

# Landownership and the leasehold system in Ethiopia : the formal-informal dialogue in landholding and urban development

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# Landownership and the leasehold system in Ethiopia

## The formal-informal dialogue in landholding and urban development

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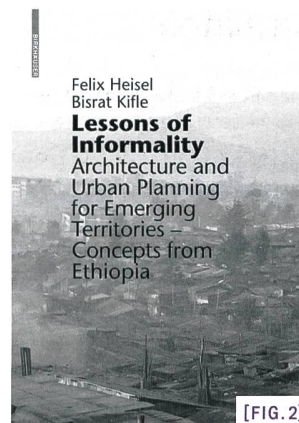
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[FIG. 1]

Although land is a natural resource, its ownership and usage have been contentious issues throughout human history. Community leaders and governments try to control how land is acquired, used and allocated. In fact, land policy is one of the most important factors influencing wealth distribution, socio-spatial relations and the development of communities in general. This article investigates the critical questions of whether and how the leasehold policy of urban land has impacted land accessibility for the urban poor, and how informal and traditional urban areas might inform leasehold-based planning and socio-spatial relations.



[FIG. 2]

[FIG. 1] Informal Housing in Addis Ababa. (Photo: Marta H. Wisniewska, Birkhäuser Verlag)

[FIG. 2] This text is an excerpt from «Lessons of Informality – Architecture and Urban Planning for Emerging Territories – Concepts from Ethiopia». Publishers: Felix Heisel and Bisrat Kifle. Birkhäuser Verlag, 2016.

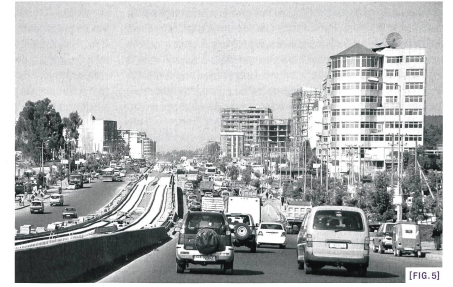




[FIG. 3]



[FIG. 4]



[FIG. 5]

[FIG. 3] «Progress» introduces new scales to the existing settlements as well on the physical, the spatial and the social level. (Photos: Marta H. Wisniewska, Birkhäuser Verlag)

[FIG. 4] Inner city informal settlements are being cleared overnight.

[FIG. 5] The first sub-Saharan light-rail system, the Addis Ababa Light Rail, built by the China Railway Group Limited.

[1] Government of Ethiopia, Proclamation No. 60/1993 («A Proclamation to Provide for the Leaseholding of Urban Lands»), Published in Negarit Gazeta no. 23 (December 1993): 92–98.

[2] It is the government of the individual states and the people of that state who are the legal owners of the land within their jurisdiction. In contrast to Proclamation 47 of 1975, the 1987 constitution allows people to be owners of land, while in practice, only the government could feasibly manage land (on behalf of the people, of course). In this respect, in terms of ownership, it is the government that is the owner dating from the nationalization of lands in 1975. Government of Ethiopia, Proclamation No. 47/1975 («Government Ownership of Urban Lands and Extra Houses»), Published in Negarit Gazeta no. 41 (26 July 1975): 200–214.

[3] Article 24 of Proclamation 721 of 2011 curtails the leaseholder's ability to sell land and property rights. Land cannot be part of the commodity for sale; any profit from increased land value is deemed property of the government as the freeholder of the land. This leaves the leaseholder the right to use the land for the approved purpose only. This stand is peculiar to the Ethiopian leasehold policy, as other leasehold policies (for example, that of Hong Kong) provide full rights to the leaseholder during the lease period. Government of Ethiopia, Proclamation No. 721/2011 («Proclamation to Provide for Leaseholding of Urban Lands»), Published in Federal Negarit Gazeta no. 4 (28 November 2011): 6220–6246.

