

LAND TENURE: AN INTRODUCTION

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Abstract

Land tenure refers to the bundle of rights and responsibilities under which land is held, used, transferred, and succeeded. This essay surveys land tenure arrangements throughout the world since the Roman Empire. Particular attention is paid to how six forms of land tenure emerge, function, and change. The six forms of land tenure analyzed are (1) owner cultivation of small, private lands; (2) squatting on public or private lands; (3) large estates or latifundia; (4) feudal tenures with bound and unbound labor; (5) communal tenures; and (6) smallholder leasing from private landowners.

Land tenure refers to the bundle of rights and responsibilities under which land is held, used, transferred, and succeeded. The meaning of the term varies with context. It is used to refer to land tenure prescribed by statutory or common law; to customary land tenure; and to observed land tenure practices in a particular historical context. Land tenure arrangements vary enormously across urban and rural areas primarily because of the use of land for agriculture in rural areas and for residential and business use in urban areas. Economic historians have focused on analyzing tenure systems on agricultural lands, as until the twentieth century the majority of people in most societies earned their livelihood by cultivating the land; accumulated wealth by improving the land; and transferred wealth to the next generation by bequeathing the land.

Land tenure can be categorized along three essential dimensions: (1) the presence or absence of formal land title, defined as registration of ownership rights with a government authority; (2) the extent of landowner and landholder rights to contract voluntarily for use of the land; and (3) the spectrum of private-communal property rights to the land. At one end of the spectrum is the independent farmer owning land with freehold (or fee-simple) title. Freehold title is perpetual; inheritable to a successor designated at will; freely alienable; often registered with a central authority that has undertaken a survey of the land (sometimes called a cadastral survey); and characterized by fixed annual obligations. At the other end of the spectrum, bound laborers work on parcels of land temporarily assigned to them by authorities in a communal land system.

Changes in land tenure are induced by a wide variety of factors including relative prices of inputs and outputs; transaction costs; government policies; preferences of

farmers and landlords; and technology. To illustrate how forms of land tenure emerge, function, and change, six forms of land tenure are analyzed below.

1. Owner Cultivation of Small, Private Lands. Owner cultivation of small private land parcels was a major form of land tenure in the Roman Republic, as soldiers were granted small parcels from lands taken from conquered peoples. Despite its early emergence, owner operation of small farms is relatively recent, emerging in Europe and Asia as feudal institutions were dismantled; in North America from the beginning of colonial settlement; in Japan after land reforms were implemented in the late nineteenth century and after World War II; in Taiwan in the early 1950s; in the former British colonies of India, Canada, Australia, South Africa, and New Zealand in the nineteenth and twentieth centuries; and in South America in the second half of the twentieth century. Owner-cultivated farms have been praised as an ideal arrangement to foster and encourage democratic institutions and for the incentives offered to small farmers to properly manage their lands and to adapt to changing circumstances. Wage laborers on farms often set a goal of moving up the “agricultural ladder”—from wage laborers to share tenants to owner operators.

Family-managed farms may, however, not always be the most efficient forms of agricultural organization. Families may have inadequate managerial skills to manage the farm; may not have sufficient family labor; and may not reap full economies of scale on their small land parcel, among other things.

2. Squatting on Public or Private Lands. Some citizens of the Roman Republic received grants from the government to occupy conquered lands, while others—*squatters*—occupied and farmed these public lands without first obtaining a formal lease

or land grant. Squatting is observed on privately owned lands and in run-down sections of urban areas in developed countries, on public lands near or at the frontier of settlement, and in the urban areas of poor developing countries. It was prevalent throughout the Americas from the beginning of European colonization through the nineteenth century and is still a major form of land tenure in South and Central America, particularly in Costa Rica, Brazil, and Columbia. Sheep and cattle herders in the Cape Colony in the eighteenth century and in Australia from the 1820s to 1840s squatted on frontier lands at and beyond official boundaries.

The impact of squatting on economic development has been much debated. Squatting has been criticized as encouraging disorderly settlement; bringing settlers to regions without churches, schools, or proper infrastructure; and encouraging violence between competing claimants to lands. It has also been praised as facilitating development by superseding overly restrictive government land policies of settlement at the frontier. In urban areas in many developing countries, squatting on public and private lands has emerged as a response to large-scale immigration and growth of populations living in poverty. It has been criticized as impeding growth in these same urban areas by forsaking the use of land for collateral; by restricting transfers of parcels; and reducing the value of land in intergenerational wealth transfers.

