

## Options for Updating Land Records: The Case of Tigray Region

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### 1. Introduction\*

#### *1.1 Background*

The Tigray People's Liberation Front (TPLF) started rural land redistribution in Tigray in 1981, during the guerilla war with the "Derg" regime. At that time land title was given to the landholders by this organization on a simple piece of ordinary white paper. This piece of paper has hand written data related to the plot of land, named "Belbal", and did not have any record storage and documentation mechanism.

Land distribution by this organization affected only the cropland owned by individual farmers and in some areas to those groups of farmers who were organized without considering their interest.

The white paper was designed without considering a space for registering the land transfer that may result from transactions or succession. Moreover, the committee, which has the responsibility to distribute and register the rural land, had a problem in boundary demarcation since it used temporary boundary marks such as the middle of a river, a road etc.

As a tool to implement the land administration policy of the region and in response to the growing demand to secure land tenure, a comprehensive rural land registration and certification of land rights program has now been launched covering all the cultivated land. This program is expected to improve on past practice by taking into consideration the limitations of the "Belbal" such as absence of a clear and reliable copy, improper documentation with the responsible body, and lack of important information as well as accuracy.

The regional Bureau of Agriculture and Natural Resource, in collaboration with the regional Administration, took the responsibility to improve the land registration and designed different forms (forms 1, 2, 3 and 4) for collecting the necessary data. The recording of the land details on the pre-printed forms was done by youngsters who were given a six-month training in the "multi-purpose youth training center - Agibe". This included the previous land distribution and registration committee members. It came after 15 -18 years of the "Belbal" way of land recording. Land registration and certification was stopped when the new Tigray State Proclamation 77/2004 gave the responsibility for land administration and registration to the Environmental Protection,

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Land Administration and Use Authority (EPLAUA) in 2004. The new Authority uses the same forms that were designed by the Bureau of Agriculture and Natural Resources during the land registration and certification process.

Of course, the forms have their own function, specially form 2 (the reregister book) has a column to register parcels of land transferred from one landholder to another due to transaction and succession. But in most cases this was not applied as they simply started to register by copying the record from the previous form 3 on to form 2 and gave form 4 to the new land user without any consideration on the changes or existing conditions on the ground. This is because less consideration was given to updating land records by landholders (farmers) and the land distribution committee, and due to the weak control mechanism by the responsible organization. Therefore, taking these constraints into account, there is a need to formulate options for updating land records.

### ***1.2 Objectives***

The objectives of this paper are:

- to assess the existing land updating in the region,
- to review archiving rules, retrieval system and back up for the routine land register records,
- to identify incentives to make new landholders seek updating of land registration records.

### ***1.3 Methodology***

A semi-structured interview outline was developed and applied in the field with the land administration experts at the Wereda, and selected farmers in two tabias in each of the four EELTAP focus Weredas of the ELTAP project (Kola Temben, Enderta, Hintalo-wojerat and Hawizen). Direct personal observations by the writer of the paper and review of literature has also been included. Finally, policy statements and major development programs of the government on land-related matters are reviewed in order to analyze and understand the implications for land administration systems emerging in the country.

## **2. Current Situation of Land Registration**

### ***2.1 Current Situations of Land Register Storages in the Region.***

The land registration and certification program under taken in the region is generating a large body of land data that need to be systematically recorded, filed, and safely stored for later access.

According to the guideline developed by the EPLAUA, land registration records (form 1) have to be kept at the kebele administration office, and it is used as a source data to be recorded in the registry books (form 2). The registry book has to be prepared in two copies, based on the field data collected from the field using form 1 at the kebele administration office. One copy of the registry book is kept in the kebele administration

office and the duplicate copy in the Wereda land administration office to ensure that the information is not lost if something happens to the records at the kebele administration office. Form 3 and form 4 are given to the individuals who get land through distribution and by transaction or succession, respectively.

