

A Critical Review on Land Acquisition and Valuation Process across the World

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Abstract: The key challenges to built public facilities and infrastructure towards sustainable development requires Governments to enhance the interests of the natural environment. In some regions the process of providing such services is the acquisition of appropriate land. For major projects, several locations could be suitable for such purposes and the Government may not be able to purchase the land. In order to obtain land when and where it is needed, Government has the power of compulsory acquisition. Land acquisition was a challenging factor in India for project development. The process and techniques adopted in various countries are reviewed in this paper. It was observed that no single best practice exists, for land acquisition are available. Land acquisition practices through a well structured framework of principles, processes and compensation mechanisms can be developed for a transparent and feasible system. This can be accomplished by taking up research initiatives on valuation studies in Universities for the valuers and supporting experts

Keywords: Land acquisition, Compensation, Value of land, Resettlement, Policies.

I. Introduction

Land acquisition was one of the major problems in our country. The increase in population growth and rapid urbanization leads to infrastructural developments to meet the basic requirements of people in developing countries. In recent years these exists debate among politician, urban planners and public on land it is a peculiar good and partly because there is increasing scarcity for the developing activities (Chengri Ding 2007). This is because the tough regulations and complexities related to acquiring land today provide a huge affect to such people. The total life of the people mainly depends upon the land and about its usage for their survival. The guideline value and present market value of that particular land varies in a huge manner. The Government mainly acquires the land for the development of national roads and other public constructions. But the compensation provided for those land holders was mainly depend upon the guideline value of the Government and it will be very less as compared to the market rate. In order to make acquiring land easier and more beneficial, the Government needs to make more active laws for the process of acquisition. If a road has to be constructed through an area and it involves the acquisition of land , the compensation provided to the land holders will be very less. The land holders started to file the cases against them in this regard. It results in the delay of the project and wastage of men, material, labour, cost and duration for the project. So a detailed discussion is needed to overcome this issue and so that it will be helpful to increase the standard of living for the public and for the quick completion of the projects. Thus, the valuation part and compensation for the acquired land should be analysed in a detailed manner. The main objective of this paper is to review the land acquisition policies and procedures followed in various countries.

II. Review Of Literature

1. Review based on land acquisition policies and different compensation methods followed in other countries

Abd Azis (2013) carried out a study on legal analysis of land acquisition for public interest in South Sulawesi Province. This study is to analyze and determine the procurement of land, buildings for public purposes in accordance with the various legal principles and to analyze the substance of the legislation. The land acquisition was mainly based on the public interest and it was conducted by Local Government. The three main components of the Law Acquisition Theory are legal structure, legal culture and legal substance. The state may use the law to enforce land revocation institutions concerning Revocation of Land and Bodies. The parameter values of compensation is based on the location, soil conditions and market value of past five years and any other land rights comparable is taken into consideration for the determination of compensation.

Yi Hu et.al (2015) carried out a study on uneven compensation and relocation for displaced residents at Nanjing. State owned and collectively owned are the two types of Land ownership followed by the central Government of China. Compensation for the displaced property could be in the form of monetary compensation as well as property exchange. A questionnaire based survey was carried out to analyze the solution for the

compensation. Based on the In-kind and monetary compensation for the uneven compensation approach, uneven purchasing discount the questionnaires were prepared for the public opinion. It was carried out based on the previous and current affordable housing area. The compensation and relocation varies from place to place. So, the key to solve this problem is to establish a reasonable mechanism for compensating resettlements by avoiding displacement negotiations. The amount of compensation should be determined by the market, without taking into account the situation of households, such as their income or family size. In the resettlement process, low and middle-income displaced households who are eligible for affordable housing should be given priority to apply. Other households should enter the commercial housing market, instead of being entitled to purchase affordable housing. The fundamental reason for demolition conflicts is that local Governments' fiscal revenues heavily on land leasing. To reduce demolition conflicts in Nanjing, land-based revenue should be shifted to the levying of a tax on property stocks, rather than relying on one-time land leasing.

