



## THE OPERATION OF LAND ACQUISITION UNDER THE LAND USE ACT 1978: HIGHLIGHTING PROSPECTS

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### **Abstract**

*This paper examined the operation of land acquisition under the Land Use Act 1978 within the Nigerian legal framework. The paper explored the critical role of land as a socio-political and economic resource and analyzed the constitutional and statutory powers granted to the government to compulsorily acquire land for overriding public interests. This work was conducted through the use of the doctrinal research methodology, involving a systematic review of the 1999 Constitution, the Land Use Act (LUA), and relevant judicial precedents. The paper investigated the procedural requirements for acquisition, including planning, publicity, and valuation, while highlighting the legal entitlement to compensation for unexhausted improvements. It further identified instances where compensation is excluded, such as punitive revocations for the alienation of land without prior consent. The paper found that while the state's power to acquire land is essential for development, it often clashes with individual property rights due to bureaucratic bottlenecks and inconsistent valuation standards. The paper concluded by identifying prospects for improvement through legal reforms, technological integration, and the adoption of alternative dispute resolution mechanisms to ensure a more equitable land administration system.*

**Keywords:** Land acquisition; Compensation; Land; Right of occupancy

### **1.0 Introduction**

Life depends heavily on the land; this is why the right to own properties is a guaranteed constitutional right in Nigeria.<sup>1</sup> Life itself also helps to sustain it. For a living, land is a crucial and strong economy for the advancement of humankind.<sup>2</sup> Land is essential to life, particularly in emerging nations where the amount and quality of land affects the level of human development.<sup>3</sup> It gives man a place to live, the means to take care of his necessities, and the ability to seize his possibilities. Much about human history can be learned from the reverence that humans have always had for the earth. People fight with others over land, and ancient Greeks worshipped an earth goddess. Since land is essential to maintaining life on Earth, it is the most valuable resource.<sup>4</sup>

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<sup>1</sup> Constitution of the Federal Republic of Nigeria, Cap C23, LFN 2004 (CFRN), s 43.

<sup>2</sup> A Oluwasegun and M Adeyemi Balogun, 'Illusory Nature of the Concept of Compensation under the Land Use Act in Nigeria' <<https://www.journals.coun.gov.ng/v2/index.php/AJA/article/view/88>> accessed 10 January 2025.

<sup>3</sup> E Derik-Ferdinand and P Okolo, 'The Concept of Dualism of Title to Land in Nigeria' [2015] (5) (2) American International Journal of Contemporary Research, 178.

<sup>4</sup> M Okany, Nigerian Law of Property (Fourth Dimension Publishers 1986) 693; Genesis 3:19 (KJV).



Various people have varied images of "land" depending on their current interests and points of view. Similar to diamonds, there are a multitude of different aspects to land based on the situation and environment. However, when it comes to having access to land, people typically think of it as the area of space that includes the earth's surface, all of its inhabitants, and the unique rocks and minerals that can only be found there. Because 'land' is an essential component of the land, much like the plants that grow there, this essay will examine the right to own or use land as both a tangible good and an abstract concept.<sup>5</sup>

Families and communities depend heavily on it. The foundation of any rural community and agricultural economy is the availability of land and the stability of land tenure. The prosperity and poverty of rural and suburban livelihoods are based on land ownership, use, and management. It is essential to the management of religious life as well as the formation of social and cultural identity. It is also an important political tool for determining how individuals, families, and communities relate to one another in terms of power inside formal political systems. In rural civilizations, people with dubious tenure rights and those who are landless or almost landless are typically the poorest and most vulnerable groups. As a result, in society, having land is seen as a sign of prosperity.<sup>6</sup>

Land can be used to raise money by selling it, or it can be used as a place of safety. The hub of the political, social, and economic systems is the land. It is inconceivable to see human society developing in the slightest without land.<sup>7</sup> It affects both the government and the broader population in some way. In a place where there is a dearth of land and safety, health, education, and economic progress, the government cannot talk about sustainable development. The private individual also needs land to perform his everyday tasks. This explains why property ownership by individuals or citizens is highly valued by both domestic and international human rights organizations.<sup>8</sup> People value their land, thus attempts to take it from its owner are not readily tolerated. The state or its agents may force the purchase of the land in the best interests of the governed, which includes people, families, communities, and companies.<sup>9</sup>

The ability of the acquiring authority to take land away from the owner, even in cases where the latter may not consent, is what has made the acquisition compulsory in the sense of this topic. The construction of infrastructure, including roads, hospitals, railroads, vast farms, pipe-borne water schemes, and so on, is considered to be in the public interest in this context. From the perspective of

<sup>5</sup> (n 3) 179 – 180.

<sup>6</sup> O Aluko, *The Law of Real Property and Procedure* (Bright Star Publishers 1998) 27.

<sup>7</sup> A Otubu, 'Private Property Right and Land acquisition Process in Nigeria: The Past, Present and Future' <<https://www.journal.univdanubuis.ro/index.php/juridica/article/view/1504> accessed 10 January 2025.

<sup>8</sup> Ibid.

