

NUANCES OF COMPULSORY LAND ACQUISITION AND COMPENSATION IN BOTSWANA: THE CASE OF THE PITSANE-TLHARESELEELE ROAD PROJECT

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Abstract

Purpose: There is a general consensus, within previous researches, that internationally, major challenges caused by compulsory acquisition include lack of compensation or inadequate or delayed compensation, where it is offered. The purpose of this study is therefore to contribute to the existing academic debate on issues related to land acquisition and compensation by establishing if there is consistency in compulsory acquisition and expropriation policy and practice in Botswana.

Approach/Design: A case study approach was adopted based on the Pitsane-Tlhareseleele road project. A total of twenty-two (22) displaced people and eight (8) Planning Officers, four (4) from Rolong Land Board and four (4) from Good Hope Council were interviewed. The coding of interview results was done manually. The interpretation, analysis and presentation of data were facilitated by the use of SPSS.

Results/Findings: The results of this study revealed policy-practice gaps in the calculation of compensation in Botswana. The statutory and policy frameworks provide for a consensus-based compensation approach but the displaced people lamented that the valuation method which was used by compensation authority was not transparent.

Practical Limitation: The major limitation of this study is that it was based on a single case study with a limited number of affected people.

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Practical Implication: The results of this study could inform policy and practice on compulsory land acquisition in Botswana.

Originality/Value of Work: This study is one of the few works relating to the existing debate on compulsory land acquisition in Botswana.

Keywords: *Compulsory acquisition, consistency, expropriation policy, fair compensation, public use, property valuation.*

Introduction

Botswana is one of the fast-growing economies in Southern Africa (Lewin, 2011, African Development Bank, 2019), as indicated by a high per capita income increase “from USD 80 at the time of its independence in 1966 to USD 6 924 in 2016” (Honde & Abraha, 2017:02). In its quest to be a competitive investment destination, Botswana has been developing most of its road infrastructure and this development has been characterised by expropriation of land. Spatial development is sometimes associated with compulsory acquisition of land (Food and Agriculture Organisation (FAO), 2008). The Botswana Government has used its eminent domain powers in a number of cases when land was needed for projects which are of public importance. Eminent domain is the power given to government by law to take private property without the owners’ consent as long as the proposed use will benefit the public and fair compensation is paid to the displaced parties (Ambaye, 2014; Lyanda, 2014; Odiase-Alegimenlen & Garuba, 2015). Expropriation has been widely criticised because in most cases, the compensation offered fails to pass the equity and equivalence test (Tagliarino, 2017). This problem becomes more complex when customary land is involved since people do not formal tenure rights and property boundaries are not well defined (Food and Agriculture Organisation, 2017; Kabanga & Mooya, 2018). Most countries have adopted market value as a representative of fair compensation. However, Kabanga and Mooya (2018) have pointed out that market value does not take into account social, cultural, religious, spiritual and environmental values, which are crucial in customary land holding systems. FAO (2017) and Kabanga and Mooya (2018) have emphasised that any valuation for compensation when customary land is acquired is not fair if it leaves out the above-mentioned non-market values.

In Botswana, the state is empowered by Section 8 of the Constitution and the Land Acquisition Act (Cap 32:10) to take private property or property rights without the owner's consent. Existing laws stipulate that private land can only be expropriated for public purposes and that fair compensation must be paid for expropriates. Pitsane-Tlhareselele road which stretches for 5.25 kilometres has resulted in the expropriation of tribal land. Tribal land in Botswana is owned by the community and administered by Chiefs in line with the customs of that tribe as provided for by the Tribal Land Act. All members of that tribe have usufruct rights whereby they can only use the land but they cannot sell it. When tribal land is expropriated, affected persons are entitled to compensation for their improvements in terms of the Tribal Land Act read together with the Land Acquisition Act. In the case of the Pitsane-Tlhareselele road project, 22 households lost portions of their land to pave way for this project. This paper seeks to establish the perceptions of affected people and the expropriating authorities about the compensation offered when customary land rights are expropriated. A case study approach was adopted based on the Pitsane-Tlhareselele road project.