A study on urban land acquisition for sustainable housing delivery in Akure, Nigeria was carried out by Owoeye and Adedeji (2015). This study is based on the identification of problems associated with urban land acquisition in Akure for sustainable housing delivery with a view of mitigating them. The three survey techniques were used and that includes administration of questionnaire, interviews and observations. It was revealed that acquisition of land for the housing development becoming highly risk and problematic due to rapid population growth and improper land delivery system. Survey Research Design (SRD) carried out the data collection for this study. The systematic random samplings were used, a sample size of 252 was taken and it represents 5% of all housing units in the selected estates. The questionnaires were analyzed using both inferential and descriptive statistics. The Socio – Economic characteristics of respondents were identified using variables like sex distribution, educational level, occupational distribution, income distribution per month. It was used to determine the frequency and percentage, based on this Acquisition procedure will be carried out in these estates. The initial land use and present land use were identified for residential, commercial, recreational, educational and industrial areas. It has been observed that acquisition of land for housing development is highly problematic in developing countries. As the process of accessibility to land is complicated, long and expensive the Land use Act has not succeeded among the Nigerians. Thus, good governance requires promoting increased access to land, good credit facility for the low income people.

A study on payment of adequate compensation for land acquisition in Malaysia was carried out by Anuar Alias and Nasir Daud (2001). The law of land acquisition is mainly concerned with compulsory acquisition with the awarding of compensation to the owner. But if the land is acquired against the will of the owner, this can be done only by public interest, not in private interest. The main problem is to find the adequate compensation to be paid. The adequate compensation has various interpretations in different countries. This research is mainly carried out to framework the compensation structure, the practise of valuation and other legal instruments for determining the adequate compensation. A preliminary questionnaire survey was conducted for the data collection process. Two hundred and fifty questionnaires were distributed to public and private organisations based on the geographical locations. The survey results are based on the characteristics such as gender, designation, highest level of qualification, age, and number of cases valued and location of the organisation. The main advantage is the Government's tool to assemble land in resolving the land supply problems for development. The main disadvantage is the land acquisition was complicated, expensive and time consuming. This paper concludes that the compensation needs certain proper modification and other better alternative for Government to secure the land for the public development.

A study on contemporary processes of large – scale land acquisition in Sub – Saharan Africa was carried out by Laura German et.al (2013). This paper shows the relationship between practice and policy associated with customary rights protection of large scale land acquisitions and case study analyses from Mozambique, Ghana, Zambia and Tanzania. The procedure followed in practice for the land acquisition consisted of comparative assessment of stake holder experiences across multiple studies. A set of parameters is framed for the policy analysis and they were followed differently at these four areas. Only legislated for land acquisitions by the State, for which replacement of land of equal value and suitability should be provided and “the cost of disturbance” covered (State Lands Act, 1962; Constitution, 1992). For all types of land acquisition, “provisions should be made for persons displaced” (National Land Policy, 1999). Land revenues should be shared between the Traditional Council, Stool, and District Assembly according to a constitutional formula (Constitution, 1992). DUAT title holders must pay an “authorization tax” and annual ground rent to Government (Land Law, 1997; Land Law Regulations, 1998). Where “public interest” projects (e.g., transport, energy or water supply lines) place restrictions on existing DUATs, the public or private entity involved must compensate the title holder an amount corresponding to the value of the harm resulting from the non-utilization of the affected area (Land Law Regulations, 1998). Any person whose customary right of occupancy or recognized long-standing occupation or customary use of land is revoked has right to full, fair, and prompts compensation (National Land Policy, 1996; Land Act, 1999). Compensation shall be for the value of un-exhausted improvements and loss of profits and include a transportation, accommodation, and disturbance allowance

(Assessment of the Value of Land for Compensation Regulations, 2001). When land is acquired compulsorily by the state, compensation should be equal to the open market value of the property (Land Acquisition Act, 1970; Constitution, 1991). When land is not alienated for a “public purpose,” the president should receive compensation for the alienation and ground rents (Land Act, 1995). As part of environmental mitigation measures, project proponents should provide compensation. There was a wide variability in the customary rights and legislated processes for major cases and so the compensation was limited. Observed insufficient shortcoming in practice and legislation may suggest to some the need of improving, strengthening Government authority and oversight in a bid to improve the Government in a wide manner.

