



Desk Study on Communal Land in Ethiopia

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Acronyms

CGU	Community Grazing Unit
CGIAR	Consultative Group for International Agricultural Research
EEU	Economic Empowerment Unit
FAO	Food and Agricultural Organisation of the United Nations
FDRE	Federal Democratic Republic of Ethiopia
FLLC	First Level Land Certification
GoE	Government of Ethiopia
KLAC	Kebele Land Administration Committee
KLAUC	Kebele Land Administration and Use Committee
LAND	Land Administration to Nurture Development (USAID funded programme)
LAUD	Federal Land Administration and Use Directorate of the Ministry of Agriculture
LGAF	Land Governance Assessment Framework
LIFT	Land Investment for Transformation (UK Aid funded programme)
MTR	Mid-Term Review
REILA	Responsible and Innovative Land Administration (Finnish funded programme)
RLAS	Rural Land Administration System
SLLC	Second Level Land Certification
SLMP	Sustainable Land Management Programme
TRG	Tigray Regional Government
TTL	Technical Team Leader
VGGT	Voluntary Guidelines for Good Governance of Tenure

Executive Summary

This Communal Land Study has been conducted on behalf of the Land Investment for Transformation (LIFT) programme in Ethiopia. LIFT is a Government of Ethiopia (GoE) and DFID supported programme which aims to improve the incomes of the rural poor and boost economic growth in Ethiopia, by increasing the security of land tenure for farmers. The programme has four key outputs:

1. Issuing Second Level Land Certificates (SLLC) to smallholders, recognising the land rights of all rightful claimants
2. Setting up a sustainable land administration system in targeted woredas
3. Improving supporting functions for the rural land market for women and poor farmers; and
4. Improving policies and institutions for the rural land market.

This study forms part of Output 4, which is a cross-cutting component aimed at developing strategies, studies and policy guidance notes which can help to influence and guide land law and policy.

Below a summary of study sections and findings is provided.

Section 2- Purpose and Objectives of the Study

The purpose of this Communal Land Study is to determine what impact, if any, the SLLC process implemented by the LIFT programme has on individuals, households or groups who use communal lands. The study focuses broadly on two areas, the security of communal tenure and its registration, aiming to understand how communal land is used in Ethiopia, the extent of communal land in LIFT woredas, how the SLLC process deals with communal land and how certification may influence its use and access. This study is intended as an initial scoping exercise preceding more detailed work, and will recommend possible areas for further research, highlighting any current policy or evidence gaps.

Section 3- Approach

This study was conducted through an initial desk-based review, in-country interviews and data-analysis exercise. The desk-based review covered documentation produced by the LIFT programme (including reviews, manuals and reports) and international best practice documents with a focus on communal land. In-country interviews took place in Addis Ababa, and in three of the four LIFT programme regions- Amhara, Oromia and SNNPR. LIFT HQ staff, related donor partner programmes, Government Agencies, LIFT field-staff and farmers were consulted as part of this study. Finally, data from 12 woredas where SLLC had been completed was analysed to assess the coverage, size and use of communal land in different regions.

Section 4- Desk Review

The Federal Democratic Republic of Ethiopia (FDRE) Rural Land Administration and Land Use Proclamation, No. 456/2005, makes numerous references to communal or common lands. Communal holdings are described as rural land which is given by the government to local communities for common grazing, forestry and other social services (although these are not explicitly defined). The proclamation explains that any holder of rural land, whether an individual or joint holding between husband and wife, will receive a certificate describing the location, size, use and fertility of the land, in addition to the rights and obligations of the holder. It declares that rural land is ultimately owned by the state, and communal land holdings can be changed to private holdings at the government's discretion. It also outlines a desire to encourage conservation and investment in communal land.

Numerous policy, framework and guideline documents exist which outline best practice guidance for land governance, including FAO's Voluntary Guidelines on Land Tenure (VGGTs) and the Framework and Guidelines on Land Policy of the African Union. Ethiopia has also taken part in the World Bank's Land Governance Assessment Framework (LGAF). All these tools and frameworks reference communal land, customary land and pastoral land and provide guidance to varying degrees on how the rights of land users in these tenure regimes should be considered.

Section 5- Communal Land in LIFT Woredas

LIFT's Rural Land Administration System (RLAS) records four land holding types: *individual land*, recognised as the private land of an individual or household, *communal land*, which may be used by a group of people or community collectively, *public institutional land*, which covers churches, schools and so on, and *federal land*, which is land held by the state. In addition to holding type, LIFT records 14 land use or cover types- based on FAO definitions. The communal land area (%) across the 12 woreda sample ranged dramatically from as low

as 3.1%, up to 34.4%. On average communal land accounted for 18.2% of the area sample, thus representing a small, but significant proportion.

Responsibilities for governing communal land are shared among federal, regional, woreda, kebele and sub-kebele institutions. While oversight is provided by the Ministry of Agriculture, Land Administration and Use Directorate (at the federal level) and Bureau of Agriculture or Regional Council (at regional levels), day to day responsibility for communal land is concentrated at the kebele and sub-kebele levels, with some oversight from woreda institutions.

Communal land in the selected woreda sample was mostly used for rainfed annual cropping, followed closely by bare land, grazing land, natural forest and woodland/shrubland. These land covers and uses represent the typical rural livelihoods triangle found in Ethiopia, which relies on a combination of cultivation, collection of forest products and livestock grazing. The study found that, as with communal land, the highest use of non-communal land was also rainfed agriculture, although for non-communal land this held a much higher proportion of the land area.

Given the high proportion of communal land used for rainfed annual cropping, we may question whether this is the most efficient allocation of land, and whether if used for individual gain, communal land should be reallocated accordingly. Nevertheless, the statistics show that communal land has a much more diverse range of uses than non-communal land, perhaps suggesting that other uses, besides cultivation, are an important contribution to land user's livelihoods portfolios, and thus the reallocation of land solely for cultivation may affect and limit these important household income streams, particularly for poor rural households.

Section 6- Recommendations and Conclusions

This study has highlighted three broad recommendations.

Although the SLLC manual developed by LIFT provides details of the procedures to be followed for all stages of registration, it does not make any specific reference to the registration or treatment of communal land. It is recommended that these procedures should be outlined in detail, including how communal land boundaries are identified, which authorities and users can confirm the boundaries, which individuals, or groups can be included on an SLLC, and how to deal with disputes. Clarifying these procedures will help ensure consistency across the process and minimise the risk of overlapping claims or uses being missed during registration.

While evidence from a small sample of farmers interviewed suggests that the introduction of SLLC is seen as a positive step for securing communal tenure, further research and evidence is required to determine whether the introduction of the certification process has changed the way more vulnerable groups use communal land and whether formalising land use arrangements has affected their access or use. Therefore, it is recommended that as part of LIFT's Gender and Social Inclusion activities, vulnerable groups use and access to communal land is considered and reviewed, to assess whether any supporting initiatives could be introduced to promote vulnerable groups' use of communal resources. Furthermore, it is suggested that this question is considered as part of any future LIFT Impact Assessments.

Finally, it is recommended that LIFT could assist GoE with better defining the roles and responsibilities of the different institutions at federal, regional and local levels in relation to the management of communal land.

Purpose and Objectives of the Study

Purpose

Under the LIFT programme, a process of second level land certification (SLLC) has been developed, which grants rightful landholders certificates of land holding and use, through a process of systematic land registration. Ortho-photography is used to generate high-resolution maps, on which landholders, together with their neighbours and local leaders, can identify their parcel boundaries. This data is then captured in digital format by LIFT's technical teams in the woreda, before being verified, processed and approved for inclusion on a land rights register. At the end of the process, each landholder receives a unique second level land certificate for each parcel they have claimed, detailing the location, occupancy information, boundaries with neighbouring parcels and land rights.¹

In addition to the registration of privately held land parcels, the SLLC process also identifies, demarcates and records communally held land. Data has been collected by LIFT which is able to quantify the extent of communal land in each of the LIFT woredas. This data does *not*, however provide detail on how this land is used, managed or accessed.² This finding was confirmed by LIFT's Mid-Term Review (MTR) in 2017, which also highlighted the lack of sufficient detail in regional land administration and use proclamations on the use and management of communal land. The MTR report explains that while investment in, and protection of, communal land from environmental degradation is not under LIFT's remit, it is nevertheless important to consider, together with the tenure security of communal land.

This study seeks to better understand what impact, if any, the SLLC process is having on individuals and households who use communal lands, and particularly those who may be considered more vulnerable (including women, children, landless and disabled people).

This report provides a review of existing literature, both from the LIFT programme, and from other sources, to better understand communal land use issues in Ethiopia. It also demonstrates how the SLLC process deals with communal land, how the certification outcome may influence communal land access and use, and what policy and evidence gaps exist.

The study will provide useful insights for the LIFT programme team, Government of Ethiopia and DFID, by providing an overview of the existing situation and identifying areas where improvements can be made to policies or processes which address communal land governance and productivity. In addition, this report will highlight any gaps which may warrant further research.

