

Land Reform in Ethiopia: Recommendations for Reform¹

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Introduction and Problem Definition

The challenges of land tenure in Ethiopia are part of a complex policy problem that stem from failed attempts at agricultural modernization and the consolidation of state power. Several significant problems have brought Ethiopia's land tenure laws to the attention of international observers.

Food Insecurity. Food insecurity has made Ethiopia a center of development efforts in Africa. It is estimated that 44 percent of Ethiopians are chronically or acutely undernourished.¹

Undernourishment has largely been attributed to Ethiopia's susceptibility to famine, the most recent of which was the root cause of the food crisis of 2002-2003.²

Rural Poverty. Agriculture makes up 50.7 percent of Ethiopia's GDP,³ meaning that food insecurity has a disproportionate impact on Ethiopia's total economy. Malnourishment decreases productivity, which then increases poverty as part of a downward cycle of food insecurity and poverty,⁴

Landlessness and Land Poverty. High rates of rural landlessness and land poverty exacerbate food insecurity and poverty. Forty-three percent of rural Ethiopians have no access to land and fully 60 percent lack sufficient land to grow enough food for a family of five.⁵

Land Expropriations for Foreign Investment. Recent years have seen an increase in land contracts between Ethiopia's government and foreign agriculture investors for "unused" land. This land is typically arid or semi-arid pastoral grazing land in lowland areas of Oromia, Afar, Gambella, Southern Nations, Nationalities, Republics and Peoples (SNNPR), and Benishangul Gumuz regions held under unregistered customary tenure arrangements. Large farming operations displace pastoralists, monopolize resources, and degrade the land, causing increasingly bloody conflicts among pastoral clans over resources.

Drought is not solely responsible for these problems. The roots of Ethiopia's food security, poverty, landlessness, and expropriation problems lie in deficiencies in education, infrastructure, business environment, and land tenure policies.

This policy proposal will focus on the role of land tenure policy in creating and mitigating these problems. We will show that food insecurity, poverty, landlessness, and expropriations are the result of land tenure policies and governance that undermine tenure security, contribute to weak land administration institutions, and limit market efficiency.

¹ This document is a condensed form of "Land Reform in Ethiopia: Recommendations for Reform" produced by these same authors. Please contact SMNE to review the long-form version of this document.

Land tenure reform can address these deficiencies by eliminating the vagaries in land laws that threaten tenure security, strengthening institutions through increased information, democracy, and accountability, and liberalizing land lease markets. These reforms could successfully contribute to a more holistic solution to food insecurity, poverty, landlessness, and resource conflict while remaining politically and institutionally feasible.

Methodology and Limitations

The results of this study were compiled through a literature review of peer-reviewed studies of land tenure policy in Africa and Ethiopia's unique context. Research was limited to Tigray, Amhara, Oromia, and SNNPR regions due to the availability of empirical data and the fact that these regions have implemented programs to certify land rights with the government. Analysis focuses on sedentary farmers in highland areas of Tigray, Amhara, and Oromia regions because of the relative wealth of information and the importance of these regions to Ethiopia's agricultural sector. Research is limited to secondary and tertiary sources since we were unable to travel to Ethiopia to collect data. Finally, a comparative analysis of relevant land tenure case studies was conducted to develop a greater understanding of what types of reforms have been implemented in other countries as well as the reasons for their respective successes and failures.

Land Tenure Policy: Theory and Practice

Theoretical Approaches

Land tenure policy reforms in sub-Saharan Africa have been influenced by an ongoing debate in the literature regarding the best way to formalize customary land rights. There are essentially three models.

Neoclassical/Classical Economic Model. This view focuses on land tenure's role in creating the economic conditions that influence the achievement of development objectives. The main instrument of these land tenure models is land tenure security achieved through individual land rights (usually titles or deeds) to sell, lease, and mortgage land. If individuals control their land holdings, their claim to the land is more secure, making them more likely to invest in the land for greater productivity. Maximizing the integrity of individual land rights maximizes land tenure security and leads to positive economic outcomes, growth, and development.

Institutionalist Model. The institutionalist model recognizes the neoclassical model's narrow focus on the economic aspects of land tenure as fundamentally flawed because it ignores the importance of the policy environment. This school of thought instead proposes that the development outcomes outlined in the neoclassical model can only be achieved by improving governance through institutional capacity building.

Associative Model. The associative model, first outlined by Dessalegn Rahmato in 1994, attempts to achieve the goals of both the neoclassical and institutionalist approaches by making the community, rather than the individual, the basic economic unit. The associative land tenure system designates community representatives as land right holders and administrators for individuals,

who are, in turn, granted usufruct rights by the community. By legitimizing traditional tenure arrangements, this model is designed to utilize the legitimacy of customary practices and institutions as a path to good governance while maintaining land tenure security for individuals.

Case Studies from sub-Saharan Africa

Recent land tenure reforms in sub-Saharan Africa have focused on formalizing customary land tenure to improve land tenure security. They have largely taken two forms: conversion to individual or associative freehold title (Kenya, Uganda, Ghana), or certification of individual or associative usufruct rights on state-owned land (Mozambique). Each of these case studies resulted in partial (Kenya, Ghana, Mozambique) or complete (Uganda) failure.

In each instance, low percentages of total plots were registered, with a high of 60 percent in Ghana (the African average is 80 percent).⁶ In Uganda, complete failure led to a wholesale return to customary tenure practices. In Kenya, Mozambique, and Ghana, partial failure led to the development of parallel formal and informal tenure systems under which wealthy and well-connected individuals exploited to take land from unregistered landholders. For these reasons, quantitative studies have shown little impact on land tenure security, investment, or productivity and large increases in inequality as a result of these land policy reforms. There are three main reasons for these failures:

Cost. Precise measurement for cadastral maps pushed total nominal costs for plot surveys above 200 USD in Uganda.⁷ Corruption added to nominal costs, and long, complicated registration processes increased transaction and opportunity costs. Poor farmers who could not afford to register their land instead chose to remain in traditional tenure arrangements, while the wealthy took advantage of reforms to register land and thereby legally 'claim' it. This formation of parallel formal and informal tenure systems allowed the wealthy to dispossess traditional landholders, causing landlessness, exploitation and conflict.

Institutional Capacity. In each example of reform, administrative institutions lacked capacity to inform the public about land reforms and process land registrations. None of the case studies featured widespread knowledge of reform among rural landholders. Adjudication and registration was complicated and time intensive. As a result, the educated and politically well connected were able to leverage information asymmetries to grab land from traditional landholders.

Governance. Corruption and politicization in reform implementation processes were found to be a substantial problem in all case studies. Examples of abuse included: allocation of land to political favorites, the double-registry of land, and the widespread use of bribery to settle resulting land disputes. In Kenya, for example, democracy deficiencies undermined associative ownership structures as community elders abused their authority, allocating land to family members and selling land as if it were their own. Thus, corrupt, politicized governance structures contributed to land tenure insecurity.

The main lesson to be drawn from the case studies examined here is that the form of land tenure system is secondary to issues of cost, institutional capacity, and governance in determining success.

It also emphasizes the danger of the development of parallel formal and informal tenure systems. Ethiopia's land policies and any reform proposals must avoid these pitfalls in order to be successful.

Context

The results of case studies from recent land tenure reforms in sub-Saharan Africa emphasize the importance of historical, cultural, institutional, and political context for successful reform. Thus, it is essential to understand Ethiopia's land tenure system in the broader policy context.

History

The Derg. When the communist Derg regime took power in 1974, it set out to undo exploitative landlord-lessee relationships that prevailed in the previous era through socialization and collectivization. The land proclamation of 1975 nationalized all Ethiopian land and prohibited the sale, lease, or collateralization of land. It also prohibited farmers from hiring labor to work their fields. Land was redistributed, resettled, and collectivized in order to address landlessness. The result was major losses in productivity, famine, increased poverty, and even death in cases where traditional farmers were settled on arid, pastoralist land. As a result, Ethiopia quickly became a major food aid recipient and a focus of development NGOs.

EPRDF/TPLF. The TPLF insurgency toppled the Derg in 1991. Having used land redistribution as a political tactic in Tigray during the insurgency, the new government's land policy meant decisively more continuity than genuine reform. This is evidenced by the continuance of state ownership of land, the redistribution of land in Amhara in 1997, and unwavering support for redistribution-based policies meant to address the problem of landlessness and productivity through land extensification.ⁱⁱ The land proclamation of 1997 represented a slight improvement in these policies in that it promoted regional autonomy in land policy, sanctioned limited land lease contracts, and initiated a program to certify regional lands. Nonetheless, the EPRDF/TPLF policy has continued to cling to land expropriation and redistribution as a policy response to the problems of rural Ethiopia.

Power Analysis

Ethiopia's land tenure system operates within its political, cultural, and institutional environment. These factors have profound effect on how to understand policy intent and implementation.

Customary Tenure. Customary tenure systems vary widely from region to region in Ethiopia. The north (Amhara and Tigray) has been historically characterized by the communal *rist* system where land is apportioned and distributed to individual members by the community in accordance with lineage claims. Superimposed over this system was practice known as *gult*. *Gult* was a system of taxation and administration bestowed as a fief right to nobles and servants of the crown that largely resulted in a system of exploitation, particularly by absentee landlords in the "south." The SNNPR

ⁱⁱ Land extensification refers increasing the amount of arable land in use and therefore productivity. It is often defined in apposition with land intensification, which focuses on increasing productivity on land already in use.

region contains many different systems of land management, largely based on tribal arrangements. Pastoral groups in Ethiopia's lowlands operate under community-based tenure arrangements.

Local Experience of the State. The Ethiopian state administers policy through a hierarchical system of ethnic federalism with power ostensibly concentrated in regional bureaucracies, from the regional level down through the local woreda (district) and kebele (neighborhood) governments. Woreda and kebele officials are typically loyal to the EPRDF/TPLF ruling party, and decentralization (or more correctly de-concentration) has granted them significant power over daily life. These officials are the main administrators of federal and regional laws and gatekeepers of budgetary aid flows. Local officials are viewed as inconsistent and corrupt, and therefore lack legitimacy and accountability to the people they supposedly serve. Broadly speaking, peasant-to-state relations are characterized by vertical power structures that peasants allow to generally go unquestioned. Peasants are typically unaware of their legal rights and therefore are unable to defend themselves against abuse. Even when they are aware of such rights most choose to defer to authority out of fear of reprisal or punishment. These roles and relationships are particularly salient in the case of land administration.

The Political System. In Ethiopia, EPRDF functionaries dominate all levels of government, effectively blurring the lines between government and the ruling party. In short, all federal policies, including land policies, are drawn up and implemented largely to reflect the position of the party. This fact complicates reform in that any proposal for change must criticize current policy, and in doing so, criticizes the policy position of the EPRDF. This relationship makes land tenure reform an extremely sensitive political issue in Ethiopia.

Recent Land Reform in Ethiopia

Recent land tenure reforms in Ethiopia can be characterized by the success of regional certification programs in Tigray, Amhara, Oromia, and the SNNPR. However this success is tempered by failure of administrative institutions to create an environment conducive to development and effective governance and the specter of redistribution and dispossession enshrined in land laws.

Land Law

Ethiopia's land tenure laws are largely the combination of the Federal Land Proclamation of 2005 and the regional proclamations. The 2005 Proclamation was rushed to passage after the contested 2005 elections and had the effect of increasing federal control over land tenure.

Land tenure reforms since 1997 have largely preserved the Derg system of expropriation and redistribution as a means to deal with rural development issues. The focus of the system is to A) encourage equity in land distribution and prevent the emergence of exploitative land relationships and B) promote rural development through limited market reforms and providing land to the landless.

Ownership. Ethiopia's land laws view land as the "common property of the Nations, Nationalities and Peoples of Ethiopia"⁸ with the right to ownership "exclusively vested in the state and in the

people.”⁹ Land is essentially the property of the state, which is meant to act as a guardian against predatory land relationships and practices. Landholders are tenants of the state, holding usufruct rights that confirm ownership of everything on the land, but only use of the land itself.

Transfer. Land laws refer to inheritance as the dominant form of legitimate land transfer. Other legal forms of transfer include voluntary land exchange and government expropriation and/or redistribution of land for the public good. The sale, mortgage, or use of land as collateral is expressly prohibited in order to prevent the development of exploitative land arrangements. On the ground, these laws are largely followed, and there is little evidence of significant underground land sales. Farmers instead have adapted to the prohibition through informal exchanges such as “grass sales,” or informal contracts for grazing rights.¹⁰

Leasing. Federal law leaves the details of leasing laws to the regions. Tigray, Oromia, and SNNPR limit leases to 50 percent of landholdings to prevent landholders from leaving the land.ⁱⁱⁱ Leasing regulations give preference to farmers using undefined “modern” techniques and corporate investors. Most regions allow these types of operations to sign much longer leases than traditional farmers. Federal law also permits foreign investors alone to use their lease as collateral. The result is a disadvantaged position for traditional farmers in the leasing market, especially for the landless and pastoralists.

Conditions of Land Rights and Redistribution. Federal law sees land redistribution as the dominant mechanism for accomplishing universal rights to land. Except in Oromia, where it is expressly forbidden, regional laws are open to redistribution as a policy tool. The conditions for redistribution specified by federal law are as follows:

- If the certificate-holder dies and there is no heir or the heir has been gone for an amount of time specified by regional law.
- If the land is irrigable.
- If peasant farmers, semi pastoralists and pastorlists want land to be redistributed.
- As compensation for farmers evicted for the purpose of “constructing irrigation structure.”
- If land gets damaged, as defined by regional law.

Regional governments are responsible for defining each of these conditions which, in practice, discourage migration and sustainable farming practices, and contribute to tenure insecurity by threat of dispossession (without compensation). Most regional proclamations require farmers to prevent erosion, preserve irrigation structures, and refrain from planting Eucalyptus trees. Furthermore, laws typically require farmers to live in the same kebele as the land they use (except Oromia) and to leave land fallow for no more than one year. Violating any of these conditions may be grounds for dispossession and redistribution of land.^{iv}

ⁱⁱⁱ Oromo law is more liberal, allowing landholders to live in a different kebele from their land.

^{iv} Oromo law is notably less severe in this respect, as fines are often employed for lesser offenses.

Certification

The most groundbreaking reform included in the Land Proclamations of 1997 and 2005 was a program to certify and register all of Ethiopia's agricultural land holdings to individuals.

Process. Certification was carried out by Land use Administrative Committees (LACs) composed of local elders, usually twelve, who were democratically elected at public village meetings. Unpaid LAC officials measured land holdings using traditional methods such as rope or tape and in the presence of neighbors. Landholders then received preliminary certificates while official certificates were registered and processed with the kebele or woreda. The certification process took about 11 months with a five-month wait for certificate processing.¹¹ Each certificate contains the name and photograph of the landholder, information regarding the plot, and space on the back for a cadastral map to be added later.¹²

Transparency and Democracy. Studies indicate that as of 2005, 93% of households had a member attend information meetings at least once, 90% of households indicated that information meetings were organized before the start of registration, and 80% considered themselves well-informed.¹³ Landholders viewed LACs as legitimate because they were fairly elected and less corrupt than kebele and woreda officials,¹⁴ though some LAC members are known to have been EPRDF activists.¹⁵ It is apparent that the process was considered legitimate, democratic, and there was sufficient institutional capacity to inform farmers about certification.

Equity and Fairness. As of 2005, this process had registered a total of 20 million plots to an estimated 5.5 million households. An estimated 93% plots have been registered in Tigray, 84% in Amhara,¹⁶ and 80% in Oromia and the SNNPR.^{17,v} These rates are generally higher than the African average of 80%, especially considering that certification programs in Amhara, Oromia and the SNNPR had yet to be completed at the time these measurements were taken.¹⁸ Furthermore, few claims were refused, with rates as low as 5% in Amhara.¹⁹ The combination of high rates of registration and successful claims indicate that certification was fair. This is born out by survey results that indicate that the lowest income quintile was in fact more likely to participate in certification than the richest quintile.²⁰

Certification was notably inequitable towards women. Land laws stipulate that all LACs were to include at least one woman, however, surveys revealed that only 20% of LACs in fact included a female member. Women were, however, well-informed regarding certification. Joint certificates were required in Amhara, Oromia, and the SNNPR. Actual incidence of joint certificates were mixed, with low readings in Tigray and Oromia, and rates above 70% in Amhara and the SNNPR.²¹ It is suspected that the absence of a requirement to display the picture of the joint holder on the certificate was a main reason for low joint certification rates in Oromia. Results were also mixed for women in polygamous marriages. SNNPR law guarantees women in polygamous marriages their own certificate. Oromia considered such a law, but later rejected it. These joint certification laws

^v The lower figures here for Oromia and SNNRP are likely due to the fact that certification had only been partially administered in these regions as of 2005. Further monitoring will be necessary in order to determine whether certification is as widely administered in these regions as in Tigray and Amhara.

are important because they would guarantee land rights to women in the event of divorce or death of their husband. Therefore, despite overall fairness, equity for women under certification was limited.

Cost. The use of traditional methods made certification the cheapest in Africa. As of 2005, aggregate costs^{vi} per certificate ranged from .22 burr (\$0.01) in Tigray to 4.70 burr (\$0.28) in the South, averaging 3.84 burr (\$0.23) per certificate across all four regions.²² Corruption was limited and therefore did not significantly add to the expense. The short turn around period and local nature of the process meant that opportunity costs were also low. Low costs contributed to the equity and fairness of the process.

Land Tenure Security. Land tenure security in Ethiopia is low by African standards due to land distribution policies of the EPRDF/TPLF and the Derg. Certification was shown to increase land tenure security in Tigray and Amhara region, but not in Oromia.^{23,24,25} Hypotheses regarding lack of gains in Oromia range from higher initial tenure security readings to administrative governance issues; however, there have been no conclusive explanations.^{26,27}

Investment and Productivity. Studies show that tenure security improvements in Tigray and Amhara as a result of certification have led to higher levels of investment in the form of land structures such as stone terraces.^{28,29} Weak correlations have been found between certification-related land investment and productivity, but further study is necessary to verify the link.³⁰

Leasing. Studies show that certification increased leasing and sharecropping activity on agricultural land in Tigray, Amhara, and Oromia.^{31,32,33,34} Increases have been limited, however, by legal restrictions, unclear lease registration procedures, inconsistent contract enforcement, traditional aversions to leasing outside of clan groups, and low perceptions of land tenure security.^{35,36} The result of Ethiopia's tenure reform is an improved, yet limited land lease market.

In summary, Ethiopia's certification program was largely successful in improving land tenure security, land investment, and leasing activity. These successes confirm the importance of to the transparent, democratic, legitimate, and low cost processes for successful land tenure reform.

Land Administration

The successes of Ethiopia's certification program stands in stark contrast to the continuing challenges of land administration. Ethiopia's land tenure reforms vested administrative authority over land tenure policy in officials at the kebele (Tigray) and woreda (Amhara, Oromia, SNNPR) levels. Reforms also call for the creation of Environmental Protection and Natural Resource Use Authorities (EPLAUAs) to regulate conditions of land use.

Institutional Capacity and Governance. Officials at the kebele and woreda levels have broad, yet ill-defined authority to both dispossess and redistribute land based upon the conditions set forth in land laws. In practice, this authority leads to unchecked power to exploit the vague legal context to

^{vi} The cost to farmers and the cost to the government combined

dispossess and reallocate land as a political tool for personal gain. Continued land scarcity under current law makes capacity and governance issues a major threat to the security of certified usufruct rights.

Capacity in the court system to settle land disputes is another major problem. Kebele social courts and woreda courts have large backlogs of unresolved cases, a condition exacerbated by the increased frequency of land disputes resulting from imprecise land plot measurement methods.³⁷ These backlogs encourage bribery and drive conflict resolution and contract enforcement issues toward settlement by traditional systems which are only competent for solving local disputes.³⁸ Inconsistent contract enforcement diminishes the security of land tenure certificates and lease contracts, thereby undermining leasing markets and perceptions of tenure security.

Ill-defined land regulatory authority has caused confusion about how to register leases and future certificates in the event of inheritance. This, combined with other governance and capacity issues, has meant that a large portion of leases that should be registered are not and new certificates are often not issued in the case of inheritance.³⁹ If leases and certificates cease to be registered, then certification could eventually fall out of use, creating parallel formal and informal land tenure systems. This development was fatal for land tenure reform in other African cases and most certainly would lead to the failure of Ethiopia's certification program.

