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APPROACHES TO RURAL LAND DISPUTE RESOLUTION MECHANISMS IN THE  
ETHIOPIAN RURAL LAND LEGISLATIONS: REGIONAL STATES BASED ANALYSIS

Temesgen Solomon Wabelo

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## ARTICLE

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# 1

## INTRODUCTION

Land is the centre of social, economic and political life in most of developing countries and, it is a source of livelihood that is closely linked to community identity, history and culture.<sup>1</sup> It is valuable resource, with economic, political and cultural significance. Individuals, communities, and private sector actors use land for different purpose and seek to benefit from land.<sup>2</sup> Land is a critical asset, especially for the rural poor, because it provides a means of livelihood through the production and sale of crops and other products.<sup>3</sup> In addition to its important production and other economic values, land has political, strategic and cultural significance. Control of land is seen by many governments as critical to influence its populations and control of the nation's economic development and security.<sup>4</sup>

Moreover, the issue of land has not simply remained to be an economic affair but also it is extremely connected with the people's culture and identity. It is an important social asset that is closely connected to

community identity, history and culture.<sup>5</sup> Some communities, who may occupy land and other land based resources under their own customary systems of land governance, regard their relationship to those resources as critical to their cultural identity.<sup>6</sup> Those resources compose their environment, their living space, and their patrimony. It is for this reason that some scholars consider that, 'in order to reform land sector; at the outset, it is vital to identify who is buried on that respective land'.<sup>7</sup> This scholars validates that, 'Land tenure and attempts to change or reform it cannot be understood without knowing who is buried on that land, and what sorts of kin groups or other entities claim attachment to those meaning laden graves'.<sup>8</sup> What we can deduce from this is that, the issue of land is highly coupled with the peoples' culture and identity.

Land is a major source of disputes in rural societies in whole over the world and the reasons for this may vary across the world.<sup>9</sup> While land remains largely fixed asset, the demand upon land generally increases with resulting tensions. This possibly creates competition for land and this in turn generates land disputes. All land disputes, no matter how peaceful or violent they may be, produces negative consequences for individuals as well as for society as a whole.<sup>10</sup> For the

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1 Joost Van Der Zwan, 'Conflict Sensitive Land Policy and Land Governance in Africa: Peace Building Essentials for Economic Development Practitioners, Strengthening the Economic Dimensions of Peace Building Practice Note Series', (2010) 2 <[https://www.international-alert.org/sites/default/files/Economy\\_Peacebuilding-EssentialsPracticeNote7\\_EN\\_2011.pdf](https://www.international-alert.org/sites/default/files/Economy_Peacebuilding-EssentialsPracticeNote7_EN_2011.pdf)>.

2 *ibid.*

3 Ruth Meinzen-Dick, 'Property Rights for Poverty Reduction?' (2009) DESA Working Paper No. 91, 1 <[https://www.un.org/esa/desa/papers/2009/wp91\\_2009.pdf](https://www.un.org/esa/desa/papers/2009/wp91_2009.pdf)>.

4 John Bruce and Sally Holt, 'Land and Conflict Prevention: Conflict Prevention Hand Book Series' (2011) 11 <[https://www.land-links.org/wp-content/uploads/2016/09/USAID\\_Land\\_Tenure\\_2012\\_Liberia\\_Course\\_Module\\_2\\_Land\\_and\\_Conflict\\_Prevention\\_Handbook\\_Bruce\\_and\\_Holt.pdf](https://www.land-links.org/wp-content/uploads/2016/09/USAID_Land_Tenure_2012_Liberia_Course_Module_2_Land_and_Conflict_Prevention_Handbook_Bruce_and_Holt.pdf)>.

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5 United Nations Development Programme, Toolkit and Guidance for Preventing and Managing Land and Natural Resources Conflict - Conflict Prevention in Resource-Rich Economies (2011) <<https://www.un.org/en/land-natural-resources-conflict/pdfs/Resource%20Rich%20Economies.pdf>>.

6 *ibid.*

7 Parker Shipton, *Mortgaging the Ancestors: Ideologies of Attachment in Africa* (Yale University Press 2009) iv.

8 *ibid.*

9 Food and Agriculture Organization, *Land and Property Rights: Junior Farmer Field and Life Schools Facilitator's Guide modules* (2010) <<http://www.fao.org/rural-employment/resources/detail/en/c/317992/>>.

10 Babette Wehrmann, *Land Conflicts: A Practical Guide to Dealing with Land Dispute* (Deutsche Gesellschaft für Technische Zusammenarbeit (GTZ) GmbH 2008) 8 <<https://www.commdev.org/pdf/publications/A-practical-guide-to-dealing-with-land-disputes.pdf>>.

land management to be sustainable, land disputes settlement must be effective and efficient, and this has a bearing on economic growth and enhances national unity.<sup>11</sup> To this end, well-functioning institutions and land dispute resolution mechanisms can play vital role on improving the development of the sector. In relation to this, the article has examined the approaches to rural land dispute resolution mechanisms utilized in the rural land legislations of Ethiopia by taking the comparative aspect of rural land legislations of Oromia, Amhara, SNNPR and Tigray regional states.

## 2 BRIEF OVERVIEW ON THE DEFINITION AND CAUSES OF RURAL LAND DISPUTES

Land disputes can be defined as a social fact in which at least two parties are involved, the roots of which are difference in interest over the property right to land; the right to use the land, to manage the land, to generate an income from the land, to exclude others from the land, to transfer it and the right to compensation for it.<sup>12</sup> Thus, from this definition what we can discern is that, land dispute is disagreement between two parties and which can arise due to the existing variance between the two parties to use land and other related rights on land.

Given the economic, political and cultural significance of land, access and rights to land are the key factors that underlay land related tensions and conflicts. There are various conditions that create vulnerability to conflicts, such as acute land scarcity, insecurity of tenure and longstanding land grievances between groups. In essence, scholars mention many causes that perpetuate for land disputes.<sup>13</sup> The first cause that exacerbates land dispute is related with politics. Change in political and economic systems, like nationalization or privatization of land; introduction of (foreign, external) institutions that are not popularly accepted; and political corruption, state capture and land grabbing among others cited as political causes for land disputes. Another cause of land dispute is related with economic aspect. Here, evolution of land markets, increasing land prices, and limited capital markets are those that triggers for land conflicts. Socio-economic factors can be also taken as another cause for land disputes. Poverty and poverty-related marginalization; extremely unequal distribution resources (including land); and lack of microfinance options for the poor are some of the socio-economic factors that brings for land disputes. Another mentionable cause of land dispute is demographic problem. Rapid population growth and new and returning refugees can be a demographic related cause for land disputes. Legal causes could also be taken as another cause for land disputes. Legislative loopholes, legal pluralism, traditional land laws without written records or clearly defined plot and village boundaries can fall under this category. In addition to legal causes, administrative reasons such as, administrative corruption, limited/non-existent public participation especially in land use

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11 Geoffrey Nyamasege and others, 'Alternative Dispute Resolution as a Viable Tool in Land Conflicts: A Kenyan Perspective' (Annual World Bank Conference on Land and Poverty, Washington DC, March 2017) 4 <<https://land.igad.int/index.php/documents-1/countries/kenya/conflict-3/530-alternative-dispute-resolution-as-a-viable-tool-in-land-conflicts-a-kenyan-perspective/file>>.

