

Global Concerns in Compulsory Purchase and Compensation Processes



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ABSTRACT

The basic principles and processes in compulsory purchase and compensation are perceived to be quite similar even though the practice may vary in different nations or regions. More often than not the assessment of compensation which is described in technical parlance as ‘Statutory Valuation’ is usually influenced by local and national statutes, enactments or laws that provide the basis upon which existing professional standards and methods may be applied. This process introduces some complication into the practice of valuation for compensation that is not usually associated with other forms of valuation. At an International Seminar on Compulsory Purchase and Compensation held in Helsinki – Finland 6th to 8th September, 2007, a number of issues were raised in connection with compulsory land acquisition, compulsory purchase, expropriation, land take and other nomenclature used to describe the use of eminent domain powers to obtain land for public purposes. Presentations were made by over 40 speakers from about 20 countries. Their experiences though localised were quite similar overall and certain global concerns were highlighted particularly the need for intervention in the form of global standards and practice codes. This paper represents a synthesis of the issues addressed at the seminar and highlights the potential challenges if the concept of globalization of standards is to be extended to statutory valuation practice, procedures or methods. The paper recognizes that compulsory acquisition and compensation problems are associated with the level of national and regional development of a particular country. This is deduced from the similarities in experiences of various presentations categorised by the level of development of a particular country. It also suggests who the potential stakeholders are likely to be and their respective roles in the development of global codes of practice for use in the assessment of compensation in compulsory acquisition and expropriation.

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1. INTRODUCTION

During the Seminar on Compulsory Purchase and Compensation held at the University of Helsinki (TKK), Finland, 6 – 8 September 2007 (Helsinki seminar 2007) several key issues on expropriation statutes, processes and methods were raised and discussed. Accounts from different countries represented at the seminar reveals that the similarities and differences in expropriation and compulsory purchase experiences flow along a continuum from poor practice to good practice with countries fitting in at different points along the spectrum. Participants expressed concern that despite existing differences in statutory provisions of these individual countries, an international code on compensation might be required to harmonize certain critical aspects of the practice in order to achieve globalization of standards. The seminar was organised by FIG Commission 9 (Valuation and Management of Real Estate), in conjunction with the Baltic Valuation Conference; FIG Commissions 7 (Cadastre and Land Management) and 8 (Spatial Planning and Development), Finnish Association for Real Estate Valuation and Helsinki University of Technology, Institute of Real Estate Studies. It received support from the United Nations Food and Agriculture Organization (FAO), World Bank, UN-Habitat and the Government of Finland particularly the National Land Survey of Finland.

Compulsory acquisition or purchase is the process by which local and national governments obtain land and premises for development purposes when they consider this to be in the best interest of the community. The process of valuation for compulsory acquisition of landed property is governed by legislative statutes that vary from one country to another. The term has a number of variants some of which are compulsory purchase; expropriation; land-take or eminent domain. In all cases the owners or occupiers are denied their property rights for overriding public interest, public purpose or public benefit and are entitled to full, just, fair, equitable and adequate compensation. Compulsory purchase is an important tool in land acquisition although in many countries land acquisition can often be arranged through other means such as by voluntary agreements. In recent years discussion on the use of compulsory purchase had been rather limited and new legislation, practises and methods of valuation for compensations may have developed and been adopted over the years. In organising the seminar, FIG Commission 9 concerns were about how well these new legislations and practices function and also whether the old methods and procedures might have become ineffective or unpopular.

The major goal of the meeting was to intensify the discussion between valuers, surveyors, real estate experts, financiers, urban planners, researchers, teachers and decision makers and develop common ideas for shaping the future of compulsory purchase and compensation in land acquisition and takings. The seminar concentrated on a number of objectives (Helsinki seminar 2007):

- To identify the legal structures and practices in compulsory purchase and compensation in different countries,
- To study if compensation statutes, valuation methods and manners can actually lead to full and just compensation and identify possible shortcomings, and
- To find possible and effective solutions to solve the problems especially in developing countries including best practices and those principles that should be taken into consideration or those should be avoided.

