Registration of Rural Land for Deceased Households in Ethiopia

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Executive Summary

Second level land certification activities have been carried out in Ethiopia mainly with the support of the Land Investment for Transformation Programme (LIFT). Although it shows significant progress, there are cases where the process to implement the Second Level Land Certification (SLLC) is impeded to the lack of a clear legal framework in the following three key scenarios.

- When one of the spouses with rightful holding right to a parcel(s) of land is deceased and survived by a spouse who is a joint holder of the land and by potential heirs whose succession right is not legally established;
- When both spouses, rightful holders of a parcel(s) of land, are not alive during the adjudication and registration period and when no legitimate heir appears, or no succession right is legally established at the time by would be heir(s);
- When one of the spouses in whose name the land parcel was registered died, and when the surviving spouse has no inheritance right to the land.

The intention of this study is to set out an interim guideline for adjudication processes and to be as input information to update and improve the existing Federal Rural Land Administration and Use Proclamations (FRLAUPs) and the Regional Rural Land Administration and Use Proclamations (RRLAUPS) and their associated regulations and directives. The main data source for the study is generated by desk review of pertinent documents including the federal and regional rural land laws, the civil code and family code. Additionally, information on existing practices were assessed through interviews with key experts in each of Amhara, Oromia, SPNNR, and Tigray regional states.

The review of existing federal and regional legal framework shows that the laws and regulations do not address these issues and contain incomplete information on adjudication procedures and guides in the above stated three research thematic areas.

This study suggests the following interim procedures and guides to the rural land registration when one or both of the spouses are deceased at the time of field registration and demarcation stages:

- When one of the spouses with rightful holding right to a parcel(s) of land is deceased and survived by a spouse who is a joint holder of the land and by potential heirs whose succession right is not legally established, the land certificate may be issued in the name of the surviving spouse. However, issuing certificate in the name of a surviving spouse without any note about future potential heirs may negatively affect their interest. Therefore, it is suggested to register the land and certificate to be issued in the name of the surviving spouse with a note that the right is not full and the right of potential heirs to half of the land is pending. This note can be included either in the book of register or in the certificate itself.
- When both spouses, rightful holders of a parcel(s) of land, are not alive during the adjudication and registration period and when no legitimate heir appears, or no succession right is legally established at the time by would be heir(s), the land registration process can continue but the names of the deceased still maintained until the succession rights are established by legal heirs. Once heirs are declared by court of law, the Woreda Land Administration Office (WLAO) may transfer the holding rights which may involve the subdivision of a parcel(s) of land as well as issuing certificates;
- When one of the spouses in whose name the land parcel was registered died, and when the surviving spouse has no inheritance right to the land, the land should be registered in the name of surviving spouse irrespective of the fact that s/he was not registered as common holder in the certificate. This approach, however, needs a substantial legal revision of the existing RRLAUP and their associated regulations and directives.

Introduction

Land is an important socio-economic asset to the Ethiopian people in that it contributes more than 40% to the national GDP and employs more than 80% of the nation's population. The first land administration and use proclamation (Proc. 87/1997) gives emphasis for the registration of all land rights of peasant farmers in order to create tenure security and reduce land dispute among holders.

This proclamation was repealed and replaced with the current Proc. No 456/2005 with a similar emphasis on land registration and certification. Regional states also adopted their respective land administration and use proclamations in a bid to implement, among others, the land registration principles. In this endeavour, regional states started implementing land registration and certification activities since 1998.

During the past 17 years, the four main regions have made considerable progress in registering rural land rights, without surveying and mapping the boundaries of the parcels through a process called First Level Registration and Certification (FLRC).

In recent years, regions started to implement the Second Level Land Certification (SLLC) in their respective region. The new registration and certification system involves recording the geographical locations and sizes of individual farm plots using technologies such as GPS, satellite imagery or orthophotography. Farmers receive plot-level certificates with maps rather than a household-level certificate without maps as in the case of the FLRC. Extensive SLLC programme is underway at wider scale in the four main regions as well as in the Benishangul-Gumuz Regional State, mainly with the support of multiple international donors.

For the systematic and proper implementation of the SLLC, the placement of all the required legal and institutional framework are necessary and mandatory prerequisite. The Federal Rural Land Administration and Use Proclamation (FRLAUP), Regional Rural Land Administration and Use Proclamations (RRLAUP) and their associated regulations and directives are promulgated and under the implementation phases.

The SLLC process involves a series of processes including demarcation and adjudication, registration of such right on book of register, and issuance of certificates. Though the SLLC processes are clarified and procedures established, there are a small number of cases where the process is impeded by a lack of procedural and legal guidelines on registration procedures under multiple conditions where one or both of the spouses are deceased without establishment of succession rights by legal heirs. This happens especially when either one or both of holders died without leaving legitimate heir. These situations pose implementation difficulties and flaws during adjudication and registration stages. The three specific situations in legal limbo in the Regional Rural Land Administration and Use Proclamations (RRLAUPs) and their associated regulations include:

1. When one of the spouses with rightful holding right to a parcel(s) of land is deceased, and survived by a spouse who is a joint holder of the land and where the succession rights are not established by legal heirs:
2. When both spouses, rightful holders of a parcel (s) of land, are not alive during the adjudication and registration period without legal succession rights are established by legal heirs;
3. When one of the spouses in whose name the land parcel was registered dies, and the surviving spouse without legal rights to share a parcel(s) of a holding of the deceased spouse and without legal succession rights established by legal heirs.

Existing legal frameworks do not address such problem and as a result rural land adjudication and demarcation procedures encounters legal caveats. As a result, practitioners implementing SLLC programmes, use inconsistent procedures and guides not only across regions but also within a given regional state. Common implementation problems include the recording of land rights under the name of the deceased spouse under a condition when the deceased spouse is survived by one of the spouses when the succession rights are not established by legal heirs.

Objective of the Study

This piece of research aims to explore the legal gaps with regard to registration of rural land under multiple and diverse conditions when one or both spouses are deceased with and without legal rights are established by the legal heirs. Based on analysis of relevant legislations and laws, an interim land rights registration procedures and guidance will be recommended for use until consistent legal details are formulated with legal harmony established between different laws and legislation (which will take considerably a longer period of time).

This study will contribute to improving and reforming the existing rural land administration and use legislation. The scope of the research is limited to rural land registration of the deceased's household. The specific objectives entail the following:

- To review and assess the RLAUPs and their associated regulations and directives and other relevant legislations and laws in line with land registration;
- To review the existing Second Level Land Certification (SLLC) manuals with respect to registration of rural lands for the deceased households;
- To identify any legal gap related to registration procedures of rural lands, pertinent to deceased households;
- To propose and recommend an interim registration procedure that shall be used to register and record land rights during registration of rural lands; and
- To identify practical and efficient ideas that shall be used as input to improve the existing RRLAUPs and their associated regulations and directives.

