



Land tenure insecurity in post-certification Amhara, Ethiopia

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ABSTRACT

It is generally believed that tenure security has improved due to the programme of land certification. In this paper I argue the opposite. Tenure security concerns three different rights: possession, renting and latent rights. Rights of possession are believed to have improved, but the evidence is weak and conflicting. Land rentals are expanding and farmers face high tenure insecurity. The main problem, though, is latent rights, with great insecurity and increased conflict levels. Despite rapid economic development there is considerable social malaise, an unfortunate agricultural structure, and considerable pressure for land redistribution due to unresolved land tenure issues. The paper is based on the certification literature and primary material from North Shäwa.

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1. Introduction

Land registration and certification has taken place on a grand scale in most parts of Ethiopia. Tegray region was first out, but the Amhara, Oromiya and SNNP regions implemented similar reforms in the early 2000s. This is part of an international trend, a second wave of land reforms aiming at land titling, tenure security and marketability, a marked contrast to the concerns of the 1960s to abolish exploitation by large landowners. Titling reforms, while theoretically sound, have often had disappointing results. They have been expensive and led to corruption and land grabbing, not the least in Africa. By contrast, the Ethiopian reform stands out by efficient implementation, peasant participation and basic social fairness. Deininger, World Bank expert on land reforms, concluded that 'large-scale and rapid delivery of land certificates in a participatory way is possible' and saw the Ethiopian reform as a potential model (Deininger et al., 2007: 19).

There were also some critical voices. Many reports raised problematic issues, although usually of a somewhat technical nature—like the lack of precise measurements and the challenges of keeping the records up-to-date. A more fundamental issue was raised by Dessalegn Rahmato: the land certificates did not change the nature of peasant rights-in-land, which are still limited to use rights (Dessalegn, 2008a: 219; Dessalegn, 2009: 52). This was taken one step further by Chinigò, who argued that land certification is 'a deeply political project' (Chinigò, 2015: 186). He left aside the economic aspects of the reform and saw certification as part of a policy

to strengthen administrative control over the peasantry. The control aspects are certainly strong in the recent legislation, but in the current paper I shall focus on the social and economic implications, notably land conflicts and tenure insecurity.

The early studies of certification focused on potential problems of implementation, especially to what extent women and poor people had lost out. The conclusions were overwhelmingly positive. This is not surprising since these issues have been policy concerns for some decades, and they were very prominent in the legislation regulating the reform.¹

The impact on tenure security, on the other hand, was in the early stages more based on beliefs and ideology than on evidence. The international economists who wrote these reports presented the theoretical arguments that land titling should lead to increased tenure security and thus create good conditions for investments. Several Ethiopian researchers, on the other hand, thought that tenure security had not improved (Berhanu and Fayera, 2005: 21–22, 26–27; Dessalegn, 2008b: 139, 145; Birhanu and Mamo, 2010: 87–88). But soon there were a number of studies claiming to show various positive impacts on tenure security and economic development. They found improved tenure security, increased investments in the land (Deininger et al., 2011: 323–26; Abate et al., 2012: 263–64), and a better-functioning land market, specifically

¹ The relevant legal documents have been published in a book which has been widely distributed to local administrations (*qäbälé*). The book (Amhara Region, 2010) consists of three sections: Proclamation (Amhara Region, 2006), Regulation (Amhara Region, 2007), and Directives (Amhara Region, 2008), hereafter referred to as Proclamation, Regulation and Directives.

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more land rentals (Holden, 2007: 15; Holden, 2011: 33; Deininger et al., 2011: 326–29).²

On this background, it is easy to think that certification led to tenure security and that this paved the way for the recent economic upsurge in Ethiopia, with strong growth also in the agricultural sector. However, a critical review of the literature would show that the evidence is far from conclusive. In the current study I shall not discuss the literature in any depth, but rather present an alternative take on current issues of tenure security.

For me, tenure insecurity became an urgent research issue during a brief field visit to Ethiopia in November 2014. The intention was mainly to follow up impressions from 2012 that my ‘home area’, Wäyr Amba in North Shäwa, was actually on the verge of comprehensive agricultural transformation (Ege, 2015). Increased productivity also meant that more people can live from the land. I was therefore surprised to find that the land issue was hotter than at any time in recent years.³ In more or less every house there was a land conflict or worries about potential conflicts. It is these local perspectives, so much lacking in most of the literature, which I shall seek to bring out in the current paper.

