



WOMEN’S AGENCY AND THE MEN IN THE SHADOW: COMPLEXITIES OF WOMEN’S LAND INHERITANCE RIGHTS AMID STRUCTURAL CONFLICTS IN OROMIA REGION, ETHIOPIA

Mamo Hebo^{1,*} & Morie Kaneko²

¹ *Department of Social Anthropology, Addis Ababa University, Ethiopia*

² *Graduate School of Asian and African Area Studies/Center for African Area Studies, Kyoto University, Japan*

*E-mail: mamo.hebo@aau.edu.et

ABSTRACT Land possession is not only vital for livelihood but also serves as symbol of social status, clan affiliation and succession among the Oromo. However, access to land, for both men and women, are now governed by two competing realms of ‘law’ in Oromia National Regional States (hereafter Oromia). On one hand, customary laws and norms still govern access to land including through land inheritance. On the other hand, people use (and sometimes misuse) state ‘laws’ to claim and inherit land in a manner contrary to the custom. This paper, based on case studies from different parts of Oromia, examines: (1) how women (making use of state-based laws) are actively seeking to inherit land from their parents in view of the increasing economic/livelihood values of land, (2) how women’s attempts to claim and inherit land from their family of origin is complicated by such structural factors as clan exogamy and settlement rules, and (3) how men are covertly attempting to gain access to land outside their clan territory through the overt agency of women.

KEYWORDS: Land inheritance; Legal pluralism; Oromia; Women’s agency.

INTRODUCTION

Indigenous land tenure systems of patrilineal societies in Africa have been criticized for not providing women with secure land rights (e.g., Kirk 1999; Hilhorst 2000). Women’s lack of full rights to land is connected with a lower socio-economic status they occupy in these societies, which is an indication of the connection between ‘power and influence’ and access to strategic resources. As Friedl (2006) argues ‘access to resource that circulate publicly’ or ‘access to position that controls the exchange of resources’ influence one’s position in society. Friedl further predicts that “[as] women gain access to position that control the exchange of resources, male dominance may become archaic” (2006: 239). Women’s access to and control over land is crucial for improving their status and reducing gender inequalities in this regard. This often requires legal and policy interventions.

Such legislative and policy interventions from above, in the rural context of Africa, often end up amplifying legal pluralism and intensifying competitions between formal laws and customary ones. While formal laws as elaborate written codes are evolving, customary laws, and the custom in which they are embedded constitute “... complex of values, practices, and other expressions of ancestral or otherwise temporally deep knowledge that lend a moral structure to the everyday life of a society” (Demian 2015: 92). Legal



pluralism suggests the existence of two or more normative orders in a given context where such orders either operate side-by-side or are superimposed on one another (see Moore 1973; Griffiths 1986; von Benda-Beckmann 2002). The concept of legal pluralism is often employed as a framework to examine the interactions among those normative orders (Wardana 2015: 107). The modes and outcomes of the interaction between the different orders of laws may differ from setting to setting. They may also vary from case to case, based on socio-economic status, political connections, or gender relations in a given socio-cultural setting.

The state tends to proclaim the superiority of formal laws, and simplify complexity of legal pluralism in general and non-state legal orders in particular. It, however, has now become clear in countries like Ethiopia that such claims and simplifications, and state's interventions hardly supplant local norms and institutions that pervade the rural setting. As a result, legal reforms are often rendered ineffective due to resistances from social structures and cultural traditions, particularly when differences between the two are significant (see Akoto 2013: 275). Apparently, "every legal system faces the problem of bridging the gap between its most authoritative and technically elaborate literary product at the 'upper' end of the system and the varying patterns of local practices at the 'lower end'" (Galanter 2005: 47–48). This is particularly true in societies where customary norms and practices vividly operate. Furthermore, individual actors in such societies are not passively regulated by modern systems; they rather not only instrumentalize local systems, but also capture the state system and use it for their own end.

This is particularly apparent in the use (or misuse) of gender-related laws and policies. This is principally ostensible when the implementation of formal laws is mediated by customary law (see Negasa 2016). In this regard, Mamo & Shigeta (2014) also demonstrated how seemingly progressive legislations introduced to promote women's land rights were challenged by local social structure and individuals actors among the Arsii Oromo. Mamo & Getaneh (2016) also indicated, based on comparative case studies, how local socio-cultural practices and traditional belief systems hindered women from fully enjoying legal rights to access land. At the same time, actors may also manipulate and use formal laws in ways they were not intended to be used.

In general, actors use legal pluralism as a means of inclusions or exclusions regarding access to land (see Girma 2018). While customary law constrain (exclude) women from inheriting land in their village of birth, formal law is empowering (including) them in this regard. In this context, women's agency is slowly emerging—as far as landownership (including through land inheritance) is concerned. They have started acting independently and making decision in order to pursue or not a land inheritance claim. They have begun instrumentalizing structures such as gender (rights discourse) and inclusive legal instruments. Two major elements of agency, the 'projective'—capacity to imagine alternative possibilities in the future—and the 'practical-evaluative', which is directed toward the present capacity (see Emirbayer & Mische 1998) are now apparent in women's decisions and actions in rural Oromia. Their agency, however, unfolds in an environment full of desires and hopes, on one hand, and fears and uncertainties on the other, as is evident in some of the case studies presented in this article. Women's decisions and actions are often based on evaluation of practical issues, materials, social and emotional, when acting in a complex and competing structural context.

