

**TOPIC: LAND POLICIES OF THE GOVERNMENT
URBAN AND REGIONAL PLANNING**

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1.1 BACKGROUND OF LAND OWNERSHIP IN NIGERIA

In the past, “land was not owned by any individual but was vested in the group, extended family, and the village or the community (existed in the traditional society). Land assignment was on a freehold basis by the community Chief. During the colonial period, individual ownership was introduced, particularly in Lagos, and hence, two different forms of land ownership emerged: individual and communal land tenure. The introduction of the Land Use Act of 1978 disallowed individual ownership, while the state governor (s) replaced the chiefs, family head or emir as the controlling force behind the land. This was done in theory at least so that land acquisition by government would be made easier for urban expansion: so that ethnicity would be less of a factor in land ownership in urban areas as indigenous groups often controlled land in the older urban areas; to encourage the non-indigenous population have access to land, and to curtail land speculation by limiting the amount of land owned by individuals. The Land Use Act provides that Land Allocation Committees would be created which would dispense the land through the granting of Certificates of Occupancy. While the Land Use Act sought in theory to break up large land holdings, and hence facilitate the transfer of land for housing development and to encourage rehabilitation of older indigenous areas in prime commercial locations in city centers, in reality, it has not accomplished these ends. The traditional authorities still exert influence over the land and generally refuse to relinquish their control over it, and the Land Use Act has not stopped land speculation or land hoarding” (Muhammed, 2008).

2.0 MEANING OF LAND POLICY

The phrase “land policy” encompasses all policies that deal with land – agricultural land, forest land, land for housing and infrastructure, It typically includes laws and regulations as well as administrative structures and programmes that regulates the

ownership and control of land. Land policy generally aims at shaping a specific type of land governance; generally including arrangements of tenure, access, use, security, management, control, distribution, property and administration. A land policy is essentially an expression of a government's perception of the direction to be taken on major issues related to land. As such, land policy always implies a political decision of setting priorities and following specific aims.

Land policy in Nigeria is basically enshrined in the Land Use Act promulgated on 29th March 1978. The Land Use Act is arranged in sections and parts with applicable laws and regulations on the control, use and management of land in the State. Land policy has had a significant impact over housing production for civil servants; the ability of urban areas to expand into rural areas; and the ability to use land without adequate payment of compensation. **All previous land policies** up until the Land Use Act of 1978 were restricted to specific areas, mainly North and South.

2.1 LAND POLICIES IN NIGERIA

Nigeria land policies which has a long enduring history in form of the traditional land tenure system, statutory land law (Southern and Northern protectorate) Land and Native Rights Proclamation 1910 because of their shortcomings and failure to meet up with the demand led the government to promulgate another land policy instrument on the 29th March, 1978 known as Land Use Act (LUA) the principal Nigerian land policy with regard to all land which will, to a great extent unify the laws relating to land tenure in Nigeria.

Several other land policies that existed and still exist in Nigeria have been identified by several scholars. In their various works, they have tried to explain the aim and objectives of these policies to guide the use, allocation, distribution, planning, and management of land and its resources. The following Land Policies with varying objectives can be identified in Nigeria:

- a. The Land Use Act of 1978
- b. Land Use Planning Regulation Law, Decree No. 88 of 1992
- c. Nigerian Urban and Regional Planning Law, Decree No. 88 of 1992
- d. Various Rent Control Acts and Edicts
- e. Taxation Policies
- f. Rating Edicts of various States in Federation
- g. Environmental Laws
- h. Land Use Charge Laws
- i. Native Lands Ordinance of 1916
- j. National Housing Policy of 1990
- k. Development Land Tax-site Value Rating/betterment Levy
- l. Food and Agricultural Policies- OFN Green Revolution

The Land policy in Nigeria is intricately tied to governmental needs and development and thus has a significant impact over housing production and its delivery.

2.2 CLASSIFICATIONS OF LAND POLICIES

Following Haman's (2001) classification, policies can either be subtle strategies or land reforms. In other words, subtle strategies are control measures aimed at streamlining and regulating the exercise of rights in land and land use. Example is Tenancy Reform, State Acquisition and Control, etc.