12 Wehrmann (n 10) 9.

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13 *ibid* 27 & 28.

planning and demarcation of concession land, and insufficient staff and technical/financial equipment at public agencies can be mentioned as administrative causes for land disputes.<sup>14</sup>

In the present day Ethiopia, shortage of agricultural land in the face of high population pressure and very limited alternative means of livelihood can form one root cause for the present rural land disputes.<sup>15</sup> This can be manifested in the form of boundary conflicts, encroachment and land grab of community owned land, and land transaction related conflicts (inheritance, donation and land rental contracts) and corruption by land administration officers can be mentioned.<sup>16</sup> It is not strange now to see Courts in many parts of the country being congested with land related cases.<sup>17</sup> Hence, effective land administration institutions and land dispute settlement mechanism is vital in order to govern this demanding resource in the country.

## 3 APPROACHES TO RURAL LAND DISPUTE RESOLUTION MECHANISMS

Approaches or Modalities to resolve disputes in relation to rural land may vary across the countries depending on the land tenure history, culture and stage of development of a given country. Different countries employ different modalities to resolve disputes on rural land. In essence, the modalities employed to resolve rural land disputes can be broadly classified as formal, informal or mixed approaches. The details of the three approaches are dealt herewith.

### 3.1 Formal Approaches to Rural Land Dispute Resolution Mechanism

Formal land dispute resolution mechanism which is also termed as ‘Non-Consensual Land Dispute Resolution Mechanism’ is a state based dispute resolution modality which is characterized by the involvement of third party from the side of the state in the decision making process.<sup>18</sup> One of the prominent formal dispute resolution approaches is court litigation. It is the state along with its machinery backed up with all of its substantive and procedural laws, recruited judges and employees which will play a leading role in the resolution of the dispute. In this approach, overall procedures of the litigation up to the decision making process may follow the formal procedural rules laid down by the procedural laws. There will also be a winner and loser and this fact unlikely re-establishes any pre-existing relationship between the parties. In relation to this, formal dispute resolution system therefore always be taken as a method of last resort for dispute resolution.<sup>19</sup> It is also hindered in many countries because of the fact that it creates case overload before the courts.

### 3.2 Informal Approach to Rural Land Dispute Resolution Mechanism

The main point of distinction between the informal and formal dispute resolution mechanisms mainly rests on the principal actors of the dispute one hand and on the hosting institutions of the dispute on the other. Informal land dispute resolution institutions can be grouped under such generic terms as indigenous, customary or local.<sup>20</sup> These are institutions those have their own rules that shape human behaviour but are outside of government and are not

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14 *ibid.*

15 Zerfu Hailu, ‘Land Governance Assessment Framework Implementation in Ethiopia’ Country Report (World Bank 2016) 40.

16 *ibid.*

17 *ibid.*

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18 Vinod Agarwal and Bolaji Owasanoye, *Alternative Dispute Resolution Methods* (United Nations Institute for Training and Research 2001) <[https://www.dphu.org/uploads/attachements/books/books\\_3829\\_0.pdf](https://www.dphu.org/uploads/attachements/books/books_3829_0.pdf)>.

19 *ibid.*

20 Claudia Williamson and Carrie Kerekes, ‘Securing Private Property: Formal Versus Informal Institutions’ (2011) 54 *Journal of Law and Economics*, University of Chicago 559, 537-572.

part of a written legal framework.<sup>21</sup> Sometimes informal land dispute resolution system is termed as 'Consensual Land Dispute Resolution Mechanism'. Informal approaches to rural land dispute resolution are alternative to dispute resolution mechanisms of formal adjudication or litigation. The ADR (Alternative Dispute Resolution) and CDR (Customary Dispute Resolution) system can be categorized under the informal land dispute resolution mechanisms.

Informal land dispute resolution approaches are those conflict resolution strategies which aims to find compromise acceptable to all parties involved, and which can best re-establish peace, respect and friendship between the parties.<sup>22</sup> Negotiation, Mediation, Conciliation and Arbitration can be categorized under the informal land dispute resolution mechanism approaches.

Negotiation is a consultation that refers to the efforts of the parties themselves to resolve an area of contention before resorting to calling in a third party.<sup>23</sup> In the case of negotiation, the parties to the dispute themselves try to resolve their difference through discussion without the need to the moderator third party.

Mediation is a consensual dispute resolution process by which a party brings in a neutral party to help them to find solution to a dispute.<sup>24</sup> The role of the mediator is not judgmental, nor do they take a position on behalf of one party or another.<sup>25</sup> In the case of mediation, the mediator serve as the role of facilitator without having any power neither imposing a decision nor suggesting a solution and hence, solution emanate from the disputant parties themselves. With regard to land disputes, mediation can be conducted

by a professional mediator or by a land expert who has received special training in mediation.<sup>26</sup> They are responsible for the entire process of negotiation, first talking separately to each party, and then moderating the negotiation at large.

Conciliation is other face of informal land dispute resolution modality and which refers to the process by which one or more independent person(s) is selected by the parties to bring about a settlement by employing various techniques.<sup>27</sup> The conciliator basically discusses the matters to the issue separately with each of the conflicting parties, with the aim of producing basis for direct talks. The role of a conciliator is a bit larger than the mediator to the extent he/she can suggest a solution on top of its facilitative role that he/she will portray.<sup>28</sup>

Arbitration is a method of dispute resolution mechanism whereby the parties choose conciliator of their own, and submit their case to that party. Arbitration differs in many respects from other informal dispute resolution systems and shares much commonality with judicial dispute resolution mechanism especially when the output is concerned. Just like a court, the third party arbitrator becomes involved in the decision-making process. The only difference in the case of arbitration is that, the third party is jointly selected by the parties in dispute.

### **3.3 Mixed Approaches to Rural Land Dispute Resolution Mechanism**

This is the third facet of rural land dispute settlement scheme and as to this approach, both formal and informal dimensions of rural land dispute resolution machineries serve for the purpose of land dispute

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21 *ibid.*

22 Agarwal and Owasanoye (n 18).

23 Daugherty Rasnic, 'Alternative Dispute Resolution Rather than Litigation? A Look at Current Irish and American Laws' (2004) 4(2) *Judicial Studies Institute Journal* 187, 182-198.