Based on case studies from multiple sites across Oromia, mainly West Arsii, West Shewa and East Wollega zones, between 2016 and 2019, we show in this article how women's rights to land inheritance from their biological or sociological parents is evolving, how it is being used and abused by different actors in the context of legal or structural pluralism.

We attempt to problematize women's emerging agency in a patrilineal society, and its implication for their social status, social relationship and livelihoods.

THE SOCIO-CULTURAL AND LIVELIHOOD COTEXTS

The Oromo are the largest ethnic group in Ethiopia. They occupy diverse agro-ecology ranging from central highlands to humid midland in the west, and hot lowlands in the eastern and southeastern parts of Oromia. The Oromo practice diverse beliefs including *Waaqeffanna* or indigenous Oromo religion, Christianity and Islam. While followers of the indigenous belief system are in the minority, though the belief itself is embedded in several aspects of the socio-cultural life of the society, majority of the Oromo are officially almost equally divided between Christianity (of various denominations) and Islam (see CSA 2010). The Oromo are patrilineal and patrilocal; clan exogamy is largely a norm. The Oromo rely on mixed agriculture and pastoralism for their livelihood. Pastoralism constitutes an important livelihood strategy in the lowlands of Borana, Karrayu Bale, Guji and Hararge, and pastoralists still practice communal landownership to a significant degree. The majority of the population of Oromia, however, practice mixed agriculture in central midlands and highlands. Cereal crops production, mainly maize, sorghum, wheat, barley and *teff*, constitute an important part of the mixed agriculture.

Land is a major base of livelihood. Land is officially owned by the state but held, used and managed by households in mixed agriculture areas. Permanent settlement is a norm and land inheritance and access to land follows patrilineal norms.

Major features of the Oromo society as described above regarding social structure, land tenure and livelihood strategies generally apply to our research sites in East Wollega, West Arsii, West Shewa zones. All the sites (and the zones in general) are all well-established farming areas practicing mixed agriculture. While barley and wheat constitute dominant cereal crops in our research sites in West Arsii (Mamo & Getaneh 2016), maize sorghum and *teff* are dominant in West Shewa (Girma 2018), and East Wollega (Temesgen 2018) sites. The areas also maintain similarity of socio-cultural norms and values, social organization and gender relations (including marriage kinship). The concept of clan (*gosa* among the Arsii) or *qomoo* (among the Macaa) serve as the largest functional kinship unit among both the Arsii and Macaa Oromo. However, clan connections and territoriality appears to be stronger among the Arsii Oromo. The only major difference between the research sites in West Arsii and the Macaa in East Wollega and West Shewa is with regard to the religions they follow. While the Arsii Oromo are predominantly Muslims, the Macaa Oromo are largely Christians, mainly following Protestantism and the Ethiopian Orthodox Tewahedo Church.

WOMEN'S LAND RIGHTS IN THE CONTEXT OF STATE LAWS IN ETHIOPIA/OROMIA

In its Constitution and subsequent policy documents, the government of Ethiopia expressed its commitment to protect the rights of access to land (including inheritance and ownership) for women and children. The government's intention is to address the existing gender inequality and ensure that both men and women enjoy equal rights to land before marriage, in marriage, after marriage, and at succession, without discrimination (Negasa 2016). In this regard, the Ethiopian constitution of 1995 grants women equal inheritance rights and equal right to access, use, administer and transfer of land. Article 35 (7) of

the constitution states that “[women], in particular, have equal rights with men regarding the use, transfer, administration and control of land. They shall enjoy the same rights with men with respect to inheritance. The same article displays a provision of particular relevance for our discussion in relation to the phenomenon of legal pluralism. It outlaws “laws, cultures, customs or traditions which are against the dignity, welfare or interest of women ... or which undermine their status.” This appears to be a clear declaration of the dominance of state laws over customary laws and practices as far as women’s access to land is concerned. The Oromia regional government’s *Oromia Rural Land Administration and Use Proclamation NO. 130/2007* also affirms the spirit of the national constitution. Article 7 of the Proclamation declares that a land holder “shall have the right to transfer his land use right to his family member who has inheritance right according to the law.” Article 5 of the same Proclamation declares that women have equal rights with men to possess, use and administer rural land.

These legal documents clearly support women’s equal rights as far as access to land is concerned. This is important in view that the realization of women’s access to and control over land is crucial for improving their socio-economic status and reducing gender inequalities. In this regard, studies in Ethiopia and elsewhere in African appreciate legal and policy strides that have been made on women’s equal rights to land. Yet, these studies also lament weak implementation. In this regard, Mwagae’s observation of the situation in Kenya is equally relevant for Ethiopia. She wrote:

Realization of women rights goes beyond the need to have provisions enshrined in the Constitution and the National Land Policy that ensures equality between men and women. Laws and policies, even if recognizing women’s equal rights to land and property, are still very difficult to implement. (2013: 22).

In addition to weakness of state structure, complexity of property relations and customary structures that the state often tends to simplify or overlook plays its role in the weak implementation of laws and policies. In this regard, Meaza & Zenebeworke (2005: 15) note that customary laws pertaining to marriage, divorce and inheritance that often work against women’s ownership of and control over property are still dominant a decade after constitution and other legal reforms have been put in to place in Ethiopia. It is in this context that we present a brief account on women’s land rights in Oromo customary law and examine how women’s land inheritance from their biological or sociological parents is faring in Oromia in the subsequent sections.

