

The Land Act, 2020 (Act 1036) and compulsory acquisition in Ghana: Stakeholders' perspective

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Summary

The Land Act, 2020 (Act 1036) introduces major reforms intended to make compulsory land acquisition in Ghana fairer and more transparent. This paper explores how far the Act improves the process compared to previous legislations and examines the challenges affecting its implementation. The research aimed to assess the extent to which Act 1036 enhances transparency and fairness in compulsory acquisition and evaluate its effectiveness in practice. A qualitative approach was used to explore detailed experiences of persons and professionals involved in the land acquisition process. These include officials from the Lands Commission, valuation officers and legal experts. Data were analysed thematically to identify patterns related to transparency, compensation and stakeholder engagement.

The findings show that Act 1036 introduces several significant improvements over Act 125. These include clearer procedures for public notification, mandatory pre-acquisition funding for compensation, and legal provisions for early stakeholder engagement. However, the study reveals these gains are not fully realised in practice. Institutional constraints, weak enforcement, and low public awareness continue to limit their impact. Although the law provides clearer procedures, affected persons remain unaware of their rights, delays coupled with inadequate compensation payments persist.

The study concludes that while Act 1036 represents a progressive step toward equitable land governance, its effectiveness depends on how well implementing institutions are coordinated. Strengthening institutional capacity, enforcing compliance, and increasing public education are essential for bridging the gap between legal reform and practice.

This study supports FIG's focus on sustainable land governance by providing practical insights into how legal reforms can improve equity and accountability in land administration. It emphasizes that effective implementation not only legislative reform is critical to achieving just and transparent land management systems.

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1. INTRODUCTION

Compulsory land acquisition remains a central instrument through which states secure land for infrastructure development, urban expansion and other public purposes. In Ghana, this power operates within a plural land tenure system dominated by customary ownership where stools, skins, clans and families collectively hold approximately 80 per cent of all land (Kasanga & Kotey, 2001). As a result, compulsory acquisition has long been both necessary and contested particularly given the limited extent of state-owned land and deep social, cultural and economic value attached to land under customary systems (Larbi, 2008; Akrofi & Whittal, 2013).

Despite its developmental importance, Ghana's compulsory acquisition regime has historically been associated with significant governance challenges. These include weak transparency in acquisition procedures, delayed or unpaid compensation, inadequate valuation practices and limited engagement with affected communities (Kotey, 2002; FAO, 2009; Adu-Gyamfi, 2012). Such deficiencies have undermined principles of good governance and contributed to persistent tensions between the state and customary landowners. These results in land reoccupation, litigation and resistance to public projects (Akrofi & Whittal, 2013; Osumanu et al., 2020). Empirical evidence suggests that a substantial proportion of compulsorily acquired land has either failed to follow proper legal procedures or remained unused long after acquisition, raising concerns about equity, efficiency and legitimacy (Adu-Gyamfi, 2012).

For several decades, compulsory acquisition in Ghana was governed primarily by the State Lands Act, 1962 (Act 125), alongside related statutes such as the Administration of Land Act, 1962 (Act 123). While these laws provide the state with broad expropriation powers in the name of public interest, their implementation attracted sustained criticism particularly in relation to compensation delays, valuation disputes and the marginalization of affected landowners (Larbi, 2008; Kotey et al., 2002). The gap between statutory provisions and actual practice led to widespread dissatisfaction and calls for comprehensive legal reform.

In response to these long-standing challenges, the Land Act, 2020 (Act 1036) was enacted to consolidate Ghana's fragmented land laws and introduce reforms aimed at improving transparency, fairness and accountability in land administration. Act 1036 introduces several notable innovations, including clearer procedures for public notification, mandatory pre-acquisition funding for compensation, formal recognition of stakeholder engagement and provisions for the return of land acquired but left unused. Collectively, these measures signal a deliberate shift towards more inclusive and participatory land governance.

However, legislative reform does not automatically translate into improved outcomes on the ground. As institutional scholars have argued, the effectiveness of legal change depends not

only on the content of the law but also on the capacity, incentives and practices of implementing institutions (North 1990; Williamson, 2000). In the context of compulsory acquisition, this raises critical questions about whether Act 1036 has meaningfully altered entrenched administrative practices, reduced compensation related grievances and improved stakeholder experiences in practice.

