

Land Acquisition Compensation in China – Problems & Answers

Nelson Chan

School of Construction, Property & Planning, College of Law and Business,
University of Western Sydney, or n.chan@uws.edu.au

Since the introduction of the 'open door' policy in 1978, China has made significant progress in all aspects. Rapid economic development has sped up the urbanisation of the country. In 1995, there were 640 cities in China. At the end of 1999 the number increased to 667. The high rate of urbanisation has led to great demand for land for infrastructure and property developments. In order to obtain more developable land, the government has implemented various measures, including compulsory land acquisitions to meet the demand. In 1995, about 812 km² of land was acquired by the government. In 1999, the amount of land acquired was about 340 km². Although this indicates a falling trend, the amount of land acquired was still very substantial.

Land acquisition in China is carried out according to the provisions of the People's Republic of China Land Administration Law. At present, the law does not address the issue of just compensation to the affected people, and has caused great discontent. This paper attempts to identify the problems and suggests recommendations for improvement.

Keywords

Land acquisition, compensation, just term, market value.

Introduction

China has made significant progress in all aspects since the introduction of its 'open door' policy. The rapid economic development has sped up the

urbanisation of the country. In 1949, there were 79 cities in China. By 1981, the number had increased to 233 (Li, Zhou & Xu 1988). In 1995, the number of cities had increased to 640 (China Statistical Yearbook 1996). At the end of 1999, the number increased again to 667 (China Statistical Yearbook 2000). The high rate of urbanisation has led to great demand for land for infrastructure and property developments. In order to obtain more land to meet demand, the government has implemented various measures, including compulsory land acquisitions.

At present, land in urban and rural areas can be compulsorily acquired for construction purposes. Under the land acquisition law in China, compensation is given to the dispossessed owners and occupiers. However the heads of compensation are limited and there is no reference to just terms compensation. This paper attempts to identify the problems of the current compensation system and concludes with recommendations for improvement.

The Land Tenure System in China

Before the introduction of the 'open door' policy in 1978, the land tenure system in Communist China was not clearly defined. People were permitted to own private land after the founding of new China in 1949. Through successive changes, private ownership of land finally ceased to exist in 1966 (Bi 1994). Since then, basically all land has belonged to the people, who were represented by the government. Land was administratively allocated to government departments, agencies, state-owned enterprises (SOEs), and other units free of charge for an unspecified number of years (Zhuang, Zhang & Jiang 1993).

After the introduction of the 'open door' policy in 1978, China has adopted a land use rights tenure system similar to the leasehold tenure system in Western countries (Chan 1999). It states that land and buildings/improvements are regarded as two separate entities. Under s.8 of the People Republic of China Land Administration Law of 1986 (PRCLAL), and amended in 1998, the State owns all urban land, while farmer collectives own all rural land. Land users may use the land and own the buildings and improvements on it, but the sovereignty of the land remains in the hands of the State or farmer collectives. The rights to use land are known as 'Land Use Rights' (LURs), and are formally written into the People's Republic of China Assignment and Transfer of Use Rights of State Owned Land in Urban Areas Temporary Regulations, 1990 (PRCLUR).

Under the PRCLUR, domestic and foreign firms, enterprises, organisations, and private individuals may obtain LURs from the government (Reg. 3) that are subject to the payment of an assignment premium (Reg. 8) by way of

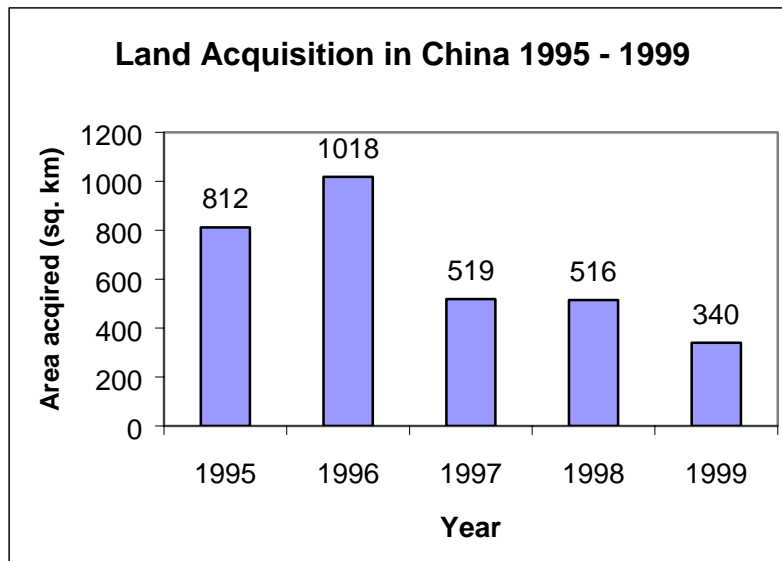
agreement, tender, or auction (Reg. 13). Government agencies or SOEs may continue to obtain land from the government by administrative allocation at no cost (Reg. 43). Given the characteristics of the Chinese land tenure system, private land ownership does not exist in China. As far as compulsory land acquisition is concerned, the acquiring authority actually acquires the LURs only.