<sup>9</sup> M Khan, 'Land Acquisition Compensation in India: A Thumb Rule' [2015] (2) (1) *International Journal of Law and Legal Jurisprudent Studies*, 1-21.



compulsory land acquisition, compensation must be given to the landowner in this case.<sup>10</sup> However, this is not always the case. In this research we shall look into the dynamics of the operation of land acquisition and compensation in Nigeria.

## 2.0 The Operation of Land Acquisition Under the Land Use Act 1978

Every nation has a unique set of ministries, agencies, and officials with the authority to seize land without due process. However, no particular agency, ministry, or official is granted the authority to forcefully acquire land under the terms of the Nigerian Constitution. According to Section 28 of the Land Use Act, the government may legitimately cancel an occupancy permit in the event that the public interest is paramount. It may be claimed that this clause gives the Governor the authority to take land by force, provided that the Governor abides by the law.<sup>11</sup>

The grundnorm typically grants the national level of government the jurisdiction to carry out land acquisition, and pertinent legislation frequently name the head of government or a particular minister as the person with the authority to authorize the activities related to land acquisition.<sup>12</sup> Certain jurisdictions limit the exercise of power to the national government alone, whereas in other nations, regional authority may also be involved.<sup>13</sup> Local governments and parastatals may be able to take land for development reasons by force, but this is normally only done with approval from higher governmental levels.<sup>14</sup> To prevent potential for power abuse, it is important that applicable laws and regulations clearly designate the authorized government bodies.<sup>15</sup>

Establishing a body of core competence, achieving a smooth national land policy, and improving standardization of standards are all benefits of centralizing the authority of land acquisition.<sup>16</sup> Despite the aforementioned, centralization does not in any way ensure that procedures will be carried out equitably and may potentially cause delays in the purchase of land. Taking a middle stance has a lot of advantages. This is the application of checks and balances that allow state and local governments to seize land forcibly, but only under the supervision and approval of the federal or national government.<sup>17</sup>

<sup>10</sup> C Wigwe, *Valuation of Compensation, Taking Possession and Acquisition of Land for Oil and Gas Fields* (Lismare Books Company 2016) 1.

<sup>11</sup> Learn Nigerian Laws, 'Legality of Government 's Land acquisition of Land and Payment of Compensation' <<https://learnnigerianlaws.com>> accessed 15 February 2025.

<sup>12</sup> Aran Library, 'The Law of Native Title to land and Compensation for Land acquisition: The Nigerian Case of the Diobu of Port Harcourt' <<https://www.aranlibrarymugalway.ie/handle/10379/4953>> accessed 15 February 2025.

<sup>13</sup> *Minister of Home Affairs v. Fisher* (1980) A. C. 319 at 329.

<sup>14</sup> Fig, 'The case of Mina Metropolis in Niger State, Nigeria' <[http://www.fig.net/resources/processings/fig-proceedings/fig 2009](http://www.fig.net/resources/processings/fig-proceedings/fig%2009)> accessed 15 February 2025.

<sup>15</sup> (n 5).

<sup>16</sup> S Famoriyo, 'Land acquisition of Land in Nigeria: A Case study' <[https://doi.org/10.1016/0309586\(81\)90045-5](https://doi.org/10.1016/0309586(81)90045-5)> accessed 15 February 2025.

<sup>17</sup> Ibid.



The following organizations may be authorized to use the power of land acquisition: departments, ministries, and agencies of the federal, state, and local governments; regional administrations public entities with legal responsibilities, such as Nigeria's Power Holding Company; Government-regulated private organizations include railroads, telecommunications corporations, energy companies, forest industries, and airport authorities;<sup>18</sup> as well as other unidentified bodies. Every organization with the authority to take land by force may have its own set of regulations governing what kinds of acquisitions are allowed and how the legally specified procedures are to be followed. This will appropriately direct such an agency to avoid acting beyond the scope of its authorization.<sup>19</sup>

### 3.0 Acquisition for Overriding Public Purpose

One of the reasons the governor can cancel an occupancy right is public purpose. According to statute, if the president issues a notification declaring that the land is needed by the government for public reasons, the governor is required to revoke the landowner's right of possession.<sup>20</sup> In Nigeria, public motives for land acquisition include purchasing land for the general people's use or the government's exclusive use;<sup>21</sup> for use by any corporate entity that has been duly created by law or registered under the Companies and Allied Matters Act with regard to any shares, stocks, or debentures that the government possesses;<sup>22</sup> for or in relation to any form of sanitary improvements;<sup>23</sup> or to acquire authority over lands next to any part of the land or over land whose value would increase due to the building of any roads, railways, or other public works or convenience that the government is intending to undertake or give.<sup>24</sup> Others are to gain ownership of land needed for or related to the growth of telecommunications or the supply of power;<sup>25</sup> to acquire authority over land needed for or related to mining activities;<sup>26</sup> for gaining ownership of land necessary for or related to planned urban growth or settlement;<sup>27</sup> for gaining ownership of property necessary for or related to the development of the economy, industry, or agriculture;<sup>28</sup> or for social services such as education.<sup>29</sup>

The most intrusive and comprehensive restriction on a citizen's right to property is probably the revocation of the right of occupancy. One may argue that the 1999 Constitution serves as both an

<sup>18</sup> S A lyanda, 'Communal Land Acquisition and Valuation for Compensation in Nigeria' [2014] (4) (11) International Journal of Scientific and Research Publication, 1-3.

