

LAND LAW

❑ What is property?

- Different people conceive property in different ways
- the meaning of property depends upon the person who defines it.
- If a layman is asked, he is likely to say that

✓ ‘property’ is something tangible (Like a car, house...) owned’ by

- a natural person (or persons),
- a corporation, or
- a unit of government.

➤ Do you think this definition is correct? WHY/why not??

- This is inaccurate as it confuses ‘property’ with the various subjects of ‘property’
- For the lawyer; ‘property’ is not a ‘thing’ at all, although ‘things’ are the subject of property.

➤ In legal sense, property describes;

✓ the relationship between people with regard to the right of a person to possess, use, or own things

○ Thus, It is not **the house that matters**,

✓ rather the legally recognized interest or right to own, possess, use, lease, sale etc of the house.

○ property law is about the legally recognized relationships we have with each other in respect of things.

○ It is not, as many believe, a relationship between **people and things**

- Eg. it governs the relationship between
 - ✓ a lessee and a lessor; not between the **land/house** and the **owner**.
- Property in its noun form refers to a thing, object of property law or property is;
 - ✓ An **object** over which an individual can exert control, and in return, which gives him **rights in relation to its use** (**against the world**)
- The thing (object) may be;
 - ✓ **corporeal (tangible)** or
 - ✓ **incorporeal (intangible)** (eg. copyrights, patent, trademark....related with intellectual property)
- It may also be
 - ✓ **Movable** or **Immovable**.
- According to art. 1130 of the Ethiopian civil code, **land and building are deemed immovable**

- Some legal scholars defined property in terms of exclusion
 - as 'sole and despotic dominion which one man claims and exercises over the external things of the world, in total exclusion of the right of any other individual in the universe
- Other legal scholars have tried to define property as a bundle of rights.
- In this line, the legal essence of property is the right of any person **to;**
 - ✓ **possess**
 - ✓ **use, enjoy, and**
 - ✓ **dispose of a thing** from a legal point of view (**alienation**-transfer **gratuitously** or for **consideration**).

❑ For the sake of our consumption, “**property**” refers to entitlements to resources protected by formal legal institutions.

❑ As such, the concept of property is the concept of rules governing access to and material resources.

❑ Material resources;

- ✓ capable of satisfying some human need or want.

- ✓ Are scarce relative to the human demands

- ✓ **Scarcity** of resources leads to conflict

- Thus, this requires a system or a method of allocation that determines

- ✓ who is to have access

- ✓ to which resource,

- ✓ for what purpose, and when.

- ❑ The system of rules, otherwise known as **property law**, is a **way of solving that problem**
- ❑ Property law is designed to allocate and determine the distribution and access of MR(movs. And imm, cor. and incor). Land is one among those MR
- ❑ Real property, Real estate, Immovable
 - Property law, in systems derived from **English common law**, is divided into;
 - i. Real property concerns itself with rights;
 - ✓ in rem, or relating to land.
 - ii. Personal property concerns itself with rights;
 - ✓ in personam, or relating to chattels

- ❑ In the **Civil law** system, there is a division between
 - ✓ Movable and Immovable property.
 - **Movable** property roughly **corresponds to personal property,**
 - while **immovable** property corresponds to **real estate or real property,**
- Hence, the difference in terminology has no basic difference in the types of property.
- **What terminology do we use in Ethiopia?**

Ownership

➤ What do you mean by ownership?

➤ What distinguish **property from ownership right**?

➤ Some use ownership **as synonym with property**

➤ However, the two concepts are different and **ownership is part of property.**

➤ **Property is a broad term which encompasses** any interest in a thing

➤ There are many types of rights emanating there from, **ownership being the**

✓ **most complete and important form of property right.**

- ❑ The concept of ownership was developed by ancient Romans
- Romans, however, did not provide a working definition for ownership
- Rather they dealt with the attributes of it.
- The attributes of ownership, according to the Roman law are -;
 - usus- the right to use the thing,
 - fructus- the right to benefit of the profit offered by a thing,
 - abusus-the right to dispose of the thing either physically (destruction), or from a legal point of view (**alienation**-transfer **gratuitously** or **for consideration**).

- the Anglo American system, ownership is treated as a **“bundle of rights”** where it is possible to constitute property right over the same thing **by multiple bodies.**
- the reality reveals that ownership is and has **never been absolute;**
- there is and was always restriction on its use and enjoyment and it is not something indivisible.

❑ Meaning and Scope of Land

- ❖ Land, for most Ethiopians, is central to life.
- ❖ From the land comes sustenance, status and often political power.
- ❖ In the agricultural societies of highland Ethiopia, to have rights over land is to be human: "To be landless is to be sub-human." (Harrison C. Dunning)
- ❖ Land is;
 - ✓ source of **all material wealth**
 - ✓ a major **economic asset**
 - ✓ A social asset where **the status and prestige of people is determined.**
- ❖ Thus, the legal protection accorded to land is **always strict in nature**

❑ Different disciplines **define “land” differently**

➤ For **legal scholars land is**

- ✓ considered as the surface of the earth and any fixtures on it, such as
 - buildings,
 - fence,
 - tree plants, and
 - improvement to the land
- ✓ Ownership of land involves what is above and below it
- ✓ Latin maxim ‘Cujusestsolum, ejusestusqueadcoelum’ which means He who is proprietor of land is proprietor also of everything on it.

❑ Under Ethiopian law,

- property is either Movable or Immovable (art. **1126** of CC).
- **Land** and **buildings** are considered as immovable's (art. **1130** CC)
- **What difference have you discern from the above understanding????**

❑ Thus, “land” signifies the ground and other fixtures to the land **such as trees, grass, crops and so on, excepting buildings and other similar erections.**

Art.1133 CC

❑ **FDRE constitution Art. 40(3) and (7)**

- ✓ ownership of land is vested **in the state and the people**
- ✓ the land surface and the building over the land are owned **by two different bodies**

□ Scope of Land right

- who is a proprietor of land is a proprietor of everything on it
- this is in the air above the surface and in soil below
- Land...includes not only the ground, or soil, but everything that is attached to the earth,
 - ✓ whether by course of nature, as are trees and herbage,
 - ✓ or by the hands of man, as are houses and other buildings.
- Modern society limited this right for different reasons that not only in relation to aviations but also for the reason that the state wants to control natural resources below the ground.

➤ Scope of land right in **Ethiopia** is regulated by the **1960 Ethiopian Civil Code**.

✓ Articles **1207-1211** generally express that ***ownership of land is limited beneath and above the land “to the extent necessary for the use of the land.”***

✓ Eg. ART.1207- ***Ownership of sub soil.***

▪ Ownership of land shall extend **below the surface of the land to the extent necessary** for the use of the land.

- a person who constructs a house shall own the land
- beneath the earth to the extent that is necessary to put the foundation, and
 - above the ground to the extent of constructing the house

✓ **Art. 1211 - Ownership above the land.**

- Ownership of land shall extend above the surface of the land **to the extent necessary** for the use of the land.

- ✓ N.B. the civil code is applicable only on matters **which are not covered by other land legislation.**

❑ What is meant by land administration and land management

➤ Land Administration

- Refers to the process of **recording and disseminating about the ownership, value, and use of land and its associated resources**
- The process include **the determination of rights and other attributes of the land**; the survey, description, registration and recording of this rights; and provision of relevant information in support of land markets.

➤ Land Management

- addresses all issues related **to the sound and sustainable use of land.**
- Also deals the management of land as a resource both from **an environmental and an economic perspective**

➤ These include; but not limited to;-

- Improving **the efficiency of land resource use** to support **a growing population**
- **Conducting land use planning**
- **Protecting the natural environment from degradation.....**
- **Providing equitable and efficient access to the economic benefits of land**

❑ Meaning of Land Governance

- ✓ Land governance concerns **the rules, processes** and structures through which decisions are made about
 - access to land and its use,
 - the manner in which **the decisions are implemented and enforced**,
 - the way that competing **interests in land are managed**.” (David et al., 2009).
- Land governance encompasses;
 - statutory, customary and
 - religious institutions, as well as informal institutions.

- **It includes state structures such as;**
 - **land agencies,**
 - **courts,**
 - **and ministries and municipalities responsible for land.**
- **It also includes informal land developers and traditional bodies.**
- **It covers the legal and policy framework for land**
- **As well as traditional practices governing land transactions, inheritance and dispute resolution.**
- **In short, it includes all relevant institutions from the state, civil society and private sectors**

❏ Regimes of Land Ownership

- There are different regimes of land ownership in the world even in a given state
- There is **no uniformity in this regard**
 - The physical characteristics of the natural resource,
 - social circumstances,
 - technology change, or
 - population growth **dictate one of the above forms** of property ownership solution
- one form may be more appropriate perhaps from ensuring
 - ✓ **economic efficiency**,
 - ✓ **conservation**/management of resource,
 - ✓ **avoidance of conflict** (ensuring justice) or other reason

I. Open Access Land

- open access/ownerless/ no-property regime
- every person has access to use and enjoy the property
- each of us has a privilege to use such things and the rest of the world **has no correlative right to object to us doing so**
- **No one has** right to exclude others from such things,
- **Public parks, walking paths, and access to lake or sea shores** where every person has the right to enter or walk by without any form of restriction.
- In its pure form, the rights to air and sun light may be considered as open access properties.

II. State Ownership of Land

- It is known by different names like;- public ownership, collective ownership or government/state ownership
- State or government ownership” seems to denote
 - ✓ the ownership of land by a political body, a central or municipal level, while
- “Public or collective ownership” seems to signify the ownership of land by all the people or by the local community
- For example, the Chinese Land Law treats “**collective ownership**” and “**state ownership**” differently.
- **Collective is understood** as a village land committee, and farmers are forced to lease farm lands from **these committees**

- Practically, there are **no real differences between the dichotomy**
- In both cases **it is the government** that has the power to administer the land on behalf of the people
- In Ethiopia we find the same approach in reading **Articles 40(3) and 89 (5)** of the FDRE Constitution,
 - ✓ **joint owners of land and natural resources,**
 - ✓ but **the state is represented to administer it on behalf of the people**
- The FDRE RLAUP identifies, **under Article 2(13), “forestlands, wildlife protected areas, state farms, mining lands, lakes, rivers and other rural lands,”** as state holding lands.

