

# How can land disputes be better managed and resolved?

*Land conflicts and disputes are all too common in Ethiopia, threatening the security and livelihoods of smallholder farmers across the country. Research carried out by the Land Investment for Transformation (LIFT) programme assessed where and why land disputes happen, and how LIFT can work with policymakers and legal practitioners to make grievance mechanisms more effective and equitable.*

## Background

More than 12 million households practise smallholder farming in Ethiopia. Although these farmers cannot legally own land, they are granted land-use rights in perpetuity and are transferable through inheritance, gift, divorce and rent. But the system of land-rights allocation and transfer is weakly administered: many farmers, women in particular, end up losing their land rights through malpractice, misinformation or simply by not being aware of their own rights within the grievance process.

Improving the management and mitigation of land conflicts is central to making land administration and governance work for smallholder farmers in Ethiopia. To inform this process, the LIFT programme looked into the circumstances that drive land conflicts, and analysed different kinds of land disputes and grievance mechanisms. Based on this investigation, the research team established a set of recommendations for reforming the grievance process.

## Methodology

To assess the land conflict situation in Ethiopia, LIFT carried out a desk review and conducted field research during July and September 2016. This research included interviews and focus group discussions with representatives of federal and local government, development organisations and legal institutions, male and female heads of households, and married women. It focused on eight kebeles, in four woredas, in three of the four LIFT regions: Oromia, Tigray and the Southern Nations, Nationalities, and Peoples' Region (SNNPR).

### Key insights

- **Drivers of land conflicts** are often 'structural' (geographical, environmental or societal) and therefore not easily addressed through development interventions. Nevertheless, understanding the driving context behind land conflicts is helpful for establishing legal mechanisms that can effectively deal with disputes.
- **Land disputes** in Oromia, Tigray and SNNPR relate to borders, inheritance, illegal occupation or 'gifts' and other transactions.
- **Legal pathways for resolving land disputes** are largely managed by land administration systems, general systems for addressing administrative grievances or local land courts.
- In their current form, **the law and practice of resolving land disputes can undermine the LIFT programme's primary objective** of improving security of land tenure for Ethiopia's rural poor.



## Research findings

### Drivers of land conflicts

#### Population growth and increasing demand for land

As Ethiopia's population increases and families grow, parents find it more and more difficult to bequeath sufficiently sized land parcels to each of their children. In addition, population growth and the finite nature of agricultural land have resulted in a growing number of landless households in rural areas, especially in the Ethiopian Highlands. Young people are particularly affected as competition over land often leaves them without resources to support themselves and their families.

#### Decreasing availability of grazing land

With not enough land to go round, communal grazing land is often allocated as agricultural land to the landless.

#### First level land certification

Ethiopia's first level land certification (FLLC) has been highlighted as an initial, homegrown, successful response to land tenure insecurity. However, it was gradually also seen to be a source of many land disputes because it lacked proper maps and failed to provide adequate evidence for land transfers through inheritance.

#### Urban expansion

Ethiopian law provides no legal framework governing the change of administrative boundaries. As rural towns expand to accommodate a growing population, individual landholdings in the neighbouring kebele are simply expropriated. Problems arising during this process include untimely and inadequate notice and/or compensation given to landholders.

#### Climate change

Increasingly unpredictable seasonal rains caused by climate change aggravate Ethiopia's situation of resource scarcity and competition for land.

#### Weak land governance

A lack of good governance has led to substantial delays in providing land-related services, and implementation inconsistent with the legal framework. This is compounded by government corruption, which is particularly common in the land administration sector.



### Land disputes

#### Border disputes

Border disputes are common, and are most prevalent between individual landholders and farmers using communal land. Disputes between neighbours often involve encroachment onto the land of holders perceived to be less powerful, such as female-headed households. And many border disputes occur because of flawed FLLC methodology that only loosely defined and demarcated boundaries, or flooding which can wash away natural boundary indicators.

#### Inheritance disputes

Inheritance disputes are most prevalent between siblings but can also occur between a father and a son, or a widow and her in-laws. A common form of inheritance dispute is where a father gifted his land to his adult children during his lifetime but failed to register that gift.

#### Illegal occupation

Illegal occupation has been increasing in emerging rural towns, often involving the land of female-headed households.

#### Transactional disputes

Transactional disputes typically relate to three forms of land transfer: undocumented gifts (see inheritance disputes above); land sales, either pre-1975 (legal but often undocumented) or post 1975 (illegal); or rental agreements, commonly oral and often involving female-headed households.

