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The Right to Adequate Housing in Ethiopia: The Need to Regulate Private Rental Housing Sector

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Abstract:

Post 1991 the private rental-housing sector in Ethiopia was providing housing to the majority of tenants. However, the private rental housing market was unregulated. The left unregulated of the private rental market have resulted in socially undesirable consequences such as unreasonable rental price levels and eviction. In this paper, the writer argues that the private rental market should have to be regulated in order to provide decent and affordable rental accommodation for the poor and low-income households for the following reasons. First, due to their low and irregular income, these groups are not beneficiaries from the government subsidized homeownership schemes; second, public rental sector that can serve as "safety net" for these groups is not functioning efficiently and of slum standard because of deterioration, and lack of basic services. Consequently, the stock was found in state of unfit for living. Thirdly, a shortage of affordable rental accommodation, combined with an effect of inflation, justify the enactment of rent control law in the private rental-housing sector since it would be in the public interest.

Keywords: Human rights, right to adequate housing, public rental house, private rental house, rent regulation, poor and low-income households

1. Introduction

The realization of the right to adequate housing is of central importance to the enjoyment of all human rights. It has been accepted in international human rights law in 1948 with the adoption of the Universal Declaration of Human Rights.¹ Then onwards different international and regional human rights instruments have recognized it.² State parties to these international and regional human rights are required to take different measures to make sure that they are complying with their obligations under these instruments. Ethiopia is a member to these international and regional instruments.

In Ethiopia, condominium housing under the Integrated Housing Development Program (IHDP) has been implemented in the major urban centers with objective of making low and middle-income households home owners since 2006.³ The programme has built 142,802 condominium-housing units between 2006 and 2010.⁴ It has also benefited the housing market by increasing the supply of owner occupied housing and rental units.⁵ Despite its laudable aim of making low-income families homeowners the actual beneficiaries of the program were middle and high-income households who afford down payment and mortgage requirement for bank loans.⁶ Hence, poor and low-income households were excluded from the program.

On the other hand, the public rental housing sector which were supposed to accommodate poor and low-income households are not in a status of accommodating these groups because of highly decreasing number of the stock due to urban redevelopment program throughout the country besides absence of supply of the stock since 1991.⁷ More than 70 percent of the stock specifically the Kebele units are slum housing standard owing to overcrowding, continuous deterioration, absence of repair since 1991 and lack crucial facilities like toilet, electricity, kitchen and these resulted in that the stock is unfit for living.⁸ Middle and high-income households like parliamentarians, university teachers, and

¹ Universal Declaration on Human Rights (1948) GA Res.217A (III) UN.Doc A/3/810(1949) art 25 (UDHR).

² Most of international human rights treaties incorporated it, such as art 25 of UDHR; art 11 of ICESCR; art 14 of CEDAW; art 27 of CRC, and art 43 of CMW

³ Ministry of Urban Development, Housing & Construction, the National Urban Housing Development Policy and Strategy Framework (Addis Ababa 2013).

⁴ Ministry of Urban Development, Housing & Construction, National Report on Housing & Sustainable Urban Development (2014) 57

⁵ Ibid

⁶ Ministry of Urban Development, Housing and Construction and Ethiopia Civil Service University, the State of Ethiopian Cities Report (2015).

⁷ Ibid; see also Ministry of Urban Development, Housing & Construction, National Report on Housing & Sustainable Urban Development (n 4) 57.

⁸ The World Bank, Ethiopia Urbanization Review: Urban Institutions for a Middle-Income Ethiopia (WB 2015) 27, see also YehaneWailuHabtewold, 'Public Rental Housing as Housing Delivery Strategy in Addis Ababa: The Case of Apartments Constructed by Agency for Government Houses' (AGH)(Addis Ababa University and Ethiopia Institute of Architecture Building Construction and City Development (EiABC), (School of Graduate Studies MSc Thesis, Unpublished 2016) 64-67; UN-Habitat, The Ethiopia Case of Condominium Housing: The Integrated Housing Development Programme (United Nations Human Settlements Programme, UNONP,2010)

diplomats occupy the small proportion of the stock with good condition (public rental houses under AGH).⁹Under such circumstance, the available option for low-income households is the private rental-housing sector.¹⁰

Private rental-housing sector was developed after the Derg regime (post 1991) which totally prohibited the sector from engaging in the rental housing activity.¹¹ The private rental sector refers to individual or small-scale house owners that rent out their houses for residential purpose within their residential premise or in other premises destined for rental purpose. The sector became the major supplier of rental accommodation for many tenants in urban centres of the country; for instance, *according to the CSA report of 2008* in Shire Endasellasiye, Hawassa, Addis Ababa, Adigrat, Bahir Dar and Adama, 60.9, 60, 58.1, 55.7, 48.8 and 46 percent of population are tenants respectively.¹² According to estimation made recently by the Ministry of Urban Development, Housing and Construction, in 2013 more than 600,000 families lived in rented homes in major cities and above half of these families were accommodated by private rental housing.¹³

However, the sector failed to provide affordable rental housing to the majorities in general and for low-income households in particular.¹⁴ The reason is absence of regulatory framework under which the sector is currently operating resulted in high rental price levels.¹⁵ Moreover, this problem was further aggravated by shortage of affordable rental housing due to limited supply of housing and high demand for housing.¹⁶ Thus, the sector failed to deliver affordable rental housing accommodation. This is not in line with the country human rights obligation under international human rights laws; for instance, the Committee on Economic Social and Cultural Rights under General Comment No. 4 stated that member States to the Covenant have obligation to take necessary measures to ensure affordability of housing by any appropriate means.¹⁷ Rent control laws are the main means of ensuring affordable housing for low-income households in private rental accommodations.¹⁸ The phrase “rent regulation” or “rentcontrol” refers to legislative intervention, namely where the state regulates the private rental market in order to restrict rent increases and provide security of tenure.¹⁹

1.1. Statement Problem

The Ethiopian government with the aim of fulfilling its international human right obligations, as part of its housing policies and strategies need to come up with specifically designed legislations with the purpose of enforcing individual's adequate housing rights. In fact, in view of the spirit of ICESCR the government promised under Article 90 of FDRE Constitution to the extent resources permit to fulfil the need of residential houses of the citizens. Hence, the right to housing was regarded as a progressively realizable right depending up on the economic capability of the State. However, despite the existence of economic constraints, all State parties have also assumed the duty to take immediate actions. One of the obligations is that States are required to tackle any kinds of violation of the right to housing either by their own organs or by third parties. In addition, the impossibility of attaining universal homeownership in developing countries, including Ethiopia, due to different factors make the consideration of private rental housing sector as the available and feasible option to accommodate housing issues. Moreover, the General Comment No. 4 to the ICESCR on right to adequate housing states that in accordance with the principle of affordability, tenants should be protected by appropriate means against unreasonable rent levels or increases. It added that tenants should possess a degree of security of tenure that guarantees legal protection against forced eviction by private landlords. Hence, such duties of States demand the existence of well-stipulated legislations that will properly regulate the relationships between tenants and landlords. On other hand, as raised under the introduction part, the private rental-housing sector is characterized by various problems, including unreasonable rent increases and eviction, due to neglect of the sector by the government. Thus, the issue is that should Ethiopian government intervene into the private rental housing market in order to regulate rental-housing price or leave it to the free play of rental housing market.

