

EASTERN NILE IRRIGATION AND DRAINAGE STUDY/FEASIBILITY STUDY
DINGER BEREHA IRRIGATION PROJECT

ANNEX 4: SOCIOLOGICAL ASPECTS AND LAND TENURE

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1 SOCIOLOGICAL ASPECTS

1.1 INTRODUCTION

The proposed Dinger Bereha Irrigation Development has a number of social issues that need to be taken into account under the present Feasibility Study. Accordingly, a team of experts drawn from BRL and Metaferia Consulting Engineers has conducted a study in the project area for one full week. The following findings are mainly drawn from this field level investigation. The Team has employed different investigation tools in drawing the required information. Contacting various sector offices at Woreda level was the major tool in collecting data related to the existing population and settlement situations, livelihood means, development potentials and constraints, and other pertinent information relevant to the proposed irrigation development. Conducting a series of focus group discussions with inhabitants living in the envisaged irrigation command areas was another tool in collecting information about the public attitude towards the proposed irrigation development in their area



Figure 1.1: Group Discussion with People living in the Potential Irrigable Area

The group discussions have highlighted the people potential and prior experience on irrigation as well as any potential negative and positive impacts. Transect walk into the area also helped in observing the local situation and knowing the livelihood pattern closely.

1.2 LOCATION, POPULATION AND SETTLEMENT

The proposed irrigation development is located in Chewaka Woreda of Illubabor Zone within Oromia Regional State. The entire Chewaka Woreda was established after massive resettlement operation in the area to host people that came from some food insecure Woredas in East and West Harggae Zone of Oromia Region.

Prior to the resettlement the present Chewaka was reported to have no settlers and widely covered by forests and wild life. The total area of the woreda is about 52,000 hectares land and divided into 28 Kebeles, out of which about 25,000 hectares (48 %) of land is now designated as cultivable and of which about 19,400 hectare is already under cultivation by the new resettlers. The remaining land is covered with natural forest, which is under heavy threat and pressure. The agro ecology of the Woreda varies between 1100 masl at Dedessa River to 1800. The largest majorities belong to Oromo ethnic group and adhering to Islamic faith.



Figure 1.2: One of the New Resettlement Sites

Since 2004, when the first resettlers were mobilized into the area, the Woreda population has been on high increase due to large influx of people into the area in search of agricultural land as well as other livelihood means. As per information secured from the Woreda Administration, the total number of households/families came to the area through the government sponsored resettlement was 12,390 with a total population of 78,000 people. Now (2209) the total number of families reported to be 13,641 and population of 92,027 people.

For the first three years the resettlers were receiving direct support from the government like oxen, cash, grains and other assistance needed to kick off their own livelihood means. Each family had also received a crop land with the size ranging from 1.5 to 2 hectare. Currently the resettlers are believed to have achieved a self sustaining stage and their agricultural products are also beyond the family consumption and being marketed locally

The proposed irrigation area falls in about 11 Kebeles within Chewaka Woreda. While in some Kebeles the command area covers a small part (15-25 % of the Kebele area) in others it occupies the entire Kebeles. The potential beneficiaries are also expected to vary accordingly. The following table summarizes the estimated land portion within the command area and their households.

As mentioned, the population density of this new resettlement area is increasing. The population issue would be one major concern in relation to the proposed irrigation scheme as well as in the general natural resource management of the area at large.

Table 1.1 : Estimated Household Numbers in the Proposed Command

Kebele	Estimated Portion within the Command Area (in %)	Household Number		
		Male	Female	Total
Shimel Tokee	100	405	18	423
Gudree	75	480	6	486
Haro Chewaka	75	355	7	362
Urji Oromia	100	515	5	520
Cheffe Megertu	25	458	6	464
Diree Missoma	100	622	45	667
Durssitu Missoma	75	417	4	421
Jegen	75	435	31	466
Siree Gudo	100	514	21	535
Burka Ananai	25	455	20	465
Tarkanfata Missoma	20	359	11	370
	Total	5015	174	5179

1.3 ACCESS TO SERVICES

As the entire Chewaka Woreda is under the government-sponsored resettlement operation, almost all social services (schools, water supply, road, health services, market and others) established as part of the resettlement program. Thus, all of the mentioned services are available at Kebele level. All of the 28 Kebeles have one 1st Cycle school, one health post, developed water supply (spring or hand pump), access to road and market. Besides, a higher level school (2nd cycle) is available in seven resettlement sites, serving four Kebeles on average; there are also three health centres and one high school in two resettlement sites and the Woreda capital, Ilu Harar.

Table 1.2 : Enrollment of Students

Grade	Total number of Enrolled Students											
	1997 EC			1998 EC			1999 EC			2000 EC		
	Male	Female	Total	Male	Female	Total	Male	Female	Total	Male	Female	Total
1-4	5351	3248	8599	5568	3335	8903	6276	4154	10430	6840	4212	11052
5-8	671	49	720	656	109	765	735	207	942	951	161	1112
9-10	-	-	-	-	-	-	-	-	-	170	22	192

Source : 'Woreda Profile', compiled by the Woreda Finance and Economic Development Office

As the above data shows girls enrolment at the first cycle (grade 1-4) is good but get much lesser in the higher grades. Though the general social service coverage can be considered as adequate relative to other places in the Country, some of the services (mainly water supply) are now weakening due to the increase in population and lack of proper sustainability mechanism. Additional water and school facilities are now becoming other development requirements of this new resettlement site

1.4 FOOD SECURITY AND ASSET OWNERSHIP

As mentioned above, the resettlers had been under direct the government support for the first three years. Apart from the crop land (1.5-2 hectare), a number of other supports had been extended to them to stand on their own. Now it is believed that all are at the self sustaining stage. Resettlers are also buying assets like oxen and goats for fattening purpose. The following table shows the average ownership of different assets, as collected from the sampled Kebeles where focus group discussions were conducted.