## Legal pathways for resolving land disputes

### Land administration systems

Both federal and regional land proclamations govern the resolution of land disputes, meaning that the process is variable across Ethiopia. Another problem is that those who deal with land disputes – kebele land administration and use committees (KLAUCs), elders and kebele land courts – receive minimal training on constitutional principles, serve as volunteers and do not receive any compensation for incurred costs. As such, they may be open to undue influences from powerful parties within a dispute. In addition, both KLAUCs and elders' institutions lack the authority to summon a party to appear before them, which impedes their effectiveness in passing a fair ruling. It is also the case that women, and female-headed households in particular, often face delays in having their disputes resolved through land administration systems.

### General systems for addressing administrative grievances

Grievance redress mechanisms (GRMs) exist to deal with complaints between the government and individuals, but government officials and the public are often unaware of their existence. Unfortunately, officers working in GRMs tend not to receive any training on land law and administration, even though most of the complaints they deal with are land disputes. Another problem is that GRMs sometimes exceed the scope of their authority by handling land disputes where the government was not one of the parties involved.

### Local land courts

Rural landholders often find it hard to make use of land courts because of low levels of literacy, lack of access to legal information and limited transport options. In addition, land courts have similar limitations to those of land administration systems: no authority to summon a party to appear; limited training; and a volunteer status that leaves them open to undue influence.

### Interactions with the LIFT programme

Current law and practice for resolving land disputes may undermine efforts to secure land tenure for smallholders through SLLC. For example, SLLC paperwork is legal documentation but may not be considered as such by the institutions discussed above. Another problem is that because LIFT is running a credit scheme in areas

where SLLC is being piloted (but not elsewhere), there is a danger that tensions may rise and disputes flair up between landholders in neighbouring SLLC and non-SLLC kebeles. Also, as SLLC teams leave the woredas in which they have been working, land administration officials may find that they do not have the capacity and/or expertise to continue the work started by LIFT or to deal effectively with any arising land disputes.

## Recommendations

LIFT recommends working with policymakers and legal practitioners to reform mechanisms for dealing with land disputes. This partnership should **ensure that mechanisms consistently support rather than undermine land tenure security of the rural poor**. To achieve this goal, LIFT recommends the following next steps.

### Streamline and standardise procedures for handling land disputes

- Assess the land-related functions, experiences and capacities of administrative officers and leadership, in order to inform the standardisation process.

### Improve law and administration officials' understanding of constitutional rights and gender issues

- Support woreda court judges to provide training to KLAUCs and kebele elders, managers and land law courts. Consider whether training could also be provided to GRMs.
- Encourage greater participation of women on KLAUCs working with LIFT.
- Promote reforms that protect the legal status of SLLC certificates.



## Raise rural households' awareness of land-related legal issues

- Target poor rural households, particularly those headed by women.
- Make sure the campaign covers pathways for resolving land disputes as well as land rights and law.

## Enhance communications between LIFT and those working in land dispute resolution

- Invite representatives of GRMs and branch offices of the Federal Office of the Ombudsmen to the LIFT steering committee.
- Promote a platform where land law and administration officials can exchange information.

## Improve how land disputes are managed within SLLC

- Consult farmers on whether information about land disputes provided through SLLC is adequate, and what improvements could be made.
- Review and revisit the SLLC manual: draft a section on how to remove a registered dispute and register a parcel of land in a landholder's name; and add a field for 'gender' on the manual's dispute receipt.
- Provide conflict sensitivity training to LIFT staff and other policymakers and practitioners involved in the SLLC process.
- Improve the training given to woreda land administration staff so that they can manage disputes after the SLLC process has ended.

## Improve procedures for managing data on land disputes

- Review existing procedures for managing, monitoring and reporting data in order to address gaps relating to land disputes.
- Share with woreda land administrators data on the number and types of registered land disputes.
- Disaggregate the 'ownership' field for disputes in order to capture transactional disputes; and disaggregate all data by gender, sharing results with LIFT staff and their government counterparts.

## Pre-empt land disputes between communities with SLLC and those without

- Monitor for any indications of increased tensions between those communities with access to credit alongside SLLC, and those communities without SLLC and associated credit opportunities.



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### About the Research Summary series

This series summarises key research by the UK Department for International Development (DFID)-funded Land Investment for Transformation (LIFT) programme. LIFT aims to improve the incomes of the rural poor in Ethiopia by securing the land rights of households through second level land certification (SLLC); improving rural land administration systems; and increasing productivity by leveraging SLLC through a 'making markets work for the poor' approach, in Oromia, Amhara, the Southern Nations, Nationalities, and Peoples' and Tigray regions.

This summary is based on the following report: Espinoza, D. & Aberra, A. 2016. *Rapid Assessment of Land Conflict Drivers, Land Disputes and Grievance Mechanisms in Three Regions of Ethiopia*. Research was commissioned by LIFT but has been conducted by independent consultants and does not necessarily reflect the views of LIFT or DFID.