Rural Land Rights and Security in Cultivated Highland Ethiopia: Incremental Reform but Persistent Uncertainty

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Abstract

There are important improvements in tenure stability and security of land rights over the years in administratively allocated land. These gains are due to the private efforts of individual landholders, and incremental policy and legal measures. However, there are still unmet demands for certainty in land rights because of inherent instability in tenure associated with rising excess demand pressure for land, temporal decay in value of use rights certificate, deficiency in design and practice of land expropriation and compensation laws, and weakness in land governance and rural of law.

Introduction

One of the first priorities of the military government that seized power in 1974 was to enact land nationalization proclamation in 1975 (Proclamation 31/1975). The proclamation abrogates the feudal land ownership and tenancy systems. Land ceases to be privately owned. Instead, it becomes the common property of the peoples of Ethiopia with ownership effectively vested in the state. The proclamation entitles farmers to acquire land free of charge up to a maximum of ten hectares per family at their place of permanent residence. It prohibits transfer of land in any form (lease, sale and mortgage) except for qualified bequeathing. It also prohibits the use of hired labor with few exceptions. The law in effect aspires to create a tenure system where farmers have possessory right to cultivate using their own labor only (i.e. “self-cultivating farm household”).

By and large, the key elements of the 1975 proclamation have continued over the years, particularly the ownership of land by the state, the promise to universal free access to land, and prohibition of land transfer through sale. In addition, there have been incremental policy and legislative measures since 1990 to reform land rights and security; i.e., expand venue to access land (administrative allocation, inheritance, grant and land rent), register and certify use rights to land, allow limited transferability of land (i.e. administratively regulated farmer-to-farmer land rental), relax restrictions on hiring labor (except for the Oromia region), and recognize right for compensation to private property established on land. The topic of this paper is to pool the evidence from the existing tenure studies on cultivated land in highland Ethiopia to examine changes in level of tenure security and the explanations since 1975. The focus is on tenure security in agricultural land.

Following this introduction, section two presents a brief description of the evolving land rights arrangements. Section three introduces the meaning and measurement of land rights security

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adopted in empirical studies on tenure in Ethiopia. Section four is the core of the paper; it focuses on land rights security in administratively allocated land (or, the rights of primary holders of administratively allocated land). It has three sub-sections. Sub-section one traces the temporal change in tenure security using the measures adopted in the empirical studies. Sub-section two highlights the policy and legislative measures to strengthen tenure security. Sub-section three discusses the design and implementation challenges that are bound to cause persistence tenure instability and insecurity. For a purpose of comparison, section five underscores the severity of tenure security in land under secondary access as in the case of land operated under rental contracts. The final section reiterates the main take away from the paper.

Hierarchy of land rights

Farmers access land through multiple channels. The primary venue is through administrative allocation. It is a constitutional right for rural households to have access to administratively allocated land for their livelihood. Access is free of charge provided they are at least eighteen years of age and dependent on farming for their livelihood. The bundles of rights in land obtained through administrative allocation comprise of use right, short-term transfer right (e.g. renting or sharing land for short duration), long-term transfer (i.e., bequeathing land), private ownership of assets built on land, and right to compensation in event of expropriation of one’s landholding for public purpose. With these rights, there are obligations such as demonstration of dependency on farming for livelihood, permanent residency, compliance with land use and management guidance, and not engaging in land sale or mortgaging.

Next in importance in terms of venue to acquire land is rental market, particularly in areas where population density is high, rural infrastructure is developed, and agriculture is commercialized. Access to rental is not a right. Instead, it is conditional on proven capability to cultivate (proof of farming skills and experience) and provide inputs for production (i.e. share input costs). Use rights in rental land are limited; tenant farmers are restricted in their production choices and land management practices. And they cannot transfer rental land in any form to a third party.

