

CURRENT ISSUE
EXPROPRIATION BY THE IMPERIAL HIGHWAY AUTHORITY

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The Imperial Highway Authority was established by proclamation in 1951.¹ Although the reasons for transferring highway construction and maintenance activity to an independent authority are not altogether clear, the change was apparently motivated by a desire to increase administrative efficiency.² Indeed it appears the International Bank for Reconstruction and Development, which has provided most of the external financing for Ethiopia's highway programs, made this reorganization a condition for extending in 1951 its initial loan of US \$5,000,000.³ Whatever the reasons for its creation, the IHA has proved itself one of Ethiopia's most active and important administrative agencies, contributing substantially to the development of the Empire.⁴

Since the IHA was constituted to carry out highway construction and maintenance throughout Ethiopia,⁵ it was natural to empower the Authority to acquire

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1. Highway Authority Proclamation, 1951, Proc. No. 115, *Neg. Gaz.*, year 10, no. 5.
2. Interview with Mr. Robert D. Scott, a draftsman of the proclamation, on July 11, 1968. For the first twelve years of the Authority's existence, management services and personnel were provided by the U.S. Bureau of Public Roads, which may have preferred to work with an independent authority.
3. This condition is evident from the preamble to the proclamation, which reads as follows: "WHEREAS, it is Our desire to improve the transportation system of Our Empire and; WHEREAS, to accomplish this purpose We have accepted the cooperation of the International Bank for Reconstruction and Development, and; WHEREAS, to facilitate such co-operation it is necessary to reorganize the administration of Our highway development and maintenance program;" Highway Authority Proclamation, 1950, Proc. No. 115, *Neg. Gaz.*, year 10, no. 5. An independent authority may have been regarded as providing greater fiscal integrity as well as greater administrative efficiency.
4. In the first sixteen years of its existence the IHA built or reconstructed over 5,000 kilometers of all-weather highway, in addition to its extensive highway maintenance and improvement work. Imperial Highway Authority, *Ethiopia: Progress in Highway Transport* (1967), p. 2. During this period it expended nearly US \$ 58,000,000 on highway construction, of which about 72% was provided by foreign loans and grants, and nearly US \$ 47,000,000 on highway maintenance. *Id.* at 4.
5. In practice the IHA does highway work within municipalities only in special circumstances. Although Section 3 of the Highway Authority Proclamation imposes on the Authority "the duty of developing and maintaining the highway system of Our Empire," the specific functions transferred to it by that same section were those "hedefore performed by the Ministry of Public Works and Communications" (sic). Section 3, Highway Authority Proclamation, 1950, Proc. No. 115,

land by expropriation.⁶ Section 5(d) of the Highway Authority Proclamation provided that the IHA could "[t]ake by eminent domain any privately owned lands for public use and fix the compensation for any buildings, crops, vegetation or other fixtures on the lands so taken."⁷ It thus omitted from the list of compensable items *land*, without question the most important form of property in Ethiopia.⁸ The omission was not accidental, and the practice of the IHA since 1951 has been to deny compensation for expropriated land.⁹ The refusal of compensation has been rationalized on the ground that the building of a highway increases the value of land in the region opened up by the highway and that this increase in value, along with other material benefits brought by the highway, is sufficient compensation to landowners who lose some of their land to the highway itself.¹⁰

Neg. Gaz., year 10, no. 5. Although the Minister of Communications and Public Works had been responsible "for the construction, manufacture and repair of government roads, bridges, and waterways," Section 25(b), Ministers (Definition of Powers) Order, 1943, Order No. 1, *Neg. Gaz.*, year 2, no. 5, municipalities under the control of the Minister of Interior had been given the power to decide on the "[l]aying out, closing and keeping of streets, squares, bridges, promenades and public gardens." Section 4(iii)(a), Municipalities Proclamation, 1945, Proc. No. 74, *Neg. Gaz.*, year 4, no. 7. See also Section 4, Classification of Roads Proclamation, 1944, Proc. No. 66, *Neg. Gaz.*, year 3, no. 10 (Supplement). In practice the municipalities have performed the function of road construction and maintenance within their areas of jurisdiction, except when special arrangements have been made with the IHA.