Background and Overview

There is a general consensus that when real estate is expropriated, a fair or just compensation should be paid as restitution to the affected persons (Sellke, 2012; Ambeya, 2009; Nikiema, 2013; Pilmmer, 2010; Alemu, 2012). However, in as much as legal provisions stipulate that fair compensation has to be paid, it is noted that inadequate compensation is among the chief causes of compensation disputes (Ambaye, 2009; Alemu, 2012). Nikiema (2013) has pointed out that the method of valuation has a significant impact on the compensation value. Moreover, inadequate compensation of expropriated properties is identified as one of the main causes of destitution and informal settlements globally (UN-Habitat, 2008, 05 in Kavanagh and Plimmer (2010). Langford and Halim (2008) have concluded that "forced evictions through expropriation continue to grow, millions of people are evicted each year, bringing severe and traumatic consequences for families and communities". Moreover, property valuation and adequate compensation are therefore considered to be crucial in protecting property rights and investor confidence (Ambeya, 2009).

Major challenges associated with compensation for expropriated real estate especially in Africa include inadequacy of compensation, delays in

payment of compensation, and lack of professional valuers (Alemu, 2012; Chimbetete, 2016; Mutema, 2019). Given the scarcity of professional property valuers, chances are that most people undertaking property valuation for expropriation are not accredited by local professional bodies. The other challenge most likely to be posed by the scarcity of professional property valuers is that when dispossessed people are not satisfied with the compensation offered, they might not have the means to engage the services of a professional valuer for advice. As a result, they end up just accepting whatever is offered by the expropriating authority.

Furthermore, in Africa, customary land is one of the key land tenure systems (Kabanga & Mooya, 2018) hence market-based compensation might not result in fair compensation for customary land since there is no formal market for communal land (Mengwe, 2019; Kabanga & Mooya 2018). This means that for affected people, the value of land is not derived from the market but rather from non-market attributes of the expropriated piece of land, which may include access to natural resources such as water, grazing pastures and social capital.

According to Ng'ong'ola (1989), "in Botswana, as elsewhere, the assessment of compensation is potentially the most contentious aspect of this branch of the law." Mengwe (2019) has also concluded that compensation for expropriated customary land in Botswana has been characterised by disputes as the affected people are dissatisfied with what they are offered by the state (expropriating authority). Pitsane-Tlhareseleele road project is one of the projects that falls under the 10-year Botswana integrated transport project (BITP), which started in 2009. The primary aim of the project is to enhance the efficiency of the transport system by building modern business management capacity and improving the strategic planning aspects of inter-regional transport and critical transport infrastructure. This study seeks to assess the fairness of the compensation offered to people affected by the Pitsane-Tlhareseleele road project in a bid to contribute to the existing academic debate on compensation for expropriation.

Theoretical Framework

Compensation for expropriation is based on the theory of equity and equivalence, which states that affected owners and occupants should be neither enriched nor impoverished as a result of the compulsory acquisition

of their property (Viitanen, 2002; Asian Development Bank, 2007; Keith *et al*, 2008; FAO, 2009; Viitanen *et al*, 2010; Deeyah, & Akujuru, 2017). The main principle of indemnification is to place the affected person in the same position as he/she was before the property was compulsorily acquired (Ambaye, 2009; Keith *et al*, 2008; Pai & Eves, 2016). In this case, the expropriating authority must that the living standards of the affected persons remain as they were prior to the compulsory acquisition. In other words, no one is supposed to benefit from the government's quest to take property for public benefit, but in the same vein, no private individual should be disadvantaged simply because the government needs property for public the benefit. Johnson and Chakravarty (2013:280) have noted that "compensation serves to rectify the losses incurred as a result of expropriation and displacement, often on the basis of cost-benefit analysis and to incorporate actual and potential opponents of land acquisition into the process, thereby facilitating the social and political conditions under which land acquisition can occur." In this case, the theory of equity and equivalence is aimed at providing dispossessed groups with adequate financial compensation (Mahalingam & Vyas, 2011).

