

This background paper provides a historical overview of land administration systems in Ethiopia, before focusing in on key rural and urban institutions, land use planning, land tenure, land registration and certification and expropriation and compensation issues. This summary is based on a broader scoping report looking at the critical land issues in Ethiopia, commissioned through ICED.

Historical overview

Land continues to be a major political issue in Ethiopia and a defining factor contributing to and resulting from regime changes in the country. As a result, the land administration systems have evolved organically over time, usually in response to emerging political issues.

Pre-1974 – Imperial Regime

During the imperial regime of Haile Selassie, a wide range of land tenure systems existed in the country. Ethiopia had one of the most complex combinations of land-use systems in Africa. Communal land ownership was the dominant system in the northern highlands.¹ In the southern highlands two-thirds of the land was owned by the Ethiopian Orthodox church and large landlords,² mainly civil and military servants of the imperial regime. In the lowland regions, the tenure system was characterised by communal ownership of land by pastoralists and governed through customary rules still evident in some places today.³ In 1960 a *Civil Code* was intended to encourage a move to a more property-based system - this is still in force and plays a role in property-based transactions.

1975 – Nationalisation of land

The origins of the current systems lies in the land reform instituted by the Derg (the Coordinating Committee of the Armed Forces, Police and Territorial Army) after its revolution in 1974. The 'Land to the Tiller' policy nationalised all land into public ownership (without compensation), took commercial farms into state control and redistributed land (through a hierarchy of associations and cooperatives) - through the *Public Ownership of Rural Lands Proclamation (31/1975)*.⁴

Urban land was not included in the initial proclamation, but the Derg later took urban lands into state ownership through the *Government Ownership of Urban Land Proclamation 47/1975* - this included nationalising all 'extra houses' and providing them as low-cost 'kebele housing' (see Box 1 below). It also abolished tenant-landlord relationship and eliminated private rent payments (but provided for rental payments to government).⁵ In addition to kebele housing, there are individual occupiers with title deeds that date from the period before nationalisation known as 'old possessions' or 'old holdings'. Although they no longer own the land under subsequent legislation, they have permits for the properties built on the land (for further detail, see Section 2.2).

The Derg also instituted a forced resettlement programme that moved hundreds of thousands of people - initially from northern drought-affected areas to areas in the west and south that had more consistent rainfall. However, critics argue it was used as a pretext to depopulate dissenting areas that harboured opposition groups that fought the regime. After a brief pause, resettlement morphed into a 'villagisation' programme in the 1980s, aiming to cluster villages. The official goal was to improve access to social service - however political motives were also at play and opponents saw it as a tool to enforce collectivised agriculture. Ultimately, resettlement and villagisation, combined with drought, were major contributors to opposition and eventually overthrow of the Derg.

¹ Crewett, W. & Bogale, B. A. (2008) Land Tenure in Ethiopia: Continuity and Change, Shifting Rulers, and the Quest for State Control, CAPRI Working Paper No 91, September.

² LANDac (2016) Food security and land governance factsheet: Ethiopia and Crewett & Bogale (2008)

³ LANDac (2016)

⁴ Hailu, Z. (2016) Land Governance Assessment Framework Implementation in Ethiopia Final Country Report. World Bank.

⁵ Ibid.

1995 – Separation of land-use rights from ownership

The overthrow of the Derg and successful EPRDF-led (Ethiopian People's Revolutionary Democratic Front) revolution led to the *1995 Constitution*, which built on aspects of the Derg land reform to reiterate public ownership and establish the principle of ethnic federalism. Under the constitution, land is not subject for sale or any other type of exchange; it is only the holding (use of land) right that is given to individual citizens - this separation of ownership from use rights is the current system's basis.

BOX 1: Basis of nationalised land

Article 40(3) of the 1996 Constitution: *“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.”*

Peasants and pastoralists have the right to obtain rural land free of any payment for agricultural purposes. Private investors may obtain the right to the use of land (rural or urban) on the basis of a payment for residential or other investment uses. While those that lack the capital to be investors are not mentioned, Government policies should aim to *“provide all Ethiopians access to ...housing...”* to the extent the country's resources allow”, Article 90(1).

Private investors may obtain the right to the use of land - rural or urban - on the basis of a payment to government. For urban lands, the separation of ownership from use rights was established through the *Urban Land Leaseholding Proclamation 80/1993*. However, this left some ambiguity as to the status of previous urban landholding permits (referred to as 'old possessions').

