

# **Compensation Practices in the Ethiopian Expropriation Process**

- A Case Study from Amhara National Regional State,  
Ethiopia

Martin Persson

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Kompensationspraxis i den Etiopiska  
Exproprieringsprocessen

**Compensation Practices in the Ethiopian  
Expropriation Process**

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## **Abstract**

Development of the agricultural sector is among the top priorities for the Ethiopian government in order to keep up the economic development in the country. One way of reaching this is to undertake large-scale development projects, such as the Tana Beles Sugar Development Project described in this thesis. For this, large areas of land are required for the plantations. This land is expropriated from farmers living in the area.

There are a number of legislations regulating how and when expropriation can be done in Ethiopia. The key factors are that it must be for a public purpose, in accordance with due process of the law and accompanied by compensation. The purpose of this study is to determine how well those regulations align with the methods practiced in the field and issues to implement the regulations. This includes the judicial, social and financial aspects of the expropriation process.

Field studies for this thesis were done in Amhara National Regional State where the property of more than 2500 families had been expropriated in order to make place for sugar plantations. Interviews were performed with people affected by the expropriation, government officials and individuals who took part in the valuation of property during the expropriation.

The study shows a significant discrepancy between the requirements in the legislations and the expropriation practice in the field. The affected people are to a large extent dissatisfied with how the expropriation process were undertaken, as well as the amount of compensation received for lost property. Furthermore the study points at issues with the training of the valutors involved in the process.

A general issue with the expropriation process is the lack of documentation and transparency. To a large extent important records were missing from the local authorities, which made the process hard to follow in retrospect.

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## **Sammanfattning**

Utveckling av jordbrukssektorn är en av de viktigaste prioriteringarna för den Etiopiska staten när det kommer till att upprätthålla landets ekonomiska utveckling. Ett sätt att uppnå detta är att satsa på storskaliga utvecklingsprojekt inom jordbruket, till exempel Tana Beles Sugar Development Project som den här uppsatsen kretsar kring. För att kunna anlägga detta har stora landarealer tagits i anspråk för sockerrörsplantage. Denna mark har exproprierats från jordbrukare som bor i området.

Det finns flera olika lagar och regleringar kring hur och när expropriering kan göras i Etiopien. Några av nyckelfaktorerna är att det måste ske till förmån för allmänviktiga syften, i enlighet med lagar och regler och åtföljas av kompensation. Syftet med den här uppsatsen är att avgöra hur väl dessa regler stämmer överens med de metoder som används i fält och vilka problem det finns med att implementera dessa regleringar i praktiken. Detta innefattar såväl juridiska som sociala och ekonomiska aspekter av expropriationsprocessen.

Fältstudierna för denna uppsats utfördes i Amhara National Regional State i ett område där marken från mer än 2500 hushåll har blivit exproprierade för att anlägga sockerrörsplantage. Intervjuer har utförts dels med personer som drabbats av exproprieringen, men också med representanter från lokala myndigheter och personer som var delaktiga i värderingen av tillgångar under exproprieringen.

Studien visar på en avsevärd diskrepans mellan de krav som lagen ställer och hur exproprieringen utfördes i praktiken. De som drabbades av exproprieringen visade på ett stort missnöje med hur hela processen gick till, såväl som med den ersättning som betalades ut för den förlorade egendomen. Studien påvisar också brister i den utbildning som värderarna har för att klara av sitt uppdrag.

En generell utmaning med expropriationsprocessen är avsaknaden av dokumentation och transperens. Centrala dokument och handlingar saknades i stor utsträckning hos de lokala myndigheterna, vilket gjorde expropriationsprocessen svårt att följa och utvärdera i efterhand.

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Lund, December 2015  
Martin Persson

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## **Abbreviations**

ANRS	Amhara National Regional State
EPLAUO	Environment Protection, Land Administration and Use Office
FDRE	Federal Democratic Republic of Ethiopia

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## 1. Introduction

### 1.1 Background

Ethiopia, formally The Federal Democratic Republic of Ethiopia, is a vast country on the Horn of Africa. It is the second most populous country on the African continent after Nigeria, with a total population of 97 million people (CIA, 2015). The country is landlocked and relatively low on natural resources if compared to neighbouring countries. Furthermore the level of social and economic development in Ethiopia is low and the country lacks developed industry. Thus land and agriculture is the most important financial and social resource, with approximately 85 % of the active labour force working in the agricultural sector (ibid).

The government of Ethiopia is facing several challenges in how to increase economic development of the country and to face the demographical reality with a rapidly increasing population. The people of Ethiopia are among the poorest in the world, with 37 % of the population living in absolute poverty (below USD 1.25 per day in 2005 prices) (World DataBank, 2010). Studies have shown that growth in the agricultural sector has had a strong impact on poverty reduction in Ethiopia. Figures from The World Bank show that since 2005, a 1 % increase in agricultural output caused a reduction of poverty by 4 % (World Bank Group, 2015). This provides a strong incentive for development in the agricultural sector, since this will have significant effects on the poverty reduction.

The agricultural sector makes up 45 % of Ethiopia's GDP and is the single most important contributor to the export. It is not hard to understand why the agricultural sector takes up a lot of the government's attention. However the strive towards a modern and efficient agricultural sector comes to a prize. With 85 % of the population living as farmers, mainly in small family managed farms without modern tools, modernization is a colossal challenge.

In an attempt to modernize the farming sector the government has in recent years focused on establishing large-scale farms and plantations all over the country. This is an attempt to boost the production in the agriculture sector and to attract foreign investors to Ethiopia. The land used for these projects are however in most cases already cultivated by small-scale farmers, whom in many cases have lived of the same plot of land for several generations and are totally dependent on the land to survive. The authorities expropriate their land, and the farmers are forced to move into newly established villages (so called "villagization"). The farmers are to be compensated by the government for their loss of land and income, either financially or with replacement land.

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### **1.2 Purpose**

The purpose of this thesis is to analyse and explain how expropriation of property is undertaken in a rural area of Ethiopia in order to describe how the practices aligns with current legislations and how it affects the people who have gotten their property expropriated.

### **1.3 Objectives**

The analysis aims to highlight judicial, financial and social aspects of the expropriation process. A number of questions have been identified as the key issues within these three fields. The objective of this thesis is to answer these questions and by that give the reader a good understanding of the expropriation process in rural Ethiopia.

#### *Social aspects:*

- What are the consequences for the people affected by land expropriation in their everyday life?
- What efforts are undertaken from the authorities in order to provide support to those affected by land expropriation?

#### *Judicial aspects:*

- How is expropriation practiced in rural areas in Amhara National Regional State?
- How is the legal framework concerning expropriation structured?
- To what extent are the laws and regulations implemented and followed in practice?

#### *Financial aspects:*

- How is the compensation for expropriated property calculated?
- Is the amount of compensation paid to the affected people fair and in accordance with laws and regulations?
- How has the expropriation affected the income and expenditure of those affected?

### **1.4 Methodology**

The thesis is structured as a case study where one particular expropriation case is studied thoroughly. In order to get a more comprehensive picture of the expropriation process, including local varieties in practice, more case studies ought to be done. This was however out of bounds for this thesis due to the limited time available for the field studies. This case study will nonetheless give a good grip on how expropriation is practiced in rural areas in Ethiopia and it will elaborate on the most common challenges relating to this.

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In the data collection a combination of a structured quantitative method and a semi-structured qualitative method have been used. The data mainly originates from three different sources; interviews with people affected by expropriation, interviews with government officials involved in the expropriation, and written documentation of the expropriation process obtained from local authorities.

In order to obtain the necessary data, fieldwork was undertaken during nine weeks in March and April 2015. The fieldwork was done jointly by the author and a M.Sc. student at Bahir Dar University, Institute of Land Administration, in Ethiopia. The planning of the fieldwork as well as the data collection and some of the analysis work were done jointly. All results and conclusions were shared and used in both thesis respectively. The fieldwork was undertaken both in Bahir Dar, the regional capital city, where the background and analysis work were done and for about one and a half week in the field in a rural area at about 70 kilometres from the city of Bahir Dar, at the expropriation site where the data collection was done.

The alternative to do a case study would be to do a literature study or a legal dogmatic method. Those methods would not be feasible due to the very limited amount of written documentation relating to expropriation in rural areas. A legal dogmatic approach is further challenged by the lack of documented court cases and other judicial documentation. A challenge with this method would also be that it would fail to take into account the discrepancy between the written law and the practice in the field, which this thesis aims to emphasize.

A major challenge in the methodology is the concept of property value, where there are few sources of reference for how to determine the actual value of property. For those whose property is expropriated, this does not primarily mean a monetary loss. The loss is more of a deprivation of livelihood, culture and tradition, which is compensated strictly with monetary means. Those who have lost property have a limited understanding of monetary value and it is challenging to relate the loss of property to the monetary compensation. However the thesis aims to do that, but will for this reason not look strictly to the financial aspects of the expropriation but also the social and judicial.

A theoretical background has been written in order to give a better general understanding of the expropriation process. For this theoretical background a substantial amount of previous research on expropriation has been analysed.

### **1.5 Limitations**

The process of expropriation in Ethiopia already has been thoroughly discussed in previous research that will be described in this thesis. This thesis is done as a case study and will focus on the conditions in one specific expropriation case. The case that will be analysed is a government agricultural development project in Jawi

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woreda, Amhara National Regional State. The study area will be introduced more exhaustively in coming chapters.

The thesis will not discuss issues concerning expropriation in urban areas; the focus will solely be rural expropriation. However, in Ethiopia local practices of rural expropriation may vary extensively from area to area due to different traditions, different local interpretations of regulations and a lack of ability to uphold a central control of the expropriation practices. These kinds of local irregularities will not be explored in the thesis; it will focus on expropriation practices in Amhara National Regional State. Other regional appliances of expropriation will not be investigated.

Furthermore one limitation is the access to legislative text. It has only been possible to study the federal legislations, since regional adaptations are not translated to English, and even the native Amharic ones are hard to obtain from the authorities. However, as will be explained this causes only minor issues since the regional legislations generally are consistent with the federal counterparts. But the thesis is limited to only study the implementation of federal legislations.

### **1.6 Disposition of the thesis**

In the first part of the thesis the theoretical framework will be presented, giving the reader an overview of the concept of expropriation, including different valuation methods that are used to calculate compensation for expropriated property. Following this, the history and cultural context of Ethiopia are presented together with a brief historic overview of expropriation in Ethiopia. This is done in order to give the reader a better understanding of the background to how the expropriation system has evolved in Ethiopia.

Following this the expropriation system used today in Ethiopia is explained, and a description of the different laws and regulations that are related to expropriation is made. From here the field studies are introduced and the results presented. In the final part of the thesis a discussion that derives from the findings from the field study is held. Lastly a number of recommendations on how to improve the expropriation system are given.

## **2. Theoretical framework**

### **2.1 The concept of Expropriation**

Expropriation has been used throughout history as a measure for making privately held land available for different purposes of public interest. This was practiced in the ancient Greek empire, as well as in the Roman Empire (Reynolds, 2010). The right for the state to expropriate property is today recognized by international law, as long as the expropriator follows certain principles (UNCTAD, 2012):

1. Property has to be taken for a public purpose;
2. On a non-discriminatory basis;
3. In accordance with due process of law;
4. Accompanied by compensation.

Expropriation is usually referred to as either direct or indirect expropriation. Direct expropriation involves a formal transition of the legal title from the individual to the state or a third-party stakeholder with a mandate from the state. In its most extreme form, direct expropriation is sometimes referred to as Nationalization, meaning that the state takes possession of all privately held land in the country (UNCTAD, 2012). Indirect expropriation is a form of expropriation where no transition of the formal title takes place. Still the indirect expropriation form can result in a total or near-total deprivation of the rights to the property (ibid). This is for example the case when the state by law interferes with property rights to the extent that privately owned property becomes near to useless.

