

Ethiopia: Country Case Study Report

How Law and Regulation Supports Disaster Risk Reduction

International Federation
of Red Cross and Red Crescent Societies

April 2013



Case Study:

IFRC-UNDP Series on Legal Frameworks
to support Disaster Risk Reduction



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About this report

This report was commissioned by the IFRC and prepared by Ewan Powrie, legal consultant. It is one of a series of case studies the IFRC is undertaking with UNDP as part of a global research project to learn about how law and regulation supports disaster risk reduction, particularly at the community level. For more information about the project and various case studies as they become available, please visit our website at <http://www.ifrc.org/dl>.

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Geneva, April 2013

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Executive Summary

Ethiopia is the oldest independent country in Africa, has a total population estimated at 88 million (the third largest population in Africa), and contains over 80 ethnic groups spread over nine regional states and two city administrations, yet despite economic growth and a significant increase in human development over the past two decades, Ethiopia remains one of the world's poorest countries, ranking 174th out of 187 countries in the UNDP's Human Development Index. For many, Ethiopia's recent history makes the country synonymous with drought, and it is certainly true that this remains the major natural hazard faced by Ethiopia. However Ethiopia also faces hazards such as flooding, forest fires, and tectonic activity including earthquakes, as well as increased vulnerability due to the impact of climate change, which makes the need for strong legal regulation to implement DRR activities all the more pressing.

Traditionally the majority of efforts in Ethiopia have been focused on relief work for droughts, with the formally approved policy on disaster prevention and management, the National Policy on Disaster Prevention and Management (1993) ("the 1993 Policy"), paying little attention to prevention of natural disasters more generally. This approach has now changed, following a series of institutional changes begun in 2007 with the government's Business Process Re-engineering programme, which led to the establishment of a Disaster Risk Management and Food Security Sector (DRMFSS) underneath the Ministry of Agriculture. The DRMFSS has overseen a large shift in attitude and practice, moving towards an increasingly multi-hazard and multi-sectoral approach, and is overseeing the drafting of a new National Policy and Strategy on Disaster Risk Management (the NPSDRM) that contains a greater emphasis on the delegation of powers to the regional and local levels, as well as community involvement. In particular, it moves away from the 1993 policy's focus on drought and aims to improve information on community vulnerability and flood preparedness.

The NPSDRM is organized according to Hyogo Framework for Action (HFA) priority areas, which have informed a policy shift by the DRMFSS toward proactive disaster risk management. However, Ethiopia is not yet a signatory to HFA, and has not yet established a national platform on DRR.

It is clear that much work still needs to be done, not least to move the NPSDRM from a near-final draft to an approved government policy, but also to push forward the necessary legal and institutional changes and relationships to realize the NPSDRM's ambition of mainstreaming DRR in all relevant government ministries, promoting community-led DRR and EWS activities and creating a strong national network of DRM agencies from the federal to the local level, with appropriately delegated responsibilities and powers. The lack of clear legislative or policy direction has led to a lack of consistency in the DRR structures in the regional states, and is a cause of concern among civil society and the international donor community, and as such needs to be addressed as soon as possible to allow effective DRR to progress in Ethiopia.

The activities of the DRMFSS and the national policies on DRM are only one piece of a wider picture, as the legal framework applicable to DRR in Ethiopia extends far beyond current Ethiopian disaster law. For example, this report analyses legislation covering both the built environment and the natural environment in order to paint a holistic picture of legislation and practice that may help or hinder DRR in Ethiopia. Whilst several positive elements and practices are identified, a broad trend identified that many positive elements in legislation or policy have yet to be realized in practice. Ethiopia is also relatively unique in that, at least as legal frameworks for DRR are concerned, the

usual approach of issuing policy based on overarching legislation is reversed. In Ethiopia Proclamation 10/1995 (as amended) governs the powers of the Disaster Prevention and Preparedness Commission (which have now been transferred to the DRMFSS under the MOA) but other than the general powers given to Ministries under the Proclamation, it is the national policies which are generally considered the framework for the legal implementation of DRR and DRM, with legislation issued and enacted to enforce the implementation of policy.¹ It remains to be seen whether new legislation is in fact issued on the basis of the NPSDRM.

Analysis of the legislative framework and its implementation in Ethiopia reveals several positive practices:

- The Early Warning System, information-gathering and risk mapping system in place is extremely sophisticated and through detailed community involvement in data acquisition generates a huge amount of useful information.
- A large number of Building Codes are in place that contribute to DRR through setting out detailed requirements for construction, and are in the process of being updated by the government and Addis Ababa University.
- Coordination mechanisms in place at federal and to some extent regional levels, involving the government, donors, NGOs, UN agencies and other representatives of civil society are also to be commended. Environmental Impact Assessment procedures and requirements are well documented in law and policy and provide a strong framework for the inclusion of DRR considerations.
- The current system of community-designed by laws represents good practice at the community level and could be used to mainstream DRR considerations into local level law with appropriate outcomes for local communities.
- In general a large body of law exists that promotes activities that contribute to DRR as well as important issues such as community participation.

There are several key areas that expose gaps in the current legislative and institutional arrangements for DRR, and would benefit from more clearly defined, enforceable legal rights and responsibilities:

- Engagement with local communities regarding DRR practices and policies, and the involvement of communities in legal processes such as environmental impact assessments and planning, demonstrates a gap between the positive and empowering language of legislation and current practice, requiring a concerted effort for effective implementation.
- Coordination and communication between the DRMFSS and the Environmental Protection Agency needs to be enhanced to prevent overlap between the DRR and Climate Change Adaptation agendas.
- Two-way information flow from federal to local level of information generated through risk mapping and seasonal reporting needs to become more consistent in order to keep communities involved in and aware of DRR measures, and the speed of government response to local and community early warning data must be improved. A legally enforceable system of responsibility for disaster warnings could, for example, be considered to focus this effort.
- Capacity and resource gaps – especially at the local level – need to be closed to ensure that sectoral legislation that contributes to DRR, such as land use planning laws and building codes, can be properly implemented, overseen and enforced.

1 Article 1.10, NSPDRM

At present the legal and policy framework for DRR in Ethiopia suffers from gaps in both coordination and capacity, meaning that implementation is often not achieved. However, overall there is a genuine strong desire within the DRMFSS and other government stakeholders to bring about fundamental changes in the way that the legislative framework deals with DRR. It is hoped this can manifest itself in a strong and coordinated legal framework that is able to successfully support the implementation of DRR.

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Partners

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The study is part of a global project on the legal frameworks to support disaster risk reduction at country level, which is being undertaken by the IFRC in partnership with the United Nations Development Programme (UNDP).

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- Mr. Zeru Teha, Programme Officer, Ethiopian Red Cross Society, Tigray, who provided administrative support in Tigray, driving and interpretation for the community focus groups

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This report draws extensively on the Background Report: Law and Regulation for the Reduction of Risk from Natural Disasters in Ethiopia – A National Law Desk Survey, August 2012, also prepared by Mr. Ewan Powrie on behalf of the IFRC, which was based on internet and library sources. The background report will be published separately.

List of Abbreviations

APIF	Agriculture Policy and Investment Framework	LEAP	Livelihoods, Early Assessment and Protection project
CRGE	Climate Resilient Green Economy	MARD	Ministry of Agriculture and Rural Development
DDPM	Directives for Disaster Prevention and Management (1993)	MOA	Ministry of Agriculture
DPPA	Disaster Prevention and Preparedness Agency	MOE	Ministry of Education
DRM	Disaster Risk Management	MOWE	Ministry of Water and Energy
DRM Council	Disaster Risk Management Council	MUDC	Ministry of Urban Development and Construction
DRM Coordination Office	Disaster Risk Management Coordination Office	National CEW	National Committee for Early Warning
DRMFSS	Disaster Risk Management and Food Security Sector	NDPPC	National Disaster Prevention and Preparedness Commission
DRM Unit	Disaster Risk Management Unit	NEWS	National Early Warning System
DRR	Disaster Risk Reduction	NGO	Non-Governmental Organisation
EIA	Environmental Impact Assessment	1993 Policy	National Policy on Disaster Prevention and Management (1993)
EPA	Environmental Protection Authority	NPSDRM Sectoe PAP	Draft National Policy and Strategy on Disaster Risk Management
ERC	Ethiopian Red Cross Society	Education	Program Action Plan – Education Sector Development Program
Ethiopia	The Federal Democratic Republic of Ethiopia	PSNP	Productive Safety Nets Programme
EWRD	Early Warning and Response Directorate	RCIS	Rural Cadastre Information System
EWS	Early Warning System	REST	Relief Society of Tigray
Federal DRM Coordination Office	Federal Disaster Risk Management Coordination Office	SNNPR	Southern Nations, Nationalities and Peoples Region
Guidelines	General Guidelines for the Implementation of the National Policy on Disaster Prevention and Management (1995)	SPIF	Strategic Programme and Investment Framework
IFRC	International Federation of Red Cross and Red Crescent Societies		



1. Introduction, background & project objectives

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1. Introduction, background & project objectives

1.1. Law & DRR Project Background

In January 2005, a UN conference of over 4,000 representatives of governments, NGOs, the Red Cross and Red Crescent, UN agencies, academic institutes and the private sector adopted the Hyogo Framework for Action² which contained a set of commitments and priorities to take action to reduce disaster risks. The first of these was to ‘ensure that disaster risk reduction is a national and a local priority with a strong institutional basis for implementation’, notably through ‘policy, legislative and institutional frameworks for disaster risk reduction’.

Since 2005, a significant amount of legislation has been adopted in various parts of the world aimed at strengthening the focus on disaster risk reduction, yet important gaps still remain, particularly with regard to follow-through at community level. This was confirmed in a number of reports prepared around the time of the mid-term review of the Hyogo Framework for Action,³ and subsequently, including country case studies by the IFRC.⁴ Communities were found not to be well enough informed, engaged and resourced to take an active part in reducing risks, and it was noted that rules to deter risky behaviours (particularly in construction and land use) often go unenforced. While legislation is certainly not the only way to address some of the issues, it can be an important part of the puzzle.

In 2011, the state parties to the Geneva Conventions took up this issue at the International Conference of the Red Cross and Red Crescent. Their resolution encouraged states, with support from their National Red Cross and Red Crescent Societies, IFRC, the UNDP, and other relevant partners to review the existing legislative frameworks in light of the key gap areas identified in the IFRC report to the Conference, and to assess whether they adequately:

- a. make disaster risk reduction (DRR) a priority for community-level action;
- b. promote disaster risk mapping at the community level;
- c. promote communities’ access to information about DRR;
- d. promote the involvement of communities, RCRC National Societies, other civil society and the private sector in DRR activities at the community level;
- e. allocate adequate funding for DRR activities at the community level;
- f. ensure that development planning adequately takes into account local variability in hazard profiles, exposure, and vulnerability and cost-benefit analysis;

2 ‘Hyogo Framework for Action 2005-2015: Building the Resilience of Nations and Communities to Disasters (Extract from the Final Report of the World Conference on Disaster Reduction)’, World Conference on Disaster Reduction. 18-22 January 2005, Kobe, Hyogo, Japan (Kobe, Hyogo, Japan: International Strategy for Disaster Reduction, United Nations, 2005).

3 UNDP, A Global Review: UNDP Support to Institutional and Legislative Systems for Disaster Risk Management, 2007; Global Network of Civil Society Networks for Disaster Risk Reduction, “Clouds but Little Rain” Views from the Frontline: A Local Perspective of Progress Towards Implementation of the Hyogo Framework for Action, 2009; IFRC Hyogo Framework for Action: Red Cross and Red Crescent Mid-Term Review, October 2010; UNISDR, Hyogo Framework for Action: Mid-Term Review 2010-2011; Global Network of Civil Society Networks for Disaster Risk Reduction, If We Do Not Join Hands

4 Analysis of legislation related to disaster risk reduction in Brazil, IFRC, 1 January 2012; Analysis of legislation related to disaster risk reduction in the Dominican Republic, IFRC, 1 January 2012; Analysis of legislation related to disaster risk reduction in Nepal, IFRC, 1 March 2011; and Analysis of legislation related to disaster risk reduction in South Africa, IFRC, 1 January 2012 – all available at: <http://www.ifrc.org/en/what-we-do/idrl/research-tools-and-publications/disaster-law-publications/>

- g. ensure full implementation of building codes, land use regulations and other legal incentives; and
- h. promote strong accountability for results in reducing disaster risks at the community level.

The purpose of the country case studies as a whole is to assist IFRC and UNDP in compiling a Global Synthesis Report on DRR and legislation. The data will also be used to inform the parallel development of a Checklist for Lawmakers. The synthesis study will be available as a tool for states and international actors, including UNDP and the Red Cross and Red Crescent Movement, by providing comparative data and examples of good legislative practices and their implementation. It will also be used to develop other tools as the basis for advocacy and capacity building in DRR. The purpose of the present Country Case Study is to provide country level information and analysis for this global project, but also to provide insights into law and disaster risk reduction in Ethiopia.

In this context, DRR is defined according to the United Nations International Strategy on Disaster Risk (UNISDR) terminology: “The concept and practice of reducing disaster risks through systematic efforts to analyse and manage the causal factors of disasters, including through reduced exposures to hazards, lessened vulnerability of people and property, wise management of land and environment, and improved preparedness for adverse events.”⁵

1.2. Geography and disaster risk profile of Ethiopia

The Federal Democratic Republic of Ethiopia is a land-locked country located in the Horn of Africa with a total surface area of 1.14 million km². It is bordered by Eritrea to the north and northeast, by Djibouti and Somalia to the east, Kenya to the south and Sudan to the west. The country’s topography consists mainly of highlands, situated atop the East African Rift plateau, with the high central plateau of Ethiopia ranging from 1,290 to 3,000m in height. The northern and southern highlands are divided by the lowlands of the Great Rift Valley, with this area being notable for susceptibility to earthquakes and volcanic activity as well as drought. Ethiopia is located in the tropical climactic region of Africa, although it has a varied topography that results in different climate classifications throughout the country, ranging from the hot lowlands to cool (2,400m+) elevated regions.

Whilst a wide range of natural hazards are present in Ethiopia, including drought, floods, landslides, pests, earthquakes, and urban and forest fires, by far the most common natural hazards in Ethiopia are droughts and floods. Most of Ethiopia is made up of arid, semi-arid or dry sub-humid areas, all of which are vulnerable to these hazards. Over the last twenty years Ethiopia has experienced many localised droughts and seven major droughts, four of which resulted in famines.⁶ In 2008, more than six million Ethiopians required emergency food assistance due to drought. The following table compiled by EM-DAT shows that drought and flood are by far the two most serious natural hazards faced by Ethiopia:

5 2009 UNISDR Terminology on Disaster Risk Reduction, Geneva, 2009.

6 Sustainability Institute, Review of International & African Climate Change Legislation and Policies (AWEPS Parliamentary Support Program in South Africa), 30th March 2012

Table 1: impacts of natural disasters in Ethiopia, 1900 – 2012⁷

		# of Events	Killed	Total Affected	Damage (000US\$)
Drought	Drought	15	402367	66941879	92600
Earthquake (seismic activity)	Earthquake (ground shaking)	7	24	585	7070
Epidemic	Unspecified	4	429	32948	–
	Bacterial Infectious Diseases	15	10984	133680	–
	Parasitic Infectious Diseases	1	157	25000	–
	Viral Infectious Diseases	2	46	531	–
Flood	Unspecified	13	136	195240	920
	Flash flood	6	735	436278	9400
	General flood	31	1105	1758478	6700
Insect infestation	Locust	4	–	–	–
Mass movement dry	Landslide	1	13	–	–
Mass movement wet	Landslide	2	26	194	–
Volcano	Volcanic eruption	3	69	11000	–
Wildfire	Forest fire	1	–	5	–

Flash floods and seasonal river floods are becoming increasingly common in Ethiopia,⁸ due largely to deforestation, land degradation, increasing climate variability, and settlement patterns. There have been six major floods during the past two decades that have resulted in significant loss of life and property. Whilst large-scale flooding is limited to the lowland areas of the country, flash floods can occur in most parts of the country (especially when rains fall after prolonged dry spells or droughts). Heavy rainfall in the highlands can cause flooding of settlements in a number of river basins, particularly the Awash River Basin in the Rift Valley. Flooding in urban areas, especially in Addis Ababa, occurs annually.

Ethiopia's vulnerability to natural hazards (and its resultant food insecurity) is closely linked to an increasing population and the difficulty in managing land and water resources. About 85% of the land surface in Ethiopia is considered susceptible to moderate or severe soil degradation and erosion, and in the highlands, shrinking farm sizes and soil degradation and erosion are reducing the sustainability of agricultural production and causing downstream pollution. In addition, land productivity is declining as the average household landholding is declining due to population pressure and limited uncultivated land. Ethiopia's water resources are unevenly distributed, with 80-90% of all its surface water found within four major river basins located in the west and south-west of the country. Only 10-20% of the surface water resources are found in the East and central parts of Ethiopia, where 60% of the population lives.⁹

⁷ Source: EM-DAT: The OFDA/CRED International Disaster Database, www.emdat.be

⁸ Amber Meikle, Ethiopia – Country Level Literature Review, African Climate Change Resilience Alliance March 2010

⁹ Ethiopian Strategic Investment Framework for Sustainable Land Management (Draft), August 2008

1.3. Governmental and law-making structure

Government

The current governmental structure in Ethiopia was established on 21st August 1995, when the country's Constitution was formally adopted, which established a federal structure and a parliamentary system of government. The Ethiopian Parliament is bicameral, with the 547-seat House of Peoples' Representatives forming the lower chamber, elected from single-seat constituencies from districts/woredas, and the 108-seat House of Federation forming the upper chamber, selected by the legislatures of the regional States. Executive power is held by the Prime Minister, whilst the President is the ceremonial Head of State.

There are 11 states within Ethiopia's federal structure (of which two, Addis Ababa and Dire Dawa are technically 'chartered cities'), each governed by their own councils. Immediately below the states in the hierarchy sit the 'woredas' or districts. At present there are approximately 550 woredas. Within each woreda there are a number of kebeles, which represent the smallest unit of local government (there are more than 30,000 kebeles in Ethiopia at present), although in practice the 'kushets' exist as smaller village units within one kebele. A kebele is best described as a neighbourhood or ward.

Both the Federal Government and the States were given considerable legislative, executive and judicial powers under the 1995 Constitution, which also ensured the decentralisation of many political, fiscal and administrative powers to State level. Ethiopia has been cited as a striking example of 'ethnic federalism', in which the country's major ethnicities have been allotted their own regional states (with most of the states named after the dominant ethnicity in the state, e.g. Somali, Afar, Amhara). Concurrent with this policy of federalism, beginning in the early 1990s the Ethiopian government embarked on a number of decentralizing reforms of political, fiscal and administrative powers, although many argue that so far these reforms have not significantly shifted power out of Addis Ababa.¹⁰

Regional States in Ethiopia benefit from many constitutional protections, which at their most extreme include the right for States to secede (although only following the proper political process).¹¹ The Constitution also states that 'all powers not expressly given to the Federal Government and the States are reserved to the States'.¹² Whilst the woredas were not established by the Constitution, each regional State has its own Constitution, which established and provides for its respective woredas. The woredas received significant powers following the District Level Decentralisation program of 2001.

Law-making

Ethiopia has a dual system of courts – a Federal Judiciary with the Supreme Court at its apex, along with a separate and parallel judicial system in each Regional State. The Federal Supreme Court, the Federal High Court and the Federal First Instance Court constitute a single Federal Judiciary, having jurisdiction over all cases pertaining to federal matters. Likewise, there is a similar court structure in each Regional State that has jurisdiction over all regional matters.

10 UN HABITAT, Ethiopia Urban Profile, 2008

11 Article 39, Proclamation 1/1995 (Constitution of the Federal Democratic Republic of Ethiopia)

12 Article 52(1), *ibid*

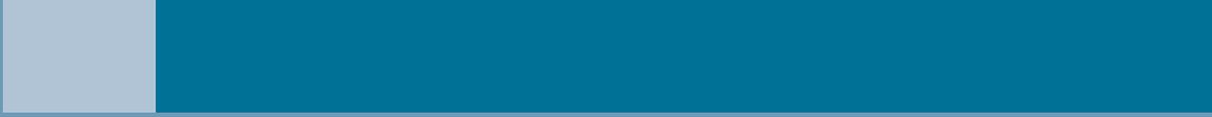
In terms of the hierarchy of laws, the Constitution is the supreme law of Ethiopia, which overrides all other legislation (including State constitutions and laws). Second are Proclamations, which are pieces of legislation enacted by the House of Peoples' Representatives. Third in the hierarchy are Regulations, which are issued by the Council of Ministers. Last in the list are the Directives, which are issued by individual government departments in order to implement Proclamations and Regulations. All federal laws have effect throughout the country and take precedence over the laws issued by regional states. The regional states have the powers to make their own laws (in the form of Proclamations and Regulations) on matters that are under their competence (and apply only within the territory of the relevant regional state).¹³

In practice, much of Ethiopia's regulatory framework – including that related to DRR – appear in the many government policies issued by the different government Ministries, rather than in legislation. The actual procedures of policy-making and law-making are provided for in the Council of Ministers' working procedures, and technically each policy must follow the following procedure. Firstly a government minister must communicate an intention to formulate a policy to the Prime Minister, who, together with the Council of Ministers, must approve this. The preparation of the draft policy should include discussion and consultation with stakeholders (including affected communities) as well as interested government ministries and agencies. The draft policy will then be finalized and submitted to the Council of Ministers for approval. In the event of approval, the relevant ministry must implement the policy through an appropriate instrument and assess the implementation.¹⁴ However a number of interviewees for this case study confirmed that this official procedure is rarely followed, with little impact assessment carried out during policy formulation and a lack of consistent monitoring and evaluation of policy following implementation.¹⁵

13 ibid

14 Articles 9 – 12, Working Procedures of the Council of Ministers of the Federal Democratic Republic of Ethiopia, 2000, as referred to in Ethiopian Civil Society Network on Climate Change, A Review and Analysis of Land Administration & Use Legislation and applications of the Federal Democratic Republic Ethiopia and the four Regional States Of Amhara, Ormia, SNNP And Tigray, April 2011

15 See also Ethiopian Civil Society Network on Climate Change, A Review and Analysis of Land Administration & Use Legislation and applications of the Federal Democratic Republic Ethiopia and the four Regional States Of Amhara, Ormia, SNNP And Tigray, April 2011



2. Methodology



2. Methodology

The detailed legal research for this study was undertaken by the consultant in advance, based on online resources, and is summarized in a separate DRR National Law Desk Survey completed in October 2012.¹⁶ Preparation for this Country Case Study project began in November 2012, with a three-week mission to Ethiopia between 19 November and 9 December 2012. This report was prepared during December 2012 and January 2013.

