

## LAND REFORM IN NIGERIA

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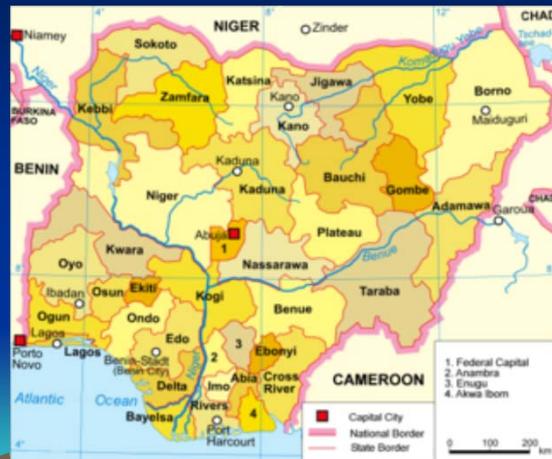
By

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## THE COUNTRY NIGERIA

- **LOCATION:** West Africa. Borders: Benin Republic in the West, Gulf of Guinea on the Atlantic Ocean, in the east by Cameroons and Chad, and in the north by Niger Republic.
- **AREA:** It has an area of about 923,768 km<sup>2</sup> of which the land area is about 910,768km<sup>2</sup> and 13,000km<sup>2</sup> is water. It has coastal line of about 853 km.
- Population of over 140 million
- Nigeria is mainly an agrarian society and until oil was discovered some 50 years ago, agriculture used to be the principal foreign exchange earner for the country. Even now that the economy is dominated by the oil and gas sector, 60% of the workforce is employed in the agricultural sector
- **Land Use Pattern:** arable land is about 33% ; permanent pastures 44%, permanent crops cover 3%, forest and woodlands 12%, and others 8%.: **LAND STILL THE MAIN ASSET OF THE COUNTRY**

# GEOPOLITICAL MAP OF NIGERIA



## SUMMARY

The evolution of land tenure system in Nigeria is reviewed and the various constraints on development are presented and discussed.

The current land tenure system concentrates on titling of the urban land which constitutes about 3% of the country's national space. Thus, about 900,000.00 square kilometres of Nigerian land is effectively locked up as "dead capital".

In attempt to unlock this "dead capital" as asset in land market economy the Federal Government of Nigeria on 2<sup>nd</sup> of April 2009 inaugurated a President Technical Committee on its Land Reform Agenda. Various aspects of the Land Reform Agenda are presented and discussed.

## INTRODUCTION

- Land is a basic natural resource.
- It supports all human activities
- Source of all economic resources.
- It can hardly be renewed or increased
- Must be judiciously and efficiently managed in a sustainable manner for the use and good of all.
- Hence the evolution of various land tenure and land administration systems to protect various “interests” in land.
- Nigeria has had her share of operating many land tenure systems from the colonial era to the promulgation of Land Use Act of 1978.
- Current land reform programme is to address the inadequacies of land tenure system as contained in the Land Use Act of 1978

## WHAT IS LAND ADMINISTRATION

“Land administration is the process of regulating land and property development and the use and conservation of the land, the gathering of revenues from the land through sales, leasing and taxation, and the resolving of conflicts concerning the ownership and use of the land” (Dale and McLaughlin 1999).

## GOALS OF LAND REFORM

To ensure that:

- There are secure dealings in land.
- The cost of transactions is kept low.
- There is access to credit.
- There is transparency in all dealings.
- There is easy access for all participants, poor or rich.
- Minority rights are protected.
- Environmental sustainability is supported.

The objective of the above “ideal” land administration system is to create an open market economy in which land is transformed into an economic commodity.

- There is no country in Africa and developing countries whose land tenure system satisfies any of the objectives of the above ideal land policy.
- At best what some of these countries have is “urban cadastre” for the affluent.
- And that explains why the majority of the citizens of these countries, the rural dwellers, remain poor despite the fact that they have assets – land; and until the governments of these countries start to commoditise the assets of their citizens they will continue to remain poor with attendant adverse consequences on the economy of these nations.