WOMEN’S LAND RIGHTS IN THE CONTEXT OF OROMO CUSTOMARY LAWS

In many African system of customary law, women, regardless of their marital status, cannot own or inherit land partly because women are assumed to be temporary members of a society while land constitutes the core of a community’s existence (Kameri-Mbote 2005: 11). The influence of customary law on women’s rights to land mainly derived from their membership in patrilineal households. Customary laws in patrilineal societies dictate the transfer of land from father to sons and land could only be inherited by males down the descent line. Women (girls) are seen as temporary members of a family as they are bound to join another clan or lineage upon marriage (see Mamo 2006; Negasa 2016). In line with gender-based division of labour among the Oromo, particularly among agricultural Oromo like those residing in the research sites, land is customarily held in the name of the head of the household. The husband (or grown up son in the absence of the husband) is

expected to cultivate the land and provide the household's livelihood. Women, generally speaking, are more engaged in the domestic activities and management of garden crops, mainly horticulture. Oromo women can generally have different forms of access to land. Before marriage at her natal village they can have temporary land use rights if they wish to engage in some agricultural activities (Mamo 2006), and after marriage in the village of their in-laws they can have a more sustained land use right through their husbands and sons. They can also have access to land through gift (from their parents) upon marriage, which are expressed differently in different sites (e.g., *kennaa*, *argaa*, *mana basaa*) (Mamo & Getaneh 2016; Girma 2018). Women can also inherit land upon her husband's death.

In general, clan organization and settlement patterns, kinship and marriage customs serve as major structural elements affecting land ownership and inheritance for Oromo women. Oromo being a patrilineal and patrilocal society, land inheritance is customarily possible only through the male line of descent. While a woman moves out of her village of birth upon marriage and settles in her husband's village, land is an immovable asset. Allowing women to inherit land in their natal clan is assumed, even feared, as inviting 'outsiders' or 'strangers', that is, a woman's husband to interfere in one's clan land. This is apparent when women's exclusion from inheritance of their parent's land was explained across research sites as a way of keeping *alagaa* (outsiders) from getting access to clan's land. In this regard, while exogamous marriage appears to bring clans together (in affinal kinship), it also keeps them apart from physical (territorial) integration. That is, clan integration and 'territorial integrity' is maintained by keeping in-laws away as expressed in the saying that goes: *-Soddaafi golfaa halaalatti qaqaamatu-* in-laws and epidemic are better kept (approached) at a safe distance. The Oromo also deploy such derogatory terms as *galaa* or *gaddarbii*—outsiders or intruders—to discourage individuals from settling among their in-laws. It is in this context that we are examining married Oromo women's recent attempt to get access to their parents' land through inheritance, in line with legal rights but contrarily the customary norms. The constitutional provisions and proclamations briefly introduced above are intended to overcome these structural barriers for women's access to land as discussed in the subsequent sections.

DIVERSE AND CHANGING PERSPECTIVES ON WOMEN'S LEGAL RIGHTS TO INHERIT LAND FROM THEIR PARENTS IN OROMO SOCIETY

As is the case with many other issues, people, even those who belong to the same social and demographic category, have diverse views on women's land inheritance rights from their parents. In fact many people, regardless of gender and age, tend to respond to questions regarding women's land rights in a politically correct manner. This is expected in line with a fundamental premise in anthropological parlance attributed to Malinowski that "... there is a difference between what people say they ought to do and what they actually do" (Brettell 2002: 434). Discussions of women's legal rights—in the context of the intense gender rights discourse—is a politically sensitive issue. In this context, to support and speak positively of women's rights appears to be a sign of legal enlightenment and of being 'modern' and aware, so to speak. Closer and intimate conversations with informants, however, produce more diverse views, which at the same time also produce some pattern when scrutinized in conjunction with the different categories of speakers. In this regard, we have dissected the findings along three major categories of people mainly based on age and gender. We first look at elders' conservative yet changing perspectives followed by overall tendency of pragmatism among young men. Then, we examine how women see the

issue—examining their interest, opportunities and constraints—of inheriting land from their parents from both livelihood and social relation points of view.

I. Conservative yet changing elders' perspectives

Among major actors regarding women's rights to land in Oromia are elders whose actions and perspective matter a lot. While official perspective appears to be monolithic in essence, as it often points to pertinent legislations and policies with regard to any land issue, elders play an important role on the ground and having varying perspectives on the issue. That is, the local level perspectives on access to land are not only multiple but also shifting depending on where an informant stands vis-à-vis a particular land case at the center of contention. That is, different categories of people (e.g., elders, women, and young men) tend to have diverse views both within and across these categories.

Elders generally appear to be conservative in their views of women's rights in general and their right to inherit land in their natal village in particular. In their opposition to women's land inheritance from parents, some elders are blunt in faulting women for clinging to state laws and grabbing land from their siblings; other elders often deploy euphemism (e.g., the husband is responsible for women's livelihood and why would they need to inherit land in her village of birth; that a married woman can get access to land in her marital village and why should they claim land in her natal village?). In 2016, an elder in West Arsii laments in this regard that:

... unlike the present situation, women did not claim for land inheritance from their parents before the coming to power of the EPDRF government [1991]; it was not a common tradition (among the Oromo) for women to do so. For instance, my father's sisters had not inherited land from my grandfather. Had they inherited it, I could not have accessed the land I hold today through inheritance from my father.