This paper presents a synthesis of the issues raised and forms the basis for further action in the form of research, law and policy reforms. A qualitative research methodology which involved an in-depth review of the conference presentations using content analysis and interpretation tools was applied to obtain our findings.

2. ‘PUBLIC PURPOSE’ AND EXPROPRIATION

Land acquisition for overriding public interest, public purpose, or public benefit can be easily understood and accepted where the purpose is to build a school, hospital, recreational facility or to provide infrastructure and services that members of the public can physically see and use. However, where in the process of acquisition a private undertaking is able to profit from the taking of land at a price which disregards the value of the land to the project, then there is bound to be some form of resistance by the land owners (Denyer-Green, 2000). Some projects may not pass the “public purpose” test because of subsisting private interests and profit orientation motives. The issue of “public purpose” within the context of compulsory acquisition and compensation was addressed during the seminar. Alterman (2007) discussed the signs of crisis in several countries that stem from a growing disparity between law and practice and what these signs may mean for the future of the concept of the “public purpose” as a basic tenet for legitimate land expropriation.

Although there are many shared characteristics and rules about how to determine compensation, there are also major differences among countries in terms of details of the legal conditions for undertaking expropriation. Alterman (2007) also asserts that “public purpose” is the essence of expropriation and the core of its legitimacy and prescribes a conceptual model of dimensions for use in determining the “public purpose” in land-expropriation law and policy. Her presentation anticipates and suggests the need for alternative tools and approaches which are more democratic and fair. The authors identify with this position particularly in terms of the need for definitions of public interest, public purpose and public benefit. Kalbro (2007) reviewed public interest and expropriation by private bodies in Sweden and poses the question whether private can be justified? A three-point criterion for the public interest test is that the benefits of the expropriation must exceed its cost; the value of the new land use must be higher than the existing use; the purpose of the expropriation must be important; and the buyer needs a particular area of land for which the seller is in a monopolistic situation. In the case of private expropriation, the paper recommends acceptance, if the purpose is “important” and a specific piece of land is required.

3. EXPROPRIATION SYSTEMS

Expropriation systems describe the process through which land is acquired and compensation is paid. Different issues on expropriation systems were raised and discussed. Plimmer (2007) presented an overview of the Compulsory Purchase and Compensation system in England and Wales portraying the legal principles which govern the process of gaining compulsory acquisition powers in England and Wales and the circumstances under which compensation may be claimed. Issues regarding the *equity* of the current provisions and potential for reform were outlined and a brief introduction to the proposed United Kingdom betterment tax known as the Planning-Gain Supplement. The conclusions are that the detailed rules are complex and require reference to judicial interpretation and also that the use of compulsory purchase powers is unpopular. To some extent, the powers have been neglected in favour of buying by agreement. There is, therefore, some level of skill shortage in the use of the highly technical compulsory purchase and compensation process in the United Kingdom.

This complexity and difficulty in interpretation is not restricted to the United Kingdom alone. According to Voss (2007) compulsory purchase and compensation according to the German Federal Building Code. The German constitution allows expropriation only if common welfare requests it i.e. the (common welfare clause), if the special purpose is fixed by law, which regulates the kind and extent of the compensation, and if there are no other ways with a lower level of interference to reach the purpose, e.g. land readjustment instead of expropriation. In Germany the expropriation is stipulated either on the federal level (Building Code) or on state level, e.g. roads and protection of monuments. In practice expropriation is carried out sparingly but it is important that a well balanced system exists. Mattsson (2007) reviewed the institutional framework for compulsory purchase in Sweden. There exist two methods: expropriation carried out by the Land court or expropriation for special purposes carried out as a cadastral proceeding by a cadastral surveyor. In both cases the expropriation permission will be decided by the Government. The cadastral procedure is, however, faster and more flexible. Knovles (2007) discussed the background and administration processes in compulsory purchase of land for roads by the Crown in New Zealand. The acting authority is the Land Information New Zealand which also uses accredited private sector contactors in the process. Most of the cases will be agreed by negotiations.

