



## Dying with the Old Hub: The Recanalization of Pro- Poor Urban Agrarian Law in Ethiopia

Dr. S. Madhuri Paradesi<sup>1</sup> and Yonas Ketsela Mengistu<sup>2</sup>

1. Associate Professor, Wolaita Sodo University, School of Law, SNNP, Ethiopia.

2. Instructor in Law, Wolaita Sodo University, School of Law, SNNP, Ethiopia.

**Abstract:** *This paper tries to explore the pro poor urban agrarian law in Ethiopia. It poses the issues of pro poor urban agriculture law. Consequently, there is no clear urban agriculture law in general. Thus, the States and the Federal Governments fail to consider the values of urban agriculture for the poor in all urban areas of Ethiopia. There is no known urban agriculture policy. Hence, the paper uses doctrinal legal research to analyze the problem at hand. However, the integration of urban agrarian law with urban development plan will have direct effect on ecology, food security and job creation. Thus, the paradigm of urban land tenure seems to be reviewed. It seems important to rethink the urban agrarian law with appropriate procedures of urban land possession and transfer as per the current Ethiopian land ownership philosophy. Therefore, agriculture and urban planning seem to be incompatible in the minds of many, albeit the reality speaks otherwise. Thus, UPA is de facto practiced venture in Ethiopia. Hence, the paper will try to reconnect such missing perceptions via the legalization of pro poor UPA.*

**Key Words:** *Urban agriculture, urban agrarian law, pro poor, land use, food security, ecology, job creation*

### INTRODUCTION:

Historically, parallel to the urbanization process, UPA has evolved from a simple, traditional and also informal activity into a commercial and professional initiative.<sup>1</sup> UPA has become a key element in food security strategies, and it was officially recognized by the 15<sup>th</sup> FAO-COAG session in Rome during January 1999 and subsequently at the World Food Summit in 2002.<sup>2</sup>

There is no unilaterally agreed definition of urban agriculture across different literatures. However, the term 'Urban Agriculture' and 'Peri-urban Agriculture' (herein after UPA) is defined by one

author as the planting, processing, and supply of food and other products through plant cultivation and sometimes via raising of livestock in and around cities.<sup>3</sup>

Ethiopia, after the downfall of feudalism with the coming of Derg Military Regime experienced problematic urban land patterns for municipal development.<sup>4</sup> After the Down fall of Derg military regime, the incumbent government of Ethiopia has been introduced different legislations in tandem with the Constitution in order to guide the urban land tenure.<sup>5</sup>

<sup>1</sup> Daniel Hoornweg and Paul Munro-Faure, Position Paper on Urban Agriculture For Sustainable Poverty Alleviation and Food Security, 2008, at 21.  
<sup>2</sup> Ibid

<sup>3</sup> Ibrahim Game and Rachaela Primus, Urban Agriculture, GSDR 2015 Brief, at 1.

<sup>4</sup> John M. Cohen and Peter M. Koehn, Rural and Urban Land Reform in Ethiopia, 1982, at 1.

<sup>5</sup> See for instance, the Condominium Proclamation No.370/2003, Expropriation of Land holdings for

Ab initio, land is a common property of the Nations, Nationalities and Peoples of Ethiopia and shall not be subject to sale or to other means of exchange.<sup>6</sup> As a result, every Ethiopian shall have the full right to the immovable property he builds and to the permanent improvements s/he brings about on the land by her or his labor or capital.<sup>7</sup> This right shall include the right to alienate, to bequeath, and, where the right of use expires, to remove his property, transfer his title, or claim compensation for it and in which particulars shall be determined by law.<sup>8</sup> Thus, within such purview that Ethiopia has made its own urban land tenure of lease system with its modalities in which Article 5 provides that prohibition of land possession and permission other than lease holding is impossible and it is also important to consider the very wording of Art. 5 (2) of this statute saying that no person may enclose and use any plot of land adjacent to his lawful possession without the permission of the appropriate body.<sup>9</sup> There are myths parallel with the formal law in tandem with urban lands. In one hand, inside the urban centers informal tenure needs to be understood as the other kind of urban tenure.<sup>10</sup> The poor in cities may also participate on such illegal land holding system to

survive.<sup>11</sup> On the other hand, the law which has a direct link with urban land tenure orders that all land holdings of Ethiopian cities to be converted in to the lease system.<sup>12</sup>

Furthermore, according to the current scenario land grabbing is absolutely outlawed by statute passed by the law maker.<sup>13</sup> To add, the law also has a rule that regularize possessions held without the authorization of the appropriate body, the possessions which have found to be acceptable in accordance with urban plans and parceling standard following the regulations to be issued by regions and city administrations shall be administered by lease holding.<sup>14</sup> Nevertheless, the new statute which dictates the urban land law considers that the practice of urban agriculture as a side issue and neglects the value of urban agriculture as will be shown under infra discussion. In fact, UPA gives for urban dwellers healthier food choices and creates jobs.<sup>15</sup> Thus, this advantage of UPA will be imperative for the next and current generations of the world to cope up the continuous demographic pressure of which in Asia and Africa continents it is expected that they will experience a double urban demographic change between the years 2000 and 2030 in which Africa's population will add from 294 million to 742 million as per the World

---

Public Purposes and Payment of Compensation Proclamation No.455/2005, Urban Lands Lease Holding Proclamation No. 80/1993 enacted by Transitional Government of Ethiopia after the down fall of the Derg Military Regime in Ethiopia, Re-enactment of Urban lands Lease Holding Proclamation No.272/2002 and Urban Lands Lease Holding Proclamation No.721/2011.

