

Farmland Conversion and the Compensation Question in Mekelle (Ethiopia)

Zemenfes Gebregziabher Meressa (Corresponding Author)
Ethiopian Civil Service University
Zemenfes2000@gmail.com

Kwame C Serbeh-Yiadom, Associate Professor
Ethiopian Civil Service University
kserbehiyadom@yahoo.com

Abstract

The city of Mekelle has been growing fast and infringing its statutory limits. This growth, in recent times, has required the conversion of agricultural land into non-agricultural, urban use; and now the number of expropriated farmers as a result of rural land conversion is on the increase: between 2005 and 2008, about 9883 farmer-households were expropriated totally or partially from their farmlands. This paper focuses on the post-acquisition welfare of farmers by critically evaluating the overall process of compensation: method of valuation, amount of compensation, and negative fallouts. The method of determining the value of expropriated farms is unscientific, not timely updated, and the compensation is not associated with rehabilitation support. The materials used in this paper are taken from an ongoing doctoral research by the same author, and all data was obtained from a survey of 250 expropriated farmers. Findings show that as the city advances towards the agricultural hinterland fringe farmers feel threatened of losing their livelihood, and are not happy because of the knowledge that the compensation process is unfair in terms of amount and absence of rehabilitation support for their losses. The paper is organized into five sections: the introduction deals with the background, the problem and the objective, followed by review of relevant literature, then the methodology, the findings, and finally the conclusion.

Keywords: expropriation, valuation, compensation, rehabilitation, perception

Background of the study

According to the International Fund for Agricultural Development (IFD), smallholding agriculture employs more than 500 million farmers. These smallholder farmers support the livelihood of 2 billion people. However, involuntary rural land conversion is becoming a serious challenge for the smallholder farmer. Urban induced development activities are the major causes of involuntary land acquisition and farmers' expropriation. Between 1980 and 1986, more than 33 percent of the total compulsory land acquisitions in Africa were made due to urban induced development activities (Brookings Institute, 2003:18). According to the same report, the proportion of urban development induced rural land acquisitions increased to more than 57 percent between 1987 and 1995.

Although, there is no reliable record on how much land has been converted into non-agricultural uses in Ethiopia, the exercise of compulsory land acquisition for urban expansion and other activities is very much a serious and ongoing phenomenon. Between 2005 and 2009, Bishoftu, compulsorily acquired about 5,000 hectares of land into its territory from the nearby rural areas, and Mekelle also added more than 6,000 hectares of rural land during the same period. Again, under the GTP¹ the city of Kombolcha acquired more than 365 hectares of agricultural land for industrial zone development. All the above cases show how the law has been used to displace farmers from their places of work through farmland conversion which is, today, a growing threat to the livelihood of urban fringe farmers.

Statement of the Problem

The rate of urbanization is very high in the developing world because of rapid rural-urban migration, high natural population increases, and the incorporation of adjacent rural settlements into the urban territory. The rapid rate of urbanization requires additional land which has to be acquired from the nearby rural areas through the process of compulsory land acquisition. The ever increasing land acquisition, particularly, in the urban fringe areas is resulting in an ever growing numbers of farmers at the brunt of the harsh and unpleasant effects of expropriation. In Ethiopia, the practice of compulsory land acquisition has not been accompanied by adequate compensation and rehabilitation support. The paper evaluates the law, practice and implementation procedures of compulsory land acquisition and compensation with a view to determining its fairness or otherwise in the process of human displacement in the country.

¹ Growth and Transformation Plan

Objective of the paper

The objective of this paper is to evaluate the compensation and rehabilitation support provided to expropriated farmers in Mekelle City. Specifically, the paper considers the following issues:

1. Examining the method of valuation (in the study area)
2. Analyzing compensation amounts paid
3. Evaluating the quantum of rehabilitation support
4. Assessing the perception of farmers on the process of expropriation

Review of the Literature

Some scholars date the history of land expropriation to the biblical times in Israel when King David told Araunah that he wanted to buy his threshing-floor to build an altar (6th B.C), and when King Ahab desired to buy Naboth's vineyard by offering another vineyard or by making a money compensation. According to other scholars, the history of land expropriation goes back to the times of ancient Greece and Rome. Evidence proves that the Greeks expropriate landowners to build temples and construct drains in the city of Euboea, whereas the Romans compulsorily acquired private and church lands to construct roads, fortifications and palaces among others (Reynolds, 2010).

