



# Strategy for Registering Orphan Children During SLLC

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## Contents

Contents .....	1
Acknowledgements.....	2
Acronyms .....	3
Executive Summary.....	4
Introduction .....	5
Methodology .....	6
Study Findings .....	7
Land Registration of Single Orphans in SLLC Process.....	7
Challenges Facing Single Orphan Children during SLLC .....	8
Land Registration of Double Orphans in SLLC Process .....	14
Challenges Facing Double Orphans.....	14
Strategy and Proposed SIGN for Orphan Registration .....	16
Strategy for Registering Orphans .....	16
Proposed SIGN for the Registration of OCs.....	23
Annex 1: Household Survey Result.....	26
Annex 2: Conceptual Framework .....	32
Annex 3: Review of Laws Related to Rural Land Inheritance Rights of Children .....	34

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## Acronyms

CCC	Community Care Coalition
CPC	Child Protection Committee
FGD	Focus Group Discussion
FLLC	First Level Land Certification
FRLAUP	Federal Rural Land Administration and Use Proclamation
KLAUC	Kebele Land Administration & Use Committees
KLC	Kebele Land Courts
LIFT	Land Investment for Transformation
LSA	Labour and Social Affairs
MIS	Management Information System
MOA	Ministry of Agriculture
OC	Orphan Children
PA	Public Awareness
PD	Public Display
RRLAUP	Regional Rural Land Administration and Use Proclamations
SDO	Social Development Officer
SIGN	Second Level Land Certification Implementation Guidance Note
SLLC	Second Level Land Certification
SNNPR	Southern Nations, Nationalities and People's Region
SPSS	Statistical package for the social sciences
TVET	Technical and Vocational Education and Training
WLAO	Woreda Land Administration Office
WCA	Women and Children Affair

## Executive Summary

The purpose of this report, among others, is to develop a strategy for registering double and single orphans, ensuring that their land rights are secured during the SLLC process. The study was conducted in June and July 2018 in the four regions covered by the LIFT programme (Amhara, Oromia, SNNPR and Tigray).

The study employed quantitative (household-based questionnaire survey conducted with 296 orphan children and 291 guardians) and qualitative tools such as an in-depth interview with orphan children and their guardians, key informant interview with stakeholders, focus group discussion (FGD) with representatives of community-level actors, and case stories.

By commissioning this study, LIFT demonstrates its commitment to address challenges affecting the registration of orphans. Accordingly, the study findings reveal various challenges encountered by orphans in the process of registering their land rights during SLLC. From the perspective of guardians, they are reluctant to apply for formal guardianship appointment; there is weak inheritance establishment practice; a lack of institutions to monitor the behaviour and activities of formal and informal guardians; and low guardian participation in awareness raising, demarcation/ adjudication, and public display.

On the part of the orphans, most orphans, particularly the young, are not aware of their land and inheritance rights. Some orphans are not in possession of the FLLC book of holding, or other documents; some do not know the size of their deceased parents' landholdings; and challenges with sharecropping arrangements. Maternal and double orphans faced more challenges to successfully claim their land during the SLLC process.

Stakeholders had a relatively low sense of responsibility towards protecting rights of orphan children, they are weakly coordinated and do not appreciate that orphans also comprise an important category of land claimants. Legal enforcement in this regard is weaker and cultural practices in some communities also affect land rights of orphans. Furthermore, a lack of complete information identifying orphan children in rural Kebeles by relevant offices (such as Office of Women and Children Affairs and Labour and Social Affairs) ahead of pre-demarcation activities is found to be adversely affecting orphan land rights registration.

The SLLC outcome is hailed as one of the successful low-cost initiatives to reform land rights of the rural people in Ethiopia; however, to make the registration process for orphans a success, the study recommends a set of strategies. These include: 1) Establish a pre-demarcation implementation taskforce to perform Land Registry updating tasks and Pre-demarcation awareness-raising activities; 2) Strengthen stakeholder collaboration for monitoring and follow-up; 3) Promote awareness education for guardians; 4) Orient KLAUC to prioritize the concerns of orphans and other vulnerable groups; 5) Educate orphans of their property and inheritance rights; 6) Improve institutional service delivery; 7) Revise SIGN 13.1 for cases of joint holding property and individually owned parcel of the deceased; and 8) Provide special attention to maternal and double orphan during registration.

Furthermore, while recognising the positive contribution of Second Level Land Certification Implementation Guidance Note (SIGN) 13.1 in facilitating registration, considering the Federal arrangement of the state where the regions are highly empowered in matters of rural land administration and use, the study developed region-specific SIGNs to ensure that the registration process is responsive to the needs of orphan children. Variations in rural land laws were the basis for the proposition of the SIGN.

## Introduction

### Background

The DFID-funded Land Investment for Transformation (LIFT) programme has been developed to improve incomes of the rural poor and to enhance economic growth through second-level land certification (SLLC). The SLLC aims to achieve 14 million parcels in 140 woredas for approximately 6.1 million households (around 70% of parcels being jointly or individually owned by women). The programme is implemented in Oromia, Amhara, SNNP and Tigray regions benefiting all landholders including the orphan children (OC).

UNICEF and global partners define an orphan as a child under 18 years of age who has lost one or both parents to any cause of death. By this definition, there were nearly 140 million orphans globally in 2015, including 61 million in Asia, 52 million in Africa, 10 million in Latin America and the Caribbean, and 7.3 million in Eastern Europe and Central Asia. Of the nearly 140 million children classified as orphans, 15.1 million have lost both parents<sup>1</sup>.

According to UNICEF, Ethiopia stands 5th of the 11 countries with the highest orphan populations. Over 4.8 million children throughout the country are missing one or both parents. Some sources estimate that there could be up to 6 million orphans of which about 1 million have been orphaned by HIV/AIDS. This represents 13% of the children from the 42% of the Ethiopian population that are under the age of 15. Although it is not possible to separate the figures into a rural-urban distribution, a significant proportion of orphan children (OC) are believed to live in rural areas. By law, OC in rural areas has the right to inherit their deceased parents' land through their legally appointed guardians [Proclamation 456/2005 Article 5(1) (b)]. However, in practice, they are facing a number of different challenges. Orphan children in general face deprivation of their property rights and face several challenges before reaching adulthood such as economic problems, lack of psychosocial support, difficulties accessing education and health, exposed to child labour and another form of child abuses, etc after the death of their parents<sup>2</sup>.

More than 90% of farming households in Tigray, Amhara, Oromia, and SNNP regions received their land certificates through the first-level land certification<sup>3</sup>. However, the first phase certificates initiative is criticised for poorly describing the land plots, including neither a map nor spatial reference, and only provides a rough estimate of the area of the plots. To address the limitations of the first phase certification programme, Ethiopia has for some time been implementing a SLLC programme.

Among many other issues, SLLC consciously recognises the right of OC in the land registration process. However, the programme observed that, despite the anticipated high number of OC who can inherit land from their deceased parents, the number of parcels registered by OC is quite insignificant. From the 30 woredas entered to the LIFT MIS, only 0.096% is registered in the name of OCs from among all other landholders. Field observation from many public display sites confirmed this situation where only a few guardians were noted in the textual SLLC data.

In addition, while implementation of the SLLC is based on pertinent proclamations and regulations such as the Federal Rural Land Administration and Use Proclamation (FRLAUP), Regional Rural Land Administration and Use Proclamations (RRLAUP) and their associated regulations and directives, there are some cases where the process is hampered by the lack of legal guidelines on registration procedures especially when either one or both of holders died without leaving a legitimate heir. These situations pose implementation difficulties and flaws during adjudication and registration stages as shown by LIFT Study Report on Registration of Rural Land for Deceased Households in Ethiopia (2017).

Registration of orphan parcels is not only curtailed by lack of clear legal procedures, but also contextual problems such as the failure to update land transactions and the lack of formal guardianship arrangements that affect the land right status of OC. LIFT has identified problems that disproportionately affect OCs, from realising their land rights. This observation is consistent with literature that shows how Ethiopian orphans are affected by the effect of property grabbing<sup>4</sup>. Children are affected not only because they lost their parents but also the loss of property through propriety rights violation, which has an immense effect on their growth and

<sup>1</sup>[https://www.unicef.org/media/media\\_45279.html](https://www.unicef.org/media/media_45279.html), accessed on July 2018.

<sup>2</sup>Subbarao, K., & Coury, D. (2004). *Reaching out to Africa's orphans: A framework for public action*. The World Bank.

<sup>3</sup>Bezu, S., & Holden, S. (2014). Demand for second-stage land certification in Ethiopia: Evidence from household panel data. *Land Use Policy*, 41, 193-205.

<sup>4</sup>Bezawit Tamirat (2016). Property grabbing and inheritance rights of children in Ethiopia, MA Dissertation, AAU.

wellbeing. Therefore, the challenges of OC land rights registration demand an assessment of the registration approach implemented by regions and Field Teams and to come up with an improved strategy.

This strategy document is organised into four sections: Section 1 provides background information. Section 2 briefly describes the survey methodology, tools, and implementation. Section 3 presents the study findings. Section 4 presents the proposed strategy and SIGN for OC registration. Annexes are presented to provide additional information such as background characteristics of the surveyed orphan children and their guardians, and result tables, the conceptual framework, review of laws related to rural land inheritance rights of children, and the data collection tools.

## Objectives

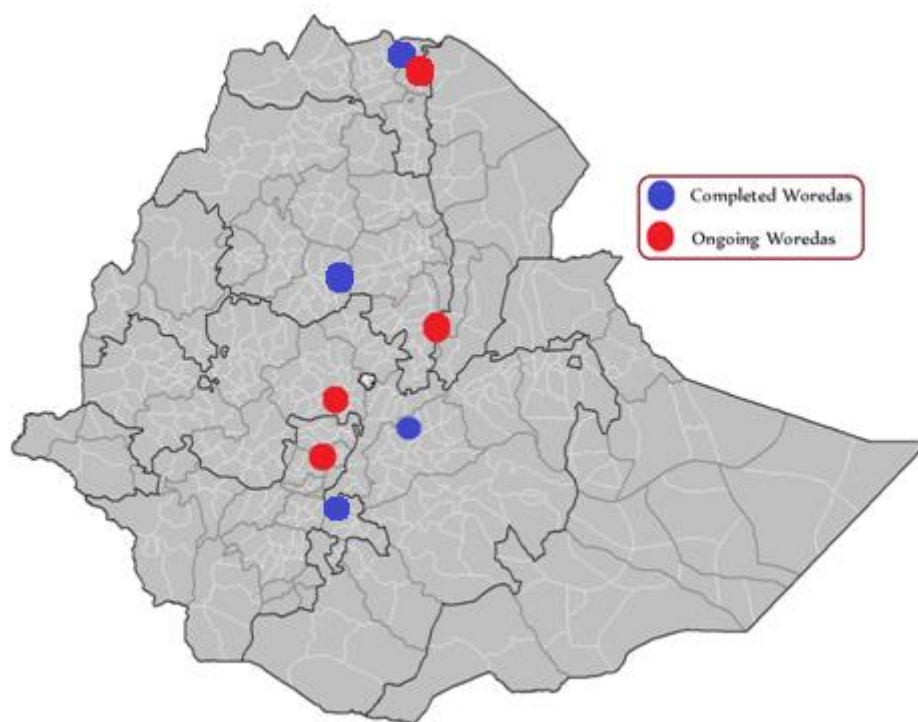
The overriding objective of the assignment is to develop a strategy to protect the land use rights of orphans. The specific objectives are to:

1. Assess the challenges facing orphan children in securing and benefiting from their land rights
2. Assess the current practice of registering orphan children across regions and across field teams
3. Assess the level of implementation of the SIGN for deceased landholders' registration and its impact on single orphans
4. Develop a strategy for registering double and single orphans that ensure their sustainable benefit from their land rights
5. Prepare a SIGN specifically targeted at the registration of OCs

## Methodology

The data collection methods used include desk review, household-based questionnaire survey with orphan children and their guardians, in-depth interview with orphan children, in-depth interview with guardians of orphan children, focus group discussion (FGD) with representatives of community-level actors, key informant interview with different stakeholders and case stories. The household questionnaire contains two parts: The first part consists of questions related to single and double orphan children. Orphans above the age of 10 years were interviewed while the information related to the younger ones was collected from their surviving parent/guardians. The second part consists of questions to be answered by the guardians and surviving parents. The quantitative and qualitative tools used for data collection are attached in Annex VI.