Methodology

This study is based on review of secondary data and interview with key experts in the four regions who have a robust experiences and knowledge of rural land registration. The research mainly relied on the review of existing rural land administration proclamations, regulations, directives and SLLC manuals pertaining to the registration of rural lands. Further, the Ethiopian Civil Code and the revised regional Family Codes pertinent to inheritance and administration of family property and child custodianship were reviewed and examined. Telephone based interviews were made with four experts selected from Tigray, Amhara, Oromia and the Southern People, Nation and Nationality (SPNNR) states. The study is confined to Amhara, Oromia, SNNP and Tigray regional states where SLLC programme is implemented by LIFT programme.

Review of Existing Land Registration and Certification Legal Framework

General

Land is a common property of the state and the people of Ethiopia (Art. 40.3 FDRE Constitution). And yet farmers and pastoralists are bestowed with lifelong, use rights and a protection against any arbitrary eviction from the land without compensation (Art. 40.4,5&8). This land right granted to the farmer is known as "holding right" that confers the holders of the land lifetime use right of the land and the ability to transfer such right to family members through gift and inheritance. Farmers have also the right to rent or lease the land for a fixed period of time to fellow farmers or investors. Besides, they have ownership right to the produce they grow over the land. This "holding right" is protected in the sense that a land certificate would be provided upon registration and when such land is needed for public purpose activities "commensurate" amount of compensation should be paid for its loss (Proc. 456/2005, 455/2005).

While adjudication is the process of final and authoritative determination of the existing rights and claims of people to land, registration is the official recording of such legally recognized interests in land and is usually part of a cadastral system. (FAO: 2003). Adjudication may be carried out in the context of first registration of those rights, or it may be to resolve a doubt or dispute after first registration. Adjudication is also a standard procedure prior to the operation of a land consolidation scheme.

This chapter reviews land registration and certification process and identify legal gaps witnessed in the existing legal framework of Amhara, Oromia, SPNNR and Tigray regional states. It also examines the right of inheritance in a general context and land in land property in particular as stipulated under the civil code and existing RRLAUP and their associated regulations.

Inheritance under the Civil Code

The Ethiopian Civil Code of 1960 is the governing law concerning inheritance of one's property, whether movable or immovable. However, as exception, the Federal Rural Land Administration and Use Proclamation (FRLAUP) and by extension RRLAUPs apply in the case of inheritance of rural landholding. The Civil Code was perfectly applied before 1974 in the urban setting as land in urban areas was a subject of private property. However, the law was not effective with respect of rural land as land was considered communal property and hence governed by customary law especially in the northern part of the country.

With the advent of a new land policy following the 1974 Ethiopian revolution, all land become state property and hence the civil code provisions in respect of land ownership and inheritance were suspended. Rural land inheritance right was restricted only to minor children. Following the adoption of a new Constitution in 1995 and implementation of the rural land administration and use proclamations, the policy has been improved in way that enables farmers to inherit their land to their family members. Currently the applicability of the Civil Code with respect to inheritance is limited to those areas which are not covered by the land laws and which are not contradictory to the policy and the constitution. In this regard, discretion is given to the court to apply the civil code whenever it deems necessary.

The civil code also provides for registration of immovable property and certification of same. But the intent of the civil code was again focused on urban immovable properties and hence does not apply to rural land. The civil code contains multiple provisions on systems of movable and immovable properties with limited legal application to the rural lands.

Inheritance can be affected either by the Will of the deceased person when they have left a written testament, a.k.a. testate succession, or by operation of the law when they have failed to leave any valid will, intestate succession (C.C. Art. 829). A person may leave his property to anyone through a will with the limitation of his/her inability to totally exclude children from the inheritance. It is only when the children are found to be unworthy that they may be denied or excluded from the inheritance (C.C. Art. 830 cum 838). A testator is, therefore, at liberty to dispose his/her property to whomsoever s/he wished to have it.

When a deceased person fails to leave a will, then the law fills the gap and the civil code succession provisions are applied. In the case of rural landholding, the RRLAUPs takes precedence and applicable. The Civil Code clearly sets out the priority arrangement in the event of intestate succession. If a person dies without leaving a will, descendants (children, grandchildren...) will be the first to be called for succession. In the absence of descendants, ascendants (parents) will follow. If either or both of the parents have died prior to the person under discussion, then their children, in effect, brothers and sisters will be called for inheritance. This arrangement continues by calling grandparents and in their absence their children (aunts and uncles), and eventually in the absence of any relative to claim the inheritance, the property will be devolved back to the state (see C.C. Arts. 842-852). One can easily note here that the law does not allow the inheritance of one's property by their spouses unless a clear and valid will was left by the deceased to that effect. The law neither put any discrimination on children's ability to benefit based on their sex or birth order as the case in some other countries (C.C. Art.837). The civil code was based on the aspiration of the western world where land is a private property and hence freely transferable.

Family Codes

Following the adoption of the 1995 Constitution, there were attempts at federal and regional level to improve the existing family law provisions of the civil code. Accordingly, regional states and federal government adopted their respective family laws in 2000. The Revised Federal Family Code (RFC) recognizes two types of properties under marriage: personal and common properties. 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 s/he is the sole owner thereof (Art. 63 of RFC). In other words, any spouse who claims personal nature of a property shall produce a proof thereof.

Personal property is "the property which the spouses possess on the day of their marriage, or which they acquire after their marriage by succession or donation" and shall remain their personal property. This means any movable or immovable property which one of the spouse acquired before marriage or given to personal use to one spouse after marriage through gift or inheritance will remain private property. Thus, a land which was acquired by one spouse before entering into marriage shall continue as private holding unless the holder agrees otherwise.

In other words, if the spouse who owns or holds a property wishes to make it a common property during or after the conclusion of the marriage, such property will be converted into common property. Hence a married

couple who agreed to make common whatever they acquired before the marriage will be equally entitled to any property within the marriage.

