
**A Critical Assessment of the Legal Framework for Compulsory Acquisition of Land for
Public Purposes and Compensation in Nigeria**

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ABSTRACT

The adequacy of compensation is a major issue in compulsory acquisition of land for public projects all over the world. Lands are acquired compulsorily by government or its agency for development purposes for overriding public interest. This power of acquisition is legally placed on the governors of each States in Nigeria. The main aim of nationalization of all lands through the Land Use Act was to foster the state policy of imposing administrative controls over all the land and to ensure a prudent and transparent system of land holding. On revocation of Occupancy Right from individuals, the government is obliged to pay compensation for the land revoked or acquired for overriding public interest, but this compensation is limited to the value of their unexhausted improvements at the date of revocation, several laws reviewed in this study outline the responsibilities of the acquired agencies which was brought to fore by the introduction of the Land Use Act in 1978. This research outlines the essence of compulsory acquisition of land and the legal frameworks addressing the issue of compensation while citing some empirical cases. Consequently, it follows from this argument that Governors is not obliged to pay compensation or provide resettlement/alternative accommodation in lieu of the compulsorily acquired land, if there are no improvements or installations on the land. It has been emphasized that the Land Use Act 1978 neither disposed anybody of his land nor did it ever deprive owners of their use/interests in land. It concludes that it is undisputable that every land possesses some intrinsic and some prospective use value: e.g., as fertile agricultural land, as building/residential/commercial use, as industrial or storage use and site value either presently or in future hence adequate compensation should be duly paid. The study recommends that Section 29 of the Land Use Act 1978 should be amended or possibly overhauled fundamentally in order to reflect the actual value of land which might not subsist in structures and physical improvements but on the economic value of land.

**KEYWORDS: Legal Framework, Compulsory Acquisition Land, Public Purposes and
Compensation in Nigeria**

Introduction

The subject of compulsory acquisition of land and payment of just an appropriate compensation has been a debatable concern among scholars. Before the coming of the Europeans, titles to land resided in individuals and families. It was difficult for government to

acquire any piece of land for development purpose for the overriding public interest¹. Thus, the policy of compulsory acquisition of land was introduced and directed at making desirable land available for specific purposes. The power to acquire land was vested in the governors as enshrined in the Land Use Act of 1978. The national land policy was intended to enhance secured land tenure, encourage optimal use of land resources and to facilitate broad based social and economic developments without an unregulated market risking, upsetting or endangering the ecological balance of the environment. The object was to streamline and to make acquisition of land less cumbersome. Kaunda²observed that the major aims of vesting title in Governors were to remove the legacy of bitter controversies and conflicts over land, simplify ownership and management, and to help Government facilitate planning, zoning programmes and to assist the citizens irrespective of social status to acquire land for self and family use. It was specifically designed to eradicate land speculation and to facilitate judicious and economically productive use of land. The land reform introduced was necessary to ensure agricultural lands were productive for the benefit of the economy, to guarantee all citizens access to land for agricultural mechanization and to balance the practical need to attract foreign investment with some security of land tenure. In Nigeria, where land held under Right of Occupancy is acquired compulsorily by the Government, payment of compensation to the owners of acquired land is predicated on the assumption that those being paid are the owners and occupiers of the land³. Where a person's title to land, i.e. Right of Occupancy is revoked, it shall be only for a public purpose, the public interest and a public benefit, and there must be some form of payment of compensation⁴. The Land Use Act among other laws, makes provision for the payment of compensation as computed by Appropriate Lands Officer who must be a qualified estate surveyor and valuer⁵. This is because of his training, competence and professional experience in the determination of a just and equitable compensation for public purposes. The estate valuers are primarily interested in determining the open market value of the property that has been compulsorily acquired for public purposes.

