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**Rural Women Land Rights in Africa:
Comparative Analysis of Ethiopia with
Selected African Countries**

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RURAL WOMEN LAND RIGHTS IN AFRICA: COMPARATIVE ANALYSIS OF ETHIOPIA WITH SELECTED AFRICAN COUNTRIES

BY

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Acronyms

ACHPR	-	African Charter on Human and Peoples Right
ACORD	-	Agency for Cooperation and Research Development
ACTS	-	African Center for Technology Studies
AfDB	-	Africa Development Bank
ANRS	-	Amhara National Regional State
APC	-	American Policy Center
AU	-	African Union
AUC	-	African Union Commission
BPFA	-	Beijing Platform For Action
CEDAW	-	Convention on Elimination of all forms of Discriminations Against Women
CIA	-	Central Intelligence Agency
CLA	-	Communal Land Associations
CSA	-	Central Statistical Agency
ECA	-	Economic Commission for Africa
EPDRF	-	Ethiopian People Democratic Revolutionary Front
EPLUAO	-	Environmental Protection, Land Use and Administration Office
FAO	-	Food and Agricultural Organization
FDRE	-	Federal Democratic Republic of Ethiopia
FGDs	-	Focus Group Discussions
FRELIMO	-	Frente de Libertacao de Mozambique /Mozambique Liberation Front
GDP	-	Gross Domestic Product
IDPs	-	Internally Displaced Peoples
IHRIP	-	International Human Right Internship Program
KIIs	-	Key Informant Interviews

LACs	-	Land Administration Committees
LPI	-	Land Policy Initiative
PGH	-	Public Grievance Handling
RDI	-	Rural Development Institute
RENAMO	-	Resistencia NacionalMocambicana /Mozambican National Resistance
RISD	-	Rwandan Initiative for Sustainable Development
TPLF	-	Tigrian People Liberation Front
UN	-	United Nations
USAID	-	United Sates Agency for International Development
WCYA	-	Women, Children and Youth Affairs
WLR	-	Women Land Right
WRI	-	World Resource Institute

Abstract

This study conducted with the aim of showing status of rural women land right in Africa in general with special focus in Ethiopia. It addressed the case of Ethiopian rural women by taking the case of rural women in Mojana Wodera Woreda, Amhara Regional National State. Thus it posed four basic research questions: how do current Ethiopian land laws positively or negatively affect rural women's land rights? What land rights do rural women enjoy in Ethiopia compared with those enjoyed by rural women in Nigeria, Uganda, Rwanda and Mozambique? What are the challenges faced by rural women within the remit of their land rights? What is the role of customary land laws and the interplay with modern/statutory land laws? In order to answer these questions, data was collected from oral and written sources. The analysis of these data show rural women in Ethiopia have enjoyed legal equality regarding their land rights but there exist implementation gaps. In practice rural women are not benefiting at most pertaining to societal and institutional failures. It is also true for other African fellows. African women share a marginalized and secondary land rights. There are undeniable positive way outs like land registration and titling which have brought reforms in rural women status with some unwanted drawbacks. Therefore, the study recommended abolition of illiteracy, community awareness raising, promotion and enforcement of women land right and strengthening government task forces.

CHAPTER ONE: INTRODUCTION

1.1. Background of the Study

In post-independence Africa, land has taken the leading agenda in discussions and strategies aimed at development (Rudo, 2011:2). Land with capital, labor and technology is one of the key determinants of production and, at the same time, the control over land determines access to other factors of production processes. Land in particular is central to Africa's development. The development meant here is that which implies sustainable natural resource management, agricultural and economic development, poverty reduction, peace and security, equity and justice and food security. On the other hand, such development has direct and indirect consequences on land policies, land administration, governance and partner support. However, related issues of women access to various benefits derived from the use and exchange of land are challenging and are hardly ever addressed or contemplated in various policies making (Carpano, 2011:4).

Women's right to property includes a bunch of rights including the right to acquire and dispose of any movable or immovable property obtained by their own labor or through inheritance. Hence, the right to property is a broad notion that has bearing on several legislative frameworks including institutions such as the institution of marriage and inheritance laws. Women's right to land is a critical factor in social status, economic well-being and empowerment. It is also a social asset, crucial for cultural identity, political power and participation in local decision-making processes. However, notwithstanding the critical nature of women's rights to land, it is all over visible that, in the African continent, patriarchy as socio-cultural ideology and a tool for women subjugation and deprivations has seen to it that, such life sustaining rights to land are not easily enjoyable by women on the African continent (UN ECA, 2007:6).

Hussein (2014) described African women as "the most marginalized group in society regarding access to and control over land." (Hussien, 2014: 137). He marked that, African women's inalienable rights to possess and own property including land is endangered by comprehensive socio-cultural and religious values and norms. There are many more negative and harmful socio-cultural norms, attitudes and practices which disallow women the right to own, administer property and control the land. Moreover, women do not have a customary right to inherit land from their family; and the control of land during marriage falls predominantly under the control of their husband (Hussein,

2014: 137). Hussein further emphasized that a woman cannot even control the fruits of the land when she does not gainfully and openly involve in the household decision-making processes. Worst of all, after divorce, a woman has to leave her husband's home and look for another marriage without claiming her share of the matrimonial property (Hussein, 2014: 138). This kind of suffering emanated from the system under which land has been administered.

Supporting the above statement, the joint Land Policy Initiative/LIP/ of African Union and Economic Commission for Africa /ECA/ states that, African land is governed by various intricate and at times subjective customary law regimes, relying on traditional customs and institutions to govern such an important societal asset. It is no secret that under many customary systems; women face discrimination when it comes to access to, control and ownership of land resources. This marginalization of women with respect to land rights in Africa is a result of culturally embedded beliefs and practices on the role and status of women in society. As mentioned above, women are usually excluded from inheritance of land within the remit patriarchal ideology and within the context of patrilineal anthropological system. Even in matrilineal societies, land owned by women is essentially controlled by the women's male kin, usually maternal uncles. Beyond customary systems, women are also discriminated under formal (statutory) systems (AU- ECA- AfDB, 2012:2).

Besides the indigenous customary laws, alien land laws incorporated into domestic land laws tend to entrench the system of patriarchy to the detriment of women in Africa. These alien laws encourage the conferring of title and inheritance rights upon male family members. This unfairness is predicated on the theory that, women, especially married women, shall always access land through their husbands or male children. On the other hand, various "claw back" clauses in many African constitutions, and other legal tools such as the African Charter on Human and Peoples Rights (ACHPR), permit discrimination on matters of personal law (relating to nationality, capacity, domicile, etc). All these social and legal institutions, cumulatively, operate against women's right to equal treatment under the law (AU- ECA- AfDB, 2012:3).

Even in countries where statutory laws provide provisions to facilitate equal access to land by women, women may not be aware of their rights, or they may not have access to justice. In most cases, the fear of violence and harassment lead them to give up their rights in order to avoid tensions within the family. Highlighting the problems faced by women in Eastern Africa region, Ms. Akinyi-Nzioki (Land Net Africa 2000:8) asserted that, women are generally excluded from secure access to land by both cultural and legal norms. Even, where the law appeared to be progressive and in favor of women, the legal provisions sometimes end up being contradicted by cultural norms. As a result,

daughters are usually disinherited because it is argued that they will eventually get married and gain access to land through their marriage (Land Net Africa, 2000: 8).

Related with land administration, Ethiopia undergoes in three main regimes- Feudal, *Derg*¹ and EPDRF. These three regimes have different concepts on land and differ in the way they administrate land. The land relations that prevailed in pre-revolutionary Ethiopia were both feudal and patriarchal, mediated through heredity and proximity to the crown or church. The *Derg* regime, which overthrew the monarchy in 1974, nationalized all rural land and distributed it to the peasants in line with its socialist orientation and the then popular slogan of “land to the tiller” (Hadera, 2002:3). The EPDRF regime under the FDRE Constitution article 40 proclaims:

The right to ownership of rural and urban land, as well as of all natural resources, is exclusively vested in the State and in the peoples of Ethiopia. Land is a common property of the Nations, Nationalities and Peoples of Ethiopia and shall not be subject to sale or to other means of exchange (FDRE, 199: Article 40).

From the wording of the constitution, the ruling government retains the stand of the *Derg* regarding land cannot be under the ownership of individuals.

Given the above fundamental issues pertaining to women land right in Africa, this study will endeavor to analyze issues affecting rural women land right taking some African countries in terms of geographical location whereby Nigeria, Uganda, Rwanda and Mozambique from West, East, Central and South Africa respectively shall be used representing the values, legal and customary law regimes as well as socio-cultural traditions which affect women land right and it shall be compared with specific case of Ethiopia. This analysis will also allow the fruitful investigation of the values and challenges that affect women land right which shall present the common issues that face rural women in Africa.

1.2.Statement of the Problem

There are arguable three reasons for the close relationship between Africans and the land. First, land is the main source of livelihood; second, it is a source of power and social status; and third, it is identity indicator of the people living on it (Yonas, 2011: 1). The nature of the land tenure system in rural parts of the continent is male-dominated, and the social organization of most groups of people is designed to meet that goal. Accordingly, Cotula (2007: 6), and Logo and Biekie (2003: 50), argue

¹Derg is Amharic-Geez word for a committee, refers to the Provisional Military Administrative Council /PMAC/ that ruled Ethiopia from 1974-1991. In 1987 PMAC were abolished and replaced by People’s Democratic Republic of Ethiopia. But the term continued to be used.

that, African rural women are the disadvantaged groups of people in society when at their entitlements to land are critically and objectively analyzed. The presence or absence of legal protection regarding women's right to land has a great role in the physical and psychological well-being of women's lives. In addition, the predominance of patriarchal ideology in law, policy, and practice ensures that the land has owners but that they are not women. According to Patricia, for law and policy to influence gender relations in the land tenure realm, there is a need to deconstruct, and then reconstruct, and conceptualize customary laws, around the issues of access, control, possession and ownership of property in general and land in particular (Patricia, 2005:13).

An assessment of AU-ECA-AfDB Consortium, (2010 b: 1-5) shows how African countries have different land policies and land laws as a consequence of their colonial history, diversity of culture and religions norms, and different endowments with natural resources. The key problems and challenges of the continent are legal pluralism (existence of customary, foreign and statutory laws), state sovereign power over land and land tenure insecurity. Most countries have juristic or diffusive plural legal systems governing land. Consequently, multiple sources of property rights co-exist (AU-ECA-AfDB, 2010a: 1).

There are few researches done on issues related to women rural land rights in Africa. These few studies mostly cover East African countries. For example, Kanika (2005: 160) worked on women's insecure land tenure and its implications for development in Kenya and Uganda. Ibrahim (ACTS 2005: 73-85) presented a report on land tenure and conflict in Somalia. He pointed out the overall impact of conflict in Somalia and the role of existing Sharia and customary laws on land tenure. Makumi (1998: 1-6) reviewed the reality of women's land and property rights in Kenya, Sudan and Ethiopia. The review considered legal and other impediments hindering these rights in situations of conflict and reconstruction. It also outlined the practical problems faced by women in connection with the legal and traditional structures regarding land and property rights. Elizabeth and Birgit (2008: 15) recommended that, there must be a stronger focus on gender equity within such a positive, pragmatic and innovative approach to securing women's land rights.

From the reading of available literatures there is a gap regarding the trend of assessing the issue continent wide. As time changes, there are some countries in Africa who brought land reforms which are not yet addressed in a comparative way. These gaps show the need to raise the issue as comprehensible as possible. Therefore, it is critical to assess the status of African rural women land rights in general through pointing out the experience of some selected countries and this study tried to narrow the gap on the existing knowledge.

1.3.Objectives of the Study

1.3.1. General Objective

The general objective of the study is to assess the extent of women's land right and its legal framework in Ethiopia and within analytical comparison with some chosen African countries.

1.3.2. Specific objectives

- To show the legal frameworks which provide women the right to land in Ethiopia, Nigeria, Uganda, Rwanda and Mozambique;
- To point out common and particular positive reforms and ways forward; and
- To identify common challenges to women's land rights.

1.4.Research Questions

In order to realize the above stated objectives of the study, the researcher raised main research questions of:

1. How do current Ethiopian land laws positively or negatively affect rural women's land rights?
2. What land rights do rural women enjoy in Ethiopia compared with those enjoyed by rural women in Nigeria, Uganda, Rwanda and Mozambique and vice versa?
3. What are the challenges faced by rural women within the remit of their land rights?
4. What is the role of customary land laws and the interplay with modern/statutory land laws?

1.5.Relevance of the Study

This study is expected to serve a great role in the betterment of Ethiopian rural women's land rights in many aspects. First, it gives a general overview of legal status of women's rural land right. Second, the research shows the current policy gaps and challenges of implementation. Third, it recommended policy makers and responsible concerned organs (including continental, regional and national) to take corrective measures. Fourth, it will be an addition to the existing knowledge and used as a reference for further studies of related topics.

1.6.Limitations of the Study

The study was designed to take sample from different parts of Ethiopia in order to make the research conclusive and genuine. But, due to budget and time constraints the researcher is obliged to take

small number of representative from the stated area. Without prejudice to some form of similarities, it is possible to reach on somehow differed conclusion because of the fact that Ethiopia is a multi-ethnic, multi-religious and multi-cultural country. The other short coming is lack of updated and genuine researches while assessing the experience of the selected countries.

1.7. Organization of the study

This study consists of five chapters .The first chapter is devoted to introducing the background information and justification of the study that covers background of study, statement of the problem, and objectives of study, research question, relevancy and limitations of the study.

In the second chapter the study deals with review of related literature, definition of terms and theories and conceptual frameworks. In doing so, this chapter reviews relevant previous works done on the selected countries in order to substantiate the study with what was done in past times. In addition, concepts like property, feminism, patriarchy and others are defined and elaborated in the way to give broader understanding of the terms.

The third chapter explains research methodology and provides empirical evidences of women land rights. It dealt with the socio-demographic information of respondents, it present variables which have direct or indirect impact on rural women land access and control, it shows the cross relation of different variables and the interplay between them.

In chapter four analysis and interpretation of both qualitatively and quantitatively collected data are included. Through this some findings have been drawn and used to compare the Ethiopian context with that of the selected countries experiences. At the end of the study conclusions and some recommendations are forwarded.

CHAPTER TWO

2. LITERATURE REVIEW AND CONCEPTUAL FRAMEWORK

This chapter has two sub-sections. The first section includes assessment of works done on the issue, review of existing laws both customary and statutory on property right in general and its treatment of women in particular. It also includes the status of Ethiopia rural women land right under the regimes of feudal, military/*Derg* and the current ruling government. At the end of this section, the experiences of Nigeria, Uganda, Rwanda and Mozambique are included. The second section clarify terms, concepts and theories like patriarchy, property, women right, feminism, women subjugation and other related concepts by providing definition, origin/historical development, their interplay and role with in a society.

2.1. Women Land Rights in Africa

Land right in African society governed under both customary and statutory/modern laws. The rights provided under both systems are believed to be different from society to society or from country to country even within the same continent. In this section of the study, the main trends of customary laws and major instruments of modern law are discussed. Women's land rights are provided under different instruments at international, continental and national levels, and they too are addressed here.

2.2. Women Land Rights under Customary laws in Africa

Customary land tenure is a system whereby land is acquired and transferred in line with traditionally recognized regulations (Amone and Lakwo, 2014:117). It is set of rights in land that originate from customs or practices handed down from generation to generation. The right to use or to dispose of uses rights over land under the system determined based on the fact that such rights are recognized as legitimate by the community where the rules governing the acquisition and transfer of these rights are usually explicitly and generally known, though they mostly are not normally recorded in writing. This implies that an individual's rights in land under customary land tenure derive from his/her membership to a social group such as a clan or family (Paage, 2013:264).

There are varying degrees of land tenure in Africa, the most important of which are freehold/private titles, communal/traditional systems, public land, and squatting. Furthermore, various social dimensions (class, gender, religion, and ethnicity) affect access to and ownership of land (Urmilla,

2010:50). For women living under customary systems of tenure, marriage remains the primary means through which they obtain access to land on which to live and grow food or cash crops (Walker, 2002:18). Security of marriage thus becomes a major requirement for security of tenure. When the married household is in crisis through the death of the husband, or separation or divorce, then women's structural vulnerability becomes significant (Walker, 2002:18). This in effect may force women to stay in marriage whether they like it or not.

Michael (2006) argues that customary land tenures have both merits and demerits. To start with the advantages, a common feature of all the categories of customary land tenure is the vesting of the radical title to the land in the community as a corporate entity rather than in the political organs through which control of the territory or the resources of the land was exercised or mediated. Thus, even in a feudal system, when the land was vested in the feudal authority, it was on behalf of the entire community (Michael, 2006:9). Under customary systems, secure access to land is incidental to having membership in a community and meeting the reciprocal obligations that come with such membership. The system for the administration of land rights, including allocation and dispute settlement, is part and parcel of the political organization of the community. This ensures both inter- and intra-generational equity among members of the community who are bound together through common descent. Because land relations reproduce kinship ties and associations in a system where land is the basis of livelihoods, they form an integral part of the social, political and economic reality of the community. Membership in a community qualifies members for access to land, but the amount of land they will hold is dependent on their user needs (Michael, 2006:10).

On the other hand, the first negative side of customary land tenure emanates from requirement of community membership as the basis for acquiring rights to land; loss of membership entails loss of those rights.