Inheritance as means of land acquisition is not as widespread as it is in the rest of the Sub-Saharan African countries. The rights in inherited land are the same as the rights in land obtained through administrative allocation. In the case of gift land, which is commonly transferred from parent to child, the duration is open ended. Often, it is neither permanent as inherited land nor short as rental land. Unlike rental land, access to gift land is not strictly based on ability to cultivate. But often those who seek parental land are adults capable to cultivate.

Similar to the majority of share tenancy, there are no written contractual agreements for gift land. Parents may restrict the use of gift land as well as its transfer. A child, as a beneficiary, may support the parent through, for example, contributing labor and/or sharing output from the gift land. These obligations are not, as explicit as in the rental contracts, where paying rent is the core obligation of tenant farmers.
There could be different land rights holders over a specific land. Typically, the land rights associated with these holders are vertically differentiated. At the top is the state which authorizes, assigns and administers rights to land. Below it are primary holders of administratively allocated land who possess rights that include right to use land for purpose of farming, right to bequeath to lawful heirs, right to rent land, and right to create/build property on land and dispose its produce. At the third tier are rights associated with secondary access to land such as land rental or grant. Since the secondary landholders obtain their land from the primary holders (i.e., original recipients of administratively allocated land or their heirs), the third layer of rights such as rights in rental land are nested within the rights allowed to primary landholders.

**Land Rights Security: Meaning and measurement**

Tenure regimes differ not only in rights embodied in them but also in their degree of certainty (or, predictability). Often, insecurity of tenure arises if the rules governing access (exclusion), use and transfer are ambiguous, unbounded and weakly enforceable. Tenure studies on Ethiopia define and measure security in land rights in terms of: (1) perceived or actual duration of tenure, (2) transferability of land, and (3) willingness to pay for attaining certainty in land rights (see, for example, the applications in Amare 1998, Tekie 2000, and Berhanu and Swinton 2003).

According to the duration based definition, a long duration is indicative of tenure security. There are several variables to measure duration-based security in the Ethiopia context. Some are community-level measures: for example, (1) frequency of major land redistribution, and (2) number of years since last redistribution at community level. Infrequent redistribution indicates stability and security of tenure at community level. Others are farm or plot specific such as: (1) Whether a farmer would be able to use the parcel for at least during his or her life time, (2) number of years a household has farmed specific plots, and (3) size of holding relative to village mean (Tekie 2000 and Alemu 2001). According to Tekie (2001) and Alemu (2001), farmers holding land above village mean in particular are the most insecure in villages where redistribution of land is frequent. Transferability of land also defines extent of security of tenure. The findings in Amare (1998) based on counting of rights in land show that farmers are most secured when rights in land include transfer right. Berhanu and Swenton (2003) differentiate degree of insecurity into intermediate term (whether the farmers believed that they would cultivate the same plots five years from now – “duration”) and long-term (whether farmers believed they would bequeath the plot to their children – “transferability”).

Both the duration of landholding and transfer rights are necessary to enhance level of tenure security. To illustrate, rights in land maybe differentiated into three bundles of rights: (1) short-term use right only (bundle A); (2) short-term as well as long-term use right, but no transfer (bundle B); (3) long-term use as well as limited transfer right (bundle C). Bundle A is the least secured because of its short durability of tenure with no right of transfer. Bundle C is the most secured since it allows longer durability and transferability. Bundle B is an intermediate case.

Tenure security improves when duration of use right extends from a short-term use right to long-term use right (moves from Bundle A to B). It improves further when the bundles of rights
include transfer rights such as bequeathing (upped from B to C). As shown in the study of the evolution of tenure systems in Sub-Saharan Africa (Place and Hazell 1993), progression from limited transfer (e.g. right to rent out land) to complete transfer (right to sell land) indicates maturity towards individualization of land rights. In the Ethiopian case, however, the right to transfer is partial since permanent alienation of land is prohibited (i.e. bundle C is partial as it is void of alienation of land through land sale).