Literature Review

Land generally, can be seen as the platform where most human activities take place. But legally, it includes further rights and interests like incorporeal, hereditaments, right of way, easements and profits enjoyed by persons over the property or ground belonging to other persons⁶. The Property and Conveyance Law of Western Nigeria, 1959 posited that 'land includes land of any tenure, buildings or parts of buildings (whether the division is horizontal, vertical or made in any other way), and other corporal hereditaments; also a rent and other incorporeal hereditaments; and an easement, right, privilege or benefit in, over or derived from land, but not an undivided share in land'. The Property and Conveyance Law of Western Nigeria adopted the common definition of land, all-inclusive and also in tandem with the general principle of land law *quid*

¹F.P. Udoudoh, Legal Basis of Compulsory Acquisition of Land and Compensation in Nigeria: A Critical Review. *University of Uyo Law Journal* Vol. 9, 2016. P.291

² Kaunda, Moses 'Ownership of Property Rights in Land' (1989-1992) vols. 21-22 *Zambia Law Journal*. 61, 66-67.

³Tobi, N. (Prof. & JSC) *Land Use Act, 25 years* (2003)1-10

M. B. Nuhu, "Compulsory Acquisition of Land in Nigeria. A Case Study of Federal Capital Territory (FCT), Abuja" (2008) (1). *Nordic Journal of Surveying and Real Estate Research. Special Series*. Pp. 189-210.

⁴ See sections 28 and 41 Land Use Act 1978

⁵ I. U. Kalu, *Property Valuation and Appraisals*. (Bon Publishers, Owerri. 2007) p. 162

⁶ N. O. Umezuruike, *The Land Use Decree, 1978: A Critical Analysis*, (Jos: Fab Education Books, 1989) p. 93

quid plantator solo solo cedit– ‘whatever is affixed to the soil, belongs to the soil’. This definition has enjoyed a wider acceptability by most scholars.

As far as human beings are concerned, their attachment to land cannot be overemphasized, hence there is need for regulation that controls the use of land. In most cases, land which was primarily owned by individuals (first occupier) could not be used for the public good. It was therefore necessary for government to compulsorily acquire these lands for public good. Compulsory acquisition of land as opposed to private bargaining was to prevent private selfishness, i.e. holdouts, from standing in the way of public improvement⁷. According to Mulimbwa⁸, private rights must give way to the overriding public interest; otherwise land owners will be in a position to hold up schemes beneficial to the community, therefore the element of public interest can justify compulsory acquisition. Under Section 28 Land Use Act 1978, the Governor can revoke the Right of Occupancy for a public purpose or for an overriding public interest, with notices published in the official gazette and personally served on the persons affected.⁹ Public purpose must be connected with the public good, general utility, welfare of the community and not to serve the commercial interests of a company or privileged few¹⁰. The afore-mentioned purposes of revocation of land (that is for overriding public interest) have been abridged while most developments are to serve the interest of a privileged few.

Compensation

Compensation can be seen as the means to put the expropriated or the dispossessed back to the position he was prior to the revocation of his right and interest in the demised property or possibly, or to the position better than where he was prior to the compulsory acquisition¹¹. The basis and techniques for compensation valuation are stipulated by regulatory laws and vary from one country to another. In Nigeria, only the holder of Right of Occupancy whose interest in land has been revoked by the Governors for public purpose and no other person is entitled to compensation for the value of the Right of Occupancy in the land at the date of revocation¹², for the unexhausted improvements. As observed by Jack-Osimiri¹³, under Section 29, the Act states that the holder of an empty, vacant, or bare holding, without improvements or development in the form of buildings, walls, or structures etc, of any sort, has no right to receive compensation on revocation of their Right of Occupancy as such land has no commercial value. The rationale is that compensation is not payable unless there are improvements which have not been totally exhausted by the holder at the date of revocation of the Right of Occupancy. Consequently, it follows from this argument that the Governors is not obliged to pay compensation or provide resettlement/alternative accommodation in lieu of the compulsorily acquired land. It has been emphasized that the Land Use Act of 1978 neither disposes anybody of his land nor has it ever deprive owners of their (use) interests in land. In fact, it is only the radical title in respect of all the land in the State that has been transferred to and vested in the State Governor in trust for all

⁷J. A. Umeh, *Compulsory Acquisition of Land and Compensation in Nigeria*. (Sweet and Maxwell, London, 1973) p.15

⁸Mulimbwa, A.C, ‘Land policy and Economic Development in Zambia’ (1998) 30 Zambia Law Journal pp. 79, 82-83.

