

# An Evaluation of Compensation Processes on Compulsorily Acquired Lands for Infrastructural Facilities in South East Nigeria

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**Abstract-** *Compensation award for compulsorily acquired assets is to ensure equity that is the claimants (affected persons) are neither worse off nor better off than before the acquisition. The study was kick-started because of the increase in resistance by claimants. Questionnaire, interview instruments, document analysis and mostly from the use of questionnaires designed using Google forms were adopted. One hundred and twenty-two (122) Estate Surveyors and Valuers in addition to one hundred and eighty (180) property owners (claimants) all-in South-East Nigeria were sampled. Data obtained were analysed with the use of the following statistical tools: Relative Importance Indices (RII), Mean, Frequency and Percentage Distribution. Findings indicate that compensation delayed ranked first (RII = 5.00). This is followed by Lack of resettlement plan (RII = 4.96). And followed by compensation award insufficient to replace assets (RII = 4.57). Then, followed by demand of building plan as a criterion for payment (RII = 3.67) and others which triggers resistance by the claimants. The study recommends that best practices be adapted and effectively implemented, affected property owners should be fully involved in compensation process and as such given opportunity to be heard as well have their concerns acknowledged and addressed. The acquiring authority should adhere to compensation payment best practice criteria and the demand of approved building plan as criteria for compensation of any affected structure should be stop.*

**Indexed Terms-** *Compulsory acquisition, compensation, infrastructure, and process*

## I. INTRODUCTION

Compulsory land acquisition is the most challenging aspect in land management as it affects both the government and the governed, and this rooted to the fact that land often means different things to different people and as such is not easy to let go. Few people look at it as an area of ground or a structure that is not covered by water while other people look at it as the area for producing grains to feed themselves, their family and their livestock. Some people however derive their dignity from land, which is why people respect land more. The importance of land in realising the basic necessity of life is unquantifiable. It is therefore not difficult to understand, why there is very high demand for land; Owners having different attitudes to land and this routes from their perspective or views about land. This is what brings about different reactions to in compulsory land acquisition and compensation made by government, Silvery and Larbi (as cited in Oladapo and Ige, 2014). Because of growing population and increasing needs of the human being who are looking for more areas to use for infrastructural development and as such, taking people's properties, cutting trees and causing harm to ecosystem. Compulsory acquisition is a statutory practice in Nigeria under the Land Use Act Cap L5 LFN 2004 available to the government to acquire land (Sections 28 (1); 2 (a), (b), (c); 3(a), (b), (c), (d) and (4)) as government cannot rely on land markets alone when and where land is needed to provide major infrastructure facilities for the general public. Owners of property have their rights on the properties revoked

for overriding public interest with promises to pay compensation but are usually compensated.

However, when it took long for the compensation to be paid, the claimants keep improving their properties with the belief that government is no longer interested since compensation is not yet paid to them but if in the long-run, the government pays, it does not capture the additional improvement on land or value update as at the time of payment neither is interest added to the earlier value for delayed payment. Coupled with the above a lot of items are not taken into account, during the survey on the assumption that they have no economic value since the government has no rates for purposes of compensation calculation.

Perhaps, as regard to 330KVA transmission line project with its substations in Ubuluisiuzo town Anambra State, 132 KVA transmission line project from Ubuluisiuzo in Anambra state to Orlu in Imo State, 450MW station Alaoji in Abia State, 330KVA transmission line project at Nenu town Enugu State and 132 KVA transmission line from Alaoji in Abia State to Ebony State are projects that trigger compulsory acquisition of people's assets for the public interest. Some of these projects as the time of this study are yet to be completed. Transmission lines are designed for construction to carry overhead conductors across land by means of supports erected on the land with a base measurement of about 5m × 5m and upwards which affect grasslands, wetland, open spaces, residential area and among others that are not accounted for.