Elders often point to the cultural logic that hindered women from inheriting land of their biological or sociological parents as discussed in the preceding section. They express concerns regarding implications for clan continuity and tended to be against allowing women to inherit land in their village of birth as a matter of principle. Elders deployed a number of expressions to show their dissatisfaction with women's legal rights to inherit their parent's land and its consequences for decedents of a man and his clan.

In this regard, elders used strikingly similar expressions across the research sites in western and central Oromia when talking about the implication of women's legal rights to inherit land from their parents to the Oromo social organization and rules of settlement. They tended to focus on the most basic yet ritually and socially significant space—the *qe'ee*. The concept of *qe'ee* (hamlet/village and community), *kabajaa* (respect), *gosa* or *qomoo* (clan) tend to come up with some frequency. In Oromo tradition *qe'ee* has some ritual value. *Qe'ee* is often called after its most senior resident, who is often addressed as *abba* (a father) and hence *qe'ee abbaa ebeluu* so-and-so's father hamlet or a community of closely related people. This is the name of land (and of the village and its residents), which is respected and sometimes revered. The same name eventually translates into sub-clan and lineage name where its residents constitute closely related decedents. In this regard, the expression: *qe'een maqaa dhabde*, that is, the hamlet has lost its name—indicates the consequence of land inheritance by women in their village of birth. It alludes to the erosion of the tradition (or the community) when woman brings in a male partner (husband) from a different clan as resident, whose name is going to displace names of the original and 'rightful' owners of the hamlet (and the land).

In Oromo culture son-in-law has special respect and special reception whenever he pays a visit to his in-laws, which is not so frequent. He pays respects to in-laws and their village, that is, respects to the people and to the land, which expressed as *qeen kabajaa qabdi*. Any attempt by woman to bring in her husband to her parents hamlet is described as *qe'een kabajaa dhabdee*: the homestead has lost respect (both ritual and social). This refers to a situation when son-in-law has become a regular visitor or a resident among his in-laws or in his wife's clan of birth. In this regard, an informant from West Arsii pointed to the norms of social relation between in-laws as one of the factors hindering women's permanent residence in her clan of birth after marriage. He said:

The relationship between in-laws is special. It is delicate and sensitive. It is full of mutual respect (*kabajaa*) and fear (*sodaa*). It is also sacred (*wayyuu*). These are better protected (exercised) when in-laws live at distance. It is a challenge for a man to settle among his in-laws. For a woman to have a land and settle in her place of birth is also difficult. She may not receive a respect she would receive being in her right place [among the clan of her husband].

The attitude and expressions used to explain the exclusion of married women from inheriting their parents' land are slowly moving away from subtle, social structure, ritualistic and social respect-based ones towards more belligerent narratives. The words 'invasion', and destruction or dismantling of the hamlet (clan or community) are being deployed in the narrative of elders in our recent fieldworks. First let's briefly look at the 'invasion' discourse, which tends to shift the issue from women's rights per se to the so-called 'outsiders' sinister 'plot'. In this regard, elders in western Oromia used the phrase *alagaan nuweerarte*: 'aliens have invaded us' (Girma 2018), which is quite similar to expression used in West Arsii field sites in 2016 that *alagaan nubuqisee*: 'outsiders are uprooting us' in the name of women's rights. Here the fear of being uprooted and displaced by 'outsiders' is often raised by elders to resist married women's claim for land inheritance in their clan of birth.

The so-called 'outsiders' are fellow Oromo people who belong to other clans. They are blamed for 'unrightfully' seeking access to land in a woman's clan of birth disguising women's rights to land inheritance (see case 2 below). Several elders whom we interviewed believed that there almost always are 'invisible hands' of men behind claims made by married women for land inheritance in her clan of birth. For them, this has less to do with women's rights and women's livelihood issue. It rather is more about accumulation of land by men through the agency of women (and of formal laws). Women are seen in this perspective as 'Trojan horses', through which the 'outsiders' (men) infiltrate clans of their in-laws and access land. It was in this vein that some elders lamented that *dubartiin qe'ee digdee* (women have dismantled the 'homestead' or the community), pointing to the perceived threats to the continuity of the conventional kinship relations and settlement rules.

Our field observations affirm that elders have some valid points in this regard. There are real pressures put on women by their husbands, pushing them to claim, inherit and bring in land from their parents. Of course, the availability of sufficient land to be claimed, the level of need by a husband and wife for a land, and the social relationship a woman maintains with her relatives (male siblings in particular) could affect the pressure on a woman and her subsequent action in this regard. Yet, this doesn't preclude the possibility for a married woman to claim a share of inheritance from her parent's land using the state laws. Such possibility is particularly relevant when a woman is in desperate need of land for her livelihood.