Compulsory Land Acquisition in China

In countries that allow private land ownership, compulsory land acquisition is the right and action of the government to take property not owned by it for public use. In the United States, this right is known as 'eminent domain', the action is known as 'condemnation' (Eaton 1995). In Canada, the United Kingdom, and Australia, the right and action are known as 'expropriation' (Boyce 1984), 'compulsory purchase' (Denyer-Green 1994), and 'compulsory acquisition or resumption' (Brown 1996), respectively. In each of these countries, compulsory acquisition of private property by the government is authorised by legislation.

Strictly speaking, there is a difference between compulsory 'land acquisition' and 'land resumption'. Compulsory 'land acquisition' refers to the case in which the government does not have ownership of the land. For example, the land occupant has the freehold interest in the land, and the government needs to acquire ownership of the land through a compulsory acquisition process. This kind of 'land acquisition' is also known as a 'compulsory purchase'. Compulsory 'land resumption' refers to the case in which the government, not the land occupants, has the ownership of the land. For example, the occupants only have a leasehold interest in the land. Through the compulsory acquisition process, the government acquires the user rights and gets back the land it originally owns. This kind of compulsory land acquisition is known as 'land resumption'. In both cases, the acquiring authority needs to compensate the landowners or occupants.

In China, compulsory land acquisition is known as 'zhengdi'. As mentioned above, land occupiers/users do not own the land; accordingly, all compulsory land acquisitions in China are actually "compulsory land resumptions" in which only LURs and any buildings on the land are taken by the acquiring authority. 'Zhengdi' was authorised by the Constitution of the People's Republic of China in 1978, and was amended in 1993. Article 10 of the Chinese Constitution states that "[the] state may, in the public interest, requisition land for its use in accordance with the law." Under the authority of the Constitution, there are separate laws governing the acquisition of farmland and urban land. Figure 1 below summarises compulsory land acquisition in China in recent years.

Figure 1: Land Acquisition in China 1995–1999

Data Sources: China Statistical Yearbooks 1996 – 2000

In 1995, about 812 km² of land was acquired by the government for various developments. In 1996, the amount of land acquired had increased to about 1,018 km², an area almost the size of Hong Kong. Since a substantial amount of the land acquired was farmland, the high loss rate of farmland has alarmed the Central Government, and restrictions were subsequently imposed to reduce the loss of farmland. In 1997, the amount of land acquired dropped to about 519 km², and in 1999, the amount of land acquired was about 340 km² (China Statistical Yearbooks 1996 – 2000). Although this is a falling trend, the amount of land acquired annually is still very substantial.

Considering that compulsory land acquisition plays an important role in supplying land for urbanization, the State Council has issued Order No. 15, which requires local governments to have resources to establish a land acquisition/reserve system. At present, 241 cities in 12 provinces have established a land acquisition/reserve agency (CMLR 2001).

