situation that this paper is designed to assess gaps in the legal framework of Post 1991 Urban Land Governance concerning corruption. The importance of studying the legal framework is best corroborated by the findings of various studies. For example, the study by World Bank [13], Burns and Dalrymple[14], Melaku Tanku and Eyasu Kumera[15] and Solomon Tesfay [16] underlined that gaps and weaknesses in the legal framework widen opportunities for asset capture by elite and senior officials or corruption in the implementation of laws and policies. According to the study by Melaku Tanku and Eyasu Kumera the majority of sampled business community in Addis Ababa (86%) believe that the current land lease law opens a loophole for corruption due to its contents lacking clarity and non-transparent implementations, which attract many in the line to exercise various malpractices such as partiality, favoritism, working with illegal brokers and the of course corruption.

This paper examines corruption in urban land governance based on five common urban governance agendas: the political economy of urban land governance, lease based land acquisition and lease contract administration, urban planning and development, land registration and regularization, and urban land dispute settlement. It is organized into four sections including this introduction and the final concluding remark. The second section conceptualizes land governance and corruption in contemporary Ethiopia. Section three explores legal gaps that harbor corruption in the post-1991 Ethiopian Urban Land governance focusing on the five common and fundamental elements.

II. Methods

The study employed a qualitative research design to identify and understand gaps under the legal framework for urban land governance that appeal to corruption and rent-seeking. Qualitative research approach and an in-depth analysis best suits research on corruption with complex and multifaceted nature. (Andvig et al 2001) The paper is a doctrinal or descriptive-study type that

involves narration of statutory stipulations concerning the issues under consideration. The data used under this study originated mainly from the law and substantiated with interviews. Laws relevant to this research are: The FDRE Constitution, the New Urban land lease holding proclamation No. 721/2011, Federal Ethics and Anti-corruption Commission Establishment Proclamation No. 235/2001, The Urban Planning Proclamation No. 574/2008 and the Urban Landholding Registration Proclamation No. 818/2012. An interview was conducted with urban land administrators, businessmen and investors as well as urban residents in Addis Ababa (the national capital) and Bahir Dar (the capital city of Amhara National Regional State), which are taken as a convenient sample to examine the practical situation of statutory stipulations in the country. In addition, a review of empirical research works and pieces of literature was carried out to guide and substantiate primary data from the laws and interviews.

III. Conceptualizing Land Governance and Corruption in Contemporary Ethiopia

The concept of governance has in general gone through changes over time along with the interaction of government, power, and politics. In the land sector, governance concerns the rules, processes, and structures through which decisions are made about access to land and its use, how the decisions are implemented and enforced, the way that competing interests in land are managed.[\[17\]](#) The Land Governance Assessment Framework (LGAF) developed by the World Bank and its partners grouped land governance into five broad thematic areas:[\[18\]](#)

- Legal and institutional framework (LGI 1-6)
- Land use planning, management, and taxation (LGI 7-11)
- Management of public land (LGI 12-15)
- Public provision of land information (LGI 16-19)
- Dispute resolution and conflict management (LGI 20-21)

The importance of governance in the land sector stems from the finite nature of land resources and stiff competition between stakeholders over access to and use of the resources.[\[19\]](#) Good governance could make land administration and decision making effective, transparent, participatory, simplified, etc. towards ensuring responsible and efficient resource management, equitable access to land, the security of tenure, effective dispute resolution, etc. When land governance is weak, on the other hand, few powerful elites dominate the competition for scarce land

resources and cause a multitude of tenure-related problems. Weak land governance provides the political elites and government officials with a means to seek illegal gratification (bribes) in return for their services such as land leasing to investors while land becomes unaffordable to the poor. In an extreme form, corruption can occur on a grand scale through "state capture". The state can be "captured" by individuals, families, clans, groups or commercial companies who direct public policy for their benefit. In short, governance can be said "good" when resources are allocated and managed in a transparent, equitable, accountable, participatory, efficient and effective manner to respond to the need of people.[\[20\]](#)

Land governance has become especially important in developing countries, where outdated and overlapping land regulations, weak institutions, limited accountability, incomplete property registration systems, etc. led to insecurity in property rights and further create a fertile environment for misuse of scarce resources and corruption in land administration activities.[\[21\]](#) The existence of regulatory constraint and lengthy administrative procedures to access land the poor and the private sector through formal procedure encourage people to look corrupt and informal means to obtain land.[\[22\]](#) This has made the land sector one of the most corrupt sectors in the public administration of several countries in the world.[\[23\]](#)