<sup>6</sup>Proclamation of the Constitution of the Federal Democratic Republic of Ethiopia, Proclamation No.1/1995, Art. 40 (3), *Federal Negarit Gazette*, Year 1, No.1

<sup>7</sup> Id, Art. 40 (7)

<sup>8</sup> Ibid

<sup>9</sup> Urban Lands Lease Holding Proclamation No. 721/2011, *Federal Negarit Gazette*, Year 18, No.4.

<sup>10</sup> Getnet Alemu and Mehrab Malek, *Implications of Land Policies for Rural-urban Linkages and Rural Transformation in Ethiopia*, ESSP II, Working Paper No.15, 2010, at 10.

---

<sup>11</sup> Ibid

<sup>12</sup> Art.5 (1) of the Proclamation cited at supra note 9 provides that without prejudice to the provisions of Article 6 of this Proclamation (about conversion of old possessions to lease holding), no person may acquire urban land other than the lease holding.

<sup>13</sup> Id, Art. 35 (1) (B) portrays a penalty on whosoever in violation of the provisions of this Proclamation or regulations or directives issued hereunder fences an urban land, undertakes construction on it or encloses it with his adjacent land is punishable with a rigorous imprisonment from 7 to 15 years and with a fine from Birr 40,000 up to Birr 200,000.

<sup>14</sup> Id, Art. 6 (4)

<sup>15</sup> [http://www.fao.org/fileadmin/templates/wsfs/docs/Issues\\_papers/HLEF2050\\_Global\\_Agriculture](http://www.fao.org/fileadmin/templates/wsfs/docs/Issues_papers/HLEF2050_Global_Agriculture).

Population Highlights in 2007.<sup>16</sup> Thus, the paper will try to depict out the Ethiopian legal problem on urban agriculture and leeway for the same by providing the definition, rational, of urban agriculture and an exploration about the legal framework of the urban agrarian norms.

Therefore, the paper try to forward the possible challenges ahead to practice urban agriculture law and it will wind up by proposing the methods of legal compatibility with urban agriculture.

### 1. The etymological definition of 'urban agriculture'

In its broader sense, UPA can be defined as the growing of plants and the raising of animals within and around cities.<sup>17</sup> It is a recent phenomena in which for its definition Mougeot was one of the first scholar to define it in a holistic way beyond the narrow idea of backyard gardening and inculcates the diversity of local situations.<sup>18</sup> Thus, he goes on to say that, "urban agriculture is an industry located within, or on the fringe of a town, a city or a metropolis, which grows and raises, processes and distributes a diversity of food and non-food products, re (using) largely human and material resources, products and services found in and around that urban area, and in turn supplying human and materials resources, products and

services largely to that urban area."<sup>19</sup> This definition reflects two important attributes of UPA in which to take place on the fringes of expanding cities as peri-urban agriculture than intra-urban, and it shows the spatial and land use dimension of urban and peri-urban agriculture.<sup>20</sup>

Furthermore, the other scholar Van Veenhuizen defines UPA like Mougeot as follows. "Peri-urban agriculture happens on farm units close to town that operate intensive semi or fully commercial farms to grow vegetables and other horticulture, raise chickens and other livestock, and produce milk and eggs."<sup>21</sup> However, he expands on different important issue for policy and legal frameworks of UPA via involvement of different social and economic actors of commercialization in tandem with house hold economy.<sup>22</sup>

Therefore, UPA can be perceived in to two categories, among other things; Controlled Environment Agriculture (CEA) and Uncontrolled Environment Agriculture (UEA) or open space agriculture.<sup>23</sup> For instance, the prior includes community gardens, vegetable gardens and rooftop farms, while the latter includes any form of agriculture with the following environmental conditions, such as: light, temperature, humidity, radiation and nutrient cycling are controlled in line with green infrastructure in which its methods are provided that zero-acreage farming (Z-farming), greenhouses and vertical farming or sky farming.<sup>24</sup>

---

<sup>16</sup> Gebremedhin Yihdego and Bihon Kassa, *Urban and Peri-Urban Agriculture: An Important Form of Land Use, Employment Opportunity and Food Supply in Mekelle City and Enderta Woreda*, Journal of the Drylands, Vol. 2, No.1, 2009, at 25.

<sup>17</sup> Ibid

<sup>18</sup> Yves Cabannes, *Pro-Poor Legal and Institutional Frameworks for Urban and Peri-Urban Agriculture*, Food and Agriculture Organization of the United Nations, for the Development Law Service, FAO Legal Office, FAO Legislative Study 108, 2012, at.5.

---

<sup>19</sup> Mougeot L., *Agropolis : The Social, Political and Environmental Dimensions of Urban Agriculture.*, 2005, at 12.

<sup>20</sup> Cabannes, supra note 18, at.5.

<sup>21</sup> Van Veenhuizen R. (ed.), *Cities Farming for the Future, Urban Agriculture for Green and Productive Cities.*, 2006, at 2.

<sup>22</sup> Cabannes, supra note 18, at 6

<sup>23</sup> Game and Primus , supra note 3, at 1.