This study is based on material from Wäyr Amba, located in Tarma Bär (Mafud, Däbrä Sina) district in North Shäwa.⁴ My first fieldwork in this area was in 1989, and it was here that I learnt about peasant life, although much of my research was in other areas. In 2009 I built a house and lived there with my daughter during the rainy season. I have a fair amount of quantitative data from several survey rounds, but for the issues at hand I prefer to privilege recent qualitative interviews, partly with household representatives about their farms, and partly with key informants about the area in general. These interviews are strongly coloured by current peasant concerns, notably inheritance and the related conflicts.⁵

My argument is that tenure insecurity consists of various types of insecurity, that these have different properties and trajectories, and that we need to consider all in order to assess the impact of reforms on overall tenure security. On this background, supported by evidence from Wäyr Amba, I conclude that tenure insecurity may actually have increased, or more moderately, that there is much we do not know about peasant land tenure, and that the land question is still unsettled.

2. A theory of tenure insecurity

I shall define tenure insecurity as the risk of being evicted from a parcel of land. This is arguably how we think about tenure insecurity, but this straightforward definition is not so easy to operationalize. First of all, any precise method will record information on a parcel level, acknowledging that tenure security may vary between types of parcels in ways we do not necessarily understand. The common method, however, is to measure insecurity on a holding basis, leading to serious overestimation of the problem, as well as giving us weak tools for understanding the specific reasons for insecurity. Secondly, eviction is a problematic concept. In the Ethiopian context, we certainly want to capture land confiscation

caused by land redistribution or other administrative measures. It is less clear that we want to include allocation of part of the household land to an adult son, even if the parents had to be forced. Finally, eviction refers to eviction from any kind of right-in-land, not just to the loss of ownership. We should of course include the classical element of tenure insecurity, the insecurity of the tenant farmer. Less obvious, but in Ethiopian land tenure of great importance, are the rights of family or household members in the land registered in the name of the household head. These rights are difficult, perhaps impossible, to capture in surveys, but they are of no less importance for a good understanding of tenure insecurity.

For our purpose, we may therefore identify three types of rights exposed to potential tenure insecurity:

- (1) Rights of possession (ownership): the rights of the primary holders vis-à-vis the government.
- (2) Rental rights: the secondary rights of farmers renting from local landowners.⁶
- (3) Latent rights: the potential rights of possession, e.g. the rights of a young man farming land of his parents on *gulma* terms, i.e. practically as his own but under the formal title of his parents.

Rights of possession are very valuable and give the title-holder from one third to half the produce of the land virtually for free. They are also fairly secure. Rental rights are much less valuable as the produce, after deducting the share of the landowner, barely covers the cost of production. They are also inherently insecure and the farmer has to strive hard to prevent eviction. Latent rights are, more or less by definition, somewhat ephemeral and difficult to grasp. But it is these rights that are at the heart of current peasant conflicts over land.

In a broad review of studies on the relationship between tenure security and investments in the land, mainly in Africa, Arnot et al. (2011: 297) concluded that empirical findings varied much and attributed this to differences in definitions of tenure security and the use of inappropriate proxy variables. The point is an important one—and with general relevance. Most studies of tenure security do not even try to conceptualize the concept of tenure security and reflect on how the theoretical definition is captured by the measures used. The problem is compounded by the fact that also the dependent variable, investments, is represented by some kind of proxy, e.g. tree planting or terracing, although here the literature has shown more awareness of the complexity.

Also the Ethiopian literature on the impact of tenure security suffers from unsatisfactory measures. Sometimes the previous history of land redistribution in the community is used as a proxy for tenure security, although it is far from clear how this variable would affect tenure security. Similarly, the fact that some areas have received certificates while others have not, may be used as proxy. Such elements are important in order to understand the land tenure system and the peasant world, but they may not be good proxies for what we really want to capture, individual beliefs about the future, to be correlated with some other variable. These are certainly not easy issues, and we shall have to live with compromises, but it is important to be aware that there is a huge gap between the seemingly straightforward definition of tenure insecurity above and the practical definitions applied in the literature.

2.1. Rights of possession

The modern literature on tenure security in Ethiopia has focused more or less exclusively on the rights of peasant landowners. This

² For some recent contributions along the same lines, see Ayele and Tahir, 2015: 33–34; Mastewal and Snyder, 2015: 2.

³ Ege, 2014, diary: 30.

⁴ Wäyr Amba is now the northern third of Armanya *qäbälé* in Tarma Bär *wäräda*. The church, centrally located, is 9°53'53" North, 39°48'49" East, at an altitude of 2000 m.

⁵ I have about 140 qualitative interviews from my two most recent fieldworks in 2012 and 2014, most of them undertaken by my field assistant Berhanu Bétä. Only those directly cited in the text are included in the bibliography, but the total material has influenced my analysis. All interviews are in writing, stored in my private archive. The full title and precise date (Ethiopian calendar) is found in the list of sources.

⁶ I use ‘peasant’ to refer to rural inhabitants, ‘landowner’ to refer to the holder of the land title, and ‘farmer’ for the person who works the land.

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