24 United Nations Development Programme (n 5).

25 Rasnic (n 23).

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26 *ibid.*

27 United Nations Development Programme (n 5).

28 Alessandra Sgbuni and others, 'Arbitration, Mediation and Conciliation: Differences and Similarities from an International and Italian Business Perspective' <[www.mediate.com/articles/sgbuniA2.cfm](http://www.mediate.com/articles/sgbuniA2.cfm)>.



resolution. This hybrid nature helps many gains to access to justice since it makes up for an underdeveloped formal system while offering a system that is both faster and more flexible than a purely state system.<sup>29</sup> Many countries including Ethiopia have developed systems for resolving land disputes that combine informal and their formal institutions. In this approach, courts or other administrative organs intervenes only when the informal dispute resolution machineries fails to achieve the desired result.<sup>30</sup> This mixed approach to land dispute settlement is also established within the rural land legislations of regional states of Ethiopia and the legislations oblige mandatory conciliation for the parties before land cases go to the court of law.

## 4 APPROACHES TO RURAL LAND DISPUTE RESOLUTION MECHANISMS IN THE RURAL LAND LEGISLATIONS OF ETHIOPIA

Based on the provisions on the FDRE Constitution pertaining to land, the current government of Ethiopia has issued the first rural land proclamation No. 89/1997 in 1997. However, this proclamation was amended and a new federal rural land administration and use proclamation was issued in 2005 which is cited as 'Federal Rural Land Administration and Use Proclamation No. 456/2005'. This proclamation has bestowed the regional state governments the power to enact regional rural land administration and use laws and establish institutions within the regional states

so as to implement proclamation No. 456/2005 in the regions.<sup>31</sup> This stipulation is based on FDRE constitution that stipulates regional states to have the power to administer land and other natural resources in accordance with federal laws.<sup>32</sup> After the adoption of the federal framework proclamation No. 456/2005, regional states have enacted their own land administration and use legislations in line with the framework proclamation. Accordingly, this section has dealt the approaches to rural land dispute resolution mechanisms adopted within the rural land legislations of regions, i.e., (Oromia, Amhara, SNNPRS and Tigray) in great detail.

### 4.1 Oromia Regional State

Oromia regional state has enacted three proclamations before the enactment of the current federal framework proclamation No. 456/2005. After the enactment of the federal framework proclamation, the regional state has issued the current rural land administration and use proclamation No. 130/2007. There were three proclamations enacted in the region before the enactment of the federal framework proclamation No. 456/2005.

Proclamation 56/2002 is the first proclamation issued in the region in order to administer rural land. Article 25 of this proclamation has given due emphases to dispute resolution system. According to sub-article one of this provision, any conflict or dispute that arose on farmland boundaries or land holding shall be resolved by appealing first to local social court and the party who has complaint on the decision given by local social court can further appeal to the ordinary woreda court. Sub-article two of article 25 reads that, the decision is considered as final if the decision given by Woreda court is similar to the social court. But, if

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29 Noah Coburn, 'Hybrid Forms of Dispute Resolution and Access to Justice in Afghanistan: Conceptual Challenges, Opportunities and Concerns' (Hamida Barmaki Organization for the Rule of Law Working Paper No.2015/03, 2015) 1.

30 *ibid.*

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31 Article 17(1) (2) of Federal Rural Land Administration and Use Proclamation No. 456/2005.

32 Article 52(2d) of FDRE Constitution, Proclamation No. 1/1995.

the decisions given by local social court and Woreda ordinary court are different, the complainant has the right to appeal to the higher court, whose decision will be final. Thus, from this legal construction what we can deduce is that, Kebele social courts have initial jurisdiction of hearing rural land disputes and Woreda Courts may hear and pass decisions on them as appellate jurisdiction. One mentionable challenge of the proclamation is that it didn't provided the possibility of taking cases to the court of cassation of the region after the second appeal even though there might be basic error of law.

The other two proclamations enacted after issuance of proclamation 56/2002, are proclamation No. 70/2003 and 103/2005 but did not amended article 25 of proclamation concerning rural land dispute resolution system though it did amend many other provisions.

The current rural land proclamation of the region that is enacted in accordance with the federal framework proclamation No. 456/2005 is proclamation No. 130/2007. This proclamation has totally erased the jurisdiction of the social courts that is given for them within the previous three proclamations. The proclamation has introduced another form of conflict and dispute resolution mechanisms by sending the initial jurisdiction of social courts to arbitrary elders.

Article 16 of the proclamation No. 130/2007 is concerning conflict and dispute resolution mechanisms of rural land and this provision reads that; any conflict or disputes arising on land shall be resolved as follows:<sup>33</sup>

- (a) First application shall be submitted to the local Kebele Administration;
- (b) The parties shall elect two arbitrary elders each;
- (c) Chairpersons of arbitration elders are elected by the parties or by the arbitral elders.

If not agreed up on shall be assigned by local Kebele administrator;

(d) The Kebele Administration to whom the application is lodged shall cause the arbitrary elders to produce the result of the arbitration in 15 days;

(e) The result given by the arbitration shall be registered at the Kebele Administration, and a sealed copy shall be given to both parties.

(f) A party, who has complaint on the rating elders, has the right to institute his case to the Woreda Court attaching the result of arbitration elders within 30 days as of the date registered by the Kebele Administration.

(g) Woreda Court should not receive the suit if the result given by the arbitration is not attached to it.

(h) The right of further appeal to the High Court is reserved for the party dissatisfied by the decision given by the Woreda Court.

(i) If the High Court reversed the decision rendered by the Woreda court, the dissatisfied party may appeal to the Supreme Court.

(j) The decision given by the Supreme Court shall be the final.

The proclamation has given initial jurisdiction on rural land dispute to arbitrary elders. It gives for the parties a chance of electing two arbitrators each from both sides. The proclamation also mandates the parties a chance to appoint chairperson of arbitrator elders and in cases where the parties fail to agree to appoint a chair arbitrator, s/he shall be assigned by the local Kebele administrator. Another improvement of proclamation is on granting the rights of appeal. There is a clear difference on the right to appeal of land holders between the previous land proclamations and Proclamation No. 130/2007. The previous land proclamations tried to cut the resolution of land disputes within the woreda court level if the woreda court has confirmed the decision of the kebele social courts. But when we come to the current proclamation No. 130/2007, the party can further lodge appeal to

<sup>33</sup> Article 16(1) (a-j) of Oromia Rural Administration and Use Proclamation, Proc. No. 130/2007.

the high court of the region even if the woreda court confirms the decision of arbitrary elders. If the high Court reversed the decision rendered by the Woreda court, then dissatisfied party may appeal to the Supreme Court and the decision rendered by the Supreme Court shall be final. Hence, we can say that this proclamation is in harmony with the civil procedure code of the country while entertaining disputes on rural land.