Corruption in the land sector is defined as the abuse of power and authority by those in charge of land administration for their own gain or benefit.[\[24\]](#) Corruption in the land sector usually takes two forms namely political corruption and bureaucratic corruption.[\[25\]](#) Political corruption occurs with opportunities created when state-owned lands are privatized or leased, zoning or construction plans are approved, large-scale land acquisitions by investors are negotiated and the land is expropriated for government (or government-related) projects. It usually involves the interface between the holders of political and economic power that exploit the broader weaknesses or breakdowns in governance that compromise institutions' transparency, accountability, and integrity. Bureaucratic or administrative corruption is corruption in the public administration or the implementation end of laws and policies in the different government departments.[\[26\]](#) It takes the form of small bribes that need to be paid to register property, change or forge titles, acquire land information, process cadastral surveys and generate favorable land use plans.

In Ethiopia, corruption has become increasingly sophisticated in various sectors demanding a well-integrated and multi-disciplinary strategy. The deficits of democracy (deficient in a democratic

power-sharing formula, check and balance, accountable and transparent institutions and procedures), monopolization of the economy and the politicization of the civil service have opened the door to political corruption and state capture.[\[27\]](#) In the land sector, corruption has clipped the land management and governance system from exploiting the opportunities and withstanding the challenges that urbanization, population growth, and climate change have brought, for example. The government of Ethiopia has alleged to take legislative and institutional responses in the past two decades even though the result on the ground is paradoxical. Ethiopia has amended both urban and rural laws to make land governance transparent and accountable and fight corruption, rent-seeking patronage, nepotism and other means of using economic and social power in land governance. The country has also worked on strengthening anti-corruption laws and institutions.

As of the new millennium, the country established an Ethics and Anti-corruption Commission (FEACC) through Proclamation No. 235/2001[\[28\]](#), which itself is amended by Proclamation No 433/2005 and later by Proclamations No. 883/2015. The FEACC was established with the dual objective of combating corruption and promoting ethics and anti-corruption education through the enforcement of anti-corruption laws. In this respect, it engages in investigation, prosecution, prevention, creating public awareness and disseminating education on the issue of corruption, and coordination of anti-corruption efforts and policies. [\[29\]](#) Since May 2016, the powers of the FEACC on corruption crimes investigation and prosecution have been granted to the Federal Attorney General.[\[30\]](#) Ethical Liaison Units are also organized at all levels of Public Offices and Public Enterprises with the duty to coordinate ethical issues, advise the heads of the concerned bodies and directly report to the FEACC.[\[31\]](#) Moreover, Ethiopia is a Federal State which is constituted of two special administrative cities (Addis Ababa and Dire Dawa) that are accountable to the Federal Government and nine other administrative national regional states.[\[32\]](#) These regional states and city administrations are autonomous in the administrative affairs of their people and have established their own anti-corruption institutions.

Coming to anti-corruption legislative acts, Corruption Crimes Proclamation No. 881/ 2015 is the first to be mentioned.[\[33\]](#) This law is the first of its kind in criminalizing several corruptive acts and allocating severe punishment distinct to the FDRE Criminal Code [\[34\]](#). Very different from the Criminal Code this law criminalizes attempted corruption and extortion as well as active and passive bribery, money laundering and bribing a foreign official. The Disclosure and Registration of Assets Proclamation that requires all appointees, elected persons and public servants to declare and register

assets owned by them and their family members to the FEACC is another statutory effort.[\[35\]](#) On the issue of prosecution of corruption, the parliament has enacted a special procedure and rules of evidence on anti-corruption through Proclamation No. 236/2001[\[36\]](#), which is amended by Proclamation No. 434/2005 and Proclamation No. 882/2015. These procedural laws provide criminal justice administration and evidence rules discrete to the criminal code and criminal procedure code of 1961[\[37\]](#). In addition to its domestic laws, Ethiopia has also signed the United Nations Convention against Corruption (2003) and the African Union Convention on Preventing and Combating Corruption (2004) and ratified both instruments (2007).

Despite these legislative and institutional undertaking, studies have indicated that scrutiny and accountability have never reached the higher echelons of Ethiopian officialdom.[\[38\]](#) As many could agree, the legislative framework to prevent and sanction corruption in Ethiopia is strong on paper; however, the government does not implement these laws effectively, and the judiciary is known to be politically influenced. Hence, the mere existence of law and establishment of an institution at the federal and regional level doesn't serve any purpose unless it is practically tested and there is a government commitment to implement it. Corruption is perceived to be a serious problem in Ethiopia, which is rated 114th out of 180 countries in Transparency International's 2018 Corruption Perceptions Index, with a score of 34 out of an achievable 100.[\[39\]](#) Sustained corruption is one of the many factors that have caused widespread unrest in Ethiopia since 2015, put the country on the brink of collapse and finally led to the unexpected resignation of Prime Minister Hailemariam Desalegn and the coming into power of Prime Minister Abiy Ahmed early in 2018. Corruption remains a pervasive issue even though the new prime minister has pledged to make addressing corruption a priority since his sworn before the parliament. This changed approach and anti-corruption government commitment have several implications though studies have still insisted that reforms should be backed by and begin with the revision of existing legal and institutional framework.

