
Forest tenure in Sweden – the transformation from ruined forest land to a sustainable tenure system

Fredrik Ingemarson¹ and Jan-Erik Nylund²

Land tenure regimes are intimately coupled to land use forms, and tenure reforms accompany the ongoing re-evaluation of forest management around the globe. The aim of this article is to identify different actors and stages of the tenure development in Sweden using possession rights and non-exclusive user rights as a point of departure. Decisive for the tenure transformation process in Sweden, starting in the late 17th century was a theme successively growing stronger: the interplay between Peasant, Crown and Company interests. Up till the end of the 19th century, the Crown was exercising some kind of dominium directum over all forestland. Noblemen, companies and tax farmers held dominium utile-style user rights. After a century-long transition period, around 1900, the idea of inviolable private ownership or dominium plenum had gained general acceptance, whereas the late 20th century saw a re-emergence of dominium utile-style claims by external stakeholders. The driving forces of privatisation in Swedish forestry are seen in relation to the modernisation of society. The current forest owner-ship structure reflects the objectives of privatisation of forestland two hundred years ago. The Crown wished to provide every homestead with enough forest to cover its subsistence needs for major and minor forest products. The privatisation process gained momentum around 1800, well before the industrial revolution gave forestry commercial value. As there was little use for the vast timber resource, other than for household purposes, the Crown initially did not bother to define exact user rights. The first period of the privatisation process was turbulent when the full consequences of the transition from forest commons for subsistence to an exploitable natural resource became obvious. Corporate law infringements, dubious affairs, fraud, and exploitation of peasant landowners occurred, and much of the accessible forestland was temporarily ruined. Once secure in their tenure, the peasants started exploiting the now valuable timber resource, then, more reluctantly, began to employ modern management methods in spite of the extremely long investment horizon in northern silviculture. Today, the Swedish forestry framework is well organized, including environmental measures and clear markets. Private ownership of forest is a contributing factor to the success of the “Nordic Forestry Model”, and experiences from the tenure development in the Nordic countries have a broader application for global forest policy.

Keywords: dominium, forest ownership structure, forest policy, forestry legislation, governance, partitioning, possession rights, tenure

¹ Researcher, fredrik.ingemarson@sprod.slu.se Swedish University of Agricultural Sciences, Department of Forest Products, Box 7008, 75007 Uppsala, Sweden.

² Professor, jan-erik.nylund@sprod.slu.se Swedish University of Agricultural Sciences, Department of Forest Products, Box 7008, 75007 Uppsala, Sweden.

Introduction of traditional land tenure in Europe and Sweden

Land tenure regimes are intimately coupled to land use forms, and tenure reforms accompany the ongoing re-evaluation of forest management around the globe (Garforth and Mayers, 2005). In public debate, the Nordic countries, particularly Sweden and Finland, appear to have reached an “age of maturity” regarding forest ownership (Palo, 2006). However, a closer look reveals a partly dramatic transition from the tenure forms of traditional society into present-day forms, and today’s ownership model is again contested. The paper describes these processes in Sweden, using mainly Swedish-language material previously unavailable to an international readership. The aim is to identify different actors and stages of the development using possession rights and non-exclusive user rights as a point of departure.

In pre-modern Europe, the land could not be owned like man-made artefacts, only used. However, cultivated land was a result of hard labour, and man has right to the fruit of his labour. This view was a starting point for both Locke and Mill (cf. Bekele, 2003), but has far older roots (cf. von Below and Breit 1998). Hence, cultivated land could be held with strong tenure rights, and transferred through inheritance or commercial transactions. Conversely, extensively used land had no distinct owners and was kept as commons by villages or larger local communities. Eliasson (2002) adds to the view of traditional land tenure being based on the concept of a “moral economy”. According to this, everybody has a fundamental right to satisfy basic needs, and consequently have an equitable share of common resources in the rural society.

Against the peasant perspective is the ruling view that all land is the property of the sovereign or the ruling classes, a view most clearly expressed in the classic feudal system, in its strict meaning. Cornell (2005) deduces the origin of the feudal social order from the collapse of Roman Empire in the 5th century and onwards, when new, mostly Germanic, conquerors established their dominion over already settled land. The new rulers considered themselves the ultimate ‘possessors’ of all the new territories, and the peasants, etymologically meaning ‘people already living in the country’, and were according to the conquerors’ opinion, using the land only by permission. Ultimately, where feudal control was strong, the rural population was reduced to serfdom with few formal rights.

