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LEGAL CHALLENGES IN COMPULSORY LAND ACQUISITION AND COMPENSATION IN NIGERIA

Alex Iloba Uwadinma*

ABSTRACT

This article offered a critical examination of the legal complexities surrounding compulsory land acquisition and compensation in Nigeria. The Land Use Act of 1978, alongside other legislative measures, provides a framework for land acquisition, but its implementation frequently faces a myriad of legal challenges. These challenges, often detrimental to both landowners and government bodies, encompass issues of just recompense, respect for proper channels, and the tension between the rights to privacy of landowners and the broader public good. This paper, employing a doctrinal research methodology, delved into the nuances of these challenges, scrutinising the mechanisms of compensation valuation, procedural compliance, and the balance between public utility and private loss. It closely examined case law and statutory provisions to uncover the disparities between the legislative intentions of land acquisition laws and their practical execution. These include inconsistencies in compensation valuation methodologies and instances of procedural irregularities. Additionally, the paper assessed how these legal obstacles impact socio-economic progress and the rights of indigenous populations, who are often the most affected by land acquisition policies. This assessment was underpinned by empirical evidence and a review of legal scholarship, thus providing a holistic view of the current scenario of compulsory land acquisition in Nigeria. The aim of this paper was to make a substantial contribution to the discussion around land reform. By offering a well-rounded analysis, the paper sought to inform policymakers and other stakeholders, proposing ways to harmonise the objectives of national development with the defence of private property concerns. The article concludes with recommendations for legislative changes intended to enhance the effectiveness and fairness of the land acquisition process, ensuring equitable outcomes for all parties involved.

Keywords: Compulsory Land Acquisition, Land Use Act 1978, Fair Compensation, Public Interest vs Private Rights, Indigenous Land Rights, Legal Reforms in Land Acquisition.

1. INTRODUCTION

Compulsory land acquisition in Nigeria, a critical and often contentious issue, is deeply rooted in the country's diverse legal and historical landscapes. The Land Use Act of 1978,[1] enacted, marked a significant paradigm shift in the nation's land policy, particularly when compared to the pre-colonial and colonial periods. Before this Act, the governance of land in Nigeria was largely decentralised and regulated by customary laws, with rights to land typically vested in local communities and extended families. This customary system was

* Alex Iloba Uwadinma, LL.B (Hons), BL., LL.M, (Ph.D in view). Lecturer, Faculty of Law, Admiralty University of Nigeria, Ibusa, Delta State. Email: alex.uwadinma-law@adun.edu.ng; alle4smith@gmail.com. Tel.: 08065181046.

[1] Cap L5 LFN 2004.

characterised by its diversity, reflecting the multifaceted ethnic and cultural composition of the nation.[2]

The introduction of the Land Use Act after the Land Tenure Law 1962, formally administered in Northern Nigeria, represented a drastic transformation in the legal framework governing land rights. This Act centralised land ownership, placing all land within a state's territory under the trusteeship of the state governor. This centralisation was intended to address and correct the inequities that had arisen in land distribution, particularly those linked to the colonial and immediate post-colonial era. These disparities often manifested in the form of a feudal system where a few individuals or entities controlled vast expanses of land to the detriment of the broader populace[3].

A key provision of the Land Use Act is its conferment of the authority for compulsory land acquisition. The Act details the conditions under which such acquisitions can occur and lays out the procedures for compensating dispossessed landowners. This framework was designed to ensure that land could be acquired by the state for public purposes while providing fair compensation to those affected by such acquisitions.[4]

Despite its noble intentions, the Land Use Act has not been without its critics. Many have pointed out the ambiguities within the Act and the extensive powers it grants to governmental authorities.[5] These factors have frequently resulted in disputes and prolonged litigation. Critics contend that the Act, in its current form, falls short in adequately safeguarding the rights of landowners and indigenous communities. These shortcomings have led to a plethora of legal challenges and a growing sense of disenchantment among those affected by the Act's provisions.

The Act remains a central piece of legislation in Nigeria's legal system, continuously shaping the contours of land acquisition and usage. Its significance cannot be overstated, but neither can the challenges and controversies it has engendered since its inception.

The historical context of the Land Use Act is also crucial for a comprehensive understanding of its impact and the motivations behind its implementation. The Act was introduced during the military regime of Olusegun Obasanjo and was part of a larger set of reforms aimed at modernising and standardising Nigeria’s diverse land tenure systems. The promulgation of the Act was partly in response to the increasing demand for land reform, driven by rapid population growth and the consequent urbanisation. This period saw heightened pressure on land resources, especially in urban centres, necessitating a legal framework that could more effectively manage land allocation and resolve competing interests.[6]

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2 AO Adewusi, ‘Traditional Governance System in Nigeria: Lessons for Neoliberal Democracies’ [2018] *Covenant University Journal of Politics and International Affairs*.

