

Module One: Farmland Tenure and Acquisition

- I. Understanding farmland tenure
- II. Classic tenure: ownership and tenancy options
- III. Non-traditional tenure approaches and partners
- IV. Entrant's role in influencing farmland succession arrangements

Topic I. Understanding farmland tenure

Learning objectives

1. Describe the concept of land tenure that is commonly held in the United States.
2. Examine the history of farmland tenure in the U.S..
3. Explore the impacts of tenure patterns on U.S. agriculture.
4. Explore the impact of rising land values on farmland tenure and sustaining U.S. farms.

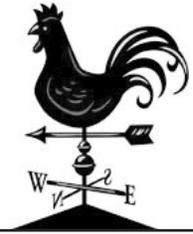
Learning outcomes

1. Ability to explain the concept of land tenure and its significance to U.S. agriculture.
2. Ability to describe the impacts of trends and issues related to agricultural land tenure.

The importance of land tenure

Consider the following quotations:

1. *Equitable partition of land is the necessary basis of all self-sustaining agriculture. This partition and use of land may be in the form of ownership or in the form of right to hold the land for a specified time. The ownership may be of different degrees: the owner may have unlimited right to sell and to bequeath, or he may be bound by certain statutory restrictions. Likewise, the rental of land may be of different degrees and kinds, and in some cases it may amount to practical ownership. These varying forms of land partition have arisen with the evolution of society.* (Bailey 1909)
2. *How farm land is acquired, held in ownership, operated, or rented has always been a matter of national interest, for just and fair conditions of tenure are recognized as essential to our national welfare. The problems of farm tenure, however, are not limited to matters of ownership, inheritance, tenancy, and the interests of farm labor, but pertain also to farm credit, prices of farm land, land appraisal, land-use programs, land-settlement policies and rural living standards. ... It is now imperative that tenure policies which will protect our land resources be formulated on national and state levels.* (University of Illinois 1944.)
3. *Land is essential to agriculture and thus to human life itself. Farming, almost uniquely among socio-economic endeavors, requires land. For this reason, access to and control over farmland is of crucial*



importance to any society. Within United States agriculture, land ownership accounts for about two-thirds of the total asset wealth. (Janssen 1993).

4. *Since land is “agriculture’s principal asset,” how it is held and controlled has serious implications for farming. (Rogers and Wunderlich 1993).*
5. *New farmers are in short supply, and this problem constitutes a threat to U. S. agriculture. (Gale 2003; Hoppe, et al. 2007).*
6. *For a farm to be sustainable, secure tenure is necessary. Building healthy topsoil, nurturing diverse plantings of annuals and perennials, and establishing reliable markets and supportive community relations all require long-term investments. In the U.S., the ideal for most farmers, organic or conventional, is to have their own farm and to hold it as private property. (Elizabeth Henderson/Peacework Farm)*
7. *The majority of new farmers do not have the resources to purchase land. (Higby et al. 2004).*
8. *There are certain objectives having to do with the welfare of farm families, that are basic to constructive, long-time land tenure policies of national application.*
 1. **Income:** *Qualified farmers should become owners or renters of farm units that will provide an equitable reward...*
 2. **Security:** *Farm families should enjoy such degree of security ...that will enable them to be effective members of their communities...*
 3. **Opportunity:** *Farm families should have such further opportunities as are necessary ... to develop their best personal talents, to participate actively in community life... (University of Illinois 1944.)*

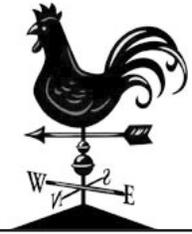
Land tenure defined

In simple terms, land tenure systems determine who can use what resources for how long, and under what conditions. Land tenure relationships may be well defined and enforceable in a formal court of law or through customary structures in a community. Alternatively, they may be relatively poorly defined with ambiguities open to exploitation. <http://www.fao.org/DOCREP/005/Y4307E/y4307e05.htm>

Farm tenure encompasses: a) ownership; or b) tenancy. Tenure describes the rights the landowner maintains or the rights given to the tenant. <http://www.extension.iastate.edu/Publications/PM1983.pdf>

The word tenure comes from the Latin *tenir*, which means “to hold.” There are many ways to hold land. The most common form in many cultures, including our own, is private ownership.