This corruption blowout in the country has a unique implication to the corruption contagious land sector. The sector has been identified as one of the corruption vulnerable sectors and, for example, According to the FEACC's 2007/2008 Annual Report, 28 of the 63 cases investigated during the year were in the land administration and development sector. According to the study by World Bank the vulnerability of the land sector for corruption emanates with the very nature of land administration systems, which typically involve management of public property, record and register

private interests in land, assess land value, determine property tax obligations, define land use, and support the development application and approval process". [40] This partly aligns with economists understanding of land as an enormously valuable asset and susceptible to corruption and rent-seeking thereby creating "a significant opportunity for corruption on the part of those with the legal authority to assign, revoke, or restrict rights to it".[41] In many developing countries to which Ethiopia can't be an exception, corruption risks in the land sector take a series of features which may involve grand and petty corruption in land governance.[42] The Global Corruption Barometer – Africa 2019 shows that Corruption is hindering Africa's economic, political and social development and the range of corruption challenges that African citizens face is complex and multifaceted, requiring fundamental and systemic changes.[43] In developing countries corruption occurs in the form of state capture (the illegal conversion of state assets or other forms of grand scale) or petty corruption or maladministration (including officials' solicitation either directly or through middlemen of illegal or informal payments in return for government services).[44] Similarly, in many urban centers of Ethiopia, corruption frequently occurs in the form of petty and bureaucratic corruption such as payment of bribery and informal fees, corruption in auctioning processes and fraudulent activity of officials to allocate land to themselves.[45] In an extreme and grand scale, it occurs in the form of state capture, where powerful individuals, institutions, companies or groups within or outside a country use corruption to shape a nation's policies, legal environment, and economy to benefit their private interests.

IV. The Urban Land Governance and Corruption in post-1991 Ethiopia: Major Legislative Gaps

Both doctrinal and empirical studies have now uncovered that corruption has become the greatest ever challenge in urban land governance. There are a number of elements in Ethiopia's current land administration system that can create potential entry points for corrupt activities to occur. These include a lack of clear policies, weak institutions, lack of transparency, and limited public participation, and capacity challenges.[46] The Ethiopian land administration system is troubled with a high degree of informality. One of the main causes of this is the absence of clear legislation as well as confusion about the applicability of legislation. Indeed, where there is legislation, implementation guidelines are oftentimes lacking, which creates confusion.[47] No single document sets out

Ethiopia's land policy. As with legislation and policies, there is a lack of clarity regarding the roles, responsibilities, and mandates of institutions.

In Ethiopia, the debatable lease system is taken to be the cradle source of the corruption problem and this section aims to identify and analyze legislative gaps in the post-1991 urban land governance system of Ethiopia. In this regard, an attempt is made to identify five common land governance dimensions to examine their legislative recognition and resulting fissures for corruption.

a. **The Political Economy of Urban Land Governance**

The Political Economy of Urban Land Governance is the first and the most important socket to analyze corruption in urban land governance. Ethiopia has a long legacy of state intervention in land tenure relations as evidenced from the pre-1974 feudal landlordism, the 1974-1991 socialism driven land reform and the post-1991 'developmental state' plated system. This has made land governance an inherently political-economic issue throughout the history of the country. As Ethiopia has not been colonized, the pre- 1974 Ethiopian land tenure system was a complex customary land tenure and agrarian land-use system. Since time immemorial, the land was controlled by the king and the ruling elites. The land was granted to groups in the form of *rist* (non-salable hereditary right in the north) or *gult* (salable private ownership right over land given to individuals on the condition of serving the state at different levels mainly in the south).^[48] The feudal system had faced nationwide opposition with the famous slogan "Land to the Tiller" that finally led its downfall and replaced by the military socialist government called Derg in 1974. The Derg immediately abolished feudal landlordism and undertook socialism driven land reform, basically through proclamation No. 31/1975, which nationalized all rural land and transferred the same to state ownership and Proclamation No. 47/1975, which nationalized all urban lands and extra houses.^[49] According to the later law urban dwellers had ownership right to the house they built but the land had no value for them, and it was not subject of sale or any means of exchange. While the Derg government was removed from power in 1991, the Transitional Government of Ethiopia (TGE) adopted a new market-led economic policy though the land would remain under state ownership. Later, the FDRE Constitution under Article 40 (3) answers the core question of ownership of land in Ethiopia as:

The right to ownership of rural and urban land, as well as of all-natural resources, is exclusively vested in the State and the peoples of Ethiopia. The land is a common property of the Nations, Nationalities, and Peoples of Ethiopia and shall not be subject to sale or other means of exchange.