Conclusions

From our study of land tenure policy theory, case studies in sub-Saharan Africa, Ethiopia's policy context, and the state of Ethiopia's current land tenure laws, we can draw the following conclusions:

Certification is a valid basis for land tenure policy and future reforms. Ethiopia's certification program followed many best practices for land tenure reform, including high levels of local participation, low costs, sufficient capacity, fair and equitable governance (through LAC councils), and the inclusion of legal rights for women. The result has been increased perceptions of land tenure security, investment by landholders to improve their plots, greater leasing activity, and advances in tenure security for women, though women's equity was incompletely achieved. Despite this shortcoming, the successes of certification make it an adequate basis for Ethiopian land tenure policy for the foreseeable future.

Land tenure policy cannot solve land poverty and landlessness. Like the Derg policy before it, the EPRDF/TPLF's policy centered on state-ownership, equal access to land, prohibitions of sale, conditional rights, and redistribution is intended to produce development outcomes through land extensification and the elimination of the landlessness problem. Land scarcity, however, means that opportunities to extend productivity are limited and plots are not large enough to redistribute to the landless. Furthermore, residency conditions, leasing restrictions, prohibitions of sale, and land tenure insecurity tie farmers to small plots of land, reducing opportunities for the landless and land poor. The landless do not leave because there is little off-farm employment, and many stay in

rural areas in hope of redistribution. Thus, a policy meant to alleviate landlessness in fact makes the problem worse.

Landlessness should instead be addressed through education and the development of non-agricultural employment opportunities. If Ethiopia were to create alternative opportunities and teach the skills necessary to take advantage of them, the landless and land-poor have greater incentive to leave the rural sector and relieve rural population pressures.

Conditional rights and redistribution undermine development objectives. Ethiopian land laws and administrative powers make it legal for officials to dispossess farmers under dubious interpretations of land laws. Furthermore, distribution policies in Tigray, Amhara, and the SNNPR produce a looming fear that certified land may be expropriated and redistributed. In decreasing the security of tenure, farmers are less likely to invest in land, contributing to lower productivity, poverty, food insecurity, and unsustainable agricultural practices.

Land institutions lack capacity to sustain certification. Murky regulations about how to register leases and update certificates, as well as a lack of land dispute resolution capacity has already led to signs that the certification system may be difficult to maintain.⁴⁰ It is clear, then, that land administration authorities so far have not developed the capacity to sustain the current land tenure system.

Politics and land tenure laws discourage good governance. Ill-defined conditions of tenure invite kebele and woreda land officials to abuse their authority to pursue political goals. Thus, the combination of land policy content (the law) and the disparity of power between the kebele, the woreda, and the people they govern (political context) conspire to discourage governance practices that support tenure security and equity. It is important to note activities characteristic of a lack of good governance are usually legal in the loosest sense of the word, and thus are a policy problem as well as a governance problem.

Current policy neglects the role of markets. Ethiopian history is full of exploitative market relationships, so an aversion to markets in land tenure policy is understandable. In largely ignoring the role of markets, however, Ethiopia's land tenure policy impedes rural development. Leasing and sharecropping, both acceptable yet less efficient alternatives to freehold tenure, are unnecessarily limited to 50 percent of holdings and lease lengths to two or three years. These limitations prevent land markets from becoming an effective tool for addressing highland land scarcity, fragmentation, low productivity, poverty, and food insecurity.

Recommendations

Recommendations for land tenure reform must maximize perceived and actual land tenure security, promote equity, improve the efficiency of land markets, and be feasible within Ethiopia's current institutional and political environment.

Hybrid Approach

Successful land tenure reform must balance the efficiency and tenure security benefits of free holding with political, institutional, and equity concerns. Recommended reforms include:

1. Increase the security of land rights. Increasing the security of land use certificates will result in higher perceptions of land tenure security, and by extension, positive development outcomes. This can be achieved by reforming land laws and their administration as well as by certifying communal pastoral land.

Reform Land Laws. Federal and regional laws should eliminate certain restrictions on land use but most importantly must rule out redistribution as a legal instrument and as a policy tool. These reforms would remove policies that undermine land tenure security.

Reform Administrative Processes. Federal and regional land laws should decentralize and devolve authority and establish a more robust system of checks and balances. This should be implemented in conjunction with a limited associative model of land administration that emphasizes public participation. Elected sub-kebele councils, similar to the LACs or an adaptation of the LACs themselves, could have the power to allocate, expropriate and redistribute land, subject to popular approval, and settle intra-community land disputes. Kebele or woreda officials would remain responsible for disseminating legal information, training councils, registering leases and land certificates, settling inter-community disputes, and would retain the authority to prevent dispossession and redistribution only. In this way, democratically elected local authorities would make land administration responsible to the people and check the power of kebeles. Kebele or woreda officials could, in turn, check the power of LAC members. This administrative reform would increase land tenure security and public participation. The certification process demonstrated that local communities have the capacity to implement such a system.

Certify pastoral land. Certification, or a modified version thereof should be used to formalize pastoralists' right to land. Certification should proceed according to the associative model, substituting communal units for individual units, with communal lands adjudicated by democratically elected representatives from neighboring pastoralist groups to ensure fairness and prevent conflict. The limited associative model of administration described above could help to limit tribal conflicts. By certifying land in this manner, pastoralist communities would have a significantly greater capacity to defend themselves against land grabs, limit conflict, and maintain self-determination. This approach combines the legitimacy and accountability of customary practice with the authority and capacity of state institutions

Such reform would maximize land tenure security and promote equity, without negatively impacting efficiency.

2. Increase Institutional Capacity. Capacity building should increase the transparency, accountability, and legitimacy of land tenure administration. NGOs should be leveraged to educate landholders and land officials about the appropriate application of the law and the rights entailed therein. Empowering landholders to advocate on their own behalf will allow them to better defend their certificate rights. Furthermore, strengthening indigenous institutions and organizations to better defend the rights of the people, may develop the civil society necessary to encourage democratic, transparent application of land laws.

3. Loosen leasing regulations. Eliminating regulations that limit land leases to 50 percent of holdings and 2 to 3 years would give landholders more options for land management, particularly in an improved institutional environment. Loosening leasing and sharecropping regulations would give the land-poor better access to land to increase productivity or allow them look for off-farm income without giving up their land rights. While leased or sharecropped land is less productive than owner-occupied land, overall productivity could still increase as lower barriers would increase the factor mobility of land, labor and capital, leading to a more efficient allocation of agricultural resources. Administrative reforms and increased institutional capacity could prevent the return of exploitative landlord/lessee relationships.

Summary

Together, these reforms could increase tenure security, improve the situation of the disadvantaged, strengthen governance and institutional capacity, and promote economic efficiency. Political feasibility is somewhat questionable, but we believe that land tenure reform proposals should push the current regime on its political positions.

It should be noted that tenure security and efficiency gains are largely dependent on improvements in institutional capacity and governance. At the same time, institutional capacity cannot help Ethiopia reach development outcomes as long as land laws rely on practices that destroy land tenure security. Thus, the solution must reform institutions and land laws both.

Epilogue

It should be reiterated that land tenure policy is just one part of solving poverty, food insecurity, and environmental degradation in Ethiopia. So long as Ethiopians remain uneducated, infrastructure remains inadequate, and power disparities are wielded to weaken institutional capacity and legitimacy, land tenure reform will have only limited impact. Thus, land tenure reform is just one part of the solution for sustainable development in Ethiopia.

Should the political and/or institutional climate change and improve, freehold reforms, including the sale and collateralization of certificates, could be revisited. Improvement would have to be substantial, however, as Ethiopia's off-farm economy would have to be able to absorb the large numbers of former farmers and sharecroppers that such fundamental reform would produce.

Future study should continue to monitor land tenure security and investment in Ethiopia's certified regions. If all goes well, land tenure reform can form part of the development solution in Ethiopia.

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Land Reform in Ethiopia:
Recommendations for Reform

By Peter J. Bodurtha, Justin Caron, Jote Chemed, Dinara Shakhmetova, and Long Vo

Introduction

Like most developing nations, a large share of Ethiopians relies on subsistence agriculture for daily living. Ethiopians are therefore highly dependent upon arable farmland for survival. It is hardly surprising that land has been at the center of political debates surrounding the nation's future and the well being of its citizens. To understand the nature of these debates, it is essential to understand Ethiopia's land-related problems and their underlying causes.

Problem Definition

The challenges of land tenure in Ethiopia are part of a complex policy problem that stem from failed attempts at reform and the consolidation of state power. A few major problems have brought Ethiopia's land tenure system to the attention of international observers.

Food Insecurity

Food insecurity has made Ethiopia a center of development efforts in Africa. It is estimated that 44 percent of Ethiopians are chronically or acutely undernourished (Adnew 2004). Undernourishment has largely been attributed to Ethiopia's susceptibility to famine, the most recent of which was the root cause of the food crisis of 2002-2003 (Van der Veen and Tagel 2011). Recurrent famine and food scarcity has made between 10 and 20 percent of Ethiopians dependent upon foreign food aid to survive (Human Rights Watch 2010). Ethiopia is thus totally reliant upon food aid to support its rural population, making self-sufficiency (much less exporting cash crops) a seemingly impossible development goal to reach.

Rural Poverty

Ethiopia is one of the poorest countries in the world. Agriculture makes up 50.7 percent of Ethiopia's GDP (*Ethiopia: At a Glance*), meaning that food insecurity has a disproportionate impact on Ethiopia's total economy. Malnourishment decreases productivity, which then increases poverty as part of a downward cycle of food insecurity and poverty (Van der Veen and Tagel 2011). As a result, about half of Ethiopians live below the poverty line and, moreover, the country receives the fourth largest amount of external financial aid, behind Iraq, Afghanistan, and Indonesia (Human Rights Watch 2010). These funds are meant to address the problem of poverty and encourage development, but structural and governance issues often keep aid from reaching those who need it most.

Landlessness, Land Poverty, and Rural Overpopulation

To make the problems of food scarcity worse, landlessness and land poverty are growing problems in rural Ethiopia. Some 60 percent of Ethiopia's rural residents lack the required size of land to produce enough food to feed a household of five and as much as 48 percent may be landless (Horrell et al. 2008). The average land holding per farmer is less than one hectare with typical holdings ranging from .3 to .5 hectares. In the most densely populated areas of the country, a farmer that has half a hectare of land is considered lucky (Rahmato 2004).

Landlessness and land poverty are largely the result of increasing rural population, the communal land policies of past and current governments and a lack of alternatives to farming. Ethiopia's rural population has exploded from 15 million in the early 1950's to 34 million in 1980 and 54 million in 2000 (Rahmato 2004). The result has been steadily decreasing ratios of arable land per person, contributing to decreasing plot sizes. The current ratio of agricultural land is half of what it was in the 1960's (Jayne et al. 2003).

Expropriation of Pastoral Land for Foreign Investment

Recent years have seen an increase in land contracts between Ethiopia's government and foreign agriculture investors for "unused" land. This land is typically arid or semi-arid grazing land in lowland areas of Oromia, Afar, Southern Nations, Nationalities, and Peoples (SNNPR), Gambella, Beni Shangul, and Somali regions held under unregistered customary tenure arrangements by pastoralist groups (Abdi and Elias 2010, Pastoralist Forum 2010). Large farming operations displace pastoralists, monopolize resources, and degrade the land, causing increasingly bloody conflicts among pastoral clans over resources.

It is estimated that pastoralists contribute a total of \$1.53 billion to the Ethiopian economy (Abdi and Elias 2010). Furthermore, pastoralists are expert managers of arid and semi-arid land otherwise unsuitable for traditional agriculture. About 40% of Ethiopian land is considered appropriate for pastoral land use only (Helland n.d). Pastoralist practices are productive using traditional, yet environmentally sustainable land management practices, preserving the environment on land that would be destroyed by traditional farming (Pastoralist Forum and IIRR 2010).

Ethiopian pastoralists face immense internal and external challenges. External problems such as climate change and expanding desertification means that finding grazing land and water is becoming increasingly difficult. These factors have contributed to the growing level of conflict in many pastoralist areas. Many internal problems emanate directly from Ethiopia's land tenure policy, under which pastoralist lands are considered "fallow" and are distributed to traditional farmers and foreign investors under current resettlement and redistribution schemes.

The pastoral livelihood requires a vast area of land in order to travel from place to place in search of adequate grazing land and water. The individual distribution and certification of land in more populous regions such as Oromia and the increasing presence of foreign commercial agricultural ventures have forced pastoralists to graze their stock on ever dwindling lands. Perhaps more importantly, commercial operations use large amounts of water to irrigate the arid land, making it

significantly more difficult for pastoralists to find water for their herds (Pastoralist Forum and IIRR 2010).

Resource conflicts, in addition to the politicization of ethnic tensions among pastoral groups, have led to an increased incidence of bloody inter-pastoralist conflicts, bringing international attention to the issue. Meanwhile, foreign investment land grabs continue apace as pastoralists have no viable venue through which to defend their land rights from encroachment (Hagmann and Mulugeta 2008).

Summary

Drought, increased population, and external influence, however, cannot be held solely responsible for these problems. The roots of Ethiopia's food security, poverty, landlessness, and expropriation problems lie in deficiencies in education, infrastructure, economic development, governance, and land tenure policies.

This policy proposal will focus on just one of these factors: land tenure policy. We will show that many of the problems currently drawing attention to rural Ethiopia are the result of a land tenure system that undermines land tenure security, contributes to weak land administration institutions, and limits market efficiency.

Land tenure reform can address these deficiencies by eliminating the vagaries in land laws that threaten tenure security, strengthening institutions through increased information, democracy, and accountability, and liberalizing land lease markets. These reforms could successfully contribute to a more holistic solution to food insecurity, poverty, landlessness, and resource conflict while remaining politically and institutionally feasible.

Methodology

Research methods

The findings of this report were compiled over four months in the spring of 2011. Initial research was conducted in order to understand the framework and context of land tenure policy in Ethiopia. From there, research was divided into three major categories for more in depth research: Land tenure case studies and development best practices, historical and political context, cultural and social context, and the writ and implementation of the current land law. These areas of research were then synthesized in order to produce the basis for recommendations for land tenure policy reform in Ethiopia.

Research was conducted entirely from Minnesota using academic research materials found through libraries, personal contacts, and electronic journals. Special emphasis was placed on peer reviewed academic literature over less formal sources such as news articles, websites, and materials issued

by the Ethiopian government. The reason for such discrimination is to maintain maximum objectivity in producing our results, since the highly political nature of land tenure policy in Ethiopia means that it is difficult to ascertain objective, accurate information outside of the academy. In keeping with this principle, the methodology and data-sources of quantitative studies were taken into account in weighing the relative merits of their measurements. Doing so limits the scope of the information available to this study, but the tradeoff is worth the assurance of reliability.

Limitations

The limits of funding and time prevented any direct data collection in Ethiopia or from the Ethiopian Diaspora in the United States. Being unable to visit Ethiopia, our findings and conclusions are entirely mediated by the experiences of researchers themselves. As such, we are forced to accept their perceptions as accurate having no method of verifying data beyond research triangulation and the credibility of institutions such as the World Bank and the Nelson Land Tenure Center at the University of Wisconsin.

Time is another significant limitation. The most recent comprehensive data regarding Ethiopia's land tenure system is from 2007/2008 survey data, though much of the available research is only as recent as 2005. Therefore, the picture we paint of Ethiopia's land tenure system is about three to six years old. It is entirely possible that the data has changed over the past six years, though no major land tenure policy events have occurred in that time frame to cause us to believe that any major change is likely.

Data was often incomplete or highly localized. We were unable to locate the texts of regional land proclamations and as such, we were forced to rely on secondary sources for the content of their provisions. Furthermore, the majority of the data is localized to small sections of particular regions, making it difficult to generalize more broadly about the effects of Ethiopia's land tenure policy on the country as a whole. We feel that we have largely overcome these limitations through triangulation between sources to verify that findings were broad trends rather than localized phenomena.

Land Tenure Reform: Theory and Practice

It is important to understand Ethiopia's land tenure policy in the context of development theory and case studies in similar regions that measure the relative success of various policy options. In doing so, we are able to identify major threats to land tenure policy and their connection with development outcomes. This context will allow us to measure the relative success or failure of Ethiopia's system and recent reforms, and which solutions might most effectively address the underlying problems of Ethiopia's agricultural sector.

Theories of Land Tenure Policy

Land tenure policy reforms in sub-Saharan Africa have been influenced by an ongoing debate in the literature regarding the best way to formalize customary land rights. There are essentially three models.

Neoclassical/Classical Economic Model.

The Neoclassical/Classical model focuses on land tenure's role in creating the economic conditions that influence the achievement of development objectives. The main instrument of these land tenure models is land tenure security achieved through individual land rights (usually titles or deeds) to sell, lease, and mortgage land. If individuals control their land holdings, their claim to the land is more secure, making them more likely to invest in the land for greater productivity. Maximizing the integrity of individual land rights maximizes land tenure security and leads to positive economic outcomes, growth, and development (Rutten 1997).

Institutionalist Model.

The institutionalist model recognizes the neoclassical model's narrow focus on the economic aspects of land tenure as fundamentally flawed because it ignores the importance of the policy environment. This school of thought instead proposes that the development of secure property rights is the product of political and institutional processes that frame property rights in terms of cultural values. Practically speaking, land tenure reform is not dependent upon property rights per se, but rather the definition and realization of those rights through land institutions. Development outcomes, therefore, can only be derived from land tenure policy by improving governance through institutional capacity building (Cramb 1993).

Associative Model

The associative model, first outlined by Dessalegn Rahmato in 1994, attempts to achieve the goals of both the neoclassical and institutionalist approaches by making the community, rather than the individual, the basic economic unit. The associative land tenure system designates community representatives as land right holders and administrators for individuals, who are, in turn, granted usufruct rights by the community. By legitimizing traditional tenure arrangements, this model is designed to utilize the legitimacy of customary practices and institutions as a path to good governance while maintaining land tenure security for individuals (Rahmato 1994).

Case Studies in Land Tenure Reform in sub-Saharan Africa

Recent land tenure reforms in sub-Saharan Africa have focused on formalizing customary land tenure to improve land tenure security according to the neo-classical model. They have largely taken two forms: conversion to individual or associative freehold title (Kenya, Uganda), or certification of individual or associative usufruct rights on state-owned land (Ghana, Mozambique).

Each of these case studies resulted in partial (Kenya, Ghana, Mozambique) or complete (Uganda) failure.

Kenya: 1954 - 2009

Kenya's parliament adopted a new National Land Policy in December 2009. Prior to this new law, land was administered through a multitude of conflicting and overlapping laws and policies representing a hybridization of English and customary land tenure laws (USAID n.d.; Miceli 2001). In 1954 the British colonial government began the formalization of land tenure. Reforms aimed to promote agricultural development through land market reforms through the establishment of individual property rights through land titling (Miceli et al 2001). Land was classified into three categories: private, government, and trust land (USAID n.d.).

Private land is individually or collectively land held under freehold titles. Freeholds make up about 20% of total landholdings. Trust land is the more prevalent, making up 70% of registered land. Trusts were administered by city councils under a sort of primitive associative model, who granted use rights to members of the community primarily in arid and semi-arid pastoral areas (USAID n.d.; Wayumba 2004).

The implementation of this program accumulated a large number of problems that resulted in an inequitable system that realized few development-related gains. There were a few main problems:

Opportunity Costs. Titles had to be registered at the seat of government, which often required repeated long periods of travel (Miceli et al. 2001). Thus, the nominal and opportunity costs of travel made the costs of acquiring and maintaining a land title prohibitive to most poor farmers (Place and Migot Adholla 1998). For instance, the result for western regions of Kenya was that, although 80 percent of owned parcels were registered, registrations were not updated and land disputes went unresolved. Land tenure insecurity was found to be significantly higher on un-updated and disputed parcels because they were vulnerable to being taken away by wealthier, more powerful interests (Deininger and Yamono 2005).

Institutional Capacity and Governance. The business and local elite comprised of politicians and civil servants were able to use their resources to influence the land allocation, distribution and dispute resolution through bribery, political connections, and information asymmetries (Kanyinga 1998; Rutten 1997). The politicians had the power to move the people out of their land even if it was legally theirs and redistribute it to those loyal to the ruling party (Palmer 2000). Institutions also lacked the capacity to register and update titles in an efficient manner. A World Bank document reported that,

“Registering the transfer of land in Kenya requires eight procedures, takes approximately 64 days, and costs 4.2% of the property value. Many cases of land sale and succession have not been reported to the Land Control Boards, largely due to the high financial and time costs associated with the formal process” (World Bank 2009b; Konyimbih 2001).

As a result, expected positive development outcomes from Kenya's freehold and associative land tenure reforms were minimal.

