Land Acquisition in Developing Economies[1]

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Key words: land deliver, land acquisition, good governance

SUMMARY

Land administration theory has developed a new, multi-disciplinary approach to building, designing and managing land administration systems (LAS). The articulation of the approach runs parallel to development of land indicators to improve reliability and usefulness of international comparisons of LAS tools, especially in response to demands for good governance.

These developments form the background to formulation of human rights based land acquisition standards. However, land delivery processes in general, and the sub-set of compulsory land acquisition and resettlement processes, in particular, are complex and cross-cutting. In developing countries, technical issues, rather than humanitarian issues, tend to paralyze attempts to reform of land delivery processes. Capacity building is therefore a key component of reform of land acquisition processes. New tools are emerging that both improve technical capacity and assist with application of human rights based land acquisition principles.

1.   NEW LAND ADMINISTRATION APPROACH

Features of the new approach

The analysis of land problems is assisted by a new multi-discipline approach to land administration. This approach features:

−   Use of the land management paradigm to focus land administration functions and related land policies and land information infrastructures on sustainable development

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[1] This paper is based on the keynote presentation that Jude Wallace gave at the 7th FIG Regional Conference in Hanoi, Vietnam, 19-22 October 2009. This invited paper addresses the issue of land acquisition in emerging economies that will be further explored in the FIG publication to be launched at the FIG Congress in Sydney in April 2010.

(Enemark 2004). The country context remains the underlying starting point of any decisions and strategies (Figure 1 below).
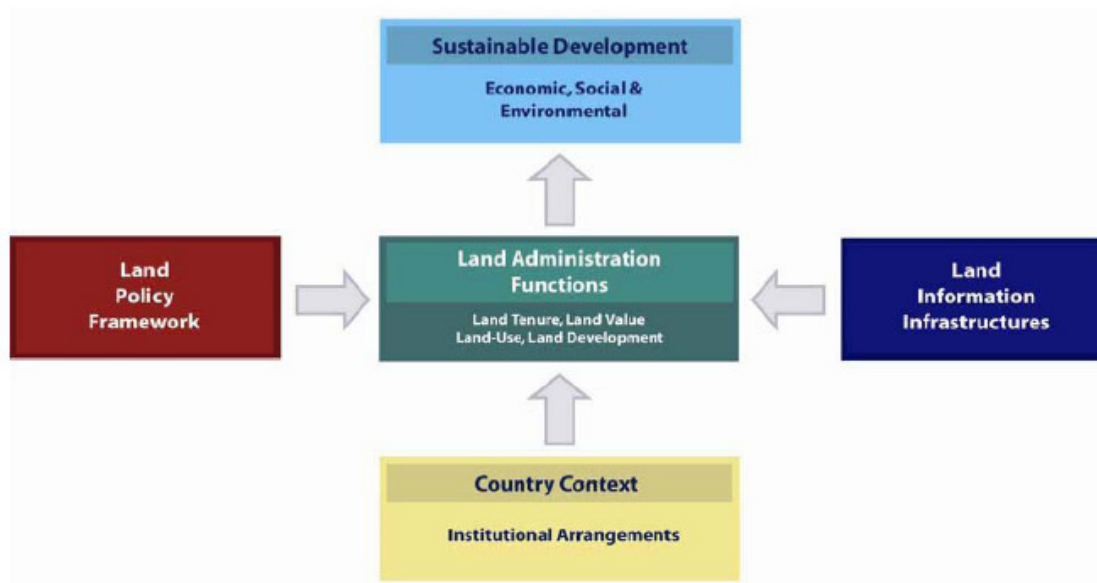

Figure 1. The land management paradigm (Enemark 2004).

− A tool-box methodology that allows solutions to be developed in the context of a country's capacity and history. This methodology contrasts with the out-dated, one-size-fits-all method of applying technical Western land administration tools to countries where land markets, if any, are informal and capacity is minimal. Figure 2 below shows the basic idea of a building a local land administration system (LAS) using suitable tools to perform essential functions such as registration, tenures security, cadastres, boundary management, disputes, professional regulation and many others. Ideally, the selection of tools is influenced by best practice concepts, and the country's fundamental land principles.
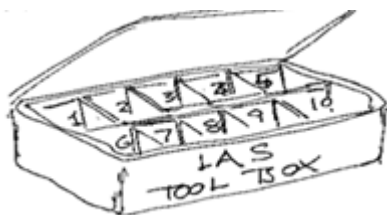

Figure 2. The land administration system tool box (Enemark 2005)

− Identification of new opportunities associated with technologies, especially spatial technologies (Williamson, Enemark, Wallace and Rajabifard, 2010). Spatial technologies alter the range of tools available to nations.