Acquisition of Farmland

Farmland may be compulsorily acquired for construction purposes under s.43 of the PRCLAL, and amended in 1998. Before any acquisition, approval for converting farmland to construction land has to be obtained first. Under s.45 of the PRCLAL, any acquisition of farmland needs to have prior

approval under s.44 of the PRCLAL for the conversion of farmland to non-agricultural use. In addition, acquiring farmland of the following categories needs the approval of the State Council:

1. Basic farmland;
2. Arable land other than basic farm and more than 35ha; and
3. All other land exceeding 70ha.

Acquisition of Urban Land

Buildings on land covered by a city plan may be compulsorily acquired under the Urban Buildings Demolition Relocation Administration Regulations of 2001 (UBDRAR) for urban development schemes. Regulation 3 of the UBDRAR requires that demolition and relocation of buildings must conform to the relevant city plan and be beneficial to urban renewal, ecological environmental improvement, and the protection of cultural relics. Under Reg. 6, no action of demolition and relocation can be undertaken unless a permit has been obtained from the administrative department. The unit that has obtained a demolition removal permit is known as the demolition and relocation person (DRP), whereas all persons whose buildings are affected by the demolition and relocation are known as persons subject to demolition and relocation (PSDRs) (Reg. 4, par. 2 & 3). The DRP and PSDRs are equivalent to the acquiring authority and dispossessed persons, respectively, in Western compensation laws.

Compensation Standards in China

The PRCLAL and UBDRAR only laid down the broad principles of compensation, while the respective people's governments of province, autonomous region, and municipality directly under the Central Government are authorised to provide details for implementation.

Compensation for the Acquisition of Farmland

China is a socialist country where compulsory acquisition compensation has its unique characteristics. Regarding the acquisition of farmland, the PRCLAL provides that the land use unit (may be different from the acquiring unit) has to compensate for the dispossessed land unit. The general principle is that compensation is payable according to the original use of the acquired land (s.47, par. 1). The compensation standards contain the following items:

a) Land Compensation

For arable land, the compensation payment is based on 6–10 times its average production value in the past three years prior to acquisition (s.47, par. 2).

Compensation standards for other land are to be determined by the respective people's governments of province, autonomous region, and municipality directly under the Central Government with regards to compensation for agricultural land (s.47, par. 3).

For the acquisition of vegetable fields in suburban areas, the land use unit shall make payment to the New Vegetable Fields Development Construction Fund according to the relevant requirements of the State (s.47, par. 5).

b) Settlement Subsidy Payment

For arable land, the settlement subsidy payment is based on the number of dispossessed persons. The amount of payment is to be calculated by dividing the amount of land acquired by the average arable land per person in the dispossessed land unit. The standard payment to each person who needs to be resettled is based on 4–6 times the average production value of the land taken in the past three years prior to acquisition. However, the maximum payment for each hectare of acquired land shall not be higher than 15 times the average production value in the past three years prior to acquisition (s.47, par. 2). The settlement subsidy payment of other land is to be determined by the respective people's governments of province, autonomous region, and municipality directly under the Central Government, with regards to resettlement assistance for agricultural land (s. 47 par. 3). If the land compensation and settlement subsidy payments are insufficient to maintain the dispossessed farmers' original quality of life level, the amount of settlement subsidy payment can be increased pending approval by the relevant authorities. But the total payment for land compensation and settlement subsidy shall not exceed 30 times the average production value of the acquired land in the past three years prior to acquisition (s.47, par. 6).

c) Improvements and Crop Compensation

Compensation standards for improvements on land and crops are to be determined by the respective people's governments of province, autonomous region, and municipality directly under the Central Government (s.47, par. 4).

Section 51 of the PRCLAL provides that the compensation standards and migrants resettlement method for medium and large scale water conservancy and hydroelectric power projects are to be determined by the State Council.

In this regard, the State Council promulgated the Medium and Large Scale Water Conservancy and Hydroelectric Power Projects Land Acquisition Compensation and Migrants Resettlement Regulations in 1991. Under these regulations, compensation for the farmland acquired shall be 3–4 times the average annual production in the past three years prior to acquisition. The settlement subsidy payment to each person who needs to be relocated is based on 2–3 times the average production value of the land taken in the past three years prior to acquisition (Reg. 5, par. 1). Similar to the PRCLAL, compensation standards for other land and improvements on land and crops are to be determined by the respective people's governments of province, autonomous region and municipality directly under the Central Government (Reg. 5 par. 2, & 8).

A special law, the Changjiang Three Gorges Project Construction Migration Regulations 2001 (which replaced the old 1993 Regulations), was legislated to deal with the Three Gorges Dam project. The feature of this law is that, in addition to the compensation for dispossessed farmers and other affected parties, these regulations make the Three Gorges Project a project of the whole nation and introduces a “progressive migration” directive and a “corresponding supports” scheme to help dispossessed people in the dam area. Details of the directive and the scheme can be found in Compulsory Acquisition Compensation of The Three Gorges Project (Chan 2000).

