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Expropriation, Valuation and Compensation Practice in Amhara National Regional State (ANRS) – The Case of Two Cities (Bahir-Dar and Gonder)

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Abstract. *The Amhara National Regional State similar to other regional states of the country has faced enormous economic and social problems. The question of housing and other real estate construction for high population pressure, the development and investment questions, poor public utility facilities and other public interests are some of the problems that need the intervention of the Regional government. In order to facilitate these needs of the society, the city municipalities have been using “expropriation” as a meaningful and useful management tool. However, different compensation standards among government institutions, inadequate compensation standards for loss of land use rights, shortage of professional and qualified valuers, lack of reliable data and poor expropriation, valuation and compensation procedures are some of the problems that impede the implementation of expropriation, valuation and compensation in the region in general and in the two big cities of the region (Bahir-Dar and Gonder) in particular.*

This study therefore tries to deal about eminent domain powers of the government in acquiring land for public use in Amhara National Regional State particularly referring to the two big cities (Bahir-Dar and Gonder) focusing on the expropriation process, valuation practice, fairness and adequacy of compensation payable.

Keywords: *eminent domain, expropriation, valuation, compensation*

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1 Introduction

1.1 Background

Ethiopia, being the second most populous country in sub-Saharan Africa (World Bank 2004:1) and the poorest country in the world, has been facing serious economic and social problems. Its infrastructural development and public facilities provision is poor. It faces increased urbanized trends as a result of unchecked natural population growth and rural–urban migrations. As a result of these, the size of urban areas and the population living in slums are growing fast. According to UN_HABITAT (2007:22), the urban population living in slums in the country is as high as 80 percent. Furthermore, unplanned developments in numerous squatter areas in all urban areas of the country aggravate the already prevailing bad situation.

The Amhara National Regional State (ANRS) which is one of the regional states of the country is no exception in this regard. The high rate of population growth and rapid urban growth combined with the high prevalence of urban poverty suggests a rapidly growing number of urban poor. The urban centers are characterized by a poorly developed economic base, a high level of unemployment and slums habitation. As a result of this, by taking into account the urban situations in the region, the Amhara National Regional State passed its first city proclamation No. 43/2000 to administrate its cities in a proper way, and has been undertaking all round measures to overcome the prevailing problems. In line with the measures that are undertaken for urban development, the city municipalities expropriate privately possessed properties. Currently, urban reform in Amhara region is guided by the revised proclamation No. 91/2003.

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.¹ 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*”² to advance the interest of the public, the government’s action negatively impacts the livelihoods of those whose assets are taken³.

Despite that both private and public development projects ultimately aim to improve people’s well-being, such projects frequently result in direct negative impacts on some portion of the population. Perhaps, chief among those negatively impacted are those whose assets are taken by the authorities as part of the project. This typically occurs because the project requires land. As such,

¹ FAO (2008).

² “Power of eminent domain” refers to the power of the government to take private property for public use without the consent of the owners through a process called “expropriation” Cletus E. Ndjovu (2003).

³ See Asian development Bank (2007:3).

those people living on, working on, or otherwise benefiting from the land and its related resources become “losers”. Frequently, such “power of eminent domain” refers to the power of the government to take private property for public use without the consent of the owners through a process called “expropriation.”⁴ People become involuntarily displaced and have to resettle elsewhere. For those affected, involuntary displacement means a drastic disruption fraught with risks of impoverishment.

Any development project is essentially an endeavor to bring overall economic benefits to all people in the country, including those who have to be displaced or lost their asset by the project. These affected people – whether they are titled holders or informal dwellers of the property to be expropriated – are an integral part of beneficiaries, rather than sufferers, of such development projects. On the other hand, the success of a development project depends on voluntary cooperation and heartfelt welcome by these affected people. Any impoverishment to affected peoples by such project will be inevitably translated into not only a failure to achieve the project’s goal of increasing overall well-being for all citizens, but also an impediment to the smooth execution of the project.

The risks of impoverishment of losers and displaced people can be mitigated. The approaches to appropriately addressing the impoverishment risks of involuntary losers and displacement are multifaceted, but all involve both (i) compensation for expropriated assets and (ii) rehabilitation measures to help improve or, at least, restore incomes and standards of living.

Unlike developed countries where private land ownership is the main form of land ownership, Ethiopia similar to China, adopts public ownership of land. According to the People’s Republic of China’s Constitution, Art.10, China adopts public ownership of land in the form of state ownership and collective ownership. Urban land is owned by the state, and rural land, except for what is legally defined as state owned, is owned by collectives. Since urban land in China is state owned, compulsory acquisition of land only involves “withdrawal” of land use rights⁵. As the constitution of the Federal Democratic Republic of Ethiopia, article 40, states, land is a common property of the Nations, Nationalities and peoples of Ethiopia and shall not be subject to sale or other means of exchange. However, such public ownership of land has undergone a series of reforms since the start of the new government when it started to move toward a market economy, resulting in a separation of land use rights from land ownership where land is still publicly owned while use rights to such land are allocated to private individuals. Since land is publicly owned, expropriation of land only involves ‘withdrawal’ of land use rights. The government of Ethiopia may withdraw land use rights from the right holders due to: (i) public interests, (ii) expiration of land use terms without renewal or denial of the renewal application, (iii) dissolution or relocation of the holder of administratively allocated land rights. However, the right holder is entitled to a vaguely phrased “appropriate compensation” in case of land use rights initially

⁴ Cletus E. Ndjovu (2003).

⁵ ADB (2007).

acquired through lease contract; the right holder is entitled to a compensation corresponding to the number of remaining years on the lease contract and the extent to which land has been developed. Property valuation of and compensation for lost assets are crucially important counteractions to mitigate impoverishment risks for losers and displaced persons to achieve successful compensation and resettlement results.⁶

The legal foundation of compulsory purchase in Ethiopia is found in the constitution of the Federal Democratic Republic of Ethiopia. “With out prejudice to the right to private property the government may expropriate private property for public purposes⁷ subject to payment in advance of compensation commensurate to the value of the property” (Ethiopian constitution 1995, article 40 (8). Similarly the government issued Expropriation of land holdings for public Purposes and payment of compensation proclamation No. 455/2005, for the land to be expropriated when ever needed for development works to be undertaken by the government subject to payment in advance of compensation.

The Amhara National Regional State as it has been given a power to issue regulations and directives for the proper implementation of proclamation No. 455/2005, it has issued the council of the regional government directive No. 28/2006, for payment of compensation for property situated on the region’s urban landholding expropriated for public purposes. As the Federal Democratic Republic of Ethiopia Rural Land Administration and Land Use Proclamation No. 456/2005, holder of rural land who is evicted for purpose of public use shall be given compensation proportional to the development he/she has made on the land and the property acquired, or shall be given substitute land thereon. Where the rural landholder is evicted by federal government, the rate of compensation would be determined based on the federal land administration law. Where the rural land holder is evicted by regional governments, the rate of compensation would be determined based on the rural land administration laws of the region. This shows that the same land holder may be compensated by a different amount if the land is expropriated by federal and regional governments since they are applying different valuation methods and procedures and also they have different compensation rates.

