



**Assessment of Administrative and
Judicial Land Dispute Resolution
Interventions for the Land Investment for
Transformation (LIFT) Programme
Summary Note**

September 2019



LAND INVESTMENT FOR
TRANSFORMATION
PROGRAMME



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Acknowledgements

This material has been funded by UKaid from the UK government; however, the views expressed do not necessarily reflect the UK government's official policies

Introduction

This summary presents the findings from an assessment of the land dispute resolution system undertaken in Tigray, Amhara, Oromia and SNNPR between May and August of 2019. It builds on a previous light-touch assessment undertaken by the programme in 2018 (see Assefa Addisu and Elise Russell, “Assessment of Land Dispute Resolution Systems in Ethiopia in the context of Second Level Land Certification and an improved Rural Land Administration System”. October 2018). The 2019 assessment was designed to address some of the limitations of the 2018 light-touch assessment, namely the need to cover all four regions, apply more formal qualitative methods, and allow for more in-depth analysis of specific issues. During this assessment, the team has also focused on identifying and pre-designing a set of LIFT interventions that could improve the functioning of the formal land dispute resolution system.

Hence, this comprehensive assessment:

- Captures the prevalence and type of land disputes that go through the formal dispute resolution system in LIFT woredas.
- Identifies and maps the time and cost of resolving disputes through the formal dispute resolution system.
- Maps the capacity, accountability and coordination between formal dispute resolution actors.
- Acquires an in-depth understanding of the formal dispute resolution process at the woreda court level, including assessing the capacity and understanding of the proclamations and SLLC by court officials.
- The findings are based on significant quantitative and qualitative data collected during this assessment (89 questionnaires were carried out across the four regions as well as focus group discussions and key informant interviews) as well as the previous light touch assessment.

Prevalence and Types of Disputes

The data shows that the most common disputes include, in order of prevalence: inheritance and gift (except in Amhara, where it appears in second place); border and community land encroachment disputes; disputes between spouses (including divorce); disputed parcels and unresolved issues from the SLLC; and land rental. Some of these disputes, particularly those directly linked to land issues such as encroachment and demarcation of land, have been dealt by stakeholders in the dispute resolution system for longer. Other disputes such as those linked to inheritance and gift, or divorce, have become more prevalent as LIFT has been issuing second level land certificates with both men and women included in the certificates. A key issue identified has been with the abilities that stakeholders in the administrative and judicial systems to deal with these issues. Key stakeholders including woreda court judges and members of Kebele Land Administration Committee (KLACs), are less familiar with how to resolve these types of disputes. As such, there have been instances where the inability to resolve these types of disputes generate bottlenecks in the dispute resolution system and as such take longer and are more expensive to resolve.

Time and Costs of Disputes

The assessment also reviewed the key costs associated with disputes and how much time disputes tend to take, on average for disputes to go through the system. This was useful in identifying the more complex disputes within the system as well as the key costs that are incurred by farmers and the cost implication for the system.

With regards to the average amount of time taken to resolve a dispute, disputes that are resolved at kebele level are generally done so within one month. When a dispute is resolved at woreda level, when handled by a woreda land officer this is still primarily the case, however, when the dispute is taken to the woreda court, it takes three months for most cases. Disputes that are the most difficult or time consuming are related to children inheritance followed by boundary disputes (with communal land or other households).

Regarding costs, the most common costs incurred are administration (i.e. copying and printing) and telecommunication costs (i.e. cell phone costs).

Legal representation costs are by far the most significant (with median of 15,000 ETB overall). Travel costs and administration/communication costs are significantly lower (i.e. Median of 30 and 100 ETB).

This highlights that if disputes are not being effectively resolved at the kebele level, that they become expensive and time consuming for the disputing parties and for the system itself. Training of kebele actors (primarily the KLACs) is highlighted as a key issue as the woreda staff then have to travel to support the resolution driving up administrative costs and the opportunity costs for the woreda. Qualitatively, it was also observed that with

border and encroachment issues, sometimes the woreda's surveyor is asked to demarcate the borders again which is an expensive resource and one that is not prolific enough to be feasibly used as an option.

Key Constraints Identified

The constraints identified in the current dispute resolution system include:

Constraint 1: Limited training and knowledge of KLACs and kebele experts to effectively resolve disputes at the kebele level.

KLACs and kebele experts have a limited understanding of the challenges posed by the new SLLC (in terms of rights and obligations of both men and women) as well as how the new proclamations and regulations deal with issues of inheritance, gift, disputes between spouses (including divorce) and rental conflicts. This results in disputes reaching the judicial system when they could have been solved at the administrative level (at KLAC and kebele level).

Constraint 2: Poor understanding of woreda judges and other relevant staff of the revised land proclamations and regulations, including the rights and obligations derived from the SLLC.

Evidence has highlighted that the woreda court system is highly reliant on the woreda LAU when it comes to resolving land related disputes. This is because judges have limited to no training in how to interpret the SLLC and also lack general information on the dynamics of land disputes. As a result, judges need to often draw on the woreda LAU as expert witnesses, which is a challenge as the woreda LAU is very stretched and difficult to locate. This results in significant delays in the time to resolve disputes that make it to the judicial level.

Constraint 3: Lack of accessible and affordable succession and probate services.

