Protecting the Land Rights of Women through an Inclusive Land Registration System
The Case of Ethiopia

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ABSTRACT

Land is owned by the state and peoples of Ethiopia. Rural farmers and pastoralists have landholding right which contains bundle of rights. Women have equal right to fully use their landholding. Ethiopia has implemented a first level land certification (FLLC). Despite the achievements of the FLLC, gaps were identified especially as regards to local participation throughout the certification process. Ethiopia is currently implementing Second Level Land Certification (SLLC). 15 million parcels have been registered, of which about 80% are owned by women either privately or jointly with their husbands. This SLLC is implemented in a participatory way. The main objective of this paper is to assess the equity and inclusiveness of the land titling program of Ethiopia in protecting the land rights of women. It is found that the legal frameworks are inclusive for Women, sometimes contain affirmative provisions; the land registration program is inclusive containing procedures for the protection of land rights of women; free legal aid services are being provided for women for their land right protection and there are positions and institutions (Social Development Officers; Women Land Right Task Force and Good Governance Task Team) exclusively responsible for the protection of the rights of women; which are vital for the sustainability of the system. But still there are gaps on legal frameworks; the existence of gender negative customary systems; weak institutional arrangement; registration of land which is under polygamous union; getting certificate does not mean that women have control power over their land. Based on this findings the research recommends for making the process of land registration and titling inclusive; assigning Social Development Officers in the land administration system; conducting repeated follow up after women receive their certificates; and revising legal gaps.
1. INTRODUCTION

The right to land in rural Ethiopia gives farmers a possessory or holding privilege which include the rights to use and enjoy, rent, donate and inherit the land (Daniel, 2009). Even though it is the state which controls land ownership, rural peasants and pastoralists are guaranteed with lifetime “holding” right that gives all rights except sale and mortgage (Daniel, 2012). The government has started titling rural land some ten years ago.

The main objective of the study is to assess the inclusiveness of the rural land titling program of Ethiopia, especially as regards to protecting the land rights of women and to share the experiences, opportunities and challenges which Ethiopia is facing.

2. THEORETICAL FRAMEWORK

Governance can be defined as the structures and processes that are designed to ensure accountability, transparency, responsiveness, rule of law, stability, equity and inclusiveness, empowerment, and broad-based participation. (UNEC, 1996). Land governance is the process by which decisions are made regarding the access to and use of land, the manner in which those decisions are implemented and the way that conflicting interests are reconciled. (Global Tool Network). It is basically about determining and implementing sustainable land policies (FIG NO.45)

Albritton and Bureekul (2009) developed a framework to explain the key principles of good governance which are applicable to all forms of governance themes including land governance, in general, and land registration and certification, in particular. These are equity and inclusiveness. Equity means that all members of society should be treated equally and have support from society to improve their well-being. No member of the community should feel left out and that all groups, particularly the most vulnerable, are given the possibility to improve their situation (UNESCO, 2005). Inclusiveness implies equal participation and equal treatment. Individuals have equal land use rights regardless of their sex, race ethnicity, religion, socioeconomic status and other social markers. Systems and institutions are in place to ensure that land registration systems are equitable and inclusive.

3. METHODOLOGY

The study used both primary and secondary sources of information. Primary data were collected through interviews with experts working in land registration projects and focused-group discussions (FGDs) with land administration experts working in Ethiopia’s land administration offices. Four interviews and two separate FGDs were conducted. Secondary sources of information, which included research reports, policies, and laws, were analysed comprehensively.

4. RESULTS AND DISCUSSIONS

4.1. First Level Land Certification (FLLC) and Women Land Rights

Ethiopia has two types of registration, the first level land certification (FLLC) and second level land certification (SLLC) which were conducted in different periods. The FLLC was covered nearly 98 % of the country’s highland areas. Local and traditional equipment were used to survey and register rural
Local committees and elders were mobilized to support the registration process. Although the FLLC secured the land use rights of rural holders, it had gaps in enabling women’s participation as well as protecting their land rights. In some parts of SNNPR, for example, land was registered in the name of the husband only. In others, both spouses’ names and photos appeared on the landholding certificate. Across the four regions where the FLLC was conducted, Amhara showed the highest percentage share at 34% of land registered by female-headed households (FHH) while SNNPR showed the lowest at 12%.

