
Debates on Land Titling

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Abstract: Countries like Ethiopia emphasis that certification process guarantees land use and transfer rights ensures tenure security, and is a vital incentive for farmers to invest in their land and improve production. The program is assumed to addresses the issue of tenure insecurity which is a chronic problem in most developing countries. Moreover, land titling has a good effect in reducing of both border and inheritance disputes. However, there are debating issues on the effect of land titling in tenure security, land management and land disputes. The aim of this study is to investigate whether land titling has resulted in insuring tenure security, assuring land management, and reducing land related disputes or not. Though land titling is not a sufficient factor for sustainable land management, it is a necessary condition so that it enables farmers to have confidence on their tenures which is a preliminary condition to start land management activities. In addition to this, land titling is vital for minimizing of land disputes.

Keywords: Land Disputes, Land Management, Land Policy, Land Titling, Tenure Security

1. Introduction

Land is one of the most important natural resource in which we can get different uses from it like forest products, production of crops, construction materials, and what not (Olsson and Lundmark, 2014). Though there are various factors like climate change for the deterioration of environment in general and land in particular (Towfiqul Islam, *et al*, 2014), tenure insecurity has a lion share for land degradation.. Tenure insecurity creates doubt on farmers t their tenure so that they will not manage properly. For the proper utilization of this resource without degradation, land titling is vital. Land titling is a process of recording rights on land which provides safe and certain foundation of acquisition and disposal of rights in land, where disposition includes transfer, leasing or mortgage of the holding rights (Pankhurst,1966). For African countries registration of land rights is a continuing issue regarding debate in land policies. Many West African countries have instituted the process of land registration through their land legislation. Land registration and bestowing of land certificates is assumed to have many effects on different land related issues. Some of these are tenure security, sustainable land management practices, and reducing of land disputes. These issues are intended to be discussed in the following sections.

2. Land Titling and Tenure Security

Land titling is assumed to have a good effect in resource management and planning (Djiré, 2007). However, there are conflicting ideas about the issue of land registration and its impact in ensuring land tenure security and assuring sustainable land management. There are many studies supporting the neoclassical hypothesis that tenure insecurity is correlated negatively with the quality of resource management. In some countries certain results do not show a positive link between tenure security and land related investments.

For most African countries land tenure, land registration and title certification do not necessarily ensure tenure security. For example, comparative studies conducted by Migot-Adhola *et al* (1991) in African countries such as Ghana, Rwanda and Kenya showed that land registration and title certification do not have a clear impact on land improvements. Lack of formal land titles may not be the cause of tenure insecurity. Rather physical infrastructures, effective credit systems and marketing institutions or access to credits had a greater impact on land improvements (Migot-Adhola *et al*, 1991). In similar way Feder and Nishio (1998) revealed that land registration is unlikely to be economically worthwhile for much of sub Saharan African countries. Place

and Migot-Adholla (1994) with their studies in four Kenyan sites showed that land registration and certification showed a very weak impact on perceived tenure rights of farmers, land improvements crop yields, or concentration of landholdings.

Broegaard (2002) with her study in Nicaragua stated that in spite of the fact that most farmers in Nicaragua possess a legal title to their land, they still feel tenure insecurity and there is no improvement in land management as a result of land titling. According to Broegaard (2002) more attention should be given to aspects other than land certification like inequality of wealth and power, lack of enforcement, lack of impartiality on the part of formal institutions when addressing an institutional unstable setting. In her conclusion Broegaard (2002) explained that even though titles are much desired to secure property rights, they did not necessarily create tenure security. Similarly, Dickerman (1989) stated that registration and title certification is no guarantee of success in bringing tenure security and land improvement but merely the necessary foundation (Dickerman, 1989 cited in AAE, 2006). Lemel (1988) also stated that lack of individual titles does not necessarily mean that there is tenure insecurity, and individual titles do not significantly ensure security of tenure.

A study conducted by Zikhalui (2008) in the central province of Zimbabwe called Mashona-land stated that, in order to investigate the impact of Zimbabwe's "fast track land reform program" on the perception of tenure security and conservation of natural resources including investments on land management showed that the program did not ensure tenure security among the farmers and had no positive impacts on soil conservation practices. It is assumed that this program might have failed to provide tenure security to farmers who had got land under reform program (Zikhalui, 2008). Adams (2001) argues that unless the land administration is accompanied by other development activities, the land reform in general may unlikely to make much difference to the rural poor. Unless cadastral surveys and modern system of records are keeping essential, land registration and title certification could not be effective to bring tenure security, and even it may lead to conflict and uncertainty (Dessalegn, 1994).

There are also other researchers who argued that tenure insecurity does not prohibit land investment activities. A study by Neef *et al* (2001) in Niger, Benin, Thailand and Vietnam show that tenure insecurity does not always lead to decreasing investments on land. They explain that sustaining environmental resources does not primarily depend on whether farmers have titled land or not. Tenure security did not necessarily bring as a result of certification (Neef *et al*, 2001). The same case also found in Burkina Faso where land related investments are made to increase tenure security rather than as a consequence of more secure rights. They stated that land registration and title certification enable security of tenure by stimulating long-term investments to improve soil fertility and land management and to increase productivity (*ibid*).