Although the Federal Regulation No. 135/2007 includes provisions for the assessment of compensation which specifies the basis of determination of the value of different compensable items and formulas for calculating the amount of compensation, valuation methods and compensation practices vary greatly depending on the purpose for which land is expropriated and the financial capacity of institutions involved in the expropriation. The source of finance for compensation varies according to the nature of the project and the financing institutions. The source of finance has an influence on the determination of the

⁶ Cernea.Michael. M. (2003)

⁷ Many constitutions and laws refer to compulsory acquisition being used for public purposes, for public uses and/or in the public interest. In practice these terms are often not clearly distinguished and they tend to be used interchangeably FAO (2008).

compensation rate or amount. In most cases, for Regional government financed projects, the compensation budget appropriated is not sufficient. The shortfall arises due to scarce resources to fund the budget. The modality of payment in the case of federally financed projects (mainly highways, electric power and large irrigation projects) is invariably in cash. Where expropriation is made for such projects, compensation amounts paid are better because there are adequate resources allocated for this purpose. That is why the systems and procedures used by the Federal and Regional entities to determine compensation vary and no standard exists.

Formula-based only valuation methods may not work to make proclamation 455/2005 and Regulation 135/2007 to be implemented efficiently and effectively at regional woreda and urban administration levels. Rather synchronization of existing valuation methods and compensation procedures is necessary so that landholders are not disadvantaged due to inconsistent, unfair, non-standardized, and subjectively determined compensation rates and amounts at both federally and regionally implemented projects. Furthermore, Regional state administrations should consider compensation budget appropriations for public development projects.

Both in the Ethiopian constitution of 1995 and proclamation No. 455/2005, it is not provided expressly that compulsory acquisition may take place for the benefit of both private persons and the society. Merely it is stated that if the government agent (woreda or urban administration) believes that if the land directly or indirectly benefits the public more than it benefits the individual holder of the land, it can expropriate the property subject to payment in advance of compensation. From this we can understand that it creates loopholes for corruption and mismanagement of land since there is not any mechanism to control whether the compulsorily taken land is transferred to an individual who directly or indirectly used to benefit the public.

Compulsory acquisition of land for private development should undergo a public scrutiny that ensures the balance between the public need for land and the protection of private property rights is properly considered, and that the compensation reflects the profit potential of the land to be acquired. However, in Amhara Region in general and the study areas in particular, as proclamation No. 455/2005, a woreda or city administration can expropriate private landholding and use rights and transfer to private investors if they believe that the change in possession benefits the public. But once the land use right is transferred from one private holder to another private investor, there is not any mechanism to prove whether the transferred land use right is used as it was planned to benefit the public. In the field survey it has been observed that a private land holding transferred from one holder to the investors remains idle for a long time since there is no inspection and follow up of the implementation of the project. In addition to that poor record keeping and information exchange arrangements impend proper transfer of land use rights. For example, currently there are no clearly set working procedures on how the urban and rural administration at kebele/woreda level should work in an integrated manner in having good

record keeping and exchange practices on matters related to expropriated areas or potentially to be expropriated areas.

The concerned Woreda/Urban administration should prove whether the project is really benefiting the public more than that it benefits an individual holder before allowing the transfer of land use right from a private land holder to a private investor. An appropriate and effective record keeping system that facilitates activities related to land expropriation and compensation should be also put into practice.

1.2 The Research Problem

1.2.1 Introduction

In the Amhara National Regional State similar to other regional states of the country, both in rural and urban areas, social and economic infrastructures are not yet developed. The need of suitable property unit formation, the question of housing and other real estate construction for high population pressure, the need to solve development and investment questions and other public interests need the intervention of the government using its eminent domain power to expropriate land to meet these and other unmentioned needs of the society. However, the lack of lawful valuation methods, shortage of professional and qualified valuers and valuation provisions in rural and urban areas of the country, inadequate compensation standards for loss of land use rights, lack of reliable data etc are some of the problems that impede the implementation of valuation and compensation in the region in general and in the two big cities of the region, Bahir-Dar and Gonder, in particular.

1.2.2 Problems of valuation and compensation

Acquisition of land from its initial owners and users has everlasting effects on their lives especially if these 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. This is why 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.⁸ 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.⁹

Numerous problems have surfaced during the implementation of the expropriation, valuation and compensation procedures in Amhara National Regional state (ANRS) in particular and in Ethiopia in general. Some of these problems are similar to other countries but others are rather peculiar to the region and the country. Problems in relation to expropriation, valuation and compensation can be categorized into those concerned with legal, technical, institutional and financial

⁸ Kiapi (1969); cited in Cletus E. Ndjovu, (2003).

⁹ Ibid, p.9.

aspect of expropriation. There are many serious problems related to expropriation in the region. Many of these problems include the inadequacy of compensation rates, inordinate delays, arbitrary compensation and lack of professional valuers. It is also noted that sometimes the government (municipalities) expropriated land without paying compensation or by giving very little compensation. For instance, as Addis and Associates draft report (2007), expropriation and compensation payments 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. But this is mostly in theory. In practice only those municipalities which may have relatively better revenue collection pay compensation. For the most part, towns have been encroaching on rural land with little or no compensation. In the early days of urban expansion most farmers were left uncompensated. The problem is both legal and financial capacity.¹⁰ Due to the absence of real property valuation methods and qualified and professional valuers, absence of valuation provisions both in urban and rural areas of the country, lack of reliable valuation data, compensation was not assessed based on market value. As a result of these reasons, compensation payment did not satisfy the interest of both parties in general and the land holders and right users in particular. In return it has a long run negative impact on tenure security and economic development.

1.3 Research Aims and Objectives

Similar to other Regional States of the country, the Amhara National Regional State has no clearly designed valuation methods for both urban and rural areas. Various Federal, Regional and Local governments and organizations are applying different valuation methods and compensation procedures to compensate both rural and urban land holders for land and property taken from them under the power of eminent domain. Moreover, it is hypothesized that the lack of application of standardized valuation methods and compensation procedures 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 circumstances the study is designed to address the following main and specific objectives.

First, it is to examine how land expropriation, valuation and compensation procedures are undertaken in the two big cities of the Region (Bahir-Dar and Gondar).

Second, it is to assess its effectiveness as the land delivery tool, thereby identifying its weakness and constraints on the use of the open market value.

Third, to assess whether the methods of valuation and procedures of compensation are consistent with Federal and state constitutions and laws and regulations and to make recommendations on how improvements can be made and effected to rectify them where such inconsistencies exist.

Fourth, it is to examine how problems related to expropriation, compensation and valuation, and fairness are handled during expropriation.

¹⁰ Addis and Associates (2007)

Lastly, to make recommendations on valuation methods and compensation procedures.

