



PEACE, PROSPERITY AND  
REGIONAL INTEGRATION

## TERMS OF REFERENCE FOR THE REVIEW LEGAL AND TECHNICAL PROCEDURES AND POTENTIALS FOR A SIMPLIFIED RIGHT'S CONVERSION FROM RURAL TO URBAN LAND AND PERI URBAN LAND REGISTRATION AND ADMINISTRATION MECHANISMS IN ETHIOPIA.

### 1. Background

The IGAD Land Governance Unit, in implementing its Business Plan 2020 – 2023 received funding from the Embassy of Sweden in Addis Ababa to support Member States improve land administration. IGAD, as a regional economic body, is mandated to serve its Member States using its convening capacity to facilitate dialogue, providing technical support for policy development and implementation, and building capacity through experience sharing and knowledge exchange and cross-pollination. IGAD's engagement in the land sector is derived from the AU Declaration on Land Issues and Challenges which gives mandate to RECs to provide technical guidance to the member countries, monitor land sectors' progress, and promote regional land policy harmonization and women's land rights. The same Declaration gives mandate to Member States to promote land sector interventions that tackle underlying causes of tenure insecurity including protecting all tenure rights, increasing transparency in land administration, and promoting equal access to land for all land users.

In its quest to serve its Member States, IGAD with the support of GIZ through its program, “*Strengthening Advisory Capacities for Land Governance in Africa*” (SLGA) is working with the Government of Ethiopia to review legal and technical procedures and potentials for a simplified right's conversion from rural to urban land and peri urban land registration and administration mechanisms in Ethiopia.

Under Ethiopian land law regime, land is classified as rural and urban. According to the Rural Lands Administration and Use Proclamation No. 456/2005, Art.2.1, rural land is 'any land outside of a municipality holding or a town designated as such by the relevant law' and urban land is "land located within the administrative boundary of an urban center of any region"; whereas in the Leasehold Proclamation no. 721/2011, article 2.2, urban land is defined as “land located within an administrative boundary of an urban center.” The Lease Proclamation further defines urban center as “a locality having a municipal administration or a population size of 2000 or more of inhabitants of which at least 50% of its labor force is engaged in nonagricultural activities<sup>1</sup>.” In whatever way these centers are defined however, land in Ethiopia is either rural or urban from an administrative point of view. This bifurcated land typology is the result of land tenure and land registration laws that emerged with the enactment of the Decree on land registration in Addis Ababa in 1907 and has been strengthened ever since. The land that is found between a rural and urban is called in everyday usage roughly means “fringe land”. Such land is categorized as rural until such time that it is incorporated into the adjacent urban center by government directive.

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<sup>1</sup> Article 2.3) Whether centers whose population is below 2000 and who are not engaged in agricultural activities are categorized as urban is not clear.

The term peri-urban is defined in several ways from the perspectives of several many disciplines. It therefore has no single satisfactory definition.<sup>2</sup> “Peri-urban” could be used to denote a place, concept, or process. As a place, it can refer to rural fringe areas surrounding cities. As a concept, peri-urban could be seen as an interface of rural and urban activities and institutions. As a process, it could be thought of as the two-way flow of goods and services and a transitional stage between rural and urban.<sup>3</sup> Some researchers question the tendency to define peri-urban in terms of geographical location of a place in relation to urban centers and underpin the importance of the underlying institutional contexts.<sup>4</sup>

In the context of Ethiopia, peri urban is defined as a transitional zone, on a spectrum from rural to urban, and the direct result of urban development and expansion causing a transformation from strictly rural to completely urban.<sup>5</sup> Ethiopia’s peri-urbanization falls between two different land governance and administration systems, rural land with indefinite use right, and urban land under a leasehold tenure.

Urban expansion and development in the peri-urban areas is a four-step process, namely, incorporating the rural land adjacent to the urban center into the city’s master plan; expropriation; redevelopment, and reallocation. Once the peri urban area is incorporated into the urban master plan, expropriation procedures will be initiated. The expropriating government body is required by law to pay adequate compensation to the land holders. But the practice shows otherwise. The compensation money is often not adequate, or in some cases land holders are not compensated at all especially where the peri urban land is communal land. In other cases, expanding town administrations complain that they do not have the money to pay compensation, but the town must expand.

## 2. The Issue

The four-step process of transforming the peri urban to urban is not strictly followed because local landholders in peri urban areas engage in unauthorized sale of their land holdings to urban people mostly for housing purposes which results in changing the boundaries of the urban centers believing that their holdings will be expropriated for town expansion purposes and want to acquire better prices for their lands than compensation from the government. This has given rise to the expansion of informality and corruption because peri urban land holders sale or transfer their holdings without having land holding certificates, or even where they do have, they transfer the land without transferring the title of the land to the buyer. Federal and regional governments engage in demolishing such houses built on peri urban lands claiming that they are illegal which has become a major source of grievance and instability.