On the other hand, Cotula *et al* (2004) stated that land registration and title certification increases tenure security,

and hence stimulates land investment in addition to improving farmers' access to credit in which it serve as a collateral to financial institutions. In most African countries land management activities and investments made to bring tenure security rather than as a consequence of more secure rights. Whereas, in case of Ethiopia the reverse is true, i.e. land tenure security enables the land management (Brasselle *et al.*, 2002). Land registration and certification stimulates a more efficient use of land, enables creation of land market, and it provides farmers with a title that can be offered as collateral for financial institutions. Tenure insecurity which in turn caused by absence of land registration is the main reason why developing countries did not developed as western countries. There are other paramount of research results which show the positive relationship between land registration and certification and tenure security as well as land improvement and productivity (*ibid*). There are quite a number of case studies conducted in different countries that show the role of land registration and title certification in ensuring tenure security. For example, Sikor (2005) in his study in the northwest Vietnam assured that land registration and title certification is counterproductive to rural peoples of the country by avoiding the economic and political uncertainties and providing tenure security to the region. A study by Kabubo-Mariana and Linderhof (2009) in two provinces of Kenya (Naro and Kajado) show that land management practices strengthened as a result of land tenure security which was ensured due to land registration and title certification in the region as the cost of other incentives. Deininger *et al* (2003b) in their study at Nicaragua also founded that land titling and administration project has great contribution to reduce the pre-existing uncertainties on land tenure; and enable poor people to have a guarantee on their holdings. Their study and finding was supported by another study conducted by Binswanger *et al* (1995) in that landholder can reasonably expect that if his/her property rights are well enforced, a farmer will have strong incentives to make long-term land investments, when these long-term investments combined with better formal credit access it will led to higher land price and better functioning of land markets (Binswanger *et al*, 1995 cited in Broegaard, 2002).

According to Holden *et al* (2007), important policy concerns are whether the land reform in form of registration and certification has contributed to increased tenure security, especially for the poor, including women that women think differently about their land certificates than men do as their tenure rights have been less secure than that of men, and the certificates may therefore have a higher value to them than they have to men"

3. Land Titling and Land Resource Management

Land tenure security cannot be directly measured, and to a larger extent it is what peoples perceive it to be, and may change from one context to another context (FAO, 2005).

Therefore, it is vital to use other cross-checking mechanisms. One of the mechanisms used to measure whether there is tenure security among farmers or not is land management. Since it increases security of tenure rural land titling enable landholders to have incentives to investment in land and long-term protection of the environment (Solomon, 2006). Peoples having certificates are more interested in making long-term land related investments (Berhanu *et al*, 2003; Holden *et al*, 2008b). Insecure of tenure on land and other natural resources is the main reason for the natural resources end-users to be unwilling to invest in long-term sustainable land management (GEF, 2005). Proper land management and investment on land productivity are expected outcomes of land registration and certification of farmlands (Charles, 2004). Feder and Nishio (1998) from their findings in their empirical evidence in Thailand concluded that in addition to increased access to formal credit opportunities, formal land registration has contributed to greater land investment which in turn has resulted in increment in production. According to the report of Orgut (2010) in Amhara state of Ethiopia, land certification increased land investment, investment in farming equipments, and improvement in agriculture. Similarly, Berhanu and Fayera (2005) in their studies in four districts of Amhara state founded that more than 59% of farmers perceived that land registration and certification had assured improvement in sustainable land management. Another study by Sabita (2010) in Ethiopian rift valley region showed that more than 70% of the respondents (farmers) completely agree that certification had increased investment in sustainable land management. The results from the study conducted by Holden *et al* (2008a) in Tigray State also showed that land certification has contributed to better improvement in soil conservation structures, increased investments in trees, and enhancement of land productivity. According to the findings of these researchers, people having certificates are more interested in making long term land-related investments and also the high use of chemical as well as organic fertilizers. On the other hand, Berhanu *et al* (2003) from their study in Tigray State of Ethiopia founded that land certification has brought short-term land investments. Another study conducted by Kabubo- Mariana and Linderhof (2009) in Kenya long-term investments in land management technologies were brought as a result of land registration and certification. In their findings they had explained that the three most frequently observed land investments in their survey were tree planting (28%), terracing with grass strips (26%) and grass strips (23%). Increasing of land tenure security and associated property rights as a result of land certification in china has brought land investments, and hence farmers applied somewhat more labor (18%), nitrogen fertilizer (15%), animal traction (14%), organic manure (32%), and phosphates (20%) (Rozelle *et al*, 1998).

