Compulsory Purchase Procedure in Bangladesh

Author: Sardar Moklesur RAHMAN
Supervisor: Jenny PAULSSON

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Author: Sardar Moklesur RAHMAN
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Supervisor: Jenny Paulsson
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Abstract

Government authority can, for public benefit purpose, take private ownership of land by compulsory purchase. Primary aim of this study is how to protect private land owner’s rights in spite of government’s power of acquiring land. Bangladesh, as for details study, is a most densely populated country in the World.

International best standards of practicing guidelines by FAO-UN, FIG and WB as well as other countries practice have reviewed from different perspectives. From theory, early stage negotiations, market value of property plus other damages, opportunity of involvement of all parties, protection of agricultural land, removal services all of those are the thorny of legal challenges to adopt into a new legislation in Bangladesh. Empirically, field study has conducted by way of interviewing from selected different projects in Bangladesh including largest project Padma Multiple Bridge. Huge destitute of land, unplanned city expansion, unsustainable development of infrastructure and environmental damage are remained as significant issues of sustainable development of land management.

Analysis shows that Bangladesh has been losing 1% of agriculture land which related to the national employment and food production. 100% of the affected people wants to resettlement by the authority. There is clearly misusing of legal rights by the government authority: firstly, by using inequitable Acquisition and Requisition of Immovable Property Ordinance, 1982; no protection has been giving for religious place and graveyard under Antiquities Act, and Article 42(2) of Constitution also imposing unfair curtailment of rights for getting fair compensation. Finally, some recommendations have given for enacting a new legislation including planning permission, extended notice period, public meeting and review, agricultural land exempted, resettlement, valuation by valuers, in time compensation payment and right to Appeal.
Acknowledgements

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For further information regarding the contents of this technical report please contact the author : smrahman@kth.se ; sardarmkr@gmail.com or the Department of Real Estate and Construction Management , KTH, Stockholm Sweden.

Sardar Moklesur Rahman
**List of Abbreviation**

<table>
<thead>
<tr>
<th>Abbreviation</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>CP</td>
<td>Compulsory Purchase</td>
</tr>
<tr>
<td>CPO</td>
<td>Compulsory Purchase Order</td>
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<tr>
<td>DC</td>
<td>Deputy Commissioner</td>
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<tr>
<td>DCF</td>
<td>Discounted Cash Flow</td>
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<tr>
<td>DLAC</td>
<td>District Land Allocation Committee</td>
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<tr>
<td>EGI</td>
<td>Effective Gross Income</td>
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<td>FAO</td>
<td>Food Agriculture Organization</td>
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<tr>
<td>FIG</td>
<td>International Federation of Surveyors</td>
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<tr>
<td>GIM</td>
<td>Gross Income Multiplier</td>
</tr>
<tr>
<td>IVSC</td>
<td>International Valuation Standard Committee</td>
</tr>
<tr>
<td>IRR</td>
<td>Internal Rate of Return</td>
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<tr>
<td>LA</td>
<td>Land Acquisition</td>
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<tr>
<td>LAO</td>
<td>Land Acquisition Officer</td>
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<tr>
<td>LAR</td>
<td>Land Acquisition and Resettlement</td>
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<tr>
<td>MV</td>
<td>Market Value</td>
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<tr>
<td>NIM</td>
<td>Net Income Multiplier</td>
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<tr>
<td>NOI</td>
<td>Net Operating Income</td>
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<tr>
<td>NPV</td>
<td>Net Present Value</td>
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<tr>
<td>PGI</td>
<td>Potential Gross Income</td>
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<td>PMBA</td>
<td>Padma Multiple Bridge Association</td>
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<tr>
<td>TIB</td>
<td>Transparency International Bangladesh</td>
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## List of Relevant Glossary

<table>
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<tr>
<th>Term</th>
<th>Definition</th>
</tr>
</thead>
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<tr>
<td>Acre</td>
<td>4046.86 Square Meter</td>
</tr>
<tr>
<td>Animus Contrahendi</td>
<td>Intention to contract</td>
</tr>
<tr>
<td>Bighas</td>
<td>10 Acre land</td>
</tr>
<tr>
<td>Chala</td>
<td>Roof of nonbrick house</td>
</tr>
<tr>
<td>Crore</td>
<td>10 millions</td>
</tr>
<tr>
<td>Khal</td>
<td>Cannel</td>
</tr>
<tr>
<td>Kutcha</td>
<td>Dried brick or mud</td>
</tr>
<tr>
<td>Mazar</td>
<td>Graveyeard</td>
</tr>
<tr>
<td>Motawalli</td>
<td>Costadian of Waqf Estate</td>
</tr>
<tr>
<td>Nal</td>
<td>Empty land</td>
</tr>
<tr>
<td>Parishad</td>
<td>Local Union</td>
</tr>
<tr>
<td>Pucca</td>
<td>Solid and permanent housing</td>
</tr>
<tr>
<td>Suo moto</td>
<td>Court own initaitive Order</td>
</tr>
<tr>
<td>Tahsiloffice</td>
<td>Local Land Revenue Office</td>
</tr>
<tr>
<td>Thatched</td>
<td>Building technique used in straw thatching</td>
</tr>
<tr>
<td>Ultra vires</td>
<td>Beyond the powers</td>
</tr>
<tr>
<td>Vita/bari</td>
<td>House -Hold</td>
</tr>
<tr>
<td>Waqf</td>
<td>Muslim Turstee Property</td>
</tr>
</tbody>
</table>
Contents

List of Figures

List of Tables

1 Introduction
   1.1 Compulsory purchase ............................................. 1
   1.2 Background .................................................. 2
   1.3 Problem formulation ......................................... 3
   1.4 Aim of the research ......................................... 3
   1.5 Conceptual framework ..................................... 4
   1.6 The study area ............................................... 5
   1.7 Overview of this study ................................... 6

2 Method of work
   2.1 Methodology .................................................. 8
   2.2 Approach ...................................................... 9
   2.3 Delimitations and limitation .......................... 10
   2.4 Participants ................................................ 10
   2.5 Procedure .................................................... 11
   2.6 Research questions ...................................... 12

3 International Standard for Best Practice
   3.1 Standard practices ........................................... 14
       3.1.1 Property rights .................................... 15
       3.1.2 Standard valuation methods ...................... 15
       3.1.3 Compensation payments ........................... 16
   3.2 International institutional guidelines ................ 16
       3.2.1 Food and Agriculture Organization of the United Nations(FAO) 16
CONTENTS

3.2.2 International Federation of Surveyors (FIG) . . . . . . . . . . 18
3.2.3 World Bank . . . . . . . . . . . . . . . . . . . . . . . . . . . 20
3.3 Other international practice . . . . . . . . . . . . . . . . . . . . . 21
  3.3.1 United Kingdom . . . . . . . . . . . . . . . . . . . . . . . . 21
  3.3.2 Sweden . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . 22
  3.3.3 Ghana . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . 23
  3.3.4 China . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . 24
  3.3.5 India . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . 25
  3.3.6 Australia . . . . . . . . . . . . . . . . . . . . . . . . . . . . . 26
  3.3.7 United States . . . . . . . . . . . . . . . . . . . . . . . . . . . 27

4 Valuation Methods for Compensation Payment 28
  4.1 Value of property . . . . . . . . . . . . . . . . . . . . . . . . . . . . 28
  4.2 Basic valuation theory . . . . . . . . . . . . . . . . . . . . . . . . . 29
  4.3 Different types of properties rights . . . . . . . . . . . . . . . . . . 29
  4.4 Valuation methods . . . . . . . . . . . . . . . . . . . . . . . . . . . . 31
  4.5 Valuation practice . . . . . . . . . . . . . . . . . . . . . . . . . . . . 33
    4.5.1 Comparable Sales Approach . . . . . . . . . . . . . . . . . . . 33
    4.5.2 Income Capitalization Approach . . . . . . . . . . . . . . . . 34
    4.5.3 Direct Capitalization . . . . . . . . . . . . . . . . . . . . . . . 37
  4.6 Choice of method . . . . . . . . . . . . . . . . . . . . . . . . . . . . . 41
    4.6.1 Comparative analysis of the methods . . . . . . . . . . . . . . . 42
    4.6.2 Sensitivity analysis . . . . . . . . . . . . . . . . . . . . . . . . 42
    4.6.3 Other variables for compensation assessment . . . . . . . . . 42

5 Land Acquisition Practice in Bangladesh 44
  5.1 Land tenure . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . 44
  5.2 Environment and nature protection . . . . . . . . . . . . . . . . . . . 46
  5.3 Urban development . . . . . . . . . . . . . . . . . . . . . . . . . . . . 47
  5.4 Procedure of land acquisition . . . . . . . . . . . . . . . . . . . . . . 48
  5.5 Land acquisition legislations . . . . . . . . . . . . . . . . . . . . . . 50
  5.6 Value of religious and antiquities rights . . . . . . . . . . . . . . . . . 53
  5.7 Compensation payment system . . . . . . . . . . . . . . . . . . . . . . 53
  5.8 Appeal and judicial procedure . . . . . . . . . . . . . . . . . . . . . . 54
  5.9 Legal system and parliament . . . . . . . . . . . . . . . . . . . . . . . 55

6 Empirical Study 56
CONTENTS

6.1 Interview analysis ........................................... 56
   6.1.1 Individual experiences .................................. 56
   6.1.2 Interview questions .................................... 56
   6.1.3 Answer of the questions .................................. 57
   6.1.4 The interviews result .................................... 58

6.2 Processes and structures: Case study ......................... 58
   6.2.1 Barisal University ....................................... 59
   6.2.2 Dapdapiya Bridge Project 1 and 2 ....................... 62
   6.2.3 Padma Multipurpose Bridge Project ..................... 63

7 Legal, Empirical and Sustainable Analysis .................... 73
   7.1 Current practicing legislations and justification ........... 73
   7.2 Empirical analysis of field projects ....................... 77
   7.3 Constitutional and human rights ........................... 79
   7.4 Standard frame work of compulsory purchase process ....... 81
   7.5 Support, service and legal assistance ....................... 82
   7.6 Sustainable development .................................. 84

8 Conclusion and Recommendations .............................. 86
   8.1 Findings of study ........................................... 86
   8.2 Research questions and solution ........................... 87
   8.3 Conclusion ................................................ 90
   8.4 Recommendations .......................................... 93

Bibliography ...................................................... 95

Appendices ......................................................... 98

A International Standard for Good Practice .................... 100
   A.1 FIG : best practice of guideline .......................... 100
   A.2 FAO : recommendations of best practice .................. 102

B Valuation Methods and Compensation .......................... 105
   B.1 Discounted Cash Flow analysis ............................ 105

C Legislation Practice in Bangladesh ............................ 108
   C.1 Acquisition and Requisition of Immovable Ordinance, 1982 . 108

D Empiric Study .................................................. 111
CONTENTS

D.1 Photos from field project: Dapdopiya Bridge . . . . . . . . . . . . . 111
D.2 Photos from field project: Padma Multiple Bridge . . . . . . . . . . . 112
List of Figures

1.1 Structural process of reasearch study .................................. 6
3.1 International standard of best practice ............................... 17
4.1 Different form of ownership ........................................... 30
4.2 Different type of properties valuation method ................... 31
5.1 Bangladesh map with rivers flow .................................... 45
5.2 Land acquisition procedure ........................................ 48
5.3 Different types of legislation ........................................ 50
6.1 Barisal University location ............................................ 59
6.2 Dapdapiya Bridge location map .................................... 62
6.3 Location of Padma Bridge ............................................ 63
6.4 Map of location of Padma Bridge .................................. 64
6.5 PMBA total land use .................................................. 65
6.6 Primary occupation of affected population ....................... 66
6.7 Level of per capita income loss .................................... 67
6.8 Extent of income loss of Agriculture ............................. 69
6.9 Number of trees ..................................................... 70
6.10 Total land and price .................................................. 72
7.1 Constitution of Bangladesh .......................................... 80
7.2 Process of Compulsory Purchase procedure .................... 81
7.3 Propose process of compulsory purchase ....................... 83
7.4 Resettlement model .................................................. 84
8.1 Proposed recommendation for development of procedure ........ 93
List of Tables

<table>
<thead>
<tr>
<th>Table</th>
<th>Description</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>2.1</td>
<td>Methods and Data collection</td>
<td>11</td>
</tr>
<tr>
<td>5.1</td>
<td>Basic facts about Bangladesh</td>
<td>46</td>
</tr>
<tr>
<td>6.1</td>
<td>Barisal University total land acquisition</td>
<td>60</td>
</tr>
<tr>
<td>6.2</td>
<td>Barisal University total damage of other properties</td>
<td>61</td>
</tr>
<tr>
<td>6.3</td>
<td>Total land use in Districts of PMB</td>
<td>65</td>
</tr>
<tr>
<td>6.4</td>
<td>Affected Major occupation (15 years and above)</td>
<td>66</td>
</tr>
<tr>
<td>6.5</td>
<td>Households of per capita income level affected</td>
<td>67</td>
</tr>
<tr>
<td>6.6</td>
<td>Average loss of income in per capita</td>
<td>68</td>
</tr>
<tr>
<td>6.7</td>
<td>Land for RTW distribution affected by District</td>
<td>68</td>
</tr>
<tr>
<td>6.8</td>
<td>Agricultural lands income loss</td>
<td>69</td>
</tr>
<tr>
<td>6.9</td>
<td>Structures affected of ownership land</td>
<td>70</td>
</tr>
<tr>
<td>6.10</td>
<td>Wage earners impact of district wise</td>
<td>71</td>
</tr>
<tr>
<td>6.11</td>
<td>Structures replacement value</td>
<td>71</td>
</tr>
<tr>
<td>6.12</td>
<td>Standing crops compensation payment</td>
<td>71</td>
</tr>
<tr>
<td>6.13</td>
<td>Poverty level classified of those affected people</td>
<td>72</td>
</tr>
</tbody>
</table>
Chapter 1

Introduction

This chapter contains definition, background, problem formation, aims for conducting study, area of field study and overview of the contents of this thesis report.

1.1 Compulsory purchase

For any public development project, if government authority requires land definitely for public benefit purpose, the land will buy or purchased mandatory. Actions of government authority by enforcing to private property owners have to surrender their land for public purposes. Especially the condition is to take either for public use or for the public interest. Simply, compulsory purchase or land acquisition is a same meaning as a term of taking some land from private ownership. In general purpose of Roads, Highway, Railway, Bridge, Tele-communication and Power development many more and by law application of dispute solver, joint property, etc. Taking of private property by government most of the cases without fair compensation have the usually legal rights to do so, but the question is how to justify those action of government which caused abundant of suffering of the mass people of the country.

The government authority has been acquiring land from private by compulsory purchase for development of public benefit purpose project; most of the cases, land have been purchased compulsory by force. Acquisition meaning of "Land Acquisition" is acquiring of land by government or any institution of government, as authorized by the law for a public purpose from the individual landowner(s) after paying compensation, as fixed by government, in lieu of losses that may be suffered by the land owner(s) due to surrendering of his/their land to the concerned of gov-
CHAPTER 1. INTRODUCTION

government authority. Typically acquisition simply means to buy it. Requisition of land means was defined as taking possessing of property that would be required for a purpose or in public interest. Public purpose includes the provisions of village sites in districts in which the appropriate government shall have declared by notification in the official gazette that it is customary for the government to make such provision. Public benefit is remaining the major concept of land acquisition criteria.

Some cases by court order of compulsory purchase could be the solver of the land dispute between parties for instance in UK. When any of the government department takes a plan to development of any project - it will require acquiring some property of land - most of the cases authority adopted compulsion to private landowner for acquiring their property. The compulsory purchase process have been using by many part of the world as a tool of acquiring land for public benefit purpose development.

1.2 Background

The major part of this paper have selected Bangladesh as a country of case study and justifying of the procedure of its application. Bangladesh is highest densely populated country in the World (above 10 million). Practicing land acquires without proper legislation. Unprotected private land owner rights by forceful acquisition and unfair compensation estimates by using inappropriate valuation method. Land have directly related with country’s economic, geography, law, and sustainable development structure. Land acquisition system in Bangladesh is totally unjustified and without having any appropriate law. It is most essential to develop the law regarding of compulsory purchase in order to establish fair and justified process and development of property rights in land jurisdiction of Bangladesh.

Private landowners have been struggled to gain proper legislation to maintain the fair and justified relationship between Government and people. However, Bangladesh, as one of the highest density of population, have been struggling to occupy in their land in spite of having property rights which taken by force development authority. Most dangerous consequence of this land acquisition is by force which ignores the private landowner rights. As without having any proper guidance of law, acquisition other means is the fact that it is placing the majority people economic situation deprived level and few become well-off as using legislation on their own and fairness become grave. Thus private land owners have been losing land almost on basis of undeveloped and unjustifiable procedure that adopted as a tool
CHAPTER 1. INTRODUCTION

by authority without considering the growing poverty rate in the socio-economic context. Nevertheless the apprehension is posing a serious issue one for the country’s history is compulsory purchase, both legally and all other means, in the course of which agricultural land and land for domestic use are being acquired by a authority of the country. Government has been using those old legislations, having any intention to enact any law, as a tool for development project which manipulates without legal justification of fundamental rights of property; moreover, the outcome of this procedure becomes more complicated by unfair activities as forceful eviction, corruption and denied proper compensation payment.

1.3 Problem formulation

The property owner have been depriving from their exclusive ownership rights on their property due to no clear and specific justified legislation which yet to enact by the government for compulsory purchase of land in Bangladesh. Government have been using this necessity as a tools against the helpless private land owners: applying by force without having any law to protect those land owners rights from misuse of power over fundamental rights of sustain. The fair valuation of property and proper distribution of compensation payment, without delaying specific time limit, for losing landowner according to the value market which remain prime issues of this procedure. Thus it is quite essential for the whole country’s legal system to enact rational legislation in parliament so that compulsory purchase procedure could have fair application and protect the right of ownership.

1.4 Aim of the research

The proposed research study steps toward to develop the procedural system and contributes the information and knowledge in order to formulate the fair and justified legislation for compulsory purchase procedure. To achieve the perfectly proper procedure and its implementation, the main aim is to figure out the legal lacuna and its limitation, according to the guidelines provided by the international institutions, in the current procedure of practice, which will need to some change to adjust in Bangladesh context. Compulsory purchase experiences emerge along a variety of poor practice to best practice. Following are the basic objectives of study in Bangladesh:

1. Analysis of the nature and type of lands acquired and reason of acquired;
CHAPTER 1. INTRODUCTION

2. Investigating the action of land acquisition process;

3. Valuation of acquired properties impact analysis on compensation payment system on the different project of suffered private landowner;

4. Legal, empiric and sustainable analysis of procedure;

5. Analysis of significant process of alternative resettlement plan.

This study have structured by the following figure 1.1 in Section 1.7. First chapter is introduction, next chapter Methodology - basically this study have divided in three major part as Theoretical, Empirical as a field study and Analytical part - and final chapter is Conclusion and Recommendation for future work.

The usually concepts, theoretical part of figure 1.1, are to enhance the system by accumulating knowledge from different legislation, others system and guidelines of UN how to change from different perspectives to enact new legislation. Above all, the most important thing is to collect the data and information, empirical part of figure 1.1, from several conflicting projects and from its losing landowner. Hence the ultimate purpose of this study is to adapt the current policies of the international guidelines in the compulsory purchase in Bangladesh. This study is going also to scrutinize, theoretical part of figure 1.1 in the chapter five, the procedure land acquisition policy in Bangladesh on the basis of an in-depth analysis of land acquisition.

Although land acquisition is very considerably important as it is directly related to public development, the action of land acquisition process did not have fulfilled the attention of international literature. The private landowners rights and with harmonizing human rights, in chapter seven, have taken into consideration and how this will be formulated under international best practice guideline. In other words, the principal aim of this research is to investigate the process of Government authority rights and application of their own ordinance.

1.5 Conceptual framework

The theoretical part is the basic guideline of the analytical part of this studies. Figure 1.1 shows the theoretical chapter has been given the secondary data of the project which in the chapter 3, 4 and 5. Figure 1.1 shows that the chapter 6 have been analysis of the empirical study of the field work of those project including:
CHAPTER 1. INTRODUCTION

Barisal University, Dapdapiya Bridge project 1 and 2, and Padma Multipurpose Bridge project. The chapter 7 has discussed the analysis part of the whole thesis project including legal system, compensation payment with of justification of the whole process. The theoretical chapters with the result of the field work study, interviews and opinions of others will the main analysis of the thesis conclusion and which will involve the solving the main research question of the project and able to produce new guide line to establish new rule for fair and justified process.

1.6 The study area

The project of the study in the area of Bangladesh, in particularly major part of this research in the Southern part of Bangladesh in Barisal Division as in the name of project "Barisal University", and "Dapdapiya Bridge project 1 and 2". Apart from those project, "Padma multipurpose Bridge project" is the most largest project in Bangladesh where the authority have acquired large amount of private land. From those projects, government authority of Bangladesh has acquired large amount of private land by compulsory purchase.
1.7 Overview of this study

Figure 1.1: [Source: Author Personal], Structural process of research study basically in three major parts as Theoretical, Empirical and Analytical.

1. **Introduction**: This chapter introduces the topic of "Compulsory Purchase" for this thesis work and also contains the definition, background, problem formation, aims for conducting study, field study area and overview of the contents of this thesis report.

2. **Methodology**: This chapter contains motivation for conducting the research methodology, research questions, and limitations of empiric works, participation, procedure, conceptual framework and the data analysis. And also described that how to the data and other empiric information have been collected from the different field of those selected area of case study for getting empiric data by conducting a questionnaire for surveying.