Increased land disputes. One result was that between 1990 and 1999, 91 percent of land conflicts were brought to informal institutions, indicating that the official system had lost legitimacy (USAID n.d.; Yamano and Deininger 2005). Another is unequal land distribution. Because of corrupt allocation processes, land became concentrated in the hands of elite creating imbalance in the land holdings. Though reform began over twenty years ago, by the end of the century 32 percent of Kenya's land was owned by a mere 2.4 percent of the population (Rutten 1997).

Landlessness and land poverty. A side effect of this inequitable distribution of land was landlessness and land poverty. By 1990, landlessness in Kenya was estimated at approximately 10 percent of the total population increasing by at least 1.5 percent annually (Ibid 1997). As a result of inequity of land distribution almost 32 percent of all rural households were estimated as having holdings of less than 1.0 hectare (Ibid 1997).

Development-related outcomes. Due to increased land disputes and inequity in landholding, tenure security readings in Kenya have been mixed, with results depending on the administrative practices of a particular region (Place and Migot-Adholla 1998). Generally speaking, however, disappointing land tenure security readings led to only small increases in land market activity in the form of land sales, mortgages and land-as-collateral (Walsh 1993)

Lessons from Kenya. The effectiveness of land market liberalization is moderated by institutional capacity to administer and update land registration and the quality of governance. In Kenya, poor capacity led to opportunity costs that impeded proper registration of land titles. The well informed and well-connected took advantage of the registration inconsistencies to grab land, increasing land disputes, undermining land tenure security, and creating a new landless class. In short, it was not the freehold system that failed per se, but rather that the institutional environment and unreliable governance undermined tenure security and, thus, development-related outcomes.

Epilogue: National Land Policy of 2009. To address the problems of its land policy, Kenya passed the new National Land Policy in 2009. The new system is a complete revision of the institutional framework governing land administration and management. It aims to democratize land administration through a National Land Commission and democratically elected District and Community Land Boards (DLBs and CLBs). As the organization closest the people, CLBs will manage community lands with the authority to approve all transactions on that land (USAID n.d.). The National Land Commission's key duty will be to implement the new policy (Kyendo 2010). The commission will have the power to allocate and repossess public land in case it's left idle to prevent hoarding the land for speculative purposes (Ibid 2010).

Other changes appear to be meant to limit the incidence of foreign land grabs. The new policy prohibits non-Kenyans from owning freehold titles and reduces all leases of up to 999 years to 99 years. The president will no longer have the power to allocate public land (Ibid 2010).

It is uncertain how well these reforms will work. Restrictions on foreign land ownership may discourage land grabs but may undermine the tenure security of common non-Kenyans. It is unclear whether the reduction of lease terms and divestment of presidential authority will be

meaningful reforms. Furthermore, it remains to be seen how fairly the National Land Commission will deal with dispossession for leaving land fallow. The results of these reforms deserve continued study as they may hold important lessons for Ethiopia due to its regional proximity, attention to land grabs, and its adoption of dispossession as a part of land policy.

Uganda: Land Act of 1998

Uganda covers 241,040 square kilometers—197,100 square kilometers of land. Arable land comprises 27.4%, and 11.2% is in permanent crops; only 0.1% of cropland is irrigated (USAID).

Before the Land Act of 1998, the 1975 Land Reform Decree vested all land in the State. The decree introduced a land-lease system called *mailo* permitted leases from the State for a period of 99 years. Under this provision, the state nationalized large swaths of customarily held lands and households were allowed to apply for 99-year leases to use the land (USAID n.d.). This reform was largely unsuccessful as relatively few households participated and large-land owners abused the reform to create exploitative landlord-tenant relationships, often arbitrarily evicting small farmers from their land. Land has largely remained state-owned with 85 percent of land continuing to be operated under unregistered customary tenure arrangements (Tripp 2004; Barata 2001).

The Land Act of 1998 in Uganda aimed to formalize the customary land tenure arrangements through a two-step process: certification and conversion to freehold tenure. The new law permitted occupants of state-owned land to apply for a certificate of customary tenure, essentially a long-term lease, which can then be converted to a freehold title. The new law dictated that land must be officially surveyed before it can be converted into a freehold and legally occupied. Additionally, it must be used or developed for at least 12 years before it can be officially surveyed in order to prevent squatting. Certification required that land occupants pay annual rent for a nominal price of 1000 Ugandan Shillings (\$1.66 USD).

The holder of the certificate has the right to transfer, sell, sub-lease, and mortgage the certificate as long as it conforms to customary law. Essentially, the holder would have free rights to the land (owning the land as well as whatever is on the land i.e.: buildings, crops, etc.). Certificates could then be upgraded to a freehold title, completing the upgrade from informal customary tenure to full, freehold property rights. Land tribunals, an organization designed to assist in the implementation land rules and transactions, would be responsible for land administration and dispute resolution (Hunt 2004).

The 1998 reform encountered a series of problems that resulted in zero certificates or titles having been issued since the reform (Deininger 2009a).

Cost. The main source of failure was prohibitively high costs. Uganda's land tenure reforms were costly to administer, costly for individuals, and complex to register. One year after reform, a Uganda government report stated that, "The implementation costs [of the Land Act] would still exceed annual budget provisions by almost 400% (Uganda Government 1999: 5.4-5.9). Being too

costly for local jurisdictions to administer, certification was not even made available to many landholders. Costs were likewise prohibitively high for individuals. There are numerous offices involved in registering land, the costs also vary widely. Although the application fee is only 20,000 Uganda Shillings (Ushs) (\$8.41 USD), total fees for surveying and registering certificates were over \$273 USD, an impossibly high figure for most smallholders (Economic Policy Research Center 2007).

Institutional capacity. Obtaining a certificate was not only costly in an individual, but land institutions lacked the capacity to educate landholders about the process. It is clear that many people did not understand the process and could not make informed decisions about certification and conversions to freehold titles (Van Asperen 2006; Ahene 2009). The system of recording and storing documentation continues to be done manually records are not well kept. As a result, public requests to search and verify land claims are met with slow, inaccurate responses. The process as a whole has been judged to be “slow, corrupt and unreliable” (Ahene 2009). This confusion contributed to the low incidence of certification from the 1998 land law and thus formed a significant part of its failure.

Despite the failure of Uganda’s land laws, it should be noted that the relative strength of indigenous land tenure institutions was a significant contributing factor to the failure of formal registration. Uganda’s traditional land tenure system performs all of the functions of a formal tenure system with fairly positive results. The users of communal land are guaranteed rights to farming and seasonal grazing, access to water, pasture, burial grounds, firewood and other community activities. There are no ownership rights given to individual users of the land, however. The entire control and ownership of the land are through the family and community. This way, the community is better equipped at protecting land from sales, and need “consensus” to give up any part of their land. One author notes,

“The community more or less has to regulate its transfer even where land is used by a known individual. It will be very difficult for specific individuals to approach the communal land association to request for their parcel for individual registration. Research has shown that communal landowners are not willing to let any single individual demarcate their own share of land” (Busingye 2002).

This community solidarity has led to robust tenure security in regions still operating under customary land tenure systems. It should be noted, however, that it is uncertain how durable these relationships will be as Uganda continues to undergo the long process of development. Development has a habit of bending and breaking many of the social ties that make Uganda’s system work. In the few places where customary landholders know about legal rights that augment customary tenure, perceptions of tenure security have been higher (Deininger and Feder 2009). It is therefore imperative that Uganda’s land laws successfully augment the security of customary land rights in order to make sure that current land tenure security remains durable.

Lessons from Uganda. The Land Act of 1998 failed because of high costs, lack of institutional capacity, and the relative strength of customary tenure. These failures were so egregious that the

reform has yet to be implemented on a significant level, meaning that it has not had any effect on land tenure security, investment or productivity to date.

Mozambique: Land Law of 1997

Mozambique's land reform of 1997 was different from either Uganda or Kenya in that it pursued registration of customary land tenure rights through title certificates for state-owned land that cannot be bought or sold. On the ground, the law favored an associative model of administration, guaranteeing access to land for small holders through individual and communal titles and provides access for national and foreign investors through 50-year leases. Land can be used for farming or commercial purposes, provided such activities pass through a government application process.

The Land Law simultaneously recognizes traditional and customary laws of occupation and inheritance. The Law states that any citizen who has occupied land for more than 10 years has land use and benefit rights. Local communities can be collective holders of land rights and can apply for land titles known as "Land Use and Benefit Rights" (DUATs), and are issued by provincial cadastral services. It was found that about 6,649 DUATs were issued between 1997 and May 2005 (Kanji et al. 2005). Mozambique's land law is more lenient regarding foreigners than Kenya's 2009 law in that both individuals and foreign collective bodies can own land so long as they are properly registered and have an approved investment project (Melauene 2005).

The land registration process consisted of negotiations with neighboring communities combined with the measurement of land boundaries through a cadastral survey to. The Provincial Cadastral Service (SPGC) is designated as being responsible for certification, and there are only a few districts in which the cadastral service has been set up. The cost to register land using a cadastral survey is costly for both individual and community titles. However, NGOs subsidized the registration cost for many communities, reducing costs to a manageable level. Under this arrangement, nearly to 200 Mozambican communities have registered their land since 1998 (Kanji et al. 2005). Despite this impressive statistic, it is unclear whether these communities represent a sufficiently large portion of Mozambican farmers to be considered a total success. In any case, the cost structure of reform make it clear that the success of title registration under the 1997 reforms is due to the continuing involvement of NGOs to subsidize costs rather than the merits of the system itself.

Mozambique's land reforms suffered, in fact, from a wide array of problems similar to those of Kenyan and Uganda.

Politicization of Indigenous Institutions. Many of Mozambique's rural communities rely on traditional leaders to settle land disputes. When the Land Act of 1997 was implemented, traditional leaders stepped into a political role as the administrators of communal land tenure rights. As such, land allocation and administration became politicized at the local level, with local elders using their authority to impede the certification process. State officials, at times, used "extreme caution" in dealing with traditional leaders and that they were wary of political backlash led by the traditional

leaders. Nonetheless, it was often difficult to secure their cooperation, often leading to a stalemate over the registration of customary lands and a failure to implement the new laws.

Lack of Information. There has been substantial push for public awareness about land laws, but still a vast majority of the thousands of rural residents are unaware of their land rights as communities and as individuals. Those who are aware of their rights almost always lack financial and technical support that is needed to assert those rights effectively. Communities that lack that ability are unprepared to consider investment opportunities or meaningfully engage in negotiations with prospective investors, leading to increased vulnerability to land grabs (USAID n.d.).

Illegal Land Sales. Despite federal laws that prohibit the sale of land, an illegal, underground market for land has developed in Mozambique. Despite their prohibition by the state, land sales often take place in the presence of local authorities as witnesses to a formal declaration, which is either written or simply committed to memory. With the development of an underground land market, state prohibitions in fact undermine tenure security as they encourage the improper documentation of land transfers, leading to faulty memories, land disputes, and unjust dispossession (Chilundo 2005).

According to the National Land Directorate (DINAT) a former cadastral surveying body, between 1997 and May 2005 at least 10,074 requests were submitted, of which 46% are from Maputo province, about 12% from Zambezia province, and 7% are from Nampula province (Ibid 2005). It was believed that more requests were submitted, but data on total land registration requests was not available from all provinces in Mozambique. The land registration process for the individual is outlined below.

Cost. Like Uganda, cost was a significant barrier to registration in Mozambique. It is estimated that the cost of land registration for a community is \$3,000 USD (Norfolk 2002). This is an enormous sum of money given the fact that the people of Mozambique, especially those living in rural communities and small villages, are among the poorest people in the world. As mentioned before, this cost had to be defrayed by NGOs to make community land registration feasible.

Mozambique's land reform of 1997 largely failed to accomplish its goal of formalizing customary tenure and increasing economic efficiency. Like in Uganda, the Land Act did not significantly increase land certification and registration for the community. Nationwide, only about 60% of the applications to receive DUATs were approved and released. In Manica region, for example, only a total of 10 community delimitations occurred between 1997 and 2004. Of these, eight had been finalized while in 2 cases, community certificates had yet to be issued. This low rate of land right processing is indicative of the governance issues associated with local empowerment and insufficient institutional capacity. Nonetheless, some experts remain optimistic that the reform will eventually achieve its goals (Durang 2004). Despite some optimism, thus far the long process, high costs, and lack of information about land registration caused barriers to land registration, preventing Mozambique's 1997 reform to contribute significantly to development.

Ghana: National Land Policy of 1999

The Ghana Land Administration introduced the National Land Policy (1999) aimed to confront land issues facing land users, investors, developers, and other stakeholders. The broad goals of the land act, like in other Sub-Saharan countries, were to promote economic growth and reduce poverty. Despite the transition to freehold tenure, land tenure security continues to be a major issue.

The reform aimed to formalize customary tenure and convert its formal system of deeds to titles. Deeds differ from titles in that they merely convey land or realty between people, lacking specific definitions of land boundaries or a description of the land. The document is instead taken at face value and not put up to scrutiny, potentially leading to increased land disputes. Despite these problems, deeds recording system is preferred by some parties to a land title registration system because documents can be recorded quickly and at a lower cost than under a land title registration system (Asabere 2004). Nonetheless, titling was pursued as a way to minimize land disputes.

Whether by deed or by title, the reform embraced freehold tenure rights to buy, sell, lease and collateralize land. Unfortunately, registration largely failed. The reasons are familiar.

Institutional Capacity. Title registration included many complex, slow and cumbersome procedures that weak institutions had difficulty administering. The seven-step process could take over a year to complete. The result was corruption, mismanagement, double registration, which in turn increased land disputes (Kanji et al. 2005).

Cost. Moreover, land registration is very costly in Ghana and is a barrier to ordinary people who want land registered and it often takes several years for the registration process to complete

The deed system. Unique among the cases, Ghana's deed system complicated title registration through insufficient ownership records and its existence impeded motivation for reform. The deed registration system contains no effective mechanisms in place for conducting title search prior to land transactions (Asabere 2004). This is especially acute in the context of Ghana's institutional environment, since rigorous, well-kept records are an essential component to a properly functioning deed system (Deininger and Feder 2009). As such, the continuing existence of the deed system along side title registration undermines the security of land tenure in Ghana.

Land disputes. It has been found that land disputes are growing in many parts of Ghana, as a result of unclear boundaries between customary system, and duplicate land sales, and unclear deeds. The courts in Ghana have a huge backlog of pending disputes, a substantial share of which concerns land rights (Kanji et al. 2005). This problem could be resolved through successful formalization of customary rights and the conversion of deeds to titles, but the 1999 reform has failed to accomplish this.

Lessons from Ghana. Ghana experienced some of the same problems as Kenya, Uganda and Mozambique. Costs limited the spread of reform and a lack of institutional capacity led to bad governance, increased land disputes, and a general failure of the new land policy to achieve

development outcomes. Compounding the situation is Ghana's deed system, which could have been more successful in a better institutional environment.

Case Study Summary

Upon the analysis of the outcomes of land tenure reform in Kenya, Uganda, Mozambique, and Ghana, two process domains of registration appear salient: land registration/formalization, and land tenure administration. Registration is necessary to formalize unwritten customary rights and administration is necessary to update and sustain the land tenure system. Among these examples, three themes emerge as essential for successful land tenure reform.

Cost. Registration must be affordable to all landholders and must consider nominal, transactional (including corruption) and opportunity costs. Surveying and processing fees have been shown to drive up costs and should be avoided where possible. Implementation should be as transparent and democratic as possible to avoid the politicization of the process, which incurs costs via unjust land disputes and corruption. Opportunity costs must be avoided by making land administration close enough to the people so that they can maintain their land rights while remaining close to home. Optimally, an affordable registration process will allow all farmers, rich or poor, equal opportunity to secure their rights, leading to higher land tenure security and a more just system.

Institutional capacity. In each example of reform, administrative institutions lacked capacity to inform the public about land reforms and efficiently process land registrations. None of the case studies featured widespread knowledge of reform among rural landholders. Adjudication and registration was complicated and time intensive. As a result, the educated and politically well connected were able to leverage information asymmetries to grab land from traditional landholders, creating landlessness and land poverty.

Governance. Corruption and politicization in reform implementation processes were found to be a substantial problem in all case studies. Examples of abuse included: allocation of land to political favorites, the double-registry of land, and the widespread use of bribery to settle resulting land disputes. In Kenya, for example, democracy deficiencies undermined associative ownership structures as community elders abused their authority, allocating land to family members and selling land as if it were their own. Thus, corrupt, politicized governance structures contributed to land tenure insecurity.

The main lesson to be drawn from the case studies examined here is that the form of land tenure system is secondary to issues of cost, institutional capacity, and governance in determining success. It also emphasizes the danger of the development of parallel formal and informal tenure systems. Ethiopia's land policies and any reform proposals must avoid these pitfalls in order to be successful.

Historical Background

The issue of land tenure in Ethiopia has been a vital and sensitive topic throughout the country's short history as a modern state. This is not surprising given the agrarian nature of the country and its continued reliance on the agricultural sector as the primary component of its national economy. The result of this dependency has generated substantial consensus among experts that that land is the most valuable resource in Ethiopia and has made issues of land use one of the most politically charged and contentious matters of public policy (Joireman 2002; Pausewang 2006). The purpose of this section is first; to trace the historical contours of land tenure policy in Ethiopia through the three most recent political regimes in the country, namely, the imperial/feudal period, the Communist Derg administration (also known as the Mengistu era), and the present system under the Ethiopian People's Revolutionary Democratic Front or EPRDF. Second, It demonstrates that even when new land tenure regimes are introduced (particularly within states where weak institutional capacity to implement or enforce new systems) they often operate simultaneously with earlier forms of land tenure. Thus, the de facto situation on the ground is one where customary land tenure practices co-exist (and often conflict) with top-down tenure reform systems implemented by the state (Crewett et al. 2008). The result for Ethiopia has been a complex web of tenure systems (old and new) that vary in application across the country.

The Imperial Era and the Dawn of the Modern Ethiopian State (circa late 1880-1974)

The Ethiopian land tenure system during the period of empire has been described as one of the most complex amalgamations of various land use forms in all of Africa (Cohen 1974). In part this was due to the consolidation of conquered lands and regions, each with its own customary system of land use, under the imperial banner of Emperor Menelek II. Crewett et al. have pointed out that the terminology that is now commonly used to classify these various systems is largely based on the taxonomy outlined in administrative tax codes of the period, but that the types of land tenure arrangements employed at the very local level was much more varied. Furthermore, they note that these classifications were, and remain, regrettably ill defined contributing to a tendency to group rather different systems under the same classification. Such definitional opacity has also meant that classifications have had different meanings both across regions as well as through time. Scholarly treatment of land tenure during this period has tended to focus on the historical heartland or 'core' of the Abyssinian empire, roughly comprising the northern and northwestern portions of modern Ethiopia, with significantly less attention paid to the Southern or 'peripheral' regions conquered by Menelek during two decades of expansion and consolidation. Nonetheless, at its foundation, the tenure system of the northern core can loosely be conceptualized as a communal one (Crewett et al. 2008). The South by contrast consisted of a patchwork admixture of differing types of tenure systems including private land tenure, communal pastoralism, and government tenure (Joireman 2000; Jemma 2001).

Conceptual ambiguity aside, land tenure during the imperial era was, broadly speaking, best defined as a feudal system. In the northern core this was a form of communal tenure (known as *rist*) based on lineage that gave usufruct rights¹ to tenants who occupied those lands (Teklu 2004). The main impetus of *rist* tenure was to ensure continuity of possession for lands operated both individually and by clans. It ensured that the majority of the rural peasantry had access to the most of Ethiopia's land due to regular redistribution. However, under the *rist* system tenant rights were notably complicated by the fact that they did not refer to particular plots of land (Pausewang 1983). Disputes often arose when claimants to a particular parcel of land could not conclusively demonstrate descent from an ancestral landholder (Hoben 1972). As a result, an extremely competitive and unequal bargaining environment developed over who had access to land. Essentially, the communal nature of the *rist* system meant that individual tenants did not have the right to bequeath lands upon their descendants (as a direct transfer) or to sell or mortgage their land outside the family. Thus, upon the death of a tenant, local councils would determine whether and how descendants would have access to the land used by their forbearers, the result being widespread and frequent land redistribution within kinship groups (Pausewang 1983; Teshale 1995). In sum, the *rist* system was to provide some attention to the concept of tenure security as it was applied to broader social and political units who maintained collective rights to access larger tracts of land, but tenant security for individual use of particular plots of land was largely absent (Crewett et al. 2008). Lack of security at the individual level, and the ever present possibility that an individual or family could at some point lose access to this land, resulted in the continual fragmentation of plots corresponding to a reduction in individual plot size and contributed to the under-productivity of land (Teshale 1995; Crewett et al. 2008).

