

# **THE LAND QUESTION IN NIGERIA**

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## **BACKGROUND**

Land reform in most developing economies is inextricably linked (but not limited) to and interrelated with agrarian/agricultural and rural development. This is so because the bulk of the population that reside in rural and peri-urban areas and who engage in primary production depend almost exclusively on availability of land in whatever form this may be required. Land, as the primary means of production in the support of a variety of livelihoods especially for the resource-poor, must be readily available especially for the category of producers considered to be resource-poor. The land question is core to any serious attempt to tackle rural poverty and food security and so must be put into proper perspective. Land must be available to persons and groups who are ready to put same into good and productive use. The provision of food (and the means of producing food) is a fundamental human requirement, which should be met through a properly articulated policy on land. In order to come to grips with the realities on the ground, therefore, a thorough and exhaustive analysis and understanding of all the important variables central to achieving meaningful improvement in the lives of millions that derive varying degrees of livelihoods from land and land resources has to be undertaken. It must be mentioned rather emphatically that the major bottlenecks that stand in the way of meaningful access to and control of land must be removed if significant socio-economic progress is to be made. This is more imperative in the realisation of some of the important goals set for itself by the State in Nigeria within the context of poverty alleviation and food security.

## **IMPORTANCE OF LAND IN NIGERIA**

In countries that are predominantly agrarian-based like Nigeria, land is the most valuable asset available to the farming population. In an era of agricultural revolution, coupled with conditions of economic development under the situation of increasing population, structural changes take place, old forms of production give way to new ones in order to suit new socio-economic and cultural situations. Land in this context means "all endowments of nature on, over, or under the surface of the earth, and thus stretches from rural land to urban centres, mines, fisheries and sea-beds, even encompassing the whole ecosystem" (Aboyade, 1972).

Most developing countries of the world are confronted with land problems in different dimensions and of varying magnitude. In Nigeria, for example, land is the most important resource or single input in the system of agricultural production. Land use may, therefore, be considered a human activity within the entire biotic complex in a given ecosystem. The aim of this activity is to promote prudent land use in order to effect an improvement in the life of the people in general and those of the rural population in particular.

All lands in Nigeria belong to someone. That someone may be one of the four categories of natural persons, (that is, individuals), supernatural persons, corporate bodies and the state (Umeh, 1973). A number of the land-owning family has a stake in family land by right or his birth, and he is entitled to as much land as is available for the production of food to feed himself and members of his family. Even individual slaves in times of old who got wedded into the family were allotted land. Women also in many cases are capable of exercising ownership rights in land although this is by no means a universal practice in Nigeria. It is generally believed that every woman would marry and become the 'property' of her husband. But in some communities like the Tiv, any husband that fails to provide land for his wife may lose her. This situation is understandable because of the structure of work organisation among the Tiv.

The supernatural ownership of land is explained by Umeh who observed that in many Nigerian communities "the various local names show that the deity so named is the owner of the forest land, bush, market square, playing ground or grove" (Umeh, 1973). Such corporate bodies like the family and other land-owning groups and institutions like the Emirship and Obaship exercise ownership rights in vast lands in Nigeria.

State lands, as Famoriyo (1979a) pointed out, exist in Nigeria through gifts, grants and through the implementation of the laws of Nigeria. In accordance with the Land Tenure Law of 1962, States in the northern part of Nigeria were vested with rights of ownership in 'native lands' leaving the individual with only rights of occupation and use of land. This situation has, however, been the subject of divergent comments and sometimes litigation especially with the introduction of the Land Use Act of 1978.

## **UNDERSTANDING THE LAND TENURE SYSTEM**

The prudent use of land connotes a deep understanding of the land tenure system in a given community. The relationship between land use and land tenure is reciprocal and, therefore, analysis and discussions of any land tenure system rests basically on interpersonal relationships that exist in the occupancy and use of land.