Table 1.3 : Household Assets

	Average Ownership Per Household
Fattened Oxen	0.5
Bull	0.4
Milk Cow	0.3
Heifer	0.5
Calves	0.4
Donkey	0.04
Goat	1.1
Sheep	0.6
Chicken	2.3
Traditional Bee Hive	0.2
Modern Bee Hive	0.1

Source: Focus Group Discussion Results in sampled Kebeles within Potential Irrigable Lands

As per the above data, asset ownership at household level is still very low as people are not yet fully reached at asset formation stage. The above average data is more or less similar to the data at Woreda level, as collected by the Woreda Agriculture and Rural Development Office and shown below.

Table 1.4 : Oxen Ownership at Woreda Level (2008)

	Number	Percent
Number of Households with no oxen	5935	45 %
Households with one ox	6579	50 %
Households with two oxen	695	5 %
Households with more than two oxen	0	0
Total number of oxen in the Woreda	7274	
Average oxen ownership per household	0.5	

Source : Woreda Agriculture and Rural Development Office

The need for support in the form of availing credit is still very much required in enabling the resettlers to diversify their income from the on farm and off farm activities. The proposed large scale irrigation scheme in the area expected to have sub project components that deals with part of such requirements, like supporting and facilitating credit services through allocating /or lending/ a seed money to the locally accredited micro finance institutions which eventually will disburse the credit to the targeted households.

The resettlers are quite proud of their long established fattening experience back in their original area in east and West Harar Zone. Thus, having oxen for fattening purpose is quite a common way in building the household level asset. Stall feeding is a culture as opposed to free grazing which is a custom in the nearby Woredas. Considerable number of people, including women, are quite accustomed to trading to augment the household income.

1.5 ATTITUDE TOWARDS THE PROPOSED IRRIGATION DEVELOPMENT

Through a series of discussions held with the new resettlers, attempt had been made to know their experience and attitude on irrigation development. For the majorities, involvement and water management in small scale irrigation reported to be a long time experience. Many people do recognize the merit of irrigation than mere reliance on rainfed agriculture. They are enthusiastic to have irrigation in their present landholding.

In some of the villages small scale irrigation is already started by some resettlers. About 22 springs have already being used for the small scale irrigation activities. Besides, organized individuals have now start forming cooperatives to be involved in irrigation schemes. About 48 members formed two irrigation cooperatives with an initial 20 hectare of land secured through lease from the Woreda. The trend generally shows that due to past experience and recognition to its merit, the people will not have a problem in involving themselves in the proposed large scale irrigation development in their area. The main issue under the proposed irrigation scheme is related to land redistribution and how to bring about the optimal use of the land resource already allocated to the resettlers. This issue need to be discussed thoroughly with all the relevant stakeholders.

1.6 GENDER ISSUES

The Ethiopian National Policy on Women enacted in 1993 with the main objective of "facilitating conditions conducive to the speeding of equality between men and women so that women can participate in the political, social and economic life of their country on equal terms with men and ensuring that their right to own property as well as their other human rights are respected" (TGE, 1993b: 25). In line with this basic premise every development interventions at different levels of operations are expected to be gender sensitive and should enable women to enjoy their fruits of labour. The bottom line is that development interventions like the present large scale irrigation development in Chewaka Woreda should not by any means exacerbate women's existing problem, rather it should enable them to have access to benefits that ultimately address their practical as well as strategic needs. Ensuring their participation in all stages of the decision-making is, therefore, quite important.

In many instances women disproportionately bear the brunt of environmental degradation while trying to discharge their productive and reproductive roles. In the Ethiopian case it has been amply demonstrated that the decline in domestic water availability due to land degradation, for instance, disproportionately affects women's welfare than men. Similarly, the increase in deforestation rate greatly affects women, as it simply entails more travel time to collect firewood from farther places. In view of such stakes, women's special needs deserve critical assessment while trying to formulate such development plan as irrigation. There may also be a need to proposed sub projects that will address women's special needs.

As per the data secured from Chewaka Woreda Agriculture Office, women headed households constitute four percent of the total. The gender division of labour, as reported by the Woreda Women's Affairs Office, indicate that women are more responsible for the reproductive role than the productive ones. Unlike other places, women participate less on agricultural fields, though their role in marketing is very high. Their responsibility in household chores is quite immense, partly exacerbated by big family size. Polygamy is quite frequent and believed to be one major development constraint in promoting the family welfare. Women's health is quite compromised due to high fertility and low awareness on primary health care issues. As per the information from the Women's Affairs Office, women are suffering from a range of harmful traditional practices like circumcisions, early marriage, etc. The school data also shows quite lesser number of girl's enrolment and higher dropout rate than boys, mainly due to the early marriage problem.

The development of the proposed irrigation scheme expected to have some implications on the existing division of labour due to the fact that irrigation is a labour intensive activity that entails the involvement of more family members. In order to harmonize labour requirement on the one hand and women's welfare on the other, there is a need to introduce labour and time saving household devices. Access to services like water supply, grinding mill and market need to be improved so as to release women's labour for more productive role under the proposed large scale irrigation project.

This briefly meant to indicate the need to envisage and prepare sub projects, under the proposed large scale irrigation project, that will ultimately address women's practical needs as well as gives them opportunities to be involved in new activities that will follow the irrigation development (like in processing and marketing new products.) The sub projects could include rehabilitation and expansion of the existing basic services like water supply and health, promotion of fuel and labour efficient devices at the household level, support for credit services in the area to start new small scale ventures related to the irrigation activities and marketing of products, and other off farm business.

1.7 SOCIO-ECONOMIC CONSTRAINTS

As indicated above the entire Chewka Wereda is inhabited by new resettlers who came from food insecure Woredas of East and West Harrar Zones. The Government, together with some NGOs, has provided all the basic social facilities and tried to help the people in establishing their livelihood. Basic services like water supply facilities have been installed to cater the needs of the original resettlers. The issue is now due to the high influx of the people into the area and the natural population increase there is an ever increasing demand for water, health service, etc. Already serious problem of water scarcity for domestic purposes is creeping in some of the visited Kebles (like in Jegen and Dabena). The problem is becoming more serious in those localities located in the low-lying parts.