<sup>24</sup> Ibid

## 2. Who are the urban farmers?

Urban farmers are in short men and women coming from all income groups in which the majority of them are low to medium income earners.<sup>25</sup> However, the poor practices urban agriculture mainly to survive.<sup>26</sup> Thus, UPA is mostly practiced at household level, but in several places of Addis Ababa urban farmers work together.<sup>27</sup> Consequently, there are five cooperatives participated in urban agriculture, at the banks of the rivers and the streams of the city.<sup>28</sup>

## 3. The raison d'être behind UPA and Ethiopia's audition

UPA will contribute for the cities which can be expressed through social, economical and ecological advantages.<sup>29</sup> Hence, in the first sense, it has a tendency to solve waste treating problems in which changing urban solid waste into productive compost and waste water has been used for irrigation.<sup>30</sup> It increases biological diversity, which in turn increases the aesthetics and recreational functions of urban areas.<sup>31</sup> In the second scenario, it has also economic benefits for everyone from the home gardener or urban farmer to the city government in which encourage spending and

<sup>25</sup> Thomas P. Z. Mpofu, *An evaluation of the performance of urban agriculture in Addis-Ababa City, Ethiopia*, Research Journal of Agricultural and Environmental Management, Vol. 2, No.2, 2013, at.52.

<sup>26</sup> Ibid

<sup>27</sup> Mohammed Jamal, *Urban Agriculture Initiatives in Addis Ababa with Practical Evidences from Selected Vegetable Producing Cooperatives and Households in the City*, Unpublished Master Thesis Done at Masters Program in Regional and Local Development Studies, Faculty of Business and Economics, Addis Ababa University, 2002, at 25.

<sup>28</sup> Ibid

<sup>29</sup> *Environmental Benefits of Urban Agriculture: Heat Island* <http://www.epa.gov/hiri/>

<sup>30</sup> Mpofu, supra note 25, at 52.

<sup>31</sup> Ibid

potentially creating jobs.<sup>32</sup> The last but not the least, it has further advantage in line with the ecological impact which include generally reducing the heat island effect, reducing storm runoff and water pollution, conserving water through rainwater catchment with the conservation of energy in and around the cities.<sup>33</sup>

In a nutshell, UPA is a creative human venture than the conventional agricultural model that can spatially organized urbanization and industrialization.<sup>34</sup> Thus, UPA has the potential to significantly alleviate different problems of cities via improving food security, diversifying household incomes, and building city dwellers capacity to consume nutritious foods.<sup>35</sup>

According to UN-HABITAT, Ethiopia's current urban population of 12 million will triple by 2030, reaching 32 million, hence this fast growth will have enormous impact on income sources, food security and the environment including Addis Ababa.<sup>36</sup> In fact, the Ethiopian government has established the Addis Ababa Urban Agriculture Office and the city has become a signatory to the declaration "Feeding Cities in the Horn of Africa" intended to promote and support UPA.<sup>37</sup>

Addis Ababa Urban Agriculture Core Process, with FAO support, held a "Urban Agriculture Stakeholders' Network Creation Workshop" on the 21st and 22nd February 2012 at Taitu Hotel, Addis

<sup>32</sup> [penniur.edu/uploads/media-items-vacant-land-executive-summary.original.pdf](http://penniur.edu/uploads/media-items-vacant-land-executive-summary.original.pdf)

<sup>33</sup>

[http://water.epa.gov/polwaste/nps/urban\\_facts.cfm](http://water.epa.gov/polwaste/nps/urban_facts.cfm)

<sup>34</sup> Dutch WASH Alliance, *Grow the City Innovations in Urban Agriculture*, Urban Agriculture Magazine, December 2014, V. 28, at 8.

<sup>35</sup> Ibid

<sup>36</sup> Addis Ababa urban agriculture core process, *Workshop Proceedings*, 2012, at 1.

<sup>37</sup> Ibid

Ababa, in which about 60 Urban Agriculture stakeholders, including representatives from government agencies, international organizations and NGOs, in which the workshop presentations addressed UA issues in the Addis Ababa including current UA's different programs in the city.<sup>38</sup>

"If 50 percent of the flora in our cities and towns was edible, we wouldn't be prone to series food shortage that has been afflicting our country for decades." This was a view expressed at a discussion on UPA conducted at the Addis Ababa Museum as part of the ongoing City Forum-Exhibition program.<sup>39</sup>

#### 4. The Ethiopian urban land tenure through the spectacle of pro-poor urban agriculture law

##### 4.1. The nuts and bolts of the urban land tenure vis á vis urban agriculture

Ethiopia is a Federal form of government.<sup>40</sup> This country has two tiers of governments Which have their own respective law making power.<sup>41</sup> Thus, under the current Ethiopian legal system, in general the power to enact laws for the utilization and conservation of land reserved for the Federal government.<sup>42</sup> Consequently, the right to ownership of rural and urban land, as well as of all natural resources, is exclusively vested in the state and in

---

<sup>38</sup> Ibid

<sup>39</sup> Michael Tadesse, *Urban Agriculture*, Reporter, June 28, 2000.

<sup>40</sup> Articles 1 and 46 (1), FDRE's Constitution, supra note 6.