For men, this is not a problem as they are more or less assured of life membership in their communities. However, it is a major problem for women whose access and use rights are secured to their membership of communities through their relationships with male members of those communities. In most communities, when a woman marries she loses membership in her birth community and becomes a member of her marriage community, a membership therefore attached to the sustainability of the marriage. She effectively loses the membership if her marriage ends, although traditionally she would have been assured of access to land as

long as she had borne male children. Michael also pointed that the changes that have resulted in greater insecurity for women are a function of the weakening of customary institutions (Michael, 2006:10).

The second major limitation of customary tenure is that its substance and institutional framework are defined in community specific terms.

The essence of membership in a community as the basis of rights and obligations means that the system excludes outsiders, thereby limiting the scope of its benefits. It also means that the system functions effectively within very limited spheres and, thus, loses effectiveness outside the restricted spheres of its specific community. This has limited the utility of customary tenure in mediating relations across communities (Michael, 2006:10).

Michael further added gender as a major challenge for customary land tenure, which is underpinned by the patriarchal nature of traditional communities in Africa. This means that talking about rights is often really about the rights of male members of the community. The patriarchal land tenure arrangements are based on the assumption that women and girls will gain access to land through their male kin at every point in their life cycle. As to girls and unmarried women, they lay claims to land through their fathers. Once married, they make the claims through their husbands (Michael, 2006:11).

2.3. Women Land Rights under International and continental Instruments

Many African countries ratified major international instruments aimed at women rights and privileges. They also promulgate continental frameworks on the same subject with ‘Africanized’ norms. While the Convention on the Elimination of All Forms of Discrimination (CEDAW) put obligations on states, its Optional Protocol and the Protocol on Women’s Rights, formulate legal framework for the protection of women’s property rights at the global and regional level. The Beijing Platform for Action (BPFA) and the Solemn Declaration on Gender Equality in Africa set the specific regional policy frameworks for equal rights to land.

2.3.1. CEDAW

CEDAW recognizes women’s land rights and all African countries, except Sudan and Somalia have ratified it (UNECA, 2007:6). Article 14 of CEDAW obliges states parties to take all appropriate measures to eliminate discrimination against women in rural areas in order to ensure, on the basis of

equality of men and women that they participate in and benefit from rural development and, in particular ensure to such women the right:

(d) to obtain all types of training and education, formal and non-formal, including that relating to functional literacy, as well as the benefit of all community and extension services, inter alia, in order to increase their technical proficiency;

(g) to have access to agricultural credit and loans, marketing facilities, appropriate technology and equal treatment in land and agrarian reform as well as in land resettlement scheme (CEDAW, 1979: article 14).

CEDAW put obligations on signatory state governments to modify social and cultural patterns of conduct to eliminate practices based on stereotyped roles for the sexes.

The Convention defines discrimination against women as "any distinction, exclusion or restriction made on the basis of sex which has the effect or purpose of impairing or nullifying the recognition, enjoyment or exercise by women, irrespective of their marital status, on a basis of equality of men and women, of human rights and fundamental freedoms in the political, economic, social, cultural, civil, or any other field. CEDAW also establishes a framework that draws on three over-arching principles: equality in opportunity, equality in access and equality in results. The Convention advocates the "substantive" kind of equality both in law (*de jure*) and in practice (*de facto*).

2.3.2. The Protocol on Women's Rights

The Protocol on Women's Rights (additional Protocol to the African Charter on Human's and People's Rights) has been signed by 43 African countries, which shows significant progress over CEDAW. The African Women's Protocol approaches the issue of women's property rights assertively. Article 16 obliges State Parties to grant women's access to housing irrespective of their marital status. Under Article 19 entitled 'Sustainable Development' the Protocol's Sub Article (C) provides that African governments should promote women's access to and control over productive resources such as land and guarantee their right to property. Besides, Article 21 authorized the 'Right to Inheritance' guarantees the equal right of women to division of property upon divorce, and the right of widows to continue living in a matrimonial house (AU, 2003: articles 2, 5, 19-21).

2.3.3. Beijing Platform for Action

The Beijing Declaration and BPPFA, in line with CEDAW Article 3, creates positive obligation on governments to undertake all the necessary administrative and legislative reforms to give women equal and full access to economic resources, including the right to inheritance and to ownership of

land and other property and credit and to revise laws and administrative practices to ensure women's equal rights to inheritance and to ownership of land and other property (Strategic Objective F2; 165.e.). The Objectives focus on encouraging governments to enact modern laws and administrative regulations that replace customary laws and practices.

2.3.4. Solemn Declaration on Gender Equality in Africa

At the regional level, the Solemn Declaration on Gender Equality in Africa, which was adopted by Heads of States of the African Union (AU) in July 2004, reaffirms the commitment of African governments to implementation of legislation to guarantee women's land, property and inheritance rights including their right to housing. While the spirit of the Declaration has to be acknowledged, it assumes that there is a uniform legislation that is governing property and inheritance rights in all African countries. Therefore, it fails to protect women's rights in the countries that do not yet have adequate statutory laws on women's equal access to resources.

2.3.5. Land Policy Initiative

The Land Policy Initiative (LPI) was established in 2006 as a joint initiative of the tripartite consortium constituted by the African Union Commission (AUC), the Economic Commission for Africa (ECA) and the African Development Bank (AfDB).

Rulers of Africa (country representatives at AU) recognized that the system of patriarchy which dominates social organization has inclined to discriminate against women regarding ownership and control of land resources. They forward two main reasons for its re-enforcement. The first factor is imported land law that has tended to strengthen the system of patriarchy by conferring title and inheritance rights upon male family members on the theory that women, especially married women can only access land through their husbands or male children (AUC-ECA-AfDB, 2010a:8&9). The second is "clawback" clauses in many African constitutions and the ACHPR permitting discrimination on matters of personal law which often operates against women's right to equal treatment before the law. They believe, if law and policy are to redress gender imbalances in land holding and use, it is necessary to deconstruct, reconstruct and reconceptualise existing rules of property in land under both customary and statutory law in ways that strengthen women's access and control of land while respecting family and other social networks (AUC-ECA-AfDB, 2010a:9).

2.4. Women Land Rights under National Instruments

In addition to adopting international and regional legal frameworks, countries passed through their own national legal history concerning land and or women rights. The laws range from supreme constitutions to specific policies and strategies.

2.4.1. Ethiopia

Land was/is like blood for most Ethiopians' life. This precious natural resource /land/ administration history revolves around three main periods: Pre-1975 land reform, 1975-1991 and post-1991.

2.4.1.1. The Imperial Regime and Landholding

Ethiopia was under monarchical form of government until the downfall of the emperor in 1974. The imperial state was characterized by absolute monarchy and landlordism. Fundamentally, the system depended on rural agrarian economy. (Yonas, 2011:33) During this period there was a dichotomy of land holding system between the North and South. Three (but different) land holding arrangements existed in both regions. In the North communal or *rist* and *gult* church and state tenures were used. In the South the arrangements were church, state and private (freehold) (Dessalegn, 1985:17). Church and state ownership are common in both regions while communal and private systems are specific to the North and South respectively.

Rist: It is the right to claim a share of the chief father's land on the basis of descent from him. The relationship is traced bilaterally, beginning with a male or with a female if the claimant husband has had children by her (Dunning, 1970:273). Dunning argued that the system theoretically seems inapplicable. But it works in fact only because of certain practical factors which influence physical allocation. In particular, a claimant is more likely to succeed in his claim if a near ancestor has worked land in the area where the claim is made, if the land claimed is near the claimant's residence, and/or if the claimant has political influence and power (Dunning, 1970:273).

Gult: *Gult* is the right, normally non-hereditary, to all or part of the tribute ordinarily due from the occupant of land to the ruler. Rights to *gult* were granted by the state to those who were recognized to have performed loyal service to the crown, and recipients were empowered to collect taxes or tribute from the people on *gult* property and to exercise administrative and judicial authority in the area. The assignee of this tribute has not only the right, but also the responsibility to perform certain judicial and administrative functions. It was property, usually in the form of large estates, granted to members of the ruling aristocracy (Dessalegn, 1985:41 and Dunning, 1970:273).

Church Ownership: Ethiopian Orthodox Tewahido Christianity was practiced as a state religion. The Ethiopian Orthodox Church owns considerable amounts of land, and it has the right to collect the land taxes for additional land. The land was known as *semon* land (Dessalegn, 1985:19). As an institution, the church did not carry on agricultural activity itself; it instead leased the land to its clergy, servitors and congregations in return for tribute (Yonas, 2011:35). According to Dessalegn, those who operated *semon* holdings could in turn rent them out to others, either on a crop-sharing basis or in payment of a fixed tribute, but they could not sell, mortgage, or exchange them in other ways (Dessalegn, 1985:19). *Seimon* land was, however, inheritable on one condition - if the heir agreed to carry on the obligations of their legatos, i.e. the payment of tax and the provision of service to the church (Yonas, 2011:35). Occasionally the State has carried out the physical collection of taxes and turned the revenue over to the Church, but generally the Church collects its own taxes.

State Ownership: State land is of two kind- *madeira* and *mengist* The imperial regime was mainly dependent on the rural agrarian economy which was sustained by the labor of the peasantry (Yonas, 2011:36). Dessalegn tried to differentiate peasantry from tenants stating that the peasantry was composed of small scale owner-cultivators and tenants and the difference between the two is that while the former was more secure in his holdings, the latter was subject to eviction at any time (Dessalegn, 1985:24). In addition, they covered the majority of the rural population during the time under discussion. As the main actor in rural production, the Ethiopian peasant was operating a small plot of land.

Private Ownership: It is a form of land arrangement that was unique in southern Ethiopia. The Southern regions of Ethiopia had come under the authority of the imperial regime during the last decade of the nineteenth century when Emperor Menelik II led a series of campaigns that were meant for territorial expansion and creation of modern Ethiopia (Yonas, 2011:36). In general during this period, though women who belong to the Royal family had inherited land, the large ordinary women were neglected and have secondary land rights.

2.4.1.2. Derg Regime

The 1974 Ethiopia students' movement motto was "Land to the Tiller". It shows how the imperial administration was hated by the majority of the society. During the socialist Derg regime, that had overthrown the imperial regime, profoundly changed the agrarian structure and the mechanisms of access to land. The "Public Ownership of Rural Land Proclamation" nationalized all rural land and set out to redistribute it to its tillers and to organize farmers in cooperatives, thereby abolishing exploitative landlord-tenant relations so pertinent under the imperial regime. (Proclamation no.

31/1975)The major changes brought about during the *Derg* regime were "agrarian socialism" including the quest for collectivization of small-scale farms and the establishment of state farms (Shimelles, Zahidul and Tuulikki, 2009:13).

According to Zenabaworke (2003), this land reform was a big hope for the peasants while it ended up with accelerating poverty (Zenabaworke, 2003:80). The poverty was aggravated by the then civil-war with Tigrian People Liberation Front/TPLE/ which lasted seventeen years and the misguided agricultural laws and policies and also by the persistent drought (Zenabaworke, 2003:80). Besides, the land reform proclamation criticized for its weakness in accommodating women right. In the face value it states any one shall be granted land if he/she is willing to cultivate without any discrimination based on sex. But in its implementation it shows biases against women. Zenabaworke identified the main drawbacks were as: land registered under male heads of households, it failed to take intra-household distributional relations in to consideration while using family as a basic unit of land allocation. This measure makes women suffer a lot especially those who are under polygamous marriage. It also retains cultural taboos which are against women ploughing and sowing. It considered women as persons who cannot cultivate. The other shortcoming was it allocates minimal size lands to women headed households (Zenabaworke, 2003:81).

In accordance with the proclamation, the land was given to the husband because he was by law the head of the household. Such land reform had a mixed effect on women; it used the heads of family concept (a male) as the basis of the land allocation, thus, females became secondary users of land (Berhanu and Fayera, 2005:37).

2.4.1.3. Post-1991 Land Tenure

Following the down fall of the military junta, the land issue arises as a hot political concern. The Transitional Government of Ethiopia (1991-1994) retains the same position of "land is under state ownership" as the former government. Two opposing ideologies created and they argued to win in their side. The government follows state ownership land policy and gives priority to fairness. The other group composed of Economists and international donors prefer privatization which will in effect bring efficiency (Crewett and Korf, 2008:203). While the argument is ongoing, the government adopted the 1995 constitution which confirmed state ownership of land (FDRE, 1995: article, 40).

A) FDRE Constitution

According to the FDRE Constitution land ownership is legally vested in the Ethiopian state and public. Hence, land cannot be sold or exchanged. Peasant farmers, pastoralists and semi pastoralists who are or who wish to be engaged in agriculture have only usufruct rights and cannot sell, exchange or mortgage the land. The land issue under the current ruling government is of both the federal and regional governments' power. The federal government shall enact laws for the utilization and conversation of land and other natural resources, historical sites and objects based on article 51 sub-articles 6 (FDRE, 1995: article 51). Article 52 sub-articles 2(d) confers State governments the power to administer land and other natural resources in accordance with federal laws (FDRE, 1995, article 52). Land administration is the responsibility of regional governments (Getnet, 2012:9). Article 40 of the constitution states as:

3) The right to ownership of rural and urban land, as well as of all natural resources, is exclusively vested in the State and in the peoples of Ethiopia. Land is a common property of the Nations, Nationalities and Peoples of Ethiopia and shall not be subject to sale or to other means of exchange.

4) Ethiopian peasants have right to obtain land without payment and the protection against eviction from their possession. The implementation of this provision shall be specified by law.

5) Ethiopian pastoralists have the right to free land for grazing and cultivation as well as the right not to be displaced from their own lands. The implementation shall be specified by law (FDRE, 1995, Article 40).

This constitution provided women to have access to land and other natural resources equally with men. In obligatory terms it states the opportunities women should be given. Article 35 is all about women right and the sub-articles deal issues which have to considered women while making decisions or any other administrative actions.

1) Women shall, in the enjoyment of rights and protections provided for by this constitution, have equal right with men.

7) Women have the right to acquire, administer, control use and transfer property. In particular, they have equal rights with men with respect to use, transfer, administration and control of land. They shall also enjoy equal treatment in the inheritance of property (FDRE, 1995, art. 35).

The 1995 Constitution, while affirming gender equality and prohibiting discrimination on the basis of sex, and it outlawed any customary law or practice that contravenes the rights provided in the Constitution as null and void (FDRE, 1995, article 9 (1)). The regional constitutions and land laws also affirm the equal rights of women. The land laws of the Federal Government and the regions also clearly provide that the holding certificate shall be issued in the names of both spouses (FDRE, 1995:35 and FDRE, 2005: article 6(4) and ANRS, 2006: article 24(2)).

B) Federal Land Administration and Use proclamation

Proclamation No. 456/2005 is proclaimed mainly with the objective of giving land to the landless. Article 9 of the proclamation reads:

In accordance with land administration laws of the regions' farmlands whose holders are deceased and have' no heirs or are' gone for settlement or left the locality on own wish and stayed over a given period of time shall be distributed to peasant farmers, semi-pastoralist and. pastoralist who have no land and who have land' shortage (FDRE, 2005: article 9(1)).

It is designed to be effective through distribution of rural land for those who have no land access through inheritance or any other form of transfer. The proclamation clarifies the difference in access to land between the farmers, pastoralists and semi-pastoralists in one hand and investors in the other hand. The Former has the right to get rural land free of charge and for indefinite period of time and the later will be upon lease or rent for a specified period of time (FDRE, 2005: article 5(1) (a) & (4) (a) and Getnet, 2012:9). This proclamation also gives special attention under article 5(1) (c) making the floor flat for women who want to engage in agriculture shall have the right to get and use rural land.

C) Amhara Regional State Rural Land Administration and Use Proclamation

Amhara Regional State Rural Land Administration and Use Proclamation No.133/2006 issued in accordance with article 17(1) of the Federal Proclamation 456/2005. The salient feature of this proclamation is without prejudice to the principle of equality, it gives priority to women in case of where the land to be distributed is not available to all petitioners with equal magnitude of land holding problem (ANRS, 2006:articles 9(2)&5(6). It also ensures the election of women to land administration and use committee membership be balanced to that of women (ANRS, 2006: article 26(1). It allows re-distribution of land upon a condition where the land holders residing in one

*kebele*² and where not less than 80 Per cent of them request the Authority in writing for land distribution, and its application shall be only on holders who passed the decision (ANRS, 2006: article 8(2)).

Both the federal and regional proclamations recognize three forms of land holding: private, communal and state holdings (ANRS, 2006: article 2(5, 7 and 9) FDRE, 2005: article 2(11-13)). The regional law adds one extra new type of holding; common holding (ANRS, 2006: article 2 (10)). Both legal instruments provided similar definitions to each holding. Private land holding means a land possessed by any farmer or other body vested with right to use it and existing under private holding having a certificate. Communal holding is rural land which is out of the ownership of the government or private holding and used by the local people in common for grazing, forestry and other social services. State holding is to mean rural land demarked and held by Federal or Regional Government for country and area development and growth, and it includes forest lands, wild life sanctuaries, mining lands and parks as well as lands around lakes and rivers (FDRE, 2005: article 2(11-13) and ANRS, 2006: article 2(5, 7 and 9). Common holding appears when holding of land by two or more persons in common having the holding right, and use without division, by sharing the output from the land (ANRS, 2006: article 2(10)).

These laws also require registration of land in order to identify the identity of the holder (ANRS, 2006: article 2(20) & 23 and FDRE, 2005: article 6(1)). After registration the holder will be issued with certificate of holding. If the land is of common type, the certificate will be in the name of both. Where the land is a holding of a husband and a wife in common, the holding certificate shall be prepared by the name of both spouses (ANRS, 2006: article 24(2)).