Compensation for the Acquisition of Urban Properties

Compensation for the demolition and relocation of urban buildings within or without the boundaries of a city plan is governed by the UBDRAR (Regs. 2 & 39). Under Reg. 22, par. 1, the DRP (i.e. the acquiring authority) must compensate PSDRs (i.e. the dispossessed persons). However there is no compensation for illegal structures or temporary structures that have exceeded the permitted period (Reg. 22, par. 2). Under Reg. 23, par. 2, claimants may elect to have monetary compensation or compensation through the exchange of property titles.

Monetary Compensation and the Exchange of Property Titles

For monetary compensation, the amount is determined by real estate market value assessment having regard to factors such as location, uses, gross floor area, etc. Details of the assessment method are to be determined by the relevant people's governments of province, autonomous city, and municipality directly under the Central Government (Reg. 24).

The exchange of property titles means a PSDR (dispossessed person) hands over his/her property title of the affected property in exchange for the property title of a replacement property provided by the DRP (acquiring

authority). Under Reg. 25, par. 1, there needs to be an adjustment for the price difference between the acquired property and the replacement property. The prices are to be determined according to Reg. 24 (i.e. assessed market value of the properties). However, there is no property titles exchange for attached structures of non-public welfare undertakings (Reg. 25, par. 2). The exchange of property titles has to be the method of compensation where the affected property is a rental property and the PSDR cannot reach an agreement with the tenants to rescind the lease. In this case, the PSDR has to sign a new lease with tenants for renting the replacement property after exchanging property titles (Reg. 27, par. 2).

Where the acquired properties are owned by public welfare undertakings, the DRP has to reinstate the properties according to relevant laws and town planning requirements. Alternatively, monetary compensation may be given (Reg. 26)

Other Compensation

For tenants and persons with unclear property titles, the DRP (acquiring authority) is required to settle them in buildings that match the nation's safety standards according to the provisions of Regs. 27, 28, and 29.

The DRP needs to pay PSDRs and tenants' removal costs (Reg. 31, par.1). Where the PSDRs and tenants arrange for their own residence during the transition period, the DRP needs to pay them a temporary settlement subsidy. If the acquiring person provides the affected occupants with decanting accommodation during the transition period, no temporary settlement subsidy is payable (Reg. 31, par. 2). The standards for removal costs and temporary settlement subsidies are to be determined by the relevant people's governments of province, autonomous city, and municipality directly controlled by the Central Government.

For the demolition and relocation of non-residential buildings, the DRP has to suitably compensate losses for ceasing production and/or the closure of business (Reg. 33).

Compensation Provision for the Acquisition of LURs

As mentioned earlier, LURs were created in the late 1980s and formally authorised by the PRCLUR. The compensation rules discussed above do not specifically apply to the acquisition of LURs. Under s.42 of the PRCLUR, the government has the right to resume LURs subject to compensation that is based on the unexpired term of years, the actual development, and uses on site. Section 58 of the PRCLAL also provides for the resumption of land use rights if the relevant land is required for a public interest or urban renewal

program. However, the PRCLAL does not provide details about the compensation. It only mentions that the land use rights holder shall be suitably compensated. The law does not define the meaning of 'suitable compensation'; and there is also no indication how a suitable compensation is assessed.

Problems of the Current Compensation Principles

The current compensation laws are far from adequate. The biggest problems are in the following areas:

a) Just Terms Compensation Principle Not in Place

In the United States, United Kingdom, and most Commonwealth countries, there exists a just terms compensation (also known as just compensation) principle that is aimed at financially reimbursing a dispossessed person adequately. This principle was highlighted in the famous English court case *Horn v Sunderland Corporation* (1941), in which Scott LJ held that a dispossessed person is entitled to compensation and to be put, "as far as money can do it, in the same position as if his land had not been taken from him. In other words, he gains the right to receive a monetary payment not less than the loss imposed on him in the public interest, but, on the other [hand], no greater."

