

## A LEGAL X-RAY OF COMPULSORY ACQUISITION OF LAND AND TENANCY INTERESTS IN NIGERIA

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### Abstract

*The position of the law as regards compulsory acquisition of land as contained in section 28 of the Land Use Act 1978 (LUA) and section 44 of the Constitution of the Federal Republic of Nigeria 1999 (CFRN) is clear and straightforward. However, the legal framework remains incomplete and unjust where it fails to reckon with tenancy interests. This paper examined compulsory acquisition of land and tenancy relationship in Nigeria, exposing the legal, procedural and institutional gaps that render tenants legally invisible and economically vulnerable. While the LUA vests land in the governor for the benefit of Nigerians and permits revocation for overriding public interest, its silence on tenancy-specific safeguards permits widespread dispossession without redress. Tenants, although often in de facto possession, are left unprotected when land is acquired. Their rights, expectations and economic stakes are extinguished without notice, consultation or compensation. This paper identified this exclusion as a critical fault line in the architecture of Nigeria's land acquisition law. The paper discussed how compulsory acquisition distorts tenancy relationships and undermines both contractual stability and social protection. It critiqued the LUA's compensation framework, which focuses narrowly on statutory right holders and improvements to land, and excludes lawful tenants unless they can prove investment in permanent structures. Tenants' loss of lawful possession, livelihood or housing security is rarely compensated. The paper therefore argued that this regime contradicts the principles of justice and legality underlying the right to property under section 43 of the CFRN and fails to meet international standards of equitable expropriation.*

**Keywords:** *Compulsory Acquisition, Tenancy Interest, Compensation, Land Use Act 1978, Landlord-Tenant Relationship*

### 1.0 Introduction

The Land Use Act (LUA) 1978 vests all land within a state in the governor of that state for the benefit of Nigerians.<sup>1</sup> By this provision, the LUA further complicates the dynamics of land ownership and tenancy. Under this LUA, the governor holds land in trust for the people and has the authority to revoke rights of occupancy for overriding public interest.<sup>2</sup> This power, while ostensibly aimed at promoting public welfare, has been frequently criticised for its potential for abuse, particularly in cases where land is acquired for purposes that do not genuinely serve the public good. For instance, in *Olatunji v. Military Governor of Oyo State*,<sup>3</sup> the court emphasised that the acquiring authority must clearly state the public purpose for which land is being acquired, and failure to do so renders the acquisition invalid. This judicial stance highlights the tension between the government's need for land for development and the

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<sup>1</sup> Land Use Act 1978 Cap L1 LFN 2004, s1.

<sup>2</sup> *Ibid.*, ss1 and 28.

<sup>3</sup> (1994) LPELR-14116.

protection of individual property rights, including those of tenants who may be indirectly affected by such acquisitions.

Tenancy relationships in Nigeria are governed by several laws, which vary across states. The Lagos State Tenancy Law 2011 and the Rivers State Landlord and Tenant Law 1988, for example, provide frameworks for regulating tenancy agreements, including the rights and obligations of landlords and tenants. However, these laws often fail to address the specific challenges arising from compulsory land acquisition. When land is acquired by the government, tenants are frequently left in a precarious position, as their leases or tenancy agreements may be abruptly terminated without adequate notice or compensation.<sup>4</sup> This disruption not only affects their right to lawful occupation but also undermines their economic stability, particularly in urban areas where rental properties are a significant source of housing.<sup>5</sup>

## 2.0 Ownership of Land in Nigeria

The legal framework governing land ownership in Nigeria was fundamentally and irrevocably altered by the promulgation of the LUA.<sup>6</sup> Prior to this, land tenure was predominantly governed by customary law, under which individuals, families, and communities could hold absolute, allodial title to land.<sup>7</sup> This system, particularly in Southern Nigeria, recognised the capacity of the landholding entity to exercise all incidents of ownership without restriction, subject only to the customs of the community. However, the LUA dismantled this structure with a single, sweeping provision. Section 1 of the LUA vests all land comprised in the territory of each state in the Governor of that state, to be held in trust and administered for the use and common benefit of all Nigerians.

This nationalisation of land effectively converted absolute ownership into a state-granted right of occupancy. Consequently, no individual or entity in Nigeria can claim absolute ownership of land; they can only hold an interest granted by the state, which is essentially a leasehold. This right of occupancy is typically granted for a specified term, commonly 99 years for residential purposes, and is evidenced by a Certificate of Occupancy (C of O). The state, therefore, assumes the position of the ultimate landlord, to whom all occupiers are, in effect, tenants. The nature of the Certificate of Occupancy further underscores the precariousness of this state-granted interest. Courts have consistently held that a C of O does not confer absolute title upon the holder.<sup>8</sup> Rather, it serves as *prima facie* evidence of a right to occupy the land, a presumption that can be rebutted by a claimant with a superior or pre-existing title. In *Olohunde & Anor v Adeyoju*,<sup>9</sup> the court affirmed that a C of O cannot be said to be conclusive evidence of any right, interest or valid title to land in favour of the grantee.<sup>10</sup> This judicial interpretation

<sup>4</sup> J M Lindsay, 'Compulsory Acquisition of Land and Compensation in Infrastructure Projects' [2012](1)(3) *PPP Insights*;1-10.