However there are several reasons for why expropriation should be allowed in certain cases. For example, if there were no means for the state to compulsorily acquire land, individuals with strategically located property needed for public purposes would be able to demand a much higher prize than the market prize and thereby take advantage of the situation. This would lead to an unfair displacement of tax money in favour for those few who possess strategic property of that kind. The possibility of expropriation, or the threat thereof, works as a stabilizing force on the market and makes necessary development of public interest possible to a fair prize (Ekbäck, Kalbro, Norell, Sjödin 2011).

Another example for why expropriation should be allowed is that the sole threat of expropriation proves as an effective incentive for finding a voluntary solution to a dispute over property that is needed for public purposes.

### **2.2 Methods for property valuation**

A central part of the expropriation is to determine the compensation for the expropriated property. This is necessary since compensation for expropriation not follows the rules of the free market where a willing buyer and a willing seller agrees

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on a prize for the transaction. In an expropriation case the transaction is done compulsory and does not follow the rules of a free market. Therefore the prize, or the compensation, will have to be determined in another way. There are several models for doing this, all applicable under different circumstances. This section will explain the most common valuation methods that are used.

### **2.2.1 Sales comparison method**

The market value is defined as *the most probable prize for a sale done at the free market* (Ekbäck et al, 2011). The idea is that the market value is the prize most sellers and buyers would agree upon if the transaction were done with consent on a free and open market at a certain point of time. Since the expropriation is not done with consent on a free market, we will never know the actual market value of a specific object. Therefore it is common to use data from other objects with similar features that are sold on the free market in the same area as the expropriated property (ibid). This will give guidance in how much the expropriated property would be worth on the free market, under the circumstance that enough data is available to do the calculation. The method requires a significant amount of comparable transactions in the same proximity in order to work properly.

### **2.2.2 Income capitalization method**

The income capitalization method can be defined as the *present value of future net profits that the property generates* (Ekbäck et al, 2011). The idea behind this method is that an investor would not pay more for the property than what will be gained during the holding period (Belachew, 2013). This method is primarily used for property that is generating a cash flow, such as commercial real estate or rental units.

### **2.2.3 Cost replacement method**

The cost replacement method is a rather simple valuation method. The idea is to calculate the cost of constructing a new property of the same technical standard as the one that is to be valued (Ekbäck et al, 2011). This method fails to take into consideration aspects such as location of the property or market factors that influence the value of the property. When using the replacement cost method, no estimate of the market value is given. The method can be used in cases where the market is very weak and not enough transactions are documented in order to use the sales comparison method.

## **2.3 Expropriation in an international context**

Expropriation is widely used in almost all parts of the world as a mean of developing land. To give an outlook on this and to highlight some issues relating to expropriation a brief description on the international context of expropriation will be given.

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### **2.3.1. Latin America**

A common thread in Latin America in relation to expropriation is the democratisation process that has been on going for the last decades. This process has affected the whole judicial system in many Latin American countries, and thus the regulations regarding expropriation (Azuela, 2009).

A common determination for many Latin American countries is the rapid urbanisation and growing megacities that have emerged over the last few decades. This has made the need for land in urban and peri-urban areas high and a common way for getting to this land has been expropriation. An interesting observation made in Latin America is the fact that the compensation for expropriated land has been extremely high. This is due to that judges deemed the compensation this way. In one example from São Paulo, Brazil, the compensation deemed was 30 times higher than the market value (ibid). This led to a situation where the expropriators, usually the municipality, came in severe debt just for the cause of attaining land for urban development. It also created a market where investors could hold on to strategic located land since they know that they would be very well compensated during the expropriation process (ibid).

This illustrates one of the core issues of expropriation: that it is not done on a free and open market. This also shows the need of clear and consistent regulations on how to calculate the compensation, not only to protect those who gets their land expropriated, but also those who are the expropriators. If there are no such regulations, the situation could end up being as the one described above.

### **2.3.2. United States of America**

In United States of America there has been an on going debate whether or not expropriation could or should be used as a mean for economic development. The main question here is if “public use” or “public purpose” is justified only for the reason of gaining economic development to an area. This can easily be related to the situation in the case studied in this thesis, where the government expropriates land in order to gain economic growth by establishing a large-scale agricultural facility.

In a famous court rule from 2005 the Supreme Court denounces that expropriation can be done solely for economic purposes, hence making it easier for the government to obtain private land for development (Kayden, 2009). The court ruling has been widely criticised as it is deemed to have to far-reaching consequences for the individual. However, studies shows that the use of expropriation for economic development has remained at a moderate level even after the famous court rule (ibid).

### **2.3.3 Sweden**

In Sweden, as in most countries in Northern Europe, expropriation is mainly used for purposes aiming to provide infrastructure and other services of large public interest. Expropriation is strictly regulated in law, “expropriationslagen” (ExprL). This law

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sets the boundaries for expropriation and also provides guidelines on how the compensation should be calculated. Of importance to highlight in relation to the compensation is the fact that Sweden has applied a regulation that expropriated property should be compensated by the market value, plus an addition of 25 % (ExprL Chapter 4 § 1). The additional 25 % is due to a change in the law done in 2010 that aimed to strengthening the position of the property owners (Prop. 2009/10:162).

### **3. Ethiopia in a historic and cultural context**

This chapter is meant to give a deeper understanding of the context in which the Ethiopian land use system has developed.

#### **3.1 Ethiopia – A brief history of the country**

The history of Ethiopia goes back some 3.2 million years; from which time the oldest known human bones are dated. These bones were found in Ethiopia and the country has therefore by some been called “The cradle of humanity”.

Ethiopia is one of the few countries on the African continent that has never been fully colonized by European forces, with an exception of a brief Italian occupation 1936 to 1942. This rather unique history has formed a lot of the culture and traditions still seen today in Ethiopia.

Throughout history Emperors have ruled Ethiopia. This dates back at least to the Axumite era from around 400 B.C. (Marcus, 1994). During the imperial era a small political elite held the power of the country, supported by the feudal system. It is however important to remember that Ethiopia was not a unified country during the whole imperial era. Kingdoms rose and fell, the central power shifted from region to region and cultures, languages and traditions developed very differently in different parts of what today is Ethiopia.

The imperial era stretches as far as to 1974, when the last emperor, Haile Selassie, was turned over in a *coupe d'état* orchestrated by a number of military leaders. A group called the Derg, or formally the Provisional Military Administrative Council (PMAC), took control over the country and started to reform it in a rapid pace. The Derg implemented a strict communistic rule of the country and started the infamous Red Terror, murdering up to 500,000 people (Bewer et al, 2013). During the Derg era a number of severe famines struck Ethiopia. As a part of the response to this the Derg forcibly relocated several hundred thousands of people, whereof as many as 100,000 died in the resettlements camps due to insufficient food supply (Human Rights Watch, 1994). Backed up by the Soviet Union the Derg remained in power up until 1991 when the resistance, the Ethiopian Peoples' Revolutionary Democratic Front (EPRDF), by military force gained control of the country.

Since 1991 Ethiopia has been on a bumpy road towards democracy. The EPRDF, still being the ruling party in Ethiopia, has a long history of suppression and human rights violations. There are numerous cases of reported restrictions in freedom of expression, imprisonment of journalists and political opponents and state control of media (Human Rights Watch, 2010). The freedom of press is very limited and independent media have very restricted possibilities to operate. For example, private press journalists are not allowed to participate in press conferences held by the prime minister (SIDA, 2003). Furthermore the independent press is limited to a few smaller

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newspapers. Since no broadcasting law has been implemented non-governmental radio or television stations are not allowed (ibid).

### **3.2 Land tenure in Ethiopia**

#### **3.2.1 Pre 1975**

During the imperial era two different land tenure systems dominated Ethiopia, the *gult* system and the *rist* system.

The *gult* system was dominant in the south of Ethiopia. This system can be compared to the feudal system of fiefs, where land was granted to political leaders, successful soldiers and supporters of the emperor (Jemma, 2004). This led to a small elite of wealthy and powerful landowners, and a vast majority of the people, especially the indigenous tribes, lost land and was forced to become peasants working for the landowners. The landowners also had the right to claim taxes from the people living on their land (Kebede, 2002).

In the north the dominant land tenure system was the *rist* system, a communal land ownership. The descendants to the person who supposedly was the original settler in a specific area communally own the *rist* land (Kebede, 2012). Both men and women can inherit the *rist* right, as long as they can prove their descent from the original settler. The *rist* right was a rather strong form of tenure and provided security of land to a large amount of people. One major challenge with the *rist* system was the exponential growth of the number of *rist* right holders; any person descending from the original settler could claim their right to the *rist*.

During the reign of emperor Haile Selassie a modernisation of the land tenure system was under development. This development however ended with the fall of the emperor in 1974.

#### **3.2.2 Post 1975**

The foundation to the land tenure system that is still in place today in Ethiopia was laid out by the Derg regime. In 1975, just after the Derg gained power over the country, a new law called “Public Ownership of Rural Land Proclamation (No. 31/1975)” was implemented (Kebede, 2002). With this reform the government took control of all land in the country and started a large land redistribution reform. Peasants associations were formed all over the country with the task to distribute land to farmers, each granted up to ten hectares of land for the family to utilize (ibid). With the reform, all sale, lease and mortgage of land were abolished and a prohibition of hiring people for agriculture work was established.

The system with state owned land prevailed the fall of the Derg in 1991 and is still in use today. Following the fall of the Derg a new constitution, the current one, was adapted in 1995. In article 40 (3) in the constitution from 1995 it is states that:

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*“The right to ownership of rural and urban land, as well as of all natural resources, is exclusively vested in the State and in the peoples of Ethiopia. Land is a common property of the Nations, Nationalities and Peoples of Ethiopia and shall not be subject to sale or to other means of exchange.”*

The system with state ownership of land has been heavily disputed over time in Ethiopia. The government has stated that privatisation of land would lead to massive eviction of the rural farming population, since they would be forced to sell their land to private investors (Ambaye, 2013). On the other hand, the lack of private ownership is criticised for the lack of tenure security for the landholders, which affects the incentive to make investments in the land and thereby increase the productivity of the land. The system also prevents farmers from using land as collateral, thus access to credit and mortgages for farmers is almost non-existent (Crewett & Korf, 2008).

### **3.3 Governance and structure of the government administration**

#### **3.3.1 Federal government**

The federal government is the central administration of Ethiopia. The power of the federal state is regulated in the constitution, article 51. Most of the power invested in the federal government has the characteristics of national interests such as policy making (FDRE Constitution article 51 (2)), defence and public security (article 51 (6)), foreign policy making (article 51 (8)) and cross state affairs (article 51 (12)). The role as policy maker puts the federal government in a superior position over the regions and possesses a de facto veto over regional policy making (Tronvoll & Vaughan, 2003).

#### **3.3.2 National Regional States**

The Federal Democratic Republic of Ethiopia consists of nine Member States, or Regions (National Regional States) (FDRE Constitution article 47 (1)). The states are ethnographically defined and the different peoples of Ethiopia belong to different states. According to the constitution the states “*shall be delimited on the basis of the settlement patterns, language, identity and consent of the people concerned*” (FDRE Constitution article 46 (2)).

The states enjoy independent legislative and judicial powers (FDRE Constitution article 50 (2)), as long as they “*respect the powers of the Federal Government*” (article 50(8)). The states formally enjoy the residual powers of the legislation, meaning that the states have the legislative right in all matters not specifically dedicated to the federal government. However the general right of policy-making enjoyed by the federal government limits these residuals powers (Tronvoll & Vaughan, 2003). Since the implementation of the constitution in 1995 there have been few examples of state legislations diverging extensively from the federal version (ibid).

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### 3.3.3 Zone

The regions are divided into administrative zones. Ethiopia is divided in 83 zones whereof 10 zones are sub-cities in Addis Ababa (Central Statistical Authority, 2012). The zones are established by the regional governments as an intermediate administrative level between the region and the woredas (Egziabher, 1998). In figure 1 below the different regions are marked in different colours and the zones are marked with lines within the regions.



Figure 1: Administrative divisions of Ethiopia with regions and zones. Source: UNOCHA, 2005.