6. Although the Highway Authority Proclamation, following American practice, uses the term "eminent domain," "expropriation" will be used here as that is the term used in the Civil Code.
7. Section 5(d), Highway Authority Proclamation, 1950, Proc. No. 115, *Neg. Gaz.*, year 10, no. 5. See also Corrigendum, 1954, Corrigendum No. 35, *Neg. Gaz.*, year 14, no. 1 (Amharic only). Section 10 of the same proclamation provided that "[t]he right of the Authority to enter upon or take by eminent domain any privately owned lands pursuant to Section 5(d) of this Proclamation, shall not be subject to review or approval by any court. Any person having an interest in any land so taken may bring an action against the Authority in the provincial courts of the province in which the land so taken is situated or in the High Court to review the fairness of the compensation fixed by the Authority for the buildings, crops, vegetation or other fixtures on such lands or the allocation of such compensation between the respective persons having an interest in such land."
8. Since Section 5(d) referred only to compensation for objects *on* land taken by expropriation, it has been taken to bar compensation for objects *under* the surface of the land such as stone or sand. The IHA takes a considerable amount of such building materials, and it compensates only for concomitant interference with the surface, *e.g.*, the destruction of a house on or near a quarry site. This practice has in recent years led to increasing litigation, and not all judgments have favored the IHA. See, *e.g.*, *Taffa Segn v. Imperial Highway Authority* (Sup. Imp. Ct., 1968, Civil App. No. 1291/56) (to appear in *J. Eth. L.*) The resolution of these quarry cases is complicated by Article 130 of the Revised Constitution of 1955, which states *inter alia* that "(t)he natural resources of, and in the sub-soil of the Empire, including those beneath its waters, are State Domain." It is only if stone and other building materials found beneath the surface of the earth are held to be subject to private rights that the question of their "expropriation" arises.
9. Interview with Ato Kebede Beyene, Right-of-Way Officer in the IHA, on July 24, 1968. Since Section 5(d) of the Highway Authority Proclamation is a provision granting power to the Authority to expropriate land and to compensate for certain specified objects, it has been construed by some IHA officials as denying the Authority the power to compensate for other objects — thus, according to this construction, the IHA could not change its compensation practices even if it wished to do so. In some cases, however, where all or part of a person's land has been taken to be used as a camp for the IHA a comparable amount of land has been given to the expropriated individual from state-owned property. Where the value of the new parcel is equivalent to the value of the old parcel, then in effect the individual has been compensated for land taken by expropriation.
10. Interviews with various officials of the IHA.

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Despite this rationalization, the IHA has generally compensated for objects on the land such as houses, as it is empowered to do by Section 5(d).¹¹

The Highway Authority Proclamation and the Revised Constitution

The Highway Authority Proclamation was issued pursuant to the Constitution of 1931, which did not explicitly require compensation in case of deprivation of property by expropriation.¹² The Revised Constitution of 1955, however, does so in no uncertain terms. Article 44 of this constitution provides both that "[n]o one may be deprived of his property except upon a finding by ministerial order issued pursuant to the requirements of a special expropriation law enacted in accordance with the provisions of Articles 88, 89 or 90 of the present Constitution" and that "just compensation determined, in the absence of agreement, by judicial procedures established by law" is a condition for the deprivation of property.¹³

Despite the *prima facie* incompatibility between the language of Article 44 of the Revised Constitution and the practice of the IHA, as based on its interpretation of the Highway Authority Proclamation, that practice did not change following promulgation of the constitution. Yet rarely was it subject to challenge. Landowners were generally pleased to have a highway come to their region and they seem to have been satisfied with compensation for buildings, crops and other "fixtures." In the only published case in which a landowner challenged on constitutional grounds the compensation provisions of the Highway Authority Proclamation, the Supreme Imperial Court held these provisions to be constitutional, primarily on the ground that both Article 44 and the Highway Authority Proclamation are intended "to benefit