<sup>41</sup> Id, Art.50 (1)

<sup>42</sup>Id, Art. 51 (5). The Federal government enacted Land administration and Use Proclamation Proc. No. 87/1997 and then replaced it with Proclamation No. 456/2005 (which delegates regional states with the power to enact rural land administration and land use law which is consistent with this statute, see Art.17).

the Nation, Nationalities and Peoples of Ethiopia in which land is a common property of the Nations, Nationalities and Peoples of Ethiopia and it is extra commercium.<sup>43</sup>

Without prejudice to the right of Ethiopian Nations, Nationalities, and Peoples to the ownership of land, government shall ensure the right of private investors to the use of land on the basis of payment arrangements established by law and such particulars shall be determined by law.<sup>44</sup> Thus, a 'woreda'<sup>45</sup> or an urban administration shall, upon payment in advance of compensation ... have the power to expropriate rural or urban landholdings for public purpose ... it should be used for a better development project to be carried out by public entities, private investors, cooperative societies or other organs, or where such expropriation has been decided by the appropriate higher regional or federal government organ for the same purpose.<sup>46</sup>

Every Ethiopian shall have the full right to the immovable property s/he builds and to the permanent improvements s/he brings about on the land by her/his labor or capital, consequently, s/he shall have the right to alienate, to bequeath, and, where the right of use expires, to remove his property, transfer his title, or claim compensation for it.<sup>47</sup> Like investors, without prejudice to the right to private property that the government may expropriate private property for public purposes

---

<sup>43</sup> Id, Art. 40 (3)

<sup>44</sup> Id, Art. 40 (6)

<sup>45</sup>The lowest government administration level in Ethiopia considered as a district.

<sup>46</sup> A Proclamation to Provide for Expropriation of Landholdings for Public Purposes and Payment of Compensation, Proclamation No. 455/2005, *Federal Negarit Gazette*, Art. 3 (1), Year 11, No.43.

<sup>47</sup> Art. 40 (7), FDRE's Constitution, supra note 6.

subject to payment in advance of compensation commensurate to the value of the property.<sup>48</sup>

Therefore, the Proclamation on Urban Lands Lease Holding shall be applicable to all urban centers with in Ethiopia with regard to urban lands use and possession.<sup>49</sup> The prime issue of such law is the management of urban lands for the haves. It seems that it has no poor oriented motive. Thus, behind the cathedral intention of the incumbent law high probably relegates the poor inside the urban land in line with urban land use and possession rights. Hence, the urban land tenure focuses mainly on leasehold permit of urban land and its legal formulation via contract and transfer of rights for investors.<sup>50</sup> Nevertheless, of course there is fragmented consideration about the urban agriculture under the current law of urban land. For instance, the rule of period of lease clearly mentions about the period of lease contract for urban agriculture in any urban center to be 15 years.<sup>51</sup> In fact, in Addis Ababa the period is 60 years.<sup>52</sup>

To put it differently, the legislation on urban lands provides that notwithstanding such rules, a ceiling of five years of lease period shall be applicable to short-term economic and social activities intended to be carried out on urban lands not designated for immediate development use in which such lease period may be renewed for the same period of time where it is necessary.<sup>53</sup>

The period of urban land lease shall vary depending on the level of urban and different heads of development activities or the type of service and

shall have such ceiling provided under the pertinent proclamation.<sup>54</sup>

As a result, there are identified fundamental principles of lease system in Ethiopia.<sup>55</sup> As a result, primarily the right to use of urban land by lease shall be permitted in order to realize the common interest and development of the people.<sup>56</sup> To add, the urban land delivery system shall give priority to the 'interests of the public'<sup>57</sup> and urban centers to ensure rapid urban development and equitable benefits of citizen.<sup>58</sup> However, the term public interest is a buzzword which is tried to be defined by the proclamation and even it is difficult to ascertain by court of laws. The regulatory arena faces difficulty to define public interest.<sup>59</sup>

Moreover, as a benchmark, the concept per se is especially important for regulators.<sup>60</sup> Parliament's statute is somehow reflective of public opinion of such representative democracy beyond its partisanship, and to be inside of the public will and is in the public interest.<sup>61</sup> Courts are not representative institutions as such, but they are presumed to be impartial to any one side in a dispute, with their decisions guided by the rule of

---

<sup>48</sup> Id, Art. 40 (8)

<sup>49</sup> Art.3 of Proclamation No.721/2011, supra note 9.

<sup>50</sup> Id, See Art.16 et seq.

<sup>51</sup> Id, See Art. 18 (1) (A) (2)

<sup>52</sup> Id, Art. 18 (1) (B) (4)

<sup>53</sup> Id, Art. 18 (2) (B)

---

<sup>54</sup> Id, Art.18 (1)

<sup>55</sup> Id, Art.4

<sup>56</sup> Id, Art.4(1)

<sup>57</sup> Id, See Art. 2 (7) which defines the term 'public interest' as the use of land defined as such by the decision of the appropriate body in conformity with urban plan in order to ensure the interest of the people to acquire direct or indirect benefits from the use of the land and to consolidate sustainable socio-economic development. However, the conceptual and legal underpinnings of such term is too vast and complex which is beyond the scope of this paper.

<sup>58</sup> Id, Art. 4(4)

<sup>59</sup> Leslie A. Pal and Judith Maxwell, *Assessing the Public Interest in the 21st Century: A Framework, Paper prepared for the External Advisory Committee on Smart Regulation*, Canadian Policy Research Networks Inc., 2004, at 1.

<sup>60</sup> Ibid

<sup>61</sup> Id, p.2

law in which this too is seen as an expression of the public interest, since the rule of law is the very foundation of a democratic society.<sup>62</sup>

The laws make a priority of 'tender'<sup>63</sup> as a peculiar mode of transaction value for urban land possession.<sup>64</sup> However, the poor would face difficulty to possess lands inside the towns. The question lies on the treatment of the law about the urban lands under the hands of the poor for urban agriculture and allotment of urban lands for the poor in the name of urban agriculture. In fact, the way-out has to be devised for the management of urban land management.