Although the history of land expropriation goes back to biblical and ancient times there is little or no evidence ascertaining the legal rights of expropriated landowners to access compensation for their losses. Established law on compensation dates back to the eighteenth century when the French declaration on human and civic rights in 1789 stated that "no one should be expropriated from its property ... unless just compensation is paid prior to the expropriation". The Fifth Amendment of the United States of America constitution in 1791 also recognized that "private property shall not be taken for public use without just compensation".

The fundamental goal of *just compensation* is to put the owner or user of the expropriated land in a better or at least the same economic status as before the expropriation (Roy L, 1999:239). The method of calculating compensation varies from country to country based on the type of land ownership and the economic system. In countries where land is privately owned the amount of compensation is calculated based on the market value of the land, while in countries where land is publicly owned it is decided based on the average annual value of the economic activity ongoing on the land. Best practice examples of these two different approaches to determining compensation are found in India and China, respectively.

In India, land compensation is calculated based on the average market value of the top 50 percent of all transactions in the previous three years for similar type of land in the area (Gupta, 2014:219). The calculated compensation based on the average market value of the area is doubled and the value of all assets attached to the land is added. The total figure obtained from adding the doubled average market value of the land and the value of attached assets is doubled again to reach a final compensation amount (ibid). This shows that the total amount of compensation in India is about four times the average market value of land in the specific area plus the value of all other assets attached to the land.

In China, farmland compensation includes land compensation and resettlement subsidy. The land compensation amounts to six to ten times the average annual output value of the acquired land in the preceding three years before expropriation while the resettlement subsidy amounts to four to six times the average annual output value of the land (Ding, 2005:3). Based on the consent of the provincial authorities, the combined amount of land compensation and resettlement subsidy can reach up to thirty times the output value of the acquired land (Chan, 2003:141). The maximum amount of compensation goes up to 30 times the annual average output value of the land because the maximum agricultural land use right is for the term of 30 years.

In Ethiopia, land expropriation and compensation can be better discussed alongside the three distinct periods of government namely, the pre-1974 imperial period, the 1974 to 1991 socialist ('Derg') periods, and the current post-1991 democratic period. This is because landholding and ownership has been a central issue in the developmental history of Ethiopia and each of those periods signified a different type of land tenure which, invariably, meant different kind of rights in land. Accordingly, an understanding of the peculiarities of the country's turbulent transformations will provide a clearer picture of today's compulsory acquisition and compensation philosophy and culture.

During the pre-1974 imperial period, the emperor had absolute ownership and control over the land, with unrestricted powers to allocate it among subjects as he pleased. The emperor was also seized with expropriation powers to compulsorily requisition land from users at any time and, possibly, without notice and compensation. However, land expropriation did not frequently happen because there was no significant economic activity that required emperors to exercise their powers to compulsorily acquire land for public purposes (Daniel, 2013:129).

The 'Derg' regime, which came to power after the military overthrow of the last emperor¹, first declared in Proclamation No. 31/1975 that all rural lands shall be the collective property of the Ethiopian peoples. Article 3/2 and Article 3/3 of the said proclamation provided that no person or organization can privately hold rural land and no compensation will be paid in respect to rural land except for their movable properties and the permanent improvements made on the land. As rural land was a public property, any person who was willing to engage in agriculture had the right to possess sufficient acreage to sustain the venture as well as their livelihood. Consequently, the farmer had only a use right and could not sell, transfer, sub-grant or mortgage the land. Article 17 of the proclamation reserved for the government the power to expropriate landholdings of farmers for the public purpose, while Article 18 provided that the government in such situations had the responsibility to resettle or to reinstate cottage industries and to rehabilitate expropriated farmers.