3. Large Estates or Latifundia. In the second century BC, wealthy Roman families received leases of newly conquered lands and were able to consolidate lands of some farmers serving in the army into ranches and large farms known as *latifundia*. Centered around a central villa, these lands were typically worked by slaves from conquered territories or by tenants at will. With the establishment of the Pax Romana in

the first century AD, supplies of slaves from conquered territories declined, and latifundia managers responded by dividing the latifundia into smaller parcels and leasing them to small holders (*coloni*). In other instances, small landowners would commend themselves and their land to latifundia in exchange for protection against central government exactions and invading tribes.

Similar land holding arrangements have emerged in other societies in which governments have leased or granted large tracts of land to wealthy families or small holders at the frontier have commended their lands to a patron. In South America, the Spanish Crown granted lands and the rights to the labor of their indigenous people to a small number of families in the sixteenth and seventeenth centuries. Some economists have argued that land laws in South America were heavily influenced by this initial allocation of lands and were structured to enhance the position of the large property owners to the detriment of small independent farmers. As landowners in South America gradually lost their rights to indigenous labor in the seventeenth century, they secured a new supply of labor by requiring peasants to provide labor services in order to gain access to land. Large estates with patron-client labor arrangements—*latifundia*—persisted throughout much of Latin America until the mid-twentieth century.

4. Feudal Tenures With Bound and Unbound Labor. With the fall of the Western Roman Empire in the fifth century A.D. and the consequent decline in law and order came the rise of the manorial system in Europe. The system had many variations across time and place, thus the following description is a stylized account. A king owning all lands kept some lands (*demesne*) and granted others to lay and ecclesiastic lords in exchange for military service and loyalty. Some lords assigned their lands to

followers in exchange for services and loyalty, a process known as *subinfeudation*. Peasants commended themselves to a lord in exchange for protection, provision of justice, and a plot of land, in the process becoming bound to the land. These peasants (*serfs*) held land subject to servitudes of work and produce as well as approval of marriage, inheritance, and migration. Production was partially organized by the village, with individuals typically cooperating on plowing the land and allowing communal grazing on stubble left after harvest. During the growing and harvest seasons, each serf tended individual parcels, which were often scattered in small strips throughout the manor lands. Serfs were obligated to work on the lord's demesne for a fixed number of days.

In the manorial system, individual rights to rent, transfer, succeed, and use land were limited due to communal property rights over the land. Attenuated individual property rights required that the manorial system adopt elaborate rules to structure production and distribution of agricultural output. These rules prevented participants from shirking or claiming a disproportionately large share of output.

The growth of markets and population in Western Europe between the eleventh and thirteenth centuries induced changes in the feudal system. Labor dues were commuted into money payments; the demesne was leased for money rents; tenant lands became increasingly alienable. The *Statute Quia Emptores* (1290) formally abolished the feudal system in England, although many of its habits and institutions would linger on for centuries. While the Black Death crisis of the fourteenth century made labor more scarce and led to attempts to re-impose feudal obligations on tenants, the dismantling of traditional land tenures continued in Western Europe, as exemplified by the English

enclosure movements of the sixteenth and eighteenth centuries. Lands enclosures were the results of a legal process that converted the common rights of villagers on specified waste, arable, and meadow lands to private titles and consolidated existing private holdings in land.

Feudalism's decline in Western Europe was mirrored by its rise in Eastern Europe, as relatively free laborers became bound to the land during the fifteenth and sixteenth centuries. Feudalism would not decline in Eastern Europe until the eighteenth and nineteenth centuries. Serfdom was partially reformed in Russia in 1861—the workers remained bound to the commune—and was finally ended by the Stolypin Reforms of 1906-1911 which freed Russian laborers from bondage to the commune, established private titles, and consolidated peasant holdings. In Japan, bound labor was still predominant in the early Tokugawa period, and tenancy only emerged in the eighteenth and nineteenth centuries. In the 1870s, the Meiji government abolished feudal tenures and established private property in land in conjunction with its reform of agricultural taxation.

5. Communal Tenures. Communal land tenures have been prevalent in the Pacific Islands and Africa; were the norm in North America, South America, and parts of Asia until the European conquests; and are still used today in many indigenous communities. Details of communal tenures differ across societies, so the following is a stylized description of communal tenure in a Pacific Island village. There is a common area that is used for future land development and can be used with certain limits for gathering by villagers. Families carry out cultivation on scattered plots, with plots being redistributed by chiefs or village elders as family size and land fertility change. For lands

requiring extensive improvement, tenure of particular households and their heirs may be longer. Rights to continued use of village land by a household persist as long as the household continues to cultivate its assigned lands.