Another classification is to adopt the use or purpose which the policy was formulated to achieve. This is a reflection of level of human wants and needs as well as the stage of civilization. Here, the classification is in the name of the land policy, and example is the **Land Use Act of 1978**.

Land Policy can be classified or seen as almost synonymous with land tenure systems. The prevalent forms of land tenure in any area have a profound effect on physical urban patterns and their flexibility in adapting to the pressures of rapid growth.

Another classification of Land Policy relates to direct and indirect public intervention in land markets and it takes various forms. Direct intervention includes land nationalization, eminent domain, land use planning, rent control, measures, and land re-adjustment etc. indirect intervention by Government includes provision of infrastructural facilities like housing roads, industries, sites and service scheme etc.

Whatever is the classification adopted, the success of any land policy depends largely on its conformity with the ideology including customs/ norms as well as the state of civilization of the community/ country.

Again, Land Policy is that part of development policy employed in the implementation of urban and regional plans, which are directly related to urban land.

2.3 OBJECTIVES OF LAND POLICY

The objectives of any land policy would depend on the policy under review, the Land Use Act of 1978, Rent Control Measures, Food and Agricultural Policies, Housing Policy etc. The list is endless and cannot be exhausted but the usual objectives of the land reform policies in those countries where they have been applied so far include the following;

- a. Redistribution of land in an equitable manner
- b. Social Justice
- c. Political stabilization through land control
- d. Redistribution of income wealth and opportunities
- e. Physical planning

- f. Recapture of socially created gains for the benefit of the community

3.0 PURPOSE OF LAND USE ACT NO 6 OF 1978

The promulgation of Land Use Act (formerly known as Decree) came into existence on the 29th of March 1978 with the principal aim of regulating the use of land within the country. Provisions of The Act Essential Provisions of the Land Use Act are as follows:

i. Vesting all Land in the State Military Governor

According to section one of the Act, “subject to the provisions of this act, all land comprised in the territory of each state in the Federation are hereby vested in the Military 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” (NIESV, 2020).

ii. Control and Management of Land

Section 2 (1) states that “all land in urban areas shall be under the control and management of the Military Governor of each state” while land in the rural areas shall be under the control and management of the local government.

iii. Powers of the Military Governor in Relation to Land

According to Section 5(1) “it shall be lawful for the Military Governor in respect of land whether or not in an urban area.

(a) To grant statutory rights of occupancy to any person for all purposes.

(b) To grant easements appurtenance to statutory rights of occupancy.

(c) To demand rental for any such land granted to any.

(d) To revise the said rental at such intervals as may be specified in the certificate of occupancy”.

iv. Powers of Local Government in Relation to Rural Land

Section 6 (1) of the Act states as follows: It shall be lawful for a Local Government in respect of land not in an urban area:

(a) To grant customary rights of occupancy to any person or organization for the use of land in the local government area for agricultural, residential and other purposes.

(b) To grant customary rights of occupancy to any person or organization for the use of land for grazing purposes and such other purposes ancillary to agricultural purposes as may be customary in the Local Government area concerned.

Section 6 (2) states inter alia: No single customary right of occupancy shall be granted in respect of an area of land in excess of 500 hectares if granted for agricultural purposes, or 5,000 hectares if granted for grazing purposes, except with the consent of the Military Governor.

v. Certificate of Occupancy

Section 9 (1) states that: It shall be lawful for the Military Governor:

(a) When granting a statutory right of occupancy to any person or

(b) When any person is in occupation of land under a customary right of occupancy and applied in the prescribed manner, or

(c) When a person is entitled to a statutory right of occupancy to issue a certificate under his hand in evidence of such right of occupancy.

Section 9 (2) states that: such certificate shall be termed a certificate of occupancy and there shall be paid therefore as may be prescribed.

vi. Prohibition of Alienation

Section 21 provides that: it shall not be lawful for any customary right of occupancy or any part thereof to be eliminated by assignment, mortgage, transfer of possession, sublease or otherwise however.

