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Addressing Wicked Valuation Catch 22s in the Developing World.

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Addressing Wicked Valuation Catch 22s in the Developing World

In papers I have presented at international conferences and workshops over the past several years, I have described the difficulties of valuing without evidence as "the catch-22 of valuation in the developing world". These consequences can be particularly disturbing in terms of both real and perceived inequities in compensation causing delays in sometimes desperately needed infrastructure delivery.

This paper will address the causes and consequences of this catch 22, present cutting-edge thinking in the fields of complexity science and behavioural economics and others on how best address wicked problems, and reflects upon how that thinking may be best applied in this context.

What is Market Value?

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

International Valuation Standards Council (IVSC).

Other Kinds of Value

There are many other kinds of value:

Actual value, adverse, aesthetic, appraised, assessed, asset, balance-sheet, book, boom, capital, cash, cash-surrender, clear market, commercial, consolidation, corrected book, cost, discovery, economic, ethical, exchange, face, fair, fair appraised, fair average, fair cash, fair market, fair and reasonable market, fanciful, forced-sale, full, full market, going, going-concern, hypothetical market, imputed market, inherent, instrumental, insured, intangible, intrinsic, Justum Pretium, liquidation, market, mathematical, money, monopoly, negative, net, nominal, normal, nuisance, objective, par, pecuniary, physical, potential, present, prestige, property, prospective, rate making, readily realizable market, real, realization, rent, rental, reproduction, sale, salvage, scrap, sentimental, service, social, sound, speculative, strategic, structural, subjective, tax, then, true, true cash, use, value in exchange, value to the going concern, value to the owner, value to the taker, value in use.

Bonbright 1937, p. 155

Other Kinds of Value

This list is incomplete. In particular, while it includes intrinsic value, (a valuation based upon the development and complexity of something: how differentiated, articulated and hierarchically integrated the existent is), it omits extrinsic (utility) value and systemic value:

Extrinsic: How practical something is in a context

Systemic Value: how things are and compared to how they should be. For example, highly developed valuations are more systemically valuable than unarticulated, poorly supported valuations. Systemic value requires systemic thought and planning and the development of the understanding of complicated matters (Hartman 1967).

Other Kinds of Value

It also fails to provide a qualitative articulation of values, such as that provided by the German philosopher Max Scheler (1874-1938), who claimed that we rank values in every experience we have – from superficial (use/pleasure) value at level 1 to deep (sacred) value at level 4. In between, level 2 refers to life values – character, integrity and so on, and level 3 enfolding intellectual values such as justice, beauty, and truth (McGilchrist, p. 160).

ANY AND ALL OF THESE VALUES CAN IMPACT ON MARKET VALUE.

So when addressing valuations in the developing world, we valuers can have “wicked problems” on our hands.

A wicked problem is one that is very hard and potentially impossible to solve because of its multilayered complexities and the lack of information about them. When you solve one part of a wicked problem, you raise others (Horn, 2001).

CATCH 22: A situation in which someone is in need of something that can only be had by not being in need of it. This catch 22 is:

To develop, the Developing World needs properly functioning property markets. To have properly functioning property markets, you need to develop.

When addressing wicked problems, we are tempted to throw up our hands and collapse them into a formula.

However, valuers no authority to do that if the market does not, and no authority not to do so when the market does.

Valuers are market readers, meaning that they must examine transactions to see how they comply with the definition of market value, and if they do, how those transactions provide evidence for their valuations.

Therefore, a valuer imposing his understanding on a market that valuer does not understand is incompetent to read that market.

In determining that responsibility, there are different duties of care for different valuation purposes.

For example, to be fit for purpose for rating and taxing valuations, high level generalisations may be acceptable (such as banding in the U.K.) (low systemic value).

At the other extreme, for compulsory acquisitions, as meticulous a valuation as is possible in the relevant market is required. (high systemic value).

So when entering a market to read it, at whatever level of duty of care comprises due diligence in the context, the valuer's primary role is to report what the market thinks the property is worth, and (if there is a difference) not what the valuer thinks it's worth, and that decision is to be evidence based.

