

THE ALBANIAN LAND RIGHTS SECURITY PERCEPTION AND FACTORS INFLUENCING IT

EDVIN ZHLLIMA^{1*}, DRINI IMAMI¹

¹Agricultural University of Tirana, Department of Agriculture Economics and Policy, Tirana, Albania

* Author of correspondence; Email: ezhllima@ubt.edu.al

Abstract:

This study aims to analyze the main obstacles that hamper the development of agricultural land mobility and investment incentives in agriculture land, mainly in conjunction to agriculture land rights property. There were interviewed 621 farms (households – HH) that possess 2,529 land plots, from different parts of Albania, representing different types of agriculture land distribution and land use. The interviewed farmers state that they perceive property rights of 20% of the plots as insecure. Property insecurity perception tends to be related to the form of the land acquisition – it is higher among farmers who received their land through the implementation of the Law 7501 (thus, that did not own that land before communism), as compared to farmers who got “father’s land”, that was owned by them (or their ancestors) before WW2 (land distribution was done according to community will, respecting old property boundaries). The clash among customary and legal institutions for land tenure in the villages (former land rights by inheritance and new land rights distributed by Law 7501) is also a cause of social tensions in rural communities, which in some cases are associated with heavy consequences. Conflicts per se also influence further in the land security perception in the villages.

Keywords: land right, insecurity perception, land market, agriculture, Albania.

1. Introduction

1.1 Background

In the early 1990’ an agriculture land reform was implemented by the state, as in other transition countries. Most of the agriculture land, once part of state farms and cooperatives, was distributed to rural households equally per capita (“new owners”), and the remaining part (15 – 20 % of agricultural land) was distributed to the pre-1945 “old owners” according to the will of the rural residents. In some cases a mixed approach was used [24]. From the structural point of view, distribution of land equally per capita generated very high land fragmentation, resulting in an agriculture sector dominated by subsistence farms, with average size of 1.2 Ha, and characterized by inefficiency [30]. From the institutional point of view, scholars have identified property rights insecurity in different areas of Albania. Overlapping land boundaries and clashes among the de jure (“new owners”) and de facto (“old owners”/customary) land rights have generated conflicts in rural communities, and have affected agriculture land transactions, investments, and consolidation process [9, 25, 45].

In Albania, the issues of insecurity of the land titles because of competing claims from historic owners and new title holders were already brought into focus in 1993, when a restitution/compensation scheme was officially implemented by the

government. This policy has undergone several adjustments since its inception, but to date it fails to adequately address the rights of pre-collectivization owners [16, 22, 32]. Albanian land and agricultural policy-makers face tremendous challenges to reinforcing land rights and to establish a functional land policy framework.

Unfortunately, very few studies have been conducted about the effects of the land distribution process on the land use decisions of farm households in post-socialist Albania. Since the study of Lemel [25] based on survey data of 1995, there has been no other study in estimating the land right security. This study presents descriptive results based on a field survey, in order to analyze different types of existing perceived property rights insecurities. Taking into considerations the situation of land rights in Albania, one may assert that the threat of the continuing reforms on land brings high insecurity of evictions from state or possible claimers inside the village such as the pre-1945 owners. The objective of this research is to assess agriculture land property (in)security across different types of land acquisition, titles and regions in Albania. The main hypothesis is that land right (in) security is affected directly and indirectly by the clash among customary and legal institutions for land tenure in the villages (former land rights by inheritance and new land rights distributed by Law 7501).

1. 2. Literature review

One of the basic arguments for scholars who study tenure security and property rights on land is that a better definition of these rights through individual titling is an incentive for investment that in turn leads to higher agricultural productivity [13, 34]. The New Institutional Economics, as a school of thought promoting land rights, takes as departing point the concept of the “bundle” of rights [1] as the right to use, alienate and transfer property to another party.

Such approaches were the basis for the titling reforms carried out in the 1980s and 1990s in the developing countries, which implemented land reforms for allowing redistribution and reducing poverty and inequality [6]. However empirical studies show that Western notions of private property rights did not accommodate the complex institutional settings during the transition period of the developing and post-socialist countries [10, 17, 33, 38] Since the beginning of 1980s and also for the reforms of 1990s empirical evidence shows that titling does not have solely positive impact, but if is not implemented in a proper institutional environment can negatively affect real access to land, equality, poverty and/or environmental conditions [15, 29, 35].