According to Kakulu (2007), the bone of contention among acquiring authorities and the claimants, from inception till now, is the adequacy of compensation paid or payable for acquired properties, in particular, and general damages to people's interest in land. Compensation principle is to ensure equity, and as such, the affected persons are neither worse off nor better off than before the occurrence of the acquisition. There is the general feeling and expression that compensation paid in respect of land acquired compulsorily and the compensation paid for damages are inadequate. Commenting on adequacy of compensation in other countries of the world with reference to Malaysia, Alias and Daud (2006) state that there is nothing in any compulsory acquisition law

that prescribes the measure or yardstick to apply in assessing the adequacy of compensation and such called for concern.

It is based on the above discussed and identified issues as well challenges on delay payment of compensation including the adequacy of compensation payable in respect to the 330KVA, 132 KVA, 450MW, 330KVA and 132 KVA transmission lines in the identified areas stated earlier that, this study is devoted to evaluating the of compensation processes on compulsorily acquired lands for infrastructural facilities.

## II. LITERATURE REVIEW

### 2.1 Effectiveness of compulsory acquisition and compensation in Nigeria

Deeyah and Akujuru (2016) in the research; assessing the effectiveness of the Nigerian compulsory acquisition practice in road infrastructural provision in rivers state opined that lack of transparency, unfairness, inconsistencies in the assessment of property values for compensation was one of the common problems revealed by the study, where majority (73.3%) 22 of the affected landowners were not aware of the items to be compensated. The confidentiality of the compensation assessment process led to suspicion of claimants about the compensation awarded. The researchers recommended that, to avoid people been impoverished and their right to land adequately protected when government compulsorily acquire urban land for road infrastructural development, it is necessary that best practices are adapted and effectively implemented to ensure that affected persons are placed in the position they were before the acquisitions. And more so, there should be appropriate legislation with clear and transparent acquisition procedure to ensure people know their rights.

Kakulu (2007) provided that inconsistency, lack of clarity, ambiguity in content and interpretation of enabling statutes (Land Use Act Cap L5 LFN, 2004) are partly responsible for inadequate compensation. The study further stated that the application of multiple standards, procedures and methods of valuation results in alarmingly wide discrepancies in compensation values over the same interest in land. The study concludes that the assessment process could

be improved considerably by the introduction of a compensation valuation code in Nigeria and also suggested that such a code should be guided by international standards of valuation for compensation.

Perhaps, these studies fail to study and list the claimants' views on variables encountered during and after the compensation have been paid.

## 2.2 Compensation issues

A number of inherent inadequacies of our land policies as currently manifested by the 1978 Land Use Act(Land Use Act Cap L5 LFN, 2004) and other laws were highlighted by studying the aspects of land acquisition and quantum of compensation paid by an acquiring authority (Odudu, 2017), and also discussed the issue of land acquisition as a necessary factor in a country's development and thus, a necessary tool that enables government and other development agencies to access land and the process entails compulsory acquisition and resultant compensation payments to those whose properties were acquired.

Perhaps, Odudu, (2017) analysis shows that 40 of the 142 claimants in Boboroku Community received ₦4,146,120.00 as opposed to ₦8,802,750.00 they should have received under open market values showing that the claims computed on behalf of the acquiring authority were abysmally low obviously putting claimants in a worse position as a result of the acquisition. It is therefore recommended that for compensation claims to be meaningful, they must be based on open market values and not values devised by an "appropriate officer" or an acquiring authority. Also, computation of economic crops and trees must be based on their productivity value and lifespan and should be properly computed by the professional Estate Surveyor and Valuer. Finally, government must review the current enabling laws to take cognizance of global practices in the matters of compulsory acquisition and compensation in Nigeria.

However, this study did not state what missing in the existing law or what is/are needed to repeal and more so failed show the global practices requirement.