11. Although reliable statistics are difficult to locate, the amounts paid have apparently never been large. In the early years of the IHA, most major work consisted of highway rehabilitation, so that very little land had to be taken by expropriation. Indeed, the Right-of-Way Branch of the IHA was apparently formed only in 1957. Compensation figures reported for recent years, which appear to be typical, are Eth. \$9,208.90 for 1959 and Eth. \$4,738 for 1960. See the IHA annual reports for these years at, respectively, page 44 and page 40. Presumably in addition to this some compensation was paid in kind, through provision of land from that owned by the state.
12. Article 27 of this constitution merely stated the following: "Except in cases of public utility determined by law, no-one shall be entitled to deprive an Ethiopian subject of the movable or landed property which he holds." The Constitution of 1931 is reproduced in J. Paul & C. Clapham, *Ethiopian Constitutional Development* (1967), vol. 1, pp. 326-330 and in *Eth. Observer*, vol. 5 (1962), pp. 363-365. A contemporaneous but then unpublished "commentary" on this constitution stated, however, with regard to "exemption" from confiscation of land, that "if it is necessary for the Government to construct on another person's land installations for the public welfare, such as forts, roads, markets, churches, schools, hospitals, townships or any work of this kind, it is determined by law that if the Deliberative Chambers have declared it necessary, the landowner shall be given a fair price as determined by law, or, subject to the landowner's consent, he shall receive some other similar compensation, and he shall be compelled to surrender the property..." (emphasis added). Section 76, Demissie Wolde-Amanuel, *Constitution and Parliament of Ethiopia: A Historical Record*, as translated by S. Wright in Paul & Clapham, cited above, pp. 331, 334.
13. Rev. Const., Art. 44. Article 44 also requires that this ministerial order, "to be effective," must be approved by the Council of Ministers and published in the Negarit Gazeta. A division of the High Court has taken the sensible view that the expropriation provisions of the Civil Code constitute the "special expropriation law" referred to by Article 44 of the Revised Constitution. S.A.C.A.F.E.T., *Societa' Anonima v. Ministry of State Domains and Mines* (High Court, Addis Ababa, 1962), *J. Eth. L.*, vol. 2, pp. 60, 61. Before the enactment of the Civil Code there was no special expropriation law enacted pursuant to Article 44 of the Revised Constitution, which led at least one court to state that no expropriation could then be constitutionally carried out. See Haji Ali Ahmed Abogni v. Municipality of Addis Ababa (High Ct., Addis Ababa, 1961, Civil Case No. 832/50) (unpublished).

society.”¹⁴ This conclusion was reached without reference to Article 122 of the Revised Constitution, which in fact supplies the IHA with its strongest constitutional argument. Article 122, Ethiopia’s “supremacy” provision, states that “[t]he present revised Constitution, together with those international treaties, conventions and obligations to which Ethiopia shall be party, shall be the supreme law of the Empire, and all future legislation, decrees, orders, judgments, decisions and acts inconsistent therewith, shall be null and void” (emphasis added). Since the legislation under which the IHA operates was promulgated before the Revised Constitution, the Authority can certainly maintain that it is not, according to Article 122, subject to that constitution.¹⁵

The Highway Authority Proclamation and the Civil Code

Aside from the constitutional question, a second ground for attack on the IHA practice of denying compensation for expropriated land is provided by the Civil Code of 1960. This not only repeals those provisions of the Highway Authority Proclamation on which the IHA relies but also replaces them with provisions specifically requiring compensation.

