



# Ethiopian Land Justice Guidelines

Recommendations and best practices  
for land dispute resolution





# Preface

*The Ethiopian Land Justice Guidelines provide actionable ways for users and practitioners to reach solutions when resolving land disputes.*

The Ethiopian Land Justice Guidelines provide actionable ways for users and practitioners to reach solutions when resolving land disputes. Global research and data on land justice shows that these problems have increasingly become a key concern, especially for vulnerable populations. As people want to reach agreements on how to use their land and want land to be owned in a fair way, they resort to various justice providers for resolution. Most land disputes that people experience relate to land inheritance, divorce, as well as landholding claims, boundaries, rights of way or access to property, and to land grabbing.

The Ministry of Justice in Ethiopia developed a three-year transformational plan to improve

justice delivery across the nation. Many of the daily justice issues in Ethiopia are resolved outside of the formal system. As part of their strategic plan, the Ethiopian Ministry of Justice aims to scale up customary courts, specifically by validating community elders and strengthening the provision of justice at community level. Justice guidelines can help with integrating and standardising best practices and are meant to support justice practitioners in their daily work. In the case of customary courts, the practitioners are primarily community elders (shimagillé), but also other judges, mediators, police, lawyers and other professionals who directly engage with people around land justice problems may benefit from the recommendations in these guidelines.

Guidelines are inspired by the medical sector and consist of clear and actionable best practices on how to deal with justice issues. They help practitioners with communication techniques, tools for de-escalation, mediation methods and other

useful (soft) skills that are essential in dispute resolution. Guidelines combine practice-based evidence (experiences from practitioners across Ethiopia) and evidence-based practice (recommended interventions from international and local research into recommendations and best practices). Together with local stakeholders, HiiL has developed guidelines in Uganda (family justice), Nigeria (land and family justice), Niger (land justice) and Tunisia (employment justice). Guidelines are living documents, meaning that with new information, as well as responses from practitioners and users, they should continually improve through an iterative process.

We are grateful to all of the individuals and organisations who have contributed to the development of these guidelines. We also call upon the Government, justice practitioners, (customary) courts, and the people of Ethiopia to support the implementation of these guidelines so as to shape clearer paths to land justice in Ethiopia.

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# Glossary

**Best practices (PBE):** Insights gathered from practitioners known as practice-based evidence (PBE).

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**Customary Courts:** Customary courts are institutions that exist within different communities or cultural groups in Ethiopia and are based on traditional customs and practices to handle disputes and conflicts, thereby maintaining social cohesion within the community.

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**Customary justice:** This is a traditional system of dispute resolution based on local customs and practices rooted in cultural norms and values in communities where formal legal institutions may be limited.

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**Expropriation:** Expropriation refers to the process by which a government takes private property for public use, usually with compensation paid to the possessor. In Ethiopia, this power is vested in the state by virtue of Article 40(8) of the FDRE Constitution. There are additional criteria as per article 3 and the following provisions of the Expropriation proc. No. 1161/2019.

**Kebele:** In Ethiopia, a *kebele* is a local administrative unit that constitutes the lowest administrative division within the country's political framework and is administered by a *kebele* council, which plays a crucial role in ensuring effective public service delivery at the grassroots.

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**Land dispute:** In Ethiopia, a land dispute is a social fact that refers to a disagreement or conflict arising between individuals, communities, or entities, the roots of which, among others, are differences in interest over the property right to land: the right to use the land, to manage the land, to generate an income from the land, to exclude others from the land, to transfer it, and the right to compensation for it.

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**Land justice:** Refers to the equitable and fair distribution of land rights, resources, and benefits among individuals, communities, and society as a whole in order to ensure a sustainable land tenure system that promotes social stability, economic development, and environmental preservation.

# Glossary

**Legal pluralism:** As per articles 34(5) and 78(5) of the FDRE constitution, legal pluralism in Ethiopia refers to the coexistence of customary, religious, and state laws in the country. However, based on the above provisions, customary and religious courts are applicable only for the adjudication of disputes relating to personal and family laws in accordance with religious and customary law, with the consent of the parties to the dispute.