(a) Without the consent of the Military Governor in cases where the property is to be sold by or under the order of any court under the provisions of the applicable Sheriffs and civil process law.

(b) In other cases, without the approval of the appropriate local government.

vii. Governor's Consent

Section 22 provides that: It shall not be lawful for the holder of a statutory right of occupancy granted by the Military Governor to alienate his right of occupancy or any part thereof by assignment, mortgage, transfer of possession, sublease of otherwise whosoever without the consent of the Military Governor first had and obtained.

viii. Revocation of Right of Occupancy

By virtue of the provision of section 28 of the Act, the Military governor has power to revoke a right of occupancy for overriding public interest. Overriding public interest includes:

(a) Requirement of the land by Government for public purposes.

(b) Alienation of the land by the occupier contrary to the provisions of the Act.

(c) Requirement of the land for mining purposes or pipelines or for any purpose connected therewith.

ix. Payment of Compensation

Section 29 stipulates that if a right of occupancy is revoked due to any of the reasons stated in section 28, the holder and the occupier shall be entitled to compensation for the above revocation shall be, as respects-

(a) The land, for an amount equal to the rent, if any, paid by the occupier during the year in which the right of occupancy was revoked.

(b) Building installation or improvements thereon for the amount of the replacement cost of the building, installation or improvement, that is to say, such cost as may be assessed on the basis of the prescribed method of assessment as determined by the appropriate officer less any depreciation, together with interest of the bank rate for delayed payment of compensation and in respect of any improvement in the nature of reclamation works, being such cost thereof as may be substantiated by documentary evidence and proof to the satisfaction of the appropriate officer.

(c) Crops on land apart from any building, installation or improvement thereon, for an amount equal to the value as prescribed and determined by the appropriate officer.

(d) Interest charged for the period of delay in payment but charged at current bank rate

The Act is however silent on disturbance, severance and injurious affection.

Objectives of the Land Use Act

a. Compulsory Acquisition by Government

The difficulties which Government experienced in the acquiring land before the enactment of the Act were thought capable of solution through the enactment of the Act. For its ownership and allocation of land became vested in the Government, then simple logic dictated that Government should find no difficulties whatsoever in making use of whatever piece of land it deemed fit for public purposes.

b. To Curb Land Speculation

The Act was expected to curb speculation in land values especially in urban areas. It was believed that once Government was vested with the ownership and disposition of land, speculators would find alternative outlets for their capital and

entrepreneurial ability and this would contribute to the stabilization of the cost of Government projects especially in urban areas of the country.

c. To Unify the Tenorial Systems

As pointed out earlier, there was dualism of tenures in the South while in the North, the Land Tenure Law of 1962 was in force. In most parts of the south, there was evidence that this situation gave rise to endless litigations which, however beneficial to the legal profession, constituted a drag on economic development. There were cases where plans for the location of some industries were aborted as a result of endless litigation. Siting of some infrastructural projects such as hospitals, schools, ports, etc. were also aborted due to endless litigations. These problems were expected to be drastically reduced if not completely eliminated once a systematic arrangement regarding ownership and distribution of land could be put into effect.

d. To Encourage Agricultural Modernization

The different tenure arrangements that existed in Nigeria before the enactment of the Act imposed impediments on agricultural modernization in many respects: The absence of well-defined titles especially in the rural areas effectively prevented the use of land as collaterals for bank loans for agricultural investments; because of the communal nature of land ownership, the erection of permanent structures was not universally welcomed. This also largely discouraged the cultivation of economic trees with long gestation period. Such oil palm, cocoa, colanuts and coffee since the right to land was vested rather in the community and not in the individual, it was believed that the Act will remove once and for all, the shackles to economic development imposed by the archaic and anachronistic tenure arrangement.

e. To Make Land Available to All

To make land available for all individuals, institutions and even government. Before the act came into force, land was only available to the rich and indigenes of a particular place at the detriment of the poor. The Act intended to make land available to both the poor and the rich in the country. The reason for enacting the Act according to the then head of state, was due to lack of immediate availability of land for use when required by all concerned.