Articles 1460 through 1488 of the Civil Code lay down comprehensive rules covering the award of compensation as well as the procedure to be followed in case of expropriation of immovable property by “competent authorities.” Although the term “competent authorities” – *l’administration* in the original French – is not defined in the Civil Code, it seems a fair interpretation to treat it as covering all bodies authorized to engage in expropriation, including the IHA.¹⁶ The

14. Highway Authority & Eskaniska Co. v. Mebratu Fissiha (Sup. Imp. Ct., 1964), *J. Eth. L.*, vol. 2, pp. 37, 39. This seems a fair reading of the opinion, even though this was a stone case and the Supreme Imperial Court, which declared null and void an order of the High Court enjoining the quarrying of stone on certain privately-owned land, at one point said its decision did not bar the landowner “from bringing an action in connection with the compensation to be given.” *Id.* at 39.
15. This reasoning, with regard to the Maintenance of Telephone Services Proclamation, 1950, Proc. No. 114, *Neg. Gaz.*, year 9, no. 11, was used by a division of the High Court in Araya Abebe v. Imperial Board of Telecommunications of Ethiopia (High Court, Addis Ababa, 1964), *J. Eth. L.*, vol. 2, pp. 303, 305. For material on the meaning of Article 122, see Paul & Clapham, cited above at note 12, pp. 414–416; R. Means, “The Constitutional Right to Judicial Review of Administrative Proceedings: Threshold Questions,” *J. Eth. L.*, vol. 3 (1966), pp. 175, 179.
16. It is not entirely clear under Ethiopian law which governmental authorities have the power to expropriate. One interpretation is that ministries inherently have the power to expropriate, but that other governmental bodies must be given the power specifically if they are to have it. For some examples of grants of the power of expropriation to government bodies which are not ministries, see Section 6(a), Awash Valley Authority Charter, 1962, Gen. Not. No. 299, *Neg. Gaz.*, year 21, no. 7; Section 4(e), Charter of the Ethiopian Electric Light and Power Authority, 1956, Gen. Not. No. 213, *Neg. Gaz.*, year 15, no. 5; and Section 7(g), Board of Telecommunications Proclamation, 1952, Proc. No. 131, *Neg. Gaz.*, year 12, no. 5. There have been, however, grants of the power of expropriation to ministries, e.g., Section 46, Maritime Proclamation, 1953, Proc. No. 137, *Neg. Gaz.*, year 13, no. 1, which gave the Ministry of National Defence the power to expropriate in connection with maritime affairs. This power was impliedly transferred to the Ministry of Communications, except as to expropriation for maritime defence purposes, by section 19 of the Ministers (Definition of Powers) (Amendment No. 2) Order, 1966, Order No. 46, *Neg. Gaz.*, year 25, no. 23. See also Section 10 of the Post Office Proclamation, 1966, Proc. No. 240, *Neg. Gaz.*, year 25, no. 22, which gives the post office, stated to be an “independent Department” of the Ministry of

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Civil Code unquestionably requires the competent authority to pay compensation, in cash or in kind, for land acquired by expropriation, whether that land has houses or crops on it or not. Thus Article 1474(1) states as follows: "The amount of compensation or the value of the land that may be given to replace the expropriated land shall be equal to the amount of the *actual damage* caused by expropriation."¹⁷ Where a market in land exists the market value of the expropriated land may be the surest indication of the "actual damage" to the landowner, but even where there is no market in land, there will generally be damage for which the Civil Code requires compensation.

That the Civil Code requires compensation for land, whether developed or not, is thus clear; it is equally clear that the Civil Code repeals those provisions of the Highway Authority Proclamation which deal with expropriation, with the exception of the provision giving the IHA the power to expropriate.¹⁸ Article 3347 of the Civil Code, a repeals article remarkable for its sweep,¹⁹ provides as follows: "Unless otherwise expressly provided, all rules whether written or customary previously in force concerning matters provided for in this Code shall be replaced by this Code and are hereby repealed." Expropriation is a matter provided for—in detail—in the Civil Code, Sections 5(d) and 10 of the Highway Authority Proclamation are rules previously in force concerning expropriation, and there is no express provision saving these earlier rules: the conclusion that they are therefore repealed seems inescapable.