Inspired by the above background this paper has the following research questions:

- Does regulating private rental housing sector form a part of the State's 'duty to protect' in realizing the right to adequate housing?
- What are the needs and effects of regulating private rental housing sector for the realization of the right to adequate housing in Ethiopia?
- Is there any relevant law that intends to regulate rent in the private rental-housing sector in Ethiopia?

⁹ The World Bank, Ethiopia Urbanization Review (n 8)27

¹⁰ Peter A. Kemp, 'Low-income Tenants in the Private Rental Housing Market' (2011) 26 HS 1019, 1026-1029

¹¹ Government Ownership of Urban Lands and Extra Houses Proclamation No.47/1975, preamble, arts 3, 13, 20; see also Tegegne G/E. and Daniel S.(eds), Urban and Regional Development Planning and implementation in Ethiopia (National Urban Planning Institute, 1997), UN-Habitat, Situation Analysis of Informal Settlements in Addis Ababa: Cities without Slums Program: Addis Ababa Slum Upgrading Program (United Nations Human Settlements Programme, UNONP 2007) 169

¹² Ethiopia Central Statistical Agency, The 2007 Population and Housing Census (National Report 2008) and CSA Welfare Monitoring Survey of 2011

¹³ AshenafEndale, 'Rental Standards Scrutinised' Addis Fortune (Addis Ababa, 21 April 2013)

¹⁴ Ministry of Urban Development, Housing & Construction, National Report on Housing & Sustainable Urban Development (n 4); Ministry of Urban Development, Housing and Construction and Ethiopia Civil Service University, The State of Ethiopian Cities Report (n 6)

¹⁵ Ibid; see also Ministry of Urban Development, Housing and Construction and Ethiopia Civil Service University, The State of Ethiopian Cities Report (n 6); FasikaTadesse, "Through the Roof: Spike in Housing Rental Prices Leaves Residents in a Bid" Addis Fortune (Addis Ababa 30 March, 2014);Endale(n 13)

¹⁶ Ministry of Urban Development, Housing & Construction, National Report on Housing & Sustainable Urban Development (n 4) 57; see alsoEndale (n 13)

¹⁷ Committee on Economic, Social and Cultural Rights, General Comment 4, The Right to Adequate Housing, (1991), U.N. Doc. E/1992/23, para 8

¹⁸ SatvikDev, Rent Control Laws in India: A Critical Analysis (CCS Working Paper No. 158, 2006) 17; see also Eoin O'Sullivan and Pascal De Decker, 'Regulating the Private Rental Housing Market in Europe'(2007) 1 EIJH 92,103; Hans Lind, 'Rent Regulation and New Construction: With a Focus on Sweden 1995-2001'(2003) 10 SEPR 135, 138

¹⁹ Sue-MariMaass, 'Rent Control: A Comparative Analysis' (2012)15 PELJ 41,45

2. Literature Review

Rental accommodations provide a range of options to low-income households in terms of location, improved mobility and flexibility in terms of dwelling type.²⁰ It enables low-income households to avoid house price risks, indebtedness, and exposure of falling capital values and carries a lower transaction cost than homeownership.²¹ It also provides a regular additional source of income for landlords.²²

The access of low-income households to private rental housing was challenged by costs, specifically because of rising rent prices and shortage of affordable rental housing.²³ Many tenants are facing rent unaffordability problem throughout the world, and it is worse in developing countries where rental housing is less available.²⁴ For instance, 3.8 percent of Europeans, and 8.6 percent of those with income below 60 percent of the median national income are facing difficulty in paying rent²⁵; in Africa, the rent-to-income ratio in urban centers is more than twice that of cities in high-income countries at 39.5 percent of income.²⁶ Thus, by increasing the supply and regulating such rental accommodation it is necessary to solve affordability problem faced by low-income households.²⁷

Even though most governments have focused on homeownership policies, there are notable examples of supply and demand based policies aimed at encouraging the private rental sector and enabling rental price affordability for low-income families.²⁸ Such intervention includes taxation, subsidies and regulation.²⁹ The tax treatment play a vital role in either discouraging or encouraging private rental housing investment; for instance, it play encouraging role in Germany and France while in United State and Canada its discouraging.³⁰ Germany was also successful in having large and stable private rental housing sector by employing supply side subsidies for private investor.³¹ Some countries employ demand side subsidies, like rent allowance, to address affordability problems but it is highly unlikely that such schemes, in absence of other supportive policies regulating markets, are not sufficient enough to ensure the supply of affordable rental housing for low-income families.³² For instance, in countries in which supply of rental housing is limited, demand side subsidies are proved counter-effective because it actually lead to increment in rental prices and shortage of rental stock for low-income households.³³

Rent control laws are main means of ensuring affordable housing for low-income households in private rental accommodations.³⁴ Even though it varies across the countries, it mainly contains two protections: security of tenure and control on levels of rental price.³⁵ It tends to set the amount and frequency of rental price increases in the private rental-housing sector.³⁶ Some modern forms of rent controls are referred as rent regulation (also known as second and/or third generation rent control), which refers to schemes that limit rent increases with a view to preventing unreasonable rent increases as opposed to traditional rent control that totally froze rents (first generation rent control).³⁷ The justification for rent control laws were based on two conditions: first, the failure of rental housing market to function properly; and second, the societal definition of criteria relating to housing is broader than "economic efficiency" as it is defined by housing market.³⁸ The underlying assumptions of free market, such as presence of great numbers of tenants and landlords in a market, existence of equal bargaining power of both parties, existence of relatively homogenous stock, are not empirically grounded; and this result in rental housing market failure.³⁹ Thus, under such market failure, rent control is

²⁰Kath Scanlon and Ben Kochan (ed), *Towards a Sustainable Private Rented Sector: The Lessons From other Countries* (LSE 2011) 12

²¹ Ibid 139

²² UN-Habitat, *The Ethiopia Case of Condominium Housing: the Integrated Housing Development Programme* (n 8)10; see also Endale (n 13); Scanlon and Kochan (n 20) 51

²³ Organization for Economic Cooperation and Development (OECD), *Housing Markets and Structural Policies in OECD Countries* (OECD Economic Department Working Paper No. 863, Jan. 2011)

²⁴ Kemp (n 10) 1026-1029; see also UN-Habitat, *Affordable Land and Housing in Africa* (United Nations Human Settlements Programme, UNONP, 2011) 24

²⁵ Ibid; see also UN-Habitat, *Affordable Land and Housing in Africa* (n 24)

²⁶ UN-Habitat, *Affordable Land and Housing in Africa* (n 24)

²⁷ Scanlon and Kochan (n 20) 143-147

²⁸ J. Hegedus and Others, *Social Housing in Transition Countries* (Routledge 2012); see also J. Rugg and D. Rhodes, *The Private Rented Sector: its Contributions and Potential* (Centre for Housing Policy 2008)

²⁹ Steve Pomeroy and Marc Godbout, *Development of the Rental housing Market in Latin America and the Caribbean* (Inter-American Development Bank Discussion Paper 2011) 10-11

³⁰ Ibid 19; see also Scanlon and Kochan (n 20)

³¹ Alan Gilbert, 'Rental Housing: The International Experience' (2015) 30 *HJ* 1, 6-8; see also Scanlon and Kochan (n 20); Peppercorn and others, *Rental Housing: Lessons From International Experience and Policies for Emerging Markets* (WB 2013) 95

