



Expropriation, valuation and compensation practice in Ethiopia

The case of Bahir Dar city and surrounding

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Abstract

Purpose – The aim of this paper is to examine the expropriation, valuation and compensation practice. This paper tries to investigate how the expropriation and compensation laws are implemented when privately held land and attached real properties are taken for public purpose development in Bahir Dar city and surrounding. However, further research should be undertaken nation-wide to explore the problems throughout the country.

Design/methodology/approach – The paper reports the findings of a survey of expropriatees from main practices throughout Bahir Dar city and its surroundings.

Findings – There is a big gap between the actual practice of expropriation, valuation and compensation and the Laws. Lack of application of standardized methods and procedures created situations of unfair valuation and compensation.

Practical implications – The practical implication is that the living status of affected people before and after expropriation could be useful.

Originality/value – The value of the paper for government officials, real property valuers and investors is that transparency, consistency and fair compensation are useful.

Keywords Expropriation, Valuation, Compensation, Ethiopia, Real estate

Paper type Research paper

1. Introduction

Sustainable development requires governments to provide public facilities and infrastructure that ensure safety and security, health and welfare, social and economic enhancement, and protection and restoration of the natural environment. An early step in the process of providing such facilities and infrastructure is the acquisition of appropriate land (FAO, 2008). Driven by the demand for economic development and improvement of the well-being of citizens, governments in every country maintain and exercise the power to expropriate private properties for public purposes. While every sovereign state maintains an “eminent domain power” to advance the interest of the public, the government’s action may negatively impact on the livelihoods of those whose assets are taken (ADB, 2007).

The Amhara National Regional State (ANRS) is one of the regions in Ethiopia where there is high rate of population growth and rapid urbanization aggravating the high prevalence of urban poverty and a rapid growth in the number of the urban poor. The urban centers in the region are characterized by a poorly developed economic base, a high level of unemployment and the spread of slums. The region has been undertaking all rounded measures to overcome the prevailing problems. One such measure taken by Bahir Dar city administration, the regional capital, is the expropriation of privately possessed properties to undertake development projects and public facilities.

Even though land expropriation is undertaken for different purposes, few would question the legality of such action, assuming that once land is acquired compensation must be paid. This case study examines the legality and process of compulsory



acquisition, the appropriateness of the valuation methods applied and the fairness of compensation paid in Bahir Dar city and its surrounding areas. These issues are explored in terms of their compatibility with Ethiopian law as well as with theories of property rights and theories of fairness and justice.

2. The research problem

The ANRS, similar to other regions in Ethiopia, has not yet developed the social and economic infrastructures of its rural and urban areas. The need for the formation of suitable property unit, the construction of houses and real estate to address high population pressure, the desire to meet strong demands for development and investment, and other public interests require the intervention of the government to use its eminent domain power to expropriate privately held land. The implementation, however, is not simple because it is affected by the absence of qualified property valuers, the use of non-standardized valuation approaches, the practice of inadequate compensation standards for loss of land use rights and the lack of reliable data. These factors impede the process of the implementation of valuation and compensation in the region as a whole, and in the study area in particular.

Acquisition of land has everlasting effect on the lives of its initial owners especially if the people depend on the land for their livelihood. In the peripheral areas of many African cities, public land acquisitions, deny these land owners their means of livelihood and hence change their lives forever. There is a general reluctance and hostility when an attempt is made to interfere with established land rights, because land is a peculiar institution which occupies a central position in the social organization of the community. Any attempt to change the existing land relations whether by expropriation or whatever means is likely to meet the strongest opposition even if such projects were implemented by the government itself (Kiapi, 1969; cited in Ndjovu, 2003).

Numerous problems have surfaced during the implementation of the expropriation, valuation and compensation in ANRS in particular and in Ethiopia in general. Some of these problems are similar to what happened in other countries, but some others are rather peculiar to the region and the country. Problems in relation to expropriation, valuation and compensation can be categorized as legal, technical or financial. These may include the inadequacy of compensation rates, non-standardized valuation approaches, inordinate delays and arbitrary compensation that usually emanate from lack of independent and certified professional valuers. There are also claims that sometimes the government (municipalities) expropriates land without paying any compensation or by giving very little compensation. For instance, according to Addis and Associates (2011), expropriation and compensation payments for property taken for reasons of township expansion including the zoning of industrial parks are expected to be handled by urban administration and municipalities from their own revenues. However, only few municipalities that may have relatively better revenue collections can afford to pay compensations. For the most part, towns have been encroaching to rural land with little or no compensation. Due to aforementioned reasons, compensation payment did not satisfy the interest of both parties in general and the landholders and right users in particular.

3. Research aims and objectives

Various federal, regional and local governments and organizations apply different valuation procedures and rates to compensate both rural and urban landholders for

land and property taken from them under the power of eminent domain. Moreover, lack of application of standardized valuation and compensation procedures has created situations of unfair valuation and compensation regimes whereby equal rights of landholders provided under federal and state constitutions may be infringed upon. In view of these the study is designed to address the following objectives.

First, it examines how land expropriation, valuation and compensation procedures are implemented when privately held land and attached properties are taken for public purpose development.

Second, it assesses the fairness of amount of compensation paid in the event of expropriation.

Third, it examines whether the method of valuation used is appropriate and procedures of expropriation and compensation are consistent with laws and regulations.

Finally, to make recommendations on valuation methods to be applied and compensation payments to be made.

4. Research methodology

In this study, field survey research methodology was applied.

4.1 Data sources and collection methods

Primary data. Primary data were collected through structured questionnaires, key informant interviews and focus group discussions (FGD). There were three types of questionnaires used for collecting the data-one for 87 expropriatees, another for five property valuers and third for 18 higher and local officials.

Property valuers and local and higher officials working in the area of land administration have different levels of information related to land and related issues. That is why different types of questionnaires were prepared and used to gather information from these interviewees in addition to the expropriatees.

Since majority of the interviewees were illiterate and some of them did not have time to fill the questionnaire, the data collection was managed through schedule-structured questionnaire interviews. Few affected individuals were selected for key informant interviews to get detail information. Lastly, FGD held with the community members from the study area.

Secondary data. Relevant documents and papers, legal concepts and provisions, valuation methods, and matters related to financial sources and their influence on the determination of compensation rate/amount were gathered and used in the study. Documents were also gathered from various published journals, reports, books, project reports and related materials.

Sample size and the sampling method. Given available resources, existing capacity to administer/monitor the survey and the importance of increasing and diversifying sample sizes, a reasonable sample size was taken from the study area. Accordingly, in the inner city of Bahir Dar, in kebele[1] ten out of 24 affected people who were displaced for the purpose of constructing Regional Bureau, 22 people were selected for interview, where as in Ginbot Haya, 13 out of 14 affected people who were displaced for road construction purpose were selected for interview. In the surrounding rural kebeles, 52 out of 216 displaced people were randomly selected for interview. All (five) valuation committee members of the city were included in the sample.

The number of people who were displaced in the inner city was small in size and easily accessed, all of them who were available during the interview time were included in the sample; whereas in the surrounding rural kebeles the displaced people were

found relatively large in size and live in scattered areas. Moreover, they have similar living standard and information access about the expropriation and valuation issues. Thus, random sampling method was found appropriate and applied for the surrounding rural kebeles.

Data analysis. Data screening, filtering, grouping and coding was made using SPSS version 17 statistical package. After the completion of data screening and filtering, the process of tabulation has been carried out to make the data orderly and easy for presentation. After tabulation the data were analyzed and interpreted using the same statistical package.

