ACCESS TO LAND AND TENURE SECURITY IN ETHIOPIA'S ETHNIC-BASED ADMINISTRATION SYSTEM

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N.B. The paper does not reflect the views of USAID.

ABSTRACT

Ethiopia follows a federal state administrative structure. Regional states are organized on ethnic basis. The country has over 85 ethnic groups and languages, but only majority ethnic groups, with a few exceptions, have their own standalone regional states.

The Constitution of the country categorizes land as a public property and gives land administration responsibilities to regional states. Although the Constitution confirms land access right to all citizens, regional states' constitutions and land laws put restrictions to prioritize residents.

Goal and Objectives:

The paper aims at revealing some of the linkage between ethnic-based federalism and its impact on access to land and tenure security. By gathering and analyzing evidence from literatures and land experts, the paper provides with important recommendations for the way forward helping to improve access to land and tenure security for all.

Methodology:

Literature review and observation of dynamics in access to land and tenure security led the Author to administer a quick survey among land experts. About 25 experts who have knowledge and experience in the country's land administration system responded to survey questions. After data was collected and compiled, a simple descriptive statistics method was applied to analyze and generate understandable, tangible, and acceptable results.

Results:

Findings from the survey indicated that regional and local authorities' unfair treatment towards people coming outside of regional states discourages investment and provokes conflict. The country experienced hundreds of conflicts since ethnic-based federalism was introduced in 1991. In addition to ethnic categorization, the conflicts have their root in landholding arrangements.

Although there are major steps being taken in reforming the macroeconomy including privatizing government owned enterprises like telecom, it is not yet clear if the government will continue to reform the land tenure system and ethnic-based federalism. Respondents in the survey indicated that the current land tenure and governance systems need changes allowing free movement of citizens, encouraging investment, prevailing peace, and improving access to land and tenure security.

Keywords:

Access to land, tenure security, ethnic-based, federalism, conflict

1. BACKGROUND: EVOLUTION OF LAND TENURE SYSTEMS IN ETHIOPIA

Land has been an important economic, social, and political instrument in Ethiopia's history. As the rural economy and social structure heavily depend on crop and livestock production, land has been a crucial asset of farmers, agro-pastoralists, and pastoralists. Land increasingly became an expensive property particularly for residences, businesses, and industries.

Land has been a source of political struggle and serving as an instrument to ensure governments' power. Pre-1975, the land tenure system was known for its feudalistic nature landlord-tenant relationship in most farming areas although there were many other types of tenure systems practiced in different parts of the country. There was a critic that people who moved from northern and central Ethiopia to southern parts as military personnel, civil servants, government appointees and farmers controlled a wide area of land through grants from government, purchases from previous owners and other forms. Some became landlords and employed or assigned several landless people as tenants who pay back to the landowners. Although landlordism prevailed in much of the central and southern Ethiopia, the northern part also had a similar arrangement to a certain extent. Since farming was practiced for a longer period and land was scarce to have large farms in the populated north, land availability and expansion of government's formal structures helped many landlords to emerge in the south. Landlords in the south were not only those people who moved from the north and central Ethiopia, there were local landlords who had several tenants on their land (Wolde Semayat 2020).

However, government-sponsored move to the south and subsequent control of land was seen by some as invasion of the land of local people in the south. The aftermath of this perception and unstopped propaganda of anti-landlordism left a bad memory in the minds of locals. The perception and bad memory have been used until recently to mobilize locals to react against other ethnic groups. However, according to Wolde Semayat (2020), in 1952, King Haile Silassie introduced a bill aimed at supporting tenants to have their own farming land, but there was a budget shortage to move millions of landless to areas where land was available and provide rehabilitation support during their transition. In addition, landlords in the parliament and cabinet including those from the south stood against the bill. Despite the effort of the King to help tenants to become land holders and self-reliant, his government has been seen as a feudal regime promoting landlordism (ibid.).

In 1975, the Provisional Military Government of Ethiopia who took power from King Haile Silassie issued two proclamations abolishing private land ownership system and landlord-tenant relationship for rural land and confiscating extra houses of individuals in urban areas. The proclamations turned all rural and urban lands to a public property. The land reform enabled tenants to have their own land but put a limit of 10 hectare per a holder. Public ownership of land remained the only official form of ownership during 16 years of the Military Government's 17 years' rule.

The Ethiopian People Revolutionary Democratic Party (EPRDF) adopted the military government's public ownership form on land when it took power in 1991. Later land even became part of the Constitution in 1994 with detail articles cementing land to remain under the public ownership. The Constitution gives land administration responsibility to regional states which were established on ethnic

basis. Although decentralization of land administration can be seen as a good practice to empower local authorities, it can become a challenging factor for land governance if regional governments could not provide fair land governance, land tenure security and property rights to all.

As a country of over 110 million people, more than 75 percent of the population depend on agriculture in Ethiopia. The highland part covers about 40% of the country's size holding over 80% of the population. The lowlands with about 60 percent of area coverage of the country have a few sparsely populated and mobile pastoralists. Although the lowlands have shortage of rain for agriculture, they have big rivers, which can irrigate significant portion of the area. Looking at this opportunity, the people in the highlands would like to move to the lowlands to access land and engage in agricultural activities. Because of restrictive laws of regions and ethnic-based biases, there is very limited movement of people from one region to the other and from the highlands to the lowlands. Those who try to move would also experience a risk of losing their tiny plot of land if they have one in the highland. In addition, regional land laws do not provide a room to allow access to land for people coming out of their regions. Most people moving either to the lowlands or other regions rent farming land from or arrange sharecropping contract with local landholders.

In a public ownership land tenure system, there are a few options remaining to facilitate land transaction or transfer among land seekers particularly in the highlands. Land inheritance and sub-division have been the major source of land allocation for the landless youth. Some regional states used to allocate land through land redistribution mainly targeting local ethnic groups. The redistribution was practiced officially until the federal government issued an amended land proclamation in 2005 that prohibited the regular practice unless it becomes compulsory because of certain circumstances, example irrigation scheme development (Federal Democratic Republic of Ethiopia 2005).

2. THE CONTROVERSIAL ETHNIC -BASED FEDERALISM

Until EPRDF took power in 1991, governments in the modern history of Ethiopia had a unified structure with provinces organized based on geographic conveniences. However, sub-provinces and lower-level administrations had language-based delineations. In a country with over 85 ethnic groups, it was not a strange thing to see homogeneous people with distinct local languages, religion and ethnicity as one goes down to lower-level administrative structures. As people were free to move from one province to the other to engage in private and government businesses, heterogeneity in demography was common in towns and cities.