³² Winnick, 'The Triumph of Housing Allowance Programs: How a Fundamental Policy Conflict was Resolved' (1995) 1 *CS* 95, 121; see also Peppercorn and others (n 31)

³³ Kemp (n 10) 1025; see also Dugald Monro, *Public Rental Housing Policy: Learning the Lessons From Overseas* (Research Paper No.6 1997),

³⁴ Dev (n 18) 17; see also Sullivan and Decker (n 18)103, Hans Lind, 'Rent Regulation and New Construction: With a Focus on Sweden 1995-2001' (2003) 10 *SEPR* 135, 138

³⁵ Marietta Haffner and others, 'Rent Regulation: The Balance Between Private Landlords and Tenants in Six European Countries' (2008) 8 *IJHP* 217, 218-223; see also UN-Habitat, *Rental Housing: An Essential Option for the Urban Poor in Developing Countries* (United Nations Human Settlements Programme, UNONP, 2003) 159

³⁶ Hans Lind, 'Rent Regulation: Conceptual and Comparative Analysis' (2001) 1 *IJHP* 41, 44-46; see also Elia Werczberger, 'Home Ownership and Rent Control in Switzerland' (1997) 12 *HS* 337, 339, Philipp Deschermeier and others, 'A First Analysis of the New German Rent Regulation' (2016) 1 *IJHP* 1, 3-5

³⁷ Ibid; see also Hans Lind, 'Rent Regulation: Conceptual and Comparative Analysis' (n 36); see also Werczberger (n 36) 339, Deschermeier and others (n 36) 3-5; Maass (n 19) 45

³⁸ Craig P. Dunn & A. Quang Do, *The Normative Aspects of Rent Control* (T & E 1991) 291-294; see also Yves Zenou, *Housing Policies in China: Issues and Option* (IFN Working Paper No. 824, 2010) 5-7

³⁹ J. David Hulchanki, *Market Imperfection and the Role of Rent Regulations in the Residential Rental Market* (Research Study No.6, School of Community and Regional Planning, University of British Columbia, 1984) 72; see also Zenou (n 38)

justified; and it can prevent some aspects of rental housing condition from growing worse and enforce certain basic principles of justice and equity in the landlord-tenant relationship.⁴⁰The experience of some countries also shows that rent control is also justified in the case of absence of social or public rental housing that can serve as “safety net” for the poor and low-income households.⁴¹

On the other hand, there are also arguments against rent control laws. The critics claim that such measures produce inefficiencies, distort market values, reduce the housing supply and low housing maintenance.⁴²It has also been criticized for not targeting low-income household since controlled rents and protected tenancies usually favour those who have lived in rental housing for years over potential new tenants,⁴³ and there is no mechanism to ensure that those benefiting from rent control are the low-income households.⁴⁴

However, there are notable instances in which rent control laws have had favorable effects on stabilizing the rental sector i.e. it prevents arbitrary eviction and the exploitation of temporary shortages, and maintaining access by low-income households to urban housing that is well located.⁴⁵For instance, Austria, Germany, Switzerland, Canada and USA (New York and San Francisco) are notable examples where rent control laws have had positive effect.⁴⁶

When we consider rent control law under international human rights laws, it is one means of ensuring the right to adequate housing. As stated under ICESCR, the obligation to protect requires State to prevent violation of the right to adequate housing by third parties.⁴⁷The Committee on Economic Social Cultural Rights states that steps should be taken by States to ensure that the percentage of house related costs is generally commensurate with income levels; as for rental arrangement, tenants should be protected from unreasonable rent levels or rent increase by appropriate means, including legislative measure.⁴⁸Such legislative means includes subsidy schemes, rent controls and direct supply of housing provision by State.⁴⁹In support of this, the case laws of European Court of Human Rights show that rent control laws issued by various countries to address housing problem in their respective sphere are justified.⁵⁰ Since housing is a prime social need, it require some of form of regulation by State rather than being left to free market forces which failed to provide housing as expected.⁵¹The jurisprudence also shows that the right to property is not absolute and it can be legitimately restricted for the purpose of public interest; the public interest it serves is the protection of tenants from unreasonable rent increase and eviction.⁵²

In Ethiopia studies on the regulation of private rental housing sector is limited. Nevertheless, this does not mean that no research was conducted with regard to right to adequate housing. One of the study conducted on right to adequate housing in the country shows that, Ethiopia has not adopted adequate measure to realize this right.⁵³ An author argued that, measures that are in place and those addresses issues pertaining to the right to housing remain inadequate.⁵⁴Firstly, Ethiopia is supposed to take measures that are deliberate, concrete and targeted as clearly as possible towards the realization of the right to housing; these measures include specific housing legislation that has the realization of the right to housing as at least one of its primary purposes, which are missing in Ethiopia.⁵⁵Secondly, those measures are inadequate because they were not adopted to implement housing rights but to serves different societal goals.⁵⁶

In the other study, the writer also argued that there are violations of the right to adequate standard of living in general and the right to adequate housing in particular, but victims were left without remedy.⁵⁷First, courts of the country usually raise issues of legitimacy of courts to adjudicate violation of the right to adequate housing because the realization of such right requires mobilization of resources.⁵⁸ Second, non-justiciability and progressive realization were also raised by courts not to adjudicate cases of violation of the right to adequate housing; third, failure to directly apply the FDRE

⁴⁰ Dunn and Quand (n 38); see also Zenou (n 38)

⁴¹Lok Sang Ho, 'Its Rationale and Effects' (1992) 29 USJ 1183, 1184-1185; see also Kemp (n 10) 1020

⁴² Scanlon and Kochan (n 20)10; see also S. Kumar, Landlordism in Third World Urban Low-income Settlements: A Case for Further Research (US 1996) 768; R. Ault and R. Saba, "The Economic Effects of Long-term Rent Control: The Case of New York City" (1990) 3 JREFE 25, 41; L. E. Glaeser, 'Does Rent Control Reduce Segregation?' (2003) 10 SEPR 179, 202

⁴³ Kumar (n 42) 768-769; see also S. H. Anderson, 'Motives for Investments in Housing Rehabilitation among Private Landlords under Rent Control' (1998) 13 HS 177, 200; UN-Habitat, Rental Housing UN-Habitat, Rental Housing: An Essential Option for the Urban Poor in Developing Countries (n 35) 159

⁴⁴ Ibid; see also Ault and Saba (n 42), Glaeser (n 42), UN-Habitat, Rental Housing UN-Habitat, Rental Housing: An Essential Option for the Urban Poor in Developing Countries (n 35)

⁴⁵ Scanlon and Kochan (n 20) 145; see also Peppercorn and others (n 31)

⁴⁶Werczberger (n 36) 339-353; see also Pomeroy and Godbout (n 29)16-18

⁴⁷Committee on Economic, Social and Cultural Rights, General Comment No.4 (n 17) para 8

⁴⁸ UN-Habitat, Enhancing Security of Tenure: Policy Directions, Enhancing Urban Safety and Security (Global Report on Human Settlement, 2007) 27