3 Adefi M.D Olong, Land Law in Nigeria (2nd edn, Malthouse Press, Nigeria 2011) 1.

4 MU Adekunle and others, ‘Landholders' Satisfaction with Compulsory Acquisition and Compensation Process in Bauchi, Nigeria’ [2020] (6) (12) *Traektoriâ Nauki= Path of Science,* 2007-2011.

5 WA Ahmed-Gamgum, ‘Nigeria at 100 years: The Process and Challenges of Nation Building’ [2014] (4) (8) *Public Policy and Administration Research*, 114-39.

6 AJ Falode, ‘The State and Nation-Building in Nigeria, 1967-2007: A Historical Analysis’ [2012] (PhD Diss., University of Lagos (Nigeria)

The Act's introduction, while solving some issues, ignited new debates and controversies, particularly around the notions of equity, fairness, and the balance of power between the state and its citizens. Its effects have been far-reaching, impacting not only land tenure and ownership but also influencing socio-economic development and governance in Nigeria.[7]

The Land Use Act of 1978 remains a seminal yet divisive legal instrument in Nigeria. It fundamentally altered the landscape of land ownership and management, providing a framework that continues to influence land acquisition and compensation practices. While it has made significant strides in centralising and streamlining land tenure systems, it also raises important questions about the balance of public interest and private rights, and the ongoing need for legal and administrative reforms.

2. LEGAL FRAMEWORK GOVERNING LAND ACQUISITION AND COMPENSATION

The legal architecture surrounding land acquisition and compensation in Nigeria is principally anchored on the Land Use Act of 1978.[8] This Act has been a fulcrum around which land management and ownership disputes revolve. It was designed to streamline land ownership, ostensibly to serve the public interest, by centralising control in the hands of state governors and the Federal Government. Under this framework, the government can equally acquire land for overriding public interest[9] and ostensibly for public purposes, with provisions made for compensating dispossessed landowners.[10] However, the application of this Act has generated considerable debate, particularly regarding the adequacy and fairness of compensation mechanisms and the extent of governmental power in land expropriation.

Beyond the Land Use Act, other legislations such as the Nigerian Urban and Regional Planning Act of 1992 also play a role in land acquisition, particularly in the urban planning context.[11] This Act provides for the preparation and implementation of urban and regional planning and development, which sometimes necessitates land acquisition.[12] However, the coordination between these laws and the Land Use Act is not seamless, often leading to overlapping jurisdictions and conflicting interpretations.[13]

The Constitutional provision on compensation under Section 44 of the Constitution of the Federal Republic of Nigeria (CFRN) 1999 (as amended), states the following: "No moveable property or any interest in an immovable property shall be compulsorily acquired except in accordance with the provisions of a law that: (a) Requires the prompt payment of compensation, and, (b) Gives the person claiming compensation access to a court of law or other tribunal for the determination of their interest in the property and the compensation to

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7 A. Boholm and RE Lofstedt, Facility Sitting: Risk, Power and Identity in Land Use Planning (Routledge 2013).

8 Cap L5 LFN 2004.

9 Land Use Act, Cap L5, Laws of the Federation of Nigeria 2004, s 28(2).

10 Samuel Nwatu and Collins Ajibo, 'Compulsory Acquisition of Land (Private Property) in Nigeria: Prioritizing Public Interest over Private Interest' [2021] (16) *The Nigerian Juridical Review,* 275-289.

11 WB Adisa, 'Land Use Policy and Urban Sprawl in Nigeria: Land Use and the Emergence of Urban Sprawl' in *Megacities and Rapid Urbanization: Breakthroughs in Research and Practice* (IGI Global 2020).

12 Section 13 of the Act.

13 Ibid.

which they are entitled."[14]This provision safeguards individuals' property rights by mandating:

1. Legality: Property can only be acquired as prescribed by a law that adheres to constitutional principles.
2. Prompt Compensation: Affected persons are entitled to timely and adequate compensation for the property acquired.
1. Right to Redress: Affected persons must have access to a competent tribunal or court to challenge issues related to the acquisition, including the valuation of compensation.

This section ensures a balance between public interest in land acquisition and the protection of individual property rights.

