



Linking Land Tenure and Use for Shared Prosperity

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TOWARDS THE VALUATION OF UNREGISTERED LAND

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Abstract

About 70% of land ownership units in developing countries are not formally registered and land registration is not achieving the desired results. At the same time, and while still recognising there are needs for such top-down initiatives, UN-HABITAT/GLTN is looking towards facilitating an evolutionary approach towards market development by the use of valuers. 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.

This paper is a progress report on facilitating the valuation of unregistered lands. In so doing, UN-HABITAT/GLTN is looking towards not only a bottom-up approach, but also one that also addresses all the relevant socio-economic and institutional scales between the top and the bottom, so that both valuations and property markets in unregistered lands can be addressed in a “fit for the purpose” market-specific manner.

Key Words:

Valuation, unregistered land, developing world

Introduction

This paper reports on an initiative undertaken by the Global Land Tools Network of UN-HABITAT to identify tools and guidance on the valuation of unregistered land. During 2014, UN-HABITAT commissioned a global land valuation expert to prepare a comprehensive report on the valuation of unregistered land. This report was socialised and reviewed at a UN-HABITAT / FIG Expert Group Meeting (EGM) on the Valuation of Unregistered Lands and Properties, which was held in Bangkok over two days in October 2014. The EGM brought together 13 international valuation experts (drawn from government, international property advisory, member organisations and academe) together with 6 land policy experts with a background in land surveying / geomatics (drawn from the World Bank, Kadaster International, Land Equity and FIG).

Critically, the EGM highlighted a disconnect between the perceptions of those land policy advisers who, coming from a land surveying / geomatics background saw the recording and registering of land as fundamental (i.e. formal institutional arrangements) with the lived experience of the valuation experts who are quite used to dealing with information challenges of valuing property rights associated with unregistered and customary land (i.e. informal institutional arrangements). Moreover, the valuation experts identified that the International Valuation Standards (IVSC) already provide robust guidance on the tools required for conducting valuations, albeit that such guidance understandably emphasised formal institutional arrangements over informal ones – such is the nature of the global property market.

In this paper we provide background to the GLTN process and highlight the next steps. The paper is written in the ‘shared’ voice of the project initiators (Cyprian Selebalo from GLTN UN-HABITAT), the consultant global land valuation expert (Mike McDermott) and one of the international valuation experts (Spike Boydell). This shared voice allows the authors to navigate the tensions and contradictions that were raised by the project, whilst offering guidance on the way forward. The paper is presented in five sections. Following this introduction, the second section looks at the nature of value, valuation and professional valuation advice. The third section contextualises the importance of valuing unregistered land given global economic and social trends related to urbanisation. The fourth section explains the progress that has been made by the UN-HABITAT and its GLTN partners to date, including two reports and the outcomes of an Expert Group Meeting to review the comprehensive analysis in the second report. The findings of the

EGM, and its suggestions then segue into the fifth and final section that looks at the way forward, and provided recommendations at a global, international, national/provincial, and local level.

The Nature of Valuation

Valuers have to only make one decision at a time: what one or more thing (such as land or improvements thereon) is worth in terms of another medium of exchange. Valuation decisions drive both supply and demand, and they are in part derived from an analysis of supply and demand. Likewise, whilst they can be influenced by cost, cost does not always equate to value.

When anyone undertakes and acts on a cost-benefit analysis, they are performing a valuation. If value exceeds costs, the actor will make a profit: if it does not, the actor will make a loss. That is why *“valuation is the heart of all economic activity. Everything we do as individuals or as groups of individuals in business or as members of society is influenced by the concept of value. A sound working knowledge of the principles and procedures of valuation is essential in all sorts of decisions”* (Ring & Boykin, 1986, p.1). Whilst such a calculation may have nothing to do with money, it will be grounded on a prioritisation of the values people hold. For example, in inquiring into ‘The Cities We Want’, Fainstein (1999) questions the most appropriate values to govern urban life: for example, order, efficiency, democracy, economic growth and the like. The answers are grounded on the value judgments of the individual. That is, everyone is a valuer at some time or another. While such valuers often value in terms of the medium of exchange that we call money, their valuations are not necessarily confined to economic worth as the values that individuals hold may be intangible, emotional or psychic.

Then there are professional valuers who undertake valuations on a daily basis for a fee, which involves ascribing economic value relating to the exchange of goods and services, including land and improvements thereon. To make the distinction clear, in this paper we italicise the word *valuers* and *value* in the broad sense as used by Fainstein and the public at large. Valuers, valuations and value when not italicised refers to professional valuers and their professional opinions, tasked as they are to make valuation decisions without fear or favor on behalf of others.

When the word ‘value’ is used in a professional valuation, unless otherwise stated it is usually taken as referring to the ‘market value’ of the property rights of a particular party. The market

value of any real property is defined by the International Valuation Standards Council (IVSC, 2014) as follows:

“The estimated amount for which an asset or liability should exchange on the valuation date between a willing buyer and a willing seller in an arm’s length transaction, after proper marketing and where the parties had each acted knowledgeably, prudently and without compulsion”.