Given the relatively short time-frame for this study, it does not attempt to be a comprehensive study of all the legal and institutional frameworks of relevance to DRR in Ethiopia. This report instead aims to provide an overview and analysis of the legal framework for DRR in Ethiopia, drawing out specific examples of good practice as well as the major gaps and challenges for both legislation and implementation.

During the in-country mission the project consultant met with and interviewed a wide range of stakeholders in Ethiopia (a full list of which is available at Annex A). These interviews were vital in firstly providing the project consultant with copies of laws, policies and other documents which were not publicly available for the purposes of the Desk Study, and secondly for first-hand information regarding the institutional arrangements for, and implementation of, DRR and DRM activities in Ethiopia. These interviews with stakeholders were the primary means of achieving the assigned objectives for the in-country mission, which were as follows:

1. To identify and obtain copies of relevant laws and regulations relevant to DRR, including key national laws that were not found during research for the Desk Study report, as well as sub-national laws and regulations in the sample areas visited.
2. To assess the extent to which the existing legal framework for DRR is both adequate for the needs of the subject country and whether there is sufficient institutional support and other resources for effective implementation.
3. To identify good practices and gaps in the law and its implementation.

The project consultant met with government officials at the federal, regional and community levels, as well as Red Cross movement representatives, stakeholders from NGOs, donors and UN agencies, and community representatives. Given the time-frame and the large amount of development and humanitarian activity in Ethiopia it was not possible for the project consultant to meet with all major government, national and international actors, and the absence of an organization from the list in Annex B may simply mean that their representative was not available in Addis Ababa or Tigray at the relevant time.

The interviews were held as structured discussions, based on the information and guideline questions provided to the project consultant in the project Terms of Reference. The interviews focused on legal issues surrounding DRR in Ethiopia, the legal framework and its implementation, and current disaster risks and DRR practices, with special consideration of any good practices and gaps in the legal framework or implementation.

¹⁶ This will become available online during 2013 at: <http://www.ifrc.org/en/what-we-do/idrl/>

The majority of the interviews were held in the capital of Ethiopia, Addis Ababa, in order to meet with the relevant government officials and UN, donor, and NGO stakeholders, whose headquarters were generally based there. As such the project consultant spent two weeks in Addis Ababa interviewing stakeholders and researching legal issues.

Regional and community visits

The essential purpose in reviewing legal frameworks for DRR is to help reduce communities' risks from disasters, and therefore an important part of the study was to gain the views of communities as to gaps or good practices in legal frameworks and their implementation, and to consider within each sector of legal regulation relevant to DRR how the concerns of communities and civil society are incorporated into DRR legal frameworks.

In accordance with the terms of reference, which required analysis of law, regulation and implementation within one regional state outside the capital, the project consultant visited the region of Tigray in the north of Ethiopia for one week in order to interview local government officials and community focus groups, and to provide a sample 'vertical profile' of the law and its implementation. Four community focus groups were interviewed in total; two woredas were visited and two community groups were interviewed in each woreda, as follows:

- Enderta Woreda
- Didiba Kebele (Merbmiti Kushet) – women's focus group
- Shibta Kebele (Gergembes Kushet) – community focus group
- Saharte Samre Woreda
- Samre Kebele – women's focus group
- Samre Kebele – community focus group

The region of Tigray was chosen for a number of important reasons. Firstly the Ethiopian Red Cross Society has a strong presence in Tigray, with a large branch office in the regional capital, Mekelle, and a good network of local level offices and volunteers. This meant that the community focus groups could be organized and facilitated in accordance with the relatively tight timescale. Secondly Tigray is one of the most drought prone regions in Ethiopia, affected by recurrent drought, and therefore community focus groups were able to draw on community members with extensive personal experience of dealing with disasters.

Meaning of 'law' and 'regulation'

For the purposes of this study, the terms 'legislation', 'law', 'legal framework' and 'regulation' refer to acts of parliament, legislation, laws, regulations, decrees or similar, as well as their implementing policies and guidelines, at all levels of government. It also includes binding customary law at community and local level that may not be formally documented.

3. Findings on Regulatory Frameworks for DRR and their Implementation

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3. Findings on Regulatory Frameworks for DRR and their Implementation

3.1. DRR in Disaster Management Law & Institutions

Whilst technically the current principal legislation relating to disaster management in Ethiopia is the 1993 Policy, the current status of DRR in Ethiopia can only be properly considered with a full analysis of the draft National Policy and Strategy on Disaster Risk Management (NPSDRM) which has remained in draft form with relatively few major amendments since 2009, as well as consideration of its accompanying Strategic Programme and Investment Framework (SPIF). These documents must also be placed in the more general policy framework applicable in Ethiopia at present, notably the current Growth and Transformation Plan, and the Climate Resilient Green Economy strategy.

National Policy on Disaster Prevention and Management 1993

Whilst there is no over-arching ‘primary’ law (for example, a Proclamation) that governs disaster management and DRR in Ethiopia, other than the general duties of the government to protect and assist citizens in the event of disasters as established in the Constitution,¹⁷ the 1993 Policy is the current legal document in place which sets out the details of the national disaster management system in Ethiopia. It is supplemented by the Directives for Disaster Prevention and Management (1993) (DDPM) and the General Guidelines for the Implementation of the National Policy on Disaster Prevention and Management (1995) (Guidelines). However each of these documents will be superseded by the NPSDRM once it is formally ratified and adopted by the Government.

The Government openly acknowledges that the 1993 Policy, the Directives and Guidelines are now outdated; they focus on response and management of disasters rather than a more comprehensive view of disasters that takes into account matters of resilience and risk reduction. The DRMFSS itself works using a multi-sectoral and ‘multi-hazard’ approach that is lacking from the 1993 Policy, which focuses only on drought, and therefore is inadequate in dealing with the increasing prevalence of multi-hazard induced disasters and related losses in Ethiopia.

The age of the 1993 Policy (it pre-dates even the Constitution of Ethiopia) has also meant that it is insufficient to cope with ongoing institutional change in the government, and fails to take account of increasingly important issues such as mechanisms for accountability, the decentralization of Ethiopia, and the need for risk mapping. This is acknowledged in the introduction to the NPSDRM, which states that ‘over time, important strategic, conceptual, and institutional changes have rendered some aspects of the [1993 Policy] obsolete’, refers specifically to its narrow focus on drought, and states that ‘policy implementation was not supported by legal enforcement’.¹⁸ However the 1993 Policy did at least link relief work to development by establishing employment generation/food for work schemes, as well as setting up the beginnings of the national EWS, and emphasizing the need for community participation in DRM activities, and the need for multi-sectoral coordination.

For these reasons, the 1993 Policy is largely ignored in practice by the DRMFSS and the majority of the government’s institutional framework responsible for disaster management and DRR. Furthermore, institutional changes such as the Business Process Re-engineering (BPR) project of 2007

¹⁷ Article 89(3), Proclamation No. 1/1995 (Constitution of the Federal Democratic Republic of Ethiopia)

¹⁸ See section 1.3.3 NPDP

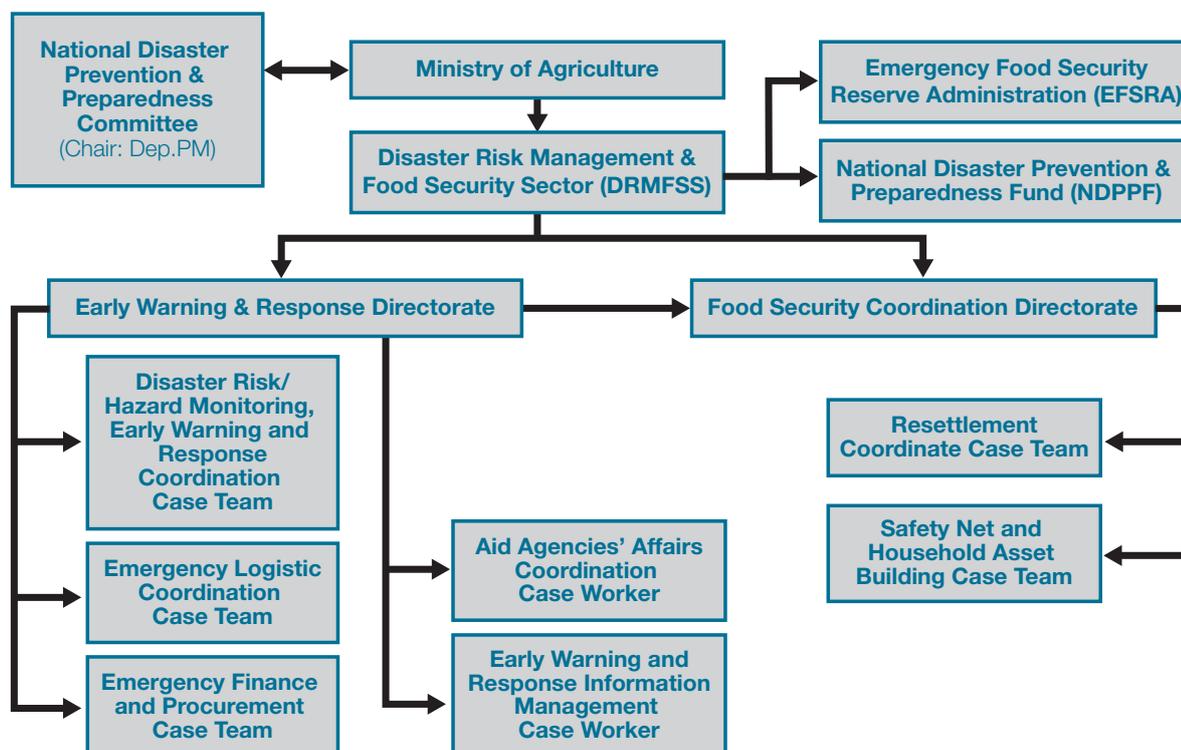
onwards have meant that the disaster management structures established by the 1993 Policy have been re-named and re-organised a number of times, rendering the details of the 1993 policy and directives somewhat obsolete.

Current institutional structure

At the highest level, current institutional responsibility for DRR in Ethiopia rests with the MOA. The National Disaster Prevention and Preparedness Committee (NDPPC) (one of the few remaining bodies from the 1993 Policy) feeds directly into the MOA, consisting of the Ministers of various ministries such as agriculture, finance, health, and is chaired by the deputy Prime Minister, but in practice it is unclear of the exact current function and role of the NDPPC. Under the direct responsibility of the MOA sits the Disaster Risk Management and Food Security Sector (DRMFSS), which contains two directorates: Early Warning and Response, and Food Security. The DRMFSS also contains the Emergency Food Security Reserve Administration and the National Disaster Prevention and Preparedness Fund. For a full overview of the current institutional structure for DRM implementation in Ethiopia, see figure 1 below.

At the regional level, the restructuring that has taken place at the federal level since 2007 following the BPR project has yet to take effect in all regions, with the key institution in some regions remaining the Disaster Prevention and Preparedness Bureau, with Disaster Prevention and Food Security Offices at zonal and woreda level. Tigray, however, is an exception to this, and highlights the sometimes wide regional variations that occur due to Ethiopian government decentralization. The regional Bureau of Agriculture in Tigray has already restructured its DRR/DRM capabilities into the Early Warning and Food Security ‘core process’, with this structure broadly (but by no means consistently) replicated at the woreda level.

Figure 1: current institutional structure for DRM in Ethiopia¹⁹



19 Source: DRMFSS, provided to project consultant on 21 November 2012

Current Policy Background

DRM/DRR is included as a consideration in most of the major national policies, plans and frameworks in place in Ethiopia. This is partly due to the fact that the government of Ethiopia's current objective of rapid economic development and the achievement of 'middle income' status rests largely on increasing the output of the agricultural sector, and the government recognizes that this is not possible without addressing the natural hazards such as drought and flooding which hinder agricultural productivity throughout Ethiopia.²⁰ The impact of climate change on the sector is recognized and therefore DRM considerations are mainstreamed into environmental policy, although at present it does not regulate coordination sufficiently for effective implementation.

- Growth and Transformation Plan: this covers the period 2010/11 to 2014/15 and rests on 7 'Pillars' (all of which are inextricably tied into Ethiopia's overall aim of achieving 'middle income' status by 2025), one of which is the maintenance of agriculture as a source of economic growth. Within this pillar, whilst DRR is not mentioned specifically, objectives include better adaptation to climate variability and ensuring food security, partly to be achieved through irrigation projects, watershed management and expansion of water and moisture retaining works, and generally strengthening the conservation and management of natural resources. The Ethiopian Agricultural Transformation Agency (established by federal regulation in 2010) is tasked with supporting the Growth and Transformation Plan for the agricultural sector in Ethiopia, and one of its strategic objectives is to achieve universal food security and protect vulnerable households from natural disasters²¹.
- Climate Resilient Green Economy strategy: as part of the government of Ethiopia's strategic focus on climate change, this strategy has been developed by the Environmental Protection Agency (EPA), and takes into account Disaster Risk Management (DRM) as a core area of work, although feedback from interviewees as well as analysis by commentators suggests that the overlap between the work of the EPA and the DRMFSS has not been properly addressed; for example Ethiopia's Programme of Adaptation to Climate Change contains objectives such as the resettlement of persons from disaster prone areas before disasters materialize, and training communities for response to quick onset extreme weather events, but these areas are also within the remit of the DRMFSS, and no clarity exists as to ultimate institutional responsibility.
- Agriculture Policy and Investment Framework: this is a 10 year road map (2010 – 2020) designed to produce a national level strategic investment planning framework to guide the prioritization, planning and implementation of current and future public and development assistance investments, to contribute to sustainable agricultural growth and rural development, food security, and poverty reduction. The 4th strategic objective (out of a total of 5) of the Framework is DRM.

Draft National Policy and Strategy on Disaster Risk Management

Background

The BPR project, begun in 2007, represented a shift in Ethiopia's disaster management policy, moving from drought-focused crisis management under the pre-existing structure, to a multi-sectoral and multi-hazard risk management approach under the new structure, as summarized in the Minister of Agriculture's official statement to the Third Session of the Global Platform for DRR in 2011.²² As a result of this process, the Disaster Prevention and Preparedness Agency (DPPA) was reorganized

20 It is currently classified by the World Bank as a Low Income country.

21 Ethiopian Agricultural Transformation Agency website, <http://www.ata.gov.et/priorities/national-growth-transformation-plan/>, accessed 8th January 2013

22 Official Statement by the Federal Democratic Republic of Ethiopia to the Third Session of the Global Platform for Disaster Risk Reduction (Geneva, 2011)

and its rights and obligations were transferred to the Ministry of Agriculture and Rural Development (MARD),²³ which led directly to the establishment of the DRMFSS within MARD (although the MARD is now referred to as the Ministry of Agriculture (MOA)). This new sector was, and remains, headed by the State Minister for Agriculture, and it contains the Early Warning and Response Directorate (replacing the DPPA, with new mandates) and the Food Security Coordination Directorate (replacing MARD's previous Food Security Coordination Bureau). It should be noted that the DRMFSS is not itself established by law; it is a unit of the MOA, and was established under the general power provided to the MOA under Proclamation 691/2010.²⁴

As early as 2004, the DPPA initiated a policy revision process, reviewing the strengths, limitations and challenges of the 1993 Policy. Following a series of stakeholder consultations, experience exchanges and the establishment and subsequent reorganization of a number of technical and steering committees over the ensuing years, in 2008 stakeholder consultation began in earnest on the draft policy document (the NPSDRM).

However, a major gap within the Disaster Management framework of Ethiopia remains that, despite extensive revision and consultation over the last four years and the production of a near-final draft of the NPSDRM, it remains a draft, which is yet to be formally approved by the Council of Ministers, and many stakeholders commented that one of the main reasons for this was the proposed institutional restructuring under the NPSDRM. Article 3.1.3 of the NPSDRM sets out the establishment of the Federal Disaster Risk Management Coordination Office (Federal DRM Coordination Office), which 'is a coordinating and regulatory body at federal level for DRM-related matters that will be accountable to the Office of the Prime Minister', with the Head of the Federal DRM Coordination Office being 'directly accountable to the Prime Minister'.²⁵ As such this article proposes that the current DRMFSS structure will be transferred out of the MOA, to sit directly underneath the Prime Minister's Office. Whilst this is seen as a positive move in terms of highlighting the strategic importance of DRM and ensuring that the coordination body is not beholden to any one Ministry, it is considered that this institutional change is the main reason for the delay in adopting the NPSDRM.

Content

Given that the NPSDRM is still technically a draft document and is awaiting approval by the Council of Ministers, the project consultant has reviewed the most recent version provided by the DRMFSS in Addis Ababa for the purposes of this report, which is dated May 2010 and labelled as version 10 (the version reviewed for the desk study report was dated April 2009). Interviewees at the DRMFSS noted that only minor amendments have been made since May 2010, as the draft is essentially finalized and simply awaiting approval, but larger changes cannot be ruled out. The fact that the draft NPSDRM has been relatively untouched over the last 2.5 years highlights the pressing need for the government of Ethiopia to expedite the approval of the NPSDRM.

The overall objective of the NPSDRM is 'to reduce risks and the impacts of disasters through the establishment of a comprehensive and integrated disaster risk management system within the context of sustainable development'²⁶. It refers to the 'complete disaster management cycle' and defines the key phases of the cycle as follows:

23 Proclamation 593/2008 (Transfer of Rights and Obligations of Disaster Prevention and Preparedness Commission to the Ministry of Agriculture and Rural Development Proclamation)

24 Article 19(1)(i), Proclamation 691/2010 (Definition of Powers and Duties of the Executive Organs of the Federal Democratic Republic of Ethiopia Proclamation)

25 Article 3.1.3.1.11.1, NPSDRM

26 Article 2.2.1, NPSDRM

- prevention (avoiding disasters by addressing vulnerabilities);
- mitigation (minimizing potential disaster impacts through disaster risk management);
- preparedness (ensuring readiness through strengthening early warning system, building logistic capacity, maintaining adequate resource reserves and other precautionary measures);
- response (saving lives and livelihoods);
- recovery (immediate post-crisis assistance); and
- rehabilitation (building capacities to withstand future crises).

It is heavily influenced by the Hyogo Framework, and indeed has been criticized by some donors and NGOs as re-stating the requirements of Hyogo without adapting them sufficiently to the specific context of Ethiopia.

Under the NPSDRM, the concept of 'Core Disaster Risk Management' phases is used to set out the various activities that must take place according to which phase is ongoing. In general terms the 'pre-disaster' phase concerns prevention, mitigation and preparedness activities, the 'disaster' phase sets out the basic organizational plan for dealing with disasters, whilst the 'post-disaster' phases concerns damage assessments and rehabilitation. The NPSDRM contains a section entitled 'Operational Modalities under Each Core DRM Components' which then proceeds to layer detail into each phase. Interviewees were generally positive about the manner in which the requirements and responsibilities are assigned to these phases.

In terms of the new DRM structure proposed by the NPSDRM, the FDRMC would be established as the 'highest policy and oversight body for DRM',²⁷ and would include the Prime Minister and a long list of representatives from most government ministries. Underneath the Federal DRM Council sits the Regional DRM Councils, followed by the Zonal DRM Councils, and finally the Woreda/Kebele/Farmer's Kebele Administration DRM Councils.

The NPSDRM requires heavy decentralization of DRM functions, resources, and accountabilities, together with information flow across and within different levels of government sectors to facilitate multi-hazard mapping, risk analysis and resource rationalization.²⁸ Whilst responsibility for declaring national disasters rests with the Federal DRM Council, the responsibility for declaring regional, zonal and local level disasters is delegated to the Regional DRM Councils, a departure from current institutional practice; interviewees at federal, regional and local levels referred to the delays inherent in a system that, despite being decentralized on paper, still requires federal authorization prior to regional disaster response. The NPSDRM therefore appears to fill this gap in the current framework. Overall this represents a positive step towards ensuring that DRM systems are decentralized and community based, with the initial responsibility for detecting, responding to, recovering from and mitigating the effects of disaster resting with the woreda administrations.

The NPSDRM also contains many other positive elements, such as recommendations for the mainstreaming of DRM, monitoring and evaluation of the impact and effectiveness of DRM practices, giving 'due attention' to cross-cutting issues such as gender, age, HIV/AIDS, disability, etc., and recognizing the role of community organizations and civil society in contributing to DRM. Interestingly, the NPSDRM states that:

27 Article 3.1.2.1, NPSDRM

28 Article 2.4.3, NPSDRM

- there shall be enabling legislation to strengthen the mechanisms of accountability for DRM as outlined in this Policy', and
- 'there shall be a review and, where appropriate, revision of existing legislation, implementation guidelines and manuals across all sectors to strengthen DRM efforts, accountabilities, and directions'.²⁹

However interviewees from the DRMFSS could not comment on whether such legislation or amendments are being developed, or on any potential timeframes for such development.