**Tenure security in administratively allocated land**

**Temporal change**

The early years of the land reform are akin to bundle A when the period was characterized by widespread land confiscation, and major and frequent land redistribution. Farmers witnessed frequent redistribution or readjustment of their holdings, instability in their tenure, and uncertainty in their use rights. Insecurity in tenure was heightened particularly in the 1980s as the regime in power halted redistribution of land and pushed on agricultural collectivization to hasten the drive for socialist transformation of the agriculture economy (i.e. abandoning small-farm farming systems). This period also witnessed millions of farmers relocated into newly established villages (i.e. abandoning the traditional settlement pattern).

The transition to land rights akin to bundle B (i.e., increased longevity in use right but no transfer) started earnestly when the process of major and frequent land redistributions slowed in early 1980s. But the realization of individual tenure with long duration was disrupted in most of the 1980s when there was a big push for agricultural collectivization and villagization program. The big push was quickly abandoned towards the end of 1980s and the policy emphasis shifted towards family farms, which among others had been marked by the slowing major land redistribution and consequently stabilization of tenure.

With slowing down of land redistribution or improved stability of tenure, perception of tenure security improved over the years, particularly in terms of perception of longevity of holdings. But there was a temporal lag in farmers’ confidence with respect to transferability of land.

According to the findings from a survey of farm households in south central Tigray, for example, the majority of the farmers (60%) were feeling certain that they would cultivate their plots at least for five years in 1995 (Berhanu, 1998). But the percentage was lower (41.7%) for feeling sure of being able to leave their plots to their children. The perception of improved certainty with respect to transferability (i.e. the transfer from bundle B to C) gained momentum in recent years with incremental land rights reforms such as the registration and issuance of land holding certificates (supposedly conferring transferable lifelong use rights in perpetuity).

**Strengthening tenure security**

Farmers take their own deliberate actions to establish and strengthen security of their land rights. For example, building one’s house near a piece of desirable land is often a tactic
successfully used to lay claim to such land (Yared, 1995). Farmers also choose to grow more perennial crops near their homesteads than in outfields. Engaging in community affairs and establishing influential position has also a payoff in terms of improving security of tenure.

In addition, there have been policy and legal measures taken to improve tenure security over time. These measures include slowing redistribution of land, certification of use rights, recognition of right to compensation in case of land expropriation for public use, and reform in land adjudication systems.

**Tightening requirements for major land redistribution:** Major land redistributions involving large numbers of holdings and geographical area took place in the second part of the 1970s especially in areas with history of high tenancy. The pace of large scale land distribution has since slowed because periodic land redistribution has resulted often in diminution of holdings (fixed pool of land shared with increasing large claimants), conversion of common lands to individual holdings, fragmentation of holdings, and insecurity of tenure. Some of the regions have abandoned major redistribution of land since the early 1990s. As of 1997, all the major regions except the Amhara region prohibits large scale redistribution of existing land.

**Certification of use-rights to KA allocated land:** As of the late 1990s, all the major regions have undertaken at least once major land certification program. Today, the majority of land holders are registered and they hold land-use certificates. The registration and certification of land use-rights is generally viewed positively in terms of perceived duration of holding land, especially among those with weak command over holding rights (Berhanu and Fayera 2005 for Amhara region, Mitiku et al 2005 for Tigray, Dessalegn 2009, and Solomon 2006).

**Compensation for land expropriation:** It is the sovereign right of the State to expropriate land without prior knowledge and consent of individual landholders (power of eminent domain). This power was extensively exercised in the immediate years after the declaration of the public ownership of all rural land in 1975 when land exceeding the official ceiling was confiscated and redistributed without compensation.

As of 1995, there have been two key legal limitations to the power of eminent domain; expropriation for public purpose and fair compensation in case of expropriation of one’s holding. The 1995 federal constitution states the right of the government to expropriate private property for public purpose subject to payment in advance of compensation commensurate to the value of the property. Proclamation 455/2005, which is the latest federal law that governs land expropriation and compensation, defines broadly the meaning of “Public Purpose” as “use of land for a better development in conformity with urban or rural development plan”.