The general sentiment vis-à-vis women's rights to inherit land from their family of birth,

as indicated above, is a reflection of how people are trying to figure out a major challenge to their customary values and practices. The overall sentiment is one of resistance and disapproval, not matter how this is expressed. Some elders, however, not only acknowledge that change is happening with regard to women's rights to inherit land generally speaking but also that they are willing to be partners in the change. One of our elderly informants in West Arsii explained that:

In the past time we had the view that a woman is born for other people [clan] as she will marry and join [move into] a different clan. Therefore, she was unable to inherit land in her father's clan since it is impossible for her to take [like other movable properties] a piece of land from her parent's village to the clan into which she is married. Parent's land is kept for sons. The only right a woman had was the right of inheriting her husband's land. But today this [view] is changing and people have started to see things in line with modern thinking. Currently women's inheritance rights are improving and customs don't totally deny them their legal rights. People's perceptions of what is right and proper regarding women are slowly changing.

This shows emerging changes regarding women's rights of land inheritance from their parents. It seems that people are paying attention to the existence of other categories of rights—'modern' or 'legal rights'—which they refer to when they talk about social structural factors that constrain women's land inheritance rights. Some other elders had similar views but tended to be more specific. They claimed that they are now convinced that women have the right to inherit land and that they would do what it takes to help their daughters inherit some of their land in the future. This in fact is not about any hypothetical woman. These elders were talking about 'their daughters', and in the context of changing state laws, policies and people's awareness of these legislations (see Mamo & Getaneh 2016). There in fact were cases among the Oromo where fathers gave land to their married daughters, and helped them settle on it with their husbands (see Mamo 2006). This usually happens in the form of gift giving while the parents are still alive.

Given the recent upsurge in the economic value of land, the practice of land gift seems to be expanding albeit with some covert intention. We have heard in multiple field sites stories about young women persuading their parents for land transfer in the form of gift by securing the transfer in writing. This would facilitate land transfer from parents to married women by eliminating complications of land inheritance claims women's would have to endure upon the death of their parents. Women treating their parents well, some people lament as 'bribing their parents, to entice them into gift giving or giving their will in writing that upon their death their daughter will inherit part of their land.

In general, changes are emerging regarding elders' views of women's land inheritance rights from their parents. Women's genuine claims are often assessed by elders and relatives to help them inherit part of their deceased parents land. But such change is not pervasive as many men still resist women's land inheritance, and not all women who want to inherit land from their fathers can get it. There are many elders who still push the story that men from other clans are behind women who seek to access land in her village of birth.

II. Diverse yet pragmatic perspective of young men

Some young men in almost all research sites shared similar perspectives with elders as we discussed above. The youth also tend to respond more, compared to elders, in 'politically' or legally correct ways. They often incline to talk about women's land rights issue in the context of 'rights' discourse in general and *mirga dubartii*—women's rights

—in particular. The youth tend to take this posture as it may appear to be a sign of 'backwardness' or not well-informed or educated for young men to oppose women's rights to inherit land from their parents on the basis of customary laws.

Yet, multiple perspectives characterize the overall responses of the youth too. It is interesting to note that young men are generally pragmatic in their attitude towards women's land inheritance rights rather than supporting or opposing it as a matter of principle. Their pragmatism seems to emerge from the youth's precarious positions as far as access to land is concerned. The youth are perhaps the most disadvantaged group to access land currently. Young men could access land mainly in two ways: (1) share of land from their parents' holdings, and (2) administrative (official) land distribution. Both ways are now highly constrained. Shrinking land holding size among most agricultural communities is making it difficult for a father to pass a share of land to his sons. That is, despite parents' intention to hand down part of land to sons the small size of landholding makes it difficult to pass down land to many claimants. The latest national survey show that average landholding size and average cropland holding size per household was 0.84 and 0.73 respectively (CSA 2021: 11). Similarly, communal land reserve is either shrinking, or almost non-existent in many agricultural communities for the state structures to be able to distribute some land to landless youth. Furthermore, the soaring value of land makes it a challenge for youth to access land through informal land purchase. As a result, young men's perspective seem to generally correspond with their position in relation to a particular woman (and land) concerned. That is, the position of a young man vis-à-vis a right claimant woman seems to make an important difference.

A young man, who is a sibling of a woman actively claiming a share of land from her parent's possession, is obviously critical of women's inheritance right of their parent's land. This is an issue of emotional and practical economic or livelihood implications for such a young man. Litigations, bitter negotiations and lengthy mediation process result in not only material loss but also end up in emotional and social predicament for the siblings involved. Young men, who have gone through such experiences or who are expecting one to come, often object to women's rights of land inheritance or explain it away even when they recognize such a right as a matter of principle referring to prevailing legal and policy environments. In this regard, we interviewed several young men who are no longer in talking terms with their sisters as a result of bitter litigation and outcomes over land inheritance rights.

Case 1: A young man complained ...

My four sisters got married and my two brothers were government employees. I remained at the *qe'ee* but they didn't help me to inherit all of my parent's land. My father and mother passed away in 2008 and 2011 respectively. ... all my siblings requested for the share of our parent's land and asked elders to help in this regard. I tried to resist explaining that **the livelihood to my children is at stake and that I supported our parents alone when they were alive**. My siblings rejected my plea and took the case to the kebele. ... the local elders advised me to share out the land **without incurring litigation cost and ensuing crises of social relation**. I reluctantly accepted elders' suggestions. Thanks to the elders they favored me and I inherited 1.5ha of land ... The remaining 4ha of land was divided among my six siblings equally. Look, I have four children now and imagine what my children would inherit upon my death.