5. The study area

Ethiopia is a federal country with 11 autonomous national regional states among which we have the ANRS. The region is the second largest in its population, after the Oromiya region. The region covers an area of about 156,960 square km, and its altitude ranges from as low as 500 to 4,620 meters above sea level at the peak of Ras Dashen Mountain which is Ethiopia's highest and Africa's fourth highest mountain. The region is divided into 11 administrative zones, more than 100 rural and urban woredas[2], and about 3,000 rural kebeles. According to the 2007 national population and housing census, the Amhara region had a counted population of about 17.21 million, of which males constituted 50.2 percent and the balance 49.8 percent was the share of females. Out of the total population of the region 87.4 percent live in rural areas. The population growth rate from 1984 to 1994 is 5.4 percent and from 1994 to 2007 is 13.4 percent (Figure 1).

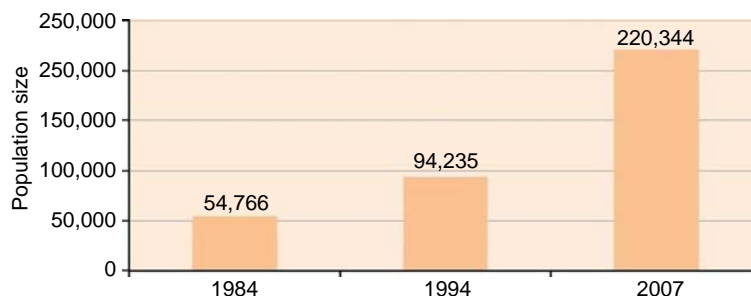
Bahir Dar, the capital city of the ANRS, is located about 578 kilometers northwest of the capital city of the country, Addis Ababa and lies 1,801 meters above sea level. It is located at 11°38' N latitude and 37°10' E longitude and its total area is 213.43 square kilometers. The lowest and the highest annual average temperatures of the city are 10.3 and 26.3°C, respectively. The annual average rainfall is 1,224 mm (Bahir Dar City Administration, 2009).

6. Theoretical basis of expropriation and compensation

Under this section, expropriation and compensation laws, principles of compensation and market value as a measure of compensation are discussed.

6.1 Expropriation and compensation laws

The right to property is not absolute. This right has always been regarded as being subject to eminent domain, an inherent right of the state, an essential part of the state



Source: CSA (2007)

Figure 1.
Population size of Bahir
Dar city from 1984 to 2007

sovereignty (Ghosh, 1973). Eminent domain is subject to two essential conditions: private property is to be taken only for public use; and just compensation must be paid for the property taken (Keith, 2007). Land acquisition, therefore, is a way of direct control over land development. Land acquisition is also the government's tool to assemble land in resolving the land supply problems for development.

The government of Ethiopia is engaged in a massive program of construction of various public works all over the country that involves acquisition of private landholding on a large scale. The government intervention over land development is directly exercised under the power of land acquisition as stipulated under the expropriation of landholdings for public purposes and payment of compensation, Proclamation No. 455/2005 and provided under Article 40 of the Ethiopian Constitution (1995). This paper stipulates that without prejudice to the right to private property, the government can expropriate private property for public purposes subject to payment in advance of compensation commensurate to the value of the property. According to Proclamation No. 455 of 2005, Article 7(1 & 2), a landholder whose holding has been expropriated shall be entitled to payment of compensation for his/her property situated on the land and for permanent improvements he/she made to such land. No person may be deprived of property in accordance with law and no law may provide for compulsory acquisition or for the use of property without commensurate[3] compensation. Therefore, using the power contained in Proclamation No. 455/2005 and the constitution of 1995, the government can acquire land for public purposes with adequate compensation.

6.2 Principles of compensation

When the term compensation is used in the context of deprivation of landholding it means recompense the sum of money which the owner would have got had he sold the property on the open market plus other losses which result from the resumption (Plimmer, 2008). In the USA, UK and most commonwealth countries, there exists a "just terms compensation" (also known as just compensation) principle that is aimed at financially reimbursing a dispossessed person adequately (Chan, 2003). Nevertheless, the meaning of "just terms compensation" is not defined in the compensation laws and has different interpretations in different countries. In the USA, the market value of the subject property is generally held as just compensation for the dispossessed landowners (Eaton, 1995). In contrast, in the UK, compensation is based on the principle of value to the owner. The value to the owner compensation principle is made up of market value together with other losses suffered by the claimant (Brown, 1991; Denyer-Green, 1994).

In Ethiopia, according to the 1995 constitution, Article 40(8), the government should pay, in advance, compensation "commensurate to the value of the property" expropriated. However, no further definition is given in the constitution as to what "commensurate" means. The amount of compensation and principle of market value are not explicitly explained in the expropriation and payment of compensation laws. The term "commensurate" is not defined explicitly; yet by taking its dictionary meaning, "equal, appropriate, or adequate," the affected property holders should be paid compensation proportionate to the damage sustained so that the affected landholder has been placed in the same position, after the acquisition as he/she was before, nor worse, nor better (Brown, 1991; Cruden, 1986; Usilappan, 1997).

6.3 Market value as a measure of compensation

Based on constitutional requirements, many countries have developed standards for determining "just compensation." Most high- and middle-income countries with

well-functioning legal systems have adopted “fair market value” of the expropriated asset as the standard for determining compensation for state expropriations. The fair market value is commonly defined as “the amount that the land might be expected to realize if sold in the open market by a willing seller to a willing buyer” (ADB, 2007). The underlying reason for adopting the fair market value standard is that market value[4] has been the most popular suggestion for calculating compensation payable.

In a compulsory land taking, the government is a willing buyer, but the affected landowners are often not willing sellers. Some countries provide a premium above the “fair market value” because of the involuntary nature of the taking. Miceli and Segerson (2007), substantiated this argument as the just compensation, paid to owners whose land is taken is systematically less than the amount owners would ask for their land in a consensual transaction. The difference reflects the owners’ “subjective value.” In this sense, fair market value undercompensated unwilling sellers (Miceli and Segerson, 2007).

In countries like Ethiopia, where the property market is thin and inactive, and where there is no independent professional property valuers, valuation using the fair market value standard is unthinkable. The valuation of land and its attached properties for compensation purpose have been undertaken by a committee whose members are assigned by the local rural and urban administration, which is a political organ. Thus, expropriatees have limited opportunity to participate either in the process of expropriation or in the valuation of land and attached property to be compensated fairly.

7. Valuation methods for expropriation and compensation

Wyatt (2007) suggested that the methods employed to estimate the value of the property expropriated are not different from those that are adopted in other market valuations (Wyatt, 2007). The main rule for the assessment of compensation for the property expropriated is the market value (Denyer-Green, 1998; Kalbro, 2001). In the appraisal theory, market value can be established by using three methods of valuation which are briefly discussed.

7.1 The cost approach

The nature of the property influences the choice of the method to be used in valuation for expropriation (Duvall and Black, 2001). Cost approach is one of the accepted methods to consider when estimating values for compensation (Ellsworth, 2000; cited in Ndjovu, 2003). It is mostly used where the assets are “special,” i.e. those that do not produce incomes and they have very little or no sales comparables, such as churches, public schools, historical buildings, mosques, water treatment plants, etc. Like other methods, cost approach is also used in compulsory purchase in determining values that could be used in compensation payment, both as the main method in determining the values and also as supporting method, depending on the circumstances of each case.

The method develops the value in terms of the current labor and materials required in assembling a similar asset of comparable utility. The theory, the method and the concept of replacement cost are based on the belief that an asset should be worth no more than the cost of a similar asset possessing equivalent utility (Ndjovu, 2003).

7.2 The sales comparison approach

The sales comparison approach is a valuation technique in which the value of the subject property is determined by comparing it with the properties recently sold in

the subject property. It relies on market information to value the property. The underlying concept is that a recent sale from a willing seller to a willing buyer of a property (the comparable property) can best reflect the value of a similar property (the subject property) in the vicinity. It assumes that a rational and prudent buyer will not pay more for the comparable property, while a seller in the same situation will not accept less for the same property (Lorenz, 2006).

