



Women Land Rights and Land Utilization In Ethiopia

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Background

In many developing countries people lack to secure property rights and access to adequate resources. Women in particular have less access to land, and the lands they own have lower quality in comparison to those of men. The failure in the implementation of women’s right to equal access to and control over resources starts within the family and the community they live in, and as a result they are oftentimes exposed to various challenges. As stated in the Beijing 1995 Declaration, the poverty of women is directly related to their lack of economic opportunities and autonomy. Lack of access to and control over economic resources, including credit, land ownership right and inheritance, lack of access to education and other social services and their minimal level of participation in decision making process are the major impediments to women socioeconomic empowerment.

Objectives and Methodology

The general objective of the study is to explore the actions taken by the government to ensure women’s land tenure security and the status of utilization of their right. The specific objectives include; assessing the policy frame work to ensure women land and other economic resources; assessing the status of women’s utilization of resource ownership right, exploring the impediments on effective policy implementation of land and other resource right, and to provide policy recommendation that will help to overcome the challenges. The study is based on a desk review of government legal and policy documents as well as a review of the related literature.

Key Findings

Legal Frameworks

National and international legal and policy instruments show the existence of a clear foundation for women’s right to land and other productive resources. These rights are guaranteed in various documents. Nationally, the FDRE Constitution of 1995, the National Policy on Ethiopian Women of 1993, the Ethiopian Women Development Package of 1998 and the Rural Land use and Administration document of 2005 reiterated the equal rights of women’ to acquire, administer and control land to men. These documents

also state that women shall also enjoy equal treatment as regards the inheritance of all forms of property.

These policy and legal documents:

- Affirm the respect women’s human right and help enable them to enjoy the fruit of their labor and performing public functions as decision makers.
- Facilitate reforms and promote women’s rights to ensure they enjoy maximum benefit from their land and maximize their productivity.
- Ensure the practical implementation of land certificate processes of addressing women land rights via land proclamation of each region

Internationally, Beijing Platform for Action 1995 and Sustainable Development Goal 2016-2030 set the goal of achieving gender equality and empower all women and girls. Ensuring women’s equal access to economic resources as a means to further advancement and empowerment of women and girls is declared on Beijing Declaration. Furthermore, the declaration urges governments to take the necessary actions to make legislative and administrative reforms to give women equal access to economic resources, including the right to inheritance and ownership of land and other property.

Women and Tenure Security

In many communities of Ethiopia, access to land is governed both by statutory and customary laws. These laws limit women’s rights on land to secondary rights mainly derived from their membership in patriarchal households.

Under customary system of tenure, marriage has been a primary means of getting access to land. This means women’s access to land through male family members gives them only subordinate rights. This path to land rights is susceptible to breakdowns in relationships due to divorce, death and the changing priorities of male landowners, underscoring the fact that although women hold land on behalf of their male children, they may be deprived of access and ownership to all or part of the land in question when the boys grow up to claim it. This reveals the

fact that the patrilineal inheritance system restricts girls from inheriting land from their parents. Studies show that the direct relationship between marital status and means of land acquisition; unmarried women have no access to land through inheritance and none of the divorced women accessed land through marriage.

Land Governance

Land governance can be understood as the process by which decisions are made regarding access to and use of land, and the way through which conflicting interests in land are reconciled. Land rights are legally recognized claims on land enforced by legally established and formed institutions. Women's land rights requires deep understanding of the relationship between legal and social recognitions as well as the relationship between legal provisions and their enforcements.

The Federal Democratic Republic of Ethiopia Constitution states that all land belongs to the state and the peoples of Ethiopia and it shall not be subject to sale or to other means of exchange (article 40.2 Proclamation No. 1/1995). The right to use land under the Constitution, Article 40(4), (5), and (6): state that Ethiopian farmers and pastoralists have the right to obtain land without payment for farming and grazing as well as the right not to be displaced from their lands. In addition, the constitution ensures the right of private investors to the use of land on the basis of prior payment arrangements established by law. Furthermore, the Federal Land Administration and Land Use Proclamation No. 456/2005 states that farmers have a perpetual use right on their agricultural holdings, and this right will be strengthened by issuance of certificates and keeping registers.

Land Tenure Policy and Women

The 2005 Federal Rural Land Policy recognizes the need to grant women access to rural land for the purpose of undertaking agriculture (Article 5/1c). It is interesting to note that land use right of peasants, semi-pastoralists and pastoralists of both sexes are for life (Article 7/1).

Land tenure is affected by many and often contradictory sets of rules, laws, customs, traditions, and perceptions. For most rural women, land tenure is complicated, with access and ownership often layered with barriers which include discriminatory social dynamics and strata, unresponsive legal systems, lack of economic opportunities, and lack of role and representation in decision making. Yet, most policy reforms, land management and development programs usually disregard these factors in their interventions, which ultimately increases land tenure insecurity for rural women.