The Federal Rural Land Administration and Use Proclamation (FRLAUP)

Land Registration

The basic principle for land registration is enshrined under article 6 of proclamation 456/2005. The highlights of this provision are that all land under state, community and individual holding should be measured and registered. Measurement may be made using either traditional or modern instruments, but eventually a cadastral map should be prepared and holders of land should be given land certificate that includes, among others, a map that shows the borders of the land with neighbouring parcels. Where the land is jointly held by a husband and wife, the holding certificate should be prepared in the name of such joint holders. Similarly, if there are multiple holders over a parcel of land, joint certification should be issued in the name of such holders. This happens when multiple holders, example heirs, hold a land and when sub-division of the land is not possible owing to its small size. In other words, it is only when the land was proved to be held by all parties that a joint certificate may be issued. In marriage, when the land happens to be held or acquired by one spouse, example before marriage and if the spouse does not want to make it a communal property of the family, what course action to be followed is not known. Whether the principle of the family code should apply in this respect as well is not clear as the federal RLAUP is silent on the subject.

Furthermore, the federal RLAUP is not clear regarding the procedure that should be followed during adjudication and registration of landholding belonging to a deceased person and when legitimate heirs do not establish their succession rights.

Rural Land Inheritance under the Federal RLAUP

The cumulative reading of Articles 2 (4), 5(2) and 8(5) of Proc. 456/2005 shows that a rural landholder may transfer their landholding to family members through inheritance. A family member is “any person who permanently lives with holder of holding right sharing the livelihood of the later” (Art. 2.5). In this regard, a family member is considered as one who has blood relation to the farmer (child) or without one and who relies for his/her livelihood with the landholder. The relevant point here is that, for the sake of land inheritance, even people with no blood relation have entitlement for inheritance rights as far as they live with the landholder and with no income of their own. But whether children who have their own income (e.g. another landholding of their own) should also be considered for inheritance is not clear as they may not fall under the “family member” definition. And yet, some regional legislations seem to allow them inheritance right as far as they remain farmers and living in the locality.

The inheritance right is conditional on the “eligibility requirement” as stated in the law. The person claiming inheritance must be in the first place one who is allowed by law to hold land. Article 5(1) of the FRLAUP as well as similar regional provisions emphasized on the need for a person to “engage in agriculture for living” in order to be eligible to get rural land via inheritance or other forms of right transfers. In other words, agriculture should be the main means of livelihood for the person to access rural lands to support his/her livelihood. Thus, children who live in urban areas and have their own means of livelihood are not eligible to inherit their parents’ farmland (Ambaye: 2012). The reading of other provisions of the federal and regional proclamations substantiates this rule.

Indeed, the FRLAUP lacks the details on any priority arrangement in case of intestate succession. It is silent on whether a rural land should be by default considered as common property or a private holding when it was acquired by one of the deceased party before marriage.

Review of Regional Rural Land Laws

Inheritance in Amhara

In Amhara, inheritance is mentioned in both the rural land administration and use proclamation (Proc. 133/2006) and the Regulation (Reg. 51/2007). Unlike to the other three regions, in Amhara, the proclamation recognizes both testate and intestate successions. Thus, under article 14 of the proclamation and Article 11 of the regulation it is stipulated in different sub-articles that the holder of rural land may transfer the holding right through will to any farmer engaged or like to engage in agriculture. And in the absence of a will, the land right shall be transferred to legal heirs as shall be discussed in future detail laws (regulation). This law gives freedom to the landholder to inherit the land to whomsoever s/he wishes provided that the beneficiary is eligible to access rural land under the general rule. But the will should not disinherit minor children and family members and harm the interest of the surviving spouse.

In the absence of a will a priority arrangement is defined under the regulation (Art. 11.6) conditional to all with an interest in engaging in agriculture to support their livelihood. The order of priority among the legal heirs includes:

- minor children, and in their absence, family members;
- children of above 18 years who have no land of their own or other family members;
- children who are above 18 years who have their own land;
- parents;
- a spouse may come before parents if, in the absence of children, the deceased is survived by a spouse who continues living in the same locality without remarrying.

Of course, there are many problems in the interpretation of this arrangement especially with regard to family members. The interesting question is whether the surviving spouse should be from the beginning a joint holder of the land in order to benefit from this rule.

Land Registration Procedures for Deceased Person's Land

The Amhara region's RRLAUP No 133/2006 and its implementation regulation No 51/2007 provide a limited provision on land registration. Article 23 and 24 of the proclamation are dedicated to land registration and certification. The most important sub- articles in this part are sub-articles 3 and 4 of Art. 24 of the Proclamation. These sub- articles have to do with the third research question which is part of the problem. The law, first, clearly stipulates that "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" (Art. 24.2). What if the land was registered in the name of one spouse who acquired it before marriage? Article 24 (3) stats that, "where marriage is concluded after the certificate is given in the name of a spouse, they may agree to make the land common holding." Where the spouses agreed to change the land into common holding, the holding certificate may be renewed freely, without any payment. On the other hand, if land certificate is prepared in the name of only one spouse, the legal presumption is that it belongs only to this person. This is supported by Art. 24(4) which states that the person who is granted the land holding certificate in his/her name shall, unless a contradictory written document is submitted, be considered legal holder of the land. Therefore, in Amhara if a deceased spouse is survived by a spouse who was not a joint holder of the land and other heirs, it is clear that the land shall be transferred only to heirs and the surviving spouse will have no legitimate right to claim. The assumption is that the heirs refer to children or family members. What if the heirs are parents because of absence of children or family members? As already pointed out, parents will be the heirs. But if there is a spouse who is willing to live in the same locality without remarriage, s/he may continue using the land. This is stipulated as follows under Art. 11(8) of the Amhara Rural Land Administration and Use Regulation No. 51/2007

" , where the landholder has left a spouse at the time of his death, the surviving

spouse shall continue using the land as of the date of the farmer's death, if he(she) continues to reside in the same kebele or until he/she concludes new marriage; if that is not to be the case, until he/she passes away; provided however, if he/she quits residing that kebele, concludes marriage or dies, such use right with respect to the land shall be transferred to parents who are the legal heirs of the deceased."

The question to be answered here is whether the surviving spouse should be a joint holder of land in order to benefit from this provision. Could surviving spouses who were not joint holders of land be given priority right over parent heirs? The practice varies as the law lacks clarity. While in some areas it is common not to make any discrimination as to whether the spouse was joint holder or not, in others, only a surviving spouse who was a common holder of land is to benefit from this provision.

Concerning to the first two research themes, the proclamation in Amhara is devoid of any answer. The first question is what would happen if the deceased is survived by a spouse and children whose succession right is not yet established? As already indicated above, as far as the surviving spouses proves common holding right, half of the land will be registered in her/his name. But it is not clear concerning the right of the potential heirs whose succession right is not yet established. Similarly, the law is not clear about the effect of a condition where both spouses died and survived by potential heirs whose succession right is not established at the time of land adjudication and registration. Whether the land should be temporarily registered in the name of heirs or whether the registration process to be suspended is not clear.