### 3.3.4 Woreda

The Woreda is the third and lowest formal level of the government after the federal and regional government. The responsibilities of the woreda administration are utterly the same as for the regional and federal government within the limited geographical area that forms the woreda. The woreda administers the local law-enforcement system and the judicial institutions (Tronvoll & Vaughan, 2003). An administrative council runs the woreda, to which each kebele elects three representatives. According to the latest Census report there are a total of 731 woredas (Central Statistical Authority, 2012), however the actual number varies slightly. Each woreda has in average about 100,000 inhabitants (Tronvoll & Vaughan, 2003).

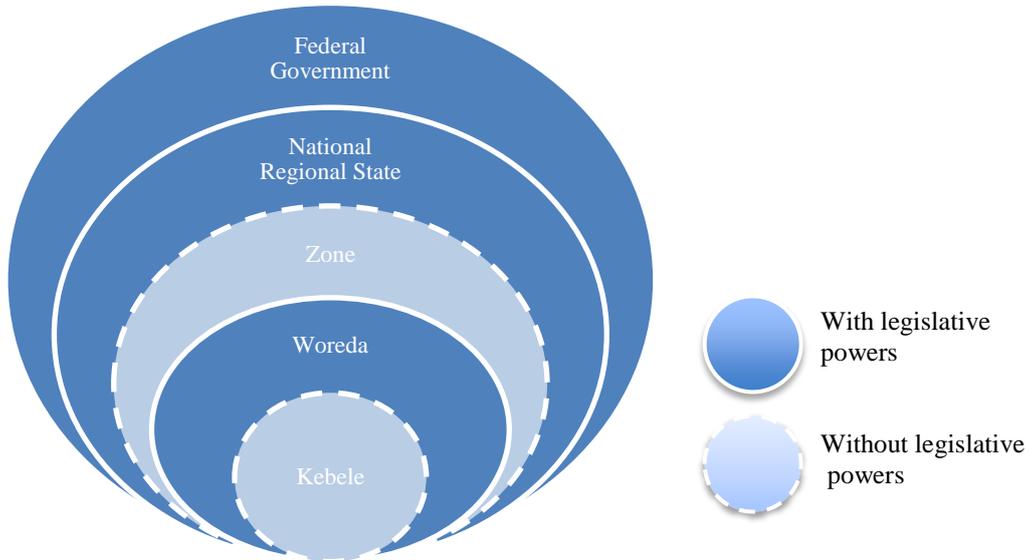
### 3.3.5 Kebele

The lowest entity in the Ethiopian administration is the kebele. The kebele does not possess any legislative or juridical power as the woreda does. The role of the kebele is primarily to implement policies and regulations that are decided by the woreda, and to organise the people living in a small geographical area (Tronvoll & Vaughan, 2003).

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There are approximately 1,500 urban and 15,000 rural kebeles in Ethiopia, however these numbers varies significantly over time (Central Statistical Authority, 2012). Each kebele has in average about 500 households (Tronvoll & Vaughan, 2003).



*Figure 2: Political entities in Ethiopia. Source: Compiled by the author.*

## **4. Expropriation, valuation and compensation in Ethiopia**

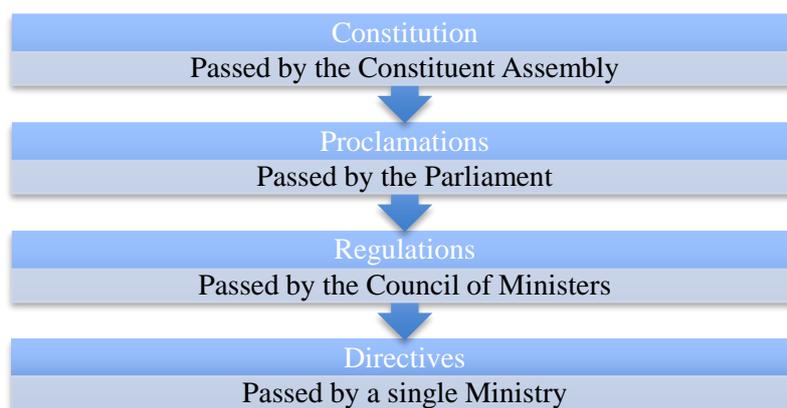
### **4.1 A theoretical framework of compensation practices in Ethiopian land law**

The legal system in Ethiopia is of a relatively complex nature, with numerous legislations overlapping each other. This chapter will describe the different legislations that affect the expropriation process and how these are implemented. In general, the legislations referred to in this thesis are federal. This is due to the fact that the regional legislations are inaccessible and generally only available in Amharic.

#### **4.1.1 Overview of Ethiopian land laws and regulations**

The legal system in Ethiopia can be divided in two general entities; the federal and the regional legal systems. As described above the regions are to a great extent autonomous, but dependent on the federal government. There are both federal and regional laws and legislations concerning land. Most federal and some regional laws are translated to English; however the quality and consistency of the translation varies significantly. Regional directives and proclamations are generally not translated to English.

The hierarchy of laws in Ethiopia consists of four levels, shown in figure 3 below. Above all is the constitution, the current one adapted by the Constituent Assembly of Ethiopia in 1994. Proclamations is the second level, those are passed by the parliament. Regulations, the third level in the hierarchy is passed by the council of ministers. Lastly and fourth in the hierarchy are Directives, which are passed by a specific minister (Ambaye, 2013).



*Figure 3: Hierarchy of Ethiopian legislations. Source: Compiled by the author.*

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**4.1.2 The Constitution**

The most central law in Ethiopia is the constitution (Constitution of the Federal Democratic Republic of Ethiopia Proclamation No. 1/1995), which has been in effect since 1995. The constitution was adapted after the civil war in the early 1990's by a Constituent Assembly elected by the people of Ethiopia, the preamble of the parliament that was elected in the general elections in 1995. Article 9 in the constitution determines its supremacy:

*“The Constitution is the supreme law of the land. Any law, customary practice or a decision of an organ of state or a public official which contravenes this Constitution shall be of no effect.”*

*(FDRE Constitution, article 9:1)*

The constitution also determines the rights of property in Ethiopia. Some of paragraphs are highly relevant for the topic of expropriation and therefor cited in full in table 1 below.

**Table 1: Articles relevant for expropriation issues in the FDRE Constitution**

Article	Sub-article	
40	3	The right to ownership of rural and urban land, as well as of all natural resources, is exclusively vested in the State and in the peoples of Ethiopia. Land is a common property of the Nations, Nationalities and Peoples of Ethiopia and shall not be subject to sale or to other means of exchange.
40	4	Ethiopian peasants have right to obtain land without payment and the protection against eviction from their possession. The implementation of this provision shall be specified by law.
40	5	Ethiopian pastoralists have the right to free land for grazing and cultivation as well as the right not to be displaced from their own lands. The implementation shall be specified by law.
40	6	Without prejudice to the right of Ethiopian Nations, Nationalities, and Peoples to the ownership of land, government shall ensure the right of private investors to the use of land on the basis of payment arrangements established by law. Particulars shall be determined by law.

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40	7	Every Ethiopian shall have the 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 alienate, to bequeath, and, where the right of use expires, to remove his property, transfer his title, or claim compensation for it. Particulars shall be determined by law.
40	8	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.
44	2	All persons who have been displaced or whose livelihoods have been adversely affected as a result of State programs have the right to commensurate monetary or alternative means of compensation, including relocation with adequate State assistance.

Some sections here are more important and require further explanation. As stated in sub-article 3, all land in Ethiopia is commonly owned by the state. This concept is very important to understand since this is something that affects the whole expropriation system fundamentally.

**4.1.3 Federal proclamations, regulations and directives**

There are a number of federal proclamations, regulations and directives concerning land use and land rights in Ethiopia. These are all binding documents for the regions, but the regions can choose to make regional varieties of the documents.

There are three main federal legislations besides the constitution that are relevant in terms of land and expropriation: The Rural Land Administration and Use Proclamation (Proclamation 456/2005), Expropriation of Landholdings for Public Purposes and Payment of Compensation (Proclamation 455/2005) and Payment of Compensation for Property Situated on Landholding Expropriated for Public Purposes (Regulation 135/2007). The different proclamations and regulations are overlapping each other in numerous occasions, and there are also occasions where there are contradictions. The function of each legislation and its relationship to the others are explained below.

**The Rural Land Administration and Use Proclamation (Proclamation 456/2005)**

This proclamation determines how rural land is to be managed and administrated. The proclamation plays a central role in the rural land use management since all land is

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publically owned. In this proclamation the rights to use and utilize land is defined, but the proclamation does not regulate expropriation issues per se.

### **Expropriation of Landholdings for Public Purposes and Payment of Compensation (Proclamation 455/2005)**

This proclamation is the most central legislation concerning expropriation in Ethiopia. The proclamation is a federal legal document; hence it can have regional varieties in the different regions. The proclamation gives all the basic guidelines for the expropriation process and for what purposes expropriation can be done.

*“A woreda or an urban administration shall, upon payment in advance of compensation in accordance with this Proclamation, have the power to expropriate rural or urban landholdings for public purpose where it believes that it should be used for a better development project 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 organ for the same purpose. ”*

*Proclamation 455/2005 article 3*

### **Payment of Compensation for Property Situated on Landholding Expropriated for Public Purposes (Regulation 135/2007)**

This federal regulation defines in detail how compensation for expropriated property should be calculated. If the Proclamation 455/2005 answers the question “What shall be compensated?” The Regulation 135/2007 answers the question “How much compensation should be paid?”. The regulation includes formulas to be used for calculating compensation for specific objects and defines what kind of property that shall be compensated and in what way. The regulation is utterly a toolkit for the officials handling the compensation process.

#### **4.1.4 Regional proclamations, regulations and directives**

In Amhara region there are a number of regional legislations concerning land use and expropriation. The legislations are however following their federal counterparts to a large extent.. Not all regional legislations are translated into English. This thesis will therefor refer to the federal regulations and proclamations since those are the ones that have been possible to obtain and analyse. According to local experts there is no difference in practice and they seldom make any difference between the federal and regional legislations. A brief analysis of the differences between regional and federal legislations has been done by Belachew (2013), concluding that only minor variations in the texts were found. One variation of some importance is that the ANRS Land Utilization Regulation No. 51/2007 (the counterpart of federal proclamation 455/2005) gives a slightly more generous compensation for displacement, (Belachew,

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2013). Generally speaking however the regional legislations does not have any practical implication on how the expropriation process is executed. Therefore an analysis of the federal legislations is sufficient in order to give a comprehensive picture of how expropriation is practiced.

### **4.2. Legal requirements and valuation methodology**

#### **4.2.1 Legal requirements for expropriation**

There are a number of different requirements that need to be fulfilled in order to go through with an expropriation in Ethiopia. Most of these requirements are found in Proclamation 455/2005 and they will be explained further in this section.

##### **Public purpose**

It is stated in the proclamation that all expropriation should be done for public purpose. The concept of public purpose is however only vaguely explained in the law. The official definition is found in article 2 (5):

*“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 people to acquire direct or indirect benefits from the use of the land and to consolidate sustainable socio-economic development.”*

This definition leads to the conclusion that for an expropriation to take place, there must be (1) some kind of benefit, direct or indirect, for the people and (2) a sustainable socio-economic development. This is indisputably a very broad and generous definition of when expropriation can take place.

##### **Expropriation order**

At least 90 days before the expropriation starts an expropriation order, or notice, must be distributed to those affected. This is regulated in article 4(1):

*“Where a woreda or an urban administration decides to expropriate a landholding in accordance with Article 3 of this Proclamation, it shall notify the landholder in writing, indicating the time when the land has to be vacated and the amount of compensation to be paid.”*

Ultimately, the expropriation can start as long as these requirements are fulfilled. There are very limited options available for a landholder who has received the expropriation order. The proclamation only gives the landholder the possibility to appeal if the decision on the amount of compensation is unsatisfactory (article 11). There is no possibility to appeal to the decision to expropriate the property in itself. This decision is ultimate.

