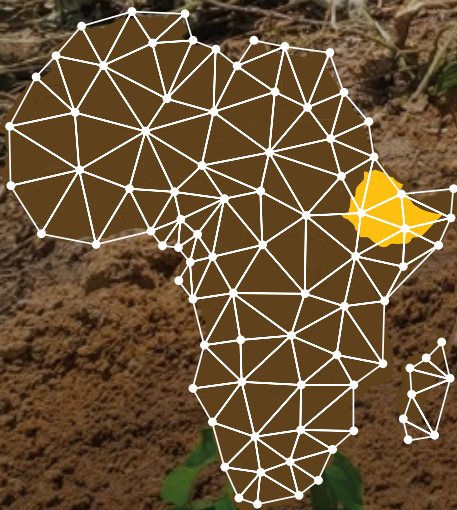




**SECURING
WOMEN'S
RESOURCE RIGHTS
THROUGH GENDER
TRANSFORMATIVE
APPROACHES**



Investing in rural people



WOMEN'S LAND RIGHTS IN ETHIOPIA



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ABOUT THE INITIATIVE

SECURING WOMEN'S RESOURCE RIGHTS THROUGH GENDER TRANSFORMATIVE APPROACHES

In 2020, the International Fund for Agricultural Development (IFAD) invited a consortium of the Center for International Forestry Research and World Agroforestry (CIFOR-ICRAF), the International Food Policy Research Institute (IFPRI) and the Alliance of Bioversity International, and the International Center for Tropical Agriculture (CIAT) to work with selected IFAD projects to promote and strengthen women's land rights through the integration of gender transformative approaches (GTAs) in rural development interventions by improving policies, tools and practices.

<https://www.cifor.org/wlr>

https://www.ifad.org/en/gender_transformative_approaches

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WOMEN'S LAND RIGHTS IN ETHIOPIA



CIFOR-ICRAF	Center for International Forestry Research and World Agroforestry
ELAP	Ethiopia Land Administration Program
ELTAP	Ethiopia Land Tenure Administration Program
IFAD	International Fund for Agricultural Development
LACs	Land Administration and Use Committees
LIFT	Land Investment for Transformation
REILA	Responsible and Innovative Land Administration
SLMP II	Sustainable Land Management Program II
SNNP	Southern Nations, Nationalities and Peoples



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Background

This series of socio-legal reviews summarizes the legal and policy documents related to women's land tenure in seven countries: Kyrgyzstan, Uganda, The Gambia, Ethiopia, Niger, Bangladesh and Colombia. These synthesis documents, part of the IFAD Initiative on Women's Resource Rights, are designed for researchers and policymakers seeking to improve women's land and resource rights in these target countries.

WHAT IS A SOCIO-LEGAL ANALYSIS?

A socio-legal analysis focuses on reviewing laws in the context of particular social problems that the law aims to address (Schiff, 1976; Creutzet et al., 2019). Findings draw on the analysis of country legal and institutional frameworks that recognize women's land rights, and information on existing procedures and processes for implementing tenure interventions. These analyses provide the basis for identifying incongruencies, overlaps, gaps that pose barriers to the recognition and enjoyment of women's rights to land and productive resources.

THE REVIEW COVERS:

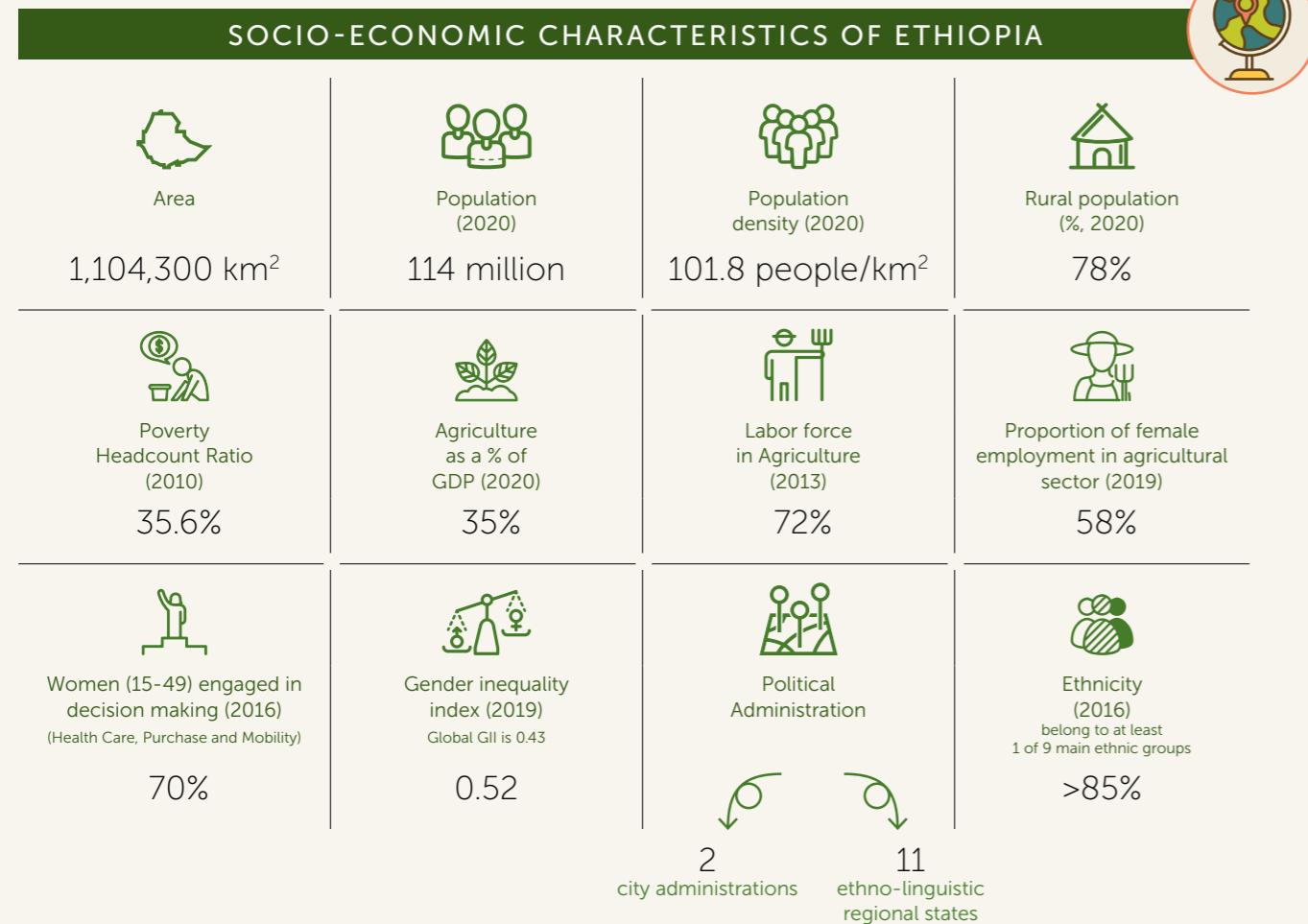
- A **general characterization** of land and resource tenure systems at national, regional, and local levels
- **Existing institutional and regulatory frameworks** for land and resource tenure, and the extent to which these are inclusive of women
- Implemented **land tenure interventions**, and the extent to which these benefit women
- **Barriers and constraints** affecting women's ability to access rights
- Mechanisms for **dispute resolution**, and how these engage women and address their concerns