The 1993 Policy contained no information regarding any official reporting of progress on DRM/DRR; the NPSDRM however proposes that a review process of the NPSDRM would be held every five years under the authority of the Head of the Federal DRM Coordination Office, and that 'comprehensive DRM reports' will be presented to the House of People's Representatives regarding the performance of DRM activities nationwide³⁰ (backed by a network of annual reporting from kebele to federal level). In terms of current DRMFSS reporting practice, quarterly and annual reports are prepared by the DRMFSS directorates and issued to the MOA. These reports are then, following review, presented to the House of People's Representatives. Although these reports were not available for review, they contain information regarding finances and ongoing DRM activities and as such this indicates that the DRMFSS are already engaged in the reporting structure recommended under the NPSDRM, albeit without any legislative backing for doing so. In terms of current budgeting practices, the 1993 Policy is silent on funding and budgets, whereas the NPSDRM contains several (albeit relatively general) provisions regarding budget allocation for DRM activities.³¹ In practice, the federal government has budgetary allocations to institutions that are mandated for the coordination of disaster management/reduction activities, and the political, administrative, and budget responsibilities are transferred from the national level to the regions, zones and districts through decentralization.³²

The NPSDRM is backed by the current draft of the DRM Strategic Program and Investment Framework (SPIF), which the DRMFSS produced in order to 'operationalise' the NPSDRM. The SPIF is a long document at 142 pages in its current iteration, and has the stated aim of 'reducing disaster risk and the impact of disasters through the establishment of a comprehensive and integrated disaster risk management system', providing detail for the different components of the DRM cycle identified in the NPSDRM and promoting an 'efficient, transparent and effective' DRM system. The high level of detail in the SPIF makes it hard to summarise within reasonable limits, although relevant provisions of the SPIF are discussed in other sections of this report, and it is much more focused on the programming side of DRR rather than the legislative, with for example an extensive programmes summary and logframe analysis. Several interviewees noted that the SPIF was initially produced by the DRMFSS without any stakeholder consultation, and donors and NGOs have been engaged in consultation with the DRMFSS over the last few years in an attempt to shape the SPIF into an acceptable framework document. However, despite the criticism the SPIF is nonetheless an ambitious document with extremely positive goals. The main danger is that its goals may exceed current governmental capacity – at both federal and regional levels – and may not be achievable without substantial levels of support from the donor and NGO community.

29 Article 2.4.13, NPSDRM

30 Article 3.1.3.1.11, NPSDRM

31 See, for example, Article 1.5.1.1, NPSDRM

32 Page 8, Interim National progress report on the implementation of the Hyogo Framework for Action (2011-2013), October 2012

Good Practices and Gaps in Disaster Management Law and Institutions

Feedback from interviewees revealed that there is some consensus regarding both the good practices and the major gaps in Ethiopian DRR/DRM law:

Coordination: at the federal level within DRMFSS there is undoubtedly good coordination of both government and donor/NGO actors in DRR activities. Figure 2 below contains a diagram of the DRM coordination structure at federal level. There is a joint strategic oversight committee for DRM matters (as well as a separate one for food security) underneath which sits the DRM technical working group, which is a multi-agency national DRM platform. The DRM technical working group sits directly above several sector task forces (agriculture, education, health and nutrition, water sanitation and health), as well as an editorial committee, methodology sub-group and logistics sub-group. For the most part these structures seem to work well and the various task forces are made up of representatives from government, UN agencies, NGOs (both international and local) and donors, with senior representatives from the UN, NGO and donor community generally chairing the task forces together with a government representative (e.g. the FAO chairs the agricultural task force). A technical multi-agency group, comprising senior level personnel (generally heads of department and directors) from the UN, NGOs, donors and government also meets on a regular basis. This structure enables the input of actors at most levels into DRMFSS activities, and interviewees were positive about the level of inclusion and input given to non-government actors. The task force structure is another example of practice preceding (official) policy, as the NPSDRM requires DRM Units to 'establish and lead sectoral ETFs [emergency taskforces] comprising actors in their sector, other relevant sector offices, UN agencies, donor governments, humanitarian organizations, and private sector representatives, as appropriate'.³³

The task force structure is currently being decentralized to the regional level, and is only formally present in a handful of regions, although in Tigray the Early Warning and Food Security directorate of the MOA appears to already have task forces in place. This contradicted information from one interviewee at the DRMFSS at federal level who stated that task forces were only being rolled out in Somali, Afar and Oromia at present, but in any event it appears that Tigray and other regions already possess a committee structure, that is very similar to the task force structure used at federal level.

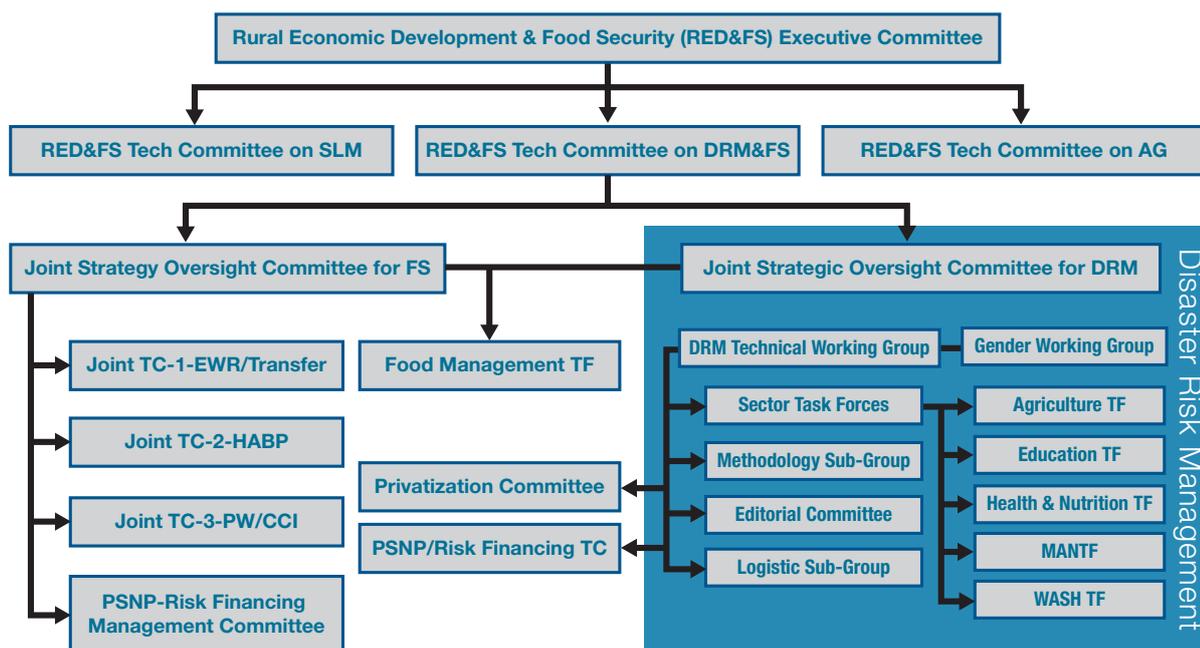
Lack of consultation on policy: despite the many positive aspects and outcomes of the federal level coordination structure outlined above, many interviewees from the UN, NGOs and donors were critical of the manner in which the major policy documents of the DRMFSS were developed. The NPSDRM and the SPIF were mentioned specifically as being produced without consultation of the civil society community, and without properly consulting community groups. Many interviewees noted that it took some time and effort before the DRMFSS opened up the documents to consultation (another explanation as to why the NPSDRM has remained as a draft for so long), and were particularly concerned about the quality of the SPIF until recently, following amendments due to stakeholder feedback.

Community involvement: there has undoubtedly been a huge upsurge in community participation in DRR/DRM activities in recent years, for example through participation in procedures such as risk assessments and seasonal assessments, and involvement in national level programs such as the Productive Safety Net Programme (PSNP) which are geared towards resilience for communities (the PSNP operates on a 'food for work' basis, where the work often involves projects that contribute to

33 Article 3.1.4.1.4.12, NPSDRM

DRR such as soil conservation and water conservation activities).³⁴ However, as discovered during community interviews in Tigray, this participation has not led to increased community awareness of DRR legislation or activities. This is perhaps partly due to the fact that, despite the decentralization of responsibilities and powers to regions and woredas, local authorities lack true decision-making powers and are not comfortable involving communities without proper authorisation; as noted in the interim Hyogo progress report for Ethiopia, local administrators can often lack the necessary autonomy to take decisions which would promote DRR within their regions.³⁵

Figure 2: Institutional Structure for DRM coordination in Ethiopia³⁶



3.2. Responsibility, accountability and liability for natural disaster risk reduction

Whilst the Constitution states that the ‘Government shall take measures to provide protection against natural and man-made disasters; and, in the event of disasters, it shall provide timely assistance to the victims’,³⁷ there is little law which sets out issues of accountability and liability for DRR against natural hazards. The analysis of the law relating to DRR in Ethiopia has shown that institutional responsibility for DRR is relatively well defined, but the same laws do not mention the accountability and liability of those involved. There are no guarantees under the Constitution or indeed elsewhere which give individuals or groups any rights of action for loss of life or damage from natural disasters.

Many stakeholders were asked about this issue during interviews and each responded that, in terms of government responsibility, issues of liability are only dealt with on a ‘practical’ basis, for example persons who have mismanaged a disaster response or who have negligently failed to warn of an

34 See the Interim National progress report on the implementation of the Hyogo Framework for Action (2011-2013), October 2012
 35 Page 8, Interim National progress report on the implementation of the Hyogo Framework for Action (2011-2013), October 2012
 36 Source: DRMFS, provided to project consultant on 21 November 2012
 37 Article 89(3), Proclamation 1/1995 (Constitution of the Federal Democratic Republic of Ethiopia)

impending disaster may lose their positions, rather than any legal procedure being followed. No interviewees were aware of laws that give citizens a right to know about hazards that may affect them but several referred to the good dissemination of information at local level regarding natural disasters. Whilst information regarding risk profiles and disasters is certainly disseminated among affected citizens as part of the risk profiling and seasonal assessment processes, the lack of this right is a gap in the legal framework.

The new NPSDRM states that it will ensure accountability and responsibility of all concerned actors at all levels,³⁸ and makes some more specific assertions, for example that the Emergency Task Forces ‘shall meet as necessary and be chaired by empowered, senior government representatives who will be held accountable and evaluated for the management of ETFs and other emergency coordination responsibilities’.³⁹ In terms of how this will be achieved, the NPSDRM calls for legislation to be enacted to enforce implementation of the policy, and for such legislation to specify the implications (including penal measures) for institutions and individuals who fail to discharge their duties and responsibilities in the NPSDRM.⁴⁰ Similarly, DRM Coordination Offices and DRM Units at federal and regional levels are to take corrective measures in case of failures of DRM actors to fulfil their responsibilities.⁴¹ The policy provides no further detail regarding mechanisms for evaluation or enforcement. Interviewees within the DRMFSS indicated that this issue may be fleshed out in further policy documents but there was no certainty as to when, or how, this would take place, and several interviewees thought that the development of new legislation covering issues of responsibility and accountability was extremely unlikely.

Likewise no interviewees were aware of the liability of private individuals regarding damage caused to others from their property during natural disasters. It is possible that this would be dealt with through conventional application of Ethiopian law but no interviewees were aware of, or were able to comment on, instances where this has occurred.

Regarding systems of compulsory insurance against the effects of natural disasters, no such schemes exist, although the SPIF states that ‘a program for national insurance against drought will be considered’ and the cost-benefit case will be re-considered,⁴² noting that an experiment of this sort was carried out at the onset of the PSNP program, and then abandoned. Some donor-led programs are in place, for example Oxfam America and WFP’s R4 programme, which was created to test and develop integrated tools that extend the risk management benefits of financial services such as insurance and credit to the most vulnerable populations,⁴³ and which uses an ‘insurance for work’ system as a key part of the programme. Other organizations such as the UN are investigating sustainable insurance schemes that would cover farmers in times of disaster.⁴⁴

Risk Financing⁴⁵

Within the framework of the NPDPM, a National Disaster Prevention and Preparedness Fund (NDPPF) has been established as an emergency fund that provides resources for carrying out relief measures.

38 Article 2.3.5, NPSDRM

39 Article 2.4.2.2.2, NPSDRM

40 Article 1.10, NPSDRM

41 Article 1.10.7, NPSDRM

42 Page 101, SPIF

43 World Food Programme and Oxfam America, R4 Rural Resilience Initiative brochure

44 Interview with UN representative

45 Information from UNICEF in Ethiopia

The Fund is owned at the federal level and is managed by a National Disaster Prevention and Preparedness Fund Administration (NDPPFA). This Fund, which is guided by a Board of Directors and with technical involvement of major donors, intends to provide loans to agencies involved in disaster reduction. The NDPPFA has been operational and supported relief measures in three instances in 2003. However, this fund is relatively new and has limited capacity.

Another risk financing mechanism is being established through the LEAP (Livelihoods, Early Assessment and Protection) index, supported by the World Food Program and the World Bank. The LEAP index is intended to harmonize key components of a risk management framework designed to translate early warning information into early emergency response. LEAP produces good indicators of yield shortfalls and livelihood stress and has been used by the Government for early warning and crop stress monitoring during 2008, while the World Bank has used the index to help determine regional allocations of a US \$25 million contingent grant to livelihood-stressed beneficiaries. The framework is designed to protect five million livelihoods and would scale up the existing Productive Safety Net Program (PSNP) to reach transient food insecure beneficiaries.

The lack of definition for the accountability and liability for DRR against natural hazards remains a major gap in the Ethiopian framework and one that has not been closed by the NPSDRM or the SPIF. While disaster insurance is not yet available, there are some risk financing mechanisms in their early stages.

3.3. DRR and Law on Specific Hazards (Sectoral laws)

There are no specific legal regimes established in Ethiopia to manage individual hazards. Drought and, to a lesser extent, flooding are the main hazards faced by the country and in practical terms at least the existing 1993 Policy focused almost exclusively on drought, however no law has been put in place to deal with individual hazards specifically. The proposed NPSDRM deliberately takes a multi-hazard approach rather than providing specific legal regimes to manage individual risks.

At the level of financing and implementation, DRR in Ethiopia is closely linked with poverty reduction, food security, and sustainable land management (SLM) initiatives at the community and local level. Programs to reduce vulnerability include: increase crop and livestock production and productivity of vulnerable population through moisture retention, soil and water conservation (SWC), water harvesting and pasture development activities and improvement of extension services; programs that improve the access of poor people to food in chronically food insecure areas through implementing diversified income generating and cash based safety net, provision of credit and skill training; programs that improve health and nutrition including water and sanitation, nutrition education, and preventive health activities; and resettlement programs to provide access to land to the landless and/or to those who are settled in agriculturally marginal areas.⁴⁶

3.4. Early Warning Systems (EWS) & Risk Mapping

National Level

Early Warning System

Ethiopia's national EWS has been in place since 1976, prompted by the severe famine of 1973/74, making it one of the oldest EWS in Africa, although somewhat understandably it was entirely geared

⁴⁶ Information from UNICEF in Ethiopia

towards drought hazard. For present purposes the current incarnation of the Ethiopian EWS was first formalized under the 1993 Policy, which required the establishment of a National Committee for Early Warning ‘comprising of appropriate government agencies’.⁴⁷ The details of the National Committee for Early Warning are fleshed out in the DDPM and the Guidelines, but it is important to note that since 1993 (when the 1993 Policy and the Guidelines were issued) important changes have occurred within the Ethiopian government which, whilst not substantially changing the overall objectives of the national EWS, have resulted in a different structure and operation of the current EWS from that set out in the 1993 Policy, DDPM and the Guidelines. When the NPSDRM is passed this divergence between policy and practice should hopefully be removed.

Part of the reason for the lack of consistent structure and implementation can be attributed to the fact that whilst the 1993 Policy is outdated and the structures for EWS set out therein are no longer applicable, the government is unable to implement the new structures proposed under the NPSDRM until it is formally adopted. The NPSDRM contains relatively little detail regarding the operation of the EWS but does set out relevant institutional responsibilities. A reading of the NPSDRM in the context of Ethiopia’s current EWS practices makes it clear that whilst the policy is not formally in place, current practice is nonetheless moving in the same direction as that proposed by the NPSDRM. For example, the NPSDRM requires the establishment of regional and national level multi-hazard and multi-sectoral early warning systems linked to disaster risks. DRM Units are ‘required to develop and maintain early warning systems that monitor hazards with the potential to impact their sectoral areas, guide sectoral disaster risk management responses, and integrated and [sic] feed into the national multi-hazard, multi-sectoral early warning systems’.⁴⁸ As a DRM Unit is effectively a unit that sits within each relevant Ministry or other government body (at federal level), this is an interesting change from the current practice, which coordinates the input of other Ministries through the DRMFSS. This reflects the general trend of the NPSDRM to devolve responsibilities to individual DRM Units rather than focus all coordination and decision-making within one body.

The DDPM states that the NEWS would ‘at periodic intervals, give an assessment of the food prospects in the country and also detect, at the earliest possible opportunity, the likelihood of occurrence of disaster’, which, broadly speaking, remains the case to this day, notwithstanding structural changes to the implementing bodies. The DDPM also establishes the composition of the National Committee for Early Warning, its remit and procedural details.⁴⁹ Whilst the names and organizational structures have been changed since the Directives were issued in 1993, the fundamental responsibility and role of the entities charged with managing and overseeing Ethiopia’s EWS have not.

The Guidelines provide further details regarding the type of data the national EWS should provide, production indicators, food shortage indicators, requirements for data analysis and reporting and the institutional arrangements. The Guidelines also set out the tasks of the National Committee for Early Warning, which include data collection and analysis and reviewing system effectiveness, as well as the additional responsibilities for the individual members, for example preparing individual action plans. The Guidelines also establish Regional and Zonal Committees for Early Warning, which are to have similar structures and functions as the National, and Woreda Committees for Early Warning, which the Guidelines state are ‘the core structure which will determine the success and failure of the EWS’.

47 Article 12.4 NPDPM

48 Article 3.2.1.4.2.1 NPSDRM

49 Section II, Article 1.3 DDPM

Today, terms such as National Committee for Early Warning are not used in practice. Instead the DRMFSS is split into two distinct directorates: firstly the Early Warning and Response Directorate (EWRD) and secondly the Food Security Directorate. The naming of these directorates indicates the importance of the Ethiopian EWS, as well as the importance of food security issues. The EWRD contains several units, including the Disaster Risk/Hazard Monitoring, Early Warning, and Response Coordination Case Team (others include the Emergency Logistics Coordination Case Team and the Emergency Finance and Procurement Case Team).⁵⁰ The outputs of the various task forces and coordination groups established at the federal level (and discussed above in section 3.1) all feed into the decision-making process of the EWRD.

Many interviewees were quick to praise the sophisticated nature of the EWS in Ethiopia, which is closely integrated into the national disaster risk profiling and information collection systems. The DRMFSS also uses a sophisticated weather risk management system, 'LEAP' (Livelihoods, Early Assessment and Protection project), an early warning/early action tool that analyses satellite and ground data from automated weather stations to provide early warning information, and was noted as good practice by many stakeholders.

Government, NGO and civil society stakeholders were relatively unanimous on two major issues that affect the operation of the Ethiopian EWS. Firstly, it is not yet a truly multi-hazard information collection and dissemination tool, as the majority of data gathered relates only to food security and drought issues. In practical terms this can mean that if there is no drought in a woreda, it can be declared 'safe', despite the fact that the woreda may face other hazards, for example earthquakes or wildfires. Secondly, the 'backflow' of information is weak. The EWS generates a huge amount of information, which begins at the community level and flows upwards to federal level via the regional and zonal administrative structures. Once the information has been collated and analysed (a lengthy process given the paperwork and bureaucracy involved), it is often not possible to inform communities of risks in a timely manner, this being compounded by weak communications infrastructures outside of the capital and the regional capitals. The DRMFSS hope to implement a 'Woreda Net' system which will connect woredas to the regional and federal levels with fast internet connections but this project has yet to get off the ground. Security issues around the use of satellite communications also mean that it is generally not possible to connect personnel and communities in more remote areas in this manner.

Risk Mapping

Ethiopia's DRMFSS have instituted a relatively sophisticated risk mapping system which, whilst not considered under the 1993 Policy, is mentioned with more consistency in the NPSDRM. The gap here is that whilst a comprehensive risk mapping and assessment process is being actively pursued by the DRMFSS there is no overall legal or policy structure for it other than that contained in the draft NPSDRM. The NPSDRM states that 'risk assessment, hazard mapping, and forecasting processes will be developed to reflect actual threats, provide genuine information, and produce accurate estimate and needs', and that contingency planning shall be an essential component of disaster preparedness.⁵¹ Each DRMU is tasked with conducting sector-specific risk assessments and vulnerability analysis, and designing and coordinating strategies to address these risks and vulnerabilities.⁵² This is not the case at present as risk assessments are carried out under the authority and coordination of the DRMFSS, with no sector-specific risk mapping taking place, but this may commence once the NPSDRM is passed.