Even if the proclamation has given wide right for the parties, we can grasp some gaps that need further illustration from proclamation No. 130/2007. In the first place, the type of informal dispute resolution modality employed in the proclamation is vague. This is true especially in the English version of the proclamation and article 16(e) of this proclamation has seemingly connoted ‘elders council’ as ‘arbitral tribunal’. But the arbitrary elders who are elected by the disputant parties in no way play the role of arbitrators. They cannot give a binding decision like an award reached on arbitration tribunal rather than facilitative role. So, the term arbitration used in the English version of the proclamation misplaced connotation. In essence, we can equate the role of arbitrary elders with conciliator by taking in to account the role played by the elders. Arbitrary elders guide the parties to reach on a decision even by making proposals for the parties to reach on a terms of settlement.<sup>34</sup> If the result of elders to the dispute is not accepted by the parties then the arbitrary elders report the fact to the kebele administration and kebele administration register the result and send it to Woreda court.<sup>35</sup> Hence, from these facts what we can corroborate is that, the informal dispute resolution modality employed in the proclamation is conciliation rather than arbitration.

In addition, article 16(1)(f) of the proclamation mandates the parties who aren’t satisfied by the result of arbitrary elders to initiate a proceeding in a Woreda court within 30 days of the registration of the elders result in the Kebele Administration. But one of the critical questions unanswered here is that, what if the parties do not bring a suit within 30 day time interval?

Here, the proclamation has not indicated the effect of non-observance of this period of time.

The other issue that is hidden and needs clarification within the proclamation is the status of elders finding. Does the finding of elders is treated as a report or binding decision? Does the result bind the court? Can the court totally reject it and frame other new issues? Accordingly, the proclamation has not indicated the resultant weight that the elders finding got within the eyes of the court.

## **4.2 Southern Nations Nationalities and Peoples Region State**

Southern Nations Nationalities and Peoples Region State (hereinafter termed as SNNPRS) has issued its first rural land proclamation in 2003. The proclamation was cited as, SNNPRS rural land administration and utilization proclamation 53/2003 and article 25(1) of this proclamation reads as, ‘controversies or disputes arising with respect to the boundaries of farmlands, the right of possession, damage caused on the right of possession, etc. shall be settled in accordance with the rule to be issued’. But article 25 of the proclamation No. 53/2003 was silent as to which institutions shall be responsible to resolve rural land disputes, according to which law the disputes are to be resolved, and at the same time the mechanisms to be employed in resolving the disputes was missed. This proclamation was replaced by the current land proclamation No. 110/2007 which is enacted in accordance with the federal framework proclamation No. 456/2005.

Proclamation No. 110/2007 has dealt the manner and organ of resolution of rural land disputes in a much better fashion compared to proclamation No. 53/2003. Article 12 of the proclamation is devoted to rural land dispute resolution mechanism. This article articulates that, parties are expected to submit their dispute to the Kebele land administration and use committee and the committee will let the parties to resolve their dispute by negotiation and arbitration to be chosen by the parties to the dispute.<sup>36</sup> Initially the

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<sup>34</sup> Article 18(10) of Oromia Region Rural Land Administration and Land Use Regulation, Reg. No.151/2013.

<sup>35</sup> *ibid* Art 18(11).

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<sup>36</sup> Article 12(1) of SNNPRS Rural Land Administration and Use Proclamation, Proc. No. 110/2007.

proclamation obliges the parties to submit their case to kebele land administration committee rather than kebele administrations as to that of Oromia. As to the proclamation, the role of Kebele land administration committee is not to entertain the dispute and dispose it of thereby rather it should try to persuade the parties to resolve their dispute amicably through negotiation. If the dispute is not resolved by negotiation, the matter would be referred to the arbitration channel composed of the elderly people. Like to the rural land proclamation of Oromia, the English version of proclamation No. 110/2007 has adopted arbitration channel as the initial body to resolve land dispute but the corresponding Amharic version has seemingly employed and replaced the wording of the English version with mediation and conciliation. The wording of the Amharic version seems sound compared to the arbitration channel of the English version because the elders' council elected by the disputant parties in no way play the role of arbitration.

Another demarcation within the proclamation No. 110/2007 is that, it has not clearly set out the time limit that the arbitrary elders needs to dispose the case and this fact may create unnecessary delay on the disposition of the case in the informal land dispute resolution machineries. In addition, the proclamation has not set out the timeframe that the aggrieved party on the disposition of elders finding brings the case to the woreda court. Hence, this fact can raise question like that, does it is to mean that the proclamation has mandated the party dissatisfied by the finding the elders to make appeal at any time? Here, the silence of the proclamation is unclear and can hamper effective justice system.

Another stipulation of article 12 of proclamation No. 110/2007 is the jurisdiction of regular courts. This provision dictates that, anyone who is not satisfied by the decision made by the elders shall appeal the case to woreda court.<sup>37</sup> Sub-article 3 of the same provision

also discloses that, anyone who does not agree with the decision made by the woreda court, shall appeal the case to the high court. If anyone who doesn't agree with the decision made in the high court, shall appeal the case to the Supreme Court and the decision made at this stage shall be final.<sup>38</sup>

What we can deduce from this provision is that, the jurisdiction of the regular courts under proclamation No 110/2007 are only in the form of appellate jurisdiction. None of the regular courts can have a first instance jurisdiction over rural land disputes. Apparently, due to the economic and cultural importance of rural land, proclamation No. 110/2007 has given sufficient room for the parties in order to lodge their case. The proclamation has not intended to cut disputes on rural land in short rather it has given the parties to bring appeal twice even if this is contrary to the civil procedure law of the country that grants only one appeal right on civil cases if the previous decision is confirmed by the next avenue court. Hence, the whole message of article 12 of the proclamation is that, the case initiated at Kebele level can be taken on appeal even up to the Supreme Court of the region. Finally, if it is believed that there is fundamental error of law on the decision made by the supreme court of the region then the case shall be seen by regional Supreme Court of Cassation.<sup>39</sup>

### **4.3 Amhara Regional State**

The Amhara regional state has proclaimed its first rural land administration proclamation No. 46/2000 in July 2000. Article 22 of the proclamation is dedicated to the process of presentation of petitions relating to rural land disputes and the processes of their resolution and hence has provided three alternative ways of resolving rural land disputes. Accordingly, it has given mandate for the parties in order to select any of the three alternative mechanisms to resolve their land disputes alternatively but not hierarchically.

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<sup>37</sup> *ibid* Art 12(2).

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<sup>38</sup> *ibid* Art 12(4).

<sup>39</sup> *ibid* Art 12(5).

The first mechanism that the proclamation has provided was amicable resolution which is enshrined under article 22(1) (a) of it. Under this mechanism, the parties to the dispute themselves have to resolve their disputes without involving neutral third parties. The second alternative dispute resolution mechanism provided under the proclamation under article 22(1) (b) is, resolution of the dispute through the involvement of neutral third parties who are chosen by the parties. The third alternative mechanism that the proclamation provided for in article 22(1) (c) is dispute resolution through judicial organs.