III. Communal land Ownership

- a property right allocation made in the interest of group of users.
- Refers to the land which is commonly held by the community of a certain **village or locality**
- **each member** has a right to use holdings of the community in undivided share
- **property rights** are conferred on the communities and not on the individual members

- members of the communities have joint and non-exclusive right to use all the available resources across the land
- individual members have no transfer rights rather than **using the communal land** according to the local rules of the community
 - eg. **Grazing lands, forest lands, fisheries, irrigation systems, underground water, water wells, village roads, neighborhood streets, and so on.**
- **Basic features;**
 - ✓ they are not destined to an exclusive use of an individual person

- ✓ most of these **resources** **are** exhaustible, if left to anybody as open or free access.
- ✓ the resources may be quickly depleted and individual members may **not be encouraged to conserve** unless the use and enjoyment is regulated by an internal sets of rules

❑ In Ethiopia according to Article **2(12)** of the FDRE RLAUP 456/2005, “communal holding”

- ✓ is “**rural land** which is given by the government to local residents for common grazing, forestry and other social services.” illustrative...eg. land necessary for religious ceremonies, cultural festivities, or social gatherings ...

IV. Private land Ownership

- **Full and exclusive rights** to decide about the property are given to a single person (natural or artificial) or group of persons.
- The owner/s **will have complete/full property rights** which includes the right to;-
 - use
 - **exclude others**
 - **derive income from the land**
 - **sell the land; and**
 - **Bequeath or donate** the land to someone of your choice.
- **Is land subject for private ownership in Ethiopia????**
 - ✓ Rural land- **holding right**
 - ✓ Urban land-**private possession**

Chapter two

Rural land law in Ethiopia

- After proper completion of this chapter you will be able to;
 - ✓ Define what land tenure refers to
 - ✓ Elaborate what tenure security means and **what its elements are**
 - ✓ Know **the rural tenure history and tenure security of the country**
 - ✓ Pin point the **basic federal and regional rural land laws** of the country
 - ✓ Elaborate **what pastoralist land tenure system** and its status under the Ethiopian land laws
 - ✓ Explain what large scale agricultural investment means and its implementation in Ethiopia

❑ Ethiopian Rural Land tenure system and tenure security History in Ethiopia

- More than **80 percent of Ethiopian** population live in rural areas.
As such **Rural Land is** ;-

- ✓ **Economically, socially and politically too sensitive**

- See also the preamble of **proc. No. 31/1975**

- ✓ a person's **right, honor, status** and **standard of living** is determined by his relation to the land

- ✓ **It won't be a surprise** when the issue of **rural land tenure is too sensitive**

❑ Before directly indulging to the historical overview , let us see as to what we mean by land tenure and tenure security

❑ What is meant by land tenure?

- It Refers to the relationship, whether legally or customarily defined, among people, as individuals or groups, with respect to land
- Rules of tenure define how property rights to land are to be allocated within societies.
- They define how access is granted to rights;
 - ✓ to use,
 - ✓ control, and transfer land,
 - ✓ as well as associated responsibilities and restraints.

❖ In simple terms, land tenure systems determines

✓ who can use

✓ what resources

✓ for how long, and

✓ Under what conditions.

❖ Mostly, land tenure is found in two principal forms - namely,

➤ the customary and statutory land tenure

❖ Customary land tenure system ;

▪ is governed by unwritten traditional rules and is administered by traditional leaders

❖ Statutory land tenure system is governed;

➤ by modern law and supported by documentary evidence, such as a **title deed** or **lease certificate**,

➤ And administered by the government

□ Tenure Security

- landholder's degree of reasonable confidence not to be arbitrarily deprived or evicted of the land rights enjoyed or of the economic benefits deriving from them. It has two elements;-

❖ Objective Element

- Refers to clarity, duration, assurance and robustness of the rights of the rights)
 - ✓ Clarity; whether the rights are stated clearly
 - ✓ Duration -right on a continuous bases for good or for long
 - ✓ Assurance of the right- that the land rights are not overridden by others (conditions should be specifically stated and when occur landholders should be awarded compensation)
 - ✓ Robustness; freedom to use and dispose the land

❖ Subjective Element

- indicates landholder's perception or feeling of the security of their rights
- is inferred when an individual perceive **he or she has rights to a pieces of land** on a continuous basis,
 - ✓ **free from imposition** and interference from outside forces, as well as
 - ✓ the ability to reap the benefit of labor and capital invested in that land either in use or up on transfer to another holder

❑ Rural Land tenure history of Ethiopia;

- Pre-1975
- Post 1975-1991
- The current tenure

❑ Pre- 1975 Rural Land Tenure System of Ethiopia.

- ✓ Since time immemorial, land was controlled in Ethiopia by the king and the ruling elite
- ✓ As a result of the expansionist war of the ancient Ethiopian, rulers could manage **to annex vast territories to its rule**
- ✓ Then the land will be transferred to favorites and supporters of the king
- ✓ The power of the kings to allocate and revoke land was incontestable.
- ✓ The land remained under imperial ownership land rights emanated from the benevolent gift of the king

- ❖ Thus, the land tenure system was based on a feudal system
- ❖ As such the majority land was in the hands of the Emperor and the church
- Citizens were using land **under different tenure arrangements**
- Such tenure arrangements were customary by nature and numerous in numbers
- There was **regional difference** in the land tenure arrangement especially between the then North and South.

❖ Reasons,

- ✓ regional difference,
- ✓ diverse geographical and cultural settings
- ✓ different socio-political event

❑ The rural tenure system of the north before 1975

➤ different literatures written on the rural land tenure classified and described the tenure system differently

➤ However, in the **Northern Ethiopia** before **1975** land reform had taken the form of ;

- Private holdings (Gult vs. Rist Land)
- Church land (*samon*),
- Government land

a. Rist Vs. gult

a. Rist Vs. Gult

RIST Land

- Common in the north
- may have originated with
 - ✓ ancestral first holders through government grant for a loyal service,
 - ✓ clearance of forest or perhaps purchase
- is based on decent or blood relationship (hereditary)
- is transferable by inheritance from family to children
- Grants usufractory right
- was like private ownership except the holder lacked the right to sell the land

- transfer to outsiders is against the very nature of rist
- This land was held communally by the lineage and was not subject to sale and alienation
- is a collective property– land may be conceived of as being held by those currently living in trust for their ancestors and those yet unborn
- Some argue that the use-right was secured (no interference by the emperor, landlords...
- Neither be abridged(reduce) nor abrogated (revoked) under different pretexts(honoring of hereditary rights and denying access to `outsiders

- However,
- peasants were obliged
 - ✓ to pay giber (land tax 1/5 of produce) to be shared by the state and the gultegna
 - ✓ tithe(asrat) 1/10 of produce to the state
 - ✓ To provide manual work, such as farming, grinding, building houses and fences...
- The inheritance encouraged fragmentation and successive reduction in individual plot size.
- Land disputes related to rist land claims were rampant

□ Gult land

- **common in both north** (reserved to royal families and provincial nobles) **and**
- **south** (it extended to civil and military officials and supporters)
- **a kind of public office** instead of land right
- **Is a rewarded for the service and loyalty,**
- **not inheritable**
- **not transferable by inheritance or by sale**
- Entitled landlords;

❑ Grants gultegnas the right of collecting tribute, judicial and administrative power

❑ As such the gulteгна`s can

- **collect tribute** from rist holders
- Keep 1/10 of land tax collected by him
- **adjudicate cases** arising among rist holders
- Fully uses fees and fines he imposed as a judge
- extract free services from the peasants
- Mobilize able peasants during war..
- Receives all the fines which he may impose in **his judicial capacity**
- Receive certain presents/gifts eg for Easter

➤ **The crown can withdraw guilt right at any time** since formal land ownership was vested in the state.

B. Church land (Samon land)

- arose when the Crown granted rural land to the Ethiopian Orthodox Church
- It was to generate **support for its services**
- roughly constitute 10 to 12% of Ethiopia's total land area
- Until the coming of the revolution in **1974**, the church was said to be controlling one third of the land in the country.
- was prevalent in **both the North and South,**

➤ The right of the church was officially recognized under the fetha negest-

➤ **.Section 40, No. 1540 cum. 1541**

– Let the king be generous with his wealth...**He shall exempt them from tributes**, presents, and the other favors to be paid to the rulers

✓ Church land was **free from payments of tributes and land taxes**

✓ Rather the church was **allowed to collect tribute and land taxes from users**

✓ Usually, the land given to the churches and monasteries, **as gult land, was vast**

❖ As such, church land was distributed to;

✓ the clergy, such as priests, deacons, church heads, teachers, and

✓ lay people who support and protect the interest of the church at the royal court

➤ The Church could lease out its lands to local farmers under sharecropping arrangements and

➤ collected the rents as well as land taxes (tributes) that would have otherwise gone to the government treasury.