Nevertheless, the meaning of "just terms compensation" is not defined in the compensation laws and has different interpretations in different countries. In the United States, the market value of the subject property is generally held as just compensation for the dispossessed landowners (Eaton 1995). In contrast, in the United Kingdom, compensation is based on the principle of value to the owner. The value to the owner compensation principle is made up of market value together with other losses suffered by the claimant (Denyer-Green 1994). This principle is broadly followed in most Commonwealth countries and regions such as Australia (Rost & Collins 1984) and Hong Kong (Cruden 1986).

In China, neither the principle of just terms compensation nor value to the owner is mentioned in the compensation laws. While market value compensation is allowed under the UBDRAR, it is only payable to dispossessed persons in urban areas, but not in rural areas. The reason for this disparity is that the land law does not allow for the private sale of farmland. Therefore, the market value of farmland cannot be established, and besides, it is not appropriate to use market value as a basis for farmland compensation. Although the compensation for rural dispossessed people is based on the annual productivity of the land taken, it deprives them of the

opportunity to claim the highest and best use value for their land. While there are other compensation payments, such as relocation costs and settlement subsidy payments for all dispossessed people, other consequential financial losses not within these categories are not payable. The problems are discussed in item (b) below.

b) Limited Consequential Loss Compensation

Under the current laws, consequential financial loss payments are very limited. At present, only relocation costs and settlement subsidy payments are payable (Reg. 31 UBDRAR & s.47 PRCLAL). Payment of other consequential financial losses such as the cost of finding alternative accommodation, extra costs for living in a new district; fees for discharging mortgages, etc. are not allowed.

For non-residential occupiers, the UBDRAR only provides for the payment of suitable compensation for losses due to ceased production and/or a closure of business (Reg. 33). The meaning of 'suitable compensation' is not defined. It is unclear how the 'suitable compensation' is to be determined, and whether the compensation needs be a reasonable amount. Furthermore, there is no explicit provision for the compensation of economic losses not due to ceased production or operations. Accordingly, temporary business losses pending removal, loss of business goodwill, costs of notifying customers/clients about the removal, and other related losses may not be compensated.

c) Interest in Land Undefined

Interest in land is an important issue in Western compensation laws. There are many interests that can be held in land (Hyam 1996). For example, freehold, leasehold, and easements are common interests in land. In land acquisition, including compulsory land acquisition, it is an interest in land that is actually acquired. Western compensation laws generally allow any person who has an interest in the land taken to claim compensation.

In China, these concepts do not appear in the compensation laws. The relevant laws only refer to the acquisition of physical land and buildings rather than an interest in land. Under the PRCLAL, there are definitions for farmland, construction land, and unused land. However, there is no definition or reference for an interest in land. At present, the laws only provide for the payment of compensation to property owners and tenants. The lack of a definition or reference for an interest in land effectively excludes people with a minor interest in the land, or who do not have a legal title from getting compensation.

d) Right to Claim Compensation Not Available

The UBDRAR requires the acquiring authority to pay compensation and to reach a compensation agreement with the dispossessed people. The dispossessed people may not accept the offer from the acquiring authority, but they are not explicitly given a right to claim compensation. They have no legal right to initiate a compensation claim, and in most cases, have to take what is given to them. For those affected people who are not part of the compensation agreement, they have no right to submit a compensation claim at all.

The deficiency also affects people with a valid property title when the land acquisition is a partial taking. Under the current laws, there is no clear provision for compensation for a partial acquisition of land. Given that there is no right to claim compensation, it is unclear whether the owners/occupiers of the retained land can get any compensation in this regard.

e) Problems with Market Value Assessment

For the acquisition of urban properties, the UBDRAR allows eligible dispossessed people to elect to have market value compensation (Reg. 23). However, there is no definition of market value in the law. On the other hand, the law allows the relevant people's government to determine the methods of assessing market value. This provision gives the authorities unlimited flexibility and often leads to a miscarriage of justice. For example, in April 2001, there was a protest from a group of dispossessed households in Nanjing City against low compensation payments because the acquiring authority had ignored the fact that the acquired properties were within the busy city centre district (The Sun News 2001).

On the other hand, even if the authorities act properly, the lack of a legal market value definition may pose such a problem to acquiring authorities that it may cost them more to compensate the dispossessed people. Since there is no definition of market value for compensation purposes, it may force an acquiring authority to pay for an increase in value of the subject property due to illegal uses, an expansion of uses after the promulgation of the acquisition scheme, and an increase in property values due to the positive impacts of the proposed scheme of the authority.

f) Non-uniform Compensation Standards & Lack of Transparency

The PRCLAL and UBDRAR only outline broad compensation principles. Details of compensation and adjustments are to be determined by the respective people's governments of province, autonomous region, and municipality directly under the Central Government. Since each authority

has its own considerations and objectives when formulating the standards, there is bound to be a wide disparity in their standards.