The sales rates are adjusted for differences in the property or neighborhood attributes and the time of sale before being applied. An appraiser uses sales comparison approach when there is availability of accurate and complete data on comparables, recent sales, similarity of comparables and stability of local market conditions, regional and nation economic factors (Appraisal Institute, 2001).

7.3 The income capitalization approach

The income approach is based on the principle that the value of an investment property reflects the quality and quantity of the income it is expected to generate over the life of the property at issue. In other words, the value of the land derived from this approach is the estimated present value of future benefits, including streams of incomes during the lifetime of the property and proceeds from the sale of the property (Ndjovu, 2003). The present value of this income is calculated by applying a capitalization rate intended to approximate the net rate of return on investment “reasonably” expected by the owner. Once the net income is established by deducting the outgoings from the gross income, the appropriate capitalization rate should be applied. The capitalization rate specifies the “interest rate” to be used as a discounting rate for the capitalization of incomes during the entire period of the rights. This method is used in the income producing properties such as residential buildings. This method is based on the model that capital value is the product of net income and a chosen capitalization rate (Ndjovu, 2003).

7.4 The valuation method and system in Ethiopia

In Ethiopia, as stated in Proclamation No. 455/2005, and the Council Of Ministers Regulation No. 135/2007, the amount of compensation for property situated on the expropriated land shall be determined on the basis of replacement cost of the property. Although Proclamation No. 455/2005 envisages valuations to eventually be carried out by certified private or public institutions or individuals, it also states that until such time as institutions of private or public nature, as well as individuals with the required capacity/ability become available, the valuations will have to be made by committees to be established under Article 10 of the proclamation or by owners of utility lines as provided under Article 6 of the same proclamation.

There is no hard and fast rule used for membership in a valuation committee. The members may consist of individuals from the sectoral offices, kebele representatives, representatives of implementing agencies, etc. However, these committees do not have any sort of comprehensive directives or guidelines on what kind of formulas to use, and generally on how to proceed with their valuation tasks. The exception is that if the property comprises public utility lines, such as telecommunication lines, sewerage system, etc., then it is the owner of the property that estimates the value of the property (Article 6 of Proclamation No. 455/2005). This indicates a difference in the treatment of property holders in involving them in valuation of their property. The Ethiopian law, in general has adopted a valuation system of an administrative nature, as opposed to a judicial one as practiced in other countries.

8. Land acquisition and source of finance for compensation in Bahir Dar city

The Bahir Dar city administration undertakes the largest number of expropriation programs, more than any other organization. The city administration undertakes these programs for its own use or on behalf of private organizations and private investors that require land for purposes, which can be classified as public purpose according to the expropriation and payment of compensation laws (Proclamation No. 455/2005 and Regulation No. 135/2007).

City administrations need land for their own use to construct their own buildings and other public development projects and/or to provide land for the services and infrastructure required by the public in their locality. To attain the required amount of land for these purposes, city administrations expropriate privately possessed land by providing compensation for each property owner.

The sources of finance for compensation vary according to the nature of the development programs/projects and the type of financial institutions. The source of finance has also an influence on the determination of compensation rate/amount. Small-to-medium scale projects are funded by regional governments where as federal government finances large-scale projects or other big infrastructure development projects from treasury or borrowing.

The main source of finance for compensation include the compensation budget allocated by the regional government, the general municipal fund generated from municipal taxes, fees and other revenue sources. There are also funds sourced by government organizations when they acquire land from the city administration to construct their own bureaus and offices. When an individual or private organization acquires land through the city administration, it has to pay the funds to the city administration, which in turn is paid to the affected people as compensation. Therefore, funds available for the urban development projects for each year depend on these various sources and the type of projects given priority by the city administration.

9. Purpose and rational of expropriation

The demand for land has been increasing from time to time because of the massive construction of public works undertaken by the federal government in general and the ANRS and the city administration of Bahir Dar in particular. Private investments both in rural and urban areas also require huge hectares of land. The government and/or the city administration cannot supply land for all these activities from its free landholding (land bank); it rather expropriates from private landholders and users. This is based on the Federal Proclamation No. 455 of 2005, which states that woreda or city administration can expropriate private landholding and use rights for public purpose developments and private investors if they believe that the change in possession benefit the public.

Land assembly through land acquisition is a way out to solve problems with landownership and landowners' reluctance to offer their land for development (Omar, 2005). As is well known, the exercise of monopoly power usually restricts total economic activity in a way that is profitable for the seller but detrimental overall. Thus, assuming that the social benefits of the project exceed the social costs, using eminent domain to overcome the monopoly or the holdout problem among strategically acting holders makes society as a whole better off. The holdout problem, therefore, represents the real economic justification for the use of eminent domain and government interference (Kelly, 2005; Bell, 1980).

10. The expropriation process

The expropriation process passes through a long procedure beginning with the awareness creation stage up to the payment of compensation. The need to acquire land may arise from the city administration itself or from government organizations or private individuals and investors. When the proposal for land is presented, the city administration checks whether the land is suitable and convenient for the proposed development project and identifies the would be affected people and their economic status, the type of holding (permit or old possession, private purchase, lease, inheritance or donation) and the legality (whether it has title or not).

Once the administration checks the suitability of the land for the proposed development project, the kebele administration organizes consultative meeting with the affected people and informs them the project benefits, the payment of compensation, the offering of substitute land and the protection of their legal rights and the inevitability of the project.

After consulting the affected people, the city administration assigns the property valuers to carry out site and property inspection in order to identify the site boundary and to know the extent of the acquisition. The property valuers list and record every compensable item, encode it in the computer and then finalize the amount of compensation to be paid to the affected people. The estimated compensation amount is then announced to the affected people. If an affected person is not satisfied with the compensation amount, he/she can appeal to the city administration complaints hearing committee (a compensation grievances investigation committee). According to Proclamation No. 455 of 2005, Article 11(4) if the expropriated landholder is still not satisfied, he/she may appeal to a first instance court and then a “regular appellate court.” A right of appeal to the regular appellate court lies within 30 days from the date the appellant is provided with the copy of the decision of the court of first instance. The decision of the appellate court is final.

11. Analysis and discussion of survey results

In this section, the main findings from the field survey undertaken in Bahir Dar city and surrounding areas are discussed. The findings are based mainly on data gathered from 92 respondents selected from expropriatees and five property valuers. Detail information was gathered from FGD made on three different groups constituting six to nine members each and two key informants selected from each kebele as well as 18 higher and local officials.

11.1 Background of the respondents

Based on the field survey, it was seen that those whose properties have been expropriated in the inner city of Bahir Dar and its peripheral areas could be categorized into different groups. As indicated in Tables I-III the people of these areas belong to different income, employment and age groups. 95.6 percent of the sample respondents are between the ages 25 and 75. 1.1 percent are below 25 years age where as 3.3 percent of them are above 75 years old.

Table I shows the employment and engagement status, the gender and the educational qualification of the respondents. It is observed that among the interviewed expropriatees 52 (59.8 percent) are basically farmers who live in the surrounding area of the city, while 17 (19.5 percent) are self-employed. From the total respondents 73 (79.3 percent) are male where as the remaining balance 19 (20.7 percent) are female.