Despite the significance of these reforms, empirical evidence on the implementation of Act 1036 remains limited, particularly from the perspective of stakeholders directly involved in compulsory acquisition processes. It remains unclear whether the new framework has succeeded in addressing the deficiencies of Act 125.

Against this background, this paper examines stakeholder perspectives on compulsory land acquisition under the Land Act, 2020 (Act 1036). Drawing on qualitative interviews with landowners, valuation professionals, legal practitioners and officials from Lands Commission. The study assesses the extent to which Act 1036 represents a substantive improvement over previous legislation. By foregrounding live experiences and institutional practice, the paper contributes to ongoing debates on land governance reform and aligns with FIG's emphasis on equitable, transparent and sustainable land administration.

2. CHAPTER TWO

2.1 Conceptual and Theoretical Framework

This study is anchored in a governance-oriented conceptual framework that examines compulsory land acquisition through the interrelated lenses of transparency, compensation and stakeholder engagement. These concepts are central to assessing the effectiveness of the Land Act, 2020 (Act 1036) and to understanding how legal reform translates into practice within Ghana's plural land tenure system. The framework is supported by three complementary theoretical perspectives: Eminent Domain Theory, Public Interest Theory and Institutional Theory.

2.2 Compulsory Land Acquisition and Governance

Compulsory land acquisition refers to the legal power of the state to expropriate private land for public purposes, subject to the payment of prompt, fair and adequate compensation (FAQ, 2009). In Ghana, the exercise of this power is particularly sensitive due to the dominance of customary land ownership and the socio-cultural significance attached to land (Kasanga & Kotey, 2001; Larbi, 2008). While compulsory acquisition remains essential for national development, its legitimacy depends largely on the fairness of procedures, the adequacy of compensation and the extent to which affected persons are meaningfully involved in decision-making processes (Kotey, 2002; Adu-Gyamfi, 2012).

Research has shown that weakness in transparency and compensation practices under earlier regimes contributed to widespread grievances, resistance and inefficient land use (Larbi, 2008; Akrofi & Whittal, 2013). These challenges underscore the need to evaluate compulsory acquisition not only as a legal mechanism but also as a governance process shaped by institutional behaviour and stakeholder interaction.

2.3 Stakeholder Perspective and Participation

Stakeholders' engagement theory emphasises that policy outcomes are more legitimate and effective when the interests of all affected parties are considered in decision-making processes (Freeman, 1984). In the context of compulsory acquisition, this requires early engagement with land owners, transparent communication and opportunities for affected persons to influence valuation and compensation outcomes. Studies in Ghana have shown that where engagement is limited or treated as a formality, mistrust and resistance are more likely to emerge, even where legal procedures are technically followed (Akrofi & Whittal, 2013; Osumanu et al., 2020). Act 1036 formally recognises stakeholder engagement as a mandatory component of compulsory acquisition. However, this provision has translated into meaningful participation remains an empirical question, particularly given historical patterns of exclusion under previous legislation.

2.4 Transparency in Compulsory Acquisition

Transparency is a core principle of good land governance and recurring concern in Ghana's compulsory acquisition history. Transparency in this context refers to the openness of acquisition processes, clarity of information provided to affected persons and accessibility of decisions relating to land use and compensation (FAQ, 2009).

Under the State Lands Act, 1962 (Act 125), affected landowners were often informed of acquisitions only after land had been vested in the state, contributing to perceptions of secrecy and unfairness (Kotey, 2002; Adu-Gyamfi, 2012). The Land Act, 2020 (Act 1036) seeks to address these deficiencies by mandating multiple forms of public notice and disclosure prior to acquisition. While these legal provisions represent an improvement, earlier studies caution that procedural transparency does not automatically ensure that affected persons understand their rights or are able to act upon them (Akrofi & Whittal, 2013).

2.5 Eminent Domain Theory

The theory provides the legal and ethical foundation for compulsory land acquisition by the state. The theory recognises the authority of the state to expropriate private land for public use, provided that just compensation is paid to affected landowners (Epstein, 1985; Bell, 2006). This principle is particularly relevant in contexts where individual landholdings could otherwise obstruct projects serving broader societal interests.