Considering the socio-cultural variation within each region and considering the representation of the completed and the on-going woredas, eight woredas were selected from four regions for the assessment (Sire and Weliso in Oromia, Enarj Enawega and Kewt in Amhara, Analemo and Damot Gale in SNNPR, and Ganta Afeshum and Saesie Tsaeda Emba in Tigray). To maintain consistency of the application of the methodology, the study was conducted at two Kebeles in each Woreda selected in consultation with the WLAO and LIFT WC, the later for on-going Woredas. A total of 296 orphans (190 paternal orphan, 62 maternal orphans, and 44 double orphans) and 291 guardians (215 surviving parents, 33 grandparents, 20 uncles/aunts, 23 older siblings, one distant relative, and one unrelated) were interviewed. All the quantitative results of the survey are presented in Annex I.



**Figure 1: geographic distribution of the Study sites**

The field study team was organised into two teams one for Amhara and Tigray and the other for SNNPR and Oromia. Fieldwork was conducted from June 14 to July 4, 2018. Adherence to ethical guidelines was a critical aspect of the survey design and implementation. All the respondents (children and guardian/parents) were approached with respect and asked for their consent. For a uniform application, respondents were asked to sign consent and assent forms at the beginning of the interview.

Following data collection, data were assembled and analysed using SPSS. Qualitative data obtained from the FGDs, KIIs, and data from in-depth interviews and case stories were thematically organised and analysed.

The study exerted a maximum effort to obtain views of orphans and their guardians/surviving parents. However, it was not possible to interview double orphans who have left their place of residence and their guardians. Data pertaining to under-aged single orphans were gathered from their surviving parent/guardian and may not reflect their situation in a more precise way.

## Study Findings

### Land Registration of Single Orphans in SLLC Process

According to the HH survey, 40% of the parcels in the completed woredas were registered in the name of the surviving parent, 42% in the name of the deceased, and 18% on the orphan's name. Registration of parcels in the name of the children has increased from none in the completed woredas to about 21% in the on-going woredas.

Discussion with the LIFT team reveals variations in registration between the North (Amhara and Tigray) and the South (SNNPR and Oromia). In Amhara, orphan property is registered as per the SIGN 13.1. In case of a single orphan, it is necessary to identify whether legal heirs establish a succession right or not. If a succession right is clarified, then the land is registered under the orphan's name and the parcel will be administered under the guardian until the orphan reaches the age of maturity. In some cases, no succession rights are established, then if the land belonged to the deceased spouse, the parcel is registered, and certificate issued in the name of surviving spouse. If a person's formal guardianship is established the parcel is transferred to the orphans through the Rural Land Administration System. In the case of a joint holding and one of the spouse dies, the land is registered under the name of the surviving and deceased parent. The space for the deceased parent's signature is marked as deceased.

In Tigray land belonging to a deceased landholder is not transferable through inheritance to heirs if there are minors in the household. Unlike other regions, the law gives only the use right to minors without the inheritance right. In Amhara, Oromia and SNNPR, if no succession rights are established then the parcel is registered

under the name of the surviving spouse until the court has established heirs. Land property is considered as common property upon marriage and private and joint holding is not differentiated.

## Challenges Facing Single Orphan Children during SLLC

### ***SIGN 13.1 and Single Orphan registration***

In 2016 LIFT issued a SIGN (SLLC Implementation Guidance Note) to address inconsistencies in orphan's land registration across regions. However, the provision for registration in the instances where "the parcel was held jointly by the deceased and surviving spouses" has been shown to have problems for single orphans during this study. According to the SIGN, if the deceased held the parcel as jointly and for the surviving spouse then the parcel is registered, and certificate issued in the name of the surviving spouse until the court has established heirs.

Discussion with orphans and guardians has revealed the problems associated with this provision. In cases where the surviving parent gets remarried, the mother or the father often fails to transfer the orphan share. These trends were found to be particularly severe for maternal orphans. In comparison to women, men remarry more often.

The challenges for single orphans are not limited to the cases of jointly held property but also when the parcel was held as private property by the deceased spouse. In this case, during adjudication, the parcel is registered in the name of the surviving spouse, whereas in the case of Tigray and Amhara the surviving spouse has no right for inheritance, unlike Oromia and SNNPR where property is considered common upon marriage. But there are attempts to register their new spouse without transferring the deceased wife or husband's share to their children. If this strategy fails due to the follow-up from local administration then, another attempt is made to register children from the new marriage along with orphans from the previous relationship.

An interview with the WCA and justice offices in most woredas, has revealed that if the cases of violation of orphan inheritance rights are reported, support is provided to orphans in terms of advice and legal assistance. Yet, it is not possible to say all can report their case and seek assistance.

### ***Awareness of Single Orphan Children on the SLLC process***

Quantitative findings show that about 40% (38% in the completed woredas and 41% in the on-going woredas) respondents say that they are aware of the SLLC process while more than half responded in the negative. In addition, awareness of single orphans about the SLLC process is, as one expects, dependent on age. Whereas 50% of the children between 14-17 years old said they were aware of the process while only 14% of the younger children (below 10 years old) knew about land registration.

Region wise, single orphan children in Tigray were more aware of the land registration process (63%) followed by SNNPR (48%), Oromia (31%) and the lowest level is reported in Amhara (20%). The difference in the level of awareness across region and age of the child was statistically significant at 95% confidence level. However, the level of awareness was not statistically significant across gender and the project status (SLLC on-going or completed). Also, nearly a third of the children (31%) do not know how their land registration should be managed.

Qualitative information also confirmed that most orphans, particularly the young, are less aware of registration situation in their respective kebeles. According to WLAO and LIFT team, this is demonstrated through low participation in public awareness, demarcation/adjudication and during public display events. All categories of orphans but particularly single orphans are less likely to receive information and even if they are aware of meetings, they may not be allowed to attend, as their parents (guardians) perceive it is more of a parental responsibility to engage in land affairs, than for children. Lack of active participation by parents/guardians affects subsequent action because guardians may not fully grasp the benefits of land registration, especially in the initial stage.

Moreover, since guardian participation in public awareness event was low, they are not well prepared for demarcation and adjudication stage requirements. Guardians are expected to present the FLLC book of holding or other evidence of ownership, but those documents may not be readily supplied. Some orphans may not be in possession of the FLLC book of holding, or other documents, and some do not know the size of their deceased parents' landholdings.

When the field teams undertake the on-site registration of individual farm plots, guardians and orphans, according to the LIFT team, participate less than others in terms of showing their parcel boundaries in the presence of neighbouring farmers. The KLAUC rarely make an extra effort to encourage orphans and their guardians to be present at their parcels during demarcation.

Furthermore, during the public display event, the aerial image of the spatial map detailing the various landholdings in the kebele is posted at the public display site. Property owners are encouraged to come forward and approve the representation. However, orphan/guardian attendance is low and despite technical support from the LIFT team, they have difficulty comprehending the aerial map when compared with what is on the ground. According to the LIFT team, in most woredas and because guardians mostly fail to pinpoint the errors, there is a risk that violation of orphan landholding rights may take place. The possible reasons for the constraints faced by guardians at this stage are that some orphans are too young to know parcel specifics and some guardians depend on sharecropping, lacking a detailed knowledge of their parcel. Also, some guardians live outside of the kebele and do not know the land and its neighbours.

In addition, ignorance about inheritance rights and the SLLC process acts against orphans as they lack the resources and legal know-how to assert their land rights. Due to a lack of knowledge on land matters, they fail to demand their share, and, in the process, orphans lose their rights temporarily or permanently to the spouse or the surviving parent or to elder siblings.

But lack of knowledge is not the only problem single orphans suffer from. According to an interview with a 15 years old single orphan in Damot Gale woreda, SNNPR, who says that he can't disappoint his father by asking for a share of his mother's parcel, even if he knows he has the right. Discussion with courts and WLAO confirms this attitude that single orphans think demanding the share of their deceased parents land through courts is perceived as disrespecting the surviving parent. Some parents also echo this attitude in their reluctance to transfer inheritance rights. In depth interviews with guardian/parents both in Amhara and the SNNPR has indicated that some parents of single orphans don't feel the need for formalising orphans' rights. For instance, a male parent in the Amhara region, Kewet Woreda says "why should I transfer their mother's share now? I am feeding him, educating him and fulfilling all necessary requirements. We can talk about sharing their mothers' parcel maybe when he gets married." The inclination by some parents to ignore orphan property and a lack of assertiveness and knowledge on the child's part affects orphan inheritance rights.

Timing is also an important factor in ensuring against rights violation. Single orphan property may be in danger as they fail to make a claim on time. Interviews with WCA indicates that there are low awareness sessions conducted for single orphans to help them establish inheritance rights of their deceased parents.

### ***Transfer of Rights through Court Procedure***

Quantitative data reveals not only that the practice of establishing inheritance is low but also the future intention of parents to transfer the share to the orphans is not strong. Data gathered from surviving parents indicate that successful inheritance cases for single orphans are only about a quarter (9% in the completed woredas and 36% in the on-going woredas). This means orphan inheritance cases are low and surviving parents feel less of an obligation to update the land use rights.

Nearly half of the single orphan children (48%) reported that they continue to use the land with their surviving parent/guardian, and as shown, 31% of children are unsure about their rights administration. About 14% of the OCs revealed that the surviving parents/guardians have allocated the deceased parent's share to the children and registered accordingly, and 8% reported that the joint holding was being utilized together but the surviving parents have a plan to transfer the children's share.

From among surviving parents who are remarried (11% of the women and 51% of the men have remarried), about 30% had planned to continue using the land together and have no plan to transfer their right to the children. About 48% of the single orphan children, on the other hand, responded that their guardians have no plan to transfer land use rights to them. The finding here suggests that OCs face challenges in transferring land use rights.

Lack of orphan assertiveness to inheritance rights coupled with parental attitude to rights transfer puts children at a risk of losing their rights.

### ***Living Arrangement and Single Orphan Category***

Orphan living arrangements affect their registration. Not all single orphans live with their surviving parent. Out of 215 single orphans who responded about their living arrangements, the majority (85%) of them live with their parent while 7% live with grandparents and 4% and 3%, with aunt/uncle and older siblings respectively. When orphans change their place of residence from the kebele where SLLC is taking place, orphans may lack information on how to pursue their land rights. Among the single orphan group, maternal orphans usually migrate in search of a better livelihood and as a result they could fail to make a land claim as they are away during the SLLC process.

Interviews with single orphans have shown that most paternal orphans live with their widow mothers than maternal orphans with their fathers. The findings suggest that widows are more committed to their children's welfare, while most widowers tend to remarry and have a new family. While care is good for the orphan's development, in comparison to men, women as members of the vulnerable group, have a weak position in the community to ascertain their children's land rights. In addition, the likelihood of a violation of the rights of paternal orphans is high. In comparison, according to interviews with single orphans, paternal orphans experience more violations of their land rights, as land encroachment is a common experience, particularly originating from the family of the deceased.

However, there are also positive stories of widowers reported perhaps, due to parental literacy and life experience. Relatively educated parents are found to make better decisions about orphan inheritance rights indicating the role of guardian education as one of the important factors in helping secure orphan's property rights. Interviews with guardians with better education consistently reveal that they make efforts to protect orphan rights and they understand the responsibilities of parenthood, better.

### ***The Dispute over Orphan Inheritance Rights***

Among orphan children, about 17% of those classified as single orphans encountered dispute involving land claims. Court officials interviewed in most of the Woredas have witnessed that courts have a record of cases surrounding competing claims on land. The disputants in these conflicts were siblings (28%) other family members (41%), competing guardians (9%), and other individuals such as renters (22%). According to WLAU officers in the study woredas of SNNPR and Oromia, renting a parcel of land in a traditional agreement is a common practice that causes conflict upon the death of the household head or spouse. Although the rental agreement is for a specific period, landholders usually agree to rent out their land for an indefinite period.

From among the disputed cases, 55% were resolved, perhaps due to the SLLC effect and intervention of local elders during the registration process. On the other hand, 29% of the cases are still in court (11% in completed woredas and 36% in the on-going woredas), and the remaining 16% of the disputes were under local mediation or not yet dealt with. It has been learned that cultural practices such as *Dhalma*<sup>5</sup> in many parts of Oromia complicate orphan children's right to inherit their deceased parents' property including land related disputes. During the SLLC, all these disputants claim parcels of OC to register in their name, while children are either absent during the process or not able to defend their rights. This problem is mainly caused by lack of an officially appointed guardian to protect the children.