Characteristic	Frequency	%	Expropriation, valuation and compensation
<i>Sex</i>			
Male	73	79.3	
Female	19	20.7	
<i>Age</i>			
Less than 25 years	1	1.1	141
25 up to 49 years	53	57.6	
50 up to 75 years	35	38.0	
Above 75 years	3	3.3	
<i>Occupation</i>			
Government employee	6	6.5	
Private firm employee	–	–	
Self-employed	17	18.5	
Farmer	52	56.5	
Unemployed	–	–	
Dependant	–	–	
Pension	12	13.0	
Valuation officer	5	5.4	
<i>Educational qualification</i>			
Illiterate	59	64.1	
Reading and writing	20	21.7	
From grade 1-10	5	5.4	
From grade 11-12	2	2.2	
Diploma	1	1.1	
First degree	2	2.2	
Second degree and above	3	3.3	

Source: Field Survey (2011)

Table I.
The main characteristics
of the respondents

Description	Before expropriation		After expropriation	
	Frequency	Proportion in (%)	Frequency	Proportion in (%)
Less than 500	7	8	32	36.8
Between 500 and 1,000	23	26.4	47	54
Between 1,001 and 2,500	42	48.3	7	8
Greater than 2,500	15	17.2	1	1.1
Total	87	100	87	100

Note: ETB, Ethiopian Birr
Source: Field Survey (2011)

Table II.
Monthly average income
of the expropriatees in
ETB before and after
expropriation

Options	How it was exercised*						Total	
	Most often		Often		Seldom		No.	%
	No.	%	No.	%	No.	%		
Compulsory acquisition	43	49.4	19	21.8	25	28.7	87	100
Government land bank	–	–	–	–	35	40.2	–	–
Joint venture	–	–	–	–	–	–	–	–
Negotiation under the threat of compulsory acquisition	–	–	–	–	–	–	–	–

Source: Field Survey (2011)

Table III.
Options exercised by
the government to secure
land for development

As far as the level of education is concerned, 59 (64.1 percent) of the respondents are illiterate, 20 (20.7 percent) read and write and 3.3 percent are first degree holders and above.

Table II shows that 42 (48.3 percent) of the affected respondents earned between 1,001 and 2,500 Ethiopian Birr (ETB) per month before expropriation where as 34.4 percent of them earn <1,000 ETB per month. After expropriation, the number of households earning <1,000 ETB per month rose to 90.8 percent. Likewise, the number of households who were earning between 1,001 and 2,500 ETB per month before expropriation decreased from 48.3 to 8 percent after expropriation. At the same time, those who earned more than 2,500 ETB per month also decreased from 17.2 to 1.1 percent. This shows that although it was claimed that the expropriation process would benefit the public, it had affected the expropriatees' livelihoods very seriously.

Property rights of affected people. The land holding status at the time of inspection is reflected in Figure 2. It shows that 39 (44.8 percent) of the expropriatees obtained land by permit system when land was redistributed both in the previous and present government. In total, 36 (41.4 percent) of them obtained land by inheritance from parents or relatives. This implies that the area has basically been taken over by the indigenous people, not by newcomer.

As Figure 3 shows, 67 percent of the respondents settled in the area more than 20 years ago. They had been there for a very long period of time. There are no recent settlers in the area. That is why especially the farmer respondents said that whatever the amount of cash compensation is they preferred their land and place where they settled for a very long period of time.

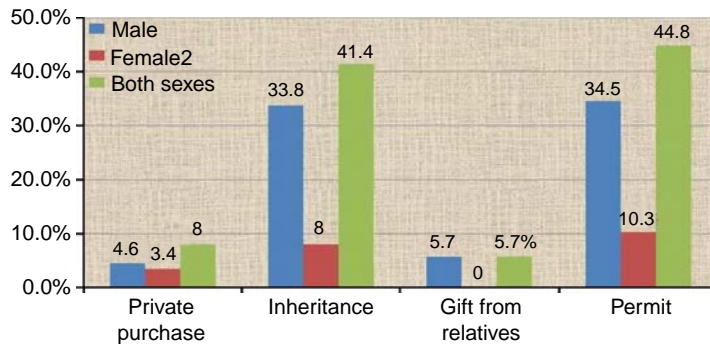


Figure 2.
Mode of land acquisition by the expropriatees

Source: Field Survey (2011)

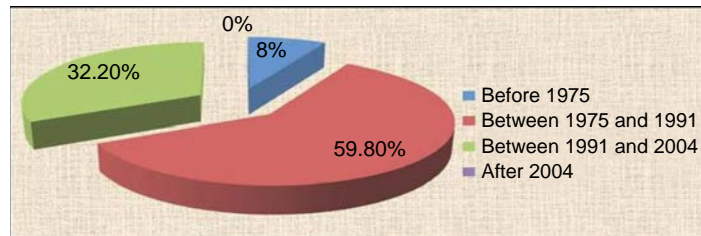


Figure 3.
Periods within which land was acquired by expropriatees

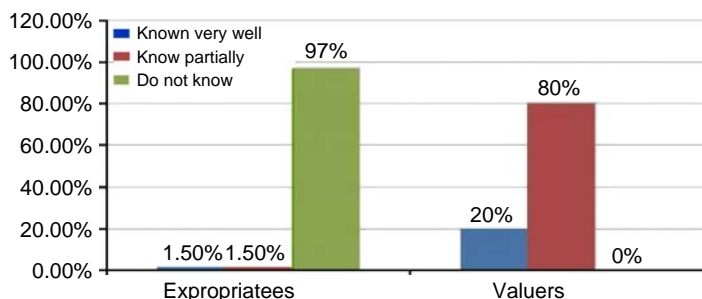
Source: Field Survey (2011)

Knowledge of expropriation and compensation laws. The field survey result revealed that only 3 percent of the compensated expropriatees knew the law well where as the large majority of these affected people, 97 percent, did not know anything about the expropriation and payment of compensation laws. From the total number of property valuers interviewed, only 20 percent knew the law very well where as the remaining 80 percent knew the law partially (Figure 4). This shows that it is very difficult to implement the laws properly if both the expropriatees and property valuers and other concerned parties are not well aware about the laws.

11.2 The expropriation process

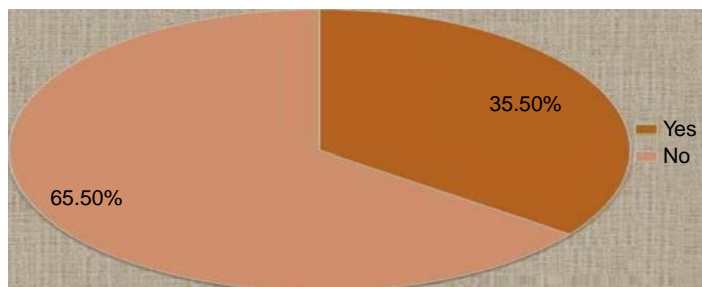
Although the procedure of expropriation and compensation is stated clearly in the Federal Proclamation No. 455/2005 and Regulation No. 135/2007, the practice on ground is completely different from what is stated. The respondents revealed that the rules and regulations are violated because the affected individuals were severely asymmetrical in respect of the information on land acquisition process. The affected respondents, especially the farmers, believed that they had no decision making and participation rights in land acquisition.

The field survey result revealed that 57 (65.5 percent) of the expropriatees did not participate in any procedure of expropriation and compensation (Figure 5). The remaining 30 (34.5 percent) of the claimants participated only during public discussion forum and inventory of properties. During the inventory and measurement of the property, the compliants were not allowed to comment



Source: Findings of the Field Survey Conducted (2011)

Figure 4.
Expropriatees' and
property valuers'
knowledge of
expropriation and
compensation laws



Source: Field Survey (2011)

Figure 5.
Participation in the
process of expropriation

about the field activities undertaken by property valuers. They were not even informed about the results of field survey. The respondents said there were many errors committed by property valuers; some measurements were overstated while others were understated.

Where a decision to expropriate a landholding is made, notification in writing is required to be given to the landholder as defined in the Federal Proclamation No. 455/2005, Article 4(1). Such notification is required to indicate the period within which the holding has to be “vacated and the amount of compensation to be paid.” To facilitate the notification process the proclamation puts an obligation on implementing agencies[5] to prepare detailed data pertaining to the land needed for the works and send the same, at least one year before the commencement of the works, to the organs empowered to expropriate land in accordance with this proclamation and obtain permission from them. The minimum period of vacating a holding on which there is property is stated to be not <90 days from the date compensation is received while the period for land on which there is no property is not <30 days after receiving notification of the expropriation order. According to Article 4(4) of the same proclamation, the date of notification of expropriation order is the point of commencement for counting the period within which the landholder has to vacate his holdings.