3. **International standard of best practice**: In this chapter, international guided standard practices have discussed for the literature review. The FAO(UN), FIG and World Bank MLARR program are the most recognized authority for providing guidelines for international best practice of compulsory purchases.
CHAPTER 1. INTRODUCTION

UK, Sweden, Australia, Ghana, China, India and USA, all of those countries compulsory acquisition practices, have been analysis along with international institutions for best standard practice.

4. **Valuation methods and compensation**: This chapter discusses the "Market Value" of the acquired property is one of the best option for estimating and paying compensation by authority as for compulsory purchase cases which have been recognized and practice by the international valuers according to the guideline provided by the International Valuation Standard Council and Appraisal Institution.

5. **Procedure in Bangladesh**: This chapter discusses Bangladesh as a country of details study for this thesis of compulsory purchase procedure. It has been described the land tenure in Bangladesh, practicing legislations, legal procedure, land development, environment and natural protection, value of religious and antiquities rights, legal system and parliament, compensation payment system, legal services and assistance, and appeal and judicial procedure.

6. **Empirical study**: This chapter explains the case study area and focus on those data have been collected from the field study as empirical study. It contains the description of the empirical materials, individual experiences, interview analysis, and the processes and structures of the case study in the three different projects as Barisal University, Dapdapiya Bridge project and the Padma Multiple Bridge project which is the major case study in Bangladesh for this research.

7. **Legal, Empirical and Sustainable analysis**: This chapter analyzes the bundle of legislation for compulsory purchase has been enacted since British regime. It described the legislation operation in Bangladesh, major practicing laws, Constitutional rights, Human rights; Support, service and legal assistance, and justification of current practice; and the sustainable impact on environment, economy, social development and legal perspective have been observed on the compulsory purchase project.

8. **Conclusion and recommendation for future work**: In this chapter it described the findings of the results from the field study; posing the answer of research questions; the brief of conclusion of this study, and suggested recommendations for future work.
Chapter 2

Method of work

This chapter contains motivation for conducting the research methodology, research questions, and limitations of empiric works, participation, procedure, conceptual framework and the method of data collection by conducting a questionnaire for surveying from different field study and analysis.

2.1 Methodology

This research work is basically based on primary documents, interviews and secondary sources. The case study areas of this project were in Barisal district and Padma Multipurpose Bridge project in three different districts as Munshiganj, Shariatpur and Madaripur in Bangladesh. Firstly, questionnaires were supply to the approximately 75 peoples from different types of occupation have affected in between those three projects in those different districts of Bangladesh and they are less likely to represent their views of opinion about the area they suffered. Secondly, the data of land acquisition was collected from the land acquisition records of the Deputy Commission (DC) in office of land as well as from staffs of the land acquisition official. Studying from index register, application register, land acquisition(L.A) case, resume case register, inquiry register, arbitration case register and compensation estimation register are the main source of data and information which have collected by inquiring with record of land and registers office. Most of the cases are regarding for claiming compensation. Besides, another source of data collection is from institutions of BIDS and Bangladesh bureau of statistics.

As far as secondary data are concern, literature review on compulsory purchase guidance of UN-FAO (Food Agriculture Organization, FIG(International Federation of Agricultural Producers)
CHAPTER 2. METHOD OF WORK

ation of Surveyors), and other countries procedure such as UK, Sweden, Ghana, China, India, Australia and US have taken as a theoretical part of this study. Those are the so far best source of literature review for international context. The previous works on this field was completed Fabio PITTALUGA, The World Bank, representative of Bangladesh in 2008 and others researcher observations have taken for consideration and the MLARR (Management of Land Acquisition, Resettlement and Rehabilitation) program by World Bank in Bangladesh for resettlement of those homeless people. Finally, this study has been organized by the way of the part of introduction then it is based on the theoretical and empirical parts from both have been come into analytical part and then final conclusion and recommendation for future work.

Bangladesh as a case study, the various document of such projects as ordinance, legislation, reports and other information of the deputy commissioner were observed for analysis. Studying from relevant gazette notification, ordinance and legislation; and observed from the different project description by the government official and also found that the recently published ordinances have been trying to make similar with others enactment.

In order to reach highest standard of this work, above mentioned method have selected from the base of most available source for collection of data. The task of expertise of the research work have been operated by working with sufficient knowledge and skill as a researchers point of view to study the relevant materials, pleading; study of the previous case-files, to take interview as written, visiting to the site and oral meeting; communication to the relevant government authority, scrutinize the project ordinance from legal aspects; legal research, advocacy assistance level, appeal procedure and restitution; and negotiation and procedure of compensation payment. In the empirical and analysis part of this study, some polices have been reviewed and compared for the purpose of those project development with comparing of international best practice guidelines.

2.2 Approach

In order to collect primary and objective data and information, a questionnaire of survey have conducted to find out the discrepancy of the procedure by the authority and along with the interviews of affected people in those locality. Only literature reviews have not revealed any actual demand in this field therefore field projects have studied in details. In addition to the necessary information, its validity and com-
CHAPTER 2. METHOD OF WORK

Compensation payment and all of its knowledge have acquired by through the analysis and study of the following policies of those project basis:

1. *The purpose of acquisition of land have pieced details together those project.*
2. *Basis of valuation and its explanation of compensation order.*
3. *Methods of valuation procedure of the compensation payment system have acquired by those projects description.*
4. *Analysis the land acquisition procedure and keep up legal application.*
5. *Definition and interpretation of terms used, from the explanation of the projects description booklet have scrutinized throughly.*

2.3 Delimitations and limitation

There are some delimitation has incurred during field work as such:

- *Personal opinion of losing landowner has taken from their side.*
- *Only those losing landowner interview have taken those who remaining nearby of the project.*
- *Many affected people whom are not acquainted their rights over the land properly.*

The limitation has been observed over the project:

- *People has not felt secure to express about their personal view.*
- *They treated themselves helpless in case of express their rights.*

The main problem for this research study was option of regular access of the information and time frame. The questionnaire of survey was conducted on the very limited numbers of people whom are affected directly or indirectly by activities of compulsory purchase. Most importantly, private landowners have been bottom out seriously affected by the acquisition activities of the government authority basically in connection of legal, economical and security concerning of their life.

2.4 Participants

The empirical study is based upon interviews with losing and affected land owners in those projects of study area even though the documents have been taken and observed from project schedule, description and printed notification and gazette. The
CHAPTER 2. METHOD OF WORK

affected people in the vicinity of those projects where have acquired land by compulsory purchase. Different group of people have been interviewed as from farmer to shopkeepers. People whom are directly affected with those activities of the authority for acquiring land. It was random basis of interviewing of those affected people who are free in that time of the project area and most of the people were curious to know about my inquiry for taking interviews of that. In each of field it took couple of time to visit there and each of the session was 5 to 6 hours. It was only those people who founded near the project area as well as some acquisition staffs description have taken for consideration.

2.5 Procedure

<table>
<thead>
<tr>
<th>SL.No.</th>
<th>Method</th>
<th>No.Persons</th>
<th>Project Area</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Interview</td>
<td>15 person</td>
<td>Barisal University, Barisal.</td>
</tr>
<tr>
<td>2</td>
<td>Meeting</td>
<td>5 person</td>
<td>Dapdopiya bridge, Barisal</td>
</tr>
<tr>
<td>3</td>
<td>Interview</td>
<td>12 person</td>
<td>Dapdopiya bridge</td>
</tr>
<tr>
<td>4</td>
<td>Meeting</td>
<td>9 person</td>
<td>Barisal University</td>
</tr>
<tr>
<td>6</td>
<td>interview</td>
<td>15 person</td>
<td>Padma Multiple Bridge</td>
</tr>
<tr>
<td>7</td>
<td>Meeting</td>
<td>5 person</td>
<td>Barisal University</td>
</tr>
<tr>
<td>8</td>
<td>Meeting</td>
<td>10 person</td>
<td>Padma Multiple Bridge</td>
</tr>
</tbody>
</table>

[Source:Personal, 2012 ]

Table shows that the methods and procedure of data collection by interviewing and personal meeting with those affected people from field study of those projects.

Table 2.1 shows that there are several face of interviews, meetings and sight visiting slot have completed during the field study period. There have conducted two slot of time of interviews for each project. Each of interviews has taken in the field of the project area where they are still living with huge shock of losing their land with minimum of compensation. By and large, interviews, personal view and reflections, process is quite time consuming, have been taken by personal conduct but it created some odd situation of scary for those personal security which have been violated by the government authority.

The following questions pattern have used for collecting data and answers of them from different persons of the affected land losers:
CHAPTER 2. METHOD OF WORK

(I) How have you been affected by land acquisition of this project?

(II) How they have completed the procedure of the land acquisition?

(III) Why do you think that the land have taken from you is unfair?

The following questions have structured for getting information of the compensation payment and the valuation of the property.

(IV) Did you get any compensation?

(V) Have you appealed against the decision of compensation?

(VI) Did you get enough time to move?

(VII) How have your family been surviving after this acquisition?

(VIII) What are the main effects of your economical condition after acquisition of land?

(XI) Did you or any other families get any support for resettlement?

(X) What would be the fair and satisfactory steps by the government?

2.6 Research questions

The main focuses will be on the following research questions:

(1) Why not have the options of public meeting and negotiation before implement project?

(2) Why not providing legal support and assistance to private landowners during the process of land acquisition?

(3) What are the factors affecting to pay justified Market Value of compensation by the government authority ?

(4) Why not it is a legal obligation to estimate the property value by the professional valuers?

(5) In what way does valuation differ when it comes to apprising compared to commercial and residential properties?

(6) Why not declare the Article 42(2) is ultra virus of Constitution?

(7) Why is not providing Government khas land for alternative resettlement plan?

(8) Can the affected neighborhood private land owners receive any environmental damages?
(9) Why does not have any restitution plan of properties for private landowner?
(10) Why not Government stop acquiring agricultural land?
(11) Why not is it the responsibilities of the Supreme Court to restrict forceful eviction?
(12) Why not declare the 1982 Ordinance of land acquisition is void?
(13) What are the hindrances of authority not to enact a fair piece of legislation by adapting international guidelines?

All of the research questions have been answered and discussed in the chapter 8 in Conclusion and recommendation as question 2, 3, 7, 8, and 9 are relevant to this chapter; answer of the question 1, 10 and 11 have taken from the relevant discussion of Chapter 7 of legislation analysis; questions 4 and 5 answers have given from the light of relevant discussion of Valuation method from Chapter 4; questions 7, 8 and 9 also is the discussion of chapter 5 in Bangladesh perspective and question 12 answer is also discussion of Chapter 7 for Sustainable development.
Chapter 3

International Standard for Best Practice

In this chapter, International guidelines of best standard practices have discussed for literature review. The FAO of UN and FIG compulsory purchases procedures have taken as an international best practice of prescribed guidelines along with other countries as UK, Sweden, Australia, China, India and USA practices and procedure have also taken for consideration.

3.1 Standard practices

In the international context it has been settled specific proper and justified guidelines to implement the compulsory purchase procedure more fair way according to the guidelines of UN and other institutions which are treated as best standards for good practices. An international seminar held in Helsinki, 2007, regarding compulsory purchase and compensation, where it was dissolved so many issues were raised in connection with land acquisition, compulsory purchase, expropriation, land taking and other categorization used to describe the use of eminent domain powers to obtain land for public purposes [32].

Compulsory acquisition of land has always been a insubstantial issue and is rising apprehension for rapid growth and changes in land use [8]. Concerning the procedure of compulsory purchase from the perspective of the acquiring authorities have to fixed the specific time period to complete the process and minimize the cost of expense for taking land and resettlement process as well as payment of compensation in due time. It would be better to have available fund arrangement beforehand in order to start the process of acquisition[32]. Land acquisition rule is an important instrument for both the public and private sector by the terms
of statutory, and the powers of acquiring agreement under certain circumstances, and statute may avoid the land acquisition, thus leaving acquiring by agreement on statute[21].

3.1.1 Property rights

Everyone has the rights to own property alone as well as in association with others and that no one shall be arbitrarily deprived of his property [28]. Land acquisition involved the acquisition of land and rights, and the establishment of new rights, by a public body, against the landowner will [14]. Even though in many countries land acquisition could most often be arranged through other way by voluntarily agreements, Compulsory purchase, expropriation and eminent domain, is a massive instruments in most of countries for land acquisition for public purposes [32]. In order to benefit for society government have power to acquired land compulsory without the willing consent of its owner or occupiers[8].

Freehold title to land ownership which constitute the most absolute interest in land and maybe viewed as a bundle of rights and entitlements and the notion of land ownership with connection the land acquisition has huge impact[33]. Land occupancy accord is a essential issue in achieving food production and sustainable country growth [8]. There are some specific problem in practicing law concerning time limit of notice to be effective since the notice have served its become their final action of the acquisition of the property by using the right of notice serving [11]. When there are one party absent from the market forum, state moves to strike the deals where economic force have failed [12].

3.1.2 Standard valuation methods

Market value is the principally vital foundation for most the real property assessment assignments [18]. Where land is planned for compulsory acquired for reallocate of land development, legislation must formulate for specific terms of paying compensation which is lower than the value of land [8]. It is mentioned [13] "The International Valuation Standard Committee objective is to build confidence and public trust in the valuation process by creating a framework for the delivery of credible valuation opinions by suitably trained valuation professionals acting in an ethical manner ". 
CHAPTER 3. INTERNATIONAL STANDARD FOR BEST PRACTICE

3.1.3 Compensation payments

System of land acquisition and payment of compensation should work practically and efficiently [25]. Compensation should be paid prior taking land and it must be based on the market of value [32]. Hence normal compensation providing body should anticipate the risk of viewpoint of destroying and the subsequent requiring for construction. By the effect of arbitrary practice of this procedure which creates social anarchy between authority and peoples by caused of inappropriate payment of compensation, ownership safety and demolish the public trust as well[8].

Landowners should accept costs at open market value, and occupiers will basically have the costs of transfer and that have to repay [14]. The notice to treat procedure fixes the interests to be acquired and need to provide all in support of document for compensation claim[21]. Compensation must be pay in the way that people should not deprive their loss in way if it is the based on market value then it must be specified what is that? There should not any situation that could deviate the economical position of landowners just before and after taking land. It must be paid for included all sorts of losses which incur due to land acquisition [8].

3.2 International institutional guidelines

Figure 3.1 shows that relationship between International organization as FIG and FAO, and other countries comparative study for this part. FAO as a UN organization and FIG have recognized guidelines for compulsory purchase and others countries have the standard guideline of their own practice which are the best source of getting formal guideline of international practice. So all of those have described in this chapter as a review of those procedure.

3.2.1 Food and Agriculture Organization of the United Nations (FAO)

The food and Agriculture Organization of the United Nations (FAO) have given the basic guidelines on Responsible Governance of Tenure of Land and other Natural Resources. FAO is also developing voluntary guidelines on tenure of land. The principle guideline of FIG and FAO are concerned, "best practices" should be analyzed to understand the valuation and compensation processes. In brief, the planning and publicity must be within the detail development plan, notice must serve with reasonable time limit, and the public meetings and review have to complete with giving reasonable period of time. The valuation of different types of properties, giving
CHAPTER 3. INTERNATIONAL STANDARD FOR BEST PRACTICE

Figure 3.1: [Source: Author Personal] International standard for best practice recognized by the FIG, FAO and other countries practicing procedure have described and amalgamated for this study as how other countries have been practising.

compensation and taking possession of the land must be guided by the legislation. Appeals, advocacy and assistance opportunity should not deprive by injustice result of compulsory purchase.

The details of the guideline have annexed as A.2. Guidelines and execution of issues surrounding resettlement as a form of compensation were discussed besides with the need of every country to plan their own resettlement rules that support justice, fairness, and integrity. Compensation, either in financial form or as resettlement plan, is at the central point of compulsory acquisition. As a direct consequence of government force, private land owner lose their homes, all properties of land, and eventually pass up their main source of income. Compensation money cannot be the equal of those lose a because the monetary compensation should be the equal of the position of those affected people as they were before of acquisition [8]. The estimate of compensation is stand on the price of the land privileges and progress to the land, and its related to the costs. By legislation, it must make certain fair-haired process for decisive estimation and compensation. The notice of intention should
CHAPTER 3. INTERNATIONAL STANDARD FOR BEST PRACTICE

give fair enough time limit by which each exaggerated owner or inhabitant submit a declare for compensation. Early negotiations and meeting between parties could give the better solution from both perspective to reach in better agreements [8].

Reasonable appraisal method is sets of the price of the land and other properties as if the planned project did not exist. Suppose law does not expressly connection with the date of estimate to such a project, acquire authority ought to specify dates suitable to the scenery of the project. The estimation of payments must be separate from the taxes imposed by the country regarding of compensation payments. In the first step it describes the compulsory purchase definition and application and the second describes the Planning and Publicity. In the third and fourth part of the guidelines prescribed the process of valuation, compensation and taking possession and the appeals process and finally described the role of legal assistance and support for victims.

3.2.2 International Federation of Surveyors (FIG)

The International Federation of Surveyors is an international, non-government organization whose purpose is to support international collaboration for the progress of surveying in all fields and application of land. FIG Commission 9 concerns were about how well these new legislations and practices function and also even if the old methods and procedures might have become ineffective or unpopular. FIG Commission 9-Valuation and The Management of Real Estate, has publicized the FIG POLICY STATEMENT on Compulsory Purchase and Compensation as for Recommendations for Good Practice in 2010. The details of best practice guidelines have annexed in appendix as A.1. FIG provides five sections of the structure of recommendations of good practice for Compulsory purchase and compensation as:

Section 1: General principles
Compulsory purchase ought not to be the preferred tool for acquiring private land. Compulsory purchase shall implement with respect for the rights of affected landowners. The compulsory purchase ought not to be unlawful. The land acquisition process shall an inherent part of the process of compulsory purchase and exercising in objects, neutral, independent and ethical manner.

Section 2: Compulsory purchase basis
Land acquisition could only be used for public purpose. Basis of land acquisition had better to lawful. According to the section 2 stated that the basis of compulsory
purchase. The extent of compulsory purchase shall determine so that it causes the least damage to affected parties while ensuring that the projects for which land is taken could implement efficiently. When the right to use compulsory purchase takes effect, the time limit for starting the proceeding should set.

**Section 3: Proceeding of demarcation and registration**

Cadastral procedure related to land acquisition and takings should define by law. Section 3 has described Proceeding of demarcation and registration. Demarcation ought to do according to the land acquisition authorize. Replacement of servitudes, easements etc. rights shall be taken care of within or coordinated in the compulsory purchase process. Boundary and other ownership disputes over legal rights shall be resolved in connection in the compulsory purchase process. Registration of the changes in the boundaries of properties and rights should be entered into the cadaster and land register. Other relevant register and records have recognized and accepted by the authorities and affected communities have to be registered. On an ex-office basis and through other processes should guarantee that also incapable persons are appropriately protected.

**Section 4: Proceeding for determining compensations**

Compensation shall ensure that the affected parties financial position not to be damaged. Section 4 has described the proceedings for determining compensation. The term just compensation is, therefore, defined as the level of compensation paid which does not weaken the affected parties economic situation. The basis and principal terms of compensation should define by law. In accordance with the legislation it must be determine that who is to get compensation and the principles of the payment of the compensation and valuation date. The authority who will fix the amount of compensation payment and the process by which compensation is justified, settled, appealed, and paid and the rate of an extent to which interest may included with the total payment. In particular case, where compulsory purchased is for public purpose undertaken by other than a public body, and then the profit-sharing principles should determine the legislation. Compensation for the object should in the first instance be determined based on market value.

**Section 5: Restitution**

Whereas the proposed the plan of development project is cancelled, then it must be reconstituted by the authority and the acquired land property should back to the original land owners. As long as original owners have right over the property, it
should be first returning those properties to the land owners whose properties have acquired for the development project. If the parties of land acquisition is cancelled, abandoned or rights are lost through the expiration by time limit, the obligation for restitution should determine by legislation. Law must allow other government departments or national authorities to seek to appropriate the land from the unique purchasing authority for another use.

3.2.3 World Bank

The MLARR (Management of Land Acquisition, Resettlement and Rehabilitation) program prescribed by World Bank for Bangladesh in order to resettlement of those homeless people[29]. Especially Bangladesh as a huge land scarcity country of the world have need to adapt the resettlement program as a most essence because evicted people from land acquisition area most of the cases could not settle them as a result of government action. The previous works on this field was completed Fabio Pittaluga by World Bank representative of Bangladesh. He published the guidelines as 'Land Scarcity and Imperative of growth: Challenges for Bangladesh Development' for Compulsory purchase and Land Acquisition I on 7th FIG regional conference in Hanoi, 2009. It was described the procedure of Bangladesh context of land acquisition procedure was very vague and without having any specific by legislation. The following issues have discussed significantly:

1. Land acquisition and Resettlement status in Bangladesh
2. Rural and Urban Environment
3. Emic best practices
4. Policy direction for future

It is also comment that[22] "Government of Bangladesh and donor agencies involved in public infrastructure financing should consider the possibility of establish a fund accessible by implementing agencies and local governments to execute fair and equitable resettlement programs that could concretely use public infrastructure projects as points of entry for development- as the World bank policy predicament aspires to."

Bangladesh has been passing a significant moment for infrastructure development and the present legislation for compulsory purchase as immovable property
CHAPTER 3. INTERNATIONAL STANDARD FOR BEST PRACTICE

1982 which is very difficult to adjust policy of establishing resettlement program for the country, its executing authority with other sector have to define the solution for development of the country by implementing justified process for evicted people[22]. As a land shortage country of Bangladesh, evicted people could not resettle them so that growing slum living people have been increasing significantly which is pressuring huge social risk. Repercussion of land acquisition must be pointed out by the authority to the donor and financing authority that how they can implement just reasonable resettlement programs for those victims of land acquisition people by the authority as well as the way to continue of development program in the country[22]. Virtually affected people become permanently homeless which increasing the slum living population and having countless social risk. All in all, World Bank MLARR program has significantly important in order to remove the increasing homeless of slum living people and proper guideline of resettlement.