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**Mediation:** Mediation in Ethiopia refers to a process that serves as an alternative to formal legal proceedings where a neutral third party, known as a mediator, facilitates communication and negotiation between disputing parties to help them reach a mutually acceptable agreement.

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**Recommendations (EBP):** These are proposed actionable interventions for resolving land justice problems based on evidence-based literature.

**Regional state:** Member States of the Federal Democratic Republic of Ethiopia as listed under art. 47 of the FDRE constitution. The notion of regional states was introduced to ensure self-governance and representation for the country's various ethnic groups.

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**Vulnerable groups:** Community members who are subjected to injustice, discrimination, or violations of their rights as a result of socioeconomic inequities, power imbalances, or systemic barriers (these include among others: outcasted, ethnic minorities, disabled, internally displaced populations).

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**Woreda:** In Ethiopia, a *woreda* is the country's smallest administrative subdivision, standing below regions and zones but above *Kebeles*, which is equivalent to a district in other countries.

# Instructions

## to land disputes in Ethiopia

*These guidelines provide actionable and evidence-based recommendations for people and practitioners dealing with land-related conflicts.*

The Land justice guidelines contain recommendations and best practices addressing both rural and urban land disputes. The primary users of the guidelines are practitioners dealing with land disputes on a regular basis. The recommendations and best practices found in this document follow the process from problem to solution and support people dealing with land disputes along their justice journey.

The recommendations and best practices are categorised in 5 chapters. Two background paragraphs are included as a way to capture important themes that fall beyond the scope of actionable recommendations for practitioners. All recommendations and best practices in the catalogue are generalised and do not take into account specific situations

that require exceptions (unless otherwise noted). Some guidelines might also only be applied and implemented by those practitioners or dispute resolution bodies who enjoy the necessary jurisdiction for that specific situation. Therefore, your professional assessment on a case-by-case basis is essential in order to make the best decisions possible. The recommendations listed in the Ethiopian land justice guidelines are established according to a method that is widely applied in medical practice (PICO/GRADE). It combines local practice from both formal and informal (non-judicial) systems, and research on 'what works'. This distinguishes the Ethiopian land justice guidelines from existing legal guidelines.

## Recommendations are categorised into three groups

### STRONGLY RECOMMEND



The intervention is desirable and the quality of evidence is high

**Apply recommendation and advise parties accordingly**

### RECOMMENDED



The intervention is desirable and the quality of evidence is moderate or low

**Apply recommendation and advise parties accordingly**

### CONTEXT SPECIFIC RECOMMENDATIONS

The intervention is desirable in a specific context and the quality of evidence is high, moderate or low

**Apply recommendation only in the right circumstances and advise parties accordingly**

### BEST PRACTICES (PBE)

# Introduction

## to land disputes in Ethiopia

*In the lives of the people of Ethiopia, land disputes are the legal problems that most often occur.*

Data collected through a [Justice Needs and Satisfaction survey](#) (JNS) by HiiL in 2020 shows that 38% of respondents who report a legal problem say that they had to deal with a land-related issue in the previous four years. Extrapolated to the general population, this means that every 4 years in Ethiopia there are between 8.2 million and 8.6 million land related legal problems.<sup>1</sup> Land disputes constitute a sizeable justice, social and economic problem. Moreover, land and resource disputes are also a major cause of other conflicts and violence<sup>2</sup> and often have an extensive negative effect on economic, social, spatial and ecological development.<sup>3</sup> All in all, this asks for the implementation of a clearer and comprehensive land policy for effective land management and security.

Of the most serious justice problems people in Ethiopia have to deal with, 34%

are land-related problems. Around half of the problems are related to disputes over land boundaries and around a third of the problems are disputes about the use of land. In terms of impact on people, land problems most often cause loss of time and money. Other notable negative consequences are stress-related illnesses and harm to family relationships.<sup>4</sup>

### Legal frameworks governing land disputes

Land is a constitutional issue in Ethiopia. Article 40 of the FDRE Constitution enshrines governing provisions about rural and urban land. Legislative power is given to the federal government (Article 51(5) of the constitution) although this power can be delegated to regions (Article 50(9) of the same constitution). In contrast, land administration power is allocated to regions (Article 52 (2(d)) of the constitution). The Federal Government has enacted the Rural Land Administration and Use Proclamation (Proc 1324/2024). Both federal and regional land laws have Alternative Dispute Resolution clauses.