The law vests the power of expropriation of rural land in Woreda administration. A decision to expropriate land for public purpose may also be made by appropriate higher regional or Federal government organs. Since land us not a private property, a landholder whose holding is expropriated is entitled to payment of compensation for (1) property situated on the land, (2) improvements on land, and (3) displacement compensation for the loss of income.

**Reform in land dispute adjudication system:** Various judicial arrangements have been attempted over the years for dealing with jurisdiction over land in rural areas (Abebe Mulatu 2009). Regular courts ceased to adjudicate land disputes during the period between 1975 and 1991.
Instead, farmer-based judicial tribunals (such as social courts) assumed jurisdiction over land matters. As of 1991, regular courts adjudicate land disputes subject to proof that the contested parties have attempted to negotiate and reach mutual agreement and, if they failed, they have gone through arbitration. The move towards integrating indigenous institutions into the adjudication process is significant since rural households often seek dispute resolution based on indigenous arrangements for they operate effectively with transparency, neutrality and objectivity.

**Cause for persistent tenure insecurity**

To reiterate, there are signs that indicate some improvements in tenure security among primary holders of administratively allocated land. These landholders perceive longer duration of holding and transferability of their holdings to their heirs. The possession of use-rights certification has heightened these perceived gains in tenure stability and transferability of land. There are instances where farmers in the long-settled highlands with history of moderate to severe land degradation are willing to take risk in investing in long-term land investment, which suggests either the existing level of security is adequate or there are non-tenure factors that are important in influencing investment decision (e.g. Chilot 2007, Berhanu and Swinton 2003).

Notwithstanding these gains, there is uncertainty whether the land policy and legal measures have been adequate (or, effective) to meet demands for certainty in land rights. The empirical evidence is thin here. However, few survey based studies show that there are still unmet demands for certainty in land rights. For example, the findings in Tekie (2000) show that farmers are willing to pay more to obtain land close to their homestead or to be certain that they are able to hold to the land they invested until they reap the benefit. Similarly, farmers who have benefitted from the first-round land registration and certification expressed their willingness to pay higher premium for better defined and bounded long-term possessory certificate (Deininger et al 2007).

The prospects for meeting these unmet demands depend critically on: (1) sustaining stability in tenure over a long period; (2) maintaining and improving the value of land certificate; (3) honoring right to fair value compensation in case of taking land for public purpose; and (4) enforcing land rights in court of law. But there are some deficiencies with the design and implementation of the current land reform system that limit these critical elements to foster tenure stability and security, which are a cause for persistent tenure insecurity (read also the discussions in Dessalegn 2009, and Solomon 2006).

**Inherent instability due to imbalance between demand for and supply of land at Kebelle level:** The challenge for sustainability of tenure stability is rooted in the policy that promises universal access to land free of charge at place of residence in face of inherent imbalance in land supply and demand. On one hand, farmers can only claim for administratively allocated land at the Kebelle (comprise of one or more villages, and represents the lowest administrative stratum) where they permanently reside but the pool of land available at kebelle level is fixed and land suitable for cultivation is already distributed. On the other hand, there are mounting demands for land; there are farmers who hold land but seek additional land to fully utilize their family labor or produce enough for subsistence, and there are new claimants for land who have come of age and
seek land to cultivate. With scarce productive non-farm employment to absorb the growing labor force and limited contribution of migration as a way to ease pressure on land, the gap between the pool of land available at place of residence and the demand for land is bound to persist and manifest, for example, in sub-division of existing arable land to an uneconomical size, growing rural landless, increasing encroachment of common lands (forest and grazing lands), and illegal occupation of farmlands. These manifestations of unmet demand for land are bound to destabilize the perception of stability in tenure among the farm communities.

Incomplete and decaying land use certificate: The registration and certification of land use-rights is generally viewed positively in terms of its potential to enhance security of tenure such as perceived duration of holding land.