3.3 Other international practice

Along with the UN-FAO and FIG, some developed countries from different part of the world have been taken as a role of their compulsory purchase procedure.

Why the other countries procedures are important?

In international practice, it is quite important for comparing the application of law of compulsory purchase in the different part of the world. The guideline provided by the FAO and FIG which need to follow with the other countries practice simultaneously. To compare the differences of practice between other countries and the development of the procedure it essentially requires comparing the law of practices of those following countries and the guidelines of FAO and FIG. The following countries practice have selected on the following basis as UK, Australia, India, and Ghana have selected from different continent as similar like Bangladesh also common wealth countries having by principally same structure of legal practice and China is largest country by population and US from north America.

3.3.1 United Kingdom

In UK, there have been settled for Act 1967, Compulsory Purchase Order (CPO) based on a specific Act of Parliament and Acquisition of Land 1981. It described that they have well developed pieces of legislation for compulsory Purchase procedure as for instance. It is stated [4] "two most commonly used powers of compulsory purchase in UK are: A Compulsory Purchase Order (CPO), based on a specific
CHAPTER 3. INTERNATIONAL STANDARD FOR BEST PRACTICE

Act of Parliament; and An Order under the Transport and Works Act 1992 ". The authority should determine how much land they need for plan project and are likely to undertake feasibility work within the define the boundaries of the plan area [4]. The acquiring authority may choose to make direct contact with owners and occupiers at this stage, and may seek to enter into negotiations to acquire land by agreement. The process builds upon the initial information-gathering exercise which an acquiring would have undertaken during the formation stage. In James v UK (1986), a sum equivalent to a valuation estimate same as a willing buyer and willing seller will plunge as a result of previous land owner view, but repayment, in case of land acquisition, is not essentially a pecuniary base of open market value[wikipedia].

In Sainsbury’s Supermarkets Ltd v Wolverhampton City Council(2010), Lord Hope argued that it is not possible to development of urban area without proper application of compulsory purchase including the correct measurement of improvement of public interest and rights outside of the other perimeter [6]. The acquiring authority will be seeking to identify everyone who has a legal interest in, or right to occupy, the land they purpose to acquire. Failure to provide information, or making false or reckless statements, is a criminal offence. Before withdrawing your objection you should ensure that any agreement reached is in writing in some form of legally enforceable agreement [4]. There is no obligation for an objector to appoint legal or other representation. Similarly, if you intend to become involved in an inquiry you are strongly recommendation to have the necessary specialist advice available. Anyone who receives a personal notice by CPO may, subject to his income and assets are within certain economical conditions, have the opportunity to get financial support for the expenses of legal service for his help [4]. The availability of subsidized legal assistance depends upon your circumstances and in some cases the advice may be free.

3.3.2 Sweden

In Swedish law, purposes of compulsory purchase are well restricted, and the payments of compensation principles are defined specifically. The most important point is that the Swedish legislation for compulsory purchase is quite complete and well-defined. Apart from the special legislation, there are two specific legislation for that have a more general function. They have only two main Acts as Expropriation Act and Real Property Formation act. First of all, the Expropriation Act contains basic provisions on access to land and rights for various important public purposes. Secondly, the Real Property Formation Act might apply to compulsory acquisition
of land and rights form general to specific purposes. There are almost 20 different legislation in Sweden related to compulsory purchase in different situations, e.g. the Planning and Building Act, the Roads Act, the Railway construction Act, the Joint facilities Act and Utility Easements Act. It is mentioned [15] "Concerning the purposes for that land may be acquired, who may acquire the land, what compensation is payable to the landowner, when possession can be taken of the land and the procedure for deciding whether compulsory purchase is permissible and for fixing compensation".

Environmental Act chapter 32 sections 1 mentioned that payment of compensation related to under this section to payable for bodily injury, material damage and pecuniary loss caused by the action of authority. Chapter 31 Section 4 of Environmental Act provided that property owners should entitle to compensation by a decision to requisition land or where important difficulties arise for current land use in the significant part of the property. Under section 18 of Constitutions of Sweden it is stated that every citizen is protected and land only could acquire subject to urgent public interests but with guaranteed compensation. The property owner should be getting paid compensated for his detriments of damages have suffered.

The basis of Compensation payment: the market value of the property (or loss of value when only a part of the property is purchased) [15]. Compensation shall correspond to the market value of the property or loss of market value when only a part of the property is affected + 25% increment and also compensation for "other damage". There are two principles: a) MV(Market Value) Principles, b) Profit - sharing principles. First the Market Value principles described the four methods as Local price method, Yield method, Production Cost method and Market Simulation; in fact, all of those method used in basis of different context. Furthermore the Profit sharing principles stated clearly in the Swedish legislation that, under section 13 of AL in the chapter 5 of FBL, a reasonable apportionment of benefit shall be gained between all parties as State, landowner and others.

3.3.3 Ghana

The basic legislation for compulsory acquisition in Ghana is provided by the 1992 Constitution by Government of Ghana. Article 20 of Constitution of Ghana provides that "no property of any description, interest in or right over any property shall be compulsorily taken possession of or acquired by the State unless: the taking of possession or the acquisition is necessary in the interest of defense, public safety, public order, public morality, public health, town and country planning or the
development or utilization of property in such manner as to promote the public benefit" [17]. The essential of the acquisition is clearly stated that is such as to provide reasonable justification for causing any need that may consequence to any person who has an interest in or right over the property.

The colonial regime (1850-1957) adopted two main policy instruments for accessing land in Ghana, compulsory purchase with compensation in the colony and Ashanti, and land acquisition without paying compensation in the northern region of Ghana [17]. Expropriation was by the Public Lands Ordinance of 1876 (Cap 134). In 1962, the State Lands Act 1962 was passed as the main tool of compulsory purchase in the country and remained in force. The inequality and hardships consequential from that shall be a matter of apprehension to the courts which are mainly to responsibility and the Government which is responsible for most compensation payments[17]. Only one sum is payable to represent the value of the allodial title leaving it to the persons claiming rights and interests in the land to litigate as a separate question how the sum should be divided and when such loss exhibits these fundamental traits that it can rank as a compensation able loss is sustainable within the legal framework of compensation[17]. Process of compulsory acquisition in Ghana involves four main actors the government, right holders (property owners), the lands commission and expropriation party.

3.3.4 China

In 1978, China has adopted a land use rights tenure system. People Republic of China, the State owns all urban land under the Land Administration Law that means urban people only has "land use rights". While rural collectives on behalf of farmers own all rural land. Compulsory purchase in China is land acquisition plus land resumption. In China legislation system, the Constitution provides the basic regime of land expropriation. Moreover, basic laws regulating the issue are the People Republic of China Land Administration Law (PRCLAL), 'Implementing Regulations of Land Administration Law of the Peoples Republic of China' as well as other related regulations [3].

To chapter 2 of the section 4 of PRCLAL, the State, with the need of public interest, may lawfully expropriate land. The purposes of expropriation have stated in detail: (1) for national defense and foreign affairs; (2) for energy, transportation, water conservation and other infrastructure construction; (3) for science and technology, education, culture, health, sports, environmental and resource protection, disaster prevention and mitigation, heritage conservation, social welfare, municipal
utilities and other public utility projects carried out under the organization of the governments; (4) for affordable residential houses carried out under the organization of the governments; (5) for old city reconstruction projects for districts where dilapidated buildings are concentrated and poor infrastructure; (6) For public interests as set forth in laws and administrative regulations. State is the only party who own the right to expropriate land or land use rights [3]. By Article 44 of PRCLAL, first, acquisition of agricultural land shall go through the procedure for the conversion from agricultural use to non-agricultural use. Local government the county level should make a declaration and organize the implementation after the approval (Article 46). Compensation for expropriation should be fully paid or deposited in special accounts before housing expropriation has taken place.

Under Article 14 of REHSLC, notwithstanding any person whose houses are going to expropriate and the objection to the decisions on house expropriation made by local governments, he/she may apply for administrative review under the rule of administrative action by law. Anyone who disagrees with the results of the review may apply to appraisal expert committee for valuation under the Article 19 of REHSLC [3]. Compensation fees for expropriating rural land include the land Compensation under the Article 47 of PRCLAL. Compensation fee for farmland is based on its regular production value in the past three years before acquisition, normally it estimates between 6-10 times. Standard payment of each person who needs to resettle is 4-6 times the average production value of the land taken in the past three years before acquisition [3].

### 3.3.5 India

Constitution of India consisted of provisions under Article 19(f) and Article 31 that composed as property right. There were number of difficulties that the state was confronted with the Right to property of the Articles 14, Articles 19. Whereas the courts disallowed various acts of the state, under Article 31 read in extend by the Courts proved to be anti-developmental. Article 31(A) states that no law shall provides for acquisition by the state of an estate could held void as being ultra vires Article 14 or Article 19 [23]. It provides that the payment of compensation shall not less than present market value. Controversially of various sections of the Land Acquisition Act has been considered as being in violation of Article 19 and 31 of the Indian constitution. It is sought to deprive appellants of their lands. Article 31(2) definitely stated that land can only be acquired by the state for Public Purpose [23]. The definition of public purpose have stated in the under Section 3(f) of the
Land Acquisition Act.

It is an inclusive definition of public purpose though courts have held different purposes to be Public Purpose for many times [23]. An officer appointed by the government known as Land Acquisition Collector for the purposes of land acquisition proceedings of procedure. Under section 4 and 8 are described the offense punishable with an imprisonment not exceeding one year and only fifty rupees [23]. Section 9 entails the collector to cause a public notice at convenient places expressing government’s intention to take possession of the land. All persons interested in the land have to apply for claiming compensation by person. Even supposing any information or papers submitted for compensation proved that false then that person shall liable for under sections 175 and 176 of the Indian Penal Code. Any ambiguous papers and information submitted then the collector will unable to ascertain the compensation [23].

3.3.6 Australia

Acquiring authority serves a ‘Notice of Intention’ to compulsorily acquire particular land. In some jurisdictions, the landowner has the opportunity to lodge an objection [34]. A notice of the acquisition is published in the Government Gazette. Compulsory acquisition of land is done by the government authority. Valuer of General decides an amount of compensation is paying to the claimant [34]. Claimant can negotiate with the authority and then either accept or reject the offer of compensation. If the offer is accepted by the claimant, the claimant receives the compensation and vacates the land. If the offer is rejected, the claimant, through their legal representative will seek an alternative compulsory acquisition valuation and the relevant Court will decide on the amount of compensation payable to the claimant [34].

By law the concept of property that submit to privileges and benefit in such matter [31]. In 1907, the land mark of Spencers case, Compulsory purchase in Australia has frequently been the right of State for protection and guard of itself, this idea has stretched over decades and in fact centuries in other countries [31]. Compulsory land purchase is the accurate and state action or legislative authority for public purpose to acquire private land property [10]. Compulsory acquisition process is officially legislated; there are so many statutes at both the Commonwealth and state levels [34].
3.3.7 United States

United States has federal legal system so the legal operation differs in practice between states of jurisdiction and the following procedure has been taken from the State of Washington because it is not possible to discuss the whole federal legal system procedure therefore the following State have selected for showing the operation of land acquisition or compulsory purchase in United States for a particular State. Secretary of the Interior and the Secretary of Agriculture are each permitted to acquire lands and interests of land within the approved boundaries of any component of the national wild and scenic rivers scheme selected [5]. Subsequently, selected for enclosure in the system by Act of Congress that is rule by Secretary, but they shall not acquire more than 100 acres per mile fee title to an average on both sides of the river [5]. Lands owned by a State may be acquired only by donation or by exchange in accordance with subsection (d) of this section [5]. Whenever a tract of land lies partially within and partially outside the boundaries of a component of the National Wild and Scenic Rivers System, the appropriate Secretary may, with the consent of the landowners for the portion outside the boundaries, acquire the entire tract [5].

Land or interest therein so acquired outside the boundaries shall not be counted against the average one-hundred-acre-per-mile fee title limitation of subsection (a) (1) of this section. A landmark case has recently been tested in determining the extent to which a public purpose in the compulsory purchase of land[31]. The first noted case involving "economic development" occurred in 1954, Bergman v. Parker 348 US 26 (1954) where Turnbull and Salvino (2006) notes eminent domain being used in a slum clearing program in Washington, DC, in which land acquired was sold onto private developers for redevelopment[31]. Interest of land within external such boundaries will liable of, reliable with obtainable authorities of rule, by auction, rent, or replace. Any owner or owners of improved property on the date of its acquisition, may retain their successors or assigns a right of use and occupancy of the improved property for noncommercial residential purposes for a definite term not to exceed twenty-five years or, in lieu thereof, for a term ending at the death of the owner and owner shall elect the term to be reserved [5].
Chapter 4

Valuation Methods for Compensation Payment

This chapter discusses the "Market Value" of the acquired property is one of the best option for estimating and paying compensation by authority as for compulsory purchase cases which have been recognized and practice by the international valuers according to the guideline provided by the International Valuation Standard Council and Appraisal Institution.

4.1 Value of property

The professional valuers generally do the valuation of the different types of property value on the current market basis. Final compensation payment basis shall be of fairness and only the loss of land seldom achieves the aim of putting of those losers in the same position as if just before the land acquisition and the payment of compensation cannot completely replacement what is moved out [8].

There is a variable absence of the definite value of those land and in comparing to the market value losing land owner of those properties would have rights to demand for estimating the value of those lost properties by the professional valuers. Conversely, the estimate of valuation by the professional is the responsibility of the government that land loser should not deprive at all. In open market economies, use of land must be regulated under the justified legal framework for estimating compensation [18]. The basic rule of valuation is to require the data of description of the property, site and location, zoning, easement, building or household description, occupancy and rent.
4.2 Basic valuation theory

Market Value (MV) of the property would be the best possible option for paying or calculating the payment of compensation of the value of real estate property by appraisal code of practice. Market value means the price of the property is likely to sell in the open market or a willing buyer and willing seller make the property trading transaction without any undue influence. In order to reasonable payment of compensation for including everything related with compulsory purchase, it would be the best option to use valuation methods that will give current market price.

The definition given by International Valuation Standards Committee (IVSC) for Market Value in 1994 and is most commonly used around the World as below:[13] "Market value is the estimated amount for which an asset should exchange on the date of valuation between a willing buyer and a willing seller in an arms-length transaction after proper marketing wherein the parties had each acted knowledgeably, prudently and without compulsion". The compensation should be categories as for land, other properties as trees or plant, infrastructure and Building. Market prices can provide information about value availability of trade able substitutes.

4.3 Different types of properties rights

Types of interest over land There are so many interests which directly related with the land when an appraiser is going to estimate the value of the property then all things will take into account for estimation of the value of the property. There are bundle of rights related to property ownership.

1. Economical: Fee simple interests Absolute ownership unencumbered by any other interest or estate, subject by the government powers of taxation, eminent domain, police, and escheat.

Leased fee interests: The ownership interests are held by the lesser, which includes the right to the contract rent specified in the lease plus the revisionary right when the lease expires.

Leasehold interests: The right held by the lessee to use and occupy real estate for a stated term and under the conditions specified in the lease.

Sublease: An agreement is in which the lessee in a prior lease conveys the rights of use and occupancy of a property to another, the sublease, for a specific
period of time, which may or may not be coterminous with the underlying lease term.

*Sandwich lease:* A lease is in which an intermediate, or sandwich, leaseholder is the lessee of one party and the lessor of another. The owner of the sandwich lease is neither the fee owner nor the user of the property; he or she may be a leaseholder in a chain of leases, excluding the ultimate sublease.

2. **Legal interest:**

*Life estates* A life estate is defined as the total rights of use, occupancy, and control of a specified property limited to the lifetime of a designated party. Life estates can be created in several ways: by operation of law, by wills and by deeds of conveyance.

*Easements:* An easement is in real property that transfers use, but not ownership, of a portion of an owner’s property.
4.4 Valuation methods

The principles basis of compensation for the land and buildings taken is based on open market value. The valuer has to deal with specialized property such as churches, schools and the like in most of the cases [20].

<table>
<thead>
<tr>
<th>Comparable Sales Approach</th>
<th>Cost Approach</th>
<th>Income Approach</th>
<th>Account &amp; Profit Method</th>
<th>Residual Value Approach</th>
</tr>
</thead>
<tbody>
<tr>
<td>2. Leisure Properties (private)</td>
<td>2. Care and Nursing home</td>
<td></td>
<td>2. Telecommunications</td>
<td></td>
</tr>
<tr>
<td></td>
<td>3. Hospital</td>
<td>3. Mineral extraction</td>
<td>3. Land fill</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>6. Hotels</td>
<td>7. petrol station</td>
<td></td>
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<tr>
<td></td>
<td></td>
<td></td>
<td>8. Woodlands</td>
<td></td>
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</tbody>
</table>

Figure 4.2: [20] According to the figure 4.2, it is showed that the different types of properties value estimation by using those methods of valuation.

Those methods have described shortly below:

1. **Sales Comparison Approach:** When a number of similar properties, the sales comparison approach is most useful, have recently been sold or are currently for sale in property market. A description comparative analysis of each comparable sale must complete explaining how the sale relates to the property under appraisal in respect to those features that have an consequence on market value [2]. By using this approach, an appraiser could produce a value suggestion by comparing the subject property with similar (i.e. comparable) properties. Lack of substitutes diminishes reliability of comparable
sales method [27].

2. **Cost Approach:** The Cost approach is based on the understanding that market participants relate value to cost. Value of a property is derived by adding the estimated value of the site to the current cost of constructing a reproduction or replacement for the improvements and then subtracting the amount of depreciation in the structures from all causes. Whenever the development represents the highest and best use of the land approach and land value is well guided, then the Cost approach is most applicable in valuing new or proposed construction [18].

3. **Income Capitalization Approach:** The present value of the future benefits of property ownership, income capitalization approach, is measured. The capitalization technique, method, and rate used should be explained in narrative form supported by a statement of sources of rates and factors. The preferred source of an applicable capitalization rate is from actual capitalization rates reflected by comparable sales. Capitalization of net income shall be at the rate prevailing for this type of property and Location.

4. **Accounts/Profits Method:** The accounts method determines an appropriate rent, which is then used in the investment methods in specialized property. Rent is the base of the profit with this method. With valuing the rent of property and estimation profit is the value of its operation. Last year profit of account of business will consider for estimation though it is not possible for the basis of estimation then the valuer will estimates by considering of equivalent Property in the market. Land and premises will value together because value will base on current business of property.

5. **Residual Value Method:** Land residual technique allows an appraiser to estimate land values when recent data on land sales is not available. In practice the technique is used often to test the highest and best use of the land or site for proposed construction. A lump-sum benefit that an investor receives or expects to receive upon the termination of an investment; also called revisionary benefit.
CHAPTER 4. VALUATION METHODS FOR COMPENSATION PAYMENT

4.5 Valuation practice

The most applicable methods for property value estimation have been practicing by the international appraisal or valuers are Comparable Sales Approach, Income Capitalization Approach and Direct Capitalization as DCF method. Those have described in this section.

4.5.1 Comparable Sales Approach

The process of deriving a value indication for the subject property by comparing similar properties that have recently sold with the property being appraised, identifying appropriate units of comparison, and making adjustments to the sale prices (or unit prices, as appropriate) of the comparable properties based on relevant, market-derived elements of comparison. Comparison of sales transactions to the subject property being appraised is the essence of the sales comparison approach to value [2]. Source of this information include public records, multiple listing services, subscription services, real estate brokers, real estate periodicals, and interviews with the parties involved in market transaction[18]. Comparable sales approaches are based on market sales. Transactions between parties under have to no duress.

The following formulas are used for calculating the sales comparison approach:

Area Method

\[
\frac{AdjP}{m^2} \times Adj \text{ Price Min/Max } \times Area
\]  

This equation 4.1 explain that how to estimate the value of the property under using area methods. Where Adjusted Price is multiply by the per Sqm.

Area

\[
\text{Yield} = \frac{NOI}{\text{(Adj.price)}}, \text{MV} = \frac{NOI}{\text{Yield}}
\]  

This equation 4.2 stated that Net operating Income is divided by the adjusted price and Net operating Income is divided by the yield.
CHAPTER 4. VALUATION METHODS FOR COMPENSATION PAYMENT

Assessed Value Method

\[ Assessed \ Value \ Method \ (Taxation \ Purpose) = \frac{Adj.Price}{Ass.Value} \]  \hspace{1cm} (4.3)

This formula have been used for the taxation purpose in the comparable sale methods.

Net Capitalization Method

\[ Adj \ price = Price \times Price \ change \]  \hspace{1cm} (4.4)

This equation 4.4 described that Adjusted price is the price multiply by the price in change.

Factors need to adjust for: "Transactional adjustment’ The nature and terms of the deal can add to or take away from value of a comparable relative to subject property. Property adjustments: Physical, location, use, legal and non-realty attributes can add to or take away from value of comparable relative to subject property.

If there are no comparable sales? Market extraction methods of estimating cap rate cannot be used. Band of investment techniques in similar to WACC(Weighted Average Cost Of Capital) calculations, using equity rates of return and annual mortgage constant real estate is a long-life asset[27].

4.5.2 Income Capitalization Approach

Income approach is basically used for commercial properties valuation by renting income and price appreciation. Value estimates by the function of expected income stream from operating property and from its eventual resale value. The income capitalization approach supports two basic methodologies: direct capitalization, which uses the relationship of one years income to conclude a value, and yield capitalization, which considers a series of cash flows over time together with any reversion value or resale proceeds [18]. On the other hand, even when valuing that type of property where there are an adequate number of comparable sales available with which to develop an indication of market value, the sales comparison approach to value must also be developed and considered by the appraiser in arriving at a final value opinion[2].
CHAPTER 4. VALUATION METHODS FOR COMPENSATION PAYMENT

The followings are very significant components for the estimation of value in income approach methods:

**Potential Gross Income (PGI):** The total income attributable to real property at full occupancy before vacancy and operating expenses are deducted.

\[ \text{Area} \times \text{Rent} = PGI \quad (4.5) \]

It is equation 4.5 explain that total area of space multiply by rent per square foot or meter is the total Potential gross income of the property.