According to Laiglesia (2004) in Nicaragua possession of legal property documents/ registries in enhancing agricultural investment incentives increased the probability of carrying out land-attached investments by 35%. Bruce and Migot-Adholla (1994) also investigated that land titles and clarity of

land rights play an important role for providing incentives for investment in land use. Besides to this, an influential study was made by Feder *et al* (1988) in Thailand show that certification of land titles to farmers provide not only tenure security but also higher level of land investment and higher land price. Titled land had higher capital stocks of 56-250% and use of labor (increased by 8-15%), draft power (increased by 25-39 %), and fertilizers and pesticides (increased by 23-34%) and compared to untitled land, resulting in higher output and productivity.

In Costa Rica ownership of tenure security as a result of protected land right had brought farm investment per unit of land. Increased investment and higher output and income were also realized on titled land in Costa Rica, Brazil, Ecuador and Paraguay (Salas *et al* 1970; Feder and Nishio 1998). Analogously, the study by Vilamizar (1984) at three Brazilian states shows that investment per hectare is substantially greater on titled land than untitled land. Similarly, a survey study made by IDB (1986) in Jamaica revealed that there was a greater incidence of permanent and semi permanent crops among farmers with titled lands than untitled lands. According to the IDB's report, following the bestowing of certificates farmers planted more permanent and semi permanent crops. Moor (1996) in his study in Manicaland province of Zimbabwe argued that there is a positive impact of land rights status on land investment activities and productivity (Moor, 1996). The study demonstrated that tenure security has significant positive effect on farmers' long-term land investments and increment in yield. Alston *et al* (1996) in their studies at Brazil show that although there is difference with location from market center, the titled land is more valuable than untitled land. Without taking in to consideration of market distance, titled land of a given agricultural quality has a 189% higher value than untitled land at the same location. Berhanu and Swinton (2003) also founded that land titling in Tigray region has brought durable long-term land investments such as stone terraces and tree planting than short- term low cost investments like soil bunds.

4. Land Titling and Land Disputes

Dispute over land has been the root cause for civil wars because land had been the primary means of generating livelihood for majority of rural population of many countries (Holden and Yohannes, 2001). In most countries of the world disputes over land rights and property boundaries make up the largest percentage of court cases. Land disputes resulted in social unrest, expensive litigation and breakdown in law and order, and hence courts spend much of their time in resolving these matters (Marquardt, 2006). With reference to smallholder farmers, the commonest land-related dispute is related to inheritance and boundary (Gizachew, 2006). In addition to land redistribution and expropriation of land by government agencies with or without adequate compensation, disputes with neighbors over boundaries and disputes with relatives over inheritance in Ethiopia under successive

governments are major sources of insecurity (Bruce and Migot-Adholla, 1994).

Dispute over land can be manifested in many basic ways. They may be occurred when there is lack of adequate demarcation, registration and record keeping which led to overlapping land claims stemming from inheritance that is beginning to result in conflict, when the law is weak in protecting the rights of individual landholders, in which violence and intimidation are used against women who attempt to use the law to establish and defend their right to landholdings, and the feeling of tenure insecurity (Brasselle *et al*, 2002; Holden *et al*, 2008b). However, many of the land disputes could be resolved through access to accurate land ownership information of land holders which may be useful for the design of environmentally sound development programs for the provision of incentives to land holders who practice sound land management, or the imposition of sanctions on those perpetuating environmentally destructive land use activities. (Marquardt, 2006).

Holden *et al* (2007b) in their study in Tigray region stated that in addition to improving tenure security and land-related investments land certification contributed in reducing land disputes/boarder conflicts among the households. Land registration and certification in the region revealed that the number of border conflicts during and after the reform (registration and certification) were more likely to have decreased than increased. They stated that clarification of boundaries and field-based adjudication that were undertaken in the context of the certification program had contributed towards a marked reduction in land related conflicts because formalization of land rights and better demarcation of land borders enable farmers to have security of tenures. Land registration and certification was more successful in solving land disputes that arose during the last land redistributions in Tigray state (*ibid*). In addition to being a proof of ownership, land registration documents/certificates are compulsory by provide documentary evidence that is necessary for resolving property disputes as well as information for a wide variety of public information such as land valuation (Dale and McLaughlin, 1999).

Sikor (2005) in his study in the northwest Vietnam stated that land registration and certification reduced border disputes in the region. In addition to this, Deininger *et al* (2007) in their study in Tigray regional state founded that 66% of land disputes decreased after certification. In Amhara region, in addition to increased the perception of tenure security among farmers which improved tree plantation and other SLM activities, land titling and bestowing of certificates resulted in the decline of incidence of land disputes. This is because land registration and title certification enables the proper demarcation of land boundaries; hence, resulted in lesser land disputes (Palm, 2010).

5. Conclusion

From this review paper one can understand that there are

divergent views about the fruitfulness of land titling regarding tenure security, sustainable use of our limited natural resources, and reducing of land disputes. Even though there are other factors that have a negative impact on tenure security, land titling is a means by which farmers' confidence on their tenures can be increased so that they can practice whatever land management activities on the land. Moreover, land titling enables the reduction of land related conflicts among neighbors and relatives.

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