

# Urban-Rural Dichotomy: A New Analytical Framework to Illegal Land Market in Mekele City, Ethiopia

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## Abstract

This article discusses about the scale of illegal land market and its causes in Mekele City<sup>1</sup>. It is interesting to find that the drivers of the illegal land market extend well beyond the conventionally known factor – formal market failure. The urban-rural dichotomous land use rights has played a central role. In Ethiopia, the rural-urban dichotomous rights on land constitutes a central position in the illegal land market analytic framework. Therefore, the article argues that today's methodological approach in analysing illegal land transaction in Ethiopia is immature in that neither the supply nor the demand aspect has been adequately addressed.

**Key terms:** illegal land market, dichotomous land rights, supply side, demand side adjudication, regularization

## 1. Background and Conceptual framework

Illegal urban land market is one of the perpetuating issues that have dominated the urban literature (Robin, 2009). Many authors and international institutions including the UN organizations, especially UN-HABITAT, UNDP, and the World Bank have continually come with research findings reporting that scale of illegal land market is inversely related to a country's level of development. Some authors such as Robin, (2009) and Alpina (2002) quantify the magnitude to cover 15-90% of total housing stock in developing countries. Also, it has been well documented in the literature that the peri-urban area is the most prone area to squatting and/or any form of illegal land acquisition, especially in countries where land is under public ownership or government trustworthiness (Rajack, 2009)- caused the quest for this inquiry.

Literature in the field provides a three dimensional analytical framework as to why a wide scale illegal land market prevails. The prominently advocated reason is unaffordability. It has been solidly argued that the formal land/housing market is out of the reach of the majority in many developing countries (UN-HABITAT, 2011; Robin, 2009). Empirical findings indicate that house price-to-income ratio in African countries in the formal market is the highest. It is evidenced by the fact that the cost of a median priced house amounts 12.5 folds of the median annual income. Comparing to costs in Latin America and the Caribbean countries, the cost in Africa is 5.4 and 5.8 folds respectively. Rent-to-income ratio for African cities (39.5%) is more than twice that of cities in high-income countries (UN-HABITAT 2011). These figures provide grounds to a number of authors such as (Robin, 2009) and Lusugga (1995) to put illegal land market as a result of a dysfunctional formal land market and they refer government policies within which unaffordability is deeply rooted. .

The second dimension is a counter argument to the aforementioned premises. Recent studies extend illegal land market from the domain of the 'poor'. Empirical studies show that informal housing/land market is important to the middle income and elite in developing and emerging countries (Colin and Lauren, 2007; Ananya, 2005; Ananya and Nezar, 2004; Erhard, 2000; Allyson, 1996). Hence, illegal land acquisition, justified by a dire necessity (as a poverty alleviation mechanism) could no longer be cited for grant.

The third dimension bases itself on land ownership structures. In the literature, it becomes a commonly shared discourse that the formal land market is dictated by the type of land ownership structures in a given country/city. Nonetheless, the conclusion is found to be short of testing the certainty of same outcome while ownership structure is different. For example, from the experiences of Philippines, Bangkok, Seoul, Delhi and Karachi Alpina (2002) proved that supply is independent of land ownership type. In cities in Philippines, while land is ample and at the same time privately owned, supply is scarce simply because owners have no present intention of developing it. And supply is scarce in Bangkok and Seoul where most land is privately owned. Too, supply is scarce in Delhi and Karachi despite most land is publicly owned.

Therefore, a close look in to the literature indicates that policy responses to the illegal land market are derivatives of the aforementioned analytic frameworks. The antithesis of the "inability of the poor" that cite government policy failure as a cause for illegal land/housing market put regularization as a feasible response into being since the 1970s. Regularization is further consolidated due to the emergence of important policy

<sup>1</sup> Mekele' is the second largest city in Ethiopia

instruments at the international level such as the 1996 Istanbul Declaration. Following such developments, Botswana offered Certificate of Rights to more than 100,000 illegal occupations in the 1970s (Geoffrey and Alain, 2012) and Brazil initiated regularization to 1,706,573 occupations as late as 2009 (Lincoln Institute of Land Policy, 2011).