**Effective Gross Income (EGI):** The anticipated income from all operations of the real property after an allowance is made for vacancy and collection losses and an addition is made for any other income.

\[ PGI - \text{Vacancy and Collections Losses} = EGI \quad (4.6) \]

It is equation 4.6 explain that from the PGI the vacancy and collections losses will be deducted and it is called EGI.

**Operating Expenses:** The periodic expenditures are necessary to maintain the real property and continue production of the effective gross income, assuming prudent and competent management.

**Net Operating Income (NOI):** The actual or anticipated net income that remains after all operating expenses are deducted from effective gross income but before mortgage debt service and book depreciation are deducted.

\[ EGI - O&MExpenses = NOI \quad (4.7) \]

It is equation 4.7 explain that from EGI the Operating and Maintenance expenses will be deducted and it will call Net Operating Income.

**Time value of money:** The concept underlying compound interest that holds that £1 (or another unit of currency) received today is worth more than £1 (or another unit of currency) received in the future due to opportunity cost, inflation,
CHAPTER 4. VALUATION METHODS FOR COMPENSATION PAYMENT

and the certainty of payment. The equation 4.21 and 4.20 have explains the value of money in the future and present value calculation.

**Discount rate:** The term discount rate describes any rate used to convert future cash flows over time into a present value.

\[
\text{Discount Rate} = \text{Exit Yield} + g \ (\text{growth of NOI after 5 years}) \quad (4.8)
\]

It is equation 4.8 explain that Exit yield is NOI of year 6 divided by the Residual value (RV). In general, in the real estate or property valuation methods take 5 years period of cash flow and year 6 is for estimation of residual value for total value of property estimation.

**Rates of return:** An investors total expected return includes the return of capital (recapture of capital) and a return on capital (compensation for use of capital until recapture). Rates of return may be income rates (ratios of annual income to value that are used to convert income into value) or yield rates (rates of return on capital).

**Yield rate:** A yield rate used to convert future payments or receipts into present value as usually considered being a synonym for yield rate.

**Inflation:** Appraisers should be aware of the difference between inflation and appreciation in real value. Inflation is an increase in the volume of money and credit, a rise in the general level of prices, and the consequent erosion of purchasing power.

**Market Value (MV)**

\[
MV = \frac{NOI^1}{Yield(initial \ yield/cap \ rate)} \quad (4.9)
\]

It is equation 4.9 described that the market of the property when it is going for sale as Net Operating Income divided by the initial yield; initial yield is Net operating Income divided by the Value.
CHAPTER 4. VALUATION METHODS FOR COMPENSATION PAYMENT

\[ MV = \frac{NOI^1}{Yield^0} \]  
(4.10)

\[ MV = \frac{NOI^6}{r - g} \text{[Gordon formula]} \]  
(4.11)

This equation 4.9 named by Gordon formula where net operating income of year 6 is divided by the interest rate \((r)\) minus growth \((g)\).

**Total sum of 5 years discounted NOI + Discounted Residual Value = MV**

(4.12)

This equation 4.9 described that Market Value is estimated by the giving discount on those five year Net Operating Income and the giving discount on the Residual Value of the property all sum of figure is the total Market value of the property.

**Salvage Value(SV)**

\[ SV = \frac{NOI^n + 1}{r - g} \]  
(4.13)

[where \(r\) = rate, \(g\) = growth, \(n\) = number of years is 5]

This equation 4.13 described the Salvage Value(SV) of the property that net operating Income of year 6 is divided by the \((r-g)\) interest rate and growth.

**4.5.3 Direct Capitalization**

The process of converting is usually first year income into a value estimate. Direct capitalization makes use of a single year income and a market-derived factor or overall capitalization rate. Initially, the process appears rather simple. The practitioner need only estimate the income and the factor or overall capitalization rate. It is significant to consider the related sales transactions for net operating income of particular period.

A method used to convert an estimate of a single year income expectancy into an indication of value in one direct step, either by dividing the net income estimate by an appropriate capitalization rate or by multiplying the income estimate by an appropriate factor. Direct capitalization employs capitalization rates and multipliers extracted from market data. Cap rate only consider first year net operating income.
CHAPTER 4. VALUATION METHODS FOR COMPENSATION PAYMENT

and do not fully account for a property’s risk. In low cap rate, Investor will pay too much and value is higher as the growth of income is higher. Vice versa high cap rate investor pay less as growth of income is low, high risk in higher cap rate and as required rate of return (discount rate ) is higher and the lower the value. Cap rate are important market benchmarks, used by small , as well as large institutional investors. If cap rate are out of "normal" range then people start to ask questions.

Potential Gross Income Multiplier (PGIM)

$$PGIM = \frac{Price}{PGI} = PGIM$$

(4.14)

This equation 4.14 explains that Price (initial investment) is divided by potential Gross Income is the potential gross income multiplier.

Effective Gross Income Multiplier

$$EGIM(Price)/EGI = EGIM$$

(4.15)

This equation 4.15 explain that Price (initial investment) is divided by Effective Gross Income is the effective gross income multiplier.

Net Income Multiplier as overall cap rate

$$NIM(Price)/NOI = NIM$$

(4.16)

This equation 4.16 explain that Price (initial investment) is divided by Net Operating Income is the net income multiplier.

Property Valued Estimated by PGIM, NIM, and Cap Rate

$$PGI \times PGIM = Value$$

(4.17)

This equation 4.17 explain that Potential Gross Income multiply by the Potential gross Income Multiplier is the value of the property.

$$NIM = NOI \times NIM = Value$$

(4.18)
CHAPTER 4. VALUATION METHODS FOR COMPENSATION PAYMENT

This equation 4.18 explain that Net Income Multiplier is multiply by the Net Income Multiplier is the value of estimation of the property.

\[
\text{Cap Rate} = \frac{NOI}{R} = \text{Value}
\]  \hspace{1cm} (4.19)

Th equation 4.19 explain the Net operating Income is divided by the Cap rate is the value of the property.

Yield Capitalization (DCF)

Yield capitalization requires the practitioner to set forth explicit forecasts of income, expenses, and changes in vacancy levels and expenditures over the projection period. The concluded yield rate is then applied to convert anticipated economic benefits into present value. Yield rates must be derived from properties with similar characteristics\[18\].

The following market data are required from the market transaction and information for estimate the discounted cash flow:

- **Market conditions and general description:** The present economic condition of a country is the significant factors on the value of the property on the market. The sentiment of the property should calculate stronger and normal position within all sectors such as retail, manufacturing and office and also the activities of the construction industry and in the private service sector.

- **Value estimation using Discounted Cash Flow (DCF) analysis:** Discounted Cash Flow (DCF) of income of the property method is one the best recognized method of valuation of the property in the international market for valuing the property present market value on which a willing seller and a willing buyer can make a transaction of property in the market place. DCF analysis could use for the present estimate value of the property and by the extract yield rate from a comparable sales.

Discounted cash flow (DFC) analysis is a procedure in which a yield rate is applied to a set of income streams and a reversion to determine whether the investment property will produce a required yield given a known acquisition price. DCF analysis is a procedure in which a yield rate is applied to a set of income streams and a reversion to determine whether the investment property will produce a required yield given a known acquisition price. If the rate of return is known, DCF
analysis can be used to solve the present value of the property. Even if the property purchase price is known, DCF analysis can be applied to find the rate of return.

**Projection Period and Holding Period:**
The projection period is a period of time over which expected net operating income is projected for purposes of analysis and the projection period applicable to the analysis in question.
The formula for calculating the future value of a sum value today:

\[
\text{Future Value} = \text{Present Value} \times (1 + i)^n \tag{4.20}
\]

This equation (4.20) uses for the calculation for the future value of the property with compare present value.

And discounting the future value to the present value is:

\[
\text{Present Value} = \frac{\text{Future Value}}{(1 + r)^n} \tag{4.21}
\]

This equation (4.21) is used for estimating present value of the property.

For example, Mr. and Mrs. Smith want to invest in raw land. They expect to own the land for 10 years and sell it at the end of year 10 for 9 MSEK (salvage value).

There are no other cash flows.

What is the present value of the selling price, if the discount rate is 6 percent?

\[
\text{Present Value (PV)} = \frac{9000000}{(1 + 0.06)^{10}} = 5025553
\]

Here the equation (4.21) is for the value estimate of the property.

**Why is net operating income so important?** In real estate, depreciation is relatively minor due to the long life of the assets. NOI is thus treated as property net Cash Flow. Important property parameters are based on Property yield, Cap rates, and Income multipliers.

**Forecasting:** To estimate the value, calculate, or indicate in advance, forecasts made by appraisers are based on past trends and the perceptions of market participants concerning the continuation of these trends and the realization of these perceptions in the future[18].

**Net Present Value (NPV)**
The difference between the present value of all expected investment benefits and
the present value of the capital outlays:

\[ NPV = PV - Discount\ rate \]  

(4.22)

This equation 4.22 is used for the estimating Net Present Value.

**Intern Rate of Return (IRR)**

The annualized yield rate or rate of return on capital of being generated within an investment or portfolio over an ownership. IRR has notable limitations. Unusual combinations of cash flows may produce more than one IRR. IRR must be viewed with suspicion when net cash flows to a zero rate of return have a negative cumulative value. A negative IRR may be interpreted as a rate of loss although it is theoretically meaningless.

*Discount rate:* Exit yield + Growth of NOI after year 5. Yield is a growth of income stream.

*Where do discount rates come from?* Returns calculations entail calculation of risk. For non-frequently traded assets, that can be difficult. An alternative source of discount rates is by investor survey. Surveys provide no quantitative measurement of risk, and unclear how much risk premium is included. Survey approach works few for homogeneous investors.

The details of discounted cash flow calculation have annexed as an example in B.1.

### 4.6 Choice of method

The valuer or appraiser has the choice of a number of methods and methods used will be a reflection of the available information in the market place. Property types will be treated as specialized property. Likewise, where there is a lot of comparable transaction date available (either in the form of capital value and/or rents/yields) then the valuer will value without reference to the original thought process of the occupier [20].

**Highest and best use:**

of land is important notion for appraisal practice. The appraiser shall estimate the market value of the remainder land for its highest and best use, as if vacant and available for such use [2]. Impacts of the acquisition on the property highest and
best use, or the intensity of that use, shall be specifically addressed and described [2]. Highest and best use is for both the remainder land and the vacant land for improved.

4.6.1 Comparative analysis of the methods

Above mentioned five methods are the basic methods of valuation of property and real estate, yet differs from country to country using the methods of Cost method, Residual method and Account and profit method. The compare between Comparable Sales Approach and Discounted Cash Flow Methods is the prime of the valuation process for the property and its application in the different context. Comparable sales approaches are based on market sales and it is applicable when there are sufficient data of recent sale and some reliable transaction available. Yield capitalization as discounted cash flow method, on the other hand, requires the practitioner to set forth explicit forecasts of income, expenses, and changes in vacancy levels and expenditures over the projection period. The choice of method will depend on the types of property’s value need to estimation by the Valuers.

4.6.2 Sensitivity analysis

A conventional way of considering the degree of uncertainty is to make a sensitivity analysis, when the method is used by income-based, that by changing one or more assumption and analyze how much the expected value could differ[19]. It is require for estimate the market value of the property could be very by discount rate, interest rate and rate yield as well. It is, therefore, to wise the sensitivity analysis by + .05 percent or by -.05 percent of those variable so that it will be easy to understand of market trend between of those figure of the property value.

4.6.3 Other variables for compensation assessment

Capital Gain on Lands and Buildings Assessment and efficiency gains are the appreciation produced by the measure itself[9].

Profit sharing: The seller always requires a certain share of the profit in order to be willing to sell his property. The basic principle of profit-sharing is that it must be "equitable". The travaux preparatoires state that the definition of what is equitable has to be decided on the merits of each individual case, according to the principle that the benefit should be apportioned in the way it would have been in a "normal voluntary agreement"[9].
CHAPTER 4. VALUATION METHODS FOR COMPENSATION PAYMENT

Transaction cost: If compensation is paid, there will be transaction costs (settlement costs) entailed by negotiations, court proceedings etc.

The Appraisal report of Final valuation

In an appraisal report, the final opinion of value may be stated as a single figure, as a range of values, or in relation to a benchmark amount (e.g., "not more than" or "not less than").
Chapter 5

Land Acquisition Practice in Bangladesh

This chapter will discuss Bangladesh as a country of case study for compulsory purchase procedure. It is also described the land tenure in Bangladesh, practicing legislations, legal procedure, land development, environment and natural protection, value of religious and antiquities rights, legal system and parliament, compensation payment system, legal services and assistance, and appeal and judicial procedure.

5.1 Land tenure

In 1948, the whole Indian sub-continent declared independent from British ruler and declared two independent states as India and Pakistan. The Pakistan was consists of two part as west and east Pakistan. In 1971, East Pakistan now Bangladesh proclaimed independent from west. As a largest delta in the world, Bangladesh is largely made up of alluvial soil deposit from the three major river systems - the Padma, the Brahmaputra/Jamuna and the Meghna rivers. Total area of Bangladesh is 147,570\( (Km^2) \) and total population is above 160 million and density 1034 per\( Km^2 \) which is the is highest density populated country in the world list with population above 10 million. Seeing a commonwealth country, Bangladesh legal system and most of the legislation have remained almost the same as English legal structure.

Land

Bangladesh is the highest densely populated country in the world, suffering for land shortage per accommodate 160 million live in very small country. Facing that land crisis catastrophe, Government has to establish proper management of land and its application. Unplanned fast growing urbanization is a main problem facing the country where without any master plan land have been abusing in setting up of
CHAPTER 5. LAND ACQUISITION PRACTICE IN BANGLADESH

Figure 5.1: [Source:Landsat] Bangladesh map in the world context and flow of water from the Padma, the Jamuna and the Meghna river with rivers flow.

development projects, private industrial and service activities, human settlements, grabbing of wetlands and other general wealth by deceitful people [1].

Population
It has plenty of problems of housing, food security, and access to clean water and energy and other services. To develop the living standards, basic needs of people have to develop by the responsible government authority. It is a tough challenge for Bangladesh to develop living standard of population.

Natural environment
Considering a south-east Asian country, land structure is quite low land so the water overflow, in most of the season particularly the monsoon season, comes from the whole southern part of the Bay of Bengal. Hence it is a flooded effected country almost every year flood hammered as a nature disaster of environment. Proper land management is significantly relates to floods and water resource. Earth quack tendency rate is quite high. Protection against flood in rainy season is a continuous challenge for government which caused huge natural and economical damages. Bangladesh has to develop proper land management so that climate effect could protect.

Food
Country economy basically depends on agricultural base food production. The significant strength of the country’s economy is from agricultural crops production
as well as most of the rural peoples employment. So as to maintain the optimum amount of food production and sustainable development of livelihood, the proper land management for the agricultural land should not be used for the case of compulsory purchase.

**Economic**
Labor cost is quite cheap in the country in compare with other country in the south East Asia. The foreign remittance income from overseas countries by manpower is a one of the main source of economic generator. Exporting of garment production is one of the major sources of employment in urban area.

**GDP**
Value of the property have increasing significantly by influence of national GDP growth. GDP growth trend is higher so that property has increasing the demand and price in the market. Thus growth rate has huge impact on the valuation of the property. The present GDP growth of Bangladesh is 6.7% compare to other neighbor countries.

### 5.2 Environment and nature protection

The current environment impact about the tendency of earth quack has under huge threat for the mass people due to their sustainable housing standard. Apart from the land acquisition, it is much require maintaining the environmental sustainability.
before detailed development plan approved by the government. Protection of hills, forest and other natural structure should remain unchanged by the Environment laws although there are big difference by the government ministry authority to re-store under proper land management.

The Bangladesh Environment Conservation Act (ECA), 1995, section 7 stated that the remedial measures for injury to ecosystem as any act or omission of a person is causing or has caused, directly or indirectly, injury to the ecosystem may penalized by the compensation. Failing to comply with the direction then it may file a suit for compensation in the competent court or file a criminal case for failure to comply with the direction or file both kinds of cases. However, Bangladesh government authority of land acquisition has not compile any restriction to follow the ECA strictly.

Agricultural land : 1% of agricultural land have been losing per annum converting to other uses [1]. Agriculture provides employment to just less than one-half of the local labour force, supplies raw materials to some of the major agro-processing industries and earns foreign exchange from its exports.

Forest, Trees and Green area : Trees are the sign of nature protection from environmental disaster. Nature requirement of forest, green area and trees are most essential part of safe environmental. It is significantly required to preserve the forest area from destruction.

Canal : In early 1980, the government has taken so much initiative to digging new canal to supply the necessary water to the agriculture production and easy way to out the overflow of water during flooding period. This kind of plan for new canal is helpful for the natural environment.

River : River dredging and using the silts for land reclamation could be one option for retarding land degradation.

Khas land (Empty land) : The government owns substantive areas of land called Khas land, which can be distributed among the poor for productive use as part of the poverty reduction strategy [15].

5.3 Urban development

Population of Bangladesh has increased almost double in last decade in the major cities as Dhaka, Chittagong, Khulna and Barisal. Generally, when demand of land
is quite high, as a density of population is high, land value is surging to high. Since a developing country, Bangladesh needs to develop infrastructure for urbanization and it needs to be continued even though at the same time it is also require to ensure the private owner rights on their property should not be breached. At least 80% of criminal case is directly land related litigation [1]. Growing unplanned urbanization has been wasting large amount land due to proper development plan. Supposing that the Private land owners are regularly losing land by development project, which indicates the rate of poverties and homeless people will increase so that it will create huge social destruction of landless people.

5.4 Procedure of land acquisition

![Diagram of land acquisition procedure]

Figure 5.2: Land acquisition procedure [Source: Acquisition and Requisition of Immovable Property Ordinance, 1982]

Only tools of government authority have the so called "Acquisition and Requisition of Immovable Property Ordinance, 1982" which is operated by local Government authority Deputy Commissioner (DC) just as for taking land for development process and all procedure. Land acquisition process is usually begins with the application of requiring authority by submitting to DC, with a specific land for acquire
a detailed purposes. The procedure of land acquisition is established by Government Memorandum. As far as proposal of acquisition is concern, DC will normally organize for field verification jointly with the staff of the requiring authority after receiving of the application for specific requirement. District Land Allocation Committee (DLAC) or the Divisional Land Allocation Committee will take those applications for the allocation of land. Subsequently the proposal of application sends to the central Land Acquisition Committee for an approval decision.

Then DC issues the preliminary notice and hears objections against the proposed acquisition when the all authorization by the relevant authority. Subject to no objections have been lodge, DC may authorized the formal approval for land acquisition that the area to be acquired covers less than ten standards Bighas (10 Acre land) which is maximum limit by the DC without approval of Ministry. The government, projected executed by the Upazilla Parishad(particular area like semi-district), has usually authorized the DC to make the final decision for land to be acquired is above 10 bighas. After that it send back to the DC for the assessment of compensation and the recognition of the owner of the plots to acquire and then final approval. Total money of compensation payment approved by the DC by through requiring authority. DC will be published in the official Gazette for the final approval if no fault of the person interested all proceedings shall stand abated and a declaration. DC office pays the compensation. Without having any specific rule for payment of compensation so it depends on the DC when they will pay the compensation. As a matter of fact this procedure totally ignores private landowners rights.
5.5 Land acquisition legislations

There are so many legislation in Bangladesh, but 'Acquisition and Requisition of Immovable Property Ordinance, 1982' as short "ARIPO 1982" is the only piece of legislation which is operated by the government authority. With some provision under the Constitution of Bangladesh have some effect with the application of this procedure in practice. Conversely there is no law which can support the private landowners rights to protect. In chapter 7, it has full analysis of legislation practicing in Bangladesh regarding this context. Bangladesh is a land starving country and does not have any proper legislation for Compulsory purchase and till now any government did not take any steps yet to enact any legislation since 1971.

Figure 5.3: [Source: Personal] Different types of legislation regarding land acquisition in Bangladesh.
CHAPTER 5. LAND ACQUISITION PRACTICE IN BANGLADESH

I. Acquisition and Requisition of Immovable Property Ordinance, 1982

The Land Acquisition Act of 1894 and the East Bengal (Emergency) Requisition of Property Act of 1948 have been replaced with the promulgation of the comprehensive Acquisitions and Requisition of Immovable Property Ordinance (Ordinance II of 1982)(ARIPO 1982). 1982 ordinance is applying all cases of land acquisition and requisition by the government authority for immovable property for any public purpose and interest. This ordinance permits governments authority to acquire land as much they needed for any public purpose. It is stated by the many experts as a draconian law for compulsory purchase in Bangladesh.

Pursuant to the section 3, no property used by the public for the purpose of religious worship, graveyard and cremation ground shall be acquired and the authority has to serve Notice of acquisition. Section 4 provided that the powers to objection against acquisition notice and must submit objection notice within 15 days after the publication of the notice. These 15 days of time is not enough to prepare and submit an objection for the notice. In line with section 7, the Duty Commissioner (DC) may inquires into any objections, inter alia, on the value of the land acquired and the interest of the persons claiming the compensation and make an award with respect to the amount as adequate and final.