Numerous conflicts arose when powerful landlords wished to evict rural residents whose livelihoods depended on the user rights. During the 15th century, such conflicts arose in England with devastating social consequences; these were exposed by Thomas More in his famous work *Utopia* (1516). The English Forest Laws (eg. “The Black Act” of 1723) became notorious for their extreme harshness even in case of minor infringements, while, the peasant population still harboured notions that they had been deprived of ancient rights to woods and rangeland.

Privatisation of forest in Europe started later than privatisation of agricultural land and improved pastures. Large-scale reforms were initiated in France and the German lands in the wake of turbulence created by the French revolution and Napoleonic wars. Von Below and Breit (1998) dedicate their study to the conflicts ensuing the transition from common to private ownership. Thinly populated forest and rangelands, rarely passed under a strict feudal control and in the North of Europe, a class of free peasants survived, subject only to the sovereign.

In Scandinavia, the feudal system gradually took root, but only in the south, and greatly influenced forest tenure conditions (Fritzbøger, 2004). The Swedish central government was weak until the ascendancy of the Wasa dynasty in 1523, and the nobility consisted of ancient families with great hereditary land rather than a fief-holding feudal nobility of continental model. This meant that, in the beginning of the early modern era (around 1550), land tenure was primarily regulated under the “peasant perspective”.

Rural settlements were organised into villages, where the agricultural land was split up in numerous plots, the demarcation of which was recognised by the community. The surrounding forestland was held in common, with right of access to household timber and firewood, grazing etc., for both landed and landless local people. The commons were recognized as belonging to villages, parishes, legal districts (*härad*) or even provinces (Eliasson and Hamilton, 1999). In less densely settled areas, they were not demarcated.

Practically all forest land in the southern provinces up to river Dal was claimed by a community as commons, but sparsely settled regions still existed where demarcations were missing, and shifting cultivation was practised. Further to the north, commons of various types existed, mainly near settled areas on the coast and along major rivers. In the far North, the Sami population had distinct tenure rights to most of the highland areas. In the inland and mountains, Sami people hunted and herded their reindeer under customary regulation of their land use, paying tax to the Crown (Nylund and Ingemarson, 2007).

Theoretical points of departure

The result of this paper focuses on the three leading actors in Swedish forest tenure policy; the Crown, the Peasants and the Companies. The result chapter is divided in accordance with the authors' interpretation of significant stages of the privatisation process in Sweden, considering the possession rights and non-exclusive user rights of the three leading actors. The appropriate starting point for the study was the starting point for the first settlement program provided by forest ordinance of year 1683. Forest use under customary tenure arrangements and an introduction of private ownership of forest land are first presented followed by and conflicts caused by the privatisation of forest and the companies' land acquisitions and their political consequences. The second part of the result chapter presents the swiftly changing political climate between 1950 and 2000 and the trend back to multiple user rights.

Two perspectives on land tenure

Legal specialists at the emerging European universities in the 13th century tried to solve the conflicting views by seeing land tenure under two complementary rather than opposing perspectives (von Below and Breit, 1998, Fritzbøger, 2004). The political power had *dominium directum*, a formal ownership right, including rights to sell and bequeath the lands. However, to this came a *dominium utile*, a user right, or rather many non-exclusive user rights, which could be customary or well defined by written agreements and upheld in court. In the less usual case, where the two *dominia* were united and a single person had exclusive ownership and user rights, the term *dominium plenum* was applied (cf. Fritzbøger, 2004). The holder of a *dominium directum* could not legally nullify a *dominium utile*, although numerous conflicts arose when powerful landlords wished to evict rural residents whose livelihoods depended on the user rights.