1.4 Research Methodologies

1.4.1 Data sources and collection methods

In this research, primary data through questionnaire survey and observations as well as secondary data analysis were applied.

Primary data

One of the research instruments that were used in collecting primary data consists of questionnaires that were administered to all categories of participants in a specific expropriation, valuation and compensation practice. The target population in this study was the affected people and property valuers of the two big cities, Bahir-Dar and Gondar. Hundred questionnaires were prepared and distributed to the respondents in Bahir-Dar, the capital city of the region and in Gonder. Bahir Dar (N = 50, out of which two are property valuers), Gonder (N = 50, out of which five are property valuers).

Questionnaires were administered during the field study, which entails undertaking interviews and also personal observations. Since some of the interviewees are illiterate and some may not have plenty of time to fill in the questionnaire, schedule-structured interviews were applied. This approach is preferred since it ensured the desired questions would be included in the interview so as to maintain the consistency of data produced from interviewees and at the same time gave them considerable liberty and flexibility to elaborate the phenomenon they thought desirable. The data gathered from the survey has been analyzed using descriptive statistical techniques.

Secondary data and documentary analysis

Relevant documents and papers, legal concepts and provisions, valuation methods, institutional arrangements and capacity, and matters related to financial sources and their influence on the determination of compensation rate/amount were gathered and used in the study. Documentary analysis which involves both a literature review and archival studies enables us an examination of the existing literature on this type of work and related fields, and investigation into the findings of other researchers and scholars. From these sources various published journals, reports, books, project reports, newspapers etc., and related materials were used.

Sample and the sampling methods

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 two cities of the region. Accordingly, the sampled respondents whose land holding was expropriated from the two cities were randomly taken for interview based on purpose/causes of expropriation which is further divided into more categories. Public Development projects, private investment, township

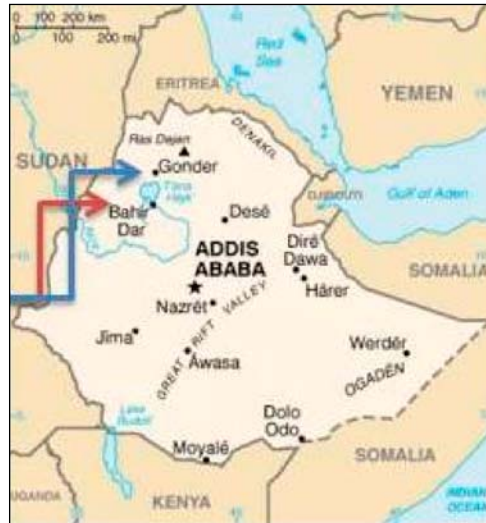


Figure 1. Location of the study areas in Amhara Region.

expansion, and infrastructural development are taken into consideration for classifying the interviewees. Furthermore the valuation committee members of the two cities were included in the sample.

Basically, a stratified random sampling framework was employed where type (cash compensation, land compensation, cash and land compensation etc) and causes (public development, private investment, township expansion, roads and others) factors were taken as strata from which woredas and kebles (lowest rank of town administration) are purposely selected.

1.5 The Study Area

Ethiopia is a federal country with nine Autonomous national regional states and two city governments. Among these ANRS is the second largest both in size and population in the country after the Oromiya region. Located in an area of 160,000 sq.km, the region is divided into 10 administrative zones, more than 100 rural and urban woredas, and about 3,000 rural kebeles¹¹. According to the 2007 national population and housing census, the Amhara region had a counted population of about 17.21 million, where males constituted 50.2% and the balance 49.8% was the share of females. From the total population of the region 87.4% live in rural areas and 12.6% live in urban areas.

The two case study areas selected for this study are located in ANRS (fig 1). Bahir-Dar, the capital city of the Region, 555 km from the capital city of the country, Addis Ababa. Gondar is the capital city of North Gondar zone, located 180 km from Bahir-Dar. There is high population growth in both cities due to unchecked natural population growth and rural-urban migration.

¹¹ The lowest administrative unit.

2 Purpose and Rationale of Expropriation

Many constitutions and laws refer to compulsory acquisition being used for public purposes, for public uses and/or in the public interest. In practice these terms are often not clearly distinguished and they tend to be used interchangeably.¹² In the constitution of Ethiopia 1995, it is stated 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. As Proclamation No. 455/2005, A woreda or urban administration have been given the power to expropriate rural or urban land holdings for public purposes¹³ through paying in advance of compensation where it believes that it should be used for better development projects to be carried out by public entities, private investors, cooperative societies or other organs, or where such expropriation has been decided by the appropriate higher regional or federal government organs for the same purpose. Before Proclamation No. 455/2005 was issued, there was another Federal Proclamation enacted to govern expropriation and related compensation matters – Proclamation No. 401/2004, “Appropriation of Land for Government Works and Payment of Compensation for Property”. It did not last long as it was repealed by Proclamation No. 455/2005. What was interesting about Proclamation No. 401/2004 is that it appears to have narrowly circumscribed the occasions when expropriation may take place. As the title of the Proclamation clearly states, that law pertained only to appropriation and payment of compensation for government works. One can reasonably argue that the Proclamation has attempted to narrow the meaning of public interest and hence the power of appropriation only to government works which are defined as:

“... the construction or installation, as appropriate, for public use of highway, power generating plant, building, airport, dam, railway, fuel depot, water and sewerage, telephone and electrical works and the carrying out of maintenance and improvement of these and related works, and comprises civil, mechanical and electrical works.”

Proclamation No. 455/2005 uses the phrase “public purpose” instead of “public use” and “expropriation” instead of “appropriation”. Note that the fact that these works must be for “public use” can be interpreted to mean that works for the sole use of the government or private entities may not be considered of public use and, therefore, appropriation of a holding may not be made in such circumstances. Proclamation No. 455/2005 on the other hand stretches the meaning of public interest or public purpose so widely that it can practically be deemed open-ended.

The demand for land for the city administrations have been increasing from time to time in providing public facilities and infrastructures that ensure safety and security, health and welfare, social and economic enhancement of the society.

¹² FAO (2008).

¹³ “Public purpose” means the use of land defined as such by the decision of the appropriate body in conformity with urban structure plan or development plan in order to ensure the interest of the peoples to acquire direct or indirect benefits from the use of the land and to consolidate sustainable socio-economic development (Proclamation No. 455/2005: part one Article 5).

An early step in the process of providing such facilities and infrastructures is the acquisition of appropriate land. In some cases, specific land parcels are required, for example, in order to accommodate the route of a new road, to construct dwelling houses for resettling slum dwellers or the fulfillment of requirements of redistributive land reform. That land may not be available in the government's land bank at the time it is required or the land holder may not be voluntary with whatever means to exchange. Hence, in order to obtain land when and where it is needed, the government uses its power of eminent domain¹⁴ (compulsory acquisition) to acquire land: it can compel landholders to transfer their land use rights in order for it to be used for specific purposes.