2.3 Landholders' involvement in the compensation Adekunle, Muhammad, Oluwole, Bello, and Idris (2019), in the research; landholders' involvement in

the compulsory acquisition of land and compensation process in Bauchi, Nigeria provided that landholders were very well involved in the process of compulsory acquisition but dissatisfied with the compensation process. The study also revealed that before the process of compulsory acquisition landholders were very well involved, during the process of compulsory acquisition they were also involved but at the compensation process, they were not involved at all. Then, the researchers recommended that they should be involved in the process of compensation as it will minimize resistance to compulsory acquisition. This study fail to state the extent of involvement required whether fully or otherwise.

## III. MATERIALS AND METHODS

Descriptive survey research design was adopted. The Claimants as well as Estate Surveyors and Valuers (ESV) are target population. The claimants as earlier mentioned are the real property owners who were affected in the compulsory acquisition and compensation, drawn from the South East (Anambra, Abia, Ebony, Enugu, and Imo State, Nigeria) compulsory acquisition site. The Estate Surveyors and Valuers as earlier mentioned are the real property consultants professionally recognized in Nigeria to conduct valuations, drawn from the south east states branch directory.

However, a total of 302 respondents were involved in the survey, where 122 are mostly ESV at Associates level and 180 were are property owners. The source was primary through the use of questionnaire, interviews, document analysis and mostly from the use of questionnaires designed using Google forms. The questionnaires were distributed to respondents personally to their respective addresses, emails and via whatsapp.

This study featured a close-ended question in addition to matrix which is also a form of close-ended questionnaire. Here questions are arranged to form a table with identical response options placed on top and options were given to respondents to choose from.

The respondents were required to tick the box provided against a particular question. More so, respondents were required to tick a box based 5 point

Likert scale and in percentages against a research question made available to them in the questionnaire. The application of parametric tests such as Frequency distribution was employed in generating the distribution characteristics of the variables and data used in the subsequent statistical analysis of the data. Nevertheless, the descriptive statistics like mean was used in addition to frequency and percentage distribution. Non-parametric test used was relative important index (RII).

The Relative Importance Index (RII) is evaluated using the following expression:

$$RII = \sum W / AN$$

Where RII = Relative important index.

W= weight given to each component and method by the respondents, ranging from 1 – 5.

A = Highest weight (i.e. 5 in this study).

N = total number of respondents.

#### IV. PRESENTATION AND DISCUSSION

##### 4.1 Respondents’ Academic Qualifications ESV. (Estate Surveyors and Valuers)

Academic qualifications of the respondents, in the field of Estate Management are as shown in Table 1.

Table 1: Respondents’ Personal Academic Qualifications Statistics

Academic Qualification	Frequency	Percentage
OND	2	2
HND	37	30
B. Sc.	66	54
M. Sc.	16	13
PhD	1	1
Total	122	100

Table 1 reveals that 2% of the respondents held OND, 30% held HND, 54% held B.Sc., 13% and 1% respectively held higher degrees, that is, M.Sc. or PhD all in Estate Management. It can therefore be inferred that majority of the respondents, in the study area, have the required academic qualifications for practicing as Estate Surveyors and Valuers.

##### 4.2 Respondents’ Academic Qualifications (claimants)

Academic qualifications of the respondents, in the field of claimants (property owners) are as shown in Table 2.

Table 2: Respondents’ Personal Academic Qualifications Statistics

Academic Qualification	Frequency	Percentage
NON	28	16
WAEC /equivalent	88	49
OND	2	1
HND	50	28
B. Sc.	8	4
M. Sc.	4	2
PhD	0	0
Total	180	100

Table 2 reveals that 16% held no academic qualifications, 49% held WAEC or its equivalent, 1% of the respondents held OND, 28% held HND, 4% held B. Sc, 2% held M.Sc. and no PhD all in different discipline. It can therefore be inferred that majority of the respondents, in the study area, are educated to know their left from the right.