Moreover, the challenge for guardians/orphans during a dispute case, according to an interview with the WCA, justice office, is that most guardians and orphans are not aware of where to access support during dispute cases. Though some initiatives are reported in visited woredas by WCA and justice office to promote child right education for families and children themselves, particularly poorer families are affected by accessing information.

### ***The Attitude of Local Mediators and Administration***

The attitude of some land administration actors towards protecting orphan property rights is found to be low. KLAUC is one of the most important institutions in supporting SLLC success. However, the committee as revealed by guardians and WLAU, lack basic education and are not particularly oriented to follow the concerns of the vulnerable group.

Moreover, orphan rights often receive inadequate attention from the local administration. Failure to appreciate orphans as an important category of land claimants and disputants' challenges children's land rights. There is a tendency to view single orphans as less vulnerable as most of them live with their surviving parents. Also, there are a wide array of local children's wellbeing institutions such as the Child Protection Committee (CPC), Community Coalition and Care (CCC), and others to support children concerns. But those actors are not invited to take a proactive role in the orphan registration process. If government structures are willing to involve them, they are in a better position to advocate against property violation of orphans. As a result of weak participation, LIFT and WLAU receive minimum information from the structures affecting the quality of registration. Protecting the future rights of the orphans calls for collaboration from all stakeholders.

However, not only the attitude of land administration officials towards orphan's property is weak, but also interviews with most guardians seems to reflect less faith in the integrity of the local officials and the legal apparatus. The following story from the Tigray region revealed that poor households usually believe that they

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<sup>5</sup>The practice of marrying a widow with her brother-in-law

won't be treated fairly, that the courts will favour the rich and powerful, and that court officials will demand bribes. Local stakeholders have a long way to go to consider orphan rights as an important dimension of rights worth defending and supporting.

### **Enforcement of Court Decisions**

Weakness in enforcing court decisions is another area where an orphan right may be violated. Because having the land rights established through courts does not mean that those rights can be enforced always and everywhere. While the presence and size of land rights depend crucially on whether those rights are properly enforced, the problem of enforcement of property rights of orphans is not always straightforward.

Labour and social affairs office in Gantafeshum woreda, Tigray and WCA head in Weliso, Oromia region said that failure in enforcing court decisions affects communities in general, but it disproportionately affects orphans even more as these group lack voice and agency as members of that vulnerable group.

Under an effective land rights enforcement regime, when disputes emerge, parties to litigation expect that courts will adjudicate cases efficiently and the police force of the state shall implement court decisions. However, obtaining ownership rights through landholding certificates and favourable court decisions may not be a guarantee for automatic enforcement of court decisions. Observation has shown that rights definition through the SLLC process is only one part of the story: enforcement is another. These suggest the extent to which the role of local stakeholders is important in ensuring orphan inheritance rights.

### **Guardianship Practice**

Both quantitative and qualitative findings confirm that formal guardianship appointment practice is not common in the LIFT project areas. Application for guardianship, more often, is filed when the would-be guardians feel insecure in the informal guardianship position or when disputes over guardianship take place. Guardians of single orphans rarely apply for guardianship unless serious wealth inheritance issues are involved.

Except in some low land areas such as Kewt in Amhara region, there is a limited practice in inheritance application and guardianship appointment formalisation. Even though information obtained from respective Woreda courts indicate a slight increase in the application rate from previous years, guardianship appointment applications remain low. Factors such as cultural issues, lack of awareness and often a long court process, are cited as barriers to inheritance and guardianship appointments. In the case of Tigray cultural practices discourage formal guardianship appointment for single orphans for fear of creating 'otherness' in a child's mind. Paternal orphans are particularly affected as surviving parent or guardians are not honest about who the real father of the child is, not knowing the child will discovery sooner or later.

Although there are many guardians who assume the role of guardianship responsibility to the best interest of the child, there are also others who enter guardianship roles with the intention of gaining access to the assets of the orphans. As shown by the quantitative data, competition over guardianship is not uncommon. In addition, according to WCA offices in Amhara and SNNPR, some guardians tend to view orphan property as their own and in some instances attempts to register property under their name.

Furthermore, a lack of institutions to monitor the behaviour and activities of formal and informal guardians opens an opportunity to abuse responsibilities. If there were external parties to educate and monitor orphans' guardians to ensure that the guardians are carrying their responsibilities, better results would be achieved. Currently, guardianship is mostly kept a private affair with no responsibility from outside.

Bad intentions are not always the reason for failing in guardianship responsibilities. A failure to understand the reasons behind the need for an appointment for guardianship is widely misunderstood. An interview with a surviving parent in Sasie Tsadaemaba Woreda in Tigray region sums up the general prevailing mood for low application of guardianship: "I see no reason for guardianship appointment as there are no claimants or dispute over the assets of my children". In brief, guardianship appointment practices in SLLC project woredas suffer not only from low guardianship appointment practice but also low awareness on guardianship duties and responsibilities affecting inheritance rights of orphans in the process.

### **Level of Implementation of the SIGN for Deceased Landholder Registration and Implication on Single Orphan**

SIGN 13.1 for Adjudication of Parcels with Deceased Land Holders was prepared in the hope of addressing the inconsistency in the way in which parcels of deceased persons are recorded. Among other things, the objective of SIGN 13.1 was to redress a lack of clarity or to make up for the omissions in Proclamations/regulations of the Regional Rural Land Administration and Use (RRLAU). During the fieldwork, questions were asked to the LIFT team and Woreda LAO on the level of implementation of SIGN for deceased

landholder registration. In most regions, WLAO officials say land-related laws are sufficiently clear. The exception is how to register when the spouse with non-joint certificate dies without establishing succession. The SIGN provides a helpful instruction when the laws 'are vague and lack details on the subject' such as this.

Nevertheless, it was observed that land laws superimpose the implementation of the SIGN. For instance, the exercise in Oromia and SNNPR, unless declared as private, land property is considered as common property upon marriage unlike the practice in Amhara and Tigray. Whereas the SIGN registration instruction assumes variation in joint holding and private holding in marriage. Moreover, in Tigray, as shown in legal review (Annex II), land belonging to a deceased landholder is not transferred through inheritance to heirs if there are minor children in the household. Unlike other regions, the law gives only a use right to minors without an inheritance right. Table 1 provides a brief description of how SIGN 13.1 is applied on the ground across the study sites.

Even if developing SIGN 13.1 may not have achieved complete harmony and uniformity across regions and LIFT teams for the Adjudication of Parcels with Deceased Land Holders, most land officials say, the guide is instrumental in cases where law is silent or unclear. However, considering the Federal arrangement of the state where the regions are highly empowered in matters of rural land administration and use, developing the same guide for all regions appears to have affected the effectiveness of the instrument. Instead, better results could be achieved if a separate SIGN is developed for each Region within its legal context. Custom-made regional SIGNs could address limitations in rural land proclamations and regulations.

**Table 1: Single orphan Registration practice during adjudication and Demarcation stage across Regions<sup>6</sup>**

		SIGN 13.1 Instruction	Implementation by Field Teams	Impact on SOC
Without succession rights established	Amhara & Tigray	If the parcel is held as property by the surviving spouse, then the parcel is registered under the name of the surviving spouse; no inheritance rights are considered.	SIGN followed.	No apparent negative effect observed
		If the parcel is held as the private holding of the deceased spouse, the parcel is registered, and certificate issued in the name of the surviving spouse until heirs have been established by the court	SIGN followed	Surviving spouse may register under his/her or new spouse's name without transferring to the orphans. And yet, surviving spouse has no share in this case.
		If the parcel is held jointly by the deceased and surviving spouses the parcel is registered and certificate issued in the name of the surviving spouse, who will hold a limited right to use the parcel until heirs have been established by the court.	SIGN followed	Remarriage by the surviving spouse may lead to property loss for the single orphans. Surviving spouse may defend for the new spouse without transferring the deceased's share to the orphans.
	Oromia & SNNPR	If the parcel is held as private property by the surviving spouse, then the parcel is registered under the name of the surviving spouse; no inheritance rights are considered.	SIGN not fully followed. The parcel is registered under the name of the surviving spouse and inheritance rights are considered.	
		If the parcel is held as the private holding of the deceased spouse, the parcel is registered, and certificate issued in the name of the surviving spouse until heirs have been established by the court	SIGN not followed. There is no private holding in marriage unless declared.	Surviving spouse may register under his/her name without transferring to the orphans. Unlike Tigray and Amhara, surviving spouse has a share in the case.
With succession rights established	Amhara	The parcel will be recorded under the heir's name. The Certificate will be prepared in the heir's name; however, the land/parcel will remain under guardianship until the heir reaches the age of maturity;	SIGN followed	No apparent negative effect observed
	Tigray	The parcel is recorded under the heir's name. The Certificate will be prepared in the heir's name; however, the land will remain under guardianship until the heir reaches the age of maturity;	SIGN did not follow; Recorded under surviving spouse.	The law gives only use right to minors without inheritance right protecting minors at the expense of adults.
	Oromia & SNNPR	The parcel is recorded under the heir's name. The Certificate will be prepared in the heir's name; however, the land will remain	SIGN followed	No apparent negative effect observed

<sup>6</sup> These findings are based on comparison of regional legal provisions and SIGN implementation across regions

		SIGN 13.1 Instruction	Implementation by Field Teams	Impact on SOC
		under guardianship until the heir reaches the age of maturity;		

### Land Registration of Double Orphans in SLLC Process

According to the household survey double orphans reported that their land is registered in the name of the deceased parents (46%), in the Guardian/and the child's name (20%), and on the name of the guardian (14%); 17% of the double orphans (10% in the completed woredas and 27% in the on-going woredas) do not know on whose name their parcel is registered.

The assessment result revealed 58% of the completed woredas and 72% in the on-going woredas have not inherited a parcel of land from their deceased parents. The reasons are that many of them are without a declaration of the inheritance rights by a court of law or the orphans are not aware of their rights. The consequence of not inheriting land from the deceased parents could lead them to lose their land rights, which is a basis for children growth and future livelihood in rural areas. Those who respond that they have inherited, were benefitting from the land through guardians farming the land, sharecropping, or renting the land. The children themselves were also cultivating the land. According to informants, across all the visited woredas lack of prior identification of double orphans (including those who migrated to other areas) and absence of either the child or the guardians during the SLLC process hampers protection of their land rights.

About 32% of the guardians in the completed woredas and 62% in the on-going woredas reported that they participated in SLLC process during the public awareness raising sessions, adjudication and demarcation, and public display and verification. Although there is an increase in the level of the participation of guardians in the on-going woredas, about 40% of the guardians of double orphans are not participating in the land registration process. As per the survey data about 72% of the guardians (82% in the completed woredas and 60% in the on-going woredas) the parcel is registered during SLLC; 79% (94% in the completed woredas and 62% in the on-going woredas) was registered during FLLC.

### Challenges Facing Double Orphans

As it is witnessed in this study it was much easier to locate and interview single orphans in a study community as they usually continue living with the surviving parent. Double orphans, on the other hand, are mostly dispersed after the death of both their parents. Their relatives and elder siblings will take some of them while others migrate to places away from home in search of livelihoods. Although the plan was to find all double orphans in the study communities, some were missed due to the abovementioned causes. With the efforts exerted by the field researchers, it was possible to interview 44 double orphans from eight woredas and the findings of their land registration situation and their awareness about SLLC process are presented.

#### SLLC Awareness

According to the data collected from the double orphans, 38% in the completed woredas and 72% in the on-going woredas were not aware that they have land use rights<sup>7</sup>. Regarding awareness of the SLLC, nearly half of the children (60% in the completed woredas and 33% in the on-going woredas) reported that they were aware of the registration process. When asked how they participated in the land registration process, 59% of them (53% in the completed woredas and 67% in the on-going woredas) never participated in the registration process; a quarter of the children were kept informed about the process by their guardian; and few of them (16%) had participated in the public awareness raising sessions. When asked if they received information support about SLLC, 10% of the double orphans (13% in the completed woredas and 6% in the on-going woredas) responded positively. Children's not knowing about their land right as well as lack of participation in the on-going land registration programme in their area may lead to no claim of their land use right during SLLC and a subsequent loss of right for good.