The EPRDF's Transitional Government, 1991 to 1994, advocated for ethnic-based federalism and sub-divided the country into nine ethnic regions. In 1994, the Transitional Government introduced a constitution recognizing ethnic-based regional states. Five regions namely Afar, Amhara, Oromia, Somali and Tigray got their area identified based on majority ethnic groups. The others namely Benishangul Gumuz, Gambela and Southern Nation, Nationalities and People (SNNP) regions were organized by bringing together various ethnic groups who are thought to have contiguous boarders and show similarity in livelihood, geography and culture. Exceptionally Harari got a regional status with a recognition of a few thousands of Harari people. While merging many big ethnic groups, for example under the SNNP Region, why regional status was given to Harari remained a question.

The Constitution indicates that the federation is comprised of states and the states are organized based on settlement patterns, language, identity, and consent of the people concerned (Transitional Government of Ethiopia 1994). Nevertheless, the shape of regional states in Ethiopia dominantly demonstrates language and ethnic identity. In some regions like the SNNP, settlement pattern was also taken into consideration as over 50 ethnic groups were merged to form the region. Based on constitutional provision, nine regional states and two administrative cities were established. Recently the number of regions grew to 10 after the Sidama people held a referendum and voted to separate from the SNNP region.

Although the notion of promoting ethnic federalism was to allow self-autonomy in administration, the system paves the way for one ethnic group to dominate many others. When a majority group controls power, many minorities remain disadvantaged and marginalized. Beyond limited or absence of opportunities to assume power, minorities would most likely be marginalized in resource control including land. During land allocation, redistribution, expropriation and administration services, minorities lack the power to ensure their rights are protected.

Although regional states were established based on mainly language and ethnic identity, most of them have significant proportion of residents speaking different languages and belonging to other ethnic groups. The Constitution and structure of regional states seemed to have undermined these people. For example, in the Oromia regional state, according to the Central Statistics Agency of Ethiopia (2007), out of the total population, 12.17 percent were found to be non-Oromos and belong to 82 different ethnic groups. Of these different ethnic groups, 59 percent were reported to be Amharas and 7.6 Guragies. Despite this fact, the region sees itself as homogeneous and its policies often fail to consider such demographic diversity. Moreover, majority of the non-Oromos were born in the region and they hardly attach themselves to other regions in terms of identity.

Almost all regional states have unresolved boundary issues. In a society where boundless inter-ethnic marriage, economic and social relationships existed for a long time, at times it has been very difficult for people living around boundaries to identify themselves to one of the regional states. As regions aggressively implemented local language in all official businesses and in the education system, people around boundaries had very difficult time to get social, economic and administrative services in the way they would like to have. Most ethnic based regional states failed to serve residents fairly who do not speak the local or working language of the region. This results in marginalization of those who cannot demonstrate regional identity in terms of language and ethnicity. Government schools provide education in local languages and have very little option to allow other language speakers to choose. Employment opportunities favor those who claim ownership of regions and speak working language of the regions or one of the local languages.

3. LAND AS A CONSTITUTIONAL MATTER IN ETHNIC FEDERALISM

Land became part of the Constitution of the country since 1994. Although land reform in 1975 brought drastic changes in the land tenure system and form of ownership, it was not taken up to the level of constitutional matters. In addition to adopting public ownership, bringing land issue to a constitutional matter was perceived by many that the EPRDF government resolved the issue of land tenure for once

and all. Since there was an experience that those who came from the north and central parts of Ethiopia owned land in the south as landlords until the 1975 reform abolished the then land tenure system, there seems to be a perception to avoid such landlordism in the future by framing public landownership in the Constitution. It is evident that ethnic-based federalism was the foundation for the Constitution and land became an important matter interweaved in the federal structure and constitutional matters.

The inclusion of land in the Constitution kept the need for land reforms away from other development agendas for many years. Because conducting radical land reform involves constitutional reform. Changing the Constitution was unthinkable during the EPRDF regime as it was considered as a treason. The situation provoked pro-land reform groups to criticize the inclusion of land in the Constitution. Based on this concern, an assessment was conducted to see if other countries in the World include land in their constitution. The importance of reviewing other countries' constitutions is to know first if Ethiopia is a unique country in terms of addressing land in a constitution and second to examine how detail land tenure issues are addressed in different countries' constitutions.

The Author of this paper reviewed a total of 20 countries' constitutions namely *Bolivia, Ghana, India, Kenya, Mongolia, Namibia, Rwanda, Senegal, Thailand Vietnam, Zambia*, and Albania, Bangladesh, Chile, Egypt, Georgia, Jordan, Liberia, Malawi and Tanzania. Out of these, 11 countries (55%), the first category in italic, were found to include land tenure issues in their constitutions. Half of the assessed countries are from Africa and of the 10 African countries, six (60%) addressed land tenure issues in their constitutions at various degrees. While some constitutions give details in terms of ownership, use rights and administrative responsibility, others put a general language just to indicate citizens' right to land ownership or use. Generally, the assessment helped to know Ethiopia is not the only country addressing land tenure matters in a constitution.

Like Ethiopia, Vietnam and Tanzania went through a socialist ideology and still consider land as a state property. The Constitution of Vietnam gives details on the ownership of land and responsibility of the government to allocate land to individuals and organizations. It also indicates that land users may transfer their rights and ensures that land users have the right to get compensation if land is recovered for a public interest such as national defense and security (Government of the Socialist Republic of Vietnam 2013). Whereas Tanzania's Constitution does not say anything about land and landholders' use right, but it has a general provision about the right of individuals to own and get protection on their property (Government of the United Republic of Tanzania 1977). It looks like the Tanzania's Constitution covered land rights indirectly under property rights. The Tanzania Constitution has a provision mentioning that all individuals have the responsibility of protecting natural resources as properties of the State (ibid). Experiences of the two countries appear to be good examples to show that despite land being a state property, land tenure issues could or could not be addressed in a constitution. As shown in the case of Tanzania, the absence of detail provisions on land rights in their constitution has not prevented the government to administer land as a state property.

Kenya included land ownership forms in its Constitution. All lands are not a state property in Kenya. Although the Constitution classifies land as public, community and private, it indicates that all land belongs to the people of Kenya collectively (National Council for Law Reporting 2010). There is a private ownership form in Kenya allowing freehold tenure. The Constitution provides certain principles on how

to hold, use and manage land. Almost all institutions of different countries tend to indicate that natural resources including land belongs to their people. In this regard, the Kenya Constitution does not contradict with the private ownership of land by giving all land's ownership to the people. In addition, addressing land tenure in the Constitution has not prohibited private or freehold ownership of land.