D) The Federal Revised Family Law

The other important legal instrument which deals about property is the federal revised family code. The code under its section which deals about pecuniary effects of marriage clearly provided rules which govern properties before, during and after marriage. As a principle the law takes presumption on all property found in a marriage is a common property even if the property is registered by the name of one of the spouses. But the spouses can make it personal or common while concluding their marriage contract.

Article 63. - Legal Presumption.

²Kebele is the smallest administrative unit similar to ward a neighborhood or localized and delimited group of people.

1) All property shall be deemed to be common property even if registered in the name of one of the spouses unless such spouse proves that he is the sole owner thereof.

2) The fact that certain property is personal may not be set up by the spouses against third parties unless the latter knew or should have known such fact.

The property which the spouses possess on the day of their marriage, or which they acquire after their marriage by succession or donation shall remain their personal property (FDRE, 2000: article 57).

Land as a property, which was accessed before marriage or after marriage by way of succession or donation remains the personal property of the respective spouse. This spouse has the right to administer the property by her/him selves and free to dispose at any time.

2.4.2. Nigeria

Patriarchy structure has been a major feature of the traditional society in Nigeria (Asiyanbola, 2005:2). Marriage is used as a determining variable in women's land rights because it is the major means by which women and men access land in Nigeria. However, whereas women's land rights are dependent on their relations with men, men's land rights are not dependent on their relations with women (Aluko and Amidu, 2006:4-5).

According to the work of Yakubu (1985), Nigerian land law was governed under three categories of law. These are native/custom law, received English law and statutory law. The native or customary laws incorporated both Islamic and customary laws. The peoples of Nigeria are comprised of different ethnic groups with many variations. This resulted the existence of customary laws which have different rules (Yakubu, 1985:6). After the coming of the British government in 1861, the English common law rules relating to tenures, disposition of real property, estates, inheritance, perpetuities and a number of others became applicable in Nigeria. Two years after Nigeria's independence, the Government of Northern Nigeria in 1962 enacted a new land law called the Land Tenure Law, (Aluko T. and Amidu A., 2006: 4&5). Here the classification between received and statutory laws seems overlapping. Abdullah H.J. and Hamza I. (2003) stated that statutory law came to northern Nigeria at the time of British colonial government (Abdullah H.J. and Hamza I., 2003:147).

Until the coming of the 1978 land use law, Nigerians have no single and unified land tenure system. The country follows the north-south dichotomy land tenure system. The north administered by Islamic law and custom laws and the south customary law, emphasizing collective ownership among family and social groups. The British colonial power also used separate systems in the regions. The north was under crown ownership and the south under common law private ownership (Butler, 2012:2).

On 1978 the then Federal Military Government of Nigeria enacted the new Land Use Act. The Act nationalized land, giving ownership in the hands of the state governors “in trust” for the benefit of the entire Nigerian people. The act took over the ownership and control of land in the country thereby providing a uniform legal basis for a comprehensive national land tenure system (Aluko and Amidu, 2006:6 and Butler, 2012:2). Land market transactions (sale and mortgage) are only possible with the official written consent of the state governor or local government (Butler, 2012:3). Land holders are entitled to obtain a ‘certificate of occupancy’ as state lease up to 99 years. Nigeria is a federal state comprised of 36 states and a federal capital area. The Land Law and Constitution give the states significant discretion in setting the rules and procedures governing land relations. Each state is responsible for developing and implementing a system for registration of land rights (Butler, 2012:2). As such, implementation of the land laws varies significantly across the country.

2.4.3. Uganda

Margaret (1999) noted the difficulty of identifying a single land tenure system for the whole of Uganda in the pre-colonial era since varying practices of customary tenure that differed from one ethnic group to another were in place (Margaret, 1999:3). However, she agrees with scholarly researches that indicated whatever the differences, none of the communities in Uganda recognized individual ownership of land. There was however, recognition of various individual rights to possess and use land subject to sanction by his family, clan, or community (Margaret, 1999:3). During the colonial period, British, unlike its indirect rule system, introduced three types of land tenure in Uganda which were previously unknown. 1) Freehold tenure: it involves holding of registered land in which the holder has full ownership rights; 2) Leasehold tenure involves land leased for a specific period under certain conditions; 3) *Mailo* land tenure involves holding registered land in permanency (Margaret, 1999:3 and Tripp, 2004:5). The land tenure after colonialism retained these systems and Tripp (2004) added a fourth customary tenure a system of land tenure regulated by customary rules often administered by clan leaders. The customary system predominates in Uganda. Within this

system there can be both individual and communal land ownership, but the land is not generally titled or registered (Tripp, 2004:5).

Amone and Lakwo (2014) founded that, there exists positive relationship between customary land ownership and underdevelopment in northern Uganda. The effect is because it has caused underutilization of resources, low development of agriculture as this has also posed several effects like denial of ownership of land by women. Of recent, there has been insecurity due to land conflict arising from the tendency of land individualization contrary to the exiting traditional system of communal land ownership (Amone and Lakwo, 2014:124).

Uganda brought a land reform in 1990s in which policy makers made a conscious effort to address gender imbalances existing in land access and ownership and put in place a gender responsive legislation and safeguarding and strengthening women's right in land. (Garber, 2013:2) Tenure relations under customary land tenure varied, depending on the customs of a given ethnic group. Based on this, the Ugandan customary land tenure system broadly classified in to three: communal tenure, clan tenure and nomadic or pastoral tenure (Wanyeki, 2003:233). Women have statutory right to own land and other property. But, in customary laws they don't have such right. They get access to land through their marriage relationship with men (Wanyeki, 2003:306).

Regarding modern/statutory land laws, two main legal documents mentioned repeatedly: the 1995 constitution and the 1998 Land Act. Both recognize four land-holding and tenure systems: freehold, *mailo*, leasehold and customary. Each has its own rules and each bestowing different rights and responsibilities on concerned individuals (Constitution of Uganda, 1995: sec. 237 and Land Act, 1998: section 3). Subject to Article 237 of the constitution, the Act declared that all land in Uganda shall vest in the citizens of Uganda. More than 80% of land in Uganda is held under undocumented customary tenure systems, the situation for the vast majority of Ugandan men and women (WRI &Landesa RDI, 2011:2). The inclusion of customary system seems in response to some Ugandan advocates who favors to retain customary tenure systems with some strengthening measures rather than replacing them with new statutory/imported laws (WRI &Landesa RDI, 2011:2).

Ugandan Constitution of 1995: The constitution under it part which states about National Objectives and Directive Principles of State Policy, seems eco-friendly. Sections 13 and 27 concerned about the states obligation to protect important natural resources and the environment (Constitution of Uganda, 1995: sec. 13&17). The government shall also recognize the role of women play in the society. The Constitution contains a non-discrimination clause that stipulates women, in effect, have the same rights to land as men (Constitution of Uganda, 1995: sec. 15&33).

The 1998 Land Act: The Land Act defines customary tenure as “a system of land tenure regulated by customary rules which are limited in their operation to a particular description or class of persons.” (Land Act, 1998: Section 2) The Act makes a significant exception from the constitution under section 28. The section reads:

Any Decision taken in respect of land held under customary tenure, whether in respect of land held individually or communally shall be in accordance with the customs, traditions and practices of the community concerned, except that a decision which denies women or children or persons with a disability access to ownership, occupation or use of any land or imposes conditions which violate articles 33, ... of the Constitution on any ownership, occupation or use of any land shall be null and void”(Land Act, 1998:Section 28).

The land Act also has another positive side to women thus it provides for the direct participation of women in various local land institutions. Specifically, it stipulates that at least one-third of the members of each District Land Board and each Communal Land Association (CLA) must be women (WRI &Landesa RDI, 2011:3).Currently researches have showed the customary land tenure system is becoming fragile though it is a recognized system under the Land Act. In practice most of the cases it discriminate women and failed to protect women from losing their access to land and the customary tenure is overruled by statutory laws. It forced women activists in Uganda to demand for amendment of the 1995 constitution (WRI &Landesa RDI, 2011:2).

2.4.4. Rwanda

As colonialism is taken as one period of African history, it also used to classify the Rwandan administration as pre and post colonialism. In pre-colonial period, Rwandan used their own customary system to administer them (Wanyeki, 2003:178).

Before the advent of Belgian colonial power, Rwandan use two land tenure system in different directions of the country (Musahara and Huggins, 2004:31). The central, eastern and southern areas controlled by the central Kingdom, the *igikingi* system governed pastoral lands. The *mwami*, who was the head of state, was the holder of all land rights and granted usufruct rights to land through local representatives, in return for fees, payments and labor requirements. The northwest and the ‘Hutu’ Kingdoms of Bukunzi and Busozo, the *ubukonde* system was dominant. Under this system, the lineage-group of the person who first cleared a plot of land controlled access to that land (Musahara and Huggins, 2004:31). Burnet noted that the two systems were different with a shared notion of collective ownership of land among members of patrilineages. The *ubukonde* system has

three sub-system of land. Statutory laws regarding land ownership were introduced to grant land titles to the foreigners while the indigenous citizens remain under the rule of their customs (Burnet and RISD, 2003:179). In traditional Rwanda, relation with men was a prerequisite for women to get land. The relation can be either by marriage or patrilineal linkage. A woman has a land right as far as she is married. If she became widow the Rwanda customary practice appreciates levirate marriage (Burnet and RISD, 2003:187-188).

With the coming of colonial powers, statutory laws regarding land ownership were introduced to grant land titles to the foreigners while the indigenous citizens remain under the rule of their customs (Burnet and RISD, 2003:81). Rwandans remained governed by customary which in effect made them left without land titles. Burnet accused the colonial system for eroding customary institutions which gave women access to land and strengthened the development of institutions which exploited women labor by state and rulers (Burnet and RISD, 2003:82).

One significant Rwandan Law in addressing women land need is the 1999 inheritance law. The law established three separate property systems in which couples can make decision before marriage. The law gives sons and daughters equal right of inheritance. Here it repealed the customary practices which discriminate daughter from inheritance assuming she will get land from her husband (Burnet and RISD, 2003:81). Burnet criticized the inheritance law for failing to address the need of not legal marriages which counts a large number of populations. On the other side, a report by USAID appreciated the succession law for conferring women equal shares of inheritance and also formally married women are joint owners of common matrimonial property and they are mandated as first successors to the share of it when their spouses die (USAID, 2014:52). The law required the signature of both spouses at the time of selling joint property and USAID quoted it as a best practice (USAID, 2014:32).

The Constitution of Rwanda promulgated in 2003 states that women and men have equal rights and prohibits discrimination on the basis of sex. The Organic Land Law of 2005 grants husbands and wives equal rights to land has been interpreted as consistent with the Constitution: women and men have equal rights to property. Under formal law, women have the ability to purchase and hold property. The Constitution recognizes only monogamous marriages between a man and woman and registered under civil law (Rurangwa, 2013:11). In addition, Rwanda issued the Land Reform Decree in 2004. The new law provides land rights for individuals and the main aspects of National Land Policy was attempting to facilitate regrouping people into new settlements; land consolidation,

master planning and land use legislation Villagization, urbanization and land consolidation (FAO, 2005:11).

The country conducted Land Tenure Regularization program between 2008 and 2012 and issued certificates of "emphyteutic lease" a lease for 99 year duration, to their established holders (USAID, 2014:41). According to the USAID report the land registration has shifted men's control over household property toward more shared control with their spouses and allowed rural people o access credit by mortgaging their land (USAID, 2014:42).

2.4.5. Mozambique

Burr (2004) argues that Mozambican land laws must recognize three distinct and conflicting sets of ideals: (1) customary land use; (2) the Western framework established under Portuguese rule; and (3) Marxist principles, which were initially adopted by the FRELIMO in Mozambique after independence (Burr, 2004:6). According to him customary systems were in place before they threatened by the Portuguese colonial power. The Portuguese made cultivated and large plantation, trading enterprises and commercial farms under their control. The native people left with marginal lands (Burr, 2004:7). They introduced a system of classifying the land in to three categories in order to secure their interest without prejudice to the native people's right. These categories were urban land, village land and free land.

Mozambique's independence from Portugal in 1975 was followed by 16 years of civil war between FRELIMO and RENAMO. The war forced millions of people to displace from their homes, destroyed infrastructure and prevented significant investment in several sectors, including agriculture. At the end of the war, millions of refugees and IDPs (Internally Displaced Persons) returned to their plundered and drought-stricken fields. These phenomena created confusion and multiple interests on land. But the government was not in a position to solve these conflicts. So, many of the initial difficulties were handled by local customary authorities, providing a needed cost-effective solution to the problem (Burr, 2004:8).

The conflict in Mozambique marked its own finger print on women's rural land right. In almost all instances boundaries and rights to land were not documented before the conflict. Consequently competition for and conflict over ownership, access to and control of land continued. In this environment women's ability to access land or assert their land rights was almost impossible. Women have lost social networks through which they accessed land. Returnees and widows particularly are finding it difficult to re-establish these networks. Returning women also found that

the land they have previously had access to have been legally acquired by other parties leaving them landless (ACORD, Oxfam and Action Aid, 2012:22).

In 1991, as the country emerged from the war and entered a period of national reconstruction, the government gave substantial attention to creating legal frameworks governing land, and these frameworks recognized traditional community rights while encouraging investment. Land is owned by the state, and communities and good-faith occupants have perpetual use- rights to land (USAID, 2007:3).

Since 1975 the Mozambican Constitution has guaranteed gender equality and prohibited discrimination based on sex. The 1990 Constitution, with Article 6 and 67 strengthen this prohibition. The National Land Policy established a set of principles to ensure the rights of the Mozambican people on land and other natural resources, as well as to promote the investment and the sustainable and equal use of these resources. The Revised 1997 Land Law establishes equal rights in access and use of land for men and women. Carpano (2011) identifies two ways women can access land based on the land law. These are Formal and Customary. Formally mean through the Land Law which guarantees equal rights for men and women: Inheritance, occupation and formal request to state land administration (for individual; collective /community; investors), valid for 50 years, renewable. Based on customary norms of inheritance and marriage they can also access land (Carpano, 2011:16).

2.5. Conceptual Framework

2.5.1. Patriarchy: Definition and Origin

The word ‘patriarchy’ literally means the rule of the father or the ‘*patriarch*’ (Sultana A., 2011:2). It is a social and ideological construct which considered men as superior over women. Originally it was used to describe a specific type of ‘male-dominated family’ – the large household of the *patriarch* which included women, junior men, children, slaves and domestic servants all under the rule of this dominant male. Now it is used more generally “to refer to male domination, to the power relationships by which men dominate women, and to characterize a system whereby women are kept subordinate in a number of ways” (Bhasin, 2006:3). In another work of him, Bhasin saw patriarchy as a system in which women experience discrimination, subordination, violence, exploitation and oppression by men (Bhasin, 1993:3).

Patriarchal ideology exaggerates biological differences between men and women, making certain that men always have the dominant, or masculine, roles and women always have the subordinate or feminine ones (Sultana, 2011:3).

There are two antagonistic groups regarding how patriarchy originates. The first groups are traditionalists. They believe that men are born to dominate and women to be subordinate. They also believe that this hierarchy has always existed and will continue, and like other rules of nature this one too cannot be changed. Under this group Aristotle can be taken as an example. As mentioned in Lerner (1989) a book titled *the creation of patriarchy*, Aristotle called males active, females passive. For him female was “mutilated male”, someone who does not have a soul. In his view, the biological inferiority of woman makes her inferior also in her capacities, her ability to reason and, therefore, her ability to make decisions. Because man is superior and woman inferior, he is born to rule and she to be ruled. Aristotle said “the courage of man is shown in commanding of a woman in obeying” (Lerner, 1989:8-11).

The other group is against theories of male supremacy. According to proponents of this group, theories of male dominancy have been challenged and it has been proved that there is no historical or scientific evidence for such explanations. There are indeed biological differences between men and women but these distinctions do not have to become the basis of a sexual hierarchy in which men are dominant. Sultana (2011) said, “The analysis of many of these theories enables us to recognize that patriarchy is man-made; historical processes have created it. No single explanation of the origin of patriarchy is accepted by all.” (Sultana, 2011:4).

The work of Engels (2004) is a best example to be mentioned to support the argument that patriarchy is man-made and so can be changed. Engels believed that “women’s subordination began with the development of private property”, when according to him; “the world historical defeat of the female sex took place.” He said both the division of classes and the subordination of women developed historically. At that stage when private property arose in the society men wanted to retain power and property, and pass it on to their own children. To ensure this inheritance, mother-right was overthrown. In order to establish the right of the father, women had to be domesticated and confined and their sexuality regulated and controlled. According to Engels, it was in this period; both patriarchy and monogamy for women were established (Engels, 2004: 150).

Engel added that division of labor in the family had regulated the distribution of property between man and wife. This division of labor remained unchanged, and yet it now put the former domestic

relationship chaotic simply because the division of labor outside the family had changed. The very cause that had formerly made the woman supreme in the house, namely, her being confined to domestic work, now assured supremacy in the house for the man: the woman's housework lost its significance compared with the man's work in obtaining a livelihood; the latter was everything, the former an insignificant contribution. Here we see already that the emancipation of women and their equality with men are impossible and must remain so as long as women are excluded from socially productive work and restricted to housework, which is private. The emancipation of women becomes possible only when women are enabled to take part in production on a large, social scale, and when domestic duties require their attention only to a minor degree. And this has become possible only as a result of modern large-scale industry, which not only permits of the participation of women in production in large numbers, but actually calls for it and, moreover, strives to convert private domestic work also into a public industry (Engels, 2004: 151).