This procedure, however, is not followed in most of the Weredas. Moreover, most of the Wereda offices do not provide a secure storage for the land registry book due to less weight given to the importance of the land records and lack of appropriate storage (office, filing cabinet and so on). As a result, in some Weredas the land registry books have already been destroyed by termites (see Fig. 1).

Photo 1. Registry book damaged by termites



## ***2.2 Current Practices for Updating Land Records due to Transactions***

According to the devised land registration and recording system of the region, a landholder who gets land through distribution has to be registered in the field in form 1, which serves as a draft for form 2 (the registry book) and form 3 (certificate) to be filled in the kebele office.

During the process of transferring use-rights to new land users due to transactions and successions, the information recorded in the designed form (form 4) about the plot of rural cultivated land should reflect the existing situation of the land to be transferred, such as boundary marks, relative status of land quality, size of the land, etc., by comparing with the previous land records. But what happened practically is that the Weredas not applying the devised land records updating, rather they are using a different way of updating land records. This is not because of the difference of their system from the one used by EPLAUA (Environmental Protection, Land Administration and Use

Authority) but due to lack of capacity to implement, law priority is given to land record updating and lack of followup during the implementation. They register the land transactions in a way that does not reflect the registration system of the region. Moreover, during transaction they use only the registry book number as backward and forward reference to the original land data record.

According to the result of the interview undertaken in the EELTAP focus Weredas ELTAP, the method of updating land records due to transaction or succession followed by the implementer in the Weredas is categorized as follows:

- a) Copying all data from the previous form 3 to the registry book (form 2) and filling into form 4, where only the name of the landholder will be changed. This way of updating land records has more coverage (as observed from sample Weredas);
- b) Referring to the records of the previous landholder and registering the new landholder in form 4 may seem a better way of updating records, but it lacks data on the current situation of the land;
- c) Simply giving the certificate of the previous landholder to the new land user (if the transfer of the land is in the form succession);
- d) Informing the new landholder about the land which is acquired through transaction at the office or anywhere (without considering the changes in the land), but the new landholder is not given any certificate.

### **3. Constraints and Opportunities in Land Record Updating**

#### ***3.1 Design Problem of the Land Registration System and Transaction Form***

The entries in the existing land Registry Books used for recording land transaction have one column for recording future transactions. This form cannot accommodate transactions or successions that may take place more than once. Moreover, the registration system practiced in the region has not assigned a unique identifier for each parcel of land, parcels are numbered sequentially for each household and are identified only through household names.

When a transaction of a parcel occurs due to inheritance or divorce, a new entry is made elsewhere in the land register by forwarding the registry book number as a reference for the original entry. This Registry Book number is the same for all parcels of land held by one individual farmer. This causes confusion, as the new record cannot be easily traced to the old record.

The absence of unique parcel identifiers also exacerbates the problem during leasing and sharecropping of lands, especially in case of women-headed households and disabled farmers though they enacted their agreement in the presence of the local court. If this agreement is not registered, then the farmer who leases the land does not feel secure and the land quality deteriorates, thereby becoming a source of dispute between the lessee and the lessors.

The absence of unique parcel identifiers is also creating a serious problem during the transaction of land use right aimed at securing farmlands near their residence based on an exchange agreement, which is widely exercised by the farmers of Tigray. This kind of exchange agreement was not registered and updated; nor was the previous land certificate changed. One of the farmers may manage the land properly while the other may not. The one who was not managing the land may change his mind and claim his land. This has happened in practice in our sample Wereda “Hawizen”, tabia “Digum” as reported during the interview.

This can be easily rectified by adopting a system of assigning a unique identifier to each parcel and using the registry book number, registry page number and the year of transfer for forward and backward reference in order to facilitate registration of changes in users rights arising from inheritance, divorce or rental and possible future conversion to a more efficiently administered parcel-based land registration system.