Inheritance in Tigray

In Tigray the inheritance process is governed by proclamation 239/2013 as well as Regulation No. 85/2014. As per the proclamation, land can be passed through inheritance from parents or the other way from children (Art. 8.10). The law does not specify about intestate succession, but only touches upon intestate succession. Unlike Amhara, no clear provisions on priority arrangement is given. The proclamation under Article 14 generally states that if a rural land holder dies [without leaving a will], first, those biological and adopted children who are 18 years and above shall inherit the land. However, if there are children below 18 years, *the land may not be transferred by inheritance* (emphasis added). Rather, the minor children will continue using the land through their legal guardian (Art. 8.6). If the deceased is not survived by children, the land shall be transferred to parents. In the absence of either of the above relatives, grandchildren who attain 18 years and above can inherit the land. However, the effect is not clear if the grandchildren are underage. But the practice shows that minor grandchildren are not given the right of inheritance (interview with Ato Abera). In addition, the law excludes children who have land of their own and those who live in urban areas from inheriting the land.

Similarly, the regulation under article 13 emphasizes that minor children will continue using the land even if they live outside of the place where the land is located. If they wish to relocate to the local area after reaching 18 years, they will inherit the land permanently; if not, the land will be taken away by the woreda. The law lacks clear provision on the legal process in relation to testate succession. Therefore, it is unclear whether the landholder can inherit the land by will to any one of his choice, provided that the beneficiary is eligible to inherit. As no rule concerning priority, it seems heirs above 18 years and who have no land of their own shall be entitled to the land on equal footing.

Land Registration in Tigray

The Tigray region, the RRLAUP does lack the details on land registration compared to its counterpart, the Amhara Region proclamation and regulation. The Tigray RRLAU Regulation, however, dedicates Article 45-47 to dealing with registration of investment land, surveying and certification of small scale farmlands. The only provision that mentions about land registration and certification in the proclamation is Art. 8(3) & (4). It states that every farmer has the right to receive land certificate and a map thereof for his holdings. And a husband and wife shall have equal right to obtain certificate for their holding. A reading of the regulation also emphasizes, among others, this very fact. A land parcel in respect of which dispute has arisen shall remain without being registered until the dispute is resolved.

The only thing which is clear which is closely related to this research theme is that a land belonging to a deceased landholder may not be transferred through inheritance to heirs if there are minor children in the house. The reading of both legislations also indicates that the status of the land holding right may not be changed. It gives only use right to those who are minors. Those who are above 18 years do not have any right until all children attains majority. Therefore, even if it is possible for children to prove their succession right, land registration and certification may not be carried out with respect to that specific of land.

The assumption is that if there is surviving spouse who was joint owner of the land, s/he will receive half of the land and land certification may be issued in his/her name. The effect is not clear if the surviving spouse was not a joint holder of the land. Interview with senior expert, however, shows that the surviving spouse will not be entitled to the half part of the land; rather, s/he shall be registered as new land seeker in the woreda (Ato Abera Hadera).The regional proclamation and regulation do not mention anything about the procedure to be followed during the adjudication and registration of land property belonging to the deceased; under a condition when one or both of spouses are deceased with succession rights not established by legal heirs. Therefore, whether the whole landholding or a parcel(s) forming part of a holding belonging to one of the spouse should be registered in the name of surviving spouse or under the potential heirs without succession rights established by legal heirs is unclear and vague. Neither is it clear if the landholding to be temporarily registered in the name of potential heirs, without succession rights established under a condition when both spouses NOT alive.

Inheritance in Oromia

The Oromia Rural Land Administration and Use Proclamation No 130/2006 under article 9 and its implementation regulation No 151/2012 under Article 10stipulate that any person who has got the right to use rural land shall have the right to bequeath their own holding to a family member who is entitled to the land by law. The reading of the regulation further reveals that the beneficiaries of the inheritance are children and other family members (dependents) whose livelihood relies on the land (Art.10.2 of Regulation).

His/her children, whose livelihood is based on that land,

A person permanently living with the land holder and has no other income sources,

Landless children, and grandchildren who have no other income sources

It is not clear if the above arrangement is a priority arrangement during intestate succession. Further, it is not clear whether children who have land of their own would be entitled to the inheritance. Another issue that the Oromia law does not clearly address is whether a surviving spouse who was not a joint holder of the land will be entitled to get part of the land up on the death of the other spouse.

The practice in Oromia is like in SPNNR, unless declared as private, land property is considered as common property up on marriage. This would mean that women are automatically registered as co-owner to parcel(s) of a holding even if they were not registered in the FLLC. This includes polygamous wives who joined the family after the FLLC.

Land Registration in Oromia

The Oromia RRLAUP under article 15 provides detailed rules related to land registration and certification. It highlights that land registration should be carried out and a land certification containing all legal and spatial attributes should be issued in the name of holders. Husband and wife should be issued with joint certificate. The names of both couple should be recorded in the certificate to be issued. This has been once again repeated in the region's regulation under articles 13-15. Of particular interest is article 15 of the regulation to the effect that husband and wife and other people who are given joint title to a land will be issued with common certificate; upon receiving land through inheritance and gift, a new certificate should be issued in the name of the beneficiaries.

The Oromia proclamation also equally recognizes the fact that the couple may have private holding. It stipulates that a certificate would be issued for private holding which is assumed to be acquired before marriage or received during marriage. *Art. 15 of Proclamation stipulates the following:*

Art 15 (8): "Husband and wife holding a common land holding, shall be given a joint certificate of holding specifying both their names ".

Art 15 (9): "Without prejudice to Sub-Article 8 of this Article, husband and wife having equal right in using the land registered in their names can also independently have a holding certificate for their private holdings. The detail shall be decided by a regulation".

Art 15 (10:)" The use right of a husband or a wife, or both shall not be affected due to change of their residential areas"

This implies that if a land was acquired before marriage and certified in the name of only one of the spouse, unless the acquiring spouse agrees to make it common property, it shall remain under the name of such spouse and shall be transferred only to her/his heirs upon death. However, if the land was not registered and if the acquiring spouse does not invoke his/her private right to the land, the holding may be treated as common.