The EPRDF government dedicated much of the property rights section under article 40 of the Constitution to land use rights and obligations. The inclusion of land issues in the Constitution was a strange and new phenomenon because the previous three constitutions of Ethiopia did not address land issues at all. The Constitution provides details affirming that land is the property of the people that government administers on their behalf. Accordingly, in a section determining the power and functions of states of the federal government, the Constitution provides the responsibility to administer land to regional states (Transitional Government of Ethiopia 1994).

It has been difficult to bring up radical land policy reform agendas because it leads to constitutional changes. Changing or amending the Constitution was unthinkable as it was advocated by the EPRDF Government as an absolute document that should not be touched. Working to change the Constitution was considered as insurrection and abolishing of the Federation. Once the late Prime Minister Meles Zenawi publicly mentioned that change of land tenure system in Ethiopia can only happen on the grave of EPRDF. Moreover, one of the members of the drafting committee of the Constitution, Professor Andrias Eshete revealed in an interview with Sheger 102.1 FM (local) Radio that changing the land tenure system can make article 39 of the Constitution meaningless. As Article 39 provides cessation right to regions and regions are free to declare independence, private freehold ownership will allow people to move from one region and occupy land in another region and this complicates the cessation right (Sheger 102.1 FM 2012). The message from the member of the drafting committee clearly indicates that land issue was intentionally addressed in the Constitution under Article 40 and very much related to Article 39. It looks like the practicability of Article 39 is hinged on Article 40. Land was decided to remain a public property based on use rights of landholders mentioned in Article 40. By doing so, the EPRDF Government made sure that land remains a public property if the Constitution continues to be the law of the land of the Republic.

The old EPRDF leadership was replaced by change seeker executive committee members of EPRDF in March 2018. The new leadership transformed the party to a new form and renamed it as Prosperity Party (PP). Although there are voices calling for the change of the Constitution, it remained difficult to predict if PP is yet ready to handle constitutional changes now.

4. LAND ADMINISTRATION IN ETHNIC-BASED REGIONAL STATES

4.1 Regional Laws

The Constitution provides regions with responsibility of administering land and enacting land laws based on a law developed by the federal government. Devolving land administration power to regions showcases decentralization of power and functions. Although the federal government enacts legal framework providing directions for regions to administer land in a way interpreting the Constitution,

some regions interpret their constitutional power in a wrong way and develop a land law discriminating against non-locals in land allocation and tenure security.

Regional states prepare detailed land administration laws tailored to region-specific contexts and political objectives. The trend thus far shows that regional states' interest has been focused on putting several restrictions limiting landholders' ability to rent, bequeath and inherit to third parties and collateral to access credit services. The objective of such restrictions seems to keep land transaction or movement within locals, but regions claim that allowing free land transactions leave the poor landless. The restrictions obviously prohibit movement of farmers including investors to areas where land is widely available. Unless regions allocate or lease land or allow farmers to rent their holding, there is very little opportunities for others to travel across regions to access land. Although the Constitution provides rural landholders with a wider and non-timebound land use right, regional land laws curtail the rights in various ways. Because of this situation, the landholders may incline to be tenants of the states.

Regional states' laws showed heterogeneity in terms of allowing and limiting land use rights. Some regions such as Amhara practiced official redistribution of land until 2005 by taking land from one landholder and allocating to the other in the name of addressing the issue of landlessness. The practice was coercive and created conflicts among community members and with government and eventually eroded tenure security. Other regions like Oromia and SNNP did not implement land redistribution at all. Tigray, Oromia and SNNP put unreasonable land size and time limit for landholders to rent out land. Impracticality of such limits discouraged landholders to use the formal system to register land transaction. Apparently, Amhara allowed rural landholders to rent out their land without size limit and for up to 25 years.

4.2   Discriminatory Land Governance

Ethnic federalism appeared to empower certain ethnic groups who are identified as owners of regions. Although the Constitution of the country recognizes all Ethiopians nationals as citizens, regional states consider in their constitution certain groups of people as owners of the regions. This automatically excludes significant portion of Ethiopian nationals in the regions. Such classification of people as owners and non-owners has a big implication in the utilization and ownership of resources including land. Since other laws of the regions derive from their constitutions, the possibility that land laws to favor locals is very high. As regions have already identified certain ethnic groups as owners of the regions, this directly prioritizes land use right to locals. In other words, giving ownership authority of regions to locals means lands and primary rights in the regions also belong to these people. Other people would fall under secondary or tertiary rights' category.

Regional states have region-specific constitutions and laws ensuring the dominant language and ethnic group take the upper hand. Institutional structures and legal instruments are designed to encourage one or more ethnic group to become establishments and to control political power, economy, and natural resources. On the contrary, the institutions and laws see other people in the regions as a second level citizen. The Benishangul Gumuz Regional State Constitution, for example, recognizes five ethnic groups (Berta, Gumuz, Shinasha, Mao and Komo) and neglects others who have even the largest number of

people (Benishangul Gumuz Regional State 1995). In Benishangul Gumuz Region, 22.5 percent of the population are Amharas and 17.7% Oromos (Central Statistics Agency of Ethiopia 2007). But these two groups are not recognized in the Constitution. Similarly, the Gambela Regional State Constitution in its preamble identifies five ethnic groups (Agnwak, Nuwer, Mejenger, Opo and Komo) as people of the but overlooks all other ethnic groups living in the region (Gambela Regional State, 2002).

Per the Constitution of the Federal Democratic Republic of Ethiopia (1994), land administration responsibilities rests with regions. Regional governments enact land laws that they believe serves the interest of the region and its people. With the power of regions to allocate, transfer and alienate land uses, those people who are not recognized as owners or people of the regions would not be able to get access to land and tenure security rights as equally as locals. This directly contradicts Ethiopian peasants' constitutional right to obtain land and to work in any part of the country.

As stipulated in the Constitution, regional states issue land administration laws based on the legal framework of the federal government. The legal framework of the federal government focusses on major land administration provisions and leaves the details for regional states. The responsibility to enact and implement land laws provides the regions with an opportunity to make decisions on land allocation and transfer rights. Although the Constitution of the federal government provides all citizen with the right to obtain land, regional constitutions appear to guide the land administration approaches in a way that ensures people of the regions benefit from it. In cases of discrepancies between federal and regional land laws, unfortunately there has not been a tangible effort made to challenge regions. There is a lack of system or working procedure that examines regional laws to ensure that they are not contradicting with the laws of the federal government. Appealing to the Federal Supreme Court remains to be the only option if individuals or groups want to challenge legal conflicts and discrepancies. However, it is a very long process and very expensive for ordinary citizens to bring up cases and get it arbitrated.