### Resolving land problems

On average, people spend around 30,000 *Birr* and 300 days to resolve a land problem. This is usually significantly more than the cost of the

problem itself. Many land problems remain ongoing because people are waiting for a third party or the other party to take action. The majority of people prefer to involve a third party in the resolution of their land dispute. Most often the third party in a land dispute are local elders. People in Ethiopia submit more than half of their land disputes to local elders. In most cases, the land dispute is resolved after a decision by a neutral third party. The second most frequent resolution is when the parties achieve an agreement after the intervention of a neutral party. Local elders are more frequently used to resolve land related disputes in rural areas. Rural and urban residents have to deal with different land problems. Expropriations and disputes about titles occur more often in urban areas. Boundaries and use of land disputes are more prevalent in the rural regions.<sup>5</sup>

### Why resolving land disputes matters?

Of the people who managed to resolve their land disputes, 53% said that they achieved an agreement on the use of land and 49% said that the outcome established fair land use and land rights. This is clear and compelling evidence of how more land justice can make the lives of millions of people in Ethiopia better and more prosperous.

# Background and context

*The interventions described in these guidelines emerged in part against the backdrop of two important discussions: Linking customary and formal justice systems, and the position of women and vulnerable groups.*

The interventions can be applied both within the customary and formal justice system, depending on which practitioner within what jurisdiction is dealing with the land dispute. The interventions are compared with the literature and are graded on effectiveness.

## **Strengthening customary conflict resolution mechanisms**

Efforts of linking customary and informal justice systems with formal justice systems are an international trend that can also be observed in Ethiopia. There is a strong global need to establish the governance infrastructure that enables people-centred

justice. Developing and implementing legal and policy frameworks necessary to enable seamless, efficient, integrated, sustainable, resilient, and user-centred justice pathways is seen as one way to realise this.<sup>6</sup> Within this search for seamless pathways to people-centred justice, customary and informal justice provides an opportunity to leverage and learn from existing people-centred solutions.<sup>7</sup>

In Ethiopia, customary justice holds the most promise for making justice pathways more people-centred. Building bridges between customary and formal justice mechanisms can, amongst other things, improve wider access to justice at the community level. While there is no denying the legal pluralism that exists in Ethiopia, much of the justice delivery happens at the community level, making further synergy between otherwise competing jurisdictions (customary and formal) even more important. More general

recognition is already in place as the Ethiopian Constitution (Articles 39:2 and 91:1) provides, in broad terms, for the promotion of the cultures of nations, nationalities and peoples of the country. Article 34:5 makes more specific and direct reference to adjudication of disputes relating to personal and family matters in accordance with customary laws, with the consent of the parties to the dispute.<sup>8</sup> Specific extension to land based disputes could be a next step in realising the potential of legal hybridity.

Customary justice is not only used often but people generally perceive it as accessible and effective. The challenge is to ensure that customary justice delivers high-quality results in a more standardised way, ensuring fair and non-discriminatory outcomes. Customary courts, while aligning with certain principles of people-centred justice, are also in need of thorough judicial scrutiny. Challenges include human rights compliance, politicisation



of traditional leaders and village elders (leading to partisanship), false accusations and the confusion of religion with culture. Women and other vulnerable groups are also frequently found to be marginalised through customary legal practices, as local elders may be influenced by culture that for instance might impede the effectiveness of women's land holding rights. It is crucial to address these challenges and implement effective management strategies when considering the scaling up of customary courts to ensure the fair and efficient resolution of land-related disputes.

Guidelines are one way to improve in this area. The continuous updating of guidelines should be done with lessons from best practices in mind. Justice delivered by village elders in Ethiopia is generally known for emphasising community values, repairing damaged social relationships, reaching consensus, and restoring community harmony. Much can therefore be learned from this way of delivering justice, providing valuable input for future versions of this document.