Objectives

The Terms of Reference for this Study outline five key objectives:

1. Clarifying the extent of land classified as communal in LIFT woredas
2. Obtaining a better understanding of the type and variety of tenure regimes in place governing communal lands, and the mechanisms for allocating communal land
3. Identifying the institutions at kebele, woreda and regional level responsible for the management of communal lands
4. Understanding the range of land use (both formal and informal), and the main users of communal lands, with a particular focus on the activities of women and vulnerable groups
5. Identifying information and policy gaps, and existing challenges to the governance of communal lands, and areas requiring further investigation.

¹ SLLC Manual

² Communal Lands ToR, LIFT Mid-Term Review, 2017

Approach

Based on the requirements of the study, it was decided that the best method for data collection would be a literature review, coupled with in-country interviews, to extract more detailed information from LIFT regions. 15 days were allocated for the desk review, and 10 days for in-country interviews. The literature review covered information generated by the LIFT programme; including the SLLC manual, Business Case, Transparency Report, Conflict Assessment and Land Policy Assessment; and external LIFT reviews- both the 2017 mid-term and annual review. In addition, the review also looked at external documents concerning international best practice for land governance, including VGGTs, LGAF and the African Land Policy; as well as literature more specific to the Ethiopian context, including national and regional proclamations for rural land administration and land use.

The consultant undertook an in-country input between 24th April and 7th May- and visited three of the four LIFT regions: Amhara, Oromia and SNNPR. Sites were visited where the SLLC process was yet to start, where it was ongoing, and where SLLC had been completed- to gather a range of views and perceptions about how the LIFT programme might, has or hasn't affected the use, management and productivity of communal land. During field visits, interviews were held with SLLC field teams, Woreda land office employees and land users who either use communal land, have private land adjoining communal land or both.

In addition to site visits to the LIFT regions, several interviews were held with development partner programmes which work on issues linked to communal land: USAID's *Land Administration to Nurture Development* (LAND) programme, Finnish-funded *Responsible and Innovative Land Administration* (REILA) and the *Sustainable Land Management Programme* (SLMP) funded by the World Bank. Finally, meetings were also held at the Ministry of Agriculture (RLAUD) and the Oromia Rural Land Bureau in Addis Ababa.

A large-part of this study involved the analysis of data collected by the LIFT programme regarding communal land coverage and use. This study looked at data from 12 woredas where SLLC has been completed, to assess the coverage, size and use of communal land in different regions.

The findings from the literature review and in-country interviews have been combined in the sections below, and grouped to cover the objectives of the study, including findings relating to: documentation of communal lands, the extent and use of communal land, it's management and governance, and productivity. This is followed by recommendations and next steps.

Desk Review

Defining Communal Land

Land tenure systems may typically be categorised into four groups: state or government land, private land, communal land and open access³. Communal land or communal property can have a variety of meanings to different groups, and is sometimes used interchangeably with 'open access', 'customary' or 'traditional' tenure systems⁴. Often, communal land is interpreted as land used and/or managed by a group or community, as opposed to privately used land managed by individuals. Distinguishing between communal and open access land is largely dependent on the rights individuals and groups have over a given resource. While open access is not assigned to any individual or group and cannot exclude users, communal land will be designated for a specific group and specific purpose. The FAO explains that "a right of commons may exist within a community where each member has a right to use independently the holdings of the community. For example, members of a community may have the right to graze cattle on a common pasture"⁵.

While communal land may be broadly understood as land used commonly by a community, what this definition does not capture is the different tenure systems that identifies land as 'communal land'. For example, communal land may refer to land confined to uses within a village or sub-village (grazing for domestic livestock) used on a permanent basis by the same group, or land which wholly, or in part, is on routes used by transhumant pastoralists, used periodically by different groups.

The management and administration of communal land can also differ; it can be managed formally by a recognised authority at the local government level, or by the community itself. Consequently, the rights individuals have over communal lands may differ (and crucially, overlap). These may cover rights to use,

³ <http://www.fao.org/docrep/005/y4307e/y4307e05.htm>

⁴ Schlager and Ostrom

⁵ <http://www.fao.org/docrep/005/y4307e/y4307e05.htm>

access, derive income, control or exclude. This understanding demonstrates that communal land itself is a multi-dimensional concept, and its use and definition will be extremely context-specific.

In the highlands of Ethiopia, communal land typically refers to land which may be used for grazing, woodlots or social services on a permanent basis by communities based nearby. Conversely, in lowland areas, communal land may refer to land used by pastoralists who practice shifting cultivation and travel vast distances to access grazing and water resources.

This section of the study provides details on Ethiopia's federal definitions of communal lands, and the definitions used by the regional government's where the LIFT programme operates.

Government of Ethiopia's Definition of Communal Land

The Federal Democratic Republic of Ethiopia (FDRE) Rural Land Administration and Land Use Proclamation, No. 456/2005, outlines definitions and provisions for the use, administration and management of rural land in Ethiopia. Within the proclamation, three broad types of tenure arrangement can be identified: private or individual holdings, state holdings and communal holdings. The definitions of these tenure types and associated rights are outlined below.

The proclamation states that any citizen of Ethiopia over the age of 18, who wishes to engage in agriculture for their livelihood has the right to use rural land. Holding rights are described as: "the right of any peasant farmer or semi-pastoralist and pastoralist shall have to use rural land for purpose of agriculture and natural resource development, lease and bequeath to members of his family or other lawful heirs and includes the right to acquire property produced on his Land thereon by his labour or capital and to sale, exchange and bequeath same" (p 3135).

Communal holdings are described as rural land which is given by the government to local communities for common grazing, forestry and other social services (although these are not explicitly defined). State holdings are those which include forest lands, wildlife protected areas, state farms, mining lands, lakes, rivers and other rural lands (p 3136). The proclamation explains that any holder of rural land, whether an individual or joint holding between husband and wife, will receive a certificate describing the location, size, use and fertility of the land, in addition to the rights and obligations of the holder(s). While the article describing land certificates refers to individuals and joint holders, it does *not* refer explicitly to certificates for communally held land.

The proclamation makes numerous references to communal or common lands, concerning its use, governance and restrictions. When describing the purpose and function of the rural land administration system, it states that information on 'grazing land holders' will be held *in addition* to information on individual farm plots. Regarding rural land use, it declares that as rural land is ultimately owned by the state, communal land holdings can be changed to private holdings at the government's discretion⁶. It also outlines a desire to encourage conservation and investment in communal land: "it has become necessary to establish a conducive system of rural land administration that promotes the conservation and management of natural resources and encourages private investors in pastoralist areas where there is tribe based communal land holding system" (p 3134).

The proclamation also outlines several rural land use restrictions which cover private and communal land use. These restrictions concern areas where water and soil conservation efforts are ongoing, under which free grazing is prohibited, and any areas of land which are highly degraded will be closed to 'human and animal interference'.

Regional Definitions of Communal Land

The four regional proclamations for LIFT target areas (Amhara, Oromia, SNNPR and Tigray) all include detail on communal holdings, with slight variations, with some providing more detail than others.

⁶ The proclamation does not define which government body has the authority to change communal holdings to private-whether this can be done by Kebele or Woreda, or if it is to be determined by the state or federal government.

Table 1 Regional Definitions of Communal Land

	Definition of Communal Holding	Details of Communal Certification	Additional Information
Amhara	The rural land that farmers or semi-pastoralists use for grazing, forest and social services, recognised as a communal holding not to be divided ⁷ .	Communal landholders will be issued a land certificate containing their names. A rural landholding certificate is given for institutions in the name of the institution. Details of the amount of land and giving condition shall be determined by a regulation ⁸ .	Except the places designated as rural kebele centres, it is prohibited to carry out any kind of new building on farm, grazing, communal and forest lands. In the case of: rural land distribution; provision of landholding certificate; using a place for a rural kebele centre establishment; dividing communal land for private use; or if the function of the land changes in anyway- the landholder or user right will be protected, except where it is deemed to be for public benefit is supported by the kebele resident population.
Oromia	Rural land which the local community commonly uses for grazing, woodlots and other social purposes ⁹ .	For communal lands in the kebele, the joint holding certificate shall be given in the name of the community that use the land. The details shall be worked out by Oromia Agricultural and Rural Development Bureau.	Unoccupied pockets of agricultural lands may be distributed to the landless and land deficit persons ¹⁰ .
SNNPR	Land out of government or individual possession, being under the common use of the local community as a common holding for grazing, forest and other social services. The right of getting land for communal use of both peasant Semi pastoralists and pastoralist, that is for grazing, social and cultural affairs and religion shall be reserved.	Land holding certificate for communal land shall be prepared in the name of the beneficiary community and be kept at kebele administration office.	Government being the owner of rural land, can change communal rural land holdings to private holdings as may be necessary.
Tigray	Communal land includes land which is out of the domain of private holdings, including reserved forests, hillsides, grazing lands, etc.	Communal land is duly demarcated and certified. The land holding/ownership certificate displaying cadastral maps is often granted to the kebele administration office.	Communal land can be transferred to an individual or groups- particularly for organised youth cooperatives engaged in rural development activities, as well as for landless farmers in the form of redistribution of lands. However, communal land cannot be transferred to individuals or groups or any other entities for the purposes of investment or community-based social services.

⁷ Unclear whether this means land cannot be sub-divided and used by individuals/groups.