Furthermore, once a peri urban area is incorporated in a city’s master plan, the city administration takes long time to put its administration in the newly incorporated peri urban area in to place. Under such circumstances, residents of the incorporated peri urban area neither get urban municipal services nor the previous rural kebele or woreda services. Rural and urban land holding registration process is stalled during such transition period in such peri urban areas. There is no policy or legislative framework to regulate the land administration problems relating to peri urban areas.

The land administration issues during the process of incorporation of peri urban land into the urban center is the main concern of this study. The land tenure in peri urban areas is free hold with indefinite use right and other bundles of property right, like the right to lease, bequeath, and gifting, whereas that of the urban land right is leasehold. What should be the legal and regulatory framework to put a good land right recording

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<sup>2</sup> Iaquina, David L and Axel W Drescher, “Defining peri-urban: understanding rural–urban linkages and their connection to institutional contexts”, Paper presented at the Tenth World Congress of the International Rural Sociology Association. 2000. Accessed on 4/30/2023

<sup>3</sup> Vishal Narain and Shilpa Nischal, The peri-urban interface in Shahpur Khurd and Karnera, India. [The peri-urban interface in Shahpur Khurd and Karnera, India \(sagepub.com\)](#). Accessed on 4/28/2023.

<sup>4</sup> Note 1 above.

<sup>5</sup> Kinfu, E., Bombeck, H., Nigussie, A., & Wegayehu, F. The Genesis of Peri urban Ethiopia: The Case of Hawassa City. *Journal of Land and Rural Studies*. (2019). <https://doi.org/10.1177/2321024918808125>

process in peri urban areas that would facilitate smooth and orderly transition of peri urban to urban without creating gaps and inconsistencies and combating informality.

### **3. Objectives**

The objectives of the Study are to:

- Assess and identify potential target case study areas with good geographic representation based on the complexity level of the peri urban land administration and diversity in land tenure system.
- Map the land administration problems of the selected peri urban areas.
- Identification and analysis of the gaps in Government policy directives, proclamations strategies, and legal frameworks of federal and regional governments that deal with peri urban land rights conversion.
- Identify the practice in land rights conversion from peri urban to urban in sedentary and communal land holding settings.
- Investigate international best practices in peri urban to urban conversion and identify the practices that could be applicable to Ethiopia.
- Prepare a policy brief and the way forward for the legislative framework from the empirical evidence.
- collect both primary and secondary data (empirical and doctrinal)

### **4. The Task (Terms of Reference)**

The tasks the Consultant shall perform include the following:

- Describe the process of land rights conversion of peri urban land holdings to urban land holdings, and clearly show the problems.
- Explore and analyze the policy, strategies, and legal regime governing land administration and rights conversion of peri urban lands to urban lands.
- Investigate the real and potential problems that may arise from the lacuna in the policy and legal regime of peri urban rights conversion based on the practice observed so far.
- Investigate international best practices of peri urban rights conversion.
- Explore ways and means of preventing illegal land transactions in pre-urban areas.
- Explore ways and means of empowering peri urban residents to participate in the conversion of peri urban areas to urban.
- Propose possible policy and legislative framework that could be issued to regulate peri urban land rights recording that will facilitate smooth transition to urban.

### **5. Methodology**

In addition to local and international literature review, best practices of other countries, especially in similar development stages, the Consultant is expected to propose a methodology that will enable derive the best results for this assignment including the conceptual framework and modeling.

## **6. Qualification, Related Experience & other Skills**

The consultant (Team leader) should possess the following qualifications:

1. A minimum of Master's degree (PhD is preferred) in land policy, land administration, urban development or any other disciplines related to land governance
2. Must be a legal expert with at least 10 years of experience for PhD and 15 years for Masters in legal and institutional reform, particularly harmonization of fragmented institutions in Ethiopia.
3. Must be proficient in national and regional land sector reform processes with at least 10 years' experience in addressing rural and urban land reform in similar contexts as Ethiopia.
4. Extent and relevance of experience in the formulation of policies, strategies programmes for land tenure reform including access to and responsible governance of natural resources.
5. Demonstrated experience working with a multitude of stakeholders from various disciplines and backgrounds including Government, civil societies and communities, private sector, development partners and donors.
6. Demonstrated analytical, reporting and communication skills.
7. Must be fluent in English both verbal and written.

## **7. Deliverables**

The Consultant shall produce:

- a. An Inception Report elaborating the methodology and timelines:
- b. Literature review report including recommendations.
- c. A Report including primary data collection and stakeholder engagements.
- d. A draft policy and legislative framework that could be issued to regulate peri urban land rights recording that will facilitate smooth transition to urban.
- e. A policy brief on existing policy and legal framework including infographics.
- f. A Report on dissemination of the findings to relevant stakeholders.

## **8. Timeline**

The Consultant will work for 60-man days over five months from the signing of the contract.