<sup>19</sup> Ibid.

<sup>20</sup> LUA, s. 28(4).

<sup>21</sup> Ibid., s. 51(a).

<sup>22</sup> Ibid., s. 51(b).

<sup>23</sup> Ibid., s. 51(c).

<sup>24</sup> Ibid., s. 51(d).

<sup>25</sup> Ibid., s. 51(e).

<sup>26</sup> Ibid., s. 51(f).

<sup>27</sup> Ibid., s. 51(g).

<sup>28</sup> Ibid., s. 51(h).

<sup>29</sup> Ibid., s. 51(i).



enabling statute and the governor's source of acquisition power.<sup>30</sup> It establishes the unbreakable right of Nigerian residents to possess landed property within their nation.<sup>31</sup> Section 43 is subordinate to other sections of the same Constitution, which constitute an exception to the right, as shown by the term "subject to the provisions of this Constitution."<sup>32</sup> The State may seize private property pursuant to Section 44. According to the 1999 Constitution, property rights may be infringed upon in this way and for the purposes specified in a law that must be passed by the appropriate legislative body. The LUA is one of these statutes. To address the specific situations under which the right of occupancy may be terminated, the legislature passed the LUA.

Because it eliminates the power of landowners in Nigeria, the governor's authority has thus been referred to as revolutionary.<sup>33</sup> Private land may be expropriated by the Governor under Section 28 of the Land Use Act. This indicates that the Governor's use of the revocation power is predicated on the interests of the State. A Nigerian governor may expropriate private land for the public good under this clause.<sup>34</sup> It states that the Governor may legally withdraw an occupancy permit in the event that the public interest is paramount.<sup>35</sup> This implies that the primary basis for revoking a right of possession is when there is a compelling public interest.

Therefore, the requirement of land for public purposes within the state by the State Government, Local Governments within the State, or the Federal Government of Nigeria for Federation purposes is considered the overriding public interest;<sup>36</sup> use of land for incidental uses such as building pipelines and conducting mining operations;<sup>37</sup> usage of land for the manufacturing of building materials;<sup>38</sup> giving up ownership of land that has been granted or is believed to have been granted without first getting the governor's consent.<sup>39</sup> However, in the case of a customary right of occupancy, the term "overriding public interest" refers to the occupier's alienation of any right of occupancy or portion thereof in violation of the Act's provisions or any regulations made thereunder through assignment, mortgage, transfer of possession, sublease, or other means;<sup>40</sup> the requirement of land for public purposes inside the state by the State Government or a Local Government within the State; or the

<sup>30</sup>. U.C. Ogbonah, 'Appraisal of Nigeria Legal Framework on Land Acquisition and Compensation' [2019] (11) (1) The Journal of property Law and Contemporary Issues, 217.

<sup>31</sup>. CFRN 1999 (as amended), s. 43.

<sup>32</sup>. Lasisi Lasupo Alli v Chief J.O. Ikusebiala (1985)5 SC.93 at 118.

<sup>33</sup>. Ibid., 220

<sup>34</sup>. Ibid.

<sup>35</sup>. LUA, s. 28(1).

<sup>36</sup>. LUA, s. 28(3)(a).

<sup>37</sup>. LUA, s. 28(3)(a)(b).

<sup>38</sup>. Ibid, s. 28(3)(c).

<sup>39</sup>. Ibid., s. 28(3)(d).

<sup>40</sup>. Ibid., s. 28(2)(a).



requirement of land for public purposes within the Federation by the Federation Government;<sup>41</sup> or the necessity of land for pipelines carrying oil, mining, or other related use.<sup>42</sup>

The LUA stipulates in section 51(1) that "public purposes include those that are only for the use of the government or the broader public," it further broadens the definition of "public interest,"<sup>43</sup> for use by any corporate entity registered under the Companies and Allied Matters Act or by any corporate entity directly constituted by legislation in relation to which the Government possesses shares, stocks, or debentures;<sup>44</sup> for or in relation to any land's sanitary improvements;<sup>45</sup> or for gaining control over land adjacent to a port or over land whose value would increase due to the building of a road, train, or other public works or convenience that the government is planning to undertake or provide.<sup>46</sup> Others are to gain ownership of land needed for or related to the growth of telecommunications or the supply of power;<sup>47</sup> in order to secure the necessary land control in relation to planned urban or rural development or settlement;<sup>48</sup> for gaining ownership of property necessary for or related to the development of the economy, industry, or agriculture;<sup>49</sup> or for educational and other social services.<sup>50</sup> Section 2 of the Public Lands Acquisition Act and this notion of public purpose are equivalent.

