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CHALLENGES TO THE APPLICATION OF THE PRINCIPLE OF 'EMINENT DOMAIN' IN LAND ADMINISTRATION IN NIGERIA

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Abstract

In many societies including Nigeria, land is privately held. The State sometimes require these privately held land for public purposes. Negotiated acquisition of private land for public use can be a protracted and frustrating affair. This inconvenience led to the innovation of compulsory acquisition of private land by the State for public purposes subject to payment of just compensation. The power of the state to compulsorily acquire private property for public use is called 'eminent domain.' It traces its origin to days of ancient Rome. The concept of eminent domain in its modern form owes its scholastic foundations to the works of the 17th century Dutch philosopher, Hugo Grotius who described it as an attribute of statehood or sovereignty and advocated for payment of a just compensation for every act of expropriation. In Nigeria, the principle of eminent domain is codified in the Land Use Act which not only vests radical title to all land comprised within the territory of a State in the Governor, to hold in trust for the benefit of all Nigerians, but also grants the Governor the power of compulsory acquisition of privately held land subject to the payment of adequate compensation. The paper analysed the exercise of the right of eminent domain by State Governors in Nigeria and concluded that in several instances the procedure laid down for the exercise is often ignored by the Governors. Using the doctrinal research methodology, the paper finds that the lack of punitive sanctions for irregular or outright illegal expropriation is one of the energy sources fuelling the culture of arbitrary and whimsical expropriation of private property in Nigeria. The author maintained that for a better and more efficient public land acquisition system, the creation of a land ombudsman imbued with jurisdiction to handle expropriation disputes which are rendered non-justiciable by the Land Use Act and the imposition of penalties for land-acquiring authorities will operate to check the abuse of the power of eminent domain.

Keywords: Land administration, Eminent Domain, Land Use Act, Compensation

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1. Introduction

The power of the State to deprive private individuals of their private property in the spirit of public interest dates back to the Roman Republic.¹ The pre-Christian era concept of ‘*eminentia dominii*’² was developed during the dying days of the Roman Republic to authorize state seizure of private property for the benefit of the public.³ Some sources trace the practice of compulsory state acquisition of private land to even earlier times, that is, ancient Egypt and Babylon.⁴

In modern times, governments often compulsorily acquire private land for public use. This power to legally and compulsorily expropriate privately owned property for public purposes is called “Eminent Domain.”⁵ It is the power of the State to levy and take land from a citizen without the consent of the citizen, subject to payment of adequate compensation.⁶ The Encyclopaedia Britannica defines it as the “power of government to take private property for public use without the owner’s consent.”

In Nigeria, the principle of eminent domain is codified in the Land Use Act⁷ which vests the radical title to all land within the territory of the state in the Governor of the state to hold in trust for the benefit of all Nigerian.⁸ The LUA also grants the Governor of a State the power to revoke the title (formally called “right of occupancy”) to any land in the State in the overriding public interest.⁹

This paper therefore examines the legal framework of the principle of eminent domain in Nigeria’s land administration. The paper is comprised of different parts inclusive of the introduction, nature and scope of the principle of eminent domain followed by a discussion of the

¹ The West End Museum, Eminent Domain, Part 1: Origins, <<https://thewestendmuseum.org/history/topic/politics-law/eminent-domain-part-1-origins/>>, accessed March 5, 2026.

² Latin for “superior ownership”

³ Supra, note 1 at p. 23

⁴ Edgar Lopez, A Historical Perspective on Eminent Domain: From Ancient Irrigation to Florida Law, Harris, Bauerle, Lopez, Eminent Domain Lawyers, (June 10, 2025), <<https://hhblfl.com/a-historical-perspective-on-eminent-domain-from-ancient-irrigation-to-florida-law/>>, accessed March 5, 2026.

⁵ Legal Information Institute (LII), eminent domain, <https://www.law.cornell.edu/wex/eminent_domain>, accessed March 5, 2026.

⁶ Esther Thontteh, Enhancing Land Governance in Nigeria through Land Pooling and Readjustment Options, African Journal of Housing and Sustainable Development, (2025), <<https://ajhsd.unilag.edu.ng/article/download/2630/2250>>, accessed March 6, 2026.

