L'estimation des indemnités dans le cadre de l'acquisition forcée de terres pétrolifères et gazifières du delta du Niger

L'extraction du pétrole et du gaz sollicite très fortement les ressources en terre, l'administration foncière et la gestion des terres dans différentes régions du monde. Au Nigéria, le transport du pétrole et du gaz et de leurs sous-produits et produits raffinés est assuré grâce à des réseaux complexes d'oléoducs et de gazoducs traversant des milliers de kilomètres et qui s'entrecroisent sur les terres de plusieurs communautés dans la région du delta du Niger. Les terres sont généralement acquises de façon forcée pour faciliter ce processus et l'estimation d'une indemnisation adéquate en faveur des communautés dépossédées et des divers propriétaires demeure la cause de contentieux et de conflits continus dans la région. Le sentiment général et l'expression d'insatisfaction quant au montant de l'indemnité versée pour les terres dans le cadre de l'exercice des pouvoirs d'acquisition forcée sont l'un des éléments qui alimentent l'actuelle crise du delta du Niger.

Cet article analyse la procédure d'estimation et d'établissement de la valeur. Ces conclusions révèlent que l'ambiguïté, le manque de clarté, l'incohérence du contenu et de l'interprétation des lois qui régissent cette question sont en partie responsables de l'insuffisance de l'indemnisation. Qui plus est, il montre que l'application d'une multiplicité de normes, procédures et méthodes d'estimation aboutit à des écarts d'une ampleur inquiétante des valeurs d'indemnisation pour un même intérêt relatif à des terres. L'article conclut que la procédure d'estimation peut être améliorée par l'adoption d'un code d'estimation pour les indemnisations au Nigéria. Il indique également qu'un tel code devrait être inspiré par les normes internationales en matière d'estimation pour le dédommagement.

La evaluación de la compensación en la adquisición por expropiación de tierras ricas en petróleo y gas en el delta del Níger

Los procesos de producción de petróleo y gas implican grandes demandas sobre los recursos, la administración y la ordenación de tierras en diferentes partes del mundo. En Nigeria, el transporte de petróleo y gas y de sus productos secundarios y refinados se realiza mediante una complicada red de oleoductos que recorren miles de kilómetros y atraviesan varias comunidades en la región del delta del Níger. La tierra se adquiere normalmente por expropiación para facilitar este proceso, y la evaluación de la compensación adecuada para las comunidades afectadas y los propietarios individuales constituye un motivo de discusión y conflicto continuos. El sentimiento y la expresión generales de insatisfacción con la compensación por la tierra en el ejercicio de los poderes de adquisición por expropiación es uno de los problemas que alimentan la actual crisis en el delta del Níger.

En este artículo se investiga el proceso de evaluación y determinación del valor. Sus conclusiones revelan que la ambigüedad, la falta de claridad y la incoherencia en el contenido y la interpretación de los estatutos que lo regulan son en parte responsables de la insuficiencia de la compensación. Además, se muestra que la aplicación de múltiples normas, procedimientos y métodos de valoración deriva en enormes discrepancias en los valores de compensación con respecto al mismo interés en la tierra. En el artículo se concluye que el proceso de evaluación podría mejorarse introduciendo en Nigeria un código de valoración de la compensación. Asimismo, se sugiere que tales códigos de prácticas deberían guiarse por normas internacionales de valoración de la compensación.

The assessment of compensation in compulsory acquisition of oil- and gas-bearing lands in the Niger Delta

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Oil and gas production processes place huge demands on land resources, land administration and land management in different parts of the world. In Nigeria, the transportation of oil and gas, their by-products and refined products is conducted through complicated pipeline networks traversing thousands of kilometres and criss-crossing several communities in the Niger Delta region. Land is usually acquired compulsorily to facilitate this process and the assessment of adequate compensation to deprived communities and individual landowners has remained an area of continuous contention and conflict within the region. The general feeling and expression of dissatisfaction with the quantum of compensation paid for land in the exercise of compulsory acquisition powers is one of the issues fuelling the current Niger Delta crisis.