In the current phase of political administration which begun in 1991², Article 40/8 of the Constitution has dramatically changed the way land had been viewed from the past regimes by stating that "without prejudice to the right to private property, the government may expropriate private property for public purposes subject to payment in advance of compensation commensurate to the value of the property". Article 3/1 of Proclamation 455/2005 reinforced the above constitutional provision when it stated that "a woreda³ 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". Though, the right to expropriation is enshrined in law the discretion given to woreda/urban administrations to interpret the term 'better development projects' has raised considerable concern. Hence, there have been instances where land was taken from one user and given to another without any clear and visible change in the use or intensity of the use or, as with some cases, the land being kept idle for years without the promised development (Belachew, 2012:41).

Article 8/1 of Proclamation 455/2005 deals, specifically, with the amount of the compensation payable to a permanently expropriated rural landholder which shall be equivalent to ten times the average annual income earned during the five years preceding the expropriation. Compensation may be in cash or in kind or both. The concept of 'in kind compensation' as used refers strictly to the offer of similar land in lieu of the one expropriated. However, the difficulty with this form of compensation is that the theoretical requirements of exactness in reinstatement is not easy to achieve, particularly, in terms of size and fertility especially where the exercise is closer to or around large urban centers.

Methodology

This paper is part of an ongoing doctoral research on the wider topic of the consequences of rapid urban expansion in the city of Mekelle. Relevant primary and secondary data collected from field survey, interviews, and observations of spatial and non-spatial elements have provided the basis for this article. Conclusions arrived at, therefore, identify with and pertain to similar issues and circumstances of the wider study.

The Process of Land Conversion in Mekelle

The conversion of rural land into urban use in Mekelle is a statutorily-sanctioned process executed through the city planning scheme as and when expedient. In previous years, the city plan preparation was carried out by the Federal Urban Planning Institute (FUPI) and endorsed by the City Council before implementation. This duty was later transferred to the Regional Urban planning Institute (RUPI), and presently, Mekelle City Administration stands out as the sole local government empowered with the special privilege of preparing and implementing its own plans. However, there have been occasions when conversions had taken place outside of the plan preparation procedural arrangement, following agreement with the 'Enderta Wereda' where the affected lands found. Such conversions happened when lands earmarked in the current plan for the expansion of the City was found rapidly dwindling and thought likely to run out before the end of the planning period. By this unconventional approach, 6 Kebeles comprising 19 rural villages with a total of 12,198 farmer-households, and covering more than 6,000 ha of agricultural land (see Fig 1 below) was included into the city's territory.

¹ Emperor HaileSelassie I

² FDRE= Federal Democratic Republic of Ethiopia

³ Woreda= Lower administrative layer equivalent to 'district'

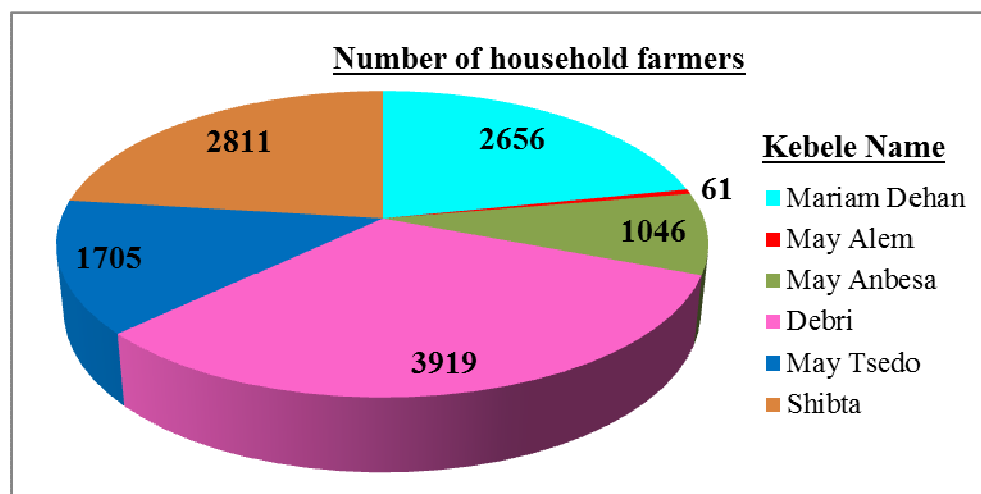


Figure 1: Rural kebeles recently included to the city of mekelle
 Source: Mekelle Urban Planning Department