## Recommendations

1	The legal recognition of customary courts through a model law or national framework can help establish new customary courts and increase the capacity for resolving land disputes. In this regard, the experience with customary dispute resolution mechanisms in the Oromia Regional State could be seen as a best practice for other regional states in the country.
2	Consideration of the interface between customary and formal tenures into the statutory via the process of formalisation is recommended for Ethiopia to effectively manage land rights and effectively resolve disputes.
3	Courts can provide redress for dispute resolution processes organised in the community. In this way, the formal justice mechanism will guarantee that traditional justice yields its positive effects and does not do harm.
4	Courts can focus on cases that present greater legal and factual challenges. This distinction between formal and informal justice necessitates thoughtful consideration of process, organisation, and legal framework. The needs and expectations of the people should be at the forefront of this design process.

### Women and other vulnerable groups

Guidelines aim to realise desirable outcomes for people dealing with land disputes. Best practices and other recommendations in guidelines need to be inclusive, to be truly people-centred. Accessibility and effectiveness should not be trade-off elements of interventions (that is, it should not be more effective for some and less for others). With that in mind, this paragraph pays special attention to women and other vulnerable groups.

The Ethiopian FDRE Constitution recognizes gender equality and accords women's equal rights with men regarding the use, transfer,

administration, and control of the land.<sup>9</sup> Nevertheless, women and other vulnerable groups are often still in a disadvantaged position regarding control over land, due in many cases to the customary practices governing the land tenure arrangement, as well as to cultural patterns.<sup>10</sup> Certain customary justice practices can produce harsh outcomes, even though the Constitution explicitly prohibits laws and customary practices that discriminate against women.<sup>11</sup>

Data shows that in response, women are significantly more likely to engage family members (often males) in the resolution of their legal problems. Discriminatory and unequal dispute resolution should not be standardised in any attempt to improve access to justice through scale. Instead, this document proposes a more active role for vulnerable groups in the dispute resolution mechanism that they access. Customary laws that prevent women from appearing before village elders but require a male relative to represent them are not considered people-centred and therefore not in line with the promise of informal justice described in the previous paragraph. Accessibility must also be taken into account when evaluating the impact of justice delivery on women who might experience discriminatory decision-making at a local level and have no recourse in the formal courts due to high costs.

## Recommendations

1	Develop mechanisms to triage and prioritise serious legal problems that need more resources and attention. When doing so, consider the needs of vulnerable groups – women, children, illiterate and poor people, religious and ethnic minorities and internally displaced people.
2	Actively involve women, youth and vulnerable groups in the process of fact-finding and give them a role in dispute resolution. Additionally, involve women's affairs offices and justice offices in the capacity-building of mediators, and institutionalisation of mechanisms for support, supervision, and accountability of the mediation process.
3	Enhance the provision of free legal aid and expand the range of institutions offering such services in order to ensure that vulnerable groups in society have access to justice.
4	In some parts of the country, there is a clear role for women and youth groups in the process of (land) dispute resolution. One best practice to highlight is the case of the Awramba community in Amhara regional state, where the principle of inclusion is highly adhered to. Women are actively involved in fact-finding and other procedural aspects of land dispute resolution.

# 1 Allocation

of land rights, including inheritance

*According to the FDRE Constitution, the right of ownership of rural land and urban land as well as of all natural resources, is exclusively vested in the state and the peoples of Ethiopia.<sup>12</sup>*

Disputes on land rights, however, remain common both in rural and urban Ethiopia. Making arrangements for these types of disputes might require exploring proper documentation to ascertain land holding rights, and making use of interest-based and constructive efforts towards consensus building. Using neutral third parties to help with joint-fact finding is one way to realise this.

Solving disputes on the inheritance of land requires the application of appropriate laws.<sup>13</sup> Laws and regulation, however, might both assure and limit the inheritance of land. The right of children to inherit rural land, for instance, has been acknowledged in Federal land laws. Enforcing these laws for the allocation of land-holding rights through inheritance is best done in collaboration with a family committee.



## Recommendations (EBP) and best practices (PBE)

### 1.1 Apply constructive communication techniques in land dispute resolution (EBP & PBE)

#### STRONGLY RECOMMEND



Constructive dialogue is useful for land use, resource use/sharing, and inheritance disputes. In those cases, interveners who facilitate a resolution (say village elders) allow parties to own the process. While parties discuss the issues, they (interveners) take note of the main causes of disputes and then guide parties towards addressing them. They are careful not to allow parties to feel that they show bias towards either side. For example, facilitators may allow groups with the same interest on the conflict table to meet and agree on positions that they find comfortable and areas they can cede as concessions. Each side is then recalled to state his need and position which facilitators then use as guiding notes to steer the negotiation. This can be iterated as many times as needed.