### The leasehold system in Ethiopia

After 1993, landownership remained in the hands of the government (officially, the government and people of Ethiopia). The lease system became the dominant landholding system [1]. The leasehold system is not new to the Ethiopian urban context, as most think. During the imperial period, land was infrequently leased as well, though only for periods of up to five years; beginning in 1993, leases spanned much longer, from 60 to 99 years depending on land use category. The main purpose of the leasehold policy is to provide land at market value and ensure its continued public ownership. The logic is sound: if land is owned by the government and the people, and it is not possible to offer fully equitable access to land, under the proxy system the government charges those with access to land fairly and uses the capital generated through leases for development projects that benefit the community [2]. However, subsequent changes to the leasehold system have eroded this premise. The leasehold system raises the following critical issues that call for in-depth analysis:

Firstly, should previously occupied land be converted to the leasehold system when a property transaction occurs, and, if so, how? Together with urban renewal projects, the conversion of all land to a leasehold system in 2011 has had sweeping implications for the informally held land in inner-city areas [3]. The act displaces existing communities and disrupts

social structures built over several decades. Urban regeneration is necessary; however, the speed of redevelopment, will of residents to relocate, and compensation and rehabilitation mechanisms determine whether the outcome of urban regeneration is positive for a community. The important question here is what rights existing communities have compared to new settlers.

Secondly, why do land auctions (bids for leases) begin to resemble speculation, if this is the very thing that the government plans to combat? Public auctions for leases of urban land have the merit of transparency: the market establishes the land's value. This is proper as a procedure, but in cases where the government is the sole decision-maker as to when land will be released for auction, which land will be released, how many plots of land will be made available and for which functions, and so on, the value of land no longer seems to be determined by the market alone. The supply of urban land is highly constrained, and information on land for lease is also not readily available. Owing to the intermittency of the release of land for auction, bid offers have escalated to unprecedented levels, to an extent that resembles speculation (the recent lease price of 305'000 birr, or 14'500 US dollars, per square metre in the commercial parts of Addis Ababa represents a climax in this regard).

Thirdly, what is the definition of «public interest» in regard to the implications on the reallocation of land? One can glean how urban managers understand these terms from their actions: for them, any act in the public interest would result in a seemingly improved physical urban area, exploit the land to a higher degree (higher floor and building area ratios), promote other intensive land uses (especially road network development), or employ more people (in the formal sector). Unfortunately, these definitions are inconsistent and fail to fulfil public interest in the widest sense. Decisions made by different managers cannot be expected to be consistent when standard metrics for evaluating these decisions are not provided. Additionally, exploiting land to a higher degree does not necessarily bring about greater benefits for the public (for example, when public open spaces are leased to private investors). And although development may generate employment opportunities, the number of new jobs may not surpass the number of jobs that existed in the informal sector prior to redevelopment, and in most cases, the new jobs go to others, leaving the former occupants of underdeveloped land without any alternatives. If we were to complete a planning balance sheet at a comprehensive level considering all economic, social, environmental and political aspects of the situation – the benefits of redevelopment might not outweigh the disadvantages.



Lastly, how are lease fee repayment periods apportioned? With a low initial payment and many years of repayment, businesses in particular profit from the low value of money due to depreciation. Additionally, the policy of allocating large tracts of land to property developers opens up questions for the future development of the city. It is clear that such monopolies will undoubtedly create segregation, while preventing urban administrations from collecting planning benefits and controlling externalities.

This analysis may seem to justify an approach that conserves the old and the informal or traditional as opposed to promoting the new. More than this, however, it is intended to pose the question of which way we should guide development. There is no one correct answer, but a central theme of development throughout human history has been the social learning process: we stand on the shoulders of former societies (through accumulated knowledge) in order to see into the future. Any society that does not give attention to its past, learn from it and recognize it as the foundation of its present loses valuable lead time and is bound to repeat past mistakes, slowing development overall. In this sense, a situation that is currently very common – the informal in our case – can provide insight into the past and help us to design better solutions that ensure social and spatial transformation without compromising continuity.

### Lessons from informal housing

Informal settlements are self-help systems of housing delivery based on available resources (materials, technical knowledge and labour). In comparison, the leasehold system limits who obtains land, when landholders can develop land, and what they can develop on it. It is a standardized approach that oversimplifies the process of housing development. The need for a legal system to certify property, bringing it to the formal arena to allow additional transactions and wealth creation is evident.