Even if details of compensation are prescribed in the laws, disparity still exists. For example, compensation to dispossessed farmers under the PRCLAL is higher than the compensation given under the Medium and Large Scale Water Conservancy and Hydroelectric Power Projects Land Acquisition Compensation and Migrants Resettlement Regulation of 1991. It is not clear why farmers dispossessed from water conservancy and hydroelectric projects are treated differently.

Besides disparities in compensation standards, the unchecked power of the authorities to make compensation standards is problematic. In Ma An City of Anhui Province, the cash compensation to dispossessed parties is apportioned such that the property titleholders take a 30% share and the occupiers take a 70% share of the compensation (Yang 2000). Why the 30/70 apportionment is considered reasonable or suitable is unknown. The strict application of this apportionment ratio is a problem because it ignores the possibility that the value of the property titleholder may exceed or fall short of the 30% share. Since the basis for making the discretion is not transparent, it is difficult to know about the relevant criteria of the decision, while it is easy for corruption to flourish.

Answers to the Problems

Obviously, the current compensation principles are not satisfactory. The problems outlined above are profound and not mutually exclusive. Nevertheless, the problems can be greatly reduced if improvements to the following areas can be made:

a) Adopting the Just Terms Compensation Principle

At present, the Chinese compensation laws only allow average annual production value compensation for the acquisition of farmland, market value cash compensation, and property title exchange for the acquisition of urban properties, plus removal costs and settlement subsidy payments. The total compensation does not fit squarely within the principle of just terms compensation, and very often leads to disputes and social unrest.

After China's accession to the WTO, there have been more foreign investments in the country, and the probability of acquiring properties from foreign investors will increase in the years to come. In order to avoid compensation disputes arising from domestic and foreign claimants, it is necessary for China to incorporate the just terms compensation principle into

its compensation laws. Once this principle is adopted, it paves the way for Chinese authorities to address other deficiencies.

b) Introducing Uniform Compensation Standards

In order to address the problems caused by non-uniform compensation standards, the current broad compensation principles should be refined. While the relevant peoples' governments are empowered to determine the details of compensation, the laws need to require them to stick to the broad principles. In Australia, the compensation standards are based on the broad principle of 'value to the owner' (Rost & Collins 1984). For example, the Commonwealth Government's Lands Acquisition Act of 1989 and the New South Wales Government's Land Acquisition (Just Terms Compensation) Act of 1991 have the same broad principles of compensation. The heads of compensation include:

- 1) the market value of the interest in the land acquired;
- 2) the special value (financial advantage in addition to market value incidental to the claimant's ownership/use of the land);
- 3) severance (value loss to other retained land due to a partial land acquisition);
- 4) injurious affection (value loss to other retained land due to the carrying out of or the proposal to carry out works for public interest on the acquired land);
- 5) consequential financial losses; and
- 6) solatium (a sum of comfort money paid over and above the actual damages as solace for the interest in land being compulsorily acquired).

These heads of compensation are accepted by Australian courts as just terms compensation. They may give Chinese legislators some helpful ideas about the broad compensation principles to be introduced in China.

c) Allowing Other Consequential Financial Losses

Consequential losses can be a substantial amount. Sometimes the market value of the dispossessed person may be a small amount, but there is a substantial consequential loss. For example, suppose the dispossessed person is a commercial tenant who has a short unexpired lease term, and the land acquisition makes it impossible for him to renew his lease. The necessary removal leads to a huge temporary business loss and a substantial loss of business goodwill after removal.