The IHA has thus far resisted this conclusion.²⁰ The ground of resistance seems to be the fear that if the Civil Code were followed the costs of land acquisition would soar, thus forcing a significant reduction in "productive" highway expenditure. This fear has apparently led some within the IHA to argue for new legislation which would exempt the IHA from the requirements of the Civil Code

Posts, Telegraphs and Telephones, the power of expropriation. "Concessionaires," including those who have contracted to carry on a public service, can expropriate where the power to do so is explicitly granted by the concession agreement. Civ. C., Art. 1462.

17. Article 1474(1) in the original French refers to compensation *égale à la valeur du dommage actuel et certain*. It should be noted that "actual" thus has the sense of "contemporary" or "current," rather than the sense of "real."
18. The Civil Code does not give to the IHA, or any other particular administrative agency, the power to expropriate. It is important to treat the provision of the Highway Authority Proclamation giving the IHA the power to expropriate as unrepealed, for without it the Authority may lack that power. See *supra*, note 16.
19. See G. Krzeczunowicz, "Code and Custom in Ethiopia," *J. Eth. L.*, vol. 2 (1965), pp. 425, 427-429; G. Krzeczunowicz, "A New Legislative Approach to Customary Law: The 'Repeals' Provision of the Ethiopian Civil Code of 1960," *J. Eth. Studies*, vol. 1, no. 1 (1963), p. 57. See also R. Sedler, "The Development of Legal Systems: The Ethiopian Experience," *Iowa L. Rev.*, vol. 53 (1967), pp. 562, 594-602; J. Vanderlinden, "A Further Note on an Introduction to the Sources of Ethiopian Law," *J. Eth. Law*, vol. 3 (1966), pp. 635; G. Krzeczunowicz, "Putting the Legal Clock Back?" *J. Eth. Law*, vol. 3 (1966), pp. 621, 623-625; J. Vanderlinden, "An Introduction to the Sources of Ethiopian Law from the 13th to the 20th Century," *J. Eth. L.*, vol. 3 (1966), pp. 227, 244-246.
20. This is so despite judicial recognition, on at least one occasion, that the expropriation provisions of the Highway Authority Proclamation have been repealed by Article 3347 of the Civil Code. See *Tafia Segn v. Imperial Highway Authority*, *supra*, note 8. The IHA has petitioned to His Imperial Majesty's Chilot for reconsideration of this judgment.

and reenact the old rule that it need pay compensation only for buildings, crops and other fixtures on land it takes.²¹

It is submitted that this fear is exaggerated and that a closer look at the compensation requirements of the Revised Constitution and the Civil Code may prove reassuring to those concerned with the costs of a development program as important as highway construction. The crux of the problem is the manner in which compensation is calculated. Article 44 of the Revised Constitution simply requires "just compensation" for "property." Since land is the most important form of property in Ethiopia, it would be untenable to maintain that land is not property within the meaning of Article 44.²² This is as true of undeveloped land as of developed land. It is much less clear from Article 44, however, what amounts to "just compensation" when land is expropriated. The expropriation provisions of the Civil Code seem to strike a reasonable balance between the interests of the State and those of the private owner and therefore to satisfy this constitutional requirement,²³ so that it is of critical importance to determine precisely what it is that the Civil Code requires by way of compensation.