⁸ Unclear if this just refers to public/state land, or also covers private and communal land.

⁹ Does not specify whether a 'social purpose' just means community events, or whether it would extend to livelihood opportunities, for example farming.

¹⁰ Unclear whether this refers to communal land or whether it applies only to "vacant" land. If communal land, would this be temporarily allocated to landless individuals or would individual/private rights be granted?

Experiences of Communal Land from other Development Programmes in Ethiopia

As part of this study, visits were made to three development partner and government programmes (LAND, REILA and SLMP) to get a better understanding of their experience concerning communal land. The key lessons from USAID's LAND programme, Finland's REILA programme and the World Bank SLMP programme are summarised below.

Formalising Communal Rights

USAID's LAND programme is working to formalise pastoral land rights, through a process of land certification which will provide users with the legal protection of their land rights which they have not enjoyed to date. Working with pastoralist groups in Oromia and Afar, the programme identified pastoralist institutions which were already in existence and worked to get these institutions formally recognised as legal entities, which could be issued with a certificate of communal holding. Land certificates will be issued to the new legal entity, enabling them to represent the rights and views of the land users. The certificate will provide evidence of a holding right and is backed by regulations which determine the rights of the parties involved. The premise for registering the land in the name of these newly established entities, is that any negotiations regarding land use or access would have to take place with these representatives, as opposed to with local government organisations, and was therefore seen as a way of providing more autonomy to the land users.

The programme is currently piloting this process across three different so-called 'community grazing units' (CGU's). The programme has demarcated all three CGU's; one has had its boundaries verified and two are still in the process of public display, which offers the opportunity for any errors, disputes or counter-claims to be recorded and/or corrected. Once completed, certificates will be issued, which will bear the same legitimacy of individual certificates.

While the areas concerned differ dramatically in size to those areas of communal land found in LIFT woredas (one community grazing unit stretches 1.2 million ha), the process for registering and recording communal land is similar. LAND registers the land in the name of the group using it. For LIFT, it is reported that a parcel is either registered in the name of the Kebele, or in the name of the community using the land, at sub-kebele level.

The REILA programme works in Amhara and Benishangul-Gumuz. In these areas, communal land ranges in size and is typically used for grazing, harvesting and covers some forested areas. As per the legal framework, REILA registers communal land in the name of the kebele authority who is responsible for its use and management. In addition to the named authority, the programme explained that individuals with use rights to the land are also named on the land certificate.

Productivity and Management

Both the LAND and REILA programmes noted one of the biggest challenges for communal lands is its sustainable use. Experience from the REILA project suggests that while certification helps in clarifying people's land rights, minimising disputes, and is hoped to encourage better management of resources, this is not necessarily a given, and a common problem facing communal land resources is land degradation, in part due to over-grazing. Although REILA does not work specifically on the issue of land use, the project team have seen examples of where communal land is well managed. For example, during the rainy season, land may be closed off to animals, allowing grass to grow and the land to rehabilitate¹¹. Grass is then harvested and used as hay fodder. Some Kebeles and sub-kebeles have developed bi-laws to protect communal lands, for example in Amhara, members of the community with the responsibility to protect communal land on a rotational basis, in which they patrol the land to protect against encroachment and improper use.

The World Bank has been engaged in land tenure and land use activities in Ethiopia for many years. One component of the Sustainable Land Management Programme (SLMP), focuses on land administration, certification and land use planning. Approximately 80% of the budget for the land component under SLMP focuses on the productive use of communal lands. Communal lands in the areas where the World Bank are working are quite often degraded. To date under the SLMP more than 0.5million ha have been rehabilitated and put back into productivity¹².

¹¹ This corresponds with the Rural Land Administration and Land Use Proclamation, No. 456/2005, which includes provisions for closing off land from 'human and animal interference'.

¹² World Bank Interview

Pressure on Land: Landless Youth

Linked to the above, all three programmes noted the increasing pressure and demand for land, which is particularly prevalent in the densely populated highland areas. All programmes reported a continual threat of encroachment onto communal lands from individual plots and elites. REILA claimed that despite disputes between communal and individual holdings being fairly common, this can be overcome by certification, and in fact one of the main drivers for increasing scarcity of communal land is the need for land to be provided to landless youth. As per the proclamation 456/2005, any citizen over the age of 18 has a right to use rural land, and all projects explained instances in which the government has allocated land previously under communal use to young people. In this case, land is either converted to a private holding in which the individual will receive a certificate or, it will remain 'communal' land, with an understanding agreed by the community that a portion of the land can be used by the individual or groups as a smallholding. This is reported to have taken place in Tigray and Amhara¹³.

The Tigray Regional Government (TRG) has initiated an investment programme under which degraded land is rehabilitated and then allocated to landless youth. CGIAR reports that the programme has been particularly successful in targeting women and youth. Under the programme, land is allocated jointly to a group who are organised into an association, with a chairperson and treasurer. The group help to rehabilitate the land and share the costs of production and income equally. The programme aims to provide youth with a livelihood, while improving the quality of land, particularly on slopes and hillsides.¹⁴

Since the beginning of the SLMP, more than 20,000 landless youths have been granted access to land, both to derive a livelihood from and to help improve the sustainability of the land. The project will provide extension services to these groups, to help them make the best of their land. This model can provide an income for youth and help encourage environmental sustainability. This model is understood and accepted by the Government. In SLMP operation areas, there is both reallocation to landless people for agricultural use and for grazing. Sometimes parcels are sub-divided, and other times the community and land users have an understanding that the land can be used by specific groups for specific purposes. The World Bank reported that in Tigray it is very common to have landless youth, who have been organised into groups and been given perpetual rights. In Amhara and SNNPR, lease arrangements to groups are more common. These are administered by the kebele administration in consultation with the woreda¹⁵.

International Best Practice for Communal Lands

LIFT's Business Case highlights the need to bring Ethiopia's land governance in line with international best practice and human rights obligations, particularly in relation to communal, pastoral and commercial land use, to protect the livelihoods and rights of land holders, and ensure that investments in land benefit both communities and the country more broadly¹⁶.

Numerous policy, framework and guideline documents exist which outline best practice guidance for land governance, including FAO's Voluntary Guidelines on Land Tenure (VGGTs)¹⁷ and the Framework and Guidelines on Land Policy of the African Union¹⁸. Ethiopia has also taken part in the World Bank's Land Governance Assessment Framework (LGAF).

All these tools and frameworks reference communal land, customary land and pastoral land and provide guidance to varying degrees on how the rights of land users in these tenure regimes should be considered.

VGGTs

The VGGTs are a set of internationally accepted standards which were developed through broad-based consultation with multiple stakeholders from across the world and were endorsed by the Committee on World Food Security in May 2012. They are presented as a framework, which countries can use to develop their own

¹³ The reallocation of communal land in Tigray to landless youths was also cited in LIFT's Land Conflict Assessment (2016) which states that the government does provide temporary access to communal land and land on slopes to young people, and some government programmes support the landless in establishing cooperatives on communal lands.

¹⁴ <https://wle.cgiar.org/thrive/2016/01/12/women-and-landless-youth-benefit-ethiopian-government-land-investments>

¹⁵ As of December 2016, over 740 youth groups with more than 15,000 members (of which 40% are female) have been organised and received tenure rights covering over 2,850 ha, through receipt of a group landholding certificate or other legal documentation. (World Bank, 2017)

¹⁶ LIFT Business Case 2014

¹⁷ <http://www.fao.org/docrep/016/i2801e/i2801e.pdf>

¹⁸ https://www.uneca.org/sites/default/files/PublicationFiles/fg_on_land_policy_eng.pdf

legislation and policies, and seek to address issues concerning land governance, land tenure access, management, rights and safeguards- among others.

The VGGTs declare that governments should protect the rights of people who use customary tenure systems, particularly against the unauthorised use of their land by others. It goes on to explain that if communities are willing, governments should formally document the nature and location of land controlled by communities, and make this information publicly available, to prevent any competing claims on these resources:

“States should protect indigenous peoples and other communities with customary tenure systems against the unauthorized use of their land, fisheries and forests by others. Where a community does not object, States should assist to formally document and publicize information on the nature and location of land, fisheries and forests used and controlled by the community. Where tenure rights of indigenous peoples and other communities with customary tenure systems are formally documented, they should be recorded with other public, private and communal tenure rights to prevent competing claims.” (VGGT, 2012: p. 15-16)

The VGGTs Technical Guide on Improving the Governance of Pastoral Lands provides some specific recommendations, and highlights areas where Ethiopia has worked towards recognising the role and contribution of pastoralists. For example, it references the Ethiopian Pastoralist Parliamentary Committee. While there is still some work to do regarding the representation and participation of the committee, it cites notable successes including “the creation of several government departments dealing explicitly with pastoral issues and awareness creation of pastoral issues in parliament and across government”¹⁹.

African Union Land Policy

The African Union Land Policy emphasises the centrality of land to a country’s national development in terms of poverty reduction, economic growth, good governance and management of the environment. The policy notes that “structures governing access, control and management of land are as much about the consolidation of democracy as they are about asset stewardship” (p. 14), highlighting the need to consider the whole “bundle of land rights” above and beyond ownership.