Nevertheless, a mere regularization has not been found effective means of dealing with illegal land market. Despite the underlying rationale behind regularization as a feasible solution is the understanding that the beneficiaries would be those denied by the formal supply system, empirical inquiries have proven that major beneficiaries of formalization are the middle income and the wealthy for three basic reasons;

First, illegal land acquisition is not within the exclusive domain of the poor; instead, Allyson (1996) found that the middle income and the wealthy are at the forefront in Cebu City (62.6%), for example. Second, higher income groups can displace original occupiers before or after regularization at lower prices (Burgess, 1982) thus the wealthy tap the appreciated land values. Third, formalization can be designed in a way disfavoring the poor (Geoffrey, 2002). A case in Manila in 1989 is a typical example. Community Mortgage Program in Manila was an arrangement that offered squatters the opportunity to buy the land they occupy. However, perhaps the poorest one third of squatters were unable to make regular mortgage payments, hence were displaced by the program (Erhard, 2000).

Understanding the importance and significance of the extralegal and its interaction with the legal, deepen policy responses a further step to merit the adoption of existing legal institutions to accommodate the needs of poor (Colin, 2007), probably is a more feasible way than is formalization (Paul, 2001).

The contemporary literature, however, seems incomplete in providing the analytical framework on illegal land market, which this inquiry seeks to close. Methodologically not all dimensions of the supply side have not explored sufficiently in the analytic framework. Rather, the demand side formulates the conception towards illegal land deal. In substantive perspective market performance is at the center despite types of rights is important at least in countries where urban-rural dichotomy policy exists, just like in Ethiopia.

## 2. The inquiry problem

Magnitude of illegal land market has been rampant for more than a decade within the peri-urban of Mekele. Squatting and illegal subdivisions expanded the rural neighborhoods into sizes surpassing the minimum urban threshold<sup>1</sup>. As a result many of the settlements within the fringe ring around the city flourished into a scale of townships.

While the magnitude of the illegal land acquisitions and transactions is evident, what causes such massive scale of illegal land market, despite existing national and regional regulatory frameworks (mainly the Urban Land Lease Holding Proc. No. 721/2011 and its precedents) stipulate zero tolerance to illegal land market, remains a pausing question. The conventional literature attributes illegal land market as a function of the gap between demand and supply. But the sources of the demand and the supply in the fringe area of the city seeks detail investigation. Therefore, whether existing the analytical framework adequately captures policy intentions and realities on the ground needs a cautious consideration.

Within the frame of the inquiry problem, the following research questions have been identified as organizing themes to the study.

- i. What is the scale of the illegal land market prevailing within the urban fringe of Mekele city?
- ii. What factors derive the illegal land market in the study area?
- iii. Does the rural-urban dichotomous land rights have any significant position within analytic framework of illegal land market in Mekele?

## 3. Methodology

Nature of the inquiry at stake involves both exploratory and explanatory dimensions. Thus, a concurrent exploratory research approach has been found appropriate that employ qualitative and quantitative mixed methods. Mixed methods offer the advantage of offsetting the biases of the first method by biases of the complementary (Creswell, 2009). Primary data were collected from 542 sampled households in four kebeles<sup>2</sup> within the fringe ring. A multi stage sampling strategy was applied to select the target constituencies (kebeles) and then systematic random sampling to select respondent households. Sample size was determined under the following considerations:

- i. Covering representative sample size;
- ii. Keeping margin of error (p) low (0.05%);
- iii. Ensuring certainty of findings to a level of 99%;
- iv. Maintaining low (0.5%) level of Standard Error<sup>3</sup>

<sup>1</sup> In Ethiopia a settlements hosting 2000 and above resident, from demographic dimension is urban.

<sup>2</sup> 'Kebele' is the smallest administrative unit in Ethiopia

<sup>3</sup> 0.5% standard error is the most forgiving figure to ensure sample size that is large enough (John, 2003).

- v. When the population size is not precisely known, the rule of thumb assumes that the behavior of 50% of the sample space aligns with the proposition;

Therefore, the sample households was determined by:

$$n = \frac{z^2 + p(1 - p)}{E^2}$$

Where,

n - Stands for sample size (sample households)

z - Standard score of data values;

p - Stands for acceptable margin of error, as specified above;

p-1 Stands for the complement of p (a behavior unlikely to happen); and

E, Stands for the standard error

Accordingly, the representative sample size is determined to be 542 households.