#### Migration

More often, observation shows, double orphans migrate to urban areas or are taken by relatives. In such instances, the chance of violation of inheritance rights of double orphans is high. Double orphans are also likely to encounter dispute on the inheritance of their property rights. Relatives, including own siblings, are the ones trying to grab orphans land. As revealed in the household survey, of the interviewed double orphans,

<sup>7</sup> The level of awareness varies across age of the children. Slightly more than three fourth of the double orphan children (76%) aged 14-17 were aware of their land rights than those aged below 14 years of age (24%).

17% in the completed woredas and 6% in the on-going woredas have encountered dispute on their property rights, which were caused by siblings and other relatives including uncles, aunts, and grandparents.

According to the information obtained from WLAO and LIFT teams in most woredas, it was revealed that some households receive land from parents but fail to register the land they obtain. This creates a potential problem for their children in case of death. When both parents are deceased then grandparents (the original landholders) claim the land and the orphans will be left without land.

Informants from the SNNPR revealed that legal nomination of a guardian for double orphans is uncommon; families of the deceased nominate guardians. Only in situations in which there is a dispute over the nomination that cases go to court.

Since possession of a book of holding is a prerequisite to registering in SLLC, possession of the book and who holds the book matters. According to the survey result, some 42% of the books of holdings are with the guardians, 33 with the children. About 21% of the guardians (10% in the completed woredas and 39% in the on-going woredas) reported that the deceased was not issued the proper book of holding.

### ***Establishing Inheritance Rights***

Discussion with court officials and WLAO indicates that establishing successful inheritance rights involves a relatively longer procedure, unlike guardianship appointment. Parents of both single and double orphans rarely wish to go through the procedures as they feel little urgency to engage unless a dispute exists. The inheritance process requires a formal guardianship appointment and support from kebele and woreda land administration, in collaboration with KLAUCs. According to most court officials, a guardianship appointment does not take more than three days in all regions. In some instances, if all required documents are submitted appointment can be accomplished in a single day. This was further confirmed by the interview with guardians of single orphans. Guardians were asked if the costs and time involved in issuing guardianship affects their decision. Most participants in the interview said that it is the level of awareness on the need for guardianship that they were lacking rather than costs and procedures involved.

However, most respondents said successful inheritance procedures are long and, in some instances, requiring more than a year. Upon guardianship appointment, Kebele Land Administration takes time to review the application along with KLAUCs before it sends the minutes to Woreda LAO. Received minutes are inspected again by the Woreda LAO and a no-objection notice is put up (for 15 days in the case of Amhara, and one year in Tigray) soliciting for competing claimants.

If no claims or objections are made, the book of rural land possession certificate is prepared under the name of the orphan in all regions except Tigray. If there is more than one orphan in the inheritance case, then the photo of the eldest and the youngest are attached on the Book of rural land possession, while the name of the orphans is included in the list. In this way, inheritance through the guardians is completed. As shown in other section of this work, no inheritance rights are entertained for minors in Tigray regional state.

One area that has been identified as a potential risk for orphans takes place during the inheritance process. Elder orphans with more information may apply for inheritance claims without informing the younger ones. More often this happens when the younger orphans change the place of residence to file an objection to inheritance announcement and KLUCs may not know their existence. Multiple incidents have been reported in Tigray (above 18 years) and SNNPR where elder orphans unlawfully possess the land they are supposed to share with their siblings. Lack of information on the part of orphans affects their rights, especially a shorter notice, as the case of Amhara, to make a case for the share in the inheritance.

## Level of Implementation of the SIGN for Deceased Landholder Registration and Implication on Double Orphans

**Table 2: Double orphan Registration practice during adjudication and Demarcation stage across Regions<sup>8</sup>**

		SIGN 13.1 Instruction	Implementation by Field Teams	Impact on DOC
Without succession rights established	Amhara Oromia SNNPR	The registration/land record will be made under the name of the deceased parents but without the issuance of the certificate until the succession rights are established by the potential heirs.	SIGN instructions followed.	No apparent negative effect observed.
	Tigray	The registration/land record will be made under the name of the deceased parents but without the issuance of the certificate until the succession rights are established by the potential heirs	SIGN instructions partially followed. i.e., registration is made under the names of the deceased parents. Succession rights can't be established until 18 years old.	
With succession rights established	Amhara Oromia SNNPR	If the heirs are under the age of maturity the parcel will be recorded during adjudication under the heir's name. The Certificate will be prepared in the heir's name; however, the land/parcel will remain under guardianship until the heir reaches the age of maturity;	SIGN instructions followed.	No apparent negative effect observed.
	Tigray	If the heirs are under the age of maturity the parcel will be recorded during adjudication under the heir's name. The Certificate will be prepared in the heir's name; however, the land/parcel will remain under guardianship until the heir reaches the age of maturity;	SIGN doesn't address the complexities. The parcel is registered under the name of the deceased. No inheritance considered until the last orphan is 18 years old in the family.	Orphans above 18 years old engage in a dispute with minors over succession right. Age falsification.

## Strategy and Proposed SIGN for Orphan Registration

### Strategy for Registering Orphans

The SLLC process is hailed as one of the successful low-cost initiatives to reform the land rights of the rural people in Ethiopia. However, evidence shows that the rights of orphans are not always fully recognised in the process. To promote the rights of orphans in the registration process, it is essential that the systems be in place to ensure orphan rights are clearly defined, allocated and protected. To achieve these goals, it is necessary that all actors including, local government, LIFT team, guardians, and orphans themselves are aware of requirements for safe land rights reform agenda. This section presents general and specific strategies for successful registration of double and single orphans.

#### Strategy 1: Establish Pre-Demarcation Implementation Taskforce

Woreda Land Administration and Use offices are instructed to update land registry transactions before the arrival of the LIFT team to conduct SLLC. According to the LIFT coordinators in four regions, despite efforts on the part of the Woreda staff, much of the activities required for smooth project implementation are left uncompleted increasing work pressure on the team members and delay in work. Two or three-month pre-demarcation intervention could enhance SLLC effectiveness.

In principle, the SLLC process is supposed to start with a one-month public awareness activity prior to the adjudication and demarcation. In practice, interviews with respondents from government offices, guardians and LIFT team confirm that public awareness activities are brief. Recommendations in this section may be applicable for SLLC initiatives in general but for the registration of orphans in particular. Land information

<sup>8</sup> These findings are based on comparison of regional legal provisions and SIGN implementation across regions

updating (rights clarification), and strong awareness-raising activities are a prerequisite for successful registration task.

**Pre-demarcation Land registry updating tasks:** Registry updating and resolving land dispute cases are separate activities that can not be addressed through simple instruction from regional rural land administration department or LIFT team members. Most orphans enter into the SLLC process with unsettled inheritance cases, no guardianship formalities and unresolved cases. The Woreda and Kebele land administration and management offices, in collaboration with Women and Children affairs (Labour and Social affairs office in Tigray) need to collect orphan data that shows the nature of orphan hood (paternal, maternal, young, male, female), guardianship status, inheritance cases, parcel size, nature of acquiring land (inheritance, gift, rent, exchange...). Collecting orphan's land-related information and updating transactions before SLLC does not only facilitates SLLC activities but also promotes the rights of OC. However, all these tasks may not be successfully completed under normal LIFT schedule.

**Pre-demarcation awareness raising activities:** Kebele administration, Kebele land administration, DA, Woreda administration need to understand the concerns and what it takes for registration of parcels of a vulnerable group. Guardians (formal and informal) need to be informed about the upcoming land registration activities and should be requested to update transactions. The Kebele land administration committee needs to take separate awareness training event on the rights of orphans and their property. Active engagement of the guardians, government offices and committee level is expected to help success in the adjudication and demarcation stages. The trouble with current practice is that it hardly discriminates between vulnerable groups and ordinary citizens. Despite efforts by the LIFT gender team, there are limitations in appreciating variation in vulnerability of women and orphans in the SLLC process. Interviews show that some guardians and orphans do not even know the availability of free legal services provided by the justice and women and children affairs bureau, indicating gaps in knowledge, to which the awareness activities are expected to address.

Moreover, the study team observed that LIFT interventions in post-demarcation and adjudication stages faces little hurdles, but it is challenged in the initial stage due to low SLLC community awareness and rights clarification issues. Perhaps the reason why awareness-raising activities receive weak attention has to do with the assumption that these activities are mainly to be conducted by the local government. And yet, local stakeholders are challenged by budget constraints and a weak sense of SLLC ownership.

Establishing a pre-demarcation implementation taskforce is expected to complete the ground works for the technical aspect of SLLC. Three ways of achieving pre-demarcation interventions can be considered. a) Entering a formal agreement with Woreda Land Administration and Management authorities complete with targets, indicators and budget allocation to conduct the activities. The agreement may be signed three to four months prior to SLLC initiatives. Once the pre-SLLC activities are completed, the team may be invited to enter.

b) An alternative approach would be to organize a team from WCA/LSA, WLAU and LIFT's SDO officer to conduct verification and awareness raising works before demarcation adjudication begins in each woreda. Discussion with LIFT team members and observation suggests the current teams are under pressure to achieve a target, in a process that may be argued to be not fully addressing the interests of orphans and other vulnerable groups.

c) If both options cannot be achieved, establishing a team that enters woredas before the actual demarcation and adjudication begins and prepares a way for registration and certification process. The pre-demarcation taskforce could be organised at head office level and be responsible for activities in strong collaboration with regional and Woreda authorities.

Whatever the decisions, there is a need by the LIFT team to verify that a selected woreda is ready for demarcation and adjudication purposes before implementation begins.

### **Strategy 2: Strengthening Collaboration for Monitoring and Follow-up**

Interviews with Woreda stakeholders in all regions confirm participation in awareness raising workshops in preparation to SLLC process. Moreover, to facilitate stakeholder coordination, each Woreda has established a Steering Committee chaired by the Woreda Administration. However, except the Land Administration and Use offices, stakeholders from other offices claim minimum interaction and functionality of steering committee in most of the woredas. In few cases, some offices express the feeling of isolation about the SLLC intervention.

Lack of strong collaboration with Women and Children Affairs, Justice Office, Labour and Social Affairs office and land-related institutions are limiting the ability to make orphan cases a strategic agenda in the SLLC process. There is a tendency by the LIFT team to rely more on Woreda and Kebele Land administration organs than the inclusion of other institutions. The head of Women and Children Affairs office in Enargina Engwaga

Woreda, Amhara region, for instance says, if the project was able to work closely with them, the office was prepared to support orphans, and share other information such as the number of single and double orphans in the Woreda, information on land holding status of the deceased, guardianship status and vulnerability level. In addition, the Justice Office encounters multiple land cases involving orphans that could be used as input for future engagement. The LIFT field teams, however, have a strong working relationship with the Woreda office of Rural Land Administration and Use; Woreda and Kebele Administrations and Kebele Land Administration Committees. Collaboration with land and non-land institutions is a strategic approach to address orphan rights through proper registration systems.

There is a need to strengthen the steering committee to become more functional. The committee can be a platform to share the progress of the project, challenges and success faced particularly about orphan registration cases. Moreover, not only should non-land related institutional cooperation should be fostered but community-based child wellbeing committees (e.g. CCC, CPC) need to be consulted and strengthened.

In addition, it is known that LIFT is a project that will eventually phase out. The main responsibility to protect land rights is on primary duty bearers. i.e. the local government. Therefore, the issue of follow-up of orphan cases needed to be carried out by concerned stakeholders. LIFT may use data from WCA, courts, Justice Office and so on for registration, but once a certificate is issued to vulnerable groups, there is need to follow up to ensure those rights are being protected and fully realised. Also, enforcement of court decisions is found to be among the obstacles to establishing secure land rights for orphans. Case stories indicated that court decisions are not always enforced, particularly when the more powerful claimants are involved. These concerns need to be tackled with government stakeholders such as the police force, courts, justice office, and others to secure the rights of orphans during SLLC registration. Justice Office can carry out the responsibility for the task.

### **Strategy 3: Promote Education for Guardians**

If the land rights of the orphans are to be secured, then prompting guardianship responsibilities needs to be focused. It is known that in cases where the beneficiaries of the deceased's parcel of land are minors, an application for the appointment of a guardian must be made. The purpose of such an appointment is to enable the guardian to represent the interest of the underaged beneficiaries, especially in cases where consent from the minors is required in an application. In such a case, the guardian may give consent on behalf of the beneficiaries. However, as indicated, formal guardianship appointment is not common in the LIFT project areas. Guardians of single orphans rarely apply for guardianship unless serious wealth inheritance issues are involved. To help guardians fulfil their responsibilities for single and double orphans in the successful administration of a child's property acquired through inheritance, the following actions are suggested.

