



**Challenges Women and Vulnerable Groups
Face to Secure their Land Use Rights
LIFT's Programme Response**

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Acronyms

AD	Adjudication and Demarcation
DFID	Department for International Development
FCC	Federal Supreme Court of Cassation
FDRE	Federal Democratic Republic of Ethiopia
FHH	Female-Headed Household
FLLC	First Level Land Certification
FT	Field Teams
GESI	Gender Equality and Social Inclusion
GGTF	Good Governance Taskforce
KLAC	Kebele Land Administration Committee
KLC	Kebele Land Court
LIFT	Land Investment For Transformation
M4P	Making Markets Work for the Poor
OC	Orphan Children
PD	Public Display
PwD	Person with Disability
RLAS	Rural Land Administration Systems
RLAUD	Rural Land Administration and Use Directorate
SDO	Social Development Officer
SLLC	Second Level Land Certification
SNNPR	Southern Nations Nationality and Peoples Region
VGs	Vulnerable Groups
WCAO	Women and Children Affairs Office
WLAO	Woreda Land Administration Office
WMHH	Women in Male-Headed Households
WPM	Women in Polygamous Marriage

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Introduction

Funded by the Department for International Development (DFID), the Land Investment for Transformation (LIFT) programme aims to improve the incomes of the rural poor (men and women) and enhance economic growth. This will be achieved through second level land certification (SLLC), improved rural land administration systems (RLAS) and Economic Empowerment Unit (EEU) interventions to ensure that the benefits of SLLC and RLAS are maximised through a Making Markets Work for the Poor (M4P) approach. The programme is being implemented in four regional states of Ethiopia, namely: Oromia, Amhara, SNNP and Tigray, with the aim to achieve 14 million parcels in 140 woredas for approximately 6.1 million households (around 70% of parcels being jointly or individually owned by women). It is envisaged that the interventions will increase tenure security and lead to the maximisation of the benefits of SLLC and economically empower smallholder farmers.

LIFT realises that land holders have different access to and benefits from land. The programme also recognises that levels of power and influence emanating from social and economic positions in society can cause unequal entitlement and benefits. This power interplay exists between men and women, rich and poor, physically able and persons with disabilities, children and adults, etc. Those who are in a more privileged position (the powerful) often take advantage of those in less privileged situations, who are depicted as weak and powerless. These less privileged members of society are more often exposed to various forms of land rights violations and are generally defined as vulnerable groups (VGs).

Based on LIFT's working definition, VGs include but are not limited to, women in male headed households (WMHH), women in polygamous marriages (WPM), female household heads (FHH), orphan children (OC), elderly people, persons with disability (PWDs) or health issues, destitute households headed by men, minorities of any factor (ethnic, occupations, religion etc.), absentee holders (prisoners, migrant workers) and people affected by any form of addiction (LIFT GESI Strategy 2015). An initial assessment conducted in mid-2014, as well as field monitoring activities, three GESI studies conducted in 2017 and reports from the Social Development Officers verified the extent and magnitude of vulnerability of these groups of landholders.

This paper attempts to highlight the challenges faced by women and other vulnerable groups, as identified by the different studies including anecdotal evidence from other projects or government initiatives linked to land registration.

Background

Land lies at the heart of social, environmental, political and economic life in almost all African countries. Most African countries rely heavily on agriculture and natural resources for a significant share of gross domestic product (GDP), national food needs, employment and export revenue (AUCECA-AfDB LPI, 2011). From an economic perspective, about 56.6% of the total labour force in Africa is engaged in agricultural labour (FAOSTAT, 2004).

In Ethiopia, agriculture accounts for 46.3% of the nation's GDP, 83.9% of exports, and 80% of the labour force. Land and benefits derived from it constitute a key resource for household food production and other economic activities as well as social and cultural functions. The 1995 Ethiopian Constitution clearly states that the right to ownership of urban and rural land is vested with the state; citizens occupy land through possession rights held as perpetual use rights in the rural sector and as fixed term leases in urban areas. In 1997 the Federal Government enacted the Federal Rural Lands Administration and Use Proclamation No.89/1997 which gave land holders some transfer rights such as renting, gifting and bequeathing to a family member. In 2005, the Federal Government enacted the Federal Rural Lands Administration and Use Proclamation No.456/2005. It reaffirms ownership of rural land to the State; however, it confers indefinite tenure rights of land use (equivalent to long term leases held in perpetuity) i.e. rights to property produced on land, to land succession, donation, exchange and lease. Both the constitution and the land proclamation clearly recognise the land rights of women and VGs as stated in Article 5 sub Article 1 & 2¹ of the 2005 proclamation.

¹ 1a) Farmers/ pastoralists engaged in agriculture for a living shall be given rural land free of charge: 1b) Any citizen of the country who is 18 years of age or above and wants to engage in agriculture for a living shall have the right to use rural land; children who lost their mothers and fathers due to death or other situating, shall have the right to use rural land through legal guardians until they attain 18 years of age: 1c) Women who want to engage in agriculture shall have the right to get and use rural land. 2) Any person who is member of a peasant farmer, semi pastoralist and pastoralist family having the right to use rural land may get rural land from his family by donation, inheritance or from the competent authority.

Rural land certification was left untouched until recently. During the first Growth and Transformation Plan (GTP I) the number of landholders with primary level land certification was about 11.34 million. However, only 370,000 (3.26%) of landholders have received secondary level land certification in the same period (MoA, 2015). To address this gap, the government, with support from donors such as the DFID and the Ministry for Foreign Affairs of Finland, is currently undertaking full scale second level land certification (SLLC). Second level certification provides spatial information not included in the first level certificate. This is in the form of a parcel map, supplied to the right holder in hard copy and maintained digitally at the woreda. More importantly, participation and engagement of land holders in the entire SLLC process is given a very strong emphasis to ensure a socially inclusive and sustainable process².

There is a widely held assumption that access to and control over land provides landholders, in particular women, with economic independence and strengthens their bargaining power. Above all, it is a source of identity and dignity. The ability of rural women to protect themselves from violence requires the realisation of their legal, socio-economic rights, particularly those regarding land, property and inheritance. Inequality and sex-based discrimination with regard to land ownership and its effective control ranks as the single most critical contributor to violations of the economic, social and cultural rights of women in agrarian economies of most developing countries.³ Access to and control over land for women and VGs is therefore, expected to reduce social and economic dependency and the risk of experiencing violence.