The man's achievement of actual supremacy in the house threw down the last barrier to the man's autocracy. This autocracy was confirmed and perpetuated by the overthrow of mother right, the introduction of father right and the gradual transition from the pairing family to monogamy. This made a breach in the old gentile order: the monogamy family became a power and rose threateningly against the gens (Engels, 2004: 152-153).

Patriarchy, as Lerner (1987) defines it, is more than the sexual asymmetry of many tribal societies in which the tasks assigned to women are different from those given to men. It is a system which has institutionalized men's dominance over women and children, both in the family and in the larger society. In a patriarchal society, legal systems give men power within families and organizational systems deny women access to power in the society's important institutions (Lerner, 1987).

According to Lerner, patriarchy was created at a specific time in history out of many complex processes involving demographic, ecological, cultural, and historical factors which developed as lifestyles changed and people adapted to new circumstances. These processes were dialectical processes which mean they were mutually interactive, mutually reinforcing processes at the end of the Neolithic Era and the beginning of civilization. Some of these new lifestyles and processes, which eventually led to male dominance, were: Men in herder tribes learned to domesticate animals during the Neolithic era; this meant they realized it took male and female to produce offspring. It is thought these herder men were the first men to realize their role in paternity. These herder men were also the first humans to acquire the notion of private ownership - in this case the notion of private ownership of their own herds. Once these men acquired the notion of private ownership they wanted to pass their herds down to their own blood progeny, and this was when they insisted women be

virgins when they married and refrain from adultery after marriage. This began the first patriarchal families (Lerner, 1987). Due to these historical developments, Lerner believes that patriarchal systems are historical, that they emerge from historical processes and therefore can be ended by historical processes.

Besides the two notable arguing groups there exist a third dimension how patriarchy emanated. Claudia (2005) agrees neither the naturalist nor the positivist, and proposed a kind of hybrid expression.

I oppose and contradict those who understand patriarchy as "the father's dominance" without asking for the reasons of the will to dominate, as if domination were, per se, a male need. I also oppose and contradict those who do not see the connections between patriarchy and modernity but consider it to be a pre-modern or old-fashioned, "traditional", and backward phenomenon, a phenomenon which - seen from the perspective of technical progress - seems anachronistic and in the process of disappearing - all by itself! In general, I also oppose and contradict those who fight against any periodization of history that goes beyond modern times, the middle ages or antiquity and who refuse to look back upon "pre-historic" times or the predecessors of patriarchy. This approach allows them to deny both the existence of matriarchies and the origins of patriarchies and to consider the former as irrelevant (Claudia, 2005).

2.5.2. Feminism and Patriarchy

The term feminism has no exclusive definition agreed by all academicians. Oxford dictionary defined feminism as a belief and aim that women should have the same rights and opportunities as men (Hornby, 2010:545). In more elaborate way it is a theory and/or movement concerned with advancing the position of women through such means as achievement of political, legal, or economic rights equal to those granted men. But throughout its history, it was being used as a synonym to other terms. It began to be used widely in France in the early 1890s and then principally as a synonym for women's emancipation and in Russia as Women liberation (Offen, 1988:125-126).

In more general explanation, feminism is the idea that women should have political, social sexual, intellectual and economic rights equal to those of men. It involves various movements, theories and philosophies all concerned with issues of gender difference, that advocate equality for women and the campaign for women's rights and interests (Nina, 2009:6).

Feminists have also their own point of view regarding Patriarchy. They use patriarchy to refer to the male domination both in public and private spheres. Feminists mainly use the term 'patriarchy' to describe the power relationship between men and women. Thus, patriarchy is more than just a term; feminists use it like a concept, and like all other concepts it is a tool to help us understand women's realities (Sultana, 2011:2, Walby, 1990:20). Walby gives a broader definition to the concept of patriarchy. She explains it as:

.... a system of social structures and practices in which men dominate, oppress and exploit women...here the use of the term social structures is important, since it clearly implies rejection both of biological determinism, and the notion that every individual man is in a dominant position and every women is in a subordinate one (Walby, 1990:20).

According to Walby, Patriarchy is indispensable for an understanding of gender inequality and there are 6 key patriarchal structures which restrict women and help to maintain male domination. The first is patriarchal relations in paid work. Thus Patriarchy operates via paid work where females face horizontal and vertical segregation leading to lower rates of pay than for men. The second is patriarchal mode of production. Patriarchy operates via the gender division of labor in the household which forces women to take primary responsibility for housework and childcare even if they are also in full-time employment. Women may be trapped in unsatisfactory marriages because they are unable to find well-paid jobs to support themselves and their children. Third, women are also at a cultural disadvantage because modern western culture especially emphasizes the importance of feminine attractiveness which degrades and sometimes threatens women. The fourth is patriarchal relations in sexuality. Heterosexual relationships are seen as essentially patriarchal although Walby argues that women have made some gains in this respect, for example as a result of modern contraception and liberalization of abortion and divorce law. Male violence against women has also have a great role in sustaining patriarchy. The six is patriarchal relations with state. Patriarchy is sustained by the activities of the State which is "still patriarchal as well as capitalist and racist" although there may have been some limited reforms such as more equal educational opportunities and easier divorce laws which have protected women against patriarchy to some extent (Walby, 1990:20-21).

Socialist feminist school of thought prefers to use the concept of subordination of women rather than patriarchy, which they reject as being historical. Patriarchy, according to them, is neither universal

nor an all-embracing phenomenon as different kinds of relationships have always existed between men and women in history. For social feminists, it is not sex but gender which is important; sex is biological, gender is social (Sultana, 2011:7).

Based on Sultana's (2011) explanation, the term 'women's subordination' refers to the inferior position of women, their lack of access to resources and decision making etc. and to the patriarchal domination that women are subjected to in most societies. So, women's subordination means the inferior position of women to men. The feeling of powerlessness, discrimination and experience of limited self-esteem and self-confidence jointly contribute to the subordination of women. Thus, women's subordination is a situation, where a power relationship exists and men dominate women. The subordination of women is a central feature of all structures of interpersonal domination, but feminists choose different locations and causes of subordination (Sultana, 2011:7-8). While elaborating it Sultana said:

... the norms and practices that define women as inferior to men, impose controls on them, are present everywhere in our families, social relations, religious, laws, schools, textbooks, media, factories, offices. Thus, patriarchy is called the sum of the kind of male domination we see around women all the time. In this ideology, men are superior to women and women are part of men's property, so women should be controlled by men and this produces women's subordination (Sultana 2011:8).

2.5.3. **Right to Property**

Webster's legal dictionary defines property as a thing, interest, or right that is capable of being owned, and usually transferred (James, 1996:208). Segal and Whinston (2010) took property right as a simple concept to define. A property right gives the owner of an asset the right to the use and benefits of the asset, and the right to exclude others from them. It also, typically, gives the owner the freedom to transfer these rights to others. Roman law referred to these elements as *usus* (the right to use), *abusus* (the right to encumber or transfer), and *fructus* (the right to the fruits) (Segal and Whinston, 2010:2).

The right that a person has in an object such as land may be considered as property. The range of property is extensive and includes, for example, intellectual property. In the case of land tenure, it is sometimes described more precisely as property rights to land. A distinction is often made between "real property" or "immovable property" on the one hand, and "personal property" or "movable property" on the other hand. In the first case, property would include land and fixtures (buildings,

trees, etc.) that would be regarded as immovable. In the second case, property would include objects not considered fixed to the land, such as cattle, etc (FAO, 2002:9).

For rural society property can be considered as having control of natural resources. Land holds all other resources. FAO (2002), while defining land tenure, it is the relationship, whether legally or customarily defined, among people, as individuals or groups, with respect to land (FAO, 2002:7). It extends to include other natural resources such as water and trees. Further FAO classified the land tenure system in to four classes. These are private, communal, open access and state ownerships (FAO, 2002:7).

- **Private:** the assignment of rights to a private party who may be an individual, a married couple, a group of people, or a corporate body such as a commercial entity or non-profit organization. **Rancher and Property Rights Activist Wayne Hage said:** *“If you don’t have the right to own and control property then you are property.”* It gives the owner’s exclusive authority to determine how private property is used (APC, 2015:1). For example, within a community, individual families may have exclusive rights to residential parcels, agricultural parcels and certain trees. Other members of the community can be excluded from using these resources without the consent of those who hold the rights (FAO, 2002:8).
- **Communal:** a right of commons may exist within a community where each member has a right to use independently the holdings of the community. For example, members of a community may have the right to graze cattle on a common pasture (FAO, 2002:8).
- **Open access:** specific rights are not assigned to anyone and no-one can be excluded. This typically includes marine tenure where access to the high seas is generally open to anyone; it may include rangelands, forests, etc., where there may be free access to the resources for all. An important difference between open access and communal systems is that under communal system non-members of the community are excluded from using the common areas (FAO, 2002:8).
- **State:** property rights are assigned to some authority in the public sector. For example, in some countries, forest lands may fall under the mandate of the state, whether at a central or decentralized level of government (FAO, 2002:8).

2.5.4. **The Right to Land as a Foundation to Other Rights**

The right to land is not a single right in which its respect or denial have effect only on it. Rather it has a consequence over other rights either positively or negatively. Land rights, particularly in the context of developing countries, are inextricably linked with the right to food, the right to work and a host of other human rights. In many instances, the right to land is bound up with a community’s

identity, its livelihood and thus its very survival (IHRIP, 2000: 18). Balachew (2009) linked the right to land with the right to food and housing as land is the basic requirement in order to produce food and construct house too (Belachew, 2009:51-52). Mr. J., Ziegler, UN Special Rapporteur on the Right to Food, also stressed the need for protection of land right stating that:

.... if the Government arbitrarily evicted or displaced people from their land, especially if the land was their primary means of feeding themselves...If the Government does not intervene when a powerful individual evicts people from their land, then the Government violates the obligation to protect the right to food...The obligation to fulfill means that the Government must take positive actions to identify vulnerable groups and to implement policies to ensure access to adequate food by facilitating their ability to feed themselves. That could mean...introducing an agrarian reform programme for landless groups... (Ziegler, 2001:para28).

Jacob (2011) understood that the legal protection of private property against arbitrary interference creates a sphere of inviolability that is necessary for the enjoyments of other freedoms — such as privacy and the freedoms of expression, association, and religion. This classical understanding of the right to property primarily entails a “negative” obligation that protects against arbitrary expropriation and regulation of private property (Jacob, 2011:4). This negative obligation prohibits both government and individuals from unlawful interference.

2.5.5. Women’s Property Right under Patriarchal System

In patriarchy system women’s labor power, women’s reproduction, women’s sexuality, women’s mobility and property and other economic resources – are under patriarchal control (Walby, 1990:20). This control over and exploitation of areas of women’s lives mean that men benefit materially from patriarchy; they derive concrete economic gains from the subordination of women. In what Walby calls the “patriarchal mode of production”, women’s labor is expropriated by their husbands and others who live there. She says housewives are the producing class, while husbands are the expropriating class, their back-breaking, endless and repetitive labor is not considered work at all and housewives are seen to be dependent on their husbands (Walby, 1990:20).

So, there is a material basis for patriarchy. Most property and other productive resources are controlled by men and they pass from one man to another, usually from father to son. Even where women have the legal right to inherit such assets, a whole array of customary practices, emotional

pressures, social sanctions and sometimes, plain violence, prevent them from acquitting actual control over the assets (Sultana, 2011:9).

Walby in her theory of patriarchy displayed two forms of patriarchy; private patriarchy and public patriarchy (Walby, 1990:24). Both of them have a direct relation to property right of women. Private patriarchy is based upon household production as the main site of women's oppression. Here, the expropriation of women's labor takes place primarily by individual patriarchs within the household. Public patriarchy is based principally in public sites such as employment and the state. In private patriarchy the principle patriarchal strategy is exclusionary; in the public it is segregationist and subordinating (Walby, 1990:21).

The rights of women had always been subordinated to the larger freedoms enjoyed by men and to the patriarchal perception of the good of the community. The actualization of human rights for women in contexts of development is impeded by adverse circumstances of every kind: social, political, economic, religious, legal, and an over-arching gender imbalance in power and authority (Lorrain, 2013: 50).

Women and men do not always benefit equally from economic development. Patriarchal structures and ideologies, the discursive and material contexts of people's lives, and the extent to which women are emancipated or subordinated in their societies, influence whether development initiatives will differentially advantage women and men (Parpart, 1995:3). Women's access to land is a major aspect of women's property rights particularly in Africa where the livelihood of the vast majority of the population depends on land, both as a productive resource and for the related right to housing (UNECA, 2007:6).

2.5.6. Patriarchy in Africa

Culturally, African women were the transmitters of the language, the history and the oral culture, the music, the dance, the habits and the artisanal knowledge. They were the teachers and were responsible for instilling traditional values and knowledge in children. Men were also essential in the transmission of knowledge to the youth because they had a different type of knowledge of the earth and environment, and also of ceremonies and traditions that were performed exclusively by men. ...Woman had extensive knowledge of the natural environment; they were gatherers, which meant that their communities depended on them to provide nourishment or they would face starvation. Indigenous women in Africa held vital knowledge of herbs and medicines that also ensured the survival of their communities, they were the healers (Leith, 1967: 34-40).

From the explanation of Leith, it is clear that both men and women were had responsibilities even though their role is gender based. Thus, the African woman played a key role in the education and the teaching of children social, ethical and moral values which were part of the cultural standards for evaluating proper societal behavior (Taiwo, 2010:231).

Taiwo (2010) accuses colonialism as a root cause for inequality of women in Africa. According to him, one of the consequences of the arrival of colonialism is the erosion of gender equality which characterized traditional African society. In pre-colonial period, both men and women had different roles they played in families and the society at large. But the case became different since the contact of Africa with colonialism (Taiwo, 2010:234). He further argues as result of the role European colonialism played in eroding the rights and obligations of the African woman, women have continued to play very passive roles with no corresponding rights (Taiwo, 2010:235).

CHAPTER THREE

3. RESEARCH METHODOLOGY AND DATA PRESENTATION

3.1. Research Methodology

3.1.1. *Research Methods and Data Collection Instruments*

The research used both quantitative and qualitative research methods. For each method different data collection instrument were developed and used. These data collection instruments include: Structured questionnaires, key informant interviews, FGDs and court cases.

3.1.2. *Quantitative Methods*

For analytical and comparison purpose and simplicity at the implementation stage, data was collected using the questionnaire method. It was used to collect the socio-demographic information of participants, including age, marital status, educational status and family size. It also included ways of access to land, land disputing parties and settlement mechanisms, and knowledge of laws. All the participants were purposively selected females who have faced land disputes.

3.1.3. *Qualitative Methods*

Qualitative method was used to substantiate the findings from the quantitative approach and to draw on an inductive process in which themes and categories emerge through analysis of data collected by such techniques as interviews, observations, FGDs, and case studies. Samples are usually small and are often purposively selected. This method of research can provide in-depth analysis of the experiences of relatively small number of respondents, which at the end presents broader picture of a largest set of people. The informal semi-structured nature of group interview revealed considerable variations in respondents approach to a particular question. It can also allow researchers a degree of flexibility in the conduct of a particular study. Considering these factors, data collected using the following selected methods.

Key Informant Interviews (KIIs): The KIIs were conducted using semi-structured questions. The key informants were identified based on their responsibility as government offices. These informants were heads from the *woreda*³ offices of Environmental Protection, Land Use and Administration, Women, Children and Youth Affairs, Public Grievance Handling. These offices are the most responsible government organs as far as land and or women are concerned.

³ Woreda is Amharic word which is administrative organ in Ethiopia, which is composed of number of wards or neighborhood associations.

Focused Group Discussion/FGDs/: The researcher conducted FGDs consisted of nine participants who are experts on land administration, women affairs, judges and justice officers from the target *woreda* gathered and discussed the issue.

Case Studies: Cases of court decision and dead files examined to figure out how courts are ruling and handling the case. Two dead files from the *woreda* court and one dead file from the Federal Supreme Court Cassation Division were selected and analyzed to show how laws are being interpreted and impacted rural women land rights.

Document Studies: Public documents like constitutions, legislations, directives and policies also used in the study in order to compare and contrast the practice. Relevant law of both the Federal and Amhara Regional State were incorporated and analyzed.

3.1.4. Sources of Data: the data incorporated in this study were obtained from primary and secondary sources. The primary sources are legal instruments /national constitutions, proclamations, land acts, family and inheritance laws/, key informant interview, survey questionnaires, court cases, observations and FGDs. The secondary sources are books, journal articles, theses, reports and working papers.

3.1.5. Geographic Area of the Samples

Ethiopia follows a federal form of government. Due to this arrangement power is shared between federal and regional governments. The power related to land is a shared power. The FDRE constitution under Art 52 (5) proclaims: It (the federal government) shall enact laws for the utilization and conservation of land and other natural resources, historical sites and objects. As per Art 52 (4) States shall have the powers and functions: To administer land and other natural resources in accordance with Federal laws (FDRE, 1995). Based on this provision, the law governing land is more or less similar throughout the country. So because of familiarity of the researcher to the area, the researcher purposively selects *Mojana Wodera Woreda* found in Amhara National Regional State, North Shoa Zone. The *woreda* is predominantly populated by agrarian society. According to the Ethiopian Population Census Commission 2007 report, the *woreda* has a total population of 69,667 among which almost half (49.5%) are women. In terms of religion, the place is dominated by Orthodox Christians which takes 99.9 % of the population (CSA, 2007: 170). Considering the *woreda* is inhabited by women who have almost equal number and the fact that agriculture is the main source of livelihood, studying the laws customary and statutory, traditional practices and values which govern land will bring some changes within the society.