This young man in East Wollega was not happy with the action of his siblings who

had their own sources of livelihood, but unfairly competed with him and took their share of inheritance of their parent's land. His married sisters had their own land and source of livelihood, yet they competed with him just to acquire some more land. He was adamant that his siblings descended upon him to grab a share of their parent's land while he was alone supporting their parents during their life time. This case is a clear indication of the rising material values of land and emerging urge among young men and women to give precedence to material resource over family relations and social harmony. This young man was terrified that he was about to lose his livelihood and worried about the future of his children's livelihood. Yet, he seems to be content with a relatively bigger share of his parent's land that he secured due to elders' intervention.

Other category of young men of interest was those who had established young families or preparing to establish one. Particularly those who were land deficit constituted important members of this category. We are referring in this category to young 'husbands' who pressed their wives to claim land and actively supported them in cases of litigation over land inheritance rights. Also in this category were single young men (some planning to marry during the time of interview) who said that they have their eyes on the land in their prospective wife's family either for land gift in short term or land inheritance opportunities in the long run. This suggests that some young men use marriage as a ticket to access land in women's clan of origin. These are the group of people whom elders complained about earlier as 'outsiders' 'conspiring with women to dismantle the community or hamlet'.

Such interest in land is becoming apparent in the context of difficulties young men are facing to access land as indicated above, and the overall rise (both for cash income earning and subsistence livelihood) in the value of land. As one young man stressed in West Arsii:

It is true that young people are now talking about what a woman can bring in upon marriage. This is particularly true for land. The interest is not simply to unrightfully get land from her clan. It is a matter of survival. We have to eat and we need some land to cultivate on. As you know, it is becoming more and more difficult for a young man to be able to get a land to even erect a hut on.

Although this does not appear to be a widespread phenomenon, it clearly is an emerging one. In the long run, as this emerging phenomenon becomes more widespread, it would have significant implication to male-female power relation in patrilineal Oromo society. As women start to bring in land, a land owning woman married to a landless young man, the traditional male domination may start to slowly wane. This is particularly so as more and more men began to settle in the natal village of their wives, where they would have a relatively lower social position being treated as 'outsiders'.

III. Women have similar views of rights but diverse outcomes on land inheritance from parents

Many women are quite aware, even at the local level, of prevailing gender discourses and favorable legal and policy environments. Although several informants attribute such improved legislations and women's awareness to the Ethiopian People Revolutionary Democratic Front (EPRDF) government, which came into power in 1991, others credit the socialist regime that preceded it (1974–1991) for bringing women's rights issues and debates on gender equality to the fore (see Mamo 2006). Most of our female informants, regardless of age and marital status, are appreciative of the state laws that prompt women's right to access land through different means.

There was, however, some divergence over the implementation of the policies and

women's interest and ability to actively instrumentalize them to claim and inherit land for their parents. Women informants pointed to cases of women who actively claimed and inherited land from their parents. They also raised cases where women's husbands encouraged or forced their wives to claim and inherit land from their parents. Furthermore, women informants emphasized social structural elements that still constraints women from successfully claiming and inheriting land in their clan of origin. This includes women's self-restraints for fear of spoiling relations or severing ties with their male siblings by claiming and inheriting a share of their parent's land.

Our observation in multiple field sites across Oromia attest to the accuracy of those points raised by women (and men as well in some sites) informants, despite variation in their intensity and prevalence from site to site. There is one issue, however, that is attracting greater attention and becoming a bone of contention across sites—the role of men (husbands) in the women's claim for land inheritance rights from their parents. This is already evident in elders' perspectives presented earlier. The following case from West Shewa is an actual illustration of this contentious point (see Girma 2018).

Case 2: Women's land inheritance & the men in the shadow

I have 3ha of land, which is sufficient enough for my livelihood. [Consequently] when my parents passed away, I didn't ask from my brother for a share of inheritance from my deceased parents' land. But my husband often alludes to my failure saying 'so-and-so's wife has inherited her parent's land' ... And **one day we had an argument [over unrelated issue] and he insulted me saying 'you are a woman without a father. He humiliated me** for I didn't claim and inherit my deceased parents' land. That made me mad and I asked my brother for a share of land inheritance ... He ignored me ... When I took the case to the Kebele, he was forced to give me the land. I have since been using the land by giving it out on a **sharecropping arrangement.**

The insult that she is 'a women without a father', humiliated the woman and put a huge emotional and social burden on her. In Oromo society, someone's connection to the ancestors carries both social and spiritual meanings. To describe someone as 'born without a father' implies that he or she is not connected to the social and spiritual universe of the society. It is a heavy burden on a person to prove that he or she is connected, and in the case of this particular woman she had to prove that by claiming and inheriting the land from her late father's estate.

This case speaks for several women as it is not an isolated or typical case as such. We have heard similar stories in several sites that husbands pressed their wives to claim and inherit land from their parents. A number of points can be gleaned out of this case, however. First, although any additional piece of land brings in some improvement to the livelihood of an individual or a household, this particular woman was not in a desperate need of land for livelihood, which could have pressed her for land inheritance claim. She indicated that she got more than the average landholding size held by many of rural households in her area. It is also apparent that she was not in rush to claim her inheritance right as a matter of right upon the death of her parents. She might have been concerned about losing her social relations with her male siblings with whom she had to compete. Second, we see explicit interest on the part of her husband to have access to her parents land using her legal inheritance rights. She had to make that difficult decision between losing her social relation with her siblings, on one hand, and maintain her dignity and stability of her own family (marriage) on the other hand. And she finally opted for the latter.