Note that the definition does not specify that the estimated amount will be in monetary terms, for example, a valuer could say that this car is worth two of those cars plus a motorbike. However, here we are addressing the market value of land, and land in this context is taken as that defined by the Food and Agriculture Organisation of the United Nations (FAO, 1995):

“Land is a delineable area of the earth's terrestrial surface, encompassing all attributes of the biosphere immediately above or below this surface including those of the near-surface climate the soil and terrain forms, the surface hydrology (including shallow lakes, rivers, marshes, and swamps), the near-surface sedimentary layers and associated groundwater reserve, the plant and animal populations, the human settlement pattern and physical results of past and present human activity (terracing, water storage or drainage structures, roads, buildings, etc.).”

In real estate markets, the common adage is that the three most important factors influencing the value of land are location, location, and location. At a similarly high level of simplification, there are three things important to analyse within a transaction to see if it complies with the above definition of market value: perception, perception and perception. Likewise there are three things to establish the soundness or otherwise of that reading/interpretation of the market: sales evidence, sales evidence and yet more sales evidence.

Valuation decisions can be simple, complicated, complex, or a combination of all three. Simple valuations can be likened to following instructions in a recipe book; complicated valuations are like engineering projects, such as sending a rocket to the moon. Complex valuations have to come to terms with human perceptions (Glouberman & Zimmerman, 2002, p. 2). Beyond and possibly enfolding all levels of complexity are many different kinds of all three and within their interrelationship are valuations that have to address wicked problems (Horn, 2001, pp.4-5), which are difficult or impossible complexly interrelated problems (see, for example CogNexus Institute, 2015 for a broader explanation).

Simple valuations come at a low information cost; wicked problems come at a high information cost. In well-functioning property markets, information costs are usually lower than their value because such property markets are transparent and accountable. Information costs can be much higher in poorly functioning markets, where valuing can be like wading through a crocodile and quicksand infested swamp in pitch dark. By “much higher”, we mean not only higher than would make the valuation profitable; rather, there are circumstances where the professional fee associated with the preparation of valuation advice could potentially be higher than the value of the land itself.

There are examples of this tension associated with the valuation of unregistered land. The contradiction is that a client may be instructing a valuation for loan security purposes (a formal institutional arrangement) whilst the asset (the property / land and building) may be on unregistered land (and thus an informal institutional arrangement). From a valuer’s perspective, that is what makes land registration potentially useful – i.e. it reduces the complexity, as registered land is what banks and finance houses are comfortable and familiar with, and using a title as security enables the bank to (i) ‘create’ capital as the mortgagee, and (ii) protect their debt by selling the land/improvements should a mortgagor default on loan repayments. The second benefit to a valuer is that as the costs and risks associated with the preparation of valuation advice reduce, the chances of the valuation process becoming economically feasible increase.

The importance of valuing unregistered land

Whilst within informal settlements and on unregistered land *values* are agreed upon and land / property transactions occur on a daily basis, the formal valuation of unregistered land and property can be required, for example, in:

1. 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. Advising individual owners – mostly from disadvantaged groups - needing to borrow against their land (i.e. using their land as security for loan purposes) or undertake sharecropping or sub-leasing of their land due to socio-economic pressures, etc.

These valuation contexts address some of the most pressing socio-economic challenges of the current century. The developing world is currently home to the biggest economic transformation in the history of the world. As the McKinsey Global Institute highlights (MGI, 2012) the global economic center of gravity is dynamic (see Figure 1). This dynamism is part of “quite simply ... the biggest economic transformation the world has ever seen as the populations of cities in emerging markets expand and enjoy rising incomes” (MGI, 2012, p. iii). As Chiquier and Lea

By far the most rapid shift in the world's economic center of gravity happened between 2000 and 2010.

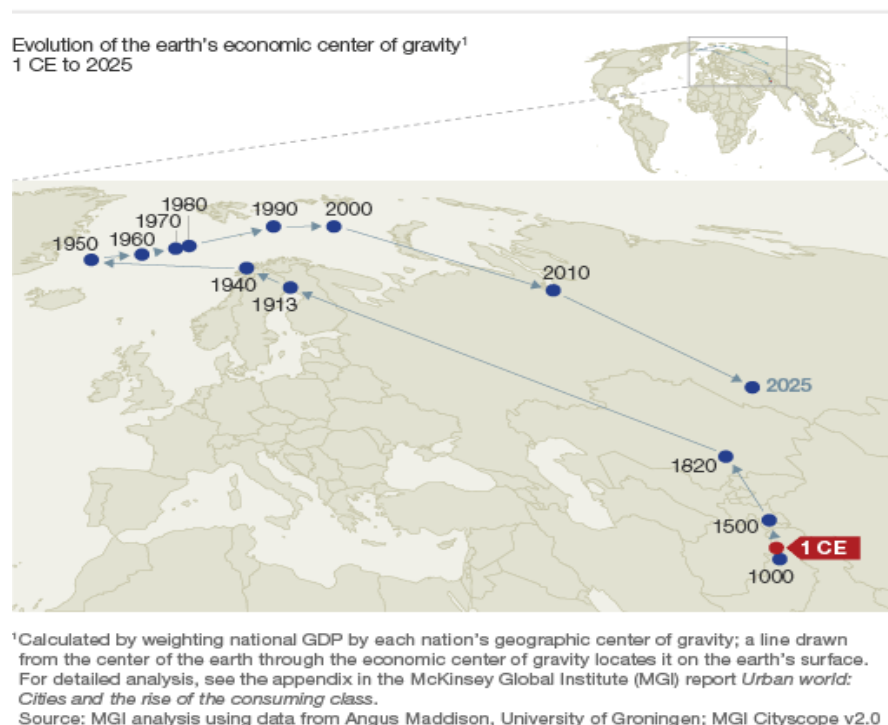


Figure 1: the shifting world economic centre of gravity (Source: MGI, 2012)