While the Crown exercised the ultimate authority over all land, in practice administrative and managerial responsibility in the north was bestowed upon an aristocratic class who were granted as a type of fief in return for their service and loyalty to the government (Pausewang 1983; Joireman 2000). Most often referred to as *gult*, this right was a system of taxation and administration superimposed over the *rist* tenure system and entitled landlords to collect taxes and tributes, and to extract services from the peasants who work the lands under their control (Hoben 1972; Pausewang 1983). The *gult* system was also widespread in the south (perhaps even more prevalent than in the northern core), and while it was initially a right available only to the imperial family and provincial nobles, it gradually expanded to include civil and military officials in exchange for service to the Crown (Pausewang 1983). *Gult* rights were not inheritable and so while this system allowed landlords some independence, particularly in exploiting peasants through additional forms of taxation and service above that which was due to the Imperial government, land ownership still remained firmly with the state and thus remained an important mechanism by which the Emperor could exercise control over and ensure obedience from the nobility and other landlords (Ibid 1983; Joireman 2000; Crewett et al. 2002). However it is important to note that *gult* was not only a form of land rights transferred to individuals, as the Ethiopian Church was also an important and influential institution that enjoyed a type of land right similar to *gult* known as *samon*

¹ Usufruct rights refer to the right to enjoy all the advantages derivable from the use of land that belongs to the state. In effect, the right holder is entitled to all improvements to the land and everything grown or produced thereon.

(Pausewang 1983). This land, while still officially owned by the state, was granted to the church in perpetuity in order to support its activities throughout the country (typically through leasing of land or a tax levied on individuals or groups who are allowed to use it). While it is not certain how much land the church has access to, estimates are likely to be roughly 10 to 12% of Ethiopia's total land area (Rahmato 1984).

The third broad classification of land rights was known as *gebbar* and represented a close approximation to private property rights. The emergence of *gebbar* occurred began with land redistribution (often referred to as 'freehold') to soldiers and victims of the Italian occupation upon the return of Emperor Haile Selassie from exile (Mersha and Githinji 2005). A new tax code introduced in 1966 formalized this system and explicitly defined land on which the Imperial tax was paid as the property of the taxpayer. This tax code abolished much of the *gult* system and made taxpaying *gebbar*s the legal owners of their land, although the Crown still retained ultimate authority over matters of tenure (Pausewang 1983). Collective lands on which no tax was paid reverted to state control, thus depriving pastoralists of the collective rights they had traditionally enjoyed (Crewett et al. 2008).

Perhaps more importantly, while this new system of taxation had increased the tenure security for many peasants (to some degree in the north, but to a much more significant extent in the south) it also became a mechanism of exploitation due to extreme power imbalances between the rural peasantry and their landlords (Kirsch et al. 1989). Many of these farmers lost their lands due to an inability to pay the often exorbitant taxes levied on them or were subject to situations wherein landlords registered as the formal taxpayers thus becoming the legal owner of those lands by default. As a result, many farmers were reduced to exploitative sharecropping arrangements under which landlords often demanded as much as fifty percent of yields in return for the right to practice subsistence farming (Crewett et al. 2008).

Revolution: The End of Empire, the Derg Regime, and the Land Proclamation of 1975

In 1974 the Imperial regime of Haile Selassie was overthrown by the Soviet-backed communist military junta known as the Provisional Military Administrative Council, more commonly referred to as the Derg (Amharic for 'council'). In March of the following year the Derg issued the "Proclamation to Provide Public Ownership of Rural Lands" (Proclamation 31) declaring all rural land to be the property of the state without compensation for previous rights holders (Jemma 2004; Crewett and Korf 2008). The proclamation further outlawed all former tenancy relations and provided a basis upon which to redistribute usufruct land rights to peasants who had suffered under the exploitation inherent in the tenure systems of the Imperial regime (Holden and Yohannes 2002). Its reforms were ostensibly based on the principles of justice and equity, aiming to address the exploitation of the past while providing for a system of agrarian relations for the future that would provide all of Ethiopia's farmers with equal access to land for cultivation.

The Proclamation of 1975 was the first uniform land tenure system imposed upon the country as a whole. As a result it meant varying levels of reform, particularly between the north and the south. In the north, where rick rights predominantly governed tenure relations, a significant amount of equity had already existed prior to the 1975 proclamation and thus reform was more moderate. By contrast, reform in the south meant quite a radical change from tenure systems of the past. Among the provisions of the proclamation, several are worth pointing out. First, individuals were outlawed from transferring usufruct rights by any means to anyone beyond their immediate family such as spouses or children, even upon death. Secondly the landholding of any family was limited to a maximum of ten hectares. Lastly, the proclamation forbade the use of hired labor to assist in working the land (Holden and Yohannes 2002).

The Derg also implemented a variety of institution reforms in order to operationalize this new land tenure system. One of these reforms was the integration of small farms into collectives along with the introduction of state cooperatives (Joireman 2000). These institutions sought to do away with the rick and gult, and replaced them with peasant associations that were charged with determining access to land (Crewett et al. 2008). All farmers were required to register as members of such associations that were in turn empowered to redistribute land among members equally. In this way, the leaders of peasant associations had become the local proprietors of land. Furthermore, because access to land was contingent upon membership in these associations, and membership was not transferrable between various collectives, peasants effectively became tied to the land since migration meant loss of usufruct rights (Ibid 2008). Over time this meant increasingly frequent land redistributions in more densely populated regions as the number of claimants on land grew contributing to a growing problem of land scarcity (Rahmanto 1985; Kebede 2002). As a result the affects of the Derg land policy on tenure security are mixed. Evidence suggests that former tenant farmers in the south as well as landless populations enjoyed some increase in tenure security by gaining access to land through the peasant associations. On the other hand, frequent land redistribution marked a decline in tenure security for the heavily populated regions in the north.

By the mid-1980s initial support for collectivization among the rural peasantry had largely soured and the productivity of lands organized under cooperative tenure, in most instances, remained far lower than small-scale farms (Crewett et al. 2008). Moreover, as collectivization intensified the Derg was able to increase its power over the rural population through the peasant associations. And while collectivization was a failure in economic terms it's more lasting legacy would be to institutionalize centralized authority over land tenure (Bevan 2006). Thus the land policy of the Derg regime would replace the feudal tenure system of landlords and tribute collectors with a fundamentally new type of agrarian relations characterized by state control (Kebede 2002).

The Defeat of the Derg and the transition to Contemporary Ethiopian Land Policy

When the Derg was removed from power by military coup in 1991 the resulting dissolution of farm cooperatives was viewed by many in the international development community as a sign that post-

communist Ethiopia would make rapid strides toward privatization of land followed by the widespread implementation of a land titling regime which was economically speaking, the de rigueur method of development believed to increase the productivity of smallholder agriculture (Crewett et al. 2008). However, it soon became apparent that the new transitional government would continue the policies implemented by the Derg, albeit with some minor adjustments.

In November of 1991 the transitional government revealed as much in its declaration on economic policy and by 1995 the newly ratified Ethiopian constitution re-codified the institution of state ownership of land. It explicitly states that,

“The right to ownership of rural land and urban land, as well as of all natural resources is exclusively vested in the state and the peoples of Ethiopia. Land is a common property of the nations, nationalities and peoples of Ethiopia.” (Federal Democratic Republic of Ethiopia 1995, Article 40).

This policy was again justified on the basis of equity, that the ability to access land was a right that belonged to all Ethiopians. Furthermore, the Transitional Government of Ethiopia (TGE) felt that without regulatory function of state ownership, peasants and the rural poor would be subject to the whim of the market thereby constituting the return of an unequal and exploitative relationship between those who had land and those who did not. The constitution also provided the state with the authority to “obtain land without payment” for the purpose of its distribution to peasants farmers and pastoralists. The state was similarly vested with the power to act as a guarantor of access by protecting vulnerable populations from arbitrary eviction.

Yet while the 1995 constitution meant more continuity than reform with respect to land tenure policy, some notable exceptions exist. For instance, while the 1975 Proclamation expressly forbade the use of hired labor, the leasing of land, and limited the maximum plot size per individual to 10 hectares, such restrictions were absent in the 1995 constitution. This easing of restrictions has been pivotal in the formation of rudimentary land markets that many economists believe are key to increased productivity of the Ethiopian agricultural sector (Teklu 2004).

Secondly, and perhaps most importantly, the constitution gave individual ethnic regions in Ethiopia the authority to determine their own land policies. However, it is important to point out, many international observers and experts have been skeptical about precisely how much de facto autonomy actually exists in practice due to the substantial power exerted by the EPRDF party’s dominance of Ethiopian politics. Additionally, all policy decisions made at the regional level must be made in accordance with federal law that again demonstrates the primacy of the state government, particularly with regard to land tenure.

The 1995 constitution is largely silent on the matter of tenure security and as a result significant variation exists from region to region. Land redistribution has been explicitly ruled out only in Oromia, Tigray has not specified, and two others (Amhara and the SNNPR) make the option of secession dependent on the demands of the community and “scientific” recommendations based on productivity (Rahmato 2004).

As a result of the patchwork of differing local conditions, policies, and implementations it is difficult to make broad statements about tenure security. Nonetheless, many experts agree that despite the many contradictions and limitations in current tenure policy, overall tenure security has improved since the fall of the Derg. Still, such improvement is perhaps best viewed as relative, since substantial room for increased security of tenure and the development of healthy land use relations remains. Indeed as Crewett and Korf point out,

“Given the number of exceptions and prohibitions, and the lack of clear specifications of responsibilities and decision criteria, the current legal framework allows for an enduring influence of the state bureaucracy on land distribution and land rights. This offers potential spaces for corruption, political interference, and bureaucratic arbitrariness” (Crewett and Korf 2008).

The history of land tenure reform in Ethiopia is fraught with numerous failures and often-exploitative outcomes. Much of this is the result of the consolidation and application of state power along with the country’s attempts to modernize its agricultural sector. Such processes have interacted with, changed, and been changed by, longstanding customary land use practices.

As this brief historical account of land tenure demonstrates, the legacy of state land reforms and the persistence of customary tenure systems in Ethiopia have culminated in a fractured set of practices that coexist yet vary in their application from place to place. Standardization of such practices remains elusive and has the potential to cause more problems than it solves. Furthermore, lingering tenure insecurity can be directly attributed to this legacy of failed attempts at reform. The gradual introduction of certification schemes for farm plots has been an important first step in improving tenure security in many of Ethiopia’s federal regions. However, certification alone is not enough. Long-term tenure security can only be achieved if the institutions that implement, administer and enforce them are perceived as legitimate, transparent, and accountable. In the next section we examine these challenges more explicitly through the lens of power and culture.

Power Analysis and the Socio-Political Context

Culture and Customary Power

Abyssinian (Amhara/Tigrayan) social-political culture is characterized by a system of hierarchical relations in which each person's role and status within the system is clearly defined and understood (Vaughan and Tronvoll 2003). The state has historically been associated with the rule of those belonging to such a culture, and thus helps explain the dominant trend in Ethiopian politics as significantly influenced by the stratified and hierarchical division of power characteristic of the political core. An elaborate set of social rules helps ensure that knowledge of one’s role or place in society is transferred from generation to generation. Such social-political norms can be observed

all the way down to the household level, particularly in the north, where even familial relations are characterized by vertically stratified roles (Ibid 2003). As a consequence, conceptions of self-worth and individual value to society becomes internalized at a very young age and as these unequal social-political relationships are maintained and reproduced they reinforce an overall understanding of society as inherently unequal, and perhaps more importantly, unchangeable. Furthermore, this rigid stratification helps frame social norms that order dominant-subordinate relations and determines to a large extent who orders and who obeys.

In contrast, there are many ethnic groups whose social relations are traditionally organized along more democratic lines. The most researched of these is the gada system in Oromia (Hallpike 1973; Legesse 2001). Under the gada system, males are divided into (typically eight-year) age cohorts each with specific responsibilities that increase as individuals move from one age bracket to the next. Males are ritually promoted into the next level at the beginning of each period and the responsibilities accorded to each cohort are shared amongst those belonging to it. Leaders are democratically chosen from the most-trustworthy members of the group, and this leadership can be removed at any time if the group so wishes (Pausewang 1983). As a result the gada system is widely viewed as being more inclusive than customary social arrangements in the north, and is broadly based on power sharing through collective decision-making (Legesse 2001). However, the gada system is still quite far from an ideal democratic system as females are typically excluded from the process, as are slaves, minorities, and members of some despised occupational classes (Ibid 1983). Inclusive social practices and systems also exist among several other ethnic groups but have received much less scholarly attention.

Other customary power-holders cut across Ethiopia's many varied and distinct cultures. Throughout the country, elders are well respected and influential at the local level, particularly as arbiters of disputes and knowledge brokers of received cultural wisdom. As Vaughan and Tronvoll point out,

"All across Ethiopia, elder age is accorded a high socio-political value in the local community. Shimagile (elder) councils are frequently used to settle local disputes (over land or grazing rights, for instance), and it is always elder men who are first heard in community meetings" (Vaughan and Tronvoll 2003).

Evidence suggests that the formal and informal roles played by elders in society are typically organized around consensus-based traditions. However, the composition of such elder groups is far from representative. An individual's age alone does not confer the rank of *shimagile* and, like the gada system; females are excluded from being elders as are minorities and other 'despised' social groups.

Religious leaders are another customary group that wields a significant amount of power at the local level. This power is particularly salient in defining appropriate social norms and behaviors. Another function of religious leaders is in ensuring the observance of religious precepts, rituals, and holidays. Among other things, this can range from enforcing the practice of refraining from work (including farming) on religious holy days to reiterating and reinforcing religious definitions of the

'proper' role of women in the community and the household (Ibid 2003). Similarly, traditional healers, spirit mediums, and 'wizards' are accorded a significant amount of respect, and are often consulted in for advice and assistance, particularly with regard to common ailments or in advance of a particularly troubling decision or action respectively.

In short, Ethiopia is filled with a rich variety of traditional cultural practices that shape the way power is distributed and how decisions are made. It is therefore difficult to generalize without significantly downplaying such richness and oversimplifying the substantial variation that exists in and across Ethiopia's various regions. Still, keeping such complexity in mind, the Abyssinian culture of the northern core has, broadly speaking, been characterized as closed, inward looking and territorially based which contrast with the more plural and open cultures of the south. In any case, regardless of which culture one belongs to, these various social arrangements fundamentally color the way in which individuals perceive and relate to one another as well as the politics and institutions of the modern Ethiopian state.

This cultural context also plays a substantial role in the way land tenure operates on the ground. Reliance on customary practices of land tenure and the arbitration of disputes is frequent in areas where administrative capacity is weak, institutions are viewed as corrupt or inept, or where costs of accessing formal/legal channels are high. Moreover, this context informs and frames the way customary norms and power relationships, influence and are influenced by the understanding and implementation of land tenure policy. As such, the importance of traditional power structures must be taken into account when formulating new policy or attempting interventions that effect these structures.

State Governance at the Local Level

It is difficult to underestimate the power and influence the state exerts locally through government organs at the kebele (neighborhood) and woreda (district) levels. It is these levels of governance that are the most familiar to the rural population of Ethiopia and which most affect their lives and livelihoods on a regular basis. The ubiquity with which they permeate each individual's public life are captured well by a respondent who says,

"The house belongs to the kebele. If I need to repair it, I need to get the approval from the kebele. If I get sick, I have to pass through the kebele to the hospital. If my sons and daughters are looking for a job, they have to go to the kebele first. Unless and otherwise we follow the orders of the kebele we have no services" (Pausewang et al. 2002).

Originally created by the Derg, the kebele and the woreda were administrative units of government intended to implement land reform. Over time, both kebeles and woredas became used as a way of transmitting information to and from the local population (Bevan 2006). That is to say, inter alia, they were used to disseminate Marxist ideology and doctrine to the peasant population and to act as means of transmitting local intelligence to the government with regard to potential civil

disobedience (Vaughan and Tronvoll 2003). The Transitional Government of Ethiopia (TGE) and the subsequent TPLF/EPRDF ruling party have used these units somewhat differently, but still ostensibly to direct the rural populace and ensure the implementation and enforcement of government policies (Bevan 2006; Pausewang 2006).

Initially these local governance institutions were somewhat limited in power and operated more immediately under the direction of the federal and regional governments. However, in 2001/2002, in an effort toward decentralization, government levels were restructured, eliminating the zonal level entirely and bestowing the officials and institutions at the woreda level with considerably more power and authority (Vaughan and Tronvoll 2003). These steps have less to do with political or democratic decentralization (i.e. transferring authority to downwardly accountable or representative actors) than with administrative de-concentration (the transfer of power to lower level authorities who are upwardly accountable to the central government).

What has been distressing to international observers is that while they are still formally accountable to the federal government, officials at these levels are given broad latitude in interpreting and administering the law, often applying it in arbitrary and unequal ways with impunity, making them “infrequently politically neutral or independent” (Ibid 2002; see also Holden and Tefera 2007). This is true of officials not only in their administrative functions, but also as gatekeepers for the flow of government funds, aid, and services.

This situation is complicated by the fact that the distinction between the state and the ruling party, particularly at the local level of administration, is often, at best, difficult to perceive.

“The dominant role of the ruling party in public affairs both at the woreda and kebele level is quite pronounced, and many public officials are members of the party. In fact, one can say that at this level, party and government are closely linked with little or no separation between the two” (Rahmato and Taye 2006).

One of the more important responsibilities of the kebele/woreda system is its local judicial function. Courts are widely viewed as neither impartial nor independent from political influence. This perception is largely substantiated by the ruling party’s significant influence in matters of jurisprudence. Courts and court officials, like other elements of the state apparatus, function “in an atmosphere in which the pressure of government influence is unmistakable, unidirectional, and in rural areas, often backed up by at least the latent threat of force (Vaughan and Tronvoll 2002). At the same time judgments of the local social courts are not only unchallenged, but are strictly obeyed. For most individuals the perception is that disobedience or disagreement invites the possibility of further sanction, imprisonment, or worse. Furthermore, the backlog of cases and the time it takes to receive a ruling on a particular matter is, for many claimants, simply unfeasible (Rahmato 2009). That court officials are frequently susceptible to bribery further complicates matter (Ibid 2004). Taken together, these problems provide incentive for claimants to withdraw from the court system completely, instead favoring traditional processes that are widely viewed as less costly, less arbitrary, and more legitimate (Crewett and Korf 2008).

In sum, power and authority wielded by local governance structures at the kebele and woreda levels has significant effects on the administration of land tenure policy. Furthermore, the direction of accountability in local governance proceeds upward toward superiors rather than downward to the populations served by government bodies. It is therefore essential that federal government take more meaningful steps to politically devolve² (rather than de-concentrate³) authority to local governance institutions and communities. At the same time, increasing the capacity of local populations and community-based organizations with help to make local governance more accountable to the citizens it represents.

Participation and Marginalization in the Political Process

Scholars and experts have debated the relative merits and deficiencies of ethnic federalism in Ethiopia at length since its codification in the 1995 constitution. But pros and cons aside, the TGE's justification for such a political organization was based on the idea of the self-determination of peoples (Vaughan 2004). Given the wide range of ethnic groups that were marginalized under the Imperial regime and subsequently the Derg, the transitional government sought to provide a more inclusive and pluralistic means of organizing the political structure of the country (Ibid 2004). Concurrent with the formation of Ethiopia's federal states, the TGE relaxed the Amharic language requirements for civil servants. The purpose was to allow, and indeed, to facilitate broader participation in and access to the political process, particularly at the local level. This has been especially important at the sub-regional level, where positions are predominantly staffed by individuals who come from the constituencies they serve (Vaughan and Tronvoll 2003). However, the extent to which this indicates a more participatory process remains a matter of contention. Broadly speaking, Ethiopia remains a country in which the majority of its citizens know little of their rights, the law, or the political process. Furthermore, in a country where so many are marginalized, some segments bear a larger burden of alienation as the result of the overlying social political dynamic.

Women account for the largest portion of these politically disadvantaged groups.

Given the cultural context in many parts of Ethiopia, a woman's sense of self and position are determined by her roles as a mother and a wife. These roles correspond to socially determined gender norms that often place women in a subservient or marginalized political position. As in other countries of the global south, women also bear a disproportionate amount of the burden of broader social ills such as poverty and food insecurity (Quisumbing 2003). Women comprise

² Devolution in this context can most usefully understood as the transfer of rights and authority from the central government to local governments or communities. As such, this definition is somewhat synonymous with the concept of democratic or political decentralization (see below).