With the current situation, land holding size at the household level is not a problem. All households have about 1.5 to 2 hectare of relatively virgin land, which is much higher than the size owned by highlanders elsewhere in the Country. The trend, however, indicates that due to uncontrolled influx of people into the area, encroachment to the woods and forests is becoming a norm. As per the Woreda level information, large number of unregistered individuals (spontaneous resettlers) do cultivate land on the encroached and reserved parts of the Woreda. Unless this is well regulated by the relevant authorities, it leads to an irreversible devastation on the existing natural resources of the area. Currently, a 22 km road is under construction to link the Woreda with the main Addis Ababa- Assosa highway at Dedessa River. With the opening up of this short distance road to the main high way means a lot in changing the demographic and market conditions in the near future. More influx of people, more dynamism to the area, and at the same time more pressure and requirement on the existing physical and other resources.

As per the data received from the Woreda level health office, the entire Chewka Woreda is malaria endemic. Malaria is the main health complaint reported in all of the health facilities. This is followed by internal parasites and diarrheal problems. The water quality even in the developed shallow wells and springs is the cause for this water borne disease. With the expansion of irrigated agriculture these health problem could get worse unless accompanied by the proper environmental mitigation measures including the sensitization of the public as well as with the construction of the proper physical Works.



Figure 1.3 : The New Bridge Over Dedessa River is under construction (which means soon easy access to Chewaka and more population influx to the area)

1.8 SOCIAL FEASIBILITY OF THE PROPOSED IRRIGATION SCHEME

As repeatedly mentioned above, there are a number of social issues that should be taken into account in analysing the feasibility of the proposed 7,500 hectare of large scale irrigation scheme in Chewaka. Following the field investigation the following four issues were found to be critical in determining the social feasibility :

- Attitude and public perception towards the proposed scheme
- Labour availability
- Provision of additional/auxiliary services in enhancing irrigation benefit and containing its possible negative impacts
- Sustainability and Proper Land Redistribution Possibility.

1.9 REQUIRED INTERVENTIONS/ SOCIAL SUB PROJECTS

In addressing some of the socio-economic constraints and increasing the potential benefits of the proposed large scale irrigation project, the following interventions (from the socio-economic point of view) have been suggested.

Table 1.5 : Issues and Findings

Issues	Findings	Remark
Attitude and perception	-Positive and enthusiastic about the proposed irrigation scheme -Good past experience on Irrigation in their original area – Harar Zone	
Labour Availability	Under the proposed irrigation scheme that requires intensive labouring, labour availability will not be a problem, as the area is now attracting huge number of people in search of land and job.	
Provision of Additional Social service	Due to high increase of population, the existing social facilities (water, school ...) are already being crowded. Training and introduction of labour, resource and time saving devices are required	Sub projects that address people's practical needs like water, health need to be considered so as to optimize the irrigation benefits and avoid some of its negative effects (like forced using of water from irrigation canals) .
Possible Land Redistribution	Irrigation development requires optimal land size at the household level. The current average land holding is more than 1.5 hectare which may not be manageable under irrigation using a family labour -Optimal land resource use might entail the need to redistribute land under irrigation	-High political decision is required in addressing the problem Also requires strong institutional arrangement to deal with the redistribution -Continuous public consultation and reflection on the issue should start as early as possible.
Sustainability	-Due to High population increase, deforestation of the once virgin area is now becoming a common practice -Sustainable resource (tree, land, water...) utilization requires strict adherence to regulation and continuous sensitization of the public on the matter.	-Proper intuitional arrangement should be in place to bring about sustainable resource utilization (Strong water user association with bylaws, strong follow up by the Woreda level sector offices which also require strong capacity building interventions.

1.9.1 Capacity building of the Farmer's Training Centre (FTC)

1.9.1.1 *Rationale*

High deforestation rate and natural resource use abuse is now encroaching in the newly resettlement area. This practice will have its own bearing in harnessing the full potential of the irrigation development. This requires continuous sensitization and teaching on sustainable resource planning and utilization for the local people. The existing FTCs are therefore one means in reaching the general public and disseminating the teaching on resource planning and management. Field observation into the area, however, reveals that FTCs themselves strongly require capacity building interventions to address the issue at hand. Therefore, the following activities at FTCs level have been envisaged (designed as sub project) to optimize the proposed irrigation benefit.

- Building the capacity and skill of the Kebele level Development Agents (DA) through continuous skill upgrading and refreshment courses. This will help in promoting grass root level planning skill and natural resource utilization.
- Skill promotion of those watershed planning team members drawn from the local community through the provision of formally structured trainings and lessons.
- Skill upgrading of those professional at Woreda level who usually takes the responsibility of giving training to the DA and others.
- Organizing sensitization and awareness creation sessions on watershed planning principles and also on resource planning and utilization.
- Training and promotion of labour and energy saving devises for household uses (like promoting closed and fuel efficient stoves)
- Provision of basic tools and necessities for Farmer's Training Centres (FTCs) where the community watershed planning activities are conducted.

It should be borne in mind that this sub project (Strengthening and Promoting Community Level Resource Planning and Management through strengthening the FTCs) is not an independent undertaking, rather it is aimed at building and strengthening the existing role of FTCs through addressing their constraints and building their capacity (logistic and skill). No independent structure is also required; it uses the existing government arrangement.

1.9.1.2 *Project Duration*

The above sub project will have a one year duration to undertake all the components: training of trainers, DAs; sensitization training of communities and other capacity building activities within FTCs. First better to start in those 11 Kebles that fall within the potential irrigable land. The lessons from this are expected to be disseminated further to the other Kebles.

1.9.1.3 *Implementing Bodies*

The Woreda level Agriculture and Rural Development Office (Chewaka Woreda) is responsible for this sub project. With regard to other financial and administrative issues, the existing Woreda level government structure will be used. The role of other stakeholders (specifically NGOs) operating in the area is very much required to be a partner in all phases of the sub project.