3.1.6. Data Analysis and Interpretation

The quantitatively collected data were coded and analyzed in a way which fits the research questions. The data collected through KIIs, FGDS, case and document studies were coded and categorized under pertinent themes in preparation for analysis. This data was analyzed using thematic techniques and applied whenever it is found necessary to support the quantitative data.

3.1.7. Ethical Considerations

A letter was written from Center for African and Oriental Studies stating the aim of the survey. Both quantitative survey respondents and qualitative survey informants were provided sufficient explanation about the overall objective of the study in advance. Interviews were administered on free will of respondents. They were informed that it is only for academic purpose and they are free not to participate.

3.2. Empirical Evidences of Women Land Rights in Ethiopia

This part of the chapter is on data presentation and analysis and it contains two sections. Section (1) is about frequency distributions of respondents' responses. In this section, issues of demographic and social dynamics, land holding and how to access, land disputes and legal knowledge of respondents are discussed. In section (2), cross-tabulations of some important variables are carried out in order to ascertain some of the relevant correlations as between the said variables.

Section I. Frequency Tables

1. Demographic characteristics of Respondents

Table (1) Age of the Respondents

Age	No. of Respondents	Total	Percentage
17-32	9	9	45
33-48	7	7	35
49-64	4	4	20
Total	20	20	100

Source: Own Survey, March 2015.

Table (2) Respondents' Marital Status

Marital Status	No. of Respondents	Total	Percentage
Single	3	3	15
Married	4	4	20
Divorced	7	7	35
Widowed	6	6	30
Total	20	20	100

Source: Own Survey, March 2015.

Table (3) Type of respondents' Marriage

Type of marriage	No. of Respondents	Total	Percentage
Polygamy	3	3	18
Monogamy	14	14	82
Total	17	17	100

Source: Own Survey, March 2015.

The Ethiopian Federal Criminal Code criminalizes polygamy⁴ (FDRE, 2004: art.650). On the other hand, both the Federal and Regional Family Laws outlawed polygamy. However, notwithstanding these national and regional prohibitions, the table shows the continuous existence of polygamy in the country. It was found that, 18% of the respondents were in polygamous marriage; and the majority of them, that is, 82% were in monogamous marriage. Those respondents in polygamous marriages argued that, they are in such marriages due to the fact that, they do not want to take their husbands to court because they are the sole bread-winners. Taking them to court shall endanger the livelihood of their families and the life-chances of their children. Notwithstanding the fact that both societal customary practices as well as religious norms are against polygamy, there is some degree of societal tolerance vis-à-vis the notion and practice of polygamy. Such practices and marriage per se are socially viewed as private affairs and thus, the wider society tends to tolerate them.

Table (4) Gender of Respondents' Children

Gender of children	No. of Respondents	Total	Percentage
Number of girls	32	32	52.5
Number of boys	29	29	47.5
Total	61	61	100

Source: Own Survey, March 2015

The empirical data shows 52.5 % of the respondents' children are female children, while 47.5% of the children are male children. According to the 2007 National Population and Housing Census of Ethiopia, women were 50.5% and men 49.5% and the present data shows the continuation of women having a significant number in the country. Having large number of boys is preferable in the society as their live is dependent on agriculture which is taken as masculine work according to societal division labor. A woman who has more boys than girls, especially those who started to work on the field, feels secured over her land rights. If she has a boy, nobody will attempt to snatch her land, but

⁴ The code as a principle prohibited bigamy. But it provided an exception where bigamy may allowed. Bigamy is allowed if it is committed in conformity with religious or traditional practices recognized by law. (FDRE, 2004:art.651)

if her children are daughters somebody will try to grab her land with a justification of “who will plough the land?” But this kind of assumption denied the real experience and role of Ethiopian women on agriculture. They have been participating in all processes of farming from the time of preparing land through to sowing culminating in harvesting.

Table (5) Respondents’ Formal Educational Status

Educational Status	No. of Respondents	Total	Percentage
Illiterate	9	9	45
Grade1-4	7	7	35
Grade5-8	3	3	15
Grade9-12	1	1	5
Total	20	20	100

Source: Own Survey, March 2015

Formal education measured in the above table is a very important personal characteristic especially for Ethiopian women. It can positively improve the life-chances of Ethiopian women. It can empower these women with knowledge, skills, experiences and attitudinal changes which contribute to their comprehensive wellbeing. However, the field data indicates that, 45% of the respondents are illiterate, while 35% of them have attained their first cycle of formal academic education (grade 1-4) and 15% of them have attained second cycle of formal academic education (grade 5-8) and only 5% of them went to high school. These findings on formal educational status of respondents reveal high illiteracy rate among women in the study area. Based on this data, it can be argued that, most of the Ethiopian women are not benefiting from the provision of educational services, and therefore, they missed all advantages which formal education would have given them.

Illiteracy has produced near dumb and mute Ethiopian women who cannot use their human agencies in order to better their lives and the lives of their off-spring. They are generally considered as subjugated human beings in society, and they cannot effectively and efficiently enforce the claim over their legal rights, their civil and political rights, as well as their other societal social rights and privileges. This disability to articulate their concerns in society entails that, they are at the mercy of various societal formations. This situation is also applicable to those women who did not attain the level of formal education which could enable them to read and write effectively as well as being functionally numerate.

Land Holding and Documentation

Table (6) Holder of Land

Holder of the land	No. of Respondents	Total	Percentage
Myself	6	6	30
Spouse	1	1	5
Jointly with spouse	7	7	35
Parents	6	6	30
Total	20	20	100

Source: Own Survey, March 2015

The table indicates that, more women hold land jointly with their husband, and this group of women equals to 35% of the respondents. Personal holding and holding by parents take 30% each. The least holding is spouse holding which is only 5%. Land can be held jointly by two or more persons who have an indivisible holding right over the same land. The aim of this kind of arrangement is to give equal right to the parties without dividing the land but only sharing the land use value. Spouses who got land under joint ownership are supposed to have equal decision-making power over its use. In practice, most Ethiopian women have no say what to sow, how much to sell, as well as the fixing of the commodity price. Therefore; this basically means that, the notion and practice of joint land-holding is not tangibly different from a sole holding by the husband.

In Ethiopia, the right to ownership of rural and urban land, as well as of all natural resources, is exclusively vested in the State and in the peoples of Ethiopia. Land is a common property of the Nations, Nationalities and Peoples of Ethiopia and shall not be subject to sale or to other means of exchange (FDRE, 1995:art.40). Individuals have possessory and use rights only, they cannot exchange the land for other values. Holding Right means a right of any farmer, pastoralist or semi-pastoralist or any other body vested with rights on it in accordance with laws to be the holder of a land, to create all asset on the land, to transfer an asset created, not to be displaced from holding, to use land for agricultural and natural resource developments and other activities, to rent a land, to bequeath same to transfer it as a gift and includes the likes. The Ethiopian land laws created three hierarchical rights over land. The first and the widest right – ownership right is given, as stated above, to the government and peoples of Ethiopia (FDRE, 1995:art.40 (3)). The second right is holding right. It can be expressed as an ownership right except selling or exchanging the land (FDRE, 1995:art.40 (4)). A holder can transfer the land to third persons by way of inheritance or donation. The last and narrowest right is using right: a limited right only to use the land (FDRE, 1995:art.40 (7)).

Table (7) Source of the Right to Land

Source of right	No. of Respondents	Total	Percentage
Inheritance	6	6	30
Marriage	5	5	25
Distribution	7	7	35
Donation	2	2	10
Total	20	20	100

Source: Own Survey, March 2015

The table data indicates that, 35% of the respondents acquired their land through government distribution program. The other 30% of the respondents inherited their land holdings; while 25% of them acquired their land via the institution of marriage; and the remaining 10% of the respondents got their land as donations. In 1997, the Ethiopian government took a decision to re-distributed farmland that was unused due to factors such as, absence of heirs to whom they said land could have been bequeathed, absentee landlords who have since left the locality for one reason or another, or personal arrangement and wish of existing holders who decided to share their land with those landless others (FDRE, 1997). Those who benefited from the land re-distribution policy included anyone aged of 18 years and over, and with expressed intention of being a farmer in rural areas. On the other hand, orphaned children who lost both parents have the right to received land through become their legal guardians until they reach the majority age of 18 years. Those women who want to engage in agriculture also received rural land for subsistence agricultural purposes (ANRS, 2006:art.5 (6)).

Land holders can transfer their land holding and use right through inheritance or donation. Inheritance can be by law or by will (FDRE, 2005:art.8). A person can transfer her/his holding or usage right in will to any farmer engaged or likes to engage in agricultural as means of livelihood. Persons residing in town and engaged in small income activities to support their lives shall be considered farmers for the purposes of succession. But transferring in will or inheriting the holding and use right, shall not be valid where it disinherits the minor child of the testator or the family of same from inheritance right or harms his spouse (ANRS, 2006:art.16(3)). In some circumstances, the holder may die without making will. When it happened, the right transferred to her child or family or parents (in consecutive order), engaged or likes to be engaged in agricultural works. The presence of parents does not prohibit the living spouse from using the land as far as she continues to reside in that *kebele* until she remarries; and if she does not remarry; she can remain on the land for her lifetime. However, participants of FGD noted, in practical terms, the parents of the deceased spouse usually pressurize the woman to relocate to another *kebele* so that they can inherit the land.

Any land holder may transfer her holding or using right in donation to a person who resides in the region and fulfills certain preconditions (FDRE, 2005:art.5 (2)). These preconditions are listed in detail in the regional instrument.

a) Where the donee is child or grandchild or other family member engaged or likes to be engaged in agricultural works, being the resident of the region, and not holding any land, or tills land by renting from others due to his previous small holding. b) Where the donee had stayed tilling the land of the holder or working other works and known freely cared for three consecutive years before the gift is undertaken (ANRS, 2006:art.17 (1)).

From the wording of the law donation for land is different from donation for movable properties. Donation in land is not a free gift; it has attached obligations on the donee; the donee has to give free and due care for the landholder and if she/he fails to do so, the donor has the right to cancel the donation agreement and take the land back. The donation agreement shall be in writing and an agreement made orally shall not be acceptable by law; the agreement made in writing shall be submitted to and registered in the *woreda* EPLUA (ANRS, 2006:art.17 (5-6)). Land can be also accessed by way of marriage. One of the spouses may have land and get married to the landless or with small land size. On their marriage contract they agreed to register the land as their common property. At the time of divorce, they share the land equally (ANRS, 2006:art.24 (2)). According to field observation data, men are taking advantage of this system over women who have got land by way of allotment, inheritance or donation. At the beginning they deceived the women to register the land as a common property and after some period of time they ask for divorce and went out taking the land.

Table (8) The Respondents' Use of Disputed Land

Land use value of disputed land	Yes	Percentage	No	Percentage
Residential	8	40	12	60
Non- residential	12	60	8	40
Total	20	100	20	100

Source: Own Survey, March 2015

This table shows that, 40% of the respondents use their disputed land for both residential and agricultural purposes respectively; while 60% of them use their disputed land for agriculture or commercial purposes. It means that, those tenants who use their disputed land for both domicile and agricultural purposes are in more precarious situation. If they were to lose the court cases, they are automatically threatened with the possibility of becoming homeless. On the other hand, the content analysis of the focus group discussion with experts indicates that, women who had such experiences

forced to search for shelter from their relatives or anyone who can provide them. The other pressing challenge is on women who used the land for agriculture. It is difficult for a woman to plough due to both social and economic reasons. A woman who used to plough is seen as deviant by her community while she is expected to support man on the farm land. The community considered ploughing as a male's work. The economic reason is the woman may not have oxen for ploughing. Because of these driving forces most of the women opted for arrangements of crop sharing or land rent. Data gained from FGDs of experts shows that both arrangements have impeded women land right. In the first case, the farmers refused to share the products totally or they gave less than the specified amount. In the latter case, the renters were not willing to pay the specified money on the lease contract. These arrangements also lead to the claim of land holding due to their possession for long period of time.

Table (9) Respondents' Documentation Status

Documentation status	No. of Respondents	Total	Percentage
Documented	18	18	90
Not documented	2	2	10
Total	20	20	100

Source: Own Survey, March 2015

Table 9 shows that, 90% of the respondents land is documented during the first level certification program. The remaining 10% of them hold land which is not yet documented. The reason is that, the land ownership is claimed by more than one person and the registration office has been examining the papers to determine as to who the real holder ought to be.

Table (10) Type of Respondents' Land Registration

Type of Documentation	No. of Respondents	Total	Percentage
Myself	4	4	22
Jointly with husband	4	4	22
Husband	3	3	17
Parents	5	5	28
Grand-daughter	1	1	6
Brother-in-law	1	1	6
Total	18	18	100

Source: Own Survey, March 2015

Regarding the holder of land certificate, 22% of the respondents in their own names as, while another 22% of them registered their land jointly with their husbands. The majority of the respondents, 28% of them registered their land in their parents' name, notwithstanding the fact that they were still legally married at the time of registration. Another 17% of the respondents had their

land registered in their husbands' name. On the other hand, 12% of the respondents have land registered in the name of grand-daughter and brother in law respectively. In both cases women were the original owners who should be registered. But they lost their land because they were deceived by their close relatives. The participants of focus group discussion pointed out that one of the main challenges of the area is the registration of peoples' land as their own. Women are the most vulnerable members of society due to this mischief. Elders lost their land after they transfer it to their grand-children based on a contract of donation. Other women who are unable to plough the land by themselves gave their land to their brother-in-law and the later refused to return back the land.

Table (11) Woreda Land Registration Ratio

Holder	No. of Respondents	Total	Percentage
Spouses	6951	6951	39
Husband	4945	4945	27.8
Women-headed	5310	5310	30
Common	161	161	0.9
Communal	193	193	1.1
Government	82	82	0.5
Non-governmental organization	116	116	0.7
Total	17758	17758	100

Source: *Woreda EPLUAO, 2015*

The *woreda's* EPLUAO started its first level land registration and certification process in 2003 with field survey. Initially 16,736 households were registered for personal land holding. The office conducted further surveys and the number increased to 17,206 in 2005. Women have also access to common and communal lands as rightful community members. The qualitative data collected from interview with the office head and focus group participant experts indicated the challenges that were prevalent during the registration process and which some of them still exist. According to them, the main challenges were: those legal guardians who took children's land, counting communal land as of personal, registering land which they leased for longer time as own land, false reporting of loss of certificate and demanding for replacement on fraudulent basis. The head of the office enumerated possible reasons for such difficulties.

The main reason is that the system is newly introduced to the country in general and specifically to the woreda. The system has unique features which demand detailed field survey. So, at the beginning phase it brought some unexpected problems like, overlapped ownership, hiding land, decreasing land size, concealing from wife, unlawful inheritance and

corruption among community land allocation committee members. To overcome these obstacles the office planned to start second time (revised) registration.

2. Land Dispute

Table (12) Beginning of the Dispute

Dispute arise (year)	No. of Respondents	Total	Percentage
2005-2008	2	2	10
2009-2011	6	6	30
2012-2014	12	12	60
Total	20	20	100

Source: Own survey, March 2015

The empirical data in the above table shows the increasing nature of disputes as regards land holding associated with women's rights to land. During the time period of (2012-2014), some 60% of the respondents were involved in land disputes. In the time period of (2009-2011) 30% of the women were involved in land dispute, and in the time period of (205-2008), 10% of the respondents were involved in land dispute.

Table (13) Reporting Year

Reported (year)	No. of Respondents	Total	Percentage
2005-2008	1	1	5
2009-2011	4	4	20
2012-2014	15	15	75
Total	20	20	100

Source: Own survey, March 2015

Most respondents (75%) reported between the years of 2012-2014. Between the years of 2009-2011, 20% of the respondents reported their cases, whereas 5% of them reported between the years of 2005-2008. From the above two tables it is evident that cases may not be reported at the same year they arise. According to the qualitative data from FDGs women are not encourage by the community to ask their right over men. Therefore, women try to solve their disagreements through family arranged arbitration, which, most of the time concluded with biases against women.

Table (14) Resolution Year

Resolved (year)	No. of Respondents	Total	Percentage
2012	1	1	5
2013	3	3	15
2014	8	8	40
Not yet	8	8	40
Total	20	20	100

Source: Own survey, March 2015

Even though, the right to justice is one of democratic rights specified under both national and international instruments, the field data shows that 40% of the respondents' cases did not get decision by the concerned organ whether it is administrative or judicial body. The same number of respondents (40%) got decision on the year of 2014 whereas 15% on 2013 and 5% on 2012. From table 15 we understood that there were respondents who reported since 2005. But according to table 16, these respondents waited at least until 2012 in order to get verdict whether it is in favor or against them. This situation shows how women are suffering from lack of speedy justice. During my personal observation of the *woreda* court, it is overloaded with cases, especially land related cases of divorce, inheritance, donation and border conflict. This hinders the court from giving speedy justice.