Ratcliffe (2007) examined issues related to the use or non use of Compulsory Acquisition processes in Melbourne, Australia and highlighted the existence of good practice procedures. In Australia compulsory acquisition of land is authorised by the Commonwealth Constitution and is set out in the State legislation. The Government Land Monitor plays a fundamental role in ensuring accountability and transparency with respect to land purchase and compulsory acquisition. This independent audit body issues guidelines titled “Policy and Instructions for the Purchase, Compulsory Acquisition and Sale of Land”, which are mandated requirements for all property transactions undertaken by Victorian government agencies.

Steinsholt (2007) examined the Norwegian experience of a decentralized system of land use control, land acquisition and expropriation and identified a number of issues such as lack of standards on how the function on land use decisions connected with land acquisition should be performed. Lack of an institutional framework, lack of capacity and the *preference for*

negotiators who do not have any policy guidelines for their service are highlighted. There are *no standards* of organisation; competence is lacking; procedures of land use control are not in place and also that there are no land use specialists and this calls for a Norwegian national discussion upon professionalism within the public land acquisition institutions reforms.

Navratil and Frank (2007) investigated the interaction between expropriation and the cadastre and presented a conceptual model for land registration legislation in new cadastral systems. The simple cadastre can be used as a framework in which to analyse questions of land management independent of national particular solutions. The main goal however should be to improve the *protection of ownership rights* in land. The paper asserts that expropriation processes benefit from a well *organized land registration system* and the level of support provided by a cadastre can influence expropriation procedures. From the forgoing, it would appear that expropriation systems are quite diverse in nature and are based on enabling statutes and policy guidelines.

4. NEED FOR EXPROPRIATION AND ALTERNATIVES

Governments all over the world are usually faced with land use demands for development and infrastructure provision. Although most of these challenges are met through expropriation or compulsory acquisition. There have also been suggestions for alternative approaches and methods. Lehari and Licht (2007) propose a novel solution for “squaring the eminent domain circle” when large-scale, for-profit development projects require the assembly of land from numerous private property owners. Such situations are referred to as “anticommons” based on the ‘public purpose’ principles of compulsory acquisition and compensation and often leaves landowners under compensated. The proposed model is expected to open a promising new route for creating the right incentives for private developers and for public authorities to exercise eminent domain powers for land assembly only in development projects that are truly welfare enhancing. Although the mechanism does not purport to ensure that all parties involved will always be completely satisfied, it does offer a significant improvement on the issue of fairness and justice toward simple-rank landowners.

Yomralioglu, Uzun and Nisanci (2007) examined voluntary acquisition of land in Turkey. The procedure of voluntary acquisition is usually applied when a landowner wishes to obtain a construction permit from local authorities and the cadastral parcel does not fulfil zoning requirements (e.g. minimum length and width). The landowner is required to find alternative solutions to meet the zoning requirements. The basic principle is to re-demarcate existing cadastral parcel boundaries according to the rules of zoning plans. Options such as boundary exchange, land readjustment, subdivision and land consolidation were discussed. Maasikamae, Jürgenson and Lihtmaa (2007) reviewed the problems of land acquisition and expropriation for development in Estonia. The presentation addressed voluntary tools of land acquisition and suggests that this approach to land acquisition would be more accepted if compared with the compulsory tools. A relationship was established between planning and expropriation noting that the presence of plans (detail and master plans) happens to be an important precondition for land owners to accept the land expropriation.

Nuuja, Falkenbach, Havel & Viitanen (2007) reviewed the coercive purchase of a missing part of a plot in Finland, a procedure which aims to enable the implementation of a detailed level land use plan for building purposes in situations where the real property division and ownership do not correspond to the plan. The Finnish expropriation tradition allows parties other than a public authority the right to compulsory purchase and coercive purchase of a share in a common area or coercive purchase of a missing part of a plot by a private land owner. In all instances of expropriation the requirements of public need and full compensation must be met. The paper focuses on the procedure of coercive purchase of a missing part of a plot, regulated by the RFA Sections 62-64 and recognizes that the significance of the procedure is in the incentive it gives to the vendors to promote the plan implementation through voluntary transactions. It also discusses the shortcomings of coercive purchase.