In Ghana, Act 125 embodied the state's eminent domain powers but was widely criticised for enabling acquisition without timely or adequate compensation (Larbi, 2008). Act 1036 seeks to strengthen the application of eminent domain principles by requiring compensation funds to be secured prior to acquisition and by providing clearer valuation procedures. This study uses Eminent Domain Theory to assess whether these reforms have improved fairness and reduced the imbalance of power between the state and customary landowners.

2.6 Public Interest Theory

Public Interest Theory justifies state intervention in land markets on the basis that compulsory acquisition serves collective societal goals, such as infrastructure development, urban planning and public service provision. In Ghana, compulsory acquisition has historically been justified on these grounds, particularly in support of post-independence development initiatives (Anim-Odame, 2011).

However, scholars have questioned whether public interest claims always align with actual outcomes, especially where acquired land remains unused or is diverted to private commercial purposes (Adu-Gyamfi, 2012; Boone, 2014). Act 1036 responds to these concerns by requiring clearer justification of acquisition purposes and providing for the return of land that is not used for its stated public purpose. This theory is applied in the study to evaluate whether compulsory acquisition under Act 1036 better aligns stated public objectives with stakeholder experiences and outcomes.

2.7 Institutional Theory

Institutional Theory provides a critical lens for analysing why legal reforms do not always produce expected results. According to North (1990), institutions comprise both formal rules, such as laws and regulations and informal practices, norms and enforcement mechanisms that shape behaviour. Williamson (2000) further emphasises that institutional effectiveness depends on governance quality, administrative capacity and incentive structures.

In Ghana, the coexistence of statutory and customary land systems creates complex institutional interactions that influence how compulsory acquisition laws are implemented (Kasanga & Kotey, 2001). Although Act 1036 introduces improved legal provisions, its effectiveness ultimately depends on the capacity of institutions such as the Lands Commission and the extent to which informal practices align with formal rules (Deininger, 2009; Kidido, 2024). Institutional Theory, therefore, underpins this study's analysis of the gap between legal intent and implementation outcomes.

3. METHODOLOGY

3.1 Research Design and Approach

This study adopted a qualitative research design to examine stakeholder experiences of compulsory land acquisition under the Lands Act, 2020 (Act 1036). A qualitative approach was considered appropriate because the study seeks to understand how legal reforms are interpreted, implemented, and experienced in practice, rather than to measure outcomes quantitatively. Compulsory acquisition involves complex interactions between law, institutions, and affected persons, making it necessary to capture perceptions, interpretations and lived experiences that cannot be adequately explored through purely quantitative methods (Adu Gyamfi, 2012; Osumanu et al., 2020).

The study is situated within an interpretive research paradigm, recognizing that governance outcomes are shaped by institutional behaviour, professional discretion, and stakeholder interaction. This approach aligns with previous land governance studies in Ghana that emphasizes the importance of qualitative inquiry in revealing gaps between statutory provisions and administrative practice (Larbi, 2008; Akrofi and Whittal, 2013).

3.2 Study Context

The research was conducted within the Ghanaian land administration context, where compulsory acquisition is exercised by the state in accordance with constitutional provisions and statutory instruments, notably the Lands Act, 2020 (Act 1036). The institutional setting is characterized by the coexistence of statutory and customary land tenure systems, with the lands commission playing a central role in land acquisition, valuation, and compensation processes (Kasanga and Kotey, 2001; Larbi, 2008).

This content presents significant governance challenges, including institutional coordination, enforcement capacity, and public awareness of land rights. These features make Ghana an appropriate case for examining the effectiveness of legal reforms aimed at improving transparency, equity, and accountability in compulsory land acquisition.

3.3 Selection of Participants

Participants were selected using purposive sampling to ensure that respondents possessed direct knowledge and experience of compulsory land acquisition processes. The study targeted key stakeholder groups involved in or affected by compulsory acquisition, including officials of the lands commission, valuation officers, legal practitioners, and landowners whose lands had been compulsorily acquired. Purposive sampling was justified on the basis that compulsory acquisition is a specialized process, and insights from individuals without direct involvement would offer limited analytical value. Similar sampling approaches have been used in previous Ghanaian land governance studies to capture institutional perspectives and stakeholder experiences (Akrofi and Whittal, 2013; Osumanu et al., 2020).