This article investigates the process of assessment and value determination. Its findings reveal that ambiguity, lack of clarity, inconsistency in content and interpretation of enabling statutes are partly responsible for inadequate compensation. Moreover, it shows that the application of multiple standards, procedures and methods of valuation results in alarmingly wide discrepancies in compensation values over the same interest in land. The article concludes that the assessment process could be improved considerably by the introduction of a compensation valuation code in Nigeria. It also suggests that such a code should be guided by international standards of valuation for compensation.

INTRODUCTION

Nigeria has an estimated 159 trillion cubic feet (4.5 trillion m^3) of proven natural gas reserves, giving the country one of the top ten largest natural gas endowments in the world. Some of this gas exists in combination with oil and is unavoidably produced as a by-product of oil production. The process of exploration and production places huge demands on land resources and compulsory acquisition of land for this purpose occurs frequently within the Niger Delta region. In other parts of the world, when land is compulsorily acquired, the landowners or occupiers are usually entitled to compensation. Such claims may be assessed by valuers based on the statutory processes laid down by relevant legislation pertaining to the nature of the particular acquisition. However, one issue of growing concern in the Niger Delta region that needs urgent attention is the increased level of agitation and litigation associated with compensation for land acquisition. The communities concerned are usually not satisfied with the level of compensation payments made to them in cases of compulsory acquisition and this article identifies some of the reasons for this.

Because of the availability of crude oil in the region, oil exploration and consequential compensation are common phenomena in the Niger Delta. This is one cause of the series of crises that have engulfed the region in recent times, with community upheavals, protests from angry youths who claim neglect of their area by oil companies, and recent hostage-taking

incidents. In the wake of these crises in the region, the search for solutions should be holistic. A thorough examination of each aspect of the complicated situation in the Niger Delta should be undertaken and the findings should form the backbone of a sustainable structure for the future of the region. As valuation for compensation is regulated by statute, the current practice was reviewed alongside the relevant statute and other regulations in an exploratory and diagnostic manner during the research for this article.

COMPULSORY ACQUISITION AND COMPENSATION PRACTICE

The procedure for compulsory land acquisition and the assessment of compensation in Nigeria is contained in various enactments entrenched in the laws of the Federal Republic of Nigeria, but the principal law governing land tenure in Nigeria is the Land Use Act (LUA) Decree No. 6 of 1978 (currently Cap 202 of the Laws of the Federal Republic of Nigeria [LFN], 2004). A historical development of the assessment of compensation in Nigeria dates back to the Public Lands Acquisition Act of 1917 (Cap 167 of 1958 Laws of the Federation of Nigeria and Lagos [repealed]). Paragraph (b) of Section 15 of this act states: "The value of the land, estate, interest or profits shall, subject as hereinafter provided be taken to be the amount which such lands, estates, interest or profit if sold in the open market by a willing seller might be expected to realize." This act was followed by the Oil Pipelines Act of 1956 (amended in 1965 and currently Cap 07 LFN 2004), and the Public Acquisition (Miscellaneous Provisions) Act; Decree 33 of 1976 (repealed), and the Land Use Decree in 1978. The laws specifically addressing land acquisition and compensation in oil- and gas-related acquisitions are the LUA, the Oil Pipelines Act; the Nigerian National Petroleum Corporation (NNPC) Act (Cap 320 of LFN 1990); the Petroleum Act (Cap 350 LFN 1990 and currently Cap P10 LFN 2004) and the Mineral Resources Act (Cap 226 LFN 1990). Sections 28 and 29 of the LUA contain specific provisions relating to oil-production-related acquisitions.