**Education for guardians:** There are many caregivers who assume the roles of guardianship responsibility in the best interest of the child. But there are also others who show the tendency to view orphan property as their own and in some instances attempts to register property under their name. Public education needs to be continuously provided on the roles and responsibilities of guardianships, and on effective handling of orphan's property. Women and Children affairs office, Justice Office or other government institutions that deal with children and land, may conduct the role of awareness-raising activities. The knowledge created is believed not only to improve the relationship between guardians and orphans, but guardians will be in a better position to administer the child's property received through inheritance. The awareness interventions, among many other purposes, would encourage guardians to update transactions, and not wait until children get married or a claimant appears on the scene.

Justice Offices may be tasked to better regulate and support guardianship for orphans. This might be accomplished, in part, by developing guidelines for formal and informal guardianship, by monitoring guardians, and by imposing stiffer penalties for abuses of guardianship<sup>9</sup>. Moreover, in addition to education received through government institutions, guardians might be assisted through community structures such as CCC and CPC to create awareness that encourages community action and responsibility. These caregivers should be supported psychologically and economically, through home visits, skill training support, and business grant initiatives. These initiatives are hoped to ensure that guardians have sufficient means to assist orphans and reduced incentives to deny orphan land rights.

**Monitoring of guardians:** Supporting guardians through awareness raising and livelihood interventions is a necessary condition but not sufficient. Creating a mechanism of accountability is also required. Empowering external parties to monitor orphans' guardians is necessary to ensure that the guardians are not violating

<sup>9</sup>Laurel L. Rose (2005) provides similar and more suggestions in case of Rwanda's Orphans' Land Rights.

orphans' property rights. Currently, guardianship is mostly kept a private affair with no responsibility from outside. Women and Child Affairs or community-based structures could be tasked with this responsibility. These bodies may act as independent advocates to the orphan and vulnerable children to enhance their benefits and protect their interests. Woreda based institutions such as Women and Children Affairs, Social Affairs and Justice Office should be encouraged to provide orphans with information, help them obtain required documentation, accompany them to administrative and legal hearings, or assist them with organising and lobbying efforts.

#### ***Strategy 4: Orient KLAUC to Prioritize the Concerns of Orphans and other Vulnerable Groups.***

The success of SLLC intervention, by and large, is dependent on the effectiveness of Kebele Land Administration and Use Committee (KLAUC). It is a body established by law with the objective of administering, recording and supporting local Kebele community in their relationship with the land. During the SLLC demarcation and adjudication stage, the KLAUC plays an important role because of their unique knowledge of the local context. In some Kebeles of the LIFT project there are Land experts but in some areas such as Tigray region, Kebele level knowledge is challenged and most of the responsibilities are at the shoulder of KLAUC and Woreda land Administration and Use office.

Whereas the support obtained from KLAUC is critical for SLLC success, mostly, the committee is not sensitive enough to the needs of the vulnerable group in general and orphans in particular. The literacy level of the committee, voluntary nature of the job and limited awareness for the committee to focus on the needs of vulnerable groups is affecting the orphan registration and at times compromising orphan rights. In addition, the institution of KLAUC is not free from land corruption.

There is a need to supervise KLAUC to prioritize the concerns of orphans<sup>10</sup>. The committee could receive a comprehensive audit report from the pre-demarcation team. This includes the list of single and double orphans, orphan domicile, FLLC status, orphan property, and inheritance status. Once the committee are armed with full information, accountability system needs to be in place so that violations of children's property and inheritance rights are respected. The orphan property should not be subject to expropriation.

#### ***Strategy 5: Informing Orphans of their Property and Inheritance Rights***

Quantitative analysis indicates 60% of interviewed orphans say they are not aware of their land rights. The findings suggest the need to engage children to improve their knowledge regarding property and inheritance rights; Interviews with most orphans, particularly single orphans, indicate that since the surviving parent is a natural guardian, raising the question of inheritance and formal guardianship appointment issues are considered as an encroachment to parental authority.

However, data shows that 41% of disputants for the orphans come from other family members such as uncles, grandfathers, aunts, older siblings and so on. Findings imply that orphans need support through legislation and community action, but they should also be empowered to protect their rights, the need to be informed of their land rights and to be assisted with pursuing their land claims. Most orphans don't know the existence of legal services and are not in possession of documents such as FLLC, tax documents. Some orphan relatives argue that the orphans cannot prove their property and inheritance rights because they lack documents. Moreover, creating awareness for orphans on their land rights will help them consult with their guardians and even remove a guardian if they feel, the caregiver is not acting in an orphan's best interest. WCA and guardians who received education on guardianship roles and responsibilities may conduct this task. LIFT may assist in ensuring and supporting in awareness raising activities.

#### ***Strategy 6: Service Delivery improvement***

One way to achieve protection of orphan inheritance rights is to improve service delivery at government offices, particularly the courts and land administration offices. Reducing the time and cost of completing transactions related with orphan's property cases can encourage guardians to update transactions. Courts, unlike ordinary applications, need to offer speedy deliberation to cases involving orphan inheritance, considering their vulnerability status.

In addition, land administration offices should clearly define steps for the land registration procedure; set transparent fees for registration and need to set a fixed maximum time within which the service of registering transactions must be completed. While in most offices visited, steps are shown in public display for registration,

<sup>10</sup> Not only should KLAUC engage in protecting violations of orphan's property but all vulnerable groups such as female headed households, persons with disability, women and others.

implementation of those steps with allocated time and customer-handling practices leaves much to be desired and there is a need to monitor application of service standards in the woredas and kebeles by local authorities. Enhancing of services by the courts and land administration offices are hoped to establish transparency and efficiency in to inheritance and registration efforts for OCs.

**Strategy 7: Revise SIGN 13.1 for Cases of Joint Holding Property and Privately-Owned Parcel of the Deceased.**

According to SIGN 13.1 where the deceased and surviving spouses held the parcel jointly, the parcel is registered, and certificate issued in the name of the surviving spouse. It has been demonstrated that this practice creates a problem for single orphans. Therefore, there is a need to make transfer difficult unless inheritance issues are addressed. That is, include a remark in registration certificate that the holder is not fully entitled, and rights transfer requires settling inheritance rights. In that case, the holder knows that pending rights are involved and forces the bearer to demand inheritance rights settled before transferring rights to spouse during remarriage.

**Strategy 8: Not all Orphan Categories are Equally Vulnerable. Maternal orphans and Double Orphan Cases Require Special Attention During Registration.**

Whereas all categories of orphans are susceptible to violations of property, findings indicate that double and maternal orphans experience more violations of their land rights. The challenge for maternal orphans is that they may face dispute on their land from relatives of the deceased and for double orphans they mostly migrate from their birth Kebele, with chances of missing on the registration process. There is a need to pay attention to the cases of maternal orphans and double orphans during registration. KLAUCs and WCA may be supported and instructed to identify the status of these groups so that unlawful control of the orphans' land is not taken place during the SLLC process.

**Table 3: Strategic Framework - Summary**

	Constraint	Consequence on Orphans	Proposed Action/Response	Lead Actor	Collaborator
<b>1</b>	<b>Issues with LIFT Team</b>				
<b>1.1</b>	Lack of strong pre-demarcation intervention. Weak orphan's parcel inventory (identification, inheritance status.)	LIFT team is under pressure to complete tasks with a deadline. Where rights clarification and updating is not completed, a child right is compromised during registration.	Organize a team from WCA/LSA, WLAU and LIFT's SDO officer to conduct verification and awareness raising works before demarcation adjudication begins. (Taskforce)	WLAU	WCA/LSA
<b>1.2</b>	SIGN 13.1 for Joint holding where the deceased held the parcel jointly with surviving spouses.	Loss of rights for single orphans	Include a remark in registration certificate that the holder is not fully entitled, and rights transfer requires settling inheritance rights.	LIFT	WLAU
<b>1.3</b>	Weakness to mobilize CCC and CPC during SLLC	OC lack of local support during SLLC	Pre-Demarcation activities to mobilize CCCs and CPC	WCA/LSA	WLAU
<b>2</b>	<b>Service Delivery</b>				
<b>2.1</b>	Weak Service Delivery provision at courts	Discourages transaction; increases cost (time and money)	Improve court speed and make access to justice sensitive to client time and money.	Court	Justice office
<b>2.2</b>	Long process for Land registration	Affects registration rate	defined steps and time required for the land registration procedure, set transparent fees	WLAU	LIFT
<b>2.3</b>	Challenges in enforcing a court decision	In cases where court decisions are fair, orphans lack the means to enforce their rights to unresponsive authorities. (e.g. police force)	Promote court enforcement agenda as a priority for local government irrespective of social class.	Justice office	WLAU

	Constraint	Consequence on Orphans	Proposed Action/Response	Lead Actor	Collaborator
<b>3</b>	<b>Issues with Guardians</b>				
<b>3.1</b>	Guardians are reluctant to apply for formal guardianship appointment.	Low guardianship appointment practice limits the chances of protecting the land rights of children.	Promote education for guardians to develop the culture of obtaining formal guardianship appointment even when there is no threat of claimants.	Justice/WCA/LSA	LIFT /WLAU/
<b>3.1</b>	Weak inheritance establishment practice	Failure to obtain inheritance rights affects the security of orphan's property rights.	Encourage and create awareness for guardians to update transactions on time and finalize court process for inheritance.	WCA LSA	WLAU
<b>3.3</b>	Some guardians consider the orphan's property as their own and fail to discharge their responsibility in administering. Knowledge problem.	Property abuse; Orphans fail to receive what is their due.	Public education needs to be continuously provided on the roles and responsibilities guardianships, on effective handling of orphan's property	Justice office	WCA/LSA
<b>3.4</b>	Lack of institutions to monitor the behaviour and activities of formal and informal guardians.	Problems with accountability to the behaviour of guardians put orphans at the disadvantaged position.	Develop guidelines for formal and informal guardianship, by monitoring guardians, and by imposing stiffer penalties for abuses of guardianship;	Justice office	WCA/LSA
<b>3.5</b>	Entering guardianship roles with the intention to gain the assets of the orphans under their care.	Competing for scarce land with the same orphans for whom they might have assumed caregiving roles, affects the benefits orphans would receive from the parental inheritance.	Educate guardians to understand and appreciate that orphan property is for guardians and their role is temporary management until the orphans' reaches maturity.	WCA/ LSA	WLAU
<b>3.6</b>	Competition over guardianship	Family quarrels and disputes cause psychological troubles to children	Support competing guardians to put the interest of the children first	WCA/LSA	WLAU
<b>3.7</b>	Low orphan/guardian participation in the SLLC process.	Because of relatively low participation in awareness raising, demarcation/ adjudication, and public display, orphan rights not fully realized.	Through pre-demarcation campaigns, and education encourage orphans and their guardians to take active participation in all SLLC process	LIFT	WLAUD
<b>3.8</b>	Most guardians neither have the knowledge of the law nor know where to receive legal support. I. e., weak demand for legal assistance from orphans and their guardians.	When a dispute erupts over guardianship and/or orphan inheritance issues, orphans could be deprived of the property or even the guardian who has the best interest at heart.	Popularize the free legal aid support availability from WCA and Justice office in community meetings and court hearing sessions.	WCA/LSA, Justice	LIFT
<b>4</b>	<b>Orphans Issues</b>				
<b>4.1</b>	Most orphans, particularly the young, are not aware of their land and inheritance rights.	Ignorance of land and inheritance rights on the part of orphans acts against orphans who lack the resources and legal	Orphans need to be informed of their land rights, to have the practical advice to assert their land rights and to be assisted	Guardians/ WCA LSA	LIFT