Valuation

The valuation of farmland compensation in Ethiopia is based on ‘original purpose’ of the land under expropriation which, in this instance, is agriculture. Farmland compensation is calculated by taking the average yield of the major crops produced in the area and the average market price of each of those crops in the three years before the expropriation. The calculated average yield of the crops is multiplied by their respective average market prices to get the average annual income for each crop. Finally, the calculated average annual income is multiplied by a standard multiplier¹ to arrive at a total amount of compensation. For instance, the standard multiplier in the year 2007 was 8, and in year 2008 it was 10, the multiplier would then be applied to the average annual income to obtain the total amount of compensation.

Table 1:

Average productivity and average price of major crops in the area

Average production		Average price		Average annual income/ha
year	Quintal ² /ha	Crop type	Birr/quintal	
2004	15.6	Teff	304	15.6*265 = 4134
2005	5.3	Wheat	254	5.3*265 = 1405
2006	16.8	Barley	238	16.8*265 = 4452
Average	12.6	Average	265	12.6*265 = 3339

Source: Mekelle city administration

As shown in the table above, a typical farmer in 2007 with an average annual income per hectare of 3,339 birr would be receiving (3,339 birr * 8 years) 26,712 birr or 2.67 birr per meter square of farmland. The amount of compensation for each expropriated farmer will be calculated based on the size of farmland. For example, if a farmer has lost half a hectare of farmland the amount of compensation will be (3,339 * ½ hectare * 8 years) 13,356 birr.

The method of valuation has no scientific basis and has also lacked timely revision in terms of both yield per hectare and market price. The method did not put mechanisms to consider exceptional circumstances that heavily affect the amount of compensation. For example, in the table above the average yield for the year 2007 was calculated based on the average output of the three preceding years (15.5+5.3+16.84/3) resulting in 12.56 quintal per hectare. This approach was not fair in the instant case because under normal conditions the average yield of the crops does not fluctuate so widely as from 15.55 quintal per hectare in 2004 to 5.3 quintal in 2005, and then up again to 16.84 quintal in 2006. Based on these figures, it is easy to expect how abnormal circumstances such as unexpected yield fluctuations affect the amount of compensation and there by the livelihood of the expropriated farmers.

The other obvious problem with the valuation had been the unstableness of the standard multiplier which has been subjected to continuous, unexplained adjustments. For instance, the standard multiplier by which the average annual income is multiplied to arrive at the total amount of compensation changed from 3 years to 8

¹ As prescribed by the Regulation No. 135/2007,; and as would be revised from time to time

² Quintal = 100 kilograms

years and, then to 10 years within a short span of time. Though the changes as mentioned above increased the quantum of compensation, the instability and absence of clear basis has been the source of much displeasure and disappointment, particularly on the part of farmers who had received compensation based on the just abandoned standard multiplier. Again, the approach has tended to send wrong signals about the current values of land as adjacent holdings receive completely different compensations merely due to the time of the valuation, though the time difference could in practical terms be as short as one month.