5. EXPROPRIATION PROCESS, VALUATION AND COMPENSATION

There were several presentations on expropriation processes, valuation and compensation. Valuation for compensation in compulsory land acquisition is driven by the provisions of the Acts, Decrees and other relevant statutory enactments guiding the process. This framework usually specifies the basis and methods of assessment, as well as the procedures, heads of claim and roles of respective parties. It is influenced by the level of socio-economic development of particular nations; their development needs, cultural norms and land-use patterns. Also influential is the level of development of the appropriate national professional body.

Deveikis, Aleksienė and Galinienė (2007) examined the development of procedures and the role of valuation in compulsory purchase of property for public needs and compensation in Lithuania. Single property appraisal and mass appraisal systems are discussed. Good practice in cadastre and real property registration in Lithuania encourages good practice in compulsory purchase because information on market transactions is available and very relevant and important in the real property valuation, particularly in valuation in case of expropriation. However, there often seems to be problems in determining the compensations.

Kucharska-Stasiak (2007) analyzed issues of uncertainty of valuation in expropriation processes in Poland and postulates that a weak legal system; an unreformed land and mortgage register system; lack of local zoning plans; and lack of capacity amongst valuers; collectively do not allow the real property market to function efficiently. Uncertainty in a market value basis for compensation was examined and suggestions that market value cannot be recognized as a correct basis for calculating loss incurred by the expropriated party because of uncertainty and the hypothetical nature of market price. Issues such as the individuality of value were considered using a special purpose building design for a blind owner as an illustrative case for which a proper comparable may not exist and suggests that the market value should only be indicative of the lower limit of compensation. Also Zrobek and Zrobek (2007) examine the current state of just compensation for real estate expropriation in Poland and make proposals for changes. The study shows that the principle of calculating compensation according to Polish law leads to the conclusion that there is a fair amount of good will to compensate owners of expropriated real estate for the loss that they incur. Nevertheless, the *law is not perfect*. In many cases, persons being expropriated feel

aggrieved by the very fact of the expropriation itself as well as by the amount of compensation offered to them. This is particularly true in the case of elderly persons, who tend to feel greater resentment caused by the loss of their real estate. More often than not, they cannot accept new conditions in which to live or resume their professional activity, particularly in cases where it is not only land that is expropriated, but also buildings. The compensation equal to the market or cost-based value of their built over real estate in some cases is usually not sufficient to buy new real estate.

The problems in compensations were addressed by many others, too. Lin (2007) discussed the protection of property rights through compensation in Taiwan where currently the same method of valuation is applied to both property taxation assessment and expropriation compensation. As a result, the tax based value has proven to be significantly below the market value. The existence of an ad hoc valuation rule in Taiwan in which the local valuation committee is entitled to raise the announced current land value for properties to be expropriated in the near future has also resulted in some properties being *over-compensated* whilst others remain *under-compensated* relative to market value. Salauyova (2007) reviewed compensation in compulsory purchase of residential property in Belarus. Since 2007 the compensation is assessed by special organisations with qualified valuers. Compensation can be either monetary or relocation. According to her the compensations are over two times higher than the market value but the treatment of landowner is not equal. Tomson (2007) interprets key issues in valuation for expropriation in Estonia where valuation is carried out by private valuers and not by valuers in public authorities. The main issue addressed is the contradiction between market value and economic loss because in many cases there is no connection between market value and losses from point of view of property owner. He concludes that it is complicated to develop legislation because of insufficient feedback from the practice and at the same time practice is poor because of gaps in legislation.