Third, she couldn't settle on the land or use it in person due to strained relations with her siblings. At the same time, her husband could not work on the land due to settlement rules and since he would not feel comfortable in a hostile neighborhood outside of his own clan territory. This situation often forces women to dispose of the land they inherited to male siblings, in the form of sale but often well below the real value of the land. In this particular case, the fact that she has given away the land on a sharecropping arrangement appears to be a new strategy to minimize the loss of benefit she could gain from the land. This simple strategy may prove to be of significant, at least in the long run, livelihood consequence for women who inherit land from parents but who could not settle and work on it due to socio-cultural constraints.

Other cases, as illustrated by a case from West Arsii presented below, show how women sometime give up their potential privileges or legal right of land inheritance claim (Shamil 2016). This case also show the limit (or variations in the intensity) of the pressure from husbands on women to inherit land from their parents by employing their legal rights.

Case 3: Soreti had the right to claim and inherit her parents' land but refrained from doing it

I have two brothers. When our parents passed away, all their properties were shared between my two brothers. But I refrained from asking for my share of inheritance despite pressure from many people (including my husband) to claim for my father's land. But I resisted the pressure since I love and respect my brothers. They are my security in times of problem; they still help me with grains each time they harvest. I have known many other women who claimed share of inheritance, fought with their brothers in state court and won land cases. Many of them lost their relationships with their brothers ... In my case, I preferred to maintain strong family relationship with my brothers ...

Again, the pressure husbands put on their wives to claim and inherit land from their parents is apparent. Women's agency is also clear in this particular case. She made a decision not to claim the land in spite of the pressure from her husband. Yet, it is also important to look at factors that affected her decision in this regard. Women often speak (particularly in West Arsii) of '*boru*', which literally means 'tomorrow', when they explain about the consequence of land claims, their decision to pursue one or not. They tend to emphasize the importance of continuity of their connection to the family of birth. 'Tomorrow' refers to the future in this regard. The future also comes with uncertainties for women, where divorce or separation often leaves women without resources. As one young women stressed in West Arsii "when a woman faces any problem, including disagreement with her husband, to whom will she turn? She will eventually turn to her parents; to her siblings". In this regard, interest in maintaining cordial relations with her relatives (siblings in particular) influences a woman's decision to pursue (or not) her land inheritance rights claim. Women's 'social protection' interest is evident in the preceding statements. It is in the interest of 'saving by giving' (see Mamo 2013) that some women decide to keep their share of inheritance with male siblings or refrain from claiming land from their siblings at all. This is a clear practical issue in the event of divorce, separation or destruction of property or when women lose their husband (because of death). In this regard, their relatives (parents and siblings) are their first line of defense.

In addition to the 'social security' interest, some women have also cited emotional connection and moral obligation to maintain family peace for not pushing land inheritance rights from their parent. Some women also expressed their genuine concern for the livelihood security of their siblings or their offspring, who may need the land most.

CONCLUDING REMARKS

Patrilocal settlement rules, clan territoriality and exogamous marriage and associated norms and values are among major structural elements that limit women's land inheritance right in their natal clan in Oromo society. It is in this context that resistance to women's land inheritance rights are still framed in local people's arguments and narratives. This includes the notion (and actual cases) of the 'men in the shadow' or the 'men behind women' who attempt to access land outside of their clan disguised women's land inheritance rights in their natal village. At the same time, we have attempted to problematize women's emerging agency vis-à-vis land inheritance rights from their parents in the context of supportive state laws and policies. That is, women are actively seeking to inherit land from their parents in view of the increasing economic/livelihood values of land. Yet, women's decisions are also influenced by different actors and structural elements. Obviously, "... there is never always total agency, for lives are equally constrained by structure and circumstance." (Harevel 2000, cited in Brettell 2002: 432).

A woman's marital partner on one side, and her male siblings on the other side, play important role influencing her decision. Women have to weigh between social harmony and sustained relationship with siblings and material interest in land and amicable relation with her husband. Some cases suggest that women are sandwiched between the interests of expanding their economic power and influence, appeasing their husbands by claiming land inheritance on one hand, and forfeiting their right to appease their siblings and offending their marital partners on the other hand. Some case studies suggest that while women's livelihood options are expanding and their power and influence in the household could eventually rise, their connection and social relations with their siblings tend to be troubled.

In general, women's improved access to land through inheritance is no longer a mirage. Consequent improvement in livelihood opportunities (through property ownership) is also enhancing their social position in the eyes of their husbands. Women are also overcoming structural constraints such as settlement rules, which reduce benefits they gain from land they successfully claimed, by renting out the land-a newly emerging strategy.

ACKNOWLEDGEMENTS This work was supported by JSPS Scientific Research Fund-B No. 17KK0025: "Comparative studies on formation of gender-based local knowledge in Africa" and Grant-in-Aid for Transformative Research Areas (A) No. 20H05806: "Lifelong sciences: Reconceptualization of development and aging in the super aging society".