The law has provided different rules on leasehold permit of urban land.<sup>65</sup> First, if any, to use it such system to be in conformity with the urban plan guidelines or, if the urban center does not have such guidelines, as per the regulations issued by the region or the city administration.<sup>66</sup> Second, lands of urban centers have to be possessed through the modality of tender or allotment.<sup>67</sup>

#### **4.2. The quest for pro poor urban agriculture legal framework in Ethiopia**

It seems an identifiable missing link between urban agriculture and the urban land tenure system. For instance, the law which mentions urban agriculture as a lease contract defines lease as follows: the lease contract shall include the construction start-up

---

<sup>62</sup> Ibid

<sup>63</sup> See Art. 2 (9) of Proclamation No.721/2011, supra note 9, which provides that tender is a modality of transferring lease of urban land to a bid winner fulfilling the competition requirements issued based on the rule of market competition of urban land tenure.

<sup>64</sup> Id, See Art. 4 (3) : Tender shall reflect the prevailing transaction value of land.

<sup>65</sup> Id, Art.7 opening paragraph

<sup>66</sup> Id, Art.7 (1)

<sup>67</sup> Id, Art. 7 (2)

time, completion time, payment schedule, grace period, rights and obligations of the parties as well as other appropriate details.<sup>68</sup>

The urban tenure system puts the restricted use of transferring and pledging of lease rights in line with construction with no intention about urban agriculture, in which if a lessee, with the exception of inheritance, wishes to transfer his leasehold right prior to launch or half-completion of construction, the lease holder shall be required to follow transparent procedures of sale to be supervised by the appropriate body in line with the law (emphasis added).<sup>69</sup>

The law on urban land focuses on construction of buildings and other plants not at all on urban agriculture. Furthermore, the question lies on how the urban poor would get urban land for urban agriculture? Why the government keeps silent to make such legal and policy direction on urban agriculture? Why the poor is neglected both in law and policy for the mechanism to get areas of land not taken yet by haves just for temporary uses of urban agriculture?

Accordingly, one writer suggests that the tension between escalating cities agricultural food base and urban agriculture activities is precisely what policies and legal frameworks have to regulate such field cordially.<sup>70</sup> For instance, the Environmental Authority of the country from its report one can understand, that poverty reduction strategy of 2002 was only focuses on poverty alleviation and food aid emancipation and other ecological up grading

---

<sup>68</sup> Id, Art.16 (2)

<sup>69</sup> Id, Art. 24 (2)

<sup>70</sup> Cabannes, supra note 18, at 5.

of rural Ethiopia not that of urban land issue in relation to agriculture.<sup>71</sup>

Further, lease as a system of land tenure by which the right of use of urban land is acquired under a contract of a definite period. However, the urban agriculture lacks proper treatment under such system. The law unequivocally provides that any person permitted urban land lease holding in accordance with the law shall conclude a contract of lease with the appropriate body.<sup>72</sup> Leasehold certificate shall be issued to a person to whom an 'urban land'<sup>73</sup> lease holding is permitted.<sup>74</sup>

The contemporary urban tenure law provides that Regions and City administrations shall have the powers and duties to administer land, in all urban centers, in accordance with the relevant law.<sup>75</sup> On top of that, such organs shall have the powers and duties to issue regulations and directives which are necessary for the implementation of the lease system.<sup>76</sup> From the modalities of urban land permit

system 'allotment of urban land'<sup>77</sup> seems to relate the way that poor may secure land in urban centers as per the 'standard'<sup>78</sup> and 'urban plan'<sup>79</sup> of the 'urban centers'.<sup>80</sup> Allotment of urban lands may, upon decisions of the cabinet of the concerned region or the city administration, be permitted for projects having special national significance and considered by the president of the region or the mayor of the city administration and referred to the cabinet.<sup>81</sup>

Administration of urban land, its supply for public and private sector development, the planning of land use and development control and the supply of infrastructure and other services to land, are the responsibility of urban local government authorities in which urban and city authorities derive substantial revenues from land taxes, rents and charges.<sup>82</sup> Consequently, the Federal Government, having established national policies and related programs delegates responsibility for development of land, infrastructure and related services to regional governments and urban local government authorities.<sup>83</sup> Thus, still there is no concern about

---

<sup>71</sup> See the *Federal Democratic Republic of Ethiopia Environmental Protection Authority, the 3rd National Report on the Implementation of the United Nations Convention to Combat Desertification /National Action Program in Ethiopia*, 2004, Addis Ababa, at 10. It says that the Sustainable Development and Poverty Reduction Strategy Programme issued on July 2002, outlines the fundamental development objectives of the government of Ethiopia ... will enable the economy to develop rapidly, and the country to extricate itself from poverty and dependence on food aid, where the poor people are the main beneficiaries of the economic growth. The program recognizes the value of environmental protection as a priori for sustainable development and treats it as crosscutting issue.

<sup>72</sup> Art. 16 (1), Proclamation No.721/2011, supra note 9.

<sup>73</sup> Id, Art. 2 (2) defines that urban land is land located within an administrative boundary of an urban center.