A computerized system can provide a highly efficient way of accessing and integrating data (cadastral and land registry data). The benefits from land administration perspective include standardization of data and processing, simplified information retrieval, efficient registration and lower certification costs, and decrease in duplication of data on a single plot of land. The system also helps to economize space required for storing, to update land records and to enhance security of land information and archives.

### ***3.2 Inadequate Consideration Givento the Maintenance of Land Registration Records***

Most tabias in our region conceived of the registration processes as only a one-time event. The result of this conceptualization is that use right transfers that occurred after the initial registration and certification have not been registered, and neither the Registry Books nor the certificates have been amended or annotated to show the changes in title, though these changes are well known locally (Mitiku Haile *et al.* 2005). Thus, transfers have been undertaken without notification to the land administration authority.

In some Weredas, there is an attempt to update the data records as per new transactions; however, the updating process was not carried out according to the procedure of the EPLAUA. As pointed out above, in updating the land records for transactions, different ways have been followed by the implementers in the Weredas, which have their own drawback.

Each of the methods followed during the process of updating land records did not take the current situation of the land into consideration. The problem is that it may not be easy to identify the changes that have taken place on the ground. In addition to this common problem, there are also specific problems related to the land record updating process followed in some Weredas of the region.

In the case of updating land records through category one and two mentioned above, the new landholder gets a certificate in his name and the Registry Books are amended. But the problem in the case of category one is that there is no way of checking frauds made on the old landowner certificates because it just copies the information from the old

landowner certificate to the registry book without cross-checking with the data in the land registry book and with form four. In the case of updating land records through categories three and four, the new landholder who gets land through transaction receives title to the land, but the Registry Book is not amended and in most cases the holder does not get a new certificate in his name.

Although the land registration and recording serves as evidence to secure land ownership for the holder of the land, farmers gave little consideration to registering the existing situation of the new landholding transferred to them through transaction or succession. This has its own impact when the registered landowners are deceased and a large number of heirs appear. To settle disputes that may arise, the rightful holders have to be identified. This often means an extensive work of investigation for the Administrators and Justice offices

Maintenance of the land record is given little attention also by the registration committee, the contract workers engaged in land registration and even the administration and the authorized organization. This could be mainly due to the fact that the land distribution and registering committees are working without getting any remuneration for their work and they have been complaining about it. That is why their interest in participating in the proper land registration and recording and updating of record is very low. For instance, registration of land plots transferred to new holders take place at the office or anywhere out of the site where the land to be registered is located. The monitoring and evaluation of land recording systems is also very low. Moreover, some of the farmers are not well aware of the importance of updating land records. There has to be some means to address these problems, such as by providing incentives to the land distribution and registering committee and by creating awareness about the importance of updating land records.

### ***3.3 Problem of Land Record Storage***

Land registration documents have important legal functions that require safe storage and restricted access so that they will not be fraudulently altered or easily destroyed.

According to the guideline prepared by the EPLAUA for proper land record keeping (storage), the registry book (form 2) has to be stored with one in the kebele office and one copy in the Wereda administration office. But currently, the land record documents are stored at the home of an extension agent, local administrator and at other locations that are not appropriate for land record documentation. As it is shown in the picture above, due to improper storage there is damage in the registered books and in some Weredas, there are vanished registered books. . Moreover, the farmers (land holders) did not keep their landholding certificates properly.

### ***3.4 Limited Followup of Land Record Updating Processes***

Properly and clearly registered land records provide the fullest possible security of tenure, and minimize the possibility of disputes and litigation. This enables transaction in land to be effected safely, quickly and cheaply. This will require day-to-day follow up during the implementation of the land recording and updating processes.