<sup>5</sup> *Ibid.*

<sup>6</sup> LUA 1978, s 1.

<sup>7</sup> L Katz, 'The Concept of Ownership and the Relativity of Title' [2011](2)(1) *Jurisprudence*;191-203.

<sup>8</sup> *Atanda v Iliasu* (2013) All FWLR (Pt. 681) 1469 SC; *Otukpo v John* (2013) All FWLR (Pt. 661) 1509; *Auta v Ibe* (2003) FWLR (Pt. 173) 87

<sup>9</sup> (2000) 79 LRCN 2297 at 2328.

<sup>10</sup> *Ibid.*

confirms that the C of O is not a document of title in the common law sense but a testament to a statutory privilege to occupy, which can be challenged and invalidated.<sup>11</sup>

This legal structure creates a two-tiered tenancy system that is foundational to the problem this paper addresses. The first tier consists of the 'landlord' being the individual or entity holding a C of O who is, in legal reality, a statutory tenant of the state. The second tier is the conventional 'tenant,' who enters into a tenancy agreement with the C of O holder. This makes the conventional tenant a sub-tenant in the grand scheme of landholding under the LUA. In property law, a fundamental principle is the absence of privity of contract or privity of estate between a head-landlord (the state) and a sub-tenant.<sup>12</sup> The sub-tenant's rights are entirely derivative of the primary lease (the right of occupancy). This structural arrangement has profound implications. When the state, as the head-landlord, exercises its power to terminate the primary lease through compulsory acquisition,<sup>13</sup> it has no inherent common law or statutory obligation to engage with, notify, or compensate the sub-tenant, whose legal interest is automatically extinguished along with the primary right of occupancy from which it was carved. This legal invisibility is the root cause of the tenant's vulnerability in the compulsory acquisition process.

### **3.0 Tenancy as an Incident of Land Ownership in Nigeria**

Despite the overarching structure of the LUA, the creation of a tenancy by a holder of a right of occupancy remains a critical incident of land ownership in Nigeria. A tenancy agreement is not merely a personal contract (*in personam*) but creates a proprietary interest in land (*in rem*) for the tenant. This is the crucial distinction between a tenancy and a license. A license is a mere personal permission to be on land, which creates no interest and can typically be revoked at will, whereas a tenancy grants the tenant an estate in the land, defined by the right to exclusive possession.<sup>14</sup>

The essential elements of a valid tenancy are well-established in Nigerian law: certainty of parties, certainty of the demised property, certainty of term (duration), and, most importantly, the grant of exclusive possession to the tenant.<sup>15</sup> Once these elements are present, the tenant acquires a legal interest that is enforceable against the whole world, including the landlord.<sup>16</sup> During the term of the tenancy, the right to possess the property belongs exclusively to the tenant, while the landlord retains only a 'reversionary interest' which is the right to regain possession after the tenancy expires. This right of exclusive possession empowers the tenant to maintain an action for trespass against anyone who interferes with their possession, including the landlord.<sup>17</sup>

<sup>11</sup> *Oniyale v Macaulay* (2009) 7 NWLR (PT 1141) 597.

<sup>12</sup> *Tulk vs. Moxhay* (1848) 2 Ch. 774; M P Pearson, 'Covenant Running with the Land' <[https://www.jw.com/wp-content/uploads/2018/09/Pearson\\_CRWTL-Paper.pdf](https://www.jw.com/wp-content/uploads/2018/09/Pearson_CRWTL-Paper.pdf)> accessed 15 July 2025.

<sup>13</sup> CFRN 1999 (as amended), s 44.

<sup>14</sup> P E Fisch and S Gogliormella, 'Differences Between Leases and Licenses of Real Property' <[https://www.paulweiss.com/media/3984826/differences\\_between\\_leases\\_and\\_licenses\\_of\\_real\\_property.pdf](https://www.paulweiss.com/media/3984826/differences_between_leases_and_licenses_of_real_property.pdf)> accessed 15 February 2025.

<sup>15</sup> *Odutola v. Papersack (Nig.) Ltd.* (2006) 18 NWLR (Pt. 1012) 470

<sup>16</sup> *Ibid.*

<sup>17</sup> U Felix and I Cyprian, 'Eviction of Tenant as Practice in Property Management in Ilorin Metropolis, Nigeria' [2014](1)(1) *African Journal of Estate and Property Management*;1-7.