Following the enactment of the federal framework proclamation No. 456/2005, the Amhara regional state has issued a current rural land proclamation, entitled: 'The Revised Amhara National Regional State Rural Land Administration and Use Proclamation No. 133/2006'. The proclamation even gives recognition for customary rules and norms for the resolution of rural land disputes. This is one of the mentionable features of the proclamation on resolution of rural land dispute. The proclamation made compulsory for the parties to first try to resolve their disputes through arbitration. Article 29(1) of the proclamation provides that, any civil dispute that may arise in connection to landholding or use right shall firstly be seen and resolved in arbitration. The message of this provision is that, no civil dispute arising from, or connected with, the holding or use of rural land may be submitted to a regular court before it is submitted to custom based arbitration and the result of such arbitration is known. In this provision, one can see inconsistency between the Amharic and English version. The Amharic version of this article provides for reconciliation whereas the English version provides for arbitration. The wording of the Amharic version is sound compared to the English one because, the elders tribunal selected by the disputant parties cannot have the role and mandate that will be exercised by the arbitration channel which gives binding decision on the parties case. So, the wording of the English version is mistranslated connotation.

The proclamation has also indicated the way for the parties how to select the arbitrators. Article 29(2) of the proclamation provides that, the selection of arbitrators and the process of the resolution agreement may be executed by the agreement of the parties based on the customary procedures of each surrounding.

A year and three months after promulgation of proclamation No. 133/2006, an amendment proclamation No. 148/2007 cited as: 'The Revised Amhara National Regional State Rural Land Administration and Use Determination Amendment Proclamation' is issued. The main reason that necessitated the amendment of the proclamation is the contradiction of proclamation 133/2006 with other laws with respect to resolving disputes and adjudicating civil matters that are created in relation with possession and use of rural land thereof.<sup>40</sup> Article 33 of the proclamation No. 148/2007 which is captioned with pending cases provides that, civil matters related with possession and use of rural land which have been examined under the jurisdiction of the Kebele social courts and that have not been resolved upon the consent of the parties shall be transferred to relevant regular courts and thereby get the final decision.

The region has also issued rural land regulation which is cited as, 'Amhara National Regional State Rural Land Administration and Use System Implementation Regulation No. 51/2007' that clearly indicates the manner of rural land dispute resolution system. The regulation provides that, all civil disagreements and disputes emanating from or relating to land possession and use right shall primarily be resolved amicably between the parties.<sup>41</sup> In order to realize amicable resolution of rural land disputes arising between landholders and users; the regulation obliges the Kebele land administration and use committee so as to establish tribunals of elders elected popularly in every community and surrounding.<sup>42</sup> In addition, the regulation also mandates the selection of elders and the process of reconciliation followed by them should have to abide with the customary norms of the society.<sup>43</sup> In essence, the regulation attempts to make dispute settlements reached through elders as final and binding and no new suit may be initiated nor an

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40 Preamble of the revised Amhara National Regional State Rural Land Administration and Use Determination Amendment Proclamation, Proc. No. 148/2007.

41 *ibid* Art 35(1).

42 *ibid*.

43 *ibid* Art 35(2) [emphasis added].

appeal lodged in relation to a land related dispute resolved through tribunals of elders.<sup>44</sup> Article 35(4) of the regulation provides mechanism when a party institutes his/her case to the respective woreda court of law. As per this sub-provision, where the dispute is not resolved at this level, it may be possible to bring a petition to the respective woreda court within thirty days from the date of termination of resolving effort in agreement. But, here the proclamation has not indicated the effect, if the aggrieved party is unable to bring the case to the woreda court within this period of time. Basically, the regulation has limited the right of the individuals to visit the next avenue courts. As we know, individuals in the elders tribunal are non-lawyers and this paves a way for them to act opportunistically, like favouring their relatives and the one on their side. Since this is the case, the regulation has mistaken by opting to cut land disputes in the elders tribunal level. One can believe that, it is not easy for the tribunal to grasp and entertain the legal provision of the region's land laws since they are non-lawyers and this fact fundamentally hampers the effective justice system.

Article 37(1) of the regulation provides that people of a given locality by holding meetings and after discussions, resolve land related disputes in accordance with the customary norms of that specific locality. However, article 37(2) of the regulation provides condition for the implementation of sub-article one of this provision and thus, the agreement envisaged may only be put into implementation if the chosen customary norms do not conflict with regional or federal laws. This sub-provision of the regulation is important for protecting the land rights of women, children and other groups in rural societies of the region.

Above all, the Amhara rural land administration and use proclamation and regulation proclaims to the effect

of establishment of a council at each sub-Kebele under the supervision of the Kebele land administration committee. This is one of typical achievement of the land legislations of the region compared to other regional states. These elderly councils elected from each sub-Kebele can primarily dispose any rural land related disputes.

#### **4.4 Tigray Regional State**

The first rural land administration proclamation was issued before other regional states of the country has enacted their own legislations. The proclamation is cited as proclamation No. 23/1997 which was issued following the issuance of federal rural land administration proclamation No. 89/1997. The proclamation has not effectively addressed the dispute resolution system on the rural land and was amended by proclamation 55/2001. Like to its predecessor proclamation, the proclamation 55/2001 also didn't address the resolution of disputes arising on rural land.

After the enactment of the federal framework proclamation No. 456/2005, Tigray regional state has issued rural land administration proclamation No. 97/2006 which is in line with the tenets of the federal framework legislation. Unlike the two preceding proclamations, proclamation No. 97/2006 did address the issue of dispute resolution in relation to rural land. Article 26 of the proclamation provides that, where a dispute emanates in relation to the right of possession of rural land, the concerned parties shall endeavour to resolve the dispute amicably. Where the dispute could not be resolved amicably, it shall be resolved either by elders chosen by the parties or those appropriate bodies at various levels. Where a dispute is resolved either through elders or through an appropriate body, the parties shall be bound by the resolution without prejudice to the right to lodge an appeal to a court that would have had an appellate jurisdiction to review the case on appeal. The message of the proclamation is that, in the case of dispute over rural land, first effort must be taken to resolve it amicably or through agreement as between the parties. But if the dispute is not resolved as between the parties, the next avenue to resolve dispute is through the involvement of elders or other appropriate body may be kebele administrators or woreda land administrations organs.

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<sup>44</sup> *ibid* Art 35(3).

But what the provision of the proclamation has lacked clarity concerning rural land dispute resolution is that; the provision does not make the involvement of elders in resolving rural land disputes compulsory. As to the readings of sub-article (1) of Article 26 of the proclamation, it would be up to the disputing parties to either take their dispute to elders of their choice or to an appropriate body if their dispute could not be resolved amicably as between themselves. Neither does the proclamation make it compulsory for disputing parties to take their cases to the appropriate governmental body in the event that their endeavour to amicably resolve them have failed. Thus, the proclamation has failed to specify the dispute resolution organs hierarchically.