2009, p. xxxiii) highlight in their World Bank report,

“A total of 91 percent of the net increase of the world population between 2000 and 2030 will be located in cities of emerging economies ... [d]emand is also fuelled by strong aspirations for better housing conditions. In addition, housing increasingly forms part of a household's savings strategy for investment and as security for old age. In many cases, real

estate is one of the asset classes available when financial investment instruments and government debt markets are underdeveloped.... [furthermore] by 2025 cities will need to construct floor space equivalent to 85 percent of all today's residential and commercial building stock”.

This point is reinforced by the McKinsey Report that highlights that means construction covering an area the size of Austria from 2012 to 2024 (MGI, 2012, p.8) and a city housing the population Washington, DC every week.

This problem is not merely a quantitative one; it is also qualitative. The reasons why people migrate to cities are complex. They are generally faced with wicked problems, and rural to urban migration is often one, and sometimes the only, way to address them. The common factors are their aspirations to better their life conditions, and the capacity of their government to facilitate those aspirations.

When we look at addressing those qualitative problems atop the quantitative ones, yet more wicked problems emerge. By 2030, when the world’s total population is expected to increase to 8 billion, the middle class is expected to increase by around 3 billion (OECD, 2015). Newton (2012, p.89) analysed the environmental impact of cities’ livability, their ecological footprint in hectares required to sustain each person in terms of the number of planets required to service them, and the observations are summarised in Table 1.

Standard Achieved	Cities	Planets Required
High Liveability	Melbourne, Adelaide, Sydney, Perth, Brisbane, Wellington, Auckland Copenhagen	Three Plus
	Vienna, Calgary, Montreal, Vancouver, Toronto, Helsinki, Paris, Osaka, Tokyo, Stockholm, Oslo, Geneva, Zurich.	Two to Three
	Berlin, Frankfurt, Hamburg.	One to Two
No cities identified that can provide high liveability for all within planetary constraints.		
Moderate to Good Liveability	Atlanta, Boston, Chicago, Cleveland, Detroit, Honolulu, Houston, Lexington, Los Angeles, Miami, Minneapolis, New York, Pittsburgh, San Francisco, Seattle, Washington DC.	Three Plus
	Brussels, Prague, Lyon, Athens, Reykjavik, Dublin, Milan, Rome, Lisbon, Barcelona, Madrid, London, Manchester, Montevideo.	Two to Three

	Buenos Aires, Santiago, Dusseldorf, Munich, Budapest, Amsterdam, Warsaw, Moscow, St. Petersburg, Singapore, Bratislava, Seoul.	One to Two
No cities identified that can provide moderate liveability for all within planetary constraints.		
Moderate to Low Liveability	Kuwait City, Abu Dhabi, Dubai	Three Plus
	Tel Aviv	Two to Three
	Baku, Rio de Janeiro, Sao Paulo, Sofia, Beijing, Dalian, Guangzhou, Qingdao, Baku, Rio de Janeiro, Sao Paulo, Sofia, Beijing, Dalian, Guangzhou, Qingdao, Shanghai, Shenzhen, Suzhou, Tianjin, San Jose, Quito, Amman, Almaty, Tripoli, Kuala Lumpur, Mexico City, Panama City, Asuncion, Lima, Bucharest, Riyadh, Belgrade, Johannesburg, Pretoria, Bangkok, Tunis, Kiev	One to Two
	Casablanca, Manila	Within One Planet
Poor Liveability	No cities identified	Three Plus
	No cities identified	Two to Three
	Algiers, Bogota, Tehran, Port Moresby, Al Khobar, Jeddah, Damascus, Tashkent, Caracas	One to Two
	Dhaka, Phnom Penh, Douala, Abidjan, Guatemala City, Mumbai, New Delhi, Jakarta, Nairobi, Kathmandu, Lagos, Karachi, Dakar, Colombo, Hanoi, Ho Chi Minh City, Lusaka, Harare	Within One Planet

Table 1: Liveability / Sustainability of world cities (adapted from Newton, 2012, p.89)

While this urbanisation is occurring the world's arable land is declining in quality, quantity, and amount per capita; in 2010, it was already down to 2,000sqm per person (Anderson & Lafond, 2010), with serious challenges to even that remaining ahead from climate change and water constraints. According to UN Secretary General Ban Ki-Moon (2013), by 2030, "nearly half the global population could be facing water scarcity. Demand could outstrip supply by 40 per cent".