⁷ [Hereafter, The LUA]

⁸ Section 1, LUA

⁹ Section 28, LUA

application of eminent domain in Nigerian land law. Furthermore, there is a part on evaluation of exercise of eminent domain in Nigeria while the subsequent part focused on recommendations for the exercise of eminent domain in accordance with the law. The conclusion makes up part five of the paper.

2. Nature and scope of the application of eminent domain in Nigerian Land Law

One principal and distinct feature of Nigerian land law is the vesting of all land in a State in the Governor of the State as a trustee for the benefit of all Nigerians. Section 1 of the LUA provides as follows:

Subject to the provisions of this Act, all land comprised in the territory of each State in the Federation is hereby vested in the Governor of that State, and such land shall be held in trust and administered for the use and common benefit of all Nigerians in accordance with the provisions of this Act.

The radical title of the Governor as the custodian and trustee of all land in a state entitles the Governor to certain powers and functions.¹⁰ These include the powers to:

- (a) grant statutory rights of occupancy to any person for all purposes;¹¹
- (b) grant easements appurtenant to statutory rights of occupancy;¹²
- (c) Revoke a right of occupancy of any land.¹³
- (d) demand and receive rent on land granted to any person.¹⁴
- (e) grant easements appurtenant to statutory rights of occupancy;¹⁵
- (f) demand rental for any such land granted to any person. Etc.¹⁶

The power of a Governor to grant a right of occupancy is complemented by the power to impose the terms and conditions of the grant and the power to revoke same.¹⁷ The powers of the Governor as the custodian and trustee of all land in the State are enormous with a great deal of

¹⁰ Section 5 (1) (a)-(c)

¹¹ *Nkwocha v. Governor of Anambra State (1984) LPELR-2052 (SC)*.

¹² *Ibid.*

¹³ *Dantsoho v. Mohammed (2003) LPELR-926 (SC) 13*

¹⁴ Section 10 (b) LUA

¹⁵ S. 5

¹⁶ Section 5 (1) (a)-(c)

¹⁷ Section 28 LUA

discretion which makes it susceptible to abuse.¹⁸ There have been incidents of arbitrary grant and revocation of rights of occupancy over land.¹⁹

The status of the Governor of a State over land in his State is akin to that of a landlord while the grantees of a right of occupancy are his tenants.²⁰ Like a landlord, the Governor can evict recalcitrant tenants or any tenant for a legally justifiable reason. The LUA provides only one reason for the revocation of a right of occupancy by the Governor. Section 28 (1) of the LUA provides for the power of the Governor to revoke a right of occupancy for overriding public interest. Section 28 (2) of the LUA gives details of the factors that constitute “overriding public interest.” These are:

- (a) Public purpose requirement of the land by the Federal,²¹ State or Local Government.
- (b) the requirement of the land for mining purposes or oil pipelines or for any related purpose;
- (c) the requirement of the land for the extraction of building materials; and
- (d) alienation by the occupier of the right of occupancy without the requisite consent or approval of the Governor.

Section 28 (5) grants the Governor the discretionary power of revoking a right of occupancy on the ground of a breach of the terms of the grant of the right of occupancy as contained or implied in the certificate of occupancy. The procedure for revocation of a right of occupancy requires two principal steps namely,²²

- (i) giving of notice of revocation;²³ and
- (ii) payment of compensation for the unexhausted development on the land.²⁴

2.1 Notice of Revocation

¹⁸ Osuji Obiageli Francisca and Prof. Okorie, Chimezie Kingsley, Abuse of Power of Eminent Domain in Nigeria: A Critique, Nigerian Journal of Legal Studies, PP. 144 at 145,
<<https://www.nigerianjournalonline.com/index.php/NJLS/article/download/4708/4572>>, accessed March 5, 2026

¹⁹ Ibid.

²⁰ S. 5

²¹ See also section 28 (4) LUA

²² ibid

²³ Section 28 (6) LUA

²⁴ Section 29 (1) LUA

As stated earlier, it is provided under section 28 (6) of the LUA the service of notice of revocation of a statutory right of occupancy on the holder of a right of occupancy of a land. The notice of revocation must state the particulars of the overriding public interest for which the land is compulsorily acquired. Section 50 (1) of the LUA has supplied a list of items that amount to public purpose. They include: for exclusive Government use or general public use; use by any of government agencies; for proper waste management; for obtaining control over land required for or in connection with development of telecommunications or provision of electricity, mining purposes, rural or urban settlement, economic and agricultural purposes, educational and other social services.