Another rural land administration and use proclamation of the region that come to picture after the enactment of the federal framework proclamation No. 456/2005, was proclamation No. 136/2007. Article 28 of the proclamation provides that; when disputes arise in relation to rural land use, first efforts shall be made by the parties to resolve the dispute amicably; and where endeavours to have the dispute resolved amicably fails, they shall have to be resolved the usual ways of the surrounding through elders or through reconciliation.<sup>45</sup>

Where the parties have failed to reach agreement on either of the alternatives provided under article 28(1) of the proclamation, sub-article two of the same provision has provided an alternative mechanism for the parties to get remedy for their land dispute. Where either of the parties or both of them do not reach agreement on the alternative in sub-article (1), first the parties shall have to lodge their case to the Kebele rural land administration committee and the committee should have to pass decision on the matter. The parties dissatisfied by the decision of the Kebele rural land

administration committee may, within 15 days, submit an appeal to the Woreda Court and the Court shall decide the case in 30 days. When the Woreda Court confirms the decision of the kebele rural land administration committee, its decision shall be final. Where the court either amends or totally alters the decision of kebele rural land administration committee, the party dissatisfied by the decision may lodge an appeal to the zonal high court and the decision of the zonal high court shall be final.<sup>46</sup>

Another and the recent rural land administration proclamation in the region is proclamation No. 239/2014. This proclamation is the revised rural land administration and use proclamation that come to picture by amending the previous proclamation No. 136/2007 and its implementation regulation No. 48/2007. The proclamation has not incorporated rural land dispute resolution mechanism like that of its predecessor proclamation No. 136/2007 rather the region has enacted a separate proclamation that dictates the manner of rural land dispute resolution mechanism. This proclamation is termed as, 'A Proclamation to Provide the Power and Duties of Kebele Rural Land Adjudication Committee Proclamation No. 240/2014'. As to this proclamation, kebele rural land adjudication committee can have first instance jurisdiction on civil disputes that arose on rural land.<sup>47</sup> The proclamation provides that, before entertaining the case, the committee should have to order the parties to resolve their case through negotiation or mediation by the help of third parties. If the parties has reached consensus through negotiation or mediation, they should have to notify their consensus to kebeles' rural land adjudication committee within thirty days in a written form.<sup>48</sup> But if the parties have not reached on consensus, then they can lodge their case to the kebeles rural land adjudication committee.

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<sup>45</sup> Article 28(1) of the Revised Tigray Regional State Rural Land Administration and Use Proclamation No. 136/2007.

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<sup>46</sup> *ibid* Art 28(2) (a)(b)(c).

<sup>47</sup> Article 17(1), a Proclamation to Provide the Power and Duties of Kebele Rural Land Adjudication Committee of Tigray National Regional State, Proc. No. 240/2014.

<sup>48</sup> *ibid* Art 17(3) (a)(b).

Proclamation No. 240/2014 further established procedural setup that the parties to the dispute and the committees should have to follow while entertaining their case. For example the proclamation indicates that the parties pleading should have to incorporate all material facts and required evidences (eye witness or documentary evidences) while lodging their case to the committee.<sup>49</sup> The proclamation in a similar way paves a way for the defendant party in order to submit his/her defence for the claim submitted by the plaintiff.<sup>50</sup> The proclamation further incorporated the procedure that endows the defendant party in order to raise preliminary objection for the statement of claim instituted by the plaintiff. For example, if the committee has no jurisdiction or if the subject-matter of the suit is res-judicata or if the claim is to be settled by arbitration or if the suit is barred by limitation or if party claiming the suit is not qualified/has no interest for acting in the proceedings then the party can raise these issues as a preliminary objection for the committee.<sup>51</sup> But if the preliminary objection is not based on necessary evidence and if the party has raised objection that shouldn't be raised under preliminary objection then the committee can pass decision on the objection and asks the defendant party whether or not he/she admits on the claim.<sup>52</sup> If the defendant denies the allegation of the plaintiff then the committee orders the plaintiff to call his/her evidences in support of the allegation and if the evidences of the plaintiff has confirmed the allegation of the plaintiff then the committee give similar chance for the defendant to call his/her defence evidences in order to disprove the allegation of the plaintiff.<sup>53</sup> After fulfilling all these and other procedural process, the committee can give decision within a short period of time.<sup>54</sup>

If the party is not satisfied by the decisions of rural land adjudication committee then he/she can appeal

the case to woreda court within fifteen days after the rendition of the decision by the committee.<sup>55</sup> But, the proclamation has not shown the effect of none observance of this timeframe to bring an appeal. If the woreda court fully confirms the decision of the committee, then nobody can lodge further appeal to other level of court. However, if there is basic error of law on the decision rendered, then that party can bring the case to the cassation bench.<sup>56</sup> If the woreda court fully or partially reverses the decision of the rural land adjudication committee, the aggrieved party can bring his/her appeal to the zonal high court within fifteen days. But, the proclamation has not indicated from when counting of this fifteen day starts. In addition to this, the proclamation has not also specified the effect of none observance of this period of time. The decision rendered by the zonal high court should be final and no party can claim appeal from the decision of zonal high court.<sup>57</sup> But this does not bar the party from lodging his claim to the court of cassation if there is basic error of law.

Under this proclamation No. 240/2014, one can notice many essential facts which are not incorporated within the previous repealed proclamations and regulations. The proclamation has not only incorporated rural land dispute resolution system hierarchy but also it has depicted all of the necessary procedures that the party and kebele rural land adjudication committee should have to follow while entertaining their case. The proclamation has clearly incorporated the required procedures that the party and the committee should have to follow starting from institution of suit to the enforcement of the decision rendered by the committee. The proclamation has also established an incentive mechanism for kebele rural land adjudication committee. As to the proclamation, rural land adjudication committee can have a per diem for the duty they perform in their office.<sup>58</sup>

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49 *ibid* Art 18(3).

50 *ibid* Art 18(4).

51 *ibid* Art 18(5).

52 *ibid* Art 18(6).

53 *ibid* Art 18 (7).

54 *ibid* Art 23(1).

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55 *ibid* Art 25(1).

56 *ibid* Art 25(6).

57 *ibid* Art 25(5).

58 *ibid* Art 32.



The proclamation has also avoided the discrepancy that was made on the previous proclamation No. 136/2007 and its implementation regulation No. 48/2008. The discrepancies/confusion within the proclamation and regulation emanated in relation to the organ that have initial jurisdiction on rural land dispute resolution is concerned. On one hand, article 28 of proclamation No. 136/2007 gives kebele rural land administration committee to have first instance jurisdiction on rural land dispute settlement whereas the implementation regulation No. 48/2007 under article 48(2) of it mandates Kebele rural land dispute adjudication committees to have initial jurisdiction in all civil disputes arising from rural land. This has made discrepancy between the proclamation and the regulation. But proclamation No. 240/2014 has avoided this discrepancy by fully mandating kebele rural land adjudication committee to have first instance jurisdiction on civil disputes arising on rural land.