Therefore, a key to addressing the wicked problem is for the valuer to ask …

"Who is in the market for this property, and how will they value it?"

The assumption is that in a well-functioning property market, the deal will always be made at market value, in accordance with the above definition, between a market-savvy vendor and THE market-savvy purchaser who is ready, willing and able to employ the property concerned to its "highest and best legal use".

In deciding that use, the whole spectrum of values is employed by the market, not merely the level 1 utility or extrinsic value.

For example, hundreds of millions can be paid for works of art, the only extrinsic value of which is to be looked at. One cannot value a Leonardo Da Vinci painting by the replacement cost of the materials used in its production.

While one may claim that the millions are spent in anticipation that they will get millions more when it’s resold, that anticipation itself is based on the assumption that the market will continue to demand the painting – a demand that requires qualitative valuations, not mere utilitarian ones.

Following Scheler, the psychiatrist Iain McGilchrist (McGilchrist 2009) noted the effects that strokes have on the way people value things, has identified a pathological imbalance in the way western cultures value things, with an over-emphasis on extrinsic / utility value at the expense of all other forms – in particular, intrinsic value – having a commonality with some right hemisphere stroke victims:

“As things are re-presented in the left hemisphere, it is their use-value that is salient. In the world it brings into being, everything is either reduced to utility or rejected with considerable vehemence, a vehemence that appears to be born of frustration, and the affront to its ‘will to power’. The higher values of Scheler’s hierarchy, all of which require affective or moral engagement with the world, depend on the right hemisphere” (Ibid, p. 161). In short, he asserts that in the west, the mentally unbalanced have taken over the asylum.

Currently, this Gorgonic gaze on one form of value to the expense of all the rest is what drives what Phillip Bobbitt has termed “the Market State”, whereby, instead of nation states looking to the fair distribution wealth amongst its members, market states are about dismantling welfare, and states getting out of the way of individuals maximising their own welfare. Amongst them are those value sets are best described by W.C. Fields’ slogan, “never give a sucker an even break”. With that, we can look forward to a world where one will find:

“A ragged urchin, aimless and alone …
Who’d never heard
Of any world where promises were kept,
Or one could weep because another wept”.

W.H. Auden, *The Shield of Achilles*, quoted on pp. 816-817 of Bobbitt’s book of the same name (Bobbitt 2002).

To avert this fate, Bobbitt claims that currently emerging market states must “provide public goods because that is precisely what the market cannot do” (p. 814), because in a market the devil takes the hindmost. These “goods” actually being part of Scheler’s level 2 values – “loyalty, civility, trust in authority” etc. (ibid).

In the 1920s, Alfred North Whitehead referred to "the extreme doctrine of materialistic mechanism" (Whitehead 2011, p. 97), which now mainstream in Bobbitt's Market States and is precisely that seen as pathologically imbalanced by McGilchrist.

The truth is quite different from that which such reductionist fantasists imagine it to be:

"Our most complex mental tasks are usually carried out NOT by the "classical mechanics" of rational actor theory … but rather by a set of analogy making and metaphor mapping abilities that form the core of human cognition" (Casebeer 2008, pp. 656-657; emphasis mine).

As Zak (2011) and others have pointed out, despite folk wisdom to the contrary markets are mainly moral places, because people are mainly moral:

“Indeed, market exchange in moderately regulated economies is predicated on the notion that most people, most of the time, behave morally – albeit in the shadow of enforcement ... Not only do morals underpin markets, but intriguing new evidence suggests that markets may strengthen moral values” (Zak 2011 p. 212).

To characterise markets as sociopathic is as stupid and unfair, but as unthinkingly natural, as to characterise any groupings by the character of people within the group that we love or hate.

But that still leaves markets containing seriously disturbed individuals. In particular, in some domains if corporations behaved otherwise, that is, morally and with level 2, 3 and 4 values, they would be breaking the law. So their CEO’s are legally forced to behave as psychopaths, even when they are not: “it’s business; nothing personal”.