Introduction

Historically, women in Ethiopia have had limited access to land and land rights. Their roles as landholders and farmers have long been disregarded in social practices and customs as well as governmental spaces, with insufficient provisions to recognize women's rights in the national regulatory framework (Muchomba, 2017).

Despite these constraints, there have been some inroads to achieving more secure land tenure for women. Ethiopia's Constitution of 1995 specified principles to protect women's rights, including provisions to recognize and enforce their rights to land and resources through a land certification process which ensured women's engagement. Actions included increasing knowledge and awareness around women's land rights and promoting women's participation in village-level land committees (Bezabih et al., 2016; Holden, 2020; Muchomba, 2017), as well as registration and certification processes aimed to support the enforcement of women's claims and rights to land in cases of divorce, widowhood or other types of disputes (Muchomba, 2017).

Despite these advancements in gender-responsive policy, Ethiopian land tenure practices continue to be characterized by the marginalization and invisibilization of women. Today, by custom, women's access to land is mediated by their social and marital status; tenure arrangements favor men's land access as the recognized heads of households; and inheritance follows a patrilineal and patrilocal system that privileges men more than women (Berg et al., 2010; Holden, 2020; Lavers, 2018). In collective regimes, including pastoralist groups, women's rights to land and resources are obtained through membership in the community (Muchomba, 2017). In cases of divorce, access to land should be legally contingent on whether a woman has children; however, in many cases her husband's family will instead oblige her to return to her family of origin (Demeke, 2014).



Source: Based on socioeconomic indicators in the World Development Indicators, the World Factbook and the Global Human Development Indicators databases

Characterization of the land tenure system in Ethiopia

Ethiopia is divided into eleven regional states. Intersections around ethnicity, political organization, socio-economic history is particularly important. Most of the land in Ethiopia is under statutory tenure, meaning that the right to own rural and urban land and natural resources rests solely with the state¹ (Lavers, 2018; Mekonen et al., 2019). The institutional structure for recognizing and formalizing rights is governed by the Ministry of Agriculture and Rural Development², which leads all land administration responsibilities and delegates implementation to Ethiopia's regional states and city administrations.

At a federal level, the Rural Land Administration and Land Use Proclamation No. 456/2005³ establishes a regulatory framework and decentralizes authority to regional states to develop specific provisions to define institutional structures and procedures to implement land formalization processes.

The Ethiopian Constitution⁴ formally recognizes long-term unchallenged possession of state land, and recognizes usufruct rights to collectives, peasant farmers, semi-pastoralists and pastoralists with no time limit⁵; while the management of state land and natural resources administration is decentralized to regional states. The most important types of landholdings recognized by the Rural Land Administration and Land Use Proclamation⁶ include:



Statutory law does not formally recognize customary land tenure systems.^{8 9}

1 Constitution of Ethiopia Art. 40 [3, 4, 5] and Art. 51 [5]
 2 Constitution of Ethiopia Art. 52
 3 Constitution of Ethiopia Art. 7
 4 Constitution of Ethiopia Art. 52
 5 Rural Land Administration and Land Use Proclamation No. 456/2005 Art. 78
 6 Rural Land Administration and Land Use Proclamation No. 456/2005 [Section 2, 7, 8]
 7 Recording and registration of urban land rights has been limited. The process is regulated by Ministry of Development and Works and implemented by state governments. Holdings through the leasehold system are registered by the concerned municipalities, although the registration is not systematic and in contrast to rural certification programs the process has not been comprehensive (Deininger et al., 2012).
 8 Constitution of Ethiopia Art. 34
 9 While customary tenure system is not formally recognised, data from a global baseline report by RRI suggest about 0.21% of land in Ethiopia is designated for indigenous people and local communities.

Institutional and regulatory framework regarding women's land and tenure rights

Institutional structures and tenure arrangements recognizing women's land and tenure rights in Ethiopia are delineated in existing regulatory frameworks (Table 1) and ongoing reforms (Box 1). The key regulations are the Constitution, the Land Administration and Land Use Proclamation and the Revised Family Law/Code.

LAND TENURE REFORMS IN ETHIOPIA



Land policy in Ethiopia can be analyzed according to three historical periods: the imperial regime (pre-1975), the Derg regime (1975-1991) and the Ethiopian People's Democratic Republic Front (1991-present) (Ayalew et al., 2021). Previous land tenure regimes were based on kinship (rist system) and feudal forms of access (gult system) and were abolished in 1975. The most important reforms took place after 1975, when the Marxist government took power and enacted a proclamation¹⁰ abolishing private property, vesting ownership of all rural land to the state, and establishing village-level associations to redistribute land and handle disputes about it.

After the fall of the socialist Derg regime in 1991, allocation of land rights remained the responsibility of the state, but redistribution and management functions were transferred to regional states through the Rural Land Administration Proclamation of the Federal Government of Ethiopia¹¹. Further powers were granted to regional governments through the Land Administration and Land Use Proclamation¹² which allowed drafting of regional land policies and established regional structures for land administration. Since then, different processes for registering and certifying usufruct rights to farmers have been supported by international donor agencies and private investing companies, and have been implemented with differences at a regional level. At present, the recognition of existing landholding rights through allocation and registration of land certificates is contingent on physical residence in the village.