3.4 Data Collection Methods

Primary data were collected through semi-structured interviews. This method allowed for flexibility in questioning while ensuring that themes such as transparency, compensation practices, and stakeholder engagement were consistently explored across interviews. Semi-structured interviews also enabled participants to elaborate on their experiences and to raise issues not anticipated at the design stage.

Interviews were conducted in a manner that encouraged open discussion of both formal procedures and informal practices associated with compulsory acquisition. This was particularly important given earlier findings that informal institutional practices often shape land administration outcomes in Ghana (Larbi, 2008; Adu-Gyamfi, 2012).

3.5 Data Analysis

Interview data were analysed using thematic analysis. This involved transcribing interviews, coding responses, and identifying recurring patterns and themes relevant to the study objectives. The analysis focused on three core themes derived from the conceptual framework: transparency in acquisition procedures, compensation processes, and stakeholder engagement. Thematic analysis was selected because it allows for systematic examination of qualitative data while remaining sensitive to context and nuance. This approach has been widely applied in land governance research to analyse stakeholder narratives and institutional behaviour (Akrofi and Whittal, 2013; Osumanu et al., 2020).

3.6 Ethical Considerations

Ethical considerations were addressed throughout the research process. Participants were informed of the purpose of the study and their right to withdraw at any stage. Confidentiality and anonymity were ensured by omitting identifying information from transcripts and analysis. These measures were particularly important given the professional positions of some respondents and the sensitivity of issues relating to land acquisition and compensation.

3.7 Limitations of the Study

As a qualitative study, the findings are not intended to be statistically generalizable. However, the strength of the approach lies in its ability to generate in-depth insights into institutional practices and stakeholder experiences. This reliance on stakeholder accounts also means that findings reflect perceptions and experiences, which may vary across contexts. Nonetheless, these perspectives are central to evaluating the effectiveness of compulsory acquisition reforms and are consistent with the study's governance-oriented objectives (Adu-Gyanmfi, 2012, Larbi, 2008).

4. Findings: Stakeholder Experiences under the Land Act, 2020 (Act 1036)

The findings are organized around three interrelated themes that reflect the core objectives of Act 1036 and the study's conceptual framework: transparency in compulsory acquisition procedures, compensation practices, and stakeholder engagement.

4.1 Transparency in Compulsory Acquisition Procedures

Stakeholders widely recognized that Act 1036 provides clearer and more explicit procedures for public notification prior to compulsory acquisition. Officials of the Lands Commission and legal practitioners noted that the Act mandates multiple forms of notice, including publication in the Gazette and engagement with affected landowners, representing a departure from earlier practices under Act 125 where notification was often delayed or inadequate.

Despite these procedural improvements, landowners reported that transparency remains limited in practice. Several affected persons indicated that they became aware of acquisitions only after preliminary activities had commenced on their land, echoing concerns raised in earlier studies about information asymmetry and weak communication between institutions and customary landholders (Larbi, 2008; Akrofi & Whittal, 2013). Valuation officers acknowledged that while notification requirements exist, logistical constraints and institutional capacity limitations often affect how thoroughly they are implemented.

4.2 Compensation Practices and Pre-Acquisition Funding

One of the most significant reforms introduced by Act 1036 is the requirement that funds for compensation be secured prior to acquisition. Valuation professionals and legal practitioners viewed this provision as a major improvement over Act 125, under which compensation delays were widespread and often extended over many years.

However, findings indicate that the practical application of this provision remains inconsistent. While officials acknowledged that pre-acquisition funding is now legally required, they noted that delays still occur due to budgetary constraints, administrative bottlenecks, and inter-agency coordination challenges. Affected landowners reported continued delays in receiving compensation and expressed concerns about the adequacy of valuation outcomes, particularly where compensation did not reflect prevailing market values or livelihood losses.

4.3 Stakeholder Engagement and Participation

Act 1036 formally recognizes stakeholder engagement as an integral component of compulsory acquisition. Professionals involved in land administration acknowledged that this represents an important normative shift towards more participatory land governance. Some officials indicated that engagement with customary authorities and landowners has improved, particularly during the early stages of acquisition.