Forest tenure concepts in a European context are analysed by von Below and Breit (1998), whose views are a starting point for the account below. Bekele (2003) study transitions between tenure regimes in Ethiopia during the 20th century and summarises the classical contributions to the subject by Locke, Marx, and Mill, and the modern theorist, Bromley, with particular reference to a traditional society, Ethiopia, meeting modern perceptions and political change. A recent study by Fritzbøger (2004) discusses a similar transition in Denmark over a much longer period, from 1150 to 1830. The present study is mainly narrative, and the interested reader is referred to the cited works for a theoretical framework. However, the distinction between formal and exclusive possession rights and various, non-exclusive user rights, as discussed by von Below and Breit (1998) is also a key concept in this paper for interpreting the historical development of tenure rights in Sweden.

Leading actors in Swedish forest tenure policy

Decisive for the tenure transformation process in Sweden, starting in the late 17th century was a theme successively growing stronger: the interplay between Peasant, Crown and Company interests. Until recent times, Peasants represented a social group with distinct lifestyle values, and the Companies stood for organised commercial groups representing a modern, monetary economy. In this perspective, the Crown acts in its own interest, striving to strengthen revenue and maintain political control of the country. While the socio-political development in Britain, France and Germany is seen as a struggle by the Burghers to gain dominance over the Nobility, a strong theme in Sweden is the struggle of the Peasants to control the ambitions of the Crown. Perhaps more than a quarter of all homesteads had previously been held by the church, but most of these holdings were taken over by the Crown as a result of religious reform during the 16th century. During the majority of the 17th century, the Nobility struggled to control the Government and feudalise the land holding, but were thwarted in the 1680s and consequently played little role concerning forest tenure (Stridsberg and Mattsson, 1980, Nylund and Ingemarson, 2007).

Result

From common to private ownership (1683-1950)

Tenure arrangements up till the reforms after 1800 can best be understood through the 'two dominions' philosophy. The Crown made its influence over the forest felt in several ways, best interpreted as a tacit *dominium directum* over all forestland. Corresponding claims were never made on tilled land, where ownership rights of peasant and noble freeholds were unquestioned. Most notable in its consequences was the *regale*, or royal claim to ownership of all oak trees, as well as to large size coniferous stems suitable

for masts and major public works, on all land except for the Nobility's holdings. This regulation, valid just into the 1800s, caused opposition from rural people and continuous conflicts with the Crown's forest guards, and resulted in widespread destruction of oak saplings (Eliasson, 2002).

The Crown felt entitled to allocate forestland for use by mining companies that were in need of wood and charcoal for their operations. Although taking place before 1683 the allocations were regulated by an ordinance of that year. This implied that companies obtained a non-exclusive *dominium utile* within portions of forest commons. Furthermore, with the allocations, freeholders and crown tenants were directed to pay dues to the company as deliveries of wood and charcoal, rather than cash.

The privatisation started with the unsuccessful settlement program provided by the 1683 forest ordinance and progressed slowly during the 18th century. New holdings were established on forestland in the interior and the north. Large areas, many hundreds of hectares, were demarcated, as the new farms were to have animal husbandry as their main income, and patches of grazing land was widely distributed in the forest. As there was little use for the vast timber resource, the Crown initially did not bother to define the exact user rights that the settlers could exercise.

Starting around 1750, a major process of reallocating farmland (*Storskiftet*) had been initiated, mainly on landowner initiative, and following similar processes in other Europe countries. The traditional settlement pattern meant core villages surrounded by fields, where each household had its parcel of land, implied serious fragmentation. Yet, in 1789 a royal directive allowed Crown tenants to gain freehold or strictly speaking tax land status by paying a fee.

In 1800, the land reform went into a second phase (*Enskiftet*) with the explicit goal of uniting all land of one farmstead into one continuous unit. From then on, land from the forest commons was included in the demarcation, and hence privatised. Privatisation of non-partitioned forest accelerated with the advent of new legislation (*Laga skifte*, 1827). Nonetheless, parts of the commons continued to exist, for which detailed procedures and regulations were stipulated in 1805 (see e.g. Carlsson, 1995).

According to the liberalist view in Europe after the Napoleonic wars, private initiatives – individual or corporate – were seen as more efficient than state management of the national forests. While previous reforms aimed at transferring common forest to private ownership, a second stage aimed at liquidating the Crown land ownership as a matter of principle. All claims to the Crown's partnership in the commons were withdrawn (Eliasson, 2002). The "redemption" of the Companies' forest allocations should be seen in the light of this policy change. From 1811, it became possible for Companies to "redeem" their forest allocations into tax land with normal property rights.