1.9.1.4 *Risks and Uncertainties*

The above proposed sub project may entail:

- additional effort and time to the Woreda level experts and Development Agents working at Keble levels.
- getting community members for the task is not simple, as this requires them to set aside part of their productive time for these activities.
- the sub project need to be supported by other actors, like NGOs and other government bodies, otherwise it has less chance to be effective.

Appendix 1: Total Number of Households in Chewaka Wereda (2007/ 08) (Source: Chewaka Woreda Agriculture and Rural Development Office)

Kebele *	Estimated Portion within the Irrigable Area (in %)	Household Number		
		Male	Female	Total
Shimel Tokee	100	405	18	423
Gudree	75	480	6	486
Haro Chewaka	75	355	7	362
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Jegen	75	435	31	466
Siree Gudo	100	514	21	535
Burka Ananai	25	455	20	465
Tarkanfata Missoma	20	359	11	370
Chaman		291	5	296
Mirgisa		404	6	410
Gabina		708	34	742
Kannani Janata		423	17	430
Chokorsa		508	18	616
Burka Baraka		455	28	483
Bahe Biftu		471	11	482
Damaksa		481	13	494
Dukki		353	7	360
Waltassa		501	6	507
Tokoma Harar		565	22	587
Bonaya		230	10	240
Biftu Ayana		296	12	308
W jalala		248	28	276
Dabana		571	26	597
J Belina		210	14	224
Kebena		405	19	424
	Total	12135	450	12655

*The potential irrigable land falls within the first 11 Kebles listed above

2 LAND TENURE

2.1 BACKGROUND

Until the 1974 revolution, Ethiopia had a complex if feudal and repressive land tenure system (?). On March 4, 1975, the Derg announced its land reform programme and nationalized all rural land without compensation and granted each peasant family so-called "possessing rights" to a plot of land not to exceed ten hectares. The Transitional Government of Ethiopia announced the continuation of the land policy of the derg regime in its declaration on economic policy in November 1991 and the new constitution of 1995 approved and confirmed the state ownership of land in Ethiopia (FDRE, 1995). The current government has implemented a land policy that is based on state ownership of land where only usufruct rights are given to land holders.

The land tenure arrangements within the project area are therefore relatively simple given the government ownership of land and the fact that the area has only been populated by people resettled from Hararghe since 2004. It comprises mainly smallholders farming plots of land of 1.5 to 2ha (with about half having land user certificates) with other areas of common access land mainly composed of valley bottom grazing land and settlement areas.

The report is structured as follows. Following this brief background, section 2.2 looks at the policy and legal context of land tenure in Ethiopia, section 0 covers the current status of land tenure and section 2.4 looks at the land tenure situation in Dinger Berha. Section 2.5 proposes measures related to land tenure to facilitate the implementation of the project.

2.2 POLICY AND LAW

2.2.1 Policy

The first priority of the 'derg' military government (1974-1991) was to enact radical land reform to abolish the past tenure systems. The major land reform legislation was enacted in 1975 (Proclamation 31/1975). The law abolished the pre-existing tenure systems. Ownership of land was vested in the State. Farmers were entitled to free land through their respective farmers' associations at their places of residence to a maximum of 10ha per family. Farmers held only use rights that could not be transferred in any form and these rights would be forfeited if they were unable to cultivate their land continuously and/or failed to comply with a physical residency requirement. Some of these provisions, particularly the state ownership of land, were enshrined in the constitution in 1987.

The land policy of the current government, which came to power in 1991, is in effect a continuation of the past, largely guided by the ideology of state control of land, entitlement of free land to all to ensure subsistence, and a great fear that opening land markets would provide inroads for involuntary dispossession of land from poor and vulnerable peasants. The federal constitution was re-enacted in 1995. It reaffirms the constitutionality of the State ownership of land. Article 40 of the 1995 Ethiopian constitution states that:

the right to ownership of rural land and urban land, as well as of all natural resources is exclusively vested in the state and the peoples of Ethiopia. Land is a common property of the nations, nationalities and peoples of Ethiopia.

The article guarantees free access to land; 'right to obtain land without payment' for 'Ethiopian peasants' for grazing and cultivation purposes as well as a right to be '[protected] against eviction from the possessions'. The article further stipulates that any transfer of land is prohibited and 'shall not be subject to sale or other means of exchange'. Holders of land rights are constitutionally protected from eviction except where there is a need for total or partial redistribution of land to ensure "fair and proportionality".

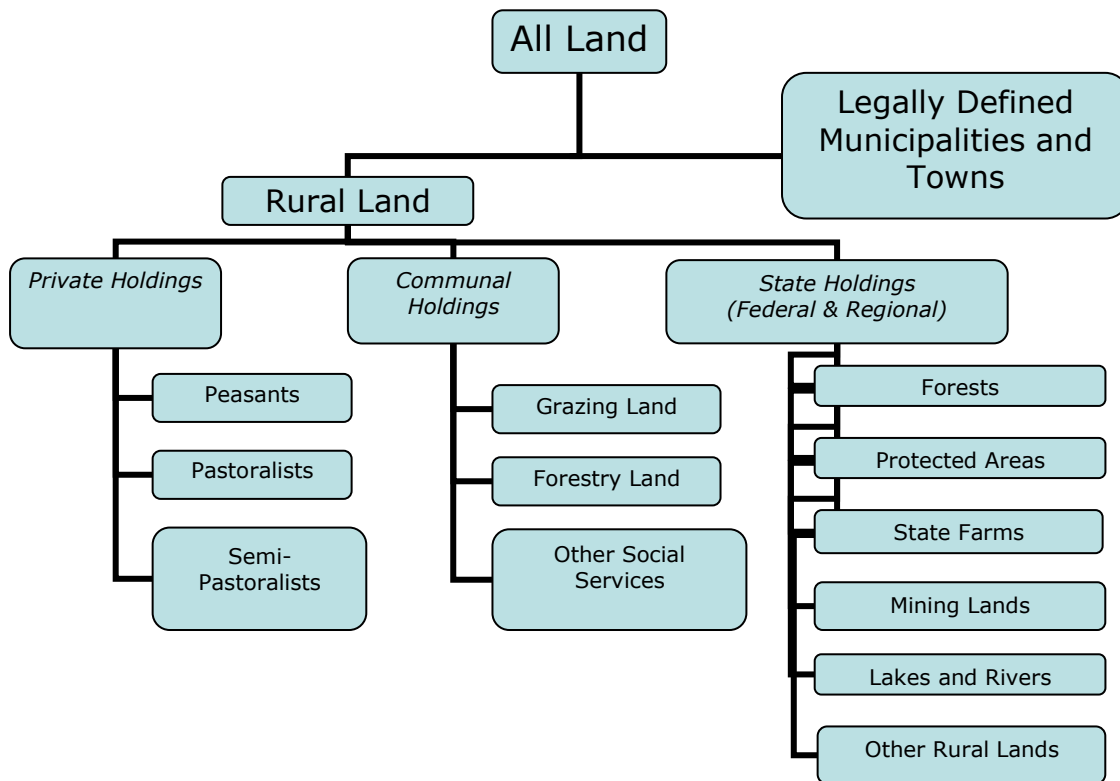
Farmers have the same bundles of rights as in the 1987 constitution with the added right to bequeath their land. Land is still not subject to sale and other means of exchange. Since land belongs to the state, only the movable and immovable properties developed on land are treated as private and hence transferable in any form.