The subject matter of compulsory purchase or acquisition (Stewart, 1962) depends largely upon the terms of the act, decree or other relevant statute under which the purchase or acquisition is made by the acquiring authority. In order to acquire, the authority must usually acquire all the proprietary interests in the land. Generally, legal presumptions in favour of compensation consider the principle of equivalence (Denyer-Green, 2005), where the expropriated owner is entitled to be compensated fairly and fully for his/her loss, and nothing more or less. In Nigeria, the process is fraught with a myriad of problems – particularly within the oil-producing communities of the Niger Delta region. Since the promulgation of the LUA in 1978, the structure of landownership in Nigeria has changed and changes have also been introduced into the process of assessment of compensation for compulsory acquisition. Acquiring agencies, landowners and valuers face the ongoing dilemma of finding a consistent interpretation and implementation of the LUA. For example, the drastic change from freehold ownership and absolute possession to a limited term of 99 years has received severe criticism (Uduehi, 1987; Umezuruike, 1989; Hemuka, 2000).

The laws of England and Wales and other Commonwealth jurisdictions (Nicholls, 1952) generally recognize the principle that persons whose rights to the use of property handed over for the use of the community are entitled to adequate compensation. However, such rights must be expressly or impliedly conferred by relevant statute. As far as compensation is concerned, it is generally expected that this must be the aim behind a claim. The assessment of compensation as a detailed process according to Davies (1994) is a matter for valuers and not for lawyers. In England, the guiding principles of assessment are contained in various statutes: Section 5 of the Land Compensation Act of 1961;

Sections 7 and 20 of the Compulsory Purchase Act of 1965; Sections 28–33, 39–43 and 45–46 of the Land Compensation Act of 1973; the Agriculture (Miscellaneous Provisions) Act of 1968; the Agricultural Holdings Act of 1986; and the Planning and Compulsory Purchase Act of 2004. The basis of valuation for land that is acquired compulsorily is the market value, which, as the term implies, covers the essential features of a purchase and sale between independent parties under normal market conditions. Prag (1998) suggests that land being taken for some statutory purpose under a compulsory purchase order should be valued as if it were being sold in an open market transaction. However, in practice, such cases will often be combined with wider negotiations that will need at least to have been noted by the valuer. Land Claims Court judgments also confirm that the preferred method for assessing the market value of land is the "comparable sales" method, that is, valuers must make their assessment of market value by looking at the prices paid for land in recent open-market transactions in the vicinity of the land being valued, disregarding transactions that are not sufficiently comparable and taking into account any adjustments that need to be made in order to render the figures obtained from the comparable transactions more meaningful. The rules of valuation as reflected in Section 15 of the Public Lands Acquisition Act (Cap 167 of the 1958 LFN) were basically the same as the six basic rules under the English act from which Nigeria's law of acquisition was derived.

ASSESSMENT OF COMPENSATION IN OIL AND GAS ACQUISITIONS

The special treatment of acquisitions for oil and gas purposes is provided for in Section 29(2) of the LUA, which requires all such assessments to be based on the provisions of the Petroleum Act. This is an unnecessary provision because from all indications the provisions of the LUA are the only statutory method for the assessment of compensation. Section 20(5) of the Oil Pipelines Act states that compensation should be determined in line with the provisions of the LUA with respect to public acquisitions. The relevant sections of the LUA are set out below.

The statutory provision for the assessment of compensation for public purposes in Section 29(1) of the LUA reads: "If a right of occupancy is revoked for the cause set out in paragraph (b) of subsection (3) of the same section the holder shall be entitled to compensation for the value of their un-exhausted improvements."

Section 29(3) of the LUA states: "If the holder or the occupier entitled to compensation under this section is a community the Governor may direct that any compensation payable to it shall be paid: (a) to the community; or (b) to the chief or leader of the community to be disposed of by him for the benefit of the community in accordance with the applicable customary law; or (c) into some fund specified by the Governor for the purpose of being utilised or applied for the benefit of the community."