The short-term beneficiaries of privatisation were the growing numbers of freehold owners, some of which had owned their farmland for generations; others were Crown tenants redeeming their farms or settlers in the interior and the north. The reform implied increased limitations of customary use of forest resources by the landless. In 1750, the number of landless households was 25% of that of landed households. While the number of landed households did not increase substantially up to 1850, the landless households increased four-fold, mainly because of population growth (Gadd, 2000). The demographic development accentuated the conflict between time-old perceptions of everybody's right to products and benefits from the forest and new ideas of exclusive usufruct by a legally registered owner.

In traditional Swedish society, theft was considered highly dishonourable. The rural public's concept of common rights to forest is illustrated by the widespread opinion that illicit use of forest goods and benefits was not seen as "dishonourable". This was an issue in every Parliament session between 1809 and into the 1870s, when company driven exploitative logging and take-over of peasant land became the issue of the day. Illegal loggers operated with paid labour, forest fires were lit to cover up their operations and as acts of revenge against landowners denouncing offenders to the authorities. Over time, the number of convictions declined in the South, indicating an increased acceptance of the new order. With the booming industry in the North, forest crime increased in the North in the 1870s, but here the issue was economically motivated crime, not social protest.

The transition in the North of Sweden is one example where the state did not foresee an uprising conflict, as forestry, farming and reindeer herding were considered to co-exist. Tenure conflicts concerning tax land redistribution ought to have been settled in the district courts; however, the partitioning process was handled by the County authorities, a procedure used only when exclusively Crown land was involved (Korpijaakko, 1989).

From the mid-18th century, sawn goods from water-powered sawmills in the southern part of the country were exported in increasing quantities. The total volume was small compared to the size of the resource, and

it did not make the forest commercially valuable. The first steam-powered sawmill was established in 1849, in southern Norrland, and ten years later, the saw milling industry entered a phase of rapid expansion: from a total production of 1.4 million m³ in 1850, it peaked in 1900 with 12.8 million m³. Production of mechanical pulp for papermaking started in 1857, and chemical pulp started in 1872. The total use of timber rose from 21 million m³ in 1850 to 40 million m³ in 1900, and remained slightly above that level until 1950. From this quantity, the household consumption remained at 16 to 20 million m³ into the 1930s (Arpi, 1959).

Logging operations were organised by sawmills and logging contractors, much of the capital coming from foreign investors (Kardell, 2003). During the early years of saw milling expansion, the companies approached the peasants with recent titles to extensive forest domains. In that situation, it was easy for the companies to buy Logging rights to all trees above set dimensions cheaply, and for periods of twenty to fifty years. The land was heavily cut, and neither the landowner nor the company had any incentive for silvicultural action on the residual forest. Just as the illicit use of the former commons was intensively debated by the public between 1809 and 1860, this new ravage of the forest resource and the plight of the forest owners now received as much attention. In 1890, the longest lease period was restricted by law to 20 years, in 1905 to only five years, as frequent cases of fraud were reported. During this period the introduction of adequate and successively stricter silvicultural legislation started with the first Forestry Act 1903.

Once the industry had achieved greater economic stability, and partly in response to the frequent litigation over logging rights, companies started to buy land. Finally, the negative consequences, of the companies becoming monopoly owners of non-Crown forest in northern Sweden, became obvious, and a “stop law” to prevent further company acquisitions in Norrland was introduced in 1906 and for the whole country in 1926.

In response to the rapidly increasing value of the forest, the Crown changed its previous policy of selling land and started buying back land in the southern part of the country. In 1870, the total area of managed productive state forest was down at 0.4 million ha: in 1928, according to the first property inventory, the Crown and other public owners 5.2 million ha, the forest sector companies now owned 5.5 million ha, other companies 0.3 million ha, larger estates 0.7 million ha and peasants 9.9 million ha.

Back to multiple user rights (1950-2000)

During second half of the 20th century, limitations of owner rights followed the political climate, the ownership structure did not change, but living conditions and values of the rural population approached those of urban people. Therefore, the word “peasant” has been superseded by small-scale private forest owner (Ingemarson, 2004).