Historical settlement pattern and preference to areas suitable for agriculture kept majority of Ethiopians in the highlands. With increasing population pressure and diminishing farming land, the carrying capacity of the highland areas reached to its maximum limit. The lowland areas, however, still have a small proportion of the country's people with plenty of land left for livestock grazing and savanna bushes and trees. Although the areas are moisture stress, there are short season rains and rivers which can support farming throughout the year. The abundance of land and other natural resources would attract highlanders to move to the lowlands. Nevertheless, regional land laws do not encourage people outside of the regions to move in. Despite constitutional provisions, if Ethiopian nationals want to obtain land out of their region, they can only access land for small scale farming through rental from and sharecropping with local landholders. The people who are eligible for regional ownership can get land allocated through official channels or customary institutions. As all local people may not get labor and capacity to cultivate the land, some of them rent out to or sharecrop with farmers coming from other regions. It is very rarely that people outside of their regions can get their own land for farming from government.

Non-ethnic nationals complain about unfair land governance in the ethnic-based federalism because they must go through very difficult bureaucratic processes to get land allocated or registered for residential and business purposes. There is always intentional bias in favor of those who claim

ownership of regions based on language and ethnic identity. Urban administrations have various mechanisms to allocate land. Auction based land lease and free allocation on administrative decision are the popular ones. Free allocation prioritizes those people close to the administration and claim to be locals. As direct access to land is almost impossible, non-ethnic residents or newcomers to the regions would be forced to buy land in the informal market; or buy land officially in the name of property (immovable properties constructed on the land, example house); or pay huge amount of money to buy through official land lease auctions; or bribe government officials to get land allocated. Such discrimination in land allocation has been significantly affecting investments and growth of the local economy.
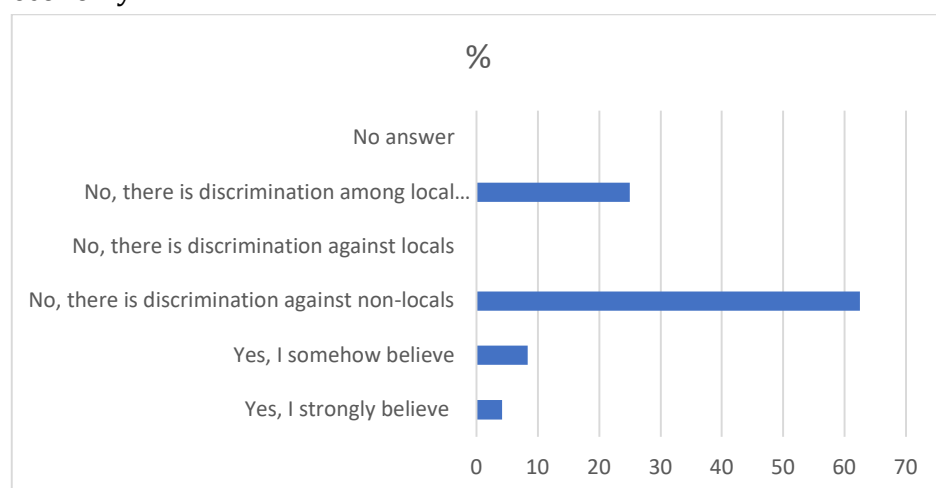
Figure 1: Do regional states treat all citizens equally in land administration issues?

Land experts were asked if they believe regional states treat all citizens equally in land administration issues. As can be seen in **Erreur ! Source du renvoi introuvable.**, about 63 percent of the respondents believe that regions exercise discrimination in land allocation against non-locals. Twenty five percent of the respondents expressed that regions discriminate even among local groups to favor a certain group. The land experts under the survey could closely observe land administration activities in regions so their response can be considered reliable. Only 12 percent of the respondents believe that regions treat citizens equally.

5. ETHNIC FEDERALISM AND CONFLICT

After the introduction of ethnic-based regional states, all political and administrative positions were reserved for people who were identified as owners of the regions. The officials who controlled power in the name of locals tend to practice a policy against other ethnic groups. This led to administrative biases in favor of locals. More importantly, the landlord-tenant relationship history was brought back by some politically conservative elites to disseminate hatred against non-locals. Even though there were landlords from local communities pre-1975 (Welde Semayat 2020), people were told to conceive that all landlords came from other areas and all local people were left tenants.

Regional states followed a direction to empower locals in all matters of administrative, educational, business and resource control fronts. Empowering local people to administer themselves, learn and

work in their language was justifiable, but failure to ensure local communities should work with others to share the wealth and power of the nation was very damaging. The people on power seemed to forget or wanted to neglect that while empowering the local people, they would disempower others.

Since EPRDF introduced ethnic-based federalism, several conflicts have been reported. Most conflicts have some sort of relationship with land. The perception inoculated in the minds of local people that other ethnic groups came to occupy land paved the way to see other groups as externals. When one group of people think or claim the land occupied or used by other groups, the group may start practicing hatred, discrimination, and pressure against the other. Discriminatory land tenure practices against other ethnicities may be practiced in a systemic way to barre them from holding land. Bad governance and poor treatment towards other ethnic groups discourage to live in the area and finally lead to displacement, either forcibly or more subtly, where they feel unwelcome and have few opportunities, so they move.

