



# Land rental market legal restrictions in Northern Ethiopia



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## ABSTRACT

This study assesses the de jure and de facto land market legal restrictions in the Tigray region in Ethiopia and the extent of implementation of the new land rental restrictions that were introduced in 2006 that state that not more than 50% of a farm can be rented out. The knowledge, perceptions and attitudes regarding the law among local Land Administration Committee (LAC) members, local conflict mediators and a sample of rural households are investigated. We find that the rented area restriction is commonly violated and not enforced. The law is circumvented by framing sharecropping as something other than land rental, although sharecropping is the dominant land rental contract in the region. When it is made clear that the law may hurt weak and vulnerable (often female-headed) households that are unable to farm their land themselves and therefore rent it out, the large majority of LAC members, conflict mediators and rural households are against the law.

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## 1. Introduction

Property rights to land and the role of land markets in the redistribution of land rights have been central and controversial political issues in the history of many countries. With population increases and economic development, land markets have developed despite many attempts to prohibit or suppress their establishment. The fear of markets, and especially land markets, is strong and central in many radical ideologies, while neo-liberal ideologies have advocated the advantages of leaving development to unregulated markets. In their studies on land tenure reforms in Asia and Africa Holden et al. (2013) show that land rental markets and policies related to these can potentially have strong long-term impacts on poverty, equity and natural resource management.

Historically, many attempts have been made to prohibit or regulate land markets, such as the prohibition of land sales markets, land-to-the-tiller policies that attempt to transfer property rights to tenants, and various contractual regulations that have been driven by efficiency, equity or sustainability objectives. Careful exami-

nation of many of these interventions has revealed that many of them created unexpected, unintended and often counterproductive effects. For example, land-to-the-tiller policies that aimed to enhance access to land for landless and land-poor households have in many cases created tenure insecurity and have not only reduced the poor's access to land but have also resulted in less efficient land use (Otsuka, 2007; Aryal and Holden, 2013).

This study focuses on land tenure reforms in the form of the regulation of land markets, including their political rationale, efficacy, and grassroots support in one African country: Ethiopia. The country underwent a radical land tenure reform in 1975, is highly dependent on the land for the livelihood of its population of 93 million, and faces chronic food insecurity for a substantial proportion of its population (6–8 million regularly depend on food aid). Most of the population lives in the highlands, where land scarcity is growing, landlessness is emerging and youth migration and unemployment is a growing threat (Bezu and Holden, 2014).

This study investigates the land rental restriction that only 50% of a farm can be rented out, which was introduced in 2006. It draws on data collected in the period 1997–2011 to assess the extent to which the new land regulation has been implemented. Data from rural households belonging to a household panel (1997–2010) that has been used for earlier studies on land registration and certification reform in the Tigray region (Holden et al., 2009, 2011) are

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combined with data from local Land Administration Committees (LACs) and local conflict mediators, allowing an investigation of the changes in the knowledge, interpretations and attitudes about the law between 2007 and 2011.

We aim to answer the following research questions:

1. What is the nature of land markets and land rental contracts in the study area and to what extent are the restrictions on land rentals violated?
2. To what extent has knowledge of the law disseminated to the newly established Land Administration Committees, traditional conflict mediators and rural households in general?
3. To what extent is there local support for the new land rental restriction in the cultural norms and among local stakeholder groups and can this explain its extent of enforcement?

First, we provide the historical background on Ethiopia's land tenure system since before the radical land tenure reform in 1975. We investigate the rationale behind the changing land tenure policies since then. We provide empirical evidence on the efficacy of the most recent reforms in one region of the country, Tigray, from which the country's political leadership over the last 20 years originates. The efficacy of the reform depends on the ability of the land administrative system to disseminate information about the new law and enforce its content. Such "command-and-control" law enforcement should have the best chance for success in an area that is politically well connected to the central power. However, the degree of success may depend on whether the change in the law has grassroots support. Our working hypothesis is that socially acceptable parts of the law are much easier to implement than law changes that involve social dilemmas that meet resistance among the people (North, 1990). Customary norms, perceptions and attitudes toward the reforms at the grassroots level are therefore of public interest, and they have implications for the identification of intended and unintended effects of the new laws and the need for law and policy revisions. Our study therefore contributes both to testing of theory and to inform policy with the hope that this can help to improve it. Our study is also highly relevant for similar and diverging ongoing reforms in other regions of the country and in other developing countries with increasing land scarcity (Holden and Otsuka, 2014). Land rental markets are becoming more important in Africa and have been found to be largely pro-poor (Holden et al., 2008), but the welfare effects will depend on the specific context, laws and policies in place in each country. The findings should also have broad relevance at a time when there is a great need for land tenure reforms in many countries with rapidly growing demands for land and weak institutional structures.