The subsequent Federal Rural Land Administration Proclamation (Proclamation 89/1997) was enacted in July 1997 and transfers the authority for land administration, including rights to distribute land, to regional governments and vests them with the power over the 'assignment of holding rights and the execution of distribution of holdings'. The preamble of the proclamation confirms the constitutional claim that land ownership rights are vested in the state and it rules out the possibility of mortgaging and selling land. It also continues to hold the redistribution of land holdings by the regional governments to be legal. Article 6 authorises regional governments to implement periodic adjustments of individual farmers' land holdings and to demarcate land for communal use (grazing, residence, local forests, social services).

A number of regional governments have enacted laws that determine land use and administration in their respective regions; Tigray in 1997 (amended 2002), Amhara in 2000, Oromiya in 2002 (amended in 2007) and SNNPR in 2003. In addition a federal Land Use Proclamation was issued in 2005.

2.2.2 Land Use Proclamations

According to the proclamations, and Federal Proclamation Article I.2 (Definitions) in particular, land is sub-divided as shown in the diagram on the following page.



Particulars relating to land administration and the management of different land tenure categories are given in the federal and regional proclamations. The stipulations of the Federal Proclamation and the Oromiya Regional Proclamations are discussed below.

In the Federal Proclamation (456/2005), Section II 'The Right to Hold and Use Rural Land', Article 5.1 states that all peasant farmers and pastoralists have the right to use rural land free of charge and that this can be donated or inherited within a family.

Article 5.3 states that that communal land can become private land as may be necessary and Article 5.4 indicates that peasant farmers, pastoralists and semi-pastoralists have priority in rural land allocation but that

- a) private investors have rights to rural land use in accordance with investment policy and law and,
- b) that government and non-government organisations have the right to use rural land in line with *their* development objectives.

Articles 7.1-3 state that there is no time limit to the land use rights of peasants, pastoralists and semi-pastoralists but that for other organisations the duration shall be determined by regional laws and that in the case of land requisition, compensation will be paid proportional to developments made on the land but not on any value of the land itself.

Section 10 deals with the obligations of the land users and indicates that holders shall be obliged to use and protect their land and that the use right will be lost if the land is damaged, with particulars to be outlined in regional laws.

Section 11 concerns holding size and consolidation stating that new plots should not be less than the minimum holding size (defined as a plot of land able to ensure a family's food security) and that fragmentation to plots of less than this size on inheritance will not be allowed and that plot consolidation is to be encouraged.

Part III and Section 13 concerns land use planning and land management and indicates that a land use master plan should be prepared and implemented using a watershed approach and that an equitable water use should be established between upper and lower watershed communities. The section then states that:

- free grazing is prohibited on any lands where soil and water conservation works have been undertaken and cut and carry is to be introduced gradually
- lands with slopes of <30% will be subject to soil conservation and water harvesting
- lands with slopes of 31-60% will only be allowed to be used for annual cropping if bench terraced
- lands with slopes of >60% will not be used for farming or free grazing but are reserved for forestry, agro-forestry, perennial cropping and forage production
- area closure will be implemented on degraded areas with compensation paid to previous land users
- gullied areas will be rehabilitated by individuals and communities
- a sustainable land use strategy for the conservation of wetland areas will be produced

The regional land proclamations are similar to the federal proclamation. All regional proclamations confirm the right to lease out land, although most regions restrict the period of lease. At the same time, there are also marked differences across the regional policies with regard to tenure security, lease and inheritance rights as well as the right of the regional government to redistribute land.

The main points of interest of the Oromiya Proclamation are set out below:

Oromiya Rural Land Use and Administration Proclamation 56/2002 amended by Proclamation 130/2007

Section I. Principles. 3.1. Land is common property of the state and people with no sale or exchange allowed. This article in the 2002 proclamation has been removed in 2007 proclamation

5. 1-5. Any citizen over 18 whose livelihood is agricultural based has the right to rural land free of charge. Men and women have equal rights and can obtain land by donation, inheritance or from the government.

6.1 Any peasant or pastoralist has a life long right to use land for agriculture and to lease and bequeath to family members

6.2-3. The sale of perennial plants such as coffee, mango, avocado etc is prohibited and the sale of these products is only allowed for 3 years

6.6. The right to sell, exchange or transfer property does not include the land on which the property stands.

6.3. Government, NGOs, private investors and social organisations have the right to acquire rural land

6.4. The use right can be terminated only if required for more important public uses decided with community participation

6.10. The land use right can be terminated only if that land is required by the state (expropriation).

10.1. any peasant or pastoralist has the right to lease out *up to half* of his holding...

10.2 ...for up to 3 years to another peasant or pastoralist or up to 15 years to an investor using modern farming techniques

11.1-2. Government can lease land not held by peasants and pastoralists so long as it does not adversely affect them.