In addition to the survey of 542 households, in-depth interviews, focused group discussions, and extensive field observations were conducted. Local development plans, socioeconomic and physical reports of the city's Structural Plan, adjudication documents, land lease bidding documents and minutes, reports, and relevant proclamations were consulted extensively.

#### 4. Results and Discussions

##### 4.1. Magnitude of the illegal land market within the expansion area

The spatial extent of Mekele City has expanded overwhelmingly for the last two and half decades. The formal growth of the city across the radius has been paralleled by illegal expansion of rural neighborhoods within the legal boundary (peri-urban area).

Unauthorized mass occupation on public land has been a norm within the grey boundary<sup>1</sup>. The city reported that it demolished 698 illegal housing units built on illegally subdivided farm lots in 2016. In the same year 1583 apply for legal titles. However, not all were found edible for titling. 628 (39.6%) didn't present proof of permit holdings under rural land regime. Instead they were found squatters on open public land. The worst case shows that only 24 (9.4%) out of 255 applications presented to Ayder sub city were found eligible in the same year. In general, the 2011 adjudication documents witness the existence of massive illegal land transaction within the fringe zone. Next table presents numerical data for six neighborhoods signifying illegal land acquisition and transaction is paramount within the fringe zone of the city.

**Table 1.** Magnitude of illegal land occupation and acquisition for six neighborhoods within the fringe area of Mekele City

Built homes on their farm lots to for personal use	Acquired farm lot subdivisions via purchase	Squatting
118	2336 <sup>+</sup>	955

Source: Compiled from the 2011 adjudication documents.

Farm subdivisions are indisputably illegal occupations/acquisitions. The 2011 adjudication documents indicate that majority of the acquisitions and transfers lack legal compliance. In addition, 63 grants made in a given single site (Mikeyah) and a great number of inheritances made in all the six sites explored were found fake - the actual acts were transactions for cash.

The existence of a wide scale of illegal land acquisitions and transactions can easily be traced by observing the trend of the physical development density of the settlements. As depicted by Figure 1 below, Dngur was less dense settlement in 2006, just before Proc. No. 107/2006 came in to force. Due to the initiation of a new Structural Plan, the rural communities have been preoccupied in squatting; subdividing their farms; fake donation and inheritance.

<sup>1</sup> In cities and towns in Ethiopia, planning boundary and administrative boundary are usually different. In some cities and/or at times administrative boundary covers wider spatial extent than does the planning boundary, which is the most prevailing fact. In other cities/towns and/or the reverse holds true. Existence of differing legal boundaries create grey area where neither the cities/towns nor the rural districts around are clearly accountable to. .

**Figure 1.** Spatial and density growth trend of Dngur neighborhood



Source: Google Map 2006 and 2016.

A crew of surveying experts who collected base map data for another settlement (called Deбри) discussed that there were only 256 housing units in 2013. While they collect existing data, residents insisted for enumeration of vacant plots occupied on open public land and farm subdivisions. The informants further recalled there were incidences that armed individuals tried to terrorize the survey crew in order to get their illegal occupations recognized and local authorities insisted the crew to make favors to those illegal occupiers and farm subdivides. In general, the rampant illegal occupation and subdivision expand the settlement to a scale that sheltered thousands of households.

The massive illegal land acquisition and transaction in the settlements has been backed by official decisions of the lowest administrative constituencies of the government (kebeles). In 2002 the council of a kebele (called Mayanbessa where Gefih Gereb was a part) passed a decision for the conversion of the farm field into a residential settlement despite such decision contravenes with the constitution and the rural land administration proclamation No 156/2005. Based on the decision, which actually was not legitimate, the local constituency expropriated holdings of 15 farmers and disbursed plots to 240 youth. However, the decision the kebele council passed not only violated fundamental legal ground, it also violated mandate of higher government authorities. Decision for land use change is the legal jurisdiction of regional governments.

Following official establishment of the settlement hosting 240 households, a few farmers adjacent to the site started subdividing their farms and the magnitude has got momentum through time, especially since 2006. Illegal construction also got its impetus during the period 2008-2010. As a result the settlement grew in to a kind of township. More than 3000 households were under construction and some of which were inhabited as of 2011, the time the settlement changed into ruins.