50 For further details regarding the structure of the DRMFSS, see Figures 1 and 2 in section 3.1 above

51 Article 2.4.2.1, NPSDRM

52 Article 3.1.4.1.4.8, NPSDRM

Risk mapping in Ethiopia is tied into the DRR Planning process, which forms part of the ‘pre-disaster’ phase of the NPSDRM. In practical terms, this is already being translated into the completion of Woreda disaster risk profiles to establish ‘an extensive and scientific database at community/kebele level and provide all necessary information on disaster risk elements’.⁵³ This information is then intended to form the basis for designing DRM strategies, and to build the programs that form the full cycle of DRM. The majority of the information gathered for DRR purposes is community-based: at the most granular level a kebele community profile is prepared, and communities are asked what they consider to be the key risks and hazards they face, and their perceptions of the actors involved. These kebele profiles then feed into the Woreda Disaster Risk Profiles.⁵⁴

However a number of interviewees were critical of the risk profiling process, with the main concerns being that the woreda profiles are an impractical and expensive solution, with risk profiles containing too many indicators.

Risk mapping is also tied into the national seasonal assessments that are carried out across the country twice a year, which produce the ‘Humanitarian Requirements’ document to request from donors necessary food and non-food responses in the country. This methodology has been used for almost three decades,⁵⁵ but significant improvements in more recent years prompted many interviewees to remark on the efficiency of the process and the huge amount of information it generates, as well as the inclusion of stakeholders from government, civil society, donors, NGOs and local communities. These seasonal assessment processes are also used to gather information for the woreda disaster risk profiles. At present, around 200 woreda profiles have been completed, out of a total of approximately 700 woredas in the country.⁵⁶

The DRMFSS has also developed a database on records of all disasters that have taken place in the country (which is currently being integrated in the ‘DesInventar’ system),⁵⁷ which whilst not a requirement under current law is noted in the draft NPSDRM, which requires DRMUs to maintain ‘historical records of past crises and contingency plans’ for the purposes of developing new contingency plans.⁵⁸ There is no mention of this information being held in a national-level database, which is the current practice, though, which shows a small gap in the policy and a need to align with current practice. The disaster database used in Ethiopia depends on official records and ‘recall’ surveys and therefore some have questioned the accuracy level of this system, and limited technical capacity as well as resources to analyse the bulk of data and to manage large databases (especially at local level) remains a challenge (although this is being mitigated somewhat with assistance from development partners).⁵⁹

Regional Level

No EWS legislation exists outside of the national level, and implementation instead relies on the structures established at regional levels administering the policy set in Addis Ababa. The federal EWS structure (involving a central EWS coordination unit and an EWS Committee which contains

53 DRMFSS, Disaster Risk Reduction Planning in Ethiopia

54 Interview with DRMFSS representative

55 Interview with DRMFSS representative

56 Interview with DRMFSS representative

57 Preventionweb, Interim National Progress Report on the implementation of the Hyogo Framework for Action (2011-2013), 2 October 2012

58 Article 3.2.1.4.2.3.2 NPSDRM

59 Preventionweb, Interim National Progress Report on the implementation of the Hyogo Framework for Action (2011-2013), 2 October 2012

representatives from the DRMFSS, other Ministries and NGOs) is in theory replicated at regional, zonal and woreda level, with each level having its own EWS staff and committees. In practice there does not appear to be a standard implementation of this structure: in Tigray, for example, whilst this structure is replicated at the regional and to a limited extent at the woreda level, there is no real zonal EWS structure in place. The zonal level in Tigray contains only a few representatives with no clearly defined roles, and lacks organization.⁶⁰ Furthermore, whilst woreda level EWS structures are quite established in certain states (such as Tigray, Amhara, Oromia and SNNPR), in other more heavily pastoral and lowland states such as Somali, Afar, Gambela and Benshangul-Gumz, they are not.⁶¹

As a practical example of the risk mapping process in Ethiopia, in Tigray 26 woreda risk profiles have been created, out of a total of 34 woredas. 5 are currently under way, with the remaining 3 to be completed by February 2013. An EWS committee in each woreda works together with EWS staff from both federal and regional offices, as well as staff from the UN (largely UNICEF in Tigray) and other NGOs. This team visits a sample of kebeles from each woreda to conduct household questionnaires and gather other data, and this information is then verified and analysed at federal level. However a gap in practice exists here, as the information collected can (and has) gone 'out of date' during the course of the relatively lengthy verification and approval process at federal level; despite decentralization, federal approval of information collected at regional level is still considered necessary, and holds up the deployment of aid or the assignment of DRR projects.

Community Level

Although interviews with government stakeholders at the national level indicated that the EWS was rolled out effectively to community/kebele level, there seemed to be relatively little knowledge of EWS among those communities interviewed, as well as confusion regarding who in the community may form part of the local EW committees. Whilst community members had participated in the information-gathering which feeds into the EWS (for example, answering household questionnaires as part of the DRMFSS' seasonal assessments) the community members interviewed were not aware of what an EWS entailed and instead confirmed that they would simply rely on the kebele's Development Agent and Administrator for information, if necessary.

Furthermore there is no legal recognition of traditional or cultural community-based EWS practices. Whilst many interviewees acknowledged that these existed and could often be a useful indicator of approaching hazards, their input remained strictly at the informal local level. Both the 1993 Policy and NPSDRM make strong statements regarding community participation, and it is openly acknowledged that 'while the [1993 Policy] stressed local capacities and community participation, this was not adequately realized in practice'⁶². However the NPSDRM contains no concrete proposals for community participation and no mention is made of the potential integration of community-based EWS practices.

Information does reach the communities but often it is too slow. The SPIF openly states that 'information management is a vital element of disaster risk reduction, and early warning information in particular is a right of citizens'⁶³ and several interviewees identified that one of the major gaps in the EWS and DRM information-sharing system in general is the lack of information 'backflow': informa-

60 Interview with Tigray government representative

61 Dr Kassahun Bedada Beyi, The Evolution of Ethiopian Government's Early Warning System, in Field Exchange issue 40, February 2011. <http://fex.ennonline.net/40/contents>

62 Article 1.3.4.7 NPSDRM

63 Section 3.2, SPIF

tion moves relatively quickly and efficiently from community to national level but it is much slower in the other direction, a problem compounded by the number of communities based in remote and inaccessible locations, with little if any communications infrastructure.

3.5. Regulation of the Built Environment

Although Ethiopia is mainly a rural country and largely dependent on agriculture, risks in urban areas are increasing because of increasing hazards and vulnerabilities (such as increased population and informal settlements, industrialization, and changing land use patterns).⁶⁴

3.5.1. Building Codes

The existence and implementation of a series of detailed building codes in Ethiopia is a clear example of a good practice. Notably, Building Code EBCS-8 deals specifically with the design of structures for earthquake resistance and therefore contributes directly to DRR efforts. Whilst gaps in implementation and enforcement are apparent, the existence of these codes provides a strong legal framework for safe building.

In terms of federal laws relating to building in Ethiopia, Proclamation 624/2009 is the most important piece of legislation. This Proclamation applies to the construction of new buildings of any size or intended use in 'urban centres'⁶⁵ with 10,000 or more inhabitants (and leaves it open to regional states to apply the Proclamation to urban centres with less than 10,000 inhabitants within the state), as well as public, industrial or commercial buildings outside of urban centres. The Proclamation determines minimum national standards for the construction or modification of buildings or alteration of their use, with the overall aim of ensuring public health and safety.⁶⁶ There is no legislation in Ethiopia which covers the construction of private housing outside of urban centres, although interviews with community focus groups indicated that local procedures are in place even in rural settings, as interviewees stated relatively unanimously that no building could be constructed in a village without permission from the local kebele administration and, if necessary, the woreda administration. The relevant administration would ensure that the buildings meet certain minimum requirements. DRR considerations rarely feature explicitly in this process, although of course building safety is an essential element of any holistic approach to DRR.

The Ministry of Urban Development and Construction (MUDC) is responsible for urban building and construction matters at the federal level, although some of its powers are delegated to other bodies such as the Ethiopian Roads Authority and the Agency for Government Houses. The MUDC regulates matters at the federal level but leaves all matters of implementation to the regional states, meaning that the construction permitting regime is heavily decentralised. At the regional level, government Bureaus implement policy, with broadly the same remit from state to state but often having different names and internal structures, e.g. the Building Design and Regulatory Bureau in Addis Ababa, and the Construction and Urban Development Bureau in Tigray. Building officers deal with the ground-level enforcement and implementation, and each urban administration must have a building officer to deal with the assessment of plans. Proclamation 624/2009 also devolves certain powers to the regional states, for example issuing 'design and construction rules and standards applicable

64 Comments from UNICEF in Ethiopia

65 Defined in Article 2(20) of Proclamation 624/2009 as 'any locality having a municipal administration or a population size of 2,000 or more inhabitants, or which at least 50% of its labour force has, primarily, engaged in non-agricultural activities'

66 Recitals, Proclamation 624/2009

in their own urban centres based on local circumstances and without contradicting the provisions of this Proclamation'. Although the Proclamation applies at regional level it is not yet fully implemented, and the transition to the new system of construction and occupational permits is still under way. Harare is currently the only regional state to have fully implemented the new permit system.⁶⁷

Proclamation 624/2009 does not mention DRR specifically, however the MUDC has the power to prepare national building codes and to prepare model design and construction method rules for regional states, as well as supervising compliance with the implementation of the Proclamation by regional states and urban centres.⁶⁸ The MUDC also has a more general power under Proclamation 691/2010 to 'set and follow up the compliance of standards for construction works'.⁶⁹

There are 15 separate building codes that have been drafted for Ethiopia, although only 11 are in force (codes 12 through 15 are not yet formally approved). The codes apply throughout Ethiopia. Most of these are over 15 years old, with some dating back to the 1980s, and interviewees commented that the codes need updating to reflect changes in construction practice and to deal with the scale and speed of building that has been occurring in Ethiopia, especially in urban centres like Addis Ababa, over recent years. Following consultation with stakeholders within Ethiopian government and industry, as well as with international experts, the Codes are now being revised by the MUDC with the help of Addis Ababa University, with the intention to adopt standards similar to those set in the European Union. It is expected that drafts of the new codes will be finalized in early 2013, prior to submission to the Ethiopian Standards Agency for approval. The use of European standards in the new Codes will incorporate considerations that are relevant to DRR against specific natural hazards, for example incorporating 'wind action' and landslide risk into building design, but interviewees were unable to provide any more detail regarding this.

The only building code that covers matters of direct relevance to a specific natural hazard is EBCS-8, concerning the Design of Structures for Earthquake Resistance, which was approved in 1995. Government stakeholders were open about the fact that the earthquake code is not well fitted for current purposes, and that Ethiopia's historic focus on drought has sidelined other smaller but no less real hazards such as earthquakes. Of most concern is the zoning classification contained in EBCS-8, which assigns each major town in Ethiopia a seismic zone from 1 to 4, with 1 being low seismic risk and 4 being high seismic risk. The zone classification for a town determines the standards applied to building construction in that town, meaning that incorrectly setting the zone too low for a town can result in buildings being constructed with less than adequate earthquake resistance. This is accepted to be the case for Addis Ababa.⁷⁰ There are also technical concerns regarding EBCS-8's recommended torsional loads, among other things.⁷¹ However despite these areas of concern, the existence of a zoning classification system within the earthquake building code, and the fact that this is currently being analysed and revised to address concerns, is an example of a good practice in place.

Stakeholders confirmed that effective implementation of the law on construction and building codes remains a major challenge for the sector, and that while issues of specific natural hazards are important, there are more immediate issues at stake concerning the relatively ineffective enforcement of the building law and codes. Capacity gaps were named as one of the biggest reasons for this, as

67 Interview with MUDC representative

68 Article 57, Proclamation 624/2009

69 Article 25(1)(i), Proclamation 691/2010

70 Interview with MUDC representative

71 Samuel Kinde Kassegne, Proposed Considerations for Revision of EBCS-8:1995 for Conservative Seismic Zoning and Stringent Requirements for Torsionally Irregular Buildings (undated)

many urban administrations suffer from a shortage of building officers. These capacity gaps make it extremely hard for the building officers to keep pace with the rapid amount of construction in urban centres. A further gap is that no legislation or code exists to cover private construction outside of urban centres, and that any procedure that is followed by rural administrations is un-codified and does not take into account specific natural hazards that are relevant.

The problems of building code implementation are acknowledged in the DRMFSS' draft SPIF, where poor legislative provision and poor enforcement of existing legislation is mentioned as a major challenge to the mainstreaming of DRM in other government sectors, and suggests that a detailed assessment of building code enforcement in urban areas could be undertaken to assist the mainstreaming agenda⁷².

3.5.2. Land Use Planning Laws

The regulation of land use planning at the national level falls under the control of the MUDC, specifically the Federal Urban Planning Coordinating Bureau (formerly the Federal Urban Planning Institute, and established by Proclamation 624/2009), although as with the enforcement of building codes, representatives from the MUDC confirmed that it is the regional states and city administrations who deal with planning matters, with support from the MUDC where necessary. At the regional level the responsibility for land use planning is delegated to the relevant regional planning administrations, for example the Bureau of Land and Environment in Oromia and the Land Use and Administration Agency in Tigray, although in the latter region interviewees (and other commentators⁷³) confirmed that there is little activity on land use planning at present.

Land use planning in Ethiopia is governed by two main pieces of legislation: firstly the Rural Land Administration and Use Proclamation 456/2005 to cover land use planning in rural areas, and secondly Proclamation 574/2008 to cover planning in urban areas.

Proclamation 456/2005 acts as a framework law for regional states to enact their own land use and administration laws that are consistent with the Proclamation⁷⁴. Tigray has therefore approved the Tigray National Regional State Rural Lands Administration and Use Proclamation No.16/2008, and the implementing Regulation No. 48/2008. However the Tigray legislation, along with several other states, mirrors the land use provisions provided in the federal land law, with some contextual modifications⁷⁵. Although it was not possible to speak with any stakeholders at the Tigray Planning Bureau, nor to acquire copies of the relevant legislation whilst in Tigray, several authors have commented on these laws and as such information is drawn from these secondary sources as well as from other stakeholders interviewed in Tigray. The Proclamation states that 'a guiding land use master plan which takes into account soil type, landform, weather condition, plant cover and socio-economic conditions and which is based on a watershed approach, shall be developed by the competent authority and implemented',⁷⁶ and provides some guidance regarding the development of rural lands according to their geographical features, e.g. slope, presence of gullies. The Proclamation also sets some basic and general requirements regarding issues of soil and water conservation, for example requiring that:

72 p. 86, SPIF

73 Ethiopian Civil Society Network on Climate Change, A Review and Analysis of Land Administration & Use Legislation and applications of the Federal Democratic Republic Ethiopia and the four Regional States Of Amhara, Ormia, SNNP And Tigray, April 2011

74 Article 17, Proclamation 456/2005

75 Ethiopian Civil Society Network on Climate Change, A Review and Analysis of Land Administration & Use Legislation and applications of the Federal Democratic Republic Ethiopia and the four Regional States Of Amhara, Ormia, SNNP And Tigray, April 2011

76 Article 13(1), Proclamation 456/2005

- only ‘cut and carry’ feeding (rather than free grazing) is permitted in rural land where soil and water conservation works have been undertaken,⁷⁷
- land management in areas where the slope exceeds 30% to follow the strategy of soil conservation and water harvesting (details to be determined by rural land administration and regions),⁷⁸ and
- highly degraded rural slope land to be closed from human and animal interference to allow its recovery.⁷⁹

The requirements of this Article demonstrate a contribution to efforts to prevent soil degradation, and to promote a more efficient use of rural land, and therefore contribute to DRR. However it is important to note that these are guiding principles rather than legally enforceable provisions, and in Tigray as well as other states the regional land use and administration laws do not provide any further detail for this federal guideline.⁸⁰ Furthermore in most cases the actual management of rural land is divorced from the regulations issued at national and regional level. Interviewees said this was due to a general lack of capacity in the federal and regional administrations, which hinders roll-out of regulation (for example, by not having enough staff to provide training to local administrations and development agents) as well as enforcement.

Land use planning for urban areas in Ethiopia is a much more detailed process, but it also faces significant challenges in implementation. Proclamation 574/2008 was drafted with the intention to regulate development in urban centres to protect the community as well as the natural environment,⁸¹ and to provide ‘comprehensive legislation which takes into account the federal structure of government and the central role of urban centres in urban plan preparation and implementation’⁸². Safeguarding of the community and the environment is also expressed as a basic principle of the Proclamation,⁸³ and certain other relevant principles are set out below:

- ensuring the satisfaction of the needs of the society through public participation, transparency and accountability,
- balancing public and private interests,
- ensuring sustainable development.

The Proclamation also sets out the national hierarchy of plans, ranked in order of priority: at the top is the National Urban Development Scheme, followed by the Regional Urban Development Scheme, then the Urban plan.⁸⁴ A National Urban Development Policy was approved in 2005 but was not available for review in English for the purposes of this study. In Tigray interviewees confirmed that a policy was in place but were also unable to provide a copy for review. For the urban plans, each plan must consist of a city wide structure plan and a local development plan, with the former detailing (among other things) principal land use classes, layout and organization of major infrastructure, and

77 Article 13(3), Proclamation 456/2005

78 Article 13(4), Proclamation 456/2005

79 Article 13(7), Proclamation 456/2005

80 Ethiopian Civil Society Network on Climate Change, A Review and Analysis of Land Administration & Use Legislation and applications of the Federal Democratic Republic Ethiopia and the four Regional States Of Amhara, Ormia, SNNP And Tigray, April 2011

81 Recitals, Proclamation 574/2008

82 Recitals, Proclamation 574/2008

83 see Article 5, Proclamation 574/2008

84 Article 7, Proclamation 574/2008

environmental aspects,⁸⁵ and the latter covering issues such as zoning of use type, street layout, and other locally relevant planning issues.⁸⁶

Proclamation 574/2008 also grants relatively wide discretion to urban centres and regional administrations to prepare and review urban plans, and it is therefore feasible that under this authority specific DRR considerations could be mainstreamed into this planning process. However, neither the legislation reviewed nor the responses of interviewees, indicates that this is the case, other than general assertions regarding environmental suitability of plans. As such the lack of consideration of DRR in the planning process represents a gap in legislative provision. DRR considerations also do not feature in the planning process for private constructions under the Ethiopian Building Proclamation 624/2009, with a major gap in this Proclamation being the extremely wide requirement for building officers to ‘check submitted plan documents to ensure compliance with the provisions of this Proclamation and other laws’.⁸⁷

The issue of community participation in the planning process is mentioned explicitly in both legislation and in over-arching policy documents. Proclamation 574/2008, for example, states that all plan approvals must be preceded by public hearings, which must be ‘transparent and adequately communicated to the public at large, particularly to the kebele councils and community based organisations’.⁸⁸ When asked about levels of community participation in the planning process, interviewees from the MUDC indicated that communities are consulted during the process, but details were not available. It may be that one of the main triggers for consultation is the legislation covering compensation for the expropriation of land (Proclamation 455/2005), which requires community consultation in the planning process when a community faces major changes to their landholdings (e.g. through compulsory purchase).

Stakeholders from NGOs and donors at the national level were not positive about the levels of community participation in the planning process: for example, the Ethiopian Roads Authority did not consult local communities in Sheykosh in the Somali region (and the regional planning bureau did not fully assess the plans) over works that resulted in a flood plain being redirected into the town due to road works. The views of these stakeholders were somewhat reinforced by responses from the community focus groups in Tigray. One group noted that a committee of three people from their community formed an ‘urban planning’ group (the use of the term ‘urban’ may be a mistake of translation, as the kebele visited could not be classified as an urban centre),⁸⁹ but the group members had not been involved in any decisions regarding local developments, although they could not rule out the possibility that the planning committee may have been involved. This highlights something of a gap in community participation, in that, while information may flow to small committees or to the kebele development agents (government officials at the kebele level, who in basic terms are responsible for administering matters relating to the local community, and act as a gateway between regional and woreda level government administrations and local communities), the wider community- or at least the women as a group – may not have access to this information.⁹⁰

85 Article 9, Proclamation 574/2008

86 Article 11, Proclamation 574/2008

87 Article 6(1), Proclamation 624/2009

88 Article 15, Proclamation 574/2008

89 Interview with women’s community focus group in Merbmiti kushet, Didiba kebele

90 This may be a more general issue: the same women’s focus group noted that they were aware that the local development agent had received information regarding NGO income-generating schemes but had not shared this with the community.

3.5.3 Land Tenure

Land tenure and property rights have been one of the most controversial issues in recent Ethiopian history. Under the Derg regime⁹¹ all forms of traditional land tenure except pastoralist tenure were abolished, and all rural lands came under state ownership. The Constitution of Ethiopia retains the concept of state ownership of all land:

‘the right to ownership of rural and urban land, as well as of natural resources, is exclusively vested in the State and in the peoples of Ethiopia. Land is a common property of the nations, nationalities and peoples of Ethiopia and shall not be subject to sale or to other means of transfer.’⁹²

However, Ethiopia does have systems in place for the non-permanent holding of land, and the existence of these systems in the legal framework can be considered a good practice. For urban land, land may only be held on a leasehold basis in accordance with Proclamation 721/2011, with differing maximum lease periods depending on the use. As an example, a lease for residential housing (as well as, among other things, government offices, charitable organizations, research and study) is for a 99 year period. Industry is granted an 80 year lease (70 in Addis Ababa),⁹³ commerce and all ‘other’ uses 70 years (60 in Addis Ababa). The lease periods may also be transferred and renewed, although there are no guarantees that this will be available for lessees.⁹⁴

For rural land, Proclamation 456/2005 allows for three types of tenure: private holdings, communal holdings, and government holdings. This Proclamation also states that the rural land use right of ‘peasant farmers, semi-pastoralists and pastoralists shall have no time limit’⁹⁵ although the duration of the rural land use right for ‘other holders’ is to be determined by the rural land administration laws of regions.⁹⁶ Holding certificates (or ‘books of holding’) are issued to the land-holders, although the system is based on the idea that the relevant person (be they farmer, community or government) is simply ‘using’ the land and that it ultimately belongs to the State. Other legislation also expands the legal framework for land tenure in Ethiopia. Proclamation 542/2007 concerns the development, conservation and utilization of forests, and permits both private and state tenure of forests⁹⁷, although no detail is provided regarding length of tenure; see section 3.6.2 below for a more detailed analysis of this Proclamation.