REFERENCES

- Akoto A (2013) "Why don't they change?" Law reform, tradition and widows' rights in Ghana. *Feminist Legal Studies* 21: 263–279.
- Benda-Beckmann Fv (2002) Who's afraid of legal pluralism? *Journal of Legal Pluralism and Unofficial Law* 34(47): 37–82.
- Brettell CB (2002) The individual/agent and culture/structure in the history of the social sciences. *Social Science History* 26(3): 429–445.
- Central Statistical Agency (CSA) (2010) *Population and Housing Census 2007 Report, Oromiya, Part I: Population Size and Characteristics*. CSA, Addis Ababa.
- Central Statistical Agency (CSA) (2021) *Agricultural Sample Survey 2020/21 (2013), Volume IV Report on Land Utilization (Private Peasant Holdings, Meher Season)*. CSA, Addis Ababa.

- Demian M (2015) Dislocating custom. *PoLAR: Political and Legal Anthropology Review* 38(1): 91–107.
- Emirbayer M & Mische A (1998) What is agency? *American Journal of Sociology* 103(4): 962–1023.
- Friedl E (2006) Society and sex roles. In (Spradley J & McCurdy DW, eds) *Conformity and Conflict: Readings in Cultural Anthropology (12th ed.)*, pp. 231–239. Pearson, Boston.
- Galanter M (2005) Law and society in modern India. In (Moore SF ed) *Law and Anthropology: A Reader*, pp. 47–50. Blackwell, Malden, MA.
- Girma H (2018) *Land Formalization versus Custom-based Property Relations in Land in Ethiopia: Examining Complexity of Competing Norms of Property Relations in Land: The Case of Danno District, West Shewa Zone, Oromia*. A Dissertation Submitted for Partial Fulfillment of the Requirements for the Degree of Doctor of Philosophy in Social Anthropology.
- Griffiths J (1986) What's legal pluralism? *Journal of Legal Pluralism and Unofficial Law* 24: 1–55.
- Hilhorst T (2000) Women's land rights: Current developments in sub-Saharan Africa. In (Tolumin C & Quan JF, eds) *Evolving Land Rights, Policy and Tenure in Africa*. DFID/IIED/NRI, London.
- Kameri-Mbote P (2005) The land has its owners! Gender issues in land tenure under customary law. *Proceedings of the UNDP-International Land Coalition Workshop: Land Rights for African Development: From Knowledge to Action*, Nairobi.
- Kirk M (1999) *Land Tenure, Technological Change and Resource Use: Transformation Process in African Agrarian Systems*. Peter Lang, Frankfurt am Main.
- Mamo H (2006) *Land, Local Custom and State Policies: The Study of Land Tenure, Land Dispute, and Disputes Settlement among the Arsii Oromo of Southern Ethiopia*. Shoukadou Ltd., Kyoto.
- Mamo H (2013) 'Giving is saving': The essence of reciprocity as informal social protection system among the Arsi Oromo, southern Ethiopia. In (Devereux S & Getu M, eds) *Informal and Formal Social Protection Systems in Sub-Saharan Africa*, pp. 9–42. Fountain Publishers, Kampala.
- Mamo H & Getaneh M (2016) *Land Tenure Reforms and Women's Land Rights in Plural 'Legal' and Cultural Settings: A Comparative Study of the Arsii Oromo and Dorze-Gamo, Ethiopia*. ESSWA Quarterly Review. June–Dec. 2016. Ethiopia Society of Sociologists, Social Workers and Anthropologists [ESSWA].
- Mamo H & Shigeta M (2014) Continuity and change in the rights of Arsi Oromo women to property in the West Arsi, Ethiopia. *Nilo-Ethiopian Studies* 19: 17–30.
- Meaza A & Zeneberworke T (2005) *Women, HIV/AIDS, Property and Inheritance Rights: The Case of Ethiopia*. <https://www.undp.org/sites/g/files/zskgke3226/files/publications/23.pdf> (Accessed November 23, 2022).
- Moore SF (1973) Law and social Change: The semi-autonomous social field as an appropriate subject of study. *Law and Society Review* 7(4): 719–746.
- Mwagae EW (2013) *Factors Hindering Realization of Women's Land Rights a Case of the Luhya Community in Kakamega County, Kenya*. A research report submitted in partial fulfilment for the requirement of a Masters of Arts degree in project planning and management of the University of Nairobi.
- Negasa DS (2016) The role of land certification in securing women's land rights in Beneshangul Gumuz Region, Ethiopia: Does legal pluralism serve their benefits. *Paper Prepared for Presentation at the 2016 World Bank Conference on Land and Poverty*. Washington DC. pp. 58–60.
- Oromia National Regional State (2008) *Proclamation No. 130/2007 Proclamation to Amend the Proclamation No. 56/2002, 70/2003, 103/2005 of Oromia Rural Land Use and Administration*.
- Shamil H (2016) *Arsii Oromo Women's Access to Land: With Particular Emphasis on Women's Land Inheritance Rights in Shashemene District, Oromia*. A Senior Essay in Social Anthropology, Addis Ababa University.

- Temesgen O (2018) *The Dynamics of Land Tenure and Livelihood in Diga District, East Wollega Zone of Oromia National Regional State*. Ph.D. Dissertation in Social Anthropology, Addis Ababa University.
- Wardana A (2015) Debating spatial governance in the pluralistic institutional and legal setting of Bali. *The Asia Pacific Journal of Anthropology* 16(2): 106–122.