Therefore, the idea of overriding public interest, which is comparable to the idea of good cause, encompasses the concept of public purposes as established by the Public Lands Acquisition Act and adopted in the LUA.<sup>51</sup> Nonetheless, "good cause" has a broader definition than "overriding public interest."<sup>52</sup> When "good cause" is understood to include particular things like non-payment of rent, rates, taxes, or other dues levied upon the Land, the aforementioned assertion seems to have been supported,<sup>53</sup> abandonment or non-use of the land for two years,<sup>54</sup> and allowing a reduction in the cinematography law on the property,<sup>55</sup> amongst others.

#### 4.0 The Process of Land acquisition

The government has the authority to require acquisitions, but this is also how that authority is applied. Land acquisition procedures are essential to the efficient, legal, and just use of a government's power.

<sup>41</sup>. Ibid., s. 28(2)(b).

<sup>42</sup>. Ibid., s. 28(2)(c).

<sup>43</sup>. Ibid., s. 51(1)(a).

<sup>44</sup>. Ibid, s. 51(1)(b).

<sup>45</sup>. Ibid., s. 51(1)(c).

<sup>46</sup>. LUA, s. 51(1)(e).

<sup>47</sup>. Ibid., s. 51(1)(f).

<sup>48</sup>. LUA, s. 28(3)(a) (1)(g).

<sup>49</sup>. Ibid., s. 51(1)(h).

<sup>50</sup>. Ibid., s. 51(1)(i).

<sup>51</sup>. Land Tenure Law 1984, s 34(2).

<sup>52</sup>. G.G. Otuturu and A.Y. Abdullahi, 'Compulsory Land Acquisition and Revocation Powers in Nigeria' [2019] (11)(1)The Journal of Property Law and Contemporary Issues, 97.

<sup>53</sup>. LUA, s. 51(1)(f).

<sup>54</sup>. Ibid, s. 51(1)(g).

<sup>55</sup>. Ibid.



The procedures for obtaining land by emergency acquisition or land reformation are often distinct from those for the forcible purchase of land for project-based, planned development. It is true that there might be various ways for utilities and other parties to obtain servitudes or easements. Generally speaking, the following should be a part of a well-designed development project's land acquisition process:

- **Planning:** The various land choices that can be used to address the public need in a participative manner are identified during the planning stage. The precise location and area of the land that has to be purchased are determined. Relevant information is gathered. With the cooperation of those who may be impacted, the project's effectiveness is evaluated. Stated differently, an impact cannot be deemed favourable in situations when there is insufficient participation from the populace.
- **Publicity:** A notice is published to let the owners and residents of the selected region know that the government plans to buy their land. It is urged of impacted parties to file claims for compensation for land that will be acquired. In essence, the notice outlines the goals and procedures, along with significant dates and individuals' procedural rights. People have the chance to learn more about the project and voice their concerns and demands for compensation in public forums.
- **Valuation and Submission of Claims:** At the time of the appraisal, the amount of compensation commensurate with the land to be bought is decided. Owners and tenants each file a claim. Usually, the purchasing agency or another government organization values the land. After reviewing the submitted claim, the acquiring agency or organization makes an offer of what it deems to be just compensation. After then, there may be negotiations.
- **Payment of Compensation:** People can be compensated for their land by the government or an approved body, or they might be relocated to another area.
- **Possession:** For the intended purpose, the government assumes title and physical possession of the land.
- **Appeals:** Owners and tenants have the right to challenge the land acquisition, including the choice to purchase the land, the method used to purchase it, and the amount of compensation provided.<sup>56</sup>
- **Restitution:** Chance of land return in the event that the original use of the land is no longer applicable. The following guidelines should form the foundation of any process that directs land acquisition:

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<sup>56</sup> Bing, 'Land Acquisition, Compensation and Resettlement in Developing Economics: Nigeria as a case study' <<http://www.bnig.com/search?q=land+Acquisition+and+in+Nigeria&Form>> accessed 15 February 2025.



- To ensure that people are aware of and able to fulfil crucial dates, due process must be clearly outlined in legislation with time constraints.
- To guarantee that the acquiring agency is responsible for its activities and that personal discretion is kept to a minimum, the process should be overseen and constantly monitored.
- There should be as little land and land rights to be obtained as possible.<sup>57</sup>
- After the owners and occupiers have received at least some compensation, along with definite promises of recompense, the government ought to seize custody of the land.
- It is important to support owners and tenants so they can take an active role in discussions about compensation and valuation.
- All parties impacted, including owners and occupiers, the government, and non-governmental groups, should be involved in participatory planning processes.<sup>58</sup>
- Both written and verbal notice should be unambiguous, translated into the proper languages, and include instructions on where and how to obtain assistance in addition to a clear explanation of the procedures.
- Processes ought to be open, adaptable, and carried out with sincerity.

### 5.0 Compensation for Acquired Land

The entitlement to compensation as stipulated in Section 44 of the 1999 Nigerian Constitution<sup>59</sup> are 'any interest in immovable property or movable property'.<sup>60</sup> According to Section 29 of the Land Use Act, the holder and occupier of a right of occupancy are entitled to payment for the unexhausted improvements' worth on the date of revocation.<sup>61</sup> The query is: When does acquisition become mandatory? On the surface, this question seems simple to answer, but closer examination may reveal that it is more complicated than it first seems. The extent to which land rights are lost by owners and occupants can differ greatly depending on the sorts of rights and the quantity of land involved. This may have an impact on how much the concepts of land acquisition apply to a certain government action. The ramifications would also impact the affected parties' rights and remedies.