Nevertheless, landowners' accounts revealed that engagement is often limited in depth and scope. In many cases, consultations were described as informational rather than participatory, with limited opportunity for affected persons to influence decisions related to land use, valuation, or compensation. This mirrors earlier findings that stakeholder engagement in Ghana's land sector has frequently been procedural rather than substantive (Akrofi & Whittal, 2013; Osumanu et al., 2020).

Legal practitioners further observed that power asymmetries between the state and customary landholders continue to shape engagement outcomes. Even where consultations occur, affected persons often lack sufficient information or legal support to effectively assert their rights. These findings indicate that while Act 1036 creates space for improved participation, deeper institutional and capacity reforms are required to translate formal engagement provisions into meaningful practice.

4.4 Institutional Coordination and Implementation Challenges

Across stakeholder groups, institutional coordination emerged as a critical constraint affecting the implementation of Act 1036. Officials highlighted overlapping mandates and limited collaboration among institutions involved in compulsory acquisition, including the Lands Commission and sector ministries. These challenges contribute to delays in valuation, compensation processing, and communication with affected landowners.

The persistence of such constraints reflects broader institutional dynamics identified in earlier studies of Ghana's land administration system, where formal reforms coexist with entrenched administrative practices and resource limitations (Kasanga & Kotey, 2001; Larbi, 2008). Stakeholders emphasized that without strengthened institutional capacity and clearer accountability mechanisms, the procedural gains introduced by Act 1036 are unlikely to be fully realized.

4.5 Summary of Key Findings

Overall, the findings indicate that the Land Act, 2020 (Act 1036) represents a substantive improvement in the legal framework governing compulsory land acquisition in Ghana. Clearer

provisions on transparency, compensation, and stakeholder engagement address many of the deficiencies associated with Act 125. However, the study also demonstrates that these reforms have not yet translated into consistently improved outcomes for affected landowners.

Institutional capacity constraints, weak enforcement, and limited public awareness continue to shape stakeholder experiences, resulting in a persistent gap between statutory intent and implementation. These findings underscore the importance of viewing compulsory acquisition reform not solely as a legislative exercise but as an ongoing institutional process requiring sustained governance attention.

5. Discussion: Legal Reform, Institutions, and Governance Outcomes

5.1 Eminent Domain and Compensation Equity

From the perspective of Eminent Domain Theory, the legitimacy of compulsory acquisition rests on the provision of prompt, fair, and adequate compensation to affected landowners (Epstein, 1985; Bell, 2006).

Act 1036 strengthens this principle by requiring compensation funds to be secured prior to acquisition, addressing one of the most contested aspects of compulsory acquisition under Act 125 (Larbi, 2008; Adu-Gyamfi, 2012).

The findings suggest that while this reform has improved the legal protection of landowners in principle, its effectiveness is constrained in practice by administrative and financial bottlenecks. Continued delays in compensation payments and disputes over valuation outcomes undermine the equitable intent of the law and weaken the moral and legal justification of state expropriation. These challenges reinforce earlier observations that compensation inequities in Ghana are less a function of legal absence than of institutional weakness in implementation (Akrofi & Whittal, 2013).

5.2 Public Interest Claims and Development Outcomes

Public Interest Theory provides a framework for evaluating whether compulsory acquisition genuinely serves collective societal goals. Historically, compulsory acquisition in Ghana has been justified as necessary for national development, infrastructure provision, and urban growth (Anim-Odame, 2011). However, earlier studies have questioned the credibility of these claims where acquired land remains unused or is diverted from its stated public purpose (Adu-Gyamfi, 2012).

The findings indicate that Act 1036 attempts to strengthen the alignment between public interest justifications and actual land use by introducing provisions for clearer purpose definition and the return of unused land. Nevertheless, stakeholder experiences suggest that enforcement of these provisions remains limited. Where land use outcomes are not monitored or enforced,

public interest claims risk becoming symbolic rather than substantive. This undermines public confidence in compulsory acquisition and reinforces perceptions of inequity, particularly among customary landowners.