Comparatively, the Nigerian framework deviates from international best practices as embodied in instruments like the United Nations' Declaration on the Rights of Indigenous Peoples. This Declaration emphasises the need for obtaining free, prior, and informed consent of indigenous peoples before enacting laws or administrative measures that may affect them.[15] In contrast, the Land Use Act and associated legislation in Nigeria often overlook the participation of local communities in decision-making processes related to land.[16]

Internationally, practices such as the 'willing buyer, willing seller' model in land reform, as seen in countries like South Africa, contrast with Nigeria's approach.[17] South Africa's model emphasises negotiation and consent, aiming to ensure that land acquisition processes are both equitable and just. This model, though not without its challenges, offers a perspective where land rights are more balanced with public interests, unlike the Nigerian model, which heavily favours state control and compulsory acquisition.[18] Furthermore, the principle of 'just compensation' as practised in many jurisdictions, including the United States, requires that compensation should reflect the market value of the property.[19] This principle is in stark contrast with the Nigerian approach, where compensation is often based on the value of unexhausted improvements rather than the market value of the land itself, which, even though found in the Land Use Act, but not fully complied it, leading to discontent and disputes among dispossessed landowners.[20] While the Land Use Act of 1978 and related legislations provide the legal bedrock for land acquisition and compensation in Nigeria, there exists a significant gap between these laws and international best practices.

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14 **Constitution of the Federal Republic of Nigeria 1999 (as amended), s 44(1).**

15 Leena Heinämäki, 'Legal Appraisal of Arctic Indigenous Peoples' Right to Free, Prior and Informed Consent' in *Routledge Handbook of Indigenous Peoples in the Arctic* (Routledge 2020) 335-351.

16 AI Badiora, 'Perceptions on Corruption and Compliance in the Administration of Town Planning Laws: The Experience from Lagos Metropolitan Area, Nigeria' [2020] (76) *Town and Regional Planning,* 1-13.

17 AO Akinola, 'Farm Attacks or 'White Genocide'? Interrogating the unresolved land question in South Africa' [2020] (20) (2) *African Journal on Conflict Resolution,* 65-91.

18 K Babalola and S Hull and J Whittal, 'Land Administration Systems and their Legal Frameworks Reform for Nigeria' in *Proceedings of the FIG Working Week* (2023) <https://www.researchgate.net/profile/Kehinde-Babalola/publication/372315636_Land_Administration_Systems_and_their_Legal_Frameworks_Reform_for_Nigeria/links/64af9dd2b9ed6874a515a899/Land-Administration-Systems-and-their-Legal-Frameworks-Reform-for-Nigeria.pdf> accessed on 13 May 2024.

19 Rayan Assaad and Mohamed-Asem Abdul-Malak, 'Legal Perspective on Treatment of Delay Liquidated Damages and Penalty Clauses by Different Jurisdictions: Comparative Analysis' [2020] (12) (2) *Journal of Legal Affairs and Dispute Resolution in Engineering and Construction,* 04520013.

20 Ibid.

This discrepancy highlights the need for legal reforms that would align Nigeria's land acquisition laws more closely with global standards, ensuring fairness, transparency, and the protection of landowners' rights.

3. CHALLENGES IN FAIR COMPENSATION ASSESSMENT AND DISTRIBUTION

One of the most contentious aspects of compulsory land acquisition in Nigeria is the assessment and distribution of fair compensation. The Land Use Act mandates compensation for landowners deprived of their land, but the methodologies for valuation and the actual implementation have been fraught with challenges.

3.1 Methodologies in Compensation Valuation

The compensation valuation under the Land Use Act primarily focuses on the value of unexhausted improvements made on the land rather than the market value of the land itself, which is what the Act contemplates.[21] This approach often leads to compensation that is significantly lower than the current market rates, which can be especially problematic in rapidly urbanising areas where land values escalate quickly. The method fails to consider factors like the potential earning capacity of the land or the emotional and social value of ancestral lands to indigenous communities.[22]

Moreover, the valuation process is usually conducted by government-appointed assessors, which raises issues regarding impartiality and accuracy. The lack of transparency in these assessments and the absence of a participatory approach in valuation often result in distrust and dissatisfaction among the landowners.[23]

3.2 Case Studies Demonstrating Discrepancies

Several case studies highlight the discrepancies in compensation assessment. For instance, in the acquisition of land for the development of the Eko Atlantic City in Lagos, there were numerous reports of inadequate compensation, with the compensation paid not reflecting the burgeoning real estate values of the area.[24] Similarly, in the Federal Capital Territory, Abuja, the displacement of indigenous communities for urban development projects resulted in widespread grievances due to the perceived inadequacy of the compensation provided, which was not commensurate with the economic potential of the lands acquired.[25]

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21 CP Anene and NC Uche, 'Land Use Act: A Re-Enactment of Colonial Land Policy in Post-Colonial Nigeria' [2022] (3) (1) *AKU: An African Journal of Contemporary Research*.

22 ibid.