C. The state tenure regimes/government land

- Modern state machinery with salaried soldiers and civil servants is of recent origin; it came after the Second World.
- Therefore, land was given on the condition of serving at different levels of state functionary in lieu of salary
- Land serves as a means to run the state functionary
- Land could be given **in lieu of salary** and **tribute will be collected** from those farming the land
- Such land might be reverted to the state in the event of non fulfillment of the obligation
- As land was provided **to different people** based on their service they rendered, there are various types of state land tenure

❖ Accordingly,

a. Melkagna Rist/riste-gult/iso-gult

- ✓ Land granted to malkagna or balabat, local gentry
Because of;
 - he **cleared the forest and started to cultivate** it
 - fought local tribes together with the king and **brought about a lot of land to the state.**
 - So rist –gult holder had a right to the whole produce from his land and **the right to collect tribute** from those who cultivate on the rest of his gult land

b. Maderia land

- ✓ land granted , mainly, to government officials, war veterans, and other patriots in lieu of a pension or salary
- ✓ it was returned to the state or given out to others when the civil servant was transferred or sometimes dismissed from his position

c. Ginde-Bel Land

- is land given to persons who maintain government works of various types, such as;
- ✓ soldiery, (ye-zemach meret)
 - ✓ those who look after government mules and horses, (beklo kelabi meret,)
 - ✓ those who transport mails and posts(postegna meret), ...
 - ✓ the name goes in light of **the service rendered...**

- ✓ were-genu meret- land used for raising of government cattle
- ✓ balderas meret- land held by peasants and reserved for the raising of government horses and mules.
- ✓ Ganne-geb/maad bet meret- land selected for the production of food and drinks for the imperial palace
- ✓ These people **were free from payment of land tax** but **pays the tithe**
- ❖ The land right continues as far as they continue providing the services

❑ Land Tenure System in Southern Ethiopia

- The southern, south eastern and south western provinces of Ethiopia were brought under Emperor Menelik's between 1875 and 1889
- Voluntarily submission
 - ✓ traditional chiefs were allowed to retain their position and land the same as before
 - ✓ Eg. Wollega, Jimma, and Benishangul regions.
- Resistance;
 - ✓ After defeat their land was confiscated and distributed to
;
 - Nobles, the church,
 - Menelik's **generals** and **soldiers**,
 - while the people remained landless gabbars

❑ The new rulers

- ✓ took either two-third or
- ✓ three-quarters of the land and
- ✓ left the remaining fraction (**one third or one quarter**) to the local chief which is called siso (a third) land

❑ People from the north were encouraged to settle for two basic reasons

- to recompense for their service** in the war,
- in order to create **effective occupation**

□ The native people,

- ✓ were paradoxically given the name gabbars.
- ✓ Remained **landless**
- ✓ Were subjected to more onerous burdens than existed elsewhere.
- ✓ Were obliged to look after the settlers
 - by cultivating their land,
 - providing labor, building houses and so on for free

□ a person who got land in the south,

- ✓ reserved some part of the land for his private use and **distribute the rest to his gabbars**
- ✓ collected **tribute** (**one third for himself**) and
- ✓ **tithe** (to the government) and allowed them to subsist on the remaining produce

- Kenyazmach (commander of right wing) Arado was allotted **forty gashas (1600 ha)** of land for his service in **Kambata district**. He kept **twelve gashas and distributed the rest among his lieutenants** and **soldiers**. One of these, a man from North named Ayele, was given a total of four gashas. **The native people** who found themselves on the land granted to Ayele became **his gabbars** (the total family member was 40 people). Ayele settled in the nearby town of **Hosana**, the capital of Kembata district. Ayele divided his land in to hudad (good land reserved for him) and other which was distributed among the gabbars. **The gabbars cultivated the hudad and delivered the entire produce to Ayele**. Ayele also collected **a third of the produce from the other land as a tribute for himself**, and another **tenth which he turned over to the state as tithe**. The gabbars were also required to provide Ayele with **firewood**, to **grind his share of the grain and deliver it to his home in town**, and **to repair his house and warehouses**. In addition, they had **to offer him obligatory gifts on Christmas, Easter, and Maskal**. Ayele acted **as the judge for his gabbars**, and in his capacity **imposed fines and collected fees**. Whenever he visited his land, the gabbars were obliged to provide him **with a feast**. (**Markakis**)

❑ The other characteristic of the southern land tenure system was

➤ The introduction of private ownership of land tenure.

- land was transacted through sale from state to individuals and among individuals.
- There was a prolific land sale transaction at the period **for investors were interested in cash crop** (mainly for coffee production) by purchasing land from owners

❑ **During Emperor Haile Sellassie era the government tried to;**

- ✓ reduce the burdens of the southern gabbars and
- ✓ to generate enough money to the state by introducing **different land related laws.**

- Tax was collected in Kind (grain, salt, honey, cattle and so on) **tribute 1/3** and **tithe(asrat) 1/10**)

i. The 1941, 1942 and 1944 Land tax Decrees

- ✓ Entitled all government officials and agents to salaries;
- ✓ All tax was to be sent directly to government treasury (no intermediary)
- ✓ abolished all 'manual labor, firewood, grass and miscellaneous dues and taxes' imposed on the cultivators
- ✓ all land tax should be paid in Ethiopian **printed dollars rather than in kind**

iii. Land tax proc. No.70/1944

- ✓ provided tax payments **in lieu of tithe and tribute tax**
- ✓ it did not impose **same tax rate** for all parts of the country.
- ✓ The **Northern provinces** were even allowed to continue with their **old system as their land was not yet measured in gashas**
- ✓ Again repealed “**any other taxes, services and fees heretofore payable**”.

iv. Proclamation 230/1966

- ✓ Repealed the previous proc.
- ✓ dictated those people **who cultivate on lands subject to rist gult or siso gult** directly to pay their tax to **the Government treasury**
- ✓ eliminates the traditional institution of gult system
- ✓ Gult holders were allowed to change certain part of their holding to private tenure and the remainder was divided among the gabbars

❑ In 1967 the government also introduced agricultural income tax.

- However, the land tax proclamations and land measurements which were meant to enhance the amount of tax, **initiated peasant rebellions**
 - in Tigray (1943),
 - in Bale (1967-70) and
 - in Gojam (1968)
- Generally, though the government tried to lift the burden, it **was to no avail**;
 - ✓ the landlords in the south became more powerful
 - ✓ eg. In south vast tract of land was held in private ownership by absentee land lords.

❑ Generally, all land reforms were not successful because of;

1. Resistance of the peasantry population (because of **ignorance on the advantage** of land measurement and registration
2. Internal resistance from the landed aristocrats, most of whom sit in both chambers of the parliament,
3. lack of action by the government to bring about change in the tenure system ex. Ministry of land reform and administration reduction effort of **> 20 hectar was not successful**

❑ Then

- **peasant rebellions,**
- **popular unrest** and

II. The 1975-1991 Rural Land Tenure System of Ethiopia (Derg)

➤ In 1974, A committee (junta) selected from all the **army branches** (from the air force, police force, navy, and ground force) were established ;

- ✓ to negotiate things with the emperor

- ✓ and to bring corrupt officials of the ancient regime to justice

- ✓ Eg. The would be president (**Mengistu Haile Mariam**) himself was a Major, representing ground forces from the city of Harar

- In september 1974 *Derg* (Amharic for 'council' or 'committees') overthrow the emperor **by coup d`etat**
- Then they established Provisional Military Administrative Council (PMAC), by promising the election of a popular government in the future
- The Derg took action that had **drastically altered the social, political and economic structure of the country**
- **One of such measures, was the rural land tenure reform**

- On December 20, 1974 when Derg declared its **ten-point program** of “Ethiopian Socialism” it declared that
 - the right to own land shall be restricted to those who work on the land or simply land would be privatized
- However, a year later, it issued the ‘proclamation to provide public ownership of rural land No.31/1975 that

❑ Justification for the proc. Is stated under the preamble which reads;

- a person's right, honor, status,..;...
- Vast land was held by insignificant number of feudal lords while the masses live under serfdom; ...
- making the tiller the owner of the fruits of his labour

❑ This rural land reform stipulated on the proclamation was justified by two principles:

- One - historical justice – to overcome the exploitative character of imperial agrarian relations; and
- Two - justice as egalitarianism (equity) – providing each farm family with equal access to cultivation land according to their needs

❑ This proclamation;-

- ✓ Declared rural lands shall be the collective property of the Ethiopian people
- ✓ prohibits private ownership ART. 3
- ✓ Had abolished landlord-tenant relationship Art. 6(3)
- ✓ Relieved tenants from **any debt, rent and from any other obligation** Art. 6(3) and 21

❑ provided opportunity;

- For any person who personally cultivate the land sufficient for his maintenance (Article 4.1)
- The size shall not exceed 10 hectar ¼ gasha Art. 4(3)

- Until, land is properly distributed tenants' and hired labourers were given a possessory right Art. 6(1)
- Tenants were give a right to retain agricultural implements and a pair of oxen with compensation Art. 6(4)

☐ Nationalized all rural land

- ✓ No compensation for rural lands, forests and tree crops thereon..
- ✓ Promised fair compensation for movable properties and permanent works on the land..
- ✓ No compensation in practice

☐ Prohibited transfer of land through, Art.5

- **Sale**
- **Exchange**
- **Succession** (after death one of spouses or minor child and in their absence the child attaining majority)
- **Mortgage, antichresis (transfer(requires**
- **Lease or otherwise**
- **No person was allowed to use hired laborers to cultivate his land (exception -weak,the sick, widow, and minors) Art. 4(5)**

☐ **imposed uniform land tenure system on in the country as whole**

☐ **had different impact on the northern and southern peasants**

❑ kinship and village tenures were treated differently

- ✓ were guaranteed possessory rights over the land they presently till (Article 19)
- ✓ PAs **were not allowed to distribute** rist land to landless
Art. 23 and 10

❑ The proclamation contains no direct statement about the holdings of the Ethiopian Coptic Church

- ✓ estimated to own **20 percent** of all arable land and **5 percent of all Ethiopian land**

❑ The effect is more worse **in the south than the north**.....

❑ **Nomadic people (24-27)**

- were given a **possessory right**
- relived from any obligation of **dues to balabats**
- were expected to perform their **own associations**
- the government was also responsible to dig wells and **to settle nomadic people for farming purpose**

❑ **Peasant association were responsible for the implementation of the proclamation; ART. 8-11**

❖ PA were established within a minimum area of 800 hectare

❖ **Members of the PA were,**

- ✓ tenants, hired agricultural workers,
- ✓ landless and landlords with less than 10 hectare land

❖ **PA were responsible ;**

- ✓ for **distribution of land, to solve land dispute**
- ✓ **conservation of land, forests..**
- ✓ To establish **credit and market cooperatives,**
- ✓ To **undertaking villagization....read art.10**

❖ PA at **local, woreda and awraja level** were also established. See art. 11 them at the apex **Ministry of land reform**

- Access to land was **contingent upon**
 - **membership in peasants associations**, and
 - **physical residency requirement**
- Peasants
 - only have **use rights on their plots of land**
 - **Were not allowed to hire wage labour**
 - **Can not transfer land through sale, inheritance..**

❑ When seen from tenure security perspective the land tenure of DERG;

- Erroneous state policies (villagization, grain requisitioning, resettlement, agricultural, collectivization)- No discussion at grass root level
- The PAs which were given a wider role were finally hijacked to do **political work**
- Tenure security was weakened by
 - ✓ **the ability of PAs** to redistribute land (lately in 1990 temporary halted).