This multi discipline approach is described in detail by Stig Enemark (2009). If used cleverly, the approach improves management of land, information and, ultimately, reforms processes in all economic sectors – government, business and civil society. The LAS needs to be designed

specifically to capture the new opportunities. National agencies, institutions, processes and policies must operate according to a coherent design. The design is especially essential if information is to be used effectively. For example, the ability to utilize spatial technologies depends on planning and building layers of land information so that they are interactive. In mature systems, location or place becomes a means of organising and sorting all kinds of spatial information. The cadastre, especially the reliable, large scale land parcel map that defines the way people actually use, think about and organise their land, forms the fundamental layer of spatial information in a national spatial data infrastructure (SDI). The take up of geographic information systems (GIS) in product management, property management, transport, emergency services and many other applications is assisted. Once information is organised, place or location is confidently identified according to scientifically reliable methods so that other non-spatial information can be organised according to place (Williamson etc). The multi-disciplinary land administration approach ultimately facilitates spatial enablement the government, business and society.

Given the comparatively recent arrival of the new spatial technologies, no country has yet achieved this ideal LAS. The importance of the new approach however cannot be neglected. Every nation is constantly engaged in building its LAS and managing its land. The message is to design changes that build systems that use the new approach to deliver overall sustainable development. The new approach is particularly relevant to developing countries with limited resources. Financial and capacity limitations can be overcome if nations are able to justify the financial investment in technical and human resources needed in their LAS. Tracking of comparative national performance in land administration functions is increasingly providing incentives for take-up of modern systems.

Development of "land indicators"

Alongside the theoretical identification of the multi-discipline approach to land administration, another related revolution in land information has improved comparative methodologies. After about 1995 international agencies made concerted efforts to develop "land indicators", capable of being integrated with more general indicators. The general indicators include, for example,

- corruption perceptions (Transparency International, www.transparency.org),
- wealth and living standards (Gini index of inequality in income or expenditure, http://www.photius.com/rankings/economy/distribution_of_family_income_gini_index_2009_0.html),
- environmental comparisons such as the Global Reporting Initiatives <http://www.globalreporting.org/>http://www.globalreporting.org/ for measuring economic, environmental and social performance, a collaborating centre of the UN Environment Program, UNEP,
- business comparisons (World bank, Doing Business Reports, since 2005, www.doingbusiness.org),

These general indicators and many others now appear as routine datasets available through the Internet.

Moving from general indicators to land indicators, Alain Durand-Lasserve (2009) and Stig Enemark (2009) found a growing coordination of efforts. Durand-Lasserve identified lead agencies:

- − in urban areas, as the World Bank and DBS banking group UN-HABITAT, and others.
- − in rural areas, International Fund for Agricultural Development (IFAD) and the International Land Coalition (ILC), and
- − in mixed areas, Millennium Challenge Corporation (MCC), USAID and Inter American Alliance for Real Property Rights (IARPR, http://www.landnetamericas.org/Alliance/ExecutiveSummary.asp?m=21).

Many other agencies do similar work. Land indicators, both existing and under construction, cluster around measuring tenure security, land access and distribution, land markets, effectiveness of land administration systems and, newly arrived, land governance. Tony Burns (2008) summarised the following specific land indicators available on the Internet:

- − Real Estate Transparency Index, Jones Lang Lassalle
- − Access to Land Indicators, IFAD
- − Doing Business, property registration, World Bank
- − International Property Rights Index, de Soto Institute
- − Urban Governance Index, UN-HABITAT
- − Access to Common Property Index, International Land Coalition (ILC)
- − Global Corruption Barometer (land indicator in 2008)
- − Forced evictions, Centre on Housing Rights and Evictions (COHRE)
- − Legal and Institutional Framework Index (Global Urban Observatory Group)