However, the discussions with the affected individuals and FGD participants revealed that the one-year information and data submission period is hardly followed by the implementing agencies. Accordingly almost all of the affected people were not given sufficient time for psychological, material and financial preparation for the reaction of the expropriation process.

11.3 Alternative options exercised by the government to secure land for development

The expropriatees were asked to forward their views on the options exercised by the government to secure land for development activities and how often it was exercised[6].

Table III presents the respondents’ view on the alternative options exercised by the government for securing land for development and how it was exercised. As can be seen from the table, 49.4 percent of the respondents agreed that the medium of expropriation was used most often to secure land for development. In total, 19 (21.8 percent) of the respondents replied that expropriation was used often to secure land for development. In total, 25 (28.7 percent) of them replied compulsory acquisition was seldomly used. On the other hand, 40.2 percent of the respondents agreed that government land bank was used rarely to secure land to carry out public development projects like public road, hospitals, schools, etc. This result shows that expropriation medium was the most often option exercised by government, followed by government land bank. Joint venture and agreement under the threat of compulsory acquisition was revealed to have never been applied, although it remains as one of the options. It could be implied from this that the respondents, especially farmers, did not really know the existence of these different options because of their low level of education as well as lack of access to information on what is happening in the region in this regard.

According to the respondents view, land expropriation should not be the best alternative for government to secure land for development. Other alternatives such as undeveloped land within the boundary of urban area could be used as alternative for the government to exercise different development activities.

11.4 Reasons for opposing expropriation

Table IV shows the reasons for the respondents' objections to land acquisition. Inadequacy of compensation was the most important reason held by landholders. It was evident from the FGDs and key informants (including property valuers) that the amount of compensation given to expropriatees is by far less than the value of the expropriated property. Thus, (85 percent) of the respondents raised inadequacy of compensation as the main reason to resist the process of expropriation and 73.5 percent of the respondents gave emotional attachment to property as the second reason to oppose the process of expropriation. Only 4.6 and 2.3 percent of the respondents gave "unclear procedures" and "non-public purposes," respectively, as reasons for opposing the process of expropriation.

Furthermore, participants in the FGD stated that the expropriated land was put idle for more than five years without any development. Had it been used by initial landholders, it would have been possible to generate a huge amount of income for themselves and the public. This shows that the respondents were not satisfied with the expropriation undertaken (Plate 1, Appendix 1).

11.5 Fairness of compensation payment and complaints

The amount of compensation paid and its fairness depends on the place, the circumstances (the understanding of the law, the valuation method applied, the kinds

Reason for objection	Degree of relevance ^a								Total	
	Most important		Important		Less important		Not important		No.	%
	No.	%	No.	%	No.	%	No.	%		
Inadequacy of compensation	67	77	7	8	13	14.9	–	–	87	100
Not purely public purpose	–	–	2	2.3	7	8	78	89.7	87	100
Emotional attachment to property	37	42.5	27	31	21	24.1	2	2.3	87	100
Unclear procedures	–	–	4	4.6	19	21.8	64	73.6	87	100

Notes: ^aThe weights used in this question are 1 = most important; 2 = important; 3 = less important; 4 = not important at all. The respondents were asked to score their answers based on these scales

Source: Field Survey (2011)

Table IV.
Reasons for opposing
the expropriation



Source: Field Survey (2011)

Plate 1.
FGD participants at
Robiet-Bata kebele

of property deemed compensable, the rates that are applied, the skill of the valuers, etc.) and the availability of financial resources, etc[7]. The variation of these factors from place to place results in inequitable application of the concept of fair compensation and as a result affected people are not treated uniformly. Although few studies have dealt with the inadequacy of compensation in Ethiopia, it has been observed that the biggest source of the inadequacy of compensation is the outdated rates used in compensation, especially in relation to agricultural products and the methods used in determining compensation. In urban areas, everyone is certain that the expropriatees will receive compensation in the event they lose their property if the property holder has a legal title for its possession; however, not everyone is sure whether the compensation will be fair and commensurate.

The federal constitution issued in 1995 states that the “right to ownership of rural and urban land, as well as of all natural resources, is exclusively vested in the state,” and land “shall not be subject to sale or other means of exchange.” On the other hand, the constitution protects both urban and rural land holders from eviction or displacement from their holdings except where the land is required for “public purposes.” However, Proclamation No. 455 issued in 2005 gives the woreda or city administration the power to expropriate land and evict or displace holders from their landholding on the grounds that the land is needed for “public purposes.” Compensation is paid in kind or in cash or in both, to landholders whose land is expropriated but as it has been proved in the field survey result, almost all expropriatees were dissatisfied with the compensation offered (Field Survey, 2011).

The affected landholders complained that the amount/rate of compensation is too low or inadequate or varying and cited several reasons: improper inventory of properties and valuation, underestimation of values and use of non-market indicators or inaccurate market indicators, as well as the sheer bias of valuers assigned by government. Many affected landholders also complained that reductions are made even from the small amount of final compensation by the authorities for what are dubbed as “costs,” the nature or cause of which remains unknown to them. They also pointed out that, although they have been promised by the government that they would be the beneficiaries from the realization of social and economic development projects, they have not generally been able to reap the benefits, particularly in the case of private investment[8]. In total, 62 (71.3 percent) of the interviewed compensated households reported that the compensation payment they received was very unfair and 13 (14.9 percent) of them said it was unfair. This shows that almost all affected households in the field survey proved that the compensation payments made to them were unfair and unsatisfactory (Table V).

No	Levels of satisfaction	Frequency	%	Cumulative %	Remark
1	Highly satisfied	–	–	–	
2	Satisfied	12	13.8	13.8	
3	Dissatisfied	19	21.8	35.6	
4	Highly dissatisfied	56	64.4	100.0	
5	Indifferent	–	–	100.0	
	Total	87	100		

Table V.
Levels of respondents’
satisfaction on
compensation paid

Source: Field Survey (2011)

The affected respondents were also asked about the level of compensation and their satisfaction. In total, 56 (64.4 percent) of the expropriatees thought that adequate compensations were not given and hence they were highly dissatisfied. In total, 19 (21.8 percent) of them are dissatisfied with the compensation payment. Only 12 (13.8 percent) of the affected claimants said that the compensation paid was fair and hence they are satisfied. This shows that the majority (86.2 percent) of the claimants were not satisfied with the compensation offered. This implies that the compensation paid to expropriatees was unfair and inadequate and it remains as the main issue that needs to be addressed by expropriators.

Most of the affected people believed that the lack of fairness is related to the unequal treatment of people with similar status. They also believe that the loss they suffered in the acquisition must be properly redressed. From this perspective, the claimants expected from the city administration of Bahir Dar and the regional government that the compensation would be based on the reservation prices they fixed for their properties, which were higher than the assessed prices of their properties. Although such expectation was observed from claimants, the magnitude of the divergence was not made (Table VI).

The city administration or the regional government pay compensation for those who are affected by the expropriation process, when they have assured that the landholding is titled or have evidence of possession. But this contradicts the World Bank's operational statement (O.P 4.12-Involuntary Resettlement) which says that the absence of a legal title to land and other assets should not prevent affected people from receiving compensation (World Bank, 2002).

The power to expropriate land for private investment or government projects with compensation is frequently paid to the evicted landholders by the city administration or regional government; but this is as a rule much less than the value of the property paid by the investor to the government. That is why most of the time investors do not pay directly to the affected people. The city administration uses the difference as a source of revenue. The victims of such expropriation process frequently are the poor and disadvantaged households. Appendix 2 presents the case of unfair compensation.