⁴⁹Ibid

⁵⁰Mellacher and others v Austria App No10522/83; 11011/84; 11070/84 (ECHR, 19 December 1989) para 45; see also FleriSoler and Camilleri v Malta Judgment Application No. 35349/05 (ECHR, 26 September 2006); Hutten-Czapska v Poland App No. 35014/97 (ECHR, 22 February 2006); James and Others v United Kingdom App No 8793/79 (ECHR, 21 February 1986) para. 47; Anthony Aquilina v Malta, App No 3851/12 (ECHR, 11 December 2014); Amato Gauci v Malta App No 47045/06 (ECHR, 15 September 2009)

⁵¹Ibid; see also FleriSoler and Camilleri v Malta Judgment (n 50); Hutten-Czapska v Poland (n 50); James and Others v United Kingdom (n 50)para 47; Anthony Aquilina v Malta (n 50); Amato Gauci v Malta (n 50)

⁵² Ibid; FleriSoler and Camilleri v Malta Judgment (n 50); Hutten-Czapska v Poland (n 50); James and Others v United Kingdom (n 50)para 47; Anthony Aquilina v Malta (n 50); Amato Gauci v Malta (n 50)

⁵³DejeneGirmajanka, The Realization of the Right to Housing in Ethiopia (LLM thesis, School of Law, Pretoria University, Unpublished, 2007) 44-46

⁵⁴Ibid

⁵⁵ Ibid

⁵⁶ Ibid

⁵⁷ArmeyeAssefa, The Right to Adequate Standard of Living with Specific Focus on the Right to Adequate Housing: the Institutional and Legal Framework in Ethiopia (LLM thesis, School law, Addis Ababa University, Unpublished, 2011) 56-59

⁵⁸ Ibid

Constitution in litigation since it is the mandate of the House of Federation to interpret the constitution.⁵⁹ Generally, this study is different from previously conducted studies because it is interested only on affordability and security of tenure aspects of the right while the previously conducted studies were focused on the general aspects of the right to adequate housing.

3. Methodology

In order to achieve its objectives this study employees both qualitative and quantitative research design. The research is doctrinal or documentary research. In addition, some empirical data was used for supporting arguments forwarded and showing the extent of problems identified. Generally, the research was used two methods: Documentary research and interview.

Documentary research and literature: the research examine international human rights instruments, general comments, books, research studies, academic articles, and domestic laws that have some relevance to the study. The jurisprudence of other countries and international treaty monitoring bodies in the adjudication of socio-economic rights were also reviewed for better analysis of issues. In addition, various internet sites were visited for relevant data.

Interview: *This is relevant to assess the initiation of self-regulation for standardized rent by condominium owners' associations found in Addis Ababa city; and to know what the Ethiopian government is doing with regard to ensuring affordability of private rental housing sector and other obligations related to the realization of the right to adequate housing. The interviews were made with public officials at ministerial level and managers of condominium owners associations.*

4. Findings

4.1. Problem of Rent Increase

The private rental sector in Ethiopia is driven by market, rent price is increasing on fast rate, and the sector fails to deliver houses with affordable price let alone adequate.⁶⁰ Despite the fact that the sector is abusing human right of the right to adequate housing of the poor and low-income households, government forgets the sector. The absence of rent regulation makes the tenants to stay in their rental accommodation at mercy of the landlords because the landlords are at liberty either to evict tenants without any justified cause or demand excessive amount of rent that the tenant cannot afford.⁶¹

The complaints surrounding rent increase are something that can be heard throughout tenants that are living in urban centers.⁶² In Ethiopia, many landlords increase their rent prices for different reasons. The major reason mostly given is market inflation, they increase rent in an effort to supplement the increasing costs of living.⁶³ The other reason is increasing demand for rental accommodation in urban centers.⁶⁴ Such an increase in demand for rental accommodation make landlords to demand whatever amount of rent they wish since there are plenty of people who would rent the house at the new price. For instance, according to the Gotera Condominium Site Manager, due to increasing number of foreigners, who can pay whatever amount of rent they were asked, is playing crucial role for rental price increment because the amount they pay for that landlord will become a reference rent amount in that areas in two ways.⁶⁵ First, other landlords also request the same amount of rent; second, brokers, who play a major role in determining the amount of rent, take that amount as reference for determining subsequent rents.⁶⁶ The Manager added that under these circumstances tenants who cannot afford same payment have only one option, which is looking for another rental house far. The other reason given is salary increment for government employees.⁶⁷ However, the major reason is shortage of housing.⁶⁸ There is big gap between housing demand and supply in urban centers that cause rental price increase.⁶⁹ The gap between demand and supply, that is, there are high demand for houses while the supply of houses are limited, resulted in housing shortage; for instance, according to the MUDHCo in 2014 estimate that the housing gap in urban centers is about one million units.⁷⁰ Such housing shortage in turn creates favorable ground for landlords to increase rent.⁷¹

Since the sector provide different housing types, the rental price also differs accordingly. The amount of rent in condominium rental accommodations is much higher than other private residential rental accommodations. For purpose of giving emphasize to the problem, let us consider rental price and affordability of the sector based on secondary and primary data gathered from different organs by taking Addis Ababa case as an example. Self-regulation for standardized rent was initiated by the Gotera Condominium Site owners association and they tried to set rental price for the site, in 2011, although the measure did not last long.⁷² Accordingly, at that time, the owners association fixed rent for studio at

⁵⁹ Ibid

⁶⁰ Ministry of Urban Development, Housing & Construction, National Report on Housing & Sustainable Urban Development (n 4) 57-60

⁶¹ Ministry of Urban Development, Housing & Construction and Ethiopia Civil Service University, The State of Ethiopian Cities Report (n 6) 95-96; see also Endale (n 13); Tadesse (n 14); Civil Code of Ethiopia Proclamation No. 165/1960, art 2950

⁶² Endale (n 13); see also Tadesse (n 14)

⁶³ Ibid

⁶⁴ Ibid

⁶⁵ An Interview with the General Manager of Gotera Condominium Site Unit Owners Association Mr. Legese Mekuria on Date 17/05/2017

⁶⁶ Ibid

⁶⁷ Ibid

⁶⁸ Ministry of Urban Development, Housing & Construction, National Report on Housing & Sustainable Urban Development (n 4)

⁶⁹ Ministry of Urban Development, Housing & Construction, The National Urban Housing Development Policy and Strategy Framework (n 3) 29-43; see also Ministry of Urban Development, Housing & Construction, National Report on Housing & Sustainable Urban Development (n 4) 60

⁷⁰ UN-Habitat, The Ethiopia Case of Condominium Housing: The Integrated Housing Development Programme (n 8) 6

⁷¹ Endale (n 13); see also Tadesse (n 14); Maass (n 19)

⁷² An Interview with the General Manager (n 65)

700-900 ETB; one-room condominium at 1,500-1,800 ETB; two-room condominium at 2000-2500 ETB while three-room condominium at 3000-4000 ETB.⁷³The Committee in fixing this rental price they took into account various factors including location of the unit within the site, location of the unit on the building (Ground, G+1, G+2), finishing work of the unit and others.⁷⁴ Two years later, in 2013, the rental price for the same site was increased highly and become for studio 2000-2800 ETB; one-room condos 3000-3500 ETB; two-room condos 4500-5000 ETB while three-room 5500-6000 ETB.⁷⁵Currently, in 2017, the average market rent of the same site according to the Manager is for studio 3000-3500 ETB; one-room condos 4500-5000 ETB; two-room condos 5500-6000 ETB while three-room condos above 7000 ETB/month.⁷⁶