The Voluntary Guidelines on the Responsible Governance of Tenure of Land, Fisheries and Forests in the Context of National Food Security (2012) specifies that:

States should consider the particular obstacles faced by women and girls with regard to tenure and associated tenure rights, and take measures to ensure that legal and policy frameworks provide adequate protection for women and laws that recognize women's tenure rights are implemented and enforced. States should ensure that women can legally enter into contracts concerning tenure rights on the basis of equality with men and should strive to provide legal services and other assistance to enable women to defend their tenure interests. States should develop relevant policies, laws and procedures through participatory processes involving all affected parties, ensuring that both men and women are included from the outset. Policies, laws and procedures should take into account the capacity to implement. They should incorporate gender-sensitive approaches, be clearly expressed in applicable languages, and widely publicized (P.8, Para. 5.4 and 5.5).

The Ethiopian Constitution stipulates that:

"Every Ethiopian has the right to engage freely in economic activity and to pursue a livelihood of his choice anywhere within the national territory...The State shall, within available means, allocate resources to provide rehabilitation and assistance to the physically and mentally disabled, the aged, and to children who are left without parents or guardian⁴".

Similarly, the federal land administration law states:

"Peasant... farmers/ pastoralists engaged in Agriculture for a living shall be given rural land free of charge⁵ (P. 14).

However, despite the presence of the law, experiences of Ethiopian women and other vulnerable groups reveal that they have been systematically excluded from realising their land rights and benefiting from the fruits of their land due to social norms and traditional practices.⁶ Customary rules denying women's inheritance and transfer of exclusive access to land is a common practice in almost all the regions. Ownership of land and valuable resources is largely governed by patriarchal rules which dictate the transfer of property through the male line. Women often only have access rights to produce from the land without any control or ownership rights. Customary rules regarding inheritance and transfer of property remains in the hands of male family members.

² (1) Public awareness, (2) Adjudication and Demarcation, (3) Public Display, and (4) Certificate Distribution

³ Rashida Manjoo, Special Rapporteur on Violence against women, its causes and consequences, UN Commission on the Status of Women (56th Session).

⁴ FDRE Constitution article 41, sub article 1 and 5

⁵ FDRE Rural Land Administration and Land Use Proclamation 456/2005, article 5, sub article 1.

⁶ Teshome, Y. (2015) Socio-cultural and Policy Related Constraints to Women's Land Right: A Case Study from Gamo Highland, South West Ethiopia. *Humanities and Social Sciences* 3(4) 149-154.

Often, women and girls face dual loss of their entitlements to land due to marriage. Their family of origin sees it as a threat because female family members may transfer the family/ clan's property to their husbands' family/clan. The new family on the other hand perceive them as an outsider and thus not to be entrusted with land rights. Women are often considered as secondary rights holders. In the face of death of a husband, divorce or separation, women are left at a distinct disadvantage due to the fact that they do not have any exclusive right to the land. The status of women in polygamous marriages also leaves them in an ambiguous position as their right to exclusive access is influenced by the complex simultaneous claims on a limited piece of land.⁷

The systematic discrimination of women's access to, control and ownership of land persists due to both social and cultural practices, as well as religious interpretations, which dictate women's position within the household - whether it is under monogamous or polygamous arrangement - and the broader community (Nangobi and Ransom 2014; Daley and Park 2012).⁸ Customary law commonly espouse patriarchal forms of inheritance, strengthened by the perceptions that when a woman marries, she will leave her biological family, move in with her husband's family and have access to resources including farm land. This, however, does not guarantee women's tenure security.

Ethiopian women typically have a weaker position than men within households, community and society at large. Women and girls have very little influence and often have to marry a husband that their clan or family has identified for them. The husband is the head of the household and women become heads of households only if they have no husband. Few women hold local leadership positions and their role is often confined to taking care of children, preparing food and doing other household chores. Despite women's crucial role in the agricultural sector, the perception that only men farm, leads to the view of women as 'secondary' users. A further compounding factor is that the land tenure system in Ethiopia is characterised by a patrilineal system. Often, inheritance of land follows the male line as the girls will leave the house and marry in other places and therefore will not be entitled to inherit land.

Challenges Facing Women and Other VGs

Land access and securing equal rights to land differs among social groups. Some are able to access and use land by being a member of a household. However, access to land does not guarantee equal rights to land especially as one's status changes as a result of marriage, health, divorce or death in the household. Findings from the field reveal that VGs face the risk of losing their rights to land or have lost their rights for various reasons. Despite an inclusive constitution and land law, in reality not all citizens enjoy their rights equally. Formal law is often rendered ineffective in the face of customary law and weak governance. Some segments of the population continue to face the challenge of preserving their land rights and women and other segments of society are still vulnerable to compromising their land use rights. This often happens as a result of their social, economic and cultural position that makes them less able to defend their rights. VGs can face challenges not only from being able to access their legally entitled right but also accessing the benefits that should flow from having secured it.

Some of the specific challenges they have been raised when speaking to individuals in the field and also reviewing research from other studies include: denial of joint registration by husbands, loss of inheritance rights, preferential treatment among polygamous wives, land grabbing by rentees, use of forged evidence in counter-claims, boundary encroachment, and care givers / guardians' failure to fulfil their role as custodians. Husbands, parents, male siblings, in-laws, caregivers, guardians, renters, traditional leaders and even those in the public sector or government, were found to impede women from realising their land rights.

We describe below specific challenges women and VG face before and during SLLC. These challenges have been identified from the following activities and research which includes: (a) LIFT's initial assessment in May-June 2014, (b) workshop findings of the Ministry of Agriculture, (c) field monitoring findings during SLLC implementation, and (d) LIFT studies in 2017.

Women in Male-Headed Households (WMHH)

During land allocation or registration prior to SLLC: although many husbands live up to the expectation of their family responsibility and respect the law, others have acted to deny their wife's land rights. Examples include women who were not home during land allocation/registration or because husbands did not report their wife

⁷ LIFT (2017) Strategy for Polygamous Wives Registration during SLLC.

⁸ See The Islamic Principles and Land: Opportunities for Engagement for an overview of the Islamic dimensions of land and in particular women's relation to land (UN-HABITAT 2011).

as a joint holder. There were also instances in which, husbands ignored the registration of their wives even when the wife was home. Other examples include wives being incorrectly reported as deceased, denying the status of a wife and registering the wife's name but with no photo attached to the certificate. Also, denying the wife in times of dispute. Anecdotal evidence also highlights instances in which some men have been known to put their sister's photo in place of their wife, or men have dressed like a woman (head scarf) and used their photo. In Muslim households, there are instances of husbands telling women not to produce photos, citing that this is contrary to religious practice, or the husband registers their mistress as opposed to their wife. It has also been known for husbands to have a deliberate disagreement with their wife and thereby making them leave the homestead during land registration.⁹ While this is anecdotal evidence, it does give some indication of the issues that need to be considered and addressed.