The recognises various forms of tenancy, from periodic tenancies (weekly, monthly, yearly) to fixed-term tenancies and customary tenancies. A customary tenancy, in particular, grants a right of occupation in perpetuity, subject only to the tenant's good behaviour and recognition of the overlord's title.<sup>18</sup> Regardless of its form, every lawful tenancy confers a possessory right that constitutes a recognised legal interest in the demised property.<sup>19</sup> The characterisation of tenancy as a proprietary interest is key to unlocking tenants' rights within the context of compulsory acquisition. Section 44(1) of the CFRN 1999 provides a protective shield against the compulsory acquisition of property. It states that no moveable property or any interest in an immovable property shall be taken possession of compulsorily except in the manner and for the purposes prescribed by a law that requires the prompt payment of compensation.<sup>20</sup> Since a tenancy grants an estate in land, it unequivocally qualifies as an 'interest in an immovable property' within the meaning of this constitutional provision.

It follows, therefore, that when the state's action of compulsory acquisition extinguishes a valid tenancy, it is not merely frustrating a contract; it is expropriating a constitutionally protected property right.<sup>21</sup> The logical and constitutional consequence of this expropriation is that the state is obligated to provide prompt and adequate compensation directly to the tenant for the loss of that interest.<sup>22</sup> The failure of the LUA to expressly provide for this is a significant legislative omission that places it in direct conflict with the spirit, if not the letter, of the Constitution.

#### **4.0 Governor's Power to Compulsorily Acquire Land**

The primary legal instrument empowering the state to compulsorily acquire land is section 28 of the LUA, which grants the Governor the authority to revoke a right of occupancy for overriding public interest. The definition of 'overriding public interest' is broad, encompassing the requirement of the land for public purposes by federal, state, or local government, as well as for mining or oil pipeline purposes.<sup>23</sup> This extensive power is the legal mechanism through which the state can dispossess landholders, and by extension, their tenants. However, this power, while formidable, is not absolute.<sup>24</sup> The courts have, over the years, developed a body of case law that circumscribes the Governor's discretion, insisting that the stated public purpose must be genuine and not a colourable device to dispossess one citizen for the benefit of another. In the case of *Olatunji v. Military Governor of Oyo State*,<sup>25</sup> the court held that the acquiring authority must clearly state the specific public purpose for the acquisition in the notice of revocation, and a failure to do so renders the acquisition invalid. This principle prevents the government from using vague or generic justifications for expropriation.

<sup>18</sup> *Ochenna v Unosi* (1965) 1 All N.L.R 321.

<sup>19</sup> S O Okafor, and C E Aduaka, 'Customary Tenancy under the Nigerian Legal System' [2019](7)(3) *International Journal of Business and Law Research*;91-104.

<sup>20</sup> CFRN 1999 (as amended), s 44.

<sup>21</sup> MojolaOluwa's Blog, 'The Impact of the Land Use Act on Lease in Nigeria' <<https://omlivingstones.wordpress.com/2017/05/16/the-impact-of-the-land-use-act-on-leases-in-nigeria/>> accessed 15 July 2025.

<sup>22</sup> CFRN 1999 (as amended), s 44.

<sup>23</sup> Petroleum Industry Act 2021, s 1; Nigerian Mineral and Mining Act 2007, s 1.

<sup>24</sup> A K Otubu, 'Private Property Rights and Compulsory Acquisition Process in Nigeria: The Past, Present and Future' [2012](8)(3) *Acta Universitatis Danubius. Juridica*;25-42.

<sup>25</sup> (1994) LPELR-14116.

Furthermore, the courts have nullified acquisitions where the land, though acquired for a stated public purpose, was subsequently diverted to private use. In *Ibrahim v Mohammed*,<sup>26</sup> the Supreme Court held that the revocation of a right of occupancy for public purpose or in the public interest does not include the revocation of the right of a grantee for the purpose of vesting it in another. This position of the law serves as a crucial check on executive power, ensuring that the coercive machinery of the state is not deployed for private enrichment under the guise of public good.

There is a clear nexus between the abuse of the public purpose doctrine and the heightened vulnerability of tenants. Acquisitions driven by genuine public interest, such as the construction of a public school or hospital, are more likely to be subjected to public scrutiny, budgetary planning and established protocols, which may include some consideration for displaced persons. Conversely, acquisitions made under a flimsy pretext of public purpose but actually intended for speculative private developments, such as luxury housing estates, are driven by a profit motive that incentivises the minimisation of all costs, chief among them being compensation. In such scenarios, tenants, being politically weak and legally marginalised, are the most convenient group to displace without process or payment. Therefore, a legal challenge to the legitimacy of the public purpose is not merely a remedy for the landowner; it represents a critical first line of defence for tenants, as it attacks the very foundation of an acquisition that is predisposed to disregard their existence.