Less followup during the implementation of land recording and updating processes in some Weredas due to various reasons mentioned above have resulted in improper transfer of land-use rights during transaction. This is, in turn, creating numerous disputes over use rights of landholders and even in the administration process of the land. Some of the improper transfers and the resulting conflicts include:

- In some areas the new landholder who gets land through transaction is registered on the registry books but does not receive a certificate. The family members of the previous landholders claim use right because the original certificate is with them. This results in disputes with the previous landholder's family.
- The boundary marks recorded on the registry books and certificate during the land transfer process do not reflect the existing situation on the ground. This is due to the fact that the registration is undertaken orally in the office or at a place away from the location of the land.

When the old landholder passes, his land is distributed to his children who have no land before based on their agreement or on the directives of the local administration. A big conflict starts as soon as the distribution is completed because the land record in some areas is not updated after redistribution to the family members.

### ***3.5 Unreliable Land Record Information***

#### ***3.5.1 Land information is of variable quality***

In principle, the legal description of land properties should be based on accurate survey measurements and land marks with accurately known location. But in Tigray region, the size of plots are determined by simple observation and by very rough measurements, and the marks for fixing the boundary are physical objects or locations that can change through time, such as the middle of a river, local roads, and neighboring landholders. For instance, a river may change its course, a road can be changed and the landholding of a household can be divided into several landholdings due to transaction or succession. As a result, it is difficult to identify a plot of land based on the information recorded in the registry and this information cannot be used to solve conflicts related to the boundary. Hence, appropriate methods of boundary demarcation and measurements are needed to prevent or otherwise minimize the problems mentioned above.

### *3.5.2 Incorrect land information provided by the farmers during registration*

When farmers are asked to give information about their landholdings, they give information that does not reflect the actual size of their land. This is because some farmers fear that there will be land redistribution and others think that the registration could be used for taxation purposes.

One example is the case of two farmers with the same size of land and with similar quality of land in Hintalo-Wajerat. When they gave information about the size of the land during registration one of them registered the actual size of his land while the other reduced its size. Based on the information they gave, certificates were issued to both of them. By chance, the rural road construction authority wanted to use their land for road construction and to pay them compensation they needed their certificates as evidence of holding. Then the farmer who registered the actual size of his land was paid 24,000 birr whereas the other one received 11,000 birr. This shows how farmers can lose benefits due to incorrect information recorded in the registry book.

### *3.5.3. Different size for the same local measurement unit*

There is a local measurement of land size called “Tsimad” that turns out to show size variations from place to place when it is transferred to scientific measurements. For instance, one “Tsimad” in southern and western Tigray is above 0.25 hectares, whereas in Eastern Tigray it is below 0.25 hectares. Keeping such records as land information creates conflicts during transfer of land due to transaction or succession

## **4. Conclusion and Recommendations**

Proper land certification and administration systems that provide landholders with robust tenure security (sense of ownership) in land and land-related resource is a pre-requisite for more efficient use of rural resources. This will in turn result in significant improvements in agricultural productivity, which is crucial to address poverty and food insecurity in the region.

However, improper land recording, certification and updating land records in our region are creating disputes and hence require revising and improving the system. Improvement in land recording and certification will, therefore, depend much on how well the constraints in the registration of land records are addressed. Based on this, the following recommendations are made to improve the process:

- Improve the existing land recording and updating system and form;
- Develop record updating communication;
- Improve the storage of land record documents;
- Develop separate forms for land registration and updating land records of lease and exchange of private land use right

- Develop public awareness through radios, leaflets, trainings, workshops, etc., that improves individual understanding of the opportunities and limitations of land registration and land record updating.
- Provide incentives to make new landholders seek updating of records and for land registration committee; this can be in the form of awareness creation, appreciation and incentives in kind;
- Provide transparent and effective access to land record information for all landholders and users. Lack of transparency information related land record leads to unnecessary confusion, additional cost and labor and data duplication. Therefore, land record data and their storage system should have clear and defined system for access and flow of information between tabia, Wereda and region.
- Introduce digital land record system;
- Build Capacity through training and demonstration of effective land recording and administration of those who participate in land registration.

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