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### **4.2.2 Valuation methodology**

#### **Basis and amount of compensation**

The process of valuating the expropriated property is rather well defined in the law. The basics are found in the Proclamation 455/2005 and more details in the Regulation 135/2007. In article 7 in the Proclamation 455/2005 it is defined for what a landholder is eligible to compensation. The landholder has the right to be compensated for the property situated on the land and permanent improvements to the land. Improvements to the land can for example be trees that have been planted or other types of permanent improvements. The basis of compensation should be the replacement cost of the property (article 7(2)), meaning that the compensation given should cover the costs of reproducing an equivalent property. This also means that factors such as the location of the property, access to infrastructure or other market conditions are not considered during the valuation of the property.

#### **Compensation for displacement and loss of land**

According to the law, people who are displaced due to expropriation in rural areas have the right to be compensated for loss of income from the land if they do not receive replacement land. The compensation is defined as 10 times the yearly income from the land, based on the average income from the last 5 years (article 8(1)).

The value of the land in itself is not compensated. This is due to the fact that all land in Ethiopia is government owned, thus there is no private ownership of the land and no landowner who is eligible to compensation.

Ideally the landholder should be compensated with replacement land for the land lost in the expropriation process. This is regulated in the Regulations 135/2007, article 15:

*“Where land used for growing crops or a protected grass or pastoral land is expropriated for public purpose, the possessor of such land shall, as much as possible, be provided with a plot of land capable of serving a similar purpose.”*

This is a rather vague definition with terms such as “as much as possible” and “similar purpose”. But still, the principal rule is that expropriated land should be compensated with new land. In addition to this, the landholder shall be compensated for the loss of income for the time it takes to get crops on the new land to generate income (article 16 (1 b)).

If there is no replacement land available, the compensation should be determined according to the rule of ten times the average annual income from the land (article 16(2)).

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### **4.3 The expropriation process**

This section will explain how the expropriation process should be carried out according to the law. This will be compared to the findings in the field studies in order to analyse the discrepancy between the practice and the theory of expropriation.

#### **4.3.1 Preparatory phase**

The initiative for an expropriation should come from what the law defines as an “implementing agency”; a government agency or a public enterprise with the interest to undertake development work (Proclamation 455/2005 article 2(7)). The implementing agency is responsible to provide detailed data about the land needed in the development at least one year in advance to the expropriation (article 5 (1)). The data should be provided to the woreda or urban administration, which are responsible for the expropriation and valuation process (article 3 (1)).

#### **4.3.2 Valuation phase**

Before any expropriation takes place all property that are to be expropriated must be valued, in accordance with the regulations described above. A valuation committee consisting of up to five appointed officials generally does the valuation in rural areas (article 10(1)). The appointed officials should be “experts having the right qualifications” (ibid). What this qualifications could be are not defined further in the law.

The valuation committee is responsible for doing the valuation in accordance to the regulations described in previous section. Furthermore the valuation committee is responsible for keeping records of the valued properties (Declaration 135/2007 article 21).

#### **4.3.3 Hand-over phase**

The woreda must then notify those affected by the expropriation at least 90 days in advance before the expropriation starts. At this time it should also be made public how much compensation each individual is entitled to based on the work of the valuation committee (Proclamation 455/2005 article 4(2)). Each landholder must evacuate the land within these 90 days, and at the time of this the compensation should be paid. If any landholder not has evacuated the land within this time, the woreda is allowed to use police force to make this happen (article 4 (5)).

## 5. Background to the field studies

### 5.1 About the study area

The field studies have taken place in Jawi woreda in the western part of Amhara National Regional State, marked in figure 4 below. Jawi woreda is part of the North West Sorghum livelihood zone, stretching from Dangila in the south to Debark in the north (marked in green in the figure). Most of the woreda is characteristic lowland area, with a hot climate and low population density.



*Figure 4: Orientation map of the study area. Source: Compiled by the author.*

The woreda has a population of about 80,000 people (UNFPA, 2008). About 90 % of the population in Jawi lives in low dense rural areas. The average household size is 4.25 persons (Population and Housing Census of Ethiopia, 2007). As in all of Ethiopia the population in Jawi is young, with 50 % of the inhabitants being below 18 years (ibid).

The area is a relatively productive agricultural area where livestock, mainly goats and cattle, is the most important farming resource. There are several rivers running through the area, frequently utilized as a source for water irrigation. The main crops in the area are sesame, grain, maize, Niger seed and teff. Other important supplements to the agriculture sector are groundnuts, sugar cane and ginger (Amhara Livelihood Report, 2007).

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The climate of the area varies depending on altitude and seasonal change. The rain period lasts from June to September. The study area is located in a lowland area with an approximate altitude of 800 meters above mean sea level, which makes it a hot lowland area. The temperature generally varies from 25 to 35 degrees in the day and 20 to 30 degrees Celsius in the night, but the day temperature can stretch well above 40 degrees Celsius.

### **5.2 Infrastructural development**

A number of factors make Jawi woreda an ideal place for agriculture. The lowland area has a hot climate favourable for crops to grow in. The access to rivers secures the availability of water, necessary for irrigation. The infrastructure is still underdeveloped, only dirt roads are available for transportation and electrical power cuts are frequent. But there is some development going on with new roads being constructed and the electricity grid is being reinforced, much thanks to the fact that the government has pointed out the area as ideal for large-scale agricultural development.

### **5.3 The sugar industry in Ethiopia**

The Dutch company HVA introduced sugar plantations in Ethiopia already in the 1950's. Three factories were constructed with a total capacity of 190,000 tons per annum (Tyler, 2006). After the revolution 1974 the plantations and factories were nationalised and the development of the sugar industry stagnated.

In recent years the sugar industry in Ethiopia has been growing rapidly and the government has made sugar one of its priorities for boosting the Ethiopian export sector. In 2012 still only three large sugar plantations and factories existed, all government run by the Ethiopian Sugar Corporation. The total production capacity was by this time 280,000 tons of sugar per annum (Ethiopian Investment Agency, 2012). Three additional plantations and factories operated by the government are under construction with an estimated capacity of approximately 1,282,000 million tons per annum.

In addition to this, the government has turned to private investors and pointed out 15 potential sites for large-scale sugar plantations, possibly increasing the annual production from about 280,000 tons 2010 to 3,692,000 tons when finalized (ibid). The plantations would cover an area of approximately 6,240 square kilometres if fully developed (ibid), as shown in table 2 below.

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**Table 2: Sugar Development Projects in Ethiopia**

	<b>Area (km<sup>2</sup>)</b>	<b>Annual production (tons)</b>
Currently developed	240	280,000
Under development	2,250	1,282,000
Potential development	3,750	2,130,000
<b>Total</b>	<b>6,240</b>	<b>3,692,000</b>

For this the Ethiopian government is injecting 4.6 Billion USD in the sugar industry according to the magazine The Africa Report (2011). A large portion of this comes from foreign investments, mainly from Brazil, China and India. The target goal is to be one of the ten biggest sugar export nations in the world with a net export capacity of 1,250,000 tons per year by 2015 (Horn Affairs, 2013). With a current market price of USD 356 per ton (World Market Prize as of August 2015, 356.3 USD/ton (CCOAM, 2015)), this would generate a theoretical net export profit for Ethiopia of about 445 million USD. This can be compared to the total net export of Ethiopia, being 6.42 billion USD in 2014 (World Data Bank, 2015). The sugar industry would generate an increase of 7 % to Ethiopia's total net export.

One of the three sugar plantations currently under construction by the government is the one in Jawi woreda, the Tana Beles Sugar Development project. Ethiopian Sugar Corporation, a government owned sugar company and the largest of its kind in Ethiopia, runs the sugar plantation.

When finished the plantation and factories will cover an area of approximately 75,000 hectares, or 750 km<sup>2</sup>. The total capacity will be 484,000 tons of sugar per annum, making it one of the largest and most productive plantations in the country.

#### **5.4 Consequences for the local community**

Investing in large sugar plantations might be an important priority for the government, but it comes to a cost. In the case of Tana Beles sugar development project, 75,000 hectares of land have been or will be taken for development. Most of the land was not idle before the development; local farmers utilized it as farmland. According to data from the local government in Jawi woreda as of today 2,462 families have been evicted from their land and relocated to new areas due to the sugar development project, and the numbers will rise when the amount of expropriated land increase. Most of the 2,462 families have been relocated to a rural village named Alukurand, where the field studies were undertaken. A small number of people were relocated to a more distance village about 10 kilometres north of Alukurand that was not visited during the fieldwork.

Alukurand is located in the periphery of the town Fendeca, one of the few urban centres in Jawi woreda. Fendeca also functions as the centre for the sugar plantation,

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with the central administration and the sugar factory located in the outskirts of the town and the plantations spread all around. The land accessible for farming in the immediate area around Alukurand and Fendeca is very limited since most of the land has been utilized for the sugar plantation. This has led to a very tough social and financial situation for many of the people who were relocated, which will be elaborated further in the coming chapters.

## 6. Field methodology

### 6.1 Preparatory work

A questionnaire for each target group was developed prior to the start of the field studies. The targets group were: People affected by the expropriation, official representatives of the local government, officials who participated in the valuation of the property (valuation committee members) and representatives of the local Environmental Protection, Land Administration and Use Office (EPLAUO). The questionnaires were prepared in English and after that translated into Amharic by staff at ILA. The translated versions were gone through properly to avoid misinterpretations and translation errors. The questionnaires primarily consisted of close-ended questions.

### 6.2 Affected individuals

#### 6.2.1 Data sample selection

The respondents among the affected people were chosen through random sampling based on a list of affected people provided by the local government. The list consisted of 1685 individuals living in Alukurand. Although the actual figures of the number of people residing there is much higher since the total number of affected families is estimated to 2462 and the majority have been relocated to Alukurand, this was the best available data that was possible to relate to certain individuals. The records available from the local government are in general incomplete and the documentation routines are weak.

Of these 1685 individuals 94 were randomly selected for interviews by marking every 18<sup>th</sup> name on the list. The sample size was determined through using Cochran's formula (Cochran, 1977):

$$n = \frac{N}{1 + N(e)^2}$$

Where:

n = the sample size that should be used;

N = the total population;

e = the margin of error (in this case 10 % margin of error is used);

1 = the probability of the event occurring.

Therefore:

$$n = \frac{1685}{1 + 1685(0.1)^2} = 94$$

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Thus the sampling size used in the study should be 94 persons. Both men and women in a wide age range were among the selected. The sample size should provide enough data to get a margin of error at 10 %. The population in the records, 1685 individuals, is smaller than the total population of those who were expropriated in the project (2462 persons). This has however no significant impact on the statistical result. With the bigger population taken into consideration the margin of error is 10.1 % instead of 10 %.

It can be argued that 10 % is a rather high margin of error, which is true. To get to the commonly used margin of error 5 %, a sample size of 323 individuals would have been needed. This would have proved to be unmanageable due to the limited time available. Therefore a margin of error of 10 % was the most realistic model to use.

### **6.2.2 Data collection**

To get hold of the necessary data during the short time available, data collectors' were hired to assist in the work. The data collectors were professionals from the local community, and they had not previously been involved in the expropriation or valuation process. Mainly teachers from the local school and low-level employees of the municipality functioned as data collectors. They were selected so that their profession would not interfere with people's willingness to answer the questions as truthful as possible, which would have been harder if high-level officials from the government would have been used. Furthermore it was insured that the data collectors did not have any kind of personal or professional relation with those who were to be interviewed. In total eight data collectors were hired and the data was collected during a time of four days.

Before the data collection started the data collectors were properly briefed for the task and all questions in the questionnaire were gone through in order to avoid misunderstandings. The interviews were done in a strict structured way, following the questionnaire.

There are always risks connected to using data collectors in this way. They are not familiar with the project or the general issues related to expropriation, hence there is a risk that they misinterpret the questions in the questionnaire and ask them in the wrong way. This risk was handled by briefing the data collectors on the topic and go through the questionnaire with each and every one of them in order to minimise the risk for misinterpretations.

Another risk is the risk of bias, that the data collectors choose individuals that will provide them with preferable answers or that the individuals are guided to give answers that pleases the data collector. These are risks that are harder to avert. One way of minimising the risks was to randomly choose all the individuals who were interviewed so that the data collectors only received a list of names of people they were to interview. No data collector performed more than eight to ten interviews in order to avoid the risk of bias.