The law, however, does not specify the fate of privately held land by a deceased spouse. The law only provides for jointly held land. Under Article 15 (11) it stipulates that husband and wife shall receive certificate of holding in common for their common holdings. Further, the regulation states under Art. 15(12) stipulate the following:

Art 15 (12) "If the husband or the wife is deceased, the validity of the holding certificate shall be maintained by the one who is alive, and if both are died, the holding shall be certified by the name of the heirs individually or in common"

There are two immediate problems one can note from the above provision. The first question, is whether this would apply to land which was commonly held by both spouses or to one which was privately held and registered by the deceased spouse only? How could the above reconcile with the principle of personal property under the family code? Secondly it is unclear whether or not this provision applies only in the absence of potential heirs. The idea of the provision seems to be that the certificate should be issued in the name of the surviving spouse, which implies that the surviving spouse continue using the parcel(s) of a holding. To the extent that potential hers failed to establish their succession right, it is clear that the land is to be registered in the name of the surviving spouse. But could it also be applied in the event where heirs established their succession right? If this is the case, it will clearly violate the interest of children/heirs who wish to get the share of their deceased parent. In nowhere in the proclamation has it been indicated that the surviving spouse would have prevailing right over the succession rights of the children. Therefore, the content of the above provision is highly debatable. In other words, as far as the size of the land is above the minimum size and as far as heirs are able to prove their legitimate right, there is no way that the surviving spouse would be allowed to keep the entire holding by excluding children.

The above provision addresses only part of the problem and therefore controversial. It does not give a clear answer under a condition where both spouses are dead, and the legal heirs have not established their succession rights. In this case, it is unclear whether the land should be registered in the name of the deceased parents or potential heirs. Further, the law is not clear with regard to the fate of the surviving spouse who had not in the first place has a right to parcel(s) of a holding and his/her name was not registered and recorded on the certificate.

Inheritance in SNNPR

The Regional Rural Land Administration and Utilization Proclamation No 110/2007 of the SPNNR under article 8 (5) provides that any holder should have the right to transfer their rural land use right through inheritance to members of his family. In both the proclamation and regulation, there are no provisions that clarify the types of succession rights (i.e. testate and intestate) and the order of priority among the "potential heirs". In the absence of such clear legal procedure it is clear that one should interpret the meaning of "family members" and "eligibility criteria for inheritance rights "based on the principles enshrined in the FRLAUP (that requires only those who engage in agriculture or would like to engage in agriculture and if agriculture is the main means of livelihood that land can be received.) Further both the proclamation and regulation lack clarity on whether the surviving spouse who was not registered as holder of the parcel(s) of land would be entitled to half of the share of the parcel(s) of land.

Land Registration in SPNNR

The Proclamation No. 110/2207 and Regulation No. 66/2007 of the SNNPR provide detailed provisions concerning land registration and certification although none of the two provides adequate answer to the three research themes of this study. Article 6 of the proclamation and article 6 of the regulation generally state that land registration in respect to a certain landholding should be carried out in a manner that includes all necessary information and a land certificate to indicate all such attributes and a parcel map should be given to land holders. Where the land happens to be held jointly by husband and wife or other people, a common certificate should be issued to that effect.

Concerning the "joint possession" and "private possession" of land the regional law has a different approach. It seems that any land whether acquired as joint or private holding to be entitled as joint possession of the family. The regulation under article 5 and 6 proves this fact. Article 5 (2) (a-b) reads as follows:

Art 5 (2a):" Husband and wife shall jointly use their possession which they got before their marriage"

Art 5 (2b) "Husband and wife shall jointly use the rural land that they got after marriage through inheritance or other means"

Art 6 (4b)" If the husband and wife have land holding before their marriage, they shall jointly get a land certificate after their marriage"

The reading of both Amharic and English versions of the provisions, however, shows slight difference in the meaning of the rights. For the sake of clarity, we italicized the word "shall" used in the three above stated provisions. The English reading is clearly mandatory as the word "shall" is used. The Amharic version, however, the word employed is "may" which is optional in nature This implies that while according to the Amharic reading any landholding acquired before or after marriage under "private holding" may be converted to common property upon the agreement of such party. While in the English version such conversion of rights is mandatory.

According to legal interpretation, if there is contradiction between the official language (i.e. Amharic) and the English, the Amharic version shall prevail over the English one. This means, legally speaking, the spouse who acquired the land before or after marriage has the right either to keep it as private holding or to convert it to common property. When one looks into the practice, however the English version is applied in the region (Conversation with Ato Altaye Menu). In other words, the practice and the English version of the law contradict the principles enshrined in the family code.

Concerning the adjudication and registration of the deceased's property in the absence of legitimate heirs, the SPNNR proclamation and regulation give no guiding provision. It is not clear if a landholding should remain without being registered or it should be registered in the name of potential heirs although they do not establish their succession right at the time of adjudication.

SLLC Manuals and Guidelines

The Second Level Land Certification (SLLC) manual prepared by LIFT provides detailed guidelines on adjudication, registration and certification processes and includes a section on the subject under discussion. Section 10.5.6 of the manual provides the following guidelines related to the registration of deceased person's landholdings.

When both spouses are deceased with inheritance / succession rights established, land should be registered in the name of heirs. When the heirs are under-age, the land may remain under the custodianship of legal guardian. Whereas, if the heirs are above 18 years, the land may be registered in their collective name, if the land cannot be divided, or separately, if the land can be divided.

When one of the spouses deceased with no succession rights established by the heirs, registration should be made under the name of the surviving spouse until the succession rights of the heir(s) is established. Once succession right is established, the record may be updated at a later stage. If a certificate has already been issued, the succession may be registered through the Rural Land Administration System.

When both spouses deceased with succession rights established by legal heirs, the registration and issuance of the certificates will be recorded under the names of the legal heirs. Supporting legal documentation may be requested by the adjudication team.

Although the manual attempts to address the existing procedural problems related to registration of rural lands of the deceased households, it still misses some important elements. For example, what should be done in case of death of both spouses without legitimate heir/s appearing during adjudication and registration? What will be the effect if the surviving spouse was not a joint holder of the land from the start?

Synthesis of the Findings

Inheritance Conditions and Circumstances

A-Order of Priority among Legal Heirs:

This refers to the order of priorities among the legal heirs as described in the four regional laws and legislation. All the legislations discussed above provide a general framework that allows the inheritance of land by children or vice versa by parents. However, except in Amhara it is not clear how the land should be apportioned among different heirs as priority right is not fixed by such laws.

B- Recognition of Testate and Intestate Succession by Regional Laws:

From among the four regions, only Amhara region recognizes and clearly states the application of testate and intestate succession. All the four regions recognize intestate succession although the priority arrangement for inheritance right is not clear.

C-Ownership Rights of the Surviving Spouse:

in all the four regions, it is not clear whether a surviving spouse who was not joint holder of the land would be entitled to half of the land holding after the death of the spouse who is the sole "owner" to a parcel(s) of land.