1997 – Regional implementation of rural land administration

The provisions of the Constitution were implemented through a Federal level umbrella framework (*Federal Rural Land Administration Proclamation 89/1997*), which was in turn implemented at a regional level through regional legislation (initially just in the four highland states), see Box 2.

BOX 2: Regional proclamations

The Federal Rural Land Administration Proclamation 89/1997 enacts the provisions of the Constitution, where *‘power is given to the regional states to enact their own land administration and use proclamation in accordance with the federal law’*. Article 17(1).

Following the federal proclamation, the four highland regions (Tigray, Amhara, Oromia and SNNP) established regional proclamations, which have since been revised and amended in line with Federal changes.

- Tigray Region 136/2007 (first issued 1997, amended 2002 and 2007)
- Amhara Region 133/2006 (first enacted 2000, amended in 2006)
- Oromia Region 130/2007 (first issued 2002, amended in 2007)
- SNNP Region 110/2007 (first enacted 2003, amended in 2007)

Pastoralism and community lands

The Federal Rural Land Administration Proclamation was initially targeted at settled agricultural land. In 2007, Afar Region started a participatory process and consultation for developing its rural land administration system, with a focus on establishing community ownership of lands. This approach was replicated in other regions.

- Afar Region 49/2009
- Benishangul Gumuz 85/2010
- Gambela Region 185/2011
- Somali Regional State 128/2013

1993 – 2003 – Establishing urban leasehold systems

The first attempt to establish an urban leasehold system preceded the 1995 Constitution with the *Urban Land Leaseholding Proclamation 80/1993*. Failure to implement the urban lease system resulted in the 1993 act being replaced by the *Re-enactment of the Urban Lands Leaseholding Proclamation 272/2002*.⁶ This implemented the lease system in selected towns for the first time, but

⁶ Adamu, Z. Y. (2014) 'Critical Analysis of Ethiopian Urban Land Lease Policy Reform Since Early 1990s', paper presented at the FIG Congress 2014, Kuala Lumpur, Malaysia 16-21 June 2014.

only for newly created property rights.⁷ The ambiguity of the status of 'old possessions' was also partly addressed by clarifying that all urban land should eventually be under leasehold tenure. When such properties are transferred, the new owners are also required to purchase a lease from the government that effectively converts permit holdings into leasehold.

To increase the supply of housing and densify urban sites, the Government created the conditions for public sector agencies, private developers and co-operatives to build higher density housing through the *Condominium Proclamation 370/2003*. This set out a new regime to govern condominiums, defined as 'a building for residential or other purpose with five or more separately owned units and common elements, in a high-rise building or in a row of houses, and includes the land holding of the building'. This regime allows individual ownership of units in a condominium, with collective management via a Unit Owners' Association, although technical challenges remain for registration of building-based leases in an emerging urban land information system that is still parcel-based.

2005 – Securing land tenure

Land conflict issues reared their head in the 2005 elections and several legislative amendments aimed to bolster land rights and increase security of tenure, particularly regarding land expropriation. The *Rural Land Administration and Use Proclamation 456/2005* replaced the 1997 proclamation to:

- Provide indefinite tenure rights to smallholders
- Abolish forced redistribution of land
- Provide more guidance to regions on land expropriation and compensation

It was accompanied by clearer legislation for expropriation and compensation (*Expropriation of Landholdings for Public Purposes and Payment of Compensation Regulation 455/2005*) - covering both urban and rural compensation.

In the aftermath of the chaotic and disputed 2005 elections, the government's attention focused on addressing political issues, leading to an absence of control over land and development in Addis Ababa. This contributed to the dramatic outward sprawl of the city during this time. In 2008, the Oromia Special Zone surrounding Finfinne (the Afaan Oromo name for Addis Ababa) was created to control this sprawl and legislation was created to manage Addis' growth - the *Urban Planning Proclamation 574/2008* and *Building Proclamation 624/2009*. This period sowed the seeds for the current political dynamic and has contributed to exacerbating tensions between Oromo nationalists and the Federal Government, particularly over the status of Addis Ababa/Finfinne as both national capital and Oromia's capital city.