Customary land tenure in the context of this paper refers to the rights and duties of individuals and groups to the use and control of land resources within a given social system in space and time. According to Dorner, land tenure "is actually the legal, contractual or simply understood customary arrangements whereby people in agriculture try to arrange for an initial access route to the income flow and the ways by which these routes are secured" (Dorner, 1964).

In Dorner's conception, the level of productivity in the agricultural sector determines the level of agricultural income. He contends that the levels of agricultural income are affected by the degree of access to rights in land. Therefore, the main issue in his definition is to ensure a system of tenure, which not only guarantees an initial access to rights in land, and therefore income, but also ensures the security of that access.

Timmons (1943) on the other hand, conceives a land tenure system in an institutional context. He argues that the system is an institution with achievable goals. Thus his definition of a land tenure system as connoting:

...the relationships between individuals, and between individuals and society growing out of the use of land. This includes relationship between mortgagees (public and private) and tenants, operators and labourers, as well as between managers on the one

hand and owners, operators, and labourers through the use of the police, eminent domain and tax powers – in all instances where these relationships impinge upon rights in land

The central theme in Timmons' definition is to emphasize the broad spectrum of relationships encompassed in the expression 'land tenure'. According to Famoriyo (1979b), these relationships arise in the process of exchanging, transferring or otherwise acquiring rights in land.

Yet in another context of systems of rules that guide actions of man, Parsons has defined the concept of land tenure as "systematisation of the rules which function by specifying what different classes of persons may or may not, must or must not do with reference to the occupancy, use, abuse or disposition of land" (Parsons, 1970). The emphasis here is on the legal aspect of land.

From these definitions the ramifications of land tenure are indicated. These definitions are reducible to regarding land tenure as that which defines the ways in which individuals gain access to, and acquire rights of use over land, either temporarily or permanently. This implies that certain privileges, opportunities and claims are conferred on the individual user of land.

## **PROBLEM OF LAND TENURE**

In discussing problems related to the use and tenure of land, two broad categories may be identified. These are directly related tenure problems and indirectly related tenure problems.

### **Directly related tenure problems**

#### *Scarcity of land*

Land scarcity is meant here to refer to lack of supply of available land suitable for agricultural and developmental purposes in relation to demand for such land. While states such as Adamawa, Taraba, Borno, Bauchi, Niger, Kebbi, Zamfara and Sokoto may be said to have 'excess' land not in immediate use, some other states such as Imo, Abia, Enugu, Eboyin, Anambra and Lagos are faced with scarcity of land. Scarcity has also arisen as a result of the unprecedented rate of urbanisation, coupled with the demand for buildings and commercial centres. This is especially so in Lagos, Abuja and Port Harcourt area as well as many parts of the country, particularly the state capitals. The incidence of scarcity is, of course, one of the factors affecting price of land. Table 1 gives an estimate of the amount of available land that is being utilised for different purposes in Nigeria. Of particular note is the rate at which grazing land is declining vis-à-vis arable and permanent crops. The implication of low utilisation is overwhelming for pastoral production, which is aptly illustrated by the declining amount of free pasture lands for pastoral producers especially the landless nomads (Gefu, 1987). This situation constitutes a major problem for pastoral producers and by implication the production of animal-source protein. This situation is further aggravated by the provisions of the 1978 Land Use Act which will continue to pose limitations in ensuring that poor pastoralists and other persons have free access to land as they really desire to.

Table 1: Nigeria's land use for selected years ('000 hectares)

Year	Total Land	Arable & Permanent Cropland	Forests and Woodlands	Irrigated Land
1961	91077	28802	19860	2
1965	91077	29210	18860	2
1970	91077	29900	17610	22
1975	91077	30000	16370	160
1977	91077	30250	16300	Na
1980	91077	30385	14900	760
1983	91077	30435	14000	1100
1999	91077	30738	NA	NA

Source: FAO, (2002; 1986)

### *Problems of ownership*

We have earlier discussed the different forms of land ownership in Nigeria, and noted that the basis of land holding in Nigeria is the family. Ownership concept in land tenure represents the exercise of full proprietary or absolute rights to control and use parcels of land (Famoriyo, 1979a). Some anomalies have been reported from different parts of the country as a result of the right to control and use land (Oviawe, 1971; Akporugo, 1972; New Nigeria, 1972).