## 5 MAKING COMPARISON ON THE MODALITIES OF RURAL LAND DISPUTE RESOLUTION MECHANISMS WITHIN THE REGIONAL STATES

All of the regional states share some common features on the approach of rural land dispute resolution mechanisms. The first thing that makes most of the regional states similar on the dispute resolution mechanisms is that, they give priority to informal dispute resolution mechanisms before the parties go to the Kebele rural land dispute adjudication committee or court. The rural land proclamations of the three regions namely Oromia, Amhara and SNNPRS give the matter either to the informal dispute resolving organ, most notably reconciliation if the parties to the dispute cannot reach agreement amicably or through negotiation. For example arbitration councils in Amhara region and conflict mediators or arbitrary elders in Oromia and SNNPR state are mandated to look into land disputes before land disputes are taken to Woreda courts. But Tigray regional state has established a separate committee

called rural land dispute adjudication committee by a proclamation No. 240/2014 that can hear civil disputes on rural land before aggrieved party goes to the regular court.

The other thing that the regional states rural land proclamations share in common pertaining to rural land dispute resolution mechanism is that; they have given the power to resolve rural land disputes to special administrative organ. For example, kebele administrators and rural land administration committees at the kebele level are endowed with rural land dispute resolution functions. Basically, some of the basic explanations are due to the proximity of these parties to the area of the dispute. The presumption is that, the committees are more close to the place where the land under dispute is situated and this makes the disputed matter clear and understandable to the committee in order to give effective justice for the parties. The committee members are believed to be in a better position to understand the nature of the dispute. In addition to this, most rural land disputes by their very nature involve a dispute in fact rather than dispute in law. These factual issues can easily be settled by a body that has a closer know-how on the disputed fact. Accordingly, the more the venue of the committee becomes close to the place where the disputed land is situated, the less complicated will be the matter and more clear and understandable to the committee.

Though there are similarities in the modalities of rural land dispute resolution mechanisms in the regional states, there are also differences on the legal frameworks of the regional states pertaining to dispute resolution mechanism. When we see their difference in relation to the organ that renders first instance jurisdiction; Oromia rural land use and administration proclamation No. 130/2007 assigned first instance jurisdiction for conflict mediators/elders by snatching it from social courts, Amhara regional state rural land administration proclamation No. 133/2007 gives it for arbitration council, and conflict mediators in SNNPR state like that of Oromia regional state are empowered by the regions' rural land proclamations. But when we see this in the case of Tigray regional state, the region's state councils has established a committee called Kebele rural land adjudication committees by a proclamation that fully prescribes the power and duties of the committee while entertaining

the case. The proclamation fully incorporates all of the procedural matters that the party and the dispute adjudication committee should have to follow starting from initiation of the suit to the enforcement of the decision reached by the committee. Not only this but also the proclamation has depicted the manner of appointment of the kebele rural land dispute adjudication committee members, the qualification that mandates an individual to assume position for the committee, the term of office of the committee members and the way how the committee members get awareness on resolution of the parties case.<sup>59</sup> The proclamation has also established an incentive mechanism for the committee members while they perform their official duty imposed by the proclamation.<sup>60</sup> Thus, this can be a good lesson for other regions of the country in order to make dispute resolution system on rural land more effective.

Another point of disparity on the dispute resolution mechanism within the regions is on granting appeal right for the parties. For example, rural land proclamation of SNNPR has given the parties to bring their appeal twice which is not supported by the civil procedure code of the country. As it is indicated under article 12 of this proclamation, the case that commenced at Kebele level can be taken on appeal even up to the Supreme Court of the region.

But, when we see article 25(1) (6) of Tigray regional state rural land adjudication committee's proclamation No. 240/2014, parties dissatisfied by the decision of the Kebele rural land adjudication committee may, within 15 days, submit an appeal to the Woreda Court. When the Woreda Court confirms the decision of the kebele rural land adjudication committee, its decision shall be final. Where the court either amends or totally alters the decision of kebele rural land adjudication committee, the party dissatisfied by the decision may take an appeal to the zonal high court and the decision of the zonal high court shall be final. Hence, from this we can deduce is that, the proclamation has given only one appeal rights as of right.

When we see the scenario in the Amhara regional state, article 35(3) of the regional state's rural land administration and use regulation No. 51/2007 provides that; dispute settlements that is reached through elders by the choice of the parties is final and binding. No new suit may be initiated nor an appeal taken in relation to land related disputes resolved through tribunals of elders. The party may only institute an appeal to the next avenue where an effort to resolve dispute is not resolved at this level. This regulation has limited appeal rights of the parties though land is taken as backbone for the economic well-being of mass population of the region.

When we see the set-up of Oromia regional state, the proclamation has followed the normal procedural process in line with the civil procedure code. The right of further appeal to the high court is reserved for the party dissatisfied by the decision given by the Woreda Court. If the high court of the region has reversed the decision rendered by the Woreda court, then the aggrieved party may appeal to the Supreme Court. This is to mean that, if the high court of the region has confirmed the decision of the woreda court then the aggrieved party has no right to bring another appeal rather than lodging the case to cassation division if the case has contained basic error of law.

## **6 CHALLENGES FOR RURAL LAND DISPUTE RESOLUTIONS MECHANISMS IN ETHIOPIA**

### **6.1 Challenges Related With Land Laws**

All of the rural land administration proclamations and their implementation regulations have given first instance jurisdiction on rural land disputes to the informal dispute settlement organs. But the laws have not illustrated how these informal dispute settlement organs are constituted and what procedures that the organs and parties to follow while entertaining land disputes. It is only Tigray regional state that has depicted the manner of appointment of the kebele rural land dispute adjudication committee members,

<sup>59</sup> See (n 47) Art 10, 11, 12 and 31.

<sup>60</sup> *ibid* Art 32.

the qualification that mandates an individual to assume position for the committee, the term of office of the committee members and the way how the committee members get awareness on resolution of the parties' case.<sup>61</sup>

In addition to these, federal and regional land laws enacted prior to 2008 are attempted to address land issue of highland or agricultural areas. The country has considerable pastoral lands for which the current regional land laws are inapplicable. Regional states have not yet issued pastoral land legislation in support of these areas. Pastoral lands are administered by customary laws. There are no separate laws in response to administration and dispute resolution mechanism of pastoral lands. This needs to be reconsideration to have an effective dispute resolution mechanism both in the highland and pastoral areas.

## **6.2 Institutional Based Challenges**

Rural land dispute resolution organs especially at the kebele level such as rural land administration committees, rural land dispute adjudicating committees and kebele administrators may not effectively handle cases because they are non-paid institutions. Thus, to have an effective dispute resolution system, it is imperative for the law to make adjustments including supporting these organs with adequately trained and full time paid experts and making arrangements to train them on the substantive and procedural elements of the law. Establishing an incentive mechanism for these organs in order to effectively handle rural land cases is also crucial to have an effective land dispute resolution system.