A 2008 World Bank study found that Ethiopia's large-scale land certification effort improved women's economic and social status. This study states that the means employed were at times that simple, but highly effective, such as adding an extra line and photo slot to the land certificate itself, allowing women to add their name and photo to the title. However, there is a persistent gender gap in landholding rights because, women's access to and control over land is affected by various factors in. For instance, socio-economic, legal and institutional factors affect women's access to and control over land. These factors which affect Women's access to and control over land practices not only affect women as a whole in these communities but also make differences among group of women under different marital statuses.

Study findings reflect that patrilineal inheritance system is the dominant inheritance system applied by communities. This system restricts from inheriting land from their parents. Although the married women who have access to land claimed to have full control over it and its proceeds, informal discussions with some of the women revealed that this was not mostly the case as these women were often reluctant to publicly expose the reality due to fear of being condemned by society. In some instances, women in polygamous marriages are permitted by their husbands to register as members of peasant associations. However, in such instances, their husbands seize their control rights. The majority of women who have independent land rights were widows who inherited the resource upon the death of their husbands.

Land Tenure Policy Implementation

The new Federal and Regional Land Proclamation aims at strengthening women's rights to land and the sustainable use of land resources. The Federal and the Regional Governments attempt to address the issue of tenure security through the issuance of certificates. Many scholars argue that pastoral communities have no guarantee of land use rights for an unlimited period, and thus land may remain vulnerable to further degradation due to lack of ownership (ICPALD, 2016). According to these scholars, the policy requires common property systems preferring to deal with simple concepts of individual or state properties. For this reason, in Ethiopia, the problem of displacement has mostly affected communal lands belonging to agro-pastoralists, and open access grazing areas in high and lowlands. The other vulnerable groups are farmers and pastoralists located in the vicinity of urban areas who are often victimized due to urban expansion or the construction of new settlements.

The most common criticism on the land certification process in Ethiopia is the lack of enforceable centralized standards. However, its localized approach to increase community involvement and address the homogeneity within land tenure structures even inside a single country can be considered as one of the advantages. However, this decentralized approach can also present a problem as certificates in different regions can be more or less accurate than others, or differ in benefits there in. In the previously mentioned struggle for gender equality, some regions required both male and female owners on certificates, but other regions did not. In order to add value and incentive to land certificates, they need to meet an agreed upon standard.

Landholding Certification

Land rights registration and certification is a recording procedure involving describing a parcel of land and identifying its current owner/holder and the form of ownership she/he or they had. It is a process of recording rights on land which provides safe and certain foundation of acquisition and disposal of rights on land.

Landholding certification has been implemented in Ethiopia since 1998 with over 5 million certificates have been issued. The land certificate provides guarantee to rights such as the right to compensation for investment (in the event that the land is taken over for public purposes, etc.), the right to bequeath land, and the right to lease out the land for limited periods of time. Though the certificate is not an all-encompassing ownership legal document, it represents

a substantial improvement in tenure security in a country with a high and increasing land scarcity and a history of land policies that promoted tenure insecurity.

A low-cost certification process was carried out in rural Ethiopia being implemented through a much-decentralized manner. The process involves conducting a meeting at which the program is explained to the community members who elect a Land Use and Administrative Committee (LAC) that is charged with the identification of the various parcels of land by drawing their boundaries through a labor-intensive field-based approach, as precondition for the issuance of the certificates. Studies show that LACs have had an important role and strong local participation in the process of land certification, but female representation in these committees has been very low.

Upon registration, households are given a preliminary certificate and once records have been entered into the registry book, receive an official certificate with their names and often photos included. Land registration and certification, where husbands and wives are given joint titles to their land is believed to be providing legal empowerment for the poor.

Women and Landholding Certification Process in four Regions of Ethiopia

Ethiopia is one of the countries that made changes on land legislation or institutional setup with the goal of being able to recognize land right and provide security of tenure to occupants in new and innovative way, which includes locally administered land rights, improved position of women related to land rights and (local) dispute resolution mechanisms. Several Ethiopian regional states have introduced land administration systems that aim at land use certification for all (sedentary) farmers in the region at an affordable cost.

Article 17, particularly sub-articles 1 and 2, give the power to enact laws and establish institutions governing rural land administration and use and to the respective Regional State Councils, the same way it does regarding the power to implement the 2005 FRLAUP. This is done based on article 52/2d of the FDRE Constitution that stipulates regional states to have the power to administer land and other natural resources in their respective regions in accordance with federal laws.

Two researches conducted in the four regional states of Amhara, Tigray, Oromia and SNNPR revealed that the process of land certification in the regions has some similarities as well as a number of differences that are associated with variations in their overall socioeconomic and political conditions.

The certification processes carried out in the four regional states were similar on two counts. They were undertaken through the participation of the communities concerned in a decentralized manner in all four regions. In all four regions, members of the LAC teams that provided free services to the communities were given short-term training on their duties and responsibilities before setting out to undertake certification.