The Constitution seems to replace the 'state ownership' of land during socialist Ethiopia by 'public ownership' of land though redundant expressions such as ...*State and in the peoples of Ethiopia...* and ... *a common property of the Nations, Nationalities, and Peoples of Ethiopia...* are confusing and far from precision. The constitution unequivocally outlaws private ownership of land and individuals could exercise ownership right to the immovable property (buildings and permanent improvements). [50] The true intention of the government turns out to be clear when one reads article 89 (5), which appoints the government as sole custodian and supplier of land as;

The government has the duty to hold, on behalf of the People, land and other natural resources and to deploy them for their common benefit and development.

Article 89 of the constitution provides the guiding economic objectives as part of the national policy principles and objectives stated under chapter 10 of the constitution.[51] Regarding the acquisition of urban land, Article 40(6) of the Constitution envisages that private investors may get land-based on payment arrangement but it said nothing about how urban dwellers could access land. The government, two years later it came to power, replaced the permit system of Proclamation No. 47/1975 by 'Lease System' through Urban Lands Lease Holding Proclamation No. 80/1993, which is amended two times by Proclamation No. 272/2002 and the current Proclamation No.721/2011. Hence, under the post-1991 urban land governance system of Ethiopia, the government is the sole provider of land and the leasehold system is the solitary urban land acquisition model. Under the lease system, land (for residential, commercial, industrial or other purposes) is transferred to the people from the government through tendering and allotment, and receivers are expected to sign a lease contract, pay at least ten percent of the initial lease price and hold the land up to the maximum of 99 years.

The Ethiopian version of the lease system was designed with two main objectives: to collect enough revenue necessary to run urban infrastructure (the western capitalist version) and to transfer urban landholdings from government ownership to individual citizens (socialists' welfare version).[52] The regime has tried to pick the 'administrative authority of land allocation' limb from the Soviet model

and the 'land use rights market' element from the market economy model".[\[53\]](#) Even bitter than the public-private ownership of land debate, the lease system has been a hot political and legal agenda that attract political parties, lawyers and the media in the past three decades in the country. The controversy begins with the law-making process and its constitutionality.[\[54\]](#) Secondly, the lease law expressly prohibits any other form of landholding and making the system a single source of urban land.[\[55\]](#) The system, which is suffering from lack of necessary human and material resources, weak enforcement of standards, lack of transparency and accountability, etc. have become impotent to satisfy the growing demand for land in many urban centers. This, in turn, results in soaring land prices making land unaffordable to the lower class. However, the inefficiency, injustice, corruption, etc. become a safe haven for urban speculators and brokers. In filling these gaps, the Government initiated legislative amendment and enacted Proclamation No.721/2011, where ensuring good governance and efficient, transparent and accountable land administration systems are made primary concerns.[\[56\]](#) This is, however, practically a futile exercise as the rent-seeking political economy has dominated the land governance in the country.

Therefore, literatures have argued that the political economy itself is elite and state capture that opens a big room for corruption. [\[57\]](#) Monopolization of land by the government and close ties of politicians, business affiliates and banks has made real estate a haven for money laundering and corruption - while the majority Ethiopians continues to be evicted and landless. In this regard, researchers believe that Corruption is dyed in the very fabric of the ruling regime that mushroom corruption in all sectors of the Ethiopian political economy. The provisions of the law are full of gaps and give discretionary power to the executive body and politicians or their affiliates. In short, for generations, though urban land has been a source of livelihood, it has been exclusively in the hands of the feudal lords (during the Imperial period), socialist cadres (during the Derg period) and developmental cadres and their allied (during the current regime). This monopoly of land resource has not only been the somber challenge in urban land governance it has been also a lucrative source of corruption and wealth concentration in the country while landlessness is a major problem in the country. This has made urbanization inequitable- a reality in the urban-rural horizontal expansion in Ethiopia.