It is in this qualitative and quantitative space where the valuation profession must evolve. As distinct from *valuers*, who can make all the difference, what difference can professional valuers make? Very likely, very little. In his 1998 study of power and rationality, Flyvbjerg (1998, pp. 226-27) concluded that "Institutions that were supposed to represent what they themselves call the 'public interest' were revealed to be deeply embedded in the hidden exercise of power and the protection of special interests", and that such power "determines what counts as knowledge ...

while it ignores or suppresses that knowledge which does not serve it.” A recent example involving valuers preceded the Global Financial Crisis (GFC). From 2000 to 2007, a coalition of US appraisal¹ organisations delivered to Washington DC officials a petition signed by 11,000 *valuers* (about half of all the valuers in the US) that revealed lenders were pressuring valuers to place artificially high prices on properties. According to the petition, lenders were only assigning business to valuers who would hit the desired price targets, and blacklisting ‘honest’ valuers: “The powers that be cannot claim ignorance,” the valuer Dennis J. Black of Port Charlotte, Florida, testified to the USA's Financial Crisis Commission.²

Flyvbjerg’s (1998) observations highlight this major endemic problem for valuers, viz. for honest valuers attempting due diligence the volume of information needed for accurate valuations needs to be developed at an even greater pace than that growth of cities, because it remains dramatically underdeveloped throughout areas where these 91 percent of new lives will be. Land valuation is at the nexus money and land and buildings. Paucity of transactional data in rapidly urbanising locations could be even more catastrophic than the valuation mismatches that severely affected Japan in the 1990s, the US in the 2000s, and many European and other countries in since the GFC. There is a critical need for valuers and the valuation profession to respond to such challenges.

A correlative requirement for such success is for land policies to be developed to ensure the maximal sustainable human development can happen in countries affected by this emerging change in the world's economic center of gravity and the world’s urbanisation. The dynamism and speed of change presents both great dangers and great opportunities that should be addressed by land policies and legislation – in particular towards more accurate and more cost effective valuations, including both valuers and *valuers* - as soon as is practicable.

This section has summarised the nature of the valuation challenge and presented the overview we need to understand and value wicked problems. Given the speed of urbanism and the dynamism of economic influence, a significant proportion of this big picture is occurring on unregistered lands: hence UN-HABIAT/GLTN’s call to valuers.

¹ In the US and some other domains, valuers are called appraisers. In contrast, in Australia for example, an appraisal is a valuation by a non-professional *valuer*, such as a real estate agent. For consistency, here we will call them valuers because they are professionals.

² <http://www.gpo.gov/fdsys/pkg/GPO-FCIC/pdf/GPO-FCIC.pdf>, p. 47 of 663; also see p.120 of 663.

The Story So Far

Over the past 30 years, major land registration systems have been established in an attempt to respond to these and other challenges. Unsurprisingly to valuers, these recording and registration systems promoted by land surveyors and geometers with the support of donors and international agencies have largely failed to achieve the desired results of transporting informal institutional arrangements into the formal systems supported by lenders and western legal frameworks. In part, this is attributable to a contradiction associated with the plurality of registers (custom, tradition and informal land users contrasted with the commoditisation of land under western materialism) highlighted in another paper at this conference (see Boydell, Baya and Sheehan, 2015).

Not only such registrations systems, but any solely mechanist methodologies and associated reductionist concepts of analytic rigour may be inappropriate or counter-productive in such contexts. For example, one of several difficulties with “build and they will come” approaches is that “they” will not come if they are going to be out of pocket for having done so, if the transactions are significantly impeded or delayed, and especially if they do not trust their governments. In other words, they will not come if the anticipated costs exceed the anticipated benefits. The moral philosopher Mary Midgley’s definition of rigour is to be preferred to mechanistic rigour. As she observes, “there is nothing rational about using simple premises for complex subject matter” (Midgley, 2002, p.181). Rather, her rigour requires attaining a level of understanding in one’s discipline sufficient for fruitful interdisciplinary co-operation, and engagement in understanding the general structure of human thought (Midgley, 1995, p.22). That also applies in market behaviour, and is an everyday part of what a valuer has to do when interviewing the parties to the transaction to determine whether a sale or transaction represents useful evidence of market value.

Critical to the market value definition is the need to find out what made the parties involved in a ready and willing (and able) to conduct a transaction. Such analytical skills require valuers to adopt a bottom up approach, an approach that requires, in the alleged words of Lao Tzu, that they must “go to the people. Live with them. Learn from them. Start with what they know. Build with what they have. But with the best leaders, when the work is done, the task accomplished, the people will

say 'we have done this ourselves'.'¹ That is, when valuers say they need “sales, sales, and more sales” to ground their evidence and refine their professional opinion or value, once they have such transactional data they must interpret them to understand the circumstances of the sale sufficiently to establish that they meet the standards required by the IVSC definition. In the absence of grounded transactional evidence and rigorous analysis the credibility of the valuation could be compromised by weak or faulty quoted evidence, and credibility is required for the report to have any value. So valuers *have* to go to the people who participate in the market, and learn from them. Such conversations inevitably go two ways. So as well as being able to honestly explain the benefits as well as the costs of land registrations, the costs and benefits of dealing with other local institutional frameworks (both formal and informal) are commonly addressed during the data gathering and analysis stages of the valuation process. These can include information concerning the availability of finance.

Rigorous fieldwork and data collection is required to value unregistered land. Such information can be gained not only to determine a market valuation but also to discover the most pressing requirements to enable informal markets to function in the most transparent and accountable ways practicable (for any given property market's stage of development/maturity). Critically, the valuation of unregistered lands affords the potential for facilitating a more practical and evolutionary approach to understanding real estate and land markets than any top down approach (such as registration) can.