According to FAO (No. 10, 2008), a broad survey of both developed and developing countries reveals the following among the commonly accepted purposes for compulsory acquisition:

- transportation uses including roads, canals, highways, railways, bridges, wharves and airports
- public buildings including schools, libraries, hospitals, factories, religious institutions and public housing
- public utilities for water, sewage, electricity, gas, communication, irrigation and drainage, dams and reservoirs
- public parks, playgrounds, gardens, sports facilities and cemeteries
- defence purposes.

An exercise in compulsory acquisition is more likely to be regarded as legitimate if land is taken for a purpose clearly identified in legislation. An exclusive list of purposes reduces ambiguity by providing a comprehensive, non-negotiable inventory beyond which the government may not compulsorily acquire land. Yet exclusive lists may be too inflexible to provide for the full range of public needs: the government may one day need to acquire land for a public purpose that was not considered when the law was written (*ibid*). When we see the Ethiopian constitution of 1995 and proclamation No. 455/2005, the purpose of expropriation is not clearly defined; rather it is said that public purpose is used as the main reason for expropriation. Even the term public purpose is not defined explicitly in such a way that it is clear to both the expropriator government agents and the expropriatee. Of course proclamation No. 455/2005 is flexible to acquire land for a public purpose that was not considered when the law was written since it gives a power to the higher regional or federal government organ to expropriate urban or rural landholding for better development projects to be carried out by private investors, cooperative societies or other organs (proclamation No. 455/2005, Article 3).

¹⁴ Article 40 (8) of the Constitution of the Federal Democratic Republic of Ethiopia, Proclamation No. 1/1995. *Negarit Gazeta* Year 1, No. 1 says that without prejudice to the right to private property, the government may expropriate private property for public purposes subject to payment in advance of compensation commensurate to the value of the property. As the *Federal Negarit Gazeta*, proclamation No. 455/2005, says the government (a *woreda* or an urban administration) may expropriate private property for public purposes where it believes that it should be used for a better development project to be carried out by public entities, private investors, cooperatives, societies or other organs.

The rationale for expropriation may be straightforward when land is acquired by the government for use by a public entity, for example for a public school or hospital, or for a new public road or airport. The rationale for acquiring land for a public purpose or in the public interest may be also clear where the land will be held by a private entity but used for a public purpose. For example, in countries where the generation and transmission of electricity is privatized, the government may support private electricity companies to acquire land for the infrastructure needed to ensure service to their customers.

More controversial are cases where private land holding is acquired by government and then transferred to private developers and large businesses on the justification that the change in possession and use will benefit the public. In a number of countries, like Ethiopia expropriation has been used as a tool to help assemble land in order to promote urban renewal and attract commercial investment in areas where buildings and infrastructure have deteriorated substantially. It has been used also on behalf of developers (both private and public-private ventures) in order to change the land use of an area, for example, from residential to commercial use. In such cases, it is argued that the development benefits the wider public by creating economic growth and jobs, and by increasing the tax base which in turn allows both the federal and regional governments to improve their delivery of public services. Compulsory acquisition of land for private development should undergo a public scrutiny that ensures the balance between the public need for land and the protection of private property rights is properly considered, and that the compensation reflects the profit potential of the land to be acquired. In Ethiopia, as proclamation No. 455/2005 states, a *woreda* or city administration can expropriate private landholding and use rights and transfer to private investors if they believe that the change in possession benefits the public. But the question arises for example in justifying the transfer of a residential house from a poor person to a rich person who can use it for the same purpose unless and otherwise we have to prove the transferred land use right benefits the public. In the field survey it has been also observed that a private land holding transferred from one holder to the investors remains idle for a number of months (in some places even a number of years). So how a person should be convinced that his/her property is expropriated for public purpose?

In countries where policies of redistributive land reform have been adopted, these are usually considered as being in the public interest, even if the reform transfers land from one private holder to another. Such land reforms are often part of government programmes to address social injustices and to promote agricultural and rural development. In challenges to a land reform, the government may have to prove that the redistribution of land from one citizen to another is for a purpose that is beneficial to the community. Clear intent in legislation can help to diminish the potential for conflicting court decisions in such challenges. Where such redistributive land reforms are addressed using powers of compulsory acquisition, governments have sometimes adopted a policy where full compensation is not

provided for land that is compulsorily acquired.¹⁵ Land redistribution was practiced in the previous government a number of times through expropriating of a land holder and user and transfer to another in the name of addressing fair income distribution. But it was practiced without paying compensation for the losers. Despite that commensurate compensation for the expropriated properties situated on the land and the land holding and use rights should be paid in advance, according to the 1995 constitution and proclamation No. 455/2005, in practice as it has been observed in the field survey, it was not materialized which made the justification of expropriation difficult.

3 Principles of Compensation

When the term compensation is used in the context of deprivation of land holding it means recompense or amends. It means the sum of money which the owner would have got had he sold the land on the open market plus other losses which result from the resumption. However, the term compensation is not defined in the land acquisition statutes. The term takes its meaning from the provisions which define what monetary sum must be paid to the dispossessed owner for the loss of his land.¹⁶ The sum payable may represent a sum not only for the land taken, but also other losses suffered in consequence of the acquisition. The fundamental principle has been to place the affected land holders in the same position, after the acquisition as he was before, nor worse, nor better. This also called the principle of equivalence¹⁷.

In Ethiopia, the different principles of compensation are stated both in the constitution and proclamations. In the 1995 Constitution of the country, Article 40(7), it is said that every Ethiopian has a full right to the immovable property he builds and to the permanent improvements he brings about on the land by his labour or capital. This right shall include the right to bequeath, and where the right of use expires, to remove his property, transfer his title, or claim compensation for it. In sub article 8, it is also said that without prejudice to the right to private property, the government should pay compensation commensurate to the value of the property when it expropriates private property for public purpose.

According to Pro. No. 455/2005: part three article 3, the amount of compensation for property situated on the expropriated land shall be determined on the basis of replacement cost of the property. Compensation for permanent improvement to land shall be equal to the value of capital and labour expended on the land (article 4). The cost of removal, transportation and erection shall be paid as compensation for a property that could be relocated and continue its service as before (ibid article 5).

¹⁵ FAO (2008).

¹⁶ Brown (1991); Rowan-Robinson & Brand,(1995) cited in ANUAR ALIAS and MD NASIR DAUD (2006).

¹⁷ Cruden (1986); Brown (1991), Rowan-Robinson & Brand (1995); Teo & Khaw (1995); Jain & Xavier (1996); Usilappan (1997) ; cited in Anuar and MD Nasir (2006).

3.1 The Use of Market Value as Measure of Compensation

Most countries have constitutional requirements for paying compensation when the government expropriates private assets for public purposes. In the United States (US), the US Constitution requires “just compensation” for all takings of private property.¹⁸ The Philippine Constitution similarly requires that “payment of just compensation must be made.”¹⁹ Brazil’s Constitution also contains a “just compensation” clause.²⁰ In Ethiopia, the Constitution mandates that the state make “compensation commensurate to the value of the property” for taking possession of private property for public purpose (Ethiopian constitution 1995, article 40 (8)).