When land is expropriated by local authorities for "public purposes" in rural areas, compensation could be paid in kind though it is hardly possible to offer land having equal value due to the scarcity of farm land. On the other hand, cash payment for compensation is offered only if land expropriation is undertaken at the request of a private investor. Moreover, cash compensation is made if the land is needed for large-scale public projects such as roads, dams, real estate and large-scale horticulture and flower farm. This is because it is impossible to pay compensation in kind since the expropriators do not have excess land.

The FGD held with the community in the rural kebeles revealed the extent to which they are marginalized and the subjectivity, inconsistencies and the improper valuation of their properties. These cause a huge variation in the amount of compensation made to expropriatees having similar holdings. Participants stressed that arbitrariness of compensation practices for land expropriated for different purposes, the inconsistent application of valuation techniques (even for land expropriated for the same purpose), and the *ad hoc* procedures and processes involved in valuation and compensation have resulted in numerous grievances and could only be described as unfair and unbalanced. Appendix 3 presents unfair and arbitrary expropriation measures undertaken in the surrounding rural kebeles.

Table VI.
Comparison between
average actual
compensation paid
and estimated open
market value

Description	Full sample	Inner city kebeles			Surrounding rural kebeles		
		Ginbot Haya	Kebele Ten	Robit Bata	Wonjeta	Yinasosstu	
Actual compensation paid (<i>n</i>)	9,581,705 (138,803)	776,381 (106,649)	6,358,896 (156,519)	835,678 (43,254)	438,550 (20,792)	1,172,200 (31,801)	
Open market value (<i>n</i>)	18,565,000 (153,752)	2,702,000 (240,183)	6,638,000 (145,110)	3,320,000 (124,838)	1,595,000 (98,696.47)	4,310,000 (107,546)	
Difference between compensation paid and open market value	-8,983,295 (112,940)	-1,925,619 (162,220)	-279,104 (78,480)	-2,484,322 (85,407)	-1,156,450 (81,719)	-3,137,800 (95,070)	
% of the difference relative to open market value	-48	-71	-4	-75	-73	-73	
Average actual compensation paid	110,134.54 (138,803)	59,721.62 (106,649)	289,040.73 (156,519)	43,983.10 (43,254.37)	36,545.83 (20,792.39)	55,819.05 (31,801.25)	
Average open market value	213,391 (153,752)	207,846 (240,183)	301,727 (145,110)	17,474 (124,838)	132,917 (98,696.47)	205,238 (107,546)	
% of average actual compensation paid to average open market value	52	29	96	25	28	27	

Note: Values in parentheses are standard deviations
Source: Field Survey and Computed by the Researcher (2011)

Table VI shows whether average compensations paid are higher or lower than the average price that would result in a non-expropriation situation. One proxy of such estimates that was utilized in this study is the open market value of properties.

The informants (expropriatees)[9] were asked about the estimated market value of properties if they were allowed to sell the properties in the open market value[10]. Based on the data provided in Table VI, actual compensation paid for the full samples of affected persons in Bahir Dar city and surrounding rural kebeles is 48 percent less than the estimated open market value of similar properties on average. The difference between actual compensation paid and estimated open market value is very high. This fact is supported by the secondary data obtained from the city administration of Bahir Dar. For instance, in 2011, the house situated in 90 square meters of land was sold in 750,000 ETB in a non-expropriation situation where as the comparable house expropriated for road development purpose was valued in 350,000 ETB for compensation (Bahir Dar City Administration, 2009). Though there is some variation for adjustment, the gap is very high.

It is also not uncommon with the rates prescribed by the enabling compensation statute which are usually at variance to the market determined value. Dividing the sample into geographic sub-samples reveals that the percentage difference from open market value ranges from 4 percent for properties in Kebele Ten to 75 percent for properties located in Robit Bata kebele.

The inadequacy of the compensation is also reflected by the big percentage difference between the average actual compensation paid and the average estimated open market value. For example, in Ginbot Haya kebele (one of the kebeles in the inner city of Bahir Dar), those individuals who were affected due to expropriation, on average, were paid only about 29 percent of what they were expecting from the open market value. Similarly, in Robit Bata, Wonjeta and Yinesasostu rural kebeles, those who lost their land due to expropriation process received only about 25, 28 and 27 percent, respectively. These values are less than what the affected people were expecting from the open market value. On the other hand, in one of the kebeles in the inner city of Bahir Dar (Kebele Ten), the affected claimants were paid 96 percent of what they would expect from the open market value. This suggests not only that compensations paid are consistently below the estimated open market value of similar properties, but also the affected claimants were not treated uniformly (Table VII).

In nearly all geographic samples and all types of purposes, actual compensation paid for expropriation was substantially lower than the estimated open market value. However, there are significant discrepancies in the degree of actual compensation paid per square meter of land to affected persons in Bahir Dar city and to those who are living in the surrounding rural kebeles. For instance, in Ginbot Hay and

Description	Full sample	Ginbot Haya	Kebele Ten	Robit Bata	Wonjeta	Yinesasostu
Quotient of actual cash paid and land size	20,725 (420.23)	3,495 (452.22)	16,957 (417.38)	85 (1.27)	73 (2.18)	115 (2.23)

Note: Values in parentheses are standard deviations

Source: Field Survey and Computed by the Researcher (2011)

Table VII.
Actual compensation paid
per square meters of
expropriated land

Kebele Ten, on average 3,495 and 16,957 ETB per square meter of land was paid as compensation for affected individuals, respectively, whereas 85, 73 and 115 ETB per square meter of land was paid as compensation for those who are living in Robit Bata, Wonjeta and Yinesasostu rural kebeles, respectively. The field survey result clearly shows the existence of exaggerated variation between compensation made per square meter in urban and surrounding rural areas though there is some variation in terms of land value in urban and rural areas.

A paired *t*-value was conducted for systematic differences between compensations paid and estimated open market value. To test the null hypothesis of no difference between actual compensations paid and open market values, the following *t*-statistic was used:

$$t = \frac{x}{s/\sqrt{n}}$$

where *x* and *s* represent the mean and standard deviation, respectively, of the difference between compensation paid and open market values, and *n* is the number of pairs considered. The result is summarized in Table VIII.

The results in the table indicate that the mean differences between compensation paid and open market value for the whole sample and all sub-samples are significantly different from zero, suggesting that compensation data examined in this study are systematically lower than prices observed in non-expropriation transactions.

11.6 Advance payment of compensation

Articles 3(1) and 4(3) of Proclamation No. 455 of 2005 make it clear that compensation in cases of expropriation should be made in advance of evicting the landholder. Although some of the authorities argue that there are very few cases of non-payment or delayed payment of compensation the FGD carried out with the affected landholders during the field visits exposed the fact that there have been several instances where:

- compensation was not paid nor replacement land provided in advance of surrender of landholdings;
- replacement of land was given in advance whereas cash payment was made after surrender; or
- cash was paid partially in advance of surrender and the remaining was paid after surrender.

The problem is not, however, only the non-payment of advance compensation (fully or partially). There are also many cases where no compensation is paid[11] or substitute

Table VIII.

Results from means tests applied to compensation data to detect significance of premiums within sub-samples

Description	Full sample	Ginbot Haya	Kebele Ten	Robit Bata	Wonjeta	Yinesasostu
% of the difference relative to open market value	-48	-71	-4	-75	-73	-73
<i>t</i> -statistic for difference from zero	7.401	2.019	8.662	4.432	6.088	8.043

Note: *Significance at the 2.5% level or higher

land is not provided at all. Not only plenty of cases of expropriations without payment of compensation have been exposed by participants of FGD and individually interviewed landholders, but local officials have also admitted, in several instances, that they have to use force to evict farmers from their holdings even though they know that the latter have not received compensation.