One of the crucial points in land governance and corruption is whether the land policy of the country is an influential factor and determines the magnitude of corruption in the country. This is especially important in Ethiopia, where private-public ownership of land debate has still attracted

the attention of policymakers and politicians. Both theoretical and empirical shreds of evidence revealed that the debate on urban land policy (private or public ownership) doesn't truly determine the magnitude of corruption in the land sector.[\[58\]](#) The experience of many states has repeatedly shown that both state ownership and unrestricted private ownership of land are conducive to resource mismanagement and corruption.[\[59\]](#) The struggle in both instances is, therefore, who capture the surplus economic rent from the land. Economists said demand is the sole determinant of the land value and land has become demand inelastic. Given this nature land resource, when the community captures land rent, both efficiency and equity are realized, which manifests good land governance. However, if (through corruption, nepotism and other malpractices) the revenue from land accrue to private pockets of the individuals and officials, it manifests bad governance and injures the productive potential of the economy.

b. Corruption in Land Acquisition and Lease Contract Administration

Throughout history, land has been recognized as a primary source of wealth, social status, and power. Access to urban land for residence or business activities is the bedrock of economic and social life. The way land laws and policies define the legal rights and conditions of access to land often attract corruption. Corruption during the access to land is critical with the special significance of land and property rights to life. Access to land and property rights is a key to attain economic security, social prestige and political power in every society. More importantly, Legal access to land is a strategic prerequisite for the provision of adequate and affordable housing in urban areas.

In Ethiopia, the lease system provides two urban land delivery systems (tender & allotment).[\[60\]](#) Articles 8 to 11 of the Lease Proclamation embody provisions on lease tender, and they deal with the preparation of land for tender,[\[61\]](#) establish land information for tender,[\[62\]](#) publicity of tender plans[\[63\]](#)and the tender process.[\[64\]](#) These aspects of a land auction are further elaborated under the federal model lease regulation and enabling legislation enacted by each urban center. In the preparation of the tender, the municipality is required to ensure the land is parceled and identifiable, free from claims, conform to the urban plan, access to infrastructure, etc. in a transparent and accountable way. Meaning preparation of urban land for tender involves a discretionary delineation of a particular parcel for auction. In addition, it is this body that determines the land grade, the lease benchmark price, and other relevant data for the parcel under article 9. Even though the law under article 10 requires them to annually publicize and timely supply land, this is practically absent and it

is the discretion of the municipality to prepare, publicize and supply land through tender or not owing to their resource capacity. Practically, investors and other private actors often approach the municipality to prepare a particular parcel for tender.^[65] In this regard, the municipality is given the power to clear and takeover urban land upon payment of commensurate and in advance compensation as per article 26-31 of the lease proclamation. The most important and corruption harboring matter is the tender process, which involves the advertisement and sale of bid documents containing key parcel information. With this understating the law provides various requirements and preconditions such as the sale of bid documents must be accessible to all willing buyers, a single bidder can't buy more than one bid document, a minimum of 5% mandatory bid bond, a mandatory participation of at least three bidders in the first round of tender, determination of winner based on the numeric value of bid price and advance payment, timely publicity of winners etc.^[66] These requirements can easily be embittered, however. ^[67]

The second category of land assignment (i.e., allotment) is enshrined under Articles 12 and 13. Article 12 allows the cabinet of regions or city administrations to allot land to:

- a. office premises or budgetary government entities;
- b. social service institutions run by a government or charitable organizations;
- c. public residential housing construction and government-approved self-help housing constructions;
- d. places of worship and religious organizations;
- e. manufacturing industries;
- f. use of embassies and international organizations as per agreements entered into with the government; [and]
- g. projects having special national significance and considered by the president of the region or the mayor of the city and referred to the cabinet.

Given the soaring land price and continuing land supply shortfall, investors mainly in the manufacturing sector rely on this mode of land acquisition. In major urban centers of the country, myriad investment projects have been submitted to the City Administration for land request through allotment though only a few of them succeeded. Not only has the business sector, the allocation of land for public and social services such as religious organizations often involved corruption in Ethiopia.^[68] The phrase ...projects having special national significance... is a killing that simply

authorizes the president of the region or the mayor of the city. The same is true in case of tender, where land can be assigned to a single bidder with the capability to implement specific investment projects (higher education, hospital, health research centers, four-star and above hotels, and mega real estate developments).^[69] In short, the terms of assignment of urban land through tender or allotment envisage the administrative requirements of transparency and accountability with the ultimate effect of preventing corrupt practices and abuses to ensure impartiality in the process.^[70] The normative stipulation is crippled, however, through interpretation and administrative discretionary power. The first and the main problem with leasehold arrangement is that the land supplied for bid is very limited and hence is quite competitive and expensive for investors and other urban residents. Even though allotment is the cheap way to access urban land but cities have quite limited land and it's uncertain for investors and other applicants how long will it take to get land. The highly competitive and skyrocketing land prices, as well as the lengthy procedure to access land in both of the available options, have made service seekers to provide bribes and other means.