Land-use scholars talk about property ownership as a bundle of rights. You have many rights associated with ownership—cutting down the trees, erecting structures, extracting minerals, hunting and fishing, and so on. However, there are limitations to that bundle; laws and regulations, such as zoning restrictions and eminent domain, limit the landowner’s use. Among the rights associated with property ownership is the right to let others use it. This right enables those who do not own the property to obtain certain rights to its use. (Higby et al., p 4)



History of agricultural land tenure

Modern tenure, at least in the United States and Western Europe, is a result of feudalism that dominated Western Europe after the fall of the Western Roman Empire in 476AD. From the earliest days of the [U.S.] Republic, the importance of land ownership has been debated. The Founding Fathers felt ownership of property was important enough to make it a necessary condition to vote. Land ownership was viewed by private landowners as an exclusive right, often under the assumption that all rights were held completely by the landowner. As contemporary societies have become increasingly connected across geographical space, the idea of a landowner holding most, if not all, rights increasingly has given way to allowing others to assert ownership of some of the sticks in the bundle of property rights. These conflicts have made land ownership and tenancy of great interest to policymakers.

Native Americans living in what is now New England thrived under a complex system of land use based on hunting, fishing, gathering, and farming. Their land boundaries were dictated by the change of seasons, movement of game, and a need to move on once their agricultural plots became worn out. The early colonists did not understand or respect the Native Americans' mobility and disinterest in acquiring possessions. To the colonists, Native Americans appeared lazy and undeserving of the great abundance of this land. They failed to recognize or appreciate that the stewardship practices of the Native Americans were an important factor in sustaining such bounty.

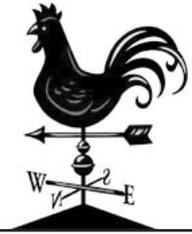
The early colonists believed that private ownership was the best way to make sure that land would be improved and used fully. The land under grant from the Crown to the Massachusetts Bay Company, for example, was first distributed to groups of individuals who formed towns and then to individuals who were granted the right to use the land for a particular economic purpose. That purpose was a function of the land's best use and the size of the grant was a function of the recipient's capacity to work it.

"Land was allocated to inhabitants using the same biblical philosophy that had justified taking it from the Native Americans in the first place: individuals should only possess as much land as they were able to subdue and make productive." Later, the Colonists developed a system of legal description for land and a recording system that made it possible to buy and sell real estate. Once land could be traded like any other commodity, it could also be used to store and accumulate wealth. And that, as they say, has made all the difference. The value of farmland as an appreciable asset, quite apart from its productive value, has—more than any other factor—dictated who owns it, who works it, and who inherits it.

Agricultural and tenure patterns in the United States—who owns and controls our productive land base—have shaped our economic, social, and political history—even our landscape. Our Constitution, laws, and public policies have long favored, though not always successfully fostered, the Jeffersonian ideal of widely dispersed ownership of farmland by family farmers. Jefferson saw this model of ownership as essential to democracy. He believed that only with security of tenure and the economic security that it provided could there be freedom to speak one's mind. If dispersed ownership was the ideal, concentration of land ownership was its evil antithesis. The founders of this new democracy were determined to avoid the poverty and political oppression they had experienced under a landed aristocracy in Europe. Many of the English legal strictures that allowed land to stay in the hands of a few wealthy families in perpetuity were outlawed.

These "rules against perpetuities" are still in force in some states. "In the last few years, many states have moved to either modify the rule or abolish it all together.