Historians have often interpreted communal land systems as efficient responses to social and economic environments with significant environmental risks, high information costs, and poorly developed input, output, and insurance markets. Their flexibility has frequently enabled adaptations to changing demographic, ecological, and social conditions. In the nineteenth and twentieth centuries, economists have, however, sometimes viewed communal land systems as impeding the growth of a modern market economy.

Communal land systems were established by central governments in China and Russia in the twentieth century after communist revolutions. After the 1917 Russian revolution, the Soviet government under Lenin abolished private property rights in land but in the early 1920s promulgated a pragmatic system of agricultural production (“New Economic Policy”) that retained many features of smallholder-owner production. Beginning in the late 1920s, Stalin began forced collectivization of peasant landholdings and established central government ownership of farmlands and control of agricultural production.

A similar process took place in China after the 1949 communist revolution when lands were initially redistributed to tenants. By the late 1950s, peasant farmers had lost their lands and were forced into collective farming institutions (communes) controlled by the central government. In 1978 the Chinese government initiated land reforms providing households with individual parcels of village land. The “Household

Responsibility System” allowed farmers to choose crops, methods of production, hours of work, and capital and labor inputs. Villages frequently reallocated these lands among households, thereby restricting their use as collateral. Agricultural output and productivity rose significantly in the decade after its introduction.

6. Smallholder Leasing from Private Landowners. Contracts between owners of agricultural lands and farm labor have varied enormously across time and place. Different market structures in labor, capital, resources, and land markets; government regulations; and geographic constraints have often produced a variety of smallholder leasing arrangements that co-exist alongside one another. Economic historians have paid close attention to three contractual provisions exhibiting wide variation over time and across locations: land owner’s role in farm management, type of land rent, and contract duration. Small land owners often choose to manage their lands themselves, using family and wage labor in production. In other instances, small and large landowners have better opportunities on other lands or in other occupations, and they lease some lands to tenant farmers. Only a few crops exhibit substantial economies of scale in production, leaving large landowners with incentives to lease parcels of land to small holders. Some leases allow tenants to manage the farm themselves, while others provide limited roles for landowners in farm management. They make crop choices, arrange for credit, and procure various inputs such as fertilizers, pesticides, and farm animals, leaving tenants to manage day-to-day production and monitor farm labor.

Tenancy often co-exists with self-managed farms. In the United States, numerous farmers were tenants even when new land was available at the frontier. U.S. census data show that mobility up the “agricultural ladder,” was common, with workers often starting

as landless laborers, becoming a tenant farmer, and finally becoming an owner-occupier. Such mobility was lacking in India throughout the twentieth century as social sanctions often stopped lower castes from owning or leasing land. In the Tamil Nadu province of India, sharecropping predominated in 1916; was partially replaced by fixed rent tenancy in 1937 as landlords moved to cities; and declined further with land-to-the-tiller land reform in 1959.

Controversy reigns over the incentive and efficiency effects of different types of smallholder leasing. In his comparison of agriculture in France and England in the late eighteenth century, Alan Young argued that sharecropping was responsible for the relatively poor state of French agriculture. Alfred Marshall argued that sharecropping implicitly imposed a tax on the labor input of tenant farmers and would reduce farm productivity unless landlords carefully monitored tenant inputs. Some economists have argued that sharecropping exists due to the willingness of risk-averse sharecroppers to pay a premium to reduce their income variability. Some empirical studies of share tenancy in India in the 1950s and 1960s show that output is lower under sharecropping. Other economists have argued that sharecropping reduces incentives for tenants to overuse (“mine”) valuable land and provides vital incentives for landlords to provide managerial services. Empirical studies of African-American sharecroppers in the post-bellum U.S. South and of farmers in the U.S. midwest during the 1970s lend support to efficiency theories.

Does the type of land tenure affect the adoption of new technologies? Only a few studies exist, and they generally show that new technologies are adopted at about the same rate by sharecroppers and other types of tenants. For example, studies of the

adoption of new rice varieties in the 1960s and 1970s generally show that sharecroppers adopted the new technologies at about the same rate as other landholders. Technological change has, however, often induced changes in the choice of land tenure. For example, the introduction of the tractor after 1910 and the mechanical cotton picker after World War II were major factors in reducing the incidence of share cropping throughout the U.S. South during the twentieth century.

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