Property valuation for expropriation purposes is done in terms of the guidelines provided by existing statutes. In Botswana, private property rights are protected by the supreme law of the land (Ng'ong'ola, 1989). Mengwe (2018) has noted that Section 8 of the same Constitution together with the Land Acquisition Act (cap 32:10), the Acquisition of Property Act of 1955, the Tribal Land Act of 1968 and the Tribal Land (Amendment) Act of 1993 gives the State the power to interfere with private property rights. Bayo (2006) has explained that eminent domain power in Botswana is conditional, which means that it can only be exercised when the expropriated land is to be used for public purposes (including, but not limited to, defence, public safety, public order, public health, town and country planning) and that prompt and adequate compensation must be paid. However, Ng'ong'ola, (1989) and Mengwe, (2018) have noted that the Constitution of Botswana does not provide a detailed definition of the meaning of prompt and adequate compensation. This has resulted in subjectivity in practice, which has in turn resulted in wide disparities in estimated compensation values.

Property valuation for compensation for tribal land in Botswana is guided by Section 33 of the Tribal Land Act of 1968 (amended 1993). Mengwe,

(2019) has pointed out that property valuation for compensation include the depreciated replacement cost (DRC) value of improvements, a market-derived value for standing crops and ten per cent (10%) of the aggregate of DRC and the standard value. Using DRC as the basis for compensation has been criticised when compensating rural properties because some of the materials used by rural communities are difficult to quantify in monetary terms (Iyanda, 2014).

Measuring fairness in compulsory land acquisition and compensation: A Review

What is the yardstick used to measure fairness in compensation for expropriation? A number of factors are considered when assessing the fairness of expropriation and compensation. Market value is widely accepted as a true measure of fairness in compensation. This means that if the estimated property value for compensation is within an acceptable margin (usually 10%) with the market value, then it is considered to be fair (Lin, 2009; Tzu-Chin, 2009; Holtslag-Broekhof, *et al*, 2018). Market value can be defined as the amount for which a property can exchange hands between an informed willing buyer and an informed willing seller at a given date of transaction, where each acts willingly and prudently without compulsion (International Valuation Standards Council (IVSC), 2016). It is also worth noting that in as much as the market value can be used as a benchmark for fairness in compensation value, there is a difference between market value and fair value. Market value is determined by the market (demand and supply) and it disregards any special benefits of the property to the seller or buyer. Fair value, on the other hand, is mainly a product of negotiations between the buyer and the seller, which takes into account special benefits accruing to any of the negotiating parties (IVSC, 2016).

Ambaye (2014) and Tomson (2009) have pointed out that some scholars have challenged the notion that compensation based on market value is fair. Market value is not equivalent to fair value since it does not take into consideration things like the cost of relocation and disturbance (Tzu-Chin, 2009; Walters, 2019; Beale 2019). In this regard, compensation which is based on market value is not sufficient to enable dispossessed people to maintain their economic status after expropriation (Zrobek and Zrobek, 2008a; Kucharska-Stasiak, 2008). Kabanga and Mooya (2018) argue that market value is not equivalent to fair compensation for customary land

since it is not sold in the open market. Market-based compensation value is less than fair compensation when customary land is expropriated since the market approach relies on market evidence whereas there are limited transactions, if any, under customary land rights (Asian Development Bank, 2007; Kabanga and Mooya, 2018). Under the customary land tenure system (also known as tribal or communal land tenure system), the land is, in principle, owned by the community and traditional leaders allocate the land to beneficiaries free of charge. Given that land is given without charge by traditional leaders, one might be justified in concluding that there is no market to talk about. The World Bank (2004) has recommended the use of the replacement method of valuation in the event that there is no market evidence to rely on. However, Nuhu (2008) and Alemu (2012) has criticised the use of the replacement method of valuation when estimating compensation for customary land since the materials used to build some rural properties cannot be found on the market, thereby making it difficult to attach monetary value to such properties.