³ Administrative decentralization, also known as deconcentration, refers to a transfer administrative authority from the central government to lower-level central government actors and institutions who nonetheless remain upwardly accountable to central government authorities (Ribot 2002). By contrast, democratic or political decentralization signifies the transfer of authority to downwardly accountable actors such as locally elected governing bodies (Larson 2004). Efforts by the Ethiopian federal government to "decentralize" authority are best characterized by the former.

49.5% of Ethiopia's agricultural workforce and are 8.9% more likely to live in poverty than men (Adal 2008). This too is a result of cultural influences. Recent research in international development has revealed that resources are often divided unequally within households (Quisumbing 2003). Similarly, the division of labor in many rural households in Ethiopia also falls unevenly on women. They are often tasked with carrying out some of the most physically demanding and time consuming tasks of survival such as gathering wood for fuel or travelling miles a day to procure drinking water (Frank 1999). This is often in addition to household maintenance duties, childcare responsibilities, and assisting in particular farming tasks (Ibid 1999).

What all of this demonstrates is that women face considerable limitations to speak and act on their own behalf. And while there is some evidence that the government of Ethiopia is concerned with women's issues, this increased attention has resulted in only modest improvements for women and falls well short of the type of political empowerment that signifies the onset of meaningful change.

Local Cooperation and Community Based Organizations (CBOs)

Broadly speaking, peasant-to-state relations are characterized by vertical power structures. These structures are almost entirely unidirectional and top-down meaning that policy and actions begin at higher levels of the stratified, hierarchical system and are transmitted downward. For most of the Ethiopian population then, peasant-to-state relations mean obedience to the mandates of authority, and a significant lack of bottom-up accountability mechanisms. In other words, public officials and civil servants are incentivized to serve their political superiors much more often than the people they administer or represent (Pausewang 2006).

In contrast, peasant-to-peasant relations are organized horizontally. In the highlands of Ethiopia, such relationships are rare, and when they do occur it is usually in response to some practical matter (Poluha 2003). Such cooperation is democratic in nature (at least on the collective level) and respective parties are treated as equals at the bargaining table. Furthermore leadership of these groups are typically elected or appointed by the community they represent while customary practices of accountability ensure the community has the right and ability to change or sanction these leaders if it so desires. As such peasant groups and community-based organizations are typically viewed on the ground as being significantly more transparent, accountable, and democratic forms of political organization based in customary practice than the more formal and vertically oriented state institutions of governance (Bevan and Pankhurst 2007). These groups therefore have the potential to support greater peasant-to-peasant relations and support and defend the rights of peasants, particularly as these groups and the individuals that compose them become more aware of such rights (Ibid 2007). As Rahmato and Teye point out,

“...the chances that rights will be enforced are higher if there are vigorous peasant organizations and other civil society groups capable of taking collective action to defend these rights. Thus empowerment must be seen in relation with collective action and the ‘instruments’ for such action which can only be poor people’s own

organizations and rights advocacy groups that support their cause” (Rahmato and Teye 2006).

The Relationship between Regional States and the Federal Government

As mentioned earlier, the Derg regime was pivotal in centralizing the apparatus and political power of the Ethiopian state. Upon taking control of power in 1991 the TGE maintained this strict centralized control (Vaughan 2008). With the 1995 constitution this situation had changed allowing regional governments greater autonomy and authority by specifying that “all powers not given expressly to the Federal Government and the States, are reserved to the States” (Article 51:1) up to, and including, secession.

However revolutionary this may seem, the *de jure* autonomy of the federal states codified in the constitution stands in sharp contrast to the *de facto* situation in practice. While the constitution ostensibly frames the autonomy of the regional states in the language of self-determination (a fundamentally democratic principle) the federal government reserves the right to “formulate and implement the policies, strategies and plans in respect of over all economic, social and developmental matters” (Article 51:2). Combined with Chapter 10 of the federal constitution, which stipulates that regional policies must be made in accordance with federal law, the federal government effectively withholds the power to override legislation at the regional level.

Efforts at decentralization in 2001/2002 have largely been unable to rectify this situation in a meaningful way (Bevan and Pankhurst 2007). Furthermore, centralized party rule and a significant lack of capacity at the regional level have meant that in practice the authority of the federal government is “rarely challenged by the autonomous development of the regional states” (Vaughan and Tronvoll 2003). Similarly, the federal government ensures compliance at the regional level through firm control of budgetary purse strings. The financial balance of power is overwhelmingly in favor of the central government as it “controls [access to] the flow of federal subsidy, the overwhelming majority of state budgets” (Ibid 2003).

Political Party System

One of the more salient features of Ethiopian politics is the degree to which the ruling party is positioned throughout the government sector at all levels, in effect blurring the distinction between the party and the state. The ruling party’s control of the state can be traced back to its origins and the framing of the Ethiopian constitution that took place in the absence of democratic and inclusive institutions and social structures (Young 1998). The result is a situation wherein the ruling party has not only enjoyed overwhelming political power from the outset, but has played the major role in crafting the governmental structures that institutionalize and formalize that power (Abbink 2006).

This lack of separation between party and state exists at all administrative levels (Bevan and Pankhurst 2007). However it is important to note that this situation is not the result of policy, as there are no requirements for party membership as prerequisite for employment in the civil service sector. Nonetheless, there may be important individual incentives such as career advancement that makes party affiliation attractive. Part of the problem is due to a lack of transparency in governance structures leading the widespread perception (both within Ethiopia and from the international community) that the system is susceptible to corruption, political favoritism, and an unhealthy and undemocratic relationship between the majority party and the state. Monitoring groups such as Freedom House (which measures civil and political freedoms) and Transparency International (which provides data on transparency and corruption) have consistently ranked Ethiopia's performance as poor in all indicator categories.⁴ The federal government has made deliberate attempt to more clearly define which positions are appointed and which are based on merit. However, these reforms have been somewhat limited and it remains to be seen whether they will have the intended effect of providing a greater degree of dissociation between the ruling party and the state. What has been most troubling is that the difficulty in separating these spheres has brought about a situation in which "local administrative and political party systems were overlapping and interwoven, so that local government structures and officers were rarely either politically 'neutral', or perceived as such" (Vaughan and Tronvoll 2003).

Federal Government and NGO Relations

The relationship between the Ethiopian federal government and independent NGOs has, even in the best of times been an uncomfortable one. The government for its part views NGOs with suspicion as it perceives NGO influence in competition with its own for the 'hearts and minds' of the public over service provision. As a result, the government has kept close watch on NGO activities and typically requires that programs be developed and implemented in collaboration with local government institutions (Vaughan and Tronvoll 2003). This is particularly true in regard to highly sensitive political issues such as land tenure policy. Organizing and capacity building activities of INGOs and local grassroots NGOs around land use issues may be perceived by the government as cause for alarm as they would likely be viewed as undermining the power, authority, and legitimacy of the ruling party to address such matters (Pausewang 2006).

Ethiopian National NGOs (NNGOs) offer an interesting comparison to international NGOs. The largest and most well known (some might say notorious) of these NNGOs is the Relief Society of Tigray (REST). REST was created by the TPLF during the Derg regime to assist Tigrayan farmers. The sheer size and scope of the organization's work has meant that its activities have extensive reach, particularly among rural populations. However its motivations have been questioned on the grounds of its connections with the TPLF/EPDRF (Mulataa 2010). Certainly the link between the activities of a tacitly party organization, particularly successes in achieving development objectives,

⁴ Accessed at <http://www.transparency.org/> and <http://www.freedomhouse.org/template.cfm?page=1>

and the furthering of party interest are not difficult to perceive. This link, *inter alia*, been an important factor in preventing the development of a more broad-based development platform among Ethiopian NGOs (Vaughan 2004).

The Private Sector

Apart from land, arguably most important resource in Ethiopia, the state also owns a sizable amount of the country's business enterprises and industries. In the manufacturing sector alone, 150 state-owned public enterprises make up over 90% of the sector's value (Vaughan and Tronvoll 2003).

The nascent private sector is small by comparison, and even then, its activities are dominated by so-called 'party-associated enterprises' (the largest of which is the Endowment Fund for the Rehabilitation of Tigray or EFFORT) and the Midroc 'empire' of Saudi-Ethiopian businessman Sheikh Mohammed Alamoudi (Bevan 2006). Midroc is responsible for the vast majority of sizable new business ventures in Ethiopia and has acquired nearly all of the formerly state-owned enterprises that have been privatized (Ibid 2003). One of the more significant areas where Midroc is active is in agriculture. Alamoudi's business empire owns substantial tracts of land that are used primarily to grow crops intended for consumption in Saudi Arabia (Cotula et al. 2009). Such projects (often highly politicized) have led a growing unease among international observers and institutions about the prospects and prevalence of 'land grabbing' in Ethiopia.

The main concerns with a private sector in which economic power is concentrated in the hands of only a few is that such arrangements have the potential to retard competition which ultimately leads to stagnant inefficient business operations. More broadly, such oligopolistic industries, be they state or privately owned, act as significant barriers to entry into the market preventing the development of a vibrant and dynamic economy. And lastly, there are widespread concerns about politically motivated and privileged business transactions that often involve preferential access to contracts, infrastructure, capital, and administrative services. Such perceptions often underlie and lend credibility to accusations of economic opportunism such as land grabbing, an issue that has received significant international attention.

Broadly speaking, what the power analysis reveals is that political relationships at all levels of Ethiopian society are inequitable. Disparities in power, some related to custom and tradition, others the result of institutional structures of governance, undermine the development of more democratic social relations as well as political and institutional processes. Furthermore, these disparities cut across all demographic categories of age, gender, class, occupation, ethnicity, and religion. The inequity of power profiles is even more pronounced in rural areas where lack of education and employment options, along with deference to stratified and hierarchical customs and practices, exacerbates such differences. Without more comprehensively stipulated legal statutes for land use, more clearly defined roles and processes at the administrative level, and a more robust system of checks and balances within government organs (along with significant improvements in

ground-up accountability), unequal power distribution will continue to impede progress for Ethiopia's marginalized groups. Increasing institutional capacity on multiple levels and across multiple spheres is vital to establishing the transparency, accountability, and legitimacy of land tenure policy and its administration.

Continuing Land Issues in Rural Ethiopia

Land Distribution

Despite rural overpopulation and a chronic shortage of arable land, the Ethiopian constitution guarantees every rural resident the right to use land for agricultural purposes. Historically, Derg and TPLF/EPRDF policies have attempted to address these problems by extensifying land holdings, and the expropriation and redistribution of "excess" or fallow land to the landless and land-poor. In this way, the government system has sought to solve the landlessness problem through maximizing productive land and equity of land holdings. Indeed, some research indicates that improving access to land among the landless and critically land-poor peasants would significantly improve their ability to successfully pursue agriculture as a livelihood (Jayne et al. 2003).

Ethiopia's land distribution policy, however, has had many negative side effects while at the same time has failed to effectively deal with land-poverty and landlessness. Land distribution tends to fragment land holdings, which, in fact, limits productivity by making otherwise arable land unworkable due to irregular land boundaries and long distances between farmers and their land holdings (Habtu 1997). In this way, distribution policies have been largely counterproductive in improving productivity through agricultural extensification.

The distribution policy has exacerbated the landlessness problem through its role in the fate of displaced people who returned to rural areas following the 1990 civil war. Following the war, soldiers demobilized, the Derg resettlement program disintegrated, refugees and internally displaced peoples (IDPs) returned. The result was the migration of these previously displaced people back to their ancestral homelands (Rahmato 2004). When these groups originally left the land, their land was dispossessed and distributed to other land claimants in the Kebele (Ibid 2004). When the soldiers, refugees and IDPs returned, many found that their land had been distributed to new claimants and there was little additional land available (Ibid 2004). To deal with this situation, Peasant Associations (PAs) distributed fragile land to IDPs, leading to erosion and soil degradation. As a result, many individuals remained landless.

Because federal and some regional laws promise land to all Ethiopians who wish to pursue agriculture for a living, many landless people have remained in the countryside in expectation of land distribution (Habtu 1997, Rahmato 2004). Local officials are able to exploit this expectation for political purposes, promising land distribution to landless people, especially youth, in order to secure their support (Rahmato 2004). In this way, the prevalence of landlessness in rural areas

provides a continuing justification for the government to implement large-scale land redistributions in the future.

Resettlement

One strategy that past and current Ethiopian regimes have employed to deal with landlessness is resettlement. In the name of easing population pressure, promoting environmental rehabilitation and improving of food security, the Derg resettled about 600,000 peasants in the lowlands of the southwestern Ethiopia (Somali region) between 1984 and 1986. The immediate result of resettlement was the disintegration of families and the death of an estimated 33,000 people (Ibid 2004). These death rates were owed to arid and semi- arid climates of resettled lands that were not favorable for farming and where tropical diseases are rampant (Ibid 2004).

While the Derg insisted it carried out its resettlement to achieve food security and to preclude famine, critics believed the resettlement was used both as a means of control and to repress the growing insurgent movement (Yntiso 2002). It also created large environmental problems as trees were cleared to construct new houses, pave new roads, and to provide farmland (Rahmato 2004). Furthermore, although the government claimed otherwise, the program was also implemented involuntarily (Ibid 2004).

Despite indications that it was likely to fail, the current government has implemented massive resettlement programs in the presence of abundant evidence about the family disintegration, death, dispossession, disease, environmental degradation, and conflict between the settlers and the hosting communities. Rahmato provides the following list of similarities between the Derg and the current administration resettlement programs: a) both are planned by the government; b) both programs assumed there was vast amounts of suitable but unutilized land; c) each program used resettlement as a development strategy in order to revive the environment, to attain food security, and to minimize population pressure; d) for the most part, both programs chose similar areas for resettlement; and e) in both cases resettlement was carried out in a hurry without sufficient preparatory groundwork (Ibid 2004). In essence, the only difference between these two programs was that while they moved people to different regions of the country, the current government only resettled populations within the same region (Ibid 2010).

According to Rahmato, “in the course of three years, the program plans to settle 440,000 households or about 2.2 million people at an estimated cost of 217 million US dollars or 1.9 billion birr” (Ibid 2004). Like the Derg resettlement program, this most recent resettlement policy claimed that there was plentiful land suitable for farming. Rahmato questioned whether the government’s claims were in fact true, concluding that it was not clear why the impoverished people in the country had not voluntarily and/or spontaneously moved to resettlement land long before the government started its program (Ibid 2004).

Though it is too early to measure many of the negative effects of the program, Rahmato cites early evidence provided by donor agencies, international organizations, and NGOs, of the program’s more problematic elements. First, the program was conducted in a rush and was accomplished by

feeding wrong information and giving false promises to the settlers. For example, regardless of what they had been promised, settlers were lacking basic services like clean water. Similarly, officials did not fully inform the settlers of the extent of malarial infestation in the areas they were moving to. Settlers were also uninformed about the possibility of losing their land in their original home if they did not return to it within three years. As settlers were often moved very far from their original homes, returning would be very difficult, and for many of the rural poor who were relocated, simply untenable. Moreover, some of the hosting areas were not receiving adequate rainfall to accommodate subsistence agriculture so that many people had ultimately become dependent on (frequently insufficient) food aid. Conflict with indigenous populations also became problematic as many of the settlement sites were located on or near pastoralist land used for grazing, thus disturbing the livelihood of the hosting community (Ibid 2004). As Rahmato laments,

“It is quite evident that settlers are being confronted with the same livelihood problems that their counterparts in the 1980s had to cope with: an unfamiliar and difficult habitat, lack of basic services, shortage of food and other basic necessities, shortage of farm assets, etc” (Rahmato 2004).

Given the similarity between programs of the Derg and that of the current regime along with the problems reported above, the current resettlement program cannot address the root causes of landlessness and destitution. Thus, it is necessary to look for deeper infrastructural solutions to these problems.

The Role of Share Cropping, Land Rental, and off – farm Income Generation

Some researchers argue that off-farm income generating activities could relieve the burden on land. However, the absence of a vibrant rural land market and the lack of appropriate skills and capital, means that in the current environment is not conducive to such an option in the short-term. The World Bank report indicates among the estimated 25% of landless population in Ethiopia, the off-farm income share amounts to 12.7 % only of the household total income (Jayne et al. 2003).

Other experts propose sharecropping and cash rental of land as a possible solution. However, landless people are not only land or income poor but they are often the victims of culturally reinforced stereotypes that affect their social standing. For example, landholders who offer sharecropping contracts in Ethiopia tend to prefer tenants with a good credit history and social standing. But landless people often belong to marginalized groups and face stiff competition from peasants with land and good economic and social standing (Habtu 1997). For this reason, socially marginalized landless people have difficulty competing with farmers for leases and sharecropping contracts.

When the landless do secure leases or sharecropping arrangements, deficiencies in nutrition, health care, and education limit labor productivity compared with landholding farmers. These deficiencies make possession of land a significant determinant of household size. Studies show that household sizes are far smaller for landless families than for families with land. The result is that larger landed households have more members to assist in agriculture related activities, boosting

the productivity and wealth of the family. In these cases, the farmers with large families often enter into shared tenancy arrangements with other farmers that have better resource endowments, especially oxen and land (Ibid 1997). In North Shewa, 80% of the tenancy-shared arrangements are between farmers that already have land as well as enhanced dominance in oxen and labor endowments, while only 20% of the landless people are involved in shared tenancy (Ibid 1997). Thus, as things currently stand, landholders rather than the landless largely enjoy the benefits of leasing and shared tenancy.

Poor landless people also face difficulties entering into leasing markets as such activities typically require a cash pre-payment or a down payment for the right to lease the land (Ibid 1997). The landless also lack access and/or collateral to borrow money from conventional banks. Local moneylenders often charge exorbitant interest rates and also require collateral or a cosigner that many poor people lack. Micro financing institutions (MFIs) could address this problem, however, MFIs tend to focus on landholders rather than the landless.

Given limited opportunities to farm in a traditional manner, the landless must turn to the contractual labor market for employment as shepherds and resident farm laborers (Ibid 1997). Shepherds and laborers tend to have reasonable food security throughout the year, but they are paid little, giving them limited opportunities to improve their situation or to get out of poverty. The only other viable option is to work for the government or NGOs, but such jobs are scarce and difficult to obtain, hardly making them a viable solution to the plight of the landless.

Without access to land or viable employment, the rural, landless poor are forced to rely on government programs (aid) that target specific geographic regions that are susceptible to recurrent drought and hunger. However, research shows that geographically based public support programs miss a significant number of the poor population in a given country who live outside of the distressed areas (Jayne et al. 2003).

Land leasing arrangements have been found to be an effective means for landholders to share and allocate resources to maximize production. For the landless, however, the combination of fixed annual contractual labor market, short term agricultural labor markets, and targeted village based safety nets, and public assistance have not improved their situation significantly. This assertion serves as further confirmation that land tenure policy has not, and cannot, serve as a complete solution to Ethiopia's rural landlessness problem in its current form.

Current Land Policy and Results

Ethiopia's Land Tenure System

Ethiopia's land laws are composed of combined federal and regional provisions passed since 1997. The policy of ethnic regionalism has meant that federal land laws outline a general framework for a national policy and regional laws fill in the details according to regional custom. Recent land

reforms largely left the Derg system of conditional rights and redistribution in place, with reforms limited to a largely successful program to certify land plots, as well as limited leasing and sharecropping rights. In addition to institutional capacity issues and governance behaviors that undermine land tenure security, Ethiopia's system of land tenure laws provides a framework that largely exacerbates problems of food security, poverty, landlessness, and land grabs.

Land Laws

The Proclamation of 1997

The EPRDF instituted its first comprehensive land tenure policy as part of the Rural Land Administration Proclamation of 1997. It declares that, "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 exchange." Ethiopian land policy under the EPRDF therefore operates under two basic overriding principles: Land is the property of the people (meaning the state) and land will not be bought, sold, mortgaged, or otherwise used as collateral (Proclamation 1997).

The proclamation thus sets up a system of conditional usufruct rights where farmers own everything built or grown upon the land and the state retains the right to the land itself. In the absence of land markets, the proclamation sets forth "distribution" and "termination on various grounds" as the principle means by which land will be allocated (Ibid 1997).

As part of ethnic regionalism, this initial land reform delegates a large amount of power to the regional governments. Regional governments are given the power to distribute and terminate land rights, specify thresholds, and administer enforcement procedures which determine dispossession. They are also charged with specifying and implementing programs to measure, and register all agricultural lands, and provide landholders with certificates guaranteeing usufruct rights. The proclamation gives few specific policy guidelines, giving regional governments wide discretion so long as laws do not violate the terms of the federal proclamation (Ibid 1997).