	Constraint	Consequence on Orphans	Proposed Action/Response	Lead Actor	Collaborator
		know-how to assert their land rights.	with to pursue their land claims.		
		Orphans encounter dispute over their property rights by siblings and other relatives.	Support older orphans (e.g. 14-17) so they assume active participation and some responsibility for protecting their own land and property interests.	Guardians /WCA LSA	LIFT
4.2	Orphans are not helped enough to establish inheritance rights of their deceased parents.	Failure in successful inheritance establishment negatively affects orphan rights.	Encourage guardians to initiate and finalize inheritance rights and educate orphans to demand from guardians. Make the inheritance process short.	WCA/ LSA/	LIFT
4.3	Information problems: Some orphans are not in possession of FLLC book of holding, or other documents. Some orphans did not know the extent of their deceased parents' landholdings.	Orphans may fail to prove ownership rights.	Introduce alternative ways of establishing ownership from the municipal registry or credible witnesses.	WLAU	LIFT
4.4	Single orphans think demanding their rights is disrespecting surviving spouse.	Single orphan property may be in danger as they fail to make claim on time. (Remarriage as a threat)	Achieve attitudinal change that approves of orphans and their surviving parents that encourages inheritance establishment as a right.	WCA/guardians	
4.5	Sharecropping arrangement is often abused.	Orphans may not receive full benefit from sharecropping arrangements and as time goes rights are abused.	Support guardians to enter a formal contract with sharecroppers.	WCA	
4.6	Younger orphans under appreciate the value of land and when they grow up it is too late.	Land may be taken over by someone else for lack of follow-up.	Educate and raise awareness so orphans to understand the value of land for their livelihood from early on.	Guardians/WCA	
4.7	The likelihood of a violation of the rights of maternal orphans is high	Maternal orphans experience more violations of their land rights as their fathers likely to remarry.	Pay attention to the cases of maternal orphans during registration.	LIFT	WLAU
4.8	Double orphans and maternal orphans migrate in search of better livelihood.	Double orphans could fail to be present during the SLIC process.	Support KLAUCs to document the rights of double orphans, as more often they may not be in the Kebele.	KLAUC	LIFT
4.9	Younger orphans (below 14) face information barrier relative to older orphans.	Lack of information may lead to a violation of orphan rights.	LIFT team should alert to the situation of double, maternal and younger orphans	LIFT	WLAU
5	<b>Issues with Stakeholders</b>				
5.1	Low sense of ownership and integration among institutions involving orphan	Lack of strong collaboration with non-land institutions limits the ability to make orphan cases as	Encourage collaboration with land and non-land institutions in an approach to address orphan rights through proper registration systems.	LIFT	Justice/WCA WLAU/LSA

	Constraint	Consequence on Orphans	Proposed Action/Response	Lead Actor	Collaborator
	property rights registration	strategic agenda in the SLLC process.			
5.2	Failure to appreciate Orphans as an important category of land claimants and disputant	Orphan rights often receive inadequate attention.	Educate Kebele administration, Kebele land administration, DA, Woreda administration so that Orphan property rights cases receive adequate attention.	WLAU	
5.3	KLAUCs are not sensitive enough to the needs of vulnerable groups in general and orphans in particular.	Low awareness and corruption in KLAUC as a threat to the security of orphan property.	There is a need to take precaution in selecting KLAUC members, provide capacity building support. The pre-demarcation team may provide a comprehensive report that includes the list of single and double orphans, orphan domicile, FLLC status, and orphan property and inheritance status in the Woreda.	WLAUD	LIFT
5.4	Short notice of Amhara for inheritance procedure. OCs may not get the information	Lose their right to a better-informed claimant.	Consider allocating adequate time	Justice office	WLAUD
5.5	Culture and orphan property	Some cultural practices (e.g. <i>Dhalma</i> in Oromia) complicate orphan children's right to inherit their deceased parents' property.	Promote the culture of guardian appointment (Tigray) and inheritance right claims in the best interest of orphan rights	WCA/LSA	LIFT

### Proposed SIGN for the Registration of OCs

In Section 5.3 it was shown how SIGN 13.1 was helpful in guiding field teams in cases where the law is silent or unclear about parcel registration. The case was also made to develop region-specific SIGN taking into consideration regional legal contexts. As a result, the following region-specific SIGN is developed. As can be seen from the proposed SIGN (Table 4), the existing SIGN 13.1 requires revision particularly for Oromia and SNNP in scenarios when succession rights are not established. The guide assumes the separation of private property while land property, in those regions, is apparently considered as common property upon marriage. Privately held property and joint holding is not differentiated unless declared as private. Furthermore, the case of Tigray SIGN 13.1 demands measures revision, as inheritance rights are not considered for minors.

In addition, the most important revision is proposed in cases where the deceased and surviving spouses held the parcel jointly. The instruction by SIGN 13.1 in such instances is to register the parcel and issue certificate in the name of the surviving spouse. However, in the section that deals with the challenges of a single orphan, it was shown how this provision was negatively affecting the security of orphan inheritance rights particularly when the surviving spouse enters a relationship. To address the gaps in SIGN 13.1, the following modifications are presented.

**Table 4: Proposed SIGN for the registration of OCs**

		One spouse deceased/single orphan case	Both spouses deceased/double orphan
Without succession rights established	Amhara & Tigray	<ul style="list-style-type: none"> <li>— If the parcel is held as private property by the surviving spouse, then the parcel is registered under the name of the surviving spouse; no inheritance rights are considered.</li> <li>— If the parcel is held as the private holding of the deceased spouse, the parcel is registered, and certificate issued in the name of the surviving spouse, with a remark in registration certificate that the holder has no rights of inheritance.</li> <li>— If the parcel is held jointly by the deceased and surviving spouses the parcel is registered and certificate issued in the name of the surviving spouse, with a remark in registration certificate that the holder is not fully entitled, and rights transfer requires settling inheritance rights.</li> </ul>	<ul style="list-style-type: none"> <li>— The registration will be made under the name of both deceased spouses but without the issuance of the certificate until the succession rights are established by the potential heirs.</li> </ul>
	Oromia & SNNPR	<ul style="list-style-type: none"> <li>— Unless declared as private, whether the parcel is held as private property by the surviving spouse or the parcel is held as private holding of the deceased spouse, the parcel is registered, and certificate issued in the name of the surviving spouse, who will hold a limited right to use the parcel until heirs have been established by the court.</li> <li>— If the parcel is held jointly by the deceased and surviving spouses, the parcel is registered, and certificate issued in the name of the surviving spouse, with a remark in registration certificate that the holder is not fully entitled, and rights transfer requires settling inheritance rights.</li> </ul>	<ul style="list-style-type: none"> <li>— The registration will be made under the name of the deceased spouses but without the issuance of the certificate until the succession rights are established by the potential heirs.</li> </ul>
With succession rights established	Amhara	<ul style="list-style-type: none"> <li>— The parcel is recorded under the heir's name. The Certificate will be prepared in the heir's name; however, the land will remain under guardianship until the heir reaches the age of maturity;</li> </ul>	<ul style="list-style-type: none"> <li>— The parcel is recorded under the heir's name. The Certificate will be prepared in the heir's name; however, the land will remain under guardianship until the orphans reach the age of maturity;</li> </ul>
	Tigray	<ul style="list-style-type: none"> <li>— If the parcel is held as private property by the surviving spouse, then the parcel is registered under the name of the surviving spouse; no inheritance rights are considered.</li> <li>— If the parcel is held as the private holding of the deceased spouse, the parcel is registered, and certificate issued in the name of the surviving spouse, until heirs have been established by the court and orphans is 18 years.</li> <li>— If the parcel is held jointly by the deceased and surviving spouses</li> </ul>	<ul style="list-style-type: none"> <li>— Parcel registered under the name of the deceased. The Certificate will be prepared, however, will remain under guardianship until the heir reaches the age of maturity to apply for inheritance rights;</li> </ul>

		One spouse deceased/single orphan case	Both spouses deceased/double orphan
		the parcel is registered and certificate issued in the name of the surviving spouse, who will hold a limited right to use the parcel until heirs have been established by the court and the orphans reach maturity.	
	Oromia SNNPR	— The parcel is recorded under the heir's name. The Certificate will be prepared in the heir's name; however, the land will remain under guardianship until the heir reaches the age of maturity;	— The parcel is recorded, and certificate prepared under the heir's name; However, the land will remain under guardianship until the orphans reach the age of maturity;

## Annex 1: Household Survey Result

### Background Characteristics of the Surveyed Orphan Children

In this assessment, a total of 296 orphan children were surveyed from eig5ht woredas (149 from the completed woredas and the remaining 147 were from the on-going woredas) in four of the regions (Oromia, Amhara, SNNPR, and Tigray) were covered in this assessment. About 64% of the children were paternal orphans while about 21% were maternal orphans; double orphans account for 15 % of the total (Table 5). Of the total children surveyed 171 (58%) were males and 125 (42%) were females. Age wise, 151 (51%) were aged 14-17, 116 (39%) aged 10-13, and the remaining 29 (10%) were below 10 years of age.

**Table 5: Surveyed orphan children by region and type of orphanhood**

Type of orphan hood	Oromia		Amhara		SNNPR		Tigray		Total	
	N	%	N	%	n	%	n	%	n	%
Paternal orphan	59	76.6	43	58.9	49	66.2	39	54.2	190	64.2
Maternal orphan	11	14.3	23	31.5	7	9.5	21	29.2	62	20.9
Double orphan	7	9.1	7	9.6	18	24.3	12	16.7	44	14.9
<b>Total</b>	<b>77</b>	<b>100.0</b>	<b>73</b>	<b>100.0</b>	<b>74</b>	<b>100.0</b>	<b>72</b>	<b>100.0</b>	<b>296</b>	<b>100.0</b>

When asked with whom they are living with, the 85% of the single orphans reported that they were living with their surviving parent while the remaining 15 % were living with grandparents, uncle/aunt, or older siblings. Double orphans, on the other hand, were living with grandparents (39%), older siblings (36%), and their uncle/aunt (25%) (Table 6).

**Table6: Guardians of orphan children by orphanhood type**

With whom are you currently living with?	Single orphans		Double orphans		Total	
	N	%	n	%	n	%
Surviving parent	215	85.3	-	-	215	72.6
Grandparent	18	7.1	17	38.6	35	11.8
Uncle/Aunt	10	4.0	11	25.0	21	7.1
Older Siblings	8	3.2	16	36.4	24	8.1
Distant Relative	1	0.4	-	-	1	0.3
<b>Total</b>	<b>252</b>	<b>100.0</b>	<b>44</b>	<b>100.0</b>	<b>296</b>	<b>100.0</b>

Of the surveyed 244 single orphan children 201 (82.4%) were attending school while the proportion of double orphans attending school was slightly lower (77.3%)<sup>11</sup>. About 23% of the double orphans were not attending schools. Of those who never attended, 60 % never had schooling (Table 7). School attendance of orphan children across regions does not show a significant difference.

**Table 7: Current schooling status of orphan children**

	Single orphan		Double orphan		Total	
	N	%	N	%	n	%
Currently attending	201	82.4	34	77.3	235	79.4
Dropped out	37	15.2	4	9.1	41	13.9
Never attended	6	2.5	6	13.6	12	4.1
<b>Total</b>	<b>244</b>	<b>100.0</b>	<b>44</b>	<b>100.0</b>	<b>288</b>	<b>97.3</b>

### Background Characteristics of the Guardians of Orphan children

#### Surviving Parents or Guardians of Single Orphan Children

A total of 252 surviving parents of the single orphan children were interviewed. A summary of their background characteristics is presented in Table 8.

<sup>11</sup>It was difficult to find double orphans in most of the studied sites as relatives mostly take younger double orphans while the older ones are likely to migrate. The higher %age here shows only from among those who lived in their usual place of residence with their close relatives.