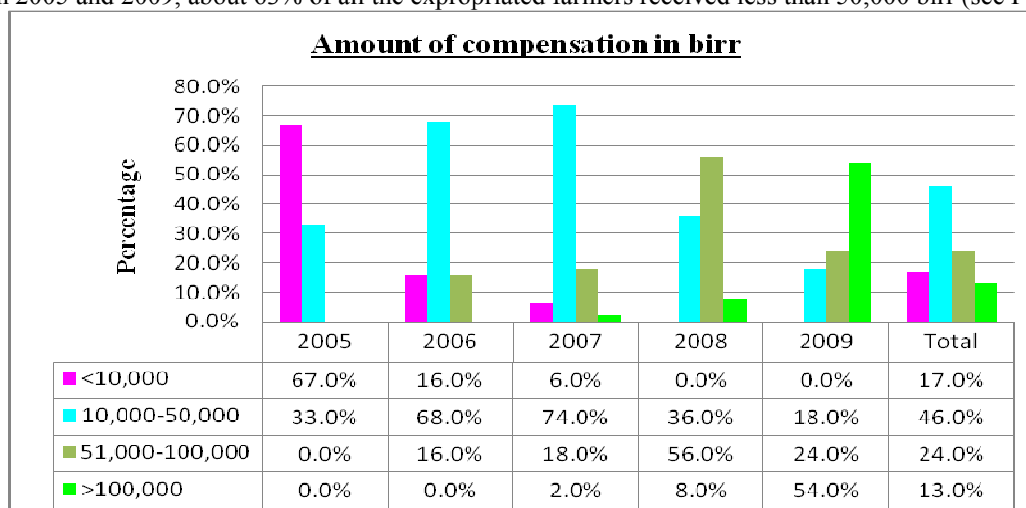
Furthermore, the average market price¹ used in the valuation is not timely revised to accommodate changes. In fact, the price (848 birr) which Mekelle City has used to calculate the amount of compensation over the past six years has not been updated, though the real market price has nearly doubled in the same period. Generally, absence of timely revision affects the amount of compensation and reduces the ability of expropriated farmers to, not only improve their economic position, but even to maintain current livelihood.

Compensation

By law, farmland compensation has a prescribed composition made up of specified items that qualify for payment. In Ethiopia, where land is publicly owned, these items include occupational and livelihood displacement, resettlement compensation which includes the transportation and reinstallation of properties, and permanent improvements on the land such as water ponds, irrigations canals and general infrastructure; but not land. In determining the quantum of compensation payable in any one case, the acquiring authority is expected to make a realistic judgment on which of the above items to include and which to leave out. Concerning capital improvements the subject to be considered ought to be of a permanent value-giving nature, and not of temporary easy-to-dispose nature. Once the decision regarding inclusion/non inclusion has been made the next logical step is to carry out the valuation to arrive at the total compensation amount.

In spite of the problems encountered in the valuation process as described above it must, nevertheless, be admitted that the system still recognizes, albeit infrequently, the need to fairly and adequately compensate farmers. Evidence that the compensation element of the compulsory acquisition process in Mekelle has seen respectable rises in recent times comes from the following deliberate actions: first, adjustments to the standard multiplier from 3 to 10 years between 2001 and 2008; second, revisions in the price of the major agricultural products from 265 birr per 100 kilograms in 2007 to 848 birr per 100 kilograms in 2009. As a result, the amount of compensation is increasing from time to time.

In 2005, no expropriated farmer was paid more than 50,000 birr². Of the total number of farmers receiving payment more than 63% got less than 10,000 birr as displacement compensation for their expropriation. In 2007, the proportion of expropriated farmers who received less than 50,000 birr decreased by 20% while the proportion paid more than 50,000 birr rose by 20%. In 2009, more than half of the expropriated farmers received more than 100,000 birr, and less than 20% received less than 50,000 birr. This shows that the amount of compensation is increasing from time to time. However, considering the total picture of compensation payments between 2005 and 2009, about 63% of all the expropriated farmers received less than 50,000 birr (see Fig 2)



*Figure 2. Amount of compensation paid to the expropriated farmers
 Source: Ongoing doctoral research survey data*

¹ As fixed periodically by Bureau of Agriculture and Rural Development

² Birr is the Ethiopian currency (1 \$USD is about 20 birr)

Adequacy of Compensation

Even though the amount of compensation is growing from time to time, it is still not adequate for the expropriated farmers to support their livelihood. The inadequacy of the amount of compensation paid to expropriated farmers is critically assessed in terms of the method of valuation, cost of living, and rehabilitation support.