Rural land is registered at the regional level, and in a clear example of effective implementation of legislation, community focus groups in Tigray were well aware of their local systems for land registration, and interviewees confirmed that they had been issued with holding certificates, which were registered with the kebele administration.

In Tigray, as well as in several other states, the process of registration began before Proclamation 456/2005 provided an official process, and the Proclamation sets out details regarding registration

91 The Derg regime is the short name for the ‘Coordinating Committee of the Armed Forces, Police, and Territorial Army’ that held power in Ethiopia from the overthrow of Emperor Haile Selassie I in 1974 until the formation of the People’s Democratic Republic of Ethiopia in 1987.

92 Article 40, Proclamation 1/1995 (Constitution of the Federal Democratic Republic of Ethiopia)

93 Article 18(1), Proclamation 721/2011

94 Article 24, *ibid* regarding transfer; Article 19(1), *ibid* regarding renewal

95 Article 7(1), Proclamation 456/2005

96 Article 7(2), *ibid*

97 Article 4, Proclamation 542/2007

and certification, and as such the process has been less efficient and has faced several shortcomings. For example, the initial process of registration was unsupported by mapping data, and now a second process using mapping data is ongoing, supported by foreign donors⁹⁸. Whilst Proclamation 456/2005 sets out the basic framework for land registration in rural areas, it does not include sufficiently detailed regulation to ensure an efficient and consistent approach to land registration. These details are also not provided in secondary documentation or in regional state laws. This has resulted in different regions collecting different information for their respective registration systems, and using different coding systems,⁹⁹ thereby frustrating the ambition of the Proclamation to establish a conducive system of rural land administration and registration at the national level.¹⁰⁰ This is a significant gap in the regulatory regime for land registration.

Proclamation 456/2005 also does not provide for resolution of conflicts between this federal law and regional laws, which has led to some confusion and allowed too much bureaucratic discretion.¹⁰¹ The Ethiopian government has, however, recognized this as an issue and has constituted a National Task Force to develop and draft a national land registration and cadastral survey law.

Important steps are being taken to modernize the system of land tenure and registration in Ethiopia. Tigray is currently the only state to have deployed a 'Rural Cadastre Information System' that uses new technologies to map and register land in the state, with minimal dependence on imported expensive GIS software.¹⁰² Interestingly, the Rural Cadastre Information System is a bilingual software that integrates the use of English and the local language of the regional state Tigrigna, and its relative sophistication means that it may have a useful application for DRR in terms of properly identifying and classifying land, including areas prone to natural hazards. However there is no legal requirement or guidance to employ this type of software or system and the wide drafting of existing legislation, as well as the gaps in capacity, have not yet resulted in the creation of an integrated and efficient system of land tenure and registration throughout the regional states.

Whether or not the system of land tenure in Ethiopia is able to assist or hinder DRR was an issue that no interviewees were able to comment on directly, although many authors have argued that clearly defined and secured rights of tenure are essential to provide farmers with incentives to adopt better land use management practices, and the lack of a secure tenure system can, for example, have a dissuasive influence on soil improvement measures.¹⁰³ Some authors have rightly commented on the fact that the Ethiopian system of land tenure and registration, despite its shortcomings, has resulted in increased security and therefore investment for farmers, as it replaced a system where tenure rights were all but non-existent. However, the community focus groups interviewed in Tigray were extremely concerned with the issue of availability of land as such. All land in the communities visited was occupied and used, and the lack of new land for children and family members means that land dilution is on the increase, with the result that food insecurity also increases due to families having to live off smaller parcels of land. This clearly has an impact on food security in these communities, although it is not a direct effect of the system of land registration.

98 Ethiopian Civil Society Network on Climate Change, A Review and Analysis of Land Administration & Use Legislation and applications of the Federal Democratic Republic Ethiopia and the four Regional States Of Amhara, Ormia, SNNP And Tigray, April 2011

99 *ibid.*

100 See Recitals, Proclamation 456/2005

101 Klaus Deininger, Daniel Ayalew Ali, Stein Holden, Jaap Zevenbergen, Rural land certification in Ethiopia: Process, initial impact and implications for other African countries, April 2007

102 Interview with Tigray government representative, and USAID and Ministry of Agriculture, ELAP News, June/September 2012

103 Knowler, D. J. 2004. 'The Economics of Soil Productivity: Local, National, and Global Perspectives' in Land Degradation and Development 15, as referenced in World Bank, Sustainable Land Management Source Book, 2008

It should also be noted that the land administration laws mentioned here are primarily aimed at the settled agricultural areas of the highlands of Ethiopia where lands are held individually or by households. They are not so applicable to the pastoral and agro-pastoral lowlands of the country that cover about 60% of the land mass and account for about 12% of the total population, and where customary tenure regimes predominate and access to land is communal, based upon clan, sub-clan and lineage group membership.¹⁰⁴

3.5.4. Informal and Precarious Settlements

Ethiopian law does seek to regulate informal and precarious settlements, although it does not define informal settlement or any similar terms. The fact that informal settlements are considered under Proclamation 721/2011 (regarding the lease holding of urban lands) is a positive inclusion in the legal framework, as is the existence of a compensation regime. The Proclamation refers only to the potential 'regularisation' of 'possessions held without the authorization of the appropriate body'.¹⁰⁵ Representatives from the MUDC confirmed that there is an ongoing process of regularization of informal settlements. In practice this means that when land that is being used as an informal settlement is required for urban development, the residents will be removed and allocated parcels of alternative land in accordance with the relevant urban plan. However this will apply only to the 'possessions which have found to be acceptable in accordance with urban plans and parceling standard [sic]'. The drafting here leaves a wide discretion for the MUDC or relevant regional body to determine whether residents of informal settlements hold acceptable possessions and, therefore, whether or not they are eligible for relocation or compensation.

Proclamation 574/2008 (the Urban Planning Proclamation) refers directly to 'slum areas' (not defined) and to a policy of 'Urban Upgrading', which consists of 'an improvement to the living and working environment of slum areas by maintaining and partially removing of structures and through the provision of infrastructure and amenities'.¹⁰⁶ This process is the responsibility of the urban administration, 'in conformity with the prescriptions of structure and local development plan', and with the stated aim of improving not only the physical environment but also the socio-economic status of the residents.¹⁰⁷ Although the Proclamation states that the conditions for and procedures of urban upgrading are to be implemented by law, which in practice is likely to be in the form of a Regulation, no such law has yet been passed at a federal level, and interviewees in the region of Tigray confirmed that no regional law exists. That the framework for a secondary law is in place is a good practice in itself, but the fact that such a law has not yet been passed remains a gap. It is possible that such a law exists in other regional states, or that relevant guidelines and information may be contained in the National Urban Development Policy of 2005, although this document was only made available in Amharic and therefore could not be reviewed for this study.

Interviewees at both the national and regional levels were unable to refer to concrete examples of either the regularization or upgrading of slum areas, instead referring more generally to the ongoing process of urban development requiring resettlement of those living in informal settlements, and pointing out that in general, the government policy towards slums and informal settlements is one of removal rather than attempts to formalize the settlements¹⁰⁸. Several interviewees from international organizations made the point that informal settlements are frequently torn down without

104 Tigistu Gebremeskel Abza, Experience and Future Direction in Ethiopian Rural Land Administration, paper presented at the Annual World Bank Conference on Land and Poverty, April 2011

105 Article 6, Proclamation 721/2011

106 Article 43, Proclamation 574/2008

107 Article 44, Proclamation 574/2008

108 Interviews with MUDC representatives

consultation or adequate compensation and relocation for residents, to make way for new development, despite the fact that the government often extends basic services to the settlements. A published study related to informal settlements in Bahir Dar City (the capital of the regional state Amhara) suggests that forced eviction and demolition of informal settlements without compensation is in practice a common method of response to informal settlements.¹⁰⁹ A good legal framework is therefore in place but gaps remain in its implementation.

There is no legislation in Ethiopia that specifically addresses DRR in informal settlements. While in practice the MUDC and the relevant regional or city administrations deal with informal settlements, there is no clear legally mandated responsibility to do so, other than the wide drafting relating to regularization in Proclamation 721/2011 mentioned above. As such, there is a lack of regulation to mandate DRR in informal settlements, even though they are generally at higher risk from natural hazards than legally authorised settlements (due to the poor quality of building construction, lack of infrastructure and services). This is a significant gap in the legal and policy framework for DRR in Ethiopia.

3.5.5. Urban Water and Flood Management

The Ministry of Water and Energy manages the regulation of water and water resources in Ethiopia, on the basis of a relatively large volume of legislation and policy documents. At regional level, powers to deal with water supply and water resources management are vested in regional water bureaus (such as the Bureau of Water Resources in Tigray). The lowest level of government administration for water resources is at the woreda level, with the woreda water resource offices, as in Tigray, (although the names and functions of the public bodies often differ from region to region; for example, in some regions, rather than having a separate bureau for water resources, the Bureau of Water, Mines and Energy deals with water resource management).

Proclamation 197/2000 (Ethiopian Water Resources Management) provides the overarching legal framework for water regulation in Ethiopia, and gives the Ministry of Water and Energy a wide remit to ensure that the water resources of the country are properly managed, in line with the assertion that all water resources of the country are the property of the Ethiopian people and the state¹¹⁰. A large section of the Proclamation is given over to establishing a permitting and charging system for certain activities (for example, construction of waterworks, discharge of waste into water).¹¹¹ Interestingly, unlike most of the land legislation reviewed above, there is no explicit delegation of powers under this Proclamation to the regional states. A set of Regulations concerning water resources management was issued in 2005 (Regulation 115/2005) but these are only really concerned with further details of the permitting regime for water works, although it does contain some interesting provisions regarding the creation of water users cooperative societies, which may be more applicable to rural water management.¹¹²

Proclamation 197/2000 does contain several interesting provisions of relevance to DRR. Firstly the Ministry of Water and Energy (in collaboration with appropriate public bodies) is able to delimit the boundaries of the banks of certain water bodies, and to prohibit the clearing of trees/vegetation and the construction of residential houses within the de-limited banks.¹¹³ This could potentially be in-

109 Daniel Weldegebreiel Ambaye, *Informal Settlement in Ethiopia, the Case of two Kebeles in Bahir Dar City*, 2011

110 Articles 3 and 5, Proclamation 197/2000

111 Part 4 and 5, Proclamation 197/2000

112 Part 7, Regulation 115/2005

113 Article 25, Proclamation 197/2000

tegrated with DRR efforts to ensure that water bodies are not compromised. However this provision requires details to be determined pursuant to directives to be issued by the Ministry, which have not been issued. Secondly, public bodies (i.e. regional authorities) are required to seek the technical advice of the Ministry prior to allowing the founding of towns or villages to ‘prevent or avoid damages, adverse impacts or accidents which may occur as a result of floods and other factors related to water’¹¹⁴. Again, a properly mainstreamed DRR approach in the Ministry of Water and Energy could ensure that DRR considerations are analysed prior to the building of housing, but this is not the case in practice. As with some other examples of Ethiopian legislation discussed above, Proclamation 197/2000 has some the potential to integrate DRR considerations, but the absence of necessary secondary regulation, and gaps in implementation, mean that this potential has yet to be fulfilled.

Further details of Ethiopia’s water policy are contained in the Water Sector Policy and Strategy documents of 2001. The Water Policy and Strategy both have flood prevention as objectives. However, while the Strategy requires the determination of flood protection and the undertaking of flood control structural measures it does not state explicitly which entities must undertake this task, or provide timeframes for the tasks. Interviewees at federal and regional level were able to confirm that, for example, flood plain zoning is taking place in accordance with River Basin Master Plans. In Tigray, ‘mini-dams’ are being constructed in 6 woredas to provide water supply and act as flood control structural measures, and monitoring devices have been placed in towns and rural areas to monitor groundwater levels. Yet the sheer scale of the list in the Strategy marks it out as a list of ideal goals rather than a well-defined and achievable series of objectives.¹¹⁵

Part of the overall objectives of the Ethiopian Water Resources Management Policy of 1999 are ‘managing and combating drought as well as other associated slow on-set disasters through, inter alia, efficient allocation, redistribution, transfer, storage and efficient use of water resources’, and ‘combating and regulating floods through sustainable mitigation, prevention, rehabilitation and other practical measures’.¹¹⁶ The Policy goes on to address disasters, emergencies and public safety specifically, acknowledging that the management of disasters associated with water must form an integral part of water resources management¹¹⁷. Importantly, this includes the following:

Establish preparedness and contingency plans for disasters and emergencies, in terms of:-

- provision and continuation of services during and after emergencies,
- plans for rehabilitation and repair of water systems,
- protection of water bodies and water systems from pollution and depletion.¹¹⁸

It is clear that the Policy contains very positive language, as well as other positive additions such as the aim to develop the legal basis for active and meaningful participation of all stakeholders, including water users’ associations, the community and particularly for women to play the central role in water resources management activities.¹¹⁹ However the Policy is still hampered by the lack of clear assignment of institutional responsibility for the extremely long list of requirements it contains. Interviewees at federal and regional levels identified the major gap in their areas as being one of capacity. Simply put, they do not have the staff or the training to implement the extremely ambitious

114 Article 26, Proclamation 197/2000

115 See section 4.1.9, Ethiopian Water Sector Strategy, 2001

116 Section 1.2, Ethiopian Water Resources Management Policy [200-]

117 Section 2.2.7(1), Ethiopian Water Resources Management Policy [200-]

118 Section 2.2.7(5), Ethiopian Water Resources Management Policy [200-]

119 Section 2.2(2), Ethiopian Water Resources Management Policy [200-]

requirements of the various national policies and strategies, even with the assistance of external donors and NGOs. This is a significant gap that prevents Ethiopian water legislation and policy from effectively supporting DRR.

3.6 Regulation of the Natural & Rural Environment

3.6.1. Human Risks in Environmental Change

Environmental matters in Ethiopia are regulated under the framework of the Ethiopia Environment Policy, which has the overall goal ‘to improve the health and quality of life of all Ethiopians and to promote sustainable social and economic development through the sound management and use of natural, human-made and cultural resources and the environment as a whole so as to meet the needs of the present generation without compromising the ability of future generations to meet their own needs’.¹²⁰

To meet this goal a large number of Proclamations and secondary documents have been issued. Chiefly, three Proclamations were issued in 2002 that form the backbone of environmental legislation in Ethiopia:

1. Proclamation 295/2002, establishing the Environmental Protection Authority (EPA) as an autonomous public institution
2. Proclamation 299/2002, which established the Environmental Impact Assessment (EIA) regime in Ethiopia
3. Proclamation 300/2002, which concerns pollution control

These Proclamations are backed by a relatively extensive list of legislation that covers matters such as solid waste management (Proclamation 513/2007), regulation of industrial pollution (Council of Ministers Regulation 159/2008), bio-safety (Proclamation 655/2009, and six related directives) and ratifications of various international agreements (e.g. Proclamation 357/2003 ratifying the Basel convention, and Proclamation 439/2005 ratifying the Kyoto Protocol).

The objective of Proclamation 295/2002 establishing the EPA is in line with that of the Environment Policy, based around the formulation of policies and laws to foster social and economic development in a manner that enhances human welfare and the safety of the environment.¹²¹ No specific mention is made of livelihoods, or food security, although the Environment Policy contains details on areas such as soil husbandry, sustainable agriculture, and sustainable management practices for crops and livestock, which all contribute to food security in practice.

Proclamation 295/2002 establishing the EPA is largely concerned with defining the powers and duties of the EPA, and sets out the framework for institutional responsibility beyond federal level. The EPA does not, however, have Ministerial status. The Proclamation requires each ‘competent agency’ (the definition of which is far from clear, but basically refers to any agency at federal or regional level which has a responsibility for environmental matters) to establish or designate an environmental unit for coordination and follow-up ‘so that the activities of the competent agency are in harmony with this Proclamation and with other environmental protection requirements’.¹²² The drafting here

¹²⁰ Section 2.1, Environmental Policy 1997

¹²¹ Article 5, Proclamation 295/2002

¹²² Article 14, Proclamation 295/2002

is imprecise, using terms such as ‘harmony’, and there is no further guidance on this possible coordination in the Proclamation or any other law or document. Regional Environmental Agencies are also created by the Proclamation, and each regional state is required to establish an independent regional environmental agency (or to designate an existing agency) that shall be responsible for (a) coordinating the formulation, implementation, review and revision of regional conservation strategies, and (b) environmental monitoring, protection and regulation.¹²³ The regional agencies are explicitly required to ensure public participation in the ‘decision-making process’¹²⁴ – but no detail is given regarding the types of decisions in which the public should be involved, or how they should be involved.

The EPA Proclamation No 295/2002 also establishes Sectoral Environmental Units (‘sectoral units’), which are mandated to be established at every competent agency, with the responsibility of coordinating and following up activities in harmony with environmental protection laws and requirements.¹²⁵ The establishment of such units is certainly good practice, as the sectoral units have the opportunity to play an important role in ensuring that environmental impact assessments (EIAs) are properly carried out in development projects and public instruments initiated by government institutions, especially considering the fact that the EPA has delegated assessment responsibility to many different sectors, including the Ministries of Mines, Water and Energy, Urban Development and Construction, and Agriculture.¹²⁶ However, whilst in practice other federal institutions may have persons assigned to deal with EIAs, formal sectoral units have not been established as yet in most of the relevant federal institutions, except at the Ethiopian Roads Authority, Ethiopian Electric Power Corporation and the Ministry of Water Resources, and at the regional level, no sectoral units have been established.¹²⁷ Furthermore, even though several Ministries have the power to conduct their own EIAs, these are often referred back to the EPA due to lack of capacity, thereby creating capacity strains within the EPA.

In practice, at regional level the functions of environmental management and land use policy are often combined within one agency, for example the Environmental Protection, Land Use and Administration Agency in Tigray. In other states, different structures apply: in Oromia, an Environmental Protection Office is established as separate institution, while in the SNNPR, the regional environmental organ is situated within the Bureau of Agriculture and Rural development as an Environmental Impact Assessment and Pollution Control Team. Tigray also has its own Environmental Proclamation, although interviewees confirmed that this exactly follows the federal Proclamation. Of more regional interest was the Environmental Policy of Tigray, but a copy of this document could not be obtained for analysis.

Environmental Impact Assessment (EIA)

Proclamation 299/2002 deals specifically with EIAs, and contains a general prohibition on the commencement of implementation of ‘any project that requires environmental impact assessment’.¹²⁸ The Proclamation requires that such projects are to be listed in directives issued by the EPA. While it appears that no such directives have been issued so far, the EPA in Addis Ababa provided the project consultant with a list of guidelines used for the EIA process, many of which have been recently developed and are in draft form, and may be issued as formal directives once approved. The EPA

123 Article 15, Proclamation 295/2002

124 Article 15, Proclamation 295/2002

125 Article 14, Proclamation 295/2002

126 Interview with EPA representative

127 Melessie Damtie and Mesfin Beyou, Overview of Environmental Impact Assessment in Ethiopia, January 2008

128 Article 3(1), Proclamation 299/2002

has produced relatively detailed guidelines on EIAs in various sectors and projects, for example, forestry, crop production, irrigation projects, tanneries, roads and railways. It has also produced general guidelines on topics such as household waste management, and social, environmental and ecological impact assessment and environmental hygiene in settlement areas.

Under the EIA Proclamation 299/2002, 'impact' is widely defined as 'any change to the environment or to its component that may affect human health or safety, flora, fauna, soil, air: water, climate, natural or cultural heritage, other physical structure, or in general, subsequently alter environmental, social, economic or cultural conditions',¹²⁹ and the environmental impact study report must contain the following:

- the nature of the project, including the technology and processes to be used;
- the content and amount of pollutant that will be released during implementation as well as during operation;
- source and amount of energy required for operation;
- information on likely trans-regional impacts;
- characteristics and duration of all the estimated direct or indirect, positive or negative impacts;
- measures proposed to eliminate, minimize, or mitigate negative impacts;
- contingency plan in case of accident; and
- procedures of self-auditing and monitoring during implementation and operation.¹³⁰

Expanding on the required content, the EIA Procedural Guidelines of 2003 list a wide range of projects that require impact assessments, and list the criteria for EIAs that should be taken into account:

- Socio-economic impacts;
- Degradation of land and aquatic environments;
- Water pollution;
- Air pollution;
- Noise and/or vibration;
- Damage to wildlife and/or habitat;
- Alterations to ecological processes;
- Effects on cultural, religious, historic, archaeological and scientific resources;
- Climate, especially the hydrological cycle; and
- Impacts on human health.¹³¹

Interestingly from the perspective of DRR against natural hazards, special consideration is also given to areas prone to natural disasters, with the requirement that all projects in 'environmentally sensitive areas' (including disaster-prone areas) must be treated as equivalent to Schedule 1 activities irrespective of the nature of the project.¹³² A Schedule 1 activity requires a full EIA. DRR as a specific concern is not mainstreamed into the considerations or the various guidelines issued by the EPA, but the EIA framework is relatively well documented in Ethiopia, and there is potential to further incorporate DRR into the EIA process.