The latest constitutional reform (1995) abolished customary tenure systems and sustained the nationalization of all rural land, with only usufruct rights given to landholders. Existing holdings are based on traditional occupation, as upheld by the 2005 land law. This reform necessitated a mass titling operation that triggered the formation of land associations. However, this process has prioritized formalization based on plots and farm holdings typically registered jointly or to individuals, and has therefore been met with limited group registration by land associations, leading to low incidence of collective tenure. Securing land rights for women through these reform processes, whether at the individual or collective level, has not been devoid of challenges, especially after the abolition of customary rights. Significant reallocation of communal lands to private investors has occurred since 2005, and some forests, including national parks, have also been partially allocated to investors. The different land tenure reforms administered within the country have resulted in contradictions between statutory and customary laws with differentiated and often adverse impacts on multiple users, particularly women and vulnerable groups.

Source: Deininger et al., 2008a; b; Crewett et al., 2008; Lavers, 2018; Wily, 2012; Teklu, 2005; Ayalew et al., 2021; Holden, 2020.

10 Rural Land Administration and Land Use Proclamation No. 31/1975

11 Rural Land Administration and Land Use Proclamation No. 89/1997

12 Land Administration and Land Use Proclamation No. 456/2005

The Constitution¹³ recognizes that:

“Women have the right to acquire, administer, control, use and transfer property. [...] They have equal rights with men with respect to use, transfer, administration and control of land. They shall also enjoy equal treatment in the inheritance of property.”

According to the Land Administration and Land Use Proclamation¹⁴, regional states have their own regulations, and are required to establish land administration structures, following a decentralized process. Regional regulations have followed the enactment of land proclamations (Box 1) in the states of Afar¹⁵, Tigray¹⁶, Southern Nations, Nationalities and Peoples (SNNP)¹⁷, Amhara¹⁸, and Oromia¹⁹.

Following the enactment of state-level land proclamations, Land Administration Councils determine and enact land administration systems at the regional level. Based on these region-level systems, land issues are further decentralized and managed at the district (*woreda*) and village (*kebele*) levels. As part of the procedure for certifying landholdings²⁰, regional councils are required to form district-level Land Administration and Use Committees (LACs). LACs have the responsibility of overseeing land administration, registration and dispute resolution²¹. Committees are obliged to establish gender “balance” by electing women members. Although provisions differ from committee to committee in terms of number of women members or specific quotas, in practice it is broadly accepted that at least one member should be a woman (Deininger et al., 2008a). Customary organizations, in particular village elders, may work with land committees, boards and associations in processes of demarcation, adjudication and the application of customary rules in dispute resolution²². Amhara State principles of land distribution include the prioritization of marginalized groups including women²³. The formation of LACs has been instrumental at the regional and community level in land registration, certification, documenting and demarcating land for women heads of households (Mekonen et al., 2019; Persha et al., 2017).

According to the Land Administration and Land Use Proclamation²⁴, peasant farmers and pastoralists who engage in agriculture and grazing have the right to obtain land without payment and are protected against eviction from their holdings (Beyene, 2018; Woldegiorgis, 2018; Crewett and Korf, 2008). The law explicitly grants pastoralists the

right to free grazing, a right which has been practiced for hundreds of years, as pastoralists in lowland communities continue to rely on robust customary land tenure systems to survive (Woldegiorgis, 2018). In the case of other resource systems, such as forests and irrigated lands, the Land Administration and Land Use Proclamation provides specific regulations, especially in cases of irrigation infrastructure initiatives such as canals and the distribution of irrigation land²⁵. In areas where collective assets such as forests and rangelands have been acknowledged as rural communities' communal property, land has mostly been reserved for peasants, pastoralists, and companies²⁶ (Crewett et al., 2008; Namubiru-Mwaura, 2014).

The Revised Family Code Proclamation²⁷ recognizes the equality of men and women in all aspects, and more specifically around the ownership and administration of individual and common property (Namubiru-Mwaura, 2014; Tura, 2014). Regulations determine that all citizens interested in farming, irrespective of gender, are entitled to request a land certificate.

Despite this provision, specific regulations around marriage and inheritance influence and can impede women's access to land. In the case of marriage, the Revised Family Code Proclamation No. 213/2000²⁸ recognizes the formalization of civil, religious, and customary marriages and sets regulations for asset management. According to these regulations, the property that each spouse possesses on the day of their marriage, or that an individual spouse acquires after their marriage by succession or donation, remains their personal property unless they decide otherwise. The law furthermore recognizes “community of property” regarding property acquired after marriage, and the joint administration of family property (Berg et al., 2010; Mekonen et al., 2019). However, difficulties can arise because the Constitution also indicates that the state shall not in any way interfere in religious matters. Additionally, different types of marriages in civil, religious and customary law may have different perspectives with respect to rights of spouses and sets of practices around asset management.

In terms of inheritance, the Family Code²⁹ similarly establishes protections and inheritance rights for women and men in certain situations, allowing rights-holders to transfer land to family members (both sons and daughters) following the death of a landholder, and in situations of divorce (Mekonen et al., 2019). While inheritance is recognized, mortgage and sale of the land is prohibited by law (Deininger et al., 2008b).