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### **6.3 Valuation committee members**

The role of the valuation committee has been described in previous chapter, and as concluded the valuation committee is a key stakeholder in the expropriation process. To get a better understanding of the valuation process, the role of the valuation committee and the routines used in the valuation process a specific questionnaire was developed for the committee members.

Two different valuation committees had been active in the expropriation process. In total, five valuation committee members were interviewed with representatives from both committees. Due to the limited number of interviews no differences could be observed in the ways of working between the two committees.

### **6.4 Government experts**

To get a broader understanding of how the land administration is organised in the woreda a questionnaire was developed for the officials at the Environment Protection and Land Administration and Use Office (EPLAUO). These government experts working with land management questions on a daily basis gave input on the expropriation process from their point of view. A total of five questionnaires were collected among the government experts at the local EPLAUO office.

### **6.5 Key informants**

In addition to the representatives from the valuation committee and the EPLAUO officials a number of other key stakeholders were interviewed. These interviews were held in a semi-structured way, which allows follow-up questions and some alterations of the questions to explore the subject. Key informant interviews were held with the head of the woreda, the head of the EPLAUO and a manager with Ethiopia Sugar Corporation.

### **6.6 Focus group**

The purpose of the focus group was to gain an in-depth understanding of the current situation of the affected people. A group of eight persons reflecting the diversity among the affected people were selected for a group discussion held in the local community centre in Alukurand. The group was selected among participants in a public meeting in the community and consisted of both male and female individuals from different age groups, all who had been relocated to Alukurand due to the expropriation. The participants in the focus group were not the same as those interviewed in the quantitative data study.

## 7. Conclusions from the field studies

### 7.1 Demographic characteristics of respondents among the affected individuals

Out of the total sample of 94, a total of 88 completed questionnaires were collected among the affected individuals. The remaining six questionnaires were not possible to collect due to various reasons, such as that the selected person was not in the village during the days the data collection were done. Statistically the loss of six questionnaires had only a very marginal effect. The margin of error in the study is 10.5 % instead of the originally targeted 10 %. The same figure applies independently of the smaller and bigger population size. The slightly higher margin of error will not be considered as a source of error due to its limited implications.

All of the respondents are residents of the kebele Alukurand in Jawi woreda. Some main demographical characteristics of the respondent group can be found in table 1 and are further presented below.

#### 7.1.1 Gender and family composition

As shown in table 3 below a majority of the respondents, 68 persons (77 %) were male and 20 (23 %) female. The average household size is 5.2 persons. None of the respondents lived in a single household. The size of the households is shown in table 4 below.

**Table 3: Gender Composition of respondents**

Sex	Frequency	Percentage
Male	68	77%
Female	20	23%
<i>Total</i>	88	100%

*Source: Field studies, 2015*

**Table 4: Size of household among respondents**

Size of household	Frequency	Percentage
2 persons	10	11%
3-4 persons	24	27%
5-6 persons	27	31%
7-8 persons	20	23%
9-10 persons	7	8%

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11 persons and above	0	0%
<i>Total</i>	88	100%

*Source: Field studies, 2015*

### 7.1.2 Age of the respondents

The age of the respondents range from 20 to 75 years with an average age of 39.3 years. The total amount of respondents in each age group is shown in table 5 below.

**Table 5: Age of respondents**

Age	Frequency	Percentage
18-24	5	6%
25-34	27	31%
35-44	29	33%
45-54	16	18%
55-64	6	7%
Above 65	5	6%
<i>Total</i>	88	100%

*Source: Field studies, 2015*

### 7.1.3 Level of education

The study found that most of the respondents, 56 persons (64 %), were illiterate. A total of 29 people (33 %) had reading and writing skills and only three persons (3 %) had attended school, none of which had education above eight grade (see table 6 below). There is a large difference between the genders; among the female respondents 90 % were illiterate, whereas among the male respondents the same figure is 56 %. The low level of education affects the people's ability to participate in the formal parts of the expropriation process and it will be harder for them to understand the information given by the authorities. Furthermore the low level of education will make it more difficult for the affected people to re-establish a new life after the expropriation and relocation, as well as properly utilize the compensation given by the government.

**Table 6: Level of education among respondents**

Level of education	Frequency	Percentage
Illiterate	56	64%
Reading and writing	29	33%
School grade 1-8	3	3%
School above grade 8	0	0%
<i>Total</i>	88	100%

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*Source: Field studies, 2015*

### **7.2 The expropriation process**

#### **7.2.1 Property lost in the expropriation process**

All of the respondents lost farmland in the expropriation process. The amount of land lost for one individual varies heavily, from 0.5 hectares to 24 hectares. All of the respondents also lost their residential house and many lost in addition to these also supplementary houses used for storing crops, as shelter for livestock and other purposes due to the relocation process. In addition to this, 53 persons or around 60 % stated that they lost perennial cash crops. Five persons (6 %) stated that they also lost other kind of property, for example a water well.

#### **7.2.2 Purpose of the expropriation**

The purpose of the expropriation was to use the land for public purpose, more exactly to establish the Tana Beles Sugar Development Project. The vast majority of the land is used for growing sugar cane and the necessary infrastructure for doing that such as sugar processing facilities, roads, offices and residential houses for employees and water irrigation systems, as well as a large dam and canal for water supply.

All or nearly all the land that has been expropriated is used for the purpose aimed at, even though some parcels of land were idle for up to one year. This is also emphasized by the focus group among the affected people who confirms that the land is now fully utilized for its purpose.

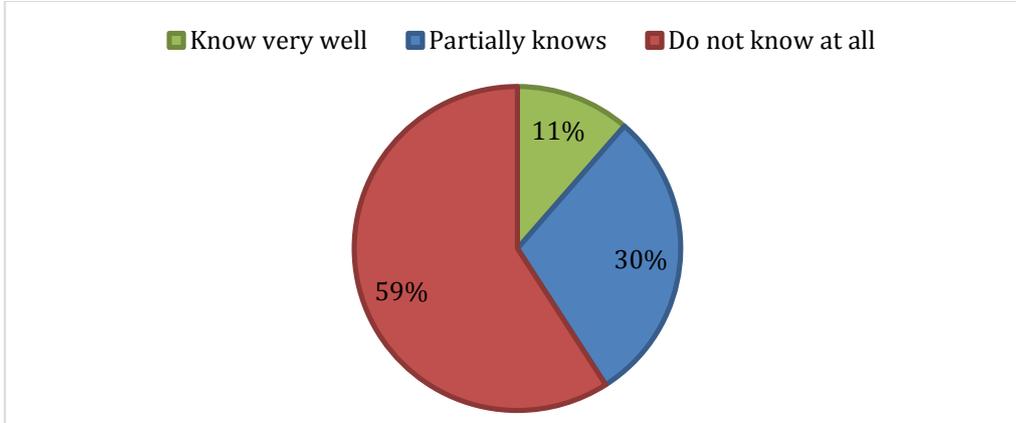
According to the focus group there is an acceptance for the sugar development project and the need for expropriation among the affected people. The project has also to some extent provided new jobs for the affected people, either on permanent or temporary basis. However there are no numbers to support how many jobs that actually has been created. A few of the focus group participants stated that they had been promised jobs, but were never offered any from the sugar company.

#### **7.2.3 Knowledge of process regulations**

An assessment was made among the affected people, government experts and valuation committee members on how well known the rules and procedures of the expropriation process are. The knowledge of the laws and regulations among the affected people were generally low. As shown in figure 5 below a total of 10 respondents (11 %) said they know very well of the laws and regulations, while 26 respondents (30 %) stated that they partially knows. But 52 respondents (59 %) stated that they do not know at all about the laws and regulations.

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*Figure 5: Knowledge of laws and regulations among the affected people. Source: Field studies, 2015.*

The same question was asked to the government experts and four out of five stated that they know the laws and regulations partially. Only one of the respondents among the government experts stated that he or she knows the laws and regulations very well. There is an obvious challenge in terms of how well the laws and regulations are followed when neither the people affected by the expropriation nor the people behind it properly know the laws and regulations.

### **7.2.4 Alignment of laws, regulations and practice**

The challenge mentioned above is even clearer looking at the answers regarding how well the laws and regulations were followed in the expropriation process. Among the affected people who stated that they know or partially know the laws and regulations only 2 (6 %) thought that the laws and regulations were followed very well. A total of 13 persons (36 %) responded that the laws and regulations were followed well and 21 (58 %) thought that they were not well followed. The results are presented in figure 6 below.

The same question was asked to both the government experts and the valuation committee members. Also among them the responses reflect a lack of proper implementation of the laws and regulations. Eight of the ten respondents stated that the applicable laws and regulations were partially followed. Two out of the ten respondents claimed that the laws and regulations were properly followed.

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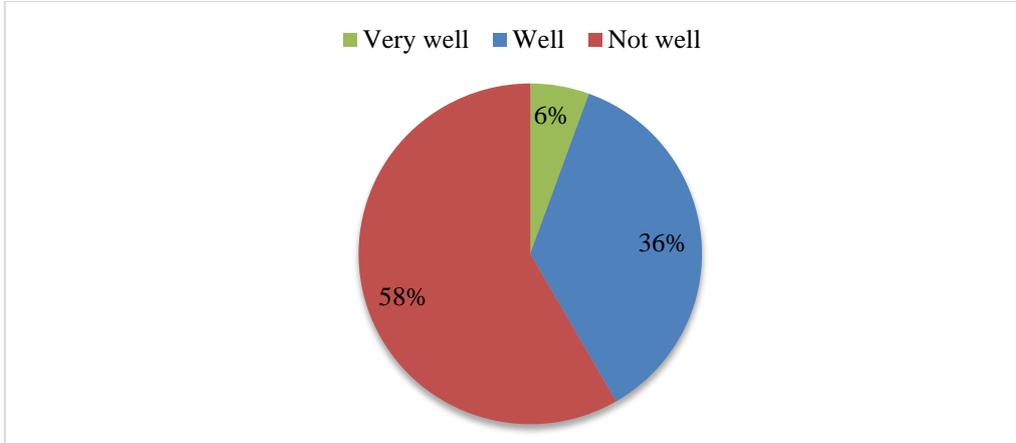


Figure 6: Implementation of laws and regulations. Source: Field studies, 2015.

### 7.2.5 Participation in the expropriation process

Of the respondents among the affected people 35 (40 %) stated that they participated in the expropriation process in some way. Among the 35 who stated that they participated, 23 (66 %) responded that they participated in the valuation process, including inspection and inventory of property. From the key informants there is a strong emphasis on that the process was participatory and transparent and among the government experts four out of the five respondents said that the process was done participatory.

The belief in what participatory means does probably differ from one individual to another. Some of the aspects of community participation mentioned by the key informants might also be questioned in how they were involving or not. For example, it was said that the results of the inventory of property was posted on a board in the village for everyone to see. It is doubtful how efficient this way of involving the community was, since most of the affected people are illiterate. However, to some extent the valuation process was participatory. According to both the focus group discussion and the key informants, representatives from the affected people participated in discussions with the valuation committee as well as woreda representatives and experts.

As far as it has been possible to investigate, the following measures have been taken in order to make the process participatory (table 7):

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**Table 7: Participation in the expropriation process**

Type of participation	Description	Source
Representation from the affected people in the valuation process.	A group representing the affected people took part in the work of the valuation committee and functioned as liaison between the affected people and the government.	Key informants, valuation committee.
The result of the property inventory	The result of the property inventory was made visible for everyone in the village to see, and a box for comments was put up in the proximity of the board with results of the inventory.	Key informants, government experts.
Committee for complaints	The woreda administration formed a committee for handling complaints regarding the expropriation process.	Key informants, woreda administration.