The report also stresses the importance of finding the balance between traditional tenure regimes and modern land rights, including the need to recognise the role of community-based land administration structures which exist in parallel to state structures. The report commends Ethiopia’s development of “innovative policies” around informal land rights regimes.

Land Governance Assessment Framework

The Land Governance Assessment Framework (LGAF) is a diagnostic tool used to assess the state of land governance in a country, highlighting areas of best practice, and areas requiring further attention. Covering five thematic areas, nine panels and 113 indicators, the LGAF provides a comprehensive report of a country’s existing land governance status, against which progress can be tracked. Each country receives a scorecard, rating different land governance dimensions from A (very good practice) to D (very weak practice).

The LGAF for Ethiopia was completed in 2016. Main findings of relevance to this study are summarised as follows:

1. **Recognition of customary and communal tenure rights:** firstly, the assessment acknowledges a distinction between communal lands in the highland and lowland regions of Ethiopia. The study found that in Ethiopia’s highlands ‘common lands’ typically refer to land which is used commonly on hillsides, forestlands, grazing areas, roadsides, riversides and wetland areas, by communities who have access rights to these resources. It also notes the popular use of ‘customary tenure rights’ among pastoralist communities in Afar, Somali, Benishangul-Gumuz, SNNP, Oromia and Gambella. Customary land tenure regimes are recognised by the constitution and proclamation 456/2005, and further acknowledged by regional land laws. Despite this recognition, the LGAF noted there are still concerns with increasing encroachment and land use change on pastoral land.
2. **Certification of communal lands:** in highland areas of Ethiopia, communal lands are registered in the name of the group using the land, with a certificate issued to the group. The certificate details the responsibility of holders to use the land sustainably. Despite this responsibility, management of communal

¹⁹ Improving governance of pastoral lands, Governance of Tenure Technical Guide, FAO (2016)

land is often very poor owing to 'lack of experience and methodology in communal land surveying and registrations'. Pastoral areas are therefore not sufficiently covered by national registration programmes.²⁰

3. **Compensation:** provisions exist to protect the rights of individual land holders when faced with expropriation, however the Federal Government's laws do not cover the valuation of communal land or compensation for loss of land to the holders or users of communal lands.
4. **Transfer of land:** Proclamation 456/2005 and regional proclamations recognise the existence of communal land holdings, but state that the Federal Government retains the authority to transfer these to individual holdings as they see necessary. LGAF cites an example from Benishangul-Gumuz's proclamation, which covers conversions by the Government, and not the kebele community.

In addition to the findings presented, the LGAF assessment provides some recommendations regarding the management and recognition of communal land:

- A methodology for communal land registration and certification should be developed, and this should include registration and certification of pastoral areas, which is conducive to recording communal tenure systems.
- A policy framework must be created that provides clear guidance on the responsibility for managing communal lands.

Figure 1 Snapshot of Ethiopia LGAF Assessment Scorecard (World Bank)²¹

Panel	Indicator	Dimension	Countries	Ethiopia
PANEL 1: LAND TENURE RECOGNITION				
LGI 1: Recognition of a continuum of rights				
1	1	1	Rural land tenure rights 1) recognized and 2) protected in practice	B
1	1	2	Customary tenure rights are 1) recognized and 2) protected in practice	B
1	1	3	Indigenous rights to land & forests are 1) recognized and 2) protected in practice	
1	1	4	Urban land tenure rights are 1) recognized and 2) protected in practice	B
LGI 2: Respect for and enforcement of rights				
1	2	1	Accessible opportunities for tenure individualization exists	A D
1	2	2	Individual land in rural areas is 1) recorded and 2) mapped	D
1	2	3	Individual land in urban areas is 1) recorded and 2) mapped	D
1	2	4	The number of illegal land sales is low	B
1	2	5	The number of illegal lease transactions is low	D
1	2	6	Women's property rights are recorded 1) rural 2) urban	A
1	2	7	Women's property rights to land are equal to men's 1 in law and 2) in practice	C
PANEL 2: RIGHTS TO FOREST AND COMMON LANDS & RURAL LAND USE REGULATIONS				
LGI 1: Rights to forest and common lands				
2	1	1	Clear identification & assignment of use for 1) forests 2) common lands	B C
2	1	2	Group rights recognized and enforceable	B
2	1	3	Use rights recognized even on state land	B
2	1	4	Multiple rights over common land can legally coexist	B
2	1	5	Multiple rights on other lands can legally coexist (e.g. trees)	B
2	1	6	Rights over & subsoil can legally coexist	C

²⁰ It is understood that this assessment was conducted prior to the USAID LAND programme pilots which have begun demarcating and registering communal lands in pastoral areas. The LGAF highlighted pastoralists' desire to have their lands registered, with a petition presented to government in 2014 on National Pastoralists Day, which requested communal lands should be registered and certificates of holding issued.

²¹ As seen in the LGAF assessment scorecard, some indicators have received two rankings, for example an A and D. The Land Portal website explains that multiple scores occur in instances where multiple localities, person categories or regulations have been reviewed.

Panel	Indicator	Dimension	Countries	Ethiopia
2	1	7	Opportunities for registration & mapping of group rights	C
2	1	8	Boundary demarcation of communal land	D

As seen in the scorecard above, boundary demarcation of communal land has been given the lowest rank of D meaning “very weak practice”. The introduction of SLLC has the potential to improve this score, as it demarcates communal land in addition to private land.

Communal Land in LIFT Woredas

The findings of this study have been grouped to cover the objectives of the study, principally: how communal land is documented, its prevalence, governance and use. Site visits, in-country interviews and data-analysis were undertaken to support the work.

Documenting Communal Land

Defining Holding Type, Land Use and Land Cover

LIFT’s Rural Land Administration System (RLAS) records four land holding types: **individual land**, recognised as the private land of an individual or household, **communal land**, which may be used by a group of people or community collectively, **public institutional land**, which covers churches, schools and so on, and **federal land**, which is land held by the state. While this is in keeping with government definitions of land type, as described in Section 5, the constitution identifies only three holding types: individual, communal and public/state. LIFT splits institutional land into two, representing federal land, and land held by non-governmental institutions (public institutional land).

Based on FAO guidance, the Government of Ethiopia recognises 12 categories of land use and land cover. These categories are listed in the table below in the left-hand column. The categories that LIFT uses to define land use and land cover have been adopted from these government definitions, with some additional distinctions or regional terminology²².

Any of the four landholding types (individual, communal, public or federal) can be categorised as one of the 14 land use/cover types documented by LIFT. For example, rainfed annual crops could be a land use type for an individual parcel and a communal parcel.

Table 2 Land Use and Land Cover Definitions²³

Land Use/Land Cover Type	Categories record by LIFT	Description
Forest Land	Artificial Forest Natural Forest	Forest harvesting, principally for wood. Some rain fed peasant mixed agriculture, annual and perennial crops
Bare Land	Bare land	Includes exposed rock surfaces which may have small shrub, salt flats for salt mining, exposed sand and soil surfaces with grass vegetation. Largely insignificant for grazing land, except for brief periods during the rainy seasons.
Built Up/Urban Areas	Built-Up Areas Homestead Metisha (Homestead in Tigrigna)	Classed as an urban or built-up area, where main land use activities are residential, commercial, industrial or recreational
Afro-Alpine and Sub Afro-Alpine Vegetation	This category has not been found during this study’s analysis of the data	Found on high land, above 3,2000m altitude. Covered in short shrubs and bushes with occasional trees. Difficult terrain which is used for grazing where possible. On lower parts, cultivation may occur.

²² The definitions currently used by LIFT are reportedly adopted from REILA pilots, which may have changed slightly from original government definitions.

²³ The Land Use and Cover types presented in this table come from the Land Use, Production Regions and Farming Systems Inventory prepared by the FAO for the Government of Ethiopia, 1984

Land Use/Land Cover Type	Categories record by LIFT	Description
Grassland	Grazing Land	Covers open grassland, bushed/shrubbed grassland and wooded grassland. Predominant land use activity is grazing of livestock of the pastoral type.
Cultivated Land	Irrigated Annual Crops Irrigated Perennial Crops Rainfed Annual Crops Rainfed Perennial Crops	covering State Farms, Intensively cultivated land, moderately cultivated land, perennial crop cultivation
Woodland	Shrubland/Woodland	Classed as woodland used from livestock grazing and browsing, rainfed peasant mixed agriculture in patches, forest harvesting, wood harvesting and seasonal grazing. May also include browsing by pastoral or transhumance type
Riparian Woodland or Bushland		
Bushland		
Shrubland		
Wetland	Wetland	Used for year-round grazing on the outer periphery and dry season grazing
Water Body	Other	

Registering Communal Land

LIFT's SLLC manual provides detail of the procedures to be followed for all stages of the registration process, from public awareness raising to certification distribution and SLLC reporting. The manual does not make any specific reference to the registration of communal land.²⁴ It is recommended that the manual is amended to provide specific detail on how communal land is registered. More information on this recommendation can be found in section 6.

It was confirmed by the LIFT team that as part of public outreach, there is currently no tailored messages concerning how to register communal land, however, this is currently under review, and a focus on communal lands is anticipated as part of this revised process.

