

Common Topic for Summer Seminar 2019

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<http://keiglad.keio.ac.jp/en/paglep/>
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Common Topic

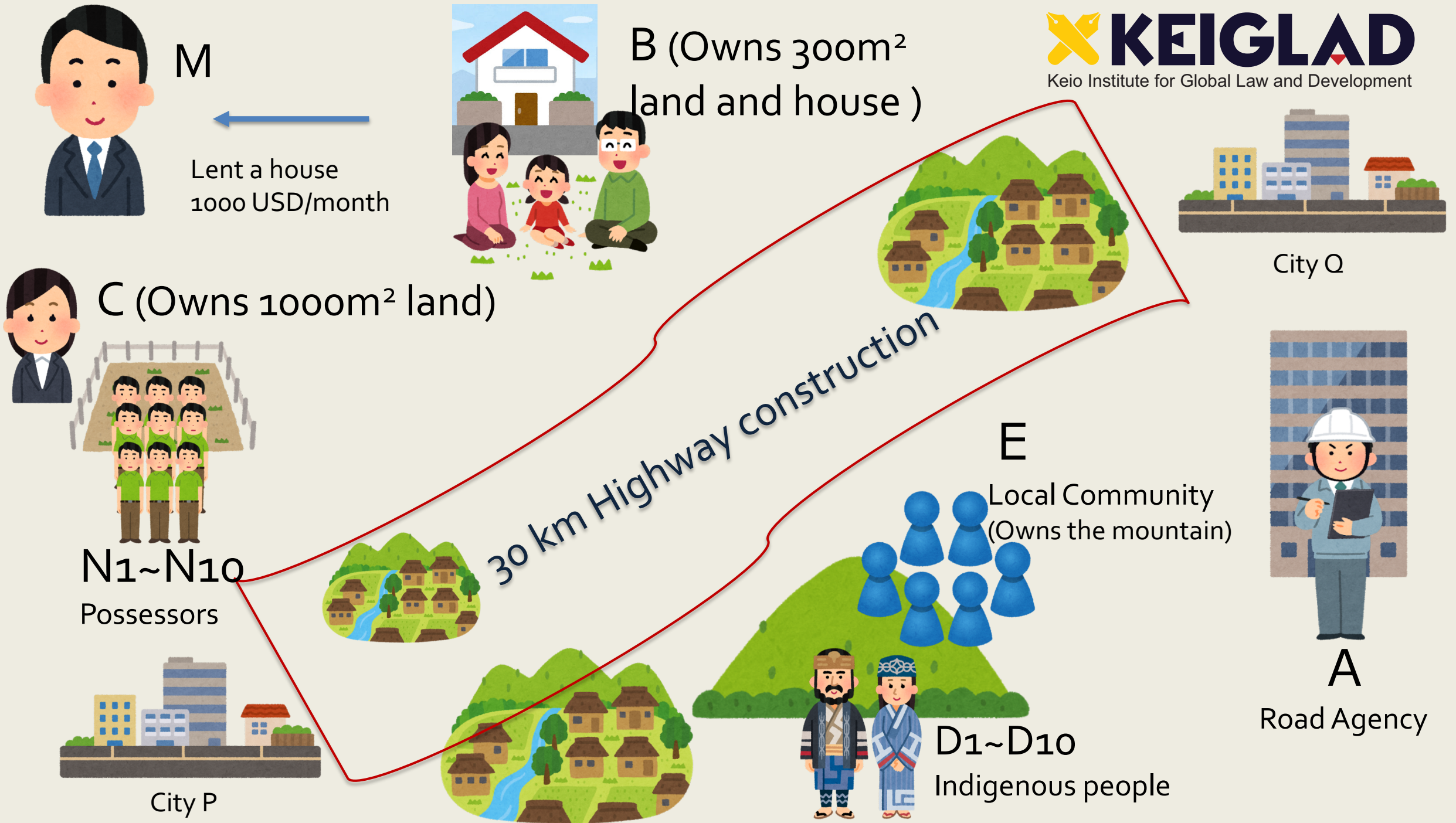
Takings of land for the Public Project
and Protection of the Rights of People

[Case] A, the Road Agency, made a plan to construct a highway of thirty kilometers which will connect City P and City Q. It is expected to improve the transportation between those cities and promote the production of industries in them.

B owns a piece of land (300 m²), on which he owns a three-story house. B lives there with his wife and a child. One room of the house is lent to **M** with the rent of USD 1000 per month. B's land is located within the project area of the highway.

C owns a piece of land (1000 m²) on which 10 possessors without title (**N1 to N10**) live for ten years. C's land is located within the project area of the highway.

D1 to D10 (ten people) are a group of indigenous people who own their land and houses which are located very close to the project area of the highway. There is a small mountain near their houses. It is the sacred mountain for them and the important object of their traditional and original belief. They pray every day by facing the direction of the mountain. The mountain is owned by the local community **E** where D1 to D10 live. A negotiated with E and acquired the mountain, because it is within the project area of the highway. A will cut down the mountain and open a tunnel through the mountain for the construction of the highway. However, it will change the sacred figure of the mountain for D1 to D10.



[Question 1] A asked B to sell B's land and B agreed with A. What compensation shall be made to B? How about the compensation to M?

[Question 2] A asked C to sell C's land and C agreed with A. However, N1 to N10 refuse to vacate C's land. What compensation shall be made to C? What measure can A take to promote the project against N1 to N10? Does A need to make any compensation to N1 to N10 when A will vacate them from C's land?

[Question 3] D1 to D10 would not agree with A to cut down the mountain and open a tunnel through it. What claim can they make against A to stop the change of the mountain? What measure can A take to promote the project against the opposition movement by D1 to D10? Does A need to make any compensation to D1 to D10 when A will promote the project?

Discussion Points

[Question 1]

How to calculate the amount of compensation for B's land?

How to calculate the amount of compensation for B's house?

Is it necessary to make any compensation for M? If it is, how to calculate the amount of compensation for the interest of the tenant M?

[Question 2]

How to calculate the amount of compensation for C's land?

Is it necessary to make any compensation for N1 to N10? If it is, how to make the compensation for the interest of the possessors without title?

[Question 3]

What kind of right do D1 to D10 have to the mountain?

What kind of process do A need to follow for the promotion of the project which would affect the interests of the indigenous people?

Is it necessary to make any compensation for D1 to D10? If it is, how to make the compensation for the interest of the indigenous people?

Reference:

Kayano et al. v. Hokkaido Expropriation Committee,
The Nibutani Dam Decision, issued on March 27, 1997
1598 Hanrei Jiho 33; 938 Hanrei Times 75
Translated by Mark A. Levin,
38 International Legal Material 397, 1999

Presentation Guide

- Presenters: 7 groups (Hanoi, Ho Chi Minh City, Cambodia, Laos, Thailand, Myanmar and Japan)
- Time Schedule (TBT)
9:00~11:00 (4 group presentation)
12:30~14:00(3 group presentation)
14:00~16:00 (Discussion)
- Length of Presentation: Should not over 30 minutes

Presentation Guide

- Style and Content

Prepare one presentation from each university.

Present how Q1-Q3 are solved by applying your country law.