<table>
<thead>
<tr>
<th>Region</th>
<th># of Household heads (MHH + FHH)</th>
<th>FLLC certificates issued</th>
<th></th>
<th></th>
<th>FHH share in %</th>
</tr>
</thead>
<tbody>
<tr>
<td>Amara</td>
<td>3500000</td>
<td>2191047</td>
<td>1133953</td>
<td>3325000</td>
<td>34%</td>
</tr>
<tr>
<td>Oromia</td>
<td>4014500</td>
<td>2598027</td>
<td>493138</td>
<td>3091165</td>
<td>16%</td>
</tr>
<tr>
<td>SNNPR</td>
<td>2778223</td>
<td>2100400</td>
<td>286419</td>
<td>2386819</td>
<td>12%</td>
</tr>
<tr>
<td>Tigray</td>
<td>695000</td>
<td>598604</td>
<td>89446</td>
<td>688050</td>
<td>13%</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>10,987,723</strong></td>
<td><strong>7,488,078</strong></td>
<td><strong>2,002,956</strong></td>
<td><strong>9,491,034</strong></td>
<td><strong>21%</strong></td>
</tr>
</tbody>
</table>

Table 1: FLLC issued by headship status and FHH share (Source: MOA, Rural land Administration and use Directorate, 2019)

There is a general understanding that land registration and certification increases tenure security and reduce land related disputes which is very keen to protect the land rights of women. Different studies confirmed the positive impact of rural land registration and certification for tenure security and dispute settlement in Ethiopia (Klaus Deininger, Daniel Ayalew Ali, Tekie Alemu, (2010), Hosaena Ghebru Hagos and Stein Holdn, (2013), Klaus Deininge and et’al, (2003), Klaus Deininge and et’al, (2007), Klaus Deininge and et’al, (2007), Hosaena Ghebru, Stein T. Holden, (2015), Hosaena Ghebru1 and Stein Holden, (2013), Dessalegn Rahmato, (2004)).

### 4.2. Second Level Land Certification (SLLC) and Women Land Rights

The SLLC is conducted with emphasis on participation of landholders, especially women and disadvantaged groups. It includes a series of public awareness activities and involves local institutions, such as the Kebele Land Administration Committees (KLACs) and community social networks to reach out to all rural landholders. Modern surveying equipment is used to survey the land parcels and provide landholders a printout of each parcel holding. These are meant to compensate the errors and drawbacks of the FLLC.

Across the four regions, some 15 million parcels of the total 50 million parcels had been registered and certificates distributed to landholders (Rural Land Administration and Use Directorate (RLAUD), 2018/2019 Annual Report). About 25% of the parcels are solely owned by women and 55% jointly held by husbands and wives. Only 20% of the total parcels registered were under name of male landholders alone. The data show that women hold more parcels than their male counterparts jointly with their husbands and privately.
4.3. Inclusiveness of the SLLC

One of the distinct features of the SLLC is its emphasis on local participation and interventions to ensure that women are not left out in the land certification process. The federal government addressed working with donor-funded land registration projects being implemented in the country in developing the SLLC manual and the accompanying public information and awareness (PIA) strategy developed by federal government in consultation with the regions.

The SLLC manual provides step-by-step guidance on the technical aspects of land certification from adjudication and demarcation up to certificate distribution, stages where women's participation is crucial and role of field staff and stakeholders to ensure that women and disadvantaged groups receive information and provided assistance throughout the certification process.

The PIA strategy lays out the steps and methods to disseminate information to the rural landholders and in particular how to ensure that information reaches women and disadvantaged groups. Awareness creation is conducted before adjudication and demarcation, public display, and certificate distribution. PIA experts are assigned to lead the process. Public meetings are held at the village level. To ensure that information reaches women, focused group discussions (FGDs) targeted to women are organized at sub-village level. The FGDs are designed in such a way that processes are explained clearly and women are provided with their own space where they freely ask questions or seek clarifications. This has been a good strategy because culturally women do not take part in public consultation meetings. Especially for women, awareness raising is provided on their land rights. Intensive PIA activities have resulted in increased the awareness of rural landholders about the importance of registering their land and obtaining a landholding certificate. Without PIA women have a greater chance of losing their land right than other landholders since their awareness on their land right is much lower than others.