13 Constitution of Ethiopia Art. 35

14 Sections 2, 7 and 8

15 Land Proclamation, 2009

16 Land Proclamation, 2000

17 Land Administration and Land Use Proclamation, 2007

18 Regional State Rural Land Administration and Use Proclamation, 2006

19 Land Use and Administration Proclamation, 2007

20 Land Administration and Land Use Proclamation, Art. 25 [3] and 26[1]

21 Land Administration and Land Use Proclamation, Art. 27

22 Art 29, Amhara Land Proclamation

23 Art 5 [6], Amhara Land Proclamation

24 Art. 7 and 8

25 Art. 9

26 Section 7 & 8 of the Rural Land Administration and Land Use Proclamation No 456/2005

27 Art. 25

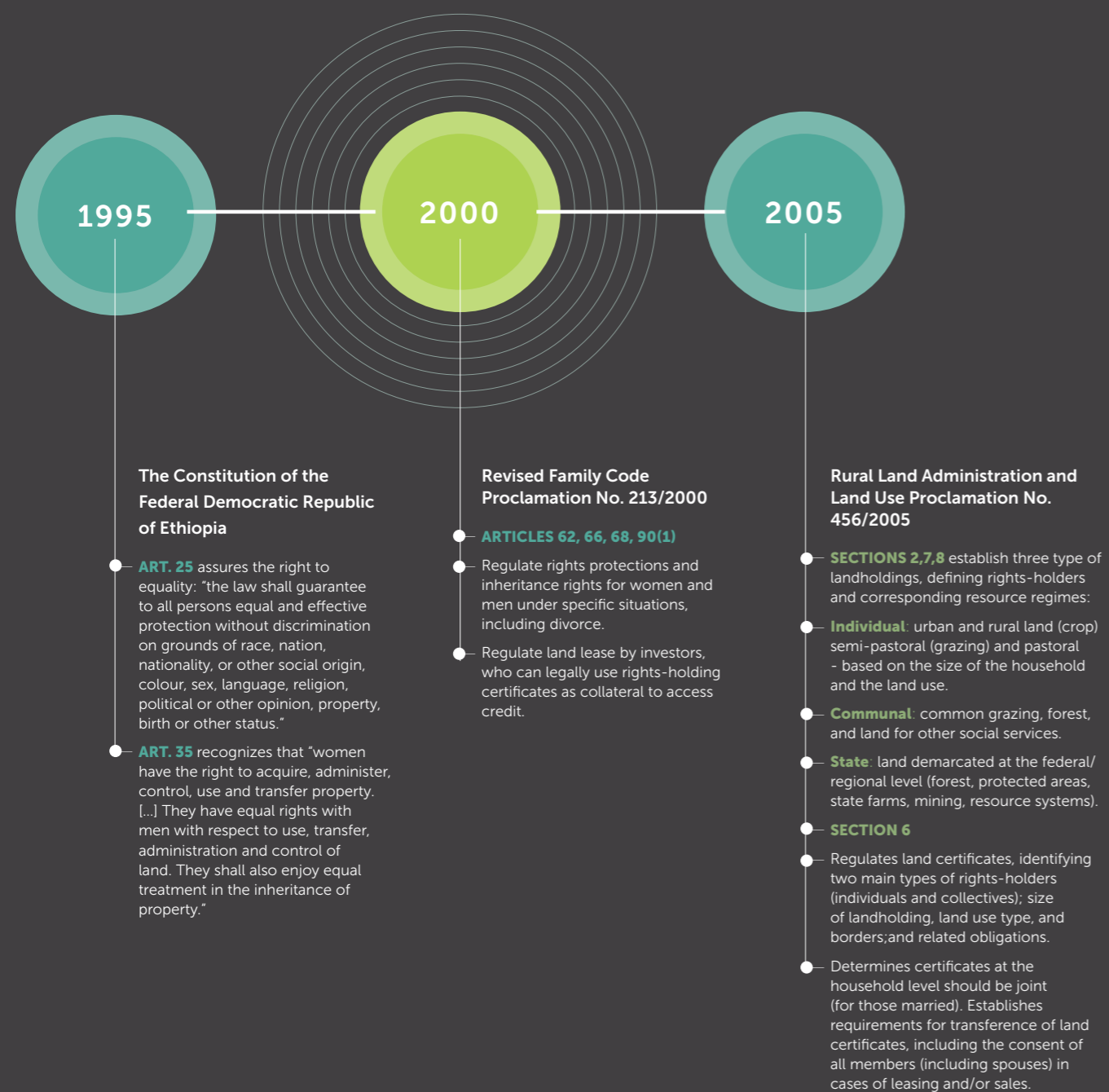
28 Chapter 1, [Articles 2, 3, 4] and Chapter 3

29 Article 62, 66, 68, & 96[1]



IFAD Ethiopia

Table 1. Key regulations in the analysis of women's land rights in Ethiopia



Source: Based on review of Federal Democratic Republic of Ethiopia Rural Land Administration and Land Use Proclamation No. 456/2005, Revised Family Code, 2000, Proclamation of the Constitution of the Federal Democratic Republic of Ethiopia No. 1/1995.



Land tenure interventions in Ethiopia: Landholding Certification

OBJECTIVES AND PROCESS



In Ethiopia, as most land is under statutory tenure, landholding certification is the most important land tenure intervention recognizing land rights (Table 2). Certification has been promoted as the main mechanism to provide tenure security and support social and economic development (Lawry et al., 2014). The process of land certification includes measurement, registration, verification and issue of certification of landholding rights³⁰. Formalization and registration of land certificates has taken place mostly at a plot level and mainly in agricultural lands. Certificates recognize rights-holders at the household level and also through collectives such as community land associations and pastoralist communities. However, less progress has been made in communal or in state holding lands (Deininger et al., 2008a; 2011; 2012).

While land formalization processes (such as land law reform, land titling and land registration) are the responsibility of the federal government, key policy decisions have been delegated to regional states.

Regional or municipal governments are responsible for implementing and managing land administration, and resolving disputes that might arise in the process (Holden, 2020). As mentioned in the previous section, the certification process is initiated at the district (*woreda*) level, and requires the establishment of land use and administration committees (LACs) at the village (*kebele*) level (Deininger et al., 2011; 2012). Adjudication of certificates is managed by LACs through a process that requires all community members to engage. LACs are also responsible for keeping and sharing registry books with *woreda*-level authorities. Variations may exist across regions depending on the state-level regulations (as well as local customs and power dynamics).

Existing regulations restrict transfer of landholdings via sale or exchange of property, and establish that certificates cannot be used as collateral for credit (Ayalew et al., 2021). However, certificates grant landholders the right to temporarily rent out their landholdings for periods that vary from 3 years (Tigray) up to 15 (Oromia), 25 (SNNP) and 50 years (Amhara) (ibid).

Table 2. Type of tenure interventions in Ethiopia that recognize women's land and resource tenure rights

CERTIFICATION 		LAND REGISTRATION 	
GOAL	To recognize customary claims over agricultural and urban lands* and make interventions more inclusive through joint certification.	GOAL	To formalize rights (mainly in agricultural lands) by documenting plots in public registries and reviewing existing overlapping rights (and claims)
SCALE	Plot	SCALE	Plot
RIGHTS-HOLDER(S)	Married couples (joint certification – wife(s), husband); individuals (men and women)	RIGHTS-HOLDER(S)	Household (individual or joint certification)

***Note:** in urban areas recognition of land rights follows a different legal procedure.



30 Art 6, Land Administration and Land Use Proclamation.

PROGRESS OF IMPLEMENTATION

Ethiopia's massive rural landholding certification process certified over 20 million plots, benefiting around 6 million households, between 1998 and 2007 (Deininger et al., 2008a; 2011; Ayalew et al., 2021). The process has gone through two phases: the first phase was known as the First Level Land Certification and started in the Tigray region in 1998, followed by Amhara (2003), Oromia and SNNP regions in 2004 (Ayalew et al., 2021; Holden, 2020). Certificates issued during this phase did not provide detailed spatial information of plots, as individual plot-

level mapping was not available at the time. Furthermore, accessing and updating records was difficult due to the absence of computerized systems. The second phase, known as Second Level Land Certification (Table 3), aimed to overcome the limitations of the first phase and has been implemented through various donor-funded programs seeking to improve investments in agriculture and productivity through securing land rights and improving land administration (Ghebru and Girmachew, 2020).