Another institutional based challenge in the kebele level that hampers effective rural dispute resolution also lays on rural land administration/adjudication committees themselves. In most of the regional states, rural land administration/adjudication committees are

structured within the kebele level only and for this reason, it is not easy for the parties to find these organs. In order to alleviate this problem, the law should have to establish an alternative mechanism. This might be achieved for example to establishing land administration committees even at sub-kebele level like the (Amhara and Tigray regional state) rather than establishing them only at kebele level for the parties to easily submit their case and to avoid their unreasonable embarrassment.

## **6.3 Existence of Double Holding Certificates within the Same Plot of Land**

Double holding certificate is also one of the pivotal problems for the effective dispute resolution mechanism in the current days. There is disguised land sale in most of the regional states of the country especially in areas where adjacent to cities. Hence, the seller and buyer can have a land holding certificate within the same plot of land. The author of this article on a research he conducts on Oromia regional state has found that double holding certificate is a big challenge to have an effective dispute resolution system.<sup>62</sup> The buyer and/or the person who take the land on rental bases lobby the concerned stakeholders in order to get landholding certificates. Even they give bribes in order to get the landholding certificates and this fact is highly challenging the courts while investigating the rightful possessor of a certain plot.<sup>63</sup>

## **6.4 Challenges Related with Gender**

Most of the rural land proclamation and their implementation regulations are silent with regard to the participation of women under the informal dispute resolution organs. It is believed that participation of women is crucial for them to safeguard their land rights and paves a way for them to have a say

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<sup>61</sup> See (n 47) Art 10, 11, 12 and 31.

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<sup>62</sup> Solomon Girma and Temesgen Solomon, 'Legislative Based Analysis on the Implementation of Rural Land Laws in Oromia Region' (2019) 10 Beijing Law Review 822, 806-828.

<sup>63</sup> *ibid.*

on the derogatory customary practices. The land laws and their implementation regulations in Oromia, Amhara and SNNPRS regions have not specified quotas for women under the informal dispute resolution machineries. It is only Tigray regional state that has reserved necessary quota for women in the informal dispute resolution organs. Article 14(1) of the proclamation No. 240/2014 mandatorily reserves fifty percent of the position for women under the rural land adjudication committee. Even sub-article two of the same provision obligates that, it is mandatory for at least one woman to follow every trial that the committee conducts at the time of disposing the dispute.

## 7

### **CONCLUSION AND THE WAY FORWARD**

Disputes in relation to rural land in most regional states of Ethiopia are entertained by informal institutions before they are taken to court of law. It is mandatory for the parties in order to take their dispute to this informal dispute resolution institution before they go to court of law. Thus, land disputes can be taken to the court of law (i.e. woreda courts) by the aggrieved party in the form of appeal.

Even though rural land administration and use proclamations and their implementation regulations in Ethiopia have given first instance jurisdiction on land matters to the informal dispute resolution institutions, but the laws have not illustrated on how these informal institutions are constituted, which body is responsible to organize them, and what procedures that the institutions and parties to the dispute follow while entertaining land cases. It is only Tigray regional state that has enacted a proclamation that clearly shows how rural land adjudication committee within the kebele level are recruited or appointed, what procedure they would follow while entertaining their duties, their term of office and an incentive mechanism for their office duties.

The other fact that thwarts effective rural land dispute resolution mechanism in Ethiopia is the absence of

separate land legislations for the highland and pastoral areas. There are no separate laws that regulate land dispute resolution mechanism in the pastoral areas and this fact is hampering the development of the sector. Federal and regional states have not yet issued pastoral land legislation in support of these areas and land related issues in the pastoral areas are prone to customary laws.

In addition to this, challenges related with institution especially in the informal land dispute resolution machineries like the establishment of the institutions at the kebele level only, the level of expertise of stakeholders in these institutions, and absence of incentive mechanism for these organs is another factor that significantly challenge the effective implementation of land dispute resolution mechanism in the country. Challenges related with gender and existence of double landholding certificates in Ethiopia can also be mentioned as one of the critical challenges that are impeding effective land dispute resolution mechanism in the country.

Therefore, to have an effective land dispute resolution mechanism, the following gap filling recommendations should be devised.

i. Rural land proclamations of regional states have devised informal dispute resolution machinery for rural land disputes before the parties resort their case to the woreda court. But, some of the regional states land proclamations has not indicated the time frame that this organs dispose the case. For example, the SNNPR rural land proclamation No. 110/2007 does not clearly set out the time limit that the arbitrary elders channel needs to dispose the case. In addition, the proclamation has not set out the period of time that the aggrieved party on the disposition of elders finding brings the case to the woreda court. Hence, the proclamation should to show this timeframe clearly.

ii. Some regional states rural land proclamations have depicted a provision for the aggrieved party by the result of arbitrary elders to initiate a proceeding in a Woreda court. For example, when we take the Oromia regional state rural land administration and use proclamation No.

130/2007, it mandates the aggrieved party to initiate a proceeding in a Woreda court within 30 days of the registration of the elders result in the Kebele administration. In addition, when we take the Amhara regional state rural land administration regulation No. 51/2007, where the dispute is not resolved at the level of arbitral assembly, it may be possible for the parties to bring a petition to the respective woreda court within thirty days from the date of termination of resolving effort in agreement. But, both of the Oromia and Amhara regional states rural land legislations have failed to indicate the effect of failure to submit the petition within this period of time. Thus, it is imperative to specify the effect of non-observance of this period of time clearly within the proclamations and regulations governing rural land.

iii. In some regional states for example, (Oromia and SNNPRS) the informal dispute resolution organs are not institutionalized at the kebele level. If there is dispute on rural land then the party to the dispute make an application for the kebele administration as of Oromia and kebele land administration committees as of SNNPR. After the application is made to these organs, they help the parties so as to select individuals of their choice that facilitates the resolution of the dispute. Thus, this is to mean that, individuals that help the conciliation process are selected by the parties but they are not institutionalized in the kebele level. It is only Tigray regional state that has institutionalized informal land dispute resolution organs at the kebele level. Therefore, to make the informal land dispute resolution mechanism more effective in the kebele level, it is imperative to institutionalize these organs in the kebele level like to that of Tigray regional state.

iv. To have an effective informal rural land dispute resolution mechanism, it is essential for the regional states to support informal land dispute resolution institutions with adequately trained and full time paid legal and land administration experts so as increase their awareness. Establishing an incentive

mechanism for these organs is also vital to have an effective informal land dispute resolution system. The other regional states namely (Oromia, Amhara and SNNPR) can craft a good lesson from Tigray regional state that has established an incentive mechanism for the rural land adjudication committees for their office duties.

v. Rural land legislations should have also reserve mandatory quotas for women in the informal land dispute resolution organs. Rural land legislations (i.e. Oromia, Amhara and SNNPR) states are silent with regard to participation of women in the informal land dispute resolution institutions. It is believed that participation of women in the informal dispute resolution organs paves a way for them to have a say on the derogatory customary practices. Hence, it is essential for the regional states rural land legislations to show necessary quotas for women under the informal land dispute resolution institutions.

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