**Participation of Women during Adjudication and Demarcation:** During adjudication and demarcation all rural landholders and neighboring landholders are required to be present at their parcel. Husbands and wives must be present during this stage. Requiring women/ wives to be present
has a dual purpose. (1) It recognizes women as having equal rights to their land. (2) For joint holding, it prevents instances of husbands registering the land only in their name.

PIA activities are scheduled at least a month before the start of the adjudication and demarcation to give rural landholders time to gather the required documents and also to sort out disputes. Follow up PIA activities are conducted as a week before an SLLC is conducted.

**Participation of Women during Public Display:** - It is also mandatory for women to attend public display to verify the correctness of parcel information collected during the adjudication and demarcation. For married individuals, both husband and wife or wives are required to be present during the public display.

**Participation of Women during Certificate Collection:** - After the registered and surveyed data are displayed for the general public for corrections, complaints from landholders will be corrected at back office and the corrected certificates printed and ready for distribution. During distribution of the landholding certificates, women are required to collect their certificates. If the land is jointly held, both landholders (commonly husband and wife) should collect the certificates together and affix their signatures. This is a very important step in creating a sense of ownership and equality in the minds of women landholders.

**Participation of Women during Subsequent Transaction:** - This is transaction after the land is registered and holding certificate provided. When rural land is transferred through, lease, gift, succession, rental, collateral, exchange, and consolidation the consent of all joint holders is mandatory for the contract to be valid. This is especially to ensure that wives are consulted and are fully aware of and agree with the transaction. In the past, husbands transacted land without the knowledge of their wives. The transaction came to light only at the start of the SLLC.

**Land Governance Assessment Framework (LGAF):** - Different indicators have been developed at global level to measure the countries land governance statuses. Among other things, LGAF measures the status of countries in land governance as far as land right protection of women is concerned. Based on this assessment Ethiopia is scored for each indicator (Table 2).

<table>
<thead>
<tr>
<th>Dimensions</th>
<th>scores</th>
<th>Scores Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>Women’s property rights in lands as accrued by relevant laws are recorded</td>
<td>A</td>
<td>More than 90% of the cases are effectively recorded</td>
</tr>
<tr>
<td>Women’s property rights to land are equal to those of men</td>
<td>B</td>
<td>Equality of women’s property rights to those by men is established by law, but there are considerable limitations to exercising such rights in practice.</td>
</tr>
<tr>
<td>Conflict resolution mechanisms are accessible to the public</td>
<td>C</td>
<td>Institutions for providing a first instance of conflict resolution are accessible at the local level in the majority of communities</td>
</tr>
</tbody>
</table>

Table 2: Land Governance Assessment Framework Results on the Land Use Right of Women
4.4. Protecting women's land rights: from policy to practice

Below we present briefly the legal frameworks and initiatives to protect women's land rights. These strengthen the implementation of the SLLC and sustain its positive impacts.

**Legal Frameworks:** There are many international and national legal documents as far as women land rights are concerned. Article 9(4) of the Federal Democratic Republic of Ethiopia (FDRE) constitution states that all international agreements ratified by Ethiopia are an integral part of the law of the land. Among the international and regional instruments are the Convention on the Elimination of all Forms of Discrimination Against Women (CEDAW), Sustainable Development Goals 2030, African (Banjul) Charter on Human and Peoples' Rights, the Protocol to the African Charter on Human and People's Rights on the Rights of Women (Maputo Protocol), Beijing Platform for Action (BPFA), Solemn Declaration on Gender Equality in Africa, Agenda 2063 and the like. These instruments urge countries to recognize, respect and make to be respected the equal land right of women by documenting their rights.

The Government of Ethiopia has promulgated various land related laws which contain provisions protecting the land rights of women. The Federal Democratic Republic of Ethiopia (FDRE) Constitution recognizes gender equality and accords equal rights with men in regards to the use, transfer, administration, and control over land (Arts. 25, 34, 35 and 40); and prohibits laws and customary practices that discriminate against women.