<sup>74</sup> Id, Art. 17 (1)

<sup>75</sup> Id, Art. 33 (1)

<sup>76</sup> Id, Art. 33 (2)

---

<sup>77</sup> Id, See Art. 2 (10) which says that allotment is a modality applied for providing urban lands by lease to institutions that could not be accommodated by way of tender.

<sup>78</sup> Id, See Art. 2 (13) provides that standard is a parceling standard or standard of real property data base or any other standard.

<sup>79</sup> Id, See Art. 2 (8) provides that urban plan means structural plan, local development plan or basic plan of an urban center including annexed descriptive documents which are legally endorsed by the authorized body and have legally binding effect.

<sup>80</sup> Id, See Art. 2 (3) is defined urban center as any locality having a municipal administration or a population size of 2000 or more inhabitants of which at least 50% of its labor force is engaged in nonagricultural activities.

<sup>81</sup> Id, Art. 12 (1) (g)

<sup>82</sup> Ministry of Works and Urban Development, *Plan for Accelerated and Sustained Development to End Poverty (2005/06-2009/10) Plan for Urban Development and Urban Good Governance*, 2012, at 35.

<sup>83</sup> Ibid



urban agriculture in the side of local administrations. In other word, they are looking forward a top down guidelines and order beside self activism.

The idea behind the urban agriculture has no any place inside Growth and Transformation Plan of the country. For instance, look at the following excerpt of a report on such huge plan which has a direct relevance about urban agriculture. In 2011/12 various activities were performed to provide efficient and effective urban infrastructure and services by implementing urban infrastructure development program.<sup>84</sup>

The draft regulation on lease system is somehow inculcates the idea behind urban agriculture to urban governments, but still without further details entitlements about urban agriculture lease holders in line with pro poor facilities. For instance, it provides that a short term lease holding is given for urban agriculture and urban green jobs related activities such as vegetable growing, flower farming, poultry, green recreation center, open air green managing, green lodge, and the like.<sup>85</sup> Thus, the regulation goes on to say that usually the period of lease for urban agriculture is 15 years.<sup>86</sup> In doing so, the law says that the head of urban government body is under mandatory duty to prepare and serve relevant information for the public about land prepared for urban agriculture.<sup>87</sup>

In case of expropriation of urban agriculture the rule is too harsh providing that before such term of

lease is lapsed if it is needed by anybody in which value for the property is given or as per condition change of land (until its term is elapsed) is given for the land holder.<sup>88</sup> The mode of payment for service of such short term lease products is decided by the committee of the mayor of the urban center which is rent ceiling or initial lease price in which the details are left to be decided by the directive issued in the future.<sup>89</sup> However, those urban centers cannot not possible to make the land holder paying as per the urban ceiling rent rather the special research bench marking decided by such committee in which the details are decided by appropriate directive.<sup>90</sup>

As a result, still the poor in urban areas are not the focus of the law. However, UPA is used to be held in and around houses (on terraces and balconies), private plots (even if without property title to be done around the home), along different ways (highways, railways or pathways), public parks and open spaces, non urbanized plot of lands within and on the fringes of the city, areas where construction should not be taking place (such as along water beds and other risk-prone lands) and institutional properties (for instance schools, hospitals or large enterprises).<sup>91</sup>

Governmental and non-governmental bodies in many regions of the world have adopted several declarations in support of UPA.<sup>92</sup> Examples of these include the declarations of Dakar (Declaration adopted at a city consultation that took place in Dakar in March 2002 and brought together a variety of stakeholders from seven municipalities participating in the Francophone Network for

---

<sup>84</sup> Ministry of Finance and Economic Development, *Annual Progress Report for Fiscal Year 2011/12 Growth and Transformation Plan*, 2013, at 61.

<sup>85</sup> Ministry of Urban Development and Construction, Art. 24 (1) (A), *Draft Lease Regulation*, 2012.

<sup>86</sup> Id, Art. 24 (2) (A)

<sup>87</sup> Id, Art. 9 (1) (D)

---

<sup>88</sup> Id, Art. 24 (6)

<sup>89</sup> Id, Art. 24 (3)

<sup>90</sup> Id, Art 24 (3) (B)

<sup>91</sup> Cabannes, *supra* note 18, at 5.

<sup>92</sup> Daniel Hoornweg and Paul Munro-Faure, *supra* note 1, at 63.

Urban Agriculture in Sub-Saharan Africa) , Hyderabad (this declaration on wastewater use in agriculture is a result of a workshop held in November 2002 and co-sponsored by IDRC (International Development Research Center) and the International Water Management Institute.), Quito (the culmination of activities in sustainable development of UPA led to the signing of the Quito declaration drawn up and supported by the ninety participants at the international seminar “Urban Agriculture in Cities of the 21st Century” that took place in Quito, Ecuador, in April 2000. ) and Villa Maria del Triunfo (It was signed during a regional consultation of representatives of local governments, their associations and other stakeholders held in Lima, Peru, in September 2002.).<sup>93</sup>

The legal perspective of urban agriculture justifies that UPA interacts with the law most clearly and consistently functions at the local level.<sup>94</sup> For instance, the local authorities in Kenya have the power to lease, transfer or allocate land for temporary use.<sup>95</sup> They also have the power to make bylaws necessary to maintain residents’ health, safety and wellbeing, maintain good rule and government in the area, prevent and suppress nuisance, control, regulate, prohibit or compel any act that they are empowered to perform.<sup>96</sup>