➤ Settlement of land without the willingness of the peasant. See. Art.18

➤ **Expropriation**

✓ **No compensation** to the land and only for movable property and permanent works on the land

✓ Reason for expropriation

- for public purpose such as **schools**, hospitals, roads, office and military base

❑ Dessalegn Rahamato summaraized the rural land reform of Derg with regard to tenure security as follows:

“The end product of the land reform was that it failed where it succeeded. It transformed rural Ethiopia into a society of self-labouring peasants. To promote social equity it undermined peasant confidence. It redefined the land system in a radical way but in doing so made insecurity of holding an enduring element. It replaced the landlord with the state, providing the latter with direct and unencumbered access to the peasantry.”

❑ The current rural land tenure system-since 1991

- Derg was overthrown in 1991 by the Ethiopian Peoples' Revolutionary Democratic Forces (**EPRDF**)
- **Transitional government remained from 1991-1994 until the adoption of the constitution**
- **TGE;**
 - ✓ **disbanded all collectivization and grain requisition (allowing peasants to sell their produce at market value)**
 - ✓ **Disbanded villegization programs**
 - ✓ **Collective farms were privatized to individual farmers**
 - ✓ **adopted new economic policy that advocates free market policy in November 1991**
 - ✓ **In 1992 opted to maintain the land policy of the Derg until the matter is to be settled by the coming constitution.**

❑ In the year 1995, beyond the expectation of many, the government maintain the previous policy. Art. 40(3)

➤ FDRE constitution

- ✓ prohibited Transfer of land through sale or other means of exchange Article 40(3)
- ✓ granted “right to obtain land without payment” For ;
 - “Ethiopian peasants” and pastoralists for cultivation and grazing purposes Art. 40 (4 and 5)
 - And a right to be protected against eviction from the possessions and compensation” Article 40 (4 , 5 and 8)

- allowed investors to get access to rural land on the basis of payment arrangements –Art.40(6)
- Granted every Ethiopian including , peasants,,,
 - ✓ a full right to the immovable property they build and
 - ✓ on the permanent improvements they bring about on the rural land holdings by their labour or capital (Article 40(7))
- established federal and regional government with different power with regard to land see Article 1, 46, 47, 51(5) and 52 (1) and (2)(d))

❑ Current Land Policy: Debates on Ownership of Land

- The issue of land ownership
 - has been a contentious hotly debated/debatable issue
 - remained one of the sources of disagreement among
 - ✓ politicians,
 - ✓ academicians and other
 - ✓ concerned parties in Ethiopia

- This is mainly between;
 - ✓ supporters of the status quo **lead by the ruling party** and
 - ✓ advocates of tenure policy shift **in favor of privatization** (including opposition political parties and world bank and donors)
- Reason;
 - ✓ the agrarian nature of the economy and
 - ✓ social and political history of the country
- During the enactment of the constitution
 - ✓ voting **499 voted for public ownership** of land
 - ✓ **495 for private ownership** of land

1. For state ownership

A. The fairness principle purporting social equity(egalitarianism)

- **prevents concentration of land in few hands**
- and enables the government to distribute and redistribute land
- **prevent the condition before the year 1975**

B. The underdeveloped nature of the country's present subsistent agriculture sector

- more than 85% of Ethiopian live in rural
- **undeveloped** industrial and service sector
- allowing sale of land will open a flood gate of influx of migrants

C. Lack of uniformity

- Uniform private property rights to land across the country may not be possible to realize. Eg.

Pastoralist land

D. The existence of a large portion of land which is not yet cultivated and occupied.

- It will allow the government to let investors cultivate those areas and derive benefit
- Out of the 66% of arable land only 16.5 million hectare is being used. So..

2. Against state ownership/for private

A. Private ownership promoting efficiency

- state ownership of land **leads to**
 - ✓ **inefficient uses of land,**
 - ✓ **fragmentation of plot size (distribution),**
 - ✓ **Over population**
 - ✓ **perpetuate the legacy of Derg with regard to land redistribution**
 - ✓ **No free transferable **right- no security and investment on the land****

➤ Hence, private ownership creates **sense of belongings and incentive** **leading to efficiency and productivity**

B. Unreasonable fear of influx

- land creates both economic and psychological attachment
- farmers would rather rent their land **during stressful periods** than selling it (research by World Bank)

C. Experience of other countries

- eg. USA only 3% of the people are farmers.
Because it promote
 - ✓ sense of belongings and incentive which leads to productivity
- on the other hand experience of socialist countries
 - ✓ showed that Public ownership is ineffective

D. From farmers perspective- Freehold as exercise of human right

- they should be given **the choice** either to plough the land or **transfer it to others** and migrate to the area of his interest. If not..
- **as you are born a farmer** so should you remain without education and betterment of life styles. (Restriction to the right to movement)

E. Policy inconsistency

- **Public ownership (socialist) of land and free market (capitalist) are diametrically incompatible**

❖ **Which argument is tenable for you? Why/why not?**

❑ NB. Many observers declared that both sides of arguments were not supported by empirical studies rather they are based on merely ideological differences

➤ For example;

- ✓ The opinion and interests of Peasants ,pastoralists and civil societies was not considered
- ✓ The matter has been settled by the FDRE constitution
- ✓ No conclusive evidence between ;
 - the type of land ownership in a given tenure and the economic and social merits it has

➤ Desalegn Rahmato, **for farmers** rather than the form of ownership the issue of tenure security seems to be a more important consideration

□ Land Federalism

❖ The FDRE constitution

- Division of power to federal and regional governments Art. 1,46, 47, 51 and 52 (express, residual and concurrent)

❖ Division of power **with regard to land**

- Article 51(5) – enacting laws relating to utilization and conservation of land is the inherent power of the federal government
- Article 52(2(d))- allots the task of administering land to regional government in accordance with the federal laws - prerogative of regions.

❑ For many the power of the federal government should enact a law that;

- define **the nature** and **content of property rights in land**;
- define the **conditions under which these rights are**
 - ✓ **to be held** and
 - ✓ what these **rights consists of**,
 - ✓ **how they operate** in **the holding, transfer** and **inheritance**
 - ✓ and how they **are extinguished**

➤ The idea of **land administration** may not have universally accepted single definition

□ FAO defines it as;

- the way in which the rules of land tenure are applied and made operational and it includes an **element of enforcement** to ensure that **people comply with the rules of land tenure**”.

□ Art. 2(2), of proc. No. 456/2005 defines it as;

- “a process whereby;
 - ✓ **rural land holding security is provided,**
 - ✓ land use planning is implemented,
 - ✓ disputes between rural land holders are resolved
 - ✓ **the rights and obligations** of any rural landholder are enforced, and
 - ✓ **information on farm plots and grazing land** [holders] are gathered, analyzed and supplied to users.

- ❖ **As such regional governments can enact laws to establish**
 - **A system and process** to apply and **make operational the rules of land tenure** defined by the **federal government** and
 - **to perform the executive duties** thereto accordingly

➤ **Article 17 of proc. 456/2005**

- Each regional council shall enact rural Land use laws, which **consists of detailed provisions necessary to implement this Proclamation**, Art.17(1)

❑ Basic contents of the current rural land laws

❖ The federal government enacted;

✓ Rural land admin. and Use Proc. No. 456/2005

✓ Expropriation proc. No 1161/2019 proc. and

✓ Regulation No. 472/2020

❖ Recently, almost all regional governments have enacted their own rural land laws

❑ Overview of the contents of rural land related laws

✓ FDRE cons. Art. 40(3-8),

❑ Proc.No. 456/2005

❑ What is meant by Rural Land? :- (Art. 2)

- land outside of a municipality holding
- rural land designated by the law

❑ Types of rural Holding

a. Private holding-

- Art . 2(4) holding right of rural land by peasants, pastoralist and semi pastoralists. It grants right over;-
 - rural land for the purpose of agriculture and natural resource development,
 - lease and bequeath to' members of his family or other lawful heirs,
 - Ownership over properties produced
- 2(11)
 - Defines what is meant by minimum private holding

b. Communal holding-

➤ Art 2(12)

- rural land given to rural community for grazing, forestry and other social service
- **how do you see Art. 2(12) Vs. 5(3) of the proc.???**

c. Government holding

➤ Art 2(13)-lands designated as federal/regional states and includes

- ✓ **forest, wildlife protected area,**
- ✓ **lakes, rivers and other rural lands ex.**
- ✓ **See art. 51(11) of the FDRE const.**

❑ How to get access to rural land?

❖ There are three sources

A. Government Grant/source

➤ Peasants, pastoralists and semi pastoralists do have the right to get access rural land

- Free of charge.
- See Art. **40 (4) and (5)** of the constitution and
- **Article 5 (1)** of proc. No. 456/2005
- Regional land laws replicated the same rule

❑ What are the requirements in this regard? Requirements;

I. Age.

- ✓ See art. **5(2) of proc. 456/2005**

- ✓ Any citizen of the country
 - who is 18 years of age or above and
 - wants to engage in agriculture shall have the right to use rural land
- ✓ Exception, minor children who lost their mother and father due to death can use through their guardians

❑ Regional land laws;

- Stipulate 18 years and above to get rural land for agriculture
 - Amhara (proc.252/2017), Art. 10 (1)
 - Oromia (proc.130/2007), Art.5(1)
 - SNNPR (Proc. 110/2007) Art.5(2) ,
 - Tigray (proc. No.239/2006), Art. 8(1 and 5)

II. Profession

- ***Engaging or desire to engage*** *in agricultural activity for living* (livelihood or profession)
- The federal as well as all regional laws enunciate this requirement.

