

land tenure, land use and land acquisition in Nigeria

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ABSTRACT

75 % of Nigeria's total population of 70 million inhabitants live in rural areas, which explains how extremely important any measures concerning land change are in this country. We examine various concepts relating to land and land tenure, on the one hand, and land management and acquisition on the other, in the light of the old system — the customary paternalist one in operation until the beginning of 1978 — and the new one, that is, the Land Use Decree promulgated in 1978, which makes the State the actual owner of all land.

RÉSUMÉ

75 % des 70 millions d'habitants du Nigéria vivent en zone rurale. Aussi tout ce qui, dans ce pays, affecte la terre est-il d'une importance capitale. Sont ici examinés les concepts relatifs d'une part à la terre et à la tenure de la terre, d'autre part à la gestion et à l'acquisition de la terre, à la lumière à la fois de la situation ancienne — système coutumier en vigueur jusqu'au début de l'année 1978, de type paternaliste — et de la situation nouvelle — décret sur l'utilisation de la terre de 1978, qui fait de l'Etat le véritable propriétaire de la terre.

INTRODUCTION

The country Nigeria, a West African country is situated in the tropics. Made up of a Federation of 19 States, it has a strong central government which plans for and coordinates the economic programmes and activities of all the States. A greater proportion of the funds used by respective State

Governments is also provided by the central (Federal) Government.

The development of agriculture is now largely undertaken by the Federal Government through execution of agricultural research programmes in the whole country while States are made responsible for extension services.

Planning of the economy in an integrated fashion started effectively with the First 5-year Development Plan from 1962-

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68, followed by the 1970-74 Plan and now the 1975-80 Third Development Plan (1).

With an estimated population of over 70 million, and a total land area of 98.3 million hectares, over 75 percent of the population live in rural areas. The total cultivable land is estimated at 74.0 million hectares out of which 34 million hectares are being cultivated and the rest are in medium to long term fallows. About 10 percent of the area is in forest reserves and 14.7 percent is assumed to be made up of permanent pastures and built up areas.

So, although cultivable land is abundant, it is under-utilized partly because of its distribution compared with the population distribution and partly because of the relatively poorly developed state of technology at present. Table 1 gives the population density in all the states in the Nigerian Federation.

The density per square mile varies widely in many parts of the country. According to Table 1, it varies from 190 in Niger State to 794 in Anambra State and 1375 in Lagos State.

TABLE 1 POPULATION DENSITY IN NIGERIAN STATES

STATES	POPULATION	AREA (SQ MILES)	DENSITY (PER SQ MILE)
Anambra	2,943,483	3,707	794
Bauchi	2,193,674	6,921	319
Bendel	2,435,839	11,120	219
Benue	3,041,194	7,413	410
Borno	2,990,526	4,911	609
Cross River	3,600,00	6,898	522
Gongola	3,002,340	5,276	569
Imo	3,208,340	3,367	953
Kaduna	4,098,305	16,746	245
Kano	5,774,842	10,273	562
Kwara	2,309,338	11,453	202
Lagos	1,443,567	1,050	1,375
Niger	1,271,767	6,697	190
Ogun	1,551,946	5,251	296
Ondo	2,727,675	5,560	491
Oyo	5,158,884	6,795	759
Plateau	2,026,657	8,031	252
Rivers	1,800,000	4,329	416
Sokoto	4,538,808	8,031	565

Source : Report of the National Seminar on Manpower Planning for Agricultural Development in Nigeria, *Agricultural Research Council of Nigeria*, Ibadan page 90, 1976.