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.” (Asian Development Bank 2007:5) The underlying reason for adopting the fair market value standard is that the market is an objective gauge for assessing the value of the land. Market value²¹ has been the most popular suggestion for calculating compensation payable. The chartered land societies committee of UK is one of these and proposes the basic theory:

...the disposed owner could go out into the market and purchase with his compensation money a property roughly similar to that which had been acquired, any incidental loss or expense being met from the proceeds of the disturbance claim.

The use of market value as measure of compensation that is “just, adequate, full, fair” etc raises questions because it seems to contradict the basic logic. When the government acquires the land compulsorily and pays compensation, the transacted price cannot be market value because of the coercive conditions attached to the sale. This equation defeats the very basic rule of a free market i.e. “free operation” of the transitions. In a free market, market value can only be produced in a situation where willing buyers and sellers of commodities meet and transact freely under market conditions and the price arrived at is supposed to be fair assuming that negotiations were not interfered with (Hardwick et al. 1990:87–106 cited in Cletus E. Ndjovu 2003:44). It is argued therefore, since there is no freedom of transaction, there is no market as such for the compulsorily acquired property and any attempts to equate “just compensation” to “market value” is incorrect (Eaton 1995:8 *ibid*). Market values only provide a useful guide towards determination of the market value case.

Some countries provide a premium above the “fair market value” because of the involuntary nature of the taking. In a compulsory land taking, the government

¹⁸ US Constitution, Amendment V.

¹⁹ Philippine constitution, Art. III, sub article 9.

²⁰ Brazil Constitution, Art. 153, paragraph 22 (amendment 1).

²¹ The concept “market value” is not necessarily the equivalent of “just compensation” but rather a useful and generally sufficient tool for arriving at this.

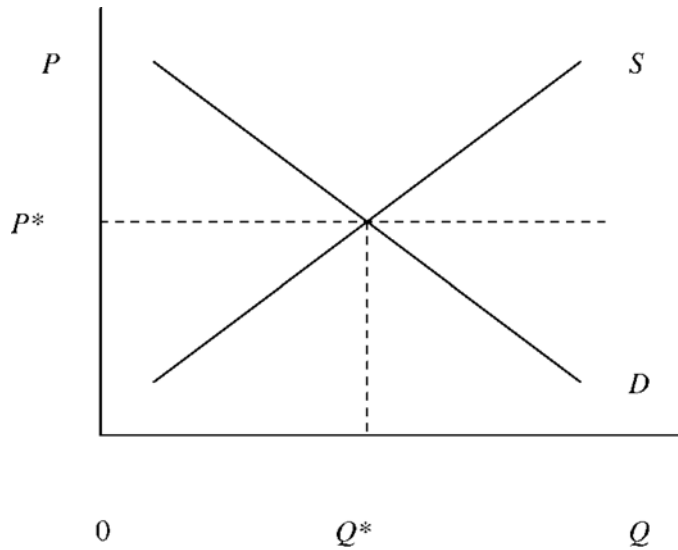


Figure 2. Supply-Demand curve.

is a willing buyer, but the affected landowners are often not willing sellers. Some governments have developed a variety of mechanisms to compensate landowners in excess of market value because of the involuntary nature of the taking. Miceli and Segerson (2007), supported this argument in the article entitled “The Economics of Eminent Domain: private property, public use, and just compensation” 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.” The idea can be easily illustrated in a simple supply-demand diagram as shown in the figure below.

The demand curve represents the marginal private benefit to potential buyers of putting additional land into an alternative land use. It thus gives potential buyers’ marginal willingness to pay for land. The supply curve represents the marginal private cost to current owners of taking additional land out of its current use. It thus gives the owners’ reservation prices; that is, their marginal willingness to accept in compensation in exchange for giving up their land. The equilibrium price in this market, P^* can be interpreted as the market value for this class of property. It represents the price at which those parcels between 0 and Q^* would sell in consensual transactions. In contrast, parcels to the right of Q^* would not sell because the reservation prices of the owners exceed the equilibrium price.

Now suppose one of the owners who would not have sold voluntarily at P^* is forced to do so.²² Such a sale imposes a loss on that owner equal to the vertical difference between the relevant point on the supply curve (that owner’s

²² If the marginal social value of putting the land to the alternative use exceeds the marginal private value, then it would still be efficient for land beyond Q^* to be taken by the government for this purpose (ibid).

reservation price) and P^* . This difference represents the owner's subjective value. In this sense, fair market value must necessarily undercompensate unwilling sellers.

There are settings in which one or both of the two conditions noted above are not present. In some such settings, particularly remote, rural settings, markets are not sufficiently active to provide reliable information about prices. Even when markets do provide reliable information about the value of the expropriated land, it may not be possible to identify comparable land for purchase.

Even in the presence of both conditions, valuation using the fair market value standard often results in less than market price due to a variety of other factors. In many countries, legal compensation criteria are based on a registered "market value" that underestimates actual market value, so landowners are unable to replace their assets. In many settings, legal compensatory practices do not recognize customary claims that are not formalized (as defined by the state). In other settings, the legal framework recognizes the claims, but compensates them at a discounted value. In some settings, the state places sharp restrictions on the rights of formalized land users – such as the right to sell – which then results in a sharply discounted market value, making it impossible for landowners to replace their asset. In most settings, "market value" compensation refers to the market value of the expropriated land, which for a variety of reasons might not be the same as the market value of land of equal productive potential or use that could serve as a replacement.

In countries like Ethiopia, where the property market is thin and inactive, and where there are 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 woreda and urban administration, which is a political organ. Thus, expropriatees do not have any opportunity to participate either in the process of expropriation or in the valuation of land and attached property to be compensated fairly.

4 Valuation Methodology and Procedures

Most countries have adopted "fair market value" as the compensation standard when the government expropriates land. But how is "fair market value" determined? In the appraisal theory, market value can be established by using the three methods of valuation namely the cost approach, the income capitalization approach and the sales comparison approach.

4.1 The Cost Approach

Cost Approach is one of the accepted methods to consider when estimating values for compensation.²³ It is mostly used where the assets are "special" i.e. they do not produce incomes and they have very little or no sales comparables, such as churches, public schools, historical buildings, and mosques, water treatment

²³ Ellsworth (2000:32) cited in Cletus E. Ndjovu (2003: 45).

plants, etc. The nature of the property influences the choice of the method to be used in valuation for expropriation.²⁴ 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. According to the theoretical basis of the method, an informed buyer will not pay more for a given property, more than the cost of producing a substitute property having the same utility.²⁵ This assumption forms the basis of using it as a method in establishing “market values”. 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 that an asset should be worth no more than the cost of a similar asset possessing equivalent utility²⁶.

