

Know the law on: Compulsory Acquisition

Introduction.

Customary owners have rights. If according to your tradition you had security of tenure and no-one in the clan could take your land, then it's yours.

Whoever the owner is, no-one can take it away from them without compensation.

Compulsory purchase is allowed for public good only, not for development. In case of public good, you can't refuse your land to be taken.

Questions and Answers.

Q. I don't have any papers. Do I still have rights?

A. Yes!

Q. A Government official said that only people with papers would get compensation.

A. Laws are made only by Parliament, not by District officials. Parliament said you have rights – so if people don't give them to you, it's their mistake.

Q. The Government says it wants to build a road, but I don't want a road on my land. Can I refuse to let them?

A. No, Government has a right to take land for public interest. You can't refuse, but you are entitled to compensation.

Q. The Government wants to build a clinic for our community. People in the community said that I have to give the land for the clinic.

A. The Gov't has a right to build a clinic on your land for the public good, but you are entitled to compensation. Even if you will also use the clinic, if it is on your land, then you must be paid for the land.

Q. They said that the trading centre where I have land is now gazetted as an urban area, so the land belongs to the council. Do I only have rights in rural areas?

A. Everyone has the right to their property, whether in urban or rural areas. The District can declare that a trading centre is urban land, but this doesn't mean you don't own your land – it just means you now own land in an urban area!

Q. Don't you have to have title or a lease to own land in an urban area?

A. No, you can also own land in town under customary tenure. This gives you exactly the same security of tenure as if you had title and the same rights to compensation if the council wants to use your land for public development.

Q. The town council say there is a development plan and that my land is going to be a road.

A. Local authorities have the rights to make plans for urban areas. This means they can say what can be built where, and they can develop infrastructure for the public good. But this doesn't mean they own the land unless they can prove ownership to you! You do – unless they buy the land from you or follow the procedure for compulsory acquisition and pay you full compensation.

Q. *The District says that it needs land for an investor and this is in the interests of everyone.*

A. Bringing in investment may be a good thing for everyone – but no-one can take your land away from you to give to an investor unless you freely choose to sell your land, or to rent it out to them. Even if investment is good for the economy, a private business is not called 'the public interest'. The Government can only force you to sell the land for something which everyone will use, like a road or a clinic, or if it is necessary for security or for public health.

Q. *The authorities say they need my land and have offered me*

300,000/-, but my land is worth 2 million shillings. Should I accept the money?

A You are entitled to be compensated for the full market value of your land, plus the value of any development on the land, and disturbance allowance. It is the job of the District Land Board to say how much compensation you should receive on the value of the improvement on your land. Go to the DLB and check if they were the ones who set the rate.

Q. *The authorities are refusing to pay me proper compensation. What can I do?*

A. The courts are there to make sure that everyone obeys the law – this includes the Government and District officials as well as you and your community. If you feel that the compensation is not fair, ask the council how they calculated the compensation. Ask for this in writing and take it to someone who can help you. If you can talk to a lawyer, this will help. If not, you could go to projects such as Legal Aid, LEMU and FIDA. You can also go to the Courts of law without a lawyer.

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**Land and
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Making land work for us all