### 1.2: Use joint fact-finding facilitated by a neutral third party (EBP)

#### STRONGLY RECOMMEND



Joint fact-finding is a central component of many consensus building processes; it extends the interest-based, cooperative efforts of parties engaged in consensus building into the realm of information gathering and scientific analysis. Joint fact-finding by a neutral third party helps parties to get a shared and accurate understanding of what happened. It also tends to improve their relationship and increase the chances of reaching a resolution. Efforts will require that parties are made to jointly bear any burden associated with fact finding (could be financial or logistic needs). Where groups are large, they can nominate representatives that they trust. The rules should be clearly defined and done in a transparent manner so as to build confidence.



### 1.3 Allocation of land-holding rights through inheritance (PBE)

In some regions (Amhara Regional State for instance), the issue of inheritance is solved in collaboration with a family committee (mostly elders), who are selected by the parties and approved by the court. This committee will support the court, particularly in finding the facts regarding the list of the property of the deceased, which is part of the inheritance, and who is hired. Based on the obtained data, sometimes the court faces difficulties in getting evidence regarding who the hires of the deceased are. In this case, the court uses the religious document (for instance, if he or she is Orthodox or Catholic, there might be evidence provided at the time of receiving baptism that might help the court establish facts). Cultural evidence, witnesses, and elders of the communities are also helpful in establishing facts in the case of inheritance.





## 2 Land dispute prevention

*Preventing land disputes rests on establishing a strong normative framework, addressing any underlying causes of disputes and providing easy access to information and documentation.*

Norms are rules of behaviour that are recognised and respected by the community. They may take the form of laws or social norms. They can be created and enforced by justice system actors as well as authority figures in schools, workplaces, or religious and other communities. Norming also helps with addressing underlying root causes of conflicts, doing so contains conflicts and minimises risks of escalation.

Easy access to landholding certification, for instance through digitised documentation, helps prevent disputes that arise from lack of clarity. If rights are not documented and made known to the community in a language that everyone understands, how can we be sure that they will be respected? Documenting shared social commitments through contracts, registrations, and other records is important and should be accessible physically or online.



## Recommendations (EBP) and best practices (PBE)

### 2.1 Prevention of land disputes and public information on land disputes (PBE)

To prevent land-related disputes, in areas like the Amhara Regional State, there is a best practice that involves conducting a community discussion in each *kebele*. Meetings are organised during a weekly meeting platform (in Amharic called Gudegnet) to address and discuss issues related to land. Representatives of society, prosecutors, judges, the woreda land administration office, and the *kebele* committee will be invited, and this will promote openness, cooperation, and the development of consensus. The practice helps with finding sustainable solutions and ensuring decisions that are inclusive, fair, and reflective of community needs and interests.

### 2.2 Digitisation of land-related documents and landholding certification (PBE)

In some regional states, the digitisation of land documents produces a better outcome, with less chance of human error in establishing who is the rightful use of land owner or possessor of the land. This also enhances the effectiveness of institutions working in land governance, including courts. Landholding certification is considered a best practice when trying to minimise disputes related to land, in a sustainable way. In most of the regional states in Ethiopia, land certification is already in place. The landholding rights certificate describes the size of the land, land use type and cover, level of fertility, and boundaries, as well as the obligations and rights of the holders granted by the land authority.

### 2.3 Addressing the immediate underlying cause of the disputes (PBE)

Attempts to help parties reach negotiated agreements include addressing the underlying cause of the disputes. Inheritance disputes, for example, are often mostly a result of feelings of exclusion. Mediators attempt to address this root cause by helping parties achieve closure in such cases before they agree to make concessions. The same method is adopted in resolving disputes arising from encroachment and boundary claims. The results are often effective, as both parties are more satisfied with the outcome.