The basic principle of the Civil Code, as already noted, is compensation equal to the amount of "actual damage" caused by expropriation.²⁴ The expropriation of land obviously causes damage to any person whose rights on that land are thereby extinguished, so that one begins with the proposition that such persons are owed compensation for their loss. However, this basic compensation principle is subject to several qualifications: the one of importance here is found in Article 1475(2), which states in the original French that in making its decision on compensation the arbitration committee shall take into account any increase in value *for remaining property* arising from the construction of public works.²⁵ Such increase in value is

21. It is of importance to note that if the old rule is reenacted the IHA will be on much less firm constitutional ground than previously, for it can no longer use Article 122 for support. Any legislation now promulgated will unquestionably be subject to the requirements of the Revised Constitution, including the requirement of Article 44 that just compensation be paid for property taken by expropriation. On Article 122, see *supra*, p. 222.
22. The Revised Constitution, the Civil Code and Ethiopian tradition all indicate without any doubt that in contemporary Ethiopia urban land and rural agricultural land are subject to private rights, whether familial or individual in nature. There is some doubt about certain other categories of land, e.g. "grazing lands" as that term is used in Article 130(d) of the Revised Constitution.
23. Frequently in the Revised Constitution rights are guaranteed "in accordance with the law," but it is important to note that this is *not* the case with the guarantee of just compensation. Article 44 prohibits the deprivation of property unless, as noted previously, two conditions are satisfied: there must be a "finding" by ministerial order issued pursuant to a special expropriation law—the nature of this finding is not specified—and there must be payment of just compensation determined, in the absence of agreement, by judicial procedures established by law. Thus although other law establishes the *procedure* for determining compensation, it appears the requirement of just compensation stems from the constitution itself. Presumably if a court were to exercise a power of judicial review of the constitutionality of legislation it could strike down a legislative formula for compensation if it found that the application of this formula did not result in "just compensation" being paid.
24. Civ. C., Art. 1474(1).
25. Unfortunately the English of Article 1475(2) is a poorly translated version of the original French. The latter states that the committee which awards compensation "tient compte . . . de la plus-value procurée par les travaux publics *au surplus de la propriété*" (emphasis added), whereas the English merely states that the committee "shall take into account the increase of value arising from the construction of public works." The Amharic of Article 1475(2) apparently is a more accurate translation.

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taken into account in order to *lower* the total amount of compensation to be awarded—it is thus, in nature, a set-off. In highway expropriation it is rare that *all* of a particular owner's land must be taken—generally only a strip sufficient for the highway itself and an adequate “right of way” on either side is needed. In most cases expropriated owners will be left with part of their original parcel of land and it is certain that the construction of a new highway will lead to a considerable increase in the value of that remainder. Little systematic data on land values in rural Ethiopia is available, but apparently land in most places if on a highway is worth at least two or three times what it would be worth if it were not on a highway. Such differences in value can be set off against amounts owed for property expropriated by the IHA.²⁶

Conclusion

In conclusion it is maintained that the expropriation provisions of the Highway Authority Proclamation, even if constitutional, have been repealed by Article 3347 of the Civil Code, with the exception of that provision giving the IHA the power to carry out expropriation; that the IHA, like other government agencies engaged in expropriation, is presently bound to use the Civil Code provisions on expropriation; and that, if proper use is made of the set-off provision of Article 1475(2), the costs of acquiring land for highway construction should not rise dangerously, if at all. The rationale for Article 1475(2) appears to be essentially the same as the rationalization which has been offered for omitting land from the list of compensable items under the Highway Authority Proclamation: that is, where landowners benefit greatly from public works constructed by the State at its expense, the State should not have to compensate those owners for loss which does not exceed their direct and immediate gain. The difference between the formula of the Highway Authority Proclamation and Article 1475(2) of the Civil Code lies in the precision with which this reasoning is applied: Article 1475(2) allows each case to be considered on its merits, whereas the Highway Authority Proclamation allowed only a very rough approach. No compensation was ever to be paid for land, yet compensation was always owed for buildings, crops, vegetation and other fixtures.

