

## Land in Africa: Market asset, or Secure Livelihood? 8-9 November, London

### Working Group 1: Formalising and securing land rights: diverse approaches from Africa.

#### The case from Northern Ethiopia

##### 1. Background on land rights in Ethiopia

Currently land law and family law are decentralised to the State level. Farmers today access land mainly through state mandated peasant associations. Access is conditional on proof of permanent physical presence, ability to farm continuously and meet community obligations as agreed through local enforceable legislation. Farmers have long term rights to use the land and these rights are transferable by inheritance with a provision not to sub-divide plots below a certain minimum hectareage thereby safeguarding against fragmentation. The Ethiopian constitution does not allow the sale of agricultural land or use as collateral for obtaining bank loans. Some regions have promulgated land administration laws allowing farmers to lease<sup>1</sup> their land to prospective users but the main rental transaction and dealings are operated by the parties concerned as far as the contract is registered and witnessed by the local authorities at the peasant association level.

There are also emerging market and non-market mediated transactions which are becoming important. These are in the form of sharecropping and cash rental.

Previous to the land reform of 1975, which vested land rights to the state, the land tenure system in Ethiopia had variations in the different parts of the country. In the south of the country absentee landlordism which constitutes the private holding of huge tracts of land provided the landlords the rights to land including sales and transfers in all forms of transactions. In the central and northern part of the country customary land rights in the form of *rist* were dominant providing the farmers access to land from their ancestors and kin. The accessed land was inheritable and tradable in the market but absolutely not for sale or mortgage. The disparities in land tenure and the rampant absentee landlordism and the concomitant misery and oppression of the Ethiopian people in general and the farmers in particular initiated the widely acclaimed *land to the tiller* slogan that resulted in the 1975 land reform that abrogated the 1955 imperial constitution that permitted land to be possessed by **individuals as private property**. The land reform and the subsequent 1987 constitution of the Dergue regime bestowed the right of land to the state. After the defeat of the Dergue regime and the assumption of power by the EPRDF in 1991, the constitution of 1995 put land as the right of the state but allowed the right to use land indefinitely.

In some states policies are being implemented that address the registration and certification of land, distribution of sloppy lands, rehabilitated area, gullies and closure areas.

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<sup>1</sup>The time of the lease depends on the type of intervention the lease is envisaging – for a lease that considers mechanisation and high investment on the land up to 50 years are allowed, whereas for low input investment on the land, short term leases of 2-10 years is contracted.

## 2. Land Registration and Certification Experience in Tigray

In response to the growing demand to secure land tenure and as a tool to implement the Land Administration Policy of the State (proclamation of 1995), the State government of Tigray implemented land registration and certification from 1996-1998 that covered all cultivated lands. Land has not changed rights over holdings and confirmed the results of land distribution of 1991 and the additional distribution of land that had been made available later, including land with no legal heir, land that was held by those who have left their community on their free will). It is to be noted that land redistribution is barred by law in Tigray consolidating rights to those who are using land currently only and their legal heirs.

The system of registration and certification was highly decentralised to the community level. Registration followed the system for allocating land, with one certificate by household listing the various plots in use (number of plots can vary from area to area depending on the quality of land, available total holding in the community, population of the members and agro-ecology. In the lowland where land is fairly abundant and low populated holding size is bigger and number of plots few in number. In the highlands on the other hand holdings are smaller but highly fragmented). It is to be noted that during the land distribution schemes made in Tigray, the communities participated in identifying community members, registered members, identified the total land holdings of the community, demarcated not only community boundaries but also farm boundaries, common resource pools (pasture land, forest land, cultivated etc). Elected members of the community called *Baitos* along with the agricultural and administrative cadres constituted the committee of land distribution within a given community. The available land in a community was categorised in terms of productivity classes so that members of the community could have access to the three categories of the land (**Reguid meriete – deep soil; Reqiq meriet – shallow soil; Maekelay meriet – medium deep soil**).

During the registration period (1996-1998) boundaries are not indicated but rather the location is described (part of village land, name of neighbours). First an individual record of these plots was filled in by the villagers themselves and checked by the team of experts drawn from the land administration. This information was then copied and recorded in a book, followed by the issuance of a certificate in the name of the household head that is kept by the land users. The local language is used, but many are illiterate.

Costs of the registration and certificate is very low (2 Birr) and is borne by the certificate holder.

Common pool resources are not registered and certified but they may be recorded at the *Tabia* (peasant association) level using *sirit* (bylaws). There are several *sirit* that stipulate the distribution of sloppy lands, pasture lands, rehabilitated gullies and community forests.

Landlessness is growing in Tigray and affects particularly young people. For these reasons, women having land are allowed to keep the land when they marry to leave for another village, until they have received land in their new place. This is formally against the law (rights to land are lost when the person has been away for more than

two years) but in this case the local nature of the land administration and good governance practices protected women's positions. Landless people will not benefit from registration, which they may even regard as against their interests because it will make new land redistribution less likely insuring those with certificates the rights to their land. Landless people get access to land through sharecropping, if they possess oxen. Others are developing sources of employment outside farming or migrate to urban areas (in this case women have less chance) or settlement schemes within Tigray (western lowlands), which is being pursued now as a means of depopulating the highly degraded and less productive areas of the highlands of Tigray.

Certificates are of no use to settle boundary disputes, one of the most common conflicts over land and are rarely used in disputes over use rights. They have no protection against appropriation of land by the government, although the certificate holder will be entitled to some compensation. The certificates are valued most by women, who feel less secure about their rights. Upon divorce women receive half of the land, but as new certificates are no longer available in many communities, there is not registered. Keeping the system updated is a key problem in most of the *Tabias* visited.

New actors on the scene are "investors" who obtain land through the State and *woredas* (counties), a different system that what is described above. Most of the investors interviewed are small-town businessmen from Tigray or elsewhere. They are faced with much uncertainty, such as the length of the contracts.

### **3. Further Research Questions**

- How does land certificate consolidate holdings?
- What is the impact of the land certificates on the change in the livelihoods situation of the owners?
- Has obtaining the certificates empowered holders to invest in soil and water conservation activities on their holdings?
- Have the certificates encouraged them to invest in tree planting?
- How have local level social courts reacted to disputes on land after certifications? Is there an appeal system to seek justice at a higher level?
- Is there a possibility for using local measuring devices to demarcate actual boundaries?
- Why are new certificates being issued to divorcees?