**Figure 2.** Illegal farm subdivision around Gefih Gereb and Serawat settlements



Source: Google Map 2006, 2008, 2016.

Although without official recognition, just like Gefih Gereb, all other settlements, especially Serawat, Mariam Dehan, Kekayh etc. undergone the same trend following the growth of Gefih Gereb. As a result, farm fields changed into built-up settlements and earlier discrete rural settlements got merged. The area between Gefih Greb and Serawat (Figure 2 above) is a good example.

#### 4.2. Derivers of the illegal land deal: Towards a broader insight

As in all other developing countries' cities, the ramifying illegal land market in Mekele is partly due to constrained supply for residential land. Supply for residential land has got the least attention, as compared to

other use types, for the last 20 years (2004-2014) period. The priorities were budgeted government offices and social services instead. In fact the share of residential use (15.27%) out of the entire supply of 997.4 hectares for the period 2008/9-2013/14 witnesses the fact. In general, the total residential land supply for the 2006-2016 decade was as low as 27.68% (12,427 units). Accordingly, illegal acquisition becomes inevitably an alternative. About 3000 farm land subdivisions in a single settlement (Gefih Gereb) was a clear indicator. It is also abnormal to find 1,189 donations and 352 inheritances in three kebeles around Quiha sub city while formal allocations made under the generous rural regime were 587.

However, the conventional approach to analyze the demand side of the illegal land market is not comprehensive enough to capture the full picture. This study extends the contemporary analytical perspective one step further by including the urban expansion area itself in to the analysis framework.

The size of demand for residential plots within the immediate expansion settlements is sizable. At least it is comparable to the demand pressure the city proper creates. The survey data shows that every 542 households as of 2008 added 1,385 residents attaining the age of 18 or above. That is to say that every 542 unit households adds 679 (if all age eligible get married) to 1,358 (if all age eligible are single) demand for residential plots in a course of the eight years (see table 2). Stating in other words, each family unit created 1.5 additional demand for residential in the past eight years. Furthermore, recent studies indicate family/household structure is experiencing a new shape<sup>1</sup> that triggers the demand for residential land supply. Accordingly, one can simply deduce that the 18,198 households that joined the city in 2004 and 2011 boundary expansion has created a total demand of 23,026 (if all age eligible get married) to 46,053 (otherwise).

**Table 2.** Demand pressure for residential land from within the fringe zone (2008-2016)

Age Group	Number of family members by age group								Total	Share (%)	Cumulative %
	1	2	3	4	5	6	>6				
>25	105	174	25	14	6	11	4	704	24.76	24.76	
20-25	131	67	20	6	1			354	12.45	37.21	
18-19	147	52	16	7				327	11.5	48.72	
16-17	115	56	12	1				267	9.39	58.11	
14-15	149	58	4	3	1	1		300	10.55	68.66	
<14	80	132	80	54	17	1		891	31.34	100	
Total	727	539	157	85	25	13	4	2843	100		

Source: Field survey, Sep. 2016.

Despite this fact, the survey data indicates that access to residential land within the expansion areas sharply declined to only 15.16% of the demand after the settlements were reclassified into the city whereas supply response rate before the reclassification was 90%. Therefore, the huge unaddressed balance should go to the illegal alternative where the urban-rural dichotomy, which will be discussed later, paves fertile ground.

Yet, the expansion area itself, which plays a significant role from the demand side, has not been made part of the analytical framework in Ethiopia, and of course in the urban literature. Of course, this empirical finding can be extended in to the theoretical dialogue arguing that cities grow mainly because of rural-to-urban migration; thus the demand source of the illegal land deal is mainly rural.

#### 4.3. The unaddressed imperative: The Urban-Rural dichotomy challenge

As briefly introduced in the background section above, ownership structure, as a critical factor in the analysis of illegal land market, has attracted the intention of the contemporary debate in the literature. Nevertheless, the authors of this article argue that the very of public ownership is not conclusive to capture the issue at stake. In Ethiopia, rural land and urban land bear different rights and responsibilities. The authors cite this Urban-Rural dichotomy as a critical factor that must be drawn into the analysis framework. The dichotomous usufruct land policy has important bearings in urban planning, adjudication, and rights management.