23 NK Tagliarino and others, 'Compensation for Expropriated Community Farmland in Nigeria: An In-depth Analysis of the Laws and Practices Related to Land Expropriation for the Lekki Free Trade Zone in Lagos' [2018] (7) (1) *Land,* 23.

24 EM Agunbiade and OA Olajide, 'Urban Governance and Turning African Cities Around: Lagos Case Study' [2016] *Partnership for African Social and Governance Research Working Paper* 019. <https://assets.publishing.service.gov.uk/media/59706959ed915d0baf0001df/Urban-Governance-and-Turning-African-Cities-Around_Lagos-Case-StudyF.pdf> accessed on 4 May 2024.

25 NNE Umoh, 'Exploring the Enabling Approach to Housing through the Abuja Mass Housing Scheme' PhD Diss., (Massachusetts Institute of Technology 2012).

Another notable case is the acquisition of land for the Ajaokuta Steel Complex, where the compensation paid to the dispossessed landowners was reportedly minimal and not reflective of the long-term loss of livelihood and displacement they suffered.[26] These cases underscore the recurrent issues in the compensation process: undervaluation of land, lack of consideration for socio-economic and cultural impacts, and procedural inefficiencies.

The challenges in fair compensation assessment and distribution in Nigeria highlight significant gaps in the current legal framework and practices. There is a pressing need for a more holistic approach to compensation valuation, one that goes beyond the narrow focus on physical improvements and considers market values, socio-economic impacts, and the subjective values associated with land. Ensuring fairness and equity in compensation not only aligns with international best practices but is also crucial for maintaining social harmony and trust in the legal system governing land acquisition.

4. DUE PROCESS AND RIGHTS OF LANDOWNERS

In the context of compulsory land acquisition in Nigeria, the issue of due process and the protection of landowners' rights are pivotal.[27] While the Land Use Act of 1978 and other related legislation provide a framework for land acquisition, the effectiveness of these laws in safeguarding landowners' rights has been a subject of intense debate.[28]

4.1 Legal Rights of Landowners in the Acquisition Process

The Land Use Act ostensibly includes provisions to protect landowners during compulsory acquisition. It mandates the government to notify landowners and pay compensation before acquiring land for public purposes. However, the Act has been criticized for its broad definition of 'public purpose' and for granting excessive discretionary powers to the government, often at the expense of landowners' rights.[29]

Landowners are entitled to challenge the amount of compensation and the legality of the acquisition process. However, the reality is that the process is often bureaucratic and fraught with delays. The complexity of the legal system and the unequal power dynamics between individual landowners and the government further exacerbate these challenges.[30]

4.2 Evaluation of Procedural Safeguards and Their Effectiveness

The procedural safeguards embedded within the Land Use Act, including the right to challenge compensation and seek redress in courts, are essential in theory. However, their effectiveness in practice is questionable. The legal process for contesting land acquisition

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26 Emmanuel Addeh, 'FG Agrees to Pay $496m Settlement Claims on Ajaokuta Steel' *(This Day: 4/9/2022)* <https://www.thisdaylive.com/index.php/2022/09/04/fg-agrees-to-pay-496m-settlement-claims-on-ajaokuta-steel> accessed 6 May 2024.

27 A Otubu, 'Private Property Rights and Compulsory Acquisition Process in Nigeria: The Past, Present and Future' [2012] (8) (3) *Acta Universitatis Danubius. Juridica,* 5-28.

28 K Deininger and H Selod and A Burns, The Land Governance Assessment Framework: Identifying and monitoring good practice in the land sector (World Bank Publications 2012).

29 OF Kasim and SB Agbola, 'Strategies and Challenges of Land Reform in Nigeria' [2018] (53) (2-1) *Journal of Public Administration,* 541-564.

30 TP Oshikoya and FE Olayiwola, 'Analysis of Claimants' Satisfaction with Land Acquisition and Compensation Process in Ona-Ara Local Government Area, Oyo State, Nigeria' [2023] (11) (2) *British Journal of Earth Sciences Research,* 52-70.

decisions or compensation assessments is often cumbersome and time-consuming. This deters many landowners from pursuing their claims, particularly those who lack the financial and legal resources to engage in prolonged legal battles.[31]

Additionally, there is a perceived lack of transparency and accountability in the decision-making process for land acquisition. The involvement of local communities and landowners in the process is minimal, which not only infringes upon their rights but also undermines the principles of participatory governance.[32]

Case studies, such as the displacement of communities for the construction of the Kainji Dam, illustrate the inadequacy of procedural safeguards.[33] In many instances, compensation was delayed or insufficient, and the affected landowners had limited recourse to challenge the inadequacies of the process.[34]

The need for reform in the legal and administrative processes governing land acquisition in Nigeria is clear. While the laws provide a basic framework for protecting landowners' rights, their implementation often falls short of ensuring due process and equitable treatment. Strengthening the procedural safeguards, enhancing transparency, and ensuring active participation of landowners in the acquisition process are crucial steps toward aligning Nigeria's practices with international standards and ensuring the fair treatment of all stakeholders in land acquisition matters.