Any person permitted urban land lease holding (through tender or allotment), shall conclude a contract of lease with the municipality with the power of administration in accordance with Part-3 of the lease proclamation (art. 16-25). The lease contract must specify the construction start-up time, completion of time, payment schedule, grace period, rights and obligation of the parties and other details.^[71] A person who has signed a lease contract shall be issued with a lease certificate as per article 7 of the lease proclamation and the municipality has the responsibility of follow up as per the contract and the law. The different aspects of lease Contract Administration give discretionary power to the executive and arbitrary acts toward more entrenched corruption and rent-seeking with enhanced levels of complexity and subtlety. The metaphor 'appropriate body' has been legally given an extended power in the extension and renewal of period of lease under article 18 and 19, the period of payment under article 20, the scope of utilization of urban land lease holding under article 21, commencement and completion of construction under article 22 and 23, transfer of leasehold right under article 24, and termination and compensation under article 25. On the other hand, some of the restrictions intended to combat corruption are mere legal fictions causing a complex hide-and-seek game between regulatory entities and participants in the land market which include sellers, buyers, brokers, and other actors in the process. This rather enhances the pressures and opportunities for corruption, speculation, and nepotism. ^[72] Obviously, administration involves the enforcement of terms and conditions under the contract and the law. In addition to administrative

measures, failure to discharge obligations laid down under the lease proclamation can also entail criminal liability as stipulated under article 35 of the proclamation and the criminal code. The accusation of a leaseholder in the criminal justice administration unit vivifies another medium for corruption.

c. Corruption in Urban Planning and Development

Urban planning and development became an imperative undertaking in the age of rapid urbanization (both in population growth and spatial expansion) with diverse social and economic problems. Ethiopia, which is one of the least urbanized countries in Africa, has recently experienced one of the rapid urbanization in the world. Urbanization and urban sprawl (horizontal expansion) cause an exceptionally increasing demand for land (for residence, business, public infrastructure, and service) and the government has to provide land. In addition, one of the fundamental challenges that urbanization brought is the parallel growth of slums and squatter settlements, which covers about one-third of urban inhabitants in the world and 80% in Addis Ababa. [73] In addition to squatter settlements in peri-urban areas, the central parts Ethiopian cities are the home of slum and old houses for both natural and historical reasons. The rehabilitation and redevelopment of slums, as well as regularization efforts, require a new urban plan and land acquisition. The dominant urban and peri-urban land acquisition strategy in Ethiopia is expropriation (compulsory acquisition).[74] This makes urban planning and expropriation laws essential in Ethiopia. The World Bank study highlights the encroachment of the city's master plan in current urban developments and the allocation of land for private use is one source of corruption in Ethiopia. [75]

Urban Planning guide, direct and manage urban spatial development trends. The Urban Planning Proclamation No. 574/2008, which has been applied to all urban centers throughout the country, essentially aimed at regulating the proliferation of unplanned urban centers and development undertakings (public and private) in urban centers. The law, in this regard, intends to bring balanced and integrated national, regional and local development that protect the general well-being of the community and the environment. [76] The law recognizes two types of plans: city-wide structure plan [77] and the local development plan[78]. Planning activities at the city or local level permit illegitimate relationships between government officials/ experts and urban landholders. For example, urban planning and development involve Dispossession of Holding[79], Demolition of Structure[80], Urban Renewal[81], Urban Upgrading[82], Reallocation of Land[83], Compensation

and Dispute Resolution that reduce or circumvent the rights of urban residents. Despite the law tries to provide planning principles and tries to regulate specific matters, still, it involves discretionary measure and urban planning and development have been one of the procedures and causes leading to corruption in urban land management in Ethiopia.[\[84\]](#)

Urban Development and Planning necessarily involve the expropriation procedure, which is found to be another corruption alluring area in urban land governance. The government, which is the only provider of urban land for all purposes (residential, commercial or industrial), applies expropriation as a dominant strategy to acquire land from the peri-urban and inner-city.[\[85\]](#) With a view to balance the sovereign power of a state for public interest and interference to property rights of lawful holder/owner and the government's duty to protect the same, national and international laws provide requirements and procedures to be followed during expropriation: public purpose, due process, and fair procedure, compensation and non-discrimination.[\[86\]](#) However, the determination of these elements often involves the discretionary power of a particular government department. The assumption was these requirements and procedures would discipline government authorities by forcing them to carefully re-examine their decision and actions, and safeguard the interest and rights of the displaced people. However, most of these elements are overlooked in practice, and often involve negotiation between the government official and the expropriated person. One of the contentious points is about the determination of public purpose as one can't find a clear definition under the constitution or the expropriation proclamation.[\[87\]](#) The same is true with compensation determination and payment.

