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A GUIDE TO THE VALUATION OF UNREGISTERED  
LANDS: PROGRESS REPORT

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## 1. Introduction

This paper is the most recent of a series of reports on an initiative undertaken by the Global Land Tools Network of UN-HABITAT, FIG and other partners\* to identify tools and guidance on the valuation of unregistered land. Each successive stage of this series built upon the one before.

\* These partners include the Royal Institute of Chartered Surveyors (RICS), UN-Habitat, Institute for Housing and Urban Development Studies (IHS), Lincoln Institute of Land Policy and the Land Governance Laboratory of Boston.

In 2013, UN-HABITAT/GLTN, in partnership with the Royal Institution of Chartered Surveyors (RICS), commissioned a scoping study on Valuation of Unregistered Lands. The study recommended that a wide range of tenure types that form 'the continuum of rights' that need to be accommodated in the valuation process.

UN-HABITAT/GLTN commissioned another study in 2014 in partnership with International Federation of Surveyors (FIG) and RICS to elaborate issues raised in the scoping study. In June 2014, during the FIG Congress in Kuala Lumpur, FIG hosted a joint technical session on valuation of unregistered lands to seek further inputs and perceptions on the subject from land professionals.

I had been contracted to prepare a report on methodologies for valuation of unregistered land. That report was reviewed by experts from GLTN partner organisations, academia, practitioners and relevant reference groups at an EGM organised by FIG in October 2014 in Bangkok, Thailand.

That EGM confirmed the importance of this initiative and provided recommendations for further development of the tools for different scenarios. During World Bank conferences in March 2015 and 2016, a number of papers were presented supporting the need to further work on valuation of unregistered lands.

A draft guide was prepared by my colleague Matt Myers and myself and reviewed at an Expert Group Meeting (EGM) held in Sounio, Greece, 15-16 September 2016.

This presentation reports upon the results of that EGM, and looks forward to the guide's publication.

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The Draft Manual was 27 pages long, with a couple of pages of references and two annexures.

It began with an Introduction, then moved to the core concern of the role of market value assessment in expropriation / compulsory acquisition. It then addressed major barriers and issues in unregistered lands, and then how to go about addressing them in valuation protocols.

Finally, it suggested supplemental approaches when the standard protocol cannot deliver enough evidence to be definitive in the valuation.

In general, the EGM did not take issue with the contents of the draft. However, the EGM felt that that the document will be of use to others besides valuers, and should therefore be a general guide to the valuation of unregistered land rather than specifically a valuers' manual. It was therefore agreed that a larger document than GLTN's original 30-page guideline would be more fit for that purpose.

The EGM then centred its attention upon formatting and topic expansion areas to suit that more general purpose.

The purpose of the guide is to be stated upfront, including specifying its target audience, followed by an explanation of its scope and objectives – why valuation matters, situations where valuations of unregistered lands may be needed, and so on.

Several recommendations were made to serve the proposed more general readership. These included the need for a detailed glossary and similarly detailed definitions of key terms. It also meant that, where relevant to make the guide a stand-alone general reference, it should enfold matters referred to in the lead-up documents mentioned above.



For instance, it should include that UN-HABITAT/GLTN considers the valuation of unregistered land may be necessary:

1. in situations of urban expansion into unregistered peri-urban sprawl
2. developments including infrastructure projects entailing compensation
3. upgrading of informal settlements
4. investments in improved farming resettlement initiatives – even disaster related resettlements, redressing historical displacements, and
5. individual owners – mostly from disadvantaged groups - needing to borrow against their land or do share-cropping or sub-leasing of their land due to socio-economic pressures, etc.

The background to its development should be referred to, including reference to limitations of the use of valuations, and the challenges of valuing unregistered lands that are absent or less prevalent when valuing registered lands.

Additionally, such challenges should be illustrated by means of mini case studies, inserted in boxes within the relevant portions of the text.

It also meant that there should be more extensive references, including linkages to global frameworks and other means of contextualising the guide.

Similarly, a section should be added to the guide positioning it in the context of other parallel documents and current initiatives, for example the FAO's ongoing initiative concerning valuations in the context of the VGGT.

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The EGM broke into three groups:

1. Barriers facing valuers in valuing unregistered lands
2. Market value versus compensation
3. Local capacity in valuation

Group One's recommendations included, but were not limited to, emphasising:

1. The need for valuers to retain an auditable trail of records for every valuation
2. The additional difficulties in applying inflexible international valuation standards in flexible unregistered environments
3. Local capacity limitations in valuation re human and financial resources for the valuers, their clients, local government infrastructures and the markets themselves in meeting international standards.