2011 and 2014 – Consolidating urban tenure systems

In 2011, partly in response to the growing corruption and gaming of the system (see Box 3), the 2002 urban legislation was repealed in favour of a new proclamation consolidating the permit and leasehold systems - the *Urban Lands Leaseholding Proclamation 721/2011*. The Proclamation consolidated the permit and leasehold system - emphasising leasehold as the default form of tenure and setting out processes for converting old possessions into leasehold. The 2011 proclamation did away with negotiation as a form of land allocation, as it was viewed as facilitating rent seeking - leaving auctioning and direct allotment as the only methods for government to allocate urban land. Management of land for investment and terms of redevelopment were delegated to regional government. It also set out a process for formalising informal tenure (where in line with land use plans) and strengthened enforcement and compliance penalties.

BOX 3: Land sector corruption

A 2012 study commissioned by the World Bank⁸ identified several areas of corruption in the land sector:

⁷ Burns, T. (2016) Review of the Legal Cadastre of the Government of Ethiopia. Issues & policy recommendations report. The World Bank.

⁸ Burns, T. and Dalrymple, K. (2012) Land Sector Corruption in Ethiopia in Plummer, J. (ed) (2012) Diagnosing Corruption in Ethiopia. World Bank.

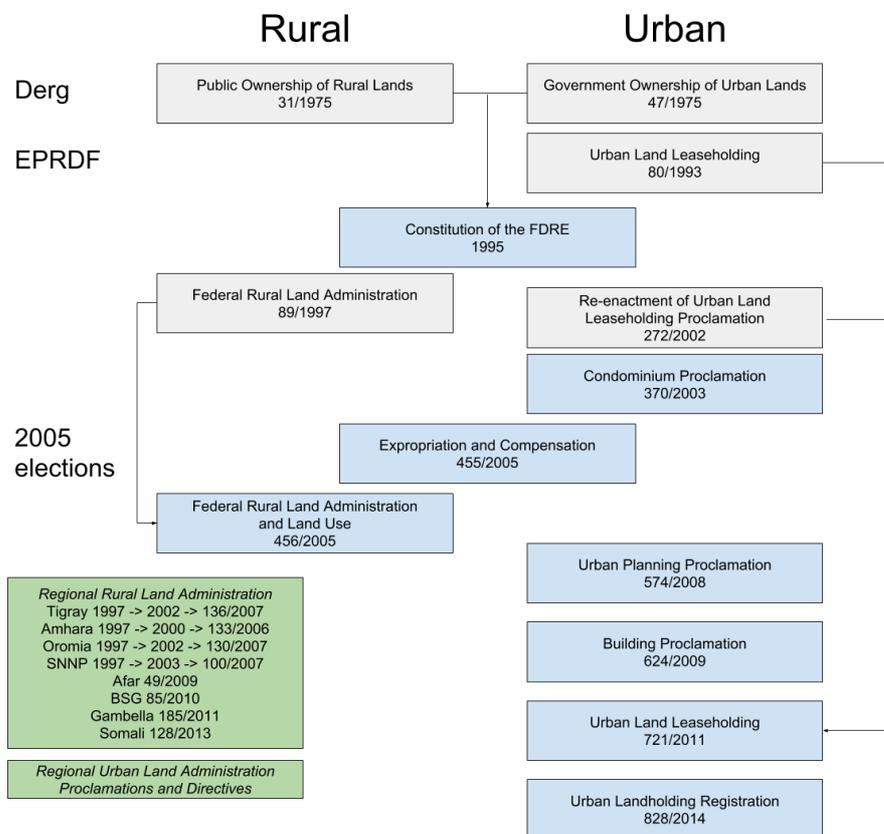
- Capture of assets by the elite and senior officials. Elite capture is facilitated by a weak policy and legal framework and poor systems to implement existing policies and laws.
- Corruption in the implementation of land policy and laws, particularly through the following:
 - Institutionalisation of informal fees. The FEACC investigation of corruption in five sub-cities in Addis Ababa concluded that it was “nearly impossible to get a plot of land without bribing city administration officials.”
 - Fraudulent actions of officials to allocate land to themselves in both urban and rural areas and to housing associations and developers in urban areas.
 - Willingness of officials to defraud or respond to bribes or nepotism to overlook virtually all specified restrictions and requirements, particularly in Addis Ababa, which has seriously undermined the enforcement of land use plans, lease conditions, and building and construction codes in urban areas.
- Issuance of forged land documents resulting from fraud, bribery, or nepotism, which has seriously eroded confidence in the land records system.

Other measures were put in place to avoid corruption in leasehold procedures and provisions. Where upfront payments were previously not required on lands leased for residential purposes, under the 2011 proclamation an upfront payment of 10% is now required. Half of the value of any construction on leasehold land has to be completed before the lease can be transferred without the major part of any resulting profit reverting to the government. Similarly, under the old land holding system, a plot cannot be transferred without having a house on it.