Argerich and Herrera (2007) make comparative analysis of expropriation laws in force in the Argentine Republic to identify distinctive features that appear in the different jurisdictions and emphasize the need for unifying criteria in order to guarantee an integrally *fair value*. The National Constitution of the Argentine Republic recognizes the subjective right to private property. To fulfill the development of public utility, the State can deprive the owner of real property on a compulsory basis, following specific procedures and paying a prior compensation, in money, integrally single and fair. However proceedings established by Law in the different Argentine provinces for the initial determination of previous compensation to real properties expropriation indicate the enforcement of *diverse criteria* which impose, in most cases, the estrangement from any conciliation form.

Mangioni (2007) considered the epistemology of value in the assessment of Just Terms compensation in Australia. The principles which govern the assessment of compensation in Australia were examined and gaps identified gaps in the parity of compensation that impact on some parties in the compulsory acquisition process. The epistemology of value in the assessment of Just Term Compensation provides a construct in which the commercial assessment of value can be defined in settling compensation matters. The basis of the argument supporting the compensation assessed is important and the presentation suggests that valuers establish points of agreement and differences in expediting the *resolution process*. This can only be achieved when valuers assume the role of determining market

value when they act as advocates, regardless of whether they act for the acquiring authority or dispossessed party. Elliott (2007) investigates the conflicts in infrastructure provision and property values in Australia and presents a conceptual model of risk perception, amplification and worsening. The developed conceptual model facilitates understanding of the attitudinal component of stakeholder concern in terms of risk perception and considers that the land acquisition process itself is crucial to the risk perceptions of affected land owners. It facilitates the explanation of variations in worsening associated with the provision of High Voltage Overhead Electricity Lines (HVOTL) and links these value impacts to factors that cause variations in public perceptions of infrastructure hazard. The conclusion is that risk perception and its assessment influence buyers' and sellers' attitudes to decisions about real estate price and value. See also Crawford (2007) who e.g. pointed out the role of solicitor and the work together with all stakeholders.

Norell (2007) addressed the issue of market value as a fair and objective measure for determining compensation in compulsory acquisition of land in Sweden. The owner's satisfaction with market value payments; fairness with respect to the possibilities of acquiring an equivalent property; whether the market value is an objective measure for determining compensation and how uncertainty of valuation could be accounted for was the main focus. According to him the market value is normally too low for a property owner to feel been fully compensated. Because of that he recommended to use a higher value i.e. "safety" margin, however, yet taking into account that the level of compensation should result in a fair balance between public and private interests.

Finally, Heinonen (2007) discussed the concept of 'quality management' which usually is associated with designing, developing and implementing a product or service. The critical success factors of an expropriation process are identified as high quality of the compensation valuation procedure; *uniform processes* in all units; reliability of a cadastral system, customer satisfaction. The 'tools' of the NLS quality management system include clear process and quality responsibilities; detailed process and product descriptions, *process instructions, manuals and standards*. The sound reputation of the NLS as the expropriation authority is, among other things, based on the strong process based quality management system.

6. COMPULSORY ACQUISITION IN DEVELOPING COUNTRIES

There were four papers in this category which addressed compensation issues in developing countries. There are a few examples world wide where pro poor approaches to compensation and expropriation have occurred and research is generally lacking in this field. Westman (2007) discussed the need for pro poor approaches to compensation and expropriation in developing countries. The presentation focused on forced evictions and compensation and emphasized the need to continuously improve land administration tools to include the urban poor. The role UN-Habitat has played in facilitating the creation of a Global Land Tool Network (GLTN) for the development of pro-poor and gendered land tools was also highlighted. To tackle the challenges in developing a flexible infrastructure and standards organisations like FIG could play a significant role in developing pro poor approaches to compensation and expropriation in developing countries. Landford (2007) examined power relationships in compulsory land purchase from a grassroots and human rights perspective and suggests that compulsory acquisition proceeds rapidly where the political, economic and

legal power of those affected is weakest. Within the last decade, large-scale public infrastructure projects - dams, roads, electrical networks, major events like Olympics, have resulted in millions of people being forcibly evicted city's appearance. Also the definition of 'public purpose' is increasingly stretched to include private purposes.