*Source: Fields studies, 2015.*

### 7.2.6 Problems faced in the expropriation process

During the focus group discussion and key informant interviews some problems that had emerged during the expropriation process were discussed. A key issue is the land that was given to the people affected by the expropriation. The land given in compensation is generally located very far from the residential area (from two up to 12 hours walking distance) and is therefore inconvenient for the people to use as farmland. Furthermore some parcels of the land were not cleared properly from illegal land holding and informal settlements. Many respondents also experienced that they were given less land than the amount that was taken, alternatively they were given land with lesser fertility and productivity. According to the focus group participants, parts of the valuation process were done in the absence of the property owner. This occurred both when valuation of houses, crops and land improvements were done and made a just and fair valuation process hard.

### 7.3 Compensation for losses due to expropriation

*This part discusses the economic compensation given for the expropriation. All the affected people were compensated to some extent for loss of residential house, additional buildings and in some case other type of losses.*

#### 7.3.1 Determination of compensation

The main praxis of determining the compensation is to use the cost replacement method. This is also the method supported in the law. As explained in the theory section, this causes an underestimation of the property value since the valuation

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process fails to take into consideration many aspects related to the actual value such as the location, improvements made to the land (water irrigation systems for example).

### **Type of compensation**

In the expropriation compensation were given to the affected people in both cash and in the form of replacement land. Compensation for the loss of houses, perennial cash crops and other property besides land were given in cash. For the loss of farmland, new parcels of land were given to the farmers.

### **Mandate to determinate the compensation**

During the expropriation process, two valuation committees were appointed to do all the valuation of property in the expropriation process. The committees consisted of five members each. Those were mainly local government employees from the EPLAUCO in the woreda, but also experts from the agricultural office and the woreda municipality administration participated.

According to article 10 (1) of the Federal Landholding Expropriation and Payment of Compensation Proclamation No.455/2005 the use of a valuation committee is the main method for doing the property valuation in rural areas; *“If the land to be expropriated is located in a rural area, the property situated thereon shall be valued by a committee of no more than five experts having the relevant qualification.”* A key question here is the definition of “relevant qualification”. The field study revealed that most of the valuation committee members lack adequate education related to the field of land administration and valuation. However, all of them stated that they have received training on valuation technique. The extent of the training is, however, unclear and it has not been possible to validate the adequacy of it during the field studies. The term “relevant qualification” is not further described in the proclamation or other regulations. The conclusion is that it is up to those who appoint the valuation committee to determine however their qualifications can be judged as relevant or not.

If the valuation committee members are equipped with adequate tools and assistance, the requirement of training and relevant qualifications could probably be eased upon. To some extent this is done. However there is still an issue with some members of the valuation committee who lack even basic education, which could make it a tough challenge to make use of different tools and guidelines. For example not all of the valuation committee members had proper reading and writing skills, which could be a severe hindrance in fulfilling the valuation task.

### **Determining the amount of compensation**

To ensure that the valuation process is done in a fair and conform way, certain guidelines were developed for the valuation committee members to use in order to

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assist the valuation process. The guidelines are mainly based on the formulas and principles given in the federal proclamation 455/2005 and 135/2007. The guidelines include tables on how to value crops, different types of buildings and other facilities. The practical application of the guidelines is described in this chapter. The complete guidelines themselves has not been possible to study since they only exists in Amharic and it was not possible to obtain a complete copy of them from the local authorities. Those parts that have been possible to analyse are described below, together with the principles described in the federal proclamations. This is based on oral descriptions given of the expropriation principles by officials during the key informant interviews.

In general terms the guidelines can be criticised for being unspecific. They fail to take into consideration vital aspects of the property value since they only provide rough categories for each object that is to be valued. Furthermore it is unclear when (if) the guidelines where last updated. In a country with a relatively high inflation rate as Ethiopia, the guidelines need to be revised regularly if they are to reflect the actual value of the property

The importance of the guidelines should not be exaggerated. It has not been possible to verify to what extent they have been used in practice in the field and it is close to impossible to see any correlation between the valuation formulas in the guidelines and the amount of compensation paid due to the lack of records. However they provide an indication of the thoughts behind the valuation and could therefor be of some importance.

### **Compensation for buildings**

The first step of the process is to calculate the different house materials used for constructing the house by using the current market price for the material. After that the second step is to find samples of different house types and use them as a basis for calculating the compensation. Then a general formula for each house type is developed to determine the compensation for each house type, based on the average cost per square meter for each house type. These formulas are presented in table 8 below. When the cost per square meter is determined the valuation committee uses the formula given in the FDRE Proclamation 135/2007: The cost of construction (cost of materials) plus cost of permanent improvement to land. Other costs related to the construction of the house, such as costs for labour or transportation of material, are generally not compensated.

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**Table 8: Valuation formulas**

Type of house	Valuation method	Valuation formula
Grass roof house	Measure radius	Area = $\pi r^2$ Value = value per square meter * area
Tin roof house	Measure width and length	Area = width * length Value = value per square meter * area

Source: Field studies, 2015

The most common house types in Ethiopia are traditional circular houses with grass roof or more modern style houses with a square form and tin roof. These typical houses are shown in figure 7 below.



Figure 7: Traditional (right) and modern (left) housing units.

Photo © The author.

However, the valuation committee while undertaking the valuation task does not take into consideration aspects such as location of the property or the current market conditions since the law only admit the replacement cost to be considered as basis for the compensation.

**Compensation for unripe perennial crops**

The unripe perennial crops are categorized in three segments and thereafter valued. The segments are high, medium and small. High and medium are generally 3-6 years and small 1-3 years. The compensation given for these are calculated as the current market price of the tree times the number of years.

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After this, the valuation committee uses the formula stated in Proclamation 135/2007: Number of plants \* cost incurred to grow an individual plant + permanent improvement of land.

### **Compensation for ripe perennial crops**

The compensation for ripe perennial crops are calculated as the value of 1 kg of the crop \* 1 year productivity of the plant \* 10 years.

After this, the valuation committee uses the formula stated in Proclamation 135/2007: The annual yield of the perennial crops (in kilograms) \* the current price of the perennial crops + cost of permanent improvement to land. However, according to the affected people no compensation for improvements to the land were given. The most common improvements to land are water irrigation facilities with dug canals, different drainage systems and other ground works.

### **Compensation for trees**

Trees in Ethiopia are usually used as construction material or for making charcoal. If trees are growing on the land that is going to be expropriated, the prize the wood can be sold for at the local market determines the compensation. The trees are measured and divided into three different categories. Those are small trees that have grown for up to one year, medium sized trees that have grown for up to three years and large trees that have grown for more than three years.

### **Compensation for water wells**

The compensation for water wells is determined by the cost replacement method. The compensation received should cover the cost of drilling a new well of similar depth as the previous. The depth of the current water well is measured and the compensation is calculated accordingly. The water well is one of the few improvements to the land that is compensated. It is however unclear if the compensation takes into consideration aspects such as the fact that the ground water level varies and that the depth needed for a well varies from place to other.

### **7.3.2 Amount of compensation paid**

Even though there is some documentation available for what amount of compensation that has been paid to each individual, it is very challenging to determine how much compensation that was actually paid. The documentation is incomplete and lacks detailed information.

The only written documentation that has been possible to access is the compensation for housing units with grass roof. All calculations of the compensation are made

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based on a system with fixed categories of houses, where all houses of a certain category receives the same amount of compensation per square meter. None of the experts who took place in the valuation have been able to fully explain the categorization of the buildings more than that it relates to the quality of the building. It is not possible to conclude that the tables have been used in the valuation process, and if they have in what way. This is a symptomatic effect of the inadequate documentation and traceability of the whole expropriation process. The acquired table is presented in table 9.

**Table 9: Compensation for grass roof houses**

Category	Compensation, Birr per square meter	Compensation in USD <sup>1</sup>
1	316.76	15.30
2	414.01	20.00
3	325.23	15.71
4	344.76	16.66
5	244.11	11.79
6	332.90	16.08
7	433.55	20.94
8	227.96	11.01
9	236.47	11.42
10	220.65	10.66
11	325.27	15.71
12	335.53	16.21
13	424.31	20.50

*Source: Field studies, 2015.*

The compensation paid to the affected people was paid as a lump sum without any documentation or traceability. In many cases those who received compensation was unaware of what the compensation was for and how it had been determined. However, a frequent comment in the questionnaires among the affected people is that no compensation was received for fruit trees or other improvements to the land. This implies that those who received the compensation to some extent were informed about what the compensation was for. Again, this has not been possible to verify in the documentation available.

### **7.3.3 Compensation for land**

In this expropriation project no cash compensation was given for lost land. Instead the landholders were compensated with new replacement land. This is a common model and the preferred method if there is replacement land available. However the amount of land given in compensation is not necessarily the same as the amount of land taken, neither in terms of area nor quality.

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<sup>1</sup> With a conversion rate of 1 USD = 20,70 ETB

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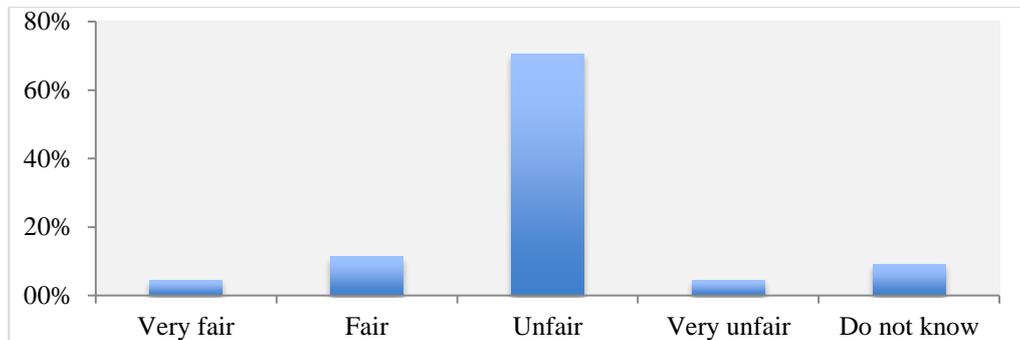
No valuation of the land or its fertility and productivity was done. Furthermore No documentation regarding the land compensation was available; hence all conclusions will have to be based on the information given by the local authorities and the affected people. According to the affected people there were five main difficulties with the replacement land:

- Fewer hectares of land were received in compensation than what was expropriated.
- The land was located far from the village to where they were relocated.
- The quality of the land was poor and it was hard or in some cases impossible to cultivate.
- There was not enough common grazing land for the cattle, some of the cattle had to be sold or slaughtered since the land could not feed all.
- Informal settlers already utilized the land without legal right to do so.

These complaints are hard to verify, but the authorities admits to certain difficulties with the land. Some of the government experts also address the issue of informal settlers of the land and the lack of grazing land for cattle.

### **7.3.4 Fairness of the compensation**

The study found that the satisfactory level of the compensation given were generally low among the affected people. As shown in figure 8, out of the 88 respondents 62 (71 %) said that the compensation given were unfair, four respondents (5 %) said it was very unfair and only 14 (16 %) said it was fair or very fair, and are hence satisfied with the compensation.



*Figure 8: Fairness of compensation paid. Source: Field studies, 2015.*

In the focus group discussion several reasons for the unfairness were raised. For example it was said that the compensation given for loss of houses and perennial crops were not enough to build a new house of similar standard. This was also emphasised by many in the questionnaires, where many stated that the compensation they received was not enough for reconstructing a house of similar standard they had

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before. In a few cases people stated that they had been forced to sell cattle or other belongings in order to afford the construction of a new house.

There is also a significant dissatisfaction with the farmland given as compensation for the expropriated land. The new land is said to be of lesser quality and quantity of the land taken, and the distance to the land from the relocation site is very far. However the study has not been able to determine the actual quantity or quality of the land given.

Also the valuation committee members and the government experts were asked about the adequacy of the compensation given, which is shown in figure 9 below. Five out of ten respondents said the compensation given was adequate and five thought the compensation to be inadequate in the sense that it was too low. The reasons mentioned to explain the inadequacy are to some extent the same as stated above. The far distance from the new residential area and the new farmland has been mentioned as one reason. However, in general terms the key informants believed the compensation paid to be fair. Here lies an obvious discrepancy between the affected people and the government, which partially can be explained by inconsistencies in valuation tools, lack of understanding for the valuation process from all involved and a mismatch in the expectations between different interest groups.