Section 29(4) of the LUA provides for compensation with respect to land as follows: "for an amount equal to the rent, if any, paid by the occupier during the year in which the right of occupying was revoked".

Section 29(5) makes provision for payment where only part of the land is acquired.

In the case of buildings, installations and other improvements, Section 29(4) provides as follows: "(b) building, installation or improvements thereon, for the amount of the replacement cost of the building, installation or improvement, that is to say, such cost as may be assessed on the basis of the prescribed method of assessment as determined by the appropriate officer less any depreciation, together with interest at the bank rate for delayed payment of compensation and in respect of any improvement in the nature of reclamation works, being such cost thereof as may be substantiated by documentary evidence and proof to the satisfaction of the appropriate officer".

In the case of crops, Section 29(4) provides: "for an amount equal to the value prescribed and determined by the appropriate officer".

From the foregoing, there appears to be some confusion as to the correct approach to use when valuing land for oil and gas acquisitions in the Niger Delta.

METHODOLOGY

Research for this article was conducted from a philosophical orientation in phenomenology rather than a distinct social science theory framework. The phenomenological perspective is based on the premise that human experience makes sense to those who live in it prior to all interpretation and theorizing (Creswell, 2003). In this research, it determined what was studied and the study methods used. Purposive sampling was considered to be most appropriate for this study, and participant selection targeted people who had special knowledge and experience in the area and who were considered to be information-rich sources. Key actors in the process of land acquisition and valuation for compensation in Nigeria formed the population from which purposive samples were drawn – landowners; estate surveyors and valuers; land surveyors; lawyers; acquiring authorities (government); and oil and gas companies. These all have specific roles to play in the process and any phenomenon occurring within the process would logically be linked with the main facilitators of the process. Methods consistent with the philosophical, theoretical and methodological assumptions of the study were employed during the data collection stages of this work, and an analytical model was developed and used to analyse data. This was conducted using an amalgam of principles of computer-assisted qualitative data analysis software (CAQDAS); phenomenological analysis; qualitative data analysis; focus group analysis; and content analysis procedures. The model is described as a "bow-tie/ butterfly" model because of its graphical appearance.

FINDINGS

Ambiguity and lack of clarity of relevant statute

The LUA, which is the main statute governing land acquisition and compensation in Nigeria, is defective in a number of ways. It lacks clear definition and some of its content is hard to understand. This is partly responsible for the existence of multiple interpretations by key actors in the process. The lack of clarity is a hindrance to uniform and consistent interpretation and so operators tend to flout its provisions. There is conflict between the LUA and traditional landownership patterns; the laws dealing with land acquisition are not clear and there is ambiguity with regard to who is entitled to compensation. In addition, there are no clear guidelines or documented procedures regarding the process or the roles or responsibilities of different stakeholders. Neither is there any mention of the rights of the individual owner to compensation within the rural setting in Nigeria. The recent trend in which communities subdivide their land among family members (increasing instances of individual ownership) is not provided for in the law. A cross-section of all the acts shows that no mention is made for the value of land under any of the heads of claim (Table 1). This incompleteness filters down through the process of implementation.

Suitability of prescribed methods of assessment

The current statutory methods of valuation are unacceptable because they are grossly inadequate for achieving fair or adequate compensation. The heads of claim are not clearly defined and are incomplete, and the laws do not make provision for valuation on a market value basis. These issues are perceived to be unfair and unjust and partly responsible for some of the agitation in the Niger Delta. The law provides for compensation to be based on the value of economic crops and trees on the land at the time of acquisition, in the absence of which landowners receive nothing if they have made no other improvement on the land. This means that the existing use value is

not taken into account. The widely practised crop enumeration method is crude, the rates are usually too low (and in most cases outdated), and it does not ascribe value at all. It has been suggested that the market value of crops and economic trees could be determined by capitalizing on the annual yield instead of multiplying crops by pre-determined rates.