Another factor to be considered when assessing whether the compensation for compulsory land acquisition is fair is whether the whole process was transparent and whether affected people were consulted and given access to professional advice and/or representation (Zrobek & Chan 2003; Zrobek & Zrobek, 2008a; Zrobek, 2008b; Johnson & Chakraarty, 2013; FAO, 2017). The expropriating authority need to identify all affected people, seek their consent and understand their customs and traditions (FAO, 2017). The affected people must also be given access to independent valuers and lawyers in the case they are not happy with the compensation offered. The cost of engaging these professionals must be met by the expropriating authority (FAO, 2008; Zrobek & Zrobek, 2008b; Arul Vikram & Murali, 2015; FAO, 2017). If the affected parties are consulted at every stage of the expropriation process, chances are that there will be less resistance and delays. Another important consideration to ensure inclusive development is the establishment of dispute resolution procedures. "Affected parties should be made aware of the compensation guidelines, preliminary compensation figures and their right to object if they feel that the amounts offered are not fair" (FAO, 2017).

The requirement to understand the culture and traditions of affected peoples when calculating the compensation values resonates very well with the views of Chambers (1995) that in most cases professionals and

institutions which deal with development economics come with their own “realities” that are not in line with what the values of the intended (mostly rural) beneficiaries. A yardstick to be used to measure whether or not the compensation offered was fair should ideally come from the dispossessed people and not from the expropriating authority.

On the other hand, the fact that human beings by nature are selfish must not be over emphasised. In this regard in as much as the realities of the affected people should be prioritised and their compensation should be guided by a legislative framework. In other words, it is also important for them to be well versed with the provisions of the law in terms of how compensation is calculated.

Fairness in compulsory acquisition and compensation can therefore also be assessed based on whether or not the whole process was done in terms of the provisions of the law. If the practice deviates from the provisions of the law, then the compensation cannot be classified as having been fair (FAO, 2008). However, there are also cases when the legal provisions are ambiguous which can adversely affect the fairness of the compensation process. The World Bank (2004) and FAO (2008) have provided guidelines which can be used as a benchmark when assessing the fairness of the compensation value. Box 1 is a summary of property valuation for expropriation guidelines provided by the above-mentioned institutions.

Box 1: Guidelines for calculating fair compensation value

The total compensation may be based on:

- Replacement value of the land: Where markets are active, the replacement cost of affected land, in either rural or urban areas, is based on fair market value (plus transaction costs and, in rural areas, any preparation costs). Alternatively, where markets are weak, the replacement cost is calculated from the productive potential of agricultural or commercial land of equivalent size.
- Replacement value of improvements to the land: Where markets provide adequate information about the supply and cost of comparable substitutes, any replacement structure of equivalent market value, plus any transaction and relocation costs, may be appropriate. Where such market signals are absent or inadequate, replacement cost is equivalent to the delivered cost of all building

materials, labour costs for construction, and any transaction or relocation costs (the cost of the land under the structure is considered in “Replacement Cost for Land,” above). Replacement cost can be calculated using the infrastructure schedule or contractors’ quotes.

- Replacement value of crops: When arrangements cannot be made to allow for harvest, the market value for lost cash crops is paid. In some countries, the value of the harvest is determined by the average market value of crops for the previous three years. In areas of predominantly subsistence production, good practice recommends that in-kind compensation be made for subsistence crops.
- Replacement value of trees: Where markets exist, the value of a tree of a specified age and use can be used to determine compensation rates. Where markets do not exist, surrogate values must be determined. For timber trees, the value of a tree equals that of the lumber. For fruit or fodder trees, the value is equal to the cumulative value of the fruit crop for its productive life (and any timber value). If replacement trees are provided, good practice indicates that compensation be based on the value of the harvests lost until the replacement trees come into full production (typically, 7–10 years). In the case of immature trees, a less costly alternative may be to directly supply seedlings as a replacement and provide compensation for the resulting delay in the trees reaching fruit-bearing capacity.
- The value of any financial advantage other than market value that the person may enjoy by virtue of owning or occupying the land in question.
- Interest on unpaid compensation from the date of possession: Replacement cost includes a provision for inflation if payments are delayed.
- Expenses incurred as a direct and reasonable consequence of the acquisition.