Burns noted that these were limited in their ability to track changes in time or to identify specific policy interventions. A better designed set of indicators was needed to inform decision makers on strategic improvements to land governance. Perhaps the culmination in these efforts can be seen in the efforts of the World Bank and Land Equity International to identify indicators capable of testing good governance in land administration and to apply them in countries as diverse as Kyrgyz Republic, Burkina Faso, Indonesia, Tanzania and Peru (the initial case studies). The theoretical framework of land indicators was distilled into "applied" indicators identified in Figure 3.
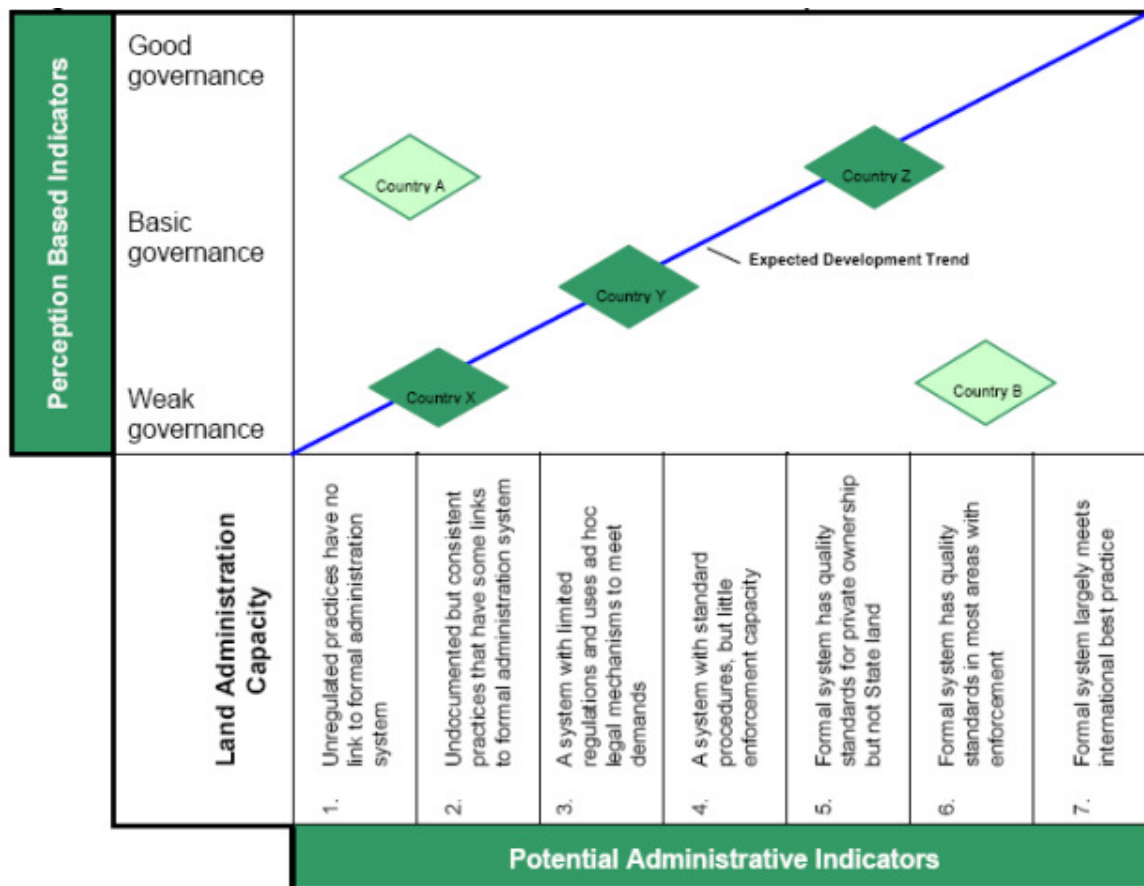
**Figure 3. Co-relation between Governance/Land Administration Developments
(Land Equity International Pty Ltd 2008)**

Level 7 of potential administrative indicators is achieved by few countries, roughly those 35 or so countries who benefit from effective national-scale LAS and free markets in land and properties, including most members of the Organisation for Economic Co-Operation and Development (OECD). Some countries have made remarkable progress including countries in Eastern Europe and Central Asia (excepting countries with local problems such as Tajikistan, Albania and the Ukraine), especially those driven by the desire to gain access to the European Union.

Focus on governance in relation to land administration, and good governance as a whole-of-government standard, changed land administration as a discipline. In the words of Alain Derrand Leserve, attention moved away from *land administration good governance* to *land governance*. This mirrored the shift from technical tools of land administration towards a broad suite of tools to implement the new land administration theory and the land management paradigm. The over all coherence of a LAS is then focused on national governance capacity to deliver sustainable development using tools appropriate for the country's situation.

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2.   GOOD GOVERNANCE IN LAND ADMINISTRATION

Developing the theory

Good governance in land administration is now the primary over-arching aim of well designed land projects. A simple summary of the drivers to deliver good governance in land is illustrated in Figure 4.

Figure 4. The drivers of good governance in land administration
James Buchanan 2008

The indicators of good governance can be usefully clustered around three outcomes: responsibility, empowerment of people and delivery of an objective legal framework, in Figure 5.

Figure 5. Clustered indicators of good governance in land administration
James Buchanan 2008

Good governance literature grew substantially after 2005. Principal documents in this trend include the FAO publication on **Good Governance in Land Tenure and Administration** (2007), and the World Bank comparative study on **Governance in Land Administration** initiated in 2007 and continuing. Recent additions to the library include the FAO Land Tenure Working Papers, especially three of 2009:

- **#8. Voluntary Guidelines for Responsible Governance in Tenure of Land and Other Resources: From Civil Society Perspectives**, Jan 09
- **#9. Issues from an International Institutional Perspective**, May 09, and
- **#10. Discussion paper "Towards Voluntary Guidelines on Responsible Governance** (http://www.fao.org/nr/tenure/infores/lttpapers/en/) May 09.