In 2014, the *Urban Landholding Registration 818/2014* was approved to accelerate the rollout of the leasehold system and implement the Systematic Adjudication and Registration (SAR) process. In addition to the national legislation, there is urban land-related legislation at the regional level to implement federal laws, for example the *Addis Ababa City Government Urban Lands Lease holding Regulation No.49/2012*, and *Lease Regulation No. 76/2013* in Tigray.

The various urban and rural land laws in Ethiopia are compiled in Figure 1, on the following page.

Figure 1: Rural and urban land legislation in Ethiopia⁹



⁹ Authors, with reference to relevant published Ethiopian legislation

Rural Land Administration

Key Institutions

At national level, the Ministry of Agriculture (MoA) oversees rural land issues. Specifically, its Land Administration and Use Directorate (LAUD) is responsible for overseeing land use and land tenure of small-scale rural lands.

An agency reporting to the MoA, the Agricultural Investment Land Administration Agency (AILAA) was previously responsible for administering large-scale agricultural investment lands, however in 2017 this was brought into the Ethiopian Horticulture and Agriculture Investment Authority (EHAIA), which in turn was dissolved during the course of the study. It is not yet clear where the administration of large-scale agricultural investment lands will sit - but regions now have responsibility for allocating land for investment and it is likely that the new Land Bank and Development Corporation, under the Ethiopian Investment Commission, will play a facilitation role.

Rural land administration is devolved to the regions, which have established their own institutions for the implementation of the Federal rural land use proclamation. These have a variety of names and forms, summarised in Table 1 below.

Table 1: Rural land administration institutions in Ethiopia¹⁰

	Region	Zone	Woreda	Kebele
Afar	Agency under BoA and pastoral	No organ	Office: reporting to Woreda Office of Agriculture and pastoral	LAUC
Amhara	Amhara Bureau, member of regional cabinet	Department member of Zonal cabinet	Office: member of Woreda cabinet	Office (Kebele expert and LAUC)
BSG	Bureau member of regional cabinet	Department member of Zonal cabinet	Office: member of Woreda cabinet	LAUC
Dire Dawa	Work process within Bureau of Agriculture	No	Work process within Office of Agriculture	LAUC
Gambella	Bureau member of regional cabinet	No organ	Work process within Office of Agriculture	LAUC – under establishment
Harar	Work process	No	No	No
Oromia	Bureau, member of regional cabinet	Department member of Zonal cabinet	Office: member of Woreda cabinet	LAUC
SNNP	Agency within BoA	Work process in department of Agriculture	Work process under office of Agriculture	LAUC
Tigray	Agency under BoA	No organ	Office: member of Woreda cabinet	LAUC
Somali	Case team within Bureau of Pastoralist & Agriculture	Not established yet	Not established yet	Not established yet

At kebele level, Land Administration and Use Committees (LAUC) are elected by landholders to implement the land administration system. They handle related land conflicts using traditional rules and are also responsible for implementing land use planning.

The Ethiopian Geospatial Information Agency (formerly Ethiopian Mapping Agency, EMA), established in June 2018, is responsible for geospatial information. Previously, the Information Network Security Agency (INSA) held the mandate for geospatial information and conducted survey flights for land administration (including for LIFT) – this has reportedly now been transferred to EGIA. INSA is currently drafting a National Spatial Data Infrastructure policy and roadmap to consolidate national spatial data.

¹⁰ Hailu (2016)

Finally, the Ministry of Federal Affairs is responsible for overseeing the implementation of the expropriation and compensation proclamation, with woreda administrations or urban administrations responsible for delivering compensation.

Land Use Planning

Rural land use is not well planned, controlled or co-ordinated. Disparate land use planning policies, projects and plans have been developed through sectors or regions. These include: river basin master plans, regional land use plans, and the forest sector development plan.

As a result, the Government of Ethiopia embarked upon a National Integrated Land Use Plan and Policy project (NILUPP), which aimed to develop a single national integrated land use plan with 9 regional land use plans and 91 zonal level plans. However, with recent changes in the administration and structure, the status of this project and its associated roadmap is unclear - but such an approach is clearly needed in Ethiopia to enable the Government to better plan the use of its land more holistically. As noted, at the local level LAUCs are tasked with implementing land use planning, but lack appropriate technical expertise.

Rural Land Tenure

All land in Ethiopia is owned by the State, but there are three forms of rural land tenure, based on a land use right: private holding, communal holding and state holding.