12.1-2. Private investors can obtain and use rural land according to the investment law and are obliged to use the land properly and to plant at least 2% of the holding with indigenous trees.

14.1-3. Redistribution of land shall not be carried out except for irrigation land. Unoccupied land may be distributed to landless. Unoccupied State Farm land to be distributed either to peasants or rented to investors.

14.4. – with regards to irrigation land

- The maximum area of irrigation land per household shall be 0.5ha
- The redistribution shall be with community participation
- Any remaining land shall be distributed at 0.25ha/household
- Anyone who has had land redistributed shall be compensated with rainfed land. If this is not possible then they have the right to an additional 0.5ha of irrigation land
- Compensation will be paid for land taken by irrigation infrastructure
- Any irrigation land user must 'fully and effectively' use the land

18. Land Use Planning and use of sloping and gullied lands. Regional land use master plans to be prepared.

18. 3-10

- Free grazing prohibited in any areas where SWC measures implemented
- SWC required (if necessary) on slopes <30%
- Annual cropping on slopes 30-60% only with terracing
- Land with slopes >60% not used for annual cropping or free grazing
- Area closure of highly degraded areas with compensation to be paid until land recovers
- Rehabilitation of gullies by community
- Land use strategy for conservation and use of rural wetlands

19. 1-4. Conservation of Farmland

All land users shall:

- maintain and preserve farm boundaries
- not exacerbate soil erosion (deforest, plough up and down slope, make traditional runoff furrows)
- cultivate slopes steeper than recommended

21. Land users obliged to undertake conservation activities in catchment areas of dam sites and reservoirs.

22. Protected Areas. Forest areas and wildlife parks to be demarcated for protection and sustainable use with community participation.

23. Pockets of natural forest to be demarcated and managed sustainably by the local community.

20. Wetland Management. Water sources and wetlands to be protected. Mismanagement prohibited.

25. 1-7. Mismanagement and Improper Land Use

- Obligation to maintain conservation structures
- Directive for management of non-cultivable lands to be drawn up
- Livestock to be at carrying capacity
- Prohibition of grazing in development areas

Crewett & Korf (2008) consider the Oromiya Regional Proclamation (2002) to be the most progressive of all proclamations pointing out that it translates the federal imperative of state ownership with measures to improve 'subjective' tenure security i.e. the perception of land users that their land use rights are secure. They point out that the Oromiya proclamation gives higher levels of tenure security than other regional policies because it rules out redistribution (apart from on irrigation schemes) (Article 14.1); grants lifelong usufruct rights (Article 6.1) to agricultural land 'free of payment' to all male and to female residents whose livelihoods depends on agriculture (Article 5.1) and determines payment of compensation in case land is used for major communal purposes. It grants lifelong use rights independent of marital status or locality of residence.

However, there are three important restrictions formulated in the proclamation that allow the state to expropriate land use rights from plot holders and therefore attenuate the lifelong usufruct rights:

- Article 6.4 grants the right of expropriation if land is required for 'more important public uses', but the rights holder needs to be compensated and can remove investments thereon
- Article 14.4 specifies that 'irrigation land' is excluded from the prohibitions of land redistribution, which is allowed subject to the 'participation and consensus of the user community'
- Land can be expropriated if needed for irrigation infrastructure.

The Oromiya Rural Land Administration and Use Regulation No. 39/2003 further specifies that if land users fail to use their land in every production season (except in the case of restoring fertility), the land use rights can be terminated. After a period of three years without cultivation, the land will be expropriated, in the case of irrigated land; this can be applied already after two years. The proclamation also imposes a number of obligations on land management practices (cultivation of erosion-prone areas, planting of specific tree species, and preservation of water conservation structures) as a condition for the usufruct rights.

2.2.3 Land Expropriation and Redistribution for Irrigation

Land consolidation and redistribution is usually an integral part of irrigated agriculture development enabling optimum irrigation and drainage layouts for high water use efficiency, mechanisation and easier system management. Land consolidation also allows any land fragmentation and landless issues to be addressed. If land consolidation is neglected the potential agricultural and livelihood benefits associated with a shift from rainfed to irrigated agriculture are rarely realised, and inequities in household income are likely to increase.

Even though the situation in Dinger Berha is unique with minimal land fragmentation, no known landless issues and with minimal land take for irrigation infrastructure (due to buried infrastructure) it is considered important to set out the issues involved in land expropriation should they be required.

The expropriation of land and the resettlement of affected people for irrigation developments should be carried out in accordance with existing legislation and/or guidelines of the Ethiopian Government and appropriate guidelines for involuntary resettlement (e.g. World Bank Guidelines for Involuntary Resettlement OP4.12, 2001). The relevant legal documents and guidelines include:

- Proclamation No. 455/2005 to Provide for the Expropriation of Landholdings for Public Purposes and Payment of Compensation (15th July 2005);
- Proclamation No. 456/2005 Rural Land Administration and Land Use (15th July 2005); and
- Council of Ministers Regulation No. 135/2007 – Payment of Compensation for Property Situated on Landholding Expropriated for Public Purposes (18th May 2007).

According to the two Proclamations of the FDR of Ethiopia, the modalities for the allocation of substitute land as well as land redistribution and consolidation (for irrigation development) are as follows:

- Distribution may be undertaken on irrigable land in order to use irrigable land properly and equitably
- Where farmers are evicted from landholdings for construction of irrigation infrastructure, land distribution shall be undertaken to provide equitable benefit from the irrigation development being established
- Where irrigation canals are constructed, the holder is obliged to allow construction of irrigation and other infrastructure if they cross his land holding
- Without prejudice to the former holding or farm plot size of a household, the farm plot to be given in the future shall not be less than the minimum size holding (the size of rural landholding shall ensure the food security of the farming household)
- To make small farm plots convenient for development, farmers are encouraged to voluntary exchange farm lands
- Information of the size and fertility of the farm plots which farmers intend to exchange shall be distributed through the kebele administration

With regard to compensation payments, the modalities specified in the two Proclamations are as follows:

- A rural landholder, whose landholding has been expropriated, shall be entitled to payment of compensation for his property situated on the land (based on its replacement cost), and for improvements made to such land (equal to the value of the capital and labour expended), as well as the cost of removal, transportation and erection of any property that could be reallocated and continue its services as before;
- In addition to the payment of compensation for property, a rural landholder, whose landholding has been permanently expropriated, shall also be paid a displacement compensation equivalent to 10 times the average annual income that he secured during the last 5 years preceding the expropriation of the land (in case that no replacement land is provided);
- If substitute (replacement) land is available for the rural landholder, whose land has been expropriated, the displacement compensation shall only be equivalent to (1 time) the average annual income secured during the 5 years preceding the expropriation of the land; and
- Any person claiming compensation for the expropriation of his land shall produce proof of legitimate possession of the expropriated landholding and ownership of the property (through the issued holding certificate).