The post-socialist countries experienced severe problems in establishing the credibility of their land administration systems, because political instability and a low understanding of the role of private property in market economies hampered the structural change and development [18]. Some governments of Central and Eastern Europe failed to reconstitute properties and compensate expropriated land owners, which led to competing claims on resources that affect tenure security to date [19, 25, 28, 42]. Also, administrative capacities were often not adequate for the quick implementation of land reforms, which caused errors in land registration, such as overlapping boundaries, incomplete documentation, and led to land disputes [36].

In cases of countries where distributional land reforms were the policy of choice, such as in Albania, conflicts arose due to the redistribution of property rights with little or no compensation and no accountability of historical ownership patterns.

Since the beginning of the land reform in Albania, scholars identified property rights insecurity in various rural and urban areas. Formal insecurity was found resulting from low availability of

documentation, registration discrepancies, inaccurate mapping, etc. [25, 28, 41]

Another type of insecurity is subjective insecurity - the owner’s perception on the insecurity of his/her property. Researchers [25, 37, 45] found a direct type coming from the disputes between “new owners” (those who obtained the land titles during the land reform) and “old owners” (descendants of 1945 pre-collectivization owners). Several studies [8, 41] observed a subjective indirect type of insecurity coming from the peoples’ perception of the changing patterns of policies (land restitution-compensation) and institutions (i.e. Immovable Property Right Offices, civil courts and notaries).

Data and surveys show that from the beginning of the reform [4, 24, 25, 31, 37, 44], the rural land market was hardly developed in Albania. Scholars found that property rights insecurity have a negative impact in land sale/buy decision in Albania [25, 28]

Insecurity is also highly enhanced due to frequent conflicts on land. Actually more than half of the civil court cases are of property disputes cause [44], 8000 harsh property conflicts resulted in deaths since 1992 [40], and property rights continue to be regularly and hotly debated in the parliament as well as negatively commented in the yearly EU progress report [16, 22, 32].

2. Method

2.1 Survey method

To investigate the reasons how land tenure security perception impact the land investments we carried a survey during May-August 2010 with households representing different type of agriculture land property in the context of the land reform. The survey was carried out in five districts of Albania (Korçë, Pogradec, Kavajë, Shkodër and Durrës) covering North Western, Central and Coastal part as well as South Eastern part of the country¹. The districts were selected based on the interviews with key experts from Ministry of Agriculture, Food and Consumer Protection, Ministry of Justice, Surveyors and real estate agents in defining areas where

¹ According to this sampling, it was impossible include the North Eastern region and the South Western region are not covered because of the difficulty to find villages with different types of land distribution. Most of the North Eastern villages of the country have pursued a mixed distribution method or a total restitution of land to the pre-1945 boundaries.

possibilities of finding the effects of several types of land distribution. In each district was selected one commune. Inside every commune selected, villages were purposely selected targeting different types of village per each commune according to the method of implementing the land reform distribution: i) distribution to “new owners” according to the law (per capita); ii) distribution of land according to the pre-1945 inner village land division boundaries, which respects and is based on the “old owners” claims or distribution of land per capita surface, but respecting the pre-1945 inner village land placements in most of the distribution. The targeting of different type of land distribution inside the same commune, with neighboring villages has been done in order to minimize differences regarding factors, which affect land market and land investments such as accessibility to agricultural markets, proximity to urban centers, key agro-ecological features, typology of production, as well as maintain the diversity on regards to land institutions type to easier analyze more easy the differences in land insecurity for each type of land distribution.

The targeted villages have been selected close to each other and with the same distance from the markets. On each commune were selected 2-3 villages representing different land distribution schemes, which in total sum up to 15 villages (Table 1). In total there were 9 villages applying mixed distribution and 6 villages applying per capita distribution.

There were surveyed 621 farms/households corresponding to a total of 2,529 land plots. The households in each village were selected randomly and mainly the heads of households were chosen for the interview. Depending on the population size of the villages, 30-50 households in each village were selected. For the majority of villages, this number accounted for more than 30% of the total number of households. Therefore the survey is representative only for the villages where was surveyed.

This survey was based on structured questionnaires that were designed based on a thorough literature review, intensive interaction with experienced international scholars focused on property rights, and focus group method. In the questionnaire, households’ characteristics, resource endowments, households land and labor use, market participation status etc. were included. Focus group method (similar to [45]) is used before and after the accomplishment of the survey. This method is used to elicit people’s feelings and beliefs toward the land

rights which normally are difficult to arise clearly through the answers gathered from a structured survey, [23]. In addition, we carried out 25 open interviews with other randomly selected people from the villages, in order to better clarify, compare and verify issues that had been coming up during the focus group procedure. Moreover reading of documentation and informal interviews are used to improve data accuracy. When preliminary data were ready, a workshop was organized in Tirana with high level policymakers and various stakeholders, in order to validate the preliminary results of the study, stimulate wider comments, asses the awareness of the policymakers and generate applicable policy recommendations.