On the other hand, affordability refers to the amount a family pay for their housing must not be so high that it compromise the attainment and satisfaction of other basic needs; and accordingly it protect tenants against unreasonable rent increase.⁷⁷It can be expressed as a ratio of the sum of the monthly housing rent payment to the monthly income of household; hence, most literature reveals that the percentage of family's income ratio to housing should be not greater than 30-35%, or less for the lowest-income groups.⁷⁸ For the purpose of this paper the writer, employ 30% because it is the most conventionally used as a benchmark to evaluate affordability of housing in across countries.⁷⁹Accordingly, if one has to pay 30% of its income for rent he/she should have a monthly salary of 10,000 ETB per month for the studio type and 24,000 ETB per month for the three bedroom units.⁸⁰ However, such monthly incomes are impossible seeing from various standards; for instance, according to the World Bank report in 2016 in Ethiopia the share of the population living below the poverty line (on less than \$1.9 per day) was estimated at 33.5 percent while 71.3 percent were living in poverty earning below \$ 3.1 per day.⁸¹ Furthermore, the report also shows that the GDP per capita income of the country was \$ 617.⁸²

With regard to private residential rental accommodations, other than condominium rental houses, the average market rental price in Bole KifleKetema (CMC and former Japanese Embassy areas) and Nefas Silk LaftoKifleKetema (Gabriel area) for single room is about 1450 ETB while for double room it is about 3,600 ETB.⁸³Accordingly, if one has to pay 30% of its income for rent he/she should have a monthly salary of 4,800 ETB per month for single room and 12,000 ETB per month for 2 rooms.

On the other hand, the salary scale for government employees ranges from 1,013 to 14,589 ETB per month.⁸⁴Hence, for a civil servant (living in that areas) getting the minimum salary of 1013 ETB/month the option⁸⁵remains to share a single studio condos among nine families earning the same amount of monthly wage, or, to share a single room among four families earning the same amount of monthly wage in private residential rental housing.⁸⁶ This indicate how absurd the condominium rental prices' rises are as compared to private residential rental housing. Generally, this shows that how much rental housing is unaffordable for civil servants depending on their monthly wage. The same works true for workers in private organizations since there is no significant difference in their salary as compared to salary of civil servant in government offices.⁸⁷

4.2. Option for Low-Income Households

The main challenge of the IHDP in Ethiopia is that many poor and low-income families are not beneficiaries of this program because they cannot afford down payment or the mortgage requirement despite the program's laudable aim of making low-income families homeowners.⁸⁸This is mainly due to predominance of informal employment in the urban areas that can be expressed by low and irregular streams of income that resulted in not being qualified even for

⁷³ Ibid

⁷⁴ Ibid

⁷⁵ Endale (n 13)

⁷⁶ An Interview With the General Manager (n 65)

⁷⁷ Committee on Economic Social Cultural Rights General Comment No 4 (n 15) para 8; see also UN-Habitat Fact Sheet No.21/Rev. on the Adequate Housing (2009) 4

⁷⁸ Peppercorn and others (n 31) 49

⁷⁹ Kristoff Heylan and Marietta Haf, 'A Ratio or Budget Benchmark for Comparing Affordability across Countries?' (2013) 28 JBHE 547, 549-551; see also M. Quigley and Steven Raphael, 'Is Housing Affordable? Why is not it More Affordable?' (2004) 18 JEP 191, 197-199

⁸⁰ Affordable house rent is up to 30% of Monthly income (rent= monthly income * 30/100). Here we know the current rent amount, for instance for studio 3000-3500 Birr; if one household is to pay let say 3000 Birr per month, then we can calculate what amount of monthly income should household have to earn if this given amount of rent is to be affordable? Rent=monthly income*30/100 → monthly income= rent*100/30; hence, for instance, for studio, 3000*100/30=10,000 Birr per month

⁸¹ International Monetary Fund, The Federal Democratic Republic of Ethiopia (IMF Country Report No 16/322, October 2016) 21-22

⁸² Ibid

⁸³ Tadesse (n 14)

⁸⁴ New Salary Scale in Ethiopia <<http://www.ETIOVOICE.NET/2017/23/NEW-SALARY-SCALE-IN-ETHIOPIA/>>accessed on 30 May 2017

⁸⁵ In fact civil servant with that monthly salary may have option like changing his living area to some other place with low market rental price but if we suppose that such civil servant decided to live in the same area then the option in that circumstance is to choose between the two option presented above.

⁸⁶ Since if someone is to get rental house of studio type (which it rent is 3000 Birr/month) in condominium rental accommodation and to pay about 30% of his/her monthly income, then he/she should have a monthly salary of 10,000 birr, but here the minimum salary of civil servant is 1013 Birr/month, so he/she need to join with nine persons/ households having the same amount of monthly salary (1013+ (9*1013)=10,013 Birr so that jointly they can afford together; but here it should be noted that the number people to be joined could be minimized by joining person with different amount of monthly income/salary. The same formula works for private residential rental accommodation.

⁸⁷ Habtewold (n 8)

⁸⁸ UN-Habitat, The Ethiopia Case of Condominium Housing: The Integrated Housing Development Programme (n 8) 39-40

registration let alone for bank loans.⁸⁹Hence, poor and low-income families, access to home ownership, are currently impeded from being beneficiary of the IHDP.

Then if they are excluded from house ownership, the next option for them is looking for rental accommodation. In Ethiopia there are two types of rental accommodations: public and private rental housing. Public rental housing in Ethiopia is characterized by: first, accidental emergency associated with the coming to power of a socialist regime, that is, when the socialist government nationalized extra houses owned by the private sector and changes them to state ownership.⁹⁰Second, the current government policy and strategy are challenges for the further development of the sector because the government current housing strategy focus only on ownership while not giving due attention to the rental sector in general and this can be expressed, for instance, by absence of any further supply of public rental house since 1991.⁹¹

Thirdly, decrease in public rental housing stock because of demolition of houses under urban redevelopment program throughout the country (in Addis Ababa for example in areas of TekleHaimanot, Filwuha, Lideta and Casanchis areas renewal projects, regional capitals and major urban areas).⁹²For instance, AGH loses 5% from the total units under its administration in Addis Ababa alone while significant number of Kebele units are also demolished.⁹³Besides most of the existing Kebele houses are found at worse condition due to absence of maintenance and repair for long period of time, sub-standard houses with leaking roof and without basic services.⁹⁴Fourthly, the current tenants of public rental housing (houses under the AGH), especially in Addis Ababa, are mainly high and middle income households, as opposed to low-income households which are considered to be the right target group of such public housing program.⁹⁵These factors shows that the public rental housing sector is not functioning efficiently, thus, the sector is not accommodating low-income households' as supposed to be.

Private rental sector in Ethiopia due to being unregulated of the housing market, rental price is dramatically increasing in fast rate, and consequently, the sector fails to deliver housing with affordable rental price to the low-income households. Law of contract of lease of house does not address the problems related to rent since it was issued on the idea of freedom of contract.⁹⁶ The main problems of the law, first, it does not regulate how to determine rent, what factors are to be considered, on what grounds to increase rent and rent level. Second, it allows landlord to terminate lease contract anytime without good cause and does not provide a chance of questioning the legality of such termination to tenants. This allows landlord to evict tenants for even failure to pay unreasonable rent increases.