## EVOLUTION OF LAND TENURE SYSTEM IN NIGERIA

### Pre-Colonial Era

- The land space in Nigeria consisted of land adjudicated by might of warfare, occupation and rulership in which princes and religious adventurers carved out dominions for their followers and communities
- Community leaders and warlords had great influence in the administration of land for communal living, farming and grazing purposes.
- In the northern part comprising the predominantly nomadic Fulani, there existed a feudal pattern with Emirs claiming ultimate title to land, with fief holders.
- In the Southern Nigeria, land was held by the community, village, or family. In the main land was owned by extended lineage, individuals having only usufructory rights by virtue of their member of the group.

## GEOPOLITICAL MAP OF NIGERIA



## Colonial Era

Before 1914, the country was divided into colonies & protectorate

### Southern Protectorate

- On arrival European traders acquire land parcels in Lagos with the freehold concept.
- English freehold system was introduced in 1861
- Freehold system caused deep conflicts between the customary system of land tenure and imported freehold system, which resulted in endless and bitter litigation.

### Northern Protectorate

- The Native Rights Proclamation of 1910 nationalised all land and placed it under the control and administration of the Governor in the interest of the indigenous population
- All lands were defined as “native lands” and the Commission for Lands and Survey was empowered to grant rights of occupancy.

## THE LAND USE DECREE (NOW ACT) OF 1978

- The introduction of freehold in the southern states and subsequent economic development resulted in the involvement of many and varied interests or rights in land.
- Ownership of land, especially in urban areas, became a great economic venture
- Speculators made it very difficult for other land users and even various governments and their agencies to acquire land for development purposes especially in urban areas

The ACT was introduced to halt the foregoing and ensure that all Nigerians have easy access to land and that the “rights of all Nigerians to the land of Nigeria be asserted and preserved by law”.

## OBJECTIVES OF THE 1978 LAND USE ACT

- To remove bitter controversies and litigations that usually arises over title to land.
- To assist the citizenry, irrespective of his social status, to realize his ambition and aspiration of owning land.
- To enable government to bring in control the use to which land can be put in all parts of the country and facilitate planning and zoning programmes for a particular use.
- To curtail the activities of land speculators and remove the undue influence which certain traditional rulers have on land.

## Problems and Shortcomings of the Land Use Act of 1978

The land Use did not work as intended for various TECHNICAL, INSTITUTIONAL, SOCIAL REASONS and LACK OF SINCERITY on the part of various operators.

### **Technical issues:**

- lack of prerequisite maps for determining who owns what land;
- the non-explicit demarcation of urban and rural areas,
- the prerequisite national cadastre and geospatial data infrastructure,

### **Lack of political will by government:**

- Each succeeding Federal Government since the promulgation of the Act had exhibited lack of political will to implement provisions of the Act.
- The Act made allowance for transitional provisions for the orderly assimilation of the land tenure systems it hoped to replace, but 30 years, after these other land tenure systems are still being operated.

### **Lack of Security of Tenure:**

- The Act does not guarantee title to land;
- Small scale peasant farmers not protected

### **Operation of the Land Use Act:**

- “Trustees” of the Land Use Act -the State Governors and local government Chairmen- use it as political weapon,
- lack of transparency,
- arbitrary and selective administration of its provisions.

- **Land Titling:**

- The process of obtaining title to land is expensive and tedious,
- less than 3% of land in the country, mainly in the urban areas, is covered by registrable title.

### **Consent Provision:**

The need to obtain consent of

- the governor for statutory right of occupancy or
- local government for customary rights of occupancy holders before transaction in land can be effected is cumbersome and expensive.

### **The philosophy of the Act that:**

- all land belongs to the state; &
- all undeveloped land has no value and hence has no market value; deterred the development of market land economy in Nigeria.

## NEED FOR REFORM IN NIGERIA

- The common man is denied his natural right: Land Use Act an unjust law
- At present 97% of Nigerian land, the natural asset of majority of rural Nigerians is locked up as "dead capital" as various interests in them do not possess title deeds to raise capital.
- Only about 3% of the land in Nigeria is covered by title deeds.
- To alleviate the poverty of rural Nigerians there is the need to develop a land market economy.
- Nationalization of land is an obstacle to the development of a dynamic land market economy
- There can be no true development without converting the natural assets of rural dwellers into capital. Aptly captured by Hernando De Soto:

## WHY CAPITALISM WORKS IN THE WEST

- "In the West....every parcel of land, every building, every piece of equipment or store of inventory is represented in a property document that is the visible sign of a vast hidden process that connects all these assets to the rest of the economy. Thanks to this representational process, assets can live an invisible, parallel life alongside their material existence. They can be used as collateral for credit. The single most important source of funds in the United States is a mortgage on the entrepreneur's house. .... By this process the West injects life into assets and makes them generate capital".