## **5.0 Procedure for Lawful Compulsory Land Acquisition**

The lawfulness of any compulsory acquisition is not merely a matter of purpose but is strictly contingent upon adherence to the statutory procedure laid down in the LUA.<sup>27</sup> Judicial precedent has firmly established that where the government fails to comply with the prescribed procedure, the acquisition is void *ab initio*. The Supreme Court in *Goldmark (Nig.) Ltd. v. Ibafon Co. Ltd.*<sup>28</sup> emphasised this principle, stating: ‘Where government disobeys its own statute by not complying with the laid down procedure for acquisition of property, it is the duty of the courts to intervene between the government and the private citizen.’<sup>29</sup> The procedural requirements for a valid acquisition are clear and sequential: a legitimate public purpose must be identified; a notice of revocation must be issued; the notice must be properly served on the affected party; and prompt and adequate compensation must be paid. The most critical and contentious of these steps, particularly concerning tenants, is the service of the notice of revocation. The LUA mandates that the revocation shall be signified under the hand of a public officer duly authorized by the Governor and notice thereof shall be given to the holder.<sup>30</sup> The courts have interpreted this to mean that personal service of the notice is a condition precedent to a valid revocation. As held in *Ononuju v AG Anambra State*,<sup>31</sup> publication of the notice in a government gazette is insufficient; there must be proof of personal service on the holder of the right of occupancy.

<sup>26</sup> (2003) 6 NWLR (Pt. 817) 615; *Orianzi v A.G. Rivers State* (2017) 2 S.C. (Pt. 1) 104.

<sup>27</sup> *Olateju v. Comm., L.&H., Kwara State* (2024) 17 NWLR (Pt. 1968) 473; *Messrs Singoz & Co. (Nig.) Ltd. v. U.M. Co. Ltd.* (2022) 18 NWLR (Pt. 1862) 203.

<sup>28</sup> (2012) 10 NWLR (Pt. 1308).

<sup>29</sup> *Ibid.*

<sup>30</sup> LUA, s 28(6).

<sup>31</sup> (2009) 10 NWLR (Pt. 1148) 182.



This is where a critical ambiguity in the Act creates a loophole that is systematically used to exclude tenants. While section 28 refers to service on the ‘holder,’ section 44 of the LUA, which details the modes of service, refers to serving notice on a holder or occupier.<sup>32</sup> This suggests a legislative intent to notify anyone in lawful occupation of the land. However, in practice, acquiring authorities almost invariably serve notice only on the ‘holder’ of the C of O, completely ignoring the tenants who are the actual ‘occupiers’ of the property. This failure to serve notice on a tenant is not a mere procedural technicality; it is a profound denial of natural justice. The principle of *audi alteram partem* (let the other side be heard) is a cornerstone of administrative law and constitutional rights.

A notice of revocation is the legal instrument that triggers an affected person's right to respond. Upon receiving notice, a person can seek legal advice, challenge the basis of the acquisition, prepare to mitigate losses, and file a claim for compensation. By not serving notice on tenants, the state denies them this fundamental opportunity to be heard. They are often first made aware of the acquisition when bulldozers arrive at their doorstep, leaving them with no time to salvage property, find alternative accommodation, or seek legal redress. This practice effectively renders tenants legally voiceless and physically defenceless against the power of the state. An acquisition conducted in this manner is not just procedurally flawed; it is fundamentally unjust and arguably unconstitutional.

## **6.0 Impacts of Compulsory Acquisition of Land on Tenancy Relationship in Nigeria**

The legal and procedural deficiencies in Nigeria's compulsory acquisition framework translate directly into severe, multi-dimensional, and largely uncompensated harm for tenants. The impacts range from the immediate legal termination of their possessory rights to devastating and long-lasting socio-economic consequences. The revocation of the landlord's right of occupancy acts as a supervening event that frustrates and terminates the tenancy agreement. The doctrine of frustration applies where an unforeseen event makes the performance of a contract impossible. In this context, the state's action extinguishes the subject matter of the tenancy (which is the landlord's title) making it impossible for the landlord to continue granting possession to the tenant. This unilateral termination leaves the tenant with no contractual remedy against the landlord, who is equally a victim of the state's exercise of power. The tenant's proprietary interest, which is a constitutionally protected right, is thus extinguished without their consent, without notice, and without any of the due process safeguards that ought to accompany such an expropriation.

Compulsory acquisition also has socio-economic impacts as it causes displacement, impoverishment, and dislocation. The practical consequences of this legal vacuum are catastrophic for tenants. Reports from organisations like Amnesty International and numerous academic studies paint a grim picture of the reality of development-induced evictions in Nigeria.<sup>33</sup> First, compulsory acquisition invariably leads to homelessness and displacement. Tenants, often from low-income backgrounds, are forcibly evicted

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<sup>32</sup> LUA 1978, ss 28 and 44.

<sup>33</sup> Amnesty International, 'The Human Cost of Megacity: Forced Evictions of the Urban Poor in Lagos, Nigeria; (Amnesty International 2017).

without alternative housing or resettlement assistance.<sup>34</sup> Many are forced into precarious living conditions, sleeping in the open, in canoes, or under bridges, which exposes them to health risks and violence.