During SLLC, the LIFT programme has taken account of the variety of challenges that were faced by WMHH. As noted already, much of the feedback is based on anecdotal evidence but there were sufficient examples given that the following list of issues were considered for further action by the programme. These include: husband's denying their wife's registration because only men were registered during FLLC, denying their wife's registration because there was no picture in the FLLC, change of data on the FLLC book of holding, removing their wife's picture from the FLLC book of holding, erasing the wife's data from kebele and even woreda master files, illegally selling land without the knowledge of the wife, gifting land to children of another co-wife (polygamous marriages) without the knowledge of the right holder wife, providing false information, deceiving and threatening women from claiming their land rights.

In marriage, during divorce and widowhood: often women make fewer decisions with regard to land renting or the kinds of crops to be grown. These decisions are mostly under the control of men. Even when they have joint land holding rights, decisions are usually influenced by men. When divorce occurs, women will often receive less fertile, smaller parcels of land, sometimes adjacent to and encroached by communal land. They will also be paid a low sum of money to give up their land rights. This happens mainly due to the influence of traditional mediation and lobbying. Local mediation/elders' committees (*Shimaglena*) exist but are often biased against women in divorce situations. Some cases end up in court but local people (men) can side with men and potentially give false witness statements when disagreements arise. There are also instances of men bribing the kebele administration and the land administration committee to act in their favour. In some cases, women do not know their land holdings or the boundaries and when divorce happens, their husbands can easily mislead them. Often, women do not appear during the land certification process, nor do they follow up after certification has been completed.

Women also face the problem of obtaining their equal share of land even when the court decides in their favour, due to weak execution of the court's decision. For some who are able to get their share, they are constrained from renting out the land because of threats from ex-husbands. The land remains fallow where the ex-husbands use the land for pasture and eventually take it over. When women do find someone to rent their plot, the ex-husband has been known to deliberately destroy crops before they bear fruit, around harvest time. Finding witnesses to such actions can also be difficult. Instances were found of women going back to the land office to complain about what to do with their land as they couldn't get anyone to help cultivate or rent the land due to their ex-husband threatening them and the potential rentee/labourer.

Often, women have difficulty in explaining their problems in the court. They can also have problems in producing evidence. Women, who moved to their husbands' village upon marriage (which is the case for the majority), often do not have social support especially in divorces or the death of their husband.

Undermining joint holders' registration due to customary practice: some widows do not receive their share of land nor is it registered separately but instead under a family member. This is because there are instances, when the head of the family (the man) dies, land is passed to another male member of the household (usually the eldest or the youngest son). Also, unmarried female siblings or children who for any reason continue to live with their male siblings or family can obtain a share of the farm produce if they live with the family. They cannot, however, claim rights to the land. This can cause the loss of widows' and siblings' land rights if the male member of the family only registers his name. (Field Monitoring Report of Meerab Badewacho, Kacah Birra and Doyo Gena woredas, SNNPR). This highlights the need to focus attention on increasing the awareness of widows and siblings about their inheritance rights and the woreda court system.

⁹ Anecdotal evidence from different workshops (2011-2013) and interviews with LIFT stakeholder May-June 2014.

Women's identity during registration: in some localities of SNNPR and Oromia, women are known by their husbands' name as opposed to their fathers' name. This is against Ethiopian civil law that stipulates continued use of the maiden name upon marriage. Registering women in their husband's name has the implication of being treated as a sibling. It will also affect their inheritance rights from their fathers and requires complicated court procedures to claim back their rights. In taking their husband's last name, complications can arise as a result of inconsistency of names in various documents that women may have.

Women in a Polygamous Marriage

According to the Ethiopian Demographic and Health Survey 2011 (EDHS), 11% of married women in Ethiopia are in a polygamous marriage, with 9% having only one co-wife and 2% having two or more co-wives. Similarly, 5% of married men in Ethiopia are in a polygamous marriage having two or more wives.¹⁰ The 2016 EDHS shows an increasing trend (14% percent) of currently married women in Ethiopia engaged in polygamous union. About one in every 11 married men (9%) is in a polygamous union, and this varies widely across regions, urban-rural residence, and level of education. Yet, polygamous marriage is outlawed by the Federal Democratic Republic of Ethiopia (FDRE) family law and subsequently by most of the regions' family law. According to the FDRE Criminal Code, polygamy is generally regarded as an offence punishable by the law. It reads as follows¹¹:

Whoever, being tied by the bond of a valid marriage, intentionally contracts another marriage before the first union has been dissolved or annulled, is punishable with simple imprisonment, or, in grave cases, and especially where the criminal has knowingly misled his partner in the second union as to his true state, with rigorous imprisonment not exceeding five years.

The exception clause of polygamous marriage is stated in the subsequent article which reads:

... shall not apply where bigamy is committed in conformity with religious and traditional practices recognised by law".¹²

The Federal Rural Land Administration and Use Proclamation no. 456/2005 contains specific provisions acknowledging equal access to and control of rural land by women and men. Article 5(1)(c), which provides core guiding principles on acquisition and use of rural land, stipulates that 'women who want to engage in agriculture shall have the right to get and use rural land'. However, it is silent when it comes to who and how to handle the rights of women in polygamous marriages.¹³ Because of this, access to land and registration of polygamous wives is determined by the interest of the husbands, which has resulted in different ways in which land held by households in polygamous unions are registered. During SLLC, about seven types of approaches to registering polygamous wives were observed, which are:

- All wives and the husband register separately
- All wives are registered with the husband on one certificate
- The husband registers with only one of the wives, and the other wives register on their own
- The husband registers with all the wives on different certificates (SNNPR land law)
- The husband registers with his wives, but preserves some separate portion for himself (Silte, SNNPR)
- A parcel is registered under the name of one wife but the husband and other wives can use the produce
- Marriage exists but the wife is in charge of her parcel and registers on her own.

Since both the Revised Family Code and the federal rural land administration laws are silent about property rights in polygamous marriages, the different registration modalities of rural land are not backed by legal principles. Inconsistency in registering land held by households in polygamous unions has created questions and doubts on the reliability of the rural land certificate. One of the key roles of certifying rural land is to provide a reliable and admissible certificate that shows the land holders without doubt. Thus, the multiplicities of land registration modalities in polygamous households defeats its main purpose. For this reason, courts neglect or refuse to rely on the land registration certificate of a polygamous union. Moreover, some of these modalities may deny or compromise the rights of wives (usually senior wives) because of husbands' preference for the

¹⁰ Ethiopian Demographic and Health Survey (EDHS) Report 2011 and 2016 (ED).

¹¹ The Federal Democratic Republic of Ethiopia Criminal Code (2004), Art. 650(1).

¹² The Federal Democratic Republic of Ethiopia Criminal Code (2004), Art. 651.

¹³ The Federal Democratic Republic of Ethiopia proclamation no. 456/2005.

younger wives. In another situation, it may cause widowed younger wives and their children to be evicted by the children of the senior wives.