As Ethnic-based politics and growing hatred against other ethnic groups got diffused among communities, several conflicts emerged and resulted in the killing and displacement of thousands of people in different parts of the country. Many were tortured, thrown over a cliff and killed in a barbaric way. Survivors left the areas where they were born and raised. According to Ethiopian information Service Network (1991), on November 2, 1991, a total of 116 houses of Amharas and Christians were burnt with the people being inside in one subdistrict of Arbagugu District of Arsi zone in Oromia. "In December 1991, the Oromo Liberation Front cadres instigated repeated attacks on Amhara settlers. Villages were burned and civilians were killed. One hundred fifty-four Christians, mainly Amhara, were killed in Arba Guugu, and a further 46 were murdered in a neighboring area of Harerghe. At Bedeno in mid-April 1992, 150 civilians were reported killed, many of them by being forced to jump off cliffs. Most of those killed were ethnic Amhara." (Human Rights Watch 1991)

There were displacements of thousands of farmers from different regions such as Guraferda of SNNP and Wolega of Oromia regions and localities in the last thirty years. Bekalu (2017) indicates that there were 20 major conflicts between 1997 and 2015 according to records of different international human rights organizations. The conflicts were between different ethnic groups over boundary, power control, resources, etc. Most conflicts that were identified as ethnic-based have links to land and boundaries (Bekalu 2017, quoting Abbink 2006:389). Advocacies for local ownership and hate speeches against other ethnic groups by local authorities trickles down to communities and instigates hate and attack against other ethnic groups. This was demonstrated in many conflicts in various parts of the country. In mobs orchestrated to attack non-locals, some members of local communities either participated in the attack or did not take action to stop the attack. There were of course a few local community members who were courageous enough to denounce the attack and provide protection to victims.

Unfortunately, the magnitude and quantity of the conflicts increased in recent years. The current Prime Minster of Ethiopia, Abiy Ahmed, disclosed in his speech on November 30, 2020 that there were 113 conflicts in the country in two and half years since March 2018 (Ethiopia News Agency 2020). In majority of the conflicts, residents who claim the area belongs to them either forced other ethnic groups to leave the areas or conducted an accidental killing of people and burning of properties. According to the report of the Prime Minister, Oromia alone had 37 conflicts during this period (ibid.). The number of conflicts

tells the increasing magnitude of conflicts over time. In most of the conflicts, non-ethnic or non-local people were told by organized mob and, in some instances, organized armed groups to leave the area without claiming residential and property rights. For instance, in the Oromia Region several people were killed, and their properties were looted and burnt in July 2020 following the killing of a poplar Oromo singer. All the retaliation for the killing of the singer was against innocent non-Oromo nationals despite getting correct information on the killers.

In 2018, over 800,000 Gedeo people were displaced from the Oromia Region (Yarnel 2018). Gedeos were considered non-Oromos living on the land of Oromos. Those who claim ownership of the area used forces against Gedeos to expel them from the area where they livid for centuries. Gedeos as minorities living in Oromia were not able to resist the push from local Oromos. They left farms, livestock, businesses, houses and other assets behind and travelled to the neighboring region of SNNP where other Gedeos live. Villages of the Gedeo's were put on fire and there were reports of rape, gang rape, and murder (ibid.). Similar cases were reported frequently in Wolega of Oromia and Metekel of Benishangul Gumuz regions. Amhras and Agew ethnic groups were the targets in these areas. Amnesty's report indicated that significant number of Amhara minorities were killed and about 1,400 households were displaced by organized Oromo youth groups in 2018 (Amnesty International 2018).

Similarly, thousands of Oromos and Somales were displaced form Somali and Oromia regions, respectively, because of their identity. According to GARDA World (2018), quoting the European Commission's Humanitarian Aid and Civil Protection department (ECHO), about 900,000 people were internally displaced in Oromia and Somali regions of Ethiopia since 2017 because of conflicts on boundary issues. In all conflicts, survivors left their home, property and land and skipped the conflict areas to save their life. The increasing conflict against minorities seems to target their property and land. The growing hate against other ethnic groups continued to instigate conflict. Although most hoped things would improve through time, the magnitude is on the rise following political, economic and social dynamics in the last few years. In March 2020, in one day attack that targeted three small villages of Amharas, 54 innocent people were killed in Wolega Oromia (Anadolu Agency 2020). In the last two years alone, thousands left from SNNP and Oromia regions and became IDPs in Amhara and other regions. Some of these people were moved to SNNP and Oromia by government through a settlement program in the 1980s. In a recent conflict in Tigray, hundreds of thousands left West Tigray (Wolqayit Humera). Increasingly manifesting bad governance mainly aimed at harassing non-ethnic people and burning and looting of properties by organized mobs have prompted a significant number of non-ethnic farmers and businesspeople to leave the areas. The people who have been considered as non-locals invested on businesses and built properties for years. As a result, land and property tenure security of non-ethnic nationals has been at risk in many places in general and in Oromia, SNNP and Benshagul Gumuz regions in particular. Those people who acquired land through renting, sharecropping and purchase are most likely to lose their properties during conflicts as they may not have legal documents or are not able to claim back or get assistant from government for rebuilding.
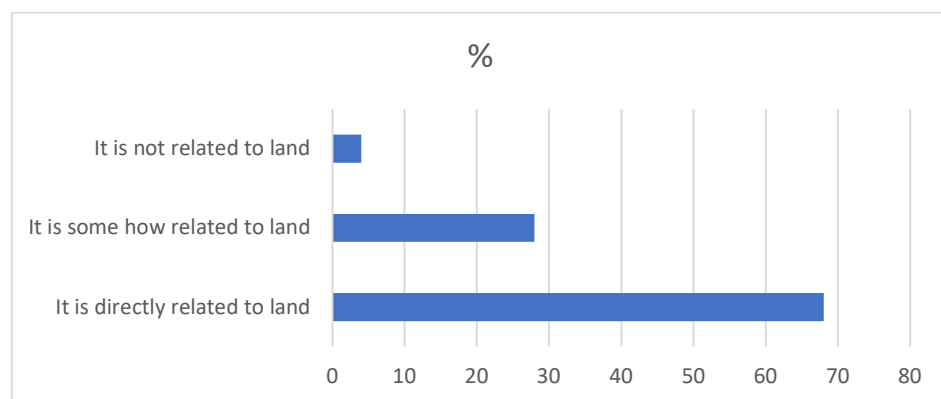
Figure 2: Ethnic-based conflicts and its relation to land

In addition to hatred developed among people due to misguided political and historical narratives, population increase also contributed to the scramble for land. As a result, jobless and landless youth would wish to confiscate land and property owned by non-locals. Responses of land experts revealed that ethnic-based conflicts directly and somehow related to land. As shown in **Erreur ! Source du renvoi introuvable.**, 68 percent of the respondents believe such conflicts are directly related to land and 28 percent think it is somehow related. Only four percent could not think ethnic conflicts are related to land. Generally, land remains one of the sources of conflict in politically and ethnically prone regions of Ethiopia. "The majority of conflicts in Ethiopia that are dubbed 'ethnic', are about land and the boundaries between territorialized ethnic groups." (Bekalu 2017 citing Abbink 2006:389)

6. ETHNIC FEDERALISM AS A CHALLENGE FOR ECONOMIC GROWTH

Before 1991, Ethiopia was known for its people's diverse settlement in ethnicity, religion and language and free movement of people and no-boundary policy among provinces. Investments were driven by production, consumption, and market potential rather than ethnic ethnocentrism. Historically the people in the north and central highlands tend to move from their birthplaces to other areas in search of job and business opportunities. High density of population and intensive farming diminished the size of land per capita in highlands. As a result, most leave farming and engage in other businesses or move to other areas in search of land. The movement of people from the north and central highlands to the south increased diversity of different ethnic groups in businesses, lifestyle, and settlements.