The list of matters that qualify for public purpose provided for in section 50 of the LUA is not exhaustive. The use of the word “includes” in the section allows for the inclusion, *ejusdem generis*, of matters of public interest of a similar nature and character as those expressly mentioned in the section.²⁵ It is not sufficient for the notice of revocation to baldly state that the land is compulsory acquired for overriding public interest or for a public purpose. The particulars of the public purpose must be given in the notice.²⁶ A notice of revocation shorn of the particulars of the public purpose that underpins the revocation is invalid. In *Chief Commissioner, Eastern Province v. Ononye*.²⁷ The court stated that, “the notice merely states “for public purposes” and I find it difficult to understand why the particular public purpose is not stated. When the matter comes into court it has to be admitted that there is no public purpose involved at all.”

Apart from issuance of a notice of revocation, the law requires service of the notice of revocation on the holder of the right of occupancy. Section 44 of the LUA provides for five methods of service of notice of a statutory right of occupancy. These are:

- (a) by delivering it to the person on whom it is to be served; or
- (b) by leaving it at the usual or last known place of abode of that person; or
- (c) by sending it in a prepaid registered letter addressed to that person at his usual or last known place of abode; or

²⁵ *Udoh v. Akwa Ibom State Government (2013) LPELR-21121 (CA) 62-63*

²⁶ *Chief Commissioner, Eastern Province v. Ononye (1944) 17 NLR 142.*

²⁷ *Supra*, at p. 151

(d) in the case of an incorporated company or body, by delivering it to the secretary or clerk of the company or body at its registered or principal office or sending it in a prepaid registered letter addressed to the secretary or clerk of the company or body at that office; or

(e) if it is not practicable after reasonable inquiry to ascertain the name or address of a holder or occupier of land on whom it should be served, by addressing it to him by the description of "holder" or "occupier" of the premises (naming them) to which it relates, and by delivering it to some person on the premises or, if there is no person on the premises to whom it can be delivered, by affixing it, or a copy of it, to some conspicuous part of the premises.

The modes of service of a notice of revocation on a holder of a right of occupancy listed in section 44 of the LUA require strict compliance and do not admit of any variation or irregularity. In *C.S.S v Registered Trustees of Muslim Community in Rivers State*²⁸, the notice of revocation of a right of occupancy was published in the official gazette of the State. The court of Appeal held that such mode of service did not comply with the requirement of Section 44 of the Land Use Act and thus rendered the service of the notice of revocation and the resulting purported compulsory invalid.

In *Government of Kwara State v. Irepodun Block Manufacturing Ltd.*,²⁹ the Court of Appeal stated that: "Section 44 of the Act gives effect to the validity of the power of the Governor exercised under Section 28 revoking a right of occupancy. These Sections of the Act which work together to validate the deprivation of a citizen of his proprietary right must be construed fortissimo contra preferences by the courts. This is to say that, Section 44 which provides the five different ways service of Notice of Revocation must be served, shall like Section 28 be construed strictly against the acquiring authority and leaning in favour of the holder of the statutory right of occupancy so that any form of irregularity in the mode of service of any notice required by the Act shall render such Notice null and void."³⁰

²⁸ (2006) LPELR-824 (SC)

²⁹ (2014) LPELR-22553 (CA)

³⁰ See also *C.S.S Bookshops Ltd. v. Registered Trustees of Muslim Community in Rivers State* (2006) LPELR-824 (SC)

Upon receipt of the notice of revocation by the holder of the right of occupancy, his right of occupancy becomes extinguished without any further assurances or on the date stated in the notice of revocation as the effective date of revocation.³¹

2.2 Compensation

The validity of a revocation of a statutory right of occupancy is subject to the payment of compensation to the erstwhile holder of the right of occupancy for his unexhausted development on the land.³²

Where there is no unexhausted development on the land, no compensation is due as there can be no compensation for the bare land. In *Lawson v. Afani Continental Co. Ltd*³³ the Court of Appeal, per Salami, JCA (as he then was) stated that there can be no monetary compensation in respect of land on which there are no unexhausted development. However, where there is unexhausted development on the land, any purported revocation of a right of occupancy or compulsory acquisition without payment of adequate compensation is invalid. In *Ogunleye v. Oni*,³⁴ the Supreme Court held that: ‘the state has no right to dispossess a person of his property lawfully acquired without reason and that reason shall be in the public interest with adequate provisions made in the enabling statute to pay compensation that is just. So has the Land Use Act done.’