Private individual peasant farmers have a permanent use-right ('usufruct' right) that is transferable only to family members via inheritance. This excludes the right to sell or mortgage the land, which remains in state ownership. Land under this tenure can be sub-leased and the landholder can co-invest to develop the land. In theory, leased land can be presented as collateral - but this is often not the case in practice. Communal holding provides the same rights for pastoralists and semi-pastoralists. Finally, government can use rural land 'in line with their development objectives'. This also includes forest lands, wildlife protected areas, state farms, mining lands, lakes and rivers.

The rural tenure system in Ethiopia is characterised by regional differences which have shifted over time during the imperial and Derg regimes with "different bundles of rights attributed to the tillers in different places and different production systems. This diversity continues until today in regional land regulations that differentiate bundles of rights for different types of land use and plot holders, and in different regions of the country."¹¹ Additionally, de facto as opposed to de jure land rights vary based on local social practice, especially with inequalities in the rights of women and ethnic minorities.

Land registration and certification

Ethiopia is one of a few African countries to have undertaken major systematic documentation of land rights. The land certification process started in 1995 in Tigray, Amhara, Oromia, and SNNPR. By 2016, over 25 million parcels had been awarded certificates. The first level of certification has been done through the LAUCs gathering basic information on land holdings and issuing an official certificate to each parcel owner at very low cost.

First level certification in the four regions has generally been regarded as a success and is quoted as international good practice. Ethiopia has, over a short time period, distributed in a very decentralised process. Results of a survey suggest that first-time registration has been very cost-effective and not biased against the poor while at the same time providing important lessons to enhance its sustainability and impact. In the study site, a certified plot was 5% more likely to receive new investment and villages saw 4.4% higher rates of investment compared to non-certified villages.¹²

First level certification adjudication made use of traditional village elders to resolve disputes and demarcation was carried out in the field in the presence of neighbours. However, it was found that "women's representation was limited; access to written information on the law and the process and purpose of certification was far from universal; the process was focused on mapping of agricultural holdings to the detriment of common property resources and house plots; and although many boundaries were mapped in

¹¹ Crewett & Bogale (2008)

¹² Deininger, K. (2008) 'Implementing Low Cost Rural Land Certification: The Case of Ethiopia' ARD Note. Issue 34 Feb 2008. World Bank.

the field, measured by rope, and corner marks emplaced, certificates identify owners of neighboring parcels but contain neither a map nor a sketch of the parcel".¹³

Additionally, land registers in the states have not been maintained. A coherent and harmonised land administration system is yet to be fully implemented across the country, so the current system remains mainly paper-based. The organisations responsible for land administration face capacity constraints, whilst institutional weaknesses encourage rent seeking and corrupt practices.

Second level land certification (SLLC) through LIFT and related programmes aims to cement the achievements of the initial certification process through a harmonised system of computerisation of the registration process and the creation of a map record and filling the gaps of the first certificate (charting of boundaries on geo-referenced imagery and orthophotos). Overall objectives are to reduce land disputes, improve land security, protect the land use rights of women, encourage productive investment in land and raise rural income levels.

A National Rural Land Administration and Information System (NRLAIS) has been established as a national parcel based system covering all rural areas in Ethiopia. In the woredas in which it is operating, it is integrated from Federal through Regional and down to woreda level. By September 2017, 32% of land transactions are formally registered in NRLAIS in programme woredas in which it is operational (the milestone is 50%), with 30% female-headed households.¹⁴ The lack of power or IT equipment and the distance of some kebeles from woreda or zonal centres limits the real-time nature of NRLAIS. However, formal recording is happening at kebele level and the system is designed to be intuitive and web accessible.¹⁵ Over time, the NRLAIS team plan to make NRLAIS mobile-accessible, which will ease access and ensure more up-to-date use. This is critical as a lack of updating can rapidly undermine the trustworthiness of the land registration system.

Expropriation and compensation

Rural landholdings can be expropriated by woreda administrations if they, or regional or federal organs decide that land '*should be used for a better development project*'. Landholders should be given not less than 90 days notice of expropriation (30 days if the land is not farmed) and are entitled to compensation for property and for permanent improvements made to the land. Compensation for property is on a replacement cost basis and compensation for permanent improvement is on the basis of capital and labour expended. As an interim measure and until permanent valuation bodies can be established, valuation is determined by property valuation committees of up to five experts, nominated by the woreda.