Previous movement of people for investment to different areas emanated from the sense of belongingness to the whole country than narrow regional thinking. Most owners of hotels, small industries, shops and other businesses invested by just looking at the market potential and economic opportunities. Dire Dawa, Adama, Shashemene, Hawassa and Jimma can be mentioned as practical examples demonstrating ethnic diversity and businesses owned by different ethnicities. These cities were able to grow fast and create job and income opportunities for people in the cities and surroundings. Investors and business owners did not see the cities as a place of a single ethnic group. People from different ethnic background came and invested with the hope that they would make profit and expand businesses.

Nevertheless, the situation in the secondary cities and small towns has changed since ethnic federalism was introduced and aggravated after the new government assumed power in 2018. The transition created vacuum in ensuring security and different political groups used the gap as an opportunity to instigate conflicts. Trust in local authorities' governance to ensure tenure security for property has been diminishing. Conflicts in Shashemene, Zeway, Jimma and other cities in Oromia left significant number of none-Oromos in fear, hopelessness, and deterrence. The conflicts left properties of non-Oromos looted, destroyed, and burnt. Targeted ethnic based violence disrupted the business environment and forced many to flee. According to Ethiopian Observer (2020), ethically motivated attack in Shashemene left private buildings, businesses, hotels, and schools looted and burnt.

An attack against non-Oromos in 2018 significantly affected the transaction of land and properties on land in the surroundings of Addis Ababa City. Following the soaring land price and congestion in Addis Ababa, peri-urban areas around the city have grown very quickly. The development of residential houses, businesses and real estates boomed in these areas since 2005. But attack against non-Oromos in 2018 negatively affected the land market. Many people moved to the hinterland of Addis for security reasons and preferred to afford renting in and buying expensive houses. If one wants to sell a house in the peri-urban areas, he/she should accept a much-lowered price compared to the prior situation.

Because of differences in natural resources' base, farming system, specialization in certain products and production season, there have been market linkages among different provinces and regions. Some regions may send cereals and receive livestock; others may sell coffee and buy cereals; a few may send industrial products and get fruits and vegetables. Such transactions served as a bond and created complementarity among regions. In addition, there have been movement of labor from one area to the other based on pick agricultural seasons. The labor demand and supply created an opportunity to learn from each other on cultural and social aspects.

The increasingly tightening boundary among regions has been limiting economic transactions in many ways. Conflicts disrupt transportation and bring many checkpoints on roads to inspect the movement of commodities. The long-time trust has been deteriorating among regions because one region puts several obstacles affecting the other following conflicts happening here and there. As a recent example, in from 2018 to 2020, commodity movement from the Amhara to the Tigray Region was highly affected because of blockage by organized youth groups in Amhara and unnecessary checkpoints established in both regions. Amhara as a surplus producer of agricultural commodities was the main supplier to Tigray for a long period of time. Because of the blockage, price of cereals rose in Tigray. The restriction has also affected traders and farmers in Amhara because they lost one of the potential markets for their products. Conflicts in Wollega, Oromia stopped movement of traders and transporters for several months. The stoppage might have contributed for a high price of agricultural products in Addis Ababa and neighboring regions and low demand for produces in Wollega. The economic effect caused by ethnic based conflicts would have been immense if it was properly assessed and reported.

7.   THE WAY FORWARD

7.1   Amending the Constitution and Land Laws

In Ethiopia, land tenure issue is deemed to remain controversial for quite some time. With different interest groups suggesting various types of solution and private versus public ownership debate showing extreme views from either side, it is unlikely that the country will soon have a land tenure system that satisfies the need of most citizens. If the people are asked to choose a land tenure system that they need, and if they can make their choice without elites' push and imposition, they would pick a land tenure system that suites their economic and social need. Unfortunately, politicians and elites see land tenure issues from the perspective of political goals. This was reflected in the 1974 government change, the 1994 Constitution, and regional constitutions, and land laws and is now at the center of political ideologies of the ruling and opposition parties.