Another issue with regard to urban planning and development is issues involving construction. The Ethiopian building proclamation provides a minimum national standard for the construction or modification of buildings as well as an alteration of their use.[\[88\]](#) The enforcement of standards and basic policy criteria aimed at safeguarding public health, science, and technology. However, poor enforcement of professional standards, wide-ranging discretionary powers exercised by the government, lack of transparency and accountability and other factors become corruption inviting in the construction sectors. Studies have now indicated that Ethiopia exhibits most of the classic warning signs of corruption, including instances of poor-quality construction, inflated unit output costs, and delays in implementation.[\[89\]](#)

d. Corruption in Land Registration and Regularization

Registration of urban land and land-related properties involves a systematic recording of physical and legal information through (legal) land register and Cadastre.[\[90\]](#) Land registration answers the question of who (because it is ownership or owner-based) and the question of how (because it answers the manner by which the ownership title is transferred from the previous owner to the new one, such as sale transaction). There are two basic types of land registration components: the deeds system (who owns what) and the title system (what is owned by whom). Cadaster, on the other hand, answers the question where (refers to the location of the land parcel and its boundaries) and how much (refers to the size of the land parcel).

Registration of urban land and land-related properties or systematic recording of physical and legal information is another corruption-prone area in the urban land governance of Ethiopia. Registration of individual holdings in urban areas is lagging and only about 25 percent of the existing individually held urban properties are estimated to be registered in these offices.[\[91\]](#) The laws and procedures for systematic regularization of informal holdings and registration do not exist in sufficient detail and are haphazard, inapplicable, lacked transparency and discontinued without reaching their targets.[\[92\]](#) The first national modern cadastre practice of 2007 and the second renewed urban cadastre practice of 2011 are impugned to be unsuccessful for lack of legal framework and resource and technical reasons. One of the success stories of the project is the organization of Federal Urban Real Property Registration and Information Agency through the Establishment Council of Ministers Regulation No. 251/2011, and enactment of Urban Landholding Registration Proclamation 818/2014, Urban Cadastral Surveying Council of Ministers Regulation No. 323/2014 and Urban Landholding Adjudication and Registration Council of Ministers Regulation 324/2014.[\[93\]](#) However, the fact that there is slow progress in all pilot projects throughout the country is a headache for the system.[\[94\]](#) This has resulted in the absence of reliable real property information and impedes preparation and implementation of urban plans, which in turn hamper cities from increase their revenue base, distort the urban land market and delay implementation of urban development projects.

Urban Landholding Proclamation No. 818/2014 aims to realize real property rights of individuals (as provided under Article 40(7) of the Constitution), provide reliable land information to the public at large, minimize land-related disputes and modernize the country's real property registration system.[\[95\]](#) In particular, the importance of reliable information for ensuring the security of tenure, minimizing disputing claims, establishing an efficient, transparent and accountable working system is emphasized under the proclamation.[\[96\]](#) With this framework, regional governments and city centers

are expected to come up with enabling legislation. The proclamation is applicable in all urban centers in Ethiopia even though its enforcement is fragile in the regional urban centers.^[97] This law doesn't create, modify, transfer or terminate real property rights and the registering organ is expected to simply record physical and legal information about land as created under other land and property laws. However, given the country's poor record in the registration of urban real estate and the growing tenure insecurity, officials and experts with the duty of recording land rights often engaged in corruption. Individuals and business persons pay bribes with a view to improve their tenure security and the land market as well as minimize land-related disputes.

e. Corruption in Urban Land Dispute Settlement

The upsurge scarcity of land in urban center and the un-balanced demand and supply have made urban land dispute settlement a more sensitive land governance agenda in Ethiopia. Urban land disputes can occur between and among land users (such as inheritance, boundaries), neighbors and communities or with the system of land management.^[98] It's common, therefore, for legal systems to provide formal and informal justice institutions each of them having its own mechanism of dealing with land conflicts. Unlike the rural land laws^[99], the powers of urban land dispute settlements have not been adequately regulated under the current urban land laws of Ethiopia. ^[100] And, urban land dispute settlement mechanism is one of the land governance issues that lack attention and dwellers often forced to request the authorities when their land uses right is violated.^[101] Leaseholders who aren't satisfied with the decision of the executive can appeal to the land appellate tribunal established at the city level with the power to confirm, vary or reverse the administrative decision.^[102] This body is an administrative or executive organ itself but destined to adjudicate land cases.