5. BALANCING PUBLIC INTEREST AND INDIVIDUAL RIGHTS

The concept of compulsory land acquisition in Nigeria, pivoting on the delicate balance between the public interest and private rights, poses profound concerns under the ambit of eminent domain. The Land Use Act of 1978, serving as the legal bedrock for such acquisitions, embodies and captures the concept of eminent domain, permitting the government to take private property for public purposes.[35] However, the interpretation and application of 'public interest' within this context has been a subject of continuous debate and ethical scrutiny.[36]

5.1 Eminent Domain and the Concept of Public Interest

Eminent domain, a key principle in land acquisition laws globally, is predicated on the belief that the state has the authority to acquire private land for public use, provided fair compensation is given. In Nigeria, this principle has been utilised to facilitate various development projects, from infrastructure development to environmental conservation

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31 AO Omodele, 'Ownership and Acquisition of Land, Land-Grabbers and Land-Grabbing in Lagos and Ogun States'[2023] (135) *JL Pol'y & Globalization,* 58.

32 G Myers and J Sanjak, 'Reflections on the Limited Impact of the VGGT in Sub Saharan Africa and Opportunities for its Future with Lessons from Nigeria and Sierra Leone' [2022] (113) *Land Use Policy,* 105870.

33 SA Brandt and F Hassan, 'Dams and cultural heritage management' (*World Commission on Dams: Cape Town, South Africa* 2000).

34 Julian Walker and Others, 'Urban Infrastructure Projects and Displacement in Nigeria' [2018] *Urbanization Research Nigeria (URN) Research Report, ICF, London, UK*.

35 KH Babalola, 'Measuring Tenure Security of the Rural Poor Using Pro-Poor Land Tools: A Case Study of Itaji-Ekiti, Ekiti State Nigeria' [2018].

36 ibid.

efforts.[37] However, the challenge lies in what constitutes 'public interest'. While the Act broadly defines public purposes,[38] there has been criticism over its vague and sometimes expansive interpretation, often leading to the acquisition of land for projects that benefit a limited section of the populace or private entities, rather than the community at large.[39]

5.2 Ethical Considerations in Compulsory Land Acquisition

The ethical considerations in compulsory land acquisition revolve around justice, equity, and respect for individual rights. The current framework, often perceived as tilted in favour of the state, raises ethical concerns about the marginalisation of landowners, particularly vulnerable populations and indigenous communities. Cases where land has been acquired and repurposed for uses that diverge significantly from the initial public interest claims further complicate the ethical landscape.[40]

The act of displacing individuals and communities for development projects without adequate consultation or fair compensation contravenes the principles of equity and justice. The ethical mandate suggests a need for a more inclusive approach that considers the socio-economic and cultural impact on affected communities.[41] For instance, the development of the Lekki Free Trade Zone in Lagos resulted in the displacement of several communities, raising questions about the ethical implications of prioritising economic development over the rights and livelihoods of existing communities.[42]

The interplay between public interest and individual rights in the context of land acquisition in Nigeria requires a nuanced and ethically grounded approach. It calls for a re-evaluation of the eminent domain concept, ensuring that its application truly reflects the public interest and not just the interests of a privileged few. Adopting a more transparent and participatory approach in decision-making processes and ensuring fair and timely compensation are imperative steps towards achieving a more equitable balance between the needs of the state and the rights of individuals.

6. IMPACT ON SOCIO-ECONOMIC DEVELOPMENT AND INDIGENOUS COMMUNITIES

The process of compulsory land acquisition in Nigeria, as governed by the Land Use Act of 1978 and related legislation, significantly impacts socio-economic development and poses unique challenges to indigenous communities. This aspect of land law not only shapes land use patterns but also influences broader socio-economic dynamics within affected communities.

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37 OO Olanrele and Others, 'Towards Global Uniformity and Sustainable Compensation Valuation for Compulsory Land Acquisition' [2017] *Journal of Design and Built Environment,* 27-37.

38 Section 37 Land Use Act 1978.

39 ibid (n19).

40 Tom Goodfellow and Olly Owen, 'Thick Claims and Thin Rights: Taxation and the Construction of Analogue Property Rights in Lagos' [2020] (49) (3) *Economy and Society,* 406-432.