In addition to providing greater fairness in particular cases, Article 1475(2) offers another direct advantage to the IHA. It can be used to provide a set-off to amounts owed as compensation for those objects on the land for which compensation was owed under the Highway Authority Proclamation.²⁷ A good

26. This suggests that it may be advantageous for the IHA to acquire at the time of original construction — when this great increase in value to remaining land occurs — not only the property needed for the construction itself but also camp sites and quarry sites which will be needed for future maintenance work.

27. It is interesting to note that the original “balance of benefits” rationale of the Highway Authority Proclamation was not applied to houses and crops as well as to land. Those engaged in IHA expropriation indicate that people would react much more sharply to the loss of a house without immediate monetary compensation than they do to the loss of a portion of their land without immediate monetary compensation. It should be remembered that, fair as the theory of “balance of benefits” or the theory of Article 1475(2) is when over-all values are considered, the increase in the value of a remainder is “on paper” and perhaps not easily realizable at the moment of expropriation, whereas the loss against which that increase is set off is immediate and direct. Thus a man whose house is destroyed to make way for a new highway must find a new house, and in most instances he needs cash to purchase or construct one. He cannot pay for a new house with the increase in value to his remaining land resulting from the planned construction of a new highway, at least not unless he sells part of that remainder.

practical example is provided by the problem of compensating for coffee trees. Under the Highway Authority Proclamation, it is clear that compensation must be paid for coffee trees, as they are "crops, vegetation or other fixtures."²⁸ It is reported that in certain areas where coffee trees are plentiful and compensation for them at market value would be costly, the IHA in effect has said it will construct the new highway only if the landowners in the area agree to forego compensation for their coffee trees. This sort of coercive action to require individuals to waive rights they have under the law seems undesirable, even though these individuals do have a choice between a highway and no compensation for their coffee trees on the one hand and their coffee trees with no highway on the other. Social pressure, particularly as manifested through district governors, may frequently mean that this choice will not be entirely free.²⁹ The advantage of Article 1475(2), again, lies in its precision: it can be used for individual cases so that the greatest fairness is achieved. For most landowners in a given area, the increase in value to remaining land might be far greater than the value of lost coffee trees, but for some landowners this might not be true. The latter would therefore receive an appropriate amount as compensation, an amount equivalent to their net loss of value.³⁰

Finally, it is suggested that from the point of view of Ethiopian legal development as a whole it is desirable for the IHA to use the Civil Code in carrying out expropriation. One aim of the Civil Code was to bring *uniformity* in different areas of the law, including the law of expropriation.³¹ If the IHA "opts out"—*i.e.*, succeeds in having its own expropriation legislation and succeeds in upholding the constitutionality of that legislation—it seems likely that other agencies engaged in expropriation will attempt to follow suit. This would be most unfortunate both for clarity and for uniformity in what is one of the more important areas of contemporary Ethiopian law.

28. Section 5(d), Highway Authority Proclamation, 1951, Proc. No. 115, *Neg. Gaz.*, year 10, no. 5.

29. The author is aware of no such case thus far where the local people have opted against the new highway.

30. One problem with a "balancing of values" approach, of course, is that it fails to consider those who gain but do not lose—*i.e.*, owners in the region who lose nothing through expropriation, but whose land increases greatly in value because of the new highway. If landowners who lose some land are in effect charged for the highway, through having the compensation owed them reduced or eliminated, then fairness may require that their neighbours who do not lose land be charged as well. One way of doing this is through the use of "betterment" levies of some sort.

31. Indeed, it has been suggested in some quarters that to achieve uniformity *all* expropriation for government agencies should be done by one government body, such as a department of the Ministry of Interior. Certainly such centralization would lead to greater uniformity and, probably, greater expertise, but those agencies engaged in expropriation may well resist centralization as likely to lead to still more bureaucracy and delay for their programs. If the function of land acquisition for government projects is to be centralized, it may in any case be preferable to place the function in the Ministry of Land Reform and Administration rather than the Ministry of Interior. It is the former which is now in the business of developing expertise on land matters in Ethiopia.