- Loss in value to other land owned by the affected owner due to the project: In some countries, the compensation will be reduced if the retained land increases in value as a result of the project, a condition sometimes referred to as “betterment”.
- Legal or professional costs, including the costs of obtaining advice, and of preparing and submitting documents: Any administrative charges, title fees, or other legal transaction costs must be paid by the project or waived.
- Costs of moving and costs of acquiring alternative accommodation.
- Costs associated with the reorganisation of farming operations when only a part of a parcel is acquired.
- Loss in value of a business displaced by the acquisition, or if the business is permanently closed because of the acquisition.
- Temporary loss of earnings.
- Personal hardship.
- Other losses or damages suffered.

Source: FAO (2008 pp31) and World Bank (2004)

The valuation guidelines in Box 1 reveal that fair compensation must include compensation for land, improvements on land, business loss, crops, professional fees, disturbance allowance as well as interest when compensation is not paid immediately. Estimation of the amount of interest payable when the expropriating authority delays in paying compensation has also been a subject of debate (Hiironen, Niukkanen, Ohrankämmen & Laitala, 2014). From the literature reviewed, it can be noted that the assessment of the fairness of the compensation value for expropriated properties can be done in several ways, which include evaluating the assessment process using the available legal provisions or set guidelines. The fairness of compensation for expropriation can also be measured by comparing the compensation offered with open market value or by seeking the views of the expropriating authority and the displaced people.

This paper is not the first study on compulsory acquisition and compensation in Botswana. Ng'ong'ola (1989) used the case study approach when he did a undertook a comprehensive analysis of property valuation for expropriation in Botswana. He observed inconsistencies in property valuation for compensation purposes in Botswana. Based on these inconsistencies, he concluded that chances are that most compensation figures offered are either undervalued or overvalued. This goes against the principle of equity and equivalence, which is the foundation of compensation. His study recommended that both practising property valuers and the judiciary revise the current practice, in order to ensure more realistic compensation values. Mengwe (2019) also reviewed relevant laws guiding compensation for expropriation in Botswana and concluded that the law was biased towards formal property rights at the expense of vulnerable groups. He recommended the review of the existing compensation framework to make it more flexible and ensure that it takes non-market value into account.

Methodology

Because of the nature of the problem under study, this paper followed a qualitative research methodology. A case study approach was adopted based on the Pitsane-Tlhareseleele road project. Pitsane-Tlhareseleele road is one of the recently constructed roads which stretches for 5.25 kilometres. This project was chosen because it is one of the recent developments associated with compulsory acquisition projects in Botswana. A census survey was adopted and a total of 30 respondents were interviewed from displaced persons and government officials. When the road project was implemented, a total of twenty-two (12 from Tlhareseleele and 10 from Pitsane) households were displaced therefore all of the 22 who were available were interviewed. Also, eight government officials four (4) from Rolong Land Board and four (4) from Good Hope Council were interviewed as key informants. These eight were chosen because they were the ones who were directly involved in the project under study. Primary data was collected through interviews with respondents and an interview guide was used. Face to face interviews were preferred because they allowed the researcher to probe further as a way of seeking clarity on the responses given to the research questions. The interviews were based on a 20 question interview guide which was structured into four sections. Section one was dominated by short and closed demographic questions. The second section of the interview guide focused on the existing policy and

practice in Botswana. Questions about challenges of weaknesses of the existing expropriation process dominated Section three. In the last section of the interview guide focused areas of improvement on the existing compensation for expropriation policy and practice in Botswana. Coding of interview results was done manually and data was processed using Statistical Package for Social Sciences (SPSS), which facilitated data interpretation and analysis.

Results and Discussion

Perceptions of government officials

The expropriated land was tribal land which is owned by the community in terms of the Tribal Land Act. With the tribal land tenure system, land is owned by members of the clan and can be inherited from one generation to the other but it cannot be sold. Individual members of a clan have use rights and are entitled to compensation when their land is expropriated as prescribed by of the Tribal Land Act and the Compensation Guidelines. However, it is important to note that most of the tribal land in Botswana is not registered. Botswana is currently working on title survey so that all land within its borders are registered with the Deeds Registry Office.