□ Third World and former communist nations do not have this representational process. As a result, most of them are undercapitalised, in the same way a firm is undercapitalised when it issues fewer securities than its income and asset would justify. The enterprises of the poor are very much like the corporations that cannot issue shares or bonds to obtain new investment and finance. **Without representations, their assets are dead capital.**”

□ “The poor inhabitants of these nations - the overwhelming majority - do have things, but they lack the process to represent their property and create capital. They have houses but no title; crops but no deeds; business but not statutes of corporation. It is the unavailability of these essential representations that explain why people who have adapted every other Western invention, from paper clip to the nuclear reactor, have not been able to produce sufficient capital to make domestic capitalism work. This is the mystery of capital. Solving it requires an understanding of why Westerners, by [surveying and] representing asset (notably land) with titles, are able to see and draw out capital from them.”

## THE NIGERIAN LAND REFORM AGENDA

In its desire to transform the country into one of the 20 developed economies by year 2020, the President during his inauguration in on 29<sup>th</sup> May, 2007, announced a Seven point Agenda”, which formed the pivot of government’s development programme .

The seven point agenda includes land administration reform; a recognition that all other points on development agenda are dependent on transforming the land tenure system to a dynamic and sustainable land market economy.

The seven point agenda of government are listed below:

### Seven Point Development Agenda

- Agenda 1: POWER AND ENERGY**(Generate adequate power supply to facilitate industrialization)
- Agenda 2: LAND REFORM**(Review existing land laws to ensure equitable use of the Nation’s land assets for socio economic development)
- Agenda 3: FOOD SECURITY**(Develop agriculture and water resources to ensure) adequate food supply for local consumption and export )
- Agenda 4: SECURITY**(Adequate attention to the provision of security to lives and property)
- Agenda 5: WEALTH CREATION** (Diversification of revenue base and increased production to provide jobs)
- Agenda 6: EDUCATION** (Reform education sector to improve skills and enhance standard)
- Agenda 7: TRANSPORT SECTOR** (Development of rail, road, air and water transportation to facilitate movement of persons, goods and services)

## The Technical Committee On Land Reform

On Thursday 2<sup>nd</sup> April, 2009, a Nine-member Presidential Technical Committee on Land Reform was inaugurated.

- The Committee was charged with the task of charting a roadmap for improving existing institutional and legal framework of land tenure with a view to developing a land market economy for the country.

The committee's terms of reference include, among others:

- To review pre-land Use Act and land tenure in existence in different parts of the country with a view to putting the land tenure system in Nigeria into a historical perspective.
- Collaboration with and provision of technical assistance to states and local government areas to undertake land cadastral nationwide.
- Determination of individuals' "possessory" rights using best practices and most appropriate technology to determine the process of identification of locations and registration of title.
- Ensuring that land cadastral boundaries and title holdings are demarcated in such a way that community, hamlet, village, village areas, towns etc will be recognizable.
- To assist and encourage States and Local Governments to establish an arbitration mechanism for land ownership conflict resolutions.
- To establish a National Depository for Land Title Holdings and Records in all states of the Federation and the Federal Capital Territory.
- To establish a mechanism for land valuation in both urban and rural areas, in all parts of the Federation and
- To undertake any other activity that will ensure an effective, simplified, sustainable and successful land administration in Nigeria.

## Geoinformation and Land Reforms

The prerequisites for Land Reform includes:

Knowledge,

- human capital development –
  - ✓ acquisition of skills and
  - ✓ capacity building.
- knowledge of the contents of the geographical space of interest (Topographical Database).

Development of appropriate ICTs for

- communication
- dissemination
- sharing of vital knowledge for development

Action.