In addition, landholders are entitled to displacement compensation, calculated as ten times the average of the last five years' income earned from the land. If the woreda administration can find substitute land that can be easily ploughed and generate a similar income, then the compensation is only the average annual income of the last five years.¹⁶

Urban Land Administration

Key Institutions

The Ministry of Urban Development and Construction (MUDC) and specifically the Urban Land Development and Management Bureau is responsible for overseeing urban land administration and the implementation of Federal regulation. In addition, the Urban Real Property Registration and Information Agency, which reports to MUDC, is responsible for the cadastre.

Land Use Planning

The Urban Planning Proclamation 2008 sets out the hierarchy of planning:

- National urban development scheme
- Regional urban development plan
- Urban plans: City wide structure plan (10 years) and Local Development Plans

¹³ Deininger, K., Selod, H. & Burns, T. (2012) 'The Land Governance Assessment Framework: Identifying and Monitoring Good Practice in the Land Sector'. World Bank.

¹⁴ LIFT Annual Review

¹⁵ Stakeholder interviews

¹⁶ Proclamation 455/2005

A National Urban Development Spatial Plan was developed and discussed by the Council of Ministers in 2015, but its current status is unknown and it does not appear to be publicly referenced.

Regional governments have engaged in land use planning to varying degrees, but urban specific plans are still lacking. Regional governments define the physical boundaries of urban centres and chartered cities' boundaries are defined in their charters.

The National Urban Planning Institute aims to support urban plans at city scale, but city administrations are responsible for managing and implementing them. The national, and regional, government initiates urban planning, but communities and non-governmental bodies can identify needs to be considered during planning. Local Development Plans are used for zoning urban centres and development permits are used to control development activities within those zones.

Urban administrations have the power to freeze development if necessary and may also hold a land reserve for development activities and to allow flexibility within the planning process. The NILUPP Roadmap foresees the development of strategic land use plans for 17 cities and the Addis metropolis, structural land use plans for 25 large towns, and basic land use plans for 98 medium towns.

Urban Land Tenure

The two main formal land tenure types in urban areas are the permit or old possession system (with landholders subject to an annual rent) and the leasehold system involving leasing land for a fixed period, typically 30-99 years (with particular requirements in Addis Ababa). There are also provisions for individual ownership of condominium units, with collective management via a Unit Owners' Association.

However, this does not account for all urban land. There is a spectrum of urban tenures, with degrees of formal recognition. This includes farmland within the physical scope of the citywide structure plan expropriated for government allotment or auction payments, developed land in the inner city expropriated for urban renewal, and informally developed areas subject to regularisation, or not yet regularised. The aim of the leasehold legislation is to ensure that all urban land is eventually brought within the system. Thereafter, regularised land with initial lease agreements is subject to the SAR process so certificates can be issued and the lease holding registered.

Land Registration and Certification

Significant effort has been undertaken to develop the legislative framework for urban land administration, but a comprehensive legal cadastre for urban land does not yet exist, which is a stumbling block. Progress, though slow, is being made and the Cadastre and Real Property Registration System (CRPRS) has now been developed and Systematic Adjudication and Registration (SAR) is being piloted in 23 cities.

Expropriation and Compensation

The same expropriation regulations apply to urban as they do to rural. Compensation is for property or improvements to land, not the land in itself and since the state owns the land it is the use rights that are being expropriated and compensated for, not the land itself.

However, the key difference is in the nature of compensation. According to the related proclamation 455/2005,¹⁷ an urban landholder whose landholding has been expropriated will be provided with a plot of urban land on which to build a house; and will also receive displacement compensation. A set of additional provisions for residential or business tenants of kebele or state-owned buildings affected by urban renewal projects is included in the 2011 Urban Lease Holding Proclamation. These are different for Addis where tenants of state or kebele-owned residences are entitled for 'facilitated purchase' of condominium housing units, though associated costs put these beyond the reach of most low-income tenants.

The displacement compensation is calculated as the annual rent of the demolished house with any property-related compensation forming the larger element. Alternatively the landholder may be provided with a comparable house by the urban administration, subject to the above-mentioned legislation. The alternative plot can vary with location but a common complaint is that while the rights of a leaseholder displaced by a renewal program to get a substitute having same size and value as the expropriated plot, the size and value of the substitute to old possessions is determined by a Mayor's committee and is frequently of a lesser value.

¹⁷ Proclamation 455/2005 on expropriation and payment of compensation is currently being reviewed with improved levels of compensation for property rights being considered according to government sources