2.2 Definitions and the empirical model

Various scholars use different indicators to formulate the tenure insecurity, such as: i) the possession of a formal title; ii) the respondent facility to use different rights as part of its bundle of rights [12, 14, 10], and; iii) the perception of tenure insecurity (e.g. 7, 27). Similarly to the latter group of authors, tenure perception security was chosen, which is defined as the level of certainty regarding the probability or likelihood of losing ownership of a part or the whole of one’s land without his/her consent, by governmental actors, co-villagers and other claimants or other factors that threaten a tenure situation [2, 6, 21, 39].

The probability of eviction is based on the individuals feelings (expressed through stress, worry, anxiety and fear) [43] and characters² [3] as well as in the external environment – constitutions, statutes, regulations, norms, enforcement, and sanctions [5]. The term “perceived tenure” is conceptualized as a dynamic process depending on farmers’ personal beliefs, type of accessing the asset as well as the local values and beliefs of people involved in securing the land [11]. In this study perceived “tenure security” does not take into consideration the duration of rights [39], as the later is not applicable in Albania because

² As [3] emphasizes that property rights of farmers are embodied both in *formal rules* and in *social norms and customs*, and in homogenous areas their economic relevance depends on how well the property rights are recognized and enforced by other members of society. The enforcing of rights is depended by the ability (power) of the farmer to establish and maintain internal control of resources (deriving transaction costs) in cases of voluntary exchange (market) or against involuntary exchange (theft)

most of the land surface was distributed to the farmers by 1991-1992.

Previous studies such as [9, 20, 25, 41] have attempted to assess the land right security through direct questions on documentation and perception, whereas [45] has used focus group methods to assess the perception of insecurity among farmers. This survey uses ordinal scaling for evaluating the perception of the farmers on their insecurity and combines it with focus groups method in order to better explain the perception of farmers behind their statements during the structured survey. In addition to identifying potential causes and levels of insecurity, this study tends also to assess the experienced investments and transactions on land from farmers and their willingness to carry discretions on land, taking into consideration perceived (in)security and other factors. Different from previous studies, perceived insecurity and implications are analyzed at plot level. Analysis at plot level is important given that typical Albanian farms consist on average of 3-4 plots, which often have different features in terms of form of acquisition, land structure and situation etc., and therefore levels of perceived property insecurity and which may also affect land tenure decisions. Furthermore most farms consist of several plots and not all of them have the same origin of acquisition. Furthermore tenure security of a plot may be influenced by the occurrence of disputes which do not directly impact the security for other plot. The hypothesis of the study is:

Hypothesis 1. Insecurity is lower in the plots where the farmers enjoy customary rights (acquisition of predominantly ancestral land) and is higher on the plots taken through the legal redistribution with no indications of inherited rights.

An ordinal regression is used to evaluate the factors influencing the security perception of the farmers. Ordinal logistic regressions are suitable models for outcome categories that can be ranked such as opinions or, in this case, perceptions [45].

The hypothesis on tenure security has been tested through the following logit function:

Function 1:

$$Lins_{ijk} = b_0 + b_1 placement_{ijk} + b_2 plot_inherited_{ijk} + b_3 conflict_{ijk} + b_4 title_{ijk} + b_5 distance_{ijk} + b_6 surface_{ijk}$$

Where $Lins$ is a logit transformation of the tenure security on plot i belonging to household j in village k . The dependent variable is ordinal varying from 1 to

3 where 1 is insecure 2 is more or less secure and 3 is very secure.

- *Placement* such as being positioned on a flat or hilly area (terrain)-The land that was acquired in a hilly area (especially land that did not experience a change in use, such as olive groves) was less exposed to being subject of a land division, if compared to the land in the flat areas; therefore farmers (new owners) to whom was allocated hilly land, are subject to insecurity. On the other hand owning land in a flat area means that the land has been subject to the distribution law and therefore is well documented.
- *Plot_inherited*-if the plot has been ownership of farmers predecessors before 1945.
- *Conflict_Dummy*-for those plots having experienced a land dispute or conflict after the distribution there is perceived a higher insecurity.
- *Title_Dummy*-such as having titles of Law 7501, IPRO or the pre 1945 titles are assumed to increase the security of ownership compared with plots where are not supported with titles.
- *Distance from home*- The higher the physical distance from the owner's home, the higher is the perceived insecurity that the land may be subject of abuse and theft.
- *Surface of the plot*-there can be presumed that higher is the surface of the plot, higher is the rent gathered from the plot and higher is the risk that the plot is claimed by more former-owners.