These three recent papers responded to substantial copious studies and research. Paper #9 involved distillation of another 56 international documents to derive 14 basic principles in land tenure and natural resources (Land Tenure Working Paper #9, 2009 page 1).

Communicating the theory

Among the 200 (plus or minus) jurisdictions of the world charged with national level land administration, only about 30-35 countries achieve national good governance standards most of the time. For the other 170 (plus or minus) jurisdictions, upgrading of their LAS remains a challenge. Assistance is provided to decision-makers by publications especially designed to explain problems and possible solutions in understandable ways. Examples include FAO's **Good Governance in Land Administration, Principles and Good Practices** (2009a) Figure 6 below.

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Figure 6. Easily understood and accessible explanations of good governance in land
(FAO 2009d, page 20)

In the context of land delivery and service upgrading, UN-HABITAT produced a simple and accessible version of their detailed **Handbook on Best Practices, Security of Tenure and Access to Land**, (2004a) showing how to make land available for development (Figure 7).

How do governments make land available for development?

Governments make land available for human settlements through various land management tools.

What you may use the land for (land use management plans)

Types of rights you may have on land (tenure forms)

Taxation duties (the costs of holding and using land and receiving services)

Land management tools

- laws, policies and practices that include:

Future development plans

Systems used to identify who has what where and rights where (land administration systems and information management systems).

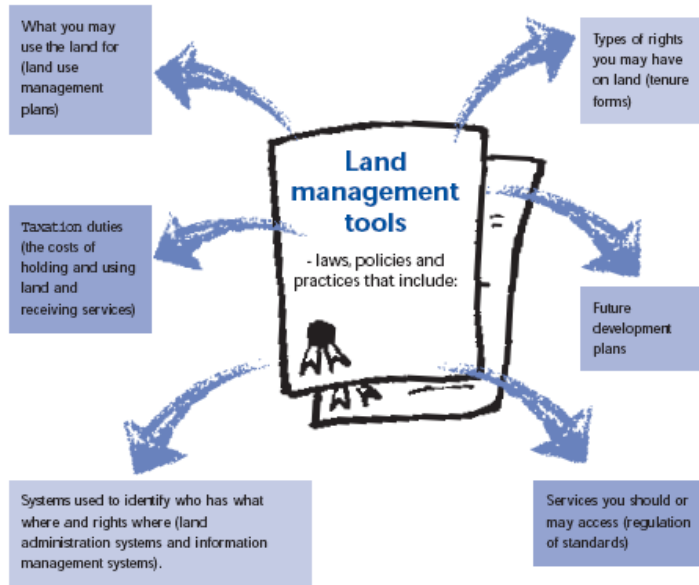Services you should or may access (regulation of standards)

Figure 7. Accessible land management tools.
UN-HABITAT 2004b

These publications, and many others of similar type, aim to assist decision-makers in their tasks of managing land and building sustainable LAS. They are now an essential part of knowledge transfer that underpins good governance capacity building. They form the background to consideration of how a nation might handle the essential task of delivering land to its people.

3.   LAND DELIVERY

The scale of demands

Every process in land administration is, of course, important and should be tested both against the new land administration system theory, and the evolving good governance standards. However, land delivery processes, and especially the sub-set of processes related to compulsory land acquisition and resettlement, are probably the most complex, under-examined and prone to uncoordinated responses. Hence land delivery in developing countries provides a context in which the established processes almost always fail when tested against emerging land governance standards and modern land administration approaches.

In many countries, land delivery is at crisis levels. The processes often involve geo-politics, foreign investment and development aid interests. In most countries, formal management of land markets is partial, driving many market activities towards informalism and ad hoc

approaches. Land delivery problems are shared by many developing countries because their processes of land delivery and urbanisation are fundamentally disorganized.

Lack of capacity is exacerbated by increasing demands for land and spontaneous conversion of existing land uses. Agribusinesses, tourism and industrial facilities and promotion of agrofuels require millions of hectares and have devastating impact on human settlements and forests. Increasing conversion of agricultural land for residential, industrial, and other international investment projects is a major issue especially for many sub-Saharan African countries, and Asia and Pacific Region countries, especially Viet Nam and Indonesia. Simultaneously, the formal delivery on a mass scale of small parcels for poor housing and work places remains beyond the capacity of most governments despite massive movement of people from rural to urban areas.

LAS delivery tools in theory

Amid this complex range of pressures, land administration theory needs to identify a series of tools for land delivery consistent with good government standards. Standard tools that deliver land for private and public purposes fall into two broad categories: market acquisition systems and human rights based acquisition systems.