All four major regions – Tigray, Amhara, Oromia, and the SNNPR – have produced regional proclamations since the proclamation of 1997, setting in motion a massive effort to measure and certify Ethiopia's agricultural land (Deininger et al. 2007c). At the time this paper was written, only the Afar region has joined these four regions in implementing certification. All other regions remain under traditional tenure arrangements.

Proclamation of 2005

The implementation of the regional proclamations has been complicated by the introduction of a second federal proclamation on land tenure in 2005. While largely continuing the policies of the 1997 proclamation, Proclamation No. 456/2005 is more specific about the roles of the federal and

regional the governments in land administration. The 2005 proclamation supercedes the 1997 proclamation, nullifying the prior law where the two conflict while preserving all other provisions.

Process

The land proclamation of 2005 was passed two months after the May 2005 general election, whose results have been widely contested (Rahmato 2009). There have been accusations that the this law was an EPRDF attempt to gain rural support questions of electoral legitimacy and address some of the concerns of opposition parties (Ibid 2009). The proclamation sped up the certification process in Oromia and SNNPR, the former having already begun. This short time frame inevitably meant that some provisions were not as well thought through as they could have been and contained little input from stakeholders (Ibid 2009). Furthermore, it obliged all regions to pass new regional land declarations to conform with Federal law, meaning that the value and meaning of certificates that had already been issued in Tigray, Amhara, and Oromia changed over night (Ibid 2009).

Regional Proclamations

The land proclamation of 1997 mandated that each region implement and regulate a certification system for usufruct rights. Tigray region was the first to produce a land proclamation in 1997, which was then amended in 2002 and again in 2006 to conform with the Federal Proclamation of 2005 (Deininger et al. 2009b). Amhara was next, with a proclamation passed in 2003, followed by Oromia in 2004, and SNNPR in 2005 (Deininger et al. 2007c).

Together with the federal proclamations of 1997 and 2005, these laws form the legal basis for Ethiopia's current land tenure system. Despite significant delegation of regulatory responsibilities to the regions, the rules imposed through the proclamation of 2005 make it more useful to think of Ethiopia's land tenure policy as a single land tenure system rather than a series of distinct regional policies.

Individual Land Rights

The 2005 proclamation expands and codifies the meaning of state ownership of land. Land use rights for all individual holders are to have no time limit and still may not be bought, sold, or collateralized. The state guarantees all farmers and pastoralists age 18 or older who wish to engage in agriculture a "right to the use of rural land" and they shall receive this land free of charge. Both women and orphans are expressly included as having unqualified rights to agricultural land. (Proclamation 2005). The sheer scale of the landlessness problem shows that this promise continues to go unfulfilled. This, combined with land scarcity in highland areas make it impossible to imagine universal access to land ever being realized.

Individual land rights are guaranteed by certificates issued by the government that detail the land to which the holder has the legal right to use. These certificates are meant to formalize previous

informal land boundaries and guarantee the aforementioned usufruct rights. The process of certification and the administration of the system will be discussed later in this document.

Land Allocation

The 2005 proclamation continues the policy of usufruct right certification administered by regional governments. Each regional certification regime is required to:

- Measure land holdings
- Provide cadastral maps to land-users showing land boundaries
- Provide certificates to land users indicating the size, land use, fertility, and borders of the land, as well as the obligations and rights of the certificate holder. Certificates are required to include the names of all landholders, including wives and “other persons.”
- Register certificates with the “competent authority,” in practice, the kebele or woreda, depending on the region.
- Register land leases.
- Determine a “minimum land holding” which cannot be violated when land is allocated by the government or inherited among family members.

All other details of certification implementation are delegated to the regional governments (Deininger et al. 2009a).

Rights of Private Investors, NGOs, and Government Organizations

Private investors have a right to use land for the purposes of agricultural development and may use leases as collateral. Governmental organizations, non-governmental organizations, and social and economic institutions are also recognized as having rights to land to pursue their development “objectives.” All of these rights are “subject to giving priority to peasant farmers/semi-pastoralists and pastoralists” and are arbitrated by the laws and policies of the federal and regional government (Proclamation 2005). This provision is likely meant to protect pastoralist communities from land grabs, but there is no evidence that it has been put into practice.

Regional laws give private investors have the right to obtain leases that are far longer than the limits for Ethiopian smallholders, particularly those without access to modern farming equipment. In Tigray, for instance, leases to foreign investors may be up to 50 years and, unlike smallholder leases, carry no caveats regarding the technology used (Rahmato 2004).

The right to use leases and collateral and extended leasing periods give private investors and government bodies broader land rights than individual Ethiopians who have certificates in good standing. This legal structure is favorable for land-grabbing, especially in uncertified pastoralist regions.

Land Leasing

The 2005 proclamation grants land certificate-holders limited rights to lease their land “in a manner that shall not displace them” in accordance to regional laws (Proclamation 2005). This part of the policy is a significant departure from the Derg in that it legally allows for the development of land rental markets throughout Ethiopia. In accordance with federal guidelines, all regions, except Amhara, expressly prohibit certificate-holders from leasing more than 50% of their holdings (Deininger et al. 2007c; Crewett and Korf 2008). Regional proclamations also limit the length of leases, and it appears that leasing term limits are meant to encourage mechanization and outside agricultural investment. In Tigray, leases may last 20 years if “modern technology” is used while only up to two years when “traditional technology” is employed (Rahmato 2004). In Oromia, land may be leased for up to 15 years with “modern technology” and three years for “traditional technology” (Rahmato 2009). Terms such as “modern” or “traditional” technology are left undefined and are likely subject to the (mis)interpretation or arbitrary application of the law in courts and by government officials.

Generally speaking, leasing regulations are most liberal in Oromia and strictest in Tigray. For instance, Oromian farmers can live in a different Kebele or area and still rent land, a practice that is strictly forbidden in all other regions (Rahmato 2004). Generally speaking, however, leasing regulation are relatively restrictive and are in accordance with federal policy designed to prevent farmers from renting their land and moving away and attract foreign capital. While meant to maximize productivity, such standards are out of reach for most Ethiopian smallholders and thus put the rural poor at a disadvantage.

On the ground, the result of Ethiopia’s leasing policy is increased leasing, sharecropping, and foreign investor “land grabs” on uncertified pastoral lands. In highland areas, the persistence of strict leasing regulations reinforces a rural trap where smallholders cannot use the leasing system to leave the land, nor can they produce enough on the land to use the leasing system to significantly expand and secure additional holdings (Teklu 2004).

Land Transfer

The 2005 proclamation provides for three methods of land transfer: inheritance, exchange, and distribution. Inheritance rights state simply that holders may transfer land use rights through inheritance to members of his or her family. Exchange rights are encouraged as a way to promote land consolidation and limit land fragmentation. Exchange, however, is not compulsory and may only be taken up on a voluntary basis. Redistribution will be discussed separately.

Regional proclamations restrict land transfer rights to inheritance and exchange and largely reinforce federal provisions that require inheritors to farm the land they inherit. In fact, Tigrayan law stipulates that inheritors must live in the same kebele as the land in question and cannot live in an urban area or not be engaged in agriculture (Rahmato 2009). While regional laws in Amhara and Oromia are not as strict as in Tigray, the theme is the same: land is to be transferred from person to person only in the event of inheritance, and only if the inheritor will live on and work the

land. This arrangement makes sense culturally, since inheritance has always been the dominant means of land transfer and land sales have been discouraged (Hebo 2007; Segers et al. 2010; Crewett and Korf 2008). As with leasing policy, limited options for land transfer contribute to the rural trap that discourages Ethiopians from leaving the land.

Redistribution and Conditions of Land Use

Land redistribution is the main land policy tool as defined by Ethiopian law. Redistribution is meant to guarantee universal land access, prevent land fragmentation, and encouraging productive and sustainable farming practices. For this purpose, the Proclamation of 2005 grants federal and regional authorities sweeping discretion to expropriate and distribute land. This single policy is presented as two separate policies: redistribution to deal with unequal land distribution and landlessness, and dispossession as punishment for violating land laws. Nonetheless, expropriated land is to be redistributed to other farmers, and as such functions in the same way as redistribution, albeit on a smaller scale. Hence, it is helpful to view redistribution and expropriation as a difference in scope rather than in kind.

Section 9, entitled “Distribution of Rural Land” gives the government the power to distribute land under the following conditions:

- If the certificate-holder dies and there is no heir or the heir have been gone for an unspecified amount of time.
- If the land is irrigable.
- If peasant farmers, semi pastoralists and pastorlists want land to be redistributed.
- As compensation for farmers evicted for the purpose of “constructing irrigation structure.”
- If land gets damaged, as defined by regional law.

If land is expropriated and the certificate holder has not violated the conditions of land use as defined by regional laws, then the government is bound by law to provide compensation for any improvements made upon the land. Dispossession for violating conditions of use incurs no compensation. Farmers may also be allowed to remove their improvements from the land in lieu of compensation. No compensation will be awarded for the land itself since land is the property of the state. Compensation levels are to be determined by regional law, and we are aware of no specific regional guarantees of compensation amounts (Proclamation 2005). This arrangement likely leaves compensation levels up to the discretion of local land administration officials. Evidence from the Wello region of Amhara indicates that compensation has in fact been given out in the case of eminent domain cases for road-building, though compensation was hardly commensurate with the value of the land and was not the result of a public process (Rahmato 2009). We are aware of no data regarding the scope and ubiquity of compensation practices.

In Amhara, and especially Tigray, conditions for redistribution in regional proclamations largely resemble federal law. There are reports of redistribution through alienation and expropriation, and it is suspected that there have been expropriations carried out under erroneous or politically motivated interpretations of land laws (Ibid 2009). For example, in the Wollo region of Amhara,

Rahmato found that the woreda administration had used its power to expropriate land from farmers for government projects without public participation (Ibid 2009). In these cases, farmers were compensated according to the law, yet it is unlikely that compensation was commensurate with the value of the land to the landholders. In the case of foreign investor leases, farmers receive much less compensation than what is paid by investors to the government, making “land grabs” a profitable venture (Ibid 2009).

Oromia’s land proclamation is an anomaly because it expressly rules out the possibility of community-wide redistribution of land as a policy tool (Crewett and Korf 2008). The proclamation does, however, allow for expropriation and redistribution based on conditions of land use. Unoccupied land or land with no heirs is to be distributed to the poor or rented out by the government to private investors. This is to occur after 3 years for most land and after 2 years for irrigated land. Improper land management, such as allowing erosion, planting too many eucalyptus trees, and inattention to the preservation of water conservation structures can be grounds for expropriation. Although these conditions give officials wide latitude to redistribute land, Oromia’s regime is the least radical in this regard, as consequences of lesser infractions take the form of fines rather than dispossession (Ibid 2008). The imposition of fines for some infractions gives government officials in this region another way to encourage good land management practices, minimize expropriation, and provide more secure tenure rights. However, there is little information so far as to whether Oromia’s land laws have actually limited land expropriation to a greater extent than in other regions.

Widespread redistribution of land has yet to occur under current land tenure laws, and has not been used since the 1997 redistribution in Amhara (Deininger et al. 2009a). Smaller-scale redistribution of lands through the exploitation of the conditions of land use rights, however, has occurred in all regions. Nonetheless, the vague nature of legal parameters surrounding conditions of land use grants government officials wide latitude to interpret their legal meaning and enables unfair and potentially politically motivated redistributions of land in future.

Women’s rights

In accordance with individual rights guaranteed by Federal Proclamations, regional proclamations in all regions entitle female heads of households to land certificates. In Amhara, Oromia, and SNNPR, this right is extended to wives of heads of households in the form of jointly held land certificates (Rahmato 2009; Crewett and Korf 2008; Deininger et al. 2007c). In Amhara and SNNPR, certificates are required to display pictures of both male and female heads of household, but not so in Oromia. In Tigray, only the heads of households are allowed to hold certificates (Ibid 2007c).

Oromia and the SNNPR allow women with jointly held certificates to receive half of the certified land in divorce (Rahmato 2009). Polygamous marriages are common, particularly in the SNNPR and Oromia, and present a difficult problem for land administration. To deal with this issue, SNNPR’s proclamation grants all women in a polygamous marriage a certificate of their own

(Holden and Tefera 2008). In Oromia a similar provision was considered but later abandoned (Crewett and Korf 2008).

Generally speaking, regional proclamations adequately preserve Federal provisions regarding the rights of women to land, particularly in Amhara and SNNPR. The main points of concern are in Tigray, due to its lack of jointly held certificates, and in Oromia, where the absence of the photographs of both joint holders on a certificate and a lack of adequate recognition of the rights of women in polygamous relationships pose major threats to the inclusive wording of the Federal proclamations. Legal gains, however, only result in the empowerment of women so much as they are implemented on the ground.

Administration and Implementation of Land Reforms

The Proclamations of 1997 and 2005 did not expressly mandate the creation of administrative authorities to govern land tenure reform and administration, instead delegating administration to the “competent authorities” (Proclamation 2005).

Proclamations in Amhara, Oromia, and SNNPR placed responsibility for implementing certification with the woreda level, whereas Tigray’s proclamation places these responsibilities with the kebeles. Regional proclamations in Tigray and Oromia call for the creation of a new government agency known as Environmental Protection and Natural Resource Use Authorities (EPLAUA) to govern environmental and resource issues (Rahmato 2009, Crewett and Korf 2008). EPLAUAs are hierarchical organizations existing at the regional, woreda, kebele, and village levels (Rahmato 2009; Crewett and Korf 2008). EPLAUA officials at multiple levels and have the authority to enforce land regulations in the areas of distributing fallow lands, monitoring soil erosion, tree planting (specifically restricting Eucalyptus planting), and maintenance of irrigation structures (Deininger et al. 2009a; Crewett and Korf 2008). Because violations in each of these areas can result in land dispossession,⁵ administering land regulations form part of the EPLAUA’s broader authority to both expropriate and distribute land according to the law.

Certification, by comparison, was largely administered by locally elected Land Administration Councils (LACs) in conjunction with training from development agents from the Kebele or Woreda levels. LAC members were unpaid and elected by popular vote at the village level (Deininger et al. 2007c). In Oromia, the EPLAUA replaced the LAC as the administrator of certification, whereas the LAC was only responsible for the dissemination of information regarding certification (Crewett and Korf 2008).

Despite some variation across regions, land policy administration under recent Ethiopian land reform may be defined as a diffuse web of loosely-defined jurisdictions that maximize the latitude of administrative bodies to regulate and distribute land with little accountability from certificate

⁵ In Oromia, officials often collect fines up to 100 b. the case of more minor infractions rather than resorting to dispossession.

holders themselves. This power differential leads to heightened perceptions of land tenure insecurity as farmers see land officials as legitimate threats to their landholdings.

Conflict Resolution

Beyond land certificate adjudication, LACs in Tigray and Amhara have the authority to settle minor land disputes, though they typically seek the authority of village elders to settle these matters (Deininger et al. 2009a). More complex issues must be resolved in the court system. Research in Tigray, Amhara, and Oromia indicate that there are many barriers to resolving land disputes in the court system. As mentioned earlier, there is widespread distrust of Kebele social courts and smallholders consider Woreda courts to be too far away to be helpful (Rahmato 2009; Deininger et al. 2009a). For these reasons, many smallholders prefer to settle land disputes through traditional, unofficial channels (Ibid 2009; Crewett and Korf 2008; Hebo 2007).

It should be noted that there is some evidence that, unlike other bodies connected to the government, LACs are viewed as legitimate administrative authorities. Interviews from the East Gojjam region of Amhara indicated that many farmers viewed LACs as more legitimate than the Kebele social court, in part because they felt they were relatively democratic and, perhaps, because LACs have tended to consult local elders to resolve disputes (Deininger et al. 2009a). In this way, LACs seem to be identified with Ethiopian civil society rather than the government, lending them a great deal of legitimacy.

Oromia is somewhat exceptional, since LACs are only responsible for dissemination of information and land disputes are supposed to be dealt with through the formal court system (Rahmato 2004). With only social courts and the EPLAUA available as official routes to dispute resolution, Oromo smallholders prefer to resolve disputes through traditional institutions rather than the official judicial system (Rahmato 2009).

Certification and Implementation: Process, Successes, and Continuing Challenges

Land Certification 1998-2008

As mentioned before, the land proclamation of 1997 initiated a process designed to register and certify rural land holdings in Ethiopia's administrative regions. Certification has been successfully undertaken in Tigray (1998), Amhara (2003), Oromia (2004/2005), and the SNNPR (2005) (Deininger et al. 2007c). There is general agreement that these programs were relatively successful (Deininger et al. 2009a; Holden and Tefera 2008; Rahmato 2009). Certification avoided the failures of other land tenure reform efforts in sub-Saharan Africa through relatively inexpensive, fair and equitable implementation processes and thus realized gains in perceived tenure security and land investment. Despite these successes, governance issues, lack of institutional capacity, and a poorly conceived legal framework threaten to undermine the sustainability of long-term outcomes.

Process. Each of the four major regions implemented certification in a similar manner. Certification was implemented in an impressively short time frame with a high level of local participation (Deininger et al. 2009b). Local officials called village meetings to explain certification. Then, a Land use and Administrative Committee (LAC) was elected by popular vote and became responsible for adjudicating certificates and boundaries in the field. LAC members, twelve on average, were elected for two to three years and were required to contain at least one woman (this requirement was not often met, and will be discussed later at length). Plots were measured in the field by LAC members, typically with rope or tape and in the presence of neighbors.⁶ Once registration was completed, it was put up for public discussion, and farmers were issued preliminary certificates.⁷ Registries were then displayed in public and filed with either the Kebele or Woreda officials (depending on the region) who then prepare the issuance of official certificates (Deininger et al. 2007c; Deininger et al. 2009a).⁸

Certificates vary from region to region but guarantee similar land rights. Generally, they contain the personal information of the heads of household and a photograph of both the husband and wife and space for a map to be drawn in the future. As mentioned before regarding women's rights, regional requirements for joint certificates vary by region, resulting in wide variance in the prevalence of the name and picture of wives on certificates (Deininger et al. 2007c).⁹

Evidence from Amhara indicated that it took the average farmer about 11 months to have her/his plot adjudicated by the LAC and another 5 months for certificate issuance (Deininger et al. 2009a). Certificate adjudication took less than one year in all regions, an impressive rate compared to other African reforms. Certificate issuance, however, could often take much longer due to underfunded EPLAUAs and other administrative bottlenecks (Crewett and Korf 2008). The two-step process was common, allowing farmers to receive certificate immediately after adjudication rather than having to wait for certificates to be processed. Yet, in Oromia for example, the two step process was not designed to accelerate certification, but rather to ensure high rates of participation before the details of land use conditions became widely known (Ibid 2008).

Equity and fairness. Using community-level data from 2005, Klaus Deininger et al. were able to measure the experiences of individual farmers across the four major regions of Ethiopia with certification. This survey data revealed that 93% of households had a member attend information meetings at least once, 90% of households indicated that information meetings were organized before the start of registration, and 80% considered themselves well-informed (Deininger et al. 2007c). Furthermore, the vast majority of LACs were democratically elected by the community as planned, most communities held public discussions regarding certification once the adjudication had been finished, traditional leaders were often consulted to resolve land disputes, and few

⁶ Many plots in Amhara were measured using more advanced measures and under the supervision of experts from the Kebele or Woreda levels. There are also numerous examples of LAC officials measuring by sight or just guessing. Data indicates that this was not the norm. (Deininger et al. 2007c)

⁷ This part of the process was not required by federal or regional law, but most villages conducted these meetings anyhow (Ibid. 2007c).

⁸ This description is derived from multiple accounts, though there were certainly minor variations from village to village and region to region. The only major variation was the aforementioned kebele and EPLAUA involvement in Oromian certification, where LACs were relegated to an information dissemination role (Crewett and Korf 2008). Nonetheless, studies indicate that this administrative difference did not significantly alter the process of certification for Oromo farmers (Ibid. 2007).

⁹ See appendix for table.

adjudications took place without the presence of neighbors (Ibid 2007). In fact, another interviews responses from Amhara indicate that once farmers went to the meetings and became involved in the process, that trust in the LACs was quite high, especially when compared to the relative distrust of the kebele and woreda governments (Adal 2008).

Other studies have been more skeptical. Rahmato's recent analysis of the Wello region indicated that LAC members there were a mix of local elders and EPRDF activists, indicating that LACs may have been politicized. Furthermore, Rahmato correctly notes that while the actual implementation may have been democratic, the process of determining certification procedures was nothing of the sort (Rahmato 2009). Nonetheless, it is clear that certification itself was a relatively transparent, democratic process, resulting in institutional legitimacy. These conditions led to high rates of land certification nationwide.