With several states abolishing the rule against perpetuities altogether, we now see the rise of estate planning vehicles designed specifically to perpetuate wealth from generation to generation." *Excerpted from http://www.articlealley.com/article_12415_18.html*



“The[se] basic patterns of farmland tenure in the U.S. have been set for about 200 years. The original public domain of the federal government became privatized as a matter of public policy, most notably in the Homestead Act of 1862. A “family farm” philosophy was touted although the precise meaning of the term remained vague; it usually meant simply individual or family land and business ownership.

While our public policies have fostered the freedom to own land, they do not guarantee freedom from debt and foreclosure. In 1937, a report by the Roosevelt administration on farm tenancy graphically documented the displacement, landlessness, and poverty among the nation’s small farmers as well as the environmental degradation evidenced by the dust bowl that drought and high levels of absentee ownership had combined to create. The Jeffersonian ideal was in serious trouble.

By 1940, tenant farmers, rather than landowners, tilled nearly 40% of the nation’s farmland. Roosevelt’s Committee on Farm Tenancy blamed a host of environmental and social evils on absentee ownership and the prevalence of landless farm families. . . . Many states responded to such high rates of tenancy by passing laws that favored land ownership over leasing, including a ban on long term leases in some states. Policy makers restricted a landowner’s right to lease land for a long term to encourage them to sell it instead.

Policy makers also responded to the dust bowl by developing a series of federal programs intended to help tenant farmers purchase a farm of their own. The programs were intended to help resettle farm families who had lost their farms through foreclosure. Changing land tenure patterns were considered as important as soil conservation programs in stopping the serious rates of soil erosion.

In the late 1930s, the federal Farm Security Administration, under the Tenant Purchase Program, put 12,000 landless families onto a farm of their own. Today’s Farm Services Agency, which provides agricultural credit and credit guarantees, is the modern-day offspring of the Resettlement Administration. The Resettlement Administration was renamed the Farm Security Administration in 1937, the Farmer’s Home Administration in 1946, and the Farm Services Agency in 1991. Whatever the name, its role has been the social and economic rehabilitation of the rural poor by providing economic opportunity and entry into agriculture. Land ownership, as the best way to conserve agricultural resources and promote economic democracy, has always been the heart of its mission.” (*Higby et al. pp. 5-7*)

Until the 1950s, policy-makers and agrarian social scientists, agricultural economists in particular, generally held the ideal tenure to be that of full owner-operatorship. Full-owners did in fact predominate both numerically and in terms of acres farmed.

In the early 1970s, the removal of restrictions on Federal Land Bank lending, coupled with increased lending by other entities for farmland purchases led to rising land values. Conveniently low interest rates persuaded many farmers and would-be farmers to go deeply into debt on the assumption that commodity prices and land values would continue to rise. By the early 1980s, tight money and high interest rates had burst agriculture’s speculative bubble. The federal government estimated that farmland value dropped by nearly 60% in some parts of the Midwest between 1981 and 1985.

The 1980’s saw a dramatic shift in the capital structure of American agriculture and the ownership of its assets. A massive accumulation of farm debt in the 1970’s ran head-on into an unfavorable economic climate and incredibly high interest rates in the 1980’s. The result was that many previously successful farmers went out of business and the agriculture land market hit rock bottom.

During the mid 1970s, economic factors were positive. Interest rates were relatively low, so farmers could borrow cheaply. People in foreign countries wanted American agriculture products and had the money to



pay for it, so foreign markets became important to farmers. Prices for agricultural land seemed reasonable so farmers were buying more land on credit to expand. In the 80's the economy went bad. Outside economic factors forced interest rates up. Farmers had to pay more for the loans they needed to operate each year. In addition, consumers tend to buy less during bad economic times, so the prices paid for farm commodities went down.

With less demand and lower prices for their products, many American farmers had no way to pay back the banks for the loans they had taken out. Many borrowed even more money, hoping that better crops and prices would rescue them in a year or two. It didn't happen.