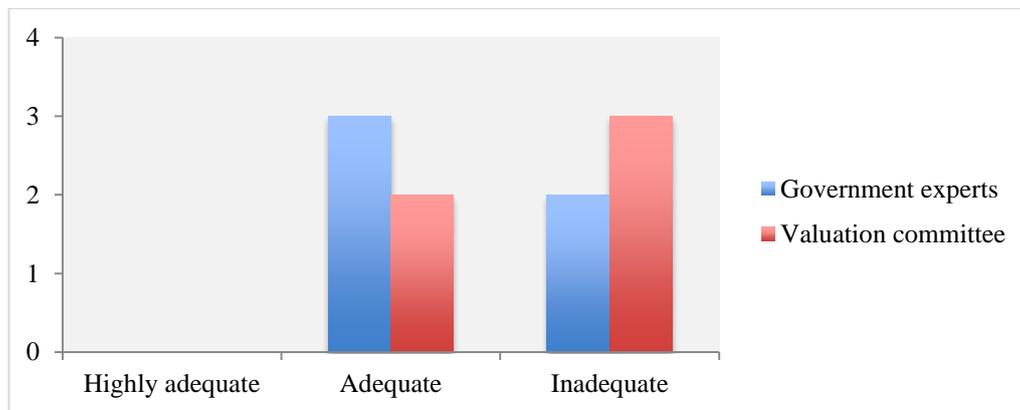


Figure 9: Adequacy of the compensation. Source: Field Studies, 2015.

Certainly it lies in the interest of the affected people to point out that they were not compensated properly, in the hope of that this survey will affect those in charge of the compensation. Even though it was clearly pointed out during the interviews that this survey had nothing to do with the compensation claims and that no extra compensation would come out of this, it cannot be ignored that the hope for this can have affected some of the respondents' answers.

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It is hard to say in an objective way if the compensation given was fair or not. But it is clear that the affected people to a large extent believe the compensation to be unfair.

### 7.3.5 Effects on income

Another way of analysing the fairness of the compensation is to investigate how the expropriation has affected the quality of life for the affected people. One way of measuring this is to look into the income each household was generating before respectively after the expropriation. However, only looking to the capacity of generating income does not give a complete picture of all effects related to the expropriation. Social aspects are not considered here, neither other aspects that are not directly related to income generating activities, such as agricultural activities for household needs (crops that are used in the household and not sold at the market). But nonetheless, looking at the financial wellbeing of the affected people gives an indication on how the expropriation has affected their life.

In the questionnaire to the affected people questions regarding their monthly income were asked. As shown in figure 10 below a vast majority of the affected people said that they to some extent lost monthly income due to the expropriation. The left column represents the average income before the expropriation stated in the questionnaire and the right column the income after the expropriation. Before the expropriation the monthly income was more evenly distributed over the interval, but after the expropriation the distribution shows a significant weight towards the lower income span, which is shown in figure 11.

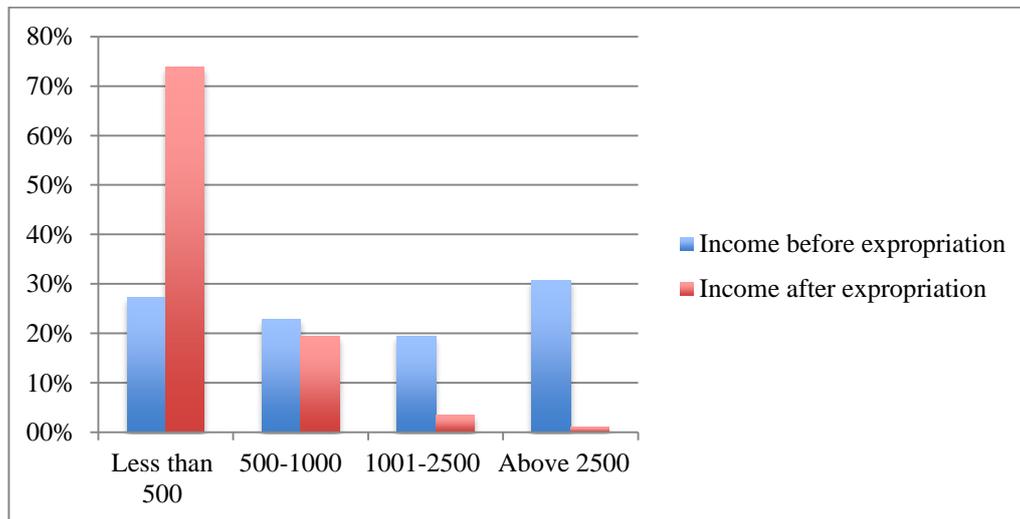
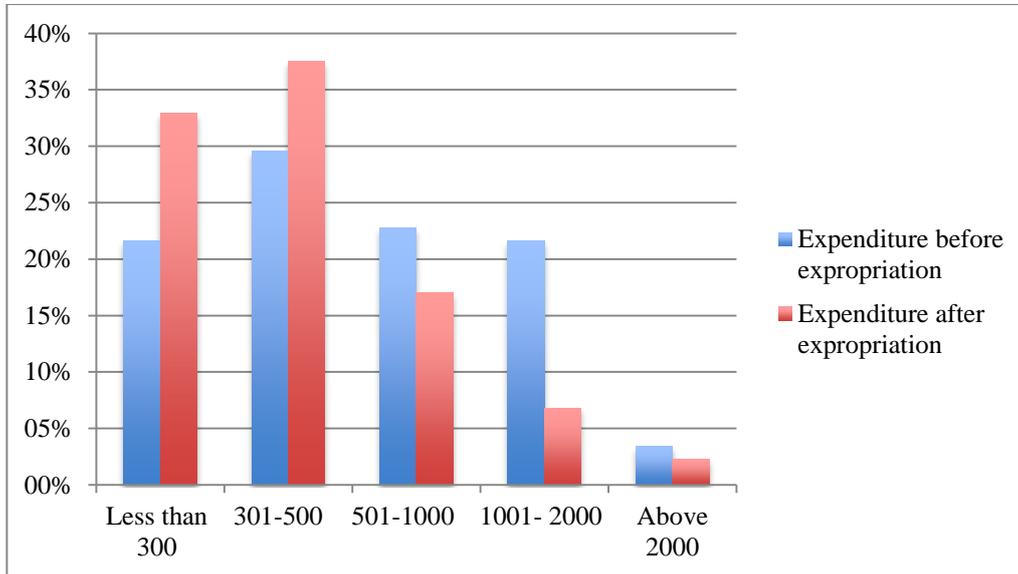


Figure 10: Monthly income before and after expropriation as percentage of respondents. Source: Field studies, 2015.

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*Figure 11: Monthly expenditure before and after expropriation as percentage of respondents. Source: Field studies, 2015.*

The income- and expenditure figures are troubling in several ways. As previously explained, the United Nations has defined poverty as an income of less than 1.25 USD per day. In Ethiopian Birr, this is equivalent to approximately Birr 26<sup>2</sup> per day, or just about Birr 790 per month. The number of people living below the line of poverty rose from just below 40 % before the expropriation to just above 80 % after (see figure 12 below). In comparison, the national poverty rate in Ethiopia was in 2010 37 % (World Data Bank, 2015). It cannot be ruled out that the deprivation studied in this specific case is temporary and that the income level will grow over time. Nonetheless, it is a remarkable increase in poverty that has been observed after the expropriation.

<sup>2</sup> With a conversion rate of 1 USD = 20,70 ETB

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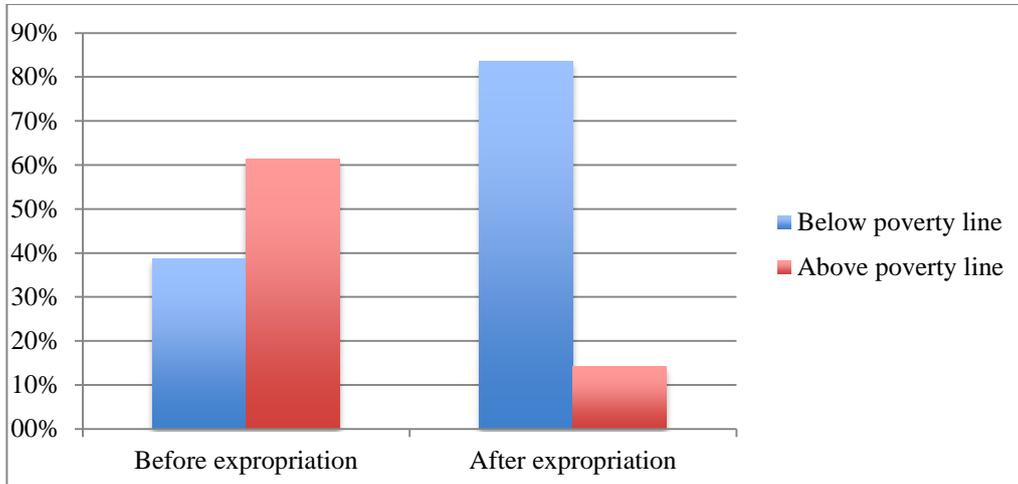


Figure 12: Percentage of people below poverty line before and after expropriation.

### 7.3.6 Support provided to the community

After the expropriation, the woreda has an obligation by law to “provide with rehabilitation support to the extent possible” (Proclamation 455/2005 article 13 (1)). According to 61 of the respondents (69 %) there was assistants given from the government on how to utilize the money given for compensation through awareness creation in the community. This is also something that is emphasized in the focus group discussion and among the key informants. The activities done are primarily the following:

- Creating awareness on how the affected people properly should dispose the money given as compensation.
- In cooperation with Commercial Bank of Ethiopia the affected people were encouraged to open bank accounts to deposit the money.
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The participants in the focus group concluded that the awareness created by the government helped guiding the people on how to use the money properly and invest in the construction of a new house or other necessary amenities.

The government also provided support in terms of infrastructure. A new school was built for the people who had been displaced to Alukurand. Facilities such as electricity and water were provided. According to the focus group participants there were problems to get this in place in time, and the construction of some infrastructure got delayed. For the time of the field studies large sections of the village still lacked electricity and there were only two water wells available for the whole village.

## **8. Discussion and conclusions**

### **8.1 Documentation and traceability**

One of the main objectives of this thesis was to analyse and describe the process of property valuation in cases of expropriation. It has proved to be a rather challenging task. First of all, the lack of proper documentation from the authorities is a serious problem. Significant parts of the records regarding the whole expropriation process were missing at the woreda administration, and it is doubtful that the records ever existed since no one could recall ever seeing them. Furthermore no protocols from the property inventory or the valuation were available from the woreda, neither any complete information about the compensation paid to those affected by the expropriation.

The lack of documentation is a major threat to the rule of law. If the process is not properly documented this will pose as a breeding ground for corruption and frauds. Not having any proper documentation of the process also makes the possibility to appeal to the decisions made troublesome since the traceability behinds the decisions are lacking. This is a democratic issue that threatens the whole legal system.

### **8.2 Flaws in the valuation**

#### **8.2.1 Valuation methodology**

Even though the method of valuation is simple and rather straightforward the study showed severe flaws in the valuation process, both on an institutional basis and how it is practiced in the field. The laws and regulations applicable in expropriation cases do not fully admit proper compensation since the only aspect taken into consideration in the valuation is the replacement cost of the property. As defined in the theory, this method will not compensate the actual market value of the property, only the cost of constructing a similar building. The studies further showed that only costs for construction materials were compensated, not costs for transportation, labour or other types of indirect costs. Those who lost their property where expected to buy materials themselves, and build the new houses themselves or with help from others. It could be argued that this is an unfair system for doing the property valuation, since the compensation should cover all costs relating to the construction of a new house of similar standard. This is clearly not the case. This is an institutional issue on the federal level, but nonetheless something that needs to be addressed in order to achieve a system with proper compensation.