Strategically, while still recognizing the potential need for top-down initiatives in appropriate contexts, the UN-HABITAT/GLTN initiative is also looking towards a deeper appreciation of how land and property markets function. This requires not only bottom-up approaches such as those described above for the valuation of unregistered lands, but also necessitates looking at the whole picture - seeing who does what, when where, how and why within a global, local and sub-local market, and then facilitating initiatives that have the potential to enhance the whole functionality (legal, fiscal and social dynamics) of the land market. A mechanistic or tool based structure, while

¹ The translation is very loose, but remains in the spirit of the original. A tighter translation is “The best leaders the people barely know. The next best they love and praise. The next they fear. And the next they hate. Those who lack trust will not be trusted. Then they resort to promises. But when they accomplish their task and complete their work, the people say, We did it ourselves” (Chapter 17 at <http://www.san.beck.org/Laotzu.html>)

applicable to the simple and complicated aspects of wicked problems, often just makes matters worse in complex and wicked domains. It is the ‘network’ dimension of the GLTN that is necessary to address all the relevant socio-economic and institutional levels between the top and the bottom, so that valuation processes, data availability, institutional security and property market functionality in areas of unregistered land can be fit for the purposes outlined above.

To prime this initiative UN-HABITAT/GLTN, in concert with its partners FIG and RICS, commissioned a report entitled *Valuation of Unregistered Lands* (Nzioki, Swazuri, Tracey-White & Yahya 2013). This study (at p.36) provisionally and conditionally confirmed that valuations by valuers could be performed on unregistered land, but noted that:

“The most commonly used method in preparing such valuations was the Sales Comparison or Market Approach, but other methods were also used. The issue was not, therefore, the valuation method as such but the context and process in which it was to be applied in the valuation and transfer of rights. The wide range of tenure types that form ‘the continuum of rights’ need to be accommodated in the valuation process: formal and informal, legal and illegal, secular and religious (e.g. Islamic tenure categories), secure and insecure, and modern and customary. This is a similar conclusion to that found in other RICS funded research studies in Kenya, Uganda and China.”

In 2014, the partners commissioned a follow-on report. Its brief was to “develop a framework document on current thinking and methodologies for the valuation of unregistered lands and properties based on global approaches and practices research”. This subsequent was not intended to be a passive account. Rather, per the terms of reference it required “highly developed conceptual, analytical and problem-solving ability” to see how valuers can help tackle the abovementioned challenges UN-HABITAT and its partners face in offering advice to the international community. The Expert Group that reviewed the report in October 2014 concluded:

Firstly: the most fundamental conclusion from the EGM review is that *the principles and practices of valuation that have evolved in the valuation of registered properties should be just as applicable to the valuation of unregistered lands*. This transferability only applies to speaking valuations, however; that is, to valuations that provide the reader with a sufficient understanding of the

property, its tenure and its market to be able to operate in terms of the IVSC definition of market value.

A speaking valuation states the assumptions and qualifications of the report – for example, that it is unregistered and what strengths, weaknesses, opportunities and threats that implies in the market concerned. It also requires a sufficient description of the socio-economic, environmental, and legal environments both of the property being valued and the market evidence being applied, and an insightful interpretation of all of the above.

However, as in any market, to be viable a valuation must add value in excess of its cost, and the cost of the research required to provide such a report could potentially exceed the value of the asset being valued. This is particularly so in the opaque market that commonly prevails in the developing world, which is also where the need for efficient and cost effective valuations is the most urgent. The EGM acknowledge that the use of information technology could assist greatly in closing gaps associated with the paucity of transactional data and institutional / political recognition of informal property rights held by the parties involved in any transaction.

Secondly: There was recognition that that the market value as defined, while binding on valuers, was not the only form (or quantification) of value that should be addressed. This is particularly relevant when it comes to matters of resettlement and compensation for disturbance or relocation (where alternative housing and a disturbance – or blight – payment could be an appropriate form of value compensation), and that some land matters are not necessarily reducible to monetary terms.

Thirdly: Any perception that the development of tools and data networks for the valuation of unregistered land could be interpreted as some quasi *Trojan Horse* for government registration was strongly cautioned against. However, it was also emphasised that up-to-date, transparent and accountable governmental frameworks are a necessary, albeit insufficient, precondition if markets are to function to the benefits of all their stakeholders.

Fourthly: The EGM referred to the need to capture examples of good valuation practice associated with unregistered land that could be portable to other location and informal market conditions. That is, there is a need to record and communicate success stories in the valuation of unregistered land to instruct and provide confidence for valuers elsewhere. The recommendation of a dedicated

home page on the GLTN website (linked in also to RICS, FIG, IVSC and IAAO internet resources) to facilitate the application of universal valuation intelligence should be expanded to enfold this observation.

To expand on such conclusions, the EGM further remarked that from a valuer's perspective, to make the valuation itself valuable, the report concerned should be transparent and accountable. A pre-requisite of transparent and accountable reporting are transparent and accountable markets. It is therefore in a valuer's best interest to have as much transactional data in a market as practicable, so as to best conform to the IVSC definition of market value (recognising that in the context of unregistered land, market refers to both informal and formal land market structures).