The constitution entitled the peasantry society for free access to farm and residential land for free while usufruct right on urban land, on the other hand, is subject to lease price and conditions. Therefore, farm land has no transaction/economic value and hence no one is entitled to transfer his/her holding to third party except by donation or inheritance which is possible are applicable across vertical blood relationships only up to two generations. In account of such conception, the primary concern of illegal land transactions in Mekele is not land administration, which is administrative in nature, but the key concern ought to be management of the enforcement of the dichotomous rights, which entails a policy concern. Therefore, it is argued here that illegal land acquisition and transaction in Mekele is mainly the failure of managing the enforcement of rights. Failures in land administration dimension is subsidiary. Gaps in land administration ought to come into intention had policy aspects were enforced properly.

<sup>1</sup> Urban family size for seven cities and towns (Mekele, Axum, Gondar, Kombolcha, Assossa, Burie, Baeker) is found in the range 2.98 and 3.6 which is significantly smaller than the 2007 census data i.e. 4 on average.

The urban-rural dichotomy tends to extend in to the overall socioeconomic life of the two sectors. Structural Plans initiated to satisfy the city's demand for additional land. Urban expansion motivated by the city's demand for additional land never address the development needs nor redress the negative consequences of the urban expansion. That is why the test of residents of the peri-urban and immediate expansion areas towards urban expansion is in a negative balance. The survey shows that only 16.1% residents believe the compensation government pays to peasants is fair; 76.4% respondents reported their children who attain the age of 18 years are denied for residential plots after their settlements reclassified into the urban boundary. Ashenafi (2016) and Zmenfes, Kwame and Meleses (2014) also came up with similar findings in the same city. This clearly implies that unless Urban Planning is reinvented in a way that transforms rural communities in the expansion and contiguous areas could exploit land resource in order to redress what they lost because of the urban expansion. Obviously all sorts of illegal deals i.e. squatting, farm subdivisions, fake donations and inheritances in each settlement this article investigated aggravated by the initiation of new expansion plan 2006.

Owing to the difference in urban and rural land use rights, adjudication is worth mentioning for the smooth transfer of the rights created by the rural land regime into rights regulated by the urban lease law. In due course relevant authorities are responsible to clear illegal occupations before handing over settlements contained by the new boundary of the city. As a result, the rural district within which the subject settlements were part bulldozed 2069 houses built on farm subdivisions in 2011. Later on the city cleared out more than 872 similar housing units.

**Figure 3.** Partial view of the ruins of Gefih Gereb.



Source: Field, 2016; Mekele

Yet the dichotomy posed critical challenges to the adjudication. Since adjudication, which is a domain of land administration, bases its foundation on rights already acknowledged by the rural land regime, local authorities in the expansion areas have preoccupied themselves in creating rights illegally. Absence of rigorous rural land use planning and robust rural residential land registration system offers local authorities with a fertile ground to create rights any time they wish. About 66.7% of the respondents surveyed reported that local authorities within the expansion areas advocated illegal land acquisition and transactions in one way or another within their respective administrative boundaries. They advising farm holders to build homestead before government taking; offer fake allocation certificate; fake adjudication; refraining from applying their legitimate power to curb illegal occupations and acquisitions (Table 3 below).

The city's political leadership also faced commitment limitations to deal with illegal occupations and restore legitimacy. Magnitude of the accumulated illegal land holding is has created a political challenge. Therefore, the leadership preferred regularization instead of adjudication. In due course, the city issued three (May 2012; October 2013; April 2014) cabinet endorsements in three consecutive years. As a result, 1820 second generation illegal occupiers were regularized in 2012.

The solutions endorsed have had the implication of promoting the illegal deal further (Table 3). The sharp deviation away from the policy intent has raised perceived security of tenure. A kind of de-facto populist pressure emerged<sup>1</sup>. Requests for regularization became no more a question of individuals but a question of organized groups. For instance, none of the 434 organized applications for adjudication presented to two sub cities in 2016 were supported by legally credible evidences.