The World Bank has tackled the question of urban agriculture within the discussion on urban poverty.<sup>97</sup> Urban agriculture can be supported with

respect to planning via accomplishment of the following activities.<sup>98</sup> These are reviewing the land-use planning and zoning policy, regulation relevant to urban poor and the city’s current economic and social context, developing and disseminating information on land tenure and land capacity, providing basic infrastructure, and developing appropriate inputs of agriculture.<sup>99</sup>

#### **4.3. The hurdles against the supplication of urban agriculture law at urban centers and their panacea**

In Addis Ababa as per one study most of the time urban agriculture is unstructured activity and not officially managed that informality and irregularity on the data and information about the farmers and plots of land are missing links.<sup>100</sup> Thus, lack of proper law in line with integrated strategies of other public overheads. Hence, that is why one writer points out, pro-poor legal and institutional framework must be tailored to the characteristics of the city or region concerned.<sup>101</sup>

In Ethiopia, Addis Ababa there are identified problems of urban farmers as per one researcher in relation to the problem discussed at hand. Although urban farming is the most important source of household income for the majority of the surveyed farmers, the activity is faced with a number of production problems and constraints.<sup>102</sup> The farmers in Addis Ababa identified the following problems as high priority, that is tenure insecurity which is farmers’ most common concern is the fear

---

<sup>93</sup> Ibid

<sup>94</sup> Becky Lindbergh Witt, *Urban Agriculture and Local Government Law: Promises, Realities, and Solutions*, Univ. of Pennsylvania Journal of Law and Social Change, Vol.16, 2011, at 222.

<sup>95</sup> *Local Government Act of Kenya Revised Edition (Cap. 265)*, 2012, Section 144

<sup>96</sup> Id, Section 201

<sup>97</sup> Daniel Hoornweg and Paul Munro-Faure, supra note 1, at 63

---

<sup>98</sup> Ibid

<sup>99</sup> Ibid

<sup>100</sup> Mohammed Jamal, supra note 27, at 25.

<sup>101</sup> Cabannes, supra note 18, at 9.

<sup>102</sup> Girma Kebede, *Farmers in the City: The Case of Addis Ababa, Ethiopia*, Master Thesis presented at Mount Holyoke College, South Hadley, 2013, at 11.

of losing the land they cultivate at any moment without appropriate proceed.<sup>103</sup> Thus, the lack of proper law and legal prescriptions for the urban agriculture is another problem.<sup>104</sup> It is imperative to look forward that the roles and benefits of UPA are acknowledged and there has to be a legal framework that supports such venture.<sup>105</sup>

Moreover, the development of an enabling legal framework including policies, incentives, regulations and legislation requires a multi-actor and multi-sector approach and necessarily need to include the following elements, inter alia.<sup>106</sup> Firstly, a social dimension which focuses on subsistence-oriented urban agriculture that has strong impacts on food security and social inclusion of the poor. Secondly, an ecological dimension which emphasizes the ecological roles of UPA, such as productive re-use of urban wastes, and capturing carbon dioxide. Thirdly, an economic dimension which strengthening the productivity and economic viability of urban agriculture by improving urban farmers' technical assistance and markets. Finally, reintegrating the land and water policies which facilitate the formal acceptance of UPA as a part of urban land use and planning, and enable urban poor access to vacant open urban spaces and water supply and security of tenure over land they use for urban agriculture.

## Conclusion

In many cities of the world there is a legal attention for UPA. However, in most cases UPA is not yet formally recognized and, therefore, not integrated in any urban planning process. In contrast, where UPA is recognized as a legitimate activity by timely aware city authorities, it can be inserted into

formal development policies and strategies and more easily benefit from the required assistance and monitoring.

The urban agriculture law is not trying to be an agricultural land preservation tool rather it is a pro poor urban farmers creation with appropriate methods. The law has to be done in line with appropriate research in line with urban land tenure. The law will solve many dysfunctions of today's Ethiopia many urban problems, such as, city cleaning, job creation, food security and the like. The law has to be tailored appropriately in line with each cities landscape reality and security of land property. The manner of transfer and issues of security interests in tandem with urban land plots need to be addressed under the law.

In Ethiopia, there is no direct discussion under the appropriate law and policy instruments about urban agriculture except with few trials to organize some forums in Addis Ababa by the City Administration with other stakeholders. Hence, in Ethiopia it seems that UPA lost to win the hearts of legislature and policy crafts persons to get appropriate consideration and discovery.

When we examine the legal terrain of urban land tenure in Ethiopia. it is revealed that the focus of urban agriculture seems the lost policy discussion. In Ethiopia, it seems the idea behind urban agriculture is marginalized. Of course, there are go and fro provisions about urban agriculture under urban land lease holding law with no details of its applications on urban agriculture with necessity of poor. The urban land lease holding law is only and only focuses on construction.

Concededly, the land management system in urban centers need to be revisited to identify those plots of land which are not appropriate for construction but good for urban agriculture for poor with proper

---

<sup>103</sup> Dutch WASH Alliance, supra note 34, at 8.

<sup>104</sup> Cabannes, supra note 18, at 11.

<sup>105</sup> Ibid

<sup>106</sup> Ibid

legal arrangement. Hence, the legal rights and liabilities creation with appropriate institutions need to be crafted in manner consistent with urban agriculture. The urban centers need to be endowed with urban land agriculture offices.

The law about urban agriculture is just simply the law about entitlements of the growers of plants and the raisers of animals within the boundary of the given town as per the lease arrangement. It is different from rural agriculture tenure law. It is the rules about integration of the urban economic and ecological system. Hence, the very concept of urban agriculture is embedded in and interacting with the urban ecosystem.