This is the most objectionable part of this law which ignores the right of land owner and this decision is conclusive evidence for forceful acquisition of land from private landowners. Just as section 8, it is provided the award of compensation paid by DC which is final, and it is not possible to justify the basis of compensation assessment. Compensation paid by DC pays within 60 days after estimate. In accordance with section 9, any matter not to take in consideration of compensation decision and provides some matters which should not be considered in determining compensation. Section 11 stated the acquisition and possession as when DC takes possession, whenever they think that compensation has been paid. Under the section 13, it is stated that acquisition of part of a house or buildings the provisions not be applied for the purpose of acquiring a part only of any house, manufacture or other building. If the owner desires that the whole of such house, manufacture or building should be so acquired.

As stated in section 15 (1) stated transfer of acquired land to the requiring person other than the Government when any property is proposed to be acquired for any person other than the Government, such person shall enter into an agreement with the Government in such form as may be prescribed before a notice under section 3 is published and when the property in respect of which an agreement has been
CHAPTER 5. LAND ACQUISITION PRACTICE IN BANGLADESH

entered into with a person. Under section 17(1), the use of acquired property no property acquired, without the prior approval of the Government, is used for any purpose other than the purpose for which it is acquired. Any requiring person uses any acquired property in contravention. As far as section 20(1) is concern, it is stated that award of compensation by DC where any property is requisitioned under this section; there shall be paid compensation the amount of which set out by the principle of this section. This ordinance have annexed in the appendix as C.1

II. The State Acquisition and Tenancy Act, 1950
State Acquisition and Tenancy Act-1950 is basic or fundamental law for land management in Bangladesh. Despite governments intentions however, the land ceiling in the 1950 Act and 1984 Ordinance have not been widely implemented. Though the section 13, it is stated that the restoration of agricultural land in certain cases if a person has been ejected by the Court or an order of the Collector or any empower person then the agricultural or horticultural land held by that person as free of rent in consideration of some service to be rendered under any system referred to the section 11 and such person may be within six months of this act should apply to the Collector for the restoration of such land. When an application has been made under section 13, the collector will be giving the parties an opportunity of being heard and taking such evidence and making such inquiries as it fit to satisfy then that the applicant was so ejected and shall pass an order restoring such land.

III. The Acquisition of Immovable Property Rules, 1982
By means of section 8, assessment of compensation shall the market value as is the average value of per acre of land. The Building Value as estimated by cost approach as cost of construction or cost on development by Govt. Engineering Development.

IV. The Requisition of Immovable Property Rules, 1982
Section 5 stated that the assessment of Compensation of Requisition for temporarily deprived and loss of crops and the standing crops will be average yield per acre. Section 6 stated that the recovery of compensation money from the allottees as deem fit and proper.

V. The (Emergency) Requisition of Property Act (No. XIII of 1948)
Under the section 4, it is stated that an appeal or revision should be lodge within 30 days after the order and appeal against the order made under section 3 shall lie to the commissioner. By the section 5 it is provided that acquisition or any requisitioned of any property by the proposal of the DC under this section and if Government thinks fit and proper.
VI. Antiquities Act, 1968

As stated in section 16 of the Antiquities Act, it is mentioned the safe guard for protection of immovable property in the compulsory purchase cases. Section 16(1) clearly stated that if the central government apprehends that a protected immovable antiquity is in danger of being destroyed, injured or allowed to fall into decay it might be acquired such antiquity or any part thereof and the government shall thereupon acquire such antiquity even if it is for a public purpose. By the section 17(2), it is stated that a place of worship or shrine in respect of which the director has accepted guardianship in pursuance of an agreement unless the agreement otherwise provides that it will be maintained by the person or body in whom it is vested or no such person or body then by the Central Government. Besides section 19(2) of this act, it is provided that the court trying an offence under this section may direct that the whole or any part of the fine recovered shall be applied in defraying the expenses of restoring the antiquity to the condition in which it was before the commission of the offence.

5.6 Value of religious and antiquities rights

There is no legal obligation for protection of religious place, monumental rights and antiquity rights by Bangladeshi legislation at all. Nevertheless, Antiquities Act, 1968 provides the protection of such religious place, monument and other respected place rights. The religious prayer place, graveyard and other spiritual places capture and destroy by authority as *animus contrahendi* (Intention to contract). The authority used their power to destroy the dwellers house and other property on land. This is one of the obvious injustices by the government authority that they have reluctance to protect this kind religious place, graveyard and other monumental rights at all.

5.7 Compensation payment system

Government usually pays the compensation which is based on unreasonable method of estimating the market value of the property and that is the most controversial issue in estimating compensation. In most of the cases Government pays compensation as per the land value according the land registry office which was valued by Government agencies. Article 42 stated that "no question can be put in question before any Court on the ground that any particular compensation is not adequate".
which is under question of whether it is justified or not with the present sustainable development.

1. **Valuation of real estate**: Most of the cases valuation of the property has been estimated without applying proper methods. Value of the property estimates as if title deeds value at the time of registration, which is the value of property, and that value becomes basis of payment of compensation. However, value of the property does not estimate by the time value of money calculations by professional valuers. Usually Government authority who have been in powered for assessing compensation, they basically pay the compensation according to the Government registry office fixed valuation price without consideration present market value.

2. **Assessment of compensation practice**: Section 8 of the Acquisition of Immovable Property Rules 1982, it provides that calculation of the market value of any property will pay the average value per acre of land transferred shall be calculated from the total amount of sale figures divided by the total quantity transfer. Under section 5 of the Requisition of Immovable Property Rules, 1982 also stated that the award of compensation in cash of which the owners is temporarily deprived; and in case of cultivate land the owner receives the compensation for loss of crops.

3. **Payment of compensation**: Land owners apprehension and concern over Government land Acquisition as it diminishes the productivity of family farm and also associated with low and delayed payment of compensation, corruption, hardship by the acquisition officer[35]. There is no specific rules of paying compensation: it could be 6 months or even more than a year. Normally, it depends on DC to pay most of the time delaying without anytime limit.

### 5.8 Appeal and judicial procedure

As far as the appeal or writ petition procedure is concern, when any private land owner received first notice of eviction from the authority with specified period of 15 days limitation to response. They can submit a writ petition by way of challenging the notice or the plan, whereas High Court could show cause to authority to explain why that notice will effective for which purpose before the court. Likewise, there is no appeal option regarding compensation payment under the Article 42(2) of Constitution.
CHAPTER 5. LAND ACQUISITION PRACTICE IN BANGLADESH

**Legal services and assistance**: During the negotiation stage of the land acquisition, no support or legal services and assistance provided by any authority so that most the affected people have deprived from legal assistance. Most of the cases they did not able to stand against the authority for their rights. Legal service and assistance could get by hired an advocate personally that increase the private landowner situation more burdensome. Regarding fair process and procedure are concern, authority has to provide adequate legal service and assistance during the process of land acquisition so that the private land owners would be victim due to legal support which could emphasis their rights regarding land, compensation and settlement.

5.9 **Legal system and parliament**

Form development point of view, two major institutions Parliament and Court have to sparingly harmonize with as an independent body without political interference. Parliament have the ancillary role to develop the country legal system after the Supreme court and must be avoided the doctrine of dualism. So far it has seen from all of the recent cases that the people have been losing rights over land and destroying properties by the authorities by applying force by Police, Military and other agencies to evict people from their property.

The powers of parliament have been misusing by the politician as not discussing the sensitive issues. With respect to establish a valid parliament for a sustainable development of legal system, competency of parliamentarian are quite essential according to the education and experiences. 97% of the 149 sitting current parliamentarian of Bangladesh were found involved in 'negative activities' while 70% of them were engaged in 'criminal activities,' as including involvement in or being supportive of criminal activities, misuse of government funds and influencing government decisions and the criminal activities include killing, land and river grabbing, extortion, tender manipulation and cheating [30].
Chapter 6

Empirical Study

This chapter will explain the case study area and focusing on those data which have collected from the field as empirical study. It contains the description of the empirical materials, individual experiences, interview analysis, and the processes and structures of the case study in the three different projects as Barisal University and Dapdapiya Bridge project from Barisal Division and the Padma Multiple Bridge project is the major case study in Bangladesh for this research.

6.1 Interview analysis

6.1.1 Individual experiences

To acquire land by the government authority is quite harsh process for that people remains helpless to do anything. Authority has been using force by involving Police, Arm force and Military for evicting those occupying people from their land. The main obvious consequence is losing source income of those people due to lose of lands for government acquisition. The way of giving compensation by the authority is remain quite time consuming as delay the process for which people suffers a lot to collect the payment from Deputy Commissioner Office. The official staffs of the land acquisition authority have also interviewed. Additionally most of the cases the authority denies and delays the payment by saying necessary fund unavailable.

6.1.2 Interview questions

The structure of the questionnaires have for investigating and examining the status of peoples living, occupation, income, land tenure system, resettlement, family
status, religious view, compensation, claim, legal assistance, supports, valuation of property for compensation payment, new settlement and activities by authority. In addition to the interviews and collected data from the project area, personal opinions and views have taken by discussion with general people who have lost their land. The following questions have been used for collecting data and answers of them from different persons of the affected land losers.

1. Why do you think that the land have taken from you is unfair?
2. How have you been affected by land acquisition of Government?
3. How they completed the process of acquisition?

The following question have structured for getting information of the compensation payment and the valuation of the property.

4. Did you get any compensation?
5. Have you appeal against the decision of compensation?
6. Did you get enough time to move?
7. How many family are affected by this acquisition?
8. What are the main affect of your life after acquisition of land?
9. Did you or any other family get any support for resettlement?
10. What would be the fair and satisfactory steps by the government?

6.1.3 Answer of the questions

After having several interviews, it have been observed that most of people are uneducated and as a simple village people so that they do not have sufficient knowledge of their rights that they have been depriving but only they can realized that economic situation which have significantly changed before and after losing land property. For one thing people including elected representative and others leaders of the locality were also interviewed. Most of the answers of their personal reflection regarding their disposition of their lives and live hood and they felt disastrous by the activities of the authorities as well as getting huge benefit by using their land by some people, but by exchange of land with the authority through the payment of compensation
CHAPTER 6. EMPIRICAL STUDY

is not adequate at all. All the interviews answer have been collected by the different way according to the situation of the affected peoples.

6.1.4 The interviews result

The most of the people who have lost their land are really too afraid to express their view against the authority which have little impact on the collection of information from the people who have lost their land. Most of the people have not any alternative place to resettle them but having only land property which already has lost by the forceful acquisition of the authority.

In view of the fact of forceful eviction and taking possession of acquired land, people have suffered by financial and mental condition bitter distressful. The usual compensation has paid by the authority which is not satisfying according to the market value of property. Land owner have suffered for getting compensation on proper time due to the prolonged process by the authority. To displacement of the family due to losing land is demolished the chain of social relationship. The respected areas as family graveyard, Mosque and religious place have not been protected by the authority as well. [Source: Author field Survey June, 2012]

6.2 Processes and structures: Case study

Three projects have been taken as a case study for this research analysis and collected empiric data from field study are remaining as a prominent view for justification of this compulsory purchase procedure. First two project have been taken as a case study named as "Barisal University project", and "Dapdapiya Bridge project 1 and 2" from Barisal Division as a southern part of Bangladesh and the finally the "Padma Multiple Bridge Project " is the main case study of Bangladesh for this research work. The following findings have been observed from present condition on Bangladesh in the proceedings of compulsory purchase.
6.2.1 Barisal University

Government directives to establish Barisal University on 200 acres of public land on the Kirtonkhola River but later 50 acres of private land with huge movable and
Table 6.1: **Barisal University total land acquisition**

<table>
<thead>
<tr>
<th>Place</th>
<th>Total land</th>
<th>No. Family</th>
<th>Comp.Paid</th>
<th>Market Value</th>
</tr>
</thead>
<tbody>
<tr>
<td>Barisal SadarUZ</td>
<td>50(Acre)</td>
<td>52</td>
<td>5,000BDT</td>
<td>30,000BDT(p.Ac.)</td>
</tr>
</tbody>
</table>

[Source:Personal Survey, 2012]

This project Table 6.1 shows that Barisal University Project details of land acquisition.

immovable properties of 52 families including those of a few freedom fighters was included for the project land have been captured by the authority that applying force to those become homeless in the name of development of purpose. The main Campus construction was scheduled to finish this year of 2013 at Karnakati on the eastern bank of the Kirtonkhola river in Sadar upazila.

This project Table 6.1 shows that a clear picture of the role of government authority have played with those privatelandowners as forcefully remove those living peoples even they have been waiting for the decision from the court of Appellate Division. Government have acquired 50 acre of private land, distortion of 52 families, including 3 Mosques, 13 graveyards, 100 ponds and Ditches, 1000 of trees and 15 acre waqf land. The value of lands on the open market transaction per decimal 30,000 BDT but Government paid the compensation 5,000 BDT per decimal less than 5 times of Market value. This project revealed that the role of the State against private landowners since they have been losing land in name of public purpose or public benefit.

The pending appeal on the Appellate division against the decision of acquisition from private owners land and also against the forceful eviction were admitted by the highest court of the country and that was ready for legal hearing. However, government authority did not show any sort of respect of to the highest courts of the country where decision was pending. Conversely, authority, case of Barisal University, does not obliged the rule of law as appeal was pending in the highest court, but they have acquired those land by force.

*Who is responsible to control the irrational action?* Appellate division as a highest court of the country ought to had issued a Suo moto(Court own initiative Order) rule against those government activities that has no legal rationale or justification at all, or having violated or dishonored the Appellate Division. In this situation, Appellate Division of Supreme Court as highest court of the country court has legal responsibility and ought to have issued a rule to authority not to take step
CHAPTER 6. EMPIRICAL STUDY

Table 6.2: Barisal University total damage of other properties

<table>
<thead>
<tr>
<th>Name of Protected Place</th>
<th>total No.</th>
<th>Loss economical damages</th>
</tr>
</thead>
<tbody>
<tr>
<td>Mosque</td>
<td>3</td>
<td>50,000BDT(each App.)</td>
</tr>
<tr>
<td>Graveyards</td>
<td>13</td>
<td>10,000BDT(each App.)</td>
</tr>
<tr>
<td>Ponds and Ditches</td>
<td>100</td>
<td>50,000BDT(each App.)</td>
</tr>
<tr>
<td>Trees</td>
<td>1,000</td>
<td>1,000BDT(each App.)</td>
</tr>
<tr>
<td>Waqf land</td>
<td>15 Acres</td>
<td>500,000BDT(each App.)</td>
</tr>
</tbody>
</table>

[Source: Personal Survey, 2012]

This project Table 6.2 shows that Barisal University total antiquities loss properties. Unless complete hearing. Twenty-four families became homeless by action of the district administration and evicted them from the land acquired for newly established Barisal University at Karnakathi village under Charkawa union of Barisal Sadar upazila. Selected area of land have captured by the government authority and send those land owners on the street. This project table 6.2 shows that according to the Antiquities Act, 1968 provides the protection of such religious place, monument and other respected place rights. This is clear violation of this act by the authority but in this project, the authority did not obey the rule of the Antiquities Act, 1968.

The value of those properties, on the other hand, have now more than 10 times more in the current rate. The compensation was paid as a very small amount, and by that money it is not possible to buy the same amount of land in the nearby area. So it is not rationale to put those peoples in lives in the detriment condition to survive. Those 52 families remain homeless almost by the forceful action of government. Moreover the major loss in agriculture production and resettlement would have the best solution those families to survive. In this project this is completely ignored and no other authority did not challenged the government action under this legislation as it will need stand against the government and it will costs large money for extra legal expenses in the court to show cause the government so nobody challenges the government action.
6.2.2 Dapdapiya Bridge Project 1 and 2

A 1390 meter long Segmented Box Girder Bridge on Kirtonkhola and 274 meter long Pre-stressed Concrete Girder Bridge on Khairabad River with 5.8 kilometres long approach road were constructed. Construction works of 1390 and 274 meters long Dapdapiya Twin Bridge on the Kirtankhola and Khairabad Rivers in Barisal have completed after four years under a Bangladesh-Kuwait-China joint venture. Inauguration of these bridges over sixty feet height from high-tide water level of the rivers have the development of socio-economic infrastructures of the region as it will ease the road communications between Barisal, Patuakhali, Barguna, Noakhali, Lakshmipur and Bhola as well as will connect Chittagong and Mongla sea ports and Kuakata tourist zone.

The bridge on Kirtonkhola River situates on the eastern outskirts of Barisal city. It was opened in February 2011. The photos of the project have annexed in appendices as D.1. The interview of those people have taken by the same way and procedure according to Barisal University project since both of the project are located in the same area therefore there was no additional problem occurred for taking interviews of those people. Dapdapiya Twin Bridge in Barisal have no official information was available to collect, but according to some people who have lost their land that approximately 15 acres of land acquired from both side of the
rivers and have given 2,000-3,000 BDT per decimal of land for compensation.

6.2.3 Padma Multipurpose Bridge Project

![Figure 6.3: Location of Padma Bridge](Source: Bangladesh Bridge Authority, 2011.)

Padma Multiple Bridge Project (PMBA) is the one of the biggest land acquisition project in the Bangladesh. This project have involved in the area of land from three districts land as Munshiganj, Madaripur and Shariatpur district from the southern part of the Bangladesh. Research study and the collected empirical data of this project remains prime empirical work for this thesis study. The "Padma multiple Bridge Project" is a major case of this research work of the compulsory purchase procedure of Bangladesh. Total amount of 771,501 acre land have acquired from those districts as Munshiganj- 235,974 acre, Madaripur- 283,678 acre and the Shariatpur district - 251,849 acre.
Figure 6.4: Padma Bridge Location Map, it is 6.15 km and 21.10 m wide bridge, and 15.1 km approach roads, toll plazas and service areas. [Source: Bangladesh Bridge Authority, 2011. Next two pictures are the present structural view of PMB and the plan is to construct the Padma Multiple Bridge [Source: Engconsult Ltd, Canada. ]
Table 6.3: **Total land use in Districts of PMB**

<table>
<thead>
<tr>
<th>Land Use</th>
<th>Munshiganj</th>
<th>Madaripur</th>
<th>Shariatpur</th>
<th>Total (acre)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Total Area</td>
<td>235,974</td>
<td>283,678</td>
<td>251,849</td>
<td>771,501</td>
</tr>
<tr>
<td>Cultivated Area</td>
<td>138,472</td>
<td>215,224</td>
<td>151,902</td>
<td>505,598</td>
</tr>
<tr>
<td>Fallow Land</td>
<td>5,609</td>
<td>1557</td>
<td>6857</td>
<td>14023</td>
</tr>
<tr>
<td>Irrigated</td>
<td>40,277</td>
<td>65,057</td>
<td>40,894</td>
<td>146,228</td>
</tr>
<tr>
<td>Rivers area</td>
<td>26,242</td>
<td>21,261</td>
<td>20,317</td>
<td>67,820</td>
</tr>
</tbody>
</table>

Table shows that the total land acquired for this project from those three district and types of land are as Cultivated land, Fallow land, Irrigated land, and Riverside area as almost 66% of the total cultivable land area, 76% from Madaripur and almost same area in Munshiganj and Shariatpur districts have acquired as nearly 60%. 19% of the total land is irrigated which is 23% from Madaripur, 17% in Munshiganj and 16% in Shariatpur districts, and rest of from riverside 9% and follow land 2%.

Figure 6.5: shows that total amount of area have acquired from three districts and with amount of land in areas and also shows that cultivated area is highest and irrigated, rivers and follow areas land amount.
Table 6.4: Affected Major occupation (15 years and above)

<table>
<thead>
<tr>
<th>Primary Occup.</th>
<th>Madaripur Nos.</th>
<th>%</th>
<th>Shariatpur Nos.</th>
<th>%</th>
<th>Munshiganj Nos.</th>
<th>%</th>
<th>Total Nos.</th>
<th>%</th>
</tr>
</thead>
<tbody>
<tr>
<td>Agriculture</td>
<td>3277</td>
<td>58.3</td>
<td>742</td>
<td>66.8</td>
<td>2316</td>
<td>47.8</td>
<td>6335</td>
<td>54.7</td>
</tr>
<tr>
<td>Industry</td>
<td>195</td>
<td>3.5</td>
<td>44</td>
<td>4</td>
<td>193</td>
<td>4</td>
<td>432</td>
<td>3.7</td>
</tr>
<tr>
<td>Construction</td>
<td>99</td>
<td>1.8</td>
<td>42</td>
<td>3.8</td>
<td>122</td>
<td>2.5</td>
<td>263</td>
<td>2.3</td>
</tr>
<tr>
<td>Transportation</td>
<td>429</td>
<td>7.6</td>
<td>41</td>
<td>3.7</td>
<td>417</td>
<td>8.6</td>
<td>887</td>
<td>7.7</td>
</tr>
<tr>
<td>Trade/Business</td>
<td>903</td>
<td>16.1</td>
<td>92</td>
<td>8.3</td>
<td>1099</td>
<td>22.7</td>
<td>2094</td>
<td>18.1</td>
</tr>
<tr>
<td>Service</td>
<td>682</td>
<td>12.1</td>
<td>144</td>
<td>13</td>
<td>687</td>
<td>14.2</td>
<td>1513</td>
<td>13.1</td>
</tr>
<tr>
<td>Others</td>
<td>33</td>
<td>0.6</td>
<td>6</td>
<td>0.5</td>
<td>15</td>
<td>0.3</td>
<td>54</td>
<td>0.5</td>
</tr>
<tr>
<td>Total(Dire.Affe.)</td>
<td>9890</td>
<td></td>
<td>1988</td>
<td></td>
<td>8646</td>
<td></td>
<td>20524</td>
<td></td>
</tr>
<tr>
<td>Dependency(%)</td>
<td>43.00</td>
<td></td>
<td>44.00</td>
<td></td>
<td>44.00</td>
<td></td>
<td>43.00</td>
<td></td>
</tr>
</tbody>
</table>

[Source: BIDS Census Survey, 2011]

Table shows that the major loss of employment of those affected population above 15 years.