In the 70's and early 80's, the prominent belief (mentality) in the farming community was that a farmer should own every acre he operated (despite the fact that 100% operator ownership was never the norm in the U.S.). At the same time, new investors were entering the market. These new investors competed for land, often resulting in the cost being bid up beyond its realistic economic value. The new investors were not interested in the moderate but stable returns that farmland had historically provided. Many entered into highly leveraged transactions accepting low cash on cash returns for the chance to profit from rapid appreciation. Skyrocketing interest rates and declining farm exports (plummeting commodities prices) quickly led to a collapse in the market which eliminated many investors and farmers alike. Rural economies in the U.S. depend heavily on farmers: when 235,000 farms failed during the U.S.'s mid-1980s farm crisis, 60,000 other rural businesses also failed.

Current trends

Since 1950 the tenure type of part-owner-operator has become dominant, especially in the amount of land farmed. For several decades now, most, larger commercial farms have been of that type. Full-owners have tended to operate smaller farms (Cochrane 1993; Gilbert and Harris 1984; Janssen 1993, USDA/AELOS 1997).

On farms with annual sales of over \$25,000, 60% of farm operators lease some or all of their land.

Tenure and Size of Farm (by Sales) 2002			
Tenure:	Full	Part	Tenant
gross sales:			
< \$25K	78%	16%	7%
\$25-\$500K	40%	49%	11%
>\$500K	40%	50%	10%

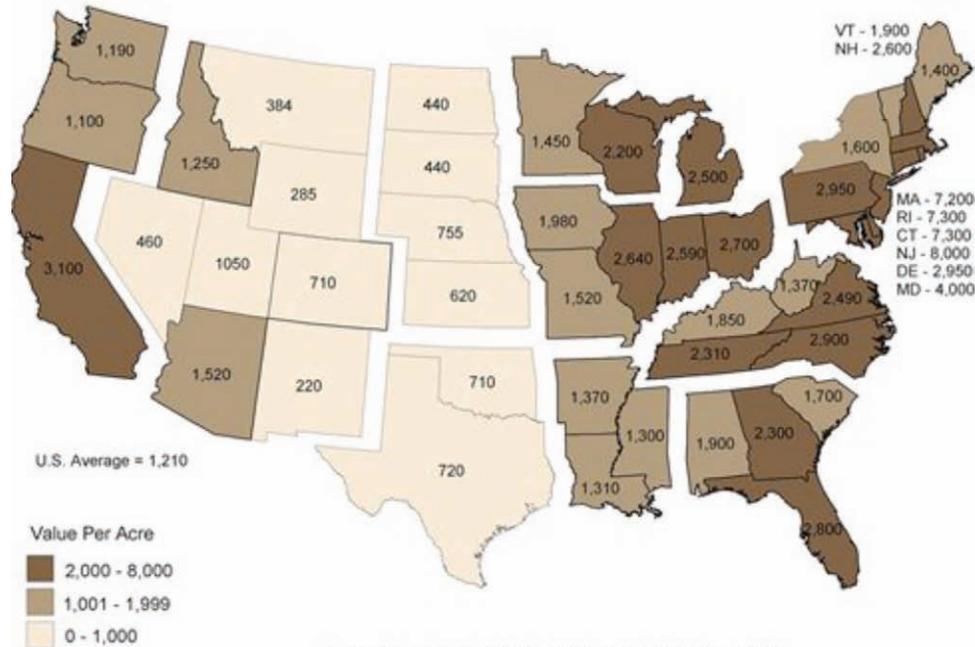
The National Agricultural Statistics Service (NASS) reported that nationally farms witnessed a 23 percent increase in per acre value between the 1997 and 2002.