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### **8.2.2 Local implementation**

The issue in concern to local execution of the valuation is not so much a legislative issue as an issue of knowledge and training. The committee doing the valuation is improperly trained and lack basic knowledge of how to properly implement the regulations dealing with expropriation. As previously concluded, four out of the five interviewed valuation committee members stated that the valuation only partially follows the requirements in the law. Furthermore the training the valuation committee members have received for the task is not extensive enough to ensure a safe and sound valuation process with legal certainty.

The valuation process relies to a large extent on the valuation guidelines that were described in previous chapters. This working method in itself is an adequate way of doing the valuation since it provides conformity in how the valuation is done independently of the committee that performs the valuation. As previously explained the guidelines are using very basic principles for the valuation that might not fully take into consideration all aspects of the property that is to be valued. This is a risk that could be worth taking in order to make the valuation coherent and traceable, but this does not seem to be the case.

However it is important to point out that the complete guidelines have not been studied since they were not possible to obtain. Hence it has not been possible to verify to what extent the guidelines actually have been used, or if the compensation paid is consistent with the guidelines. Therefore the guidelines can only be discussed on a conceptual level, on which they certainly could fulfil a purpose if properly implemented.

### **8.3 The compensation**

#### **8.3.1 Cash compensation**

Cash is the main way of compensating lost property in the expropriation. The cash compensation should enable those affected by the compensation to re-establish a life with a similar standard as before. The compensation given in the case that has been studied in this thesis does not fully achieve this. According to a large number of those affected the compensation was not enough to build a new house of similar standard. Furthermore some things, such as improvements to the land and certain crops, were not compensated even though the law prescribes that those things should be compensated.

A system with cash compensation is also a big risk when it comes to the ability for those who receive the compensation to utilize it in a proper way. In most cases those who receive the compensation are farmers, unused to handle large sums of money. As presented in previous chapter some efforts have been made to address this issue, for example by having awareness creating campaigns and assisting in starting a bank account. These initiatives provide some assistance in how to manage the money, but

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more needs to be done. This could also lead to much needed turnaround of workforce – since 85 % of the population in Ethiopia still live as farmers in rural areas there is a need for incentives towards urbanisation and a diversification of the workforce.

Cash compensation, in combination with proper education programmes and other means of stimulating a re-establishment to the labour market could turn out to be a good investment for the country. This would however require a significant effort from the authorities in providing education and livelihood skills to those affected by expropriation. A positive step towards this is the establishment of a school in the vicinity of the village Alukurand to where most of the affected people were relocated. This could prove to be a wise investment for future generations.

There are both advantages and disadvantages with the different compensation models. A few of them are presented in table 10.

**Table 10: Advantages and disadvantages of cash compensation**

Advantages	Disadvantages
Since land is a scarce resource, cash compensation is more feasible in large-scale projects.	A lump sum of money is paid, without proper assistance in utilizing it.
Monetary compensation could stimulate entrepreneurship and innovation.	The money does not secure an income and livelihood for those affected in a way that land does.
Ethiopia is in need of a transition towards urbanization. This could be one way of achieving this.	Cash compensation is not the preferred type of compensation amongst those who are affected.

### **8.3.2 Compensation with replacement land**

The default compensation when land is expropriated is replacement vacant land. This is also the type of compensation most people want according to the interviews – land is the major source of income and guarantees survival of the family. In the lowlands with lower population density it has been possible to give new uncultivated land in compensation for expropriated land thanks to a surplus of land, in the highlands this has not been a realistic option for years. In the future however there will not be a surplus of land in any part of the country, and in addition to this the practice of taking more and more land for agricultural comes with side effects such as deforestation and ethnical conflicts.

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Some major issues with the land compensation were observed during the field studies. Even though no documentation regarding the amount of land compensation was available from the authorities, many among the affected people stated that the land given was of bad quality and not as productive as the land taken. Furthermore informal farmers already occupied some parcels of the land, and the government did little to address this situation. The land given was far away from the new village and there was not enough grazing land for the cattle. All in all, the compensation in land cannot be considered as fair compensation.

As with cash compensation, compensation in land comes with both advantages and disadvantages. This is briefly presented in table 11.

**Table 11: Advantages and disadvantages of land compensation**

Advantages	Disadvantages
The preferred compensation method amongst the affected people.	Land is a scarce resource; there is not land for everyone to be compensated with.
Land secures an income and livelihood for the family.	The land needs to be taken from somewhere – in some cases from people already using the land.
The issue of how to utilize the monetary compensation properly does not imply.	

**8.3.3 Fairness of the compensation**

Certainly the concept of fairness or fair compensation is not easily defined. It is very much dependent on which point of view it is looked upon since those who are affected by the expropriation probably have a significantly different view on what is fair compensation than those who are managing the expropriation. One could argue that the only way to judge the compensation as fair would be if the expropriation did not affect the wellbeing of those affected at all. This would however not be a realistic definition since the expropriation always will have an effect on the individuals – otherwise the need for expropriation would not be there. Instead the situation would have been solved voluntarily.

A more adequate approach to the concept of fairness could be that those who are affected should be compensated well enough to be able to continue their life in a similar manner as before. As presented in chapter 7 a vast majority of the affected

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people stated that the compensation was unfair whilst about half of the officials stated that the compensation was inadequate. This gap also reflects the different perspectives of the question regarding fairness. The affected people certainly feel that the compensation is unfair since their lives have changed significantly due to the expropriation. A fair compensation from their point of view would probably have meant that they were awarded a similar piece of land of a similar quality and enough money to reproduce their house. It could be argued that these expectations not are realistic and fairness in the compensation could be achieved even if those wishes were not met.

The main question is if the compensation given in the expropriation case that has been studied could be deemed fair or not. Looking back at the results in previous chapter it is clear that a majority of the affected people were better off before the expropriation than after, at least if their financial situation is analysed. It is also without doubt that the compensation given, both in land and in cash, in many cases did not correspond to what was taken away. The cash did not cover all the costs of reproducing houses and the land did not meet the same standards as the land taken. On the other hand, some compensation was given in other ways than monetary or land. A good example of this is the school that was built in Alukurand, which provides education to all of the children from the affected families.

Although there are some questionable aspects regarding the fairness of the compensation, it is not easy to conclude on this. A number of arguments could be raised both for and against the fairness, which is done in table 12.

**Table 12: Arguments for and against fairness of the compensation**

Arguments for fairness	Arguments against fairness
All the affected people received compensation, both land and cash.	The expropriation had a negative effect on the net income of those affected.
Compensation was given also indirectly, e.g. by constructing a new School.	The cash compensation did not correspond to the costs of reconstructing property.
The expropriated land was not owned by those who were expropriated, since all land is publicly owned.	The replacement land was of lower quantity and quality than the expropriated land.
	Not all lost property was taken into consideration when the compensation was calculated.

## **9. Recommendations**

### **9.1 Simplified regulatory framework**

Many aspects of this thesis have related to the challenging structure of the legislative system in Ethiopia. With four levels of legislations: the constitution, proclamation, regulations and directives alongside with their regional counterparts this paints a complex picture of how to properly implement a sustainable expropriation system. The best available practice today is the guidelines used at local level in the case studied in this thesis. Those are, as previously discussed, however rather out-dated and incomprehensive.

Even though the regulations for expropriation are rather comprehensive when only looking at the legislative text, it has proven to be a challenge to properly implement them on a local level. This can partially be explained by the huge discrepancy between the legislators and those who are to practice the expropriation in the field. One of the findings from the field studies was that only one of the valuation committee members, those who are doing the actual valuation of the property, stated that he or she properly knew the laws and regulations related to expropriation very well. This highlights the issue of implementing the regulations – if only a fraction of those who are to implement them on local level are properly familiar with the regulations this faces a big threat to the legal certainty of the whole expropriation process.

A simplified regulatory framework could be one way of decreasing this gap and make the legislations easier to implement and easier to understand for those who are to work with them in the field. Replacing the most central federal proclamations and declarations relating to expropriation by one single proclamation addressing all issues of expropriation in a structured way could achieve this simplification. This would lead to a situation where the general principles for land and property rights are regulated in the constitution and issues specifically concerning expropriation could be focused in one proclamation, making it clearer and easier to understand the regulations that affect expropriation. The proclamation would then have to be concretised in guidelines and other tools in order to be implemented at local level. A schematic illustration of this is done in figure 13.

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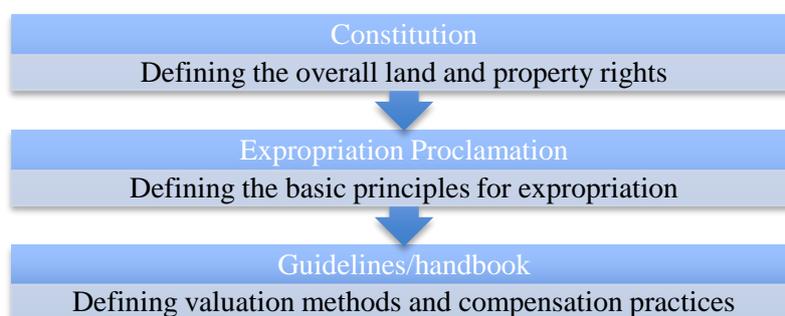


Figure 13: Proposed legislative hierarchy

### 9.2 Use of market value as basis of determining compensation

The valuation model in use today is the cost replacement method. Given the circumstances this is an adequate choice of method since the data available for using more complex methods, such as sales comparison, are very limited. However, in a long term perspective the government should strive towards enabling the use of prize comparison of similar objects as a basis of determining the compensation.

This would however require a functioning market with transactions being made and documented, which not is the case in rural areas in Ethiopia and probably will not be within any immediate future.

In the meantime the current compensation system could be developed. Cost replacement method in use today only targets direct costs relating to replacing the property with new of similar standard, such as construction materials. A change in the right direction would be to also compensate indirect costs such as costs for transportation and labour. An issue with this is that those types of costs usually occur in kind rather than in monetary transactions. This makes it hard to calculate the value of those costs.

A simplified method could be to add a percentage to the compensation paid for construction materials that should also cover the costs of labour and transportation. That would enable the receiver of the compensation to determine how to utilize the money best.

### 9.3 Proper training of valuation staff

A limitation to the expropriation process that has been possible to observe is the lack of adequately trained property valuers. The very basic training they receive combined with the overall low level of education is a severe threat to the legitimacy of the expropriation process. The minimum requirements for those who take part in the expropriation process as a valuator must be reviewed. Generally in Ethiopia, there is a great lack of experienced professionals in the field of property valuation,

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especially in rural areas. Those who are appointed to form the valuation committee are in many cases undereducated for the task, which makes the whole legitimacy of the process questionable. A reasonable minimum requirement should be that at least one person with a formal degree in the field of economics or land administration should be part of the valuation process. This could be an external consultant, in which case enough funds for this must be secured in the budget for the expropriation. As the regulations are implemented today all of the valuers can be laymen, which is not the purpose of the law.

The solution described above does however not solve the general issue with a severe lack of trained valuation staff. A new nationwide program to train professional property valuers is needed to meet the increasing demands. This should be made a priority of both the federal and regional governments.

### **9.4 Replace guidelines with a handbook**

Another issue is the tools available for assisting the valuers in their work. These tools are today as previously described mainly different types of guidelines and tables based on regulations in the legislations for doing the valuation. Many of the guidelines in use are out-dated and do not give a result that is sufficiently in accordance with the actual property value. The guidelines are also rigid and complex to understand, especially with the basic level of education and training the valuers generally have. This became very obvious when no one were able to explain how the guidelines where to be interpreted and used in practice.

A better solution would be to replace the current guidelines with a proper handbook that in combination with more exhaustive training can function as a basis of the valuation. The handbook should focus more on best practices and practical applications of valuation methods in certain situations rather than tables with standard values that rather quickly will become out-dated. The handbook should contain descriptive information on how to value certain buildings, preferably with illustrated descriptions. Furthermore the handbook can include checklists of what to take into consideration during the valuation. This would result in a more conform way of doing the valuation, and ensure that all relevant aspects are taken into consideration. The handbook could be developed and implemented at a federal level in order to ensure conformity across the country. Some regional adaptations might be required though.

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