**Table 8: Background characteristics of surviving parents/guardians of single orphan children**

Background characteristics of the guardian <sup>12</sup> /surviving parent of single orphan children		Orphanhood status of the children					
		Paternal		Maternal		Total	
		N	%	n	%	n	%
Relationship to the deceased	Spouse	155	81.6	39	62.9	194	77.0
	Son/daughter	13	6.8	6	9.7	19	7.5
	Brother/sister	1	0.5	5	8.1	6	2.4
	Parent	15	7.9	6	9.7	21	8.3
	Another relative	6	3.2	6	9.7	12	4.8
	Total	190	100	62	100	252	100
Relationship to the orphan child	Surviving parent	171	90.0	44	71.0	215	85.3
	Grandparent	10	5.3	8	12.9	18	7.1
	Uncle/Aunt	5	2.6	5	8.1	10	4.0
	Older Siblings	3	1.6	5	8.1	8	3.2
	Distant Relative	1	0.5	0	0.0	1	0.4
	Total	190	100.0	62	100.0	252	100.0
Gender	Male	17	8.9	44	71.0	61	24.2
	Female	173	91.1	18	29.0	191	75.8
	Total	190	100.0	62	100.0	252	100.0
Age	Below 30	20	10.9	4	7.4	24	10.1
	30-59	161	88.0	48	88.9	209	88.2
	60 and over	2	1.1	2	3.7	4	1.7
	Total	183	100.0	54	100.0	237	100.0
Literacy status	Illiterate	139	74.3	31	50.8	170	68.5
	Literate	48	25.7	30	49.2	78	31.5
	Total	187	100.0	61	100.0	248	100.0
The current main source of livelihood of your household	Crop/ livestock	168	88.9	57	91.9	225	89.6
	Other income (such as casual labour, handicraft, renting income, remittances, etc.)	21	11.1	5	8.1	26	10.4
	Total	189	100.0	62	100.0	251	100.0

The 88% of the surviving parents of the single orphans are between 30-59 years old. In terms of the relationship of the deceased parent with the guardian of the single orphans, 82% of the guardians of the paternal orphans and 63% of guardians of the maternal orphans were spouses of the deceased. Maternal orphans are less likely to live with the surviving parent as compared with paternal orphans. The finding might suggest higher levels of vulnerability of maternal orphans as only 61% of them are living with their father compared to paternal orphans where 90% of them are living with their mother. In terms of the level of education, 69% of the surviving parents or guardians are illiterate, which is higher than the national adult illiteracy rate (61%).<sup>13</sup> About 90% of the guardians are engaged in farming activities (crop and livestock production). The income sources of the remaining 10 % include casual labour, handicraft, rental, remittances, etc. This means that for guardians' access to land is vital to sustain basic needs.

The guardianship role of surviving parents remains strong across all the regions. About 85% of the single orphans live with the surviving parent (93% in Oromia, 85% in Amhara, 79% in SNNPR, and 83% in Tigray). Only 14% of the guardians are comprised grandparent, uncle/aunt, older siblings, and a distant relative (Table 9).

**Table 9: Guardians of single orphans by region**

<sup>12</sup> Guardian could be formally or informally appointed

<sup>13</sup> According to UNICEF total adult literacy rate in 2008-2012 was 39%.  
[https://www.unicef.org/infobycountry/ethiopia\\_statistics.html](https://www.unicef.org/infobycountry/ethiopia_statistics.html)

	Oromia		Amhara		SNNPR		Tigray		Total	
	N	%	N	%	n	%	n	%	n	%
Surviving parent	65	92.9	56	84.8	44	78.6	50	83.3	215	85.3
Grandparent	2	2.9	4	6.1	5	8.9	7	11.7	18	7.1
Uncle/Aunt	0	0.0	2	3.0	6	10.7	2	3.3	10	4.0
Older Siblings	3	4.3	4	6.1	0	0.0	1	1.7	8	3.2
Distant Relative	0	0.0	0	0.0	1	1.8	0	0.0	1	0.4
<b>Total</b>	<b>70</b>	<b>100.0</b>	<b>66</b>	<b>100.0</b>	<b>56</b>	<b>100.0</b>	<b>60</b>	<b>100.0</b>	<b>252</b>	<b>100.0</b>

The study also assessed whether the surviving parent has entered a new relationship/marriage after the death of the spouse. The finding presented in Table 11 revealed that only one in ten of the women (11%) remarried whereas a slightly more than half of the men (51%) are currently in a relationship/remarried after the death of their spouse. In addition, those who have not remarried were asked if they plan to remarry or to have children some 35% of the male guardians and 10 %of the women have the intention to remarry or have children.

**Table 10: % of surviving parent who entered a new relationship/marriage by gender**

Gender of the Surviving parent	Have you entered a new relationship/marriage after the death of your spouse?					
	Yes		No		Total	
	N	%	n	%	N	%
Men	29	50.9	28	49.1	57	100.0
Women	19	10.8	157	89.2	176	100.0
<b>Total</b>	<b>48</b>	<b>20.6</b>	<b>185</b>	<b>79.4</b>	<b>233</b>	<b>100.0</b>
	If not married yet, do you have a plan to remarry or to have children?					
	Yes		No		Total	
	N	%	n	%	n	%
Men	12	35.3	22	64.7	34	100.0
Women	17	10.0	153	90.0	170	100.0
<b>Total</b>	<b>29</b>	<b>14.2</b>	<b>175</b>	<b>85.8</b>	<b>204</b>	<b>100.0</b>

### Guardians of double orphan children

Data were also collected from a total of 41 guardians of double orphan children (21 male and 20 female) (Table 11). Across the programme sites, relatives fill the role of a guardian. Most often, grandparents, uncles or aunts, and elder brothers or sisters become guardians. The guardians of the double orphans included elder brother or sister (37%), uncle or aunt (24%), Grandparent (37%), and non-relatives (2%). More than three fourth (78%) of the guardians raise the orphans along with their own children. The source of livelihood of nearly all (95%) the guardian households of the double orphans was crop and livestock<sup>14</sup>.

**Table 11: Background characteristics of guardians of double orphan children**

Background characteristics		N	%
Relationship with the Orphan Child	Brother/sister	15	36.6%
	Uncle/Aunt	10	24.4%
	Grandparent	15	36.6%
	Unrelated	1	2.4%
	<b>Total</b>	<b>41</b>	<b>100.0%</b>
Gender	Male	21	51.2%
	Female	20	48.8%
	<b>Total</b>	<b>41</b>	<b>100.0%</b>
Does the guardian have his/her own Children?	Yes	32	78.0%
	No	9	22.0%
	<b>Total</b>	<b>41</b>	<b>100.0%</b>
Literacy status	Illiterate	19	46.3%
	Literate	22	53.7%
	<b>Total</b>	<b>41</b>	<b>100.0%</b>

**Table 12: Surveyed orphan children by region and type of orphanhood**

	Oromia	Amhara	SNNPR	Tigray	Total
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<sup>14</sup> Data not shown in table

Type of orphanhood	N	%	N	%	n	%	n	%	n	%
Paternal orphan	59	76.6	43	58.9	49	66.2	39	54.2	190	64.2
Maternal orphan	11	14.3	23	31.5	7	9.5	21	29.2	62	20.9
Double orphan	7	9.1	7	9.6	18	24.3	12	16.7	44	14.9
<b>Total</b>	<b>77</b>	<b>100.0</b>	<b>73</b>	<b>100.0</b>	<b>74</b>	<b>100.0</b>	<b>72</b>	<b>100.0</b>	<b>296</b>	<b>100.0</b>

### 1.3 Land Registration of Single Orphans in SLLC Process

**Table 13: Awareness of the land registration process among the single orphan children**

Background characteristics		Are you aware of the land registration process?					
		Yes		No		Total	
		N	%	N	%	N	%
Age group	Below 10 years	3	14.3	18	85.7	21	100.0
	10-13	35	33.3	70	66.7	105	100.0
	14-17	62	49.2	64	50.8	126	100.0
	<b>Total</b>	<b>100</b>	<b>39.7</b>	<b>152</b>	<b>60.3</b>	<b>252</b>	<b>100.0</b>
Region	Oromia	22	31.4	48	68.6	70	100.0
	Amhara	13	19.7	53	80.3	66	100.0
	SNNPR	27	48.2	29	51.8	56	100.0
	Tigray	38	63.3	22	36.7	60	100.0
	<b>Total</b>	<b>100</b>	<b>39.7</b>	<b>152</b>	<b>60.3</b>	<b>252</b>	<b>100.0</b>
Gender	Male	56	37.8	92	62.2	148	100.0
	Female	44	42.3	60	57.7	104	100.0
	<b>Total</b>	<b>100</b>	<b>39.7</b>	<b>152</b>	<b>60.3</b>	<b>252</b>	<b>100.0</b>
Project status	Completed	47	38.2	76	61.8	123	100.0
	On-going	53	41.1	76	58.9	129	100.0
	<b>Total</b>	<b>100</b>	<b>39.7</b>	<b>152</b>	<b>60.3</b>	<b>252</b>	<b>100.0</b>

**Table 14: The status of establishing land share of single orphan's through court as reported by their surviving parent**

		Project status					
		Completed		Ongoing		Total	
		n	%	n	%	n	%
Is the land share of the heirs established through court?	Yes	10	8.8%	43	35.5%	53	22.6%
	No	103	91.2%	78	64.5%	181	77.4%
	<b>Total</b>	<b>113</b>	<b>100.0%</b>	<b>121</b>	<b>100.0%</b>	<b>234</b>	<b>100.0%</b>
If the parcel is registered, on whose name is the registration carried out?	On my name	4	57.1%	14	36.8%	18	40.0%
	On the deceased's name	3	42.9%	16	42.1%	19	42.2%
	On our children's name	0	0.0%	8	21.1%	8	17.8%
	<b>Total</b>	<b>7</b>	<b>100.0%</b>	<b>38</b>	<b>100.0%</b>	<b>45</b>	<b>100.0%</b>

**Table 15: Incidence of dispute encountered by single orphans over the land rights**

		Project status					
		Completed		On-going		Total	
		n	%	n	%	n	%
Have you encountered any dispute on your property rights?	Yes	13	12.0	27	21.6	40	17.2
	No	95	88.0	98	78.4	193	82.8
	<b>Total</b>	<b>108</b>	<b>100.0</b>	<b>125</b>	<b>100.0</b>	<b>233</b>	<b>100.0</b>
Who were the disputants?	Siblings	3	27.3	6	28.6	9	28.1
	Other family members (uncle/aunt/grandparents)	6	54.5	7	33.3	13	40.6
	Competing Guardians	1	9.1	2	9.5	3	9.4
	Others (including individuals renting the land)	1	9.1	6	28.6	7	21.9
	<b>Total</b>	<b>11</b>	<b>100</b>	<b>21</b>	<b>100</b>	<b>32</b>	<b>100</b>
	Resolved	8	88.9	9	40.9	17	54.8

		Project status					
		Completed		On-going		Total	
		n	%	n	%	n	%
Status of dispute?	Court case	1	11.1	8	36.4	9	29.0
	Under local mediation	0	0.0	2	9.1	2	6.5
	Others (not yet dealt with)	0	0.0	3	13.6	3	9.7
	Total	9	100.0	22	100.0	31	100.0

## Land Registration of Double Orphans in SLLC Process

**Table 16: Double orphans access to rural land as reported by the double orphan children themselves**

		Project status					
		Completed		On-going		Total	
		n	%	n	%	N	%
Are you aware that you have land use rights?	Yes	16	61.5%	5	27.8%	21	47.7%
	No	10	38.5%	13	72.2%	23	52.3%
	Total	26	100.0%	18	100.0%	44	100.0%
Have you inherited a parcel of land from your deceased parents?	Yes	11	42.3%	5	27.8%	16	36.4%
	No	15	57.7%	13	72.2%	28	63.6%
	Total	26	100.0%	18	100.0%	44	100.0%
How are you getting the benefit from the land?	Share cropping	5	35.7%	0	0.0%	5	22.7%
	Renting land	5	35.7%	0	0.0%	5	22.7%
	Own farming	0	0.0%	3	37.5%	3	13.6%
	The guardian is farming on the land	4	28.6%	3	37.5%	7	31.8%
	Other	0	0.0%	2	25.0%	2	9.1%
	Total	14	100.0%	8	100.0%	22	100.0%
Are you aware of the land registration process?	Yes	15	60.0%	6	33.3%	21	48.8%
	No	10	40.0%	12	66.7%	22	51.2%
	Total	25	100.0%	18	100.0%	43	100.0%
How did you participate in the land registration process?	My guardian kept me informed	4	23.5%	4	26.7%	8	25.0%
	Public awareness raising sessions	4	23.5%	1	6.7%	5	15.6%
	I didn't participate	9	52.9%	10	66.7%	19	59.4%
	Total	17	100.0%	15	100.0%	32	100.0%
Have you encountered any dispute on your property rights?	Yes	4	17.4%	1	5.9%	5	12.5%
	No	19	82.6%	16	94.1%	35	87.5%
	Total	23	100.0%	17	100.0%	40	100.0%
On whose name is the parcel registered?	In the name of the deceased parents	10	50.0%	6	40.0%	16	45.7%
	In the guardian/and my name	6	30.0%	1	6.7%	7	20.0%
	Only on the name of the guardian	1	5.0%	4	26.7%	5	14.3%
	I don't know	2	10.0%	4	26.7%	6	17.1%
	Other	1	5.0%	0	0.0%	1	2.9%
	Total	20	100.0%	15	100.0%	35	100.0%
Did you receive information support from local government structures about your registration and its procedures?	Yes	3	13.0%	1	5.6%	4	9.8%
	No	20	87.0%	17	94.4%	37	90.2%
	Total	23	100.0%	18	100.0%	41	100.0%