A substantial portion of land acquisition is related to the complete transfer of ownership of a piece of land. Both large-scale and smaller-scale undertakings may experience this.<sup>62</sup> Nonetheless, a portion of

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<sup>57</sup> Mondaq, 'Nigeria: Legal and Regulatory Requirements for the Land acquisition of Land in Nigeria' <[http://www.Mondaq.com/Nigeria/x/490868/real And Regulatory Requirements for The Compulsory Acquisition+Of+Land+In+Nig](http://www.Mondaq.com/Nigeria/x/490868/real+And+Regulatory+Requirements+for+The+Compulsory+Acquisition+Of+Land+In+Nigeria)> accessed 15 February 2025.

<sup>58</sup> Ibid.

<sup>59</sup> C O Odudu, 'Compensation Issues in the Niger Delta: A Case Study of I3oboroku, Jesse, Delta State, Nigeria' [2017](5)(4) International Journal of Civil Engineering Construction and Estate Management, 21-43.

<sup>60</sup> LUA, s 44(1).

<sup>61</sup> Ibid, s 29(1).

<sup>62</sup> Ibid.



a parcel may also be acquired through land acquisition, and this portion may be utilized for road building. A piece of a land parcel may occasionally be acquired while the remaining component of the land remains unaltered. The remaining amount could be sufficient for the owner or occupier to continue using it even if its value decreases, or it could be so little that they are unable to utilize it to make ends meet. In other cases, the parcel may be split into multiple disconnected sections, some of which may not have access routes, because a new road may cut through its center. In certain countries, the landowner may be able to demand that the acquiring body or agency purchase the entire parcel by government law.<sup>63</sup>

When governments place new and substantial limitations on the uses that land may be put to, people may also lose out. Certain parcels may become significantly less valuable or useful as a result of zoning or land use restrictions. In cases when there has not been a change in ownership of the land, compensation for such losses is not commonly accepted. Despite this, several nations continue to provide for compensation in certain situations.<sup>64</sup>

The state may acquire property that is privately owned in situations other than those when it aims to do so through land acquisition. In many countries, the state is the only owner of the land and full private ownership is not recognized. According to Section 1 of the Land Use Act, all land in each state of the Federation in Nigeria is hereby vested in the governor of that state, who is to hold and administer the land in trust for the use and mutual benefit of all Nigerians. Large tracts of land are still owned by the state in other nations. Over such state-owned land, a variety of private occupancy, leasing, or use rights may be allowed. In order to allow for the passage of cables and pipelines, certain areas of a land parcel may also be used for easements or servitudes. Typically, rights acquired include the ability to access the property and do repairs. The acquired rights can be given to others and could be granted either permanently or temporarily. Even if their land is not acquired, they might not be able to enjoy it to the fullest.<sup>65</sup> These losses have not traditionally been considered compensable, however it seems that laws are progressively allowing for at least some compensation in these situations. It is also possible for a project to raise the value of nearby plots. Tax burdens may provide some equivalency; some individuals whose land lost value may pay less in property taxes, while others may find their tax cost has increased to account for the greater land values.

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<sup>63</sup> (n 53).

<sup>64</sup> M T A Ajayi and Others, 'Urban Poverty: Improving Socio-Economic Status through Adequate Compensation after Public Acquisition' <[http://www.prres.netlpapers/Ajayij\\_Urban\\_poverty.pdt](http://www.prres.netlpapers/Ajayij_Urban_poverty.pdt)> accessed 26 March 2025.

<sup>65</sup> I R Onyije and V A Akujuru, 'Appraising the Equity of Nigerian Compensation Practice' [2010] (11) International Journal of Development Research, 10498-10412.



## 6.0 Payment of Compensation upon Acquisition

All branches of government, as well as those in charge of the legislative, executive, or judicial branches, have an obligation to uphold, respect, and implement the Constitution's requirements.<sup>66</sup> The necessity that national resources be handled for the general welfare is one of these constitutional imperatives.<sup>67</sup> The fundamental function of civil government is the defense of private property.<sup>68</sup> Man gives up some of his liberties when he establishes government, but the benefits of possessing security and property preservation are far greater.<sup>69</sup> The above implies that a person's right to property is violated by any attempt to revoke their right of occupancy or to take their property without their will and without paying them compensation.