3. Research results

3.1. Agriculture land property (in)security across different types of land acquisition and titles

The land possession documentation is expected to be related to land (in)security perception, and on the other hands, is important in the context of land transactions. Approximately 55% of the surveyed plots are secured formally through the land commission title "Act of acquiring the land in ownership" which was given after the land distribution. In order to possess full right of sale and inheritance should be acquired ultimate land titles "Ownership certificate" at IPROs, which is the case only for approximately 21% of the surveyed plots. Still pre-1945 documents are evident in 13% of the plots and for less than 2% other documents are used such as commune certificate, court decision and sale contract. About 10% of the plots have no documentation at all.

Table 1: Types of documents used for the land plots

Type of document	Frequency	Percent
No documents	242	9,6
Tapi from before 1990(Certificate/tax payment/sale doc from before 1946)	329	13,0
IPRO certificate	525	20,8
Sale contract	17	0,7
Tribunal document	11	0,4
Commune certification	20	0,8
1991 Land commission document	1,385	54,8
Total plots surveyed	2,529	100,0

Source: Field survey results

The table below shows that farmers reveal as secure almost 80% of the plots. The remaining part express different levels of insecurity of which 8% of the plots are perceived as very insecure.

There is a statistically significant difference between groups of plots with valid documents and non valid documents, regarding (in)security

perception. The land plots that are not equipped with valid documents tend to be associated by statistically significant higher level of insecurity, and the plots which are equipped with documents tend to be more secure than those without documents (the figures are provided below in **Table 2**).

Table 2: Agriculture land plots equipped with property valid documents versus not, categorized according to security perception

Tenure security perception		Title dummy		Total
		No	Yes	
Insecure at all	Count	84	124	208
	%	28,1%	5,6%	8,2%
Slightly insecure	Count	33	90	123
	%	11,0%	4,0%	4,9%
More or less secure	Count	32	158	190
	%	10,7%	7,1%	7,5%
Secure	Count	68	450	518
	%	22,7%	20,2%	20,5%
Very secured	Count	82	1408	1490
	%	27,4%	63,1%	58,9%
Total	Count	299	2230	2529
	% within Title dummy	100,0%	100,0%	100,0%
Pearson Chi-Square Test value		251,848 ^a		

Source: Field survey results

Perceived insecurity (cased by, i.e. the chance of eviction by governmental actors, co-villagers and other claimants or other factors that threaten a tenure situation) is higher among the non inherited plots; in

other words, it is statistically significantly higher among farmers that have acquired land but did not own any before World War II (Table 3).

Table 3: Agriculture land plots which is owned by farmers predecessors before 1945 and those not, categorized according to security perception

		Have your family or clan been before 1946 owner of any plot			
		Yes	No	Don't know	Total
Insecure at all	Count	70	136	2	208
	%	4,3%	15,1%	12,5%	8,2%
Slightly insecure	Count	61	62	0	123
	%	3,8%	6,9%	,0%	4,9%
More or less secure	Count	80	110	0	190
	%	5,0%	12,2%	,0%	7,5%
Secure	Count	284	226	8	518
	%	17,6%	25,1%	50,0%	20,5%
Very secured	Count	1119	365	6	1490
	%	69,3%	40,6%	37,5%	58,9%
Total	Count	1614	899	16	2529
	%	100,0%	100,0%	100,0%	100,0%

Pearson **Chi-Square Tests value** 241,390^a

Source: Field survey results

3.2 Interpretation of the ordinal logistic model results

As explained before in the methodology part the factors influencing the perception of tenure security are analyzed with an ordinal logit regression model.

Table 4: Ordinal regressions pseudo R squares

Pseudo R-Square	
Cox and Snell	,170
Nagelkerke	,230
McFadden	,139
Link function: Logit.	

Source: Field survey results

Table 5 shows that except for the distance of a given plot from home and the surface of the plot, the other predictors are very significant. The availability of titles for the plot is positively related with the insecurity level and the appearance of conflict reduces the security. Moreover plots being inherited and those situated in the flat areas are positively associated with the increase of security.