The problem of rent increase is further aggravated by shortage of housing in the urban centers of the country.⁹⁷The reasons are, first, high demand for housing due to high population growth rate and high migration of people to urban centers.⁹⁸ Second, limited supply of housing due to high construction cost, shortage of public housing finance, high rate mortgage interest rates, limited land supply and low income levels of urban households; high proportion of slum dwellers and informal settlements.⁹⁹Hence, the access of low-income households to private rental housing sector is currently hindered by costs; mainly because of rising rental prices and a shortage of affordable rental housing.

Generally, although housing is one of basic human needs, in Ethiopia low-income households' access to housing is impeded by several factors. Under such circumstances, when the housing market failed to provide housing to the society and low-income households specifically, most government intervene into the housing market in the form of rent control.¹⁰⁰Rent controls are measures that aimed at enhancing housing affordability by restricting rental price increases and granting minimum security of tenure to tenants, so that, landlords cannot circumvent rent restriction through terminating their contract.¹⁰¹ However, government has to make sure that proper balance is maintained between the interest of both landlords and tenants. Landlord's interest under such circumstance is protection of their right to property. In the coming discussion, the paper discusses how government can permissibly interfere with property right of individual landlords in the way of regulating rental price in the private rental housing sector.

4.3. Permissible Interference with Property Rights

The most important aspects of the right to property are the owner's rights to use and to dispose the property.¹⁰²The right of use refers to the ability to enjoy an object in accordance with its purpose; this aspect of the right gives the owner an exclusive right to his property.¹⁰³Right to dispose of is another fundamental aspect of the right to

⁸⁹ Ibid

⁹⁰ Ibid

⁹¹ Ministry of Urban Development, Housing & Construction, *National Report on Housing & Sustainable Urban Development* (n 4)

⁹² Ministry of Urban Development, Housing and Construction and Ethiopia Civil Service University, *The State of Ethiopian Cities Report* (n 6) 98

⁹³ Ibid 99

⁹⁴ Ibid

⁹⁵ Habtewold (n 8) 64

⁹⁶ Civil Code (n 61) art 2950

⁹⁷ Ministry of Urban Development, Housing & Construction, *The National Urban Housing Development Policy and Strategy Framework* (n 3) 29-43; see also Ministry of Urban Development, Housing & Construction, *National Report on Housing & Sustainable Urban Development* (n 4) 60

⁹⁸ Ibid 58-60

⁹⁹ Ibid

¹⁰⁰ Sullivan and Decker (n 18) 95-117

¹⁰¹ Maass (n 19) 45-46; see also Hulchanki (n 39) 73-78

¹⁰² Laurent Sermet, *The European Convention on Human Rights and Property Rights* (CE 1st ed. 1999) 17; see also Monica Carss-Frisk, *The Right to Property: A Guide to the Implementation of Article 1 of Protocol No.1 to the European Convention on Human Rights* 4 (CE 2003)

¹⁰³ Ibid 17-18; see also Crass-Frisk (n 102) 6-10

property.¹⁰⁴It entitles the owner to enter into a legal relationship with another person, which may take various forms: sale, rental or usufruct.¹⁰⁵

These two aspects of rights can be restricted. Interference made with regard to right to use is said to be control of use while interference made with regard to right to dispose is said to be deprivation.¹⁰⁶Control of use involves no transfer, the owner retain his property, but it is restricted in use of it while deprivation involves taking the possession away from its owner.¹⁰⁷In some exceptional circumstances, such dispossession may constitute control of use of property; for instance, control of use for public interest may also involves dispossession of property; restrictions on freedom of contract in respect of tenancies can constitute control of the use of property. In such cases, the owner is dispossessed but still using the property by collecting rent though it is the reduced one.¹⁰⁸In the *FleriSoler and Camilleri v Malta* judgment case, the European Court of Human Rights stated that such measures taken by Malta government that were aimed at subjecting the applicants' property to a continued tenancy does not amount to formal or de facto expropriation, rather constitute control of use of property under Article 1 of Protocol No. 1.¹⁰⁹

Interference with property right is justifiable when three conditions are fulfilled; these are legality (lawfulness), legitimate aim and proportionality.¹¹⁰The first condition refers to the circumstances in which the limitation will be imposed are clearly delineated in an accessible law.¹¹¹This condition protect the right to property from arbitrary measures.¹¹²This requirement reserves to the States the right to enact laws, as they deem necessary to control the use of property in accordance with the general interest.¹¹³This condition also enable State to interfere with freedom of contract as stated by the European Court of Human Rights '... in remedial social legislation and in particular in the field of rent control it must be open to the legislature to take measures affecting the further execution of previously concluded contract in order to attain the aim of the policy adopted'.¹¹⁴

The second condition refers to that, any limitation must be based on one of permissible legitimate aims listed as ground for restriction in the relevant provision such as "public order", "general interest", "public interest".¹¹⁵According to the European Court of Human Rights legitimate aims of "public interest", are measures designed to achieve greater social justice.¹¹⁶The Court stated that public interest that can be addressed by rent control measures are securing the stable, socially and economically justified housing rent for apartments that as a rule served the needs of those broad sections of the population who depended on leased accommodation.¹¹⁷

The third condition, proportionality, is about establishing a balance between aims of legislation and the means it used.¹¹⁸The European Court of Human rights held that a fair balance must be maintained between demands of general interest of the community and the requirements of the protection of the individual's fundamental rights.¹¹⁹Proportionality of compensation in the context of social measures such as rent control could not be calculated based on full value on the open market, but was a matter that fell within margin of appreciation of the State.¹²⁰ The Court asserted that regular payment of rental price to the landlords mitigated the effects of the requisition and suffice to achieve this balance.¹²¹So long as the State's legislation remained within the bounds of its margin of appreciation, the possible existence of alternative solutions does not in itself render the rent control legislation unjustified.¹²²

Generally, these jurisprudences of the European Court of Human Rights show that the right to property is not absolute and it can be legitimately restricted for the purpose public interest; and the public interest it serves is, the protection of tenants from unreasonable rent increases and eviction. It also shows that rent control laws issued by different States to addressed housing problem are justified since housing is a prime social need, which requires some form of regulation, by State rather than being left to free market forces that failed to provide housing as expected.

Coming to Ethiopia, the FDRE Constitution Article 40(1) reads as: 'Every Ethiopian citizen has the right to the ownership of private property. Unless prescribed otherwise by law on account of public interest, this right shall include the right to acquire, to use and, in a manner compatible with the rights of other citizens, to dispose of such property by sale or bequest or to transfer it otherwise.'¹²³This provision shows that the right to property can be limited for the purpose of public

¹⁰⁴Ibid

¹⁰⁵ Ibid 18-20; see also *Crass-Frisk* (n 102)

¹⁰⁶ Ibid 24-25; see also *Crass-Frisk* (n 102)

¹⁰⁷ Ibid 23, 25-26; see also *Crass-Frisk* (n 102)

¹⁰⁸*Mellacher and Others v Austria*(n 50); see also *FleriSoler and Camilleri v Malta Judgment* (n 50) para 54, *Hutten-Czapska v Poland*(n 50) para 160-61

¹⁰⁹*FleriSoler and Camilleri v Malta Judgment*(n 50)para 54; see also *Hutten-Czapska v. Poland*(n 50)