Key informants from the expropriating authorities were satisfied that the compulsory acquisition and compensation for this project had been carried out in terms of the requirements of the Tribal Land Act and the Compensation Guidelines. The Tribal Land Act prescribes that when tribal land is expropriated, the acquiring authority with the assistance of the planning authority, must make reasonable efforts to identify, contact and notify all affected people about its intention to expropriate the land. In terms of the compensation guidelines, the expropriating authority, which in this case is the Department of Roads, should inform the responsible planning authority of its intention at least six months before the commencement of the project. Both of them (the expropriating and planning authorities) should consult the affected parties appropriately and as specified in the guidelines. This study established that the affected people were notified about the government's intention to expropriate part of their land through a customary meeting presided over by Chiefs and a council of elders known as a *kgotla*. All key respondents were of the view that the land acquisition process was carried out in accordance with the provisions of the law. One key informant said that:

“When the land in question was taken, compensation was paid in terms Section 32 of the Tribal Land Act”.

Another key informant highlighted that in this project, there were consultations between land board, the community and other stakeholders through meetings that held at Pitsane kgotla and Tlhareselele kgotla on various dates. The land board requested for a kgotla meeting to advise the people of the expropriation and their rights. The views of the affected communities were documented and were taken into consideration prior to the expropriation phase.

One key informant also said that the acquiring authority with the assistance of the land board, made reasonable effort to identify and contact all occupiers with the assistance of the land board within all zoned land. However, a few individuals who did not live on their land and do not have relatives in the area, were not aware their land had been acquired. The ongoing land registration exercise is most likely going to help alleviate this challenge. This goes against the principle of transparency which was stressed by FAO (2008; 2017) which require the expropriating authority to do everything within its powers to inform and engage all affected persons. In order to protect the affected people, especially the vulnerable members of the community, the expropriating authority should have identified all people with interests in the subject properties and seek their views during the planning stage.

It was also established from key informant interviews that when it was decided to proceed with the project, the compensation assessment committee conducted a physical inspection of the affected properties, recording all the details of all improvements to the land and any other fixed assets affected within the zoned area. After that, the assessment committee invited the any interested parties any queries or objections to the expropriating authority. The Department of Lands then advised the acquiring authority of the approved compensation assessment report. The acquiring authority then immediately released payment for compensation directly to claimants.

Perceptions of displaced persons

Whilst key informants from the planning authorities were confident that the expropriation and compensation project had been successfully planned and

implemented in terms of the provisions of the law, the affected people did not share this view. They felt that same issues that were important to them had not been considered when the compensation value was calculated. For example, more than half of the affected people felt that they should have been compensated for disturbances experienced during the implementation of the project, which include disruptions in electricity and water services, widespread dust and smoke as well as disruptions in the irrigation and drainage system. Existing compensation legislation prescribes that disturbance allowance should be just ten per cent (10%) of the aggregate of depreciated replacement cost and the standard value. However, this deviates from the principle of fairness because one might be tempted, in this case, to conclude that it was possible to quantify the disturbances experienced by the affected people. Even if the compensation for disturbance was more than the prescribed 10%, for the sake of transparency the responsible authorities should have quantified the disturbance and negotiated for compensation that can be acceptable to affected people.

It was also established that the landowners were made to sign papers indicating the compensation they were going to receive. They were later told that an error had been made when compensation amount was calculated and therefore had to sign other papers indicating a lower compensation amount than the one they were promised before. As a result, 77% of the affected people felt that the compensation process had been neither transparent nor adequate. Property valuation for expropriation for this project was shrouded in obscurity as affected people claimed that they were not informed about how the compensation amount was calculated. Moreover, all of the affected people confessed that they were not familiar with statutes guiding compulsory acquisition and compensation in Botswana. This was also compounded by the relative lack of professional valuers who could have given independent advice to the dispossessed people. As noted by Mutema (2019), property valuers in the SADC region are so scarce that the costs of valuation services are likely to be beyond the reach of most rural subsistence farmers.