But, as evident from the assessment of the first-wave of land registration and certification, there are some design and implementation inadequacies that are bound to diminish the gain in security of tenure (Berhanu and Fayera 2005 for Amhara region, Mitiku et al 2005 for Tigray, Dessalegn 2009, and Solomon 2006).

By design, the land certification program did not capture some competing interests in land. For instance, there are interests in land that are legally recognized but unregistered such as land under short-term lease. There are also informally practiced and unregistered interests such as informal long-term leasing or land mortgaging. The omission of these interests remains the source of land claims and disputes.

In addition, there are inadequacies in boundary demarcation and marking, and measurement of land, which are critical in an environment where land is scarce and competition for access is intense. The identification of farmers eligible for land certification and their holdings were not adequately transparent (more on governance of the certification program in Dessalegn, 2009). The low cost approach, which maybe defensible given the limited expected benefits of the program (Solomon 2006), meant choice of technologies that leave contestable demarcation of boundaries and measurement of holdings.

Furthermore, it is important that changes in land interests, rights holders and holdings are updated and recorded in land registry and certificates. Because of lag in updating records, there will always be a temporal decay in value of land certificate. When such delay is prolonged, the value of title certificate diminishes and consequently its positive effect on land security. The reports on the initial assessment of the first round land registration indicate considerable lag in updating land registration in the regions, which is indicative of diminished sustainability of the benefits of the program.

These types of deficiencies in the first round land registration and certification suggest that the issuance of land-use certificates is necessary but not sufficient for sustainability of tenure security. The pressure is bound to mount for improved precision of boundary demarcation, accommodation of unclaimed interests in land, and inclusion of the young farmers who have come of age to starting farming. Without these improvements, disputes over land are bound to persist.

Confiscatory land expropriation and compensation: A key test for the credence of holding land certificate is how farmers who are facing imminent land expropriation are subjected to legally bound, objective and transparent land expropriation procedure and adequate
compensation. The evidence indicates there are multiple sources of uncertainty related to elastic
definition of public purpose for land expropriation, diffusion of authority for land expropriation
and compensation, ambiguity in selecting communities and individual landholders for
expropriating land, non-recognition of some landholders for compensation, overlap in
compensable interests, under-compensation, and non-adherence to land expropriation procedure.

The meaning of “public purpose” is not adequately defined in the constitution as well as
the subsequent laws. For example, the federal expropriation law (proclamation No 455/2005)
states that a woreda administration “shall, upon payment in advance of compensation, have the
power to expropriate rural landholdings for a better development purpose to be carried out by
public entities, private investors, cooperative societies, or other organs”. Such elastic definition of
public purpose is not amenable for consistent testing of the existence of public purpose. For
eexample, the taking of land for public purpose is defensible in cases where such land is necessary
to produce public goods (e.g. building large dam, roads, and power utilities). But it is hard to
defend expropriating land for private investment in agriculture as agricultural goods are strictly
private. It is unclear why it is necessary for the society at large to bear the cost of expropriation
(including displacement) when the private commercial farmers can reap the return to investment
by producing goods that are excludable and rivalry.

There is also uncertainty with regard to power of expropriation as well as compensation. Although Woreda administration is vested with the power of expropriating rural land, such power
in practice is diffused across Woreda, regional and federal administrative organs. There are no
instances where Woreda administrations have objected to expropriation decisions made by higher
echelon government organs in all regions (Addis Anteneh and Associates, 2007). As the court
cases reported in Daniel (2009) also indicate, landholders are uncertain as to who has the final
authority with regard to settling compensation.

Land expropriation is not a random process. Some landholders are expropriated their
holdings whilst others are unaffected. There is uncertainty as to the rules guiding the “identification
and targeting” of communities or landholders whose holdings are expropriated for public purpose.
For example, it is easier to predict from existing development or master plans communities that
face land expropriation for building, for example, large infrastructure projects (like roads and
dams). But the rules are ambitious or fuzzy when it comes to deciding whose individual holdings
to take away for public purpose such as for private investment. The potential exists for arbitrary
land taking that might not always be adjudicated in court of law.