Market acquisition systems

In developing countries use of formal land markets as a land delivery mechanism fails to meet the tests of capacity. Four common problems are well documented.
1.   The ability to define a "market price" is often problematic. The most common cause of price tension is setting the value of land destined for take-over on the basis of existing land uses, principally farming or slum housing, and not on the basis of post development uses, often lucrative industrial and residential estates. Original owners and occupiers who are moved often regard acceleration of land values as undeserved "windfalls" for the developers.
2.   The secondary problem with pricing is reliance on government set values, rather than transparent values set by land trading in an open market recorded in formal systems.
3.   The property base essential for a functioning the market system is usually inadequate: land rights claimed by owners and occupants are unregistered or even undocumented. The targeted land is often held in insecure arrangements, social tenures (Wallace 2009) and informal systems. Price mechanisms in these cases remain flawed, even with willing sellers.
4.   Lack of participation and cooperation among the occupiers and owners in their removal from their businesses and homes makes the trauma of physical dispossession (whether forced or not) their most indelible memory of the process.

Human rights based acquisition systems

A human rights model of compulsory land acquisition is still under construction. In broad terms the model seeks to solve the problems that arise when countries with predominantly informal land markets try to use market based solutions. The model adds additional

components to land delivery processes designed to empower land occupiers and owners. In broad terms, these components demand land takers:

- Acknowledge entitlement of all displaced persons, including persons with formal legal rights, persons whose claims to land are potentially recognizable under national law, and persons who have neither formal legal rights or land claims recognized or even recognizable under law, such as squatters and encroachers.
- Ensure that **all displaced persons** are eligible for resettlement assistance and compensation for loss of non-land and land assets, including those without legal titles to land or any recognizable legal rights to land. Loss of employment, not just loss of land to occupy and use, should be compensated.
- Calculate the rate of compensation at full replacement cost.
- Provide relocation assistance for physically displaced persons, including a livelihood assistance or income rehabilitation program for economically displaced persons at full replacement cost.
- Provide meaningful socialization and consultation with affected persons and other related parties about the project and its impact on communities in the early project preparation stage and at other crucial stages.

Most of the large international institutions apply some or all of these standards for land acquisition or compulsory purchase designed to both respect the rights of existing land users and owners and to deliver secure tenure to developers, especially for public projects and projects funded by development aid. As a general observation, even if the initial costs of the land and the compensation constitute a high percentage of the cost of the overall development, the budget will be justifiable especially if land disputes are minimized and secure tenure is delivered to the new owners.

3   BUILDING THE HUMAN RIGHTS MODEL OF COMPULSORY ACQUISITION STANDARDS

Displaced persons protection

Parallel with the international efforts to develop good governance indicators in land administration, professional groups, institutions and development aid specialists are articulating appropriate indicators of land acquisition through compulsory procedures. To complicate matters, many acquisitions involve conquest, war and revolution. Thus a starting point involves looking at standards of treatment of displaced persons organised through the international efforts at resettlement of refugees, the world's largest groups of displaced persons, especially the refugee displacement principles. These **Pinheiro Principles, the UN Principles on Housing and Property Restitution for Refugees and Displaced Persons**, from Centre on Housing Rights and Evictions (COHRE undated) are the starting point in thinking about the human consequences of displacement. Displacement consequences are experienced regardless of whether interference is generated by international, intranational, or non-national land taking activities. In terms of designing land administration systems, nation states therefore need to anticipate the social and human consequences of displacement by small and large scale projects. The land acquisition processes that are institutionalized must minimise civil unrest and disputation. The initial cost is, of course, high. The value of these

processes are however long term, especially in their contribution to civil peace and elimination of land disputes.

Protection of people affected by land projects

International development aid agencies are also engaged in setting standards for a human rights based model. Multilateral financial institutions have institutionalized pro-poor and humane processes for land delivery. The Asian Development Bank, for example, carefully articulated and updated safeguard policy statements for compulsory take over in 2009, especially applicable in Asia and the Pacific where 70% of the world's 150 million Indigenous People reside (ADB Safeguard Policy Statements 2009, page 2). Other major development banks, including the World Bank, the International Finance Corporation (whose standards are adopted by 60 commercial banking institutions), the European Bank for Reconstruction and Development, and the Inter-American Development Bank (ADB 2009, page 2), all have standards aimed at protecting people whose land or life styles are targeted for take-over which must be applied in project development.