Our analysis has shown that «informal» in urban Ethiopia can refer to two conditions: informal landholding and informal construction in inner and fringe areas of the city. In most cases, residents living on informally held land have legal grounds for occupying the land but the area lacks a formal development plan, and the construction of physical structures (buildings, services and open spaces) may not fulfil planning and construction standards. This is what the literature in general

designates as an informal settlement in urban Ethiopia (as opposed to squatter settlements in other countries, especially in Latin America). Further, fringe developments may have violated the procedure of land allocation; individuals who hold more land than they need (such as farmers in the urban periphery), parastatal institutions and government organs that are not empowered to deliver land have at times allocated land to individuals and organizations. This allocation is still quasi-legal, however; there is no rampant illegal occupation of land in Ethiopia.

Residents in informal settlements cooperate to develop their locality. The cooperation goes much deeper than physical development: they meet regularly to request title deeds or access to services, help each other and participate in a vibrant social life. The concept of community policing to fill the lack of formal legal protection could be cited as an important contribution of informal settlements to peace and security of urban areas.

Informal landholders also improve their dwellings and working spaces using their own labour and technical know-how. They create spaces suited to their needs and demand less from the government. Such settlements have attributes that are indicative of cohesive urban living. In spite of the fact that informal developments or traditional areas contribute much to housing production maintenance and infrastructure, the leasehold system has constrained the ability of occupants to transform their surroundings by themselves. By contrast, in situations where infill development has been carried out, the physical and social structure has had a chance to continue age-old spatial and social patterns.

### Conclusion

In principle, the leasehold system extends public ownership of land. If land is made more available and the lease price is fair, the leasehold system does not necessarily promote informal landholding. Informal landholding is the result of poor land registration and improper land management. If all land under the jurisdiction of a municipality is registered and landholders' rights are respected, informal land occupation will not take place. In other words, the problem does not lie with the leasehold system in itself; rather, the way it has been implemented in Ethiopia has compromised its aims.

Moreover, sweeping urban redevelopment of the kind that has accompanied the transition to a leasehold system conflicts with the possibility of learning from existing socio-spatial

**[FIG. 6]** Uses of space as well as its design are closely interlinked with social, cultural and traditional contexts. Social networks are often the basis for everyday life and represents not only communal but also economic safety nets within the city. (Photo: Marta H. Wisniewska, Birkhäuser Verlag)



**[FIG. 6]**



arrangements. The overriding principles for the selection of areas to redevelop – the presence of kebele [4] houses and the level of dilapidation – capitalize on land and property ownership and the quality of the physical environment. However, the concentration of kebele houses is a fact in central areas, and the prime cause for the dilapidation of structures is the planning system itself: a moratorium on maintenance (selective redevelopment) that leads to blight.

Local social and spatial orders are unique to the developers and the context. The basic characteristic of formal planning is to impose social and spatial orders thought to benefit society, but these are usually intended to be simple to administer and pre-deterministic. On the other hand, informal systems are organized based on unique sets of parameters suited to the topography, the capacity of individuals and the priorities of occupants. There is order in time, social, economic and spatial aspects, which are dynamic and not readily predicted by the socio-spatial standards of the formal system. Failure to understand such processes is the root cause for the discontent of the formal system over the informal. Order at the bottom is seen to create disorder at the top of a planning system that is organized to predict end results and strive to control deviations from the standard.

As necessary redevelopment is carried out, the internal order, efficient use of human and natural resources and communal cooperation that characterize informal settlements are important to keep in mind so as not to undermine any potential benefit of leasehold-based planning in the future.

[4] «neighbourhood», the smallest administrative unit of Ethiopia.

#### ZUSAMMENFASSUNG

## Lektionen des informellen Wohnungsbaus in Addis Ababa

Boden ist eine natürliche Ressource. Schon immer legten es politische Machthaber und Regierungen darauf an, den Erwerb, die Nutzung und die Verteilung des Bodens zu kontrollieren. Bodenpolitik ist einer der einflussreichsten Faktoren für die Verteilung von Wohlstand und die Entwicklung eines Gemeinwesens.