129 Article 2(4), Proclamation 299/2002

130 Article 8, Proclamation 299/2002

131 See Annexes I and II, EIA Procedural Guidelines 2003

132 Annex III, Schedule 1(28), EIA Procedural Guidelines 2003

Whilst the general considerations under the Proclamations do not mention natural hazards specifically, good practice is nonetheless evident in several of the various sector and project-specific Guidelines issued by the EPA. For example, the EPA's Guidelines on Dams and Reservoirs consider the impact of developments on floodplain agriculture, and require projects to have considered and mitigated potential creation of new flood plains. Ultimately the full requirements to consider social, ecological and environmental impacts are wide enough to consider DRR when assessing a project, and in practice proper assessment on these bases certainly contributes to DRR.

However, the fact that DRR is not included as a specific factor in environmental legislation is one factor within a broader lack of coordination and integration between the national DRR/DRM functions and environmental protection functions. This has been noted by several authors and was commented on by many interviewees, who asserted that there is also little coordination and communication between the DRMFSS and the EPA in practice. This is attributable to the overlapping remits of the DRMFSS and EPA; for example the Strategic Programme Investment Framework and the Climate Resilient Green Economy policy documents overlap in many areas yet neither these nor any other documents assign specific institutional responsibilities or coordination structures. For example, the Environmental Protection Agency (EPA) has emphasized that industrial water and air pollution could contribute to a major environmental disaster. Also, lack of adequate household and industrial solid waste management contributes to poor sanitation and drainage and increases exposure and vulnerability to flooding and disease. EPA has expressed the need for urgency in addressing industrial water and air pollution and solid waste management as a means to address risk reduction in urban areas, but it has a limited mandate and capacity.¹³³ This lack of clear institutional mandates and coordination mechanisms between the potentially overlapping DRR and environment agendas remains a major gap that could be addressed, in part, through legal reforms to provide such clear mandates and coordination authority.

This legislative gap is compounded by a recognized gap in capacity within the EPA and the regional environmental protection structures. The EPA is the national lead agency for climate change but it has been noted that this will require additional capacity in order to manage a cross-sectoral strategic planning process for climate change work;¹³⁴ interviewees at federal and regional levels confirmed that this capacity is not yet in place. Whilst Ethiopia has made much progress in developing and issuing environmental legislation, and contains a relatively sophisticated framework for environmental impact assessment, the power and capacity of the implementing institutions is frustrating their implementation.¹³⁵

Community participation

The Environmental Policy of 1997 (the 1997 Policy) contains some very good examples of positive language that encourage the involvement of communities in environmental protection matters, which can be considered a good practice. For example, 'Sustainable environmental conditions and economic production systems are impossible in the absence of peace and personal security. This shall be assured through the acquisition of power by communities to make their own decisions on matters that affect their life and environment'¹³⁶. Women are recognized as key actors in natural resource management and are to be treated equally with men and empowered to be totally involved in policy, programme and project design, decision-making and implementation.¹³⁷

133 Information from UNICEF in Ethiopia

134 Amber Meikle, Ethiopia – Country Level Literature Review, African Climate Change Resilience Alliance, March 2010

135 Ethiopian Civil Society Network on Climate Change, A Review and Analysis of Land Administration & Use Legislation and applications of the Federal Democratic Republic Ethiopia and the four Regional States Of Amhara, Ormia, SNNP And Tigray, April 2011

136 Section 2.3(b), Environmental Policy 1997

137 Section 2.3(j), Environmental Policy 1997

The 1997 Policy also seeks to ‘ensure the empowerment and participation of the people and their organizations at all levels in environmental management activities’ and ‘raise public awareness and promote understanding of the essential linkages between environment and development’.¹³⁸

Elsewhere it includes the following: ‘to ensure that all phases of environmental and resource development and management, from project conception to planning and implementation to monitoring and evaluation are undertaken based on the decisions of the resource users and managers’, and ‘to develop the necessary legislation, training and financial support to empower local communities so that they may acquire the ability to prevent the manipulated imposition of external decisions in the name of participation, and to ensure genuine grassroots decisions in resources and environmental management’.¹³⁹

The principle of community participation also extends to the various Guideline documents issued by the EPA. Within the Guidelines for Social, Environmental and Ecological Impact Assessment and Environmental Hygiene in Settlement Areas, the principles of community-led administration, transparency and responsibility are emphasized, and the following approach is recommended: ‘the capacities of local communities should be developed to use their rights to become the leading actors in their own affairs and thus to manage their own environments according to systems of their own making based on the national vision’.¹⁴⁰ In the Guidelines for Dams and Reservoirs, projects should ‘involve traditional authorities in the design of the project, particularly in siting settlements and in defining flooded areas’.¹⁴¹

These ambitions are not always met in practice. Communities will often be consulted as part of an EIA process, but interviewees confirmed that this consultation will generally occur only when a project site and details have already been selected and approved. According to these accounts, the communities rarely have any say in whether or not a project should go ahead and, instead, are consulted to fine-tune the project details and input into any discussions regarding compensation. Furthermore, large-scale project EIAs are generally managed by the EPA from Addis Ababa (often with the use of international consultants), with little input from the regional environmental authorities or the local communities affected. Interviewees from NGOs and donor agencies noted that not only the level of community participation in the EIA process, but the adherence to the process itself, left much room for improvement. The example of the Gilgel Gibe III hydroelectricity project was mentioned, where an EIA was only published two years after construction of the project began, and which approved the project with little reservation, despite numerous agencies and commentators who have pointed out the social and environmental hazards created by the project.¹⁴²

3.6.2. Forest Management & Exploitation

Forest management and exploitation in Ethiopia is governed by Proclamation 542/2007 regarding forest development, conservation and utilization. The forests Proclamation is clear in its requirement that ‘forest resources shall be protected from natural and man-made disasters’,¹⁴³ including deforestation and forest fires, and sets out some general provisions regarding the prevention of

138 Section 2.2(h), Environmental Policy 1997

139 Section 4.2, Environmental Policy 1997

140 Section 2.5, EPA, Guidelines for Social, Environmental and Ecological Impact Assessment and Environmental Hygiene in Settlement Areas, 2004

141 Section 4.3, EPA, Guidelines for Dams and Reservoirs, 2011

142 BBC News, The Dam that divides Ethiopians, 26 March 2009 <http://news.bbc.co.uk/2/hi/africa/7959444.stm>

143 Article 9(5), Proclamation 542/2007

forest fire, such as making it a duty to report a fire, and duties and obligations of governmental, non-governmental and private institutions to respond to fires.¹⁴⁴

Community involvement and management of forest resources is recognized to a limited extent, as communities are given certain rights (e.g. to collect firewood, keep beehives, forage), but these rights are subject to limitations. For example, there is a requirement for local inhabitants to participate in the development and conservation of a forest ‘in a manner that shall not obstruct forest development’ otherwise they may be evacuated from the forest.¹⁴⁵ The requirement that such evacuation be based on study and consultation with the appropriate body is extremely wide and neither the Proclamation nor any secondary laws or documentation provides any further details as to the nature of consultation and the powers being exercised.

The forests Proclamation provides for two types of forest ownership: state and private, which, as some observers have pointed out, somewhat contradicts the Forest Policy and Strategy of 2007 that provides for the development of forests by communities.¹⁴⁶ Furthermore, whilst private ownership of development of forests is recognized under the Proclamation, there is no information regarding the nature of this ownership, or how it interacts with the overall land law of Ethiopia. Instead the Proclamation is used to list the obligations of private forest developers. Ultimately the Proclamation contains more policy statements than it does enforceable legal provisions, which indicate only what may be done in the future rather than allocating clear rights and responsibilities.¹⁴⁷

The Ministry of Agriculture is responsible for forest management and exploitation at the federal level; several forestry specialists also sit within the DRMFS to focus on the prevention and response to forest fires. However, no specific laws or rules exist regarding forest fires.

At the regional level work is carried out by the Bureau of Agriculture. As with many other government sectors in Ethiopia, there is some variation between the ways in which the different regional states resource and structure their forest management duties. In Tigray, there is no single team or department that looks after forest matters, as relevant forestry staff experts are split across other departments. For example, the Team Leader for Forest Utilisation and Protection sits in the Regulatory department, and his team is effectively split across other areas in the Bureau of Agriculture. This has an impact on the efficiency of the Bureau’s work on forest management and often results in forestry issues being sidelined by other concerns within the relevant departments, although this structure is being reviewed and may change in the near future. Beyond the regional level, forest management often relies on the network of development agents who work in almost all woredas and kebeles in Ethiopia, as in many states there are often no full-time forestry offices below the regional level.

In Tigray, a Forest Utilisation and Protection Proclamation has been in force since 2001, although unfortunately a copy of this Proclamation was not available to the project consultant, even in the local language. However this Proclamation apparently mirrors the provisions of the Federal Proclamation 542/2007.¹⁴⁸ In Tigray the major focus of regulation centres on the prevention of illegal cutting of

144 Article 12, Proclamation 542/2007

145 Article 8(8), Proclamation 542/2007

146 Ethiopian Civil Society Network on Climate Change, A Review and Analysis of Land Administration & Use Legislation and applications of the Federal Democratic Republic Ethiopia and the four Regional States Of Amhara, Ormia, SNNP And Tigray, April 2011

147 *ibid.*

148 Interview with Tigray government representative

trees in state forests, the protection of endangered indigenous trees, and the prevention of forest fires.¹⁴⁹ Interviews with community focus groups in Tigray showed that, despite a general lack of community awareness about Ethiopian laws, all groups were aware of the provisions of the Tigray Forest Utilisation and Protection Proclamation regarding cutting of trees. This was due to a relatively extensive program of community awareness-raising, involving training of local development agents who would then inform local communities of the relevant provisions of the law. This demonstrates that given sufficient incentive and backing a community awareness-raising campaign can be successful, and could easily be used to raise awareness of broader DRR issues.

However whilst this is clearly a good practice, a gap in this strategy is evident: whilst the linkage between prevention of deforestation and DRR is clear, this connection is not made in the law or in the messages transmitted to the community. Community focus group interviewees reported that they had only been informed of what they were prevented from doing by law, rather than how this prohibition could benefit their community. Furthermore, although the national Forest Policy and Strategy of 2007 asks for the implementation of a law ‘prepared on the basis of community participation that enables to [sic] sustainably forestall illegal traffic in forest and forestry products’,¹⁵⁰ interviewees from the Tigray community focus groups mentioned that, whilst they could not rule out the involvement of kebele elders or administrators, they were not aware of anyone who was involved in the preparation of such a law.

At the federal level, despite forestry experts sitting within the DRMFSS, interviewees confirmed that there has not yet been effective mainstreaming of DRR considerations into the forestry sector, although the intention to fully link the two areas remains, and may be reflected in policy documentation in the near future.

Community participation

The Forests Proclamation 542/2007 contains several notably positive provisions regarding the inclusion of local communities in forest management and conservation. Firstly, the Proclamation requires management plans to be developed with the participation of the local community, for forests that have not been designated as protected or productive state forests, and such forests are to be ‘given to the community, associations or investors so that they conserve and utilize them in accordance with directives to be issued by the appropriate body’.¹⁵¹ Another relatively positive piece of drafting is found later in the Proclamation: ‘Forest development, conservation and utilization plans shall be formulated to allow the participation of local communities in the development and conservation and also in the sharing of benefits from the development of state forests’.¹⁵² The fact that these provisions are included in the Forest Policy and Strategy of 2007 is certainly a good practice. Although at present there are gaps in implementation (see below), they provide a good legal framework within which more detailed rules and implementation measures could be developed.

Taking the regional state of Tigray as an example, no management plans or directives or development, conservation and utilization plans have been developed, and interviewees thought it likely that this reflected the situation in other regions. Despite the positive language in the Forest Proclamation as well as in the Forest Policy and Strategy of 2007, a lack of any further detail regarding community management or participation and significant gaps in implementation mean that Proc-

¹⁴⁹ See Articles 12 and 14 of Proclamation 542/2007

¹⁵⁰ Section 5.3(e), Forest Development Policy and Strategy 2007

¹⁵¹ Article 4(3), Proclamation 542/2007

¹⁵² Article 9(3), Proclamation 542/2007

Proclamation 542/2007 falls far short of effectively facilitating the use, conservation and management of forests by communities. By making community participation dependent on secondary directives and plans that are not realized, the Proclamation is establishing only a broad principle rather than a legally enforceable obligation, suggesting that more detailed subsidiary regulation is required. The main purpose of the Proclamation seems to be to list activities that are prohibited. Community focus groups in Tigray confirmed that they have little say in how the local forests are managed, and in fact were unaware of the exact status of local forests; most simply assumed that they were state-controlled. Within the Tigray Bureau of Agriculture plans are in place to design and implement participatory community management structures for forest resources in the state, with the assistance of the NGO community. However it was unclear to what extent this project will be integrated with any proposed regional forest plans. Ultimately the lack of community involvement in forest management, and the lack of detailed subsidiary legislation or policy documentation needed to set a framework for community participation, remain clear gaps at both federal and regional level, but as noted above, a positive legal framework exists, under which the necessary further rules and mechanisms could be developed.

3.6.3. Rivers & Watercourses in Rural Areas

Given the predominantly rural, agricultural population of Ethiopia and the low number and population of cities compared to other countries in Africa, it is unsurprising that water legislation in Ethiopia is focused much more on rural areas, where natural hazards are largely due to either insufficient or excessive rain (drought and flood). The regulatory landscape for rivers and watercourses in Ethiopia is based on the same legislation and policy documents as those for urban water as discussed in section 3.5.5 above, and a summary of the main points of interest in relation to legal frameworks for DRR is set out below.

- Proclamation 197/2000 (Ethiopian Water Resources Management) provides the overarching legal framework for water regulation in Ethiopia, and gives the MOWE a wide remit to ensure that the water resources of the country are properly managed, asserting that all water resources of the country are the property of the Ethiopian people and the state.¹⁵³
- Regulation 115/2005 concerning water resources management is largely concerned with the details of the permit regime for water works, although it does contain some interesting provisions regarding the creation of water users cooperative societies, (see below).¹⁵⁴
- The Water Sector Policy and the Water Sector Strategy of 2001 both have flood prevention as objectives. The Strategy requires the determination of flood protection and the undertaking of flood control structural measures, it does not state explicitly which entities must undertake this task, or provide timeframes for the tasks
- The Water Resources Management Policy of 1999 has drought and flood prevention as part of its overall objectives, and addresses disasters, emergencies and public safety specifically.

In terms of institutions with responsibility for river and watercourse management in rural areas, the MOWE sets and oversees policy at federal level. At regional level policy is implemented and, to a limited extent, developed by the Bureau of Water Resources in each regional state (or a similarly named entity), with Water Resource Offices established in most woredas for local level management and implementation.

¹⁵³ Articles 3 and 5, Proclamation 197/2000

¹⁵⁴ Part 7, Regulation 115/2005

The Water Resource Management Regulations of 2005 allows for the foundation of cooperative societies, and applies Proclamation 147/1998 (which sets out details for the registration of cooperative societies in Ethiopia) to any societies established under the Water Resource Management Regulations;¹⁵⁵ whilst there are relatively few details of what the societies are permitted to do in terms of water resource management, the Proclamation anticipates that the societies will work on small, medium and large-scale irrigation projects, and will be overseen by the MOWE or the relevant federal Bureau of Water Resources. Proclamation 147/1998 (as amended by Proclamation 402/2004) provides for the establishment of cooperative societies in Ethiopia and defines the societies as ‘established by individuals on [a] voluntary basis to collectively solve their economic and social problems and to democratically manage [the] same’.¹⁵⁶ Objectives of the society must include one or more from a list including ‘achieve a better result by coordinating their knowledge, wealth and labour’, and to ‘minimize and reduce the individual impacts of risks and uncertainties’.¹⁵⁷ Whilst much of Proclamation 147/1998 concerns the bureaucratic requirements for the societies, the existence of not only this legal mechanism but also the fact that it is a recognized mechanism for community involvement in water resources management is undoubtedly a good practice. It could be used to ensure communities manage their local water resources and riverbeds and are allowed to effectively prioritize local DRR considerations.

The Water Sector Strategy of 2001 contains a section on disasters and public safety, which lists a number of requirements under the three main themes, of, firstly, developing and implementing a comprehensive plan of action to address flood related disasters, secondly, combating the droughts that claim appalling loss of life and livestock and environmental deterioration, and, thirdly, ensuring the safety of water structures. To achieve these aims, the Strategy asks, for example, for frequent and systematic forecasting of floods, the installation of automatic stage recorders in flood-prone areas, establishing flood-plain zoning and flood control measures, exploring options for transfer of water from water surplus regions to drought-prone areas, and ensuring proper maintenance of existing wells, ponds and dams¹⁵⁸. Interviews in Tigray suggest that many of these items are being implemented (especially stage recorders and flood control structures) but there is a gap between the overarching policy document and the enforceable legislation that exists here. Interviewees were especially concerned that, despite the number of federal level policies and Proclamations in place, there are very few concrete directives or guidelines issued. For example, it seems that at present Tigray’s Bureau of Water Resources has issued only two directives (one concerning tariffs, the other concerning permissions), although copies of these directives were not available.¹⁵⁹

River Basins

At federal level the MOWE has commissioned the preparation of River Basin Master Plans for the 12 river basins in Ethiopia, with most completed as of 2011.¹⁶⁰ The master plans are intended to guide long-term development of the basin’s resources and should be used by different federal and regional government agencies, to incorporate their own strategic plans within the overall aims of the master plans. Due partly to the fact that adherence to a master plan is not a legal obligation, this has led to problems of coordination and cooperation, as well as overlap as there is no requirement to use

155 Article 28, *ibid*

156 Article 2(2), Proclamation 147/1998

157 Article 4, Proclamation 147/1998

158 Section 4.1.9, Ethiopian Water Sector Strategy 2001

159 Interview with Tigray government representative

160 Ethiopian Civil Society Network on Climate Change, *A Review and Analysis of Land Administration & Use Legislation and applications of the Federal Democratic Republic Ethiopia and the four Regional States Of Amhara, Ormia, SNNP And Tigray*, April 2011

the master plans and different regions and agencies may conduct their own studies. Master plans are referred to in Proclamation 534/2007 (regarding River Basin Councils and Authorities) but only in terms of their ability to guide development in river basins.

Proclamation 534/2007 focuses on the establishment of river basin high councils and river basin authorities to create efficient and stable mechanisms for the implementation of the Ethiopian Water Resources Management Policy. This is certainly a good practice, and the fact that many of the Councils have been established by Regulations of the federal Council of Ministers means that legally established institutions are in place that could provide a focus for the mainstreaming of DRR into the management of rivers and watercourses in rural areas. The Councils are intended to inter alia provide policy guidance and planning oversight, examine and decide on appropriateness and prioritization of constructing major water works in the basin and water allocation rules (at normal times and at times of drought or flooding).¹⁶¹ The Authorities have a long list of duties, which mainly involve implementation of MOWE and Council policy, including administering the permit structure.¹⁶² Both Councils and Authorities are established by Regulations of the federal Council of Ministers. Several were created in 2008, for example, in the Abbay River Basin¹⁶³ and the Awash River Basin.¹⁶⁴

The power to develop a river basin plan is delegated to the river basin Authorities (both under the Proclamation and the Regulations), and the type of information the master plan should contain is specified in a relatively short list.¹⁶⁵ The same section contains the drafting 'Water related activities of stakeholders in the basin shall be made compatible with the basin plan', but the drafting is imprecise. Interviewees from federal, regional and woreda levels were unable to confirm how this is ensured in practice. No specific measures against natural hazards such as flooding are included in the Proclamation and Regulations governing the river basin Councils and Authorities.

The river basins Proclamation 197/2000 is clear when it states that 'all water resources of the country are the common property of the Ethiopian people and the state';¹⁶⁶ most of the Proclamation, however, is given over to establishing and detailing the permit structure for use of water resources in the country, and there is no detail regarding community participation or hazard management other than those already discussed in section 3.5.5 above. Similarly the water resources management proclamation of 2005 simply fleshes out the permit regime and associated fee and charge structure. This is not necessarily a negative aspect of the Proclamations, as comprehensive permit structures are essential for an efficient water sector, and the Proclamations have their place in meeting the wider strategies and policies of the government. However, for the purposes of DRR it cannot be said that the Proclamations in place allocate responsibility for, for example, riverbed management or water storage and distribution from the perspective of preventing disasters caused by natural hazards, nor do they adequately integrate community participation and management in the water sector as part of such a DRR strategy.

Community participation

Although water users' associations are promoted under the Water Resources Management Proclamation of 2000, and the establishment of water resource management cooperative societies is set

¹⁶¹ Article 6, Proclamation 534/2007

¹⁶² Article 9, Proclamation 534/2007

¹⁶³ Regulation 151/2008

¹⁶⁴ Regulation 156/2008

¹⁶⁵ See Article 18, Proclamation 534/2007

¹⁶⁶ Article 5, Proclamation, 197/2000

out in the Water Resources Management Regulations of 2005 (see above), Interviewees from community focus groups in Tigray were not aware of federal or regional water legislation or policies applicable to rural areas. A few participants were aware of the government water officials at woreda level, and all were well aware of the ongoing water projects in their areas, as local community members often work on government and/or NGO-backed projects for the community (e.g. digging of wells and bore holes).