The EGM also confirmed that while not necessarily the case (as often registered information is inaccurate or flawed) the practicability of applying valuation principles and practices at a viable information cost may be far more constrained with unregistered land than registered lands. Conventional (i.e. western developed market) valuation principles and practices require comparable sales evidence to support a valuation, whereas in developing and rapidly urbanising markets data veracity is often extremely opaque, with consequential high information costs involved in acquiring such data. Importantly, modern advances in information technology hold distinct promise of providing major improvements to the information base in such markets. Furthermore, major advances in other disciplines such as behavioural economics can assist valuers to interpret such sales and other information that those information technology advances can provide. In short, those and other advances can work together to achieve a professional standard of speaking valuation in domains where it was impossible before.

As mentioned however, such valuations must not only be possible - they must be financially practicable. The opportunity to engage with data analytics at both a local and global level has the potential to lower information costs and promised to be of major relevance in addressing the above needs in the short to medium term. As valuation is at the core of all economic activity relating to land management, data generated by valuers relating to the valuation of unregistered land provides the opportunity for both community participation and education through enquiries into circumstances of sale, which could play a key role in addressing the major socio-economic challenges associated with urbanisation and shifting economic locus introduced earlier in this paper. As such, the report commissioned by UN-HABITAT and socialised at the EGM provides

both a comprehensive literature review and articulates a high level process to identify necessary capacity building and other requirements for the efficient and effective valuation of unregistered lands.

During the EGM, the international valuation experts were asked to collaboratively three realistic hybrid scenarios and respond with approaches to determine acceptable values, information requirements, data collection, and stakeholder consultation, and reflect on portability of approach to other situations. These scenarios included:

- (i) Upgrading of an informal settlement, and associated private sector land speculation;
- (ii) Land consolidation of customary grazing lands for government supported large-scale agricultural investment; and
- (iii) The establishment of a satellite city, and dealing with property rights holders with customary agricultural tenure as well as those squatting informally on state controlled land.

Critically, the valuation experts identified that they already have the tools and professional skill-sets to be able to prepare considered valuation advice on these issues. As highlighted above, transactions on informal settlements or unregistered land occur every day in every developing country. The disconnect occurs when governments or donors attempt to enforce policy prescriptions grounded on western institutional arrangements on informal registers associated with customary land or unregistered land. In short, there was a level of bemusement on the part of the valuation experts about why UN-HABITAT, FIG and donor agencies had conflated the issue of valuing unregistered land. It was felt that the solution lay with the transdisciplinary skills that valuers regularly apply to a diversity of property rights situation, and that the problem had in part been created by the mindset of land surveyors and geometricians (and the governments they influenced) who could not see beyond a policy prescription grounded in land recording and registration.

The Way Forward

At the Global Scale:

The global scale is where the drivers of this valuation of unregistered land initiative (viz. UN-HABITAT/GLTN, RICS, FIG and their associated bodies at global and other scales such as the IVSC, the IAAO and so on – the ‘partners’) have an important information and capacity building role to play. Hitherto the GLTN tool development process has taken an information and capacity building approach that is summarised in Figure 2. The aspiration of the GLTN has been dynamic, commonly with dissemination via the internet providing a form of guided evolution towards