An attempt to organise the multitude of international standards was undertaken in a **Seminar on Compulsory Purchase and Compensation in Land Acquisition and Takings**, 2007, September 6-8, Helsinki, Finland by a large number of interested parties, including FIG Commission 9, Baltic Valuation Conference, FAO, World Bank, and others. The seminar aimed to -

- − Identify the legal structures and practices in compulsory purchase and compensation in different countries.
- − Determine if compensation laws, valuation methods and processes will lead to full and just compensation and identify possible shortcomings.
- − Find possible and effective solutions to problems especially appropriate for developing countries suffering severe capacity limitations. Identify what are the best practices and what principles should be taken into consideration or should be avoided, within existing competencies.
- − Identify future research directions.
  http://www.tkk.fi/Yksikot/Kiinteisto/FIG/index.htm

FIG Working Group 9.1, the Global Land Tools Network (GLTN), and others are working on guidelines for compulsory purchase and compensation, to be finalized and announced at the FIG Congress in Sydney in 2010. The process of development of these guidelines is open and democratic, seeking participation from as wide a group as possible through a questionnaire process run through FIG and GLTN - http://www.fig.net/commission9/ and returnable on 20 August 2009. The scope of the questionnaire was broad, reflecting the scope of issues that are opened up when land development is proposed. The questions are framed to inspire a well thought out human rights based acquisition process that is compatible with the market based processes insofar as these are available. These guidelines aim to deliver long term civil peace derived from participation of land owners and users in the processes of taking and redeveloping their land, delivery of security of tenure and freedom from land claims for new users, and dispute minimization.

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These and other initiatives are refinements of the general good governance framework for land administration, especially for land and resource tenures (Civil Society Report, FAO 2009). One key observation however is drawn from experiences of countries in South East Asia in particular and developing countries in general. These emerging standards of pro poor and humane land acquisition suffer in implementation because projects in developing typically encounter technical problems because they lack ability to formally manage delivery of land, both in general and for specific projects.

Getting humane land acquisition theory to work in practice

Compulsory land purchase is part of the larger question is land delivery itself – most developing countries experience difficulties in delivering land for any purpose through formal systems and hence tend to rely on ad hoc responses. Common characteristics of these responses include –

- "Deal tenures" specific to a project (usually for large tourist or industrial projects) which are negotiated by the parties in informal and, sometimes, concealed arrangements.
- Ad hoc and informal land delivery for the poor through squatting, encroaching or participating in informal markets (their most common means of acquiring land). These delivery systems leave the poor with little or no proof of their association with land.
- Under-funding of delivery of land for poor housing and workplaces (contrast Viet Nam where provision of pro poor housing is relatively successful and avoids large scale residential slums) .
- Mass land acquisition and clearance for urban renewal: China provides the best known examples. Urban renewal on mass scale usually does not comply with best practice in land acquisition because activities involve forced evictions and demolition of historical and personal spaces.
- Forced land use changes: Indonesia and its neighbours experience massive conversion of natural forest to plantation or wasteland through processes that disregard Indigenous Peoples and traditional occupiers.
- Forced evictions from land needed for private purposes, often with valuation for compensation set at government assessed values according to existing land use, leaving the developer or the state to reap the windfall delivered from change of purpose (eg conversion of slums to middle class housing).
- Inability to deliver land for public purposes. Initial attempts at formalising systems frequently lead to paralysis in land delivery: Indonesia experiences many examples of stalled projects including major infrastructure projects like toll roads and airport facilities.
- Mass removal of homes and workspaces for "public purposes". This can occur despite legitimate public interest and planning motivations, eg Hanoi's removal of houses along the Red River banks to prevent erosion, and removal of street stalls to create a neater city. The overall public benefit rarely convinces those who are moved that their compensation is fair.

5.   WHY LAND ACQUISITION IS DIFFICULT

Land delivery theory

Land administration systems must be able to manage delivery land for essential developments, private infrastructure and change of land uses in response to human, social and economic demands.

Countries often lack a theoretical basis to form their fundamental policy of land taking. Eminent domain (a term familiar in European countries) is the government ability to take land particularly in civil law countries. In developing countries with civil law history, government capacity can be an initial problem. Civil law countries which give strong constitutional protection of land ownership restrict opportunities for compulsory acquisition, sometimes with fatal results for public projects.

For countries sharing an English common law heritage, compulsory acquisition is the familiar method. The overarching ability of government to take private land for public purposes is unquestioned. The opportunity of the government to take land is regulated by legislative processes and standards of acquisition. These standards apply to private land. Market systems support the owners' expectations to be compensated at a value equivalent to commercial or market value estimated by a valuation of a professional. Where a free and formally organised land market operates, governments are able to offer market based methods of land delivery that are not available in countries with informal markets. Countries with formalized processes experience minimal human and social consequences for land delivery, and use systems of compulsory taking manage the free rider problems associated with opportunities to gouge developers otherwise available to "last owners to agree" to an acquisition.