Not all landholders whose holdings are taken are compensated. Compensation is restricted
to farmers with land certificate as a proof of legal possession over the land to be expropriated. It
is unclear whether farmers whose names are in the Kebelle registry and paying tax but not
possessing land certificate are qualified for compensation. Except for registered lease holdings,
the expropriation laws are silent about the rights of secondary holders for compensation. Thus,
landholders who operate land acquired through rental, gift or loan are unlikely to be eligible for
compensation. The law recognizes the right of expropriated landholder for “compensation
commensurate to the value of the property” or “just compensation” or “fair value” compensation.
But land valuation and compensation is confiscatory by design and practice.
First, the expropriation laws require farmers to be compensated for “property situated on land”, permanent improvement in land, and loss of income due to land expropriation. But these compensable interests are not differentiable. Second, the valuation of these interests is either at their direct cost or past income. Such approach fails to recognize that it is the current and future income stream that is capitalized in the current economic value of land. Third, expropriated landholders are rarely compensated for the legally stipulated compensable interests. Fourth, landholders generally prefer land-to-land substitution (Daniel 2009), but shortage of land means “ending up with “smaller, low quality and distant” replacement land (Daniel 2009, Dessalegn 2009). Finally, there are important uncompensated non-economic attributes of land that are important to landholders such as the bundles of rights in land, and social and cultural value.

Given the limited legal knowledge of the smallholder population, it is unlikely landholders are sufficiently aware of the legal instruments governing land expropriation and compensation. However, they express their grievances with respect to non-notification of expropriation in advance, inventory of property and valuation, amount of compensation, non-payment in advance, delay or cessation of payment, time allowed before eviction, and threat or use of force to evict (Addis Anteneh and Associates, 2007). Whilst the magnitude of these cases is unknown, they are nevertheless indicative of some of the failings of the administration of the right to compensation.

Governance deficit in land administration and dispute adjudication: An important feature of the land reform is the expansive (intrusive) system of land rights administrations. The administrative machinery, which is duplicated in all the regions, engages in all facets of land administration – distributing land; regulating land use and management; qualifying and bestowing possession right to land; certification of land transfer; taking land and compensating, and arbitrating land disputes and referring to regular court. In effect, the administrative-based land reform attempts to influence the preferences and decisions of millions of small farmers with regard to land. The encumbering of the land reform with extensive land administration risks inefficiency arising from error in understanding the preferences of farmers and influencing their decisions with regard to land. The system is also liable to breed rent seeking behavior where, for example, extra payments (including political loyalty) become necessary to get administratively rationed land (as it is the case today to lands in urban and rural-urban fringe). Other than inefficiency, such rent seeking behavior creates a possibility for land capturing by powerful groups to the disadvantage of the weak segment of the population. Governance deficit also manifests in plethora of land grievances and disputes (Tesfaye Teklu 2004 on correlates and Asnake Kefale 2004). Disputes arise within farm families over claims on parental land (e.g. land inheritance, division of land in time of family dissolution, and gifting land). There are also disputes between farm families over multiple claims over land (between primary and second right holders) and over ambiguously defined farm boundaries.

Disputes occur between families and land administrators over, for example, determination of eligibility to access land; qualification, registration and certification of right for possessing land; application of land expropriation procedure and amount of compensation; and demarcation and use of common resources (e.g. common grazing or forest land).
Instituting competent legal systems is necessary for adjudicating claims over land rights consistently in a way the laws are interpreted objectively and equitably, and enforced effectively. The existing legal system suffers from institutional instability (the search for workable institutional framework has spanned for decades without resolution). In addition, there is a question mark over its competency in terms of adjudicating land disputes consistently in a way that laws are interpreted objectively and equitably, and enforced effectively. Achieving such standard is challenging in an environment of deficit democratic governance. Judicial uncertainty hence persists and continues to weaken security in land rights.