Syed Al Atahar (2013) discussed about the land acquisition and resettlement in Bangladesh during the construction of Yamuna multipurpose bridge. The land acquisition law in this country gives the right to take property for public purposes. The Government of Bangladesh is empowered to acquire the land in two ways : 1) Every citizen have the right to hold, acquire, dispose or otherwise transfer the property, 2) Shall provide for the acquisition with compensation and either fix the amount of compensation to be paid. Various types of Acquisition Laws were followed in Bangladesh. In 1976, the Government of Bangladesh established the District Land Allocation Committee (DLAC) and a Central Land Allocation Committee (CLAC). The Requiring Body (RB) and Acquiring Body (AB) under these two committees acquire the land. Under the compulsory Land Acquisition law 1982, Market value is taken for the valuation purposes. Sometimes there may be increase of 20% from market value (50% in some cases). Under this law, there is no obligation for relocation but it was not followed due to suffer from lack of work, money and transportation all at once, as they lose their daily activities and income. Then the questionnaire was prepared to get the opinion from public and based on that national framework was designed for the Land acquisition.

A study on consultation in large - scale land acquisitions, an evaluation of three cases in Mali was carried out by Kerstin Nolte and Lieske Voget-Kleschin (2014). This paper compares the claims found in private governance instruments and voluntary guidelines with evidence from three land acquisition processes in Mali.

And also it investigates the decision-making process by local population. The land acquisition process mainly on win-win situations as it gives benefits for both the investors and local population. The land acquisition can also be achieved smoothly by creating negative impacts by supporting the local people. So a clear framework is required for consultation in the case of land acquisitions and to analyze the proposals for the voluntary guidelines and private governance instruments.

Muhammad Bashir NUHU and Aliyu (2009) discussed about the compulsory acquisition of communal land and compensation issues, the case of Minna metropolis. The country has witnessed the recovery of disputes on title to land, especially as it relates to compulsory acquisition by the redundant military administrations. This paper was based on the critical aspects of compulsory purchase and compensation followed in Nigeria. The compensation provided to the public should be implemented to reflect the current realities. The methods of data collection in this study are two; (i) reported and unreported court cases in Nigeria, particularly in the study area; Minna (ii) interviews to authenticate earlier views stated in the reported cases. Data were collected from the Registry of the High Court of Justice and the methodology for the valuation of Buildings for Compulsory acquisition in Nigeria is carried out by Replacement Cost approach method and it was based on current costs of construction and appropriate depreciation for the building. The market value was followed for the compensation of land as carried out in countries like United Kingdom, Zambia, Kenya, etc. The paper recommends for a radical organization of all conflicting laws on compulsory purchase and Compensation as this will improve the building of logical valuation basis that would guarantee that a person deprived of his property through compulsory purchase is entitled to no more and no less than the owner deprived of. The Compensation code should be reviewed to include possible claim for disturbance. The displaced persons should be resettled as of right and where Claimants are willing to acquire alternative houses, Government should advance loans enabling environment for the Claimant to achieve their desire. It was suggested that Government should strictly hold on to the requirements of the Constitution in particular which provides that compulsory acquisition must be exercised in the manner and for the purpose prescribed by a law. The purpose has been illustrated by the Land Use Act under section 28(1). Also in public acquisition of land, strict adherence should be focused on the provision of the constitution. The Land Use Act should also provide a legislative definition of the phrase ‘public interest’ as it affects land usage in Nigeria. LI Yong-feng (2009) carried out a study on the effect of coal resources development and compensation for damage to cultivated land in mining areas. The amount of compensation and time is determined for arable land in mining areas. The amount of compensation for damaged arable land is determined based on Working field area, Subsidence area, Subsidence arable land area (acre), Period of damaged occurrence (year) Loss of arable land during period of damage, Sum of the reclamation costs of subsided arable land in different periods, Decreased compensation for net arable land, Compensation for damaged arable land. amount of compensation for arable land damaged in coal mining area is sum of the reclamation costs of subsided arable land in different periods plus loss of arable land during the periods when damaged occurs plus compensation for a net decrease in the area of arable land where the recovery costs of

subsidized arable land can be budgeted according to the recovery planning of subsidence land in mining areas. Finally, from a policy perspective, applicable proposals for reasonable arable land resource compensation are proposed to smooth the progress of the coordinated development between coal resource exploitation and socio-economy development in mining areas.