Several interviewees both from regional government and from the Tigray focus groups raised the fact that kebele-level committees are involved in designing and issuing local 'by-laws' which touch on the management of water resources, pastures and fields, and provide important dispute resolution mechanisms in the event of disagreements between members of the community involving these issues.¹⁶⁷ These local laws are only applicable in the relevant local area (usually the kebele) and are subject to federal and regional law, but they appear to act as a very useful local tool to govern the management of local resources as well as to provide mechanisms for local dispute resolution. They also appear to be separate from the by-laws issued by Ethiopian cooperative societies under Proclamation 147/1998 (regarding the establishment of cooperative societies),¹⁶⁸ i.e. the interviewees were referring to development of by laws by the community rather than by or for a cooperative society. They are apparently kept in written form at either the kebele administration offices or the kebele court, although neither interviewees nor the kebele administration offices were able to provide examples of such documents. Unfortunately these local by-laws are not acknowledged in federal or regional legislation (and interviewees were generally unaware of their content or potential), but their existence indicates a potentially untapped source of knowledge and authority that may be able to contribute to community level DRR in Ethiopia, and certainly indicates that the capacity exists at community level to contribute to the DRR legislative framework. By working with local communities and kebele committees, context-specific DRR could be mainstreamed into such local by-laws in a participatory manner with appropriate outcomes for the local community.

In practice, many interviewees confirmed that communities are rarely consulted regarding larger water resource management and conservation projects, although invariably they will be involved in the construction of the project. This can at least partly be attributed to the fact that although Ethiopia's water sector legislation and policy refers to the need to integrate communities into water resource management and conservation, as yet it contains no concrete regulatory steps to achieve this, and does not include defined, enforceable rights and responsibilities on community involvement.

Whilst local communities generally manage their own water resources (such as local riverbeds, wells and irrigation), the lack of legal recognition of their customary or communal systems means that this can be changed at any time. Whilst the government is happy to promote community involvement, the objective appears to be to ensure the community is using modern methods in line with government policy rather than to encourage traditional, customary rules of management.¹⁶⁹ In terms of how this works in practice, in Tigray the Bureau of Water Resources worked with community members in Astbi Wonberta (East Tigray) to design local 'by-laws' regarding the selection, management and construction of water resource schemes. In practice these by-laws are the same category of legislation as the community-designed by-laws mentioned above. This demonstrates a positive attitude to community involvement but, as noted by a local interviewee, the by-laws did not take into account local customs and approaches. These local by-laws are only available in hard copy

167 All community focus groups noted the existence of local by-laws, although the groups in Shibta kebele (Enderta woreda) and Samre kebele (Samre woreda) were aware of more information regarding the content and location of such laws

168 See Article 11, Proclamation 147/1998

169 Interview with Tigray government representatives

in woreda or kebele administration offices in the local language, so unfortunately were not made available for the purposes of this study.

Gaps

When asked about gaps in policy or implementation, interviewees unanimously responded that capacity gaps remain the major limitation on their achievements. In Tigray, for example, the Bureau of Water Resources would require 18 full-time staff to adequately deal with water resource management and regulation in the region, yet it only has 3 in place, with no budget for additional staff. Some interviewees also commented that there is very little communication between the federal and regional level with regard to water resource management and policy. It also appears from this analysis that there is not a clear division of responsibilities either within or between the federal and regional levels concerning water resources. Sometimes this results in duplication of effort and sometimes in inaction. There is a clear need to better define the roles and responsibilities of the government actors in the sector, which can be assisted by providing clear legal mandates and responsibilities through legislation (ideally through Regulations or Directives). Stakeholders in Tigray also voiced concerns regarding the lack of community awareness-raising and education about water management, especially from a DRR perspective. They said that the focus is generally on demonstrations of how to manage new equipment and schemes which, while essential for immediate development needs, do not attempt to engage communities in longer-term water resource management issues and risk reduction against water-related hazards.

3.6.4. Drought & Food Security

As noted above, drought is the largest natural hazard faced by Ethiopia, and the effects and risks of drought continue to dominate the development agenda in the country. Many interviewees and commentators stressed that DRR in Ethiopia is almost wholly concerned with food security, reflected in the fact that the Food Security directorate forms one of the two directorates in the DRMFSS. Given that the majority of the disaster management and DRR activities in Ethiopia are in some way directed at combating drought, there has been no reason to issue drought-specific legislation, as drought has been the major consideration behind the development of the existing legislative framework applicable to DRR.

As has been noted above, the overall objectives of the Ethiopian Water Resources Management Policy of 1999 require the ‘managing and combating [of] drought’,¹⁷⁰ and the Water Sector Strategy of 2001 sets out a list of measures designed to combat droughts to prevent loss of life and damage to the environment.¹⁷¹ Yet neither of these documents assigns clear institutional mandates or responsibilities for these drought prevention measures, nor do they allocate accountable responsibility to protect people, livestock or crops in the face of drought.

No special mandates exist at federal or regional levels to combat drought or to maintain water reserves, although various task forces and coordinating bodies exist (for example, the drought task force in Tigray, headed by the region’s President). In practical terms there are a huge number of projects ongoing in Ethiopia.

In line with the comments made by interviewees in Tigray regarding the major gaps for DRR in water resource management, the interviewees confirmed that this was also the case in terms of their drought reduction work. The Bureau of Water Resources lacks specialist equipment to respond to

170 Section 1.2, Ethiopian Water Resources Management Policy 1999

171 Section 4.1.9(2), Ethiopian Water Sector Strategy 2001

drought (e.g. drilling rigs and water tankers), and NGOs and donors often do not have the resources to completely fill these gaps. According to local interviewees, the Tigray Bureau also has no reserve budget for times of drought, and any finances that are needed for emergencies come at the expense of other projects (including drought management) that are contributing to DRR.

3.7 DRR education & awareness

No legal framework exists in Ethiopia that assigns institutional responsibility for DRR education and awareness in schools and/or communities. Projects of this sort are ongoing in many areas in Ethiopia, although these are generally donor/NGO-led and have no basis in legislation. The National Education and Training Policy of 1994 still technically applies as Ethiopia's overall policy towards education, although it is the Education Sector Development Programs (see below), issued every four years, which provide the current practical aims and details. The Ministry of Education (MOE) oversees education policy in Ethiopia, with Education Bureaus in each region. Both policy and curriculum are set at the federal level, with certain contextual changes to the curriculum being permitted at the regional level (for example, setting of maximum class sizes, or changing information in the curriculum regarding crop cultivation to reflect regional variations).

Although the 1993 Policy acknowledged the role of the community in DRM activities, no mention was made of education matters. The NPSDRM changes this position by acknowledging that raising the levels of disaster prevention through education and public awareness will contribute to reducing the impacts of disasters.¹⁷² The following activities are proposed under the NPSDRM:

- Mainstreaming of DRM into appropriate subjects at primary and secondary schools and encouraging extra-curricular DRM activities 'to create future generations with a culture of resilience to disasters'; and
- Encouraging higher learning institutions and think tanks to conduct DRM research, and 'develop expertise, teaching modules, and cultivate a sense of professionalism for DRM'.¹⁷³

Responsibility for this DRM mainstreaming rests with the DRM Units, which are to be established at all administrative levels (i.e. from federal to kebele level). It lies within the wider aim of requiring DRM Units (and other focal bodies) to integrate DRM into existing and future local, regional and national development strategies, policies, plans and programs, with DRM education to be integrated into formal and informal systems of education at all levels, and promoted through community awareness¹⁷⁴. The Red Cross is also mentioned in the NPSDRM, although the request made of it is more about emergency response preparation than it is about involving it in DRR education and awareness: the NPSDRM wishes to encourage the Ethiopian Red Cross Society Community to 'develop the skills of youth in basic first aid and community service in times of disaster'¹⁷⁵.

The current draft of the SPIF attempts to put into action the Hyogo Framework's priority action regarding the use of knowledge, innovation and education to build a culture of safety and resilience at all levels, and states that paramount in the DRM mainstreaming effort is the establishment of a strong link with education through the integration of DRM in the school curricula at primary, secondary, and tertiary levels. The SPIF contains a summary matrix of DRM Programmes that fleshes

172 Article 3.2.1.2.5, NSPDRM

173 Articles 3.2.1.2.5.1 and 3.2.1.2.5.2, NSPDRM

174 Article 3.3, NSPDRM

175 Article 3.2.1.3.6, NSPDRM

out the general statements made earlier in the document. Community intervention is featured as an ‘intervention’ under Community DRM Programme, and DRM higher education, short courses and scholarship programs are listed as an intervention under the Capacity Development Programme. On a wider scale, the SPIF suggests the creation of a DRM communication plan ‘from the federal to the kebel levels’ to serve as the roadmap for awareness-raising on DRM in Ethiopia.¹⁷⁶ As far as interviewees were aware, none of these proposals have been put into action so far (which is somewhat unsurprising given that the SPIF remains in draft form). However, they nonetheless demonstrate a commitment to mainstreaming DRR and DRM into education at all levels (both formal and community-based). Implementation will depend on the capacity of both the DRMFSS and the MOE to coordinate this policy, and for the MOE to successfully mainstream these requirements into its own policy.

Looking at Ethiopia’s current Program Action Plan for the Education Sector Development Program IV (Education Sector PAP), which covers the period 2010/2011 – 2014/2015, it is clear that both environmental considerations (which can support DRR) and the issue of education in emergencies have at least been integrated into education sector policy, if not practice. This indicates that there will potentially be room and enthusiasm for the inclusion of DRR education and awareness-raising within the MOE’s policy (although no interviewees at the MOE were available for comment during the project country visit). Both environmental education and protection and education in emergencies are included in the Education Sector PAP as ‘cross-cutting’ programmes; DRR could conceivably fit into this category due to its multi-sector nature.

The question of inclusion of DRR in education must be placed in the context that, outside of the major cities in Ethiopia, access to even basic education is still a concern. Interviewees suggested that, despite the Education Sector PAP and related initiatives, it is difficult to roll out cross-cutting issues on a national scale when there are large gaps in capacity, funding and provision of basic education. In Tigray, for example, it was confirmed that children received education on environmental protection, and after-school clubs existed to educate children on areas such as the environment and child rights. But interviewees noted that these have little effect if children are being prevented from attending school by their parents in order for them to, for example, gather crops from family or village land. It is for this reason that many NGO projects in Tigray focus on income diversification schemes, to provide an alternative income for families (e.g. dairy cows, so that the family may sell milk and butter) who otherwise suffer from poor crop yields and are therefore more likely to keep their children out of school so that they may generate an additional income for the family.

Knowledge and Capacity Enhancement for DRM

A positive initiative to increase Ethiopia’s knowledge and capacity in DRM generally has been the establishment of a new Department of Disaster Risk Management and Sustainable Development in the Faculty of Agriculture and Environmental Sciences at Bahir Dar University (BDU). This is a response to an identified need to build more resilient communities through strengthened capacity and sustainable development in Ethiopia. A three-year interdisciplinary undergraduate curriculum was created in 2005 by a joint committee of experts,¹⁷⁷ which is now being supplemented by an interdisciplinary Master of Science program in Disaster Risk Science and Sustainable Development.¹⁷⁸ The curriculum is structured broadly to have both a DRR component that develops the skill to assess the underlying vulnerabilities of different livelihood systems, contributing to sustainable development, and a reactive component that addresses all stages of the disaster risk cycle.

176 See Matrix 1, DRM Programmes Summary, SPIF

177 BDU, Save the Children -UK and Canada - and DPPC.

178 Funded by USAID.

Such applied research and studies on DRM-related issues conducted by BDU and other Ethiopian research institutes – such as the Ethiopian Development Research Institute (EDRI) and the Ethiopian Institute of Agricultural Research (EIAR) – are an important element in building the capacity of local institutions, including their capacity to implement legal and policy frameworks on DRR.

4. Conclusions and observations

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4. Conclusions and observations

Ethiopia possesses a well-developed policy framework for DRR, with a relatively wide legal framework already in place, but with some major gaps in provision and implementation evident. Many of the laws and policies in place set out good practices, especially in terms of promoting community involvement in legal processes such as EIA and in natural resource management, as well as providing relatively strong legal frameworks for areas such as building codes. However, arguably the policy framework in Ethiopia is almost too extensive and whilst the various policies in place set ambitious goals and requirements for different sectors and Ministries, this has not yet been transposed into enforceable legislation. Whilst the political stability of Ethiopia provides the prospect of policy continuity, much of the good will of the policies in place remains unrealized.

Ethiopia is also relatively unique in that, at least as legal frameworks for DRR are concerned, the usual approach of issuing policy based on overarching legislation is reversed. In Ethiopia Proclamation 10/1995 (as amended) governs the powers of the Disaster Prevention and Preparedness Commission (which have now been transferred to the DRMFSS under the MOA) but other than the general powers given to Ministries under Proclamation, it is the national policies which are considered the framework for the legal implementation of DRR and DRM, with legislation issued and enacted to enforce the implementation of policy¹⁷⁹. It remains to be seen whether new legislation is in fact issued on the basis of the NPSDRM, although the present difficulty in passing the NPSDRM (and the fact that no Proclamations or Regulations related to DRR or DRM (other than those creating institutional changes) have been issued since 1995) does not bode well for this process.

The NPSDRM and the corresponding shifts in the structure of disaster management institutions at federal level represent very positive moves away from a strictly hierarchical, drought-focused approach to DRR, towards a multi-sector and multi-hazard approach with much more emphasis on the delegation of powers to the regional and local levels, as well as community involvement. Furthermore the NPSDRM makes a clear and necessary link between relief work and development. However there is a risk that the current momentum behind DRR policy in Ethiopia will be lost if the NPSDRM is not approved soon, as it is important to ensure the much-needed marriage of practice and policy.

While coordination between the MOA and other government ministries is still minimal, the draft framework is now in place to implement the mainstreaming of DRR into key areas. However, at present the overlapping mandates, as well as gaps in capacity, are preventing this mainstreaming from happening in practice, despite much positive language in national policies. Effective implementation of the NPSDRM would seem to require a timely resolution of the issues of institutional structure and authority for the DRMFSS at a federal level.

The following sections note some specific examples of both good practices as well as gaps in the legal framework, and draw attention to the effectiveness of community level implementation.

4.1. Good practices and examples

Federal-level coordination mechanisms: the current structure of the DRMFSS is an extremely positive departure from the former centralized legacy of the Relief and Rehabilitation Commission and the Disaster Prevention and Preparedness Commission/Agency. Stakeholders from government min-

179 Article 1.10, NPSDRM

istries, UN agencies, donors, NGO and civil society are actively encouraged to play a part in the various thematic task forces, and to participate in the seasonal assessments which determine response levels and projects throughout Ethiopia (although many would say that these assessments would not be possible without the capacity of these actors). It is hoped that this structure will be formalized and further developed once the NPSDRM is approved, and this may provide needed impetus for the DRMFSS to increase its levels of consultation.

Early Warning System and Risk Mapping: many commentators and interviewees rightly mentioned that Ethiopia has one of the most sophisticated EWS in Africa, with an extensive reporting network, together with the use of relatively sophisticated technology such as LEAP, feeding into the DRMFSS' Early Warning and Response Directorate. Although the 1993 Policy is relatively thin on detail (and has effectively been superseded by institutional changes over the last 20 years), the draft NPSDRM sets a good policy framework for the national EWS. The upcoming establishment of a modern Emergency Coordination Centre will hopefully be a catalyst for faster information sharing especially from the federal to the regional and local levels, provided that communications infrastructure and capacity is in place at all levels. Although the risk profiling process has critics with justified objections, the DRMFSS is nonetheless overseeing an extensive programme of information collection and analysis which involves communities, and which is contributing to a significant national database on risks from natural hazards and regional and temporal trends.

Building Codes: the existence and implementation of a series of detailed building codes in Ethiopia is a clear example of a good practice. Notably, Building Code EBCS-8 deals specifically with the design of structures for earthquake resistance and therefore contributes directly to DRR efforts. Whilst gaps in implementation and enforcement are apparent, the existence of these codes provides a strong legal framework for safe building.

Local community 'by-laws': interviews with community focus groups in Tigray revealed that kebele-level committees are involved in designing and issuing local 'by-laws' which cover areas such as the management of water resources, pastures and fields, and provide important dispute resolution mechanisms in the event of disagreements between members of the community involving these issues. Their existence indicates a potentially untapped source of knowledge and authority that may be able to contribute to community level DRR in Ethiopia, and certainly indicates that the capacity exists at community level to contribute to the DRR legislative framework. By working with local communities and kebele committees, context-specific DRR could be mainstreamed into such local by-laws in a participatory manner with appropriate outcomes for the local community.

Community participation reflected in legislation and policy: although this is discussed in more detail in section 4.3 below, several pieces of important legislation prioritise community involvement and participation, both as important steps in legal processes (e.g. EIA) or as a means of resource management in its own right (e.g. forest and water resource management). That legislation contains such drafting is undoubtedly a good practice that provides a firm basis for future implementation.

Legal framework for Environmental Impact Assessments: The extent of legal regulation of EIA in Ethiopia can be considered a good practice. Overall responsibility is clearly set out in Proclamation 295/2002 which establishes the Environmental Protection Agency, with Proclamation 299/2002 providing a strong legal framework for the EIA process in Ethiopia. These are backed by a detailed series of guidelines that cover various types of projects, and considerations relevant to DRR and community involvement are given appropriate weighting (with the full requirements to consider social,

ecological and environmental impacts being wide enough to consider DRR when assessing a project). Legal framework for land tenure, registration and planning: the extent of regulation covering land tenure, registration and planning provides a solid legal framework on which further legal mechanisms for DRR in Ethiopia could be built. Issues of soil and water conservation are considered under Proclamation 456/2005 concerning land use in rural areas, whilst for urban areas the need for public participation, transparency and accountability is emphasized under Proclamation 574/2008. In addition, whilst relatively wide powers are granted to urban centres and regional administrations to prepare and review urban plans, which could provide a realistic mechanism for community participation and specific DRR considerations to be mainstreamed into the planning process.

4.2. Gaps in the legal framework for DRR

NPSDRM remains in draft form: the fact that the major DRM policy document has remained in draft form for several years is a major gap in the Ethiopian regulatory framework for DRR. Interviews with stakeholders revealed that some NGOs are actively holding back from implementing DRR programmes due to uncertainty over the new structure, which, whilst confirmed as near-final by the government, still presents a risk of change, and therefore a risk to projects.

Accountability and responsibility: despite the positive wording and ambitions of the NPSDRM, no legal mechanisms exist to ensure responsibility and accountability of individuals or entities for, for example, failing to act in accordance with their mandates, failing to warn of disasters, or damage to property. Providing a strong legal framework to ensure accountability and responsibility for DRR could create confidence in the government as well as encourage high performance for those involved in the sector, and it is hoped that the 'enabling legislation to strengthen the mechanisms for accountability' referred to in the NPSDRM will soon be put in place.

Need to translate policy into legally binding mechanisms: as noted in section 4.1 above, there is a very large amount of positive legal drafting in Ethiopia that promotes DRR and community participation, mainly in the various sectoral policy documents that have been issued. However, in all areas these good practices encounter difficulties in implementation, whether this relates to the lack of clarity surrounding policy wording - not assigning sufficient clarity and institutional responsibility to ensure action - or to capacity gaps causing implementation to be limited in practice. To build on the policies in place by creating legally enforceable rights and legally recognized mechanisms would hopefully contribute significantly to DRR in Ethiopia.

Disconnect between DRR and Climate Change institutions: partly because DRR and climate change adaptation are cross-sectoral approaches, the DRMFSS and the EPA hold overlapping mandates, which is not being resolved on a practical level. Stakeholders commonly referred to the need for the two institutions to coordinate their strategy and programmes, and comments from donors indicated that the lack of a joined-up strategy is causing fear and hesitation in pushing forward with DRR projects. Greater clarity in the legal mandates and responsibilities of these institutions could assist in resolving the coordination issue.

Capacity: the gaps in capacity at federal, regional and community level were by far the most common limitation that interviewees referred to. These gaps are especially prevalent in the water, environment and building sectors, where a lack of trained staff results in poor implementation and enforcement of legislation, and therefore an inability to contribute to DRR, but were also noted by

interviewees at the DRMFSS and almost every other organization interviewed. These gaps mean that the aims of current legislation and policy are often frustrated and if they are not properly addressed there is a real risk that implementation of the NPSDRM will be equally frustrated. It was also suggested that successful implementation of the NPSDRM will require the development of a detailed strategic framework and implementation plan.¹⁸⁰

4.3. Effectiveness of community level implementation

Good practices

The current legal framework in Ethiopia contains many notable positive aspects regarding the promotion of community involvement in areas related to DRR, all of which can be considered good legal practice:

- The draft NPSDRM places importance on the role of the community and of decentralizing DRM functions to the local level. This represents an important break with the over-centralised system of the past which only referred to community participation, rather than setting out any strong guiding recommendations or principles.
- The EWS and risk mapping procedures heavily involve local communities and ensure that their input is factored into the system and the risk profiles created.
- The planning process requires the involvement of local communities at every step of the procedure, and sets out a strong framework requiring transparent public hearings, and proactive communications to kebele councils and community-based organizations.
- Environmental protection legislation contains very positive language encouraging the involvement of communities, and seeking to involve local communities in all phases of environmental and resource development and management. Legislation covering EIA also reflects the importance of community participation in the EIA process.
- A system of local by-laws seems to work well in practice, and not only raises awareness of legal issues in communities but also involves the communities themselves in the design of locally appropriate legislation. This has also been done with the collaboration of local government, as in East Tigray, and this form of collaborative approach represents a very good practice that could be used to promote DRR and appropriate local legal frameworks for DRR within communities.