TABLE 2 Nigeria : Estimated Available Arable Land (hectares per capita)

State (1)	Readily Available (2) Arable Land in Million Hectares	1961	1962	1963	1964	1965	1966	1967	1968	1969	1970
		1. Benue-Plateau	8.161	2.142	2.087	2.035	1.986	1.934	1.891	1.844	1.799
2. East-Central	1.706	0.248	0.242	2.357	0.231	0.224	0.219	0.214	0.209	0.203	0.197
3. Kano	3.243	0.591	0.576	0.562	0.548	0.535	0.522	0.509	0.496	0.483	0.469
4. Kwara	5.592	2.452	2.391	2.441	2.275	2.220	2.166	2.113	2.061	2.004	1.948
5. Lagos	1.121	0.816	0.796	0.776	0.758	0.739	0.721	0.704	0.687	0.668	0.648
6. Mid-Western	2.992	1.241	1.210	1.180	1.151	1.123	1.096	1.069	1.043	1.014	0.985
7. North-Central	5.256	1.349	1.315	1.282	1.251	1.221	1.191	1.162	1.134	1.102	1.071
8. North-Eastern	23.568	3.181	3.102	3.024	2.950	2.879	2.808	2.739	2.673	2.597	2.524
9. North-Western	12.678	2.326	2.267	2.211	2.157	2.105	2.053	2.004	1.955	1.900	1.846
10. Rivers	1.367	0.931	0.907	0.885	0.863	0.842	0.821	0.800	0.781	0.759	0.738
11. South-Eastern	2.678	2.778	0.758	0.739	0.721	0.703	0.686	0.669	0.654	0.635	0.617
12. Western	5.675	0.630	0.614	0.598	0.584	0.569	0.566	0.542	0.529	0.514	0.499
Nigeria	74.036	1.391	1.356	1.322	1.290	1.258	1.227	1.198	1.168	1.135	1.104

(1) Although the old twelve-state structure is shown here, Nigeria has since become a Federation of nineteen states with some of the states shown here having been further divided into a number of new states.

(2) Source : Computed from Information in *Federal Republic of Nigeria Second National Development Plan 1970-74*, Lagos, 1970, p. 62. The assumptions are : 10 % of land area are in forest reserves : These are true of the whole country and are taken as generalized basis for calculating states readily available arable land which comprises 34.8 % under arable crops and permanent crops and 40.5 % as area that could be easily brought under cultivation.

Cultivable land per capita of total population varies from 0.197 ha to 2.524 ha in parts of the country in 1970, according to Table 2.

Objectives of the paper

This presentation has the objectives firstly, to review the various concepts relating to land and land tenure in the Nigerian agricultural scene. Secondly, to examine the concept of land use and the effects of public acquisition of land on agriculture.

The issues will therefore be discussed in two separate sections while the third section is the conclusion.

SECTION I LAND AND LAND TENURE

The word «land» has come to take up various meanings under different disciplines or pre-occupations. In its simplest form, it may mean the surface part of the earth above the sea.

But this appears to be a rather restrictive definition because it recognises only the immediately visible aspect of the land. In a cultural context, BOHANNAN defined land as «a measurable entity divisible into thing — like «parcel» by means of mathematical and technical processes of surveying and cartography» (2).

In a geographical context, VINK has defined «a tract of land» as «a specific area of the earth's surface : its characteristics embrace all reasonably stable, or predictably cyclic attributes of the biosphere vertically above and below this area including

those of the atmosphere, the soil and underlying rocks, the topography, the water, the plant and animal populations...» (3).

The economic definition of land is aptly stated by Raleigh BARLOWE as «the sum total of the natural and man-made resources over which possession of the earth's surface gives control» (4). Within this broad conception, land includes the ground, water, ice, forests and mineral deposits. It also includes natural phenomena such as sunlight, wind, rain and temperatures as well as man-made improvements like farm fixtures attached to the surface of the earth.

In Nigeria, land takes up importance as a commodity for daily use for many purposes. For several decades, land has continued to influence the lives of Nigerians socially, economically and politically. In the process of using the land, complex set of relationships has emerged among groups. The more complex various Nigerian communities become, and the more established are the physical manifestations of development, the more friction and clashes are likely over rights in land. This shows that in Nigeria, as in other developing countries generally, land constitutes a sensitive asset whose administration must be based on meaningful policy decisions to benefit most Nigerians.