2.3 CURRENT STATUS OF LAND TENURE IN ETHIOPIA

As shown above the land tenure rights of the majority of the rural population have been set out in a number of Federal and Regional Land Use and Administration proclamations. Institutionally land is administered through the Environmental Protection, Land Administration and Use Authority (EPLAU) within the Ministry of Agriculture and Rural Development, who are responsible for measurement and registration as well as distribution of land holding certificates. This exists at regional, zonal, wereda, kebele and village level although capacity and budgetary constraints have meant that the authority is often understaffed, particularly at wereda level. At kebele level, Land Administration Committees have been formed consisting of (unpaid) village representatives and kebele administrators.

2.3.1 Certification Progress

In Oromiya Regional State the process of certification was begun in 2003 although a policy decision was taken to phase the process with temporary certificates issued initially to be followed by full certification. This decision was driven by the need to secure rapid 'subjective' tenure security although capacity constraints and upcoming elections in late 2005 would also have been major influences.

In order to secure subjective tenure security therefore, potentially unpopular measures included in the proclamation were not included in the initial certification process. These included certain management obligations and the prohibition of agriculture in environmentally sensitive areas. This was justified by noting that implementing those provisions aiming at nature conservation could result in the loss of agricultural areas which was considered to be detrimental to food security and that the lack of accurate data on land holdings was considered to impede the distribution of permanent land use certificates.

The regional government, therefore, linked the implementation of the full set of provisions to two preconditions; a cadastral survey to improve the database for permanent certification and the exploration of alternatives to allow farmers a more profitable use of agricultural land in case of land loss due to conservation measures. The implementation process was also hampered by incomplete rules for implementation of a number of provisions, such as a lack of definition of enforcement mechanisms.

The implementation of the second phase has gathered pace since 2006 and Oromiya expects to have issued one million Class 2 (second phase) land user certificates by 2010.

2.3.2 Tenure Types

Tesfaye Teklu (2006) recognises three types of tenure arrangements in rural Ethiopia; administrative-based, re-emerging market based and customary-based non-market arrangements. The consultants work throughout the country in the past few years confirms these categories.

Administrative based

The vast majority of farm households have land through administrative based allocation often known as kebele land. Access to (government-controlled) land is a constitutional right subject to eligibility conditions. Eligible farm households have access to free land within officially set land ceiling and floor. Use rights are, by and large, unrestricted except for meeting conditions for land conservation and improvement. This land is not transferable except to family members through bequeathing. Any value added in land is transferable in any form.

Land rental

Access to land through informal land rental markets (crop-sharing and cash rental) is gaining importance. This is due largely to population increase and land pressure with kebeles increasingly unable to allocate land (as shown by decreasing farm size and growing numbers young people without land). Also farmers who participate in land rental markets are able to combine land rent with other factors such as labour, oxen and credit and there is also a move towards relaxing restrictions that favour transacting in land rental in some regions.

Customary/Communal land

Communal resources such as pasture for grazing, water resources (rivers, streams and lakes) and forests have traditionally been managed through customary tenure systems with the rights to these common resources vested in groups or communities that claim legitimacy to customary laws.

These common resources can be split into two main categories; Common Access Resources and Common Property Resources. Both have closely defined boundaries and rules that govern access and use.

Common access resources include grazing land, religious and cultural land, water points (springs, streams) and hillside browsing, grazing and forested land. They can be unrestricted access to anyone in the community or they may have restricted access to certain groups at certain times as in the case of grazing land. In the past each potential user had the right to use the common resource while no one had legal authority to keep out other potential users. Failure to manage the common access resources with population increase has often led to over exploitation and deterioration of the common resources.

Common property resources includes areas where land resources are managed by user groups able to regulate the use of the resources and who have the right to exclude people who are not members of the groups. These include enclosed areas for land rehabilitation with only individuals or group members allowed to enter and/or benefit from the produce such as fodder, fuelwood and fruits.

2.4 LAND TENURE IN DINGER BEREHA

Information regarding the land tenure situation in the proposed irrigation development area of Dinger Berha has been gained from the socio-economic survey of the area comprising focus group discussions and field visits including discussions with land users.

Since the area has only been settled since 2004 and land has been allocated to families on the basis of family size (1.5ha to smaller families, 2ha to larger families) the land tenure situation within the proposed irrigation area is relatively straightforward.

Most land has been allocated by the wereda and the land tenure comprises individual farms (1.5 & 2ha) with some very small areas of common access grazing land in valley bottoms. Other areas of common access land such as the surrounding hills and forests are outside the study area. In addition there is a 20ha plot of irrigated land leased from the wereda managed by two co-operatives consisting of 48 members.

Of the 13,209 households in the wereda a total of 6,568 (49.7%) have received Class 2 land user certificates. Of these 6,078 (92.5%) are male headed households and 490 (7.5%) are female headed. The issuance of certificates to the remaining households is ongoing. However there are also a large number of unregistered spontaneous resettlers in the area.

Farmers indicated that their allocated rainfed land was not sufficient to feed a household (average 7 people) but that a system of land sharing was in place in the dry season where a neighbour in need of more land was able to use a small part of his neighbour's land if required. In the wet season (from March to October) each farmer has exclusive use of his own land. There is no land rental (for cash or services) currently practiced in the area.