5.3 Institutional Capacity and the Law-in-Practice Gap

Institutional Theory offers the most comprehensive explanation for the persistence of governance challenges identified in this study. As North (1990) and Williamson (2000) argue, the effectiveness of formal rules depends on the quality of institutions responsible for their implementation. In Ghana's land sector, the coexistence of statutory and customary systems adds further complexity, shaping how compulsory acquisition laws are interpreted and applied (Kasanga & Kotey, 2001; Larbi, 2008).

The findings reveal that although Act 1036 introduces clearer procedures, institutional coordination, resource constraints, and entrenched administrative practices continue to shape outcomes. Limited public awareness of statutory rights further exacerbates these challenges, reducing the capacity of affected persons to hold institutions accountable. These dynamics illustrate that legal reform alone is insufficient to transform compulsory acquisition practices without parallel investment in institutional capacity, monitoring, and enforcement mechanisms.

5.4 Stakeholder Engagement and Participatory Governance

The formal recognition of stakeholder engagement under Act 1036 reflects a broader shift towards participatory land governance. However, the findings indicate that engagement remains largely procedural, with limited opportunities for affected landowners to influence key decisions. This pattern mirrors earlier research highlighting the persistence of power asymmetries in land administration, even in the presence of participatory provisions (Akrofi & Whittal, 2013; Osumanu et al., 2020).

From a governance perspective, meaningful participation requires more than consultation; it requires accessible information, capacity support, and institutional willingness to incorporate stakeholder inputs. Without these conditions, engagement risks reinforcing existing inequalities rather than promoting equity and transparency. This has important implications for the credibility and sustainability of compulsory acquisition reforms under Act 1036.

5.5 Implications for Sustainable Land Governance

The study's findings and theoretical interpretation underscore the importance of viewing compulsory acquisition reform as an institutional process rather than a purely legal exercise. While Act 1036 strengthens Ghana's legal framework, its contribution to sustainable land governance depends on how effectively institutions translate statutory provisions into practice. This aligns with FIG's emphasis on integrated land governance systems that balance legal clarity, institutional performance, and stakeholder inclusion.

The persistence of implementation gaps suggests that future reform efforts should prioritize institutional strengthening, inter-agency coordination, and public education alongside legislative innovation. Without such measures, the transformative potential of legal reforms such as Act 1036 is likely to remain unrealized.

5.6 Policy Takeaway: Compulsory Land Acquisition Under Ghana’s Land Act, 2020

What the reform achieved

The Land Act, 2020 (Act 11036) strengthens Ghana’s compulsory acquisition framework by improving legal clarity on public notification, compensation funding, stakeholder engagement and the return of unused acquired land. These provisions address long-standing weaknesses associated with earlier legislation and signal progress toward more transparent and equitable land governance.

What remains

Legal reform alone has not eliminated implementation challenges. Institutional capacity constraints, weak enforcement, limited coordination among implementing agencies and low public awareness continue to delay compensation, constrain meaningful participation and undermine trust among affected land owners.

Why this matters for land governance

Where compulsory acquisition is perceived as opaque or unfair, it generates conflict, litigation and inefficient land use outcomes that weaken development objectives and public confidence. Effective compulsory acquisition depends sound laws and how institutions apply them in practice.

Key policy priorities

- Strengthen institutional capacity and coordination across land administration agencies.
- Enforce pre-acquisition compensation requirement consistently.
- Invest in sustained public education on land rights and acquisition procedures.
- Monitor and enforce the use of acquired land for stated public purposes.

FIG Relevance

The Ghanaian experience demonstrates that sustainable compulsory acquisition requires aligning legal reform with institutional performance and stakeholder inclusion, this insight is directly applicable to other jurisdictions pursuing land governance reforms within complex tenure systems.

5.7 Conclusion

This study shows that the Land Act, 2020 (Act 1036) marks a meaningful improvement in Ghana’s compulsory land acquisition framework by strengthening legal provisions on transparency, compensation and stakeholder engagement. However, the findings demonstrate that these legal advances have not yet translated into consistent improvement in practice.

Institutional capacity constraints, weak enforcement and limited public awareness continue to shape outcomes for affected landowners. This paper therefore concludes that effective compulsory acquisition depends on both progressive legislation and the ability of institutions to implement the law fairly, transparently and accountably. Strengthening institutional performance is essential if compulsory acquisition is to support equitable development and sustainable land governance.

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