Evidence from the Field

In Enemor Ener Woreda in SNNPR where the SLLC process is ongoing, the Regional Land Coordinator confirmed that communal land is registered the same way as individual land, with communal land users and kebele administration officials attending demarcation and public display, just as individuals do for private land parcels. The main difference comes when documenting land rights. The back-office SLLC operation's team explained that individual information was not recorded on communal land certificates, as it is for private land. Instead, the land use right is recorded in the name of the kebele administration or community, the holding type is recorded as communal (as opposed to private), and the use right is also recorded (for example, grazing land).

This practice was also confirmed in Birbisa Kebele, Bassona Woranna Woreda, Amhara. The woreda land office confirmed that members of the community would be present for adjudication, demarcation and public display of communal land, in addition to a Kebele Administration official representative. As with individual land registration, field receipts are issued for communal land. The field receipt issued for communal land includes the following details:

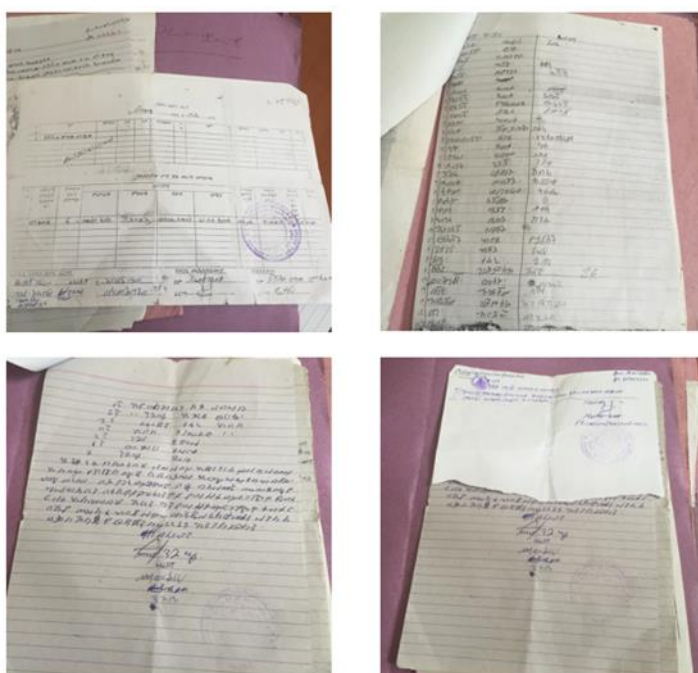
- the Kebele Administration responsible,
- land holding type,
- land use/cover type,
- an ID number,
- border details, and
- signatures confirming the information from several stakeholders.

²⁴ The only reference to communal land comes when outlining the process for dealing with gully's, roads or easements, and explains that some older gullies in Tigray may have been classed as communal land for rehabilitation and redistribution.

The example receipt shown (figure 2) is signed by the kebele committee (an elected committee of seven individuals), the kebele administration, and the community representative (also elected). The woreda office confirmed that communal land would be registered in the name of the community and the SLLC would be kept at the kebele administration office. While individual names do not appear on the SLLC, the woreda office stores a file for the land parcel, which contains an annex detailing all the users' names and their signatures. The annex also includes an application letter from the community representative to register the communal land,

and a letter of response from the Kebele Administration. When speaking to farmers in Birbisa, they confirmed they attended demarcation and adjudication for communal land, as they did for individual land.

Figure 2 Example Receipt (top left), Annex of Communal Land Users Names and Signatures (top right) and Community Application Letter and Response from Kebele Administration (bottom left and right).



The SLLC for communal land, as with individual land, is a holding right and does not provide specific details about how the land is allocated or managed. The FAO's VGGT guide on communal land suggests that one of the main differences between communal and individual land rights is in the consistency of these rights. While rights to individual land are often constant and one-dimensional, rights to communal resources tend to be more complex—they are not necessarily continuous and different users may have different rights over the same resource. Therefore, it suggests that when documenting these communal rights, processes should be mindful of the need for flexibility, and appreciate the necessity of recording overlapping rights. For SLLC, this may mean the need to document numerous land uses or different user groups, instead of one to provide clarity and avoid competing claims.

Extent and Use of Communal Land

To determine the extent of communal land in LIFT woredas, and to understand how it is used, this study looked at programme data²⁵, coupled with qualitative interviews from the field.

For the statistical analysis, data was examined from 12 woredas where registration is complete (five in Oromia, three in Tigray, three in SNNPR and one in Amhara)²⁶. This data was analysed to assess four indicators:

- the percentage of communal land area of the total gross area (ha) within a woreda, noting regional differences
- comparison of the total number of communal and non-communal parcels in the 12 selected woredas
- the variance in parcel size, comparing communal to non-communal parcels
- an average breakdown of how communal land is used by area (ha), including how this compares to non-communal land uses

Table 3 Communal Land (% of gross area)

Region	Woreda	Communal Land (% of gross area)
Oromia	Dodota	29.7
	Sire	28.9
	Tole	3.1

²⁵ It is not possible to guarantee the fidelity of all individual records in such a large dataset (over 920,000 records), which for the purpose of this study have been subject to manual cleaning and manipulation to derive different statistics

²⁶ Only one woreda from Amhara has been analysed, due to the use of the ISLA Land Information System in this region. ISLA does not allow the easy extraction of data for analysis.

	Lode Hetosa	6.7
	Sodo Dache	12.9
Tigray	Tahtay Machew	34.4
	Alamata	24.0
	Weri Leke	27.1
SNNPR	Meskan	16.4
	Mareka	8.1
	Duna	4.4
Amhara	Hulet	22.8

As demonstrated in table 3 above, the proportion of communal land in a woreda varies considerably from woreda to woreda and between regions. Selected woredas in Tigray display the highest proportions of communal land, ranging between 24 and 34.4%. In Tahtay Machew and Weru Leke, bare land accounts for 72.8% and 73.3% of communal land area respectively. Variation in other regions is higher, for example in Oromia, communal land covers nearly a third of Dodota (29.7%), compared to just 3.1% in Tole²⁷. Similar variations can be detected in SNNPR, although they are not as pronounced.

Table 4 Communal and Non-Communal Land Parcel Count (no.) and Communal Parcels (% of gross parcels)

Region	Woreda	Communal Land Parcel Count (no.)	Non-Communal Land Parcel Count (no.)	Communal Parcels (% of gross parcels)
Oromia	Dodota	341	10,804	3.1
	Sire	1,461	68,691	2.1
	Tole	1,104	73,442	1.5
	Lode Hetosa	1,762	66,550	2.6
	Sodo Dache	1,491	32,235	4.5
Tigray	Tahtay Machew	1,928	99,586	1.9
	Alamata	1,034	70,155	1.5
	Weri Leke	3,785	117,906	3.1
SNNPR	Meskan	751	76,045	1.0
	Mareka	430	21,476	2.0
	Duna	1,039	37,923	2.7
Amhara	Hulet	2,861	229,405	1.2

Table 4 (above) demonstrates the parcel count for communal land and non-communal land (which covers individual, public and federal land) and the percentage of communal parcels in each woreda. As expected, the count of communal parcels is considerably smaller than the count of non-communal parcels. This is in keeping with our hypothesis, that there would be fewer communal parcels, as communal parcels tend to be larger than individual parcels. For example, in Tahtay Machew and Weru Leke in Tigray, where there are relatively high percentages of communal land area, the percentages of communal land parcels are smaller. This is explained by the fact that in both woredas, communal land parcels tend to be considerably larger than individual parcels, demonstrated by the smaller parcel count.

Sodo Dache in Oromia has the highest percentage of communal parcels, at 4.5%. Here, communal land parcels still tended to be larger than individual parcels but not significantly so. This is also true of Duna, SNNPR, where communal parcels represent 2.7% of all registered parcels.

²⁷ The difference between communal land cover in Dodota and Tole are to be expected given the agro-climate and land use systems in these areas. In Dodota, farmers depend on livestock for their livelihoods, with main feed sources coming from communal grazing land. Conversely, in Tole, intensive crop cultivation is the predominate livelihood, which accounts for less expansive areas of grazing land.

When looking at the sample to assess the variance in parcel size, communal parcels tended to follow bimodal distribution, with parcels either being very small or very large, compared to individual parcels which tended to follow a normal distribution, negatively skewed towards smaller parcels.

In Annex 3, we have provided Holding Type maps for Sode Dache (Oromia) and Alamata (Tigray) to demonstrate how communal parcels are disbursed across the woredas. In both woredas, communal parcels are interspersed across the whole area, however in Alamata, as expected, the concentration of communal parcels is much more notable owing to high proportions of communal land on hillsides and slopes, and a higher overall percentage of communal land area.