As a result, the freedom to purchase and possess property anywhere in the nation was protected by the Constitution.<sup>70</sup> According to the 1999 Constitution, the goal of government policy is to guarantee a certain level of living for all citizens by providing them with the necessities.<sup>71</sup> The government is authorized by the Constitution to take land for public purpose in any region of the nation by force. Both the military and democratic regimes had never compromised these basic rights.<sup>72</sup> No moveable property or interest in an immovable property may be seized forcibly in any area of Nigeria for reasons specified by law, according to Section 44 of the aforementioned Constitution. These purposes include, but are not limited to, mandated the quick payment of compensation as a result, and grants the right of access to any individual seeking such compensation to a court of law, tribunal, or other body having jurisdiction over that region of Nigeria in order to determine his stake in the property and the amount of compensation.<sup>73</sup>

The aforementioned clauses establish two rights. the right to object to the amount of compensation paid and the right to resist the seizure of property through forceful means, unless sufficient compensation is provided.<sup>74</sup> In addition to being guaranteed by the Constitution, the right to compensation is also upheld by other laws. especially the Land Use Act,<sup>75</sup> the Petroleum Industry Act

<sup>66</sup>. CFRN 1999, s. 13.

<sup>67</sup>. Ibid, s. 17(2)(d).

<sup>68</sup>. O O Olanrele and Others, 'Towards Global Uniformity and Sustainable Valuation of Compensation for Compulsory Land Acquisition' [2017] Journal of Design and Built Environment, 8.

<sup>69</sup>. John Locke, Background of American Literary Thought (3rd edn, Prentice Hill Inc 1974) 385.

<sup>70</sup>. LUA, s. 43.

<sup>71</sup>. G. Deinduomo, 'Oil Exploration Activities and Oil Producing Communities: A Framework for Breaking the Barriers to Development of Oil Producing Communities' in F. Emiri and G. Deinduomo (eds), Laws and Petroleum Industry in Nigeria: Current Challenges-Essays in Honour of Justice Kate Abiri (Malhouse Press Limited 2009) 359.

<sup>72</sup>. Adole v Gwar (2008) 11 NWLR (Pt. 1099) 562, 619-620.

<sup>73</sup>. LUA, s. 44(1)(a)(b).

<sup>74</sup>. Obikoya & Sons Ltd v Governor of Lagos State (1987) 1 NWLR (Pt. 50) 385; LSPDC v Finance Corporation (1987) 1 NWLR (Pt. 50) 413 at 467.

<sup>75</sup>. LUA, s. 29(2).



and the Oil Pipeline Act<sup>76</sup> ensure surface land users' entitlement to compensation in the event that their right of occupancy is revoked for mining, oil pipeline construction, or other related uses.

The Oil Pipeline Act<sup>77</sup> offers clear compensation laws that have an impact on Nigeria's petroleum sector. A license holder for an oil pipeline may enter, take possession of, or utilize the strip of property designated in the license and may thereafter build, maintain, and run an oil pipeline on that land in accordance with Section 11 (1)(3)(4) of the OPA. To support the aforementioned, Section 11(5) of the OPA permits the holder of a license to compensate anyone whose land or interest in land is negatively impacted, anyone who suffers harm as a result of negligence on the part of the license holder or his agents, or anyone who suffers harm as a result of a break or leak in oil pipelines or ancillary installations. In particular, such compensation might cover structures, valuable trees or crops, disturbances, hurt feelings, and decreases in the land's or an interest in land's value.<sup>78</sup>

The Petroleum Industry Act, the primary legislation governing the industry, similarly stipulates that the holder of an oil exploration license, oil prospecting license, or oil mining lease must provide reasonable compensation to anyone who owns or is lawfully occupying the licensed or leased land for any disturbance of surface rights or other rights.<sup>79</sup> In the case of *Shell Petroleum Development Company Nigeria Limited v F.B. Farrah*<sup>80</sup> The following heads of compensation were listed by the court for licensees or lessees to pay. Fair and sufficient remuneration, disruption, reinstatement, harmful effects on general inconvenience, valuation time and technique (s) are among them.

Also, though the Nigerian Mineral and Mining Act<sup>81</sup> gives the Government of the Federation, acting on behalf of the people of Nigeria, full ownership and control over any minerals found on, beneath, or on any land in Nigeria, as well as over rivers, streams, and the Exclusive Economic Zone,<sup>82</sup> the right to compensation resulting from petroleum activities is unaffected by the same law.<sup>83</sup> In the case of *ELF Nigeria Limited v Opere Sillo*,<sup>84</sup> The court ruled that the Mineral Act has no bearing on the acknowledged common right to fish in tidal waters. Thus, general damages in the amount of Fourteen Million, Five Hundred and Forty-Five Thousand Naira (N14,545,000) were granted to the Plaintiffs for loss of fishing rights in the creeks and wetlands among other things.

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<sup>76</sup>. Oil Pipeline Act 1968, Cap O7, LFN 2004 (OPA), s. 11(5).

<sup>77</sup>. Ibid.

<sup>78</sup>. OPA, s. 20(2).

<sup>79</sup>. PIA 2021, s. 80.

<sup>80</sup>. (1995) 3 NWLR (Pt. 382) 148.

<sup>81</sup>. Nigerian Mineral and Mining Act 2007, Cap N112, LFN 2004.

<sup>82</sup>. Ibid., s. 1 (1).

<sup>83</sup>. *ELF Nigeria Limited v Opere Sillo And Anor* (1994) 6 NWLR (Pt. 350) 258.

<sup>84</sup>. Ibid.