As they are artefacts, not organisms, by nature they have no regard for the feelings of others or capacity to maintain enduring relationships, no regard for the safety of others, no capacity to experience guilt, and no inhibitions about lying and conniving others for profit, or not conforming to social norms with respect to lawful behaviors. They are profit making machines, full stop.

These machines are legal persons; there are two basic kinds of person. Natural persons, who are organic, and artificial persons, and association of persons invested in law with personality. They are given that status in law on the premise that they are “a collection or succession of natural persons forming a corporation” (Osborn 1964, p.240).

I will leave to the lawyers how a corporation can be “willing” in terms of the definition of market value in any sense stronger than a car can be said to be willing to climb a hill. “Will” is a quality possessed by the driver, not the car, a corporation, or any other artifact. A psychopath has a will; a car or a corporation does not.

So I what happens when such a seriously deficient person, more deficient than a psychopath in terms of the IVSC definition, “attempts” to make a deal to buy unregistered lands in a market full of wicked problems and catch 22s? Can such a deal ever satisfy the IVSC definition of market value?

This workshop is about dealing with disasters. I put it to you that some of the most prevalent disasters of all worldwide are those inflicted upon individuals and communities by predatory/parasitical behaviour of others, be they states, corporations, individual psychopaths or whatever. Being the sucker that does not get an even break and ending up landless can be a monumental disaster at many scales.

Therefore, I submit that assessing the compliance of a transaction to the IVSC definition of market value is one essential step in implementing Scheler’s level 3 values – justice being done, and being seen to be done, seen to be the truth, no matter what the character of the individuals involved.

There have been many laudable efforts to ensure proper market value when government acquisitions have to be made in this context: they include FIG Commission 9's Recommendations for Good Practice in Compulsory Purchase and Compensation,* and similar high safeguard standards such as the World Bank's, the Asian Development Bank's and others.

* https://www.fig.net/resources/publications/figpub/pub54/figpub54.pdf

BUT: applying those standards can be a wicked problem, with a catch 22 in the mix. Without addressing that problem to a sufficient degree to sort out the sheep from the wolves, there will be - as close as is possible on this planet, which is very close - hell to pay. The devil WILL take the hindmost.

Current attempts to address these problems include but are not limited to the UN-HABITAT/GLTN and RICS initiatives concerning the valuation of unregistered lands, the FAO initiative on valuation standards, and the IVSC's Exposure Draft Framework for International Professional Standards.

Another international organisation, NAMATI, has recently introduced a Community Land Protection Facilitators Guide, which includes a section on the valuation of community land and natural resources, so communities can better appreciate what they may have to sell. In this process, “community members use simple math to calculate the monetary value that they are already receiving from natural resources gathered from their common lands, forests and waters” (p.8).

However, that is insufficient to make them competent parties to a market value transaction in terms of the IVSC definition. They must also have a sufficient idea of what the property is worth to the parties wanting to buy it to be sufficiently knowledgeable to meet the definition.

For example; assume someone found a DaVinci painting in a garage sale, bought it for 20 dollars, and sold it at auction for 20 million dollars. Which sale better satisfied the IVSC definition?

Similar trades not in compliance with the IVSC definition have been going on for centuries, and have caused centuries of simmering resentments, passed on in communities and fostering eternal enmities.

The most promising path to resolve such difficulties is to go beyond Scheler's level 1 values, and realise that rules, although often necessary, will never be sufficient, and that, as "attention is inescapably bound up with value" (McGilchrist, p. 28) …

That “the nature of the attention one brings to bear on anything alters what one finds” (ibid, p. 29), and we must find a different way of thinking from the west’s pathological way of seeing everything as nothing but a machine. Instead:

“We must learn to use a different kind of seeing: to be vigilant, not to allow … options to be too quickly foreclosed by the narrower focussing [of machinist thinking]” (p. 164).

You can be sure of one thing. Any valuer who considers that market value in such wicked contexts can be reduced to a formulaic, mechanical answer, the kind of thinking that those suffering from Asperger's syndrome, right hemisphere stroke victims, and other merely machine thinkers are utterly incompetent to address wicked valuation problems.