Sometimes disputes might arise between the acquiring authority and the holder of a revoked right of occupancy over the adequacy of the amount of compensation paid for the unexhausted development. In such an event, the dispute is to be referred to the Land Use and Allocation Committee for resolution.³⁵ This provision, when read together with section 47 (2) of the LUA, effectively ousts the jurisdiction of the regular courts from entertaining disputes concerning the amount of compensation paid for compulsory acquisition of land.³⁶ Section 47 (2) of the LUA provides that “No court shall have jurisdiction to inquire into any question concerning or pertaining to the amount or adequacy of any compensation paid or to be paid under this Act.”

³¹ Section 28 (7) LUA

³² Section 29 (1) LUA

³³ (2001) LPELR-9155 (55) 11

³⁴ (1990) LPELR-2342 (SC)

³⁵ Section 30 LUA

³⁶ *Benue State Urban Development Board v. Asuakor* (2019) LPELR – 47233 (CA).

The ouster of the jurisdiction of the courts by section 47 over certain disputes including disputes surrounding the adequacy of amount of compensation is a controversial provision as it seems to elevate the LUA above the Constitution itself. Section 47 (1) of the LUA states as follows:

“(1) This Act shall have effect notwithstanding anything to the contrary in any law or rule of law including the Constitution of the Federal Republic of Nigeria 1999 and, without prejudice to the generality of the foregoing, no court shall have jurisdiction to inquire into-

(a) any question concerning or pertaining to the vesting of all land in the Governor in accordance with the provisions of this Act; or

(b) any question concerning or pertaining to the right of the Governor to grant a statutory right of occupancy in accordance with the provisions of this Act; or

(c) any question concerning or pertaining to the right of a local government to grant a customary right of occupancy under this Act.” (Underlining added for emphasis)

This provision stands in stark contrast to the doctrine of constitutional supremacy as provided for in section 1 (1) of the 1999 Constitution of Nigeria. The express elevation of the provisions of the LUA above constitutional provisions appears to be inconsistent with constitutional provisions and thus null and void to the extent of the inconsistency.³⁷ Moreover, section 47 (2) LUA appears to contradict section 272 (1) of the 1999 Constitution which confers unlimited jurisdiction on the High Court of a State.³⁸

Section 33 (1) of the LUA makes room for resettlement of a holder of a right of occupancy in lieu of payment of compensation. However, this procedure is only applicable to land on which a residential building has been erected. In that case, the acquiring authority has the discretion of offering a suitable alternative accommodation in lieu of payment of compensation.

2.3 Reallocation of Compulsorily Acquired Land

It should be noted that compliance with the requirement of issuance and service of notice and payment of compensation does not justify the revocation of a right of occupancy of a parcel of

³⁷ Section 1 (3) 1999 Constitution of the Federal Republic of Nigeria.

³⁸ *Supra*, note 17 at p. 148

land and its reallocation to another private holder.³⁹ The fact that the new private grantee would use the land for public purposes like building of schools, hospitals or other forms of public infrastructure does not validate the initial revocation and reallocation.⁴⁰ In *Osho v. Foreign Finance Corp*,⁴¹ the Supreme Court held that:

The purposes for which the power of revocation of a right of occupancy was conferred on the Military Governor of a State have been clearly set out in the Land Use Act. Any revocation for purposes outside the ones prescribed even though ostensibly for purposes prescribed by the Land Use Act is against the policy and intention of the Land Use Act and can be declared invalid and void by a competent court of law.