Table 5 Average Communal Land Use by area (ha) across the 12 woreda sample

Land Use / Cover	Av. Communal land use by area (ha) across the 12 woredas
Artificial Forest	33.10
Bareland	2,064.78
Built-up Areas	111.37
Grazing Land	1,241.10
Irrigated Annual Crops	50.76
Irrigated Perennial Crops	45.11
Natural Forest	800.19
Rainfed Annual Crops	2,902.34
Rainfed Perennial Crops	323.23
Shrubland / Woodland	777.61
Wetland	6.13
Homestead	5.86
Metisha	3.56

Table 5 represents how communal land is used by area (ha) across the 12 woreda sample, in the land use and cover types recorded by LIFT. As seen in the table, the highest communal land use across the woredas is rainfed annual cropping, which covers on average 2,902.34 ha, this is followed by bare land (2,064.78 ha), grazing land (1,241.10 ha) and natural forest (800.19 ha). These land uses are expected and in keeping with the qualitative findings from the field visits, which are detailed below. In rural Ethiopia, agriculture, forests and grazing are three areas which typically contribute to livelihoods, and the statistics presented here suggest that communal land is used to support these livelihood activities. Thus, while these statistics are unsurprising, one question may be, given the high level of land being used for rainfed agriculture, whether this is the most efficient allocation of land, and whether if being used for individual gain, communal land should be reallocated accordingly. Despite the land uses being typical of what is expected for communal land, it is notable that the communal land uses are fairly diverse compared to that of non-communal land (see table 6), demonstrating the versatility of these resources for different livelihoods across different areas and groups.

Figure 3, (overleaf), demonstrates the land use averages for each of the four regions. While Oromia, SNNPR and Amhara²⁸ all display high levels of rainfed agriculture, the communal land in Tigray is overwhelming recorded as bare land, with very little area reserved for cultivation. This is in keeping with the characteristics of Tigray, which has large tracts of mountainous terrain unsuitable for arable crops.

²⁸ It is important to note the data presented here from Amhara is not representative as it only applies to one woreda.

Figure 2 Average Communal Land Use by area (ha) across regional samples

Land Use / Cover	Av. Communal land use by area (ha) Oromia
Artificial Forest	208.94
Bareland	68.33
Built-up Areas	63.98
Grazing Land	648.67
Irrigated Annual Crops	114.89
Irrigated Perennial Crops	102.02
Natural Forest	161.20
Rainfed Annual Crops	3,476.97
Rainfed Perennial Crops	353.44
Shrubland / Woodland	112.88
Wetland	7.40
Homestead	0.00
Metisha	0.00

Land Use / Cover	Av. Communal land use by area (ha) SNNPR
Artificial Forest	535.28
Bareland	24.30
Built-up Areas	0.09
Grazing Land	28.70
Irrigated Annual Crops	3.14
Irrigated Perennial Crops	0.01
Natural Forest	2.05
Rainfed Annual Crops	1,035.79
Rainfed Perennial Crops	504.58
Shrubland / Woodland	806.75
Wetland	9.32
Homestead	0.00
Metisha	0.00

Land Use / Cover	Av. Communal land use by area (ha) Tigray
Artificial Forest	324.20
Bareland	8,120.94
Built-up Areas	335.31
Grazing Land	166.04
Irrigated Annual Crops	9.74
Irrigated Perennial Crops	5.45
Natural Forest	1,250.47
Rainfed Annual Crops	520.74
Rainfed Perennial Crops	2.36
Shrubland / Woodland	2,106.04
Wetland	2.86
Homestead	23.43
Metisha	12.69

Land Use / Cover	Av. Communal land use by area (ha) Hulet Amhara
Artificial Forest	374.02
Built-up Areas	10.33
Grazing Land	11,065.68
Irrigated Annual Crops	2.01
Irrigated Perennial Crops	14.85
Metisha	0.00

Land Use / Cover	Av. Communal land use by area (ha) Hulet Amhara
Natural Forest	5,038.72
Not Available	0.00
Rainfed Annual Crops	12,773.61
Rainfed Perennial Crops	590.69
Shrubland / Woodland	28.54

Table 6 Average Non-Communal Land Use by area (ha) across the 12 woreda sample

Land Use / Cover	Av. Communal land use by area (ha) Tigray
Artificial Forest	135.98
Bareland	69.19
Built-up Areas	831.82
Grazing Land	400.40
Irrigated Annual Crops	163.11
Irrigated Perennial Crops	72.32
Natural Forest	218.09
Rainfed Annual Crops	31,542.28
Rainfed Perennial Crops	1,583.73
Shrubland / Woodland	46.71
Wetland	27.67
Homestead	183.21
Metisha	209.30

Table 6 represents an average of non-communal (individual, public and federal) land use by area (ha) across the 12 woreda sample. The highest proportion of land is the same as that of communal land- rainfed annual crops- albeit with a much large proportion, occupying on average 31,542.28 ha. The statistics here show that land use is much less diverse, with other land uses mainly focused on cultivation (perennial, irrigated) and built-up areas. Again, this is as expected as individual land is often used for smallholder farming.

Evidence from the Field

In Enemor Ener Woreda, SNNPR, communal land in the woreda is typically used for grazing, social services- including weddings, funerals, meetings- and some areas are forested. Initially churches, schools and graveyards were mentioned when discussing communal land, however clarifications confirmed these were considered as public, not communal lands.

Woreda coordinators and kebele community representatives confirmed that 'anyone' from the community can use communal land that is administered and managed by that community. *However*, the type of communal land will affect who uses the resource- for example despite having access to communal land, it is unlikely that vulnerable groups could use communal grazing land- as they do not have cattle to graze, and other uses of this land are not permitted.

Kebeles and other donor-funded programmes did however confirm that the use of communal land by landless youth was a growing trend. In many cases, land is retained as communal, but its use is 're-classified', allowing landless youth to use the land for agricultural purposes, usually via a lease agreement. These agreements are recognised as part of the SLLC process. In this way, it appears that SLLC is a useful tool in helping to increase the tenure security of this resource, particularly from encroachment from surrounding private parcels- which was cited repeatedly as one of the biggest challenges for communal land and its users.

The rights communal land users have compared to those of individual land users is more restrictive (see Table 7). As with private land, communal land users are entitled to 'use rights'. These rights also extend to include the ability to use the 'fruits of the land', for example, in a forested area, users may be permitted to take small pieces of wood to use for fuel. However, these rights are restricted, an example was given explaining that the use of forest bi-products is permitted, but felling trees is not, although it is not clear whether this is the case for all communal forests.

Table 7 Typology of Land Rights Permitted for Individual versus Communal Land

Land Rights	Individual	Communal
Use	√	√
Fructus (to collect and use)	√	√
Transfer	√	X
Inherit	√	X
Gift	√	X
Lease	√	Potentially under some arrangements but not as individuals

Governance and Management

The governance and management of communal land is the responsibility of several different stakeholders. For the most part, communal land is managed and governed at the kebele level, through the Kebele Administration, Kebele Land Use Committee and community members. The Oromia Land Bureau confirmed that all communal land is managed at kebele level, regardless of size.

During field visits to woredas in Amhara, Oromia and SNNPR, it was confirmed that communal land would either be registered in the name of the community at sub-kebele level, or in the name of the Kebele Administration to manage on the community's behalf. The details of the arrangements for how this is done varies from place to place. Pockets of communal land will exist within the kebele and will be used and managed day-to-day by communities at the sub-kebele level, with general oversight from the Kebele Administration, and advice from the Kebele Land Experts (where these are present). Involvement from community elders can also come into play, based on their knowledge and respected position within the communities. It is the responsibility of the communities who make use of communal land to determine how and by whom it is used. The Technical Team Leader in Bassona Woranna Woreda, Amhara explained that communities developed their own regulations and bi-laws governing how land is used, allocated and managed at the local level, and are not written or formalised- they are "just known" by users. This type of arrangement was also cited in various meetings both in the field and with other land programmes registering communal land.²⁹

In Birbasa Kebele, Amhara, the Technical Team Leader explained that the kebele administration would often conduct "patrols" to ensure that communal land is being used properly, and by eligible users. These kinds of patrols were also reported by the Oromia Land Bureau, explaining that a Kebele Land Administration and Use Expert would make regular checks to ensure the land use type is as stated.

When speaking with woreda teams and other organisations and stakeholders, including RLAUD and SLMP- it was noted that the management of communal land by communities and formal institutions, using bi-laws, has existed for many years, and thus the process of communal certification confirms the existing arrangements.³⁰ It is therefore the responsibility of all the stakeholders to manage, sustain and protect the land.

It was reported that there have been some problems related to the management of communal land, with a growing population, particularly in the highlands, where access to land has become more difficult. This increased pressure on land has caused disputes between communal land users and individual land users. Encroachment from private holdings onto communal land is cited as a common problem. Farmers and field teams interviewed explained that the SLLC is a useful tool in helping to overcome and avoid such disputes, as the boundaries to land and corresponding rights are clarified.

As described previously, the Ethiopian Constitution and proclamation 456/2005 allows for the reallocation of communal (or private) land for any other purpose that is deemed necessary to further development. On site visits, it was explained that if a parcel of communal land is deemed suitable for development purposes the kebele will be directly involved, particularly, if it is a reallocation of land within the community.

If the change in land-use is from external parties (either domestic or foreign) it will be dealt with at the woreda level, who will negotiate with the kebele. During the site visits it was maintained that all land users would have to agree to any changes before they would be approved.

²⁹ LAND, REILA and SLMP representatives all spoke of community regulations and bi-laws which dictate the terms for using communal land.