That is because people make markets, and complete (non-pathologised) people have all Scheler's value grades, and machines do not. Machines may facilitate markets, but people make those machines as well as the markets.

On the other hand, competent valuers recognise all the relevant ranges of focus and ranges of values that are relevant in the market concerned. They do that via McGilchrist's vigilance. From their (necessarily) years of experience, they recognise that markets operate through the now scientifically demonstrated "primacy of affect", which, like "value-ception" (p. 160), shapes and frames - and to that extent determines - our per-ceptions, including those of market value:

“We do not make choices about whether we like something on the basis of explicit assessment, a balance sheet, weighing up its parts. We make an intuitive assessment of the whole before any cognitive processes come into play, though they will, no doubt, later be used to 'explain', and justify, our choice …

… "We make an assessment of the whole at once, and pieces of information about specific aspects are judged in the light of the whole, rather than the other way around (though these pieces of information, if there are enough that do not cohere with our idea of the whole, can ultimately cause a shift in our sense of the whole)" (p. 184).

"The fact that it is clear to all of us these days that our unconscious wishes, intentions, choices can play a huge part in our lives seems not to be noticed" [by machinist thinkers] (p. 188).

AND those unconscious wishes etc. play a huge part in determining market values.

All of the above makes clear what valuers should do when faced with wicked valuation catch 22s in the developing world:

First thing; they must themselves get beyond the catch 22 by evolving their way beyond it - use different kinds of seeing, as McGilchrist puts it, including all those that markets do, such as the heuristics pointed out by behavioural economists such as Gerd Gigerrenzer (Gigerenzer et al 2011), and recognise that values frame fact-finding, so understanding values is preconditional to understanding markets and market values.

Once they are thereby unstuck from catch 22s, they can set out to address wicked problems by studying the market itself.

Because the market also has wicked problems. It decides those wicked problems as best it can, and the valuer must be able to read those decisions – especially deeply in opaque markets.

So we must get out into the market and ask questions of it. Discover the highest and best legal use of the property, and value to that. Wear out shoe leather and computer key-pads looking for evidence.

When wearing out shoe leather, as well as hard data they should look for three things:

1. Affect (how market-relevant people FEEL about the property),
2. Value-ceptions, what values people engage concerning the property, and
3. Perceptions, How the first two have shaped them, and how, by checking those perceptions against whatever empirical evidence is available to parties performing due diligence in terms of the IVSC definition, the market participants would value the property.

When wearing out the keypad, they should look for supporting data from whatever markets they consider that market would accept as relevant.

Today, there is a huge amount of data available which can help address wicked valuation problems, and help overcome the catch 22 in that market.

The internet is now widespread throughout the developing world, and so are smart phones able to access the net, and they are being used to advertise properties for sale in both the formal and informal sectors. It is at this level that valuers can best read the market in the developing world in general and unregistered properties in particular, as much government data re prices etc is non-existent or highly compromised.

Once the empirical data and the feel of the market is gathered, the next essential stage is to provide a *speaking valuation*, one from which the reader can know exactly what evidence was available, and how it was use to derive the valuation.

That way, the reader can gain a clear picture of the strengths, weaknesses, opportunities and threats not only in applying the valuation, but in the market itself. Such a valuation is valuable. Without evidence-informed judgment, it is not.

Data and heuristics articulated in the speaking valuation can be drawn from everywhere and, in the right hands, adapted to local circumstances just as comparable sales are.

In so doing, we should follow the agenda of Gigerenzer et al (2011) in their market of ideas' research program:

"1. The Adaptive Toolbox.

What are the heuristics we use, their building blocks, and the evolved capacities they exploit?"

“2. Ecological Rationality.

What types of environments does a given heuristic work in?”

“3. Intuitive Design.

How can heuristics and environments be designed to improve decision-making?”

Our answers can only have level 1 value if supported by understanding derived from a critical mass of analyses of sales, including understanding the parties' understanding, and the more comparable the properties are, the better.

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