Under the current Chinese compensation laws, compensation is only payable to economic losses due to a cease in production and/or operations. The dispossessed business owner accordingly will suffer a huge consequential

financial loss. In order to avoid injustices, the laws should be amended to allow dispossessed persons to justify and claim all direct and reasonable consequential financial losses resulting from the acquisition.

d) Defining Interest in Land

Land acquisition is actually an acquisition of an interest in land. However, this concept has not been adopted by Chinese compensation laws. The lack of reference to an interest in land has already caused injustices and hardship among dispossessed people. After her entry into the WTO, China has an obligation to adopt international standards. In order to avoid legal disputes arising from the lack of reference to an interest in land in compensation laws, the relevant laws should be duly amended to establish the concept of an interest in land. There should also be an explicit provision to allow any person with an interest (legal or equitable) in the land taken to obtain compensation.

e) Right to Claim Compensation

It is unfair that the dispossessed people are not given the right to claim compensation. Although the compensation offered by the acquiring authority may not necessarily be unreasonable, the dispossessed people should not be deprived of their legal right to submit a claim for a fair settlement. The relevant laws should be amended to give dispossessed people the right to claim compensation.

At present, the current laws do not compensate for the loss of special value and a loss due to a partial taking. Special value is the financial advantage on top of the market value of the acquired land due to the dispossessed person's ownership/use of the land. In the case of a partial taking, only a portion of the whole is acquired by the authority. Apart from losing the confiscated land, the dispossessed owner may also experience value loss on the retained land due to severance and injurious affection (see explanation of these terms in items (b)3 & 4 above). There should be a clear provision to allow dispossessed owners to claim compensation for such losses.

f) Increasing Compensation Transparency

To remove the shadow of the lack of transparency, the relevant authorities need to make the basis for compensation assessment readily accessible. The dispossessed people, other interested parties, and their authorised professional representatives should be allowed to consult and obtain from the acquiring authority details of the basis for compensation.

Conclusion

China's compensation principles have unique characteristics. For example, property title exchange is a barter based compensation method that fits the ideology of a socialist country. However, other types of compensation under the current laws fall short of just terms compensation. They are designed for the convenience of the acquiring authorities rather than for adequately reimbursing dispossessed people.

The biggest problems with the current compensation principles include the non-existence of just terms compensation principle in compensation laws, limited consequential financial loss payments, no concept of interest in land, no right to claim compensation, the lack of a market value definition, non-uniform compensation standards, and a lack of transparency. However, none of these problems is insurmountable. Answers to the problems have been suggested above. The real problem is the government's lack of determination to force the necessary changes. After China's accession into the WTO, she was obliged to upgrade her economy to international standards. It is likely that China will bring the necessary changes to the compensation principles in the near future.

Finally, apart from the changes suggested above, there should be a sufficient number of independent lawyers and valuers to assist dispossessed people in assessing their compensation entitlements and the reasonable compensation payments. At present, there are about 30,000 valuers in China serving a population 1.2 billion people. The people are clearly severely underserved. The number of independent lawyers in the nation is unclear. The condition is believed to be similar to that of the valuers. Given the severe shortage of valuers and lawyers, the government should take necessary steps to educate and train more lawyers and valuers to assist in compensation claims and serve the community at large.

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Compensation and Valuation in Resettlement: Cambodia, People's Republic of China, and India. November 2007. Capacity Building for Resettlement Risk Management. Section III summarizes common problems and offers general recommendations for policies and practice that may be applicable for ADB across the region. ADB adopted an involuntary resettlement policy in 1995 that includes general language on compensation and valuation. Consider establishing expert tribunals to help set compensation in all projects involving land expropriation. Most countries have developed land expropriation or acquisition laws to restrict their government's exercise of its eminent domain power and have accumulated instructive experience in implementing those laws. However, it is unable to answer the problem that the land expropriation conflict continues to occur under the premise of the continuous improvement of the land expropriation system. chart, we can see the land expropriation conflict incidents and incidence rate in China in recent years, and analyze and display the results of these four aspects. Table 1 Different types of land conflicts. types. Forced land acquisition Less compensation Procedural violation No right to speak. number. 36 24 10 9. Compensation in compulsory land acquisition is often calculated according to guidelines set by law. Many countries, such as the US, Japan, Australia (for federal land acquisitions only), Korea and Malaysia, require compensation to the private owner of rights in property in their respective constitutions (Kotaka and Callies, 2002, pp. 67). Others, such as Singapore, provide for it by statute. Land acquisition in hanoi. A case study of land acquisition around externally driven land use changes in China illustrates a number of the problems in the legal setting (Chan, 2003): the just compensation principle is not in place; consequential loss compensation is limited; interests in land are not defined; the right to claim compensation.