³⁰ RLAUD and SLMP

Any compensation due for reallocations of land to communal land users will depend on the purpose of the new development. Communal land users may receive compensation in-kind, i.e. an alternative parcel of land (if available); associated benefits or facilities; or in some cases, cash compensation may be provided- but this would be administered through the Kebele Administration and may not necessarily be awarded to individual users, who may be losing access to communal land. This differs from private land compensation which may include cash payments to individuals.

The table below summarising the administrative structures and institutions responsible for communal land has been created with information from field- interviews and from the Ethiopia LGAF Report (World Bank, 2016)³¹.

Table 8 Administrative Structures and Institutions Responsible for Communal Land Management

Administrative Structure	Institutions	Involvement or Responsibilities for Communal Land
Federal	Ministry of Agriculture, Land Administration and Use Directorate	The Ministry of Agriculture has oversight of the rural land sector. The day-to-day responsibility for rural land is held by the Land Administration and Use Directorate, which covers communal land.
Regional	Bureau of Agriculture and/or member of regional cabinet/council	The management and administration of rural land, which includes communal land, is the responsibility of specific regions- to which each has their own specific regulations
Woreda	Office of Agriculture and/or member of woreda cabinet	Woreda will address outside requests for change of use and work through the Kebele authorities. Any compensation will be administered through the Kebele.
Kebele	Land Administration and Use Committee (and Kebele Land Expert in Amhara and Oromia where available)	Permitted to establish bi-laws based on the local circumstances, responsible for land management and administration. First point of contact to discuss and negotiate with the community regarding land use.
Sub-Kebele	Elected representatives on the Land Administration and Use Committees	Representatives may assist with mediation for kebele level disputes.

Productivity and Changes in Communal Land Use

Across Ethiopia, communal land uses include grazing, communal forest land, pastoral areas, swamps and wetlands. In the highlands, communal land is often found on hills or slopes, and is used by communities on a permanent or semi-permanent basis³². In the regions visited during this study, communal land is typically used for free grazing, community use and social services.

During site visits, the arrangement for 'free grazing' was explained, in which communities can freely use communal land for grazing over a wide area, rather than being restricted to particular areas of the land. However, communities may organise themselves to avoid or try to mitigate persistent problems of over-grazing resulting from increased pressures of growing populations and land scarcity. Measures such as limiting access to communal land seasonally may be applied, limiting access to animals during rainy season to allow the land to recover and mitigate against soil erosion. Allocative arrangements such as this are outlined in local bi-laws.

One of the perceived benefits of receiving SLLC's for individual/private land is that it incentivises or encourages land holders to use the land more productively. This hypothesis was questioned to determine whether communal SLLC had a similar influence.

Of the communal land users questioned, it appeared that the biggest benefit of the SLLC, was increased tenure security, deterring encroachment onto communal land from surrounding private land owners and illegal squatting. The issuance of SLLC's for communal land has not, however, emerged as a key-driver for land use change, according to woreda technical teams. Communal land users also substantiated this claim, explaining that they use communal land in the same way as they had done prior to SLLC.

³¹ LGAF states that as a priority clearer responsibility for managing communal lands needs to be clarified and established.

³² World Bank Interview



Figure 3 Example of Communal Land being sub-divided to use for agricultural purposes by community membership- Birbisa Kebele, Amhara

Findings from the field visits suggested that changes in communal land-use and management do occur, but it is not clear whether this is driven by SLLC issuance. For example, in Birbisa a communal land site previously used wholly for grazing, has been sub-divided and leased to a group of landless youth from the community. The group has 35 members, half male and half female, and had been allocated the land on a five-year lease to use for agricultural purposes for cultivation of onions as a cash crop. The holding type is still recognised as communal, despite being used for private gain. The woreda office confirmed that after the five-year lease expires the community will decide whether to lease the land to someone else or retain the land for communal use. When asked whether the community received any compensation, rent or benefits for leasing this land the Technical Team Leader explained that as the users of the land were children of communal land users, they were not charged rent. In other examples of where former grazing land has been reallocated, it was explained that this was done with the expectation that young people would organise themselves into groups and use the land productively. In theory, the

presence of RLAS will make the process of reallocating communal lands to landless groups easier to plan and manage, and thus while there is not enough evidence from this study to suggest SLLC's stimulate land-use change, the process does have the potential to make these changes more transparent and manageable. Managing the process of communal land allocation is and will continue to be extremely important, not only for assisting landless individuals, but to ensure communal land users rights are adequately protected. As noted in section 5.2, livestock grazing forms an important part of rural livelihoods, and thus a balance must be struck between maintaining traditional land uses and reallocation.

Conclusions and Recommendations

In this section conclusions and recommendations have been provided and grouped in accordance with the stated objectives of the study.

1. Clarifying the extent of land classified as communal in LIFT woredas

This study analysed data collected by the LIFT programme from 12 woredas across the four regions where registration is complete, and coupled this with site visits to Amhara, Oromia and SNNPR. From the study it was evident that the extent of communal land (both area and parcel count) varied according to specific woredas and across regions. Communal land area (%) across the 12 woreda sample ranged dramatically from as low as 3.1%, up to 34.4%. On average the communal land accounted for 18.2% of the area sample, thus representing a small, but significant amount of land. Of the regions analysed, Tigray displayed the highest proportions of communal land area, which is in keeping with the mountainous topography, which are heavily degraded bare land or covered with shrub vegetation. Variation between woredas in Oromia was much higher mainly attributed to difference's in the land use system and livelihoods of the populations. As expected, the parcel counts for communal land were much lower than those of non-communal land, with communal parcels tending to be much larger than non-communal ones.

In Annex 3 we have provided Holding Type maps for Sode Dache (Oromia) and Alamata (Tigray) to demonstrate how communal parcels are disbursed across the woredas. In both woredas, communal parcels are interspersed across the whole area, however in Alamata, as expected, the concentration of communal parcels is much more notable owing to high proportions of communal land on hillsides and slopes, and a higher overall percentage of communal land area.

Thus, in summary, although communal land represents a small number of parcels, the percentage of land classified as communal is significant, indicating the importance of communal land as a resource in communities, and the importance of protecting communal land's status, despite growing pressures.

2. *Obtaining a better understanding of the type and variety of tenure regimes in place governing communal lands, and the mechanisms for allocating communal land*

Findings from this study suggest that the rights of communal land users are more restrictive than the rights held by individual land users. Much like private land, communal land users are entitled to ‘use rights’, which include the ability to use fruits of the land, for example taking small pieces of wood from forest or woodland areas to use for fuel. Communal land users however do not possess rights to inherit, gift or transfer communal land, as is the case for individual land. This is to be expected, given that communal land is a shared resource, however it is important to note that this may put communal land users in a vulnerable position if they do not also have access to individual land rights. The need to protect communal land rights and understand the differences between these rights and individual ones, underlines the necessity to clearly articulate procedures for registering communal land. This is covered in more detail in point 5 below.

Interviews with field teams and other donor-funded programmes explained that communal land can be used by anyone within a community for several purposes, as long as these are in keeping with the bi-laws set-out by the Kebele Land Administration and Use Committee. As well as a communal resource used at sub-kebele levels, several interviewees reported that communal land being utilised by landless youth is a growing trend. Often, it remains ‘communal’ but is reclassified, allowing landless youth to use it for agricultural purposes, often via a lease agreement. These agreements are recognised under the SLLC process.

Despite their localised and sometimes informal nature, it is clear that systems for managing and allocating land at kebele and sub-kebele level exist, and it appears that SLLC is a useful tool in planning and managing these arrangements. Furthermore, SLLC is perceived to help increase the tenure security of this resource, particularly from encroachment from surrounding private parcels- which was cited repeatedly as one of the biggest challenges for communal land and its users³³.

Recommendation: SLLC’s ability to improve tenure security has been reported, but its potential to improve planning and management of resources could be further encouraged. It would be useful for LIFT to work with the Kebele Land Administration and Use Committees, and sub-kebele organisations to build their capacity for better planning and management of communal resources, using the information provided by SLLC and RLAS as a tool.

3. *Identifying the institutions at kebele, woreda and regional level responsible for the management of communal lands*

The study found that communal land is managed and administered by different structures at the federal, regional, woreda and kebele levels. Based on findings from the field-visits and reviews of the World Bank’s LGAF report, it is evident that for the most part communal land is managed and governed at the kebele level by the Kebele Land Administration and Use Committees (and in Amhara and Oromia, designated Kebele Land Use Experts where available). These Kebele structures are the first point of call and decision makers regarding communal land use, management and allocation. However, as noted in the LGAF report and during field interviews, woreda structures may also have some influence and authority regarding communal land use- particularly with ‘external investments’ i.e. requests for change in land use or allocation from outside of the kebele. The Technical Field teams reported that the woreda could not make any decisions about communal land use without consent from the Kebele, however the LGAF report suggests accountability and clearer lines of responsibility need to be established, indicating that this arrangement may not always be workable or transparent in practice. Furthermore, the rural land proclamations explain that the State, as the ultimate owner of communal land, can change its use as necessary- again, some clarity is needed here as to what level of government can instigate this change and whether these responsibilities are clear to the stakeholders involved, and to land users themselves.