41 Thomas Greiber, Conservation with Justice: A Rights-Based Approach (No. 71. IUCN 2009).

42 ibid (n19).

6.1 Analysis of Land Acquisition on Local Communities and Economic Growth

Compulsory land acquisition often purports to serve the larger goal of economic development, such as through the creation of infrastructure, industrial complexes, or urban development projects.[43] While these initiatives can potentially stimulate economic growth and modernisation, the immediate and long-term impacts on local communities can be profound and, at times, detrimental.

The displacement of communities for such projects often disrupts established social and economic networks.[44] In many instances, the compensation offered is inadequate to cover the loss of livelihoods, particularly for those who rely on the land for agriculture or local business activities. This situation can lead to increased poverty and socio-economic disparities, contrary to the objectives of development.[45]

For instance, the construction of large infrastructure projects like dams and highways, while beneficial from a macroeconomic perspective, can have adverse effects at the micro level. These include the forfeiture of ancestral territories, disturbance of community activities, and inadequate compensation for the loss of homes and livelihoods.[46]

6.2 Challenges Faced by Indigenous Communities in Land Acquisition

Indigenous communities in Nigeria face specific challenges in the face of land acquisition. These communities often have a special relationship with their ancestral lands, not just for economic purposes but also for cultural and spiritual reasons. The loss of such lands can lead to a loss of identity and heritage, issues that are seldom recognised or compensated for in the current legal framework.[47]

Moreover, indigenous communities, even when they have the resources and political influence, cannot effectively negotiate or challenge land acquisition processes. This imbalance in power dynamics can lead to their marginalisation, with their needs and rights being overlooked in the pursuit of national development projects.[48] An example of this can be seen in the Niger Delta region, where land acquisition for oil exploration and production has led to widespread environmental degradation and social upheaval, exacerbating poverty and conflict in the region.[49] Compulsory land acquisition under the Land Use Act is intended to facilitate socio-economic development in Nigeria, its impact on local communities, and especially on indigenous populations, raises significant concerns. It is essential to adopt a

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43 ibid (n23).

44 OI Brigid and O Boniface and AE Okonkwo, 'Crisis of Banditry and the Internally Displaced Persons in Nigeria: A Political Economy Approach' [2022] (11) *Sch J Econ Bus Manag,* 247-256.

45 ibid.

46 IB Oluwatayo and T. Omowunmi and AO Ojo, 'Land Acquisition and use in Nigeria: Implications for Sustainable Food and Livelihood Security' [2019] *Land Use: Assessing the Past, Envisioning the Future,* 91-110.

47 Victor Onyebueke and others, 'Urbanisation-Induced Displacements in Peri-Urban Areas: Clashes Between Customary Tenure and Statutory Practices in Ugbo-Okonkwo Community in Enugu, Nigeria' [2020] (99) *Land Use Policy,* 104884. <https://www.sciencedirect.com/science/article/abs/pii/S0264837719316618> accessed on 5 May 2024.

48 Laura Notess and others, 'Community Land Formalization and Company Land Acquisition Procedures: A Review of 33 Procedures in 15 Countries' [2021] (110) *Land Use Policy,* 104461. <https://www.sciencedirect.com/science/article/pii/S0264837719315224> accessed on 5 May 2024.

49 PE Agbonifo, 'Socio-Economic Implications of Poor Environmental Management: A Framework on the Niger Delta Questions' [2022] (24) (2) *Environment, Development and Sustainability,* 2453-2470. <https://link.springer.com/article/10.1007/s10668-021-01541-7> accessed on 5 May 2024.

more holistic and inclusive approach to land acquisition, one that fully accounts for the socio-economic and cultural implications for affected communities. Such an approach should ensure fair and adequate compensation, prioritise the preservation of cultural heritage, and involve local communities in decision-making processes, thereby aligning development objectives with the protection of the rights and well-being of all citizens.

7. CASE LAW REVIEW AND LEGAL PRECEDENTS

The landscape of compulsory land acquisition in Nigeria is not only shaped by legislative texts but also significantly influenced by judicial interpretations and decisions. An examination of key legal cases provides critical insights into how the courts have navigated the complex interplay between the rights of landowners and the powers of the state under the Land Use Act of 1978.

7.1 Examination of Key Legal Cases and Their Implications

One landmark case that set a significant precedent is the case of *A.G. Lagos State v Dosunmu.*[50] In this case, the Supreme Court of Nigeria examined the extent of the powers conferred on the State Governor by the Land Use Act regarding land acquisition. The decision underscored the authority of State Governors to revoke rights of occupancy for public purposes, but also emphasised the necessity of fair compensation and due process.