Table 3. Second Level Land Certification Process in Ethiopia

Land Administration Program	Period	Regions covered	Budget (USD Million)	Donor	Number of certificates
Ethiopia Land Tenure Administration Program (ELTAP)	2005-2008	Amhara, Oromia, SNNP, and Tigray	>5.5	USAID	> 375,000 parcels
Ethiopia Land Administration Program (ELAP)	2008-2013	Amhara, Oromia, SNNP, and Tigray	5	USAID	>175,000 parcels
Responsible and Innovative Land Administration (REILA)	2011-2017	Benishangul-Gumuz and Amhara*	>12.5	Finland	>150,000 parcels (Data from May 2017)
Sustainable Land Management Program II (SLMP II)	2014-2018	Amhara, Oromia, Tigray, SNNP, and Gambella	>9	World Bank	>375,000 Households >20,000 communal lands (Data from Sept, 2018)
Land Investment for Transformation (LIFT)	2013-2020	Amhara, Oromia, SNNP, and Tigray	>72	DFID	>9,250,000 parcels

Source: Based on Ghebru and Girmachew (2020:6)

*With additional trial woredas in Tigray, Oromia, and SNNP regions

+SNNP = Southern Nations, Nationalities, and Peoples' region

During the First Level Land Certification process, between 35% and 45% of land was registered in the names of women through joint certification, but there are great variations between regions (Deininger et al., 2012). In Amhara, more than 85% of certificates name a woman as individual or joint holder, but this share is lower in Oromia and SNNP, where polygamy is more common and holdings are registered in the name of individuals rather than households. In Amhara and Oromia, certificates not only list women's names but also have their pictures attached (ibid). Drawing on analysis of both first and second level land certification, Holden (2020) argued that while important progress has been made in at least five of the nine regional states, together representing about 70% of the Ethiopian population, certification has mainly been implemented in the highlands, where smallholder agriculture dominates, while progress

has been slow in the arid lowlands where pastoralists reside. As documented by Ghebru and Girmachew (2020) (Table 3), most of the Second Level Land Certification process has taken place at the parcel level, with only one project (SLMP II) certifying land at the level of the household or communal lands.

Regional differences in land registration included variations in the procedures for transferring certificate rights as well as different conditions in the case of divorce (Deininger et al., 2008b). For instance, in the cases of Oromia and the South, existing regulations did not provide clear procedures for transferring certificate rights for inheritance purposes. The Second Level Land Certification process has been extended to the regions of Benishangul-Gumuz and Gambella, while the process is still in progress in Amhara, Oromia, Tigray and the SNNP.

WOMEN'S PARTICIPATION IN THE LANDHOLDING CERTIFICATION PROCESS

The total number of women in LACs varies across the country; fewer than 20% of women were participating in *kebele* LACs in 2007 (Deininger et al., 2008). Women's participation in LACs may vary depending on prevailing provisions at the state level. For instance, the Amhara Land Proclamation specifies that at least one woman should be a member of *kebele* and sub-*kebele* committees³¹.

The progress made during the Second Level Land Certification has faced some challenges. The Federal Land Proclamation in 2005 introduced new provisions to ensure that certificates list spouses as joint holders³². This resulted in differences from those certificates handled during the first stage certification process in the Tigray region (1998), the first regional state to implement certification, where registration had taken place at the household level and landholding certificates were issued under the name of the household head (almost always a man). This had resulted in a situation in Tigray in which 71% of certificates were issued in the husband's name rather than jointly (13%) or in the name of the wife (14%) (Deininger et al., 2008b). Additionally, in an analysis of Tigray data, Holden (2020) found the land size of farms was larger in certificates issued to households headed by men than those headed by women. The certification process in Tigray was modified during the Second Stage Land Registration and Certification process (2005) following provisions in the Federal Land Proclamation, such as the inclusion of photos of all household members, which helped to raise awareness and visibility of women and thereby promote fair distribution of tenure, particularly between wives in polygamous households. Some regional states also included specific provisions in regional land proclamations to include both spouses through joint certification in subsequent programs (Deininger et al., 2008). However, even when spouses consent to jointly title, some regions (e.g. Amhara) allow such registration only in a separate application, creating additional transaction costs. In other cases, joint titling is not allowed by the land administration entities if the land belonged to only one of the spouses prior to marriage, even if both spouses give consent to make it marital property. This is the case in Tigray, while in Oromia and SNNP the laws are ambiguous (Abebe and Rose 2019).

The push toward joint certification has led to important changes in Amhara and the South, where the largest proportion of joint certification took place (including procedures that required to include women's pictures on the certificate) in contrast to Oromia where the recognition of women in certification remains low (Deininger, 2008b).

Land certification processes, and more specifically joint certification processes, have resulted in more than 20% of land certificates in Ethiopia registered in the name of a woman, individually or jointly, and up to 56% of women reported to have joint or sole management and decision-making rights over their parcels (Ghebru, 2019).

31 Art 26.

32 Art 6 [4].

OUTCOMES OF CERTIFICATION IN REGARDS TO WOMEN'S RECOGNITION OF RIGHTS AND IMPROVED TENURE SECURITY

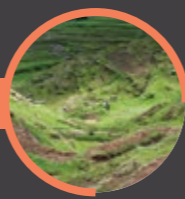
In the assessment of outcomes, certificates are argued to shift power and transform intra-household dynamics, increasing women's bargaining power and thereby improving their participation in household and community decisions pertaining to resource allocation, as well as increasing awareness of their rights and existing provisions around land resources (Holden, 2020; Melesse et al., 2017; Muchomba, 2017).

Holden and Bezu (2014) argue that certification improved women's involvement in farm management decisions, in particular around crop choice and land rental decisions. Their work highlights that opening spaces for discussing women's rights encourages positive attitudes among men regarding stronger land rights for women. Likewise, Bizoza and Opio-Omoding (2021) argue that certification has led to increased participation by women in household decision-making and community activities, improved knowledge, and confidence to protect their rights, and higher levels of perceived tenure security. Melesse et al. (2017) further note that joint titling in Ethiopia has benefited women in intra-household decision-making and increased agricultural yields (ibid).