Second, it results in a profound loss of livelihood. For business tenants, the demolition of their shops, workshops or market stalls means the complete destruction of their enterprise, including the loss of stock, equipment, and customer goodwill. For residential tenants, displacement from their homes often means losing proximity to their places of work, leading to increased transportation costs that make their jobs untenable, or outright job loss. Studies on evictions in Lagos, for instance, show that the majority of displaced artisans and traders lose at least two-thirds of their income, pushing their families deeper into poverty.<sup>35</sup> Third, forced evictions cause severe disruption of social networks and access to essential services. Communities are dismantled, severing the social ties that provide crucial support systems for the urban poor.<sup>36</sup> Children's education is abruptly terminated as schools are demolished or become inaccessible after relocation.<sup>37</sup> Access to healthcare facilities, clean water, and sanitation is also lost, with disproportionately severe impacts on women, children, and the elderly.

Section 29 of the LUA is the primary legal provision that formalises the exclusion and impoverishment of tenants. The section provides that where a right of occupancy is revoked for overriding public interest, the holder and the occupier shall be entitled to compensation for the value at the date of revocation of their unexhausted improvements.<sup>38</sup> For the land itself, compensation is limited to an amount equal to the rent, if any, paid by the occupier during the year in which the right of occupancy was revoked. This compensation model is fundamentally misaligned with the nature of a tenant's loss. It is designed to compensate for capital investment in physical assets (buildings, installations), not for the loss of the right of possession and the economic activity that this right facilitates. A tenant's most valuable asset is not a building they own, but their legal right to occupy a specific location to live or conduct business. The LUA's framework completely ignores the primary heads of loss for a tenant, which are:

1. Loss of the value of the unexpired term of the tenancy.
2. Disturbance costs, including the expenses of finding and moving to a new property.
3. Relocation costs, such as adapting new premises for business use.
4. Loss of business profits and goodwill for commercial tenants.

The only potential gateway for tenant compensation under the LUA is the inclusion of the term 'occupier.' Section 29(1) of the LUA states that the 'holder and the occupier' are entitled to

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<sup>34</sup> *Ibid.*

<sup>35</sup> E R Makupa and S S Alananga, 'Implications of Compulsory Land Acquisition on Socio-Economic Conditions of Project Affected People The Case of Kipawa Airport Expansion Project in Dar es Salaam City, Tanzania' [2020](3)(3) *African Journal on Land Policy and Geospatial Sciences*;82-96.

<sup>36</sup> Amnesty International, 'Nigeria: Making the destitute homeless – forced evictions in Makoko, Lagos State' <<https://www.amnesty.org/es/wp-content/uploads/2021/08/afr440012006en.pdf>> accessed 19 July 2025.

<sup>37</sup> *Ibid.*

<sup>38</sup> LUA, s 29.

compensation, and gleaned from the provision of section 29(3) of the LUA, it can be argued that where the occupier and holder are different persons, compensation should be paid according to their respective interests.<sup>39</sup> This arguably suggests a legislative recognition that non-holders in occupation may have a compensable interest. Indeed, in the case of customary tenancies, the Supreme Court in *Aghenghen v Waghoreghor*<sup>40</sup> affirmed the principle of apportionment, awarding two-thirds of the compensation to the customary tenants and one-third to the overlords, recognising that the tenants stood to lose more from the surrender of their possessory title.<sup>41</sup>

However, this progressive judicial interpretation in the context of customary law stands in stark contrast to the general application of the LUA to statutory tenancies, where the term ‘occupier’ is often ignored or interpreted narrowly. The LUA provides no clear yardstick for apportioning compensation and is silent on the specific heads of loss relevant to tenants. This ambiguity allows acquiring authorities to default to a position of non-compensation for tenants, arguing that their interest is not a compensable ‘unexhausted improvement.’ This is not merely a case of inadequate compensation; it is a legislatively sanctioned confiscation of the tenant's economic and social interests, which directly fuels the cycle of poverty and displacement.

## **7.0 Judicial Remedies for Unlawful Compulsory Acquisition of Land**

In principle, a person whose land has been unlawfully acquired by the government has recourse to the courts for several remedies. These include a declaration from the court that the revocation of the right of occupancy is null, void, and of no effect; an order of injunction to restrain the government and its agents from committing further acts of trespass; and an award of damages for any trespass already committed. These remedies are designed to vindicate property rights and hold the executive accountable to the rule of law. However, for tenants, accessing these remedies is fraught with a near-insurmountable procedural obstacle: the doctrine of *locus standi*, or the legal right to bring an action in court.<sup>42</sup> The traditional position in Nigerian law is that for a plaintiff to have *locus standi*, they must demonstrate that they have a sufficient legal interest in the subject matter of the suit and that their civil rights and obligations have been, or are in danger of being, infringed.<sup>43</sup> In the context of compulsory acquisition, the courts have often interpreted this legal interest narrowly, confining it to the person who holds the legal title or right of occupancy (the landlord).

This restrictive interpretation creates a paradox of justice. The tenant is the party in physical possession of the property. They are the one who directly suffers the act of dispossession and eviction. Yet, because they do not hold the C of O, they are often deemed to lack the necessary *locus* to challenge the legality of the government's action that leads to their eviction. The primary legal act is the revocation of the

<sup>39</sup> LUA, s 29(1) and 29(3).