Figure 6.6: Table 6.4 shows that in Agriculture field most of the people have lost their occupation as almost 55% of total lose occupation. Business occupational people are 18% and Service occupation is the third contributor 13% of income those affected population; Transportation, next highest population, is 8%. Whereas agriculture came in the first place as the leading livelihood source of both in Shariatpur 67%, Madaripur 58% and Munshiganj 48% as half of the rural people have employed in this field.
Table 6.5: **Households of per capita income level affected**

<table>
<thead>
<tr>
<th>Level of income (BDT)</th>
<th>Munshiganj</th>
<th>Shariatpur</th>
<th>Madaripur</th>
<th>Total (acre)</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>No.</td>
<td>%</td>
<td>No.</td>
<td>%</td>
</tr>
<tr>
<td>Up to 10,000</td>
<td>48</td>
<td>2.6</td>
<td>33</td>
<td>8.2</td>
</tr>
<tr>
<td>10,000-20,000</td>
<td>231</td>
<td>12.7</td>
<td>150</td>
<td>37.3</td>
</tr>
<tr>
<td>20,000-30,000</td>
<td>342</td>
<td>18.8</td>
<td>120</td>
<td>29.9</td>
</tr>
<tr>
<td>30,000-50,000</td>
<td>548</td>
<td>30</td>
<td>76</td>
<td>18.9</td>
</tr>
<tr>
<td>50,000-75,000</td>
<td>313</td>
<td>18.8</td>
<td>7</td>
<td>1.7</td>
</tr>
<tr>
<td>75,000+</td>
<td>342</td>
<td>18.8</td>
<td>7</td>
<td>1.7</td>
</tr>
<tr>
<td>Total</td>
<td>1824</td>
<td>100</td>
<td>402</td>
<td>100</td>
</tr>
</tbody>
</table>

[Source: BIDS Census Survey, 2011]

Table shows that the overall level of per capita income affect in the households of those three districts.

Figure 6.7: From this table 6.5 shows that the highest loss of level of per capita income loss is between 30,000 to 50,000 BDT, and 30% is in Munshiganj, 19% and 24% in Shariatpur and Madaripur districts. Lowest income earners lose is in Shariatpur 8.2% and the number of highest income earners BDT 75,000+ is the highest in Munshiganj district 19%.
CHAPTER 6. EMPIRICAL STUDY

Table 6.6: Average loss of income in per capita

<table>
<thead>
<tr>
<th>Primary Occupation Group</th>
<th>Madaripur</th>
<th>Shariatpur</th>
<th>Munshiganj</th>
<th>Total (acre)</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Male / Female</td>
<td>Male / Female</td>
<td>Male / Female</td>
<td>Male / Female</td>
</tr>
<tr>
<td>Agriculture</td>
<td>Male / Female</td>
<td>Male / Female</td>
<td>Male / Female</td>
<td>Male / Female</td>
</tr>
<tr>
<td></td>
<td>40147 / 42203</td>
<td>22310 / 34238</td>
<td>41720 / 44675</td>
<td>37221 / 41177</td>
</tr>
<tr>
<td>Industry</td>
<td>52920 / 29485</td>
<td>4744 / -</td>
<td>115664 / 28011</td>
<td>87189 / 28912</td>
</tr>
<tr>
<td>Construction</td>
<td>53628 / 31311</td>
<td>20420 / 32489</td>
<td>56800 / 21367</td>
<td>48688 / 29288</td>
</tr>
<tr>
<td>Transportation</td>
<td>40566 / -</td>
<td>27607 / -</td>
<td>72566 / 32567</td>
<td>55110 / 32567</td>
</tr>
<tr>
<td>Trading</td>
<td>56746 / 27212</td>
<td>34793 / 26750</td>
<td>69045 / 51084</td>
<td>62176 / 44242</td>
</tr>
<tr>
<td>Service</td>
<td>37929 / 29813</td>
<td>37668 / 16735</td>
<td>50394 / 42424</td>
<td>44125 / 36713</td>
</tr>
<tr>
<td>Others</td>
<td>42684 / 38486</td>
<td>25040 / 27277</td>
<td>63271 / 43999</td>
<td>51265 / 38512</td>
</tr>
</tbody>
</table>

[Source: BIDS Census Survey, 2011]

Table 6.6 shows that the male headed households and female headed households have lost of per capita income 51,265 and 38,512 BDT respectively (77.8972BDT = 1 USD). In Industry sector 87,189 BDT is the highest and in district Munshiganj is highest income loss as 115,664 BDT in industrial area. Trading area is the next as 56,746 BDT per capita from male headed households in the district of Madaripur.

Table 6.7: Land for RTW distribution affected by District

| Land Category | Land Quantum (ha) | Munshiganj | Shariatpur | Madaripur | Total | %
<table>
<thead>
<tr>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Nal</td>
<td>24 / 95.21</td>
<td>146.62</td>
<td>265.83</td>
<td>52.40</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Chala</td>
<td>5.53 / 0</td>
<td>0 / 0</td>
<td>5.53 / 1.09</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Vita/bari</td>
<td>23.98 / 4.87</td>
<td>60.68</td>
<td>89.53</td>
<td>17.65</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Ditch</td>
<td>17.05 / 0.04</td>
<td>0.04</td>
<td>17.09</td>
<td>3.37</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Pond</td>
<td>0.29 / 0.02</td>
<td>0.86</td>
<td>1.17</td>
<td>0.23</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Garden</td>
<td>0 / 0.73</td>
<td>2.15</td>
<td>2.88</td>
<td>0.57</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Khal/road</td>
<td>0.19 / 0.09</td>
<td>0.78</td>
<td>1.06</td>
<td>0.21</td>
<td></td>
<td></td>
</tr>
<tr>
<td>River</td>
<td>14.2 / 29.85</td>
<td>80.18</td>
<td>124.23</td>
<td>24.49</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Total</td>
<td>85.24 / 130.77</td>
<td>291.31</td>
<td>507.32</td>
<td>100</td>
<td></td>
<td></td>
</tr>
<tr>
<td>%</td>
<td>16.80 / 25.78</td>
<td>57.42</td>
<td>100</td>
<td>-</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

[Source: BIDS Census Survey, 2011]

Table 6.7 shows that more than 50% agricultural land and 18% from residential land. Nearly one quarter of the land is from river side. According to the BIDS survey on the Vita/bari land which included of those households losing their housing, business and community establishments, total 507 hectares of land have used for the (RTW) river training work this project.
 CHAPTER 6. EMPIRICAL STUDY

Table 6.8: **Agricultural lands income loss**

<table>
<thead>
<tr>
<th>Land of impact on income (%) total income less</th>
<th>Munshiganj</th>
<th>Shariatpur</th>
<th>Madaripur</th>
<th>Total no.</th>
<th>% age</th>
</tr>
</thead>
<tbody>
<tr>
<td>0-10</td>
<td>24</td>
<td>95.21</td>
<td>146.62</td>
<td>265.83</td>
<td>52.40</td>
</tr>
<tr>
<td>10.01-20</td>
<td>5.53</td>
<td>0</td>
<td>5.53</td>
<td>1.09</td>
<td></td>
</tr>
<tr>
<td>20.01-30</td>
<td>23.98</td>
<td>4.87</td>
<td>60.68</td>
<td>89.53</td>
<td>17.65</td>
</tr>
<tr>
<td>30.01-40</td>
<td>17.05</td>
<td>0</td>
<td>0.04</td>
<td>17.09</td>
<td>3.37</td>
</tr>
<tr>
<td>40.01-50.0</td>
<td>0.29</td>
<td>0.20</td>
<td>0.86</td>
<td>1.17</td>
<td>0.23</td>
</tr>
<tr>
<td>More than 50</td>
<td>0.29</td>
<td>0.73</td>
<td>2.15</td>
<td>2.88</td>
<td>0.57</td>
</tr>
<tr>
<td>Total(in Number)</td>
<td>0.19</td>
<td>0.09</td>
<td>0.78</td>
<td>1.06</td>
<td>0.21</td>
</tr>
<tr>
<td>(in% age)</td>
<td>14.2</td>
<td>29.85</td>
<td>80.18</td>
<td>124.23</td>
<td>24.49</td>
</tr>
</tbody>
</table>

[Source: Estimated based on RTW LA proposal, Dec.2010 as per final design and ADB PPTA census of affected Agriculture land owners, 2006]

Table shows that income loss from agricultural land from those three districts.

Figure 6.8: shows that total number amount of agricultural income loss from three district that households are in 30% have lost more than 10% and the household of 12% is losing 10% to 20% of their total income due to acquisition of land, but 8% of household have lost more than 50% of income due to land acquisition.
CHAPTER 6. EMPIRICAL STUDY

Table 6.9: **Structures affected of ownership land**

<table>
<thead>
<tr>
<th>Ownership Type</th>
<th>Munshiganj</th>
<th>Shariatpur</th>
<th>Madaripur</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Sft.</td>
<td>% Sft.</td>
<td>Sft.</td>
<td>% Sft.</td>
</tr>
<tr>
<td>Pucca</td>
<td>5,026</td>
<td>1.15</td>
<td>-</td>
<td>6,991</td>
</tr>
<tr>
<td>Semi Pucca</td>
<td>10,635</td>
<td>2.43</td>
<td>-</td>
<td>12,253</td>
</tr>
<tr>
<td>Tin</td>
<td>287,586</td>
<td>65.80</td>
<td>91,753</td>
<td>56.97</td>
</tr>
<tr>
<td>Kutcha</td>
<td>102,817</td>
<td>23.53</td>
<td>50,552</td>
<td>31.39</td>
</tr>
<tr>
<td>Thatched</td>
<td>30,977</td>
<td>7.09</td>
<td>18750</td>
<td>11.64</td>
</tr>
<tr>
<td>Total</td>
<td>437,041</td>
<td>100.00</td>
<td>161,055</td>
<td>100.00</td>
</tr>
<tr>
<td>% by Districts</td>
<td>31.72</td>
<td>11.69</td>
<td>56.59</td>
<td>100</td>
</tr>
</tbody>
</table>

[Source: BIDS Census, Feb 2011]

Table 6.9 shows that the structural damage of houses of those districts classified as Pucca house, Semi Pucca house, Tin-shed house, Kutch and Thatched house. Tin shed houses and Kutcha houses are in the highest structural damage almost at 63%, Thatched house is near 8%, and Pucca and semi-Pucca house are less than 2%.

Figure 6.9: shows the total number of different type of trees total 454,421 and ratio of percentage.
CHAPTER 6. EMPIRICAL STUDY

Table 6.10: Wage earners impact of district wise

<table>
<thead>
<tr>
<th>SL.No.</th>
<th>Category of wages earners</th>
<th>Munshiganj</th>
<th>Shariatpur</th>
<th>Madaripur</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Farmlabour (Unskilled)</td>
<td>42</td>
<td>377</td>
<td>207</td>
<td>626</td>
</tr>
<tr>
<td>2</td>
<td>Non-farm labour (unskilled)</td>
<td>235</td>
<td>24</td>
<td>329</td>
<td>588</td>
</tr>
<tr>
<td>3</td>
<td>Skilled non-farm labor</td>
<td>230</td>
<td>18</td>
<td>315</td>
<td>563</td>
</tr>
<tr>
<td></td>
<td>Total</td>
<td>507</td>
<td>419</td>
<td>851</td>
<td>1,777</td>
</tr>
</tbody>
</table>

[Source: ADB PPTA 4652-BAN, Census and Socioeconomic Survey, 2006]

Table 6.10 shows the category of affected people of labour as Farmlabour (unskilled) is the top, Non-farm labour (unskilled) and then Skilled non-farm labour position of losing of wage earners.

Table 6.11: Structures replacement value

<table>
<thead>
<tr>
<th>Structure type</th>
<th>Munshiganj</th>
<th>Shariatpur</th>
<th>Madaripur</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>Kutcha</td>
<td>37,455,435</td>
<td>15,864,678</td>
<td>71,014,998</td>
<td>124,335,111</td>
</tr>
<tr>
<td>Semi Pucca</td>
<td>50,260,249</td>
<td>-</td>
<td>24,432,836</td>
<td>74,693,085</td>
</tr>
<tr>
<td>Pucca</td>
<td>25,059,780</td>
<td>-</td>
<td>32,228,685</td>
<td>57,288,465</td>
</tr>
<tr>
<td>Tin</td>
<td>281,923,200</td>
<td>76,067,200</td>
<td>434,230,400</td>
<td>792,220,800</td>
</tr>
<tr>
<td>Thatched</td>
<td>2,610,720</td>
<td>1,575,000</td>
<td>4,808,916</td>
<td>8,994,636</td>
</tr>
<tr>
<td>Total</td>
<td>397,309,384</td>
<td>93,506,878</td>
<td>566,715,835</td>
<td>1,057,532,097</td>
</tr>
</tbody>
</table>

[Source: ADB PPTA 4652-BAN, Census and Socioeconomic Survey, 2006]

Table 6.11 shows that cost of replacement value of structural damage on ownership of house as Kutcha houses 125 million BDT and Tin shed house cost 800 million BDT top value of replacement, then thatched house 9 million BDT, and Semi-pucca and Pucca is in the end of the table.

Table 6.12: Standing crops compensation payment

<table>
<thead>
<tr>
<th>Crop land</th>
<th>Munshiganj (Land(ac) Price(BDT))</th>
<th>Madaripur (Land(ac) Price(BDT))</th>
<th>Shariatpur (Land(ac) Price(BDT))</th>
<th>Total (Land(ac) Price(BDT))</th>
</tr>
</thead>
<tbody>
<tr>
<td>Agriculture Land</td>
<td>59.31 4448250</td>
<td>362.29 27171750</td>
<td>235.26 17644500</td>
<td>656.86 49264500</td>
</tr>
</tbody>
</table>

[Source: ADB PPTA Rates, 2009]

Table 6.12 showed the figure of that total market price of crops is estimated at the rate of 75,000 BDT per acre of agriculture land that all together came to 49 million BDT.

71
Figure 6.10: Table 6.12 shows that total figure of land and price in percentage of those districts as Munshiganj is highest in the total area of land 59.31 acre and price was given 4448,250 BDT; from Madaripur 362.29 acre of land and price was given 27171,750 BDT and from Shariatpur total 235.26 acre of land and price was given 17644,500 BDT.

Table 6.13: Poverty level classified of those affected people

<table>
<thead>
<tr>
<th>Poverty Level</th>
<th>Munshiganj</th>
<th>Shariatpur</th>
<th>Madaripur</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Male</td>
<td>Female</td>
<td>Male</td>
<td>Female</td>
</tr>
<tr>
<td>Hard Core</td>
<td>3.6</td>
<td>8.5</td>
<td>14.4</td>
<td>12.2</td>
</tr>
<tr>
<td>Poor</td>
<td>1.3</td>
<td></td>
<td>4.0</td>
<td></td>
</tr>
<tr>
<td>Non-Poor</td>
<td>95.0</td>
<td>91.5</td>
<td>81.6</td>
<td>87.8</td>
</tr>
<tr>
<td>Total</td>
<td>100</td>
<td>100</td>
<td>100</td>
<td>100</td>
</tr>
</tbody>
</table>

[Source: BIDS Census Survey 2011]

Table 6.13 classified the poverty level as Hardcore is most poor people and non-poor is as upper economical class. The analysis these empirical data have explained in section 7.2.
Chapter 7

Legal, Empirical and Sustainable Analysis

This chapter analyses the bundle of legislation for compulsory purchase in Bangladesh has been enacted since the British regime. It describes the background of legislation operation in Bangladesh, current practicing legislations and justification, Constitutional and human rights; Support, service and legal assistance, Standard framework of central issues, and Sustainable development of environment and land management.

7.1 Current practicing legislations and justification

Bangladesh inherited the land acquisition Act from British regime. The law of compulsory purchase have not enacted in Bangladesh, still 40 years have been passed since independent. Bangladesh government, as the political parties in power, has always pressure on the private land owner by putting additional restrictions and complex burdensome rules. Most of the implementing agencies of the Government do not have enough staff dedicated to land acquisition and resettlement programs[22]. Authority has to make more policy interventions to protect the rights of private land owners [1]. The notion of permanent of just, fair and reasonable compensation, on the other hand, has to be a pre-condition for the acquisition of property. Land acquisition in Dhaka Metropolitan Area was governed by the Town Improvement Act, 1953.

_Acquisition and Requisition of Immovable Property Ordinance, 1982_ is applying in all cases of land acquisition and requisition by the government authority for
immovable property for any public purpose and interest. More importantly, time limit powers to submit an objection against acquisition notice is only 15 days even though it is not enough for preparation to lodge it. To justification of the value of acquired land, although the interests of the affected people whom are claiming for proper compensation, an award of compensation usually estimate by Duty Commissioner (DC) the amount as it fit adequate by his discretion and the decision, which is quite adverse in view of international guidelines provided by FAO and FIG, is final. Compensation pays within 60 days after estimation due to it is not getting in proper time by irrational delay.

The most objectionable part of this law is ignoring the right of private land owners by way of forceful acquisition of land and the decision is conclusive. Furthermore, the acquisition and possession have taken by DC provided that they think that compensation has been paid. In spite of the fact that any property is requisitioned, compensation amount shall be determined in accordance with the rules and methods by the DC. Generally this ordinance gives ultimate power to DC for acquiring land without any legal bindings and justification. The 1982 Land Acquisition and Requisition of Immovable Property Ordinance has roots in the British colonial Land Acquisition Act of 1894 that laid the basis for the practice of land acquisition in South Asia during the colonial and post-colonial periods[22]. It is stated by researchers as a draconian law for compulsory purchase in Bangladesh. Only people who can demonstrate legal title to lands are eligible for compensation. Compensation rates for lost assets are calculated on the basis of record transaction over the preceding 12 months of comparable assets[35].

In The State Acquisition and Tenancy Act, 1950, it is another law which is stated that the restitution of agricultural land, in certain cases, if a person has been ejected by the Court or by collector or any empower person then the agricultural or horticultural land shall held by that person as free of rent in consideration. On the contrary, by specific the guidelines have provided by the FAO and FIG since in cases for restitution of the property must be backed to the original owner, but this legislation is acting against those principles. Within six months of this act should apply to collector for the restoration of such land.

In The Acquisition of Immovable Property Rules, 1982, it is stated that the assessment of compensation shall the market value as is the average value of per
acre of land, but which totally controversial according to the guidelines provided by the FAO and FIG where it is stated that market value shall be based on current base. Building Value as estimated by cost approach by Govt. Engineering Development which is not applicable in commercial property value estimation and it should estimate by professional valuer.

*The Requisition of Immovable Property Rules, 1982* assesses compensation of requisition for temporarily deprived and loss of crops and the standing crops will be average yield per acre which is not proper valuation as average yield is not a proper basis of estimating loss of crops and also basis on the authorities discretion to think deem fit and proper. This approach is quite contrary to guidelines provided by FAO.

*The (Emergency) Requisition of Property Act (No. XIII of 1948)* is stated that an appeal or revision should be lodge within 30 days after the order and appeal against the order made and shall lie to the commissioner.

*Antiquities Act, 1968* is safe guard and protection of immovable property in the compulsory purchase cases. Protection immovable antiquity which is in danger of being destroyed injured or allowed to fall into decay under land acquisition for a public purpose. A place of worship or shrine will be maintained by the Central Government. In fact it has no legal application in the practice in Bangladesh. In particular, Barisal University project land acquisition, authority did not follow the laws Antiquities Act, where authority of land acquisition has destroyed several mosques, graveyard and other religious antiquities place. This act clearly stated the protection of immovable antiquities which are in danger of being destroyed, injured and also protection worship from misuse. No religious worship, graveyard and cremation ground should not be acquired by the authority according to the Antiquities Act, but it has not been obliged by the authority as a result of no legal force at all.

*The Bangladesh Environment Conservation Act (ECA), 1995* is the remedial measures for injury to ecosystem. Any act or omission of a person is causing or has caused, directly or indirectly, injury to the ecosystem or to a person or group of persons under may determine the compensation to person to pay it and corrective measurement bound to comply with the compensation. Failing to comply with the direction authority may file a suite for compensation in court or criminal case for failure to do so. Indeed, there is no obvious application of ECA in Bangladesh at all. However, Bangladesh government authority of land acquisition has not compile any restriction to follow the Environmental conservation act.
To a large extent, those practicing legislation, people have been depriving from their right to survive in their own land against the forceful action of acquiring authority in the most of projects. Bangladesh will require to establish proper foundation of property rights that will allocate development to carry on and affected people to evade preventable affliction [22].

Is it make lots of people homeless is public benefits?
If yes, what is the legal justification?

Although there is no specific legislation in Bangladesh, Courts have limited power to protect the private land owners from forceful eviction. In order to protect those affected people for being forced to sell their land, their source of income and inherited holdings have acquired by authority without having resettlement of those families for future surviving. Overall, as people declare lower property values at the time registration of property due to avoid paying high imposing stamp duty tax fees, when it comes to expropriation, the figures recorded officially are significantly markets values (estimate in the context of recent projects speak of up to 1/6 of actual market value). Bangladeshi law does not distinguish between processes governing the acquisition of farmland and urban lands [18]. The decent practice totally depends on administrative decision, the fairer practice of administrative orders the state authority need to justify.

Above all of those legislation there is no obligation of application of private landowners rights. Compensation payment should in advance or within 30 days, but no such law providing any legal obligation for paying compensation within due to time. It is also explicit in those legislation that there is no scope of providing legal service and assistance for affected people. Besides there are significantly differences of sensitive issues of compulsory purchase cases in Bangladeshi legislation and international guidelines in accordance with the rules are provided by the FAO and FIG.