The other root of the dichotomy finds itself to influence the level of political commitment of the key leadership. The cabinet of the rural district hasn't been fully committed to clear the entire illegal occupations held

<sup>1</sup> Members of local councils, ordinary party members, members of the local (kebel) authorities, the police men participated in the illegal land acquisition

before the settlements were handed over to the city. The subjects of the clearance have been only those mass farm subdivisions. Adjudication documents witness that all other illegal acquisitions and occupations have not been part of the clearance project.

The political leadership in office, however, seems to make a difference. In a series of public discussions held in 2016 the city authorities welcomed claims for adjudication but ought to pass through the public scrutiny. Because of the keen political commitment and genuine public participation, additional 1960 illegal holdings were identified in the five sub cities. The comprehensive public discussions identified more than 70 households living on their previous holdings for which they were compensated and provided with replacement plots eight years ago. In addition, the city authorities charged 116 (including experts and members of local authorities) individuals who deliberately participated in illegal land deals.

A very important lesson that can be drawn from the experience of Mekele is that a concerted political commitment of the top leadership is critical in fighting illegal land occupations and acquisitions. The general public complements the behavior of the political leadership or institutions. The public, once was inactive in fighting against illegal holdings, now sided by the authorities' position against illegal land acquisition. This reminds what Carlos (2011) argues in regard to the importance of the behaviors of institutions and the elite in shaping the behavior of the general public.

**Table 3.** Response to the illegal land deal (2012-2014) and its implication

Description	Cases observed	Responses (Solutions pursued)	Consequences and implications
Disbursed new plots pretending adjudication to permit holdings	60	invalidate titles and plots restored to land bank were (46) but 14 cases are not yet resolved	- consolidates rule of law - discourages speculation & squatting
Adjudicating more than one plot occupations	134	Granting 100m2 for free (of any lease payments and conditionality); regularize the remaining (up to 400 m2) at the lease base price subject to 20% advance payment	- Encourages illegal occupation - Compromises potential land lease revenue otherwise would have been realized from bid
Fraudulent adjudication on farm subdivisions despite applicants has residential plot/house within the city.	2	a) Regularize at base price if construction is erected - subsidizing 100m2 for free - occupant must pay base price and 20% advance payment to the remaining area (up to 400m2) - the occupier must refund the acquisition (compensation) the city incurred	Encourages farm land subdivision and illegal occupation - Affects lease revenue - Undermines rule of law and order
		b) Invalidating the fraudulent title if no construction is established on the plot(s)	- Encourages substandard Construction Don't help in halting illegal transaction
Fraudulent adjudication above allowed plot size	279	Let to continue in permit terms - the reason behind was that most of them sold the plots they got regularized	Encourages illegal transaction
Fraudulent adjudication of plots acquired through illegal sale as if holdings under the rural regime	386	a) Legal litigation if the transfer has any material in benefiting committee members or authorities	Discourages illegality Prevents power abuse
		b) Regularize if buyers are neither members of adjudicatory committee nor a relevant authority	- Encourage illegal occupation - Affects rule of law/order
		c) Suing those who transfer titled farm subdivisions to third parties to refund compensation cost the city incurred for land acquisition	- so long as such individuals appropriate profit equivalent to the difference between base price and bid price
Total	863	More of accommodative	More of encouraging illegal land deal

Source: Compiled from Mekele City Administration 2012, 2013 and 2014 Cabinet Minutes; and 2011 adjudication documents

## 5. Conclusion

The peri-urban zone of Mekele has experienced a wide scale of illegal land acquisitions and transactions for the last decade. Conventionally, acute scarcity of supply and to some extent a motive for speculative business are referred as the main drivers of the massive illegal land market. However, the authors argue that the aforementioned conventional literature is inadequate to capture the dynamism across different land rights. That is to say, the current analytical framework regarding informal land market in the city, and probably in the country, is partially understood. Neither the demand nor the supply side has been adequately explored within the analytical framework. Magnitude of the demand from the rural side has never been part of the demand side analysis. On the other side, the peasantry, who is entitled to usufruct right for free, sands at the supply end sourcing the illegal land market. As a result, while farm land holders, whose right is usufruct, abuse the public resource, the target of the debate in the literature and the victims of the clearance projects are those on the demand side. The authors thus claims the importance of broadening the perspectives of illegal land market to address the demand and supply from the rural side and the rural-urban dichotomous rights in the literature.

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