The survey findings indicate that out of the compensated landholders who were formally interviewed, 64 (73.6 percent) received compensation after handing over the land. Participants of FGDs and key informants also reported that they were not consulted with regard to the valuation and compensation of their properties. According to the participants, they resisted the surrender of their holdings for a number of reasons: the non-payment of advance compensation, absence of substitute land, not being informed in advance, sudden commencement of various activities related to construction and fencing of their land, etc.

11.7 Main problems of compensation and valuation

There are some points in the proclamation and regulation that are not properly treated. However, the main problems that prevailed in the study area are the inadequate implementation of the rules and regulation on the ground. The following are identified as the main problems of compensation and valuation particularly in the study area and in the region and the country in general.

Inadequate compensation standard for loss of property and land use rights. Several institutional problems exist with respect to compensation for loss of land and attached properties. First, compensation for expropriating land for either public interests or any private investment purpose is subject to the statutory limits[12] which are usually well below the fair market value. That is why all expropriatees (100 percent) who were interviewed in the field survey indicated that their properties were valued less than the open market value and that they were compensated, on average, only 48 percent of what they could get from the open market value (Table VI).

Second, no expropriation and compensation laws or government policies provide comprehensive guidance on valuation of properties to be expropriated in rural areas. Determination of compensation is thus based on average agricultural yield of the preceding five years, regardless of the farmers' investment on the land, location of the land, potential best use of the land, local demand for such land, market price for agricultural product that the land is producing and other factors that typically consist of the value of farmland. Chinese consultants of the RETA project reported that among the four valuation methods (agricultural yield, comparable sales, income capitalization and expected non-agricultural market price minus infrastructure cost) tested for research purposes, the land's value was in most cases the lowest, when applying the agricultural yield method (ADB, 2007).

Third, the federal expropriation and compensation laws explicitly cap the determination of compensation for permanent loss of land is based on average agricultural yield of the preceding five years multiplied by ten, leaving virtually no legal basis for farmers to demand a higher compensation, or a compensation that affected farmers are willing to accept. In the meantime, the government is authorized to lease use rights to such expropriated land to private investors at a market price that is in most cases several times higher than the compensation paid to affected farmers.

Denial of the right to compensate for untitled properties. In most urban areas, the sole evidence of property ownership adopted by the condemner is the house certificate registered with the city administration real estate registration office. Because a

certificate will not be issued to the owner of the property without a building permit, these property owners have no right to get compensation; no matter how long it has been since they built and possessed the property or how dependent they are on the property for their livelihood. However, the law is not applied uniformly and consistently to all affected people in such a situation.

Poor participation of property holders in the valuation and compensation process. Although the law requires participation of affected people and negotiation on compensation, such negotiations are seldom practiced because of the substantial power imbalance between the expropriator and the expropriatees. Property owners especially those living in slums and rural areas under condemnation are usually powerless, with inadequate sources of information, and without access to unbiased appraisal organization. According to the FDGs and key informants, most often, upon approval of the expropriation, the expropriator assigns property valuers to assess the value of the structure under condemnation and to come up with a certain value. If the expropriatees object or disagree, the expropriator often threatens them for obstructing urban development and for acting against “public interests.”

Ambiguity in the definition of “public interest”. Public interests[13] are not defined explicitly in either statutory or case law, giving the government virtually unlimited power in taking property for any purpose. Allowing government exercise of eminent domain power for private investment interests gravely distorts the land market, resulting in government intervention in land transactions that could be otherwise achieved through private negotiation.

Absence of procedural safeguards. Expropriatees’ right to notice, participation and appeal in land expropriations is seriously lacking in both the legal regime and in practice. Although the law requires notifying the affected people of the planned expropriation, this notification is hardly implemented on the ground. Moreover, the expropriation laws authorize the state to enforce the expropriation plan and to take actual possession of the land even if disputes concerning compensation and resettlement are not resolved.

Lack of knowledge of expropriation and compensation laws. It has been proved in the field survey that many expropriatees were not quite clear what an expropriation and payment of compensation laws actually were or that rights to land were also governed by specific land laws. In other way of saying, landholders do not yet have a good knowledge of expropriation and payment of compensation laws and how they are dealt with. In some instances, property valuers too do not have sufficient knowledge of expropriation and compensation.

11.8 Conclusion

The findings of the study show the existence of a big gap between what is stated in the laws and the actual practice on the ground. Lack of using standardized valuation methods and procedures have created situations of unfair valuation and compensation regimes. As a result of this, equal rights of landholders provided under federal and state constitutions have been infringed upon. The assessment and findings of the study ascertain that the problems associated with the legal, technical, institutional and financial aspects of property valuation and compensation practices are numerous and the practices are full of inconsistent, unfair and lack of standardization.

The protection of private land use rights and establishing fair, transparent and efficient expropriation and compensation procedures are fundamental to the objectives of Proclamation No. 455/2005. However, the findings of this study revealed that these

objectives were not met. The literature review and survey results revealed that the main issue of expropriation is the quantum of compensation which is perceived by the expropriatees as inadequate to fulfill the notion of adequate compensation under the spirit of the constitution. Although there is a broad acceptance that market value is the appropriate basis for compensation for property taken, perhaps there is also a general feeling that a premium should be paid to compensate the claimant for the compulsory nature of the acquisition.

In the study area, all the affected people were not compensated according to the market value, let alone get additional premium value to maintain their reservation value. Most of the respondents perceived that land expropriation need not necessarily present the best alternative for government to secure land for development. Other alternatives such as undeveloped land within the boundary of city administration are the alternatives available for government to exercise rather solely depending on land expropriation powers. According to Usilappan (2000; cited in Allians and Daud, 2006), land acquisition is a complex process, is sensitive in nature and needs pragmatic approach to deal with. An impartial interpretation of the law and a better understanding of the principles and practice of valuation will lead to an adequate compensation settlement (Allians and Daud, 2006).

Finally, the problems of compensation are more than just a matter of law and valuation; they are a matter of justice between society and man. This paper tried to investigate how the expropriation and compensation laws were implemented when privately held land and attached real properties were taken for public development projects in Bahir Dar city and surrounding. However, further research should be undertaken nation-wide to explore the problems throughout the country.

11.9 Recommendations

Based on the findings of this study and generally accepted ideas of many scholars as well as reputable literatures, the following recommendations are forwarded.

Provide fair compensation to expropriatees. The underlying goal of "fair" compensation should be to leave the owner of the expropriated land in the same financial position as before the expropriation. This should be explicitly defined in the law to reflect the replacement value of the land together with the structures, improvements and plantations on them.

The replacement cost approach should not be the only alternative valuation method. Any one of the three valuation approaches presented in this study should be used as alternative. Thus, both the federal and regional expropriation and payment of compensation laws should be amended in such a way that property valuers have to use anyone of the three valuation methods when they find them appropriate. In addition to that synchronization of valuation and compensation procedures is also necessary to avoid inconsistent, unfair, non-standardized and subjectively determined compensation rates and amounts and make landholders advantageous.

Establishing appropriate valuation committee. Valuation committees should be established comprising of qualified members in terms of relevant expertise in order to undertake valuations using a multi-disciplinary approach. The committees should also include representatives of affected persons in order to make expropriation and compensation measures and procedures participatory, transparent and to create accountability.

Amount of displacement compensation for rural landholders must be valued on reasonable basis. A rural landholder whose landholding has been permanently

expropriated shall be paid displacement compensation which shall be equivalent to ten times the average annual income he/she secured during the five years preceding the expropriation of the land. However, no justification is given how this was determined. Thus, the law should be revised in such a way that the displaced landholders should be given additional subsidy payment when the initial displacement compensation is not enough to maintain their original living standard.