⁹*Nwanganga v. Governor Imo State of Nigeria* (1989) 4 NWLR (pt. 92) 350.

¹⁰*Chief Commissioner Eastern Provinces v. Ononye* (1944) 17 NLR 142; *Ereku v. Governor Mid-Western Nigeria* (1974) 10 SC 59 at 67-68.

¹¹F.P. Udoudoh (n.1) p. 300

¹²See Section of 28 of Land Use Act

¹³Jack-Osimiri, U, ‘Award of compensation to Holders of undeveloped plots under Land Use Act; case for Reform’ (1991) Vol. 2 (No. 7) Justice Journal 29-34.

Nigerians.¹⁴ By virtue of sections 1 and 2 of the Land Use Act, 1978, the Governor is a mere Trustee or Administrator of all the Land within that State, never a beneficial owner¹⁵. Similar situation is found in Tanzania, where all land is vested in the president for the use and benefit of Tanzanian people according to the stipulation in the Tanzanian Land Act. Therefore, the governor or president is not the beneficial owner but holds the land in trust and administers the same for the benefit of all citizens. In spite of the vesting of the absolute ownership of the land on the governor or president, the land owners still retain possessory titles as occupiers vested with usufructuary rights.¹⁶

Nigerian Laws that Regulate Compulsory Acquisition of Land and Compensation

Several laws had been promulgated to reduce injurious affections suffered by persons who have been dispossessed of their right to landed properties. These laws which impose the power to revoke also oblige the agency to duly compensate the dispossessed. They include: the land

- (i) **The Constitution of the Federal Republic of Nigeria, 1999:** This is the supreme law of the land which provides for the right of a landowner or community to compensation in Nigeria. According to the Constitution, compensation should be paid on damage to buildings, economic trees or crops, or where any authority or person enters any land to survey or dig, install or erect poles, cables, wires, pipes or other conductors or structures, in order to provide or maintain the supply or distribution of energy, fuel, water, sewage, telecommunication services or other public facilities or public utilities. Section 44(1) states that no moveable property or any interest in an immovable property shall be taken possession of compulsorily in any part of Nigeria except prompt payment of compensation be made. The affected property owner has a right to determine his interest in the property and the amount of compensation in the court of law or body having jurisdiction in Nigeria¹⁷. Going by this proviso, the appropriate officer who is the most senior Lands Officer in the Federal or State Ministry, or from the acquiring agency responsible for lands acquisition and compensation matters should ensure the computation of adequate compensation to be paid to victims of lands for justice to prevail.
- (ii) **Public Lands Acquisition Act (Cap 167) of 1917.** The Act formally called 'The Public Land Ordinance' was promulgated in 1876 by the colonial government to ensure total control of all lands in Lagos and its environs. This legislation was for the then government to compulsorily acquire land for public purposes such as construction of roads, and other public utilities, with payment of compensation to the land owners and named them Crown lands (now State lands)¹⁸. The Act was modified as the Public Lands Acquisition Act, 1917 to provide for compulsory

¹⁴*Dzungwe v. Gbishe* (1985) 2 NWLR (pt. 8) 528; *Odenipekun v. Onigemo* (1983) 1 ODSLR

¹⁵Jack-Osimiri, Prof. U. Jack-Osimiri, G.A. Okpara, and Z. Adango, "Nature of Native Land Title & compensation for compulsory acquisition" [2006] 9 Yearbook of New Zealand Jurisprudence 190

¹⁶Section 2 Land Ordinance holder or occupier of Right of Occupancy is a person entitled to an estate in land: to use and enjoy the fruits therein, see *Mateyo v. Mateyo* (1987) TLR 111, 112.