4.2 The Sales Comparison Approach

It is a valuation technique in which the value of the subject property is determined by comparing the properties recently sold in the subject property’s vicinity. The comparable sales approach is the most common method of land valuation. 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. This method models the behavior of the market by comparing the subject property under valuation with similar property or properties that have recently sold or for which offers to purchase have been made. 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. The sales price finally reached reflects the equilibrium of supply and demand for land in a given market. Therefore, if the subject property under valuation were offered for sale in the same market about the same time, the transaction would be completed at approximately the same price.

4.3 The Income Capitalization Approach

The comparable sales approach is not applicable if markets are inactive. Typically, the “thinner” the market, the less accurate the approach will be for determining value. An alternative to the comparative sales approach, typically used in situations where markets are relatively inactive, is called the income (or capitalization of income) approach. It is most applicable to agricultural land and investment properties²⁷.

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

²⁴ Duvall and Black (2001).

²⁵ Boyd (1987:160; and Ellsworth (2000:32) cited in Cletus E. Ndjovu (2003: 45).

²⁶ Ellsworth (2000:32).

²⁷ ADB (2007:8).

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.²⁸ This method is used for income producing properties e.g. residential buildings, commercial space leased to a bar, restaurant, barbershop, garage etc. This method is based on the model that: capital value is the product of net income and a chosen capitalization rate²⁹.

In Ethiopia, as it is stated in proclamation No. 455/2005, and the Council of Ministers Regulation No. 135/2007, valuation method is the cost replacement method due to the following main reasons.

In Ethiopia, particularly in remote rural areas, property markets are not sufficiently active to provide reliable information about prices. Even when markets do provide reliable information about the value of the expropriated property, it may not be possible to identify comparable property for purchase. Furthermore, in countries like Ethiopia where property market is very weak, the easiest method used to value the expropriated property is the cost method. The government as main expropriator will not pay more for a given property, more than the cost of producing a substitute property having the same utility.

6 Survey Results and Discussion of Findings

6.1 Background of the Respondents

Table 1. The Main Characteristics of the Sample.

Characteristic	Frequency	Percentage
Gender		
Male	45	45%
Female	55	55%
Occupation		
Civil servant	–	
Valuation officer	5	5%
Trader	55	55%
Farmer	25	25%
Daily Worker	15	15%
Educational qualification		
Illiterate	15	15%
Reading and Writing	68	68%
Twelve complete	12	12%
Diploma	–	
Bachelor Degree	5	5%
Master Degree and above	–	
Location of Respondents		
Bahir Dar	50	50%
Gonder	50	50%

Source: Field Survey

²⁸ Eckert, Joseph, ed. (1990) Property Appraisal and Assessment Administration, 231 Cited in ADB (2007:8).

²⁹ Cletus E. Ndjovu (2003: 45).

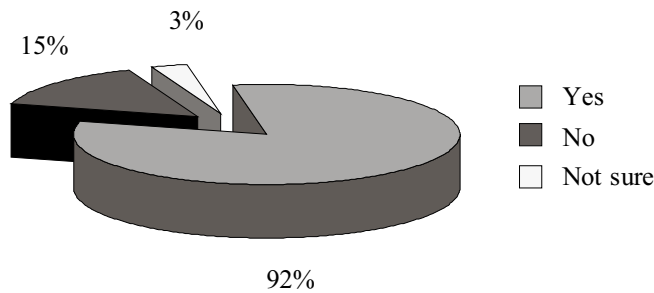


Figure 3. Alternatives for Government to Secure Land for Development. Source: Field Survey.

6.2 Issues and perspectives on expropriation, valuation, and compensation

Q1: Is there another alternative rather than expropriation for the Regional Government to secure land for development

The weights used in this question are 1 = yes; 2 = no; and 3 = not sure. Figure 3 presents respondents' views on the options open to the government for securing land for development. As we can see from the figure above, 82% of the respondents agreed that, apart from expropriation, the regional government does have other ways to secure land for development. As the respondents, the government can use undeveloped urban land properly rather than taking expropriation as the means to secure land for development. Only 15% believed that expropriation is the only means the government can exercise to secure land to carry out public projects like public road, hospitals, schools, etc. The remaining 3% are not sure which option the government can use to undertake public projects. Even they do not know the rights and obligations stated in the rules and regulation of expropriation.

Q2: Purposes of expropriation powers

Table 2. Purposes of expropriation powers.

Purpose of expropriation	Frequency	Percentage	Rank
Public development projects	45	45%	1
Township expansion	30	30%	2
Private investment	8	8 %	4
Roads and other public utilities construction	17	17%	3
NGO projects	–	–	
Total	100	100%	

Source: Field survey

Table 2 above shows the ranking of purposes for expropriation powers being used in Bahir Dar and Gonder cities of the Amhara Regional state. Land expropriation for public development projects and roads and other public utilities was agreed by most respondents to be implemented by municipalities. Furthermore, respondents believed that the government should use undeveloped urban land for undertaking public projects as the first option rather than expropriation and displace people in the name of township expansion and public use. Sometimes after the land is taken from one individual and transferred to another individual the so called investor, it remains idle for a number of years without development. Both the Federal Expropriation and Compensation proclamation No. 455/2005 and the council of Ministers Reg. No. 135/2007 did not say anything about the rights of expropriatees to buy the compulsorily taken land back at the price they were paid when the land is kept idle for a certain number of years.

Q3: Stages of expropriation being opposed

Table 3. Stages of expropriation being opposed.

Stages of expropriation being opposed	Frequency	Percentage
Valuation procedure	100	100%
Professionalism of valuers	100	100%
Level of compensation	85	100%
Type of compensation	15	25%

Source: Field survey

When asked about what stages of the expropriation processes are being opposed, all the respondents in both cities including those who are assigned as valuers indicated that the valuation procedure, professionalism and experience of valuers and level of compensation are being opposed by landholders, which was evident from 100% respondents mentioning it. As far as type of compensation is concerned, when land is compulsorily taken from peasants for the township purpose, the affected peasants require getting the substitute land since it is the mainstay of life for them. But city municipalities could not be able to provide land so that they give money for compensation. Mostly it is by far below the value of the expropriated land. Sometimes the municipality may give money and land only for residence for those who need to live in the peripheral areas of the city. Rowan-Robinson (1990) commented that ‘compulsory purchase is one of the harshest impositions by the State upon its citizens’. Studies by Dundas & Evans (2001) in Scotland revealed that there is evidence of persistent widespread dissatisfaction with the compulsory purchase process and compensation extending over long number of years. In many land acquisition cases, people suffer more than they gain, thus land acquisition needs to be dealt with more pragmatically³⁰.