# 3 Registration and documentation of land

*Documentation helps ensure that the rights and agreements of individuals are respected and if necessary, enforced.*

Oral understandings, while common practice, rely heavily on social trust and the goodwill of those involved. This can make them more difficult to enforce when one or more parties does not comply with what was agreed. Without acknowledgement, understanding and buy-in from the surrounding community, individual rights will not be respected or protected. For this reason, it is critical that registrations, contracts, and legal rights be made public.





## Recommendations (EBP) and best practices (PBE)

### 3.1 Apply fit-for-purpose land mapping for assessing boundaries (EBP & PBE) - STRONGLY RECOMMEND ★ ★ ★

For parties looking to document their landholding or use of land rights, fit-for-purpose (FFP) land mapping is a flexible, transparent, and inclusive approach. The FFP approach has three fundamental characteristics. Firstly, the focus is on establishing purpose and how to design the means for achieving this purpose as well as possible; secondly, it requires flexibility in designing the means to meet the current constraints; and, thirdly, it emphasises the perspective of incremental improvement to safeguard continuity. Each of these components includes the relevant flexibility to meet the actual needs of today and can be incrementally improved over time in response to societal needs and available financial resources. The FFP approach recommends the use of ‘visual boundaries’ to identify the delineation of land rights. Flexibility is key.

### 3.2 Have parties sign a decision and physically mark agreed upon boundaries (EBP & PBE)

#### CONTEXT SPECIFIC RECOMMENDATION

One way for parties in landholding and use of land disputes to accept and formally document their boundary agreements is to sign a written agreement, sometimes known as a “memorandum of understanding”. Signature lines for as many witnesses as would like to sign; and other provisions that are deemed to be relevant as per the case. On top of that, parties to landholding or use of land dispute can honour their agreement by physically demarcating the land.

### 3.3 Utilising customary boundary marks for land dispute prevention (EBP & PBE)

#### CONTEXT SPECIFIC RECOMMENDATION

In many regional states, utilising customary boundary marks such as trees for demarcating land boundaries is the usual practice. It offers numerous benefits in preventing boundary disputes by providing a clear and tangible indication of property lines. Moreover, trees offer longevity and stability, ensuring that the boundaries remain visible and intact over time as they are not easily removable. It also encourages sustainable land management practices.

### 3.4 Role of a Land Administration and use Committee in the land registration process (PBE)

In Amhara Regional State, when dealing with disputes arising from the process of registering and safeguarding land holding rights, the parties are made to agree by the negotiator of the pertinent land administration and use committee in the *kebele*. If they do not agree, the committee will take an administrative decision based on the data and suggestions obtained from the *kebele* land officer.

# 4 Collaborative

## agreements on land benefits and exploitation

*In order to engage in respectful dialogue, parties to a land dispute must work through negative perceptions of each other and take one another seriously as two people with equal rights.*

Building understanding and moving towards resolution, means that parties to a land dispute must uncover and recognise the emotions, needs and interests of all those involved.

Mediation and other types of alternative dispute resolution are often aimed at generating this necessary mutual understanding through purposeful communication and negotiation techniques. Yet as mediators, judges and facilitators well know, bringing parties to the table to talk through their issues is only the first step. Once the conversation starts, blaming and defensive tactics can take hold, reducing the chance of understanding the parties' needs and arriving at a solution that adequately addresses them. Uncovering what people really need to move on with their lives, and doing so for all parties involved, is key to a sustainable and fair resolution.

## Recommendations (EBP) and best practices (PBE)

### 4.1 Apply principled negotiation or bargaining (EBP & PBE)

#### STRONGLY RECOMMEND ★ ★ ★

Principled negotiation or bargaining (on land use rights) is more beneficial to the parties involved in a land dispute than positional negotiation or bargaining when they are trying to share rights and resources. In order to reach a sustainable resolution for their land problem, parties must negotiate to distribute land and land rights in a fair way. Principled bargaining or negotiation is effective because it is based on interests and needs. Interests are often less clearly articulated (what people really need to move on with their lives). Interests are also more long-term and reflect the broader hopes of a person or group, such as the desire to live peacefully, to have stable access to livelihood resources, or to have his/her identity recognized. Interests can focus on both factual issues (e.g. distribution of resources) and on relationship issues (trust and confidence).