III. Residency...

- It is not clearly stated under the federal land use proclamation
- Amhara (Art. 5(1) -Any farmer **residing in the region**
- Oromia, Art. 5(1) Any farmer residing in the region
- Benishangul, Art. 5(1) Any farmer residing in the region
- And SNNPRS Art. 5(2) any resident of the region

- Tigray rural land use and administration proc. No.239/2006 states,
 - any farmer residing in rural area and who wants to engage in agriculture can get rural land **for free**
 - The scope is somehow restricted
- Is living in a rural area (residency) a requirement to acquire rural land under proc. **No. 456/05** and under the FDRE constitution? Why/why not?

❑ Who can claim this right?

- **Peasants , pastoralists and semi pastoralist** and their family members
- **Women** who want to engage in agriculture
- **Any person** who fulfills the above stated requirements
- Save priority requirement, **private investors** shall have the right to use rural land- **Art. 5(3)cum Art. 5(4,a)**
- **Governmental and Non-governmental organizations and social and economic institutions**” – inline with their development objectives (FDRE Rural land **Proc. 456/2005, Art. 5(4) (b).**

❑ What is 'holding right' and what is its nature?

❖ Proc. 456/2005, Art. 2(4)

- Is a right of **peasants, pastoralists and semi pastoralist**

➤ The right includes;

- Using rural land for agricultural and resource development purpose
- Renting land to fellow farmers and **leasing the land** to investors (they should respect minimum holding size)
- full ownership to the produce collected there from
- Donate or inherit a land to members of his family or **other legal heirs**

➤ *Includes all right except sale and mortgage*

□ Nature of holding right

- **Has No time limitation- (see Art. 7(1) of proc. 456/05), the same is true under all regional laws**
- **Use right plus transfer right through inheritance**
- **Good for tenure security**

B. Inheritance or Donation

- See proc. 456/05, Art. 2(4) and 5(2)
- Peasants, past, semi... do have the right to inherit their holdings to their family members.
- family member" means any person who permanently lives with holder of holding right sharing the livelihood of the later
- ❖ Controversy with regard to who members of the family are
- ❖ See article 2(5). Two requirements ;
 - Residency element; permanently living with the farmer under the same roof
 - Management element; he must totally rely on the peasant farmer for his life and have no other income of his own

- ❖ Thus, a laborer, who has no blood relationship may be considered as family and be legible for the inheritance.
- ❖ On the other hand, it is not possible to inherit or donate rural land to;
 - one's child who live elsewhere and is engaged in other professions
- ❖ The rationale behind such rule seems that land to those who are in need of it, irrespective of their blood relations

- ❖ However, **Revised Family Code**, family r/ship emanates from marriage, blood and adoption
- ❖ **What about under other regional rural land laws??????**
- ❖ Amhara region rural land law- Proc. 252/2009
- ❖ Donation– Art.16 **the peasant can donate**
 - To a child or grandchild or any other family member
 - To dependents who served the landholder
 - But, should not limit the right of minor children

❖ Inheritance-: through will (testate) -Art. 17

- can inherit his holding to any person who engage or wants to engage in agriculture
 - But, shall be invalid if it disinherits the legal **heirship of the testator's minor children** or **harms the legal rights of his spouse**

❖ Intestate

- to deceased children,
 - parent/parents or
 - to any legally permitted other family member respectively
- Art. 17(11)
 - consider residents in town with small income but who support their living on an income generated from the rural land as farmers

❖ **Oromia rural land proc.** No. 130/2007

❖ Art. 2(16) family member means

✓ children of the land holder **or** dependents who do not have other income for their livelihood

■ Art.9(1 and 2)

– Guarantees the right to transfer land use right to **family member** who have inheritance right according to the law

– Without prejudice to Sub- Article (1) of this Article, heirs whose livelihood is entirely dependent on the income from that land, or have no other income shall be given inheritance priority

❑ Tigray rural land proc. No.239/2006

- Art. 2(12) defines family member as a relationship by affinity to the second degree
- Art. 14(4) adopted children, children, ascendants of a peasant who live in town do not have the right to inherit rural land
- Art. 14(3) Peasants having their own rural land do not have the right to inherit rural land

c. Rent and Lease

- ✓ Are commercial land transaction by peasants and pastoralists
- ✓ Are of significant importance in that
 - Give access to land to those who are productive but landless
 - Would give alternative to non-farm activity
 - Avoids idling of land
- ✓ Read Proc.456/2005, **Art. 8**
 - Peasants, pastoralists and semi-pastoralists can lease their land to other farmers or investors in a manner-
 - that shall not displace
 - The period will be determined by regional laws

❖ What about under other regional land legislation??

➤ With regard to the size and period of rural land to be rented, there is no similar approach.

❑ **Federal**- Art. 8 in a manner that shall not displace them

❑ Regions;

✓ Tigray (Art. 9) and Oromia (Art. 10)

- Size- up to half of his holding
- Period- traditional farming up to 3years and for modern agriculture **up to 20 yrs** (oromia 15 years)

➤ Amhara- Art.15

- No size limitation is provided.
- But, in a manner that will not displace the holder
 - What is its implication?
 - How do you see its compatibility with proc. 456/2005?
- Period –
 - ✓ **30 yrs for** permanent fruit plants or preferred tree types, and
 - ✓ 10 years concerning annual crops
 - ✓ **Renewing the contract is possible**

➤ SNNPR- proc. 110/2007 -Art. 8

- ✓ **Size**- in a manner that shall not displace them

✓ Regulation No. 66/20- see Art. 8 (1, c)-

✓ renting all is possible if;

– he has any other alternatives such as working as laborer

– being hired by the investor, or to

– make business or any other better job

■ Is this approach compatible with the federal proc.????

✓ Period-

■ peasant to peasant- **5yrs**

■ Peasant to investor-**10yrs**

■ Peasant to investors **for perennial crop-up to 25 yrs**

❑ Termination of rural land use right

- Grounds are stated in different part of the proc.
- Federal rural land proc.456/2005, art. 10 and 13
- Amhara, proc. 252/2009- Art. 27
- Tigray-,proc. 239/2006- Art. 10 and 11 and 13
- SNNP, Proc. 110/2007- Art. 13 Reg. No. 66/2007, Art. 13
 - Engaging in profession other than agriculture
 - Permanent employment
 - Absence/ Disappearance from farm land. **Tig. 2 Amh.5**
 - Fallowing the land without sufficient reasons, Amhr.3yrs

- Failure to respect **different obligations**
- **Forfeiting land right** upon written notification,
- **Voluntary transfer** of land through gift,
- **Land distribution** (the loss will be partial), and
- **Expropriation** of land without replacement of another land

Land Dispute Resolution Mechanism

Read article 12

- discussion and agreement by the parties
- arbitral body to be elected by the parties
- in accordance **with regional land laws**

Regional Laws;

➤ **Amhara rural land proc.(252/2009) And regulation No. 51/2007)**

- Art. 52 of proc. And 35 of the Regulation
- First, **agreement of parties**
- And then **Arbitration**
- If not successful, can bring the case **to Woreda courts**
- **Appeal- to high court -if confirms will be final**
- **If varies the decision –final appeal to the regional supreme court**

❑ **Oromia-proc. 130/2006**

- See art. 16
- Agreement-16(2)
- Arbitration
- If no agreement, woreda court
- Dissatisfied party can appeal **to high court**
- If the decision is altered **to the supreme court.**

CHAPTER THREE

Urban Land Law in Ethiopia

Introduction

- The historical development and the current urban land tenure system of the country is divided in to;

- ✓ pre 1975,
- ✓ post 1975
- ✓ up to 1993 and from 1993 on wards

i. History of urbanization in Ethiopia (pre-1975)

- ✓ Urb. is a recent phenomenon of 19th and 20th century
- ✓ Donald crummey state that palace, market and church are the major institution that shaped urbanization during 19th and 20th century. (pol,eco. and soc. Factor)

- ❑ Why is urbanization a recent phenomenon???
- ❑ Reasons; according to Richard Pankhurst,
 - civil war, recurrent drought and famine,
 - disease and terrible governance
 - history of agricultural self-sufficiency which has supported rural peasant life (*lack of surplus production for market*)
 - lack of permanent capital city
 - continuous move of the royal camp
 - All prevented the emergence to any great extent of urban property in land through much of the middle ages

❑ However, there were incidents that contributed **for the expansion of urbanization. These are;**

A. The establishment of Gondar in 1636 by Emperor Fasiladas (who ruled from 1632 to 1667)

- Establishment of *different castles and churches*
- There was allotment of land in the area by the government **to the principal lords**
- Huge track of land was held by few landlords

B. The establishment of middle- sized towns in Ethiopia 19th

C

- such as Ankober (capital of shoa province),
- **Dbre Markos (Gojjam)** and
- **Dessie (Wollo)** during the 19th century,

C. The birth of Addis Ababa as a capital city of Ethiopia,

- ✓ It was established in 1886 by Emperor Menelik II
- ✓ had brought a **significant change** in the countries urban history
- ✓ There was grant of land to the nobility, chiefs and to others
- ✓ brought construction of relatively permanent and costly buildings which no longer go along with the previous temporal nature of land ownership right

➤ then the first historical 1907's edict was proclaimed. The edict;

- allowed private ownership of land
- land could be sold both by the government and individual owners. **Requirements;**

- ✓ Certificate should be issued with payment for the seal and the value of land

- Envisaged expropriation of urban land for public purpose with compensation
- The edict brought about urban land tenure security of the then land lords

❑ Urban land during Emperor Haile Sellassie

- followed **the foot step of Menelik II**

- **Art. 27** of the 1931 constitution

 - Allowed **private ownership of land**

 - Land could be expropriated **for public purpose**

- **Art. 105** of The Revised 1955 constitution

- **Owning and disposing of private property including land was allowed**

❑ Generally, the pre-1975 urban tenure system;

- evolved itself into freehold land tenure system (private ownership of land),
- **ensured** tenure security of land holders
- land could only be expropriated for public purpose with payment of **compensation**

➤ **However the major drawback of the period was related with**

- ACCESS TO URBAN LAND
- There was extensive granting of land to the nobility chiefs and other followers of the then emperors

- ✓ This led to high concentration of land ownership in the hands of few land lords
- ✓ For example, in 1960's
 - less than 5% of the population owned 95% of the Addis Ababa's urban land
 - 60% of in habited dwellings were rented rather than owned

ii. Urban Land Law During Derg Regime (The Permit System) post 1975

- The previous promulgation of proc. No 31/1975 in April, 1975, had triggered fear among the then urban landlords, aristocrats and high government officials
- In June 1975, Government Ownership of Urban Lands and Extra-urban houses proclamation No. 47/1975 was proclaimed

❖ Rationale for the proclamation. Read the preamble

- To bridge the wider gap in the standard of living of urban dwellers
- To eliminate the exploitation of the many by the few
- Handful urban land lords obstructed urban planning and development
- to extend **secure housing facilities** to poor urban dwellers

❖ The proclamation;

- Nationalized all urban land and extra urban houses-Art. 3
- **Extra house is defined under** art. 2(3)
 - ✓ as a single house required or occupied as a dwelling place by a person or family or
 - ✓ a house required for business
- Abolished private ownership of urban land and declared public ownership. See Art. 3,
- **Abolished urban land lord and tenant relationship** Art.6(1)
- Granted **any person or family up to** 500 square meters for the purpose of construction of **dwelling house** 5 (1).