Polygamy seriously affects women's rights to property, as it affects the distribution of income at the household level.¹⁴ Laws against polygamy are rarely enforced and have little effect on behaviour. In fact, where polygamy is illegal, women may be more vulnerable; often second wives have no rights under formal law if polygamy is not recognised. Legal protection for first wives, even those who are formally married, is rare. In most instances the husband is not formally married to either wife, placing the first wife in serious economic jeopardy when her husband takes a second wife. A woman who is in a polygamous marriage arrangement and has no children will risk being evicted as the children of the other wives will lay claim on her land. In most cases, divorce or inheritance are handled by local elders in which women are likely to lose their land rights. In Oromia and SNNPR, children born in a polygamous marriage arrangement also face land inheritance issues.

With the aim to protect the rights of children and women who are in a polygamous marriage, courts go further to investigate and validate such cases. For instance, if one of the litigants presents a land holding certificate in their name, it represents very strong evidence that would rebut other evidence. However, considering the practical problems, that some of the wives might not have their name on the land certificate, courts open their doors for litigants to bring witnesses who will testify that the woman was living as a wife and benefiting from the produce of the land. For this reason, even though the woman is not registered together with the husband, as long as she can prove that she has lived as a wife benefiting from the produce of the land, she will get a portion of the land upon the divorce or death of her husband. But not all women and children have the opportunity to access justice.

Female Heads of Households

Registered parcels from 30 woredas of LIFT showed that 22% of these parcels are registered by women only, most of whom could be assumed to be household heads. Boundary encroachment is found to be the most common form of land rights violation experienced by Female Headed Households (FHH) including those who hold a SLLC certificate. Encroachers plant trees, annual or seasonal crops to prove that the contested pieces of land are their parcels. During SLLC, neighbouring farmers, including family members attempt to register the encroached area as part of their own parcel. Studies commissioned by LIFT found that FHHs are more vulnerable to boundary encroachment than male-headed households.¹⁵ In the context of male bias in relation to land, lack of male protection as well as women's limited knowledge of their parcel boundaries are among the major factors that expose FHHs to border encroachment.

Other challenges FHHs face include renters taking over land and the misinterpretation of the Period of Limitation. Long-term rentees (10-20 years) produce counterfeit certificates for the same parcel held by FHHs. Even though certificates are in the wrong hands, winning the case can often be determined by the level of evidence and capacity to argue (*bekerekere beqate*).

The use of verbal evidence is far from sufficient to support disadvantaged groups and confirm their holding rights. So, the inability to produce written evidence plus their inability to explain their problem/situation in court can result in them losing their case in court. Some even face violence of different forms. Not knowing the land law as well as the legal and court procedures, lack of resources, and fear of further retaliation are some of the problems hindering women from pushing their cases and defending themselves from land rights violations and violence. Lack of active female land administration committee members has also contributed to the problem for women land holders.

Other problems shared by all groups of women

The Influence of Customary Practice on Women and Girls Inheritance Rights

The SNNPR land law stipulates that the inheritance right is bestowed on the person(s) who is using the land irrespective of blood ties or relation (Article 2 Sub article 7, article 5 sub arti.3, and article 8 sub arti. 5). The Oromia land law gives inheritance rights to children (biological and adopted) as well as those who depend on the land for their livelihood (Article 2 Sub article 16, article 5 sub arti. 2 and article 9 sub arti.1&2). However, customary practice has continued to influence parents favouring sons or male members of the family to inherit

¹⁴ The World Bank, Food and Agriculture Organization, and International Fund for Agricultural Development, *Gender in agriculture sourcebook*, 2009.

¹⁵ LIFT (2016) Rapid Assessment of Land Conflict Drivers, Land Disputes, and Grievance Redress Mechanisms in Three Regions of Ethiopia.

land. Even when the deceased holder has no sons, it is unlikely that the daughters will inherit the land. Instead, the brother of the deceased, or other close male relatives are likely to inherit the land. This causes women and girls to lose their land inheritance rights. Even if the land law grants women and girls the right to inherit land from their parents or from using the land, customary practices still deny their inheritance right in a subtle way. So, the legal dualism negatively affects land inheritance rights of women and girls in practice.

Widow Inheritance

In some religious and customary marital practices, the brother-in-law inherits his deceased brother's wife. This is the first option a widow receives for the family or the clan to keep the land. However, if the widow refuses to marry the brother in-law, she might be obliged to leave the land. The deceased husband's family may allow her to leave children behind or to take them with her without any support. In some cases, in which women and the children have an equal share of the land, the family of the husband can escalate the situation into a clan conflict. Such a situation happened in Hetosa woreda, Oromia region, where the administration and security office intervened and made clear that the woman has the right to remarry whoever she wants, and that the land belonged only to her and her children.

Unrecorded Land Right Transfer Through Gift

Parents gift land to their sons when they get married as a wedding gift to support their new family. During SLLC, in some localities where the study was undertaken the title remain under the name of the parents, because the parents intentionally do not want the land to be transferred permanently. Tenure insecurity occurs in the event that the son dies. The wife and children could be evicted because her father-in-law and brother(s)-in-law will claim the land as it is not registered in the couples' name. Women should insist on getting land transfers and all changes in land use rights registered. However, in most cases women are unaware of the importance of registering land transfers. Even in the event of a divorce, women have no right to obtain a share because legally the land belongs to the father-in-law and no formal transfer has been made. However, it can also be done deliberately to deny women access to land, even if she has children from the same marriage. When women are evicted by their family-in-law, it is natural for them to go back to their own family. This does not mean that they will be welcomed as they may be viewed as more mouths to feed.

Orphaned Children

According to UNICEF, Ethiopia stands 5th of the 11 countries with the highest orphan populations. Over 4.8 million children throughout the country are missing one or both parents. Other sources estimate that there could be up to 6 million orphans of which about 1 million have been orphaned by HIV/AIDS. This represents 13% of the children from the 42% of the Ethiopian population that are under the age of fifteen¹⁶. Although it is not possible to separate the figures into a rural-urban distribution, a significant proportion of orphan children (OC) are believed to live in rural areas. By law, OC in rural areas have the right to inherit their deceased parents' land and formal land registration happens through their legally appointed guardians. However, despite the anticipated high number of rural orphan children, who are eligible to inherit land from their deceased parents, the field research suggests the number of parcels registered by OC in the LIFT SLLC may not fully reflect this proportion of potential land holders. This could be attributed to failure to transfer and update land rights of OC. In most cases, the guardianship arrangements for OC are done informally or without going through the legal and court procedures. OC face different challenges as described below.