- integrating,
- planning and
- Execution
  - ✓ Aided by knowledge of spatial contents of the environment

Thus the most basic prerequisite for any land administration reform is the knowledge of the spatial content of the environment:

**GEOINFORMATION**

## IMPLEMENTING THE LAND REFORM AGENDA

### ❑ Requirements for Implementation:

- Production of topographical database driven by GIS
- Production of Title Deed Plans (TDP) is very central to the success of the proposed land reform.
  - The Technical Committee on Land Reform is yet to come up with the final approach and methodology for producing the TDP.
  - The initial thinking was to obtain approximate title deed plans (TDP) from rectified imageries using persons trained on ad-hoc basis as done in some African countries.
- The Nigerian Institution of Surveyors (NIS) advised against approximate method of acquiring the TDP and recommended that the TDP should be derived from cadastral survey carried out with minimum tolerance within the context of the existing laws of the country.

The following are the recommendations of the NIS:

## Recommendations for Implementing the Land Reform

- **Creation of Topographical Database and Spatial Data Infrastructure**
  - Digital Aerial Mapping of the entire country to produce topographic databases at the scale of 1/2000 for State capitals, FCT and other urban areas and 1/10000 for rural areas.
- **Determining the “possessory” Rights and Identification of Locations and Registration of Title Holdings; Demarcation Of Communities, Hamlets, Villages etc. to be Recognizable for Purposes of Demarcating Cadastral Boundary and Title Holdings:**
  - Medium and large scale maps are required
  - Carry out National Land Cadastral Survey, using Total Stations, Real time Kinematic GPS equipment to create a land data bank, adopting best practices.
- **Establishment of an Arbitration Mechanism for Land Ownership Conflict Resolution at the States and Local Governments Areas:**
  - Create Land Administration Bureau in States & Local Govt Areas of the country
- **Establishment of a National Depository for Land Title Holdings and Records in all States of the Federation and the Federal Capital Territory:**
  - Developing a land data bank in accordance with International Standard Organization Technical Committee 211 specifications (ISO TC211) and within the context of the National Geo-Information (NGI) policy for Nigeria, driven by GIS.
- **National Mapping Policy, Security and Funding:**
  - Government should adopt a National Mapping Policy and fund it appropriately.

## CHALLENGES OF THE THE LAND REFORM AGENDA

The proposed Land Reform Agenda is still being articulated. While the Technical Committee on the land Reform is brainstorming on the optimal approach to the actualization of the technical components of the Land Reform, the following issues must be addressed:

- Need to articulate the Land Use, Land Reform and Administration Policies in order to Institutionalise the Reform and ease of administration and enforcement.
- The Land Use Act of 1978 should be removed from the constitution of the land and reviewed to expunge the retrogressive clauses which made the Act to be anti poor and entrench the New National Land Policy.
- Govt should articulated and implement: Land Use Planning; Legal framework for regulating land registration, delivery and physical planning.
- Sensitization of all stakeholders especially the farmers who may be distrust of governments' actions as intention to dispossess them of their land.
- Adjudication on and separation of intricate web of various land holdings such as grants, pledges, tenants etc and who is to be issued title.

## CHALLENGES FACING THE SURVEYORS

- Capacity Development: human and Technical; Adaptation to Current Technology
- Paradigm shift: from Measurement to Management
- Building of Institutions for Professional Practice: Currently Weak
- Ability and Readiness to Work with other Professionals: boundary between allied professions are becoming blurred.

## SUMMARY AND CONCLUSION

- A review of the Pre- and Post-colonial land tenure system in Nigeria was presented and discussed.
- The shortcomings and problems associated with the land administration of post colonial era were highlighted.
- The Land Use Decree (now Land Use Act) of 1978 which came to being as a result of the post colonial land administration was presented and discussed.
- The shortcomings of the Land Use Act were highlighted. Its operation had locked up about 900,000.00 square kilometres of Nigerian land effectively as “dead capital”.
- It is in attempt to unlock this “dead capital” as asset in land market economy that Federal Government of Nigeria, proposed the Land Reform Agenda.
- The Presidential Technical Committee on Land Reform was set up to: draft a road map for improving the institutional, legal and technical framework to transform the land tenure system to a dynamic land market economy.
- The Committee is currently working on the optimal method for acquiring the national land cadastre; while the legal and institutional frame work are being worked on through moves to amend the Land Use Act of 1978. It has been recommended that the Committee should use adequate geoinformation products and adopt best practices to achieve desired results.
- Need for a Land Commission adequately backed by law to ensure continuity

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