<sup>40</sup> (1974) 9 NSCC 1024

<sup>41</sup> M T Otu, 'The Status of the Customary Tenant In Relation To Land Held by Him under Customary Law: The Dilemma for the Conveyancers in Nigeria' [2023](3)(1) *Indonesian Journal of Social Studies and Humanities*;19-36.

<sup>42</sup> *Nworka v. Ononeze-Madu* (2019) 7 NWLR (Pt. 1672) 422; *Akande v. Jegede* (2022) 14 NWLR (Pt. 1849) 125; *Adekunle v. Adelugba* (2011) 16 NWLR (Pt. 1272) 154.

<sup>43</sup> *Adesanya v. President, Federal Republic of Nigeria and Anor* (1981) NGSC 3.



landlord's title, and thus the landlord is seen as the proper party to sue. This leaves the tenant in a legal quandary. Their tenancy has been unlawfully terminated by the state, but they cannot sue the state for lack of standing. Their remedies under general tenancy law, such as suing the landlord for breach of the covenant for quiet enjoyment, are rendered futile because the landlord's title has been extinguished by a superior force, absolving them of liability.

This procedural barrier effectively shields unlawful government action from judicial review by its most vulnerable victims. It means that a tenant can be forcibly and illegally evicted, in contravention of the principles of natural justice and their constitutional right to property, but the courthouse doors remain closed to them. This situation represents a clear violation of the right of access to the courts, a fundamental right guaranteed under Section 6(6)(b) of the CFRN. A more liberal and purposive judicial approach is urgently needed and have been so emphasised by the court in a plethora of cases.<sup>44</sup> However, this approach should be further extended to recognise that a tenant's lawful possession is a significant and sufficient legal interest to ground their standing to challenge the lawfulness of the very act that seeks to dispossess them.

## 8.0 Comparative Analyses

An examination of foreign jurisdictions reveals that the exclusion of tenants from the protections of compulsory acquisition law is not a universal norm. On the contrary, advanced legal systems in both common law and other traditions have developed robust frameworks to protect the rights of tenants. The models in the United Kingdom and India are particularly instructive, offering clear precedents for reform in Nigeria.

### 1. United Kingdom

The UK's approach to compulsory purchase is grounded in the principle of equivalence. Under this principle, the claimant should be left in no worse a financial position after the acquisition than they were before.<sup>45</sup> This principle is applied to all persons with a legal interest in the land, including tenants. The legal framework, principally the Land Compensation Act 1961 and the Planning and Compulsory Purchase Act 2004, provides a comprehensive and granular system for compensating tenants for their specific losses.

Key entitlements for tenants under.<sup>46</sup> First entitlement is compensation for the value of the lease. The law in this jurisdiction recognises that a tenant's leasehold interest can carry a measurable market value distinct from the freehold. Where the contractual rent payable under the lease is below prevailing market rent, or where the lease contains favourable terms such as renewal rights, the leasehold is treated as a

<sup>44</sup> *Fawehinmi v. President, F.R.N.* (2007) 14 NWLR (Pt. 1054) 275; *Fawehinmi v. Akilu* (1987) 4 NWLR (Pt.67) 797; *Williams v. Dawodu* (1988) 4 NWLR (Pt.87) 189; *S.P.D.C. Ltd. v. Nwaka* (2001) 10 NWLR (Pt.720) 64

<sup>45</sup> UK Gov, 'Compulsory Purchase Process and Compensation Reforms' <<https://www.gov.uk/government/consultations/compulsory-purchase-process-and-compensation-reforms/compulsory-purchase-process-and-compensation-reforms>> accessed 20 July 2025.

<sup>46</sup> RogerHannah, 'Compulsory Purchase & Business' <<https://roger-hannah.co.uk/our-services/compulsory-purchase-and-business/>> accessed 20 July 2025.

compensable asset. Under the Land Compensation Act 1961, valuation follows the principle of equivalence, which requires that the tenant be restored to the same financial position as if the acquisition had not occurred. Compensation is calculated by reference to the market value of the leasehold, considering factors such as unexpired term, rent review provisions and assignability. Expert valuation evidence is generally required, and disputes over quantum are adjudicated by the Upper Tribunal (Lands Chamber). The aim is to ensure that the tenant is paid the amount a willing purchaser would pay for the lease on the open market, disregarding the impact of the compulsory acquisition itself.

In *Harvey v Crawley Development Corporation*,<sup>47</sup> the court accepted that the value of the tenant's unexpired term was compensable even where the premises were to be demolished. By this decision, the extinguishment of the leasehold by operation of law does not negate its compensable status. The measure of compensation is therefore tied to market conditions and lease terms as at the valuation date, excluding any reduction attributable to the proposed scheme of acquisition.