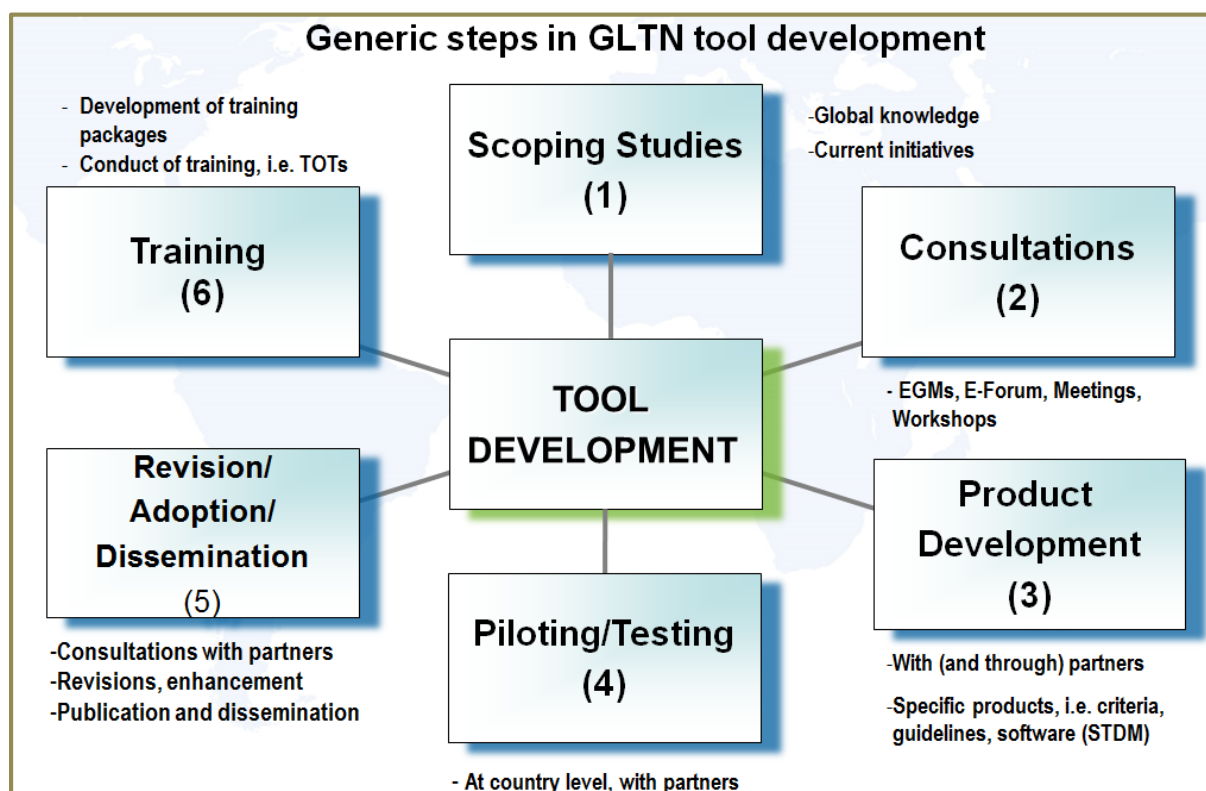


Figure 2: The GLTN conceptual model of tool development (Source: UN-HABITAT/GLTN)

coordinated growth in all relevant dimensions, lines, levels and scales involved in (in this case) the valuation process. To this end, the GLTN provides an appropriate fora through its established internet presence, including instituting interlinking web pages devoted to address the areas of valuation that professionals in developing countries want to have highlighted, and chat rooms where valuers can contribute to, and seek advice from other valuation experts globally. Building on the open and frank exchange of ideas and responses to problems with solutions so ably demonstrated by those in the IT sector, there is a web-management responsibility on GLTN to ensure that these exchanges can then be properly indexed so that resolutions of the problems raised can be comprehensively archived over time, ensuring that time (and thus cost) is saved by not having to reinvent solutions from scratch each time valuation advice is needed in each location.

The online fora can also proffer suggestions concerning both hard evidence and heuristics that may have potential for application in a new local domain.

One of the main issues to be addressed at scales from global to local is that of *professional indemnity insurance* (PII),¹ which could be either a major facilitator for, or a major obstruction to, the introduction of valuation into unregistered lands and the uses for which such valuations could be put. Acknowledging that PII is very much a product of western materialism and litigious societies where parties wish to defray liability onto others, the costs of such insurance are now a ‘normal’ business expense for professional valuers and inevitably would have to be passed on to the end user of the valuation. Realising that the high premiums associated with PII (and the enduring liability for up to 15 years) could potentially make the valuation’s cost information cost ineffective, the ‘partners’ have a role to play in lobbying governments to underwrite such liability and thus enhance information efficiency for those involved in the transaction of unregistered land. The costs in underwriting PII premiums/liability are, on a transaction-by-transaction basis, significantly lower to government than the expenditure associated with wholesale land recording and registration.

It is important to remember that there are many valuation principles used in the world to value unregistered interests in land. These can be incorporated around life interests, leasehold interests, possessory title, native title, adverse possession, marriage value of interests in land, etc. These are well recognised and documented principles, most of which are supported by court precedents in many countries. More will emerge as we evidence developed transactions and precedents from developed countries, developed transactions and precedents from transitioning economies, and transactions and precedents which can be identified in underdeveloped countries. Key to the information potential that can be facilitated through the GLTN is the centralised recording of such transactions and precedents that can be accessed internationally in a well differentiated, clearly articulated and integrated manner.

In addition to the technologies listed above, others currently available include a global data mining mechanism which looks at real estate data, both transactional listing and commentary which can be accessed via electronic and print media. This data can then be analysed, categorised and

¹ Also called professional liability insurance and errors and omissions (E&O) insurance.

componentised into different parts so valuers can search based on land classification, urban, peri-urban, agricultural, commercial, industrial, seafront, highland, etc. Such applied technology has the potential to provide great savings in information costs, thereby making reliable valuations more affordable.

At the International Scale:

In addition to umbrella organisations of professional bodies associated with land management and valuation such as the International Federation of Surveyors (FIG) and the International Valuation Standards Committee (IVSC) providing technical guidance at a global scale, there are representative bodies at other scales, including regional, such as the ASEAN Valuers Association, and common heritages, such as the Commonwealth Association of Valuers and Land Economists (CASLE). Likewise, professional member organisations such as the Royal Institution of Chartered Surveyors (RICS) have an international membership of practicing valuation professionals. Each of these organisations has a role to play in supporting valuers in their challenges in valuing unregistered lands, and each has demonstrated a level of commitment to the GLTN initiative.

At the National and Provincial Level:

It is at the national and provincial level where support is most needed. In developing countries membership of organisations such as the RICS can be cost prohibitive. Whilst there are a number of member driven organisations in many developing countries, they tend to be centralised in capital cities and focused on more lucrative individualistic professional advice for international investors and the ruling classes. There is a resultant need for valuers to be able to ‘belong’ to a professional support group, and it is that void that the GLTN valuation resource database has the potential to help fill remotely, efficiently and at no cost to individual users of the system (other than the need for a reasonably fast and robust internet connection).

Change management and capacity building often requires skills not always accessible at all scales. A World Resources Institute Report (WRI, 2008) notes *three pillars* for such evolution to be successful at all relevant scales, a framework that is necessary for the valuation of unregistered land: ownership (governance) at the appropriate scales, capacity at the relevant scale (for valuers, it is most crucial at the local scale), and networking (for valuers, it will be required through all scales). Networking, including skills sharing, is crucially important to address the challenges

ahead. As noted in the WRI context (p.15), success will depend upon establishing “dynamic links among local organisations (horizontal linkages) and between local and state institutions (vertical linkages) ... Without continued attention to developing and maintaining such networks and connections, the ... enterprises are not likely to last long ... [they] often fail within 5 years without a connection to innovation, encouragement, and learning” .