Further, the value of farmland and buildings jumped 24 percent, and per farm value increased 29 percent (USDA NASS 2004:Table 43). In 2007, NASS reported that farmland values were still on the rise, with both cropland and pastureland values reaching record highs amid regional increases from 9 to 18 percent (Rater 2007).

One Southern region experienced a jump of 10 percent of land values in the last quarter of 2007 alone (over the prior year)¹. In the same time period, the Midwest region saw a jump of 16 percent over the previous year, the largest annual increase in nearly 3 decades² (Federal Reserve Board 2008; Oppedahl 2008). In some areas of the Northeast, farmland values are ten times the national average.



Average value per acre of farm real estate, January 1, 2002



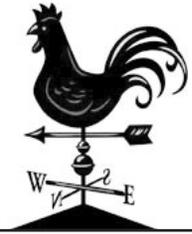
Beginning farmers who are trying to access farmland now must contend with very high land costs, whether they are attempting to purchase or lease (Oppedahl 2007; 2008). The urbanization of agricultural lands, or farmland conversion, is also adding significantly to farm costs. As this conversion continues, increasing land values will continue as well (Forster 2006). “Consequently, the entrance bar to farming gets higher and higher, and fewer and fewer young people see a future in it” (Bell 2004:52).

Absentee landowners

The American farming community is less and less a homogeneous group of full-time family farmers and more a heterogeneous group composed of large, mid-size and small farmers, full- and part-time farmers, and farm managers. Nearly half of U.S. farmers rent some or all the land they farm.

The USDA Economic Research Service (ERS) recently acknowledged land tenure as an important factor in farmers’ decisions to adopt conservation practices. Of the 3.4 million owners of private agricultural land in the U.S., 42% do not operate any of the land that they own. Eighty-eight percent of farm landlords are not farm operators. These absentee landowners consist of older, retired, often female persons or inheritors who live increasingly further away from the land they rent. ERS also found that 85% of absentee landowners are not actively engaged in decision-making on the farm and the majority of landowners have never been a farm operator. From: <http://www.absenteelandowners.org>

1 The fifth Federal Reserve District, comprised of Maryland, North Carolina, South Carolina, Virginia, and West Virginia.
2 The seventh Federal Reserve District, comprised of Illinois, Indiana, Iowa, Michigan, and Wisconsin).

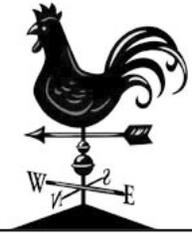


Discussion questions

1. Do the three farm tenure objectives (income, security, opportunity) posed in 1944 still hold today? If not, why? What should our national policy objectives be regarding farm tenure?
2. What impacts have the changes in land tenure patterns in the U.S. had on land stewardship, production, rural life?
3. What is an “ideal” tenure system for U.S. agriculture? Why?
4. What positive and negative impacts does the non-farming population have on land tenure as it relates specifically to agriculture?

Activities

1. Divide students into small groups. Groups may be divided based on what types of agricultural operations they envision for themselves (or just on interest in different types of land use-market garden vs. row crop vs. livestock vs. fully integrated homestead) Each group should then:
 - A. Create a statement that describes what their needs are regarding tenure and the fulfillment of their farm plan.
 - B. Evaluate the different eras of land tenure (as described) in the U.S. and decide what era would have been most supportive of their farm ideals and why.
 - C. Discuss their perceptions about the current situation regarding land tenure in their region (county/town/state) and evaluate the ease in which their farm ideals may be realized in that environment.
2. Using a county map, students will track a decade of land use, identifying key farming operations in their county as well as other major land holders. (County tax office, land planning and GIS folks should be able to assist in providing these resources). The goal of this activity is for students to identify patterns and trends of land use in their own community and how shifting tenure patterns may impact the accessibility of land for agriculture now or in the near future.
3. Debate ownership versus non-ownership tenure for agriculture.
4. Invite local farm elders to visit the class and share their personal experience with access and tenure. Would be very useful if several different types of situations could be represented. (sharecropper, farm owner operator, both owning and leasing land, inherited land.)