Another pivotal case is *Okpuruwu v Okpokam,*[51] where the Supreme Court examined the issue of fair compensation under the Act. The court's interpretation underscored the ambiguity in the Act's provisions regarding the basis for compensation assessment, shedding light on the gaps and inadequacies in the legal framework.[52]

The case of *Amodu Tijani v Secretary, Southern Nigeria*[53] further illustrates the complexities involved in balancing individual rights with the public interest. In this case, the Privy Council examined the definition of 'public purpose' and its application within the framework of compulsory land acquisition, elucidating the fine line between legitimate public utility and arbitrary expropriation. The court recognised the customary land rights of the indigenous people, emphasising that such rights must be respected and adequately compensated when land is acquired for public purposes. This decision underscores the necessity of ensuring that compulsory acquisition serves a genuine public interest and that affected individuals receive fair compensation, thereby preventing arbitrary expropriation.

Another case that set a significant precedent is *Ereku v Governor, Midwestern State*.[54] In this case, the court addressed the definition of 'public purpose' in the context of land acquisition. The decision highlighted the need for a clear and narrow interpretation of public purpose to prevent abuse of state powers in land acquisition. It underscored the importance of adhering strictly to procedural safeguards to ensure fairness and prevent arbitrary expropriation of landowners' rights.

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50 (1989) 3 NWLR (Pt 111) 552.
51 (1998) 4 NWLR (Pt. 90) 554.
52 U Frank-Igwe and GC Okara, 'The Legality of Resolving Land Disputes through Customary Arbitration in Nigeria' [2022] (18) (1) *Journal of Private and Property Law,* 1-14.
53 [1921] 2 AC 399.
54 (1974) 10 SC 59.

The case of *Lagos State Property Corporation v Foreign Finance Corporation*[55] is another central case where the Supreme Court critically examined the parameters of public purpose under the Land Use Act. The court questioned the use of land acquisition powers for projects that appeared to benefit private entities rather than the broader public. This case emphasised the necessity of genuine public interest in land acquisition and strengthened the call for judicial oversight to prevent misuse of compulsory acquisition powers.

The case of *Lawson v Ajibulu*[56] marked a significant reversal of earlier positions on public purpose in land acquisition. Here, the Supreme Court refined the interpretation of public purpose, focusing on the need for acquisitions to demonstrably benefit the public rather than serving private or limited interests. This case served as a reminder that compulsory acquisition must balance the state's developmental objectives with the protection of individual property rights, ensuring that landowners are treated equitably and compensated fairly.

7.2 Insights Gained from Judicial Interpretations and Decisions

The review of these cases reveals several insights. Firstly, there is a consistent affirmation of the State's authority to acquire land for public purposes, as delineated in the Land Use Act. However, this authority is not unchecked; the courts have also underscored the importance of adhering to principles of fairness, due process, and adequate compensation.

Secondly, judicial decisions highlight the challenges in interpreting ambiguous provisions of the Land Use Act, particularly concerning what constitutes fair compensation and public interest.[57] The courts have often had to navigate these ambiguities, which reflect the need for legislative clarity and reform.[58]

Lastly, these cases demonstrate the crucial role of the judiciary in balancing the powers of the state against the rights of individuals. The judiciary serves as a critical check on executive power, safeguarding individual rights against potential abuses under the guise of public interest.[59]

From the above, it can be seen that case law in Nigeria provides valuable insights into the complexities of land acquisition laws. These judicial interpretations and decisions serve not only to apply the law to specific cases but also to illuminate areas where legislative reform may be necessary. They reinforce the idea that while the state has the power to acquire land for public purposes, this power must be exercised judiciously, respecting the rights of landowners and the principles of fairness and equity.

8. PROPOSED LEGAL REFORMS AND POLICY RECOMMENDATIONS

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55 (1987) 1 NWLR Pt 50, 411.

56 (1997) 6 NWLR Pt 507, 14.

57 AI Badiora, 'Stakeholders' Perspectives of Public Participation in Land Use Policy: The Nigeria Experience' [2020] (23) (3) *Public Administration and Policy,* 315-326.

58 OC Okafor and B Ugochukwu, 'Raising Legal Giants: The Agency of the Poor in the Human Rights Jurisprudence of the Nigerian Appellate Courts, 1990-2011' [2015] (15) (2) *African Human Rights Law Journal,* 397-420.

59 Okechukwu Oko, 'Seeking Justice in Transitional Societies: An Analysis of the Problems and Failures of the Judiciary in Nigeria' [2005] (31) *Brook. J. Int'l L,* 9. <https://heinonline.org/HOL/LandingPage?handle=hein.journals/bjil31&div=7&id=&page=> accessed on 6 May 2024.