Nach 1993 blieb der Boden in Äthiopien in den Händen der Regierung. Baurecht wurde zur am weitesten verbreiteten Form des Grundbesitzes. Der Grundgedanke dieses Systems ist einfach: Land wird zu Marktpreisen zur Verfügung gestellt und generiert dadurch Kapital, welches zu Gunsten des Gemeinwohls eingesetzt werden kann, bleibt aber gleichzeitig im Eigentum der Öffentlichkeit.

Bei der Umsetzung dieser Bodenpolitik hat sich jedoch immer wieder gezeigt, dass die eigentlich durch die Regierung bekämpfte Bodenspekulation Aufwind erhält und bestehende «informelle» Siedlungen, die auf spontane Landnahmen zurückgehen, neuen Überbauungen weichen müssen, ohne Rücksicht auf die entstandenen Sozialstrukturen. Genau diese «informellen» Siedlungen sind es jedoch, welche als Teil des «sich selbst helfenden», Systems optimal mit den beschränkten Ressourcen umgehen. Die hier gelebten Kooperationen sind tiefgreifender als jene der neuen baulichen Entwicklung. Daher sollten die (informellen) Strukturen in die Planungen integriert werden.

#### RÉSUMÉ

## Les leçons de l'habitat informel à Addis-Abeba

Le sol est une ressource naturelle. Les détenteurs du pouvoir politique se sont toujours efforcés d'en contrôler l'acquisition, l'utilisation et la répartition. La politique foncière est l'un des facteurs qui a le plus d'influence sur la répartition des richesses et le développement d'une collectivité publique.

En Éthiopie, après 1993 le sol resta aux mains du gouvernement. L'emphytéose devint la forme la plus répandue de possession du sol. L'idée qui sous-tend ce système est simple: les terrains sont «loués» aux prix du marché et génèrent ainsi un capital susceptible d'être investi en faveur du bien commun, mais ils restent propriété de la collectivité publique.

Il est toutefois apparu que cette politique favorisait la spéculation foncière, pourtant combattue par le gouvernement, et que l'habitat dit informel, résultant d'une appropriation spontanée du sol, était remplacé par de nouveaux ensembles bâtis sans égard pour les structures sociales qui s'y étaient développées. Or, cet habitat informel, basé sur l'entraide, se distingue précisément par l'usage optimal qu'il fait des modestes ressources disponibles. Les modes de coopération qu'il implique vont plus loin que ceux qui prévalent dans les nouvelles opérations – raison pour laquelle il serait bon d'intégrer ces structures spontanées dans les projets d'urbanisme.

#### RIASSUNTO

## Insegnamenti dagli alloggi informali di Addis Abeba

Il suolo è una risorsa naturale. Le autorità politiche e i governi hanno sempre voluto controllare l'acquisizione, l'utilizzo e la distribuzione della terra. La politica fondiaria è uno dei fattori più influenti nella distribuzione della ricchezza e nello sviluppo di una comunità.

Dopo 1993 il capitale fondiario rimase nelle mani del governo etiope. Il diritto di superficie è diventato la forma più diffusa di proprietà fondiaria. Il pensiero alla base di questo sistema è semplice: la terra è messa a disposizione a prezzi di mercato, generando così capitale che può essere utilizzato a vantaggio della comunità, ma allo stesso tempo rimane di proprietà pubblica.

Nell'attuare questa politica di gestione delle risorse territoriali, tuttavia, è stato ripetutamente dimostrato che la speculazione fondiaria, effettivamente combattuta dal governo, sta prendendo slancio e che gli insediamenti «informali» esistenti, originati da un'appropriazione spontanea della terra, devono lasciare spazio a nuovi sviluppi edilizi, a prescindere dalle strutture sociali che hanno trovato terreno fertile proprio in quegli alloggi di tipo spontaneo. Sono proprio questi insediamenti «informali» che, in quanto parte di un sistema di «auto-aiuto», gestiscono in modo ottimale le risorse limitate. Le forme di cooperazione vissute in questo ambito sono più profonde di quelle delle nuove edificazioni. Pertanto, gli insediamenti informali dovrebbero essere integrati nella pianificazione.