According to the LUA, the owner of the right of occupation and occupant of land that was obtained through coercion has the legal right to compensation under Section 29. According to the Land Use Act, the owner of a right of occupancy and occupant of land that was obtained through land acquisition is entitled to compensation under Section 29. The following is the compensation template provided by Sections 29(1) and (2): First, the holder and the occupier are entitled to compensation for the value of their unexhausted improvements as of the date of revocation if a right of occupancy is revoked for the reasons specified in paragraph (b) of subsection (2) of section 28 or (c) of subsection (3) of the same section and Second, the holder and the occupier of a right of occupancy shall be entitled to compensation under the applicable provisions of the Minerals Act, the Mineral Oils Act, or any legislation replacing the same, if the right of occupancy is revoked for the reasons specified in paragraph (c) of subsection (2) of section 28 or in paragraph (b) of subsection (3) of the same section.

According to LUA, if the State expropriates land to fulfil the objectives outlined in Sections 28(2)(b)<sup>85</sup> or 28(3)(a) or (c),<sup>86</sup> such a landowner is entitled to payment. Nonetheless, in certain extraordinary situations, the Governor may get a right of occupancy in accordance with the authority granted to him by Section 28 of the Land Use Act without having to reimburse the holder or occupier in any way. When a right of occupation is forcibly acquired on the grounds that its holder or occupier alienated it without the governor's approval, this is one of the rare instances of acquisition without compensation. The holder or occupier of a right of occupancy who has it revoked by the Governor pursuant to Sections 28(2)(a) and (3)(a) is not entitled to reimbursement.

The right to revoke interest as criminal penalties without pay is supported by the constitution. This thesis argues that nothing in Section 44(1) as provided by Section 44(2) of the 1999 Constitution<sup>87</sup> will be interpreted to impact any general law that relates to leases, tenancies, mortgages, charges, bills of sale, or any other rights or obligations arising out of contracts, or that imposes penalties or forfeitures for breaking any law, whether through civil process or after an offender is found guilty.<sup>88</sup> Therefore, it is deemed to be in the greater public interest when a holder or occupier alienates their right of possession. Because of this, the Governor has the authority to revoke the interest in such land in the

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<sup>85</sup>. B G Kayode and T Ukabam, 'A Valuation Model for Assessing Compensation Arising from Oil Spills in the Niger Delta Area of Nigeria' [2018](5)(12) *Advances in Social Sciences Research Journal*, 18.

<sup>86</sup>. M B Nuhu, 'Compulsory Purchase and Payment of Compensation in Nigeria: A Case Study of Federal Capital Territory (FCT) Abuja' [2008](3) *Nordic Journal of Surveying and Real Estate Research*, 102-126.

<sup>87</sup>. A V Uwaiokun and I Matthew, 'Estimating the Reinstatement or Replacement Cost in Valuation: A Case for Estates Surveyors and Quantity Surveyor to Work in Tandem in Perfecting Valuation Briefs When Using the Contractor's Method (Depreciated Replacement Cost Method) in Determining the Value of Properties' [2018](6)(I) *International Journal of Civil Engineering, Construction and Estate Management*, 26-39.

<sup>88</sup>. CFRN 1999, s. 44(2)



greater good of the public. Given that the revocation is being implemented as a disciplinary measure, the holder or occupier is not eligible for any kind of compensation.

The only amount of compensation that will be given is the cost of any improvements made to the land that were not yet depleted at the time of expropriation.<sup>89</sup> The situation is different, nevertheless, when land is revoked in accordance with Section 28(2)(c) or (3)(b) of the Act. In such a situation, the affected landowner will get compensation in accordance with the applicable provisions of the Petroleum Act, the Nigerian Minerals and Mining Act, or any law that replaces those acts.<sup>90</sup>

The aforementioned clauses address compensation for occupiers or rights holders whose landed property is taken in the name of the Nigerian state. A right of occupancy holder or occupant who is impacted by a purchase is entitled to reimbursement. There are two main restrictions on this kind of compensation: first, the reason for the revocation must be in accordance with Section 28(2) (ii) and (c) of the Land Use Act, as well as Section 28(3) (a) (b) and (c). Upon closer inspection, it becomes clear that these are cases of revocation motivated by the desire to further the common good. In the event that a right holder or occupier violates the terms and conditions of the certificate of occupancy, they may be rescinded under Section 28(2)(a) and (3)(d) without being entitled to any compensation.<sup>91</sup> Under Sections 28(2)(a) and (3)(d), revocation and acquisition are punitive actions that are not solely motivated by the desire to use an asset for the benefit of society. Therefore, the impacted party is not entitled to reimbursement. It is argued that this clause, which gives the governor the authority to take citizens' land forcibly and without payment, is harsh and anti-democratic.<sup>92</sup> This theory goes on to argue that compensation should always be given in situations involving land acquisition.

Not all land acquisitions are from private individuals or families; occasionally, communal land may be acquired with compensation given to the community as a whole. The Land Use Act gives the Governor several discretions in such circumstances. The following individuals could receive accruable compensation from the governor for such a community: to the actual village or town,<sup>93</sup> supreme head or community leader in order that the funds may be transferred into a fund designated by the governor to be used or applied for the community's benefit, or to provide services or infrastructure beneficial to the majority of people as required by applicable native law and custom. Therefore, the Land Use Act acknowledges that a community, rather than a single person, may be the affected landowner when it comes to compensating impacted land occupiers. The Governor is granted complete authority to

<sup>89</sup>. LUA, s. 29(1).