The LUA does not provide for the use of rates as is widely practised but allows the "appropriate officer" to define the rate to be used. This provision has been interpreted to mean a multiplier rate instead of an appropriate method. The appropriate officer is the Chief Lands Officer or Director of Lands in each state. This office is not restricted to the valuation profession – in some states this position is occupied by agriculturists or geographers. The fact that the appropriate officer has sole responsibility for recommending approved methods introduces subjectivity into, and removes equity from, the process.

Lack of standard practice procedures and guidelines

By using low multiplier rates (usually state or federal government rates), agents representing acquiring authorities arrive at compensation value figures that correspond with budgetary provisions for the particular acquisition. On the other hand, agents representing communities achieve a desired compensation figure by introducing names of non-existent claimants ("ghost names") and counting crops that do not exist, thus inflating the overall value. There is no other option available to them if they are to ensure adequate compensation.

The lack of a standard basis for and method of valuation for compensation in Nigeria and the use of non-professionals in ascertaining value is a central problem in the process of land acquisition and compensation assessment. There are also statutory conflicts and conflicts in government policy. Some of the provisions are subjective, allowing multiple interpretations.

It is widely recognized that standards are urgently required and that all stakeholders should share a collective responsibility in the standard-setting process.

An absence of guidelines also plays a role in the alarming discrepancies. The establishment of a code of practice would guide all parties involved and reduce the disparity in values. Local practices and methods are suited to their local reality even though they may not be suitable for the international community (as land policies differ). If the methods are standardized, surveyors' estimates will become closer and any differences will be insignificant.

Inadequacy of compensation payments and negotiation procedures

It is difficult to define what adequate compensation is as compensation is not just money. Because of its restrictions on the number of heads of claim as well as non-payment for undeveloped land, the provisions of Section 29 of the LUA are grossly inadequate for the purpose of achieving fair or adequate compensation.

Other issues of concern include delays in making payments. Sometimes, compensation is paid to the wrong people and there are instances where an oil well may be cited in one community and a neighbouring community comes forward for assessment and payment.

There is a general preference for negotiations to take place before the value of compensation is determined by the acquiring authority, and a common feeling that such negotiations should be between professionals representing all parties involved. Most communities feel that the negotiation procedure as currently practised is one-sided because the acquiring bodies dictate the values they are willing to offer and these values are considered to be unfair. Communities object to the use of predetermined rates. They also maintain that the oil companies should have no say in determining compensation rates and that the rates would be more acceptable if communities had an input in their determination. A lack of clearly defined boundaries between community

lands is also a major hindrance to the smooth running of the process. It is usually quite difficult to identify who the actual landowners are.

Inappropriate, greedy and corrupt practices

There is a widely held opinion that people employed in the acquisition process can use their positions as a tool for personal enrichment to the detriment of landowners. Sometimes, valuation for compensation is driven by greed and an eye on fees. The general view is that corruption permeates the process and leads to the manipulation of figures and distortion of values. Discrepancies also arise where landowners declare an increase in the number of crops on their land while making their claims and manipulate the grades of maturity and number of farms that they have. Officials and agents have been known to engage in corrupt practices such as adding "ghost names" to inflate compensation value and yet pay less to the claimants. This may suggest that they are not interested in the welfare of the people. The cash payment system feeds the "ghost name" syndrome because it encourages processes whereby agents can take a cut at the point of payment. Conflict is introduced into the process when someone without the requisite training in land management is employed to carry out the functions of valuers.

Community leaders may not declare openly the quantum of compensation paid to them by the companies and in so doing cheat the people they are supposed to represent.

In addition, some individuals also practise certain corrupt and unfair practices. For example, landowners sometimes collect compensation intended for their tenants (who are mostly female) and do not release it to them.