The second entitlement is disturbance payment. This payment compensates for actual, reasonable expenses incurred by a tenant because of displacement.<sup>48</sup> Under section 37 of the Land Compensation Act 1973, these include removal costs, legal and surveyor's fees for securing new premises, and costs of adapting fittings or equipment. The underlying principle is restitution, restoring the claimant to their prior position by reimbursing unavoidable costs directly caused by the acquisition. The scope is broad, extending to costs of redirecting services, notifying customers or suppliers, and reinstating fixtures at the new premises. Claims must be evidenced with receipts or reasonable estimates, and the expenses must be necessary, not extravagant. For business tenants, disturbance covers operational disruption. There is a distinction between costs arising from permanent closure and those from relocation.<sup>49</sup> Where relocation is possible, the tenant may claim for temporary losses, including double rent during the transition, staff retraining, and professional fees for planning and design of the new premises.<sup>50</sup> In the case of *Horn v Sunderland Corporation*,<sup>51</sup> disturbance was construed to include all loss reasonably attributable to compulsory acquisition, provided it was not too remote. This expansive view ensures the remedy remains responsive to diverse tenancy situations, aligning with the principle of equivalence.

The Home Loss Payments (Prescribed Amounts) (England) Regulations 2020 prescribe a statutory flat-rate payment to qualifying residential tenants. To qualify, the tenant must have occupied the dwelling as their only or main residence for at least one year before displacement. Unlike disturbance payment, loss of home payment recognises the non-financial harm of losing one's home, including emotional distress and disruption to family life. The amount is fixed by regulation and periodically updated to reflect inflation.<sup>52</sup> It is payable in addition to any other compensation and does not depend on proof of

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<sup>47</sup> (1957) 1 QB 485.

<sup>48</sup> UK Land Compensation Act 1973, s 37.

<sup>49</sup> *Ibid.*

<sup>50</sup> *Ibid.*

<sup>51</sup> (1941) 2 KB 26,

<sup>52</sup> Home Loss Payments (Prescribed Amounts) (England) Regulations 2020

financial loss.<sup>53</sup> The payment is intended as a gesture of recognition rather than a full monetary equivalent for the personal loss suffered. Its statutory basis ensures certainty and uniformity, preventing arbitrary variation between cases. Where a tenancy is joint, the payment is divided equally between joint tenants.<sup>54</sup> The right is lost if the displacement results from eviction for breach of tenancy or if the tenant leaves voluntarily without compulsion. The acquiring authority must notify tenants of their entitlement and make prompt payment once the displacement date is confirmed.

This multi-faceted approach ensures that the compensation paid to a tenant is not a token sum but a realistic assessment of the full financial impact of the displacement.

## **2. India**

India provides a powerful example of a rights-based approach to land acquisition that prioritises social justice and the rehabilitation of all affected persons. The colonial-era Land Acquisition Act of 1894 was replaced by The Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (LARR Act). The most revolutionary feature of the LARR Act is its expansive and inclusive definition of an ‘affected family’.<sup>55</sup> Under the Act, an ‘affected family’ is not limited to landowners. It explicitly includes individuals whose primary livelihood is adversely affected by the acquisition, even if they do not own land.<sup>56</sup> This definition covers: tenants and sharecroppers, agricultural labourers, artisans and other workers who have depended on the acquired land for their livelihood for at least three years prior to the acquisition.<sup>57</sup>

These non-landowning livelihood losers are entitled to a comprehensive Rehabilitation and Resettlement (R&R) package, which is separate from the compensation paid for the land itself. The R&R entitlements include provisions for alternative housing, a subsistence allowance for one year, transportation costs, and either mandatory employment in the new project or a one-time financial grant. This framework acknowledges that the impact of displacement extends far beyond the loss of land title and imposes a legal duty on the state to ensure the social and economic rehabilitation of all affected persons, regardless of their tenure status.

The LARR Act also mandates provision of alternative housing for affected families who are rendered homeless by the acquisition, including tenants who have occupied the acquired premises for at least three years prior to notification.<sup>58</sup> This requirement applies regardless of whether the tenancy is formal or informal, reflecting the Act’s inclusive approach to livelihood-based displacement. The housing must meet prescribed standards in terms of size, structural quality and access to basic amenities and must be located in a location that does not disrupt access to employment, education or social networks. The

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<sup>53</sup> *Ibid.*

<sup>54</sup> *Ibid.*

<sup>55</sup> Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013

<sup>56</sup> Paras and N Kaur, 'The Land Acquisition Act in India' [2022](2)(2) *International Journal of Law, Justice and Jurisprudence*;21-27.

<sup>57</sup> *Ibid.*

<sup>58</sup> The Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act 2013, 2nd sch.

obligation to provide alternative housing is not satisfied by mere cash payment unless the affected family expressly opts for it.<sup>59</sup> This ensures that the displaced do not bear the burden of securing housing in unfamiliar or inflated markets. The Act requires that relocation sites be developed with civic infrastructure before resettlement occurs, preventing the creation of inadequate or isolated settlements. In *National Alliance of People's Movements v Union of India*,<sup>60</sup> the Supreme Court noted that housing under the R&R provisions must be habitable and viable. This position strengthens the enforceability of the entitlement and provides tenants with a legal basis to challenge inadequate resettlement.