On the other hand, land certification in the four regions exhibited certain important differences. Firstly, the rural land proclamations issued in Amhara, Oromia and SNNPR regions all uphold that the land be registered in the names of both spouses, but the land certificates issued in Oromia provide only a single space for placing the photo of the landholder even in cases of joint spousal registration. Secondly, land

reform that was much earlier undertaken in Tigray was conducted in such that wives were assigned parcels of land on an equal basis as their husbands, and the certification also followed the same way. Married women in Tigray confirmed that they have the right to retain their parcel of land in case of divorce. Women who were left without husbands make use of the options of sharecropping or, in exceptional cases, that of hiring male farm laborers.

In Amhara, certificates issued exclusively in names of husbands, were found to be less than 9% of the total. It is believed that people who did not work on the land themselves (such as women who rent had rented out their land to sharecroppers, the elderly and disabled) missed the opportunity to obtain certificates as they couldn't be appear in person and submit evidences when the registration process was carried out. This is said to be partly due to poor management and lack of oversight on the part of the LAC. As it happened, sharecroppers managed to register the land in their own name. Moreover, women involved in disputes over land following divorce or inheritance were also at risk of not getting their land registered and obtaining certificates.

In Oromiya, women's access to land is enforced through their husbands, except in those cases where they are registered as household heads in Kebele Administration. A study has further revealed that a female child cannot inherit her parent's property because her property will fall in the hands of her husband when she gets married and will not get it back upon his death or in case of divorce since all of the husband's property is claimed by his clan.

Moreover, the majority of women in Oromiya, over and above not having independent rights over land, also lack awareness about their constitutional rights of access to land. Yet, recent studies on the subject show that women in the region claim their right to inherit their deceased parents' lands. This is attributed to the awareness of the women concerning the rise in the value of land and the ease of managing inherited land for married women who live far away from where the land is located. As a result of the combination of these factors, married women living far from where their parents live claim their share of inheritance, even when the parcels of land are as small as a quarter of a hectare or less.

In the SNNPR, women have few entitlements to property which is not higher than bride price and dowries; girls are seen as the property of their husband and his clan. A joint land certification process carried out in the region was found wealth to be neutral and this was seen to contribute to an increase in the perceptions of tenure security for both women and men. According to some studies conducted on the region, the land tenure reforms "impressive but has limited impact on women's ability to influence farm management.

Challenges in Policy Implementation

Barriers which prevent women's access to, control and use of land and other productive resources often include inadequate legal standards and/or ineffective implementation at national and local levels, as well as discriminatory cultural attitudes and practices at the institutional and community levels, low conscious participation of women, and lack of competent political leadership.

The most common challenge here is that although laws and policies recognize women's land and property rights, they fail to be implemented fully as the regulations and guidelines for implementation of laws and policies are often very technical and difficult for women to pursue them.

Conclusion

In Ethiopia, both the federal and regional land policies intend to guarantee women's access to land and strengthen their right, even though it is difficult to say it addressed the problem fruitfully. The challenge of translating legal reforms and good intentions into real change at local level is its conflict with customary institutional and local interests. While legislation can be an important starting point for transforming local practices, its rightful implementation is where the hurdle begins.

To bring change on customs of male dominance in household decision making related to land is a long process but joint titling of land may be seen as an important first step.

Therefore, Despite the progress, women have remained disadvantaged in many ways. Since access to and control over resources and benefits is determined by socio-cultural norms which have significant impacts on gender relations. These inequalities of opportunities in access to and control over resources have made women more vulnerable to poverty than men in many parts of the world.

Access to and control over land depends just not only on government policy pronouncement but also the interaction of these policy process with social institutions such as marriage, divorce, inheritance and intra-household relations.

Recommendations

On gender sensitization:

- Undertake coordinated gender sensitization efforts in order to overcome the deep-rooted patriarchal system;
- Upgrade the knowledge of the LAC members, implementers, and conflict mediators concerning the various land related laws and regulations;
- Intensify awareness-raising programs to sensitize the public and all stakeholders on women's equal land holding rights and need for women's land rights;

On women empowerment:

- Information dissemination; mobilization and organization of women's groups; provision of education to women and men, and legal support ought to be conducted in order to empower women'.
- Legal awareness and effective legal aid should be made available for women to empower them to claim their property rights.
- Women farmers ought to be provided with functional literacy and skills training to be able to undertake and manage farm activities.
- Affirmative action to empower women and involve them in the social court system should be carried out in order to reinforce women's right to land.

On effective women participation

- Adequate female representation must be achieved in LACs that are established at the sub-village (sub-Kebele) level.

On effective monitoring of implementation

Source:- መሳይ ያሬድ (2013) የሴቶች የመሬት ባለቤትነት እና አጠቃቀም መብት ሁኔታ በኢትዮጵያ

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