Under article 5(1(c)) of proclamation 456/2005, enacted based on article 51(5) of the FDRE constitution, it is clearly stipulated that women who wants to engage in agriculture shall have the right to get and use rural land. Similarly Article 6(4) stipulates that where land is jointly held by husband and wife, the holding certificate shall be prepared in the name of all the joint holders, which give an absolute equal right for women. Besides, the regional land laws, enacted based on article 52 (2(d)) of the same constitution, have gender neutral provisions in one hand and affirmative provisions on the other for women. For instance, 20% affirmative action is accorded at the time of distribution of land for women. The federal rural land proclamation is under revision. It contains new provisions for women to strengthen their rights and establish systems for the implementation of those rights. It also contains provisions for the registration of land holding found under polygamous union and representation of women before the court of law.

Ethiopia's family law contains provisions for the joint management of common properties including land (Art. 50). The agreement of both spouses is mandatory to exchange, rent out, pledge or mortgage or alienate in any other way (donate, inherit ...) a common immovable property (land) to confer a right to third parties on such property. The FDRE criminal law puts criminal sanctions for land use right infringements. These include bribery, false testimony, inflicting damage on property of another person including land with animals, possessing the land of another without just cause, changing or destructing boundary demarcations of the land holding and others.

**Social Development Officers (SDOs), Women Land Rights Task Force (WLRTF) and Good Governance Task Team (GGTT):** - To protect the land rights of women the government assigned SDOs in selected
pilot districts and the result is very positive. The purpose of introducing this position is to improve the participation of women in SLLC and prevent land right violations. Weeks before the start of the SLLC, SDOs map vulnerable groups, identify their potential problems and assist at the time of titling and subsequent transaction.

If women already lost their land as a result of court decision, they can bring their case to the Good Governance Task Force (GGTF) established in the Woreda. The GGTF has the power to bring the case before the court of law as well as seek judicial review to be conducted. The office of the public prosecutor office, which is represented in the GGTF, is responsible for taking the case before the court of law and representing vulnerable groups. The Good Governance Task Team (GGTT) has been instrumental in providing much needed assistance to women and vulnerable groups who are experiencing land rights violation. The GGTT comes across different cases decided by courts, even by the Federal Court of Cassation. After gathering all the evidence including by going to the kebeles or villages, the Task Force resolves cases within its jurisdiction. Cases beyond its jurisdiction are forwarded to the Court for re-examination based on Article 6 of the civil procedure code. If the case cannot be treated by the Court, the GGTF then mediates the parties, in order to protect women from losing their land use rights.

As a result of the establishment of SDOs some 2275 parcels taken from women and other vulnerable groups (of which 67% of parcels belong to women VGs) are returned for these landholders (LIFT report, June 2019). The role of the experts is very important for the equity and inclusiveness of land titling. WLRTF is also established at federal and regional level to conduct studies and advise law legislating bodies to include provisions which better protect the land rights of women.

**Free Legal Services for Women:** Several institutions provide free legal services for women as far as their land rights is concerned. They include the justice offices, university law schools, Women affairs, grievance hearing, land administration and use offices, the GGTF and others. The problem is coordinating these institutions to avoid duplication of effort and making the service uniform and sustainable.

### 4.5. Problems and Challenges that Women Face in Exercising their Land Rights

**Customary Systems:** - Customary systems have a great impact on the land governance system and especially on perceptions on women’s right to hold land. Customary systems in Ethiopia are biased towards male as landholders. Women cannot inherit land according to most of the customary systems in the country. They cannot become landholders either.

**Weak Institutional arrangement:** - The absence of strong land administration institution plays its role for the least implementation of the land laws which disproportionately affect women. Enforcement of law is weak and thus leave those who break the laws and infringe the land rights of women unpunished (Solomon and et al, (2006).