##### 4.3 Respondents’ Working Experience (ESV)

Working experience is vital to the performance of any individual as it enables the individual to make significant contributions and application of theoretical knowledge vis-à-vis practical context. A good combination of academic qualifications, professional qualifications and job experience should produce good result and as such, years of working experience of the respondent Estate Surveyors and Valuers were sought and the data collected were analysed as shown in Table 3.

Table 3: Working Experience as Estate Surveyors and Valuers

Experience (years)	Frequency	Percentage
≤5	38	31
≥ 5	84	69
Total	122	100

Table3 displays the number of years of experience acquired by the respondents. The Table indicates that respondents with 5 years and below of experience accounted for 31% while 5 years and above accounted 69%. A greater proportion of the respondents (69%)

had worked for more than 5 years. With more than 5 years of experience, it can be deduced that majority of the respondents have requisite experience for carrying out compulsory acquisition and compensation.

4.4 Respondents’ Variables encountered in compensation exercise from the claimant’s views  
 This section analyses questions that bordered on knowing the challenging variables encounter in compensation. Table 4 gave detailed analysis of the responses from each of the claimants. Respondents’ responses which were in terms of very high, high, low, very low and none for the analysis in table 4 were assigned 5, 4, 3, 2 and 1 respectively.

Table 4: Claimants views on variables encountered

Variables	Very high W = 5	High W = 4	Low W = 3	Very low W = 2	None W = 1	Total	RII	Ranking
Demand of building plan as a criteria for payment	120 WF =600	0 WF =0	0 WF =0	0 WF =0	60 WF =60	180 (660)	3.67	4 <sup>th</sup>
Lack of resettlement plan	175 WF =875	4 WF =16	0 WF =0	0 WF =0	1 WF =1	180 (892)	4.96	2 <sup>rd</sup>
Compensation delayed	180 WF =900	0 WF =0	0 WF =0	0 WF =0	0 WF =0	180 (900)	5.00	1 <sup>st</sup>
Loss of goodwill and other benefits which cannot be compensated for	16 WF =80	87 WF =348	22 WF =66	48 WF =96	7 WF =7	180 (597)	3.17	5 <sup>th</sup>
Compensation award insufficient to replace assets	102 WF =510	78 WF =312	0 WF =0	0 WF =0	0 WF =0	180 (822)	4.57	3 <sup>nd</sup>
Providing of account details	0 WF =0	0 WF =0	0 WF =0	0 WF =0	180 WF =180	180 (180)	1.00	7 <sup>th</sup>
Prove of identification	0 WF =0	0 WF =0	0 WF =0	0 WF =0	180 WF =180	180 (180)	1.00	7 <sup>th</sup>

Locating the payment address	0 WF =0	0 WF =0	0 WF =0	0 WF =0	180 WF =180	180 (180)	1.00	7 <sup>th</sup>
Omission of claimants name	0 WF =0	6 WF =24	30 WF =90	44 WF =88	100 WF =100	180 (302)	1.68	6 <sup>th</sup>

Key: WF = Weighted frequency.

Table 4 showed that Compensation delayed ranked first (RII = 5.00). This is followed by Lack of resettlement plan (RII = 4.96). And followed by Compensation award insufficient to replace assets (RII = 4.57). Then, followed by Demand of building plan as a criterion for payment (RII = 3.67). Followed by Loss of goodwill and other benefits which cannot be compensated for with (RII = 3.17). Then, followed by Omission of claimant’s name with (RII = 1.68).

This goes to explain that the variable that ranked first with (RII = 5.00) is the major variable encounter in compensation process from the claimant’s views. That is not to say, is the only variable encountered expect ranked seventh with (RII = 1) which shows that they were not encountered and as such variables ranked second to sixth with (RII = 4.96 to 1.68) were also encountered and all encountered creates negative impacts on the claimant’s livelihood and as such trigger’s resistance by the claimants. Nevertheless, forced removals erode the homeowner’s confidence, achievement, sense of belonging, friendships and links to community and as such compensation should place the claimants in position neither better of nor worse than.