Erreur ! Source du renvoi introuvable. shows that majority of the respondents (land experts) believe land laws reform is important. The experts' wish to see land reform emanates from professional observation and analysis of the problems in the existing land governance. There is a need to improve the tenure security of landholders in rural farming, pastoralism, urban dwelling, and investments. The need to improve tenure security has been growing through time. Despite the Constitution and the ruling party's stand, few government officials have bought this agenda since some years. Nevertheless, there seems to be lack of consensus among the political leadership to act. Land and property rights provided in the Constitution would give sufficient room to improve tenure security within public land ownership form if government officials were courageous enough to reform and implement land laws. There seems to be either lack of political will to explore rights stipulated in the Constitution or there is a fear not to breach constitutional provisions.
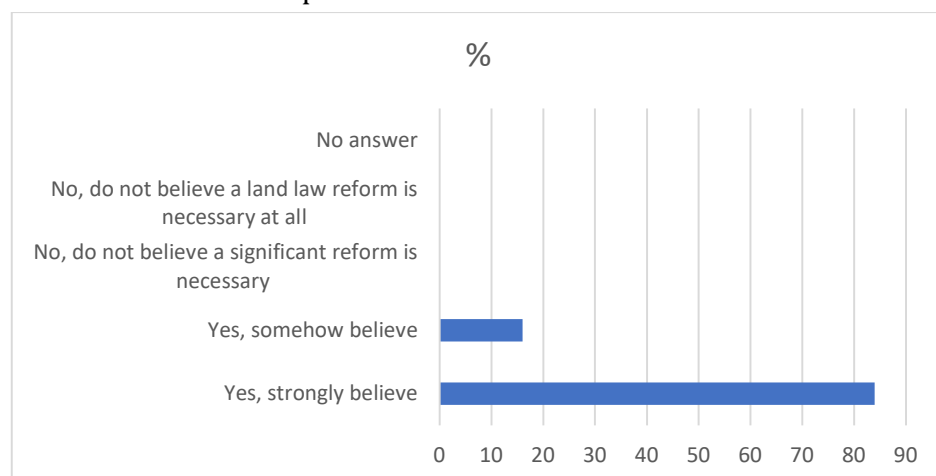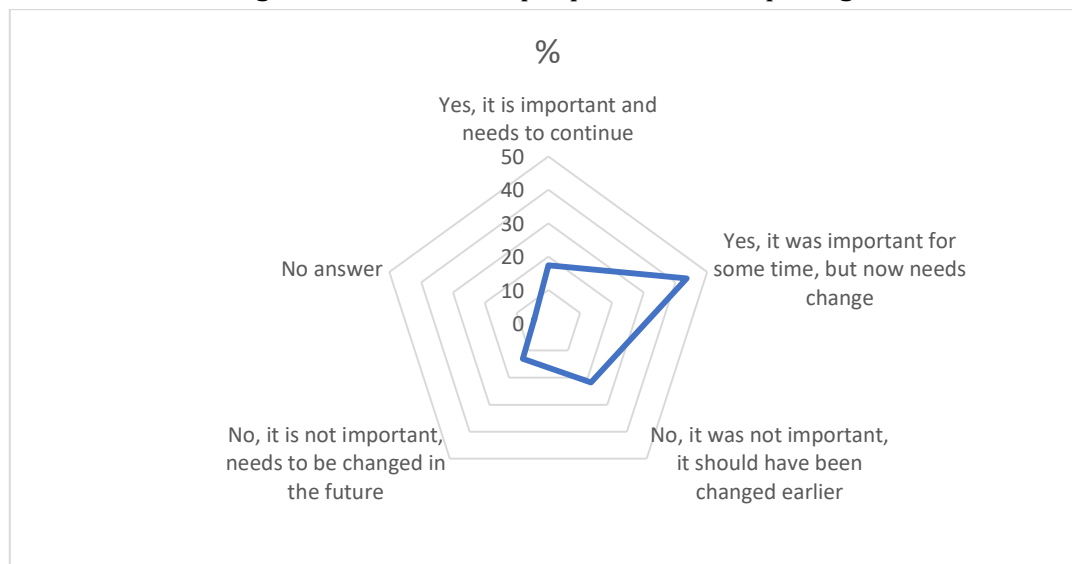
Figure 3: Do the federal government and regional land laws need a significant reform to improve tenure security of landholders?

Land experts who were asked if land should remain as part of the constitution gave an interesting response. More than half of the respondents (52%) believe land should continue to be part of the Constitution. Although there are critics that land should not be part of the Constitution, experiences from

other countries indicated that putting land issue in the Constitution should not be a problem. In countries where private ownership of land is exercised, land is included in constitutions. Having land issues in the Constitution has been perceived as a problem to conduct radical land reforms in Ethiopia. Rather the point is what specific issues and details the Constitution should address. Ethiopia has a lot to learn from other countries regarding how to address land issues in its Constitution. Whether the form of land ownership changes or not, it is very important to determine what land tenure and governance elements to include in the Constitution. The Constitution should not be crafted to disallow governments to do land reforms whenever it becomes necessary.

There are significant portion of citizens, political parties, scholars and CSOs who have been suggesting for constitutional changes. Next to self-determination power of ethnic-based regions, land provision is an important element remained a controversial issue of the Constitution. In the survey conducted to capture experts' opinion, about 78 percent do not believe public land ownership regime is important for Ethiopia now. But 64 percent of these respondents believe, public ownership of land was important for some time (see Figure 1). The survey generally indicates that there is a huge appetite for a freehold land ownership regime. If government plans to do need assessment of the people without any influence or imposition, there is a high likelihood of making significant changes in land ownership forms. If government is not ready to make radical changes, but would like to revise the Constitution, there is a possibility of adjusting the language by just mentioning that land is the property of the people. Kenya's constitution is a good example in this regard. Although private ownership is allowed in Kenya, the Constitution recognizes that land is the property of the people of Kenya. This allows future actions based on the need of the government and its people without requiring constitutional changes.

Figure 1: Is public ownership of land important for Ethiopia?

Beyond ownership changes, the federal government and regions can use their legislative power to amend land laws to allow unlimited use rights for landholders. Although there is a need to regulate and control the use of land to avoid land use abuses, landholders should be allowed to fully exercise use rights including transfer and collateral of land use rights. As public ownership form does not allow land

sale, it is important to allow landholders practice land use rights to the extent possible enabling movement of land from the unproductive to the productive force.

7.2 Guaranteeing Free Movement of Citizens

In the era of globalization, movement of goods and services from one place to the other needs to be promoted as a good practice to improve local, regional, and national economies. Movement of labor from land scarce to abandoned areas helps to bring means of production together. Land as a means of production remains crucial to work, invest, create job, and generate income. Because of historical settlement patterns and production systems, there is a possibility that all means of production may not be available at the same place. This can only happen if citizens can move freely. Those regions with big size of land should create an environment inviting and allowing citizens to access land and develop it for different purposes. Regions of course should properly regulate the use of land to avoid damage on the natural resource and environment and ensure existing viable livelihoods such as pastoralism is not negatively affected. Turning unused land to a productive use increases local and national production, creates job opportunities and income for the local people and improves market linkage among regions. Regional states should also lift land rights restrictions deterring movement of people. Some regional land laws require confiscation of land if the holder is away for more than two years. The restriction has been prohibiting landholders to rent out their small piece of land or delegate someone to manage on their behalf. This limits movement of people to other areas to engage in other businesses or work on a big land. Since average landholding size per a household is about half a hectare in most highlands, there is a widespread underemployment. The movement of people help to expand farming and other business skills. The farmers in the highlands come from places where ploughing was practiced for thousands of years. The production system in the lowlands has been dependent on mobile lifestyle in search of water and pasture for livestock. If there are good wills of officials and people, the farmers in the highlands can go to the lowland to cultivate those lands suitable for farming. While turning the land to a productive use, productivity per person increases and overall agricultural production improves. While doing so, local communities consent needs to be secured.

7.3 Ensuring Fair and Equitable Access to Land

Land administration should be free from biases towards own local communities or should not discriminate against people who come from other regions. If land is a public property and all citizens have the right to have access to land as stipulated in the Constitution, there should be an equal opportunity of access to land regardless of race, language, religion, gender, etc. Regions may have policies and laws on how to allocate land to citizens. But they need to ensure that all citizens should be treated fairly and without biases to one or more groups or individuals. There might be a need to empower local people who might have not got economic opportunities for different reasons. This agenda can be supported through other means such as education opportunity, skill development, entrepreneurship mentoring, input provision and improved access to market and finance.