A study on the compensation and resettlement policies after compulsory land acquisition for hydropower development in Vietnam was carried out by Pham Huu Ty (2013). Data collection is carried out for secondary as well as primary data for analysis. Both qualitative and quantitative methods were applied to collect both realistic information such as income sources, household information and household size concerning the ideas, thoughts and experiences of resettled people. Both methods have strengths and weaknesses. The main principle of compensation followed was “land for land”, i.e., expelled land holders could receive an equal amount of land in the new settlement which in principle corresponded to their land loss. It is found that the majority of households were dissatisfied with the compensation and resettlement scheme. Complaints frequently mention the lack of arable land, poor soil quality, food insecurity, loss of income and job, loss of access to forest, inadequate and unfair compensation, and the difficult resettlement site. The efforts of the State to improve policy by framing better land laws and specific guidelines for compulsory land acquisition for hydropower dam construction are not sufficient to result in effective compensation and resettlement policies. The participation mechanisms in the compensation and resettlement process for people losing land as well as other local NGOs and community-based organizations are not well-defined. The involvement of affected people in decision making is not mandatory in compulsory land acquisitions. There is very poor consultation, collaboration, and little choice open for affected people in the compensation and resettlement plan. Hundreds of hydropower dams are being constructed and planned in the coming years, and therefore good governance measures of land acquisition must be urgently put into practice.

Huggins et.al (2013) carried out a study based on the land acquisition in the context of institutional problems in the legal and administrative framework in Trinidad and Tobago. The compensation was one of the main problems for the affected land owners and entities later in the process. In many cases, though the budget estimates are submitted before the commencement of each financial year the Government has acquired and used private properties before compensating the land owner. In many circumstances, the public are paid years later from the date of settlement and it costs additional interest 9% per annum. The process may involve problems of ownership and delays in the compensatory negotiation process, due to legal title being vague. Acquisition of land by the State acts as tool to assist in the management of a country’s natural resources. This tool may be used to help mitigate and prepare against damage from future disasters in a country and assist in the satisfaction of human needs and wants via land development. Human resource capacity can be increased when jobs are created, unemployment reduced, skills developed and experiences gained, when an acquisition project is undertaken to develop land.

Rados Sumrada et.al (2013) carried out a study on the acquisition and expropriation of real property for the public benefit in Slovenia. Land right issues and their influence on political and economic reality have made the recognition of the right to land as a human right very complicated. Land rights are also linked to the right to property, including the right not to be arbitrarily deprived of one’s property (Westman, 2008). The purchased price should be settled based on demand and supply principle in agreement. In case of real property acquisition, the compensation can be provided based on the market value and it is meaningful. The valuation of real properties is mainly based on three market approaches and it was the cost approach, income approach and sales comparison approach. The substitute for the real property was also provided based on the owners interest over it and the values are adjusted either by increased compensation or the difference is supplemented. The expropriation is permitted if it is in accordance with the legislation, and if the greater good cannot be achieved by regular purchase or suitable exchange of the needed real properties. The expropriation cannot take place if the municipality or state authority disposes of any suitable real properties for the same purpose. A challenging issue in the Slovenian system of real property acquisition for public benefit is also the complexity and time demanding transaction procedures.

Hui et.al (2013) carried out a study on the policy and praxis of compensation for land expropriations in China. Chinese farmers are facing difficulties in their daily lives, pension, employment, etc. The land acquisition in china was mainly based on the notion of public interest. The state Governments pays the collectives a fee which takes three elements into account, namely, (1) resettlement allowance for the displaced peasants, (2) compensation for the land and (3) compensation for lost crops (Lin and Ho, 2005). The amount of compensation payable to these collectives cannot be higher than 30 times as much as the value of the land’s average output over the previous 3 years. The major findings existing policies on land acquisition, particularly in terms of compensation, have been gradually improved in nominal terms, land-lost farmers are still subjected to various forms of exclusion in the society. The central Government should consider revising the existing measures regarding social security, and introduce other supplementary policies that help enhance their competitiveness in the labour market and discourage the psychological, cultural and social network exclusions,

in the backdrop of rural–urban disparity in order to address the potential social issues caused by the entry of land-lost farmers in the cities.