In the first place, as mentioned in the FDRE Constitution expressly vested judicial power, both at the Federal and State levels in courts. Secondly, even though the delegation of judicial power to the executive isn't uncommon as can be inferred from the wordings of Articles 37(1) and 80(4 & 5) of the Constitution, the diverse and frequent involvement of the administrative organ in judicial functions could cause abuses of power, liquidate separation of state powers, limit access to justice and finally frustrate property rights. Moreover, in a system that gives more discretionary and un-defined powers to administrative authorities, the involvement of the judiciary in land dispute resolution procedures have made the system a clad avenue for corruption. In the researchers attempt

to see practical situation in Addis Ababa and Bahir Dar, interviewees have confirmed that the executive organ is the source of many of land disputes such as improper termination of lease contract, boundary disputes, land use disputes, squatter or illegal buildings, improper expropriation, inheritance, etc. and its attendance in the judiciary have made the system corrupt and autocrat. This is similar to the findings of Rebiru Kibret (2019) who studies the power of administrative agencies concerning urban land dispute settlement taking the case in Dukem and Burayou city administrations in Ethiopia as an instance.[\[103\]](#)

Finally, it's mandatory to note also that courts themselves are not free from corruption in adjudicating land cases. The Ethiopian lease law regulates criminal, civil and administrative liabilities against failure to discharge obligations under the law.[\[104\]](#) Such liabilities are quite onerous and obliged accused persons into unwanted relations with authorities.

V. Concluding Remark

The current urban land governance in Ethiopia is the result of the dramatic shifts in urban land tenure from Feudal System (pre-1974) to Socialist Land Policy (1974- 1991) and to the current 'Developmental State' plated system (post-1991). The recent rapid urban population growth and spatial expansion in Ethiopia that has brought unprecedented demand for land and bread firm competition in urban and peri-urban areas is another reality. Under the current land policy of the country, all urban and rural land is constitutionally the property of the state and the people and the lease system is proclaimed as a sole means of urban landholding in the country since 1993. The post-1991 lease laws and other corroborating laws such as the Urban Planning, Construction and Urban Landholding Registration laws primarily aimed to fight corruption and rent-seeking by ensuring transparency and accountability in the urban land governance. This aspiration forms part of the anti-corruption legal regime and the Federal Ethics and Anti-Corruption Commission (FEACC) strengthened since the turn of the new millennium. However, several doctrinal and empirical studies have established that the system has failed to fight and discourage the widespread unethical practices both from the government and non-government side (corruption, favoritism, partiality, delayed response, unnecessary autocratic red tapes, abuse of power, rent-seeking behavior, speculation, illegal brokering, etc). These studies have associated the growing corruption and unethical practices mainly with gaps and weaknesses in the legal framework that widen opportunities for asset capture

by elite and senior officials. Hence, corruption in the implementation of laws and policies has made land-related corruption critical in Ethiopian urban centers.

This paper aims to answer why corruption and rent-seeking rampant in the urban land governance incongruous to the anti-corruption aspirations of post-1991 laws. In this regard, it examines corruption in urban land governance based on five common urban governance agendas: the political economy of urban land governance, lease based land acquisition and lease contract administration, urban planning and development, land registration and regularization, and urban land dispute settlement. The study employed a qualitative research design to identify and understand gaps under the legal framework for urban land governance that appeal to corruption and rent-seeking. Laws in the current urban land governance regime are selected and analyzed and further triangulated with interviews and documentary sources such as official plans and reports in Bahir Dar and Addis Ababa.

This paper argues that, despite legislative and institutional undertaking, the post-1991 urban land governance opens a loophole for corruption due to its contents lacking clarity and non-transparent implementations, which attract many in the line to exercise various malpractices such as partiality, favoritism, working with illegal brokers and the of course corruption. The Political Economy of Urban Land Governance, which endures the long legacy of state intervention and monopolization of land by the government, is elite and state capture that opens a big room for corruption. The provisions of the law are full of gaps and give discretionary power to the executive body and politicians or their affiliates. The metaphor 'appropriate body' common in all of the urban land laws has legally given an extended power to the executive in land allocation, lease contract administration, in urban planning, registration, and dispute resolution. To sum up, the lease-hold system in the post-1991 urban land governance of Ethiopia suffers from corruption and a lack of transparency and it is urgent to reconsider legal provisions that gave discretionary power to the executive.

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