In Amhara, the law bestows the surviving spouse to continue using the land so long as s/he remains in the same locality without remarrying. However, it is not clear whether such surviving spouse need to be a joint holder of the land or not. The SPNNR law also seems to convert any land acquired before or after marriage into common holding, although the Amharic version gives an option for the acquiring spouse to keep it as private holding. Thus, it is unclear whether the surviving spouse will have a right to the land after death. The Oromia regulation simply states that if one spouse dies, the certificate should be maintained in the name of the surviving one. The practicality of this provision, however, is questionable as the rule basically contradicts other rights of the heirs. The heirs are entitled to inherit the deceased parcel(s) of land as per the federal and regional proclamation, and such right may not be restricted or denied by the regulation.

The problem identified in Tigray is that if there are minor children, the land could not be transferred by inheritance [until such date that the minors attain their majority]. Rather the land shall remain under the custodianship of the guardian of the minors, and this means if no transfer can be made, obviously the certificate cannot be changed. This shows that there are obscurities in regional laws concerning inheritance and transfer of land.

D-Harmony and Contractions with Civil Code and Family laws:

Although the civil code and the family laws are still applicable to some extent, their scope is limited. They are applied in areas where the RRLAUPs have gaps. The RRLAUP may for practical reasons contradict the civil code or family laws if a need arises.

Registration of the Deceased Households

This section synthesizes the findings for the following three research themes of the study

When one of the spouses with rightful holding right to a parcel(s) of land is deceased, and survived by a spouse who is a joint holder of the land and potential heirs whose succession right is not legally established;

When both spouses, rightful holders of a parcel (s) of land, are not alive during the adjudication and registration period and when no legitimate heir appears, or no succession right is legally established at the time by the would-be heir(s);

When one of the spouses in whose name the land parcel was registered (FLRC or who is the rightful owner) has died, and when the surviving spouse has no inheritance right to the land.

Registration Under a Condition where one of the Spouse is Deceased but with "Joint Certificate"

In all the four regions, if one spouse dies survived by the other, and if the right of heirs is not yet established by court of law, it is unclear whether the land should be registered in the name of the surviving spouse or by the name of potential heirs or the registration to be suspended for some time. The only clue found in the laws is that it is permitted to some extent for the surviving spouse to use the land. However, allowing the surviving spouse to temporarily use the land is one issue but issuing a certificate in her/his name is another issue. The land may be used by a surviving spouse like in Oromia and Amhara and by a guardian in Tigray but registering the certificate in their name could cause a legal problem.

The SLLC manual support the registration and certification of the land in the name of the surviving spouse and such record may be updated at a later stage when heirs make legitimate claims supported by court documents.

But what should be noted is that the type of right granted to the surviving spouse is not as such holding right (permanent) proper over the whole land but only "usufructuary" right. According to Article 1309 and the following of the Civil Code, "usufruct is the right of using and enjoying things or rights subject to the duty of preserving their substance;" and "it may apply to land, chattels, rights or an inheritance." The beneficiary of the usufruct has only the right of use and enjoyment and sometimes collecting fruit (lease/rent) depending on the conditions included in the usufruct agreement. But, at all times, it is not possible for the usufructuary to transfer the property either through sale or bequeath to others; rather upon the termination of the usufruct right, the property is destined to be returned either to the owner or their heirs.

By definition, a land certificate of registration provides a full and irrefutable right to the holder to a particular holding. The full right enables the holder to transfer such right to others through donation and inheritance. On the other side, these robust rights are not allowed to entities such as the lessees, mortgagees, or usufructuaries. This implies that the surviving spouse would only continue using the land without changing the certificate.

Although there are no clear guidelines on the subject, experts from Amhara argue that if succession right could not be established up on the death of one spouse, a new certificate may be issued in the name of the surviving spouse and the fact that such right is not full may be noted in the land register (Interview with Ato Addisu). But this argument could be misleading as the certificate is considered by courts as a prevailing document over other documents including the land register itself. The other legally preferred options is to encourage heirs to speed up the processing of their succession right in court so that it can be it registered under their names.

The assumption of the Amhara Regulation is that the surviving spouse is a joint holder of the land and his/her name is recorded in the certificate (Ato Addisu). But what if the land was in the first place registered in the name of the deceased spouse only? Would the rule apply to such situations as well? There are different views from experts in the region as well as the practice on the ground. So, there are possibilities for automatic transfer of the land to parents even if the land was not a joint property (Interview with Ato Addisu of Amhara regional state). Whereas, the practice in the SNNRS seems that the authorities simply disregard the idea of land being held privately by one spouse only; by default, it is considered as family property and equally divided in the event of death or divorce (Interview with Ato Altaye Menu). In Tigray, if the land was registered only in the name of the deceased, the surviving spouse will not get any share and rather would register for new land grant from the woreda. Neither the practice nor existing laws provide answer to such situation where one of the

spouse dies and survived by another spouse without a “joint ownership” to the parcel (s) of the landholding and where no succession right is established by would be heirs.

Conditions Where Both Spouses Deceased

In a similar fashion, in the case of the death of both landholders, if claimants cannot provide a declaration of inheritance at the time of land registration, the law is not clear if a new certificate can be issued in their name. However, the practice to be to hold the process until such time that the potential heirs to prove their succession right or just to proceed with the process with the name of the deceased holders. In the latter case, even if a certificate may be issued in the name of deceased holders (in case there are reasons to do so), it will not be handed to the “potential heirs” until the court process is completed.

Registration of Land in the Name of Deceased’s Spouse

The assumption in some regions seems to be that the land would be a common property of the husband and wife and in the event of death of one of them, the surviving spouse will be entitled to half of the property. Hence, there is nothing in regional and federal laws that address the third question related to registration of landholding where the surviving spouse was not a joint holder of the land. The only exception is what has been provided under Art. 15(12) of the Oromia RLAU regulation and Article 11(8) of that of Amhara Region.

In both regions, the law gives right for the surviving spouse to use the land, while in Tigray, the guardian is allowed to use the land on behalf of minors. It is not clear whether the surviving spouse should be a joint holder of the land from the beginning. The second problem is whether the surviving spouse should be issued with new certificate in the presence of other legitimate heirs (parents in Amhara and children or parents on Oromia).

There is another side to the problem in Tigray where the law allows minor children to continue using the land not only because they are declared as heirs but because of their being minors. Without further complication, if there are minor children in the house, the land will not be transferred to anyone and this freezes everything. Even if adult children are declared heirs by court of law, holding right cannot be transferred to them. The gist of the law also shows that neither does it transfer to the minors. The practice also seems unclear, as the law was not yet tested on the ground (Interview with Ato Abera Hadera).