- 4 The additional difficulties in applying inflexible international valuation standards in flexible unregistered environments
- 5 Suggestions to address the barriers should be added at the end of each one
- 6 A summary chart or table should be added at the end of the section concerning the probability and potential impacts of each barrier
- 7 The term “free and prior informed consent” is more stringent than the requirements of the market value definition, and of increased potential application in unregistered land markets
- 8 Awareness that the valuation or its process will itself have effects on the market, including values, which could snowball as in the butterfly effect.



- 9 Finally, it was recommended that the barriers be enfolded into a narrative of where they are likely to be encountered in the valuation process.



Group Two, concerned with market valuations in the context of compulsory acquisitions, reported that they came up with more question than answers. They asked to stress the point elsewhere in the draft that valuers are market readers, and that their most useful role will be in collecting, collating and communicating the situation on the ground as disclosed in their market enquiries, including those that impact upon the non-market value related components of compensation. As market readers, their professional expertise is limited to those heads of compensation that are market-related, not matters up to the courts or alternative dispute resolution processes to determine.

The Group raised several instances of wicked valuation problems, and stressed the need for valuers to clearly state the assumptions and disclaimers necessary to address such contexts.

To address such problems, mere mechanistic thinking may be necessary, but is always insufficient. As Lewis Mumford put it, as long ago as 1970:

“In classical scientific thinking, the whole must be interpreted in terms of the part, deliberately isolated, carefully observed, precisely measured. But in Darwin’s complementary ecological approach, it is the whole that reveals the nature and function and purpose of the part. Though threads in the pattern may need to be replaced, and parts of the pattern modified or completely redrawn as new evidence accumulates, it is important to take in the whole, even at some cost of sharp definition, and to carry that whole through time”\*

\* Mumford, L. 1970. *The Myth of the Machine Vol. 2: The Pentagon of Power*. Harvest/HBJ. San Diego, p. 389.

The valuation of unregistered lands requires just such a complementary ecological approach. In the words of the ever-diplomatic Nassim Nicholas Taleb, those confining themselves to machine thinking are “totally incompetent in complex domains,”\* such as property markets in unregistered lands. His point has been clinically established, as entertainingly recounted in Iain McGilchrist’s *The Master and His Emissary*” (2009. Yale University Press, New Haven and London). Mechanistic thinking as the Master simply will not do. The Master is to be the whole human, with machine thinking the whole human’s Emissary: putting these the wrong way around does only not solve wicked valuation problems: it often makes matters worse.

\* Taleb, N.N. 2016. *The Intellectual Yet Idiot*. <https://medium.com/@nntaleb/the-intellectual-yet-idiot-13211e2d0577#.5wqwx8qcg>

The EGM therefore called for a more holistic approach, which to valuers as market readers must install protocols where they wear out their shoe leather, getting out into the market place and discerning how market participants shape markets. Again as Taleb put it, they must go “out drinking with a minority cab driver” (like the British term, ‘the man on the Clapham Omnibus’, a metaphor for those with “real skin in the game”), and report back to their clients in a speaking valuation.

In the discussion following, it was noted that there are times in valuation in general when a range of values is the best that can be supplied on the evidence, the bureaucratic need for precision being quite unrealistic, and an instance of machine thinking that usually only serves to make matters worse in such contexts. The fact that formal and informal markets effect one another is to be included in the guide.

Group Three, addressed capacity, implementation, and legal and other standards.

They observed that local capacity will be driven by the purpose of this guide. For large scale land acquisitions, there is a need for capacity in local and national government valuation offices. Technical capacity increases as experience and value of work increases. The group therefore noted the need for what they termed para-valuers, in accord with the UN-HABITAT'S "Fit-for-purpose" approach, perhaps at the base of a hierarchy of competencies allowing career development on achieving the required professional standards for the next higher level.

Regarding implementation, they looked to adherence to international standards - IVSC, national and localised standards (Red Book, ethics) and transparency – as well as informal land/property specifics.

Concerning Legal & Regulatory, they emphasised that confidence in national or international professional bodies to supply the technical/professional services needed.

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As with Group One, they emphasised the potential of unintended consequences, and the need to warn about them where practicable – for example, with concerns about taxation, formalised leading to clearance / redevelopment and other contexts. With the taxation example, markets may become informal again atop a formal system to avoid any taxes due on the transactions concerned, and in effect become unregistered land again over a fossilised and irrelevant formal structure.

On the other hand, the potential role of land and other information systems to assist the valuation of unregistered land is very great.

Finally, as requested at the beginning to make this document a stand-alone guide on the topic rather than only a practice manual, the groups supplied detailed suggestions as to reformatting the report.

The way forward from here includes integrating these suggestions, regarding both expanded content and reformatting, into a form consistent with similar stand-alone UN-HABITAT / GLTN guides. The result is to be a completed guidebook of 50+ pages in GLTN's hands before the end of the year.

THANK YOU FOR YOUR ATTENTION.

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