**Usufruct is the right to use, occupation, enjoy the property, utility, advantage accruable without altering the substance, see Tanzanian land policy (above) and village land Act 1999 for customary right to use which means the same thing as usufruct under Land Act 1999 (Tanzanian).*

¹⁷Attorney General of Bendel State V. PLA Aideyan (1989) 4 S.C. 8

¹⁸F. P. Udoudoh

acquisition of land for public interest and compensation was for only occupied land. This was the beginning of the problem regarding compensation for acquisition of empty land in Nigeria before the introduction of the Land Use Act.

- (iii) **The Land Use Act of 1978;** The LUA was introduced to ensure that all Nigerians have easy access to land and to ensure that the rights of all Nigerians to land in Nigeria be asserted and preserved by law¹⁹. The Act, as earlier discussed, provides that the holder/occupier of the right of occupancy which is revoked for overriding public interest shall be entitled to compensation under the following heads of claims;

(a) *Land: For an amount equal to the rent, if any, paid by the occupier during the year in which the right of occupancy was revoked*²⁰;

(b) *Buildings, Installations, and Improvements thereon: The amount of the replacement cost of the building, installation or improvement, that is to say, such cost as may be assessed on the basis of the prescribed method of assessment as determined by the appropriate officer less any depreciation, together with interest at the bank rate for delayed payment of compensation and in respect of any improvement in the nature of reclamation works, being such cost thereof as may be substantiated by documentary evidence and proof to the satisfaction of the appropriate officer as contemplated in Sec 29 (4b);*

(c) *Crop: crops on land, apart from any building, installation or improvement thereon, for an amount equal to the value as prescribed and determined by the appropriate officer.*²¹

Justification of the Overriding Public Interest

In the era of privatization and commercialization of the 1990's, the revocation of Right of Occupancy for re-granting to the multinational corporations and foreign investors to boost economic development, create employment and enhance agricultural industrialization, etc., definitely qualified as being for a public purpose and the overriding public interest. Pursuant to this, the Federal Government of Nigeria (FGN) granted Right of Occupancy of hectares of land to immigrating farmers who were displaced by the Zimbabwean Land Resettlement policy. To mechanize Nigerian agriculture, the Zimbabwean farmers were resettled in Kwara and Nasarawa States of Nigeria wherein their households were granted automatic Nigerian citizenship. The grant of Right of Occupancy to them qualified as a public purpose within the contemplation of the Land Use Act, under the rubric of attracting investors and stimulating industrialization.

Moreso, revocation of Right of Occupancy for the purpose of the expansion of a cattle market of a local Government in Sokoto State was adjudged to satisfy the overriding public purpose contemplated by the Land Use Act²². A public purpose or the public interest in the cited instances is synonymous with the element of public benefit. Public purpose must be connected with the public good, general utility and the overall welfare of the community.

¹⁹ See section 29 (4) (9) of the Land Use Act

²⁰ See section 29 (4)(b) of the LUA, 1998

²¹ Ibid (4)(c)

²² *Sokoto Local Government v. Amale* (2001) 8 NWLR (pt. 714) 224, 229 (CA).

The owner of a Right of Occupancy to land subsequently expropriated for a public purpose is entitled to adequate and prompt payment of compensation²³. The affected owner has a right of access to the appropriate courts or tribunal for determination of his interest in the property and of the amount of compensation²⁴. Ogunba,²⁵ pointed out that a universally accepted principle of compensation is that a person whose land or property is compulsorily acquired should be paid a fair and adequate compensation, as far as money can compensate, so that he will not be better off or worse off after the compensation exercise. Section 29 of the Land Use Act and Section 44 of the Constitution of Federal Republic of Nigeria do not provide for the right to fair and adequate compensation, but for prompt payment of compensation to victims of compulsory acquisition and authorize such property owner, the right to the determination of their interest inherent in the property. That is to say, any compensation computed and paid that is based on the cost instead of the market is inequitable and unjustifiable. The amount payable therefore should be a summation of the current market value of the affected property, depreciated value of the remaining portion of the land caused by severance and injurious affection; and any claim for disturbances, loss of rent, accommodation works and damages during construction²⁶. As market theory of values shows, anything that is in use and has demand has value²⁷. It is therefore indisputable that land (developed or undeveloped) has value, thus fair and adequate compensation should be paid to disposed owners.