Recommendations

Based on extensive review of literature followed by a synthesis of the existing legal frameworks on rural land administration in general and the registration process in particular, this chapter presents a summary on two main fronts: a) Interim registration procedures and guides under a condition where the landholders are deceased and where legal vacuums are prominent; and b) Provides important ideas and issues pertinent to systems of successions under multiple conditions and setting when one or both landholders are deceased with and without establishment of succession rights by legal heirs and where outstanding legal caveats appears in the exiting FRLAUP and RRLAUPs and their associated regulations and directives.

Interim Registration Procedures of Deceased Households;

From the above discussion, there are four scenarios pointed out which may occur during the second level certification process.

- The death of one or both landholding spouses, where heirs have established their inheritance right
- The death of one of the landholders survived by a spouse and potential heirs whose inheritance rights are not yet established
- The death of both spouses survived by potential heirs whose inheritance right is not yet established
- The death of a landholder survived by heirs whose inheritance right has been established and a spouse who was not a joint holder of the land.

Death of One or Both Spouse and Succession Rights is Established by Heirs

In this situation since legal heirs establish their inheritance right through court declaration, adjudication and registration on the ground can be immediately performed.

If the land was not divided among heirs and spouse, a joint holding certificate shall be issued in the name of all beneficiaries with the assumption that sub division of the land as per the legal share may be conducted by WLAO at a later date. The WLAO shall conduct the subdivision taking into consideration the share of the holders. The surviving spouse whose name has not been registered as joint holder or whose right is not challenged shall be issued a separate certificate to half of the holding. If the heirs are minors, the certificates

can be issued in their name but the land to remain under the administration of an appointed tutor or guardian (surviving parent).

Death of Landholder Survived by a Spouse and Potential Heirs Whose Inheritance Right is not yet Established

In this scenario, there are two elements: a) the surviving spouse is assumed to be a joint holder of the landholding and shall be entitled to half of the land. In this case a separate certificate may be issued in her/his name b) This represents a case where the deceased has the sole "private ownership" to parcel(s) of land. In this scenario, the following three alternative avenues should be considered:

- To register in the name of potential heirs and issue certificate to that effect
- To hold on the registration process until such time that heirs manage to complete their inheritance process. But this will not deter officers from issuing a separate certificate for the surviving spouse. As far as no challenge is raised on the holding right, demarcation and adjudication can be carried out in the presence of the surviving spouse.
- To issue the certificate in the name of the surviving spouse and to make a note to that effect on the book of register. And upon the successful declaration of inheritance by court of law, the register may be updated, and new certificates can be issued in the name of heirs and surviving spouse at a later stage.

Based on analysis of the existing legal frameworks, the recommendations at this front entails the following which presents legally sound and acceptable choices during adjudication and demarcation process:

- Unless heirs are declared by court of law, it is difficult to register the land in their names. It is not possible to give a right to unproven person, as this will cause controversy and lawsuit at a later stage. Therefore, this alternative is not recommended and should not be considered at all times.
- The second avenue is secure but with practical difficulties to implement it. This involves suspending the registration process for indefinite time until such time that heirs are to be declared by court. This in effect hold -up the on-going rural land registration process;
- The third alternative, with some additional annotation in the register, could perfectly work for all. As mentioned above (sec.5.2.1), issuing certificate in the name of a surviving spouse and then updating it upon the declaration of inheritance right at a later stage may affect the interest of legal heirs unless a special note is annotated to that effect (that the spouse is not the full owner) into the book of register. This is because the certificate gives full right to the holder not only to rights related to use and lease, but also transferring all the rights to others through donation and inheritance. Therefore, it is recommended the land to be registered and a certificate to be issued in the name of the surviving spouse with a note that the right is not full and the right of potential heirs to half of the land is pending. This note or annotation can be included either in the book of register or in the certificate itself.

The Death of Both Spouses Survived by Potential Heirs Whose Inheritance Right is not yet Established

In this scenario, the following two broad scenarios are recommended:

- To register the land in the name of claimants and issue certificate to that effect
- Maintain registration in the name of deceased holders

The pros and cons of above two broad scenarios along with the best alternative legal options are summarized below**:**

- In a similar fashion as described above, potential heirs cannot be registered as holders of land without the declaration of inheritance by court of law. The problem with this approach is that the officers on the ground may not identify whether the claimants are really the "true" legal heirs and eligible to inherit land. This may also cause liability to the land administration office if it issues a certificate to person who are not legally entitled to the succession rights.
- In light of the above reasoning, the land registration process can continue maintaining the names of the deceased holders in the certificate. Once heirs are declared by court of law, the WLAO may transfer holding rights and depending on the situation may subdivide the landholding and issue certificate/s. Land registration officers should further consider regional laws in order to identify the eligible beneficiaries from among the heirs. This means declaration of succession is not by itself enough as in some regions priority arrangement is made among heirs. For example, in Tigray, children who have of their own land are not

eligible for inheritance although the court may declare them as legal heirs. In Amhara, minor children have priority right to inherit the land, although all children may be declared heirs by the court. They shall not be denied from inheriting other type of property from the deceased.

The Death of a Landholder Survived by Legal Heirs Whose Inheritance Right is Established and a Spouse Without a "Joint ownership"

In this situation, the following two broad legal scenarios:

- Heirs whose inheritance right is legally established
- Surviving spouse who was not in the first place a joint holder of the landholding. In this case the following two practices are occurring in the regions:
- Even if the surviving spouse was not joint holder in the first place, s/he will be entitled to half of the land as the land is considered as family property
- If the surviving spouse is proved to be a" non-joint holder", no certificate will be issued in her/his name and rather the land shall be transferred to legal heirs

Pros and cons and the recommended legal options includes: As pointed out above, the legal heirs who successfully established their inheritance right and who are identified as eligible ones shall be issued a land certificate to the share of the land they are entitled to. As practice illustrate in all the regions, there are two apparently contradicting practices:

- Registering and issuing with certificate to a surviving spouse who was not joint holder of the land is legally controversial practice. This practice is common in SNNPR but there is no supporting legal ground to do so. Some may argue based on the interest of women, although the practice may also be vice versa. This situation occurs when one spouse held land before the conclusion of marriage or received it by donation or inheritance for private use and decided to maintain it as a private property. Under the Family law (Federal and Regional), unless the owner of the private property wishes to make it a communal one during marriage, it shall continue as his/her private property. Therefore, following a different interpretation will contradict the accepted legal principle in the ownership and administration of marital property. It may be followed with a law suit as the principle will also be applied during divorce.
- If the surviving spouse was not a joint holder of the land, unless the deceased leaves a will to that effect, the land shall be transferred to legal heirs only. This is common in Tigray and partly in Amhara. In Amhara if the deceased person is survived by legal heirs, there is no way to include in the property division the non-joint holder surviving spouse. An ambiguous situation occurs when the deceased is not survived by children and when only the parents are found as legal heirs. In such situation, whether a non- joint holder surviving spouse should be allowed not only to continue using the land but also entitled to half of the landholding is not clear. If the existing legal principles are adopted, the surviving spouse is not entitled to half of the landholding. If this rule applies in favour of the non-joint holding spouse, justice requires its application during divorce as well.