By exercising the rights and privileges entrusted upon them by the various individuals, Obas, Emirs and family heads have been known to misdirect themselves in the judicious administration of land. This has often resulted in confusion while unscrupulous individuals have thereby enriched themselves at public expense. Quoting a specific situation from Oviawe (1971):

"...areas in Benin City which were designated for use as green belts and public parks have been sold or leased to unscrupulous speculators, some of whom were highly placed individuals in the community and were aided by the very officials expected to protect public interest. In conveyances, the recitals continue to refer to the Oba of Benin as the "Trustee under Benin Customary Law of all communal land in Benin City," but in actual practice the trust funds accruing from communal land do not go to the community. In some other parts of Nigeria, similar anachronistic situations have since been grappled with and remedied for all time. Obas who held landed property or natural resources in trust for their communities have been divested of their personal prerogatives in such matters and the prerogative transferred to the elected or nominated member of the community"

The effect of these anomalies as shown in the extensive quotation above has been legal wrangles in the law courts among individuals.

### *Consent or lack of consent*

Another problem-generating area is that of consent with respect to alienation or attempted alienation of family land by certain individuals. This problem may arise either because the lawful family head has not been duly contacted or his consent obtained or members of the

land-owning group do not agree on the terms of land alienation. These have also resulted in litigation and disputes among family members and non-family members.

In this regard, Park (1963) has made a number of observations. He observed that while it was possible to obtain a little 'equivalent to a fee simple' in Nigeria with the consent of the family, it has become a difficult and hazardous process. This was because of the problem involved in discovering or identifying the number of persons whose consent was required and then proceeding to obtain that consent. Park drew attention to the essence of obtaining the consent of all the necessary persons. Where the problems have arisen these have turned the urban areas of Nigeria into 'conveyance's nightmares' Park (1963).

#### *Inadequate compensation*

Perhaps the most sensitive problem in Nigerian land tenure is that which arises when the state compulsorily acquires private lands for public purposes. While the Nigerian Constitution suggests that reasonable compensation be paid for lands acquired from private users, the problems which arise are due to inadequate or 'unreasonable' rates of compensation, problems in determining rates payable on farm fixtures and urban dwellings, and so on (Famoriyo, 1980).

#### **Indirectly-Related Tenure Problems**

Problems that do not directly arise as a result of nature of the existing land tenure system but may indirectly affect or be affected by the system are referred to as indirectly related tenure problems. It should be pointed out, however that sometimes there is only a faint dividing line between directly related and indirectly related tenure problems. For instance, while the question of inadequate supply of inputs and physical infrastructure directly hinders the transformation of Nigerian agriculture, they are not directly related tenure problems. Further, while the inadequacy of finance capital in form of liquid cash and credit are not directly land tenure problems, yet the possible use of land as collateral makes it an important issue in land tenure considerations.

Another important sets of problems arise from the emergence of boundary disputes. These arise because farmers have no clear documented records of lands. These problems appear to be more prominent in Rivers, Kaduna and Ogun States than in others. All these problems have implications especially for crop production (both export and food crops) as well as development programmes – in the form of large-scale agriculture development projects.

The Public Lands Acquisition (Miscellaneous Provisions) Act 1976, No. 33 was promulgated by the Federal Military Government in 1976. The Act spelt out clearly the basis on which lands compulsorily acquired for public purpose would be assessed and compensation paid. It further specified maximum compensation that would be paid for compulsorily acquired land in different zones of the country. The Act was in response to problems relating to private and public acquisition of land in Nigeria.

Two years later, in 1978, another Decree number 6 titled 'Land Use Decree', 1978 was promulgated. It is now called the Land Use Act. This is the most recent measure directed towards land tenure and land use in Nigeria. The Act essentially vests all land in each state of the Federation in the Military Government of that State, to be held in trust and administered for the use and common benefit of all Nigerians.