#### 4.2 Use the conflict onion model (EBP)

**STRONGLY RECOMMEND**



The conflict onion model is a useful visual tool for parties to understand and distinguish between the needs, interests, and positions of those involved. The conflict onion model is a dispute resolution tool based on an analogy of an onion with many layers. The outer layer of the onion represents the positions we allow everyone to see and hear (what we say we want). Underlying the first layer are our interests (what we [really] want), which represent what we wish to achieve in a dispute situation. At the core of the onion are our needs (what we must have), which must be fulfilled for the conflict parties to be truly satisfied with the outcome. Only focusing on the parties' positions will rarely solve a (land) dispute. It is important to peel back the layers, and get to the heart (core) of what caused the conflict that needs to be resolved.

#### 4.3 Court-annexed mediation for land dispute settlement (EBP & PBE)

**STRONGLY RECOMMENDED**



At the federal level, among the cases that are to be heard by the Federal First Instance Court and Federal High Court, mainly civil cases shall be referred to Court-Annexed Mediation. Many judges at the Federal First Instance Court refer land-related disputes to court-annexed mediation before handling them. If the parties have failed to resolve their dispute through court-annexed mediation, court proceedings will be initiated. This can result in quicker outcomes for disputing parties, saving both time and resources. Moreover, mediation can provide a less adversarial environment for conflicting parties to engage in constructive dialogue and reach mutually beneficial agreements.

#### 4.4 Institutional collaborative approach (PBE)

The collaboration of institutions working in the land governance system, including land administrative offices, land committees and courts, with customary dispute resolution institutions is a best practice when it comes to delivering better outcomes in settling land-related disputes. The practice in Amhara and Oromia regional states could be mentioned as an example in this regard.





# 5 Standards

## for compensation for damages and expropriation on land for public use

*In Ethiopia, land is the common property of the 'state and the people', and, hence, is not subject to sale, exchange or mortgage.*

Expropriation occurs when a public agency takes property for a purpose deemed to be in the public interest, even though the owner of the property may not be willing to sell it.<sup>14</sup> Proclamation number 1161/2019 and regulation number 472/2020 establish standard compensation guidelines for expropriation, which must be followed in order to standardise compensation practices. Making use of alternative hearing bodies can be an efficient way to execute on these guidelines, while monitoring outcomes can improve agreements made over time.

## Recommendations (EBP) and best practices (PBE)

### 5.1 Make use of an independent professional compensation valuation system (EBP)

#### CONTEXT SPECIFIC RECOMMENDATION

Article 40 of the Ethiopian FDRE constitution allows for possessory rights. One of main reasons for land conflicts is the valuation of compensation during land expropriation. To realise landholding rights and reduce disputes, it is necessary for specific situations to use an independent expert compensation valuation system rather than one conducted by government organisations.

An independent professional compensation valuation system ensures the valuation remains objective, impartial, informative, and properly considers the fair market value standard. When the rightful holders of land have confidence in the expertise and neutrality of the professionals involved, they are more likely to accept the outcome of the valuation.

## 5.2 Implement monitoring mechanisms (EBP)

### STRONGLY RECOMMEND



Monitoring the outcomes and implementation of an agreement helps to build trust, communication, and cooperation between parties to a landholding or use of land disputes. A final stage of a land dispute resolution process could involve disputants completing procedural closure by designing and implementing monitoring mechanisms. This can improve agreements made over time. Seeing land dispute resolution as a continued process in which successes can be monitored throughout requires developing arrangements and mechanisms to monitor compliance and accommodate changing circumstances. In addition to identifying general and specific steps required to implement the decision, parties must agree upon a number of issues in order to make these monitoring arrangements successful.

## 5.3 Compensation for the expropriation of land (PBE)

A complaint hearing body and an appeal hearing council have been established in most regional states, which have jurisdiction to entertain grievances arising from decisions regarding compensation for the expropriation of landholdings for the public. Continuing and expanding this framework can be taken as a best practice. Establishing alternative hearing bodies can offer several benefits, including reducing court load and facilitating people-centred dispute resolution.

## 5.4 Judicial scrutiny of land expropriation (PBE)

In regions like Oromia, Amhara, and also at the federal level, there is judicial scrutiny after cases are entertained by administrative bodies concerning the issue of compensation due to the expropriation of land. This is a best practice as long as it gives more guarantees to those in possession of the landholding rights.