By 1950, private forest ownership with far-reaching, almost exclusive user rights had been the accepted norm for two generations. Since the forestry Act of 1903, the policy resulted in successively stricter silvicultural legislation and imposed limitations on owners’ management options, but the Forestry Act of 1948 marked a turning point regarding owner’s freedom of action, and during the coming decades, user rights became stronger.

In 1950, the countryside was well populated and normal holdings were small, combining farming and forestry. Over just two decades, mechanisation was introduced in large-scale forestry, and at the beginning of the 1970s, horses was only transporting a fraction of off-road extraction. Kardell (2004) points out that forest operations had lagged behind the development in other sectors for a long time, the result being a rapid transition with deep social consequences. The value of the forest previously corresponded to the return from the forest, but other interests, such as hunting, tax planning and quality of life on the countryside gradually raised the prices of properties (Hugosson and Ingemarson, 2004).

By the end of the 20th century the forest owners association in Sweden had their own sawn mills and pulp industry. Ninety thousand holdings, including 6.3 million ha of forest (54% of total small-scale privately owned productive forest land), belonged to an association in year 2000 (Skogsstatistisk årsbok 2000), representing a considerable political power.

In the early fifties a political group argued that small-scale owners did not manage the forest efficiently. Particularly, the forest owners’ organisation started assisting members with management, voluntarily forming areas of joint silvicultural operations (Enander, 2003). The environmental movement strengthened during the 1960s, and the State began assigning large areas for nature conservation and recreation.

In the early 1970’s, the forest industry experienced a short-lived boom resulting in an over-establishment of new industries. Accordingly, political and company representatives repeated concern over the small-scale forest owners not delivering enough feedstock to the industry. The concept of maximising value production was expressed in a set of new legislation (the 1979 and 1983 Forestry Acts), implying regimentation of

forest owners' action and the compelling laws meant considerable limitation of the owners' freedom of action, e.g. maximum and minimum limits to felling.

The growing deer population in the 1960s and 1970s resulted in an increased level of damages on the forest (Ingemarson et al., 2007). The hunting associations strongly supported the user rights and thereby suppressed the owners rights. The customary right of common access to private land also entitled the public to collect berries and mushrooms on any forestland. New entertainment activities, such as snowmobiles, mountain biking, canoeing, and the collection of reindeer moss (lichen) for fodder were added to the common access agenda. Stjernquist (1993) points out that property rights have widely differing significance to different categories of owners. Even so, the customary right of common access was never questioned. It had a wide political support and emerged even stronger at the end of the 20th century (Kardell, 2004). During the 1980s, production-oriented forest policy reached the same regulation level as in 1780 (Enander, 2003), but trends changed swiftly and one decade later the policy followed a more liberal political climate. The changing attitudes were politically manifested as a new Forestry Act passed by the Swedish parliament in 1993, which became valid in 1994. For the first time in forest policy, biodiversity and production objectives had equal legal importance. Detailed regulations of operations were replaced by increased owner's responsibility to e.g. set voluntary areas aside for conservation, not restricted according to the law. With changed emphasis of the national legislation, the policy climate opened for complements to the state regulations (Boström, 2003). The freedom of forest owners' action was highly influenced by pressure from local and global non-governmental organisations (NGOs), sometimes with their own political agenda (Sörlin, 1991). This, along with higher public commitment towards the environment, strengthened user rights.

Discussion

The role of the three leading actors during the privatisation process

In contrast to general European developments, the Peasants as a social group retained their political freedom and a strong influence on politics in Sweden. The Peasants' primary long-term goal was to free their land use from governmental control. A few decades before the forest attained commercial value, growing individualism prompted land-owning peasants to want to privatise forest commons.

The Companies' interest in the forests was for a long time indirect, only for mining and smelting, and this was obtained through a non-exclusive *dominium utile* within portions of forest commons. With the introduction of industrial forestry, the new Companies had better motive to control their feedstock resources in the form of full ownership of forestland. For the entire 20th century, Company forests had a predominant role in forest economy.

The principal ambitions of the Crown have mostly been political stability and maximal revenue. Control of land has not been a goal in itself; rather, the governments have striven to increase tax income. During the 20th century, the government's strove to protect and increase forest resources and even tried to force forest owners to fell in order to supply the important forest industry with feedstock, before the policy climate became liberal at the end of the century.