From the decision of the Supreme Court reproduced above, public purpose does not include reallocation to a private entity notwithstanding how laudable the purpose to which the private entity intends to put the land is. In *Orianzi v. Attorney-General of Rivers State*,⁴² the Supreme Court stated the law thus:

The Rivers State Government that sold the disputed land to the Appellant, turned round to acquire the land which it said was for public purpose. However, within six months it sold the property to a private individual. Clearly from this transaction, it was clear that the acquisition of the property was not for the purpose which it was indicated. The Sanomi panel was just a script meant to raise dust, and clearly that dust blurred the vision of the lower court. In *Osho v. Foreign Finance Corp*. (supra) this court, held that when public purpose is stated to be the ground for revocation of a right of occupancy, if the land is later discovered to be in use for other purposes, the revocation of the right of occupancy is vitiated and the order becomes unlawful.⁴³

3. Evaluation of exercise of eminent domain in Nigeria

The ostensible intention behind the enactment of the LUA (that is, to simplify the procedure for acquisition of land by all Nigeria) is a laudable vision. However, its implementation has been fraught with both conceptual and practical pitfalls and booby traps.

I. Absence of Judicial Review of Section 47 of LUA

As stated earlier, the ouster of the jurisdiction of courts from entertaining questions concerning the items listed in Section 47 of the LUA (especially adequacy of the amount of compensation) poses a risk of arbitrariness on the part of the acquiring authority. By vesting the jurisdiction to

³⁹Goldmark (Nig.) Ltd. V. Ibafor Company Ltd (2012) LPELR-9349 (SC)

⁴⁰ Ibid.

⁴¹ (1991) 4 NWLR (Pt.184) 157

⁴² (2017) LPELR-41737(SC)

⁴³ *Osho v Foreign Finance Corp* (1991) 4 NWLR (Pt. 184) 157

determine disputes relating to adequacy of compensation on the Land Use and Allocation Committee which is not a judicial body, the LUA might have unwittingly made the executive judge, jury and executioner of all matters relative to adequacy of compensation. Also, the acquiring authority enjoys a wide discretion in the matter of revocation of a right of occupancy and compulsory acquisition of land. The acquiring authority is subject to little or no checks in determining which property to compulsorily acquire. All they have to do is to issue a valid notice of revocation and pay compensation for unexhausted development on the land. Such wide powers are susceptible to abuse and have indeed been abused on occasion.⁴⁴ A holder of a right of occupancy is not given any role to play in the acquisition of his property except to receive the notice of revocation and compensation. He cannot challenge the merit of the public purpose behind the compulsory acquisition of his land once the procedural formalities have been fulfilled. In such an arbitrary arrangement, a holder of a right of occupancy may fall prey to abuse of power by the acquiring without any recourse to judicial review.

II. Executive Overreach.

Closely allied to the ouster of jurisdiction of the courts in respect of dispute concerning adequacy of compensation and other aspects of the LUA is the propensity of some Governors to arrogate to themselves the power to revoke rights of occupancy and take over people's properties without any form of revocation notice or compensation. This is often done under the guise of fighting crime. Some State Governments have enacted some local laws that allow them to demolish and take over properties allegedly used for the commission of crimes. The media is awash with reports of arbitrary destruction and expropriation of peoples' properties by the executive branch without complying with the procedure laid down in the LUA all in the name of fighting crime.

For example, the *Vanguard* newspaper of June 6, 2014 carried a headline 'Oshiomhole to Supervise Demolition of Kidnappers' Den.'⁴⁵ According to the story, following the arrest of suspected kidnappers, the then governor of Edo State, Comrade Adams Oshiomhole ordered and personally monitored the demolition of the residence of suspected kidnappers where a kidnap victim was allegedly interned. According to the newspaper report, the governor 'insisted that the

⁴⁴ Supra, at note 17, p. 141

⁴⁵ Gabriel Enogholase, 'Oshiomhole to Supervise Demolition of Kidnappers' Den', *Vanguard News* (June 6, 2014) <<https://www.vanguardngr.com/2014/06/oshiomhole-supervise-demolition-kidnappers-den/>> accessed March 9, 2026.

demolition of the buildings where kidnapped victims were kept was backed by the law passed by the Edo State House of Assembly which also prescribes death penalty for kidnapping.’

Other states have adopted similar measures in their crime management strategy. The *Nation* newspaper of June 24, 2017 carried the following headline: ‘Kidnappers’ Den Demolished in Abia.’⁴⁶ According to the story, two houses belonging to suspected kidnappers and property worth thousands of naira in the shop of the wife of one of the kidnappers were demolished and destroyed by the Abia State government. Justifying the action to journalists, the State Government, speaking through Capt. Awa Udonsi Agwu, the then Special Adviser to the governor on security matters, said the buildings were pulled down because of kidnapping activities stating that it was a law in Abia State that any location owned by kidnappers or where they use for their activities or meeting place should be demolished.