Acquisition authorities make compensation payments for surface rights that are not provided for in the LUA. In addition, it may be the case that some transnational companies are willing to pay higher fees for lower estimates of value, thereby putting pressure on valuers. The compensation rates issued by the Oil Producers Trade Section are used only as a guide and any improvement on the rates is at the discretion of the particular oil and gas company. They accept that compensation is inadequate and tend to upgrade their rates periodically. Sometimes, the oil sector payment is about 80 percent higher than the market value. In a sense, in making payments, oil companies may have relied on the defectiveness of the law.

Stakeholder attitudes

Expectations are important in determining stakeholder attitudes to compulsory acquisition and compensation. Landowners expect the acquired land to continue to appreciate in value. However, they are not entitled to any share in the dividends of the oil and gas companies. Communities' expectations in land acquisition include a desire to be part of the construction process either in the supply of labour or materials. Their expectations also include a wish to obtain gainful employment as a result of their deprivation. Culturally, chiefs and traditional rulers want to be treated better than their subordinates – this should be incorporated into the valuation figure in order for the process to run smoothly.

Government agencies and monitoring bodies might be viewed as part of the attitude problem because of a lack of visible effort to ensure that standards are developed and used.

Youth restiveness

Every issue in the Niger Delta is informed by the underlying poverty and lack of development. Many factors can spark youth restiveness, and compensation is a major issue. Compensation paid by the oil companies appears to be comparatively adequate because there are other benefits in addition to cash payments. Hostility resulting from the feeling of inadequate compensation stems from other factors and not compensation alone. Community youth want to earn as much as they can from land resources that are dwindling under the pressures of population

TABLE 1
Comparative analysis when land is taken

Description	England and Wales	Nigeria
General principle	The general principle is equivalence, which means that the owner should be no worse or better off in financial terms after the acquisition.	No principle of this nature is expressly stated anywhere in statute.
Basis of valuation	Land is valued on the basis of its open-market value; or the cost of equivalent reinstatement in extreme circumstances. The open-market value may also be based on the existing use of the property in the absence of a ready market.	No value whatsoever is ascribed to the land. The existing use value is not an option.
Disregard compulsion	Any increase or decrease in value attributable to the scheme of development that underlies the acquisition is ignored.	This is not specified in any statute of the enactments in Nigeria.
Valuation date	This is the date of assessment or the earliest of: the date the acquiring authority enters to take possession; the date title is vested in them; the date values are agreed; or the date of the Lands Tribunal's decision.	The date of assessment is not provided for in statute.
Heads of claim	The heads of claim are specified and include the value of the land taken; severance and injurious affection when only part of the land is taken; disturbance (paid to occupiers) only; and reasonable surveyor's fees incurred in preparing and negotiating a compensation settlement and solicitor's fees.	The only head of claim in the Land Use Act is the value of unexhausted improvements on the land. No provision is made for any other form of payment to the claimant in statute or any existing code. There is no payment for the value of the land. In oil mineral licences, provision is made for disturbance compensation.
Techniques of market value	The open-market value may be based on the development value, marriage value or ransom value provided that it can be demonstrated that these would have existed in the absence of the scheme warranting the acquisition.	No provision is made outside the replacement cost method for improvements upon the land.
Unlawful use	No regard is made to increases in value caused by unlawful use of the land.	No mention is made of this as there is no value for bare land.
Agricultural land	The future profitability of the farming business is included in the value of the land.	The only payment for agricultural land is one year's rental and the cost of economic crops on the land.
Loss payments	Provision is made for home loss payments in addition to value of property, basic loss for freehold or leasehold interests in farmland, occupier's loss payment.	No provision is made either by reference to statute or policy for loss payments.
Third-party liability	Contractors to the acquiring authority are responsible for the damage they cause.	This is provided for in the acquisition of oil mineral licences but not acquisitions.

growth, oil exploration and indiscriminate logging. Compulsory acquisition generates landownership disputes, which fuel youth restiveness.