**Persistent tenure insecurity is bound to be severe in rental land**

Some tenure studies differentiate land by tenure system (e.g. own operated administratively allocated land, rental land, and gift land) to define and measure tenure security (like Chilot Yirga 2007, Mulat and Bekele 2004, Senait 2002). There are multiple elements embedded in such broad categorization. Compared to land obtained through administrative allocation and own operated, for example, the range of admissible rights in rental land is narrower; restricted in amount rented, duration of rent, production and input choices, and rental price. Whilst the former can rent their plots, farmers holding rental land cannot sub-lease. Rights in rental land are thus less secured relative on accounts of both the durability (rental contracts are shorter) and transferability measures.

In addition, rights to rental land are recognized but they are largely unregistered. Only farmers who meet the minimum requirements for rental contracts are required to register, i.e. rental contracts longer than 2 years in Tigray and Southern Nations, Nationalities and Peoples Region, and 3 years in Amhara and Oromia are required to register. Since the majority of rental contracts among small farmers fall below the minimum threshold, they are largely unregistered. The non-registration of rental contracts means disputes arising over rental contracts are contested outside the formal judicial system; either in informal dispute resolution institutions or administratively decided.

Furthermore, there is no compensation in rental land. In the course of the first round land registration and compensation, for example, rental contracts were nullified, and rental plots were taken from lessee farmers and returned to lesser farmers without due regard to contractual terms and compensation. In fact, the certification program has created asymmetry in distribution of risk in rental market; the risk of transacting in rental land has shifted from those on the supply side (i.e. farmers whose risk to rent out land is reduced because of possession of title certificates) to those on the demand side of the markets (farmers seeking to rent in land but recognize their rights in rental land are unregistered and hence unenforceable in court of law).

In short, rights in rental land are fewer, non-transferable, largely unregistered and weakly enforced relative to holders and operators of land obtained through administrative allocation. Farmers in rental market seek for more contractual choice, longer duration, formal registration of their interests in land, and contract enforcement. But the prospect for meeting these demands for more and certain rights is severely limited because of policy ambivalence, legal ambiguities, and plethora of administrative restrictions that continue to stifle growth in market-based tenure system.

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Concluding remarks

The majority of cultivators in the highlands obtain land through administrative allocation, and the bundles of rights in such land represent the dominant tenure arrangement. Both stability in tenure (longevity) and land transfer rights have improved over the years. Other than private efforts to improve tenure security, policy and legal measures have contributed to the temporal progress in tenure security. However, there are still design and implementation deficiencies in these measures that would limit their effectiveness in enhancing and sustaining tenure security.

The long term imbalance between demand for and supply of cultivable land in the highlands is potentially destabilizing to the perceived longevity of landholding (i.e. tenure stability). The solution is also long-term. But the gravity of demand pressure on land calls now for revisiting the promise of universal access to land, and relaxing restrictions on ways and place of access to land as well as mobility of labor across space.

The program of land registration and issuance of land certificate is necessary, but more needs to be done to make it inclusive and transparent. In addition, improvements are necessary in land demarcation, measurement and geo-referencing, and monitoring changes in land interests and updating land registry. There are important lessons to learn from the experiences of other Sub-Saharan African countries as to the potential benefits of land titling that planners should be cognizant of in costing such program.

The recognition of the right to compensation in case of land expropriation for public purpose is significant for certainty in land rights. However, more clarity is necessary in definition of public purpose, institutional mandate for expropriating land, compensable interests in land, and rules governing land expropriation procedure. There are also conceptual and measurement difficulties with the current practice of land valuation that needs continuous testing and refinement for better approximation of land value for compensation.

Compared to primary holders of administratively allocated land, tenure security is the least among farmers with secondary access to land, particularly land rental among small farmers. Rights in rental land are fewer, recognized but largely unregistered, and the least enforced. Although the prospect for improving tenure security in land under secondary access is severely limited in the current policy and legal environment, the silence of land policy and law is not congruent with the expressed preferences of landholders and it is inequitable.
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