2. Review based on the Compensation Acts and Procedures followed in India

Several acts govern the land acquisition process in India. Of these, the most prominent is the Land Acquisition Act of 1984, which was partly amended in 2007. This Act is invoked in the majority of land acquisition cases. Most of these Acts have been reviewed and approved in the literature on land acquisition.

Land acquisition is mainly composed of three processes. First, affected parties are to be identified and a fair process by which stakeholders are identified and are given a chance to voice their views. Finally, an adequate compensation must be arrived upon and distributed to them. On the side of it, the Land Acquisition Act of 1894 seems to take all of these three major issues into consideration. The Act contains a definition of “public interested” in the project which is proposed to be used to determine affected groups by the acquisition of the land. Then public authorities are essential to submit several notifications proceeding to acquiring the land. Affected landowners are provided with sufficient opportunity to contest both the amount of compensation and acquisition of the land that is being paid to them. The Act defines a number of ways by which compensation can be awarded – including assets present on the land, a consideration of the market value of the land, income derived from the land for compulsory acquisition (Government of India 1985). There are several shortcomings in the sensible implementation of the Act. First, there is no clear basis as to how affected parties can be determined and the existing definition is imprecise. Very repeatedly, only the minimum subsets of landowners who are affected are identified. Sharecroppers, Encroachers, Landless labourers who have an importance in the land are not compensated. Several people practising agriculture are not legally registered and thus not eligible for compensation. Second, the process of acquisition is very time-consuming and can take up to three years even if implemented without unnecessary conflict. Further, although the broad steps of the land acquisition process are outlined in the Act, an enormous amount of discretion is vested upon the district collector and the district tahsildhar, who effectively adjudicate on several objections related to the acquisition as well as on the compensation to be provided (Raghuram et al 2001). At last, no clear formula is given as to how compensation must be intended. The real value of this compensation is further reduced due to the time lag between determining the compensation and awarding it to project-affected parties. The injustice of the compensation amount has been established in several cases, where, the courts have ruled that the Government pay compensation more than three times the original amount, to affected parties. Even so, the process of obtaining such an award is extremely lengthy and in the short-term, affected groups is effectively uncompensated and landless.

III. Summary

Inadequate compensation was a major challenge which normally causes delays in implementation of Government projects as landowners appeal the compensation awarded to them. In countries like Indonesia, Nigeria and India based on the public opinion the Land acquisition was carried out and compensation were provided to the affected people. Compulsory acquisition is carried out in various countries like Malaysia, Bangladesh for their infrastructural development. In Trinidad & Tobago, the compensation is provided after the completion of the Government project only. In Slovenia based on the demand and supply principle and three approaches compensation is provided to the land owners. In Mali, the Government compares the guideline value and market value; they will prefer win-win situations as it would benefit both the public and Government. In Nanjing, both monetary compensation and property exchange is followed based on the area acquired by them. In Vietnam, Land for Land approach is followed majorly based on the willing of land owners. In India compulsory acquisition was followed before the amendment of LARR bill and now it was revised for the defence, railway purposes but it was not able to pass due to the lack of majority in the Rajya Sabha by the present Government.

In calculating compensation amount valuers use market value without taking into consideration the concept of highest and best use. There is need for the concept to be considered when calculating market value to minimize appeals of compensation by landowners. An open and reliable real property sale price register must be available to all parties. Currently data available in the land registry is distorted because land owners always quote low figures to evade payment of stamp duty. When it is correctly quoted it is very difficult for landowners to access them because of Government bureaucracy. Government has to take charge of research of land price information, price factors and their effects on land prices. It is necessary to organise valuation studies and research in Universities for valuers and supporting experts. Government has to have a leading role to make research and develop valuation issues related to compensation. Strict measures should be taken to avoid manipulation of data by private valuers in collaboration with landowners and Government valuers with the aim of getting higher compensation.

IV. Conclusion

Regulations should be specific enough to provide clear valuation guidelines, but flexible enough to allow room to determine equivalent compensation in all situations. The acquiring agency should take steps to ensure that there are a sufficient number of independent valuers and advocates to help people to assess their compensation claims. The land acquisition acts practised in few countries provides a clear framework in which the current market value has been given as compensation which was not followed in many developed/developing countries. In spite of all, the major governing factor for the prediction of future land value is missing in the policies and framework. The policy makers should consider the welfare of public when framing the compensation acts during land acquisition.

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