In developing countries clearly articulated theoretical foundations are typically not available, especially if the two basic approaches of civil and common law used in market based countries are inevitably associated with pre-independence colonial experiences. The starting point in these countries lies in framing a clear constitutional framework and laws that establishes the basis for taking land in situations of unwilling sellers and occupiers, ideally incorporating the human rights standards for resettlement. Often laws along these lines already exist. The problems lie in technical abilities to deliver land.

Land delivery processes are cross-cutting

Even from a narrow land administration perspective, land acquisition forms the operative intersection of processes that manage land markets, administer land tenures and implement land use planning. Land acquisition is therefore a complex cross-cutting issue – an issue which is approached in each country, indeed in each local jurisdiction, according to processes drawn from a variety of land administration functions. In modern land administration theory, the functions of land administration are land tenure, land use, land planning and land development which, if the land management paradigm (the method of understanding how the multiple processes work) is applied, are designed to deliver sustainable development (Enemark 2009). All four functions are involved in land delivery. In countries where all processes are formally organised, land development involves exhaustive and extensive

consultation processes related to planning and zoning, and highly professionalized services from government and private sector professionals at every stage. The processes tend to be more transparent and susceptible to public scrutiny than secret.

Developing countries lack the capacity to build equivalent processes and often rely on NGOs for consultation expertise. Their major incapacities however are in technical areas. Creation of land parcels (parcellation) is a major stumbling block. Even a very simple project involves the formal identification of land for development purposes, and the subsequent conversion of raw land or rearrangement of formed parcels into the development parcels. Whether market based or human rights models of land delivery are used, technical services and administrative capacity must be developed.

Land parcellation

Most land administration systems in developing countries lack capacity reorganize land parcels. Parcellation includes establishment of the boundaries of the development area, coherent arrangements with neighboring parcels, identification of the tenure of the developer, and the provision of facilities, including roads, public transport, drainage, electricity, cable services, sewerage, water and so on, at the basic minimum. These processes of subdivision and consolidation of land are often imperfect, even with the aid of commercial funds and professional project advice. In South East Asian cities, for example Hanoi in Figure 7, existing parcels are frequently small scale with narrow frontages, making reconfiguration of land for modern developments difficult.

Figure 8. Small scale parcels in South East Asian cities make consolidation difficult.

The divergence between existing land uses and formal parcels is often profound (Figure 8) and compounds reconstruction and compensation issues. Discrimination between legal and illegal land development distributes compensation unfairly, and leads to operative paralysis in those developing countries where "legalised" processes for land use planning, development and tenure regulation are not available or poorly implemented. As Figure 8 shows,

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determination of "ownership" of land among urban dwellers is often not precise even with a boundary system.
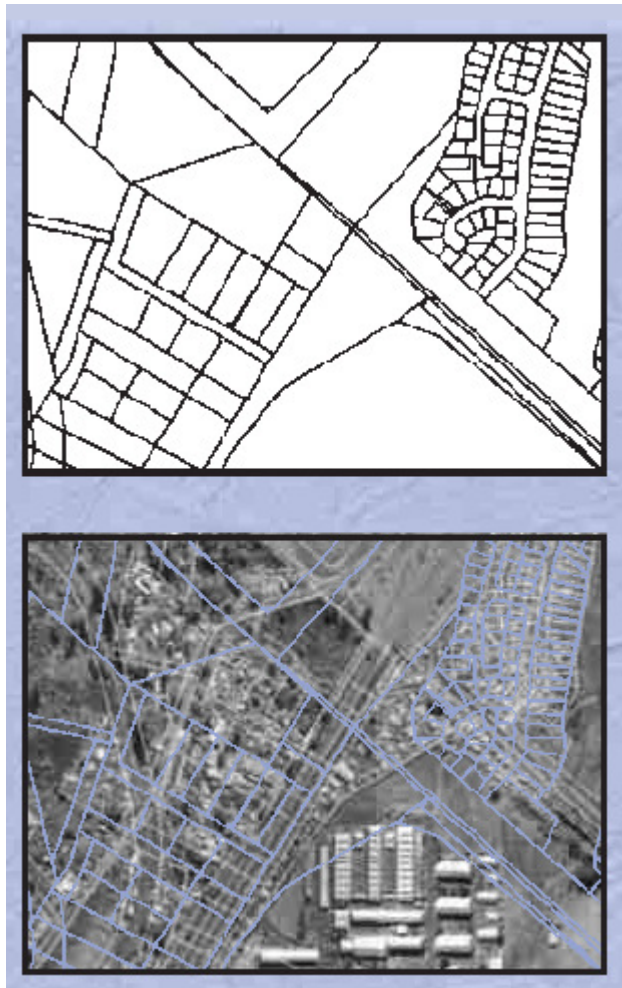

Figure 9. Lack of consistency between formal and informal arrangements. (UN-HABITAT 2004b, page 5.