Q4: Reasons for opposing expropriation*Table 4. Reasons for objections in expropriation.*

Reasons for objection	Frequency	Percentage	Rank
Inadequacy of compensation	100	100%	1
Purpose not purely public purpose	65	65%	2
Emotional attachment to property	5	5%	4
Procedures not clear	52	52%	3

Source: Field survey

The weights used in this question are 1 = most important; 2 = moderately important; 3 = slightly important; 4 = less important; 5 = not important at all. The respondents were asked to score their answers based on these scales. As shown in table 4 above, inadequacy of compensation was the most important reason why property expropriation was opposed by landholders. It was evident from the respondents that 100% of the respondents including the valuers said that the amount of compensation given for expropriatee is by far less than the value of the expropriated property whereas purpose not purely for public purpose ranked second with 65%. Procedures of expropriation are not clear for about 52% of the respondents and the least reason for objecting expropriation is emotional attachments to property. From the table 4 above, we can understand that the reason for expropriation is not as such convincing for the respondents. The procedure and setting up of the valuation committee is not similar even in the two study areas.

Q5: Advantages of expropriation powers*Table 5. Advantages of expropriation powers,*

Advantage	Frequency	Percentage	Rank
The government's tool to assemble land in resolving the land supply problems for development	67	67%	1
To avoid situations where individual property owners can frustrate development by refusing to transfer	10	10.4%	4
To save time and create less problems to acquiring body	65	65%	2
To avoid property holders to holdout property for unreasonable purchase	35	35%	3

Source: Field survey

As shown in Table 5 above, more than 50% of the respondents believe that property expropriation is advantageous as the government's tool to assemble land in resolving the land supply problems for urban development such as urban expansion, huge industrial development and other social and economic development activities. It also saves time and creates less problems to acquiring body. Unanimously the valuation committee members and some other respondents

also believed that it enabled the acquiring authority to avoid property owners to holdout property for unreasonable purchase.

Q6: Disadvantages of expropriation powers

Table 6. Disadvantages of expropriation Powers.

Disadvantages	Frequency	Percentage	Rank
Compensation was very small and not up to the expectation of affected landholders	95	95%	1
Complicated, time consuming and expensive	92	95%	3
Serious encroachment on the right to property	95	95%	2
Not welcome by property holders	15	15%	4
Always opposed by the affected landholders	10	10%	5

Source: Field survey

Table 6 shows the disadvantages of expropriation powers as identified by the respondents. The respondents agreed that, the main disadvantages of land acquisition were: compensation was not generous and it is by far less than the market value and the expectation of the affected people and it was complicated, time consuming and expensive to implement. The lowest number of respondents on the listed disadvantages was on the factor that land expropriation was always opposed by landowners. This might not be true if the compensation is generous and sufficiently high, and the landowners will welcome compulsory acquisition.³¹ As it has been shown in the field survey in Gonder, the respondents in Gonder city supported the compulsorily taking of the land for the road construction which has been undertaken by the federal road authority for the simple reason that the project has been undertaken for the benefit of the public and the compensation rate was very competitive to the market value as compared to the rate paid by the city administration. The Ethiopian Road Authority's right-of-way agents calculate the compensation rate such as value per quintal of crops, value per big tree, value per medium tree, value per seedlings, value per m² of houses, etc. in concert with the local government (woreda or urban administration) valuation committee. The committees are constituted of representatives of local governments, representatives of project affected individuals and the Ethiopia Road Authority's right-of-way agent. Together they will conduct the registration of affected properties and the number of project affected people. Likewise, they will establish the compensation rate. Whereas in the regionally funded projects, the valuation committees are set by the woreda or urban administration without the representation of affected individuals. Hence, the compensation amount differs from institution to institution that is involved in expropriation as the procedures followed and the source of finance budget for compensation.

³¹ Rowan-Robinson (1995) cited in Cletus E. Ndjovu (2003).

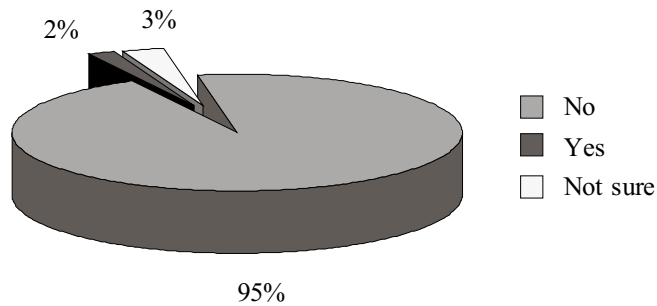
Q7: Whether or not adequate compensations have been given

Figure 4. Adequacy of compensation. Source: Field Survey.

When the respondents were asked about the level of compensation, 95% of the respondents thought that adequate compensations were not given, while 3% were not sure and only 2% thought it was adequate (those who were compensated by the Federal road authority in Gonder city). This suggests that adequate compensation remains as a main issue that needs to be addressed despite it requiring the financial capacity of municipalities. The city municipalities pay compensation for those who are affected by the expropriation process if they have to assure that the land holding is titled. This was implemented in Gonder city. However in Bahir Dar, even those who have not proper title, have been compensated despite the implementation was not applied uniformly (For example those who were displaced from, ketel sefer, a village made from wood were compensated randomly without taking consideration of valuation and compensation procedures. A person who lived for few years has been compensated but a woman who has lived for more than ten years in the village was not compensated). In Gonder city, the municipality paid compensation for urban expansion for those land holders that were not part of the urban area until 1972 E.C but included as part of the urban area after 1972 E.c. Within the city, the level of compensation differs from location to location according to distance of the property from down town. Near to down town payment has been high. If the municipality does not have sufficient finance, it may not pay compensation at all. So the affected people are not treated uniformly. Compensation procedure needs urgent solution so as to implement the rules and regulation of expropriation uniformly to all affected people. In both cities, the affected people did not get compensation for disturbance, demolishing, transportation and other related expenses.

Q8: Types of losses due to expropriation*Table 7. Types of losses due to expropriation.*

Types of losses	Frequency	Percentage
Loss of accommodation	55	55%
Loss of business	35	35%
Disturbed social life and network	75	75%
Psychological distress	32	32%
Other	5	5%

Source: Field survey

Table 7 shows types of losses due to expropriation identified by the respondents. From the point of view of respondents, among the losses due to expropriation, disturbed social life and network and loss of accommodation are the most problems they have faced due to expropriation. Loss of business and psychological distress are also the other main losses due to expropriation. Most of the respondents strictly comment that the expropriator did not inform them in advance when they plan to undertake expropriation and they did not give much emphasis on the problem that they encountered due to the expropriation process.