Furthermore, the *Nation* newspaper of May 16, 2017 writing under the headline ‘Police to demolish kidnappers’ den’ reported that the Lagos State Police Command had announced that plans were concluded to demolish a dwelling house in Lagos where notorious kidnapper, Evans was hiding his victims⁴⁷. The commissioner of Police was quoted by the newspaper as saying that ‘the command was in talks with the state Attorney General and Commissioner for Justice on the demolition of the building as stipulated by the recently passed Anti-Kidnapping law.’

It should be noted that none of the demolition exercises (which amounted to punishment for crimes) was done with judicial approval. The exercises were carried out by executive fiat and, needless to say, the demolitions were done before the guilt of the suspects was proved beyond reasonable doubt. In fact, at the time of carrying out the demolition exercises, none of the suspects had been arraigned in any court. Also, there is nothing to suggest that the demolished houses were owned by the suspects who turned them into avenues for criminality. Moreover, there was no mention of any notice of revocation of the owner’s right of occupancy before the government took over the properties. Finally, all the state governments involved predicated their action on some law of their Houses of Assembly.

⁴⁶ The Nation Newspaper, ‘Kidnappers Den Demolished in Abia’ *The Nation Newspaper* (April, 27 2017) <<http://thenationonline.net/kidnappers-den-demolished>> accessed March 9, 2026.

⁴⁷ ‘Police to Demolish Kidnappers’ Den’, *The Nation Nigeria news*, <<http://thenationonlineeng.net/police-demolish-kidnappers-den/>> accessed 9/5/2021

It is submitted that the justification of the arbitrary expropriation by these States on the basis of some laws of their Houses of Assembly is not legally tenable. For example, the Edo State Kidnapping Prohibition (Amendment) Law 2013 (which the Edo State Government pleaded as justification for the demolition and expropriation of suspects' homes), provides in its section 13 (1) and (2) as follows:

‘(1) The properties, landed or personal properties, monies and other things of value owned or realized in the process by any person convicted on the offence of kidnapping shall be forfeited to the state.

(2) The state shall be at liberty to destroy and/or do any such thing as it desires appropriate against the properties of any person convicted on the offence of kidnapping.’

From the provisions reproduced above, it is clear that conviction of a kidnapper is a condition precedent to expropriation. Therefore, the action of the Edo State Government was one of illegal expropriation. The law is settled that when a statute has prescribed a procedure for doing a thing, any other method adopted to do the thing which is inconsistent with the statute is invalid, null and void⁴⁸. Consequently, the law cited by the Edo State government does not in fact support the action of the government. The demolition which was carried out in the absence of a conviction on the offence of kidnapping was therefore ultra vires the state government vis-à-vis section 13 (1) and (2) of the Kidnapping Prohibition (Amendment) Law 2013 of the State.

Similarly, the Lagos State Kidnapping Prohibition Law 2017 on which the Lagos State police command based its threat to demolish Evans' house does not in reality grant the Lagos State government or police command such powers. Section 15 of the Law dealing with forfeiture provides that: ‘Any property movable or immovable used for or in connection with the commission of an offence under the provisions of this Law may be forfeited to the state.’ Interestingly, beyond this bald provision, the Law is silent on the question of forfeiture. It neither provides the procedure to be adopted for the forfeiture nor expressly authorize demolition of properties without formal forfeiture. Therefore, the threat of demolition of the building was also founded on a false premise and misconception of the provisions of the Law on which the police relied.

⁴⁸ Ho v. Abubakar & Ors (2016) LPELR(CA)

These two instances (i.e the Edo and Lagos States' scenarios) show the danger inherent in relying on the executive's interpretation of expropriatory and penal legislation. This paper contends that the demolitions in Lagos and Edo States are extra-legal even though they are backed or sanctioned by the respective state governments. The demolitions in questions are not supported by the laws under which they were purportedly done or by the LUA.

Other forms of executive overreach include the cronyism in land allocation and use of the power of eminent domain as a tool of political vendetta.⁴⁹

III. Absence Of Sanctions For Abuses:

The LUA is silent on punitive measures for an acquiring authority that intentionally or negligently abuses the power of eminent domain. The victim of such abuse is often left to his own devices to seek remedies at his own cost. The absence of untoward consequences to abusers of the power of eminent domain has led to the entrenchment of a culture of impunity in the compulsory acquisition process.