Table (15) Parties to the Dispute

Dispute with	No. of Respondents	Total	Percentage
Husband	4	4	20
Family	8	8	40
Brother-in-law	2	2	10
Step-children	3	3	15
Neighbor	2	2	10
Government office	1	1	5
Total	20	20	100

Source: Own Survey, 2015

The empirical data shows women face land disputes from their close relatives and families. Family under this context is to mean extended family which includes both direct and lateral blood lines. In the vertical blood line, women clash with their parents, grand-parents, children and grand-children and on the horizontal relationship they faced conflict with their brother, sister, uncle or aunt. Family disputes cover the highest 60% of the respondents' cases. The participants of FGDs noted that the main cause of land dispute between family members were, inheritance by wills which disinherited some members of the family. Cases of forgery by some members in an attempt to disinherit others, unfulfilled donation contracts, lease for long period of time and the grabbing of elders' and children's land by force are mentioned as common land dispute causes between family members. The second common dispute (20%) is with their husbands. Land becomes an issue whenever there is

divorce and the institution of marriage is threatened with dissolution. According to the qualitative data from FGDs with experts, husbands caused women to loss land at the time of divorce. These men, from the beginning expect possibility of divorce, made documents and evidences in favor of them. They registered land which should be registered as joint holding, as personal holding only by their own name. Sometimes the land registration office required the appearance of both spouses. Notwithstanding this, most men who remarried after the death of the registered wife deliberately fail to register the new wife.

The other challenges to women are step-children (15%). Most of the time it is the issue faced by widowed women. The children can be from former legal marriage or polygamy. In both cases they demand land from the widow. Widows also challenged by brothers-in law (10%) after the death of their husband. It is due to the social constrain that "woman cannot plough". So widows forced to transfer land use right to brothers-in-law and the users refused to share products and it also may go up to getting the land registered by their own name with the support of false evidences. Neighbors (10%) who shared border with women push boundaries. They forced them to open roads or misplace demarcations. Individuals also came in to conflict with government bodies which count 5%.

Table (16) First Reporting Place

Place of Report	No. of Respondents	Total	Percentage
Community leaders	16	16	80
Court	4	4	20
Total	20	20	100

Source: Own Survey, March 2015

Women have two options of reporting when their land right got violated. They can apply to the nearest community leaders or resort to formal court litigation. Community leaders are committees formed during the distribution period. They know which portion of land belongs to whom. They are very close to the community. Due to their closeness most of the respondents, (80%) of them, first reported to these committees before resorting to formal court litigation. But the FGDs participants blamed these committee members for not working favorably in the interest of women vis-à-vis their legitimate land rights. The respondents maintained that, because the membership of these committees is all male, that explains their lack of genuine interest in women's land rights. The remaining 20% of the respondents took their statement of claim directly to the courts of law for formal ligation.

Table (17) Decision Rendering Organ

Deciding organ	No. of Respondents	Total	Percentage
Community leaders	1	1	5
Woreda First Instance Court	17	17	85
Zone High Court	1	1	5
Regional Supreme Court	1	1	5
Total	20	20	100

Source: Own Survey, March 2015

Base on the empirical data, 85% of the respondents' applications were decided upon by the *woreda* courts of first instance. Only 5% of the respondents' cases were decided by the community leaders. The other 5% of the respondents' cases were decided by Zone high court; whereas the remaining 5% of the cases were looked at by the regional Supreme Court. From the cumulative reading of table 16 and table 17, it can be determined that, allegations raised by FGDs participants are in place. The community leaders are not capable of producing binding decisions, and the women do not have trust in them due to their entrenched partiality. On the other hand, women find it difficult to appeal their cases due to exorbitant costs involved in the process. They have to pay for personal lawyer, court fee, documentation and transportation. The majority of the women are too poor to afford such high costs, and thus, their right to justice is undermined by their poverty. The other reason why women are disadvantaged in terms of this appeal process is due to the fact that, the High Court⁵ is too far away and they have to travel up to 75km. The women also feel unsecured to leave their homes and venture out alone. There have been instances where some women have been physically assaulted and bartered during their trips to and from Zone Court. The other discouraging factor is the legal attitude of the Federal Supreme Court which considered land appeals under the jurisdiction of administrative cases.

Table (18) Ruling

Ruling	No. of Respondents	Total	Percentage
Land returned	13	13	65
Land taken	7	7	35
Total	20	20	100

Source: Own Survey, Marc 2015

The above table data shows that, 65% of the respondents' cases were ruled in their favor; whereas the remaining in 35%, the respondents lost. Here, it ought to be noted that, these rulings are appealable. Women who won their cases may call on the High Court as a respondent. The same thing applies for those women who lost their cases; if they get the ability and courage to appeal.

⁵ In the Ethiopian context high courts are found at zone level.

Under its judgment the court takes land certificate as primary evidence which will prevail over other evidences. But it can be disproved using the same written document. It also review wills. Some wills are original but targeted to disinherit women. Others are forged wills prepared by opponents targeted against women. The court does nullify unlawful wills and thus enabling women to access land. The other issue is donation contract; whereby, women are the land holders or beneficiaries of the donation. In both case the court took the contract in to consideration and examined party's performance. Women are also affected by lack of awareness how to retain one's property personal under marriage. They can register their land accessed before marriage by way of inheritance or donation, as their personal land⁶. But they failed to do so and obligated to share with their husbands at the time of divorce.

Table (19) Ruling Evaluation

Evaluation	No. of Respondents	Total	Percentage
Very Satisfied	6	6	30
Satisfied	7	7	35
Neutral	1	1	5
Somewhat unsatisfied	2	2	10
Unsatisfied	4	4	20
Total	20	20	100

Source: Own Survey, March 2015

While responding their feeling about the outcome of the litigation, 30% of the respondents are very satisfied by the ruling of the court; while 35% of them are just satisfied. These women won their cases and they got their land back which was under other peoples' possession. On the other hand, 5% of the respondents maintained a neutral view, while 10% of them said they were somewhat unsatisfied. The final 20% of the respondents felt unsatisfied by the ruling handed down as regards their land rights. The number of somewhat unsatisfied and totally unsatisfied women is not simple; it took 30% of the respondents. All the respondents were asked to justify their rating. Their justifications were directly based on the final outcome as regards tangible benefits to them. They did not concern themselves with procedural legal issues. Here, it shows that they may not accept a decision which in they lost as satisfactory even if the court decided it in accordance with the laws and procedures. The qualitative data from FGDs indicates the possibility of women defeat at court due to many reasons. At times, during the hearing, some women may fail to pass the burden of proof. On the other hand, witnesses may side with male parties due to fear of violence. It is also true

⁶ The property which the spouses possess on the day of their marriage, or which they acquire after their marriage by succession or donation, shall remain their personal property. (FDRE, 2000:art.57)

that, women may not afford a good lawyer, and when they represent themselves, they may not know points of law that they may apply on the facts on hand in court of law. They may for example fail to mention procedural defenses like period of limitation and general legalistic matters such as how to plead in the court of law.

Table (20) Appearance in Court

Representative	No. of Respondents	Total	Percentage
Myself	4	4	20
Private lawyer	1	1	5
Legal aid service	4	4	20
Close relatives	11	11	55
Total	20	20	100

Source: Own Survey, 2015

The Ethiopian law of civil procedure under article 58 allows parties to appear in court by themselves, hiring personal lawyer, government lawyer (for those who are economically very poor) or by their close relatives. Article 58 of the code stated that, the agents of parties by whom appearances, applications and acts may be made or done by the spouse, brother, son, father or grandfather of such parties appearing without reward on behalf of such parties. This kind of representation took the lead with 55% of the respondents. From the total respondents only 20% represented themselves. The other 20% were represented by government lawyers. A woman is expected to bring a letter from her local administration to proof that she lives under extreme poverty relative to others, in order to get government legal aid service. The qualitative data from the FGDs shows that women also face challenges to get such letters since the local administrations are male dominated. The justice office also may not represent all women due to lack of personnel. The other challenge is cost of personal lawyers. These lawyers charge very high charges which are unaffordable by the majority of the women. It is evident from the data that only 5% of the respondents hire personal lawyer.

Table (21) Perceived and Actual challenges during Litigation

Challenge	No. of Respondents	Total	Percentage
Lack of Knowledge/capacity	15	15	43
Fear of family/community disapproval	3	3	8.6
Fear of physical violence	13	13	37
Perception of bias	2	2	5.7
Lack of help	2	2	5.7
Total	35	35	100

Source: Own Survey, March 2015

Individuals in society tend to have a certain kind of attitude towards government institutions. Courts are some of the most influential governmental institutions in Ethiopia. The respondents were asked to identify their actual and perceived challenges they face or would face during court of law proceedings. Due to the fact that the majority of the respondents are illiterate, 75% of them identified lack of knowledge as regards both substantive and procedural laws as the main threat. On the other hand, 65% of the respondents identified the fear of physical violence; and this emanated from the fact that, most of the time the opponent parties are men. Based on the qualitative data gained from FGDs, forcing women to drop the case is common in the area. The male party took advantage of woman nonappearance. Participants of FGDs explained that, how this challenge even hinder women from appearing in court at the date of adjournment. When the woman is applicant and failed to appear on the date of first hearing, the file may be closed for none appearing, or when the woman is defendant and failed to appear on the same date the court will pass ex-parte decree. In both cases the system is too difficult to re-file her petition. The community also discouraged women (15%) from going to court; it opted to arrange traditional alternative mechanisms. They may be seen as deviants when they stand in court and argue with the relative or spouse. The other 10% of respondents fear judges may bias against them as they experienced it at community leaders decisions. The last 10% of the respondents faced lack of help while they are in need of money, representative and also evidences. In general 75% of the respondents faced two and more than two challenges; only 25% of them experienced a single challenge. These identified challenges have also discouraging impact on other women who have similar or related cases from going to court.

Table (22) Litigation Cost

Cost	No. of Respondents	Total	Percentage
Very high	4	4	20
High	3	3	15
Low	5	5	25
Very low	4	4	20
Free	4	4	20
Total	20	20	100

Source: Own Survey, 2015

Note: Very High= >1200 Birr⁷ High= 801-1200 Birr Low= 401-800 Birr Very Low= 0-400 Birr

The respondents were asked to identify how much money they spent for the whole litigation process. They tried to recall and sum up it. However, most of them did not know the exact amounts but they provided the approximate costs. On these bases, 25% of the respondents maintained that, they

⁷ Birr is to mean Ethiopian currency.

incurred low litigation costs. Out of the total sample 20% of them incurred very high cost, whereas 15% of the respondents incurred high costs. Another 20% of the respondents incurred very low litigation costs and the final 20% of them incurred zero litigation costs because they were accorded legal aid.

3. Knowledge of Laws

Table (23) Knowledge of Ethiopian Land Laws

Knowledge level	No. of Respondents	Total	Percentage
Very good	0	0	0
Good	0	0	0
Satisfactory	8	8	40
Poor	12	12	60
Total	20	20	100

Source: Own Survey, March 2015

Women found in the area have no good knowledge of laws in general and in particular, they demonstrated poor knowledge of the family and land registration laws. These laws tremendously affect these women’s comprehensive wellbeing. All the respondents were asked to explain their knowledge of Ethiopian land laws. None of them had good or very good knowledge. The data shows that, 8% the women have got some clues about Ethiopian land law which deals with land acquisition and transfer in Ethiopia. Even these groups do not know on what grounds they may lose their land and how can they bring a legal action. More than half of the respondents, 60% of them have poor knowledge of land laws. They know nothing about how to access land, inheritances, and effects of donation, grounds and consequences of rent/lease.

Table (24) Knowledge of Family Laws

Knowledge level	No. of Respondents	Total	Percentage
Very good	0	0	0
Good	0	0	0
Satisfactory	6	6	30
Poor	14	14	70
Total	20	20	100

Source: Own Survey, March 2015

Profound legal ignorance also predominates among the respondents especially in matters to do with knowledge of family law. It is imperative to mention that, both the federal and regional laws (the latter is almost copy-paste of the former) are applicable in the study area. The respondents were asked to describe their family law knowledge (if any). It was found out that, overwhelming 70% of them know nothing about it, and the other 30% of the respondents have some clues. Both Federal

and Regional Family Laws have provisions on marriage; preconditions, personal and pecuniary effects within marriage and at the time of divorce. According to the qualitative data of FGDs, many women in the study area, especially those who married before the coming of the new revised family law into effect, have no say on their marriage. Even though the revised Family Law of Ethiopia set willingness of both spouses during marriage certification and formalization processes as being necessary precondition, women continue to be coerced into family arranged marriages which are out of their will and thus in violation of their human rights.

Table (25) Knowledge about Land Registration and Certification System

Level	No. of Respondents	Total	Percentage
Very good	0	0	0
Good	0	0	0
Satisfactory	9	9	45
Poor	11	11	55
Total	20	20	100

Source: Own Survey, March 2015

The empirical data shows that, 55% of the respondents know nothing about land registration and certification system in Ethiopia. The remaining 45% of the respondents have some knowledge of land registration and certification in Ethiopia; however, it is not sufficiently effective for them to use such rudimental knowledge for substantial argument in courts of law. The qualitative data from interviews shows that the new land registration system is designed to bring positive changes in land tenure system. The head of *woreda* EPLUAO highlighted the positive changes brought by the introduction of the system. According to him these improvements are:

Tenure Security: the farmers have been made to feel that, the land is their own personal property; and thus, they tend to use the land with due care. Stable Community: in the olden days, the communities were not sure what will happen to their land. There were problems in these communities which range from daily fight to murder and migration. Sustainable Environmental protection and development: the system demands to conduct and use research on scientific way of land utilization. Taxation: tax collected from the farmers using their registered names has minimized tax avoidance.

The FGDs participants also confirmed the advantages emanating from land registration and certification process. However, to achieve maximum benefits from this new system, a person has to be well conversant and savvy as regards the technicalities of the land registration and certification

processes in Ethiopia. It is therefore doubtful if the majority of the women in the study area shall beneficially partake in this new system given the magnitude of their legal and other ignorance.

Table (26) Recommended Possible Solutions

Solution	No. of Respondents	Total	Percentage
Punishment	4	4	20
Participation in committee	3	3	15
Awareness Creation	9	9	45
Non recommendation	4	4	20
Total	20	20	100

Source: Own Survey, March 2015

The respondents were asked to suggest effective law reforms and the best methods of implementing them, and their responses were as follows. (45%) of them suggested awareness creation among the people in the study area. There were 15% of the respondents who maintained that, they should be allowed to participate on the committees. 20% of the respondents recommended punishment of those who violet the rights of women. The final 20% of the respondents recommended nothing. It is discernible that, the highest number of respondents demanded to have opportunities of formal education, public law sessions at community gatherings, and land certification and registration system. The status of women land right implementation was one point of argument during FGDs. The participants were divided into two groups of opposite opinions. One group argued that: (1) the number of women exceeded the number of men who registered on personal land holding. (2) Land taken unlawfully to be returned back to women. 3) There ought to be a re-registration process to rectify errors. The opponent groups rebutted these reasons stating that; Taking land certificate by itself does not mean women are beneficiaries.

Based on the issues raised by the FGDs participants and empirical evidences shown in the above tables it is clear that women land rights in particular and women rights in general are not guaranteed in effective way in accordance to the law. The qualitative data from the FGDs also confirm the same findings. Awareness creation should focus on both women and men as regards women’s land rights.

Section II. Cross Tabulation of Important Variables

In this section we are going to see the relationship between two basic variables. Would respondents’ education status have effect on their litigation cost, marital status, and other main variables? Age will be also cross related with some variables.

Table (27) Relationship between Education and Marital Status

Education	Marital Status				Total	Percentage
	Single	Married	Divorced	Widowed		
Illiterate	0	2	3	4	9	45
Grade 1-4	0	2	3	2	7	35
Grade 5-8	2	0	1	0	3	15
Grade 9-12	1	0	0	0	1	5
Total	3	4	7	6	20	100

Source: Own Survey, March 2015

According to the empirical data, 66% of single respondents attained grade5-8 and 34% of the respondents attained grade9-12. Among married respondents 50% of them were illiterate and the remaining 50% were grade 1-4. From the sample population 43% of divorced women were illiterate and another 43% were accomplished grade 1-4 whereas only 14% reached grade5-8. Even though education has nothing to do with widowhood as death is a natural phenomenon, 67% of widow respondents were illiterate whereas 33% were grade 1-4. A woman who got an opportunity to learn had also an opportunity to escape from early and forced marriage. It is because of two reasons; a family who sent a daughter to school hopes she would have better employment chance and the family did not want her to face the same fate as them. Secondly the girl who started learning became assertive on whether she has to get marry or not. Most of the times in school girls are not willing to marry and they reported the case to their school masters.

Table (28) Relationship between Education and Type of Marriage

Education	Type of marriage				Total
	Polygamy	Percentage	Monogamy	Percentage	
Illiterate	2	67	7	50	9
First Cycle	1	33	6	43	7
Second Cycle	--	0	1	7	1
High School	--	0	--	0	0
Total	3	100	14	100	17

Source own Survey, March 2015

The empirical data shows that, 67% of the women in polygamous marriage were illiterate where as 33% of them finished first cycle educations. From the respondents who were under monogamous marriage 50% were illiterate, where as 43% of them went to first cycle and another 7% them went to second cycle. Based on this empirical data it is clear that, women who have lower educational status have tendency of staying or living in unlawful marriage or they even may not know whether it is legal or illegal.