## 2. Background

### 2.1. The historical backdrop

Ethiopia is an exceptional country in Africa in the sense that it was never colonized. It therefore has a unique culture that has been less influenced by the colonial powers. The economy has been described as a feudal system until the revolution and overthrow of Haile Selassie in 1974. In particular, southern areas of the country had a system with absentee landlords and landless tenants, while the *rist* system dominated in the north (Rahmato, 1984). The *rist* system provided *usufructuary* rights to land to residents of a community whose ancestors also came from the same community. Land sales and the mortgaging of land were not allowed, but the broad possibility of claiming land that ancestors used resulted in multiple claims by many relatives on the same land. This policy created tenure insecurity and many land disputes and resulted in land frag-

mentation (Hoben, 1973). It also implied that absentee landlords did not exist in the north and that land rental activity was at a much more modest level there than in the south. Cohen and Weintraub (1975) estimated that 7–16% of the land in the north was rented compared with 37–73% in the south during the period from 1967 to 70. In the south, the few owners of the land were also allowed to buy and sell land.

Ethiopia's 1975 land tenure reform made all land state land. An egalitarian distribution of land to households based on their need was then implemented at the community (Peasant Association) level. The maximum farm size was set at 10 ha. None of the earlier landlords in the southern part of the country were allowed to have leadership positions in the Peasant Associations, meaning that they lost all power and almost all of their land. Households only received user rights to the land while land sales and rentals were prohibited. Even the hiring of labor was prohibited. It was therefore an extreme anti-market reform. To retain the egalitarian land distribution as new households formed and household sizes changed, land redistributions were introduced in which undistributed land was partly distributed to new households, and part of the land of households that had relatively more land than others based on their household size was also redistributed. Some land rental took place in this period in the form of sharecropping contracts, which were not considered to be subject to the restrictions on land rentals.

The Derg regime fell in 1991, and the new leadership, which originated from Tigray, maintained the constitutionally backed state ownership of all land and continued the prohibition on all land sales. The new constitution also granted access to land for all residents, but it allowed short-term land rental arrangements and the bequeathing of land to children, while the mortgaging of land remained illegal. The new land laws put an end to the land redistribution policies that created tenure insecurity and undermined investment incentives. An exception was the 1997 land redistribution in the Amhara region that aimed to take land from local leaders during the Derg regime.

Ethiopia implemented broad-scale, low-cost land registration and certification starting in Tigray in the late 1990s. The reform provided land certificate recipients perpetual user rights to the land, rights to lease the land on short-term contracts, and rights to bequeath the land to children and grandchildren. The land laws were revised in the following decade, and local land administration organizations were established at the community level with the responsibility of implementing the new laws. It remained illegal to sell or mortgage land, and the new laws also restricted the extent of land rentals based on the duration of land rental contracts and the maximum portions of farms (max. 50%) that could be rented out. Several studies have shown that the land registration and certification system was successful in strengthening tenure security by enhancing the allocative efficiency of the land rental market, stimulating investment in the land, and improving land productivity (Holden et al., 2009, 2011; Deininger et al., 2011). In particular, female-headed households were more willing to rent out their land, which enhanced these households' welfare until 2006, when the revised laws were introduced (Holden et al., 2011; Holden and Ghebru, 2013).

As a follow-up to the successful land registration and certification system and based on some identified weaknesses in the existing land law proclamation, a new land law proclamation and regulation was enacted in 2007 (TNRS, 2006; TNRS, 2008). Some of the new additions to the law include:

- a) Establishment of Land Administration Committees (LAC) at *tabia* (Peasant Association = municipality) and *kushet* (village) levels, each with 7 members, of which 2 must be women and 2 must be young landless households. The LACs are in charge of

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