Ensuring fair and equitable access to land encourages citizens to develop belongingness and confidence to invest on the land. If regions allocate land for the landless, the allocation should treat all the landless

equally regardless of discrimination of people based on locality. Regions normally allocate land for residential and business purposes in two ways: the first one is free allocation based on the need of the person and the second one is through lease. Both ways need regional or local officials' fairness to ensure that all in need of land are treated fairly and equally. Such practices improve land governance and enhance landholders' confidence on the administration and the system.

Access to land can also be ensured by creating a land transaction system that allows movement of land from one person or group or community to the other. With the current land administration law, land transaction includes renting, sharecropping, and switching. These options can still help to move land from the unproductive to the productive force or from those would like to generate income by renting the land to those who would like to work on it. Such land transaction helps to increase social cohesion, to work on different schemes and to improve the economy.

7.4   Land and Property Tenure Security for All

Land and property tenure security remains crucial to ensure stability and improve economy of the country. Ethiopia is a great country to live and invest in agricultural and non-agricultural activities. Good governance in all aspects and particularly in land and property rights issues is needed to encourage landholders to develop their land and turn it to a productive asset. Lack of tenure security because of unfair governance and conflict based on ethnic lines has been affecting the wellbeing of individuals, societies, the economy, and the country at large.

To improve land and tenure security, the federal government and regional states should reform the enabling environment and governance at all levels. Regional states particularly should treat all citizens equally regardless of their ethnic background and identity. There is a growing need for the liberalization of land laws and strengthening of land administration systems to allow landholders and investors work without hurdles threatening tenure security. The demand for land reform goes to the extent to allow freehold private ownership form. But the government is not yet at a posture of making such changes. Among 25 land experts who responded to a question of what should be done to improve land tenure security of landholders, no one voted to keep the land laws as is (see **Erreur ! Source du renvoi introuvable.**). While 52 percent voting to introduce freehold private land ownership form, 30 percent preferred to reform land laws without changing the ownership form. Generally, there seems to be a huge appetite for changes.
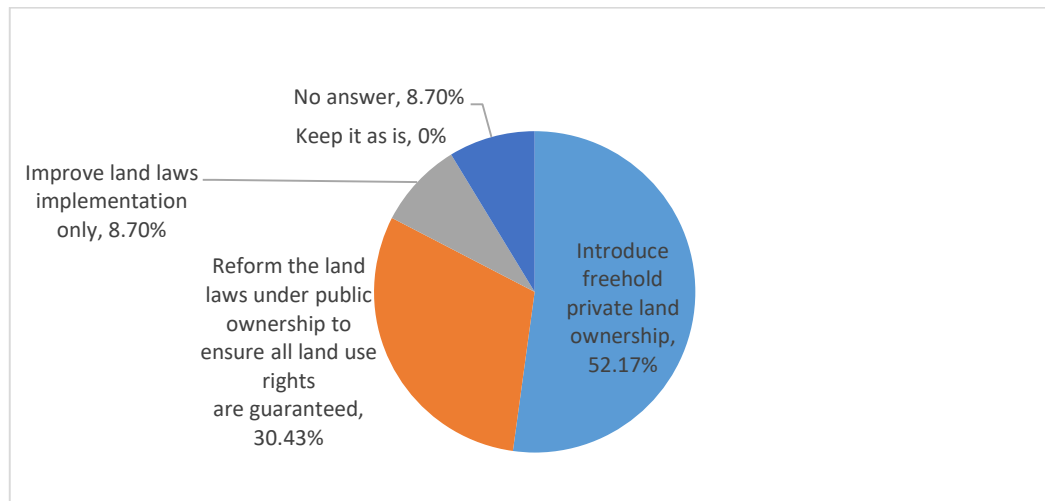
Figure 5: What should be done to improve land tenure security of landholders?

Ethnic-based federalism limited movement of people and diversity in types of investors. There is a growing tendency of investors to invest in regions where they ethnically belong to or where they feel there is a better social and political safeguard for tenure security. This attitude cannot bring sustainable and equitable economic growth for regions and the country. To allow investors and other land developers work on the land peacefully, regions need to improve the land laws and ensure that there is a good land governance serving all equally. Region specific restrictions on land tenure security neither benefit the regions nor help the country.

If there is a reliable land governance system that improves land tenure security, the likelihood of landholders developing and investing on their land will be high. Investment on land improves the land itself and lead to productivity, income, and wellbeing. According to Liversage, Chakrabarti and Barbanente (2020) land tenure security contributes to poverty eradication, food and nutrition security, social inclusion, climate change adaptation and resilience. However, it would also go beyond and contribute to the growth of local or national economy. Improved local economy means increased job opportunity for the local people. Overall, better land tenure and property security means improved economy, stability of the nation and wellbeing of individuals and communities.

8. CONCLUSION

Keeping land tangled with politics and ethnic-based thinking has not been helping citizens and the country. As one of the most important factors of production, land has not been playing the role expected to improve investment and enhance livelihood. Rather land remained a source of conflict, ethnic division, and bad governance. Land being part of the Constitution, officials of the country have been either unwilling or hesitant to amend the Constitution. Considering the dynamism in the country and the Globe, the leaders must decide to untie land issues from constitutional matters and allow land policy reforms to happen. The government of Ethiopia got adequate lesson to learn from ethnic-based federalism. The increasing number of conflicts and their association with ethnic division and land is a tangible indicator showing the need for major reforms.

Majority of land professionals contacted for this paper believe that land reform is a critical step forward to improve access to land and ensure tenure security. They see the Constitution and regional states' land laws as impediments obstructing movement of labor and investment to areas where land is available. The Constitution and land laws should not restrict access to land regardless of ethnicity, geographic location, and political attitude. Legal frameworks and institutions need to be reformed to ensure property rights and tenure security for all. Constitutional change may not happen soon given political tension and different interests. However, the federal government would improve land laws to improve access to land and land tenure security within existing constitutional provisions.

9. ACKNOWLEDGMENT

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11. AUTHOR CONTRIBUTIONS

The Author developed a concept note, reviewed literature, identified questions for a survey, collected data, analyzed, and wrote the paper.

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14. KEY TERMS AND DEFINITIONS

Ethnic-based federalism: an administration system established along lines of ethnicity with decentralized autonomy to local governments.

Access to land: the freedom to use and control land for various purposes.

Land Tenure Security: level of recognition and guarantee to an individual or group of people right to land.