Challenges to the Implementation of the Rural Land Law as a Tool of Empowering Women in Ethiopia: the case of Amhara Regional State

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Aim of the Conference Paper

- Illustration of challenges on the implementation of the rural land laws from the perspective of realising women’s land right;

- Put forward way out to alleviating and eliminating the challenges to the proper implementation of the rural land law.

- Potential lessons for other countries.
Outline

- Women’s Land Right: Global and Regional Perspective

- Women’s Land Right in Ethiopia

- The Rural Land, Registration and Certification process
Cont’d

• *Lesson for other African Countries*

• *Challenges to the Implementation of Women’s Land Right*

• *The Way Forward*
Introduction

- Women play a pivotal role in agricultural production activities, spend up to 85% of their labour on farming activities in most parts of the country (Yeshi C., 2005).
- So rural women in Ethiopia are known to be the invisible agricultural producers who are unpaid (FAO, 1998).
Cont’d

- Despite this, women’s land right in Ethiopia has not been formally recognised until the enactment of the 1995 FDRE Constitution.
Amhara Regional State

Geographic Location Of Amhara Regional State

Area • Total 154,709 km² (59,733 sq mi).

Population (2007) • Total 17,221,976 • Density 110/km² (290/sq mi)
Women’s Land Right: Global and Regional Perspective

- CEDAW, has a provision that dictates equal treatment of women in relation to inheritance, purchase and disposition of property including rights on land (See CEDAW, 1981, Art. 13, 14920, 15(2) and 16(1).

- ICESCR, 1976, under Art. 11, also gives equal recognition and treatment to men and women alike in this regard.
Cont’d

- International policy instruments, principles, guidelines and recommendations:

  - The Fourth World Conference on Women
  - The International Conference on Population and Development
  - United Nations Higher Commission on Human Rights
  - UN Conference on Sustainable Development (‘Rio +20’)
The African context:

- There are a host of Human Rights instruments and policy guidelines in relation to women’s land rights.
  - *African Charter on Human and Peoples’ Right (ACHPR).*
  - *Principles and Guidelines on the Implementation of Economic, Social and Cultural Rights in the ACHPR.*
  - *AU Declaration on Land Issues and Challenges in Africa.*
Women’s Land Right in Ethiopia

a) FDRE Constitution

- All international conventions on women’s right are considered to be part and parcel of the country’s legislation.

- Article 40(3) FDRE Constitution states that land is the property of the state and the people.
With regards to right of women to land, the Constitution stipulates that:

- *Equal rights with men with respect to use, transfer, administration and control of land.* (FDRE Constitution 1995, Art. 35(7)).

- *Affirmative Action for the benefit of women*(Art 35(3)).

- *The right to full consultation in the formulation of national development policies.*
Women’s Land Right in the Rural Land Administration Proclamations

  - “Holding right”.
  - Access to rural land free of charge.
  - Women shall have the right to get and use rural land.
  - Equal recognition for men and women alike in relation to land certification.
  - Joint consent of spouses required in case of transfer of land right via rent.
The Amhara National Regional State

• “Rural Land Administration and Use Proclamation Number 133/2006”.

• Regulation No.51/2007

• Article 8 provides: “where a deceased rural land holder has left a spouse at the time of his death, the surviving spouse shall have the right to continue using the land as of the date of land holder’s death if she continues to reside in the same kebele or until she concludes another marriage, and if that is not the case for the rest of her life time.”
Women’s Access to Rural Land, Registration and Certification Process in Amhara Region

- **Access:**
  - Redistribution commenced in 1996, in some parts of the region (such as in parts of *wollo*) it started as early as 1991.

- Main criteria for allocation of land were age and sex.

- Any female rural resident over 18 years old or male over 24 years old was entitled to land allocation.
Women’s Role in the Land Registration and Certification Process:

- The land registration and certification process started first as a pilot project in two localities.

- Land Administration Committees (LAC) were formed,

- Members of the LAC are *kebele* residents elected by the community.

- They provided free service of land measurement and registration in their community along with officials from Land Administration office.
Cont’d

- The entire certification process took four years with some 18,890 community members participating as members of LAC each constituting five individuals.

- Of these 7% (1,318) were female.
The Book of Holding

- The names of both the husband and wife are entered into the Book of Holding and the pictures of both are attached to the Book of Holding.

- This enhances women’s right to have equal voice on management and control over rural land.
Potential Lessons for Other Countries

- The fact that the process from the beginning to the end was participatory is considered to be the main factor for the success.

- It has also reduced the cost of registration.

- Strengthened women’s land tenure via joint certification.
Challenges to the Implementation of Women’s Land Right:

- Disparities exist between land policies’ goals and implementation practices in many countries.

- Progress achieved on issuing gender equitable land policy and legislation became deficient at level of implementation in most African countries (See Jacobs Susie, 2001).
Challenges......

a) Inconsistency between Legislations and Implementation Thereof:

- The federal family law stipulates that marriage is to be monogamous (FDRE Revised Family Code, Proclamation Number 213/2000, Arts. 11 and 33).

- The rural land registration and certification practice in Amhara Regional State has some form of tolerance to an act of bigamy.
Challenges......

b) Custom and Lack of Awareness

- There is a notable difference in the extent of land use between male headed and female headed households.

- Attributed to, among other things, the traditional division of labor between men and women in Amhara Region which allots some types of tasks for one sex exclusively.
The Prevalent Tradition
Challenges....... 

C) Dispute Resolution Mechanism:
- The rural land law of Amhara puts arbitration as a precondition for bringing a land related claim before a court of law.

- Such dispute resolution process may be carried out in accordance with the customary procedure of each surrounding.
Challenges......

- The dispute resolution framework is dominated by men who are usually not gender sensitive.

- Even when the case is brought before a regular court, women do not have adequate awareness on the legal procedures in order to properly defend their rights on land.
The Way Forward

- Increasing access to regular courts in rural areas.

- The legal system should be revisited to affirm that women are able to opt out of customary/traditional dispute resolution procedure if they do not want to.

- Legal services are very critical to the full realization of women’s land right, and should be further expanded.
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• Programs that target legal literacy should be intensively developed in the region and women should be given special attention for the sake of enabling them understand their legal rights in relation to rural land.

• Some act of harmonization of legislations in relation to women’s right shall be a considered.
Thank You!!!!!