Nuhu (2007) examined the process of land acquisition and compensation in the development of the new capital territory Abuja, in Nigeria, and reveals that the existing provisions of the law cannot compensate dispossessed land owners adequately. It attributes the controversies associated with compensation to the provisions of statutory methods of valuation contained in the Land use Act (LUA) and suggests the need for reforms in statutory valuation processes in Nigeria. Kakulu (2007) reviewed 'valuation process' issues in the assessment of compensation in compulsory acquisition of land in Nigeria. Particular reference was made to the process of land acquisition and compensation for the construction and development of oil and gas production infrastructure in the Niger Delta region. The framework of analysis was within the context of conflict assessment and resolution. Some of the factors responsible for the assessment and payment of *inadequate compensation* to expropriated land owners is believed to contribute to the current crisis in the Niger Delta region. Valuation for compensation unlike other forms of valuation can be subject to scrutiny by other parties such as civil society and human rights groups if there is an outcry of inadequacy and in order for valuers to be protected, standards are required. In terms of accountability, valuation for compensation is not only expected to satisfy professional standards of valuation but in addition, constitutional provisions and international requirements for just, fair, adequate and equitable value must be met. It identifies lack of transparency; lack of professional standards; bad governance and an underlying fabric of corruption as being responsible for inadequate compensation assessment and payment.

7. HISTORY AND DEVELOPMENT OF EXPROPRIATION

There were five presentations in this category and with each addressing different issues on the history and development of expropriation. Gregory (2007) discussed on the development of Australian law which was modelled on English law. Grover (2007) handled the development of compulsory purchase in the transitional countries of Central and Eastern Europe since the Soviet era. Those countries that have joined to EU have spurred to develop fair systems, e.g. because of adoption of European Convention on Human Rights as condition of membership.

Zaleczna and Havel (2007) discussed the institutional changes, social capital and old expropriation consequences in Poland and examine previous acquisition and recent claims for the land back or for unpaid compensation. The paper considers issues such as the form of restitution in such cases and the limits of the claim and considers possible solutions and acknowledges that although post-socialist reforms have occurred in Poland, there is still the lack of a general restitution law and that this introduces risk and uncertainty in the property market. Sometimes justice on restitution is given after 40 years and it is difficult for valuers to gather enough data to value the historic property. The Polish authorities and society have had to deal with a variety of restitution claims that had originated under the totalitarian regime, and they have had to act in a manner ensuring that the rights of all those wronged are given equal consideration. *Restitution* is necessary to build the institutional framework for the

real property market in Poland. Zrobek (2007) discussed proposed changes to the principles and procedures of real estate expropriation in Poland after 1945 while Maasikamae (2007) reviewed some of the problems of land acquisition and expropriation for development purposes in Estonia

8. FAO/WB INITIATIVE

A lot of attention was given to the background and context for the FAO/World Bank Initiative on and draft guidelines on Compulsory Purchase and Compensation. There were three presentations in this category. Hilton (2007) presented a case study on Ethiopia; Knight (2007) presented an overview of the Draft of FAO/WB Initiative on Compulsory Purchase and Compensation in the form of Land Tenure Studies Series Guide to Compulsory Land Acquisition and Compensation. Some of the issues raised included valuation and compensation in complex situations such as partial rights, religious sites, extended families, customary land and informal rights. Policy and implementation issues surrounding resettlement as a form of compensation were discussed along with the need for individual countries to draft their own resettlement laws that promote fairness, equity, and justice. Keith (2007) discussed some of the critical issues in compensation valuation and the need for an international code. A six point check list for compensation was outlined to include the following - who can claim; compensation for land taken; compensation for other losses; decrease in value for other land held; increase in value of other land held; and prompt payment. Late payment of compensation re-presents a situation for claims about inadequacy of compensation.