Although most of the affected people were not satisfied with the compensation offered, only one person challenged it. It is likely that most of the respondents were not aware about their right to object if they were not satisfied with the compulsory acquisition and compensation. Even if

they had known that they could challenge the process, they might have been reluctant to do so for fear of being labelled as enemies of progress working against government-initiated development. Table 1 summarises major views from different interviewees

Table 1: A Matrix Indicating Major Views from Various Organisations

Respondent	Major view(s)
Displaced persons	The compensation which was offered was not adequate and we were not part of the assessment process. Critical issues were not taken into consideration when the compensation value was computed. There was no disturbance allowance and what the actual compensation paid was different from the initial compensation which was offered.
Government officials	The expropriation was done in line with the provisions of the law. People were consulted prior and during the expropriation and compensation process. Objections were considered and the government did everything within its powers to identify and engage all relevant stakeholders.

Conclusion, Policy Options and Recommendations

In view of the forgoing discussion, one is tempted to conclude that affected people and government officials have different views about the adequacy of the compensation offered. Key informants who were government officers were of the view that the expropriation and compensation process was done as prescribed by the law. However, displaced persons were 'singing a different hymn', to them even if the compensation was done in terms of the provisions of the law, it falls short for it to be classified as adequate. The results of this study revealed policy-practice gaps in the calculation of compensation in Botswana. The statutory and policy frameworks provide for a consensus-based compensation approach but the displaced people lamented that the valuation method which was used by compensation authority was not transparent.

This study supports the findings of Ng'ong'ola (1989) and Mengwe (2018) that there are gaps in the legislative framework guiding property valuation for expropriation in Botswana. These gaps are primarily the result of using the depreciated replacement cost method as the basis for calculating the

compensation value and the adoption of a 10% disturbance allowance. The entire process is also sufficiently flexible to accommodate the views of the affected people especially when calculating the compensation value. It is therefore concluded that the DRC method is not the most appropriate method of calculating compensation for customary land. It was also noted by Alemu (2013) and by Kabanga and Mooya, (2018) market-related approaches are not appropriate for valuing customary land which is rarely sold in the market and where some of the properties are constructed using local resources and local technology, which is difficult to quantify in monetary terms.

From the findings of this study, it is evident that the affected people and the professionals leading the expropriation process are not reading from the same page. The success of a compensation programme in the eyes of the professionals lies in the legality of the process, whereas in the eyes of the affected people, its success depends on whether the relevant authorities have taken their views into consideration. It can be concluded that this divergence of views is most likely rooted in the lack of transparency in the planning and implementation of the expropriation system. This challenge is compounded by the fact that the parties concerned are coming from “different worlds”. On the one hand, the professionals are armed with their knowledge of laws and regulations that the affected people are not aware of. On the other hand, the affected people have their own customs and values with which the professionals are not well versed. There is need to bridge this gap through more flexible and transparent compensation systems. Table 2 is therefore a summary of the recommendations of this study.

Table 2: Recommendations of the study

Action	Player	Expected outcome
Review of laws which guide compulsory acquisition and compensation in Botswana	Government of Botswana	A flexible and transparent compulsory acquisition and compensation system.
Education communities about property rights and compulsory acquisition.	Non-Governmental Organisations	Improved understanding of property rights and

Action	Player	Expected outcome
		expropriation by the communities.
Understanding of the customs and values of the affected communities prior to the implementation of the expropriation projects.	Government officials working for local and planning authorities	Improved understanding of the values of local people which might help to minimise disputes.

As shown in Table 2, this study recommends that there is need to review existing statutes guiding property valuation for expropriation in Botswana with the aim of bringing flexibility and transparency. Also, there is need to educate communities about the provisions of the law on compulsory acquisition and compensation. Lastly, there is need for more research with the view of coming up with a valuation approach which is guided by both statutory and customary law and can be acceptable by affected people.

Areas for Further Research

It is recommended that future research can assess the fairness of compensation offered for expropriated properties through valuing the subject property using an independent valuer. Also, the size of the population for this study was small, it is recommended that the same study case be replicated in future using the multi-case study approach.

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