Problems Facing Orphans (who have Lost Both or Either Parents)

Eviction by parental family members: when children lose their parents, maternal grandparents usually take care of the children. Field observations noted that there are some reported instances of other family members attempting to claim the land as theirs and may take action to evict the children.

Elder brothers taking advantage of younger siblings: there are some instances reported of elder brothers registering their wives as joint holders resulting in younger siblings losing their inheritance right. The eldest brother can legally only register his wife only on his share and not on the share of the other heirs.

Period of Limitation wrongly applied: when children lose both parents, they may leave their homestead for support. While they are away, they may rent out the land or their family members may use the land with the orphan receiving/not receiving a share of the benefits. In some cases, they may realise at a later stage that they have their parents' land. When they claim their land, they could be denied on the basis of Period of

¹⁶ https://www.unicef.org/protection/ethiopia_30783.html

Limitation (Yirga). Yet the period of limitation applies only after the children reach the age of eighteen years old, on top of other conditions. This is not considered in practice by some judges.

Excessive power of guardians: land may be certified in the children's name; however, children may not get the right support from their guardians to benefit from their land. In some cases, they could suffer from abuse and be compelled to move out. Guardians then get exclusive access to their land.

Lack of legal protection: Guardianship is an informal arrangement and there is no established system to support orphan children. There is no legal protection for children whose rights, including their land use right, are violated as in instances where Guardians register the land in their name, instead of the children's name.. The Women and Children Affairs office in some woredas of Oromia have started a database of orphaned children so as to arrange formal guardianship and proper monitoring.

Problems Facing Maternal or Paternal Orphans

Failure to transfer children's share (50%) of the land: when one of the surviving parents, who is caretaker of the children, remarries, the share of the land that belongs to the children should first be defined and registered under their names, according to the procedure for children under eighteen years old. In most cases, however, surviving parents do not do this and the children's share might be registered as a joint holding with the new spouses. In other cases, children could be pressurised to leave the family at an early age. Some children might get support from other family members to file their case, but this is rare. Even when the surviving parent does not remarry, it is not a common practice to transfer the children's right which might cause tension between siblings and the surviving parent.

Children in inherited marriage: marriage by inheritance is practiced in Ethiopia. When the husband passes away, his widow will be compelled to marry his brother or a close male member of the family. The main purpose is to keep the land within the family circle. But, both the woman and children could be evicted systematically especially if their share of the property is not well-defined and registered accordingly (50% for the woman's and 50% for the children of the land).

During SLLC, OCs faced a number of problems: some were unable to obtain their parents book of holding; children whose mothers are deceased lost their land rights to their fathers and stepmothers; surviving husbands tended to deny the deceased wife's share as well as the inheritance rights of the children; elder siblings register the land under their names and their wife; and guardians register orphan children's land in their name, not in the children's name.

Elderly (People Above the Age of 65)

In 2017, the population of Ethiopia was estimated at 105,816, 316 of which 2.7% (2, 857,040) are people aged 65 years and above¹⁷. Article 41(5) of the FDRE Constitution states that "the state shall, within available means, allocate resources to provide rehabilitation and assistance to the physically and mentally disabled, the aged, and to children who are left without parents or guardians". Hence, the FDRE government is aware of the vulnerability of the elderly. Challenges that the elderly face include: children misleading and cheating to take land through gift; rivalry and tension among children to access land of their old parent/s; children or care givers registration of land in their name; care givers abandonment after taking over the land; refusal of a child to fulfil their care giving role because land is transferred to the other child; and forced change of residence and caregiver to access the land, without the will of the elderly.

Persons with Disability (PwD) or Health Issues

Based on the World Report on Disability jointly issued by the World Bank and World Health Organisation, it is estimated that some 15 million children, adults and elderly persons in Ethiopia have disabilities. They represent about 17.6% of the population. A vast majority of people with disabilities live in rural areas where access to basic services is limited. In Ethiopia, 95% of persons with disabilities are estimated to live in poverty. Many depend on family support and beg for their livelihood¹⁸. Field research suggests that the number of PwD that complete SLLC may be lower than expected. This could be indicative of PwDs either being overlooked by authorities under land reallocation initiatives or being denied their inheritance rights by either their parents or

¹⁷ <http://countrymeters.info/en/Ethiopia>

¹⁸ <https://www.sida.se/globalassets/sida/eng/partners/human-rights-based-approach/disability/rights-of-persons-with-disabilities-ethiopia.pdf>

siblings. On top of these problems, PwDs also face challenges to maintain their land use right because their land could be grabbed by their care givers as documented in the case studies.

Destitute Households headed by men

Because of their weak position, they share similar problems with FHHs, which are border encroachment, renters claiming land (period of limitation or securing book of holding) and local money lenders claiming land due to failures to repay loans.

Prisoners and Migrant Workers

Because of their absence from the area for some time, they face border encroachment or even taking over of land by others.

Minorities

Ethnic, religious, or occupational minorities can be pushed out by the majority group individually or as a group. In Kindokoyisha woreda of SNNPR a pottery making family has land only for their residential building and small backyard. They live in abject poverty because they have no land and they are being demanded by the land holder to pay for the raw material (pottery soil/clay), which they cannot afford.

Other Landholders Under Other Forms of Difficulty, Such as Addicts

This group of people may forego their land use right for a very low and non-comparable benefit.

Overall, vulnerable groups face border encroachment and loss of land use rights for various reasons such as labour shortage or outmigration. Contracting land is common for this group of land holders which can lead to rentees claiming the land through local influence. Despite the law requiring registration of rent, this is often arranged informally - by mutual consent between the renter and rentee. VGs are sometimes unaware of the legal procedure and the consequences. Moreover, services are often inaccessible as they must travel to the woreda or at least to the kebele centre. For VGs with meagre resources, they would rather opt for an informal rental agreement which can be arranged locally. Also, despite the legal position that land cannot be sold or be used as collateral in any form under the law, it is 'virtually' done informally under different forms. VGs are prone to these illegal activities because they have no access to a credit service and land is the only collateral they can use to meet their financial need. Low social status in the community and low negotiating power often leads them to lose their land to better off farmers, thereby compounding their vulnerability. VGs take out loans in exchange for renting out their land for a very low price, because of their desperate situation. But, often they end up losing their land because of their inability to repay.

Violence Inflicted on Women and VGs

A LIFT study in 2017 indicated women and VGs, who are targets for illegal claims and boundary encroachment, can face threats and suffer from verbal as well as physical abuse by perpetrators. Violence inflicted on women and VGs can be used as a weapon to hinder them from claiming their right. Those who managed to institute court action could still continue to face threats in the future. Perpetrators were known to harass and intimidate VGs to silence them even if their land rights had already been ascertained during SLLC. The violence happens in different forms including verbal violence, physical violence, and psychological harassment. This calls for attention and for mechanisms to ensure awareness raising and protection of women and VGs is a continuous process, even after any land registration programme is completed.