Farmers also have very limited awareness of the benefits of succession and probate services. Succession rights tend to be socially acknowledged within families but do not tend to be formalised and disputes arise due to this (either between family members or from other relatives that believe they have a right). Further to this, the availability of these services is extremely limited. They tend to be present at the woreda level, either through the LAU (for example, in Amhara, the proclamation allows for formalisation of inheritance by the woreda LAU) and while there are some law firms that offer this service, it is an expensive process. As such, the knowledge of the benefits of probate and succession is important but the availability of these services also needs to improve. The formalisation of these transactions would help reduce the number of disputes that reach the higher administrative level and even the judicial level.

Constraint 4: There is no systematic way of capturing disputes.

Disputes are mostly recorded at the court level but given that the majority of disputes are resolved at the kebele level, there is only limited information available on the types of disputes that are most frequent and the reasons behind these. Without a system that effectively captures how disputes are moving through the system, it is not possible to identify where there are gaps and delays in the system and it is difficult to hold specific actors to account. Capturing data on disputes would support the Land Administration and Use Directorate to ensure general governance of dispute issues within the improved RLAS.

Suggested Interventions

To address each of these constraints, there are four interventions that LIFT could undertake:

- **In order to address Constraint 1**, LIFT should enhance the ability of the RLAUBs to develop and implement appropriate training to KLACs and kebele experts. These updated training modules should reflect the new land proclamations and regulations, particularly around the five most prevalent types of disputes. The training should also include areas such as understanding of the SLLC, mechanisms to build further awareness within the communities, and mediation and arbitration. Ensuring adequate training at the KLAC and kebele level would help resolve issues at their level and ensure that disputes are unnecessarily escalated to the woreda level. Although this intervention would be more of a direct type of intervention, the objective would be to pilot it in a few woredas (could be LIFT's model woredas) and then demonstrate its positive impact to RLAUBs. The demonstration effect would convince them to roll out the training to other woredas and, in the case of other regions, copy the approach.

Assessing and designing a new disputes training is feasible before the end of the LIFT programme but it is recommended that the training initially be done in Tigray, where land kebele experts have been recently introduced. It is recommended that this intervention begin as soon as possible.

- **In order to address the Constraint 2**, LIFT should build the capacity of woreda judicial officers (i.e. judges and court presidents) to adequately understand the new land proclamations and regulations, as well as the rights, obligations and interpretation of the SLLC. More specifically, this intervention would include:
 - Support the RLAUBs to implement specialised training for judicial officers that are responsible for presiding over land related disputes in their respective woredas. As far as possible, implementation of the training would be done by an existing market actor. As such, a key next step will be to identify a lawyer / law firm that can provide this training. This will be done through the contacts of a key informant lawyer at the Ministry of Agriculture who understands these issues well and has a wide set of networks to help to identify appropriate options.
 - Engage with the State Justice Bureaus and a number of pilot universities to design a module on the new land administration and use proclamations (including on the rights, obligations and interpretation of the SLLC) for training of judicial officers. Incorporating such training into the judicial curriculum would ensure the systematic training of judges and allow to reduce the time and cost of land related disputes.

As the capacity of the woreda LAU offices is raised with regards to these issues, the easier it will be for the courts to react too. Evidence has highlighted that courts across Ethiopia are already challenged with a lack of enough capacity and so it would be useful for LIFT to also engage with programmes that are working on governance aspects (e.g. USAID FeteH programme) to better understand how to effectively engage on this. Given the crucial nature of the issue, this is an intervention which can started in the short term before the end of the LIFT programme.

- **In order to address Constraint 3**, LIFT should support the development of private service providers (e.g. rapporteurs, LRSPs) to provide probate and succession services in rural areas and raise awareness amongst farmers. Developing a rural market for probate and succession services would significantly reduce the number of disputes that make it to the administrative and judicial systems, saving significant time and costs. This would be particularly relevant for the more complex types of disputes, such as inheritance and gifting. LIFT would explore different paths to generate the supply and demand for such services:
 - Support the business expansion of a few existing private probate and succession service firms available (and affordable) to rural land holders. LIFT could support them in organisation strengthening as well as reaching to new markets in rural areas (i.e. increase awareness raising activities).
 - Explore if rapporteurs¹ and LRSPs could become private sector service providers for probate and succession services. Given their stand within the communities, they could potential play a key role in supporting awareness raising activities.

This would be a relatively large piece of work which would take significant changing in behaviour within the community and so does not seem feasible within the current scope and timeline of LIFT (but should be addressed by LIFT UP). It is a logical next step to assuring the efficient use of land and reducing the number of disputes related to land.

- **In order to address Constraint 4**, LIFT should enhance the National Rural Land Administration Information System (NRLAIS) to ensure that information on land disputes is captured by the system. This will allow collecting information on land disputes in a systematic manner, which would allow RLAUBs to understand, among other things, which are the key disputes being raised, the time it takes to resolve them, where are the bottlenecks and what are the aspects of the dispute system that need to be addressed. Given the timeframes required for this intervention, it would be advisable to be incorporated by LIFT UP.

Key Next Steps

- The LIFT team will begin to identify key stakeholders in each of the RLAUBs to begin presenting the findings and highlight the two key interventions (to address Constraints 1 and 2). The team will also present the plan (based on the intervention assessments) and welcome feedback on the proposed interventions.

¹ Rapporteurs are informal actors (although some are certified) who provide case and appeal writing services for people visiting woreda courts. They come under the jurisdiction of the Office of the Public Prosecutor and were identified by the courts as providing services to individuals that go through land-related disputes.

- Once this is done, then identification of the training consultant and appropriate legal support will be identified and contracted for the interventions to begin as soon as possible.
- LIFT will engage with the USAID Feteah programme (and any others identified), which is working on governance issues, to better understand how to increase SLLC awareness within the judicial system.