- use right was allowed to be transferred to the wife or husband or children up on the death of the holder. Art. 5
- Urban tenants and persons **were given a right to claim possessory right over up to 500 squ. met of land they occupied.** Art. 6(2) and 7(1)
- Freed tenants from payment to the landowner of rent, debt, and any other obligation. Article, 6(1)

- Prohibit transferring urban land through sale, antichresis, mortgage, succession or through any other means. Art. 4
- Compensation was guaranteed for houses and not for the land. Art. 3 and 18
- a person or a family can no longer own more than a single dwelling house
- However, any person or family or organizations may own an additional business house if allowed by the government. Art. 11(3)
- Renting of houses or land by any person, family or organization was expressly prohibited. Art.20

- The right to rent was given to the state and co-operate societies. Article 20
- Save for **pre-emption right** of the government during sale, free transfer of urban houses through **succession, sale** or **barter** was allowed . Art. 12
- Owners of houses were expected to pay **land rent** and **house tax**. Art. 9 and 11

□ Generally, when seen from tenure security issues,

- The proclamation was warmly accepted by the then tenants and landless urban dwellers
- the proclamation guarantees equitable access to urban lands

- However, the number of restriction imposed on urban land exacerbated urban tenure insecurity. Restriction on;
 - ✓ inheritance
 - ✓ Transfer of house, pre-emption right of the govt.
 - ✓ Renting house,
 - ✓ expropriation,
 - ✓ compensation,
 - ✓ grievance mechanism...
- This brought about shortage of urban housing
- decay and deterioration of the many houses under Kebele administrations were witnessed during this period

3. The Current Urban Land Tenure System (The Leasehold Tenure System)

- ❖ TGE. in its 1992 economic policy;
 - Addressed Urban and Housing Construction Policy
 - **Encouragement** and **participation** of private investors in housing construction and the general people in condominium constructions,
 - maintained the state ownership of urban land

❖ in 1993, the government adopted urban lands Lease Holding Proclamation No. 80\1993

❖ Scope of application;

- The proc. is not applicable on lands held before the proclamation (lands acquired through **the then permit system**). Art. 3(1)
- Recognized dual tenure system
- However, transfer houses other than inheritance could only be done **through leasehold system**. Article 3(1) and (2)

❖ Access to urban land and right to use urban land ;

- Lease system (Contractual agreement)
- Through passing competitive public tendering process. Art. 5(2), 7(2)
- for definite Period of time ranging from **50-99** years. Art. 7

❖ Leaseholders can;

- Transfer, pledge or mortgage the lease right they acquired to the extent of the rent or the lease price paid,

➤ N.B No profit should be gained by lessees during transfer of lease right

❖ Termination of lease agreement

- Read art. 11
- **Failure to use the land** according to the lease contract
- **For public purpose**
- Failure to pay the **renewal rate of rent Art. 11 and 7**

- N.B except for public purpose, **Renewing lease right was a right given for lessees** (it imposes a duty on land administrators **to renew the contract when required by a lessee. See. Art. 7(3)**)

❑ However, in 2002, Proclamation No. 80/1993 was repealed and replaced by Urban Lands Lease Proclamation No. 272/2002,,;

❑ Rationale.

- Promulgation of the FDRE const
- the need to make leasehold system an exclusive mode of urban land acquiring system
- the need to provide for transparent and expedient dispute resolution system

❖ New amendments;

- scope of application was meant to govern **all those urban lands held by the previous permit holders**

❖ However, the application of leasehold system on permit holders was suspended until;

- The then **regional and city governments** decided the **time and conditions** under which permit holders could be **converted in to leasehold system**. Art. 3

❖ Method of urban land acquisition

✓ Provided two methods

- **Article 4 (1.b)** of the proclamation recognized **auction** and **negotiation** as the two modalities to acquire urban land.

- article 4, 1(c) empowered regional cities to **come up with additional means of land acquisition for the construction of dwelling or residential houses**.

- For example, besides the above two mentioned systems, **the Addis Ababa City Government came up with three additional methods:** namely,

- **lot**, giving land through chance or lottery for free
- **assignment** to civic association, charitable organization, embassies
- **Award**
- city government or region administrators may give Land **with low price or for free**, read art. 8(2)

❖ Transferability of lease right

- Unlike its predecessor, this proc. allowed free transfer of lease right

❖ Renewal of lease period

- Read Art. 7
- lease contract **may or may not be renewed**
- if not renewed, no compensation. Art. 15

❑ This Proc. was **repealed and replaced** by the current Urban Lands Lease Holding proc. No.721\2011

❑ The new proclamation, proc.721/2011, will be discussed later

❑ **What do we mean by Lease????**

➤ the Ethiopian Civil Code under article **2896** defines *lease* as

- Lease of immovable is **a contract** whereby one of the parties, **the lessor**, undertakes to ensure to the other party, **the lessee**, **the use and enjoyment** of **an immovable**, **for a specified time** and **for a consideration** **fixed in kind or otherwise.**”

➤ Other definition..

- lease is a contract where by a person enjoys urban land use for specified period and specified purpose with payment arrangement
- While lease holding system is a system of obtaining land use by contract

❖ Important elements in the above definitions

- Contract,
- use right,
- consideration and
- definite period and purpose

❖ Advantages of leasehold system, Leasehold helps to;

- Enable governments to collect revenue in the form of lease price
- **Fosters efficient use** of land and **deters wastage of land**
- Enable governments to retain land ownership while allowing private parties to **use, transfer, inherit and benefit from the land**
- Offers possibility **to reclaim back the land**
- For **investors** it gives assurance and saves **money** as usually lease prices are **paid periodically**

□ Scope of application of proc. 721/2011

- Read art. 3 and 5
- to all urban centers within Ethiopia with regard to urban land
- Urban land - land located within administrative boundary of urban center. Art. 2(2)
- urban center is , Art. 2(3)
 - ✓ locality having municipality or
 - ✓ a population size of **2000** or more of which **at least 50% of its labor force** is engaged in non-agriculture

❑ The application of the proclamation on **old possessors** (**permit system**)

➤ What is meant by **old possession**?-Read art. **2(18)** of the proc.

– Urban lands acquired during **the imperial** and **Derg era** and after that **with out leasehold system**

– **Replacement lands** given for old possessors

➤ The proclamation is not applicable on old possessions until **the Council of Ministers** pass its final decision based on the study to be submitted by **Urban Development and Construction Minister**. Art. 6(1)

❖ However,

– Transfer of old possession other than inheritance, could only be effected through leasehold system. **Read art. 6(3)**

– Merger of old possession with leasehold could only be effected through lease- Art. 6(6)

✓ All such transfer are **mandatorily required to pay the benchmark lease price of the locality**(art. 6

❑ Bottle neck issues surrounding old possessors

- There fate is uncertain since 2002(no clear property right)
 - Proc. 272/2002 (the then regional and city administration
 - Proc. **721/2011**-CM and UDCM
- Conversion based on urban plan and national standard will force them either-(Art. 6(2a and b)
 - to decrease-payment for the property **not to the land**
 - increase –with payment of lease price
- Nonetheless, **how much to pay, how to afford the money needed, what will happen if the money needed is not affordable.....** are some of the **uncertainties that will be created**

➤ Transfer other than inheritance

- The person become the possessor **through lease. What does it mean?**
- **The buyer will pay the house price to the owner and the lease price to the government.**

➤ Expropriation-

- ✓ **Appeal** only on the amount of compensation-**Art 29(3)**
- ✓ The definition of **public purpose-**
 - see **art 3 (1) and (2)** of proc. 455/2005
 - **Art. 26(1) and (2)** of proc. 721/2011
- ✓ **The size of substitute land**, proc. 455/2005;
 - **Art. 8(4)-** for old possession it will be determined by **urban administration**
 - **Art. 8(6)-**lease holders -**similar plot of land**

➤ **How do you see such issues in light of tenure security issues??**

❑ Modes of access to urban land

✓ **Proc. 721/2011**

- The only modalities recognized are, tender and allotment -Art. 2(10)- land lease transfer without auction)

➤ **Tender** (auction) is provided from **art. 8-11**,

- Preparation of land for tender-free from claim, conformity, access to infrastructure....
- Information **on the grade, lease bench mark price** and others should be prepared
- **Advertizing** and **putting bid document for sale**
- **Amount of bid bond-not less than 5% of bench mark lease price**

- An individual can **only buy one bid document** for the **same plot**
- There should be **at least three bidders** (exception see **art.11(7 and 8)**)
- The winner will be declared **based on the basis of bid price and the advance payment offered** Art.11(5)

□ Allotment(without tender)

- Read Art.2(10), 12 and 13
- **Allotment**- is applied for providing urban land by lease **to institutions** that **could not be accommodated by way of tender**

➤ Allotment is allowed for,

- Offices premises of budgetary government offices
- Social service institutions run by government or charitable organizations, Projects having special significance
- Public residential housing
- Manufacturing industries, Embassies and international organizations, Places of worship,

❑ Formation of Lease Contract and lease period

- Contract b/n the appropriate body and the lessee
- The contract shall include; **start up and completion time, payment schedule, grace period, right and obligation** of parties and other details
- Then issuance of certificate-Art.17

❑ Period of lease is specified based on; Art. 18

- the purpose of urban land
- the nature of the lessee and
- whether the land is going to be leased is situated in Addis Abeba or in any other urban centre

➤ In any urban center

- 99 years for residential housing, science and technology, research and study, government office, charitable and religious institutions
- 15 years for urban agriculture

➤ In Addis Ababa,

- ✓ Ceiling of 90 for education, health, culture and sport,
- ✓ 70 industry; and
- ✓ 60 commerce and others activities

➤ and In other urban centers,

- ceiling of 99, 80 and 70 years **respectively**

❑ Transfer of Lease Right

- See art. 24

- Like any other property right, lease right **is transferable to others**

- **Art. 13 of proc. 272/2002, no restriction** were stated.