IV. Ineffectiveness of the Land Use and Allocation Committee:

The Land Use and Allocation Committee is an advisory body established to advise the Governor of a State on matters pertaining to land management and resettlement of persons affected by revocation of a right of occupancy.⁵⁰ The committee also has the function of determining disputes as to the amount of compensation payable under the LUA for improvements on land.⁵¹ The committee is merely an advisory and quasi-adjudicatory body. It has no real controlling or restraining influence on the acquiring authority. The acquiring authority is not bound to act on the advisory of the committee. But all these facts are moot points as many states do not have any such committee in existence and where the committee exists, it is rendered redundant and ineffectual. The committee does not function in many states. This redundancy leaves the Governor without any advice or guidance outside his own discretion. In effect, the Governor operates with respect to land, at almost the same level of impunity as medieval feudal lord. The Governor's power of acquisition, grant and revocation of rights of occupancy is purely

⁴⁹ Supra, at note 17, p. 142

⁵⁰ Section 2 (1) (a) and (b) LUA

⁵¹ Section 2 (1) (c) LUA

administrative and does not admit of judicial or other forms of scrutiny. Such absolutism is liable to abuse.

4. Conclusion

The power of eminent domain is a useful tool in assisting the State to acquire land for public purposes. It saves the government the time spent in negotiating land acquisition with property owners. However, in recent times, some acquiring authorities in Nigeria have abused this power by exercising it in their own self-interest instead of in the public interest. This paper has suggested a number remedial measures to arrest the drift. The implementation of these suggestions, it is hoped, will enhance the realization of the optimal benefit of eminent domain.

It is therefore recommended that:

- (i) Creation of a Land Ombudsman: The Land Use and Allocation Committee has limited jurisdiction and is ill-positioned to make any impactful contribution to efficient land administration. It is simply not fit for purpose. It is therefore necessary to consider the creation of a land ombudsman with powers to entertain disputes pertaining to the non-justiciable items in section 47 of the LUA. The ombudsman should not be another advisory body. Rather it should be a kind of administrative tribunal with powers to hand down binding and enforceable decisions.
- (ii) Sanctions for abuses: There should be punitive sanctions for any acquiring authority who deliberately abuse their power of eminent domain. Where a governor or any other acquiring authority intentionally exercises his power of eminent domain solely for purposes of personal aggrandized and gratification, he should be personally liable to make good any loss caused the holder of the right of occupancy or even the State Government by the abuse. Governors enjoy immunity from prosecution and civil suits during the tenure of their office.⁵² Therefore, it is submitted that the liability of a Governor who misconducts himself in the exercise of his power of eminent domain should extend to the period after he might have left office. Where the State Government had incurred liability from such abuse of power, the Governor should be made to indemnify the government after vacating office.

⁵² Section 308, 1999 CFRN

Moreover, since the Governor is vested with title to land in his State to hold in trust for the benefit Nigerians, he should be criminally liable for criminal breach of trust where he uses his power of eminent domain to acquire peoples' lands for himself and his cronies. Like in the case of civil liability, he can be prosecuted after vacating office.

- (iii) Option to Re-Purchase a Revoked Land: It is not unusual for a Governor to revoke the right of occupancy of a person and compulsorily acquire his land ostensibly for a public purpose only to subsequently abandon the project for which the land was acquired. This experience is what gave rise to the “abandoned projects” littering the Nigerian landscape.⁵³ It is suggested that there should be a provision in the LUA to allow the previous holder of title to a compulsorily acquired land to exercise a right of re-purchase of the land at a fair price in the event that the government abandons the public purpose for which the land was acquired. In such a scenario, the government would demonstrate its serious and commitment to executing a project before acquiring any land for it. It would also do justice to a land holder whose land was acquired purportedly for a public purpose and then later left fallow or even converted to other uses and purposes.



⁵³ There are thousands of abandoned projects scattered all over Nigeria. See, for example, Solomon Odeniyi, Reps ask EFCC to probe 65,000 abandoned projects, Punch, (November 17, 2024), <<https://punchng.com/reps-ask-efcc-to-probe-65000-abandoned-projects/>>, accessed March 10, 2026.