Furthermore, due to the cross cutting and multi-dimensional nature of UPA, policy development and action planning on urban agriculture should involve various sectors and disciplines, inter alia: agriculture, health, waste management, dry waste treatment, community development, parks and natural management.

The research process need to be made before such law on urban agriculture has been made in order to focus and appreciate the participation of the urban poor themselves in the analysis of urban agriculture scenario in Ethiopia. Consequently, the process of making this kind of consultative effort will make the outcomes of policy development and legal building blocks of urban agriculture that is not only robust and comprehensive, but also accepted and sustainable in the life of urban centers.

Therefore, it seems logical to conclude that the legal system of Ethiopia lacks appropriate urban agriculture law design with appropriate legal support to the poor with sufficient and appropriate legal recourses in line with the basic tenets of urban agriculture. Thus, putatively the urban agriculture sector gets little attention of the law makers and

policy architects since urban agriculture gets short period of lease duration. In fact, details rule of the proclamation on the given period of lease are not pretty much clear as to the kinds of ventures provided under the very provisions of the law.

#### References:-

A Proclamation to Provide for Expropriation of Landholdings for Public Purposes and Payment of Compensation. (2005). Proclamation No. 455. Federal Negarit Gazette. Year 11. No. 43.

Addis Ababa Urban Agriculture Core Process. (2012). Workshop Proceedings. Addis Ababa.

Becky Lindbergh Witt. Urban Agriculture And Local Government Law: Promises, Realities, and Solutions. Univ. of Pennsylvania Journal of Law and Social Change, Vol.16. USA.

Daniel Hoornweg and Paul Munro-Faure. (2008). Position Paper on Urban Agriculture for Sustainable Poverty Alleviation and Food Security. Rome.

Environmental Benefits of Urban Agriculture: Heat Island <http://www.epa.gov/hiri/>

Gebremedhin Yihdego and Bihon Kassa. (2009). Urban and Peri-Urban Agriculture: An Important Form of Land Use, Employment Opportunity and Food Supply in Mekelle City and Enderta Woreda. Journal of the Drylands, Vol. 2, No. 1.

Getnet Alemu and Mehrab Malek. (2010). Implications of Land Policies for Rural-urban Linkages and Rural Transformation in Ethiopia, Working Paper No. 15.

Girma Kebede. (2013). Farmers in the City: The Case of Addis Ababa, Ethiopia. Master Thesis

Presented at Mount Holyoke College, South Hadley, USA.

[http://www.fao.org/fileadmin/templates/wsfs/docs/Issues\\_papers/HLEF2050\\_Global\\_Agriculture](http://www.fao.org/fileadmin/templates/wsfs/docs/Issues_papers/HLEF2050_Global_Agriculture)

Ibrahim Game and Rachaela Primus. (2015). Urban Agriculture. USA: New York College of Forestry and State University of Environmental Science.

John M. Cohen and Peter M. Koehn. (1982). Rural and Urban Land Reform in Ethiopia.

Leslie A. Pal and Judith Maxwell. (2004). Assessing the Public Interest in the 21st Century: A Framework, Paper prepared for the External Advisory Committee on Smart Regulation. Canada: Canadian Policy Research Networks Inc.

Local Government Act of Kenya. (2012). ( Revised Edition). (Cap. 265).

Michael Tadesse. (2000). Urban Agriculture. The Reporter. June 28.

Ministry of Finance and Economic Development. (2013). Annual Progress Report for Fiscal Year 2011/12 Growth and Transformation Plan. Addis Ababa.

Ministry of Urban Development and Construction. (2012). Draft Lease Regulation. Addis Ababa.

Ministry of Works And Urban Development. (2012). Plan for Accelerated and Sustained Development To End Poverty (2005/06-2009/10) Plan For Urban Development and Urban Good Governance. Addis Ababa.

Mohammed Jamal. (2002). Urban Agriculture Initiatives in Addis Ababa with Practical Evidences from Selected Vegetable Producing Cooperatives and Households in the City. Master Thesis Done at

Masters Program in Regional and Local Development Studies, Faculty of Business and Economics. Addis Ababa : Addis Ababa University.

Mougeot L. (2005), Agropolis : The social, political and environmental dimensions of urban agriculture. , London: Earthscan.

[pennur.upenn.edu/uploads/media\\_items/vacant-land-executive-summary.original.pdf](http://pennur.upenn.edu/uploads/media_items/vacant-land-executive-summary.original.pdf)

Proclamation of the Constitution of the Federal Democratic Republic of Ethiopia. (1995). Proclamation No.1. Federal Negarit Gazetee. Year 1. No.1.

Thomas P. Z. Mpofu. (2013). An evaluation of the performance of urban agriculture in Addis-Ababa City, Ethiopia. Research Journal of Agricultural and Environmental Management, Vol. 2, No. 2.

Urban Lands Lease Holding Proclamation. (2011). Proclamation No. 721. Federal Negarit Gazette. Year 18. No.4.

Van Veenhuizen R. (2006). (editor). Cities Farming for the Future, Urban Agriculture for Green and Productive Cities. Leusden Netherlands.

Yves Cabannes. (2012). Pro-Poor Legal And Institutional Frameworks For Urban And Peri-Urban Agriculture, FAO Legislative Study 108. Rome: Food and Agriculture Organization of the United Nations.