➤ Leaseholders were able to transfer **bare leasehold lands** or lease right with construction

➤ Leaseholders were **getting the full profit of the transfer**

➤ As to the government such practices has **created problem of “rent seeking” activities**

➤ **Art. 24(1) of the new lease proc.** states:

- “a lessee may transfer his leasehold right or use it as collateral or capital contribution to the extent of the lease amount already paid.”
- The last phrase refers to transfer of lease right through **collateral or capital contribution** and **partly to sale of uncompleted construction**

➤ **It restated** what had been stated under **the first lease proclamation**

➤ **Reasons/justifications**

- To prevent rent seeking activities
- To Prevent land **speculators** who sale leasehold land **without adding any value on it**

❑ Strategies designed to prevent land speculation

➤ There are **Four major strategies** employed. Accordingly,

1. **The First strategy**

– is stated under Art. 24(7)

➤ **It prevents people who repeatedly transfer leasehold right,**
without completion of construction in participating in any
future lease auction

– However for **how many times** should people sale unfinished
house so that they can be prevented from lease auction **is not clear**

– This will be determined on the **regulation and directives**

2. The second strategy

- Is stated under Article 24 (2)
- Restriction on transfer of prior to commencement or less than half completed constructions in cases other than inheritance
- Such sale should be **transparent** and wd be supervised by the appropriate body

3. The third strategy,

- Transfer of bare lease land or less than half completed construction will not benefit the seller
- Half completed construction is defined under article 2(16)

➤ Accordingly,

- **villa**;- completion of **foundation, column** and **top beam**
- **multi-store building**;- completion of **foundation** and **50% of the total number of floor slabs**
- in cases of real state based on a or b

❑ What will happen if a lessee wants to transfer **less than half completed construction or bare land?**

- A person who wants to transfer his leasehold land before commencement of construction or half-completed construction will get;

- The effected lease payment including interest calculated at bank deposit interest
- The value of the already excuted construction
- 5% of the transfer lease value (profit)

➤ **All the remaining profit will accrue to the government**

□ Mr. A wants to sell 100 square meter of leasehold land. He won the auction by 2000 birr per square meter which is with a total of 200,000 birr. He made 10% of advanced payment which is 20,000 birr. He spent 20,000 birr for construction of foundation. Thus, his total cost at this time is 40,000 birr. so,

- The effected lease payment = 20,000
- Bank interest at the time is 5%. Then 5% of 20,000 = 1000
- The money spent for the construction of foundation = 20,000
- The lease land was transferred at 4000 birr per square meter
- 5% of the difference between the lease purchase price and the lease price = $400,000 - 200,000 = 200,000$
- 5% of 200,000 = 10,000
- Total = 20,000 + 20,000 + 1000 + 10,000 = 51,000

❑ The fourth strategy

- Art.24(1)- Collateral/mortgage is limited to extent of lease amount already paid
- Art. 24(4) and 22(3)
- if the lease right is without any construction on it, the mortgage value will be equal to;
 - ✓ lease payment **already made**, **minus 7% of total lease price penalty and unpaid yearly instalments.**

❑ Drawbacks,

- Buyers and sellers **may secretly agree the sale on higher price**
- Shift from **sale of unfinished construction to finished one**
- **Some argue is against Constitutional right to property art. 40(7)**
- The same holds true for mortgaging lease right. See art. 24(1) and 22(3)

➤ NB. If, the construction is **more than half completed**, **then there is no such restriction**

❑ Termination of lease contract

– Read art. 25. It recognizes **three scenarios**.

1. Failure to use **the land in accordance with article 21(1)**,
(**violation of contract**)

2. Expropriation of the lease land for public purpose, and

3. Expiry and non-renewal of lease contract

1. failure to use the land in accordance with article 21(1),
(violation of contract) it Refers;

a. Failure to use land for the intended purpose within the
time prescribed in the lease contract

b. Failure to Commence construction.

C. Failure to complete construction. Read art. 23

- The law sets 24,36 and 48 months for completion of
- Small (24 months)
- medium (36 months)and
- large scale construction(48 months) consecutively. **Art. 23(2)-**
- Classification of construction projects- will be determined by **the regulations to be issued by regional and city administrations (Art. 23(3))**

➤ If he fails, the appropriate body;

- a. transfer the building to others through open tender for those who can complete and use the building. In such cases, the appropriate body will deduct costs incurred for the sale and **return proceed to the lessee** if any Art. 23(7, a) and 23(8)
- b. **Clear the land as its own cost** and recover such cost from **the lease down payment or from the deposited money**

2. Expropriation

- Read Art. 25(1,b) and 25(4)
- Will be discussed later

3. Expiry and Non-renewal of Contract

- *What will happen after the expiry of the period agreed?*
- Read. Art. 19 and 25(1(c), 25(5 and 6)

➤ Lease contract may be renewed

- Discretion is given to city and regional land administrators
- On what bases should land administrators **refuse to renew** the contract is not known
- No automatic renewal. Rather the lessee should apply in writing to the appropriate body within 10 to 2 years before the expiry.
- **Accontrario** reading indicates that failure to apply will result non-renewal
- Failure of the appropriate body will result in approval of renewal of the period

➤ **In cases of non-renewal;**

- See art. 25(5)
- The lessee **should remove his property** within 1 year
- If not, the appropriate body **will clear land and will take the property**
- **No compensation (but not under proc.80/1993, Art. 7(3), 10)**
- Problem with regard **to tenure security**
- Eg Botswana, automatic renewal is guaranteed
- In Mozambique, compensation will **be paid to the property to be removed**

➤ However, in Ethiopia..... **no automatic renewal and compensation.**

Chapter Four

Restrictions on land rights in Ethiopia

□ Introduction

- Apart from expropriation, there are some **other restrictions imposed on** rural and urban landholders.
- Such restrictions range from;
 - limiting the use and enjoyment
 - to the complete taking of land
- There are several restrictions imposed by both the federal and regional rural land laws and Urban laws. among them;

❑ **Rural land restrictions**

- Failure to conserve the land
- Engagement in non-farming activity
- Failure to observe residency requirement
- Making land Idle
- Land re-distribution....

✓ This has been addressed by your assignment

❑ **Urban Land Restriction**

- **Using urban land contrary to the lease contract**
- Using urban land for legally allowed plan [Urban Plan Proc. No. 574/2008-](#)

➤ **Securing building permission before construction-**

✓ Building proclamation **No. 624/2009**

✓ Any construction, **for residential or other uses**, may not be carried out without a prior building permit even for public institutions-
Art. 5

Expropriation

- Definition of expropriation and its basic elements
 - It is known by different names like;
 - compulsory acquisition, eminent domain, compulsory purchase, land acquisition and resumption
- FAO defines it as;
 - “ the power of government to acquire private rights in land without the consent of its owner or occupant in order to benefit society.”
 - Does not encompass the need **for compensation**

➤ Expropriation is generally understood

- the right of the state or of those to whom the power has been lawfully delegated
- to take private property for public use without the owner's consent and
- with payment of due compensation to be ascertained according to law.

❖ Expropriation has four basic elements.

❖ These are;-

➤ **First, it is a sovereign power of the state**

- No need of securing individuals consent
- State authorities such as **municipalities** or **other public companies** or **private companies** **legally** authorized by the state execute expropriation..
- But such organs **should be clearly known** (FAO)

➤ **Secondly, it must follow legal procedure**

- state **must initiate proceeding** that give landholders the right to;
 - ✓ have access to court or other organs in order to observe due process of law.
 - ✓ be timely informed that the government is intended to acquire his/her land;

- **to be heard** and **to negotiate** on the amount of compensation;
- The procedures **should avoid arbitrary takings of land by the state** without fair compensation

➤ **Thirdly, it must be taken for public purposes.**

- Different terminologies like; **public good, public interest** or **public purpose** are used interchangeably
- **the components of public purpose** and **the manner how they are listed** also differ

❑ As to what constitutes public purpose there are two approaches: broad and narrow views

a. Broader view

- anything which tends to enlarge the resources,
- Direct or indirect use of the public of those projects suffice or justify expropriation

b. Narrow view

- public purpose is the actual use or right to use of the condemned property by the public
- Those activities that would only benefit some individuals is not sufficient to justify the exercise of eminent domain
- It is necessary that the public possess a right to use the facility or service for which the property was desired).