The method of valuation as explained earlier has clear logical and technical problems such as absence of objectivity, lack of timely revisions, and improper implementation of prescribed valuation procedure regulations. In 2013, an assessment made by the Tigray Bureau of Urban Development found that the average market price of the major crops used to calculate compensation in the city was 848 birr while the actual market price was 1070 birr. This means the actual average market price was higher by more than 25%. Consequently, affected farmers paid 50,000 birr, for example, lost 13,000 birr simply because of the lack of timely update of the price used to calculate the compensation. Expropriated farmers who participated in the focus group discussions under the main research confirmed this anomaly by saying the compensation price of the major crops by which their compensation was calculated by far was cheaper than the price at which they shopped in the market for the same foodstuff to feed their families.

The cost of living, especially in urban areas of the country, is rising from due to inflation and other related macroeconomic challenges. For instance, between year 2000 and 2012 the prices of major food items in Mekelle increased from 267 birr per 100 kilograms to 1070 birr per 100 kilograms in 2012, a mammoth 300%. The prices of other foods and non-food items have also shown disturbing increases. The resultant impact on the cost of living does adversely affect the ability of expropriated farmers to survive in the new way of life suddenly thrust upon them. The World Bank, the Food and Agriculture Organization (FAO) and other international bodies highly recommend the importance of rehabilitation support for expropriated farmers as part of their compensation. Federal and Regional laws, though not explicitly, do recognize and direct that displaced farmers be fully and properly rehabilitated following the expropriation exercise. For instance, Article 13/1 of Proclamation 455/2005 states that ‘Wereda’ and ‘Urban’ Administrations have the responsibility to pay/cause the payment of compensation to holders of expropriated land and provide them with rehabilitation support to the extent possible. However, in Mekelle City survey evidence indicates that very few displaced farmers are aware of and/or have benefitted from any form of rehabilitation, notwithstanding the fact that a program comprising a full package of steps to be followed has existed with the City Administration all these years. Table 2 below shows that 76.4% of expropriated farmers rate the rehabilitation support, or whatever semblance of it, given for them poor. Only 24.6% responded that there was, indeed, some rehabilitation support which they benefitted from and, thus, rated the experience good/fair.

Table 2:
 Level of rehabilitation support given to the expropriated farmers

Year of expropriation	Rehabilitation support							
	Good		Fair		Poor		Total	
	Count	percent	Count	percent	Count	percent	Count	percent
2005	0	0	5	10	45	90	50	100
2006	1	2	5	10	44	88	50	100
2007	4	8	8	16	38	76	50	100
2008	7	14	10	20	33	66	50	100
2009	8	16	11	22	31	62	50	100
Total	20	8	39	15.6	176	76.4	250	100

Source: Ongoing Doctoral research survey data

Expropriated farmers have the right to reject the amount of compensation prepared by the government or other expropriating agencies. They have also the right to present their complaint starting from the compensation committee to the mayor office in the administrative line and to the local courts in the judicial line.

Farmers’ Perceptions on Expropriation

Table 3 below presents survey results regarding satisfaction of farmers with the amount of compensation received. The data shows that over a combined period of 5 years (2005 – 2009) 7.2% of expropriated farmers felt satisfied, 21.2% were moderately satisfied, while 71.6% were dissatisfied. On a year by year basis, however, the results show a gradual increase in the level of satisfaction recorded, with a periodic rise of 24% between 2005 and 2009. This modest rise in satisfaction is attributed to improvements in the quantum of the compensation amount.

Table 3:
 Level of farmers' satisfaction on the amount of compensation

Year of expropriation	Level of satisfaction							
	Satisfied		Moderate		Dissatisfied		Total	
	Count	percent	Count	percent	Count	percent	Count	percent
2005	0	0	0	0	50	100	50	100
2006	1	2	2	4	47	94	50	100
2007	1	2	10	20	39	78	50	100
2008	4	8	19	38	27	54	50	100
2009	12	24	22	44	16	32	50	100
Total	18	7.2	53	21.2	179	71.6	250	100

Source: Ongoing doctoral research survey data

There still, nonetheless, remains great dissatisfaction with the overall expropriation process, especially because of the absence of rehabilitation support and lack of transparency. In Figure 3 below 38% of the study respondents showed dissatisfaction because there was no rehabilitation support and follow-ups to help them fit into the urban setting; 27% registered dissatisfaction because the amount of compensation was not enough as well as the lack of support and follow-ups; the remaining 17% registered dissatisfaction because the process of compensation was not transparent.