Gaps

Although both current and proposed DRM law in Ethiopia requires the DRM and EWS structures to extend down to kebele level, research for this study indicates that the implementation of this requirement has had variable success. While many communities are actively involved in DRR activities, through either 'food for work' elements of the PSNP or by contributing to NGO or donor-led development projects in their kebele, their knowledge of law and policy is, at least in the groups interviewed in Tigray, non-existent and the communities suffered from a severe lack of communication regarding DRR projects and awareness. There is a risk that the kebele development agents can form a bottleneck in this regard, and they are constrained by understandable practical limitations, however it was clear that the various committees organized at kebele level were not disseminating information regarding DRR to the wider community. Many commentators and interviewees acknowledged that whilst information is quick to flow up from community to federal level, information is extremely slow to travel in the opposite direction.

Despite the positive language in legislation and policies noted above regarding the necessity and benefits of community participation, the lack of actual involvement of the community in legal processes such as EIA, planning and forest management, as well as the limited amount of information that reaches communities regarding DRR (among other things) remains a major gap in implementation. Partly this can be attributed to lack of capacity in government ministries and institutions (as outlined above). However as suggested by some interviewees, the attitudes of government employees at all levels towards community participation must change if it is to be realized in accordance with the aims of current legislation and policy. Part of the answer must also rest with the fact that despite positive wording in overarching legislation and policy, this rarely translates into clear and realizable guidance (for example, directives or guidelines) for the implementing authorities. In the absence of such clear guidance, it is very difficult for those involved in implementation at the regional and local levels to second guess how the intention of a piece of legislation translates into action, especially in the hierarchical structures of Ethiopian government.



Annex A: List of persons and groups consulted



Annex A: List of persons and groups consulted

Government of Ethiopia

Addis Ababa

Ministry of Agriculture, DRMFS (Early Warning and Response Directorate) – Animesh Kumar, Program Adviser (seconded from UN WFP)

Ministry of Agriculture, DRMFS (Early Warning and Response Directorate) – Belefu Tefera, Senior Early Warning Expert

Ministry of Agriculture, DRMFS (Early Warning and Response Directorate) – Jose Manzano, DRR Recovery Adviser (seconded from UNDP)

Ministry of Agriculture, DRMFS (Early Warning and Response Directorate) – Rahel Asfaw, Senior Resource Mobilisation Expert, and Acting Director of the Early Warning and Response Directorate

Ministry of Agriculture, DRMFS (Early Warning and Response Directorate) – Beyene Sebeko, Senior Forest Fire Monitoring Expert

Environmental Protection Authority – Wondwossen Tadesse, Environmental Regulation Expert

Ministry of Communications and Information Technology – Mulat Agumas, Team Leader, Telecommunications Standards and Regulation Team

Ministry of Urban Construction and Development – Dr. Yoseph, Head of Construction Regulation division

Ministry of Urban Construction and Development – Israel Tesfaye, Head of Land Development and Management

Ministry of Water and Energy – Abebe Gulma, Emergency WASH Coordinator

Ministry of Women's Affairs – Alemaw Mamo, Public Relations and Communications Officer

Ministry of Women's Affairs – Minyamir Yitayih, Gender Mainstreaming Expert

Tigray region

Amdi Weyane Kebele, Saharti Samre Woreda – Gidey Tefara, Kebele Administrator

Amdi Weyane Kebele, Saharti Samre Woreda – Teodras Brihanu, Kebele Development Agent

Bureau of Agriculture and Rural Development – Aynalem Hagos, Team Leader, Forest Utilisation and Protection Department

Bureau of Agriculture and Rural Development – Masfin Woldu, Core Process Owner for Early Warning and Food Security

Bureau of Water Resources – Zeleacem Fisseha, Core Process Owner for Water Resource Management

Land Use and Administration Agency – Kiros G/Selassie, Head of Environmental Protection

Office of Agriculture and Rural Development, Enderta woreda – Haile Hagos, Head of Office

Office of Water Resources, Saharti Samre Woreda – Hailay Gabre, Head of Office

United Nations

UN OCHA – Mike McDonagh, Head of Office, and Kristen Knutson, Public Information and Reports Officer and Head of Information and Analysis section

UN WFP – Abdou Dieng, Country Director, Lynne Miller, Deputy Country Director, and Eric Branckaert, Senior Information Management Officer

UNDP – Sinkinesh Beyene, Team Leader for Climate Change and Vulnerabilities, and Tekele Teshome, Program Analyst, Food Security and Recovery

UNESCO – Demelesh Zenebe Woldu, Consultant Education Specialist

UNICEF – Awoke Moges, Emergency Officer

Red Cross and Red Crescent Movement

ERC – Frehiwot Worku, General Secretary

ERC – Kefay Baye, Head of Disaster Management, and Kassahun Mariam, Disaster Prevention and Preparedness Officer

ERC Oromia Branch – Mohammed Deda Aliey, Secretary General

ERC Tigray Branch – Brihanu Mekonen, Branch Secretary

IFRC Ethiopia – George Gigiberia, Country Representative

NGOs, INGOs and Donors

African Climate Change Resilience Alliance – Charlotte Stemmer, ACCRA Lead (seconded from Oxfam UK) and Medhin Fissaha, Project Advisor

DFID – Shaun Hughes, Senior Humanitarian Adviser

ECHO – Johann Hefinck, Head of Office, and Yohannes Regassa, Programme Officer

Relief Society of Tigray – Dawid Woldelibanos, Head of PSNP and Acting Head of Planning and Coordination

Relief Society of Tigray – Muez Muruts, Relief and Rehabilitation Coordinator

Save the Children International – Dan Walden, Disaster Risk Reduction Expert

Save the Children International, Tigray – Alem Brihane, Food Security Program Coordinator

Save the Children International, Tigray – Kahsay Kefey, Education Officer

USAID – John Graham, Senior Policy and Strategic Analysis Adviser

Community focus groups, Tigray

Two village communities were visited in Enderta Woreda: one women's focus group in Didiba Kebele, and one community focus group in Shibta Kebele.

Two village communities were visited in Saharte Samre Woreda, both in the Samre Town Kebele: one women's focus group and one community focus group.

The project consultant was accompanied by Zeru Teha, Programme Officer for the ERC in Tigray, who also provided translation services.



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Annex B: Bibliography

A. List of Laws

i. Proclamations

- Proclamation No. 1/1995 – Constitution of the Federal Democratic Republic of Ethiopia Proclamation, 21st August 1995
- Proclamation No. 10/1995 – Disaster Prevention and Preparedness Commission Establishment Proclamation, 24th August 1995, as amended by Proclamation No. 383/2004 and Proclamation No. 593/2008
- Proclamation No. 491/1996 – Telecommunications Proclamation, 28th November 1996, as amended by Proclamation No. 281/2002
- Proclamation No. 147/1998 – Cooperative Societies Proclamation, as amended by Proclamation No. 402/2004
- Proclamation No. 153/1999 – Revised Charter of the Ethiopian Red Cross Society Proclamation, 9th February 1999
- Proclamation No. 197/2000 – Ethiopian Water Resources Management Proclamation, 9th March 2000
- Proclamation No. 212/2000 – National Disaster Prevention and Preparedness Fund Establishment Proclamation, 4th July 2000
- Proclamation No. 272/2002 – Re-enactment of Urban Lands Lease Holding Proclamation, 14th May 2002
- Proclamation No. 280/2002, Investment Proclamation
- Proclamation No. 281/2002 – Telecommunications (Amendment) Proclamation, 2nd July 2002
- Proclamation No. 295/2002 – Environmental Protection Organs Establishment Proclamation, 31st October 2002
- Proclamation No. 299/2002 – Environmental Impact Assessment Proclamation, 3rd December 2002
- Proclamation No. 300/2002 – Environmental Pollution Control Proclamation, 3rd December 2002
- Proclamation No. 370/2003 – Condominium Proclamation, 11th September 2003
- Proclamation No. 491/2003 – Construction Training Proclamation
- Proclamation No. 383/2004 – Disaster Prevention and Preparedness Commission Establishment (Amendment) Proclamation, 13th January 2004
- Proclamation No. 402/2004 – Cooperative Societies (Amendment) Proclamation
- Proclamation No. 442/2005 – Central Statistics Agency Establishment Proclamation
- Proclamation No. 450/2005 – Federal Urban Planning Institute Proclamation, 24th June 2005
- Proclamation No. 455/2005 – Expropriation of Landholdings for Public Purposes and Payment of Compensation Proclamation, 15th July 2005
- Proclamation No. 456/2005 – Federal Democratic Republic of Ethiopia Rural Land Administration and Land Use Proclamation, 15th July 2005
- Proclamation No. 464/2005, Protection of Telecommunications and Electric Power Networks
- Amhara State Proclamation No. 133/2006 – Revised Rural Land Administration and Urse Determination Proclamation

- Oromia State Proclamation No. 130/2007 to amend the Proclamation No. 56/2002, 70/2003, 103/2005 of Oromia Rural Land Use and Administration
- Proclamation No. 534/2007 – River Basin Councils and Authorities Proclamation, 23rd July 2007
- Proclamation No. 542/2007 – Forest Development, Conservation and Utilization Proclamation
- Proclamation No. 574/2008 – Urban Planning Proclamation, 16th May 2008
- Proclamation No. 593/2008 – Transfer of Rights and Obligations of Disaster Prevention and Preparedness Commission to the Ministry of Agriculture and Rural Development Proclamation, 11th August 2008
- Proclamation No. 624/2009 – Ethiopian Building Proclamation, 6th May 2009
- Proclamation No. 691/2010 – Definition of Powers and Duties of the Executive Organs of the Federal Democratic Republic of Ethiopia Proclamation, 27th October 2010
- Proclamation No. 721/2011 – Urban Lands Lease Holding Proclamation, 28th November 2011
- Proclamation 723/2011, Amendment to definition of powers and duties of the Executive Organs of the Federal Democratic Republic of Ethiopia

ii. Regulations

- Regulation No. 471/1999 – Telecommunications Services, 27th April 1999
- Regulation No. 115/2005 –Ethiopian Water Resources Management Regulations, 29th March 2005
- Amhara State Regulation No. 51/2007 – Amhara Regional State Rural Land Administration and Use System Implementation Proclamation
- Regulation No. 151/2008 – Abbay Basin High Council and Authority Establishment
- Regulation No. 156/2008 – Awash Basin High Council and Authority Establishment
- Regulation No. 197/2010 – Establishment of Ethio-Telecom as a public enterprise
- Regulation No. 243/2011 – Council of Ministers Building Regulation, 24th May 2011

iii. Policies, Strategies and other Government-issued documents

- Directives for Disaster Prevention and Management, Transitional Government of Ethiopia, October 1993 ('the 1993 Policy')
- Education and Training Policy, Federal Democratic Republic of Ethiopia, April 1994
- Education Sector Development Program IV (2010/2011 – 2014/2015) Program Action Plan, Ministry of Education of the Federal Democratic Republic of Ethiopia, 2010
- Environmental Impact Assessment Guideline Document, Federal Democratic Republic of Ethiopia Environmental Protection Authority, May 2000 (Final Draft)
- Environmental Impact Assessment Procedural Guideline Series 1, Federal Democratic Republic of Ethiopia Environmental Protection Authority, November 2003 (Draft)
- Environmental Policy, Environmental Protection Authority in collaboration with the Ministry of Economic Development and Cooperation, April 1997
- Environmental Protection Authority, Guidelines for Dams and Reservoirs, April 2011
- Environmental Protection Authority, Guidelines for Social, Environmental and Ecological Impact Assessment and Environmental Hygiene in Settlement Areas, 2004
- Environmental Protection Authority, Guidelines for Social, Environmental and Ecological Impact Assessment and Environmental Hygiene in Settlement Areas, 2004

- Ethiopian Water Resources Management Policy, Ministry of Water Resources of the Federal Democratic Republic of Ethiopia, 1999
- Ethiopian Water Sector Policy, Ministry of Water Resources of the Federal Democratic Republic of Ethiopia, 2001
- Ethiopian Water Sector Strategy, Ministry of Water Resources of the Federal Democratic Republic of Ethiopia, 2001
- Forest Development Policy and Strategy, Ministry of Agriculture and Rural Development, 2007 (undated translation of Amharic original)
- General Guidelines for the Implementation of the National Policy on Disaster Prevention and Management, Transitional Government of Ethiopia, July 1995
- Ministry of Agriculture and Rural Development, Ethiopia's Agriculture Sector Policy and Investment Framework: Ten Year Road Map (2010-2020) (Draft), 3rd May 2010
- Ministry of Agriculture, Women's Affairs Directorate, Guidelines for Gender Mainstreaming in Agricultural Sector: Early Warning and Response System
- Ministry of Finance and Economic Development, Growth and Transformation Plan (GTP) 2010/11-2014/15 (Draft), September 2010
- National Gender Audit Manual, Federal Democratic Republic of Ethiopia Ministry of Women, Children and Youth Affairs, June 2012
- National Gender Mainstreaming Guidelines, Federal Democratic Republic of Ethiopia Ministry of Women's Affairs, September 2010
- National Policy and Strategy on Disaster Risk Management (Draft Document), Federal Democratic Republic of Ethiopia, March 2009
- National Policy and Strategy on Disaster Risk Management (Draft Document), Federal Democratic Republic of Ethiopia, Version 10, May 2010
- National Policy on Disaster Prevention and Management, Transitional Government of Ethiopia, October 1993

iv. Codes

- Ethiopian Building Code Standard 1: Wind analysis and design of buildings (EBCS 1-95)
- Ethiopian Building Code Standard 2: Structural use of concrete (EBCS 2-95)
- Ethiopian Building Code Standard 3: Design of steel structures (EBCS 3-95)
- Ethiopian Building Code Standard 4: Design of composite steel and concrete structures (EBCS 4-95)
- Ethiopian Building Code Standard 5: Utilisation of timber (EBCS 5-95)
- Ethiopian Building Code Standard 6: Design of masonry structures (EBCS 6-95)
- Ethiopian Building Code Standard 7: Foundations (EBCS 7-95)
- Ethiopian Building Code Standard 8: Design of structures for earthquake resistance (EBCS 8-95)
- Ethiopian Building Code Standard 9: Plumbing services (EBCS 9-95)
- Ethiopian Building Code Standard 10: Electrical installation (EBCS 10-95)

B. List of Secondary Sources

- Federal Democratic Republic of Ethiopia: Ministry of Agriculture and Rural Development, *Ethiopia's Agriculture Sector Policy and Investment Framework: Ten Year Road Map (2010-2020)*, Draft, 3rd May 2010
- Amber Meikle, *Ethiopia – Country Level Literature Review*, African Climate Change Resilience Alliance March 2010. <http://community.eldis.org/.59d669a7/Final%20Ethiopia%20Policy%20Review.pdf>
- BBC News, *The Dam that divides Ethiopians*, 26 March 2009 <http://news.bbc.co.uk/2/hi/africa/7959444.stm>
- Daniel Weldegebriel Ambaye, *Informal Settlement in Ethiopia, the Case of two Kebeles in Bahir Dar City*, FIG Working Week, May 2011. http://www.fig.net/pub/fig2011/papers/ts06d/ts06d_ambaye_5096.pdf
- Deressa, Hassan, and Ringler, *Measuring Ethiopian Farmers' Vulnerability to Climate Change Across Regional States*, International Food Policy Research Institute 2008. <http://www.ifpri.org/publication/measuring-ethiopian-farmers-vulnerability-climate-change-across-regional-states>
- Disaster Prevention and Preparedness Commission, Federal Democratic Republic of Ethiopia, *National Information on Disaster Reduction: Report for the World Conference on Disaster Risk Reduction (Kobe-Hyogo, Japan, 18-22 January 2005)*, July 2004. <http://www.unisdr.org/2005/mdgs-drr/national-reports/Ethiopia-report.pdf>
- Disaster Risk Management and Food Security Sector, Ministry of Agriculture, *Progress on the Development of DRM Strategic Programme and Investment Framework*, 2011 (presentation). http://www.dppc.gov.et/Pages/DRR_day2011.html
- Dr Kassahun Bedada Beyi, 'The Evolution of Ethiopian Government's Early Warning System', in *Field Exchange Issue 40*, February 2011. <http://fex.enonline.net/40/contents>
- Early Warning and Response Directorate, Disaster Risk Management and Food Security Sector, Ministry of Agriculture, *The State of Affairs of operationalising the new DRM approach in Ethiopia*, December 2011. <http://www.ifrc.org/en/what-we-do/idrl/meetings-and-events/past-events/workshop-on-disaster-law-and-the-drought-relief-operations-in-the-horn-of-africa-17-19-april-2012/>
- Federal Democratic Republic of Ethiopia Ministry of Women's Affairs, UNIFEM and the Population Council, *To be Counted is to be Included: Women and Men of Ethiopia in National Statistics*, September 2010
- Global Facility for Disaster Reduction and Recovery, *Disaster Risk Management Programs for Priority Countries (Ethiopia)*, 2009. http://www.gfdrr.org/gfdrr/DRM_CountryPrograms_2011
- HE Mitiku Kassa, Minister of State for Agriculture, DRMFSS, Federal Democratic Republic of Ethiopia, *Official Statement by the Federal Democratic Republic of Ethiopia to the Third Session of the Global Platform for Disaster Risk Reduction (Geneva, Switzerland, 8-13 March 2011)*. <http://www.preventionweb.net/globalplatform/2011/programme/statements/>
- Human Rights Watch, *Ethiopia Country Summary*, January 2012
- Jean Ziegler, *Economic, Social and Cultural Rights, The right to food: Report of the Special Rapporteur on the right to food (addendum)*, United Nations Economic and Social Council, 8 February 2005. <http://www.righttofood.org/new/PDF/Ethiopia.pdf>
- Klaus Deininger, Daniel Ayalew Ali, Stein Holden, Jaap Zevenbergen, *Rural land certification in Ethiopia: Process, initial impact and implications for other African countries*, World Bank Policy Research Working Paper 4218, April 2007
- Melessie Damtie and Mesfin Beyou, *Overview of Environmental Impact Assessment in Ethiopia*, January 2008. <http://www.melca-ethiopia.org/images/stories/Publication/Overview%20of%20EIA-book.pdf>
- Meskir Tesfaye, *Environmental Policy and Laws of Ethiopia and Clean Fuel*, 2008 (presentation). <http://hqweb.unep.org/transport/pcf/pdf/Ethiopia-EnvironmentalPolicy&CleanFuel.pdf>

- Ministry of Agriculture and Rural Development (SLM Secretariat), *Ethiopian Strategic Investment Framework for Sustainable Land Management*, October 2008.
- Mulugeta Abebe, 'Emerging trends in disaster management and the Ethiopian experience: genesis, reform and transformation', in *Journal of Business and Administrative Studies*, Vol. 1, No. 2, pp 60-89, 2009 <http://www.ajol.info/index.php/jbas/issue/view/7514>
- Preventionweb, *Interim National Progress Report on the implementation of the Hyogo Framework for Action (2011-2013)*, 2 October 2012. <http://www.preventionweb.net/english/hyogo/progress/reports/v.php?id=28830&pid:223>
- Rolls and Martin, *The Role of Affected States in Humanitarian Action: An Ethiopian Case Study*, Humanitarian Policy Group and the Overseas Development Institute, February 2007 (unpublished draft)
- Samuel Kinde Kassegne, *Proposed Considerations for Revision of EBCS-8: 1995 for Conservative Seismic Zoning and Stringent Requirements for Torsionally Irregular Buildings* (undated). http://digitaladdis.com/sk/SK_Zede_EthioSeismicCode_Reconsiderations_TorsionalAnalysis.pdf
- Solomon Abebe, 'Land Registration System in Ethiopia: Comparative Analysis of Amhara, Oromia, SNNP and Tigray Regional States', in *Proceedings of a National Conference on Standardization of Rural Land Registration and Cadastral Surveying Methodologies*, pp 165-188 <http://eltap.net/conference.asp>
- Sustainability Institute, *Review of International & African Climate Change Legislation and Policies (AWEPS Parliamentary Support Program in South Africa)*, 30th March 2012. http://www.sustainabilityinstitute.net/newsdocs/document-downloads/doc_details/551-review-of-climate-change-legislation-and-policies?tmpl=component
- Takele Soboka Bulto, 'Judicial Referral Of Constitutional Disputes In Ethiopia: From Practice To Theory', in *African Journal of International and Comparative Law*, Volume 19, No. 1, pp 99-123, April 2011 http://papers.ssrn.com/sol3/papers.cfm?abstract_id=1485939
- Tigistu Gebremeskel Abza, *Experience and Future Direction in Ethiopian Rural Land Administration*, paper presented at the Annual World Bank Conference on Land and Poverty, April 2011. <http://sitersources.worldbank.org/INTIE/Resources/475495-1302790806106/AbzaPres1.pdf>
- UN HABITAT, *Ethiopia Urban Profile*, 2008
- USAID, *Comparative Assessment of Decentralisation in Africa: Ethiopia Desk Study*, July 2010. http://transition.usaid.gov/our_work/democracy_and_governance/publications/pdfs/ethiopia_desk_study.pdf
- World Bank, *Environmental and Social Management Framework (Ethiopia Disaster Risk Management Country Plan Project, Phase I)*, 14 June 2011. <http://www.worldbank.org/projects/P129151/ethiopia-disaster-risk-management-country-plan-project-phase?lang=en>
- World Food Program and Oxfam America, *R4 Rural Resilience Initiative: Partnership for resilient livelihoods in a changing climate*, undated. <http://www.oxfamamerica.org/files/r4-rural-resilience-initiative.pdf>

C. Customary Laws

- Interviews with community focus groups in Tigray revealed that kebele level by-laws exist, governing matters such as the local management of water resources, use of pastures and grazing rights. These by-laws are drafted by the kebele committee with input from the wider community as necessary, and are kept at either or both of the kebele administration offices or the kebele court building.

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