For valuers, the internet can greatly facilitate such innovation, encouragement and learning, and extend dynamic linkages well beyond those quoted above - in fact, up to the global scale to UN-Habitat/GLTN and others above-quoted. This could prove vital in a discipline as litigiously prevalent as valuation, as the collateral damage of unsupported valuation advice might not only cause massive financial damage to the parties concerned, including the valuer, but also destroy the credibility of the whole process and, with that, all the economic and other benefits credible valuations can bestow to the domain concerned (hence the recommendation for governments to underwrite PII as articulated above to overcome this potential barrier to entry into the profession).

At the Coal Face: the Local Valuation Scale

As mentioned above, in terms of both the principles and practices of valuation, there are those that might apply everywhere, and those that might only apply in certain localised circumstances. The most immediate task identified is to produce a generic valuation manual, the beginnings of which were provided in the UN-HABITAT consultant’s report, together with available internet resources.

By making this valuation manual available in its beta form as a flexible and dynamic online resource, it has the potential to be ‘crowd-source’ evolved and refined by valuation professionals and examples (solutions) collaboratively developed for different market conditions. By incorporating a participatory caveat that valuations be speaking valuations, innovative techniques and innovative applications of techniques can gain formal and informal peer review via the envisaged web interface and chat rooms, and monitored and evaluated in their applications as well. While academics are already well networked in this regard, practitioners are currently less so. The GLTN has the potential to support valuers in both developing and developed economies to improve their skills and thereby the credibility of their valuations.

An example of socialising ‘alternative’ solutions to contemporary valuation challenges (affecting customary land) was proffered by Boydell and Baya (2013) at a recent World Bank Land and

Poverty Conference, observing option pricing theory can be adapted for more transparent land resource compensation negotiations (and the valuations on which they are based) associated with mining on customary (traditional) land. However, it is also possible to apply it to several other contexts that could be encountered when valuing unregistered land. Practitioners wanting to try such innovative approach should have means to discuss them with their peers, be they local or global. In isolation, an individual valuer may feel daunted at the prospect of engaging such an approach – hence the need for a supportive fora under the auspices of the GLTN where such ideas and approaches, as well as other potential solutions, can be canvassed and discussed.

It must also be kept in mind that option pricing theory is a complicated approach to determine market value applied to not necessarily only complicated but also wicked problems, some involving complexities upon complexities – in particular, clashes between different values, not all of them being necessarily reducible to market value. Mere market valuations may not be the main event but each such valuation should include a market value component (ibid, p. 442) and when making any such valuations the valuer must take such matters into account in the risk assessments made.

But a formal valuation by an independent expert need not be the end of the matter. When properties have public amenity value, a values jury arguably better addresses such supra-market values than any one person such as the valuer concerned (Lally, 1999 & 2000). Such juries are “an alternative source of public value judgments that can potentially avoid some of the problems with existing sources of public value judgments. The jury approach avoids the problem of poor information by taking the time to inform the jurors adequately, and avoids the problem of undue influence exerted by interest groups by being composed of randomly selected citizens. Further, the jury process instructs participants to act as direct representatives of the larger society, including future citizens if the decision would affect them ...” (Brown et al., 1995, p. 251).

We share the view of Brown et al. that such juries could be of use in valuation contexts like unregistered lands where there is currently a dearth of transactional data. Likewise, value juries (which can be drawn from online experts rather than in-country competitors, subject to appropriate checks and balances being in place) can assist with compulsory acquisition compensation including that of the market value itself. Once again, being able to compare experiences with the online land jury approach could assist greatly individuals, governments and investors alike.

At the end of the day, all the valuer can be expected to do is professional due diligence in the market concerned, and provide a speaking report which can, as far as possible in that market, be subjected to the most relevant scientific protocols of interrogation. With such a report, the report recipients should have a much better idea where they stand than they could have without it, even if it only informs them that a market value, after expertly interpreting the evidence, can only be securely estimated as being within a very wide range. But for that to happen the valuer should draw at least whatever information is available to assist a willing buyer and a willing seller in the particular market, which in almost every non-trivial value transaction worldwide would now include the internet.

The potential of the GLTN online valuation fora and practice database is a short to medium term facilitation that will widely benefit valuation professionals in both developing and developed economies. Long-term, funding for such an initiative is scale-dependent. From a valuer's perspective it comes from the information value of valuations over and above their costs. From the perspective of the private sector, bankers' due diligence prefer reliance on formal valuation reports when making loans, particularly professional speaking valuations - ones where the reader is sufficiently informed about the strengths, weaknesses, opportunities and threats to make a decision in conformity with the market value definition. Second best approaches can both lower the loan to value ratio and / or raise the interest rates to allow for the greater risks that accompany greater unknowns. From the public sector side, transparent and accountable valuation rolls are the best way so far devised to extract rates and taxes from property rights owners (where there is sufficient value associated with the property rights to enable payment, and the payment is sufficient to make collection viable), which with good administration can be returned to those owners with interest via better services and in consequence higher property values.

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