Guest speakers

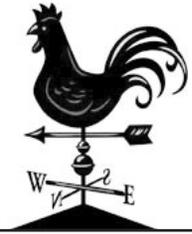
1. County Extension Director to talk about the historical perspective and current status of farmland and tenure in your home county.
2. County Commissioners, county planners and urban planners for a local perspective on the value of tenured farmland for the county.
3. Director of a local land trust to share experiences in farmland conservation.

Homework assignments

1. Write a short paper on personal views and goals related to farmland tenure.
2. Investigate county/state policies to support secure and affordable land tenure and write a short report to share with the class.
3. Interview a family member or other farmer about his/her views on tenure or his/her personal story about acquiring and holding farmland.
4. Select a quote from the first section and critique it.
5. Have students research their own “family tree” of land tenure. “Where did the farm go?” Students will present their findings and then as a class discussion, students will look for determining factors that affected why the farms stayed in the family or were sold or leased out to others.

Out-of class extension activities (class field trip)

1. Visit the planning department of the county and ask for a town/city planner to help explain land-use policies, discuss their possible impact on agriculture.
2. Visit the tax office and track ownership of large tracts of land—research the origin of sub-division names, as they often refer to former farms or other agricultural or natural resource uses of the land.
3. Attend a planning meeting for your town or county.
4. Visit with county government to learn more about the growth rate of your county and track farmland tenure with population growth over the past decade.

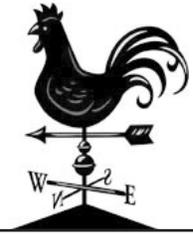


Case study

In “[Possibility of a Farm](#)” Woloschuk, a young couple, successful at urban agriculture in Portland, Oregon takes a giant leap across the U.S. to buy a farm in Vermont. Their experience may help the reader to think about reality vs. the “romantic notion” of farming and how that applies to U.S. perception of “what is a farm?”

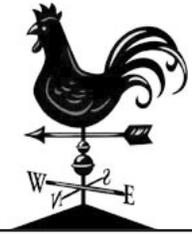
Study questions for the student

1. What problems encountered by the authors might have been avoided had they leased instead of purchased land? Had they leased the same land described in the study might they have avoided some of the “natural” disasters? How? What communication skills would have helped them learn more about land they were leasing?
2. Had these farmers decided to lease, what types of lease arrangements would be best for their farming goals? Why?
3. Based on your reading in topic 1 on land tenure in the U.S., what do you think were the reasons the authors purchased their land at the beginning?
4. How do the author’s experiences and his intention to farm differ from other cross-continental migration (undertaken for other types of employment)?
5. List the reasons why owning the land seemed like a good idea to the authors.
6. List the reasons why renting the land (at least initially) seems like a good idea for someone planning something similar.
7. Has reading this story changed your perspective about land tenure through ownership? If so, how?



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Websites

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Farmland Ownership and Tenure, 2007 Iowa State publication.
<http://www.extension.iastate.edu/Publications/PM1983.pdf>.

This short article defines the term “rules against perpetuities”
http://www.articlealley.com/article_12415_18.html October 2005, Author: Michael Pancheri.

A short description of the 1980s Farm Crisis. This website uses various print news resources as primary resources for information about events in the 1980s. <http://eightiesclub.tripod.com/id300.htm>.

Center for Absentee Landowners website. This site is designed for people who own agricultural land in the United States, but do not live on or operate that land. It's for landowners who are interested in natural resources conservation and who want to learn more information about available programs, resources and support. <http://www.absenteelandowners.org>.

Additional resources

FarmLASTS research report. See <http://www.uvm.edu/farmlasts/>.

Tenure vs. Ownership Implications: Conservation on Rented Farmland.
<http://www.ers.usda.gov/publications/agoutlook/jan1999/ao258d.pdf>.

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