COMPARATIVE ANALYSIS

The problems with the structure of the process of valuation for compensation in Nigeria are further highlighted by a comparative analysis of that in place in England and Wales. This is not to imply that the latter system is flawless but it is one that has developed over the years and could be used as a normative model for comparison. In the United Kingdom, the Department for Communities and Local Government (2004a–d) and the Office of the Deputy Prime Minister (2004) have produced a series of five booklets that explain, in simple terms, how the compulsory purchase system works. They provide information to those who think they may be affected by compulsory purchase and give guidance on procedural issues.

The outlines in these booklets are used in this comparative analysis for the validation of the findings. The issues considered in Table 1 apply to compensation where the whole parcel of land is acquired. However, in the Niger Delta region, while often misconstrued as an outright acquisition in real terms, the land acquired is usually the subject of a right-of-way acquisition. As such and according to separate statutory provisions, this means that 50 percent of it should be relinquished after 20 years and the rest over a balance of ten years. At the end of the first ten years, communities should be allowed to enter into fresh negotiations for another period of 20 years over 50 percent of the land that is to be relinquished by law. If this had been the actual practice all this while, it may have reduced suspicion on the part of landowners.

TABLE 2
Comparative review when no land is taken

Description	England and Wales	Nigeria
Compensation for reduction in value	Compensation is payable when loss occurs because some right in property is taken away or interfered with.	Same holds for Nigeria.
Basis of compensation	Based on the reduction in value of the land as a result of seven specific physical factors: noise; vibration; smell; fumes; smoke; artificial light; or discharge unto the land of any solid or liquid substance. Anything outside these is not to be compensated for.	Not applicable.
Compensation for adverse effects of the development	Acquiring authorities are given certain discretionary powers to reduce the impact of their development works in agreement with those whose premises are affected.	There is no similar provision except a general claim for damage.
Fees	The acquiring authority would usually pay legal and surveyors fees to the landowner or occupier for negotiating claims.	There is no provision for such payments in the statutory enactments.

Table 2 presents a comparative review based on compensation where no land is taken, as obtains in oil and gas right-of-way acquisitions. Provision is made for the payment of compensation for a reduction in value of land adjacent to public development works if the land is affected by the work and subsequent use. Once pipelines are buried, access or trespass might be restricted. Moreover, farmers on adjacent lands may no longer be able to gain access to their land as a result of the acquisition.

CONCLUSION

Valuation for compensation has a different goal from other forms of valuation because it is expected not only to ascribe value to property but also to ensure that the claimants are (as much as practicable) put in the same position as they would have been had their landed property assets not been acquired compulsorily. The end product of the process might be to achieve adequate compensation as a replacement for the value of loss occasioned by the acquisition. If the process of assessment is transparent, then it might also be possible to have a standard measure by which to assess the adequacy or otherwise of the value so determined. All things being equal and assuming that the process itself is comprehensive and complete, it can then be expected that, once all the component parts of the process are assembled together, the end result interpreted in terms of value would be acceptable to the parties involved. In practice, however, this is not the case.

The article has identified major concerns in the process of valuation for compensation within the Niger Delta region of Nigeria. The structure of the process of valuation for compensation in Nigeria with particular reference to the Niger Delta region lacks clear definition, description and depth when compared with similar statutory valuation processes elsewhere and it is found to be wanting in many key areas. This faulty structure has introduced confusion, encouraged multiple interpretations and affected the entire implementation process, resulting in the general feeling that compensation is inadequate.

There is an urgent need for reforms in various enactments regarding compulsory acquisition and the assessment and payment of compensation. Key issues to be addressed in such reforms include: the rights of landowners; a clearly defined responsibility for assessment; and the basis of valuation. Statutory reforms should be followed closely by a compensation code that would among other things provide clear and simple explanations and interpretation of different statutes and show their interrelationships and interdependence in a clear and logical way. This would help to reduce the conflict present in the process in its current state.

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