9. SPECIAL CASES WITH INFRASTRUCTURE

There were five papers in this category which addressed different issues connected somewhat with compulsory acquisition and compensation. Orni (2007) discussed compulsory acquisition for tunnels in Israel and Sturgeon (2007) presented an investigation into the impacts of compulsory acquisition of subterranean property interest for transport infrastructure projects in Australia and its effect on property values. Graham (2007) presented problems to legalise an existing road over Maori land in New Zealand where external factors affected negotiations and made the municipality were not willing to use compulsory acquisition. Korhonen (2007) examined whether land expropriation supports innovative procurement in road projects in and concludes that it does support innovative procurement practices in road projects.

Kotilainen (2007) analysed the role of different actors in conflict management in highway and railway projects in Finland based on recent legislative and procedural reforms. The presentation recommends the application of conflict resolution and management theories as an analysis tool. It addresses the issue of inequality introduced into the process where the informing regulations vary between the local inhabitants and those living elsewhere and as such all property owners are not put in an equal position. Another issue of increasing inequality relates to an agreement-based land acquisition in which the authorities use their unilateral discretion. The presentation concludes that, conflict theories adapted to Finnish circumstances may be an approach that is applicable for analysing the actions, the actors and the roles of the actors in route projects.

10. FINDINGS

During the seminar there were also three workshops and a final panel discussion. In this chapter the discussions are reviewed based on the notes of the writers and the presentations above. Concerning the procedure of expropriation it can be observed that, from the perspective of the acquiring authorities there is a need for a speedy timeframe, low costs process for compensation, avoidance of external costs of expropriation, and: there should be sufficient resources for expropriation. On the other side, from the perspective of affected occupants, users, owners there is the need for transparency and information, avoidance of expropriation (generally - it has to be absolutely necessary), a proper planning and negotiation process and a fair compensation. Those issues are also relevant for foreign investors. Further the interests of women/men, landlords/tenants, formal/informal and indigenous and customary have to be recognised; resettlement can be an option in certain situations, if possible to be combined with rights to return.

Technical expertise is required and decent salaries are important to avoid undesirable situations when professionals are concerned. All these can be supported by: provision of technical expertise, development of guidelines on particular issues, expropriation-related land tools: e.g. better planning processes, compensation, enumeration, conflict resolution. There is also the need for the provision of more resources for acquisition, availability of sufficient professionals, advocacy support, legal support, international and national complaint mechanisms, while training also remains a key issue.

When assessments and compensation come into the process there is a need for uniformity based on (international) standards. Transparency, equity and free public access to property sales information are a basis for success and should be considered to *increase* the amount for compensation well above any form of market value to achieve a quick acquisition process and to avoid wasting time and money on lengthy negotiations, the state should even have a limited time to agree on the quantum of compensation - if the state cannot agree on compensation in that time frame the state should lose the right to acquire the land. When standardisation comes in it will be necessary to provide a single definition for the term of value - which countries can amend for their purposes as appropriate.

Where the co-operation FIG/FAO is concerned 'best practices' should be analysed to understand the valuation and compensation processes. It was also suggested at the seminar that there is the need to establish an international committee of experts to advise countries with specific problems. Guidelines should be on the necessary skills and support organisations to develop skills and capacity as well as relevant standards for compensation, assessment definition and procedures. The need for an authorising or licensing system for specialist valuers and other experts was discussed as well as the creation of independent and liable professional bodies to inform all parties. Mediation works well in practice, appeals could be skipped. Landowners should have a choice between resettlement and financial compensation and nominal values should be used in that situation.

Valuation as a process lends itself to criticism, as there is no universal answer to the question of value. Issues bordering on the purpose-of-valuation, value-to-whom, statutory

requirements and valuers subjective judgment are key issues that significantly affect the final estimate of value and cannot be ignored. What is valued is a bundle of legal rights and it is important that valuers have a clear understanding of titular rights and obligations. Any existing legislation that affects the ownership and use of land and buildings is part of the tools with which a valuer must be armed to do an exhaustive valuation. The statutory prescription of valuation methods for compulsory purchase or acquisition in most countries introduces additional complications into the valuation puzzle. What is allowed for by statute and what obtains in practice can be quite different. Valuation is concerned with an interest in land, commonly freehold, leasehold and sub leases, and it is very important for the valuer to establish right from the onset, what sort of interest he is required to value. The issue of land tenure is also of considerable importance where valuation is concerned since valuation is an assessment of the worth of rights existing in or over a property. Many countries have some form of freehold (fee simple) title but there may be variations in the bundle of rights that can be conveyed, and hence, differences in what may be assessed as a transferable right for valuation purposes.