¹¹⁰*Sermet* (n 102) 32; see also *Siracusa* "Principles on the Limitation and Derogation of Provisions in the International Covenant on Civil and Political Rights" (1985), principle 10; see also *Elizabeth K. Cassidy, 'Restricting Rights? The Public Order and Public Morality Limitations on Free Speech and Religious Liberty in UN Human Rights Institutions'* (2015) 13 *RFIA* 5, 5; *Amato Gauci v Malta Judgment* (n 50) para 54;*Mellacher and Others v Austria*(n 50);*Hutten-Czapska v Poland*(n 50)

¹¹¹*Siracusa Principles* (n 110) principle 14; *Mohammed ElewaBadar, 'Basic Principles governing limitations on Individual Rights and freedoms in Human rights Instruments'*(2003) 7 *IJHR* 63, 65-75

¹¹² Ibid; see also *Sermet* (n 102) 33

¹¹³*Mellacher and Others v Austria* (n 50)

¹¹⁴ Ibid para 51

¹¹⁵*Siracusa Principles* (n 110) principles 21-37

¹¹⁶*James v United Kingdom* (n 50)

¹¹⁷*Mellacher and Others v Austria* (n 50) para 19

¹¹⁸*Badar* (n 111); see also *SiracusaPrinciples* (n 110), *Sermet* (n 102)

¹¹⁹*Brumărescu v Romania App No 28342/95 (ECHR 1999)*

¹²⁰*Mellacher and Others v Austria* (n 50)

¹²¹ Ibid

¹²² *James and Others judgment* (n 50) paras 35, 51

¹²³*Constitution of the Federal Democratic Republic of Ethiopia Proclamation No. 1/1995, art 40(1)*

interest. It also shows that property right need to be exercised in a manner compatible with rights of other citizens. From this provision the phrase which say ‘... unless prescribed otherwise by law on account of public interest...’ is vital for this discussion since it provide limitation clause and legitimate aim upon which right to property can legitimately be restricted. The phrase “...unless prescribed otherwise by law...” show that the right to property is not absolute right. The existence of this limitation clause reserves to State to enact laws, as they deem necessary to control the use and enjoyment of property in accordance with the public interest. Hence, using this limitation clause the legislature can issue a law that regulate rent in the private rental-housing sector legitimately.

The legitimate aim that can serve as justification for enacting such law will be public interest. The public interest to be served by such law is to secure the stable and justified rental housing price in the private rental housing market, so that, low-income households can access affordable rental housing. As discussed above, housing market failed to provide affordable rental housing for low-income households that pictured the need regulate the private rental-housing sector in order to provide affordable rental accommodation for such groups. Thus, this can serve as a legitimate purpose that enable State to interfere with right to use and enjoyment of property of individual landlords.

Besides, according to BeyeneMellese director of residential housing study and data administration at Ministry of Urban Development and Housing there was a research conducted on this area three years ago.¹²⁴The research finding reveals that currently there is high demand for the regulation of private real estate and private rental housing sector.¹²⁵This can be expressed, for instance, by un-affordability of private rental sector with ratio to income up to 40-50 percent like in case of condominium rental accommodation found in Addis Ababa city; and existence of sub-standard houses with high rental price.¹²⁶ He also disclosed that draft law on regulation of private rental house and private real estate developers are under discussion.¹²⁷The draft law on regulation of private rental sector contains provision on rent regulation and minimum time of protected tenancy.¹²⁸ Rent increment is capped at 10 percent of the previous rent price in case of renewal or new contract of lease.¹²⁹It also set minimum standard for living condition of rented houses.¹³⁰

Finally, the director emphasized that there are challenges that need careful assessment. First, absence of adequate and sufficient data on private rental stock, specifically as to its size and condition, that need to be considered before the draft law was to be promulgated.¹³¹ Second, possible effect also need to be analyzed carefully since following rent regulation there is a possibility for emergency of black market that may undermine the purpose of rent regulation.¹³² Third, it is highly advisable to strike a balance between public interest to be served and landlord interest which may be attained through various means such as tax incentive, subsidies since rent regulation may not work effectively unless supported by other mechanisms. This shows the need to balance between legitimate aim to be pursued and mean to be used.

In fact, the third condition of necessity or proportionality seems missing from the reading of the above constitutional provision. However, by resorting to interpretation through cumulative reading of Articles 9(4) and 13(2) we can read this test into our constitution.¹³³ Above all, even if these conditions are not fulfilled as stipulated under laws, still it is possible to come up with law that can ensure the observance of the right to adequate because the very foundation of human rights were not legislation, rather, legislation and conventions are there only to accord minimum human right protection than granting them.¹³⁴ Moreover, various evidence show that that prior importance of human rights plays an important role in motivating legislation.¹³⁵ The status and standing of human rights are given importance even before any legislation aimed to give force to it.¹³⁶ This can be expressed by the fact that many legislation and legal convention have certainly been inspired in some pre-existing claims of all human being.¹³⁷ For instance, the American Declaration of Independence and French Declaration of the Rights of Man show that legislation are do not grant human rights but only to recognize it as opposed to positivist view advocated by Jeremy Bentham.¹³⁸

Generally, fair balance needs to be maintained between the means used and the legitimate aim to be pursued, for instance, the law should not have to impose undue burden on individual like freezing rental price despite existence of inflation or change of other circumstances. The government should also need to share burden by providing different incentives for the landlords, for instance, as seen in case of German experience allowing landlords to withhold some percent of money from taxes they are supposed to pay to the government, or providing supply side subsidies.¹³⁹

¹²⁴ An Interview with Mr. BeyeneMellese, Director of Residential Housing Study and Information Administrator at the Ministry of Urban Development and Housing on date 18/05/2017

¹²⁵ Ibid

¹²⁶ Ibid

¹²⁷ Ibid (I am denied to access the draft laws on the account that it is not finalized)

¹²⁸ Ibid

¹²⁹ Ibid

¹³⁰ Ibid

¹³¹ Ibid

¹³² Ibid

¹³³ Adem Kassie Abebe, 'Human Rights under the Ethiopian Constitution: A Descriptive Overview' (2011) 5 MLR 41, 59

¹³⁴ AmartyaSen, 'Human Rights and the Limits of Law' (2006) 27 CLR 2913, 2914-2920

¹³⁵ Ibid; D Chandler, 'Universal Ethics and Elite Politics: The Limits of Normative Human Theory' (2001) 5 IJHR 72, 74-77

¹³⁶ Ibid; see also Frank I. Michelman, 'Human Rights and The Limits of Constitutional Theory' (2000) 13 RJ 63, 64-73

¹³⁷ Ibid; see also Michelman (n 136)

¹³⁸ Ibid; see also Michelman (n 136)

¹³⁹ Scanlon and Kochan (n 20)

4.4. Effect of Rent Control

Carefully crafted rent control bears the capacity to achieve the stated objective of ensuring the affordable housing besides stabilizing the rental market and maintaining investment. Such careful designing requires among others, striking balance between the interests of tenants and landlords since it will enable rent control measures to have positive effect on private rental housing market.¹⁴⁰ The development of the private rental sector and the way in which rents are regulated appear to be linked.¹⁴¹ Strict rent control measures known for discouraging investment and produce a shrinking rental sector.¹⁴² Third or second-generation rent control models seem to have positive effect better than first-generation models.¹⁴³ Rent control should allow rent increase linking it to fiscal measures such as inflation rate.¹⁴⁴ The rent increase structure must allow landlords to recover their investments and maintenance costs.¹⁴⁵ For instance, the European Court of Human Rights in the case of *Hutten-Czapska v Poland* stated that shortage of dwellings and high cost of acquiring flats on the market justify, rent control law that set a low rent at level below the market rent, but failure of not adopting means that allows landlords to cover maintenance cost impose undue burden on landlords.¹⁴⁶ Not adopting means for recovering maintenance or repairing cost cause deterioration of the property for the lack adequate investment and modernization on the property.¹⁴⁷ Such means may include allowing reasonable rent increase, tax incentive and subsidies.¹⁴⁸ Hence, by inculcating such mechanisms it is possible to mitigate the negative effect of rent control on the rental housing market.