Q9: Perceptions on the measures of adequate compensation*Table 8. Perceptions on the measures of adequate compensation.*

Measure of adequate compensation	Frequency	Percentage
Component of compensation should include: MV + other claims (disturbance, severance, injurious affection) + premium	100	100%
Land acquisition power is purely for public purposes	100	100%
Landowners do not challenge the award	52	52%
Beyond monetary compensation – e.g. resettlement	85	85%
Negotiation with landowners is mandatory before compulsory acquisition	100	100%
Compensation proposal is made available for review and consideration by landowners before inquiry	100	100%
Establishment of Land Registration system to secure land for development	86	86.6%
Taking into consideration humanity aspects in compensation – e.g. hardship, readjustment of life/family/business	100	100%

Source: field survey

Table 8 itemizes the 8 listed measurements of adequate compensation. The respondents agreed that all measurement factors except landholders do not challenge the award, have got more than eighty percent of the respondents support. This means that they were strongly and moderately agreed that all the factors are important to be taken into consideration in land acquisition researches. Even almost fifty percent of the respondents agreed that land holders do not challenge

the award. Of course, the remaining respondents oppose the acceptance of award as it is without strong negotiation since they do not believe the valuers that they value the property genuinely. Respondents also gave considerably high marks for suggestion on an establishment of Land Registration system to secure land for development. Usilappan (2000) suggests that an alternative system should be considered to allow economic development taking place without complete land acquisition. The government can play the role of a mediator and as a watchdog to development.

Q10: The procedures of expropriation, valuation and compensation

Under the constitution of 1995, proclamation No. 455/2005 and Regulation No 135/2007, both the Federal and Regional governments have a right to expropriate “property” for public purposes and must both notify and compensate “persons interested” in the property. As proclamation No. 455/2005, Article 4, where a government agent such as a woreda or an urban administration decides to expropriate a landholding for public purpose, it should notify the landholder in writing indicating the time when the land has to be vacated and the amount of compensation to be paid. The period of notification should not by any means be less than ninety days. Any “landholder who has been served with an expropriation order” should handover the land to the woreda or urban administration within 90 days from the date of payment of compensation.

According to sub article 4, if there is no crop, perennial-crop or other property on the expropriated land, the land holder should handover the land to the woreda or urban administration within 30 days from the date of receipt of the expropriation order. As sub article 5, where a landholder who has been served with an expropriation order refuses to handover the land within the period specified, the woreda or urban administration may use police force to take over the land.

Despite that the proclamation No. 455/2005 and regulation No. 135/2007, stated clearly the procedure of expropriation and compensation, the practice undertaken on the ground is extremely different from the rules. The respondents both in Gonder and Bahir Dar revealed that the rules and regulations are violated because if the land is needed for immediate development it may be taken without any advance notice. They are not part of the decision on compensation amount and procedures. Most of the time, the affected people are not considered as part of the decision of the process of expropriation, valuation and compensation.

6.3 Compensation and Valuation Problems

There are some points in the proclamation and regulation that are not properly treated. But the main problems that prevailed in the two cities of Amhara National Regional State 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 two cities and in the region in general.

- i. Low level of compensation: Since the valuation committee members are assigned by government organs and they are not professionals, the value they assigned to the expropriated property is very low.

- ii. Many long-term, but not formalized, possessors of land do not receive compensation because their rights are not formalized.
- iii. Under-compensation due to delays in compensation payments, including cases where the statutory stipulated interest is not paid.
- iv. Asset appreciation occurring after the determination of compensation. This results in a failure to reach replacement costs. By law, the valuation cannot consider this increase, yet the purchase price of replacement land in the vicinity will be affected. So the amount of cash compensation, even if properly valued by law, is based on pre-project rates, which is not enough for recipients to purchase equivalent.
- v. Land-for-land compensation options often not considered or offered. The Pro. No. 455/2005 gives the collector the option to offer land-for-land compensation in lieu of cash compensation, but does not require it. As a result, land-for land compensation is rarely given the serious consideration it deserves.
- vi. Different compensation rate by federal and regional valuers, lack of follow-up and coordination in allocation of compensated amount of money. Especially farmers lost their compensated amount of money due to lack of advice and training how to allocate the money.
- vii. The compulsorily taken land remains idle for a number of years.
- viii. Due to lack of professional valuers, different attributes such as fertility of soil, topography, location, distance from the main road, etc that determine the value of property are not taken into consideration.
- ix. During the valuation process, depreciation of the property is not considered.
- x. Most of the affected people do not know properly the expropriation rules and laws.
- xi. The displaced people faced lack of infrastructural development.

6.4 Comments

In addition to the response for the questions raised in the structured questions, the respondents also gave their comments on the process of expropriation and compensation and their comments were summarized as follows:

- a) The authorities are discouraged to pre-announce the proposal of acquisition and the amount of compensation in advance for expropriatee. This will create speculative purchases among those who have interests. As the survey in the two cities showed, the affected people were not part of the decision regarding the process of expropriation and amount of compensation. These created so many problems for them. As it is stated clearly in the proclamation No. 455/2005, the affected people should be informed in advance before taking any action and they should also be included in the decision process.
- b) The valuers assigned by the authorities should be independent professionals having the experience of appraising the value of properties.

- c) Land should only be expropriated when necessary and urgently needed for public project developments. As it was surveyed, there were cases where lands acquired were left idle for years.
- d) The proclamation No. 455/2005 and Regulation No. 135/2007 indicate clearly how to determine the compensation but each city interprets them differently. Even the Federal and regional government valuers interpret the compensation rate differently. This gives rise to questions of justice. The affected people should be treated uniformly as it is stated in the law. There should be some mechanism that enables the affected people to be treated uniformly.
- e) The expropriation powers should only be used for public purposes. Economic development projects that benefit the public should make it compulsory for acquiring body to negotiate with landholders before compulsory acquisition. This will make landholders welcome the project proposals.
- f) Before the implementation of expropriation process, the affected people should be informed about the rules and regulation of expropriation and compensation and if they need to claim about the process they have to be supported in advice and appealing process.
- g) The expropriation and compensation process in the Amhara Regional State in general and the two study areas in particular are not fair. The process is not clear to the affected people. It has not been done as stated in the proclamation and regulation. The affected people are not informed in advance before implementation. They do not have sufficient time as it is stated in the proclamation No. 455/2005, 90 days to deliver their property. The valuers are not independent and professional. The compensation rate varies from valuer to valuer and place to place. The valuation rate is different for regional and federal valuers.

7 Conclusion

The literature review and survey results revealed that the main issue of expropriation is the quantum of compensation that is perceived by the respondents as inadequate to fulfill adequate compensation notion under the spirit of 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. 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 urban area are the alternatives available for government to exercise rather than solely depending on land expropriation powers. According to Usilappan (2000), land acquisition is a complex process, is sensitive in nature, and needs a pragmatic approach to deal with. Wherever possible, land developments should be carried through the process of normal economic supply and demand.

Current negotiation and mediation practice suggests that some parties are trying to adopt a workable approach to compensation. It remains to be seen, however, whether the principles of valuation by the court in land reference cases are recognized to give space for compensation that addresses the intrinsic value of land. To secure just terms and sustainable outcomes, all parties need to be made more aware of the implications attached to following different statutory pathways for compensation. An impartial interpretation of the law and a better understanding of the principles and practice of valuation will lead to an adequate compensation settlement.

Finally, the problems of compensation are more than just a matter of law and valuation; it is a matter of justice between society and man. “The word compensation would be a mockery if what was paid was something that did not compensate”.

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