LIFT Response (Actions Taken by LIFT to Support Women and VGs during SLLC)

In securing their land use right and associated benefits, women and VGs often face violence in different forms ranging from verbal abuse to homicide. Addressing this issue, demands support and commitment, not only from the government, but also from projects and programmes, such as LIFT. LIFT has introduced several actions to ensure that the SLLC process protects the land rights of women and VGs as well as build the capacity of government institutions to uphold these rights. The following are actions that the LIFT programme has undertaken.

Recognise Diversity and Improve Participation of Women and VG Landholders

Initial Assessment: acknowledging the diversity of land holders, LIFT made an initial assessment in May and June 2014 with the four regional stakeholders and first set of SLLC woredas. This assessment helped to identify the different groups of land holders and the kind of support they require. Based on this, public awareness materials which were responsive to the needs of women and VGs were developed.

Regular Field Monitoring: after SLLC was launched, field monitoring was conducted to assess how women and VGs are engaging in the SLLC process or are represented. The field monitoring helped to identify those challenges facing women and VGs during land registration. Some of the critical challenges reported included low participation of women in male households and informal representation of other VGs in the SLLC process that might result in women and VGs losing or compromising their land use rights.

Mandatory attendance of female spouses during public display: because the participation of women, particularly wives, is quite low during adjudication and demarcation, Field Teams took the serious measure of not approving the public display (PD) agreement (objection and correction) form without the consent of wives. When men come to the PD site without their wife(ves), they are advised to return and get their wife(ves). Their documents are held pending upon the presence of the wives. This applies for polygamous wives as well.

Engagement of Health Extension Workers: men give the excuse of maternity or late pregnancy for their wife's non-attendance to AD or PD. This has to be proved by the HEWs and should produce evidence. HEWs are guided by the kebele administration to support SLLC. In most cases, HEWs also take part in the training for the kebele leadership that takes place prior to the start of SLLC in the respective kebele.

Engagement of women representatives: LIFT encourages representation of women and village elders to defend the rights of women and VGs during AD and PD. For example, in one PD site, a woman representative protected land use rights of a senior co-wife whose husband intended to disregard her, favouring his younger co-wife.

Priority to women to provide information: when spouses appear together, it is the women who will be asked to provide information about herself and the parcel. This has helped women to provide their maiden name in areas where women change their name after marriage. The process has an empowering effect on the women by providing a sense of pride and identity.

Assignment of SDOs (Social Development Officers): the reasons cited for women's low participation in SLLC included: (i) message did not reach them in time, (ii) message failed to communicate sense of urgency and obligation; (iii) women trust their husbands and insisting on participating in SLLC sends the message of being distrustful, (iv) fear of stigma for violating the culture of men for public and women for domestic, (v) perception that land is men's business, (vi) women feel they do not know the boundaries as much as their husbands, (vii) women were unaware of the implications on their holding rights in the event of a divorce or death of a spouse, (viii) women perceived it as unnecessary engagement and a waste of time given the multiple roles they have because they did not appreciate the strategic long-term importance of attending, and (ix) some received threats from their husbands and fall prey to false information and deception.

With the objective of overcoming these and other VG's problems, LIFT introduced full time staff to work closely with women and VGs. The SDO is responsible for intensive public awareness of the general public, with particular focus on women and VGs.

Audience segmented empowering message: on top of ensuring that all SLLC information is made available to all land holders, it also became necessary to produce audience segmented messages that can bring attitude shifts about both men and women having different roles.

Supporting women and VG to regain compromised or lost parcels

Mapping and monitoring of women and VGs land registration: parallel to the public awareness activity for SLLC, the SDOs identify VGs having land right problems. Once VGs are identified, their data is passed on to the Field Teams (FTs). The FTs are then aware of the landholders requiring attention during the AD and PD. FTs are provided with the required orientation on problems facing woman and VGs and how they should support them. Disputes that are not resolved by the FT will be reported back to the SDO for the required follow up with the Land Administration Office and the Woreda Good Governance Taskforce (GGTF).

Engaging woreda Good Governance Taskforce (GGTF): the woreda GGTF is chaired by the administrator, while the Land Administration Office, Grievance Hearing Office, Justice Office, Women and Children Affairs Office, and Police are members. The GGTF plays an important role of clarifying rights and mediation between disputants. But, if the issues cannot be resolved by the GGTF, it will establish a case through the Justice Office and appeal to the court. This includes cases decided by the court but are then found to have an error in judgment based on the Federal Court of Cassation (FCC) endorsement for a review of judgment.

Influence Policies and Strategies

While working to improve the participation of women and VGs and support them to regain lost parcels, LIFT also conducted studies to respond to identified policy and practice gaps. In 2017, three studies were conducted, and strategies subsequently developed: (1) Strategy to Effectively Engage Women and VGs during SLLC, (2) Strategy to Register Households Practicing Polygamy, and (3) Strategy to Mitigate and Prevent Land Registration Related Violence against Women and VGs.

The Strategy for Polygamous Households' Registration has recommended two options which are:

Option 1: Husband registers with one of the wives. The rest of the wives register by themselves.

Option 2: All wives and the husband register separately. Every co-wife and the husband get their individual share and register in their name (as private land).

These two options are integrated into the draft Federal Land Proclamation under review. In addition, a Policy Brief containing these two options has been developed and circulated to lobby for the cause. Until the law is passed, LIFT has developed a SIGN (SLLC Implementation Guidance Note) to guide and harmonise existing land registration of polygamous households.

However, since it has no legal backing yet, FTs still depend on the willingness of HHs to absorb the proposed options.

In 2018, three more studies will be launched: (1) Strategy to Register Orphan Children, (2) Strategy to Provide Effective Legal Aid to Women and VGs Facing Land Right Violations and Violence, and (3) Strategy to follow-up and Support Women and VGs facing Land Right Challenges, Post SLLC. These strategies will contribute to greater realisation of women and VGs land rights granted by the law and a more violence-free environment for the same.

Due to the SDOs' intervention in 2017, over 248 (75% or 155 women) VGs were supported to regain lost or compromised parcels between June 2017 to March 2018, in only 10 SDO pilot woredas. This approach is primarily implemented in collaboration with the woreda Land Administration Offices and the woreda Good Governance Taskforces.