Building land delivery competencies

Within this array of complex issues, three "break through" tools can improve land delivery processes. These are generally within the competence of most governments. While they are independent of a country's ability to reach over-all compliance with good governance indicators and land governance indicators, they are consistent. These tools are not new and are supported by their own body of research and experience. They are: a quick and effective land information system, a government level tool; a strong and systematically enforced anti-eviction law, an empowerment tool; and guidelines for management of land grabbing, a win-win tool for foreign investors and host governments.

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Land information system – government level initiative

In the vacuum of professional surveying capacity, most developing countries increasingly rely on land information systems (LIS) moving into cadastral surveying as resources become available. A geographic information system (GIS) based LIS is one of the emerging new tools available through new spatial technologies. A systematic tool that relates GIS, remote sensing and field surveying is described by UN-HABITAT (2008). The tool produces a comprehensive but quick and inexpensive information system to service especially land use planning and property taxation. The results do not replace, and indeed cannot replace, cadastral surveying that gives precise parcel mapping, scientific coordination of legal boundaries with plan information, and land use identification. A GIS based LIS offers obvious advantages for managing people movement, consultation, and planning associated with land delivery and especially compulsory acquisition.

Anti eviction strategies – grass roots empowerment

Countries with inadequate land administration systems and informal markets almost inevitably use forced evictions in land delivery processes. Many evictions, including those based on national legal enforcement orders, ignore the international and constitutional legislation which guarantees the right to housing and other human rights (UN-HABITAT Advisory Group on Forced Evictions, 2007; UN Basic Principles and Guidelines on Development-Based Evictions and Displacement, 2007). These follow the definition of minimum security of tenure as the rights of individuals and groups to effective protection by the state against forced evictions (Expert Group Meeting on Urban Indicators, 2002). Strategic impact of flexible legal formulae, like anti-eviction laws, were further explained by Augustinus and Benschop (2007).

In land acquisition processes these anti-eviction laws empower local people to claim a role in negotiations related to a development, especially if the laws provide a clear underlying opportunity for them to complain to courts if they are ignored. The strategy is therefore focused on capacity building at grass-roots level rather than at government administrative levels. Good governance indicators are therefore tested in the general courts system where they are demanded as part of national ability to use a rule of law.

Management of hard cases of land grabbing – an initiative for developers

Land grabbing is a common and negative aspect of land delivery. It foments long lasting tensions and undermines civil peace. Criticism of governments of developing countries for their failures to meet international standards for management of land grabbing is unhelpful. Governments need help and support in order to establish formal capacity to manage their land delivery systems, for instance along the lines of the recommendations for a code (von Braun and Meizen-Dick 2009). This initiative involves strategic engagement of foreign investors and their host countries in adopting a self imposed code of conduct for investment in agricultural land. The code assists target countries to strengthen their policy environment and implementation capacities by combining their efforts with those of investors. The range of terms and conditions in the suggested code delivers win-win solutions for all. The issues covered are much wider than mere land administration standards, and include implementation

of good governance standards (transparency) and human rights based standards to protect local people while delivering essential development opportunities.

6. BUILDING THE FUTURE

The new approaches in land administration encourage civil society, developers and governments to use new tools in land delivery processes. The broadening of land administration theory into multi-disciplinary competence is both welcome and essential. The addition of non-technical goals in building sustainable systems is compatible with articulation of standards and guidelines on land acquisition.

No developing country is in a position to apply best practice methods throughout its entire suite of land administration processes. However, the lessons from land administration and good governance theories are capable of informing change strategies in most countries. Indeed, many of the less developed nations are in a better position to adapt their systems to modern standards than are economically successful nations where legacy systems and technologies inhibit substantial change.

Land development is a constant in all nations and the management tools selected by a country need to be developed in the context of their capacity to contribute to overall good governance and sustainability. Compulsory land acquisition, whether for development aid projects or private projects, needs tools that work at the country level. Unless appropriate tools are selected, land acquisition planning associated with development aid and project financing will concentrate on identifying standards for the social processes associated with movement of people away from the development site and into replacement sites. This focus misses the point that most countries need to build capacity to undertake essential scalable and technical land delivery processes. Other tools have unforeseen consequences. A legal framework is always recommended; however, legalism and formalism can paralyze land delivery, even for essential public infrastructure projects, a problem now evident in Indonesia.

From the perspective of capacity building in land administration efforts to improve land delivery processes must improve formal and technical capacity to use formal systems to manage the creation of parcels. Long term improvements that will assist removal of residents and occupiers and their resettlement in permanent homes and alternative work opportunities require transparent processes, formal systems that give parcel identification, resilient boundaries and a large scale base map built by using modern spatial technology to record coordinates. Each of these adds capacity in the national LAS.

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