4.5 Respondents’ Claimants expectation from Compensation Processes

Table 5: Claimants expectation

Expectation	Reason
Prompt compensation that is, at least not more than 90 days after enumeration.	Because when it took long for the compensation to be paid, the claimants keep improving their properties with the belief that government is no longer interested since compensation is not yet paid to them but if in the long-

	run, the government pays, it does not capture the additional improvement on land or value update as at the time of payment neither is interest added to the earlier value for delayed payment.
Adequate compensation	To ensure equity, that is the affected persons are neither worse off nor better off than before the property acquisition. And further stated that the issue of inadequacy of compensation are as the result of not including all the items of claim in the valuation, not paying on time as such allow the awarded mount to loss value, not considering the interest added to the earlier value for delayed, and not considering the additional improvement coursed be delayed payment.
All the Items should be compensated for.	A lot of items are not taken into account, during the survey on the assumption that they have no economic value since the government has no rates for purposes of compensation calculation.

Building plan as a criteria for compensation	The demand of approved building plan as criteria for compensation of any affected building is not found in compulsory acquisition and compensation statute. And this demand is coursing the claimants to pay to obtain such, as to avoid losing been compensated and as such impoverishing the affect claimants and coursing unrest in the communities.
Relocation time at least 120 days. Considering the fact that the highest quit notice serve to an occupier under tenancy issues is 90 days (3 months).	Relocation time was not specified by the law and as such is at the hand of the acquiring authority, and that which they do give is 2months (60 days) at most which is not sufficient enough to allow the affected landowners prepare ahead to the acquisition (take possession) of their land to avoid any injurious affection likely to occur during demolition of the buildings.

The table 5 shows the claimants expectation from acquiring authority as regards to compensation and to have a successful implementation of reason for compulsory acquiring claimants interest then, the claimants expectation should not be taken likely.

As regards to the work done on this area by Ige, Akintomide, and Adeola, (2016) Ondo State, Nigeria were the researchers stated that claimants prefers adequate allocation of time and resources for community consultation over land and compensation issues, did not agree with the results of this work, as allocation of sufficient time and resources for community were not even mentioned as expectation of the claimants. And not that is not important but is not seem to pose challenge to the claimants.

#### 4.6 Respondents' Estate Surveyors and Valuers adherence to compensation payment best practice criteria

It was necessary to find out whether the current practices conform to compensation payment best practice criteria. To evaluate the existing practice with best practices, the various responses are averaged and the mean determined as shown in table 6.

Respondents' responses which were in terms of mostly, sometimes, rarely, never and undecided for the analysis in table 6 were assigned 5, 4, 3, 2 and 1 respectively.

Table 6: Adherence to compensation payment best practice criteria

Compensation Payment Best Practice Criteria	Mostly	Sometimes	Rarely	Never	Undecided	Mean
	5	4	3	2	1	
Compensation should be made to all affected persons including those without title to land	24 WF =120	31 WF =124	0 WF =0	0 WF =0	67 WF =67	2.55
Pay in kind and/or in - cash in time before relocation and civil work start.	0 WF =	80 WF =320	18 WF =54	11 WF =22	13 WF =13	3.35
Pay compensation at replacement cost for the cost of restoration in time	122	0	0	0	0	5.00

	WF =610	WF =0	WF =0	WF =0	WF =0	
Encourage disclosure of information and the use of negotiation or arbitration procedure	0 WF =0	0 WF =0	54 WF =162	49 WF =98	19 WF =19	2.29
Ensure regulation are specific enough to provide clear valuation guidelines, but flexible enough to allow room to determine equivalent compensation in all situation	0 WF =0	0 WF =0	0 WF =0	100 WF =200	22 WF =22	1.82

The mean summarizes data by a representative value for purposes judgement.