The certification process was expected to increase women's participation in emerging rental markets, especially for women-headed households (Bezabih et al., 2016; Holden et al., 2011). New regulations require the consent of both husband and wife in rental agreements, whether for sharecropping or fixed rent contracts. Furthermore, rental agreements cannot comprise over 50% of one's land (Holden, 2020). This has led to increased decision-making power of women in land rental processes at the household level.



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Complexities of Land Registration and Certification Programs for Women in Peri-Urban Areas in Ethiopia

Land registration and certification programs in Ethiopia have focused on registration of individual and collective landholding rights to address gender biases. The process in rural and peri-urban areas has been systematic rather than demand-driven, especially in Tigray since the late 1980s, and handled by local government officials (*Tabia*).

High school graduates were trained as “land registration technicians”, and “traditional” land allocators elected by the local community involved in the actual land redistribution process are called to witness what land belongs to whom when there are border disputes. A local consultation process takes place before registration. Fees tend to be very low, the technology is straightforward, and the language used is accessible to most rural land users. As a result, the process is transparent and accessible, and overseen by the local government. The process has been appraised as successful because of women’s involvement in the certification process and the inclusion of at least one woman member in land administration committees at the local level.

Outcomes of land registration and certification have been varied, especially for women in single headed households in peri-urban zones, where competition for land is higher than in rural areas. In cases of customary land rights, land registration and certification tend to be more individualized in peri-urban areas than in rural areas. As competition for land increases and as new actors such as urban elites and foreign private investors enter the land arena, access to and effects of registration processes have acute effects on low-income groups’ livelihoods. Within agriculture, there are shifts from subsistence food crops to intensified

and commercialized food production for growing urban populations and, in some cases, for export. Transferring land from rural to urban governance has been the source of an increasing number of land conflicts.

Urban administrators can ask the regional state to expand the municipality’s boundaries, which implies that rural land at the periphery of the city is taken from farmers and rented to urban dwellers and investors. Some have highlighted that such moves induce or exacerbate poverty by taking away productive assets from farmers, while the insecurity generated by the threat of eviction affects agricultural production in peri-urban areas. The urban land administration system is less accessible and more costly to poorer groups than the rural system. The land has largely been taken from people who had been granted land certificates under the rural land registration regime and allocated to investors. However, many farmers have not been compensated though they have lost their livelihoods, given that the legal framework guiding expropriation procedures and compensation has yet to be well developed. Efforts to promote lessons learned in certification processes in rural areas are expected to improve recognition of women rights in urban areas.

Sources: Kanji et al., 2005; Teklu, 2005; Ghebru, 2019.



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Barriers and constraints to the recognition of women’s land tenure rights in Ethiopia

Despite intended outcomes and progress so far, barriers continue to constrain women’s ability to exercise their rights even when formal regulations recognize them. These prevailing barriers center around three primary issues:



Implementation gaps and related lack of resources, awareness and enforcement.



Contradictions and overlaps between customary regimes and formal arrangements.



Social norms and practices that limit the recognition of women’s legal rights and their ability to engage in certification processes (table 4).



GAPS BETWEEN LAW AND PRACTICE

While many landholding rights are recognized by law, in practice gaps in implementation weaken women’s ability to exercise and benefit from those rights. One influencing factor is the transition period that lags between the enactment of new regulations and their implementation at the district and village level (Holden, 2020). In the case of certification of agricultural lands, the procedure to register and certify lands can last an average of two to three years, and even up to ten years in certain regions (Deininger et al., 2012). However, time lags are not uniformly negative, as they allow further dissemination of information, often supporting the engagement of women in local organizations and increasing their awareness of their rights as part of the process of implementation.

Creating additional barriers, government agents lack certain key capabilities for successful implementation, including lack of awareness of gender considerations, which may indirectly constrain how women engage in the process (Ghebru, 2019; Teklu, 2005; Holden et al., 2011). In addition, institutional services in the land sector tend to be dominated by men, and there is a low capacity for training that may affect the dissemination of information and materials at the local level (Bezabih et al., 2016).

This lack of capacity is worsened by the absence of mechanisms to coordinate and collaborate across involved government institutions, limiting the possibility for learning and exchange of best practices (Deininger et al., 2012). These challenges are likely related to understaffing and insufficient financial resources.

While certification has received important political and external support, implementation relies on donor funding to further the process in remote areas and areas in conflict, making operationalization slow.

(Ghebru, 2019; USAID, 2019)

Further difficulties arise from a lack of clearly defined roles, institutional structures and procedures to implement, monitor and enforce the registration process (Deininger et al., 2012). Mandates often overlap across institutions involved at the kebele and woreda level. Copies of registry books are usually kept at both levels, but lack of clarity in terms of who is responsible for updating registries can create confusion in cases of dispute, like in the case of inheritance. Despite normative recognition of inheritance rights, very little information exists about how such rights should be registered in practice (Ege, 2017). Furthermore, the pilot registration and certification program in the Tigray region did not include spatial referencing, which resulted in overlaps in registered plots and an increase in disputes related to boundary issues (Hailu, 2016).

Enabling registration guidelines to provide public access to information would increase public accountability and accuracy of records. If rights to land are not properly documented and supported through up-to-date records, the positive impacts from joint certification are jeopardized, particularly for women in vulnerable situations, such as those going through divorce (Holden, 2020).

The difficulties in policy implementation caused by the lack of clarity around land registration also apply to non-agricultural lands, including forest commons and pastoral lands. While the Ethiopian Constitution recognizes the right to “free land for grazing and cultivation as well as the right for peasants and pastoralists not to be displaced from their own lands,” in practice no clear policies or guidelines have been institutionalized for formalizing rights to pastoral lands (Woldegiorgis, 2018; Flintan, 2010). This represents an important barrier for women who depend on these resources, and whose individual rights are dependent on the recognition of collective rights of pastoral communities. Certification programs have focused on mapping agricultural lands, to the detriment of these common property resources, which are comparatively neglected (Deininger et al., 2008b). The lack of clear provisions with regard to how to register communal landholdings has affected pastoralist communities in particular, representing about 15% of the rural population (Flintan, 2010).

