

Expropriation, land readjustment, and the Dilemmas About the Public Purpose

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All legal regimes give the government the authority to expropriate real property (land, buildings and other attachments) for public purposes. At the same time, there are significant differences among countries in various aspects of the laws and their implementation in practice. Since there is no expropriation regime that is considered satisfactory by all stakeholders, there is much room for cross-national exchange of knowledge. To an outsider, such differences may seem trivial, but where expropriation is concerned, “the devil is in the detail”.

The presentation will open with an analysis of the parameters for assessing the differences among expropriation regimes in selected countries, and will then focus on one of the key components: The definition of the public purpose. There are major differences among countries in what is regarded as a legitimate public purpose, especially regarding the demarcation line between “public” and economic interests. Most legal and theoretical discussions of public purpose pertain only to the initial use. The issue of “public purpose” is heightened when questions are posed over time, where change occurs in the public purpose subsequent to expropriation. The presentation will analyze why this issue has been generating growing controversy in recent years, and why emerging economics such as Viet Nam may wish to think ahead of the rationale for expropriation in some cases.

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