Recommendation: LIFT could assist GoE with better defining the roles and responsibilities of the different institutions at federal, regional and local levels in relation to the management of communal land. Table 8 in section 5.3 provides an overview of typical institutional responsibilities regarding communal land, and it is recommended that this be followed up with a more detailed look at how these responsibilities and roles differ across the four regions, to determine whether processes or approaches need to be adapted to fit the local context.

³³ Other programmes, included REILA, highlighted the benefits of SLLC as a tool to overcome boundary disputes between communal and private parcels.

4. Understanding the range of land use (both formal and informal), and the main users of communal lands, with a particular focus on the activities of women and vulnerable groups

This study found that communal land in the selected woreda sample was mostly used for rainfed annual cropping, followed closely by bare land- typically used for occasional grazing and small shrubs- grazing land, natural forest and woodland/shrubland. These land covers and uses represent the typical rural livelihoods triangle found in Ethiopia, which relies on a combination of cultivation, collection of forest products or woodlots and livestock grazing. While the proportions of these land uses vary across regions and woredas (see figure 3), the uses are again representative of dominant livelihoods in these areas. For example, in the Tigray sample, much of the communal land is classified as bare land, compared to the Oromia and SNNPR samples which boasted high levels of rainfed annual crops. The study found that, as with communal land, the highest use for non-communal land was also for rainfed agriculture, although for non-communal land this held a much higher proportion of the land area occupying on average 31,542.28 ha. The remaining uses of non-communal land are dominated by other forms of cultivation and built-up areas or settlements. While this is unsurprising, given this count includes all the registered individual land which is used by farmers, it demonstrates that communal land has a much more diverse range of uses, perhaps suggesting that communal land can contribute to a more varied livelihood portfolio than non-communal land. Therefore, while the high use of communal land for farming may raise the question of whether it would be more efficient to allocate this land to individuals, equally it is apparent that other uses of communal land are an important contribution to the livelihoods portfolio, and thus the reallocation of land solely for cultivation may affect and limit these important household income streams, particularly for poor rural households.

During interviews for this study it was frequently said that ‘anyone’ from a community could use and have access to communal land. Despite this, there are obvious barriers to communal land use, depending on what uses are permitted- for example, grazing land could not be utilised by people who do not have livestock, and it is likely that those with livestock are wealthier, suggesting vulnerable groups, in particular women who do not typically graze cattle, may continue to miss out. However, this is not a reported outcome of SLLC, and there is no evidence to suggest the SLLC reinforces this perhaps unequitable arrangement- instead this appears to be the status quo for communal lands. When speaking to farmers as part of this study, they generally felt their access to land was more secure after SLLC (both for individual and communal parcels), however more evidence is required to determine whether the introduction of the certification process has changed the way more vulnerable groups use communal land and whether formalising land use arrangements has affected their access or use.

The issue of communal land allocation to landless youth was frequently cited during this study. As explained in section 5.4, RLAS should make this reallocation process more transparent and manageable and could potentially minimise the risk of non-communal land being wrongly identified as available for distribution to the landless.

Recommendation: Although this study did speak to communal land users, the sample size was not sufficient to provide a detailed impression of farmer’s perceptions of the SLLC. Therefore, to continually monitor vulnerable groups’ access and use of communal land it is recommended that LIFT’s Gender and Social Inclusion team factor this into their assessments, to determine whether any supporting initiatives can be introduced to promote vulnerable groups’ use of communal resources. Furthermore, it is suggested that this issue is considered as part of any future LIFT Impact Assessments. Some suggested questions or topics to cover are included in Annex 2.

5. Identifying information and policy gaps, and existing challenges to the governance of communal lands, and areas requiring further investigation

As identified in this study, while the SLLC manual developed by LIFT provides details of the procedures to be followed for all stages of registration, it does not make any specific reference to the registration or treatment of communal land. Furthermore, currently LIFT does not use any tailored messages concerning how to register communal land when providing training to field-teams. While field-teams seemed comfortable with the procedures for registering communal land, it is recommended that these procedures should be specified in detail. Tailored public awareness messages for communal and non-communal land users alike, woreda offices, kebele administrations and field teams should be developed to explain:

- How communal land boundaries are identified and which authorities and users can confirm the boundaries (and how this works in practice- particularly for bigger parcels, and communal land areas which may cross village boundaries);

- Which individuals or groups can be included on an SLLC and how this is determined and by whom (i.e. actual inclusion on the certificate, or an annex);
- What information is included on a communal SLLC (i.e. on the physical document, and what information is stored on RLAS, including land type, location, boundaries, land use, responsible authority and rights- do all communal users have the same rights? If not can multiple land uses/groups be recorded so all interests are registered)
- Who retains the SLLC (where is it kept and who has access)
- How to deal with disputes or potential conflicts (between individuals using the same parcel of communal land, between communal land users and surrounding parcels, or between a community and external body/group- for example a potential investor)
- How is responsible for authorising changes in land use, and how this is updated and reflected on RLAS

Recommendation: It is recommended that a communal land SIGN should be produced, and updates to the SLLC manual be made. It is advised that a detailed factfinding and consultation process takes place to determine how communal land is currently registered across the four regions, and what problems or challenges have emerged. Clarifying these procedures will help ensure consistency across the process.

Annex 1

Terms of Reference – Desk Study on Communal Land

1. Background

The Land Investment For Transformation (LIFT) Programme is a six-year (March 2014 to -August 2020), DFID funded programme that aims to improve the incomes of the rural poor and to enhance economic growth, through three components: the development of Second Level Land Certification (SLLC); improved Rural Land Administration Systems (RLAS); and increasing land productivity through the ‘making markets work for the poor’ (M4P) approach. 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.

In addition to the registration of privately held land parcels, the SLLC process identifies, demarcates and records communally held land. Data collected by LIFT can now quantify the extent of communally held land in LIFT woredas but does not provide any insights into how that land is used or managed. Regional land administration and use proclamations lack detail about the use and management of communal land resources, including pastoral land, forests and shrub lands.

2. Objectives

The overall objective of the assignment is to conduct a desk study aimed at:

- Clarifying the extent of land classified as ‘communal’ in LIFT woredas
- Obtaining a better understanding of the type and variety of tenure regimes in place governing communal lands, and the mechanisms for allocating communal land
- Identifying the institutions at kebele, woreda and regional level responsible for the management of communal lands
- Understanding the range of land use (both informal and formal), and the main users of communal lands, with particular focus on the activities of women and vulnerable groups
- Identifying information and policy gaps, and existing challenges to the governance of communal lands – areas for future investigation

The desk study will inform future development partner decision-making and assist the LIFT programme in understanding the impact of LIFT on landless households who access communal lands.

3. Scope of Work

The assignment will be undertaken primarily as a desk study, with supporting interviews conducted at regional, woreda and kebele level. It will address the objectives identified above and will serve as a scoping exercise to set out a range of possible themes for further research, and identify any critical areas which need to be addressed.

Communal land is demarcated during LIFT’s SLLC process and may be an important resource for landless households who do not benefit directly from the registration of their land holdings under SLLC. At present, this is not clearly articulated in the LIFT programme theory of change. The desk study will identify to what extent more vulnerable households (including Female-headed-households) depend on communal lands, and discuss what the impact, if any, of SLLC may be on these households.

The desk study, and any subsequent research, may inform future development partner decision making around communal land-based activities and interventions.

4. Output/Deliverables

The main deliverable will be a report of no more the 20 pages, with a two-page abridged summary.

An outline presentation should be prepared for presentation to DFID by LIFT Senior Management.

Additionally, a short report will be submitted (<2 pages) addressing the specific reporting requirements of the LIFT log frame. This will be prepared immediately prior to the next LIFT AR (End September 2018).

5. Staffing

The assignment will be undertaken by DAI’s in-house Senior Consultant in Land Tenure, Felicity Buckle, with direction and support from LIFT Registration Advisor, John Leckie. The team will report to LIFT Land Manager, Ato Gizachew Abegaz. Additional technical support will be provided LIFT GIS Manager Dawit Yirga.

Approximately 15 days are anticipated for the desk review, and 10 days of in-country interviews. The work will be complete before 25th September 2018, with first draft presented for comment before 3rd September 2018.

Annex 3

Questions/Considerations to determine how SLLC's may influence vulnerable groups use or access to communal land

Questions for Farmers/Lan Users

1. Has your access to land changed since receiving an SLLC (either you didn't have access before and do now, or did have access before and don't now), or no change?
2. Do you know what rights the SLLC gives you as a communal land user?
3. Do you use your land for the same purpose as you did prior to receiving an SLLC?
4. Who has access to communal land in your community? Has this changed since receiving an SLLC- with either more or less people accessing the land?
5. Who monitors access rights? Sub-Kebele Representative? KLAUC? Community Elders?
6. Do you agree that the land boundaries accurately reflect communal land area?
7. Were you involved in the SLLC process? At what stage? A&D/public display/objections and corrections?
8. Is your name listed as a person of interest (do you know?)
9. Have you seen the SLLC? Do you have access to the SLLC?
10. Do you feel more/less secure since receiving an SLLC? In what way?
11. What rights do you have to communal land? How do these differ to rights to individual land?
12. If they differ, is the SLLC able to capture these rights accurately?

Annex 4