From the ongoing argument, it would be difficult to involve the surviving spouse in the distribution of land under the registration, in the absence of any law to that effect. The only exception is the SNNPR proclamation, which makes any land common. As already discussed above, in SNNPR any land acquired before or after marriage by either of the spouses shall be considered as common property. Therefore, the preferred recommendation is to adopt the rules used in the SNNP region and the regions to adopt the same with legal amendment in their regional legislations.

Considerations to Improve the Existing Federal/Regional RLAUPs

Inheritance

- One important point that comes out throughout the discussion is the case of surviving spouses who was not a joint holder of the land. There is a huge legal caveat when the landholder in his/her name the land was registered and who acquired the land before marriage or after marriage (e.g. gift, inheritance, etc) as personal property deceased without converting the land into common property, whether the surviving spouse should be allowed to "own" the parcel (s) of landholding. Even if, some regions provide for the surviving spouse to use the land (Amhara, Oromia, SPNNR), the founding assumption is not clear; that is whether the surviving spouse was a joint holder of the land. As a result, there are mixed practices across regions.

- Therefore, there should be a clear provision that allows or denies the non-joint holder surviving spouse to keep either the whole or part of the land, as the case may be. This should be taken as amendment and included in the FRLAUP and the RRLAUP, regulations and directives.
- Regional legislations should stipulate the inheritance priorities, if any, that should be followed during intestate succession. A deadlock like the Tigray region's regulation that gives only use right to minors without inheritance right should be avoided.
- The contradiction between Amharic and English versions in the SPNNR's regulation should be re-examined and harmonized. The English language law on the one hand forces couples to convert any privately acquired land into common property, while the Amharic version hand provides an option for the acquiring of "private property" for a parcel of a holding. In principle, the Amharic version is the one which is legally acceptable and valid. Therefore, the law should be revised in a manner that provides the acquiring party to have a right either to keep the land as private holding or to make it common property of the family.

Registration of the Deceased's Landholding

With regard to registration and certification of deceased's landholdings, the existing legal framework lacks clear direction. Hence, the following procedures and directions are recommended to be included in the future amended RRLAUPs and their associated regulations and directives:

- When one or both spouses who are rightful holders of parcel/s of land deceased and survived by heirs with succession rights established:
    - Land should be registered in the name of legitimate heirs and spouse with the assumption that it shall be subdivided and separately certified later by the concerned WLAO
    - If land size is below legal area size levels which is region-specific, a common certificate shall be issued in the name of spouse and legal heirs
- When one spouse, in whose name the parcel of land was registered (i.e. the rightful landholder) and who was proven to be the original acquirer of the land dies without making the parcels of a holding common property of the family, that particular parcel (s) of land shall be considered as common property and the surviving spouse registered as co-holder of the land. However, this is conditional upon the revision of the RRLAUP and their associated regulations and directives;
- When one of the spouse who is the legitimate holder to a parcel (s) of land decease and is survived by a spouse and potential heirs whose succession right is not established at the time of registration and certification, the following to be adopted and applied:
    - The land shall be registered in the name of the surviving spouse with a reservation note on the register. The reservation note/annotation restricts the surviving spouse from transferring the land by donation, inheritance or other permanent rights transfer means.
    - When the potential heirs proved their inheritance right, the WLAO shall process the inheritance case, which may or not involve subdivision and issue separate certificates upon the application of the heirs and the spouse.
- When both spouses, who are the legitimate holders of a landholding, decease and succession right not established by potential heirs at the time of registration and certification, the land registration should be carried out in the name of the original deceased landholders. Upon successful declaration of inheritance rights by the heirs, the WLAO shall transfer the holding rights and may undertake subdivision if it is deemed necessary to process the succession rights.

ISSUE	FEDERAL	AMHARA	TIGRAY	OROMIA	SNNPR
Landholder deceased survived by a spouse who was a joint holder of land and legitimate heirs	As per Civil code, family code and Proc 456/2005 land shall be registered in the name of spouse and heirs	As per Civil code, family code and regional RLAUP half of land shall be registered in the name of spouse and heirs	As per Civil code, family code and regional RLAUP half of land shall be registered in the name of spouse and heirs	As per Civil code, family code and regional RLAUP half of land shall be registered in the name of spouse and heirs	As per Civil code, family code and regional RLAUP half of land shall be registered in the name of spouse and heirs
Landholder deceased survived by a spouse who was a joint holder and potential heirs who do not prove their inheritance right	-No clear guidance from the law -whether land should be temporarily registered in the name of spouse is not known	-No clear guidance from the law -whether land should be temporarily registered in the name of spouse is not known	-No clear guidance from the law -whether land should be temporarily registered in the name of spouse is not known	-Ambiguous and contradicting laws - land may be kept as private holding by deceased spouse (Oromia Proc) -validity of certificate may be maintained by surviving spouse (Regulation	-No clear guidance from the law -whether land should be temporarily registered in the name of spouse is not known
Landholder deceased survived by a spouse who was not joint holder of land	Effect not known	-Effect not known if there are heirs/children - if heirs are parents, spouse may keep the land so long as s/he continues living in the same kebele without re-marriage	Effect not known if there are heirs/children	-land may be kept as private holding by deceased spouse (Oromia Proc) -validity of certificate may be maintained by surviving spouse (Regulation)	-Land will be considered as joint property
Landholder deceased survived by an heir who do not proved their inheritance right	Effect not known from the proclamation, but not registrable from general law	Effect not known from the proclamation, but not registrable from general law	Effect not known from the proclamation, but not registrable from general law	Effect not known from the proclamation, but not registrable from general law	Effect not known from the proclamation, but not registrable from general law
Both landholders deceased survived by heirs who do not proved their inheritance right	Effect not clear from existing law, but not transferable from general law	Effect not clear from existing law, but not transferable from general law	Effect not clear from existing law, but not transferable from general law	Effect not clear from existing law, but not transferable from general law	Effect not clear from existing law, but not transferable from general law

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