Table (29) Relationship between Education and Litigation Cost

Education	Litigation cost										Total
	Very High	Percentage	High	Percentage	Low	Percentage	Very low	Percentage	Free	Percentage	
Illiterate	3	75	1	33.3	1	20	1	25	3	75	9
Grade 1-4	1	25	1	33.3	3	60	1	25	1	25	7
Grade 5-8	0	0	1	33.3	1	20	1	25	0	0	3
Grade 9-12	0	0	0	0	0	0	1	25	0	0	1
Total	4	100	3	100	5	100	4	100	4	100	20

Source own Survey, March 2015

The empirical field data shows that, 75% of the respondents who paid very high litigation cost were illiterate and 25% were grade 1-4. Respondents who payout high litigation cost were illiterate, grade 1-4 and grade 5-8, 33% each. From the sample population 60% of respondents who paid low litigation cost were respondents who attained grade 1-4 whereas the remaining 40% were illiterate and grade 5-8, 20% for each. Very low litigation cost was disbursed by all educational level respondents with equal 20%. Free litigation which representation by government lawyers were given to those women who were extremely poor and unable to undertake the court proceeding by themselves. From the total respondents who benefited from this, 75% were illiterates and 25% were Grade 1-4 complete. From this field data it can be argued that high and very high litigation cost has been paid by those who have no education or with little educational background. The illiterate woman did not know how much to pay and the only choice she had is already to pay whatever she is asked. She did not know what the exact claim should be and how much to pay. Unlike the illiterate, somehow educated woman have a better understanding how and why she has to pay. She asks for receipts for each payment she made and feel confident as she is not deceived.

Table (30) Relationship between Education and Knowledge of Laws

Education	Knowledge of laws ⁸				Total
	Satisfactory	Percentage	Poor	Percentage	
Illiterate	5	33	4	80	9
First Cycle	6	40	1	20	6
Second Cycle	3	20	0	0	3
High School	1	7	0	0	1
Total	15	100	5	100	20

Source: Own Survey, March 2015

Based on the above empirical data from the total sample population, 80% of respondents who have poor knowledge of law were illiterate whereas 20% are first cycle complete. Respondents, who have satisfactory knowledge of law, were first cycle attendants (40%), illiterate (33%) and second cycle

⁸ The respondents' average knowledge of laws is taken from their knowledge of land laws in general, family law and land certification and registration system. For a respondent who have satisfactory knowledge at least on two laws, the average is satisfactory and for a respondent who is poor at two types law, the average knowledge of law is taken as poor.

(20%) whereas high schools were (7%). It shows that education have also a great role on respondents exposure to laws. Educated women can read different papers and pamphlets which have potentially legal and administrative contents. On the other hand, an illiterate woman cannot understand the written word in such documents without somebody's help.

Table (31) Relationship between Education and Recommendation

Education	Recommendation								Total
	Punishment	Percentage	Representation	Percentage	Awareness	Percentage	No recommendation	Percentage	
Illiterate	3	60	---	0	2	25	4	100	9
Grade 1-4	1	20	1	33	5	62.5	--	0	7
Grade 5-8	--	0	2	64	1	12.5	--	0	3
Grade 9-12	1	20	--	0	--	0	--	0	1
Total	5	100	3	100	8	100	4	100	20

Source own Survey, March 2015

Based on the above field data, from the illiterate respondents, 45% of them have no recommendation on what is to be done and they said nothing whereas 33% recommended punishment and 22% opted for awareness creation as a solution. The illiterate did not demand representation at community leadership. Respondents who attained grade 1-4 recommend awareness creation (72%), representation (14%) and punishment (14%). Those grade 5-8 respondents recommend representation (67%) and awareness creation (33%). This empirical data shows how education affect the way respondents give possible solutions to their problem. The high education level brings more educative and demanding recommendations. The illiterates at the one hand keep silent from recommending and on the other hand those who recommend propose punishment, which is taken as the least chose in many circumstances. As their educational level increases respondents began recommending awareness creation programs and they also demanded representation in order to exercise their rights fully. Therefore, it can be concluded that education is a key factor for every one especially for women as far as their land right is concerned.

Table (32) Relationship between Age and Knowledge of Laws

Age	Knowledge of laws				Total
	Satisfactory	Percentage	Poor	Percentage	
17-32	8	53	1	20	9
33-48	3	20	4	80	7
49-64	4	27	0	0	4
Total	15	100	5	100	20

Source own Survey, March 2015

The empirical data shows that age has its own role on respondents' knowledge of law. Respondents who have poor knowledge of law were 33-48 years old (80%) and 17-32 years old (20%). On the other hand respondents who have satisfactory knowledge of law, 53% were 17-32 age groups, 27% were 49-64 ages and 20% were 33-48 ages old. All of the respondents (100%) who found 49-64 ages had satisfactory knowledge of law. Qualitative data from FDGs disclosed that woman became aware of laws when they faced a problem. Most of the time elders came up with land transfer difficulties. At the time of these legal issues, they began to ask advices from somebody else who they thought to have better understanding of laws. Based on this, the elders (49-64) were initially poor at laws but they became sensitive after something happened on to them.

Table (33) Relationship between Age and Access to Land

Age	Access to Land								Total
	Inheritance	Percentage	Marriage	Percentage	Distribution	Percentage	Donation	Percentage	
17-32	3	50	2	40	2	28.5	2	100	9
33-48	2	33	2	40	3	43	0	0	7
49-64	1	17	1	20	2	28.5	0	0	4
Total	6	100	5	100	7	100	2	100	20

Source own Survey, March 2015

The above table demonstrates data obtained on the relationship between age and ways of accessing land. Inheritance enabled 50% of respondents with 17-32 ages to get land whereas 33% were 33-48 age groups and 17% were 49-64. Marriage enabled all age groups to have land among which 40% were 17-32 ages, another 40% were 33-48 ages and 20% were 49-64. From the re-distribution program, 42% of the beneficiaries found in the ages of 33-48 whereas age groups of 17-32 and 33-48 took 29% each. All the respondents (100%) who accessed land through donation were from 17-32 ages. This empirical data show that inheritance and donation are the major arrangements which enabled younger's (17-32) to access land. On the other hand re-distribution benefited those who are relatively old (33-64). This difference emerged from the application of the land laws. The redistribution conducted on 1997 set the age as one of the criteria to get land. Most of respondents between the ages of 17-32 did not attain 18 years old at the time of land redistribution. So land cannot be allotted to them. The other variation is on the applicability of will and donation. A woman in order to benefit from both arrangements, she should be in need of land that is she must be landless or she had only a small plot of land. As said before the first age group respondent were marginalized during the re-distribution process and the left landless. Therefore they are legible to receive land through inheritance or donation without prejudice to other cumulative requirements like residing in

the region and engaged or likely to be engaged in agriculture. Thus, from this empirical data, it can be understood that when age varied ways of access to land varied too.

CHAPTER FOUR

4. DATA INTERPRETATION AND DISCUSSION OF FINDINGS

This chapter deals with data interpretation and discussion of findings. The application and enforcement of legal principles and provisions will be checked by the empirical data analyzed in the former chapter. From the interpretations findings will be drawn which will be used to compare the Ethiopian rural women context with the selected other African countries.

4.1. Ethiopian Land Tenure Security and Rural Women Land Rights

The existing land tenure system tried to make land right secured among peasant farmers, semi-pastoralists and pastoralists, at least in theoretical terms. The base of such tenure security emanated from the wording of both the federal and regional land proclamations. Here it is important to note that even if regional governments have the power to enact land related laws, there are some mandatory provisions on the federal land law which regions cannot override and promulgate contrary laws. Some of these basic principles are: free access to land by peasant farmers, semi-pastoralist and pastoralists, orphans access to land through guardians, women land right, no time limit to peasant farmers, semi-pastoralists and pastoralists land use right, the right to transfer land, the right to get land holding certificate and etc. These mandatory provisions tried to make relatively homogenous land tenure system throughout the country.

At this juncture let us have a look at some of the important legal provisions conferring land tenure security. First, the rural land use right of peasant farmers, semi-pastoralists and pastoralists declared to have no time limit, whereas the duration of rural land use right of other holder is limited by time. As per article 7(1) of federal proclamation no 456/2005 and art 5(3) of regional proclamation 133/2006 the first and ultimate user of land are peasant farmers, semi-pastoralists and pastoralists. Land has more values than economic terms for these groups. But this does not mean there is no way the listed groups will miss their holding right. The law provided conditions in which one shall lose this right. These conditions are: engagement in non-farming activities and earns livelihood, disappearance from residence for 5 consecutive years without notification, causing gross damage on the land due to mismanagement and withdrawal notification. Other holders like investors have secondary and conditional rights.

Second, frequent land redistribution is prohibited under the laws. The federal land law authorized regions a power to enact laws which address the issue and need of land distribution. Based on this, the Amhara regional state established the ground for redistribution program. In principle in any part

of the region, land distribution and allotment shall not be carried out since the coming into force of proclamation no. 133/2006. But land redistribution may be carried out where the land holders residing in one *kebele* and where not less than 80 Per cent of them request the Authority in writing for land distribution and its application shall be only on holders who passed the decision (ANRS, 2006:art.8(2)). The other exception to this principle is redistribution of irrigable lands. Due to the fact that there is a high shortage of irrigable lands in the region, these lands may be redistributed in relatively frequent times. This redistribution has to be carried out in a manner which will not jeopardize the current holder's right (ANRS, 2006:art.8(3)). When the land distribution or allotment is carried out based on request of people, the land holder whose land is to be decreased and taken shall, where it does not bring land division into pieces, have a right to get the land he has chosen and get compensation for an asset he produced and could not pick it up (ANRS, 2006:art.8(4)).

Third, land registration and certification program is designed to create secured land tenure system among the land holders. The land holding certificate/ also called green book/ contains the detailed information about location, area, boundaries, fertility grade, and the identity of the holder (his/her name and photograph fixed thereon) on the book concerning the rural land. According to article 24 of proclamation no. 133/2006, the holding certification is a legal certificate of the holder. Where the land is a holding of a husband and a wife in common, the holding certificate shall be prepared by the name of both spouses.

It is important here to examine the application and practice of these legally supported grounds ought to bring land tenure security.

In the context of Amhara regional state, the last land redistribution was carried out on 1997. It brought both positive and negative consequences up on the population. To begin with the positive one, it achieved the intention of the law which is creating tenure security on the holder of the land. The current land holders feel secured as the land will continue under his/her holding unless he/she fails to observe grounds which result deprivation of holding rights. The negative and undesired consequence is brought due to inconsistent governments policies. It created gaps and discrimination among sex and generation. The then redistribution program allotted land to landless parts of the community. While doing so, men given land whatever they are single or married, as far as they have no prior land, whereas only single women were allowed to take land. The married women were assumed to share with their husband, which is proved difficult in practical terms. Women who

divorced before the implementation of land registration and certification system left in vacuum. They could not benefit either from redistribution or sharing from their husband. The other shortcoming is, it failed to consider the population dynamics. The population keeps increasing with high fertility rates but the land remains the same size with decreasing fertility. The new generation also needs land but the system did not allowed access to land. Therefore, those young women who cannot access land through inheritance, contract or donation remained landless which in effect made them economically poor and socially marginalized. One of the FGD participant stated that "nowadays, a woman who had land or future certain hope to get land has a wider chance to get married than a woman who is landless."

The land registration and certification program also played a great role in securing land tenure. The certificate holder is the legal holder of the land. According to the head of EPLUAO, this program minimized conflicts on land claims and boundaries. The book contained all the necessary information regarding the identity of the land holder, size, fertility rate and boundaries. Anyone who has a claim over the land has the burden of proof by providing a written document which can disprove the first one. Dead files from the *woreda* court showed this provision (art. 24) has been used to solve many land disputes. In order to substantiate this decision given by the *woreda* court on a land case file no. 0106480 on 10th October 2013 can be best example. The applicant filed a possessory action against the respondents and the later responded that she is the legal holder of the land supporting her argument with land certificate. The court framed an issue of "who is the legal holder of the land?" and to prove this asked the *woreda* EPLUAO to clarify under whose name the disputed land is registered. The office replied that the land is registered under the respondent's name. Based on this the court decided that the land belongs to the respondent without the need of requesting additional evidences. Even though it has its own role in rendering speedy trial, this kind of procedure is vulnerable prevalence of injustice.

4.2. Rural Women Land Right and Land Dispute Settlement Mechanisms

Conflict is inevitable among creature. One of the basic causes of conflict is struggle over possession of natural resources among which land is the main. Both the federal and the regional legislators expected the occurrence of land disputes and tried to provide mechanisms of dispute resolution when such conflict arises. Discussion and agreement of the concerned parties is considered as the best way of settlement. If the parties fail to solve their problem themselves arbitration seconded. From the wording of article 29 of the regional proclamation, arbitration is mandatory before any person

submitting pleading to a regular court. 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.

Customary procedures got recognition under the law and have been broadly practiced. Most of the participants of FDGs have reflected the drawbacks of such customary procedures on women.

Even though female parties have the right to choose arbitrators, all the time the selected arbitrators are male. The decisions are expected to be pro-culture which hindered women land rights. During the resolution process as far as the arbitrators are male, the decisions lacked female point of view. Most of the time the arbitrators have no knowledge of land laws, they did not base their decision on evidences and they work just focusing on the outcome of their decision. They take due care not to evict a male party from land as far as possible. Some arbitrators also show corrupted behavior most of the time against women.

The last way of dispute resolution is litigation. As indicated under chapter three, litigation has also its own trouble on women. Here the main reasons for such difficulties of litigation can be summarized under four main categories.

1. **Administrative:** The *woreda* EPLUAO registered land and issued holding certificates. Without forgetting positive reforms it brought, it also made the life of some women miserable. The land registration and certification process was conducted in rush without undertaking the necessary field survey. Though the law required, when any land is measured the neighboring land holders or users shall, as much as possible, be called to attend therein and decide upon their boundary in agreement (art 22(2) of regional proclamation) many women's land was measured without their presence. Their land size decreased and some of their land got registered under others name.

The other organ which is responsible is the *woreda* Justice Office. This office is expected to support women land right realization at least in two ways. The first one is, the office is mandated to conduct legal knowledge awareness rising on issues which have significant role in the community's day to day life like family, criminal, land and inheritance laws. Secondly, it has to provide legal aid service and represent those who can prove financial deficiency to argue themselves. In both cases, the office did not fulfill the need of the applicant women because of personnel and budgetary constraints.

2. **Legal Gaps and Court Procedures:** Some challenges of women during the litigation process originated from the application of laws. The above mentioned evidence related drawback has a significant implication over women land right. The court based its decisions on EPLUAO written evidences. As stated under number one there is a possibility of wrong registrations which give holding right to wrong persons. The unqualified relevance of land certificates resulted injustice on the right holders.

The *woreda* court also applied unrelated legal provisions while giving verdict. The court closed a land case based on preliminary defense of period of limitation invoked by the respondent on case File 0106519 dated 8th November 2013. The court reasoned its judgment that the claim is barred by period of limitation since the dispute past 8 years while the applicant has to submit it within two years based on article 1149(2) of the civil code. But this legal provision is inapplicable on land related cases. The Federal Supreme Court Cassation Division (its decisions have binding power as precedence) resolved the period of limitation inconsistency among courts. The court on its decision on File no. 69302 dated 30th December 2011, ruled that Article 1149(2) narrowed and against peasants unlimited land use right. So in order to give ample of opportunity for the ultimate land user, the court preferred to apply Art 1677(3) and 1845 of the same code which allowed them extended 10 years. The *woreda* court was expected to give decision in accordance with the Cassation Division decision given that the later decision predates the former court's decision.

The other legal gap is when the land dispute is related with inheritance. If the deceased person made a valid will the transfer of the land should be according to the terms of the will. But if he/she died without making will, the transfer is carried out in accordance with the law that is children come first and in their absence parents will inherit. Women who spent their life helping their elder relatives expecting that they will inherit the later land got themselves evicted from their residence and they lost their farm lands after the death of the elders. The elder may die with or without making will. When the elder made a will which favor the serving women, close families of the deceased tried to destruct the will and so that the decision will only base on the law. When the elder died without will the application of the law by itself made her expectations nightmare.

3. **Personal:** Sometimes, women themselves are source of the problem. Without prejudice to other external factors, most women in Ethiopia are not educated. Even most of them lack basic

educations. This illiteracy brought multifaceted difficulties on their quality of life. Just to focus on the right issue, they have no knowhow about laws, they are not in a position to argue and demand their rights and privileges, they have no confidence to think out of the box and they have no/less bargaining power even in their homes. They have no control over their holding rights especially those who have joint holding with their husbands. Those who have personal holding by their own have relatively better freedom to control the proceeds of their land. Women also lacked participation on the public arena.

4. **Social:** The role of the society is not something which has simple importance. It socialized women to be obedient, housewife, silent and etc. which have impeding effect on women confidence and insight. Even a woman who knows her right get violated and she has the right to get justices, remained silent fearing that she would be excluded from the society and labeled as deviant. Women have the right to participate on public agendas. They can serve as land administration committee members or/and land dispute resolution arbitrators. But it will be a surprise to see a woman speaking giving decision in both cases.

The above mentioned and other factors cumulatively made women to perceive litigation and access to justice something impossible for them. There are a lot of violations remained unreported.

4.3 Summary of Findings

Relevant data were collected from different groups of informants through questionnaires, key informant interviews, FGDs and court cases regarding the law and practice of rural women land right in Ethiopia. These data analyzed both qualitatively and quantitatively under this and the preceding chapters. Accordingly, the following are major findings.

1. The Ethiopian laws on paper, including the constitution to the lowest decrees, recognized rural women land right as equal as men. There is no legal discrimination between the two sexes.
2. There are implementation gaps and errors on the workings of government offices specifically by EPLUAO and courts which restricted women from full enjoyment of their land rights. These institutions created a vacuum on the practicality of rural women land rights due to lack of well surveyed and computerized registration process, lack of trained personnel and insufficient budgets. The registration system is not yet computerized and done manually which is susceptible to obliterate and cancellation.
3. It is found that there is patriarchy within the society. Here feminist definition of patriarchy and Engels (2004) statement on patriarchy can explain it well. Feminists used the term

patriarchy to refer to the male domination both in public and private spheres. As discussed previously, women have no participation in public agendas and also they have no say on domestic affairs. Male parts of the society dominated women through disallowing/discouraging them from participating in committee members. Women did not decide what to be cultivated and have no control on agricultural proceeds. According to Engels, a patriarchal society domesticated and confined women. The same thing found in the study area that women socialized with a mind setup of they are inferior to men.