The lack of recognition of rights to communal lands, and mechanisms to record and enforce them, has resulted in cases of privatization of communal land holdings, registration of portions of communal lands as individual

claims and communal lands registered in the name of the kebele (village) governments (Deininger et al., 2008a; 2012). Interestingly, allocation of rehabilitated communal lands has been reported by Holden and Tilahun (2021) to benefit youth groups, which establish land boards and develop business plans that have resulted in improved access to land rental markets (ibid). However, these mechanisms have not benefited women, who continue to access lands through their husbands. To address this gap, in 2014 USAID’s Land Administration to Nurture Development project (LAND) started working with the Ethiopian government to certify pastoral communal land use rights (Woldegiorgis, 2018).

Women in polygamous contexts face a unique implementation gap. In Southern Ethiopia, where polygamy is common, land access becomes more restrictive because only the first wife participates in public spaces, and other wives thus have very limited access to information (Holden, 2020). Federal law does not recognize polygamous marriages, but some pastoral regions establish provisions for issuing separate landholding certificates for those in polygamous marriages. Certificates are issued in the wives’ names, recognizing husbands as secondary rights-holders (Flintan, 2010). According to Deininger et al. (2008), the certificate is issued in the name of the first wife while other wives get a certificate in their own name. However, these regulations vary across states, and regional laws in Oromia and SNNP, for example, do not clearly address the rights of women in polygamous unions.

“Enabling registration guidelines to provide public access to information would increase public accountability and accuracy of records.”

Table 4. Characterization of barriers to the recognition of women’s land and resource rights in Ethiopia

LEGAL BARRIERS EMERGING FROM IMPLEMENTATION GAPS, LACK OF AWARENESS, AND UNEVEN ENFORCEMENT	
Barrier/constraining factor	Reference
Time lag between the enactment of new regulations and their implementation at the district and village level.	Holden, 2020
Lack of capabilities of government agents and existing biases of institutional services in the land sector, which is dominated by men	Ghebru, 2019; Teklu, 2005; Holden et al., 2011; Bezabih et al., 2016
Lack of mechanisms to coordinate and collaborate across involved government institutions, limiting the possibility for exchanging best practices.	Deininger et al., 2012
High dependence on external funding and limited financial resources to implement land regulations may result in understaffing	USAID, 2019 Ghebru, 2019
Lack of provisions that clearly define roles, institutional structures and procedures to implement, monitor and enforce the recording process	Deininger et al., 2008a; 2012
Lack of registration of non-agricultural lands, including forest commons and pasture lands.	Deininger et al., 2012
Ambiguous policies or guidelines for formalizing land rights in pastoral communities	Flintan, 2010; Woldegiorgis, 2018; Flintan, 2020; Eyasu and Feyera, 2010
Lack of clarity of the nature of rights of women in polygamous situations	Deininger et al., 2008; 2012; Holden and Tilahun, 2021; Mekonen et al., 2019; Namubiru-Mwaura, 2014
OVERLAPPING AND CONTRADICTIONARY LEGAL SYSTEMS	
Barrier/constraining factor	Reference
Ambiguity in the enforcement of statutory laws leads to existing customary arrangements constraining or overruling formal arrangements	Muchomba, 2017; Namubiru-Mwaura, 2014; Verma, 2007
Norms determining the size of landholdings based on a household’s ability to use the land result in woman-headed households receiving smaller land holdings	Muchomba, 2017; Bizosa and Opio-Omoding, 2021
Alienation rights differ according to regions, religions and cultures, resulting in contradictions in the application of laws related to divorce, marriage and inheritance	Lavers, 2018; Berg et al., 2010; Namubiru-Mwaura, 2014; Verma, 2007
SOCIAL NORMS ABOUT LAND, RELATED TO PRACTICES OF RECOGNITION AND EXERCISE OF RIGHTS	
Barrier/constraining factor	Reference
Norms restricting women’s mobility limit their ability to participate in certification processes, to access information and to participate in LACs	Holden and Bezu, 2014; Chimhowu, 2019; Gebeyehu, 2014
Fewer women than men are included in the registration process as land administrators. What is more, even when women have been granted certification, many of these titles are not properly registered. This lack of proper documentation frequently fails to protect vulnerable groups	Chimhowu, 2019; Ghebru, 2019
Illiteracy, elite capture and corruption may limit the ability of women to gain recognition of rights or impair their ability to benefit from rights acquired	Mekonen et al., 2019



OVERLAPPING AND CONTRADICTORY LEGAL SYSTEMS

Certification processes have aimed to introduce provisions that favor women's equitable access to land. However, certain ambiguities in the enforcement of statutory and customary laws have been noted. For instance, while all regional regulations indicate that in the case of divorce the wife gets an equal share, or half of the land, these laws do not specify whether women can get a certificate for their share, raising important constraints for enforcement. Moreover, regulations determining the size of landholdings based on a household's ability to use the land result in households headed by women receiving smaller landholdings (Muchomba, 2017).

On average, woman-headed households have 54% smaller operational landholdings (Bizoza and Opio-Omoding, 2021). This is worsened by gender differences in the distribution of farm endowments including oxen and ploughs, which are instrumental for land cultivation; owning an ox increases the likelihood of accessing and holding land (Bezabih et al., 2016; Holden et al., 2011).

Alienation rights also seem to differ across regions and are influenced by religion and culture. Traditional norms in the northern Tigray and Amhara regions dictate that women cannot plough the land, so they are forced to lease their land to others and receive only a 30% share of what the land produces. In the southern regions of Oromia, the eastern region of Gambela (consisting mainly of Sunni Muslims) and SNNP, women have no right to own land, and have access to land only through their husbands. The household was traditionally used as the unit for land distribution, and only heads of households were registered as members of farmers associations, affecting the ability of women farmers to collectively organize (Namubiru-Mwaura, 2014; Verma, 2007). Moreover, under certain religious laws like the Muslim Shari'a law, married women have rights to one-eighth of livestock and their by-products; however, upon the husband's death, the widow may be required to marry one of her brothers-in-law to continue the family bloodline and keep access to family assets (Fafchamps & Quisumbing, 2001).

Land use rights in general are subject to contestation upon dissolution of marriage. In some cases, women are expected to leave their marital homes and return to their natal homes, losing access to their previous husband's land. Divorced women and widows are not entrusted with the land they live on unless they live and farm with the husband's family. In this way, customary arrangements may constrain, overlap or overrule formal arrangements. In fact, some of the efforts toward securing individual land rights by and for women have been perceived by state organizations as a top-down interference into traditional institutions (Crewett et al., 2008).