The respondents (table 6) shows that acquiring authority only adhered completely to compensation payment best practice criteria that said pay compensation at replacement cost for the cost of restoration in time with the highest mean value of 5.00, but never adhered to other statements of compensation payment best practice criteria completely. Other compensation payment best practice criteria shows values with a mean score 2.55 (compensation should be made to all affected persons including those without title to land), 3.35 (pay in kind and/or in - cash in time before relocation and civil work start), 2.29 (Encourage disclosure of information and the use of negotiation or arbitration procedure), and 1.82 (Ensure regulation are specific enough to provide clear valuation guidelines, but flexible enough to allow room to determine equivalent compensation in all situation). This table 6 agreed with Deeyah and Akujuru (2016) study which showed that existing practice is rarely or not in adherence to the compensation payment best practice criteria.

#### 4.7 Respondents’ from the Claimants on issues that will improve compensation Process.

The Claimants are of the opinion that full involvement of property owners are necessary as this will shows transparency in the exercise and minimize the fear that they are been shortchange in any way. And as such, the affected persons should be given opportunity to be

heard and to have their concerns acknowledged and addressed by acquiring authority.

- Compensation stages of which they would prefer to be fully involved are as follows:

- a) The actual valuation of the structure (buildings, pavement, bridges and so on) prior to compensation
- b) Involvement in the computation of crops and economic trees
- c) The submission claims for compensation of affected assets (structure, crops and economic trees)
- d) The signing for acceptance/rejection of compensation awarded
- e) The receiving of compensation award

#### 4.8 Respondents’ from the Estate surveyors and Valuers on issues that will improve compensation process are as follows:

- a) Acquiring authority should have regards to the location attribute of the property. This should be taken serious as no two properties are the same.
- b) The method of valuation should not be fixed by the law but should allow the practitioners in the profession to decide the best method at all time (Commenting on the method of valuation for compensation; any method of assessment used by the acquiring authority to determine compensation must sustain the principle of equity under which the affected property owner should be dealt with, and is expected to conform

to the professionally accepted standard (Obineme, Emoh, and Igwenagu, 2019)).

- c) There should be full involvement of property owners as this will make the claimants contribute to the success of the exercise.
- d) Acquiring authority should adhere to compensation payment best practice criteria.
- e) Compensation payment time after enumeration exercise should be specified by the law
- f) Relocation time should be specified by the law
- g) The demand of approved building plan as criteria for compensation of any affected structure should be stop as this is not found in compulsory acquisition and compensation statute.

#### SUMMARY OF FINDINGS AND CONCLUSION

The table 4 indicated that compensation delayed ranked first (RII = 5.00). This is followed by lack of resettlement plan (RII = 4.96). This was followed by compensation award insufficient to replace assets (RII = 4.57). The third in the ranking was demand of building plan as a criteria for payment (RII = 3.67) and others which triggers resistance by the claimants.

The compensation paid for compulsorily acquired is to ensure equity that is the affected persons are neither worse off nor better off than before the acquisition. But that is not the case as the expression from this study show that compensation paid in respect of properties compulsorily acquired are inadequate and delayed. Perhaps, the issue of inadequacy of compensation is the result of not including all the items of claim in the valuation, not paying on time as such allow the awarded mount to loss value, not considering the interest added to the earlier value for delayed, and not considering the additional improvement coursed be delayed payment.

The Land Use Act Cap L5 LFN 2004 did not provide specific period to be given the claimants (affected property owners) to relocate after compensation payment. The government should provide specific time to be given the affected property owners to relocate after compensation payment. Result of the survey in table 5 shows that the affected property owners were affected with the time given and as such calling for change.

Affected property owners should be fully involve in compensation process and as such given opportunity to be heard and to have their concerns acknowledged and addressed. The acquiring authority should adhere to compensation payment best practice criteria and the demand of approved building plan as criteria for compensation of any affected structure should be stop as this is not found in compulsory acquisition and compensation statute.

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