4. Education among other factors, played a greater role in affecting rural women land right. It has a direct relationship with marital status, number of children, knowledge of laws and in forecasting the future.
5. Marital status also found to have an implication on land right of a woman. Single and divorced women have a little bit better freedom and deciding power than those who are married. A woman who registered the land under her personal holding can decide over her land while the married one whose land is registered jointly with her husband have no better power than a woman whose land is registered by her husband name only. But there is a deference between the latter two at the time of divorce, in which jointly registered has a wider chance to share land than the unregistered woman.
6. There is a promising move in the side of EPLUAO to return unlawfully grabbed lands to women through forming a committee composed of members from justice office, police office, WCYA, PGH and judges. The committee is solving it by negotiation and if not possible by legal action.

4.4 Comparison between the Ethiopia Experiences with other African Countries

Under this sub-section of the chapter, the legal frameworks and the practical realities of rural women land right in Ethiopia compared and contrasted with the selected African countries. The assessment in the case of Ethiopia is based on the findings of this paper and in the case of other countries research findings of other scholars which reviewed on the literature part had taken. To begin the comparison with evaluation of land laws of the countries, the topic is presented in to four interrelated sub-topics.

- I. **Ownership of the Land:** The first and common legal instrument which deals about land is constitution of the national states. All the five countries' constitutions have at least principles on land ownership and administration. Further they have land laws and acts which govern details and procedural issues in the administration of land. Except Uganda, all countries follow state ownership of land system. These countries shared the justification of the need to

promote investment and sustainable use of resource behind state ownership of land. In Uganda, Article 237 of the constitution provides that land in Uganda shall belong to the citizens of Uganda and shall vest in them in accordance with four tenure systems: Customary, Freehold, Mailo and Leasehold. This provision is re-enacted in section 3 of the Land Act. This clause totally reverses the old system where land was vested in the public land. Now, individuals' rights to land have been secured by virtue of occupation. The 2005 amended constitution vested land in the citizens of Uganda and the state no longer controls ownership of land in Uganda.

Even for those countries which follow state ownership, there are some variations on their detailed legal frameworks between them. For example, the Ethiopian land laws totally prohibited market transaction of land (sale and mortgage) while the Nigerian Land Act made it conditional. According to the Act of Nigeria, a person can transact land (sale or mortgage) with official written consent of the state governor or local government. The other difference is on the time bound of the right. There is no time limit on the Ethiopian peasant farmers, pastoralists and semi-pastoralists land use right whereas the Nigerian arrangement is a kind of lease form the state for 99 years.

In Rwanda even if the land is under government ownership citizens have issued with "emphyteutic lease" a lease for 99 year duration and women can access credit from banks using their land as a collateral which is totally impossible for Ethiopian Women (FDRE, 1995:art.40).

- II. **Time Limit:** whoever the owner is, there are discrepancies regarding period of time of ownership or holding rights. Some countries limited these rights within a specified period of time and others granted it for unlimited period of time. Ethiopia follows unlimited time arrangement on the holding right of peasant farmers, semi-pastoralists and pastoralists. In Nigeria, rural land holders right is limited to a state lease of up to 99 years. Rwanda follows the same year as Nigeria. The case of Mozambique is a little bit different which is 50 years lease renewable at the end of the period. The Ugandan case is not clear but as far as the country recognized four different systems, at least those who have freehold right assumed to have a right which is not bounded by time. Therefore, Ethiopian women have better timely unlimited and free access to land.
- III. **Recognition of Women Land Right:** All the five countries have non-discriminatory clauses on their constitutions and some of them on land laws. But there are differences how other factors influenced the enforcement. The Ethiopian Constitution dealt women equality in

every aspects in general and equal rights with men with respect to use, transfer and administration of land with special emphasis. The land proclamations of both the federal and regional governments also granted women, who want to engage in agriculture, the right to get and use rural land for free. Women in Uganda have the same rights to land as men as stipulated on the 1995 constitution of the country. In Rwanda the government issued Land Law in 2005 that provides a process for titling land. However, implementing this law has been a slow process and a number of potentially troubling issues associated with the security of land rights of smallholders, women's rights to land and the potential for increased conflict have not adequately been addressed. Nigerian women do not only have lower access to land, they are always subjected to secondary land ownership. This is a situation whereby a woman holds rights of property ownership through the male members of the family. Her title to land is subject to the continuation of her relationship or link to the male family members. In Nigeria women's inheritance rights under customary law vary considerably across the country, but in no region does customary law grant women equal inheritance rights with men.

IV. **Representation of Women:** In Ethiopia, the Amhara land proclamation specifically demanded the election of women to land Administration and use committees' (LACs) membership be balanced to that of men. In the case of Uganda, the land act used clear minimum requirements stipulating that at least one-third of the members of each District Land Board and each Communal Land Association (CLA) must be women. The remaining countries opted to be silent on this concern.

We have seen that there exists some degree of both similarities and differences of land tenure legal systems between the five countries. Differences also observed regarding their practicality and implementation. In the proceeding section we will look at the practical veracities of women land rights and the shortcomings of the systems.

- I. **Women participation:** Even though women have the right to take part in public agendas, the finding showed that Ethiopian women did not benefit from this due to many factors. In Uganda, there exists a gap between written law and practice. As in the case of many African countries, this lack of implementation is caused by many factors; socio-cultural and traditional norms being the major ones. Both countries shared unfulfilled women participation "promises' mainly because of social and cultural constraints.
- II. **Control over the land:** Most of Ethiopian women (especially married and widowed) have no control over their land and agricultural proceeds. In Mozambique women exercised autonomy over the benefits accessed from their own activities while renting needs

consultation of both spouses. In Nigeria even those women who enjoyed access to land; they don't have control over land because of social constraints. The registration of customary rights also threatens women who customarily have only secondary rights. Uganda men control benefits from cash crops and livestock women earn less money as they are responsible for food crops. In Rwanda formally married women are joint owners of the land and they have relatively better bargaining power.

CHAPTER FIVE

5. CONCLUSIONS AND RECOMMENDATIONS

5.1. Conclusions

Land is the first and most determining natural resource in human life in general and in agrarian society in particular. In Africa land determine both economic and social status of a person. Access to this invaluable resource is not a free ride. Starting from customary practices to modern statutory laws, they have their own way of land administration [most of the time one overrides the other]. Women who were/are marginalized part of the society have been facing challenges in accessing and controlling land. Denial of land right is denial of other basic right like right to food and shelter which are directly related with ones access to land.

Ethiopia is not an exception: women in Ethiopia passed through discriminations and unfair exclusions. In past times, their right to land was defined depending on their relation with men: it can be through inheritance or marriage. Without prejudice to implementation drawbacks, the coming of the federal constitution, revised family codes, new land laws, and land registration and certification system, joint holding of land brought a new hope for these groups. But most of Ethiopian women are not benefiting the most out of it because of illiteracy, social barriers and lack government backups.

Women in rural Africa have common challenges that hindered them benefiting from the realization of equality in land rights, which are by no means tolerable. Most of the challenges are society-born misconceptions, socialization of men for public and women for house chores, deep-rooted patriarchal institutions and lack of organized and devoted law enforcement bodies. There are promising legal reforms which are gender sensitive in Africa. Moreover, there is no as such big legal gap aimed at disadvantaging women. But the existing laws are toothless dogs which lacked implementation attributed to many practical reasons. All most all countries failed to accommodate division of property in polygamous marriage at the time of divorce.

5.2. Recommendations

Based on the major findings and objectives of the study, the following recommendations are forwarded.

1. As illiteracy is found to have a direct and multifaceted impact upon women legal literacy, the government has to eradicate illiteracy through providing alternative education systems like adult literacy or any other arrangement.
2. Knowledge of laws has also a greater role on one's consciousness and exercise of rights. Here too the government and other community based NGOs have to work on legal literacy and legal awareness elevation. This campaign should not only to educate women it must address men especially those who take part in LACs and arbitration must be equipped with updated land laws and policies.
3. The justice office in particular has to equip itself both in personnel and materially in order to take in hand the pressing needs of legal aid services. It has to promote and enforce women land right at its best.
4. The society at large has to understand the negative consequences brought on women due to stereotyped attitudes and has to work out to abolish bad practices.
5. While conducting the second level land registration, due care and in-depth field survey has to be conducted and the system should be computerized.
6. The government has to bring law reforms addressing the land need of younger generation in general and women in particular who did not yet benefit from land.
7. As far as rural women right is concerned and common problem existed, the existing instruments have to be implemented and the governments have to encourage and empower institutions and civil societies. Otherwise, a law without implementation is nothing more than a white paper.

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Appendix I

List of Interviews at MojanaWodera Woreda

1. Interview with Ato Feleke Zewdie, Head, MojanaWodera Woreda Environmental Protection, Land Administration and Use office, On 10th March, 2015
2. Interview with W/rt Abebech Admeke, Deputy Head, Mojana Wodera Woreda Women, Children and youth Affairs office, on 11th March, 2015
3. Interview with Ato Gashahun Goytay, Head, Mojana Wodera Woreda Public Grievances Handling Office, on 12th March, 2015

Appendix II

List of FGD Participants

No	Name	Sex	Profession
1	Eliab Abebaw	M	Judge
2	Mahlet Agezew	F	Judge
3	Asamenew Kefle	M	Land Administration
4	Zenebech Assefa	F	Land Administration
5	Gizachew Kebede	M	Women Affair
6	Tsegimariam Taye	F	Women Affair
7	Aydenegetu Chalachew	M	Public Grievance handling
8	Abebayehu Yiferu	M	Public Prosecutor
9	Fanose Befekadu	F	Police

Interview Guide Questions

1. What are the major challenges associated with land in your area?
2. Are there any improvements brought by the implementation of land registration of land registration and certification program?
3. Do it brought/ will bring new changes in women access to and control over land?
4. What challenges were observed while implementing the program? What kinds of remedies have taken?
5. Are there complains over the registration process? How do you manage them?
6. How do you see the attitude and awareness level of the community towards women land right? Are there discriminatory practices?
7. What is the role of your office in the struggle of women land rights enforcement?

26. Who represented you while reporting?

- 1) My Self
- 2) Personal Lawyer
- 3) Legal Aid Service
- 4) Close Relatives

27. Tick the challenges that you feel you would face/ you did face while you were resolving to resolve dispute regarding land. (multiple response is allowed)

- 1) Lack of Knowledge/capacity
- 2) Fear of family/community disapproval
- 3) Fear of physical violence
- 4) Perception of bias
- 5) Lack of help
- 6) Communication

28. How much did it cost you to resolve the dispute (monetary terms)?

_____.

IV. Knowledge of Laws

29. Do you know about land laws and so how well?

1) Yes, what aspects of the law do you know? _____

_____.

2) No

30. Do you know about the family law?

1) Yes, what aspects of the law do you know? _____

_____.

2) No

31. Do you know about the land registration and certification system?

1) Yes, what aspects of the system do you know? _____

_____.

2) No

32. Please provide any thoughts or recommendations on how (a) the law could be better provide woman with legal rights to own land and enforce such rights and (b) how woman can better be made aware of such rights.

_____.

Thank you very much.

Focus Group Discussion Guiding Questions

1. What are the challenges associated with land rights in this area?
2. What are the main causes of these challenges?
3. What are men's views towards women's land rights?
4. Are you familiar with land laws? What benefit these laws served to women?
5. Do you think that women are ultimately benefited from them?
6. What are the challenges while implementing these laws?
7. In your opinion, are there legal gaps?
8. What do you suggest to overcome these challenges?
9. Is there something else you would like to say?

አዲስ አበባ ዩኒቨርሲቲ

ማህበራዊ ሳይንስ ኮሌጅ

የአፍሪካና ኦሪታል ጥናትና ምርምር ማዕከል

በአማራ ብሔራዊ ክልላዊ መንግስት ሰሜን ሸዋ ዞን ሞጃና ወደራ ወረዳ የሴቶች የገጠር መሬት መብትን ለማጥናት የተዘጋጀ ቃለ-መጠይቅ

ክፍል1. የተጠያቂዎች የግል መረጃ

1. እድሜ
2. የጋብቻ ሁኔታ 1) ያላገባች 2) ያገባች
- 3) የተፋታች 4) የሞተባት
3. የጋብቻው አይነት 1) አሀዳዊ 2) ከአንድ በላይ
4. የልጆች ብዛት1) 1-3 2) 4-7 3) 8-11 4)11+
5. የልጆች እድሜ 1) 0-5 2) 6-11 3) 12-17 4) 18+
6. የልጆች ያታ 1) የሴት ልጆች ብዛት 2) የወንድ ልጆች ብዛት
7. የትምህርት ሁኔታ 1) ያልተማረች 2) ከ1ኛ-4ተኛ ክፍል 3) ከ5ተኛ-8ተኛ ክፍል
4) ከ9ኛ-12ተኛ ክፍል 5) ከኮሌጅ/ዩኒቨርሲቲ የተመረቀች

ክፍል2- የመሬት ባለ ይዘታነት

8. መሬቱ የማን ይዘታ ነው?
 1. የራሴ
 2. የባለቤቱ
 3. ከ..... ጋር በጋራ
 4. የቤተሰቦቼ
9. የመሬት ባለይዘታነቱ ከምን የመነጨ ነው?
 1. ከቤተሰብ በውርስ የተገኘ
 2. በጋብቻ የተገኘ
 3. በኪራይ የተገኘ
 4. በመንግስት ድልድል የተሰጠ
 5. በስጦታ የተገኘ
10. መሬቱን ለመኖሪያነት ይጠቀሙበታል? 1) አዎ 2) አልጠቀምበትም
11. መሬቱን ከመኖሪያነት በተጨማሪ ለምን አገልግሎት ይጠቀሙበታል?
 1. ለግብርና
 2. ለንግድስራ
12. የመሬቱ ባለይዘታነት ተመዝግቧል? 1) አዎ 2) አልተመዘገበም
13. ከተመዘገበ በማን ስም? _____.

14.ካልተመዘገበ ለምን? _____.

ክፍል3- የመሬት ክርክር

15.የመሬት ባለይዘታነትን በተመለከተ ግጭት ገጥሞዎት ያውቃል?

- 1) አዎ 2) አያውቅም

16.ግጭቱ የተጀመረው መቼ ነበር? _____

17.ግጭት መኖሩን ለሚመለከተው አካል ሪፖርት ያደረጉት መቼ ነበር? _____

18.ግጭቱ ከማን ጋር ነበር? _____

19.መጀመሪያ ያመለከቱት ለማን ነበር?

- 1) ለመንደር አሸማጋዮች 2) ለፍርድ ቤት

20.አሁን ችግሩ ተፈትቷል? 1) አዎ 2) አልተፈታም

21.ችግሩ ከተፈታ መቼ ነበር? _____

22.የመጨረሻ ውሳኔ የተሰጠው በማን ነበር?

- 1. በመንደር አሸማጋዮች 4. በክልል ጠቅላይ ፍርድቤት
- 2. በወረዳ የመጀመሪያ ፍርድ ቤት 5. በፌደራል ጠቅላይ ፍርድቤት
- 3. በዞን ክፍተኛ ፍርድ ቤት

23.ውሳኔው ምን ነበር? _____

24.ውሳኔውን እንዴት ያዩታል?

- 1. በጣም አስደሳች 4. አያስደስትም
- 2. አስደሳች 5. በጣም አያስደስትም
- 3. ገለልተኛ

25.ከላይ ለሰጡት መልስ ምክንያትዎን

ቢገልፁ. _____

26.የፍርድ ቤት ክርክሩን ያካሄዱት እንዴት ነበር?

- 1. በራሴ 3. በመንግስት የህግ አገልግሎት
- 2. የግልጠበቃቀጥሬ 4. በዘመድ ውክልና

27.በፍርድ ቤት የክርክር ሂደት ወቅት የገጠሞትን ወይም ይገጥሙኛል ብለው የሚያስቧቸውን ችግሮች ይምረጡ።

1. የእውቀት/የችሎታማነስ
2. የቤተሰብ/የማህበረሰብ ተቀባይነት ማጣት
3. የአካላዊ ጥቃት ፍራቻ
4. አድልዎ ይኖራል የሚል አስተሳሰብ
5. የእረዳት እጦት
6. የመግባባት ችግር

28.ለፍርድ ሂደቱ ምን ያህል ገንዘብ ወጪ አደረጉ? _____

ክፍል4-የህግ እውቀት

29.የኢትዮጵያ የመሬት ህግን በተመለከተ ያለዎትን እውቀት ይግለጹ።

30.ስለቤተሰብ ህግ ያለዎትን እውቀት ይግለጹ።

31.ስለመሬት ምዝገባና ባለይዘታነት ማረጋገጫ ደብተር አሰጣጥ ስርዓት ምን ያህል ያውቃሉ?

32.ህጎች የሴቶችን የመሬት ባለይዘታነት በተመለከተ የተሸለተ ጠቃሚ ለማድረግ እነ ስለመብቶቻቸው በቂ ግንዛቤ እንዲኖራቸው ለማስቻል መደረግ አለባቸው ብለው የሚያስቡትን ሃሳብና አስተያየት ቢገልጹ።

ስለ ትብብርዎ እናመሰግናለን!!!