Farmers perceived the process as not transparent because they were not made active participants in the process, and did not even know how the compensation amounts were calculated. They also revealed serious anomalies concerning the valuation procedure by recounting the errors of same sizes of farmland with the same fertility classification in the same village valued differently. Again, they referred to the differential prices between the market and the method of valuation as well as delays in updating and adjusting prices.

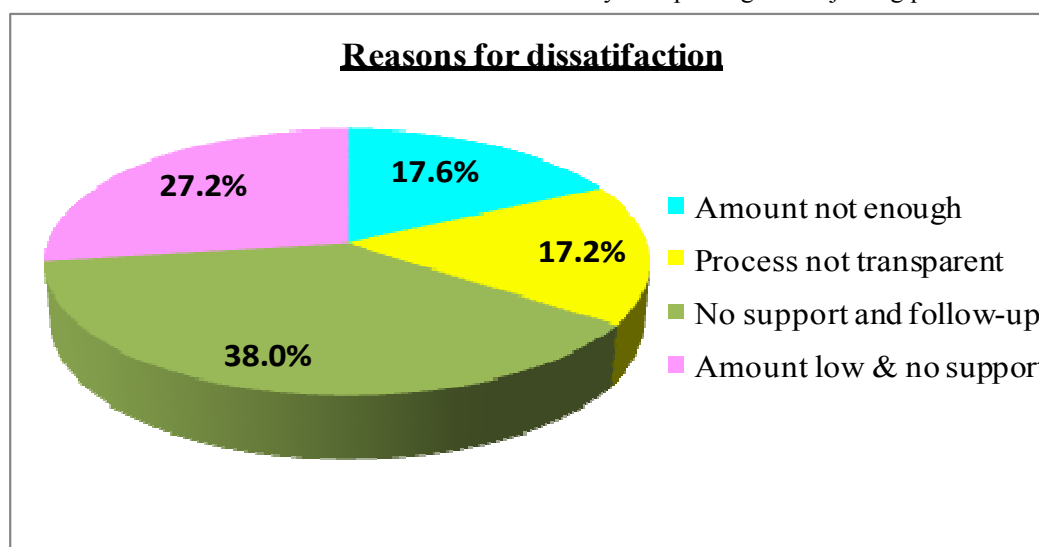


Figure 3: Reasons given by the expropriated farmers for their compensation dissatisfaction
 Source: Ongoing doctoral research survey data

Another reason posited by the farmers was in furtherance of their complaint regarding absence of transparency was that the formula used to arrive at the compensation was unknown to them and, therefore, vague.

As earlier mentioned expropriated farmers do have rights and channels of complaint about the amount of compensation. The study results confirmed that 55.6% of farmers expropriated between 2005 and 2009 submitted complaints to various levels of the City Administration (see Table 4).

Table 4:
 Level of farmers' complaints on compensation dissatisfaction

Year of expropriation	Number of respondents					
	Complained		Not complained		Total	
	Count	percent	Count	percent	Count	percent
2005	49	98	1	2	50	100
2006	34	68	16	32	50	100
2007	34	68	16	32	50	100
2008	20	40	30	50	50	100
2009	2	4	46	92	48	100
Total	138	55.6	110	44.4	248	100

Source: Ongoing doctoral research survey data

However, it is noticed from the table that the number of complaints has been declining year by year. For example, the level of complaint was 98% in 2005, but by 2007 it had reduced to 68% and it was only 4% in 2009. There are two reasons for the drop in the number of complaints: firstly, there has been a definite improvement in the amount of compensation which has helped to raise, albeit marginally, the satisfaction of expropriated farmers; secondly, farmers have grown dismissive of the interminable lack of real attention and solution to complaints lodged and now prefer not to make them despite of the persisting dissatisfaction.