- (i) **Oil in Navigable Water Act of 1968**, now cited as Laws of Federal Republic of Nigeria, (LFN), 1999 creates pollution offences with respect to pollution of Nigerian waters through oil discharge²⁸. The Act provides that, where oil is discharged destroying the aquatic environment with negative effects on the socio-economic life of the people, the violators if found guilty are liable to pay adequate compensation²⁹.
- (ii) **The Mineral Act Cap 226 LFN 1990**; Compensation matters are discussed in Part VII, Section 77 of this Act. It states categorically that any person prospecting or mining shall pay the affected land owners fair and reasonable compensation in lieu of disturbances of the surface rights and for any damage done to the surface of the land upon which his prospecting or mining is carried out. The Act also stipulates the payment of compensation to owners of buildings or works damaged, removed or destroyed, and for economic trees and crops destroyed in the course of the mining operations³⁰.
- (iii) **Nigerian Urban and Regional Planning Act No. 88 of 1992**. This Act established in Section 5(a, b, and c), Part IV and Sections 75 to 77 grants the Commission at the Federal level, Board at the State level or Authority at the local level, the power to

²³ See Land Use Act, 1978

²⁴ F. P. Udoudoh and U.S. Udo, "The Land Use Act and Adequacy of Compensation in Uyo, Akwalbom State, Nigeria" (2016) 11 (1). *Journal of Environment Design* pp 77 - 86

²⁵ O.A. Ogunba. *Principles and practice of property valuation in Nigeria*. (Atlantis Books. Ibadan. 2013) p. 23.

²⁶ Ogunba, *Op. Cit*, at p. 251. I. Omar and M. Israel, "Kotaka's Model in Land Acquisition for Infrastructure Provision in Malaysia" (2009) 9 (4). *Annals of the University of Petrosani Economics*, pp. 121 – 134.

²⁷ O. A. Ogunba, *Principles and Practice of Property Valuation in Nigeria*. (Atlantis Books, Ibadan, 2013) p. 23

²⁸ See also L.F.R.N

²⁹ Ibid

³⁰ Ibid

revoke any rights of occupancy within its domain for the purpose of carrying out development in accordance with the policies and proposals of an approved plan and to pay reasonable compensation, in line with the provision of the Land Use Act, to any person who sustains any damage or suffers any loss by reason of his land being affected by injurious affection, disturbance, severance, and displacement as a result of such land being lawfully developed.

- (iv) **National Oil Spill Detection and Response Agency (NOSDRA) Act of 2006:** The Act stipulates that an owner or operator of an oil spill facility shall pay compensation to an oil spill victim for damage caused to the victim, business or property³¹. The Agency has the responsibility of controlling and managing oil spillage in the Niger Delta, and supervising the Oil Companies in their duties to oil bearing communities such as cleaning-up of spills and paying adequate compensation to victims of oil spills for damages caused³².
- (v) **The Petroleum and Drilling Regulations of 1969**, now LFN 1990: It provides that an oil producing company has an obligation to prevent the production of inland waters, rivers, water courses, and the territorial waters of Nigeria from oil or other fluids which might contaminate the water, banks or shorelines or cause harm or destruction to fish, water or marine life and where any such pollution occurs or has occurred, shall take prompt steps to control and if possible³³, end it. Regulation 23 of the Petroleum (Drilling and Production) Regulations of 1996, under Section 8 of the Petroleum Act of 1969 provides that if the licensee and lessee acts in such a manner as unreasonably to interfere with the exercise of any fishing right, he shall pay adequate compensation therefore to any person injured by the exercise of those first-mentioned rights.
- (vi) **Oil Pipeline Act of 1956;** The act provides that

“The holder of a permit to survey, acting under the authority of section 5 of this Act shall take all reasonable steps to avoid unnecessary damage to any land entered upon and any buildings, crops or profitable trees thereon, shall make compensation to the owners or occupiers for any damage done under such authority and not made good.”³⁴