f. To Remove Unhealthy Rivalry and Litigations

As a result of a sharp increase in population, there was a corresponding increase in the demand to acquire land leading to unhealthy rivalry among citizens and eventually culminating into much litigation in our courts. It was hoped that the land use act would remove such unhealthy rivalries and litigations. The Federal Military Government realized the existence of litigations before the act was enacted and hence stated in the report of the land use panel that “while Government does not intend to dispossess any Nigerians of his acquires property, which is being lawfully used, the government cannot remain indifferent to the problem of land litigation which is widely acknowledged as an obstacle to rapid national development. A situation whereby, public institutions and individuals encounter problems in acquiring land for development should no longer be allowed to continue in the overall public interest”.

g. To Protect People’s Right in Land

One of the objectives of the Land Use Act of 1978 was to preserve and protect the rights of all Nigerians to use and enjoy land and the natural fruits growing thereof not only for themselves but for the sustenance of all members of their families. The Act planned to remove the general insecurity of title that existed in Nigeria before its enactment.

h. To Control Development

Although the Act encourages universal development throughout the country, it however, intended to regulate and control development so as to avoid the springing up of slums; avoid over-spill in cities through the provision of basic social amenities in the rural areas; and to have uniform development in both urban and rural areas.

i. To solve Inflationary Problems

The non-availability of land and its usage have been noted to be the cause of the prevailing inflation in the country and its attendant problems like shortage of food and other essentials. The Act intended to have even distribution (by way of allocation and issuance of certificate of occupancy) of land for development by residential and other users. It also planned to guarantee permanent farming tenancy, a right that is no longer easily destroyed by claims that have roots in customary law. With price of accommodation lowered and farm products flooding the market inflation are bound to be reduced drastically keeping the cost of living at a reasonable level. The Act planned to guarantee all these (NIESV, 2020).

PROBLEMS OF THE LAND USE ACT

1. The Act has pronounced itself on outlaw as seen in Section 46(1) by claiming to be superior to the constitution of the country. This means that even if any illegality is committed under the Act, the constitution will have no right via the courts of law to challenge that illegality.

2. It is essentially an urban legislation which only superficially touches the tenure problems in the rural sector. This is evident in Section 36(2) of the Act which means that the communal overlords in whom ownership rights were vested before the commencement of the Act are still being recognized owners of rural land. To this end, the tenure problems which plagued rural land before the advent of the Act are still existing in our rural areas even up till now.

(3). It has not eliminated speculation in land, it has only driven it underground or even fueled it.

(4) The insecurity of title to land that characterized the existing tenure before the Land Use Act came into force still exists will date despite the enactment of the Act, for example, a certificate of occupancy can be revoked at any time by the Governor for public purpose or a contravention of the Act. It is not also clear in a situation where a bank accepts certificate of occupancy from a prospective farmer and grants loan in return, if such certificate is revoked who gets the compensation, the bank or land holder?

A Governor can revoke a certificate of occupancy in bad faith at any time but such revocation is usually on the pretense of public purpose, which shows the level of insecurity or uncertainty of our title to land under the Act which it had earlier intended to check.

(5). The Act has further compounded the problems arising from unhealthy rivalry among citizens in their bid to acquire land thereby resulting to endless litigations.

(6). The Act has created artificial scarcity of land as previous land owners have not allowed have not allowed the Government to enter their lands to survey. Plan and allocate land applicants are stipulated in the Act.

(7). The rich and the influential are still the set of people that can get both State and Local Government grants in land at the detriment of the Conclusion Thirty eight years after its adoption, the land use law of 1979 does not appear to have met its objectives while it also seems to have had many unintended consequences. Therefore, there have been many agitations calling for the review of the Act. This review is needed because presently Nigeria is a Federal system comprising of 36 states and the federal capital territory, each of which function semi-autonomously. This has made the implementation of the Land Law to vary significantly across the country (NIESV, 2020)