### 5.5 Governing and strengthening specialised land dispute benches (PBE)

At the federal level, among the cases that are heard by the Federal First Instance Court, there are separate special benches which are dedicated to handle only land-related disputes. The establishment of a specialised land bench necessitates specialised judges. These judicial officers, equipped with a deep understanding of land law, customary practices, and the socio-economic context of land ownership, are essential for the effective adjudication of land disputes. Specialised land benches develop expertise in land law and related disciplines. These benches could streamline procedures and enhance caseload management more efficiently. Specialised judges are also better positioned to identify and address recurring land-related issues and can thereby contribute to the development of more effective land policies and legislation.



# Guidelines

## Methodology

### **Establish a Committee of Experts**



The guidelines development process starts by gathering a diverse group of local practitioners and justice experts. This group is referred to as the guideline's Committee of Experts (CoE). The Committee of Experts co-creates the guidelines, performs quality control, and helps to establish local ownership. The Committee of Experts is involved during the whole process, from reviewing the collected evidence to dissemination. More information about forming a committee of experts can be found at

<https://dashboard.hiil.org/treatment-guidelines/guideline-method/>

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### **Collect evidence from the literature and propose recommendations (evidence-based practice / EBP)**



Evidence-based practices are practices that are identified from international literature. The practices have been studied, tested and analysed. Relevant literature includes meta-studies, randomised controlled trials and expert opinions. There are many different steps in the path to resolving a justice problem. Each problem is broken down into a broad range of topics (such as mediation, adjudication, arrangements for raising children etc.) For each of these topics a number of possible interventions can be identified to help prevent or resolve the problem. Internationally available literature contains evidence which supports or invalidates these interventions to specific justice issues. We test these interventions, rate the quality of evidence that underlies them, and define actionable recommendations. The Committee of Experts reviews the recommendations from the evidence-based practice. More information on the grading and testing method can be found at

<https://dashboard.hiil.org/treatment-guidelines/guideline-method/>

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### Learn from the experiences of local justice providers (collect practice-based evidence / PBE)



We identify what local justice providers from the informal and formal sectors consider best practices for resolving their most pressing justice problems. Through a set of semi-structured interviews, justice practitioners such as village elders, civil society leaders, judges and lawyers share their experiences on what works. The best practices that are derived from these interviews are also used to validate recommendations identified in the literature. Upon collection, the practice-based evidence is tested, reviewed and validated by the Committee of Experts. More information on collecting best practices can be found at

<https://dashboard.hiil.org/treatment-guidelines/guideline-method/>

### Assess compatibility of local practices with proposed recommendations and define final recommendations



We make a first draft of the guidelines by combining practice-based evidence and evidence-based practice. During this process we:

1. Test whether the suggested local practices (practice-based evidence) are consistent with the recommendations (evidence-based practice). In other words, we check if the practices favoured by practitioners are supported by the research;
2. Draft comprehensive descriptions of the interventions tested, so that the resulting recommendations are clearly understood;
3. Categorise, review and grade the “strength” of recommendations, taking into account the local practices. As previously mentioned, there are three categories of recommendations (Strongly Recommended, Recommended, and Context-specific Recommendation). When local practices are in line with the proposed recommendations, this makes for a stronger recommendation. When practices oppose them, the final recommendation will be weaker.

### Committee of Experts review the several drafts of the guideline



HiiL submits the guidelines to the Committee of Experts for review. The Committee decides whether the recommendations are acceptable within the local/national context. They report their findings within three months of submission. If the Committee of Experts determines that a recommendation is incompatible with local practice, the Committee, HiiL and Destiny Ethiopia will collectively review the recommendation and determine whether it should remain the same, be modified, or be removed from the guidelines entirely.

# Committee of Experts

The Committee of Experts has played a fundamental role in the development of these guidelines. They have supported in gathering and evaluating the best practices and evidence on which the guidelines are founded. In addition they have been instrumental in ensuring the local Ethiopian context is taken into account for all the recommendations and best practices. Without these individuals, this would not have been possible:

- Abebaw Abebe
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- Mitiku Mada
- Muradu Abdo
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