SOCIAL NORMS AND PRACTICES THAT LIMIT WOMEN'S RECOGNITION AND EXERCISE OF RIGHTS TO LAND

In addition to regulatory implementation gaps and contradictions between customary and statutory land regimes, women's abilities to exercise their legal rights and benefit from certification schemes is also hindered by traditional norms that constrain their mobility, their participation in farming activities, public spaces and discussions and their educational opportunities.

For instance, norms restricting women's mobility hinder their participation in LACs, which, combined with the limited spaces for women to organize and network, reduces both their negotiation capacities and their access to information (Holden and Bezu, 2014). Limitations on mobility and time also affect women's participation in certification processes, as government officials tend to believe that such tasks are more difficult for women to handle, as they require time and moving from field to field (Chimhowu, 2019; Gebeyehu, 2014). Further challenges appear at the local level, as procedures require convincing the local community of the importance of women's involvement in demarcation and registration processes (Ghebru, 2019). The end result is that LACs at the *kebele* level are mainly composed of men. In land administration spaces, Deininger et al. (2008b) write that 83% of men reported participating, while only 17% of women reported voting in *kebele* elections. This, according to the authors, also reflected on the extent to which women and men were receiving information about the process, and the larger proportion of men participating in public meetings on land issues and LACs in contrast to women. Official procedures do not constrain the ability of women and men from different socio-economic backgrounds to participate in *kebele* councils; however, in practice, existing biases affect how women, the poor and other marginalized customary groups engage in these decision-making spaces (Bezabih et al., 2016). Simply including women in LACs does not in itself guarantee positive or equitable outcomes for women's landholding rights. As local power structures are complex and dynamic, the context and composition of LACs will have varying impacts on disputes concerning inheritance, divorce, and conflict.

Even when regulations were issued to ensure a quota for women in these spaces, this has not been realized in all *woreda* and *kebele* (Deininger et al., 2012). Furthermore, high rates of illiteracy and poverty in rural Ethiopia have exacerbated the information gap and made it even more difficult for women to register land, further exposing women and other marginalized groups to elite capture; historically, these groups have also had to pay bribes in order for their registration to be processed in a timely manner or at all (Ghebru, 2019; Mekonen et al., 2019).

Another example of traditional practices and norms posing barriers to women's land rights is the restrictions faced by female headed households headed by women to farm their land, forcing them to rely on renting land out to secure their livelihoods (Holden & Bezabih, 2008). Such households are often characterized by lack of assets and labor shortages, putting them in a vulnerable position when it comes to selecting tenants and enforcing rental terms, including eviction, if needed (Holden and Tilahun, 2021). This leads to a high turnover of tenants as a strategy to avoid future claims over their land, and results in poor management and low land productivity (Deininger et al., 2011; Bezabih et al., 2016; Holden, 2020).



Mechanisms to resolve land conflicts in Ethiopia

Under new regulations, forms of decentralized dispute-resolution mechanisms have been created through local conflict mediators (Mequanent, 2016). According to existing regulations, disputes should be resolved at the *kebele* level; if these are not solved in this arena they can be taken to the *woreda* court.

Mechanisms to handle complaints about land registration are managed by local committees, in which traditional village elders play important roles (Deininger et al., 2012). Government officials train elders at the local level on land dispute resolution (Lavers, 2018). Only when one party is not satisfied with the outcome of a case can it be forwarded to higher government administration levels. This allows for accessible, affordable, and timely processes for appealing disputed rulings, although not many disputes have been resolved to the effect of guaranteeing women's land rights. The Ethiopian rights certification program emphasizes adjudication of disputes that had become chronic in parts of upland, intensively cultivated regions, especially Amhara and Tigray regional states, where boundary disputes are especially prevalent and women are strongly relegated from formalization processes (Lawry et al., 2014).

Mequanent (2016:174) identifies two types of land disputes: those at the local level that may emerge from land boundaries, demarcations, market exchanges (sales and rentals), inheritances, and other contractual and non-contractual land relations; and those disputes which draw on a more external range of interests, including "state acquisition of local land; encroachment of commercial firms; and conflicts between pastoralists and farmers over land use rights." Across these types of land disputes, gender issues are generally not prioritized, and women are rarely involved in conflict resolution processes. The most common causes of dispute include boundary issues and inheritance complications. Research analyzing dispute resolution (Bezabih et al., 2016) found that conflict resolution is a constant in certification processes; 38% of *kebeles* in Amhara, 88% in Tigray and 21% in the South encountered reported some level of conflict. On average, the authors found that 60% of processes ran into some boundary problem. Unresolved conflict disputes result in landholders' inability to register for certification (ibid).

These types of conflicts affect women in particular, as their engagement in the early stages of registration has been limited. According to Hailu (2016), knowledge of the law, including ongoing reforms and recent changes in provisions were typically not well communicated or known by local court judges. Knowledge of land laws was also poor among *kebele* and *woreda* land administration representatives (Bezabih et al., 2016; Holden and Ghebru, 2016). In addition to land administrators having limited knowledge of land laws, women generally lack awareness of their legal rights to rural land. In cases where they have this awareness, poverty makes it difficult for women to afford the costs of litigation involved in enforcing their legal rights (Tura, 2014).

Although women get involved in the mediation of interpersonal disputes, they rarely play this role in a wider community arena. However, evidence about the impact of women's inclusion in such communal processes provides mixed results. While including women in councils can be invaluable for providing insight and giving voice to women's needs and priorities, women are not a homogenous group. Factors such as ethnicity and social class intersect with gender considerations; simply setting a quota for women's inclusion therefore does not guarantee equity or resolve imbalanced power dynamics at the local level (Mequanent, 2016). Furthermore, even when women participate, they are often in the minority, and may be forced to concede many of their claims during negotiation (Melesse et al., 2017). For example, in an analysis of traditional arbitration committees in Amhara, Mequanent (2016) found that women who settle disputes with men in divorce situations may be pressured to give up more during mediation processes.

Despite a system of village-level courts, accessing justice is difficult. Judges are often ill-informed, can be physically distant, and lack the means to enforce court decisions. Rule of law becomes particularly problematic for pastoral communities and women due to inability to communicate in official regional languages, poor access to information and lack of enforcement of court decisions even in cases where court rulings favor them. According to Deininger et al. (2012), traditional and religious dispute resolution mechanisms have become the most important dispute mechanisms to address these gaps and replace the formal justice system, and their rulings are recognized by the formal system. However, decisions by traditional elders at the local level may not always be equitable or gender-sensitive.



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