“The holder of a license shall pay compensation “to any person whose land or interest in land (whether or not it is land in respect of which the license has been granted) is injuriously affected by the exercise of the rights conferred by the license, for any such injurious affection not otherwise made good.”³⁵

“If a claim is made under subsection (3) of section 6 of this Act, the court shall award such compensation as it considers just in respect of any damage done to any buildings, crops or profitable trees by the holder of the permit in the exercise of his rights therein, and in addition, may award such sum in respect of disturbance (if any) as it may consider Just. Where a claim is

³¹ See Part III, Section 26 (1) and (3) of NOSDRA

³² Ibid

³³ See also L.F.R.N 1990, PDR

³⁴ Section 6 (3) of the Act

³⁵ Section 11 (5) (a) of the Act

made under subsection (5) of section 11, the court shall award such compensation as it considers just having regard to –“any damage done to any buildings, crops or profitable trees by the holder of the license in the exercise of the rights conferred by the license”³⁶. It is an established fact that Compensation under the Act was largely adjudged as being fair and adequate.

Evaluation of the Compulsory Acquisition of Land and Compensation under the LUA

A careful analysis of the acquisition of land for public purposes and appraisal of the principles enunciated prior to 1978, demonstrate that the Land Use Act 1978 is unfair to holders of undeveloped lands, as to compensation in the event of revocation of Right of Occupancy under Section 29. Again, the criteria for assessment of compensation are grossly inadequate. The criteria provide that the valuation must be based on the amount of yearly rent paid by the occupier, the replacement costs of building installations or reclamation works etc, less any depreciation, and the value of the crops or economically productive trees on the land. This means that the owners of undeveloped plots or without any crops or economically productive trees planted are excluded from receiving compensation³⁷. The value of the crops, economically productive trees, and buildings alone without some compensation for the site’s intrinsic value may not represent the actual value of the land, which, speculation aside, does appreciate over a given period.³⁸

The value placed on land by Section 29 of the Land Use Act can hardly be considered adequate in this respect. It cannot be denied that every land possesses some intrinsic and some prospective use value: e.g., as fertile agricultural land, as building/residential/ commercial use, as industrial or storage use and site value either presently or in future. These ought to be adequately compensated in the interest of fairness, equity and justice, as intention of the drafters of the Land Use Act was not to deprive or disposses owners of unimproved land – their source of livelihood or subsistence. The exclusion of site value and the assessment of compensation for compulsory acquisition based entirely on unexhausted improvement without considering the value of the land itself, on which the improvements stand, is alien to our native law, at least prior to 1978.

Also, in *Lewis v. Colonial Secretary*³⁹, the issue for determination was the compensation payable for unoccupied and yet utilized land. The court was prepared to award compensation if the beneficial user of the land had been proved. The most fatal piece of evidence was that the land was barren and failure of the claimant to prove any specific benefit or advantage derived from the land. So the court held that, “since the Right of Occupancy embraces the right to use, farm, subsist and exploit the land, therefore any deprivation of these rights/utilities without payment of compensation principally because of lack of physical improvements thereon would be unfair”.

In *Commissioner of Lands v. Adeleye*⁴⁰, the court based compensation both on the value of the land itself (site value) and the building erected thereon. Arguably, since the Right of Occupancy embraces the right to use, farm, subsist and exploit the land, therefore any deprivation of these rights/utilities without payment of compensation principally because of lack of physical

³⁶ Section 20 (1) and (2) (a) of the Act

³⁷ These criteria are enumerated under Section 29 (4) (a) (b) (c) of LUA, 1978

³⁸ Land appreciates as the most valuable asset, see *Chairman Lagos State Development & Property Corporation(LSDPC) v. Ottun* (1973) 3 CCHCJ 255 at 256 per Bakare J.

³⁹ (1881 - [1911](#)) [1 NLR 11](#), 14.