The inheritance rights increase the overall security of land plot. In the survey about 21% of interviewed farmers would prefer to buy agricultural

The logit model shows that the Pseudo R-Squares are satisfactory, explaining that the model properly reflects a good part of the variability of the perception of tenure security, resulting from the influence of the predictors (See table 4).

land owned by pre-1944 owners' descendants (in local jargon "father's land") without any official titles (documents) than to buy from new owners (beneficiaries of 1991 reform) with complete (official) land titles; and 64,5% would prefer "father's land" with "old papers (documents)" (pre 1944), compared to purchasing 7501 lands from new owners (those benefiting from 1991 reform) with complete (official) land titles. It appears evident that the optimal choice for farmers is having father's land with complete (official) land titles which is selected

as a better option by approximately 93% of the farmers. This is similar to the findings of Zhllima et al [5] in central Albania where the focus groups carried show, especially for less educated farmers, where

after ending a transaction on land were sharing a part of the land prices (5-10% of the value of transaction) with the former owners, against their commitment to recognize the new property transfer and rights.

Table 5: Ordinal logit regression parameter estimates

Depended Variable: Tenure security	Estimate	Std. Error	Sig.
Placement_flat	,306	,129	,018
Title_dummy	1,950	,170	,000
Plot_inherited	1,353	,128	,000
Conflict_dumy	-2,175	,247	,000
Dis_home	-,002	,003	,515
Surface	-,027	,014	,060

Source: Field survey results

The tenure security is highly influenced from the prevalence of conflicts and disputes. The survey revealed that only 4,4% of the plots were under dispute, half of which were claimed by pre-1945 owners, and a quarter from other villagers inside the village. The descriptive data shows that the number of conflicts and disputes per capita in villages is (statistically) significantly higher compared with villages where mixed distribution is carried. This may be the result of the social acceptance of the land distribution where community has accepted a mixed approach type of distribution. There are several types of explicit and hindered land disputes in the surveyed villages which frequently involve issues of land use, property borders and intra-family property rights. Approximately half of the interviewed farmers preferred the local governance as the first level of trying to solve the disputes and the remaining part preferred the court system for resolving their land right disputes. The in-depth interviews with the farmers show that the enforcement of the court decisions are seen by the majority as not properly meeting the social values, the norms and their own customs.³ However the situation is more difficult

where the population is heterogeneous. In such cases the local organization based on aldermen cannot manage property disputes, and therefore the farmers need a stronger authority.

4. Conclusions

Within the first year of transition into a market economy in the early 1990, the Albanian political class embraced fast redistribution of means of production from state property to private property. Agriculture land was distributed to local farmers according to “equal per capita” principle in most cases, creating overlap of claims between pre-collectivization owners and post-collectivization owners who benefited land from the transition reform. However, in some parts of the country, land was distributed according to community will, respecting pre-collectivization-boundaries of land. These economic, institutional and agricultural land reforms gave rise to the establishment of new property right institutions and related challenges. Secure property rights are key factors to promoting investments and developing agriculture land market which is indispensable to achieve consolidation of the highly fragmented agriculture production base in Albania, therefore making research on this issue a high priority.

The purpose of this research work is to analyze perceived property (in)security related to agricultural land, its causes and impact on land investments, based on structured survey conducted in 15 villages of Albania representing various types of land tenure and agricultural structures.

This study finds that perceived tenure insecurity (i.e. likelihood of losing ownership) is still common in rural Albania - property of about for 20% of the

³ Many villagers said about the court resolution: What will be our relation after returning from the court? We are together for sharing problems and happiness or “The court bring you to more problems than staying away from it. There...in the court the word follows the word and people do not feel to be the same after. Therefore is much better to discuss here inside the village with family and friends as intermediaries without offending and spending money for many years.

plots is perceived as insecure by interviewees. Insecurity is found to be lower for the plots acquired through customary rights (predominantly ancestral land) where there are no “post collectivization” and “pre-1945” owners’ overlaps and claims as compared to plots acquired through state reform that was exposed to such overlaps and claims. Land titles also seems to contribute positively to the land security, although reverse relationship which was not controlled at the statistical analyses, where discovered through direct questions to farmers and focus groups.

Based on the findings of the study, several land security enhancement measures may be provided:

- Finalization of compensation process for “pre-1945” owners, in order to diminish possible claims and reduce the threat perceived by the post-collectivization farmers.
- Coordination of the various institutions responsible for defining and enforcing property rights and empowerment of local cadastres at commune level to assist farmers in solving problems and in providing the needed information to them and other stakeholder regarding registration and transactions procedures.

The agricultural land administration problems in Albania may hinder the impact of the EU Pre-Accession instruments of support for farm competitiveness and rural development. The EU integration policy agenda is expected to push political elites for more concrete steps in making institutional reforms in regards to definition of land rights. Researchers can take the lead in observing and forecasting the possible scenarios implicating the Albanian land tenure and its market in the aftermath of the EU integration.

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