Conclusion and Recommendations

Attention to gender equality and social inclusion in land programming is important. When done correctly it can achieve impacts beyond the life of a programme, helping to reduce the gender gap, promote equitable development among different social groups and reduce social and economic vulnerability. International treaties and laws on women and other VGs oblige governments to undertake reforms to give women and VGs equal and full access to productive resources, in particular, land. Although these declarations and guidelines are supported by national legislation targeting women and VGs land and property rights, the effectiveness of formal legislation has been limited with a disparity between policy and practice. Gender inequalities and social exclusion in land rights remain pervasive. Typically, women's access to land is less secure than men's.¹⁹ Often it is restricted to a "secondary right", meaning that their rights are guaranteed through a male household member, commonly a husband or father. Women, thus, risk losing access to and control of land in situations of migration, widowhood, polygamous union, separation or divorce. The following is a set of recommendations to improve the challenges facing women and VGs to realise their land use right and harvest the benefits they deserve.

Create Well-Defined Roles and Responsibilities and Coordination Among Stakeholders

Landholders, mainly women and VGs, do not have sufficient awareness of the land law, dispute resolution alternatives, grievance hearing mechanisms, court processes and appeal procedures despite attempts by the different offices; land office, justice office and women and children affairs office. The activities of these three offices remain uncoordinated. Information can be redundant to some groups while others may be left out. Besides, the land administration office seems highly constrained by time and staff as the actual land administration job is quite demanding. It may be best if the justice office handles all the legal literacy including land rights while the community police need to focus on crime prevention including crimes associated with land rights violations. The land administration office ought to focus on the actual land administration task while WC

¹⁹ Doss et al. (2013) cautions against generalising large gender inequities on ownership and control of land without substantiating with statistical data. The statistical analysis provided by the authors using nationally representative and large-scale unpublished data on gender and land in Africa provide insights on gendered patterns of land ownership and the large gender gap in land ownership between women and men.

and Labour and Social Affairs need to monitor and support information access to marginalised groups. Clarification of roles and responsibilities helps to avoid duplication and promote effective delivery of public services, especially reaching women and vulnerable groups.

The chain of integration and coordination could take the form of:

Land Administration and Use Office:

- backstops awareness on land proclamation
- source of information to any data/information required

Justice Office:

- Legal literacy on the land proclamation, land right violations covered by the Criminal Codes

Provide legal advice and representation, monitor its effectiveness and hold institutions/organisations responsible for serving women and VGs accountable. **Women and Children Affairs:** proactively engage to identify women and children experiencing land right violations and liaise with the relevant offices

Labour and Social Affairs: proactively engage to identify persons with disability, the elderly and other socially marginalised groups and liaise with the relevant offices

Administration /Grievance Hearing Office: closely monitor women and VGs to ensure they are getting timely responses to their grievance. Also manage or link to Justice Office for grievances that cannot be resolved by this office.

Court:

- Provide independent justice with flexible evidence assessment to protect vulnerable groups.
- Provide awareness on court process and appeal procedure every morning before starting the court session.
- Improve accessibility through Mobile Court service.

Establish Formal Guardianship for Orphans and Official Representation of Other VGs

Guardians and caregivers are violating the trust accorded to them mainly because of the absence of a formal arrangement. They are not held accountable for their failure to exercise their roles and responsibilities including crime against those expecting their protection. Formalising the guardianship of orphans and other VGs can be a step towards protecting their rights.

Allocate Gender Equality and Social Inclusion Staff in the Land Administration System at the Federal, Regional and Woreda Levels

Given that not all land holders are on an equal footing to defend their land use rights, staff that look closely into the challenges of these particular groups are required to help them understand their rights and obligations and provide support in times of need, for example when land rights are under threat. This necessitates the creation of a gender and social inclusion expert at different programme levels. This expert will be responsible for dealing with the social aspects of land, will coordinate with actors as well as support in developing strategies to activate grassroots structures (development groups, networks and community care coalition) and activate the woreda Good Governance Taskforce to address land rights violation and land related violence. Emerging positive outcomes of the deployment of social development officers (SDOs) to support LIFT's SLLC process shows the importance of having a dedicated gender equality and social inclusion expert from Federal to the woreda level.²⁰

Provide Continuous Monitoring and Support to Women and VGs

Ensure a Functional Good Governance Taskforce: collaboration and coordination between the different offices narrows most of the gaps observed. The working arrangement through the Good Governance Task Force established by each regional government is a great move forward towards responding to women and VG's land right violations and violence in a coordinated manner. However, this should be maintained and active in

²⁰ Separate success stories to witness how SLLC through a dedicated staffing helped women and VG regain lost parcels is annexed to the paper

order to serve the purpose it intends to serve. This is evidenced by the fact that while LIFT SDO assigned woredas become active in helping women and VGs, no similar initiative is observed in non-SDO SLLC woredas.

The Attachment of Photographs of Landholders in the Land Certificate Should be Made Mandatory

Some regional laws do not make the attachment of photographs of landholders in the land certificate mandatory. Regions should include in their laws a provision requiring that photographs of landholders be attached to land certificate. This is especially useful for non-readers to enable them to verify easily their certification right. This is particularly important for wives who usually encounter challenges accessing the land in comparison to their husbands.

Improve Collaboration Among Donor-Funded Land Projects

There are several land-related projects being implemented in Ethiopia. Projects can learn from each other and contribute to institutional development in the land sector. There are several pathways for collaboration which can have positive impacts in efforts to protect the land rights of women and VGs during and beyond systematic registration. Support should be provided at the woreda level (even better at kebele level) to interpret information provided to the users of the services.

Implementation of the Laws

Enforce the Criminal Code on Land Right Violation and Violence

Article 407-408, 453, 685- 689, 712 of the criminal code are applicable to legal punishment of land related offences. However, interviews with prosecutors as well as accounts by women and VGs revealed the criminal prosecution of border encroachment, illegal land occupation, use of false witness and forged evidence have not been enforced. When the offence is on communal land, it is punishable, and when it is on an individual right, it is often referred as civil matters even though these involve a criminal offence as articulated in the law. Enforcing the law and criminalising such offences will deter perpetrators and protect landholders from illegal land occupation. Weak enforcement of the criminality of the offence only emboldens perpetrators. They are no longer afraid of being sued in court because civil case litigation does not involve criminal responsibility and punishment/imprisonment. The court only pronounces a decision of the right holder based on evidence.²¹ And yet, land right violations and violence is the source for many criminal offences including homicide. Both fellow land holder perpetrators and service providers should be accountable for their wrong doings.

Shared Understanding on the Issue of Period of Limitation

The issue of the period of limitation is critical for women and VGs whose land is forcefully taken, in whole or part by perpetrators, but those acted against did not bring charges/complaints to the court. One of the reasons women and VGs fail to act is lack of knowledge about the law. The FDRE Rural Land Use and Administration Proclamation no. 456/2005 is silent about the time period by which a claimant should bring a case before a court of law on the basis of illegal land occupation. Similarly, the rural land use and administration proclamations enacted by all the regions covered in the study also do not state the period of limitation in cases of land encroachment and illegal land grabbing.