**Table 17: The status of the deceased parent's land, possession of the book, and participation in the SLLC process as reported by the guardians of double orphans**

		Project status					
		Completed		On-going		Total	
		N	N	n	n	n	n
The status of the deceased parents land							
Registered during SLLC	Yes	14	82.4%	9	60.0%	23	71.9%
	No	3	17.6%	6	40.0%	9	28.1%
	Total	17	100.0%	15	100.0%	32	100.0%
Registered during FLLC	Yes	15	93.8%	8	61.5%	23	79.3%
	No	1	6.3%	5	38.5%	6	20.7%
	Total	16	100.0%	13	100.0%	29	100.0%
At whose possession was the book of holding?	With me	10	50.0%	4	30.8%	14	42.4%
	With other relatives	1	5.0%	0	0.0%	1	3.0%
	With the children	7	35.0%	4	30.8%	11	33.3%
	The deceased had not issued the proper book of holding	2	10.0%	5	38.5%	7	21.2%
	Total	20	100.0%	13	100.0%	33	100.0%
Did you participate in the SLLC process for registering the orphan's land?	Yes	6	31.6%	8	61.5%	14	43.8%
	No	13	68.4%	5	38.5%	18	56.3%
	Total	19	100.0%	13	100.0%	32	100.0%

## ANNEX 2: CONCEPTUAL FRAMEWORK

Conceptually speaking, formalizing land registration initiatives can nicely fit into two development frameworks. These are the Sustainable Livelihoods Approach<sup>15</sup> (SLA) and Rights-Based Approaches (RBA). First, SLA is briefly reviewed followed by RBA. Allocating secure property rights has deep implication for livelihood improvement of the rural population. Broadly, there are two approaches to defining livelihoods. One has a narrower economic focus on production, employment, and household income. The other takes a more holistic view, which unites concepts of economic development, reduced vulnerability, and environmental sustainability while building on the strengths of the rural poor<sup>16</sup>. In other words, the Sustainable Livelihoods Approach (SLA).

SLA is a method of analysing and changing the lives of people experiencing poverty and disadvantage. It is a participatory approach based on the recognition that all people have abilities and assets that can be developed to help them improve their lives. As demonstrated in Figure 1, the ways in which people combine their livelihood assets to support themselves and their families coupled with the decisions and choices they make within the context in which they live, are what determine their livelihood strategy and how they manage to get by.

Assets are central to SLA approach and nothing is more important than land as an asset for a rural household. Supporting households to make use of their primary assets through parcel registration and certification, it is believed, can integrate land into their livelihood strategies for the improvement of their livelihood.

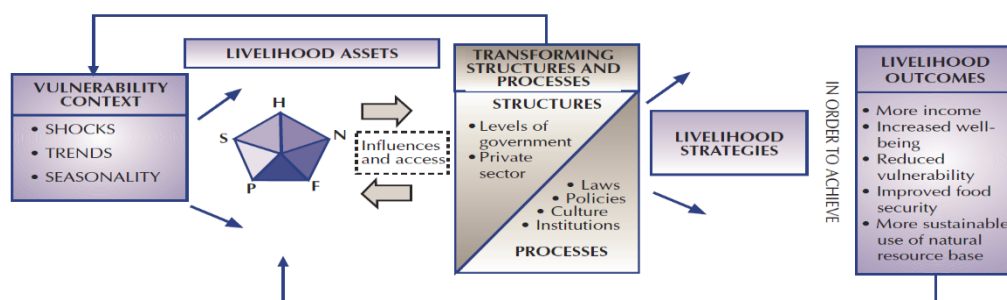


Figure 2: The DFID Livelihoods Framework, 1992b

Rights-Based Approach<sup>17</sup> (RBA), is described as addressing the structural, systemic rights-barriers to people's empowerment, capacity building, and government accountability. In contrast to the welfare model that treats the poor as charity rather than active participants, RBA shift imbalanced power relationships between State and citizen toward more equitable access by the poor and marginalized to entitled resources<sup>18</sup>. As shown, Land is central to rural livelihoods and unless clear land rights allocation system is established and enforced for women, men and children then rural livelihoods in Ethiopia will remain vulnerable to external socio-economic pressures.

When the RBA framework is applied to explain the behaviour of orphans and their guardians, increased investment and enhanced capacity to demand rights is promoted. Formalizing informal property rights acts as a strong incentive for improved investment<sup>19</sup>. Economic benefits are realized through land-based income such as agricultural production, and or land rental. Income from land is expected to support not only current livelihood concerns such as food and schooling requirements for the orphans but also future livelihood

<sup>15</sup> Chambers, Robert and Gordon R. Conway. 1991. Sustainable Rural Livelihoods: Practical Concepts for the 21st Century. IDS Discussion Paper 296; Brighton, UK.

<sup>16</sup> Shackleton, S, Shackleton, C & Cousins, D. 2000. The economic value of land and natural resources to rural livelihoods: Case studies from South Africa, in *At the crossroads: Land and agrarian reform in South*.

<sup>17</sup> Offenheiser, Raymond C. and Susan H. Holcombe. 2003. "Challenges and Opportunities in Implementing a Rights-Based Approach to Development: An Oxfam America Perspective

<sup>18</sup> de Silva, T. E. (2013). *Principles in international development: Sustainable livelihoods and human rights-based approaches*. Washington, D.C.: U.S. Department of Labour, Bureau of International Labour Affairs.

<sup>19</sup> Ziade Hailu, Gerrit Rooks, (2016), "Property rights and owner-occupied housing investment in urban

Ethiopia", *Property Management*, Vol. 34 Iss 4 pp. 345 - 357

strategies. As indicated, with registered landholding the guardians or the older orphans will have more incentive to invest in their parcel of land as they are more secure to benefit from the labour invested in the land.

Also, with secure land holding orphans are in a better position to survive economic shocks than without land assets inherited from their deceased parents. Registering orphan property has also social benefits. It is less likely that registered land will attract dispute over ownership threatening the security of property rights. Also, in case of conflicts with current guardians, an orphan with registered land is in a better position to negotiate better terms than one without.

As discussed above, the rights framework attempts to address factors that may hinder citizen empowerment and demand government accountability and collaboration by guardians and orphans. In this regard actors (individuals or institutions) in the struggle to improve orphan rights are identified and their responsibilities proposed so that stakeholders are engaged. Orphans and guardians are aware of their rights (through education) they can demand help and fulfill their responsibilities. Government structures in their part become willing to support children identified as vulnerable. And finally, local and government structures take the initiative to monitor the orphan child's landholding situation and ensure that the support orphans receive from their guardians is sufficient and appropriate.

SLA and RBA perspectives complement each other in important ways. Rights analysis can provide insights by identifying groups lacking effective rights (in this case orphans) and groups who may be denying rights to others (guardians, community structures, siblings, etc.). SLA analysis, on the other hand, offers one way to prioritize efforts to obtain rights for the vulnerable groups. In other words, mixing the model suggests that allocating and enforcing land rights will lead to improved livelihood strategies for Ethiopian rural orphans as land assets will be used as a tool to fight poverty.

## ANNEX 3: REVIEW OF LAWS RELATED TO RURAL LAND INHERITANCE RIGHTS OF CHILDREN

### General Child Related Policies and Conventions

Violence against children, in all its forms, is widespread globally and Ethiopia is not an exception. International conventions, national legislative frameworks, and national policies and action plans govern child rights concerns in Ethiopia. The Constitution of the Federal Democratic Republic of Ethiopia (1995), The Revised Family Code (2000), Civil Code (456/2005) and regional rural land proclamations stress protection of children's property and inheritance rights.

In relation to policy and legal provisions, The Convention on the Rights of the Child (CRC) and the African Charter on the Rights and Welfare of the Child, recognize children as being able to hold rights in their own names and Ethiopia has ratified the instruments. While neither instrument specifically recognizes children's right to inherit property<sup>20</sup>, the CRC establishes the right of children to a standard of living that is good enough to meet their physical and mental needs (Article 27), and the African Charter, states to protect children who are deprived of family care (Article 20) and to protect children who experience violence, neglect, or exploitation on the part of a parent, guardian or another caregiver (Article 19).

In addition, the newly adopted, National Child policy of Ethiopia (2017) provides for the preventing, elimination of social, economic and harmful traditional practices and other abuses. It also stipulates the protection of children from any form of sexual, physical, psychological and labour abuses and outlines the responsibilities of various parties.

### Federal and Regional Rural Land Administration and use proclamations

LIFT has previously undertaken a more elaborated review on Registration of Rural Land for Deceased Households in Ethiopia (2017). The purpose of this section is to introduce briefly the Federal and regional rural land proclamations and regulations that govern Children's property and inheritance rights. In compiling this brief review discussion with the heads of Woreda Land Administration and Use in four regions, as well as the review of "Registration of Rural Land for Deceased Households" report is largely employed.

#### *The Federal Rural Land Administration and Land Use Proclamation*

The Federal Rural Land Administration and Land Use Proclamation (456/2005) states all land under state, community and individual holding should be measured and registered Article 6 (1). Articles 2 (4), 5(2) and 8(5) shows that a rural landholder may transfer their landholding to family members through inheritance. Article 5(1) (b) specifically states that children who lost their mother and/or father due to death shall have the right to use rural land through legal guardians until they attain 18 years of age.

#### *Oromia Region*

The Oromia Rural Land Administration and Use Proclamation No 130/2006 under article 9 (1) and (2) and its implementation regulation No 151/2012 under Article 10 (1), (5), (6) and (10) stipulate a general provision that any person who has 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. Neither the proclamation nor the regulation provides specific provisions for orphans.

#### *Amhara Region*

In Amhara regional state, the inheritance and registration process are governed by a proclamation known as revised Rural Land Administration and Use Proclamation of the Amhara National Regional State (Proc. 252/2017) and the draft Regulation. Thus, under article 10 and Article 11 of the proclamation, it is stipulated in different sub-articles that the holder of rural land may transfer the holding right. Article 17 (5), (6), and (7) of

<sup>20</sup> FAO (2010), Land and property rights, Junior Farmer Field and Life School - Facilitator's guide

the proclamation also illustrates the rights of children to inherit rural land from their deceased parents. Unlike The previous proclamation (133/2006) that puts an order of priority among the legal heirs, the new proclamation considers all legal heirs as equally legitimate candidates for inheritance.

### **Tigray Region**

In Tigray the inheritance proclamation No. 239/2013 and Regulation No. 85/2014 govern the process. The proclamation under Article 14 states that if a rural landholder dies 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. Rather, the minor children will continue using the land through their legal guardian (Art. 8.6). So, the law gives only use right to minors without inheritance right. 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 Woreda will expropriate the land. Those who are above 18 years cannot register their share of the inherited land until all children become adults (reach 18 years of age). Even if children can prove their succession right, land registration and certification may not be carried out with respect to that specific land.

Unlike other regions visited, where land is considered as an inheritable property, the case of Tigray reveals a tendency to view the land resource as welfare enhancing tool rather than considering inheritance of a rural land as a right comprehensively. Inheritance rights in Tigray are not automatic; request for inheritance should come with proof of landlessness.

### **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 the family. The Proclamation No. 110/2007 and Regulation No. 66/2007 of the SNNPR provide detailed provisions concerning land registration and certification. The regional law has a different approach to “joint possession” and “private possession” of land. The LIFT study (2017) on Registration of Rural Land for Deceased Households extrapolates that any land whether acquired as joint or private holding to be entitled as joint possession of the family. Proclamation No.110/2007 Article 5 (5) states that a husband and wife have equal right of use of their common land holdings. They do not lose their land holding because of their marriage that they possessed individually before. Discussion with land experts in SNNPR confirms the study’s perspective that there is underlining assumption 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”. In reference to children, Article 5 (8) and Article 6(7) of the proclamation states that underage orphans have the right to use their land holdings through their guardians until they become 18 years old. And, the possession of underage orphans can be measured and registered, and the orphans shall be given a land-holding certificate in care of their guardians.