From the selected countries practice perspective, UK and Australia have applying early process negotiations for agreement between landowners. Additionally, there are some option support provided by authority such removal service, legal assistance; similarly, those practice guideline should be adapted by authority to develop the current procedure in order to get relive of those affected peoples unnecessary harassment. Sweden, for instance, provides additional 25% increment and
also for other damages and the current market value of the property. In China, Compensation payment for farmland is based on its regular production value in the past three years before acquisition which is normally much more higher than market price. Bangladesh should change their procedure so that the longstanding suffering of people can get relieve from unusual application of compulsory purchase of law.

To develop a proper land management it is quite essential to practice justified guidelines in acquiring private land to give better solution of affected people. Land management is a multi-faceted challenge, in the context of social, economic and physical dimensions of sustainable development (WCED, 1987) increases the importance of effective land management at all levels and the various decisions depends on operational level of land management, property valuation which is considered as a challenging practice[16]. Compensation should determine mainly on the basis of market value otherwise it will very difficult provide satisfactory compensation at all. Transparency, accountability and fairness should be ensured by the Bangladesh government in public procurements law[24].

Current procedure reveals that they have been applying ambiguous manner so owners could not take any action keenly against land acquisition. It is much need for mass people of the country to have a permanent remedial legislation. It could be better to take strategies from other countries perspective to solve those problems from huge disaster in land crisis [22]. To protect the people from aggression of the government authorities by way of forceful eviction remained key issues of this procedure. The most of the laws in Bangladesh still remain complexity nature in origin and by fault when it had enacted. The most possible solution of those lacking of legal rights of those private landowners is to enact a new legislation including all of those significant issues and removing all other disputed issued.

### 7.2 Empirical analysis of field projects

In Barisal University, Government have acquired 50 acres of private land, distortion of 52 families, including 3 Mosques, 13 graveyards, 100 ponds and Ditches, 1000 of trees and 15 acre waqf land. Market value of those lands was per decimal land 30,000 BDT (1 USD = 74.020 BDT), but government paid the compensation 5,000 BDT less than 5 times of market value which is clearly depriving the fair compensation payment owning to proper appraisal. Dapdapiya Twin Bridge in Barisal, on the other hand, have no official information was available besides according to the land
losing people that approximately 15 acres of land acquired from both side of the rivers and have given 2,000-3,000 BDT per decimal of land for compensation.

Padma Multiple Bridge Project (PMBA) has acquired total amount of 771,501 acre land from three different districts in Bangladesh. 66% of total land is cultivable area and 19% is irrigated and Riverside area of land. More than 50% of the land is purely agricultural and 18% of residential and one quarter is river side. Total land and price of those districts was paid per decimal 750 BDT, but present market value more than 15 times. Loss of occupational income above 15 years age of population, agriculture workers are highest with 55% of the employed, Business occupational people are 18%, and Service occupation is 13% and 8% occupation in transportation. Average per capita income of affected population was found BDT 51,265 for male and BDT 38,512 for female headed households. Level of per capita income affect in the households of those three districts the highest proportion of income earners are between BDT 30,000 to BDT 50,000. Income loss of agriculture field shows that 30% of the affected households will be losing more than 10% of their income. Amongst these severely affected households, the majority have comprised of those who would be losing 10% to 20% of their total income whereas 8% (104 PAHs) would lose more than 50%.

Most of the people have the ordinary houses as Tin shed and Kutcha which are quite common in rural. Tin shed houses and Kutcha houses are the highest structural damage almost at 63%. Thatched house is near 8%, and Pucca and semi-Pucca house are less than 2%. Replacement value of structural cost as Kutcha houses 125 million BDT and Tin shed house cost 800 million BDT highest value, then thatched house 9 million BDT which are not proper valued have given by the authority according to cost of newly construction. Total market price of crops is estimated at the rate of BDT 75,000 per acre. 1.68% affected trees are firewood trees and 5% is others. It is noteworthy that in this case eviction process by force and there was no sympathy have shown by the authorities. In other words the actions, by way of forceful eviction, have been taking by the authority so far the basic principle is to obey the rule of Appellate Court. Supreme Court of Bangladesh ought to have the responsibilities to protect those people’s private rights when it is going under threat of authority by force.

In few projects like PMBA, authority have adopted resettlement policy due to condition imposing by donor authority, but most of the cases where they did not
follow the rules of resettlement so that most of the people become homeless as a result of increasing slum liver inhabitants in cities. Similarly most of the crime in the cities are conducted by those people since they are the most deprived people of the country.

To sum up, more than 80% of the acquired land is agriculture land; agriculture land acquiring for development project is dangerous for the country sustainable development that it is going to reduce the food production together with employment that most of the rural people are working in the agriculture field. By principle, it should not take any sort of development project which will ruin the country’s main strength of economy as production of food and employment. The affected people have been not only suffering by forceful eviction and restatement although they also have been depriving to get fair compensation. Compensation of the property value is not the equivalent to the actual price of the land in view of purchasing same equivalent land in the market as the value of land surging quite high due to scarcity of land. All most every people of the affected people want to resettlement by the authority as it will be very difficult for them to resettle in place.

7.3 Constitutional and human rights

Constitution of the People’s Republic of Bangladesh have enshrined right to property as a fundamental right. The constitutional law works as an administrative law rather operative in the general court; nevertheless, judicial review or writ application cases are allowed to submit in the high court division. According to the article 42(2) of the Constitution, it is egregiously run as it contains a bar as “no question can be put before any Court on the ground that any particular compensation is not adequate”. A safety valve for the authority rather depriving the rights of citizen that no law can be called into question in the courts of law on the ground of inadequacy of compensation. The deprivation of fundamental right to property can be justified in developing such standard principles and manner. Right of property value have denied by posing the article 42(2) of constitution. Under this article, land can be acquired, nationalized, or requisitioned upon authority of law and with any compensation. Also authority has been depriving the right of getting justified compensation to millions of families as losing their land as well economic status. Nevertheless, if they pay the compensation by ordinary valuation and also using the constitutional safe guard article 42 that nobody can challenge regarding compensation payment. It means that using article 42 by authority as a tools of deprivation.
As far human rights issues are concern, the right of land has been infringing by the government authority in the name of compulsory purchase. The range of rights involved in the context of land acquisition is wide [26]. The principles of compensation and the right to be compensated are universal and are highlighted in Article 17 of the Universal Declaration of Human Rights states: "Everyone has the right to own property alone as well as in association with others and no one shall be arbitrarily deprived of his property" (United Nations, 1948). The UNIVERSAL DECLARATION OF HUMAN RIGHTS[28] Article 17 stated that "(1) Everyone has the right to own property alone as well as in association with others (2) No one shall be arbitrarily deprived of his property." Universal Declaration of Human Rights and International Covenants Human rights law recognizes the right to property as well as indigenous communities cultural and customary rights.

Bangladesh has signed the universal declaration of human rights, however, the activities of the government authority would have any intention to follow it. Property ownership does not confer special rights. The European Commission of Human
Rights (ECHR)[7] Article 1 stated that the ’Protection of property’ as ’Every natural or legal person is entitled to the peaceful enjoyment of his possessions’. No one shall be deprived of his possessions except in the public interest and subject to the conditions provided for by law and by the general principles of international law. As stated under article 1 of the ECHR the international human rights on property so it should not to use those unjustified laws in Bangladesh for land acquisition.

7.4 Standard frame work of compulsory purchase process

![Diagram of the compulsory purchase process]

Figure 7.2: [Source: Author Personal] Process of Compulsory purchase procedure

According to the theory and field study it has been observed that some specific factors of this procedure which have mentioned above 7.2 .Thus the features are the central concept of the compulsory procedures which have described as a standard frame work of the process to follow. Figure 7.2 shows the standard frame work of compulsory purchase practice. It is began from serving notice up to appeal allowing stage.

**Notice:** Notice should serve with reasonable time limit so that opponent could able to response properly. Reasonable time for responding the notice have a significant factor of the process.

**Valuation:** The second phase of the process is valuation of the property. Proper valuation of property remains a significant factor of this whole framework. The only recognized processes of valuation are specific methods which used by the valuers even though government authority gives satisfactory value of property.
CHAPTER 7. LEGAL, EMPIRICAL AND SUSTAINABLE ANALYSIS

**Compensation:** Compensation pays within specific time and its proper amount totally depend on the fair process of the procedure. Proper payment of compensation is the most crucial factor of this procedure. It is quite essential to provide fair amount of compensation to recoup the loss of land owners, without having any unreasonable delay having arranged the funds before the process.

**Resettlement:** Resettlement could be the best solutions for those have not any alternative place to accommodate themselves. Most of the people of Bangladesh have been suffering for land to survive so that it is best solution for the authority to provide alternative land for resettlement. For this reason, Khas land would be the best way to solve the resettlement in Bangladesh. Mostly resettlement projects provide the alternative way to survive those homeless people.

**Appeal:** Right of Appeal should be the legal rights of those landowners. Regarding any matter of this compulsory purchase process, rights of submitting appeal and its time limitation is the rights that suppose not to deprive by the authority arbitrarily. The minimum time limit shall be 3 to 6 months subject to jurisdiction of rural and urban.

### 7.5 Support, service and legal assistance

After the above legislation analysis of Bangladesh, it is clearly missing the some significant matter of the practice of compulsory purchase procedure which are quite essential to practice.

The most important elements of compulsory purchase process are missing in the above mentioned in figure 7.3 such as resettlement, removal services and advocacy and legal assistance without any cost provided by the government authority. When a compulsory purchase has taken in any place, the people whom are affected in plunged on the huge problem in their life to take settler in new place. Initially affected peoples require essentially legal support to face the eviction notice and then others procedure between the process.

**Resettlement arrangement**

Resettlement can be an option in certain situations, and if possible should be combined with rights to return[32]. In the negotiation stage the authority, for example, could pursue those affected people to move in the new place for settlement then most of the problem could solve easy without any trouble at all. In principle, they landless people needs new land for resettlement of their surviving.
Figure 7.3: Propose process of compulsory purchase, it started with the decision authority, negotiation, agreement, notice legal service, and the next phase is starting with Market value of property, Compensation payment, resettlement and finally removal service. During the process, the whole function of the procedure could dissolve between the parties. [Source: Personal]

**Legal assistance**

It is essentially requiring the legal service and assistance of those people whom are affected for losing land. With regard to judicial review or writ petition of the condition referred to in the Constitution of Bangladesh, where victim people would have able to challenge the activities in this regards land have taken by force.

**Removal service**

It would be ease of those affected people by giving staff and removals firm to assist them to move household property and for relocation business establishment for a new place.

**Corruptions and malpractice**

Maximum projects of development have been involved unfair system and economic corruption from inside of government authority - no accountability at all. To enhance and sustain the productivity of land and reduction of poverty, there should be meaningful specific legislation for compulsory purchase.

**Transparency and accountability**

Authority should have the liability of their action against the private land owners rights infringement which liability could be judged by the concerning court whether application of land acquisition and its action have transparency and fair way under
some legal obligation.

7.6 Sustainable development

Sound land management is a key to poverty reduction in Bangladesh as most of the poor are landless and almost 1% agricultural land is being lost every year to other uses including settlements for a growing population[1]. About 45% (2004) of them live below the national poverty line and around 36% are living on UK 1 pound per day[8].

**Environmental impact**

As far as article 18 A is concern, Constitution of Bangladesh on Protection and Improvement of Environment and Biodiversity states that it is the responsibility to protect and improve the environment and to preserve and safe-guard the natural resources, biodiversity, wetlands, forest and wildlife for the present and future citizens.
In failure to compliance of that constitutional obligation and EC Act, it requires to strict application by submitting legal suite against the concerning authority of the state so that sustainable environment protection could ensure. Sustainable development is, otherwise, a Constitutional obligation in Bangladesh. Rapid economic growth coupled with a rising population is putting a high toll on the environment, ecology and natural resources in Bangladesh[1].

**Sustainable Land Management**

Development of land is the key factor of the sustainable development. Proper land management could be the proper solution of sustainable development of land in Bangladesh. Compulsory purchase must be follow the sustainable basis of development. Government has their own land in Bangladesh is called khas land or vested property which could be the best option for implementing development project or could the best option of exchanging between private landowner rather than taking private land.

**Sustainable Infrastructure Construction**

Rapid growth of infrastructural construction has significant impact into environment which causes negative effect on the nature of living. Authority has the responsibility to assess the environment impact on construction. Construction of infrastructure without plan has ruining the natural environment of the country. There is increasing amount of building and other real estate have been collapsing due to unsustainable planning and poor construction. Generally, any construction of development project must be follow the environmental rule by law.
Chapter 8

Conclusion and Recommendations

In this chapter it is including findings of study, research questions and its possible answer, conclusion of the whole thesis, and finally recommendations for future work.

8.1 Findings of study

According to the following findings and observation, it is quite significant to see the results of analysis of this studies before having conclusion and recommendations. The major findings of this study are:
- 65% of respondents are directly affected people;
- 95% of the respondents answer;
- more than 80% of the acquired land is agriculture land; and
- 100% of the affected people want to resettlement by the authority.

-Agricultural land: Those case study project areas have given a very important fact of frightening that agriculture land is becoming the prime victim. Other findings show that every year Bangladesh has been losing 1% of agriculture land. Agriculture land is directly related to the national economy and sustainable food production and majority of people in rural area have only employment in agricultural field. Agricultural land is quite valuable than other empty land for national economical growth context. Ultimately, it is quite essential to stop acquiring agricultural land by putting strict legal obligation.

-Compensation assessment: Demand of land has been increasing enormously due to infrastructural development so that market value of land has been increasing dramatically with huge market bubble. In addition to surging the value of land
property, monetary compensation could not be equivalent to the value of land in market as there is huge difference in rate of increasing value of land in significantly compare to other investment return. Therefore estimating the compensation payment base on current market value is not subsequently equivalent to the value of land in Bangladesh. Monetary compensation is not equal for the acquiring land. The nominal rate of return, yield, very low compare to the rate of increasing value of land in Bangladesh. The demand of the land is extremely high per population so that value of land is increasing almost double after 2/3 years.

8.2 Research questions and solution

(1) Why not have the options of public meeting and negotiation before implement project?
As far as initial public meeting and notice are concern, the authority as local DC does not provide any option to discuss those matters before executing the project. According to the FAO guidelines, the best practice is to discuss and finding out of those controversial issues and make possible solutions before executing the development project. In Bangladesh, there is no option for public meeting and negotiation between private landowners and authority to solve the dispute of issues.

(2) Why not providing legal support and assistance to private landowners during the process of land acquisition?
There are so many legal organizations are working in Bangladesh, but the community legal service provides by some NGO such as Legal Aids. However, there is no legal assistant available for those victims of losing land owners. It is better to provide legal assistance by government legal agency so that affected land owner would suffer due to legal consultation.

(3) What are the factors affecting to pay justified Market Value of compensation by the government authority?
The compensation for the acquired land given by the Deputy Commissioner (DC) office. It is required to assess the market value of those properties by the professional so that it will have the proper value for giving compensation. In accordance with the value on record, government usually pays that amount as compensation according that record although in sake of fair and justified process of property valuation it ought to be valued the properties base on current market and should be estimated by the appraisal or professional valuers otherwise it could not be justified for estimating compensation for losing properties.
(4) *Why not it is a legal obligation to estimate the property value by the professional valuers?*

By the international guidelines, it is absolutely unjustified to pay the compensation of those acquired properties base on the tradition way rather valued of those properties without valuers. It have to make sure by the legislation that the valuation of the property must be estimated by professional valuers otherwise the valuation of the properties would not be valid.

(5) *In what way does valuation differ when it comes to apprising compared to commercial and residential properties?*

Commercial property is totally base on income generating property. It usually estimates from leasehold period. Residential property, on the other hand, value estimates from usually for certain years net operating income and its resale value. Its operating expenses are normally less than commercial property. Thus the valuation of those properties are quite difference by estimation methods. By the professional the valuation of this types property have different method to estimate the value so it is quite essential to estimate the value by different way.

(6) *Why not declare the Article 42(2) is ultra vires of Constitution?*

In principal, Constitution must not run against the people of the state seeing Article 42 which is ultra vires as diminution the rights of people that needs to amend by allowing them to submit Appeal against the despotism decision of compensation payment. Supreme Court also, by principal, legally responsible to challenge the Article 42(2) of constitution which restricts the right of people to appeal against any decision of compensation payment and valuation of property.

(7) *Why Government khas land would not be used for the alternative resettlement plan?*

Bangladesh has is huge scarcity of private land. Of course, government owned empty land known as Khas land. Because of any development project, it would be wise to choice at first khas land in order to control the demand of private owned land. At least it should be the first to choose to implement the project in the government khas land rather than acquiring of private land and otherwise as alternative replace of land by giving khas land as resettlement of those affected people.

(8) *Can the affected neighborhood private land owners receive any environmental damages?*

Application of environmental law and the assessment of environmental damages are not strictly compiling by the authority considering there is no references regarding
compensation have imposed by the court for environment damage caused by the government authority in neighborhood land. There must have the option that allows assessing the environmental damage by the independent authorities in order to give the proper compensation to the private landowner whom suffers due to the development project.

(9) Why does not have any restitution plan of properties for private landowner?
In case of restitution, the land have to return of those previous owner subject to resettlement. In general, previous land owners have first priority to get back their land in case of cancel of the project.

(10) Why not Government stop acquiring agricultural land?
Agriculture land is directly related to the national economy and sustainable food production and majority of people of the rural area have only employment in agricultural field. It is significantly essential for sustainable development of the country to stop acquiring agriculture land otherwise it will have huge negative impact of the development.

(11) Why not is it the responsibilities of the Supreme Court to restrict forceful eviction?
Supreme Court is the highest institution of the whole legal system. They have the constitutional role to protect the right of citizen against any unjustifiable application of law by the government authority. With regards in particular to the protection of property rights, the court of Appeal under the Supreme Court has the legal responsibility by issuing a sue motto rule for restrict the government unjustified eviction.

(12) Why not declare the 1982 Ordinance of land acquisition is void?
This ordinance is not a proper legislation and it does not confer any rights of private land owners as it is a tool of government to acquire private lands without any objection. Therefore it is not justified to implement this ordinance for the sake of the development.

(13) What are the hindrances of authority not to enact a fair piece of legislation for land acquisition by adapting international guidelines?
With regard to give relieve from forceful eviction, government should immediately enact a permanent legislation. There are so many cases in recently where huge demonstration showed against decision of taking private land from private
landowner and authority unscrupulously using forceful power to evict them. To sustain the development of the country, it is time to enact fair legislation that could save those poor people become street people. Bangladesh, otherwise, would be collapsed due to disorder of land management.

8.3 Conclusion

The history of land acquisition in Bangladesh is definitely quite indiscriminate and without any valid legislation as only "Acquisition and Requisition of Immovable Property Ordinance, 1982" (ARIPO 1982) is the main tools of legislation for compulsory purchase procedure. In fact, it has been using unscrupulously and government authority have remained stance without any legal accountability; alongside of Article 42 of Constitution of Bangladesh, which is also giving favor to government - digresses of the fundamental rights - restrict the rights of submitting any objection against the compensation being paid. It is an indistinct application of law which violates the private landowner’s rights severely by the State authority without any plea. Essentially, there is no statutory protection for people against compulsory purchase in Bangladesh. In this research study methodology was formed by Theoretical, Empirical and Analytical part which all are the basis of this conclusion.

From theoretical point of view, first usual concepts are to enhance the procedure by accumulating system from different legislations of Bangladesh; in comparison, other countries procedures and international guidelines which are provided by FAO-UN, FIG and World Bank, having reviewed from different perspectives those legislations. Planning, notice serving, and public meetings and review which are most significant issues described by FAO, but in Bangladesh any of those matters are not applying in the procedure. Response to the notice and submitting an appeal time limit recommended by FAO is 60-90 days whereas ARIPO 1982 provides 15 days. Deputy Commissioner (DC) decision of estimation of compensation and payment is final although FAO guidelines recommendation is for the valuation report shall be from professional. Compensation pays in advance or within 30 days besides in Bangladesh it takes 6 months or even more delay. The notion of best practice is to provide legal service and assistance during the notice to appeal period, yet there are neither such types of service provided by the government authority nor any other organization at all. When any project is cancelled or abandon then it has international rule to have restitution; nevertheless, there is no valid application of
restitution in Bangladesh. More importantly, resettlement is mandatory for those
people who are unable to buy any land which can possible by providing government
khas land. Finally, international guidelines provide the taking possession of land
at the final steps after dissolving all those disputes, only Bangladesh taking the
possession of land is almost at the beginning steps of their proceedings.

As long as other countries study are concerned, UK and Australia have almost
similar practice as the acquiring authority make direct contact with owners and
occupiers at the early stage into negotiations for agreement between landowners.
In addition, there is removal service provided by the authority to remove their be-
longings and other household properties in UK. In Sweden, Expropriation and Real
Property Formation Act are well defined for compensation rule is market value of the
property plus 25% increment and also for other damages. In Ghana, procedure have
completed between four main actors as the government, right holders, land com-
mission and the expropriation party. In China, Compensation payment for farmland
is based on its regular production value in the past three years before acquisition,
normally it estimates between 6-10 times more. Above all , early stage negotiations
with landowners, removal services, market value of property plus other damages,
involvement of all parties, protection of agricultural land all of those are the thorny
of legal challenges to adopt into new legislation for development of Bangladesh.

From empirical point of view, data has been collected by interviews, personal
view and experiences from field study, and other source of institutions that reveals
that without having proper legislation as a result there are no bindings to gov-
ernment to do so anything in the name of public purpose. The religious place,
respectful memorial place and graveyard are required to protect under Antiquities
Act, but authorities do not have any practice to respect the law.