The LIFT study noted varying court interpretations regarding the period of limitation in the study regions. For example, a judge in Oromia indicated that as long as the renter and rentee share the benefits from the land the period of limitation is irrelevant. In Tigray, despite a woman claiming her rights throughout the period that they were violated, she lost her claim due to the period of limitation. The time allocated as period of limitation is also a very important issue which is not enforced uniformly by courts. Some judges stated nine, ten and up to twelve years for owners to file a complaint to reclaim their land. Others argued there is no period of limitation for rural land holdings.

The existing gap in the law and irregularity in practice has been addressed by the decision of the Federal Supreme Court of Cassation which holds a binding authority over all the courts with in the federal and regional jurisdictions. Accordingly, the court has declared 10 years as period of limitation based on articles 1677 (3) and 1885 of Civil Code in the cassation case number 69302 (volume 13) for cases initiated involving illegal land occupation. The cassation court explicitly emphasised that setting the period of limitation is essential

²¹ Separate success stories to witness how SLLC through a dedicated staffing helped women and VG regain lost parcels is annexed to the paper

because the right holder should be diligent enough to reclaim back his/her land. Because of the difficulty in obtaining evidence, the Amhara region's new proclamation rejects the period of limitation in cases involving illegal land occupation. Yet it is debated and could still be open for interpretation.

Enforce “Land Cannot be used as Collateral”

As per article 40(3) of the FDRE constitution, land shall not be subject to sale or any other means of exchange. In all the study regions, rural land use and administration proclamations state the investors are allowed to mortgage rural land use rights while it is silent with regard to landholders.²² However, the study found landholders illegally using their land as collateral to obtain loans mainly from local money lenders. The lack of options for accessing loans in times of dire need, such as to cover emergency expenses, forces poor households to borrow cash by using their land as a collateral although the law explicitly prohibits this.²³ In some cases, money lenders entice landholders to borrow money with the intention of taking over land. The borrower's inability to repay the loan over an extended period gives lenders continued access the land and most commonly to claim ownership. Unfortunately, the crops harvested during the loan period are never counted/calculated as part of the loan payment. The SLLC-linked individual loan aims to provide landholders with financial access, provided regions integrate this into the revised land proclamation, such as in Amhara. However, it is unlikely that the new SLLC loan product will be able to respond to all the financial needs of women and VGs therefore the law should be updated to protect landholders who lose their land as repayment for a loan default.

Build Capacity of Judges to Familiarise them with Existing Land Proclamations

The LIFT study noted that judges may be unfamiliar with existing land proclamations. Women and VGs who are often self-represented face the challenge of getting fair treatment of their case. Moreover, judges use different laws to make decisions. It is known that the issue of land cuts across family, inheritance and criminal laws in addition to land proclamations. Cases were observed in which the judges' decisions were based on different laws for the same issue and same parties involved in one case. This raises the accountability (the responsibility and obligation) of the justice system.

Execute Court Decision: “Justice Delayed is Justice Denied”

When people report land rights violations (“Huket Yiwogedelign”), the justice office demands first to clarify rights and send them back to the court. This process can be lengthy and in the meantime, violence could be aggravated affecting women and other VGs hugely. This finding is consistent with previous research in the area which revealed that women (mainly FHHs) faced more delays in having land disputes resolved.²⁴ Even when court decisions made in their favour, women and VG suffer from delayed execution by the kebele administration. When land related cases are reported to the justice office, the case is copied to the KLAC because land dispute resolution should start from the kebele. The KLAC then sends its decision to the woreda court. However, women and VGs often face delayed responses because their disputants intervene and influence local officials.

Enhance Elders Role in Enforcing Land Rights of Women and VGs

Conflict and dispute resolution through arbitration by elders is legally recognised by all the four study regions' land use and administration proclamations. In accordance with the Oromia and SNNP regions' proclamations, it is the KLAC that receives the application and facilitates election of elders by the parties. It is through a process of negotiation and arbitration by the local elders, set by the choice of the two parties, that the KLAC resolves a dispute. The SLLC manual considers the elders as one of the stakeholders and main actors for effective implementation of land certification. Village elders are entrusted to promote the rights of women and VGs, support a fair dispute-resolution process and even representation of VGs during adjudication and demarcation. The study, however, noted that they are influenced by local customs as well as by persons of influence; hence, they could be biased against the poor and VGs. As they are very near to the community and are key actors in dispute resolution, elders should be supported with a better understanding of the implications of their decisions over women and VGs, to help gradually change culturally rooted bias against these groups,

²² Proclamation 133/2006 Under article 19(5); Proclamation 130/2007 Under article 15 (15); Proclamation 110/2007 Under article 8(4) and Proclamation 136/2000 Under article 5(3)

²³ Federal Supreme Court Cassation decision, Volume 14, file no 79394

²⁴ LIFT (2016) Rapid Assessment of Land Conflict Drivers, Land Disputes, and Grievance Redress Mechanisms in Three Regions of Ethiopia

particularly of women. LIFT's audience segmented message to impact attitude change of the different local actors is worth testing and scaling.

Review the Jurisdiction of the Kebele Land Court in Tigray

Across the study regions, it is only in Tigray Region where Kebele Land Courts (KLC) are established under the judiciary for dispute resolution.²⁵ The KLC use farmers, who are able to read and write, to serve in the land court.²⁶ They receive 15 birr from each litigant per case. In the first instance jurisdiction is given to the KLC and/or KLAC more than regular courts. Practically, the study team observed that it is the KLC who hears land related disputes. During interviews the KLC judges complained that although they receive legal training about twice a year, they find this insufficient. The research team observed that they hear and decide land dispute cases. However, their jurisdiction in hearing land disputes is highly criticised by the judges at the woreda level.

The woreda court believes that land disputes should not be decided by the KLC. The KLC's responsibility should be arbitration not decision. However, they decide by citing the law even if they do not have the knowledge. A judge said, we are sometimes hindered to give decisions though we know the existing laws, but the KLC pronounce decisions easily as they think they are right. The judges in Tigray further said that KLC judges are under the influence of the Kebele Administration and also decide based on strong social relationships. They underlined that most of the decisions of the KLC are biased against women and reflect the tradition and perception that women are secondary farmers, and this affects their rights.

Review Laws and Procedures

Continuous monitoring of the implementation of the law through the GGTF or other means possible, provides feedback on what laws and procedures require revision. It is essential to keep this process dynamic to respond to the changing needs of women and VGs.

²⁵ Tigray Region Code of Conduct No. 240/2006

²⁶ LIFT (2016) Rapid Assessment of Land Conflict Drivers, Land Disputes, and Grievance Redress Mechanisms in Three Regions of Ethiopia.

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