As of 2005, certification programs had registered a total of 20 million plots to an estimated 5.5 million households, with 93% plots having been registered in Tigray, 84% in Amhara, 54% in SNNPR, 39% in Oromia¹⁰ (Deininger et al. 2007c). By 2008, fully 80% of plots in Oromia and SNNPR had registered their land and 60% had already received their certificate (Holden and Tefera 2008). In Amhara, 95% of certificate claims were processed, far higher than the African average of 80% (Deininger et al. 2009a). These robust figures are significant for equity and fairness concerns because they show that few legitimate land use claims were turned away and discrimination was unlikely.

Studies show that the wealthy had no measurable advantage over the poor under certification. In fact, the poorest quintile was twice as likely to have certified their land as the richest quintile, indicating that participation among the poor was actually higher than the rich (Deininger et al. 2007c). These data allow us to conclude that, as of 2005, certification was equitable across economic classes.

Land certification has had a positive effect on the rights of women, largely stemming from the prevalence of jointly-held certificates in Amhara and SNNPR, though their participation in the certification process was notably lacking. Studies from Oromia and the SNNPR show that women's names on jointly held land certificates increased perceptions among women that they would be able to keep their land in the event of divorce or death of their husband. In these same regions, 15% of male and female members of polygamous households in the sample indicated that their land tenure security had increased as a result of the reform (Holden and Tefera 2008). In Amhara, women were found to have the same perceived level of land tenure security as men, perhaps implying that Amharic women felt that their gender did not affect their rights to use land (Deininger et al. 2009a).

Despite gains under certification, equitable rights and access to land for women remain a huge challenge. At the regional level, head of household-only certificates in Tigray and certificates

¹⁰ The lower figures here for Oromia and SNNPR are likely due to the fact that certification had only been partially administered in these regions as of 2005. Further monitoring will be necessary in order to determine whether certification is as widely administered in these regions as in Tigray and Amhara.

featuring the picture of the head of household only in Oromia have led to a prevalence of certificates held in the name of the male head of household only (Deininger et al. 2007c). In the SNNPR, women's rights were not given special attention during certification, a worrisome figure given that many customary laws in that region forbid women to own land (Rahmato 2009). In Oromia, the prevalence of polygamous marriages are common, making the scrapping of a law guaranteeing polygamous wives certificate a significant problem going forward (Crewett and Korf 2008).

Nationally, although LACs were required to include at least one female member, only 20% of LACs included a woman. Additionally, kebele level land administration councils rarely included women and still fewer held a position of leadership in the land certification process. Although women were largely aware of land certification, they were unlikely to attend public meetings and participate in LAC elections (Deininger et al. 2007c). Together, these factors present a situation where certification indeed improved the status of rural women, yet actual progress lags far behind the ideals set forth by land proclamations.

Cost. While the federal proclamation of 2005 declares that Ethiopians have a right to access land "free of charge," land is not really free. Nonetheless, certified usufruct rights are inexpensive to obtain. National surveys from 2005 indicate that aggregate costs¹¹ per certificate ranged from .22 Ethiopian birr (\$0.01 USD) in Tigray to 4.70 birr (\$0.28 USD) in the SNNPR, averaging 3.84 birr (\$0.23 USD) per certificate (Ibid 2007c). These low costs are owed largely to the fact that most plots were adjudicated by unpaid LAC members using inexpensive traditional methods such as rope or tape. While these rudimentary methods increase the incidence of land disputes, this tradeoff was necessary to make certificates affordable to even the poorest farmers. Because of these inadequacies, it is important to note that over 90% of certificate recipients reported they would like to add a map or sketch to their certificate and still more reported willingness to pay for said map (Ibid 2007). Therefore, if cadastral maps were made accessible and affordable, the negative side-effects of cost-effectiveness could be quickly overcome.

It should be noted that the cost to maintain certified usufruct rights is somewhat higher. Land taxes are listed at 10 Ethiopian birr (\$0.60 USD) per hectare per annum. Given that typical holdings in highland regions average less than 0.5 hectares, land taxes are nominally similar to the cost of certification. Foreign corporate operations are taxed at a slightly higher rate, 15 birr (\$0.89 USD) per hectare per annum in Oromia for example. Generally, taxes vary from region to region, but are generally similar to federal guidelines (Jebessa et al. 2005). It should be noted that there is little data concerning the actual collection of these taxes from smallholders. Given the administrative capacity and governance habits of the kebele and woreda officials who collect land taxes, it is reasonable to expect that land tax laws are applied inconsistently.

¹¹ The cost to farmers and the cost to the government combined

Impact of Certification

Land Tenure Security. The success of the certification process in Ethiopia has led to significant gains in the perception of land tenure security in some regions. Measured security rates, however still remain low by African standards due to continued threats of dispossession and redistribution, as well as institutional capacity and governance issues. Following certification, farmers in Amhara with certificates reported a 15% gain in their perception of land tenure security between 1998 and 2005 versus those whose villages had not yet gone through certification (Deininger et al. 2009a). Similar results have been shown Tigray Region as well (Holden et al. 2007). These gains, corroborated by the statements of farmers themselves, show that certificates have been indeed useful. It is hypothesized, however, that part of these unprecedented gains in tenure security are the result of uncommonly low rates of tenure security to begin with (Holden et al. 2010).

Increased rates of perceived tenure security have yet to be evidenced in Oromia. Some researchers theorize that this could be because perceptions of land tenure security in Oromia were already much higher than in other regions and therefore had less room to rise (Crewett and Korf 2008). Others feel that Oromia's failure to experience gains in land tenure security stems from institutional capacity and governance issues, namely lack of information, inconsistent interpretations of land law at the local level, and distrust of land administration officials (Deininger et al. 2007; Rahmato 2009).

Oromia notwithstanding, the robust results from Amhara and Tigray indicate that certification did in fact increase land tenure security in significant portions of Ethiopia. It should be remembered, however, that these findings merely indicate an improvement in land tenure security as a result of certification – perceptions of land tenure security remain some of the lowest in Africa and studies from Amhara indicate that fears of future redistributions are still a major concern (Deininger et al. 2009a). It is likely that gains in land tenure security from certification will be reversed should land expropriations and land grabs continue and large-scale redistributions be employed as described by Ethiopian land policy.

Investment. According to economic theory, increasing land tenure security will increase investment because farmers will feel more confident about investing in their land. Studies have shown robust, positive results for increased investment in Amhara and Tigray as a result of land certification. Certification caused farmers to invest in land structures such as trees, irrigation, and erosion abatement structures such as stone terraces (Crewett and Korf 2008; Deininger et al. 2009a; Holden et al. 2007).¹²

Productivity. Economic theory also posits that investment should lead to increased productivity, since improvements to land such as terraces, irrigation structures, and trees would both increase fertility and prevent erosion, leading to higher yields. Furthermore, investment is an indicator of intangible commitment to land which also leads to greater productivity. Increases in productivity were found in Tigray region on plots that had been certified as opposed to those who had not been

¹² There is, as yet, no information to this effect regarding the SNNPR

certified. However, studies have only found very limited links between certification-related investment and productivity. This subject will require further scholarly research before a definitive conclusion can be reached (Ibid 2007).

Leasing. Certification has positively affected land lease and sharecropping markets in Ethiopia. While there has been some argument among scholars as to the scope and magnitude a positive effect has indeed been identified in Tigray, Amhara, and Oromia (Deininger et al. 2007b; Crewett and Korf 2008; Holden, Deininger and Ghebru 2010; Segers et al. 2010). Despite the positive trend, the efficiency of Ethiopia's agricultural leasing and sharecropping markets have been limited by a few important factors: The lack of clear institutional processes for regulation of leasing contracts, tenure security of leased land, cultural preferences to rent only through family and clan ties, and regulations regarding maximum portions of land that may be leased (Segers et al. 2010; Deininger et al. 2007b). Most findings indicate that impediments to sharecropping/leasing efficiency are much higher in Ethiopia than other similar African cases, likely due to the aforementioned legal and administrative policy restrictions which increase both transaction costs and risk (Ibid 2007b). Other findings indicate that increased leasing efficiency from certification may have come primarily from encouraging poor, female-headed households to lease out their land (Deininger et al. 2009). Thus, it may be that new leasing regulations have benefited women the most, but have improved the state of Ethiopia's agricultural land lease/sharecropping market less than aggregate findings may indicate.

Evidence confirms that leased land is less productive than owner operated land. Under Ethiopia's current land tenure regime, sharecropped plots yield 7% less than plots operated by its certificate holders (Deininger et al. 2007a). Though this differential is somewhat less than in other developing nations, it nonetheless confirms that certification has not successfully dealt with the disadvantages of landless people in the Ethiopia's leasing market. Nonetheless, in the absence of land sale or mortgage, land leasing remains the single best option for addressing market inefficiencies in Ethiopia's rural economy.

It is likely, then, that while the function of leasing markets has improved, especially for women, that the current land tenure policy law and environment are the primary barriers to improving efficiency in Ethiopia's land lease and sharecropping markets. Therefore, the restrictive nature of Ethiopia's land tenure policy blocks a legitimate land tenure tool for addressing development outcomes.

Information. Though the certification process included public participation to a large degree, information flows were and remain inconsistent and insufficient. Studies show that most certificate holders thought that they understood land policy, but in fact they incorrectly understood major provisions in the law (Deininger et al. 2007c). Farmers do not have a monopoly on incorrect information however, as development agents and administrative officials, some of whom trained LAC members, often interpret the law as they remember it, which may be inaccurate (Crewett and Korf 2008).

Much of this lack of knowledge comes from the unavailability of reliable written materials and illiteracy. During certification written materials varied in format and were not extensively available. Local development agents, Kebele, and Woreda officials rarely provide copies of legislative and policy documents. In fact, in the SNNPR, there were no written materials at all due to language barriers and illiteracy. This led to a general lack of detailed knowledge among the LAC members themselves, who were found to be no more educated about regional regulations regarding bans on mortgages and the limitations of leases than the average member of the community (Deininger et al. 2007c).

Even if land administration institutions functioned adequately, the challenges of illiteracy and the expense of obtaining documents make information dissemination difficult. The resulting information gap represents a significant power differential that may allow administrative officials to misinterpret the law and incorrectly define land rights without threat of retribution (Rahmato 2009). Smallholders who do not know the law and are without a means for finding out what the law says are at for having their land rights infringed upon. Thus, a lack of information threatens land tenure security and encourages exploitation.

Land Disputes. World Bank figures from 2005 indicate that early certification had decreased the incidence of land disputes (Rahmato 2009; Holden et al. 2010). Other research indicates that this effect may be overstated or in fact incorrect all together. Rahmato mentions that court backlogs and corruption drive conflict resolution and contract enforcement into indigenous adjudication structures (Crewett and Korf 2008; Rahmato 2009). This means that the 2005 measurement may have been a result of increased dispute resolution through indigenous institutions. Furthermore, interviews with woreda officials in the Wello region of Amhara indicated that land dispute cases had increased significantly over an earlier period as a direct result of certification. This information, however, could not be generalized outside of that particular woreda.

Whatever the result, this lack of institutional capacity makes it more difficult to enforce leasing contracts and land rights, negatively impacting land tenure security and development of leasing markets.

Institutional Capacity and Governance. Governance and capacity issues are another continuing problem beyond the scope of settling land disputes. The vagaries of federal and regional law regarding land regulatory authority has caused confusion throughout the country regarding what governmental bodies are in charge of regulating certification and leases. Furthermore, as discussed before, the interpretational latitude that government officials take on land issues are often seen as politically motivated and undermine the credibility of land administration bodies. For these reasons, a large portion of leases that should be registered are not, and new certificates are often not issued in the case of inheritance (Deininger et al. 2007c). If leases and certificates cease to be registered, then certification could eventually fall out of use and be replaced with traditional land tenure systems in parts of the country. The result would be the development of parallel formal and informal land tenure systems, which destroyed other land reforms in sub-Saharan Africa. Likewise, such a development would be disastrous for Ethiopia, making better governance and increased capacity paramount for the sustainability of Ethiopia's current land policy.

Pastoralists and Common Land. LACs were only required to set aside common land in Amhara. For this reason, most regions neglected to set aside common land, and even in Amhara the implementation of this provision was not observed in all kebeles (Deininger et al. 2009a). Certification has therefore accelerated the distribution of formerly common lands to smallholders and investors for agriculture in a sort of expropriation of the commons. In highland regions, this has also decreased the area available to the landless for foraging wood and fuel.

Land laws do not distinguish between sedentary farmers and pastoralists and policy assumes that pastoralists will settle down on individually allocated plots of land. For pastoralist areas in Oromia and the SNNPR, it means the resettlement of sedentary farmers on pastoral lands (Rahmato 2004). Most pastoralists, however, live in regions that have yet to undergo certification: Gambela, Ogaden, Benshangul/Gumuz, and Afar regions. As a result, their customary land rights have not been expressly recognized by Ethiopian law and therefore remain vulnerable to “land grabs” and other expropriations. A certification regime was proposed for the Afar region in 2008, but there is no evidence that it was ever implemented (Pastoralist Forum 2010).

Conclusions

Evaluating Ethiopia’s Land Tenure Policies

Certification

A broad review of recent literature on the certification of usufruct rights in Tigray, Amhara, Oromia, and SNNPR reveals that Ethiopia’s certification program largely followed best practices identified in case studies and development literature.

Low costs and high rates of participation guaranteed equity and fairness. The combination of low costs and high rates of participation helped to guarantee the poor access to certificates, thereby mitigating many advantages of wealthier, more powerful interests.

Certification achieved fairness, equity and legitimacy through a relatively well-informed, participatory process. LAC formation embraced a participatory framework consistent with indigenous institutions through local elections and appealing to local elders to solve land disputes during certification. For these reasons, LACs largely implemented certification consistent with the law and provided enough information about them for farmers to participate fully in the process understand their value. As a result, the certification process has avoided many of the failures similar registration initiatives in Africa and received widespread acceptance throughout the country.

Certification advanced the rights of women. Though woefully insufficient, limited but meaningful female participation in LACs, the successful allocation of certificates to female heads of household, and the prevalence of jointly held certificates in Amhara and SNNPR meant that certification significantly increased the rights of women to land.

Despite these successes, certification implementation failed to conform to best practices in the following ways:

Land Laws were not democratically determined. Land tenure reform laws, particularly the 2005 Federal Proclamation, were not democratic, participatory, or transparent. Therefore, land laws do not include the input of the people they affect most. This led to a one size fits all approach that resembles the nationalized *rist* system of the Derg with minor regional variations. This suits the north (Tigray, Amhara) far better than the south (Oromia, SNNPR).

Unsophisticated measurement techniques may increase land disputes. The use of tape and rope and especially the limited use of guessing by sight may increase land disputes. Of course, this is a tradeoff with cost and may be mitigated by the provision of cadastral maps mandated in the 2005 Federal Proclamation. Nonetheless, until that time, land disputes are likely to increase, leading to verdicts in the social court and woreda court systems that are unlikely to favor the poor and marginalized.

Women's rights to certificates. Certification insufficiently secured the rights of women, particularly in Tigray and Oromia. Women were generally excluded from decision-making regarding land and remain at a great disadvantage compared to men. It should be noted, however, that these continuing disparities are owed, in large part, to cultural attitudes regarding the role of women in Ethiopian society. In this context, it must be admitted that securing the rights of women is part of long-term cultural change and it is unreasonable to expect such a profound change in such a short period of time. As such, progress made in certification must be viewed as a positive first step towards gender equity in land tenure, though many future steps remain.

In sum, results indicate that despite these disadvantages, certification has improved the quality of land tenure policy in Ethiopia. Ethiopia's certification program also compares favorably relative to the experiences of other sub-Saharan African countries. Among the cases studied, Ethiopia's program was the cheapest, fairest, and most equitable. It is not surprising, then, that increased perceptions of land tenure security, investment land, and leasing markets would follow.

Therefore, apart from the obvious deficiencies in Ethiopia's current system, it is clear that certification was adequately implemented and reapportionment or re-certification will not be necessary in the foreseeable future. Provided that certificates retain their legitimacy, we expect

that certificates will continue to play an important role in Ethiopia's land tenure system for the foreseeable future.

Land Tenure Law, Policy and Administration

While certification has been relatively successful, many aspects of Ethiopia's system of land tenure laws and administration are counterproductive and threaten the sustainability of these successes.

Current policy cannot solve the landlessness problem. Ethiopia's land tenure system attempts to solve rural poverty and landlessness through land extensification.¹³ The problem with this system is that the rural Ethiopian highlands are overcrowded and good agricultural land is, in fact, very scarce. Therefore there is very little land to give away and the land that is given away is typically arid pastoralist land that is better suited for grazing.

It is unsurprising, then, that the policy of redistribution and extensification has not alleviated the problem of rural landlessness. Even those who have land have little to spare for the landless. Leasing restrictions, prohibition of sale, and residency requirements tie farmers to plots of land that diminish in size with each progressive generation. For these reasons, current policy has in fact exacerbated the landlessness problem while ensuring that a growing number of Ethiopians do not have enough land to support their families.

Loosening leasing restrictions is the only component of land tenure policy that could potentially ease landlessness problem. If permitted, landholders could choose to lease most or all of their land and live off of lease proceeds and off-farm income while the landless lease or sharecrop on the land. However, even if leasing restrictions were lifted entirely, the issue of land scarcity would severely limit the impact of leasing on landlessness and land poverty.

A side effect of Ethiopia's current policy of redistribution, resettlement, and certification of "underutilized" lands is the marginalization of the pastoralist way of life. The redistribution and leasing of pastoral lands benefits neither the certificate holder nor the displaced pastoralist in the long run. These lands should not be farmed and resulting resource scarcity results in conflict amongst pastoralist groups.

Landlessness can only be solved through policies external to land tenure policy. Increased investment in education would give the landless the ability to pursue skilled labor off the farm, encouraging successful migration to centers of industry. Successful industrial and commercial policies can help to create jobs both in rural and urban areas. The availability of jobs off the farm would attract both the landless and land-poor to leave rural areas, helping to alleviate population and agricultural land scarcity issues. It is our judgment that there is simply not enough arable land in Ethiopia to solve the problem of landlessness through land policies alone.

Conditional rights and redistribution policies undermine development objectives. Ensuring land tenure security is an important role for a successful land tenure policy because tenure security

¹³ Land extensification refers increasing the amount of arable land in use and therefore productivity. It is often defined in apposition with land intensification, which focuses on increasing productivity on land already in use.

a major factor in accomplishing development objectives. Therefore, one of the key problems with Ethiopia's current policy is that it undermines land tenure security, limiting the success of certification. Increasing land tenure security is one of the keys to increasing food security, alleviating poverty, and promoting sustainable development in rural Ethiopia.

Systematic destruction of land tenure security is embedded in the portions of current land tenure policy borrowed from the Derg regime. In Ethiopia, the historical use of land redistribution as the dominant instrument of Ethiopian land policy has led to some of the lowest perceptions of tenure security in sub-Saharan Africa. The undermining of land tenure security through redistribution has also played a large role in limiting investment and productivity in Ethiopian agriculture that in turn has exacerbated problems of poverty and hunger.

The problems this redistribution policy means to address – the provision of land to the landless, equitable access to land, the prevention of exploitation, discouraging harmful farming practices, and maximization of land use – are important, but the policy is at best ineffective, and in many instances counterproductive to achieving these outcomes. Increases in perceived land tenure security on the ground have occurred because the security provided by land certificates currently outweighs the insecurity of policy at the federal level including vaguely defined conditions of use and the policy of redistribution. Should the policy be used as the system intends in the future, redistribution would likely undermine the security of certificates, resulting in shrinking perceptions of land tenure security.

Women still lack equal land rights. The failure of Ethiopia's land tenure reforms to fully secure the rights of women to land is a major threat to the policy's success. True, implementation of equal rights set forth by the Proclamation of 2005 will be difficult because of the cultural factors that discourage women's rights. Nonetheless, there is no reason why Tigray region should be allowed to forego requirements for joint certificates and Oromia region should be allowed to permit certificates to feature the photo of the head of household only thereby failing to guarantee the land holding rights of women in polygamous marriages. Failure to fully involve women in land tenure policy not only delegitimizes half of Ethiopia's agricultural population, but it also could put women and their dependents at increased risk of unjust dispossession. To allow the current situation to persist would repudiate the communitarian spirit of recent reforms, decrease perceptions of land tenure security among women in these regions, and undermine the legitimacy of Ethiopia's land tenure policy.