<sup>90</sup>. Ibid, s. 29(2).

<sup>91</sup> M B Nuhu and A U Aliyu. 'Land acquisition of Communal Land and Compensation Issues: The Case of MinnaMetropolis' <<https://www.fig.net/Jresources/proceedings/figproceedings/fig2009/papers/tso7e/ts07enuhaliyu3383.pdf>> accessed 23 March 2025.

<sup>92</sup> Ibid.

<sup>93</sup>. LUA, s. 29(3)(a).



choose the right individual to get the compensation on behalf of the community in such a situation.<sup>94</sup> Therefore, the Governor may order that any money owed to a community that is a right holder or occupier as a result of the affected situation be paid to the community, to the chief or leader of the community, or to a fund that the Governor of the affected State has designated.<sup>95</sup>

The government's right to acquire land is contingent upon the payment of compensation.<sup>96</sup> It goes without saying that adequate compensation must be paid when land or property is taken by force by the government or undoubtedly by oil firms.<sup>97</sup> Not only must this compensation be given, but it also needs to be given on time.<sup>98</sup> If there is a disagreement about the amount that needs to be paid, it will be brought before the Land Use Allocation Committee for settlement. The amount that needs to be paid must be determined by the property's worth on the acquisition date. The property owner may, however, be awarded compensation by the court based on the land's value on the date of his claim if compensation is not paid when it is due, and this delay is not the result of his fault. Therefore, the burden of proving that compensation was paid rests with the government or the party claiming the purchase or that the revocation is legal. Therefore, the acquisition will not be deemed legitimate if there is no evidence that payment was made to the owner of the allegedly acquired land.<sup>99</sup> In the event that the government is unable to provide compensation, the purchase is considered abandoned.

## 7.0 Prospects of Land Acquisition in Nigeria

The prospects of land acquisition in Nigeria largely depend on legal reforms, institutional efficiency, and the adoption of modern land administration practices. One of the key prospects is the potential for legal and policy reforms to address the longstanding issues associated with land acquisition. A review of the Land Use Act of 1978 to remove bureaucratic bottlenecks, clarify ownership rights, and ensure more inclusive governance could significantly improve land administration. Another major prospect lies in the use of technology to improve land administration and reduce disputes. The digitization of land records and the implementation of Geographic Information Systems (GIS) for land mapping can enhance efficiency in land allocation and prevent issues like multiple allocations and fraudulent sales. A transparent and publicly accessible national land registry would also minimize corruption and improve access to land information, making transactions smoother for individuals and businesses. Furthermore, the prospect of alternative dispute resolution (ADR) mechanisms in land acquisition

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<sup>94</sup> Ibid.

<sup>95</sup> (n 83).

<sup>96</sup> Ibrahim v A.B.U. Zaria (2018) All FWLR (Pt 964) 2067.

<sup>97</sup> Elf Pet (Nig) Ltd. v Umah (2018) 10 NWLR (Pt 1628) 428.

<sup>98</sup> Ferguson v Comm. For Works & Planning Lagos State (1999) 14 NWLR (Pt 638) 315; Amale v Sokoto Local Government (2012) All FWLR (Pt 618) 833; Kano v Government of Adamawa State (2015) All FWLR (Pt 755) 308.

<sup>99</sup> Boniface v Gwar (2008) All FWLR (Pt 423) 1217; Dumez (Nig) Plc v Ademoye (2014) LPELR-23518 (CA); (2015) All FWLR (Pt 791) 1450.



presents an opportunity to resolve disputes more efficiently. Given the challenges posed by prolonged litigation in Nigerian courts, the establishment of specialized land tribunals and mediation centres can provide quicker resolutions to land disputes. Strengthening community participation in land acquisition decisions can also reduce resistance and enhance cooperation between government authorities and landowners.

## **8.0 Conclusion**

The operation of land acquisition in Nigeria is a complex interplay between the state's power of eminent domain and the fundamental right of citizens to own property. While the Land Use Act 1978 vests land in the Governor to be held in trust, the actual exercise of revocation and acquisition for public purposes frequently encounters challenges regarding the adequacy and promptness of compensation. The research demonstrates that for land acquisition to truly serve the public interest, the government must strictly adhere to the due process of law and ensure that the rights of displaced occupiers are protected through transparent valuation and fair payment systems.

## **9.0 Recommendations**

The following were recommended:

1. The National Assembly should review the Land Use Act 1978 to clarify ownership rights and remove bureaucratic bottlenecks that hinder fair compensation and equitable land distribution.
2. The government should implement Geographic Information Systems (GIS) and digitize land registries to enhance transparency, prevent fraudulent transactions, and streamline the land mapping process.
3. Specialized land tribunals and alternative dispute resolution (ADR) centers should be established to provide faster and more accessible legal remedies for parties aggrieved by acquisition and valuation decisions.