There are no conflicts within the area and farmers and wereda staff did not see any potential for conflict with the implementation of the irrigation scheme. However farmers did indicate that the land should not be redistributed and that there was enough family and outside labour available to work irrigated land.

The wereda staff indicated that enforcement of land use conditions was a problem and that charcoal was being illegally made from the surrounding hills. They focused on awareness creation in the absence of enforcement in the hope that the community will seek their own solutions.

In summary the land tenure situation in the study area is comprised primarily of farm families on individual land, about half of whom have land user certificates already with the other half in line for issuance. Other land tenure categories include small areas of common access grazing land in valley bottoms and one area of irrigation land leased from the wereda by two co-operatives. Of concern is the number of spontaneous resettlers in the surrounding area and their possible impact on the irrigation development.

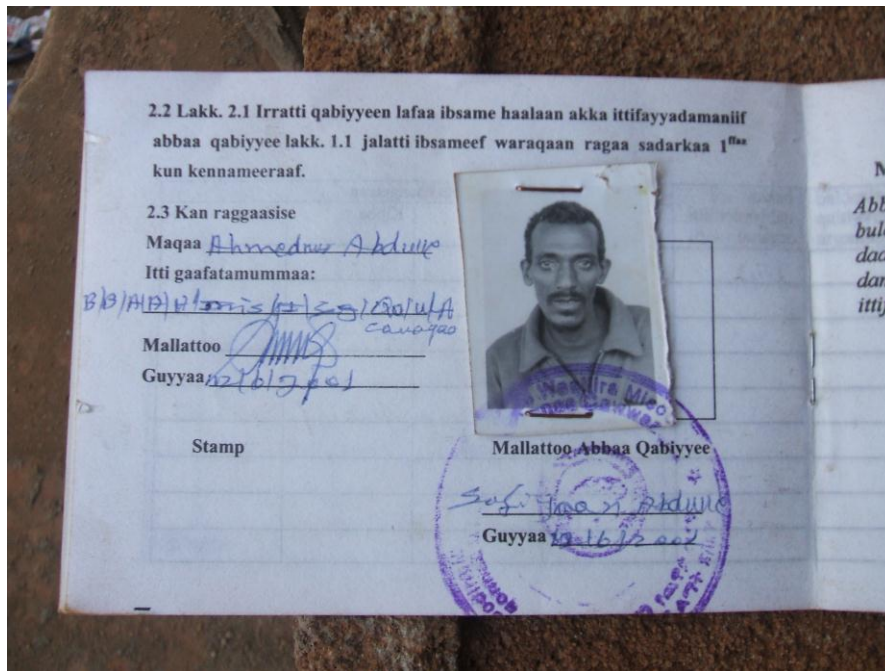


Figure 2.1 : Typical Land Use Certificate

2. Waraqa Ragaa Qabiyyee Lafaa Sadarkaa 1^{ma}

2.1 Ibsa Qabiyyee Lafaa

Lak	Koodii Maasii	Ittifayyadama lafaa	Baf'ina lafaa(heek)	Sadarkaa lafaa	Haala qabiyyeen itti argame	bakka qabiyyi argamu	bakka qabiyyeen itti argamu	Olloota, daangeesan					
							Baha	Dhiha	Kibba	Kaaba			
1	12/0211	2.21.1.1	0.05	A	Hista	Dub	Duki:	Abraim	Muhamad	Hakime	Abdolla		
2	12/0351	"	1	B	"	"	"	Muhamad	Muhamad	Hakime	Amade		
3	12/0741	"	1	B	"	"	"	Muhamad	Muhamad	Hakime	Laga		
								Abraim	Muhamad	Hakime	Yusuf	Sabit	
								Abraim	Muhamad	Muhamad	Abdulkadir		

Figure 2.2 : Information on Land Use Certificate

2.5 LAND TENURE PROPOSALS FOR IRRIGATION DEVELOPMENT

There are a number of issues concerning land tenure and land use that will need to be resolved for the successful implementation of the irrigation project.

Land Redistribution and Plot Size

Article 14.4a of the amended Oromiya Rural Land Use Proclamation 130/2007 states that the maximum plot size of irrigation land per household shall be 0.5ha. Article 14.4e states that anyone who loses land through redistribution shall be given compensation rainfed land but if this is not possible they should get a further 0.5ha of irrigation land. The recently developed Fantale irrigation scheme (also in Oromiya) set out plots of 0.75ha for each household but this was on previously uncultivated land without redistribution.

Notwithstanding the above, given that the land is inhabited by resettlers used to irrigation and given that they consider there to be enough labour to farm their land efficiently even under irrigation it would be proposed that there is no land redistribution associated with irrigation development.

However Article 14.4c also states that any redistribution of irrigation land shall take place with the participation and decision of the community using the land. Therefore it is possible that the stipulations of the proclamation could be adhered to by redistributing land within family groups.

In any case this issue will need to be resolved prior to irrigation development.

Land Expropriation for Irrigation Infrastructure

Any land expropriation for irrigation infrastructure should follow appropriate guidelines such as the World Bank Guidelines for Involuntary Resettlement (WB OP 4.12, 2001) and be in accordance with existing legislation.

Use of Communal Grazing Land

At present there are small areas of communal grazing land within the study area. Two options are conceivable for the future use of communal grazing land after irrigation development. In the first option, these may be used for rice under irrigation. There will therefore be a need to either keep them as communal land with defined use rights or to allocate them to an individual. In the second option they may be used for irrigated pasture land as the settlers in the area are known for their fattening and stall feeding experience. They will be kept as communal lands with defined use rights with respect to the distribution of costs and benefits of the production of irrigated forage.

Land Management of Surrounding Hills

There are already a large number of spontaneous resettlers in the area. With the completion of the bridge to link with the Asosa-Nekempt main road and the development of irrigation it is likely that this will attract more people. At present the land use of the surrounding hills is confined largely to cut and carry fodder, fuelwood collection and illegal charcoal making. To ensure the sustainability of the irrigation scheme the future land management must be tightly controlled and enforcement of any land use rights must be carried out.

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