Table 5 below shows total dissatisfaction with responses complainants received suggesting, perhaps, that the absence of stakeholder participation in the process may be responsible for the weak complaint/response mechanism.

Table 5:
 Respondents level of satisfaction on the responses given to their complains

Year of expropriation	Level of satisfaction							
	Moderate		Dissatisfied		Highly dissatisfied		Total	
	Count	percent	Count	percent	Count	percent	Count	percent
2005	0	0	24	49.0	25	51.0	49	100
2006	0	0	26	76.5	8	23.5	34	100
2007	0	0	10	29.4	24	70.6	34	100
2008	1	5	17	80.0	3	15.0	20	100
2009	0	0	2	100.0	0	0	2	100
Total	1	0.7	79	56.1	60	43.2	139	100

Source: Ongoing doctoral research survey data

According to survey results, the preponderance of rejections and unacceptable resolutions constitute the major reasons for complainant dissatisfaction. In Figure 4 below, 68.3% of study respondents were dissatisfied because their complaints were rejected, while 31.7% were dissatisfied because the solution given to their complaints was unacceptable.

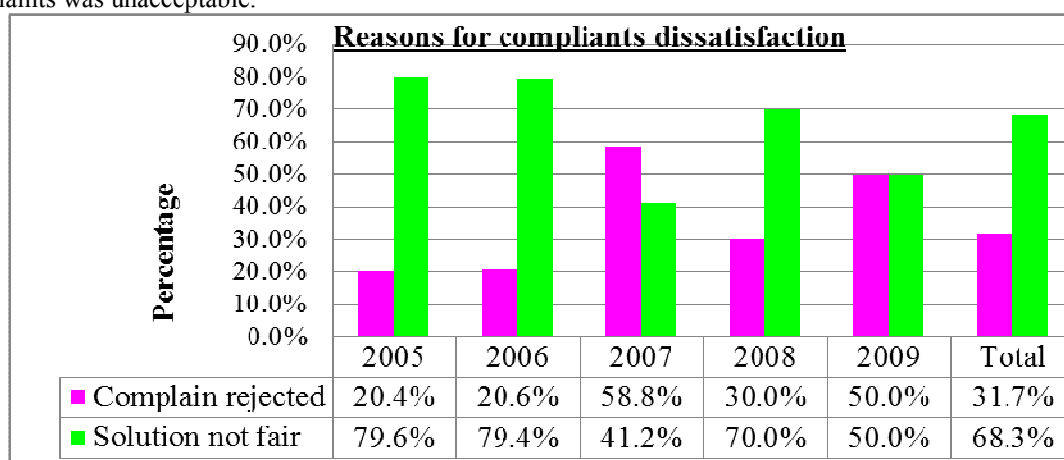


Figure 4: Reasons given for the dissatisfaction on the responses given to complains
 Source: Ongoing doctoral research survey data

During group discussions, as part of the main study's data gathering, farmers were adamant that the causes of the complaints and the subsequent dissatisfaction with their handling should be blamed wholly on the

government and not on them. Although the constitution entitles expropriated farmers the right to compensation, acquiring authorities considers compensation as a privilege than a right and they reminding one, rather disingenuously, that land was publicly owned and could be retaken at any time with or without compensation.

Conclusion

The method of valuation, amount of compensation, the complaint process and the resolution system of the City Administration all need to be overhauled and brought in line with modern concepts and practice of compulsory acquisition and compensation. This is because the valuation method lacks scientific basis and timely update; the compensation package implementation needs to follow laid down procedure to fully address rehabilitation support; and complaints presented ought to be entertained and professionally resolved. In general, the paper finds that the seemingly unplanned and uncoordinated conversion of farmland consequent upon a patently poorly-implemented expropriation exercise has brought, and will continue to bring, untold hardship to fringe farmers in Mekelle. The perception of farmers that city expansion is necessarily a threat to their livelihood, rather than a means to transform and improve their living, is a sad commentary and a terrible indictment of the Administration. Clearly, the laws and practice of expropriation and compensation require a good dose of good governance.

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