Awareness creation on laws, regulations and directives on expropriation, valuation and compensation should be made. Creating awareness on laws, regulations and directives on expropriation, valuation and compensation is a core power to protect landholders' rights, and to implement fair and consistent valuation and compensation methods and procedures within the region. No law can be implemented properly unless all the stakeholders are familiar with and have a grasp of its basic workings.

Increasing public participation and transparency. Public participation and transparency should be encouraged throughout the process and in particular at an early stage. Full dissemination of information should take place so that those affected are fully aware of their rights and the procedures that are available to them. The dispossessed people, other interested parties, and their authorized professional representatives should be allowed to consult and obtain details of the basis for compensation from the acquiring authority.

Introducing uniform compensation payments and standards. In order to address the problems caused by non-uniform compensation payments and standards, the current broad compensation principles should be refined. The laws and their applications should be applied uniformly to all affected people in line with the following points. First, the laws and regulations enacted at federal level in relation to expropriation and compensation should be properly applied at regional level, and second, expropriators have to allocate a budget to reimburse all costs to be incurred due to expropriation.

Notes

1. The lowest level of the administrative structure in Ethiopia.
2. The second from the last administrative unit in Ethiopia. In Ethiopia, there are different administrative structures out of which woreda is the second administrative structure from the last next to kebele.
3. The term "commensurate" is not defined properly both in the constitution and proclamation.
4. The concept "market value" is not necessarily the equivalent of "just compensation" but rather a useful and generally sufficient tool for arriving at this.
5. Under Article 2(7) of proclamation 455 of 2005, implementing agency is defined as government agencies or public enterprises undertaking or causing to the undertaking of development works with their own force or contractors.
6. The weights used in this question are 1 = most often; 2 = often; 3 = seldom; 4 = never.
7. Thus, it is not unusual in regional government financed projects, particularly urban expansion cases, for the available budget to determine the amount of compensation a landholder receives. Sometimes, the valuation processes are deliberately skewed to make the compensation amounts low enough to be accommodated by the available financial resources.
8. One of the benefits of investment is expected to be the creation of employment opportunities to the affected landholders. In the surrounding area of Bahir Dar visited during the field trip, a lot of bitterness against investors was expressed. One of the complaints was that the

investors let alone to make an effort to employ those landholders that have been expropriated or members of their families such as their children; they could not undertake the investment for the last five years.

9. The informants (affected landholders) were asked to estimate the market value of their expropriated properties as compared to the value of comparable sold properties.
10. To avoid biasness of respondents, the researcher tried to convince them to forward the actual information. Moreover, the questionnaire is prepared in a way to cross check the reliability of the information provided in each question. Lastly, information collected from property valuers and officials also used as a reference to cross check the reliability of the information obtained from the expropriatees.
11. In the case of regional infrastructure projects such as rural roads and various water works constructions, the staffs of these agencies are not supposed to pay compensation because land belongs to the government. For example, they believe that the law allows them to use quarry materials for free, or they assume that since communities compete with each other to have a road pass through their villages they believe that they are not interested in compensation. Put differently, they expect the issue of compensation to be taken care of by the beneficiary communities themselves without involving the agencies.
12. According to proclamation 455 of 2005, Article 8(1) and Regulation No. 135 of 2007, Article 16(3), a rural holder whose landholding has been permanently expropriated shall be paid displacement compensation which shall be equivalent to ten times the average annual income he secured during the five years preceding the expropriation of the land. The justification for limiting the period is unknown, and seems baseless. On the other hand, the government/municipality is authorized to lease use rights to such expropriated land to private investors at a higher price.
13. The expropriation and payment of compensation laws should be amended in such a way that an elaboration of the definition of “public interest” by listing the activities that obviously and directly serve the public interest.

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Appendix 1

Opposition to the expropriation

One of the aims of our field investigation was to find out the extent to which the affected individuals were convinced about the expropriation undertaken. Affected farmers were asked if they were opposing the expropriation. The intent was not to test the affected farmers' knowledge of the expropriation procedure in the deeper sense but rather to know to what extent they have been informed about why their land holding right has been taken and to what extent they have been convinced about the taking of their land. The field survey result proved that

though the expropriatees did not agree to give their land, the process of expropriation was effected without allowing them to participate in the inspection and measurement of their land holding. They were not compensated for the trees they had grown for a long period of time. They were not even allowed to take the trees. Almost all affected farmers were very dissatisfied with the compensation offered. That is why they opposed the process of expropriation.

One of our key peasant informants, whose name is Mr Worku, for instance, said “I lost my 3 hectares of land donated by my parents in 1974, when I was married and started my life independently. I am left only with 0.25 hectares of land where my residence house is located. I had been compensated 147,000 ETB; however, his money was stolen by unknown persons who came from urban area. Mine and my family life is under risk and danger.”

What was surprising is that the land was taken before five years to undertake horticulture and flower farm investment. However it has been put idle without adding any value and creating opportunities for affected farmers. Now they are expecting the land to be given back to them since they were told it was taken only for ten years (Field Survey, 2011).

Appendix 2

Unfair compensation

One of the key poor women informants, for instance, in Bahir Dar city, was called Enanu Temesgen, aged 65, and whose land was unjustly expropriated by the decision of the city administration and was given to an “investor.” She had inherited the land, 200 square meters in size, in 1960 from her parents who had died sometime ago. In compensation for the land she lost, the city administration offered her only 105 square meters of land in one of the resettlement sites, where public facilities such as road, water, electric power and market are not fulfilled.

She said, “Since my young age, the land was held and used by me and my family. Sufficient time was not given to for, at least, psychological preparation. Financial compensation was not given at all”. Since she is aged, it was hardly possible to generate income to reconstruct her residence. She did not have male relatives and kin support in the area. She is thus highly disadvantaged, vulnerable, and the evidence indicates that this was one major reason why her land was chosen for expropriation. Finally, she decided to initiate court action at the regional higher court. Enanu did not have the service of a lawyer, nor did she have any knowledge of court procedure or the technicalities of the law, all of which were to play against her. It is obvious that she had not been given compensation at least for redevelopment of the house because she was aged and poor, because she could not afford the services of a trained lawyer. After many court appearances, the court ruled that the investor to whom the land was given should build the house in the resettlement site, but she had not been given financial compensation merely because she did not have a document that assure her possession though she possessed the land for more than twenty years. The house built by the investor is extremely low standard and inconvenient for living. Hence, Enanu lost her possession where every public facility was fulfilled and she was thrown away to a place where there was no public facility. Furthermore, she lost all her sources of income and social attachment (Field survey, 2011).

Appendix 3

Arbitrariness in valuation and compensation practice in Wonjeta kebele

Participants of the Focus Group Discussions (FGDs) in Wonjeta kebele pointed out that arbitrary and inconsistent measurement of land and recording of compensable items resulted in not only huge variations in the compensation amounts received by expropriated landholders, but also created about controversies. A person holding relatively large size of land was compensated less where as another person having relatively smaller size of land compensated higher.

According to the participants, a land held by a person, whose name is Mr Adugna Adem, was measured during his absence and the compensation amount was estimated to be 200,000

Ethiopian birr (ETB). Then he was informed to take the estimated compensation amount and he took the money. After a few days, he was called and told to return some amount of the money since errors were committed when his land was measured and compensation was calculated. He refused to return the money back claiming that his property was measured and the compensation amount was determined during his absence. Because of this, reason he was treated unjustly by kebele administrators and officials assigned by the regional government to facilitate the project. In addition to that he was obliged to appear in court and was thrown to jail repeatedly. The case is not yet finalized.

The participants strongly claimed that when the government officials think compensation paid to expropriatees was excessive, they are obliged to return the money. If they oppose to return the money, they would be thrown to jail. Consequently, when individuals ask the expropriators to pay additional payment for low compensation, the expropriators do not give any response (Field Survey, 2011).

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