Institutions lack the capacity to sustain certification. Administrative bodies have been shown to lack the capacity to adequately administer land laws and farmers about their rights. As a result, farmers do not correctly understand the conditions of their land rights and may violate them unknowingly, risking dispossession. Furthermore, because they do not know their land rights, farmers are at the mercy of the legal interpretations of government officials and are powerless to protest against misinterpretations of the law.

The resulting confusion about land laws and administration has already led to low rates of certificate renewal by inheritors of land and low rates of leasing registration. These trends may

indicate that some farmers are choosing to forego the official land tenure system by reverting to traditional practices. Furthermore, backlogs and corruption in the kebele and woreda courts along with strong local traditions have led to increased settlement of land disputes outside of the official system. Our case studies show that the development of parallel traditional and official land tenure systems is disastrous for those in the traditional system, since the wealthy and well-connected can use the official system to dispossess farmers who occupy land “illegally.” The development of parallel official and traditional systems must be avoided.

Land laws discourage good governance. Proclamations poorly define the responsibilities of land administrators. Conditions of certificate rights are also poorly defined and require significant interpretation on the part of land regulators. The proclamations also give broad authority to land administrators to expropriate and redistribute land. This power, when combined with farmers’ lack of knowledge of their land rights, creates a governance situation ripe for abuse.

When viewed in the context of the EPRDF’s history of governance, it is not surprising that government officials use this authority to dispossess ill-informed farmers and pastoralists of their land and redistribute it to political favorites or well-funded private investors. As such, the law works in symbiosis with the political system, allowing the government to use the land tenure system for its own benefit and not the people’s.

Current policy neglects the role of markets in rural development. Well-functioning agricultural economies are not only fair and equitable, but they do a good job of allocating resources – land, labor, and capital. Efficient allocation of these resources, under the right conditions, can increase the productivity of the land and decrease hunger and poverty. In Ethiopia, there are natural disparities between farmers. Some have excess land, others excess labor, and still others excess capital. While external factors such as infrastructure play a large role in helping farmers to exchange goods, land tenure policy is also important in that it controls the role of land in the market system.

In Ethiopia, the land tenure system hinders the ability of farmers to trade resources. With off-farm income hard to come by, current land tenure policies that tie farmers to the land virtually ensure that farmers not have enough land to feed their families, much less sell for a profit. In this context, it is difficult to see how enough farmers could develop the resources to hire labor, borrow capital, lease in, or lease out land. Even if farmers had the resources to engage in robust market activity, Ethiopian institutions lack the necessary capacity to enforce contracts and settle disputes.

The result of Ethiopia’s land tenure policy is modest increases in leasing and generally poor allocation of resources in the rural economy. These inefficiencies contribute to deficiencies in investment and productivity and are important causes of food insecurity, rural poverty, and slow rates of sustainable development.

It should be noted that some fears of exploitation related to land market liberalization are warranted in the context of failed titling programs in sub-Saharan Africa. It should be reiterated, however, that the main failure of these programs was not because of freehold titles, but rather

because of discriminatory costs, institutional capacity, and governance issues. As such, it is important to recognize that a well-regulated, well-implemented rural land market, whether they are arbitrated by sale, lease or otherwise, can be a positive resource for rural farmers without threatening equity concerns.

Land Tenure Policy in the Wider Policy Context

Land tenure policy is only part of the solution. A well-formed land tenure policy is important for a properly functioning rural economy that maximizes food security and sustainable farming practices and minimizes rural poverty. However, even the best-designed land tenure system cannot accomplish these goals by itself. Lack of effective education, infrastructure, factor mobility, institutional capacity and governance all contribute to the problems of poverty, food insecurity, landlessness, and unsustainable land use practices in Ethiopia. Lack of education not only limits the productivity and sustainability of farm practices, it also makes finding off-farm income more difficult. Insufficient infrastructure prevents the free movement and storage of agricultural products, allowing localized crop failures to plunge entire regions into famine and limiting the marketability of rural crops. Inefficient markets and inconsistent contract enforcement hinders the ability of farmers to trade in excess land, labor and capital to maximize yields. Lastly, institutional capacity and governance deficiencies negatively impact the function of rural society, by impeding reform and reinforcing unjust and counterproductive systems. All of these forces are largely beyond the scope of land tenure policy yet nonetheless are key determinates of rural development outcomes. Therefore the successes of land tenure reform will remain limited unless these other issues are addressed as well.

Political context limits effectiveness of land policy reforms. If governance problems were entirely the product of the writ of land policy legislation, merely rewriting legislation to clearly assign land regulation jurisdictions and inform farmers of their rights would largely remedy the governance problem. Yet Ethiopian land tenure policy operates within the larger institutional and political context where systemic governance issues adversely affect land tenure security. Regionalization and localization of land policy, while for the most part successfully implemented through the use LACs, are undermined by continued Federal control. While ostensibly decentralized, Ethiopia's land tenure reforms allow the central government greater control over rural land and at levels closer to the people than before. Vague land laws allow the hierarchical system established under the EPRDF to control farmers' access to land through dispossession and redistribution, sometimes resembling a system of rewards and demerits. In this sense, land tenure reforms have reinforced the political importance of land policy to the EPRDF's hold on power. As long as land policy is used in this way as a political tool, tenure security gains through "capacity-building"-type initiatives will be limited to what the EPRDF finds politically admissible.

This federal control also undermines the goal of land policy decentralization – to allow regions to implement land policies that fit with their distinct cultural histories. There were some successes to this effect. For example, in Oromia, redistribution is expressly forbidden because it is not part of traditional land management there. In the SNNPR, certification laws have been adapted to accommodate the prevalence of polygamous marriages. However, these regional distinctions are

the exception rather than the norm. All regions are subject to the basic principles of state ownership, policies that tie farmers to the land and discourage migration, and conditions of land use that threaten land tenure security. This overarching system, while largely compatible with the *rist* system in Tigray and Amhara, is less compatible with the *gada* system in Oromia and traditional cultures in the SNNPR. In all regions, Ethiopia's land administration is primarily carried out at the woreda and kebele level and, with the exception of many LACs, does not recognize the value of working through traditional land management structures. Instead, the system takes a top down approach that superimposes federal policy (with minor regional variations) on local systems whether it is compatible or not. Thus the political and institutional structure of Ethiopian governance often fights against the traditional system rather than trying to work through it.

The political context limits scope of potential land reforms. It is important to remember the role of politics in Ethiopian land policy. It is no coincidence that land redistribution was the dominant land allocation tool of the Derg, TPLF, and the EPRDF. The disastrous results of free holding initiatives in other sub-Saharan African countries, and the exploitative imperial system of the past, provides the government a historical narrative that exploits fears of market-based land tenure policies. For these reasons, it is difficult to imagine that the current regime would consider any reform that would threaten state ownership of land or allow land rights to be collateralized and sold.

While it is vital to be sensitive to Ethiopia's unique historical perspective on land tenure policy, it is equally important to understand that it is, in many ways, a political perspective that does not, and cannot, fully recognize that the current political and institutional structure of Ethiopia is itself part of the problem. Thus, while further land tenure reforms will have to work within the current political and institutional context, it also must endeavor to change these systems for the better.

Evaluative Criteria

These conclusions indicate that the following evaluative criteria should be used in determining the best alternative for reforming Ethiopia's land tenure system.

I. Will the alternative maximize land tenure security?

High perceptions of land tenure security lead farmers to invest more in their land and produce higher yields as a result. It also signifies that farmers do not believe that their livelihoods will be arbitrarily taken from them, indicating good governance. Land tenure policy can have a huge effect on perceptions of land tenure security and should make security a priority.

II. Is the alternative politically and institutionally feasible?

The EPRDF has stated that it will not reconsider state ownership of land. It has also invested heavily in a policy that relies on expropriation and distribution to allocate land amongst farmers.

Ethiopian institutions lack the capacity to administer complex systems and thus such systems are prone to abuse. A successful policy alternative will have to be feasible under these conditions.

III. Will the alternative maximize the institutional capacity of land administration?

Ethiopia's recent land tenure reforms have been limited by the government's capacity to put its provisions into practice on the ground. Jurisdictional uncertainties, hierarchical control, and legitimacy issues in the court system all limit institutional capacity to implement policy. A successful policy alternative will improve the capacity of land officials to justly administer land laws.

IV. Is the alternative equitable?

Lack of equity has contributed to the downfall of other tenure reform efforts through high costs, information asymmetries, and inequitable distribution of land. A successful alternative will achieve equity by: minimizing costs to both landholders and the state, minimizing information asymmetries, and maximizing the rights of women and the disadvantaged.

V. Is the alternative efficient?

Well-functioning land tenure systems promote the efficient allocation of land, labor and capital to maximize investment and productivity toward promoting food security, sustainable development and alleviating poverty. A successful alternative will maximize farmers' ability to trade factors of production in order to maximize their productivity.

Alternatives

Many commentators have focused on two approaches for reforming Ethiopia's land tenure system. The first, favored by the United States Agency for International Development (USAID), closely resembles the institutional model. Reforms in this alternative center around creating the conditions for a participatory process in which stakeholders can come together to negotiate a policy that arbitrates the diverse interests of the entire country. These efforts would be paired programs to increase institutional capacity through the education of land administrators, judges, and landholders regarding land rights described by the law. The end goal is to maximize stakeholder input and increase capacity for implementation.

The primary limitation of such an approach is that it fails to take into account the political and institutional realities surrounding Ethiopian land tenure policy. The EPRDF has a mixed record of using land policy as a political tool, making it unlikely that a participatory land policy formulation would, in fact, include the input of stakeholders outside of the EPRDF. Similarly, efforts to educate farmers and officials about land laws and land rights are commendable, but they do not address the problems stemming from the vague writ of Ethiopian land laws. Without more explicitly defined land laws and a downwardly accountable system of administration, officials might learn what the law says, but they may still choose to interpret it incorrectly, arbitrarily, or in accordance with political rather than legal motivations. Furthermore, under the current system most such

actions could be considered legal, given the system's embrace of redistribution and dispossession as land tenure management policies. Building institutional capacity is important, but is unlikely to change this underlying reality.

In sum, we are skeptical about whether such an alternative would result in meaningful land tenure policy reform, and thus it would fail to improve land tenure security, equity, and efficiency.

A second approach follows the neoclassical economic model and supports a gradual transition to freehold rights that include the right to buy and sell land, as well as use it as collateral. This approach has received broadest support from economists and international observers who have viewed certification as a first step in this direction. This argument was made most fiercely after the fall of the Derg when many, particularly Rahmato, expected free-market land tenure reforms. As the opportunity for freehold rights in Ethiopia has waned in the unbalanced political climate, and freeholding reforms in other parts of Africa have failed, calls for freeholding rights have correspondingly become more muted.

We are skeptical about the possibility of converting Ethiopia's land certificates into full freehold rights for two reasons. First, it is unfeasible in the current political environment, particularly as the ruling EPRDF party has explicitly rejected freeholding as a policy option. Second, Ethiopia's institutions do not have the capacity to efficiently regulate land markets to ensure they would develop equitably. More specifically, allowing farmers to buy, sell, and collateralize land would create a land market subject to exploitation by powerful interest and actors. Ethiopia's institutions are ill-equipped to successfully protect the disadvantaged from being disenfranchised by these power differentials, and thus, full titling may in fact increase landlessness and land disputes as seen in Kenya, for example. Thus we reject the freehold policy option for failing to meet the criteria of political and institutional feasibility.

Recommendations

A Hybrid Approach

Successful land tenure reform must balance the efficiency and tenure security benefits of free holding with political, institutional, and equity concerns. Recommended reforms include:

1. Increase the security of land use certificates. Research indicates that land tenure security is a key mediator between land tenure policy and desired outcomes. Ethiopia's land tenure system jeopardizes the security of land use certificates and therefore must be reformed to minimize the possibility that landholders will be dispossessed of all or part of their land. For this reason, land use certificates must be made as inviolable as possible.

This can be achieved partly through minimizing dispossession. The first and most politically feasible step would be to eliminate conditions of certificate rights in current land laws. These

conditions undermine land tenure security as poorly defined conditions allow land officials at the kebele and woreda levels wide authority to arbitrarily expropriate and redistribute land. Eliminating as many of these conditions as possible will increase perceptions of land tenure security. Any remaining conditions must be rigorously defined to allow as little room for interpretation as possible. Sustainable land use practices should instead be encouraged through a combination of fines and aid incentives. These would have to be administered at the kebele and woreda levels and would have to be not only simple but clearly stipulated in the law to prevent abuse by land officials.

2. Liberalize land markets. Food insecurity and poverty in Ethiopia are, in part, owed to land policy restrictions on land and factor markets. Liberalizing these markets must be part of the land tenure solution. However, freehold rights to buy, sell, and mortgage land are both politically and institutionally unfeasible policy options. Leasing, by contrast, has better potential for success. Federal land policies could remove requirements for farmers to retain enough land to farm and regional proclamations should eliminate 50% leasing limits. A totally free leasing system would allow those who are unable to work the land or able to find off-farm income to lease the entirety of their land to the landless or other farmers seeking to expand their production. Such a system would alleviate many of the restrictions that tie smallholders to the land and encourage more efficient land use. Under such a system, the emergence of exploitative relationships is not a major concern since land use rights would not change hands and the legal and regulatory system would retain the power to identify and mitigate exploitative land-lease arrangements. It should be mentioned, however, that the potential of leasing to improve the function of land markets is largely dependent on institutional capacity to enforce and regulate contracts. In Ethiopia, this capacity remains relatively low. The risk in liberalizing leasing markets in such an institutional environment will prevent farmers from engaging in widespread leasing activity.

These reforms could also help counterbalance the power of foreign investors by making the interests and concerns of smallholders, pastoralists, and other disadvantaged and marginalized stakeholders part of the decision making process. Policy reforms could include subjecting foreign investment leases to local approval, ensuring that foreign investors use Ethiopian labor, requiring agricultural investors to sell a percentage of the food they grow in the Ethiopian market, or guaranteeing adequate compensation to those most affected by the use of Ethiopian land by foreign actors. Above all, reform should ensure that all stakeholders have not only a voice in such matters, but the ability to influence decisions about land use. Such reforms would help to improve rural agricultural economies, provide off-farm income for the land-poor and landless, and help put Ethiopian farmers on equal footing with wealthy foreign investors.

3. Increase institutional capacity. Land tenure reform must not neglect capacity building. Given the current political and institutional environment, empowering smallholders and other politically and economically marginalized groups with the ability to understand and defend their land rights will be one of the most effective means to build capacity for land tenure administration and governance. Land tenure policy should leverage the ongoing work of NGOs to educate farmers about their land rights in order to empower smallholders to speak on their own behalf. Such

activities could effectively work around recent federal regulations that prevent NGOs from engaging in human rights advocacy work. Furthermore, it could strengthen the ability of indigenous institutions and organizations to defend the rights of the people, developing the civil society necessary to encourage democratic, transparent application of land laws. Thus, over time, educating smallholders about their land rights could encourage the development of the institutional capacity to properly administer and sustain the benefits of land certification in Ethiopia.

Secondly, the capacity of local government must also be increased to ensure that adjudication, registration, and administration of land and land tenure issues are conducted in a cost-effective, timely, transparent, and downwardly accountable way. Additionally, institutional reform of at the local level must also create a more robust separation of power between government functions. Collusion between institutions and individuals who administer, interpret, adjudicate, and enforce the law limit both transparency and accountability and provide considerable opportunity for corruption and the misapplication and abuse of the law by local government officials. Putting an end to such abuse is imperative for creating a more equitable distribution of power and for sustaining tenure security. As such, much reform must be carried out in the realm of land administration.

4. Reform land administration. Deficiencies in land administration are a major threat to the sustainability of certificate rights. Ethiopia's land tenure policy must end the ability of kebele and woreda EPLAUA officials to arbitrarily expropriate and redistribute land. While better legal definitions and the elimination of land use conditions for dispossession will help, the historical context of power relationships between peasants and local government officials makes it doubtful that such measures could eliminate abuse on their own. The solution must be more systemic.

One remedy could be to check the power of kebele and woreda officials through the introduction of an associative model of land management. The Associative model, loosely based on communal arrangements in Kenya and Mozambique, would vest the power of regulating land tenure with the community. Individual usufruct rights would be guaranteed and arbitrated by the community in which each individual lives, though ownership would remain with the state. In Ethiopia, the adoption of an associative model should aim to implement a system of checks and balances between the kebele and regional governments and community land institutions. The power to dispossess, expropriate, and distribute land could be divested to democratically elected land councils at the sub-kebele or village level, similar to LACs or the LACs themselves. Councils would ensure usufruct rights and arbitrate land disputes within their jurisdiction. Officials at the kebele and woreda level, as well as the court system, would be responsible for training council members, disseminating information, processing certificates, registering leases, administering incentives for sustainable and productive farming practices, and settling inter-village land disputes. These responsibilities and authorities should be rigorously defined in order to minimize confusion among landholders regarding certification, registration, and land dispute resolution processes. They could also act as a check on the power of local land councils by requiring that all dispossessions, expropriations, and redistributions of land be made subject to their approval. In this way, no one governmental body, from the sub-kebele level through the woreda would have the autonomous

authority to violate the land tenure rights, legitimizing traditional institutions while limiting their power and the potential for politicization.

The advantages of this model are clear. Land councils would be directly responsible to the people they may seek to dispossess of their land. Distrusted kebele and woreda officials would only retain the power to ensure land tenure security, rendering their authority over land tenure a beneficial instrument of land tenure policy. Most importantly, the empowerment of indigenous land institutions would allow Ethiopia's land tenure system to adapt to and complement major local and regional differences in attitude toward land. The result could be the achievement of true regionalization that has thus far eluded Ethiopia.

An associative model for land administration would have some disadvantages as well. It would retain state ownership of land, leaving open the possibility for a return of a redistribution-oriented system. This risk is necessary given the current political position of the EPRDF. Furthermore, it would encourage parochialism and inter-village land conflict, something that current institutions would be ill equipped to handle, risking politicization and the persistence of many of Ethiopia's governance problems. Also, it is vulnerable to the mismanagement of local elders. Often times, local elders hold unquestioned power and may make unilateral decisions in an ostensibly democratic system. This risks undermining the benefits of associative administration of land. Lastly, and most importantly, despite some similar instances that indicate positive results in other sub-Saharan African countries, the associative model is thus far largely untried. For this reason, projected results are largely speculative based upon the aggregate experience of land tenure policy in Ethiopia and Africa and need to be tested in order to verify that projected benefits can be realized.

Despite these drawbacks, the net result is a land tenure policy that will maximize desired outcomes, minimize risks, and fit within the political, cultural, and institutional context of modern Ethiopia. In time, as Ethiopian culture modernizes and becomes more integrated into the global economy, institutional capacity may improve and governance may become more fair and consistent. In the long-term, therefore, it is possible that a uniform land law may become possible and previously rejected ownership systems such as freeholding may be revisited. Until then, a system that relies on leasing, sub-leasing, and the associative model of land administration is the best alternative for land tenure reform in Ethiopia.

Epilogue

Certification began in Oromia and the SNNPR little more than six years ago. The impact of certification and new administrative laws are still developing and require continued monitoring. At this point, despite early findings, it is impossible to be sure that increases in land tenure security, investment, and productivity will be durable.

Future studies must continue the work of Rahmato and Deininger and continuously monitor perceptions of land tenure security, investment, productivity, and the functioning of land markets over time. These quantitative studies have been essential for determining the early effects of Ethiopia's certification regime and will be instrumental in determining the final verdict. These studies should endeavor to be as broad as possible in order to be able to generalize the results.

Quantitative monitoring, however, will not be enough. Quantitative studies must be complemented by qualitative studies on the ground with Ethiopians who are engaged in the land tenure system. Quantitative findings often mask the true nature of trends and are essential for determining how culture, politics, and institutional interactions affect land tenure policy.

Further endeavors, beyond this one, must continue to aggregate these findings to tell the continuing story of land tenure policy in Ethiopia. Compiling data in this depth is a herculean effort, yet is essential for understanding all sides of the story that the data tells. Furthermore, data aggregation is more useful for influencing policy since it tells all sides of the story and therefore is less easily dismissed by groups of one opinion or the other.

We aim for this study to be the first entry in a long line of research that monitors Ethiopia's land tenure policy as it evolves and certification spreads to the remaining regions in the country. It is our hope that the findings and recommendations in this document can inform Ethiopian land tenure policy going forward and can contribute to the improvement of the lives of rural Ethiopians.

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