❑ **FAO** reveals that the following among the commonly accepted public purposes for compulsory acquisition:

- Transportation uses including **roads, canals, highways, railways, bridges, wharves and airports;**
- Public buildings including schools, libraries, hospitals, factories, religious institutions and public housing;
- Public utilities for water, sewage, electricity, gas, communication, irrigation and drainage, dams and reservoirs;
- **Public parks, playgrounds, gardens, sports facilities and cemeteries;**
- Defense purposes

- These purposes are directly related with social and economic development of the society and the protection of the natural environment
- Controversy arose where private land is acquired by government and then transferred to private investors/developers and large businesses
- FAO recommends public scrutiny to ensure the balance between **public need** and **private interest**

□ Three ways of listing components of public interest

a. Exclusive listing

- avoids ambiguity
- but might be **too rigid**

b. Inclusive listing

- contains **some list of permissible purposes**,
- allows **the necessary flexibility**
- limiting the scope for expansion only **to purposes similar in nature**

C. Neither exhaustive nor Inclusive

- leaves the determination of the public purpose to **the appropriate government body**

❖ Which do you think is preferable to land holders/owners?
Why/why not?

iv. Fourth; payment of commensurate compensation

- Compensation is defined as *‘full indemnity or remuneration for the loss or damage sustained by the owner/holder of the land rights taken for the public use.’*
- Compensation may either in financial form or replacement land
- terminologies used like just’, ‘fair’, ‘adequate’, ‘due’ or ‘commensurate’

➤ There are two theories that indicate the extent of the compensation. These are;

a) Owner's loss' theory

- the landholder should be placed in a good pecuniary position as he was before the act
- compensation that is no more or no less than the loss
- the land holder should be neither enriched nor impoverished
- FAO guideline prefer this

b). Takers gain theory

- the expropriator **is expected to pay only for what it gets** i.e. **the value of land rights**
- incidental losses** caused due to the compulsory acquisition of land rights **will not be considered** in the assessment of compensation

□ Land Expropriation in Ethiopia

- The issue of expropriation
 - was introduced in Ethiopia in 1907 during the reign of Menelik II.
- It was also recognized under the 1931 and 1955 constitution and the civil code-
 - ✓ Land could be expropriated **for public purpose** with payment of **compensation**

➤ Currently, in Ethiopia, **expropriation is recognized and is governed by;**

- **The FDRE Constitution,**
- **Expropriation of Land holdings for Public Purposes and Payment of Compensation and resettlement Proclamation No. 1161/2019 and**
- **Council of Ministers Regulation No. 472/2020.**

- Art. 40(8) of the FDRE Constitution,
 - ✓ the state can expropriate **private property** for public purpose with payment of commensurate compensation to the value of the property.
- Proc. No. 1161/2019, Art. 2 and urban land lease Proc. No.721/2011;
 - ✓ **do not define expropriation,** however, incorporate basic elements.

➤ For example, Art. 26(1) of Proc. 721/2011. reads as

- *‘the appropriate body shall have the power, wherein it is in the public interest, to clear and take over urban land up on payment of commensurate compensation, in advance, for the properties to be removed from the land.’*

❑ However, what is meant by public interest is defined by Art. 2(1) Proc. No. 1161/2019. it reads;

- Public Purpose” means decision that is made **by the cabinet** of a **Regional State, Addis Ababa, Dire Dawa** or the appropriate **Federal Authority** on basis of -;
- **approved land use plan or; development plan or; structural plan** under the belief that the land use will **directly or indirectly bring better economic and social development to the public;**

- The same definition is adopted under **Art. 2(7) of proc.721/2011**
- Is it **broader or narrower definition???**

- But, look at **Art. 2(15)** of **Amhara rural land proc. 133/2006**.
it reads
 - Public Service” means a service given to the public directly or indirectly, such as **government office, school, health service, market service, road, religious institutions, military camps, and the likes**, and includes activities assumed important to the development of people by the Regional Government and to be implemented on the rural land.
- How do you see it? Is it narrow or broad?
- How do you see it in light of FAO`s list

❑ **Competent authorities to expropriate? Who has such power?**

- **Federal Government** (for projects falling under the jurisdiction of the federal government for a **national interest**) and
- **Regional government** (for projects **falling under regional interest**)

➤ **Which specific agencies has the power to expropriate rural and urban landholdings?**

➤ **Read proc. No. 1161/2019, Art. 6**

- **The City or Woreda administration** has the power to order evacuation and takeover land.

❖ What procedures should be followed during expropriation proceeding? Art. 8 of proc. 1161

❖ Giving of a written clearance order which shows;

- Consulting the land holder before 1 yr
- Notifying the landholder **as to**
 - **the amount** of compensation,
 - **the size** and **location** of the land or **house in kind compensation**
- Effecting payment or provide substitute land before displacement
- **The landholder Should take it within 30 days**
- The landholder may be forced to handover the land within 120 days of payment in cash or in kind
- If no property within 30 days
- No compensation for illegal occupation

❖ **Right of land holders during expropriation**

- **have priority right to develop** land either individually or in group (both for urban and rural land)- **Art. 7**
- **Can plant seasonal crop** if compensation is not paid within **3 months- Art. 8 (3)**
- **Begin any activity** in line with the plan if **compensation is not paid within 6 months**
- Such developments should be **included during valuation of property**

❑ Determination of compensation, substitution and resettlement

➤ Read proc. 1161/2019, Art. 11 and 12

➤ Compensation is paid to

- the properties situated on the land
- to the permanent improvements made on such land and
- displacement compensation shall be paid to the landholders

➤ Amount of compensation on property;-

- shall cover the cost of **replacing the property anew.**

a). Building- PROC. Art. 12 cum, and reg, Art. 16 cum. Proc. 721/2011, Art.26

- shall cover the cost of replacing the property anew.

➤ **It considers value in terms of**

- current cost of construction materials and
- current labor cost

➤ **The compensation includes**

- Cost of floor ties of the compound
- Septic tank and Structures attached to the building
- Cost of demolishing, lifting, reconstructing, installing and connecting utility lines

- . Valuation of fence art. 17**
- . Valuation of property to be relocated. Art. 18**
- . Compensation for crops-Art. 19of the reg.**
- . Compensation of prennial crops Art. 20**
- Compensation for frutless plans**
- . Compensation for protected grass.....**

❑ Displacement compensation -; Proc. 1161/2019, Art. 13(4)
regu. No 472/2020, Art. 28

❑ Permanently Displaced Urban landholders,

➤ **Shall be provided with ;-**

- substitute land for building houses **Or,**
- housing units to be bought through arrangement

➤ If land is provided,

- residential house for 2 yrs and 1 yrs displacement compensation
- If not, 2 yrs displacement compensation for house renting

Displacement Assistance to Temporarily Displaced Urban Landholders:

Read Art. 13(5) of the proc. and Art. 29 of the regu.

- ✓ shall be provided with substitute housing or a house rent until he is reinstated
- ✓ Economic loss compensation for those
 - who incur loss due to temporary displacement or
 - for those who are not displaced but suffer direct or indirect economic loss

- ✓ It may be assessed by taking
 - Incomes generated from employment,
 - rentals, business and the like
 - net annual income except that of the income generated from agriculture

❑ Displacement compensation and land substitution for Rural Landholders permanently displaced:

- Read Art. 13 (1) of the Proc. And Art. 26 of the reg.
- Shall be given a comparable substitute land if it is available.
- Where substitute land is given
 - shall be paid a 1 yr landholding compensation income by taking the highest income of 3 years
- and where residential or commercial building is demolished;- he should
 - Be given a comparable house for 2 years and 1 yrs house rent money as resettlement, if not,
 - 2 yrs estimated rental value

- Where replacement farm land is not given; or-
- The monetary compensation for total rural land loss
 - Fifteen times the average annual income he secured during the past 3 years preceding the expropriation
- Why 15? Why 3?????
- Example, Assume a farmer produces 50 quintal wheat per year and sales price per Q is 1000 Birr
- his annual income is $50 \times 1000 = 50,000$
 - Thus, $DC = 50,000 \times 15 = 750,000$

❖ Displacement compensation for temporarily displaced Rural landholders :

- Read Art. 13(2) of the proc. And Art. 26 of the reg.
- Shall, be paid Displacement compensation
 - **Lost annual income** (highest income of three consecutive years) per year until **repossession of the land**
 - **Shall take into consideration** the amount of additional time necessary for the land **to regain its productivity.**
 - If the land fails to serve as before **it will be taken as permanent displacement**

❖ **Displacement Compensation for Communal Landholding**

- **Read Art. 13(3) of the proc.**
- **The valuation method will be determined by directive to be issued by regional states, AA, DD**
- **Valuation will be determined based on**
 - the use of **the communal land**; or
 - **the lost benefits and livelihood of the displaced People.**
 - **Members of the community using the communal land shall be clearly identified.**
 - **Private and communal property on the expropriated communal land shall be identified**

❖ Compensation for Peri-Urban Landholders Incorporated in to Towns

- ❖ Peri urban landholder whose residential house is **expropriated is guaranteed to get;-**
 - **500 sq. meters of land** for building per the standard of the urban
 - Children 18 and above shall be provided land **as per the standard of the town** (Amharic- who is dependent and shares the livelihood of the peri urban landholder)

❖ . Compensation paid for Economic Loss of Income

❖ Read art. 14 of the proc. And reg. Art. 30

- Displaced People shall be compensated for the breakup of their **social ties and moral damage they suffer**
- The amount of compensation shall be 25,000-60,000
- But, should be displaced at least 5 km away
- Exceptionally such compensation may be paid to the remaining people who are not displaced when approved by the concerned government organ

❖ Resettlement Compensation

- Read art. 16 of the proc. And Art. 35 of the reg.
- Regional States, AA and DD City Administrations shall establish **fund for**
 - **compensation payment and rehabilitation.**
 - resettlement packages that enable displaced people to sustainably resettle.
 - **Urban and woreda administrators have duty to implement**
- **If expropriation is for investment purpose**
 - displaced may own shares from the investment.

➤ Resettlement package includes

- Residential houses, livelihood options
- Social services like school, road, hospital...
- The type of the project and its benefit
- Number of beneficiaries (Members of a family who are 18 and above or older should be included in the package)
- The type of support
- Priority should be given to women, the disabled, orphans and the elderly
- Dispute resolution mechanisms

❖ Dispute Resolution Mechanism

- Read Art. 18 of the proc. And Art. 39 of the regu.
- Regional states, AA and DD city administration shall establish;-
 - **Complaint Hearing Body (CHB)** and
 - **Appeal Hearing Council**
- Procedures -: Any aggrieved party;
 - shall first file an application **to CHB within 30 days**
 - The CHB shall decide within **30 days and inform in wrting**

➤ Appeal

- Should be brought to Appeal hearing council **within 30 days**
- If not satisfied, appeal can be taken within 30 days to;-
 - ✓ **Regional high court** in cases of regions and
 - ✓ To **Federal first instance court** in case of AA and DD court or to regional
 - ✓ But the party should surrender his holding

THANK YOU!!!!!!!