Conflicts caused by the privatisation of forest

The concept of exclusive forest ownership took root rapidly in Sweden once subsistence economy had been replaced by a market economic system at the end of the 19th century. The character of forest crime changed from adherence to subsistence forestry on common lands to modern, economically motivated criminality. Writing about the Swedish reforms of forest legislation after 1970, Professor of Law, Per Sjernquist (1993) refers to Renner's (1949) views that property rights have different significance to different categories of owners. The lifestyle connection explains why real or perceived infringements of individual or collective tenure rights are such a sensitive issue.

A number of European historians have searched for hard evidence of social conflict because privatisation, e.g. Von Below and Breit (1998) in Britain, Sahlins (1994) in the French Pyrenees and von Below & Breit (1998), Blasius (1978), Radkau (1983) and Mooser (1984) in Germany. In Prussia, privatisation led to a rapid exclusion of large numbers of people from the forestland. Court statistics give evidence of 1000 convictions per 100 000 inhabitants in 1836, and nearly 2500 at the peak in 1860 (Blasius, 1978). This high figure reflects a violent social conflict when the feudal-style land-use patterns were replaced with strict private ownership. The corresponding figures on court convictions in Sweden were only 38 convictions per 100 000 inhabitants in 1830-34, 19.5 in 1850-54, and 9 in 1870-74 (Eliasson, 2002).

The transition in the North of Sweden is one example where the state did not foresee an uprising conflict, as forestry, farming and reindeer herding were considered to co-exist. The legislation has been to some extent updated up to year 2000, but the basic tenets are still valid. At the same time, general society, the Sami community, and the reindeer husbandry underwent major changes and the conflicts have become more frequent (Nylund & Ingemarson, 2007).

Conclusions

Two themes are evident in the development of forest tenure. Up till the end of the 19th century, the Crown was exercising some kind of *dominium directum* over all forestland, evident both through the oak regale and its claim to one-third of the commons. Noblemen, companies and tax farmers held *dominium utile*-style user rights. After a century-long transition period, around 1900, the idea of “inviolable private ownership” or *dominium plenum* (cf. Fritzbøger 2002) had gained general acceptance, whereas the late 20th century saw a re-emergence of *dominium utile*-style claims by external stakeholders.

The forest ownership structure in Sweden today reflects the main objective of the privatisation of forest land two hundred years ago: to provide every homestead with enough forest to cover its subsistence needs for forest products. Seeing to the number of stakeholders, the most important privatisation process concerned the partitioning of the commons. The privatisation of forest preceded the profound change in mode of production with the introduction of steam-power saw milling from 1850.

The period from 1850 to 1900 was highly turbulent when the full consequences of the transition from forest commons for subsistence to an exploitable natural resource became obvious. As this partitioning process went on and private ownership in the modern sense de facto to form, the law lagged behind. Many corporate law infringements, dubious affairs, fraud, and exploitation of peasant landowners occurred, and much of the accessible forestland was temporarily ruined. The efforts to settle the interior were largely unsuccessful, and the homesteads were abandoned due to the extent of labour required to exploit and later restore the vast forests.

The existence of a large class of land-owning peasants created political stability in a situation where the number of rural landless grew rapidly and urban industry could not absorb the surplus of labour. Forest work, on company and Crown land, provided a basic income for the rural population well into the second half of the 20th century, when mechanisation drastically reduced the labour force required. Government policy had achieved two goals, one of fiscal consolidation by increasing the number of taxpayers, and the other of securing political stability. The outcome was the creation of a quarter million homesteads with 9.9 mha forest, all with legal title to their land.

Once secure in their tenure, the peasants started exploiting the now valuable timber resource, then, more reluctantly, began to employ modern management methods in spite of the extremely long investment horizon in northern silviculture. The Swedish forestry framework is well organized, including environmental measures and clear markets. This implies that the ownership structure and the roles of the actors are well defined. It should be noted that the framework of year 2000 involve swiftly changes, a large number of main actors as well as significant global actors, e.g. NGOs. Thus, future successful forest policies ought to take into consideration that the different meanings of land ownership to different categories of owners, and that user rights consider several recognized users.

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