**Legal gaps:** - Some legal gaps exist when the formal laws are interpreted thoroughly. For instance, it is only “family members” who can inherit land. Family members are defined in the laws as those who live permanently with the landholder by sharing the income of the same. In the culture of most of the rural
areas, women often leave the home of their parents and join their husbands’ family. In this case they are no longer considered members of their original families because they have moved. This has serious impact on married women’s right to inherit land from their parents.

**Polygamy:** - Bigamy and polygamy are prohibited by the law of Ethiopia. As per the 2016 Ethiopian Demographic and Health Survey result, 11% of currently married women report that their husbands have multiple wives. Somali (29%) and Benishangul-Gumuz (21%) regions had the highest percentage of women ages between 15-49 years old in polygamous marriage. With the exception of Benishangul-Gumuz region which had passed a regulation (018/2014) stipulating landholding rights for women in a polygamous marriage arrangement, there is no law nor system to register and certify lands which is under the holding of spouses’ living in such union in Ethiopia. This disproportionately affects wives in polygamous union especially in the event of divorce or death of spouse. There are practices of registering spouses living in polygamous union despite the fact that the legality of this practice is questionable.

![Percentage of currently married women age 15-49 in a polygynous union](image)

**Figure 2: Percentage of Married Women Living in Polygamous Union (Source: - 2016 Ethiopian Demographic and Health Survey)**

**Corruption:** - is another problem that disproportionately affect women and their land use right. There had been cases of women who were able to obtain landholding certificates but lost their land because a certificate for the same parcel had been issued to another person. Women who have no capacity to defend themselves in court could end up losing their land. This type of problem is now being resolved by the National Rural Land Information System (NARLAIS) which contains clear information on the land and landholders.

**Having Certificate VS Control Power:** - Having land holding certificate does not necessarily mean that they have control power over their land. The certificate is one means to exercise the land use right. There are women who have got holding certificate but unable to exercise their right over the land. In many cases, a powerful or influential person continues to use her land. Continuous awareness creation and
legal enforcement is crucial. Wrong doers should be penalized so as to deter themselves and the society from doing similar acts in the future.

5. CONCLUSIONS AND RECOMMENDATIONS

Even though it is the state, which controls land ownership, rural peasants and pastoralists are guaranteed with lifetime “holding” right that gives all rights except sale and mortgage. Women have equal right to utilize rural land. FLLC was conducted to secure the land use right of land holders. FLLC had drawbacks and SLLC came to compensate those problems. Because of the inclusiveness of the registration and certification process, the share of women private landholders is about 25 % of the total landholders. Their name appears on about 80% of the total certificates either jointly or privately.

Inclusiveness of women in rural land titling in Ethiopia is manifested by their participation during awareness raising acuities; demarcation and surveying; public display; certificate collection; and subsequent transaction. But still there are gaps in the ground to make the process fully inclusive for women. The more women participate in the process, the better their land rights are protected.

Existence of legal frameworks which treat women positively; establishing SDOs, Women Land Right Task Force and Good Governance Task Team; free legal aid services; and the like are opportunities to protect the land rights of women. But still there are many challenges that women face in exercising their land rights like gender negative customary systems; weak institutional arrangement; legal gaps; unclear law on how to register land belonging to those living in polygamous union; those who have land titles might not have control power over their land.

Based on the findings of the research, the following recommendations are made:

- Ensure that the process for land registration and titling is inclusive for women to best protect their land rights.
- Assign SDOs in the land administration system especially for the registration of land to better protect the land rights of women and subsequent awareness creation is vital.
- Follow up monitoring must be undertaken after women receive their certificates to support women undertake subsequent transactions
- Address legal gaps, such as on how to register land belonging to those living in polygamous union and family membership.

6. ACKNOWLEDGEMENT

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8. KEY TERMS AND DEFINITIONS

**Customary Tenure:** the tenure usually associated with indigenous communities and administered in accordance with their customs as opposed to statutory tenure

**Equity:** means that all members of society should be treated equally and have support from society to improve their well-being.

**Inclusiveness:** implies equal participation and equal treatment of individuals regardless of their sex, race ethnicity, religion, socioeconomic status and other social markers.

**Land governance:** is the process by which decisions are made regarding the access to and use of land, the manner in which those decisions are implemented and the way that conflicting interests are reconciled.