⁴⁰ [\(1938\) 14 NLR 109](#).

improvements thereon would be unfair. Logically, assessment of compensation under the criteria laid down by section 29 Land Use Act of 1978 appears grossly inadequate and needs drastic overhauling in order to sufficiently recognize and compensate for the loss of the above undisputed current utility and future interests derived from or placed on the land for which Right of Occupancy has been revoked.

Again, in *Zango v. Governor Kaduna State* 41, the Supreme Court held that ‘compensation in the sense in which it is used in the Land Use Act covers remuneration or satisfaction of injury or damage of every description. Logically, compensation can hardly be adequate and just unless all the losses sustained by the holder of the Right of Occupancy on its revocation:- deprivation of the present and prospective utility of the land as to its agricultural, building, commercial, residential, or industrial uses are completely made good to him or her, in the form of receiving a payment equivalent to the pecuniary detriment or compulsory sacrifice⁴¹. The use of this basis in the estimation of compensation had received recognition in our law. Thus, in *Nzekwu v. Attorney-General East Central State*⁴², the supreme court held that in the assessment or estimation of compensation in land compulsorily acquired, both the open market value of the land and the value of the houses erected thereon are valid criteria for the award, plus capitalization of twenty-one years’ purchase. The Law Lords took into account leases granted both on the land and the adjoining lands, rents payable and, despite the fact that there was no reliable evidence as regards to the price paid in the neighbourhood in the past for land of similar quality and in similar position, reliance was additionally placed on the rent-value of comparable properties to set the value of compensation.

Conclusion

A review of the various laws on compensation showed that provisions were made only for “used goods”. The Nigerian Constitution, Public Lands Acquisition Act, The Land Use Act, Oil in Navigable Water Act, The Mineral Act, Nigerian Urban and Regional Planning Act, National Oil Spill Detection and Response Agency, The Petroleum (Drilling and Petroleum) Regulations, and the Oil Pipeline Act, variously made provisions for assessment and payment of compensation on land, buildings and crops. None of these laws made provision for compensation on a: “non - use goods” which constitute a large proportion of resources. It could be seen that compensation is limited to surface rights accessed by prescribed method of assessment which is determined by the appropriate officer less any depreciation, together with interest at the bank rate for delayed payment of compensation and in respect of any improvement in the nature of reclamation works, as may be substantiated by documentary evidence and proof to the satisfaction of the appropriate officer. This negates the general principle of land law that whatever that is affixed to the soil belongs to it (*quid quid plantatur solo solo cedit*) as here government owns land and individual owns attachments. From the above analysis, it could as well be deduced from decisions of courts that fairness, economic considerations, as regards vacant or undeveloped plots ought to be compensated in the event of the revocation of their Right to Occupancy, in spite of lack of improvements thereon, as the value of the crops, economically productive trees, and buildings alone without some compensation for the site’s intrinsic value may not represent the actual value of the land, which, does appreciate over a given period. This statute is not in line with the provisions of the 1999 constitution.

⁴¹*Horn v. Sunderland Corporation* (1941) 2 KB 26, 40 (per Scott L.J).

⁴²(1972) 2 ECCLR (Pt. 1) 323 at 332-3; (1973) 3 UILR 397; (1972) 1 All NLR (Pt. 2) 106; (1975) 5 SC 224, 342-3.

Recommendations

Based on the exposition, the researcher submits that logically, the assessment of compensation under the criteria laid down by section 29 of the Land Use Act, 1978 appears grossly inadequate and needs drastic overhauling in order to sufficiently recognize and compensate for the loss of the above undisputed current utility and future interests derived from or placed on the land for which Right to Occupancy has been revoked. This article is of the opinion that, purposes for compulsory acquisition should be justified in its true sense as public interest. It should be for the good of the public and not the few. To find out the amount to be compensated, the appropriate officer should take into consideration, the cost of the long term economic welfare of the affected persons. Moreover, as noted by some scholars, compensation should represent the existing value of the affected items. It should be a summation of three major items, namely: market value of the affected property, the calculated depreciated value of any remaining land caused by severance and injurious affection, and any claim for disturbance, loss of rent, accommodation works and damage incurred during construction.