The Act aimed at easing agricultural production by making land available to agricultural investors in order to promote agriculture. Since its introduction, many comments have been made about its relevance and effective operation. One gathers from these that the Land Use Act is one of the most controversial decrees "since it affects the basis of family ownership of land in a rather radical manner and purports to shift the emphasis from land ownership to dynamic land use" (Famoriyo, 1979a).

The intentions of the Act are noble especially in attempting to destroy the cankerworm that had eaten deep into the fabric of Nigerian agrarian system. Land, according to the Act, can be made available to land users to the limit of 1.25 acres or half a hectare of undeveloped land in the urban areas and 500 hectares of agricultural land or 5000 hectares of grazing land to be held under customary tenure in the rural areas.

Accordingly, the Land Use Act does not appear to have any positive effect on improving the agrarian situation at present. This is because of the difficulty of implementing the terms of the Act in a situation where ignorance prevails. This is especially so among rural dwellers who are often ill informed about the tenets and working of the Act.

As far as urban dwellers are concerned, those who own several undeveloped plots before the introduction of the Act have to forfeit all but half a hectare of land. This has often been considered an act of confiscation and deprivation. On the other hand, those who have developed several plots before the introduction of the Act (March 29, 1978) can keep their plots! The apparent inequity has not missed the notice of many Nigerians.

In the rural areas, however, the terms of the Act may be difficult to implement because in spite of the Act, many Nigerian farmers still find it easier to acquire access to land through the customary land tenure arrangements rather than the Land Allocation Advisory Committee. This is a result of the strong traditional attachment, which farmers and rural inhabitants still hold to land.

### **Some considerations**

In the context of this paper, there is the need to intensify efforts at all levels (public and private) in addressing the fundamentals of land tenure such as the implications of group ownership as contrasted with vesting economic and political power over land into the hands of the same person (The Governor) as the Land Use Act purports to have done. Second, determinants of land tenure have to be related functionally with other determinants of agricultural and economic development. This is more so now that it has been shown that development may occur under almost every conceivable form of land tenure.

Before any meaningful solution could be applied to the 'land problems' in Nigeria, a fuller understanding of the intricacies of the land tenure system is needed. This understanding can be provided through close consultation with different persons and groups that have a stake in land. For instance, the Land Use Act was introduced without recourse to existing arrangements and institutions relating to land matters in different communities. Similarly, little reference was made to available and useful empirical studies on land policies especially in rural Nigeria. Also, research of a preliminary nature of the rural areas of Nigeria could have given an indicator as to the reaction of ruralites to measures of agrarian reform.

The needed areas of research in the Land Use Act itself are many. For instance, the Act contains no precise definition of urban and rural lands. Rather, it begs the question by simply defining rural lands as lands lying outside a given radius. The success of any

agrarian reform measure lies in the extent to which all the essential parameters are known. In Nigeria, there is wide gap in knowledge about quantitative amounts of land that lie under the different categories of ownership. Unless these categories are quantified and properly recorded, it would be impossible either to verify authenticity of ownership or to seize or recover lands in excess of the stipulated limit.

Research needs in the areas of understanding the extent of insecure land titles in the States, a study of the land market in the urban and rural areas as well as effects of alienation on agricultural production constitute an essential preamble to the formulation of an agrarian reform measure.

These areas of concern, if properly articulated, can produce adequate knowledge, which can lead to the formulation of relevant and effective land use policies with great potentials in the promotion of prudent land use especially in rural areas.

## **CONCLUSION**

The land question in Nigeria cannot be effectively tackled by legislative acts alone. There is a need to carry stakeholder along in the process of formulating new land use policies through consultations with communities and the use of empirical evidence to inform policy options. Measures such as the Land Use Act are too pervading in their effects to be determined by political motives only. There should be an objective social, economic and political appraisal of the agrarian problem within the context of a well-articulated land policy.

While one may consider that decisions made by the State about land matters are bound to have political elements, nevertheless it may be contended that the prudent and economic use of land affects the livelihoods of the several millions of smallholder producers more seriously.

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