Another distinctive feature of the LARR Act is the option of either mandatory employment for one member of each affected family in the project for which land is acquired, or a one-time financial grant of five lakh rupees. This applies equally to tenants who meet the Act's definition of an affected family.<sup>61</sup> Where employment is offered, it must be permanent and on terms comparable to similar positions, ensuring that it constitutes a genuine livelihood replacement rather than temporary relief. The employment option is particularly significant for tenants whose livelihoods are directly tied to the acquired land, such as agricultural labourers or shop workers in commercial premises.<sup>62</sup> It transforms the acquisition from a purely extractive process into one with potential long-term economic benefits for the displaced. The alternative cash grant offers flexibility for those who prefer to pursue self-employment or alternative work.

## 9.0 Conclusion

This paper has argued that the legal and institutional framework governing compulsory land acquisition in Nigeria is deeply defective, both in substance and application. The CFRN 1999 and the LUA 1978 jointly empower state authorities to acquire land for public purposes, yet fail to recognise or adequately protect tenancy interests. Tenants remain legally invisible under the current statutory regime with no guaranteed right to notice, compensation or relocation. Judicial remedies are available in theory, but are in practice hindered by procedural technicalities and a narrow interpretation of compensable interests. Procedural lapses, particularly the failure to notify or consult tenants during acquisition trigger disputes and exacerbate the issue between landlords, tenants and acquiring authorities. The silence of the extant laws on tenant rights has enabled evictions without redress in violation of both constitutional guarantees and international norms on housing and property rights.

The paper has also shown that Nigeria can learn from jurisdictions such as the United Kingdom and India, where statutory frameworks impose stricter procedural safeguards, mandate broader compensation entitlements and afford tenants defined legal rights during compulsory acquisition. These jurisdictions recognise that tenancy rights, though derivative, warrant protection where state acquisition

<sup>59</sup> National Housing Bank, 'Study on Land Acquisition V/s Land Pooling' <<https://www.nhb.org.in/wp-content/uploads/2023/12/Land-Acquisition-vs.-Land-Pooling.pdf?prophazecheck=1>> accessed 13 August 2025.

<sup>60</sup> (2014) 11 SCC 194.

<sup>61</sup> LAAR Act, s 3.

<sup>62</sup> Indian Habitat Centre, 'National Conference on the Five-Year Journey of the RFCTLARR Act, 2013 The Way Forward' <<https://www.teriin.org/sites/default/files/2019-05/rfctlarr%20Conference%202018%20Proceedings.pdf>> accessed 14 August 2025.

causes disruption or displacement. It also reveals that tenant exclusion is neither necessary nor inevitable in compulsory acquisition regimes. Instead, it reflects a policy choice that sacrifices social justice for administrative convenience. For these reasons, reform must begin with a legal reclassification of tenancy as a compensable interest in compulsory land acquisition, followed by statutory amendments that institutionalise procedural safeguards and expand access to judicial remedies. Without these reforms, compulsory acquisition will continue to operate as a tool of dispossession rather than development.

## **10.0 Recommendations**

The paper recommends as follows:

1. Section 29 of the LUA should be amended to explicitly define ‘occupier’ to include tenants under statutory and customary law. Furthermore, the basis for compensation should be expanded beyond ‘unexhausted improvements’ to include specific heads of claim for tenants, namely: compensation for the value of the unexpired term of the tenancy, disturbance allowance covering reasonable relocation expenses and compensation for loss of business profits and goodwill for commercial tenants.
2. Section 44 of the LUA should be amended to make personal service of a notice of revocation mandatory on every known ‘occupier’ of the land, in addition to the ‘holder’ of the right of occupancy. Failure to serve notice on a lawful tenant should be a ground for nullifying the acquisition.
3. In the long term, Nigeria should enact a standalone statute that govern all aspects of compulsory acquisition. This new Act should repeal and replace the inconsistent provisions of the LUA and other statutes. It must contain a dedicated chapter on the rights of tenants and other non-title holders, guaranteeing fair procedure, comprehensive compensation, and rights to resettlement and rehabilitation.
4. The Federal Ministry of Works and Housing, in collaboration with the state Ministries of Land, should issue binding administrative guidelines for all acquiring authorities. These guidelines should mandate, as a precondition for any acquisition, the conduct of a thorough enumeration of all persons on the land, including tenants. The guidelines must require genuine consultation with tenants and the preparation of a Tenant Impact Assessment and Relocation Plan.
5. To curb the arbitrary and inadequate assessment of compensation, the government should establish an independent National Land Valuation and Compensation Commission. This body would be responsible for setting fair valuation standards for all interests, including tenancies, and for overseeing the prompt payment of compensation to all affected persons, thereby ensuring transparency and reducing corruption.