Regarding analysis, private landowners have been suffering by the government
authority’s compulsion application of eviction. Despite of the fact that high demand
of land, the government authority, no justification at all for not to enact a proper
legislation , has been using the old draconian legislation as 'ARIPO 1982' a tool
of torture for making millions of homeless people. Concerning legal point of view,
there are clearly misusing of legal rights by the government authority: firstly, by
using unfair 1982 Ordinance; no protection have been giving for religious place
and graveyard under Antiquities Act, and finally Article 42(2) of Constitution also
imposing unfair curtailment of people rights as not to allow to appeal against the
decision of compensation payment. Most striking dispute is compensation payment
system. To justify the compensation for land and other related movable properties
CHAPTER 8. CONCLUSION AND RECOMMENDATIONS

and detrimentś, the best valuation options are essential to use those methods which have been practicing in the property market. Valuation process completes only by the professional appraisers whom have legal responsibilities. By and large, so that justify the compensation for land and other related movable properties and detrimentś, best valuation methods which are practicing by Valuers in the property market.

Decreasing agriculture land is most growing concern for sustainability of food production. Environmental damage have been increasing significantly which need to stop by way of strict application of environmental laws so it is required to ensure the sustainable development and protection of natural resources. Destroying natural resources without having detail development plan have to stop; indeed, otherwise future socio-economic disaster inevitable. Moreover, land record system in Bangladesh is quite unorganized - it is a hole of mass corruption, which must develop by adopting proper land management. It needs to be declared void 1982 Ordinance and article 42(2) of Constitution by way of legal proceedings to nullify. It is required to adopt FAO policy for 90 days for appeal. To give appropriate compensation it is required to estimate of valuation by professionals. Market value of compensation needs to pay within 30 days. Providing khas land for implementing resettlement to settle evicted people. With the proviso legal service and assistance recommended by FIG are essential. Funding authority had better to impose obligation about fairness of project. It is foremost required by applying equal and fair rules to all projects without breaching fundamental rights and forceful eviction. Protection of antiquities property, environmental damages and proper development of city plan are also substantial issues. Just as an extreme densely populated country in the World, Bangladesh, unplanned city expansion and unsustainable development of infrastructure remained as significant issues, has huge destitute of land.

To some extent, it has to stop unjustified practice either Parliament has to take initiative to assent the bill for enactment of Compulsory Purchase Act or otherwise Supreme Court has legal responsibility to issue a rule for enactment to establish proper land management for sustainable development which will provide the fair and specific guidelines as proper valuation methods, specific system of compensation payment, resettlement project, right of appeal and legal support, and all other relevant matters as well.
CHAPTER 8. CONCLUSION AND RECOMMENDATIONS

8.4 Recommendations

Pursuant to this research study of compulsory purchase procedure in Bangladesh, I have some recommendations for further development which are based on the international guideline of practices. It is clearly observed that the government of Bangladesh has huge discrepancy of application due to proper legislation, and other issues are behind the minimum standard of International practice. For the further future work of this field could be carry on of the following recommendations. The following recommendations have prescribed for the government authority to provide the better solutions to implement a project of land acquisition.

1. **Planning Permission**: First of all, authority has to discuss with those land owners who have affected in the area of the development project that both the parties can negotiate their benefit and find out the solution of those problem that how can be settle down between them. After that discussion if at least 80% of land owner are agreed then authority could apply for planning permission.

2. **Notice**: The notice period should be at least 3-6 months before that the negotiation could take place within the reasonable time to settle the dispute
between them. The reply of the notice time should have optimum time limit at least 3 months.

3. **Public meeting and review**: At the initial stage, authority have to arrange the public meeting with the gathering of the local member, chairman, land owner and other people that the acquainted the project all of them and their view of this development project.

4. **No agricultural land be acquired**: The authority anyway should not acquire any agricultural land and is quite significant for sustainable development of the country. Agriculture land is directly related to the national economy and sustainable food production and majority of people in rural area have only employment in agricultural field. Agricultural land is quite valuable than other empty land for national economy growth context. It is quite essential by enacting legislation to stop acquiring agricultural land in Bangladesh as land shortage country.

5. **Resettlement**: Authority have to arrange the resettlement of those affected land owners. By way of exchanging land between government and private land owners. As to arrange the alternative land first for resettlement of those affected people then the development plan should make for development.

6. **Compensation**: In line with the observation of International practice as Sweden and China, in Bangladesh market value plus 50% must be added on payment of compensation. Compensation payment should be base on according to the priority of different types of occupiers. Agriculture property’s compensation payment shall be paid at first priority; Commercial property owner’s compensation payment shall be second; Residential owners, and farmers, labor and workers.

7. **Valued by professionals**: Valuation process and its fair market value report should be submitted by the Appraiser of independent qualified professional valuers.

8. **Appeal**: Right of appeal have to be given to all affected to landowners to submit the appeal from District Judge court up to Appellate division in all jurisdiction.
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Appendix A

International Standard for Good Practice

A.1 FIG: best practice of guideline

<table>
<thead>
<tr>
<th>Table A.1. FIG Good practice guidelines</th>
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<tbody>
<tr>
<td><strong>Section 1: General Principles</strong></td>
</tr>
<tr>
<td>1. Compulsory purchase shall not be the preferred tool for the acquisition of land.</td>
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<td>2. The compulsory purchase shall be implemented with respect for the rights of affected parties.</td>
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<td>3. The compulsory purchase shall be legitimate.</td>
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<td>4. The compulsory purchase process shall be an inherent part of the process of land acquisition and be exercised in an objects, impartial, independent and ethical manner.</td>
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<td>5. The compulsory purchase process shall be transparent.</td>
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<td>6. The costs of the compulsory purchase process are to be carried by the expropriator.</td>
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<tr>
<td>7. The right to appeal to an independent court shall be ensured.</td>
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<td>8. Affected parties have the right to represent themselves and / or use an attorney.</td>
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<tr>
<td><strong>Section 2: Compulsory purchase basis</strong></td>
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<tr>
<td>9. Compulsory purchase can only be used for public interest.</td>
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<tr>
<td>10. The basis of compulsory purchase shall be legitimate.</td>
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<td>11. The scope of compulsory purchase shall be determined so that it causes the least harm to affected parties while ensuring that the projects for which land is taken can be implementing effectively.</td>
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<tr>
<td>12. When the right to use compulsory purchase takes effect, the time limit for starting the proceeding shall be set.</td>
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<td>13. Where the authority intends to acquire only part of an individual land, a formal opportunity shall exists that allows or includes the provision for the dispossessed party to inquire whether there is to be a partial or total acquisition of their property.</td>
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<tr>
<td><strong>Section 3: Proceeding of demarcation and registration</strong></td>
</tr>
<tr>
<td>14. Cadstral procedure related to compulsory purchase and tasks shall be defined by law.</td>
</tr>
<tr>
<td>15. Demarcation shall be done according to the compulsory purchase permit.</td>
</tr>
<tr>
<td>16. Relocation of servitudes, easements etc. rights shall be taken care of within or coordinated in the compulsory purchase process.</td>
</tr>
<tr>
<td>17. Boundary and other ownership disputes over legal rights shall be resolved in connection in the compulsory purchase process.</td>
</tr>
<tr>
<td>18. Registration of the changes in the boundaries of properties and rights shall be entered into the cadaster and land register, or other relevant register and records as recognized and accepted by the authorities and affected communities, on an ex-office basis, or through other processes should guarantee that also insatiable persons are appropriately protected.</td>
</tr>
<tr>
<td><strong>Section 4: Proceedings for determining compensations</strong></td>
</tr>
<tr>
<td>19. The compensation shall ensure that the affected party financial position is not weakened. The term just compensation is, therefore, defined as the level of compensation paid which does not weaken the affected party financial position.</td>
</tr>
<tr>
<td>20. The basis and principal terms of compensation shall be defined by law.</td>
</tr>
<tr>
<td>21. The law shall also determine: who is to be compensated; the valuation date; principles of the payment of the compensation; who will fix the amount of compensation payable; process by which compensation is fixed, agreed, appealed, paid and the rate of and extent to which interest may be paid on any outstanding amount.</td>
</tr>
</tbody>
</table>
### APPENDIX A. INTERNATIONAL STANDARD FOR GOOD PRACTICE

#### Table A.2. continue FIG Good practice guidelines

<p>| | |</p>
<table>
<thead>
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<tbody>
<tr>
<td>22. The law shall ensure just compensation (as shown in recommendation 19 above) and ensure that all items of loss which flow naturally and reasonably from the process and outcome of acquisition and development are compensatable. Legislation may provide different bases on which different losses may be determined, subject always to the overriding outcome that the affected party financial position shall not be weakened.</td>
<td></td>
</tr>
<tr>
<td>23. If a residence or a business is compulsorily purchased, the compensation shall be sufficient for a replacement dwelling or a replacement business establishment which corresponds of compulsory purchased property in physical conditions as well as economic and location attributes.</td>
<td></td>
</tr>
<tr>
<td>24. Compensation shall be determined so that the affected party financial status does not suffer a loss because of taxation.</td>
<td></td>
</tr>
<tr>
<td>25. If there are losses which are considered unsure or unlikely or cannot be assessed at the time of the proceedings, there shall be a possibility for compensation if these losses actualize in the later stage.</td>
<td></td>
</tr>
<tr>
<td>26. It shall be clearly stated in law if the impact from the project or the compulsory purchase is taken into account when assessing the value of the object.</td>
<td></td>
</tr>
<tr>
<td>27. In particular in the case where compulsory purchased is for public purpose undertaken by other than a public body, profit-sharing principles shall be determined by law.</td>
<td></td>
</tr>
<tr>
<td>28. Compensation for the object shall in the first instance be determined based on market value.</td>
<td></td>
</tr>
<tr>
<td>29. The valuation process and the valuation shall be done according to the international Valuation Standards (IVS), or other recognized valuation standards.</td>
<td></td>
</tr>
<tr>
<td>30. Inaccuracy of the valuation shall be taken into account when determining compensation so that the expropriator bears the risk for inaccuracy.</td>
<td></td>
</tr>
<tr>
<td>31. Compensation shall be directed to those whose economic status is adversely affected by the compulsory purchase.</td>
<td></td>
</tr>
<tr>
<td>32. Compensation shall be paid prior to the taking of possession by the authority.</td>
<td></td>
</tr>
<tr>
<td>33. Compensation shall be paid in money.</td>
<td></td>
</tr>
<tr>
<td>34. Compensation shall be paid in a single once and for all payment.</td>
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</tr>
<tr>
<td>35. Interest shall be paid on outstanding compensation from the valuation date or possession date, depending on which is earlier, till the full payment is made.</td>
<td></td>
</tr>
<tr>
<td>36. The payment of compensation shall be made in due time.</td>
<td></td>
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</table>

**Section 5: Restitution**

<p>| | |</p>
<table>
<thead>
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</thead>
<tbody>
<tr>
<td>37. If the parties of compulsory purchase is cancelled, abandoned or rights are lost through the expiration of a time limit, the obligation for restitution shall be determined in the law.</td>
<td></td>
</tr>
<tr>
<td>38. Legislation may provide for other government departments or national authorities to seek to appropriate the land from the original purchasing authority for another use.</td>
<td></td>
</tr>
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</table>
A.2 FAO: recommendations of best practice

**SUMMARY OF RECOMMENDATIONS FOR COMPULSORY ACQUISITION PROCEDURES**

**Planning:**
- An impact assessment should evaluate the environmental, social and economic impacts of the project.
- The strategy for planning and implementing the project should be participatory, involving affected owners, occupants and other stakeholders.
- The plan for the project should be on public display, providing an opportunity for people to review and submit objections.
- Relevant data should be collected on land rights for the parcels to be acquired.
- Good faith attempts to acquire the necessary land through voluntary sale and purchase should be made before using the power of compulsory acquisition.

**Publication of notice:**
- The notice should be widely published and served to all affected individuals, erring on the side of over-inclusiveness.
- The notice should be published in local newspapers in all local languages or dialects, communicated orally at community meetings, over the radio and in other ways appropriate to the local population.
- The notice should include a comprehensible map of the land to be acquired.
- The notice should describe the purpose of the acquisition, the timing of the process and a clear explanation of procedures and time limits.
- The notice should explain the rights of people in the process, and provide information on where to get help.

**Public hearing:**
- Affected owners and occupants should be given an opportunity to be heard and to have their concerns acknowledged and addressed by the acquiring agency.

**Valuation and compensation:**
- People should be compensated in such a way that they are no worse off than they were before the compulsory acquisition process started.
- Regulations should be specific enough to provide clear valuation guidelines, but flexible enough to allow room to determine equivalent compensation in all situations.
- Legislation should define a date for the valuation.
- Valuation and compensation should be based on both de facto and de jure rights. Compensation should be calculated on the basis of what would have occurred had the land not been acquired.
- The valuation and compensation should not reflect changes in the value of the land arising solely from the project itself.
APPENDIX A. INTERNATIONAL STANDARD FOR GOOD PRACTICE

- If market value forms the basis of compensation, laws must clearly state how market value will be assessed and determined.
- People should be compensated for the loss of any land, and also for all improvements to the land and crops, trees, and other natural resources.
- Where communities lose access to sustainable resources such as forests, waterways or grazing lands, they should be provided with replacements in kind or compensated for per capita yearly use.
- People should be compensated for disturbances and disruption, including removal expenses and other costs, which result from the compulsory acquisition process.
- People should be compensated for the costs of any disturbance, disruption, or damage caused by the project on their remaining land.
- Vulnerable groups should be provided with training or financial support if the acquisition results in the loss of their livelihoods.
- The acquiring agency should take steps to ensure that there are a sufficient number of independent valuers and advocates to help people to assess their compensation claims.
- People should receive full payment of the agreed upon compensation sum in a timely manner.

Possession of the land by government:
- Possession should not be taken unless at least a substantial percentage of the agreed upon compensation offer has been paid. If the remainder is unpaid, interest on the remainder should accrue from the date of possession.
- People should be given a reasonable time to vacate, while respecting the need to keep to the project schedule.
- Farmers should be allowed time to harvest that year's crops, or receive full compensation for the crops.
- A clear time-limit should be placed to ensure that that the acquisition process is not unduly long.

Opportunity for appeal:
- People should have prompt, unrestricted rights to appeal to an independent body, including for the delay of payment without good cause.
- Hearings should take place at a time and place and in a language convenient to people.
- Governments should provide assistance to people to enable them to use the appeal procedures to protect their rights.
- The court or reviewing body should adjudicate matters in a public and transparent manner.
- Procedures should be conducted at low or no cost to people. Only in exceptional circumstances should costs be awarded against them.
- Proceedings should be conducted in a manner easily understandable and accessible to people. The procedures should not be intimidating to people, and should allow them to present their own cases.
Appendix B

Valuation Methods and Compensation

B.1 Discounted Cash Flow analysis

<table>
<thead>
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<td>692,362</td>
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<td>5,737,057</td>
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<td>535</td>
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<td>1,373</td>
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### D. The sensitivity analysis

**Discounted cash-flow +0.5%**

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<th>Year</th>
<th>1</th>
<th>2</th>
<th>3</th>
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</tr>
<tr>
<td>Rent, residential</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
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<td></td>
</tr>
<tr>
<td>Rent, office</td>
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<tr>
<td>Rent, retail</td>
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<td>+</td>
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<td>435</td>
<td>447</td>
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<td>Net Operating Income (B-C)</td>
<td></td>
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<td>=</td>
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<td>Net Operating Income (SEK/yr)</td>
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<td>Discounted Net Operating Income</td>
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<td>Estimated Market Value</td>
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<td>Cap. Yield</td>
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<td>Gross Income Multiplier</td>
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<tr>
<td>Net Income Multiplier</td>
<td>25.24%</td>
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Appendix C

Legislation Practice in Bangladesh

C.1 Acquisition and Requisition of Immovable Ordinance, 1982

THE ACQUISITION AND REQUISITION OF IMMOVABLE PROPERTY ORDINANCE, 1982
(ORDINANCE NO. II OF 1982).
[13th April, 1982]

An Ordinance to consolidate and amend the law relating to acquisition and requisition of immovable property.

WHEREAS it is expedient to consolidate and amend the law relating to acquisition and requisition of immovable property and to provide for matters connected therewith and ancillary thereto;

NOW, THEREFORE, in pursuance of the Proclamation of the twenty-fourth day of March, 1982, and in exercise of all powers enabling him in that behalf, the Chief Martial Law Administrator is pleased to make and promulgate the following Ordinance:-

PART I
PRELIMINARY

Short title
1. This Ordinance may be called the Acquisition and Requisition of Immovable Property Ordinance, 1982.

Definitions
2. In this Ordinance, unless there is anything repugnant in the subject or context,-
   (a) “Arbitrator” means an Arbitrator appointed under section 27;
   (b) “Deputy Commissioner” includes an Additional Deputy Commissioner and any other officer authorised by the Deputy Commissioner to exercise any power conferred, or perform any duty imposed, on the Deputy Commissioner by or under this Ordinance;
   (c) “owner” includes the occupier;
   (d) “person interested”, in relation to any property, includes all persons claiming, or entitled to claim, an interest in the compensation payable on account of the acquisition or requisition of that property under this Ordinance;
   (e) “prescribed” means prescribed by rules made under this Ordinance;
   (f) “property” means immovable property and includes any right in or over such property; and
   (g) “requiring person” means any person for whose any property is, or is proposed to be, acquired under this Ordinance.

PART II
ACQUISITION
3. Whenever it appears to the Deputy Commissioner that any property in any locality is needed or is likely to be needed for any public purpose or in the public interest, he shall cause a notice to be published at convenient places on or near the property in the prescribed form and manner stating that the property is proposed to be acquired.

Provided that no property used by the public for the purpose of religious worship, graveyard and cremation ground shall be acquired.

Objections against acquisition

4. (1) Any person interested in any property which has been notified under section 3 as being needed or likely to be needed for a public purpose or in the public interest may, within fifteen days after the publication of the notice, object to the acquisition of the property.

(2) Every objection under sub-section (1) shall be made to the Deputy Commissioner in writing, and the Deputy Commissioner shall give the objector an opportunity of being heard either in person or by an agent and shall, after hearing all such objections and after making such further inquiry, if any, as he thinks necessary, prepare a report within thirty days following the expiry of the period specified under sub-section (1) containing his opinion on the objections.

Provided that if no objection is raised within the period specified in sub-section (1), the Deputy Commissioner shall, instead of submitting the records of the proceedings to the Divisional Commissioner, make a decision within ten days of the expiry of the aforesaid period, or within such further period but not exceeding thirty days, as the Divisional Commissioner permits on the request of the Deputy Commissioner in writing about the acquisition of the property and such decision of the Deputy Commissioner shall be final.

Final decision regarding acquisition

5. (1) The Government or, as the case may be, the Divisional Commissioner, after considering the report submitted by the Deputy Commissioner under section 4(3), shall make a decision about the acquisition of the property and such decision of the Government or, as the case may be, the Divisional Commissioner shall be final.

Provided that

(a) where the decision is to be made by the Divisional Commissioner, it shall be made within fifteen days from the date of submission of the report, or within such further time but not exceeding one month, as he may think fit for reasons to be recorded by him in this behalf;

(b) where decision is to be made by the Government, it shall be made within a period not exceeding ninety days from the date of submission of the report.

11(2) When the Government, the Divisional Commissioner or the Deputy Commissioner, as the case may be, makes a decision for acquisition of the property under sub-section (1) or the proviso to section
APPENDIX C. LEGISLATION PRACTICE IN BANGLADESH

4(3)(b), as the case may be, such decision shall be conclusive evidence that the property is needed for a public purpose or in the public interest.

Notice to persons interested
6. (1) When the Government, the Divisional Commissioner or the Deputy Commissioner, as the case may be, has made a decision for acquisition of any property under section 5 or the proviso to section 4(3)(b), as the case may be, the Deputy Commissioner shall cause public notice to be given in the prescribed manner at convenient places on or near such property stating that the Government or the Divisional Commissioner or the Deputy Commissioner, as the case may be, has decided to acquire the property and intends to take possession thereof and that claims for compensation for all interests in such property may be made to him.

(2) Such notice shall state the particulars of the property to be acquired and taken possession of, and shall require all persons interested in the property to appear personally or by agent before the Deputy Commissioner at a time, not being earlier than fifteen days after the date of publication of the notice, and place mentioned therein and to state the nature of their respective interests in the property and the amount and particulars of their claims to compensation for such interests.

(3) The Deputy Commissioner shall also serve notice to the same effect in the prescribed form on the occupier, if any, of such property and on all persons known or believed to be interested therein.

(4) The Deputy Commissioner may also, by notice, require any such person to make or deliver to him at a time, not being earlier than fifteen days after the date of service of the notice, and place mentioned therein a statement containing, so far as may be practicable, the name of every other person possessing any interest in the property or any part thereof as co-owner, mortgagee or otherwise, and of the nature of such interest and profits, if any, received or receivable on account thereof.

(3) Every person required to make or deliver a statement under this section shall be deemed to be legally bound to do so within the meaning of sections 175 and 176 of the Penal Code (XLV of 1860).

Award of compensation by Deputy Commissioner
7. (1) On the date so fixed, or on any other date to which the enquiry has been adjourned, the Deputy Commissioner shall proceed to enquire into the statement, if any, which any person has made pursuant to a notice given under section 6 and into the value of the property at the date of the publication of the notice under section 3, and into the respective interests of the persons claiming the compensation and shall make an award of -

(a) the compensation which, in his opinion, shall be allowed for the property; and

(b) the apportionment of the said compensation among all the persons known or believed to be interested in the property, of whom, or of whose claims, he has information.

(2) The award made by the Deputy Commissioner shall, except as hereinafter provided, be final.

14(3) The Deputy Commissioner shall, within seven days from the date of making award of compensation -

(a) give notice of his award to the person interested;

(b) send the estimate of the award of compensation to the requiring person.
Appendix D

Empiric Study

D.1 Photos from field project: Dapdopiya Bridge
D.2 Photos from field project: Padma Multiple Bridge