The current framework for mandatory land ownership in Nigeria, primarily governed by the Land Use Act of 1978, has revealed several significant gaps over the years. Tackling these challenges necessitates a set of focused legal and policy changes designed to improve fairness, transparency, and effectiveness of the land acquisition process.

8.1 Identification of Gaps in Current Legislation

The Land Use Act, while pioneering at the time of its enactment, has several notable deficiencies. First, the definition of 'public purpose' for land acquisition is overly broad and vague, leading to arbitrary or unjust expropriations. Second, the process of compensation valuation is often criticised for its lack of fairness, transparency, and timeliness. Compensation is frequently delayed, contrary to the expectation of prompt payment as a crucial aspect of fairness. This failure to deliver compensation on time exacerbates the financial and emotional burden on affected individuals, as they often lack the means to sustain themselves while awaiting restitution. Furthermore, the valuation process does not adequately reflect market values or the socio-economic impact on affected individuals. Additionally, the Act provides limited scope for meaningful participation or consent from landowners, particularly indigenous communities, during the acquisition process.

8.2 Suggestions for Legal and Policy Reforms

(1) *Redefining 'Public Purpose*: Amend the Land Use Act to narrow and clearly define what constitutes a 'public purpose'. This would limit the scope for arbitrary interpretation and ensure that land acquisition is genuinely for the benefit of the wider community.[60]

(2) *Fair Compensation Mechanisms*: Revise the compensation framework to ensure it reflects the market value of the land and considers factors like emotional and cultural attachment, especially for indigenous lands. This might involve setting up an independent valuation body to assess fair compensation.[61]

(3) *Strengthening Due Process and Participation*: Implement procedural safeguards that enhance transparency and due process. This could include mandatory public hearings and consultations with affected communities before any land acquisition is approved. Ensuring that these processes are accessible and inclusive is key.[62]

(4) *Legal Support for Affected Landowners*: Establish legal aid systems to support landowners, particularly those from marginalised communities, in navigating the legal challenges associated with land acquisition. This support could be critical in ensuring their rights are protected.[63]

(5) *Regular Review and Adaptation of Laws*: Introduce a mechanism for the regular review of land laws to ensure they remain aligned with current socio-economic realities and

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60 Ibid (n27).

61 Usman Isyaku, 'What Motivates Communities to Participate in Forest Conservation? A Study of REDD+ Pilot Sites in Cross River, Nigeria' [2021] (133) *Forest Policy and Economics,* 102598. <https://www.sciencedirect.com/science/article/pii/S1389934121002045> accessed on 6 May 2024.

62 A Dilay and AP Diduck and K Patel, 'Environmental Justice in India: A Case Study of Environmental Impact Assessment, Community Engagement and Public Interest Litigation' [2020] (38) (1) *Impact Assessment and Project Appraisal,* 16-27.

63 PB Cobbinah and MO Asibey and YA Gyedu-Pensang, 'Urban Land Use Planning in Ghana: Navigating Complex Coalescence of Land Ownership and Administration' [2020] (99) *Land Use Policy,* 105054. <https://www.sciencedirect.com/science/article/abs/pii/S0264837719320034> accessed on 7 May 2024.

international best practices.[64] This would involve continuous monitoring and periodic amendments to the Land Use Act and other relevant legislation.

9. CONCLUSION

This article has explored the multifaceted aspects of forced land acquisition and settlement in Nigeria, underpinned by the Land Use Act of 1978. Our examination has revealed significant legal, social, and ethical complexities in the current framework that governs land acquisition in Nigeria.

The findings indicate that while the Land Use Act is a transformative piece of legislation, it is not without its shortcomings. Its broad definition of 'public purpose' has often led to contentious land acquisitions, sometimes overshadowing the interests and legal rights of landowners and local populations. The Act's approach to compensation, focused primarily on the value of improvements rather than the market value of land, has frequently resulted in inadequate and unfair compensation. Furthermore, the lack of effective procedural safeguards and transparency has exacerbated these issues, often leaving landowners disenfranchised and marginalised, particularly in indigenous communities.

Legal and policy reforms are critically needed to address these challenges. A more narrowly defined and transparent approach to 'public purpose', a fair and comprehensive compensation mechanism, and enhanced procedural safeguards are necessary steps towards a more just and equitable land acquisition process. The inclusion of regular legal reviews and the adaptation of laws to current socio-economic contexts and international best practices are also essential for continuous improvement.

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[64] Robert Home, 'History and Prospects for African Land Governance: Institutions, Technology and 'Land Rights for all' [2021] (10) (3) *Land,* 292. <https://www.mdpi.com/2073-445X/10/3/292> accessed on 7 May 2024.