With regard to interest of tenants, rent control will only have positive effect if tenant has rent protection accompanied by tenure protection otherwise landlord may evict tenants to circumvent rent regulation.¹⁴⁹ The rent control should have to accord both protection of security of tenure and control on levels of price increase.¹⁵⁰ To ensure that low-income households and vulnerable are really beneficiaries of from rent control measures, two things could be done as German experience shows. First, providing subsidies for special purpose investments, for instance, to supply housing for low-income households and those facing particular difficulties to access affordable housing such as released prisoners, homeless people, people with disabilities, etc.¹⁵¹ Such landlord are obliged to let the dwellings only to those targeted groups at rent below market level during such tenancies relationship.¹⁵² Second, maintaining uniform application of rent control measures regardless of the landlord types; such uniform application enhance the observance of the law and doing away with the possible emergency of black rental market which in turn increase positive effect of rent control law on the rental housing market.¹⁵³

Generally, if the above-discussed points are considered, rent control law will have positive effect of stabilizing the rental housing market, which can be explained by high degree of security and access by low-income households to urban housing, and maintained rental investment (ensure the further development of the sector). This in turn result in the enhancement of the realization of the right to adequate housing of the citizens and low-income households particularly. It also amounts to observance of the State's human rights obligation under international human rights instruments.

5. Conclusion and Recommendation

5.1. Conclusion

The right to housing is a basic human right the satisfaction of which serves as a basis for the enjoyment of all other human rights. Affordability and security of tenure protection comprise among the basic legal content of the right to adequate housing. The protection to these aspects of the right needs to be observed irrespective of the tenure types. Private rental sector is one form of housing tenure that provides rental accommodations to majority of urban dwellers in Ethiopia. Thus, the aim of this research has been to assess the need to regulate rent in the private rental-housing sector in Ethiopia for the realization of right to adequate housing.

The finding of the research shows that in Ethiopia there is a need for regulation of private rental sector, specifically, the rental price and security of tenure to make the sector affordable for the low-income households. Low-income households in Ethiopia are impeded from being accommodated through homeownership schemes or rental accommodations. First, due to their low and irregular income they are not in position to be beneficiary of government subsidized homeownership schemes through the IHDP. Second, the public rental sector that is supposed to serve as "safety net", for the poor and low-income households, is not working efficiently and found in state of unfit for living condition. Third, private rental sector failed to supply affordable rental accommodation because of shortage of housing, that is, there is high demand while the supply of house is very limited one.

¹⁴⁰Haffner and others (n 35) 218-220

¹⁴¹Ibid

¹⁴² Prince Christain, Investment Analysis: The Pros and Cons of Rent Control (2009) <<https://www.globalpropertyguide.com/investment-analysis/The-pros-and-cons-of-rent-control>>accessed on 1 May 2017, 2

¹⁴³ B. Turner and S. Malpezzi, 'A Review of Empirical Evidence on the Costs and Benefits of Rent Control' (2003) SEPR 10, 19

¹⁴⁴Ibid

¹⁴⁵Ibid

¹⁴⁶Hutten-Czapska v Poland(n 50) para 184

¹⁴⁷ Ibid paras 82, 104, 138

¹⁴⁸Ibid

¹⁴⁹Haffner and other (n 33) 221-223

¹⁵⁰ Ibid

¹⁵¹ Peppercorn and others (n 31) 96

¹⁵² Ibid; see also Scanlon and Kochan (n 20) 56

¹⁵³ Peppercorn and others (n 31) 95

Moreover, the law that deals with residential rental arrangement (lease of house) leave the determination of rental price to the free negotiation of parties. However, there are evidences that demonstrates the imbalance of bargaining power in the private housing sector between tenants and landlords. Such circumstances added to the existing shortage of houses have resulted in, freedom of contract bringing socially undesirable consequences such as unreasonable rental increases and eviction. The experiences of different countries show that, under such circumstance most of the time, governments intervene into housing market in order to regulate the market in the form of rent control. Furthermore, Ethiopia being a member to international human rights instruments, like the ICESCR, has the obligation to ensure that its agencies and private organs observe the right to adequate housing. Accordingly, the government need to regulate the private rental housing sector since the rental housing market failed to provide affordable rental housing accommodations for low-income households because of high and frequent rental price increases or levels.

5.2. Recommendation

Ethiopia does not have any specific housing legislation that creates obligation to realize the right to adequate housing or protect people against acts infringing their right adequate to housing. However, for meaningful realization of the right to adequate housing, such legislation is highly recommendable. Therefore, this paper recommends that Ethiopia enact specific housing laws.

Moreover, despite the laudable aim of the IHDP of making poor and low-income households' homeowners, the actual beneficiaries of the program have been better-off households who could readily pay down payments or the full selling price of the condominium units. Low-income households are not beneficiary of the program because of unaffordability of down payment and high mortgage condition for bank loans due to their low- and irregular-income levels. Therefore, it is recommended that the government allocate some of these houses to the people who cannot afford to pay for them and/or to review the program in the way that the unaffordability problem is solved.

Related to this the major reason for the absence affordable housing in Ethiopia is limited housing supply while the demand is so high. The causes for limited housing supply are shortage of public housing finance, high mortgage interest rate, high construction cost, limited serviced land and others. Unless these basic problems are solved, it is still unfeasible to meet high demand for affordable housing accommodation. Therefore, it is recommended that government should solve these causes for the shortage of housing supply.

Besides, the current government policy is focused only on home ownership strategy to address the housing problem of the country. However, homeownership for all is neither desirable nor possible for all household groups and life-cycle stages. Rental accommodations offer a window for housing affordability and a place for equation of improving housing conditions for urban Ethiopians; since rental housing is a key component of well-functioning and healthy housing market.¹⁵⁴ Therefore, it is recommended that Ethiopian government should inculcate rental accommodation development strategy in its housing policy and strategies framework.

Finally, the private rental-housing sector is the major housing accommodation in the urban Ethiopia despite the sector's frequent high rental increases and eviction. The sector has accommodated different categories of the society ranging from young students to vulnerable elders. On the other hand, government's obligations remain intact even if basic social service like housing is delivered by private individuals. The ICESCR to which Ethiopia is a signatory member imposes duty to ensure right to adequate is observed. Accordingly, member states' failure to intervene in the housing market, especially concerning rent levels, issues of security of tenure and prevention of undue speculation is amount to violation of right to adequate housing. Therefore, it is recommended that the government should regulate private rental housing in order to make housing affordable for the citizens of the country in general and specifically for the low-income households. Such regulation will enable to access housing provision at the affordable end of the private market and to redress the decline in public housing provision and, hence, this enhances the realization of the right to adequate housing in the country.

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