Part of our findings is that valuation for compensation in most countries is controlled by government through multiple enactments. In others, it is prescribed for eminent domain valuations and sometimes for market valuations. The key concerns have to do with the following issues which are common to the process irrespective of country of origin namely:

1. Purpose of Acquisition
2. Basis of valuation
3. Methods of valuation
4. Heads of Claim
5. Definition and interpretation of terms used

11. CONCLUSIONS

The findings from the seminar reveal that the systems, procedures and practices in compulsory purchase vary a lot between countries. It seems according to this sample that there exists in every country a system for compulsory purchase although there is much resistance for using the tool and in many countries the situations are handled mainly through negotiations. However, it seems that there are also situations when compulsory purchase seems to be the only way to solve some problematic situations in land use. On the other hand, in some countries the tool is used more regularly as an effective tool for land acquisition, and it seems that the use of the tool can be also well accepted. The most problematic aspect in the use of compulsory purchase seems to connect to compensations; it is really a difficult matter with a lot of uncertainties. In addition there are no international standards dealing with assessment of compensations nor associations or conferences dedicated to discuss problems in compulsory purchase and compensations. There are of course good experts in every country specialised to the system in the particular country but even those countries there are not normally much discussion about these matters. It seems that the experts in this field has been left alone with there procedures and worries. And without discussion the systems are not developing at least effectively into the same global direction. Clearly there is a need for new openings. At least a few potential options seem to be available: international standards or

recommendations for good practices, research, education, exchange and dissemination of knowledge and know-how, and external country reviews.

Current research recognizes the need for international standards and codes of practice to be developed but there are indications which suggest that the development of such international standards is likely to face many challenges. Although the statutory nature of this aspect of valuation practice introduces some additional constraints to the development of global standards, such standards, if developed, could serve as a land tool for accountability in national compulsory purchase and compensation processes. It should therefore be preceded by a comprehensive assessment of existing global processes and systems to discover their commonalities, similarities and differences, and this could be used as a basis on which to then explore the feasibility of international standards. However, international recommendations for good practices in compulsory purchase would be a good starting point because they can be established without bigger research projects. Here FIG together with FAO could act as the main force in preparation recommendations and disseminating the information.

In any case, there is a growing need for intensive research on this subject. A suggested research methodology will consist largely of document reviews of enabling statutes, policy frameworks and professional practice codes of in selected countries within the United Nation states. The main parameters for consideration within the enabling legal framework will be their respective combinations of different parts of the process listed above. Classification of the samples and selection criteria should be based on developed, emerging and developing country profiles, and the presence or absence of properly developed professional institutions and guidelines. Socio-cultural patterns in different countries will also be considered. The proposed output from the research is a comprehensive and global account (or catalogue) of different statutory processes, systems, terms, procedures and methods currently existing and in use by professionals in valuation for compensation. Such a comprehensive account will show the differences, similarities and commonalities and should provide a clearer picture of the likely challenges this would impose in the development of international standards and codes of practice, and form a good basis for education and exchange of knowledge and know-how.

Research results and information by itself might give too little incentive for countries to be interested to analyse and if needed to change there systems in compulsory purchase. A good tool here could be external evaluation of the systems in a country. An expert group from foreign countries could analyse the systems in a country and write a review with recommendation for needs for changes. These reviews could help authorities and politicians to adapt the common practices and rules, enhance thinking of problems in compulsory purchase and compensations, and add acceptance of uniform and transparent ways to act. It should be think over if e.g. FIG could create a practice for reciprocal country reviews.

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