Land is the most important resource-input in Nigerian agriculture and so, policies affecting it affect the farming population more so than other members of the community.

The concept of land tenure has been described as «a systematization 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. Such rules define the privileges and obligations, the rights and duties of persons in relation to each other, with reference to land» (5).

Although the basis of land-ownership in Nigeria has long been the family from which other interests are carved out (6), there are essentially two categories of interests recognized in land. The first, that of superior interests which are proprietary in nature and confer the highest decision-making rights to the holder, having regard to the laws and customs prevailing in the locality.

Secondly, there are inferior interests which are rights exercised by individuals, not in perpetuity as in superior interests, but for a limited period of time. These are rights which have been derived from, or carved out of the superior rights and are subject to the laws, customs, sanctions, rules and regulations of the community (7).

Under the derivative rights to land, the derivator or tenant acquired rights of use from the landlord. Where the landlord and tenant contribute inputs in equal proportions (50/50), that is, the landlord provides seeds or/and fertilizers while the tenant supplies labour and working capital, it is usual for the tenant to receive one third of the produce while the landlord receives two thirds. One third of the landlord's share represents contribution from the land per se.

If however, the landlord makes no further contribution apart from the land, then products of the harvest are shared in equal proportions by both the landlord and the tenant (8).

In Nigeria, no land exists without an owner although that ownership may be the basis for dispute. UMEH (1973) has recognized four main categories of who may exercise rights or interests in Nigerian land. These are natural and supernatural persons, corporate bodies and the State.

The concept of land tenure is pervasive as the issue of rights to land for the purpose of food production has always been important to the Nigerian farmer (9). It has enabled the Nigerian farmer to gain access to land in order to feed himself and members of his family. The customs, sanctions and duties associated with use of land have also ensured preservation of the farmer's rights of ingress and egress. In a way, customary laws of land tenure have in the past given the farmer «a feeling of reasonable permanence on the land he cultivates» (10).

The pervasive nature of land tenure is evident in the areas of the agricultural sector where it makes an impact. These include productivity levels, security of tenure, shifts in income distribution, rural capital formation and stability of employment (11)(12).

Conflicting issues

In the past, many notions have been put forward about African land tenure. Essentially, various conclusions have been reached. For example, FAMORIYO (1976) wrote that as far as the customary tenure system in Nigeria was concerned, the attitude of colonial rulers in Nigeria was paternalistic, a «laissez-faire» attitude, of non-interference by the ruling authority. This attitude seems to have been inherited by successive Nigerian Governments at least until 1978.

As a result of this paternalism, it is argued, the customary land tenure systems in Nigeria have been left to develop on their own. Consequently, a number of problems have arisen which have not helped the course of agricultural development in Nigeria. These problems include lack of a defined policy,

insecurity of tenure, unclear titles to land, litigation, duplicity of rights, succession, fragmentation, excessive subdivision, compensation problems, land grabbing and speculation (13).

- In so far as most Nigerian farmers cultivate small farms, these problems have a direct disincentive effect on agricultural production by smallholders.

But in a 1974 paper, IJERE rigorously questioned the basis for «the belief that African land tenure poses insurmountable obstacles to modern agricultural development» (14). To support his argument, he cited the case of East Africa «where the African land tenure system in question has been modified to make for modern agricultural nationalization». IJERE however does not fail to mention the critique of Kenya's «Swynnerton Plan» of which the following words of Roider was cited by IJERE :

«...Kenya has through this reform by far not yet solved its land tenure problems. The land tenure reform has given rise to social problems like the emerging classes of landowners and landless people, the partial lack of social security, which was formerly provided by the traditional system» (15).

This paragraph is reproduced to make the point that land tenure does constitute to some extent, a constraint on development of African agriculture. Whether a reform is necessary, or what nature of reform is required are other issues which are also germane to questions of land tenure and agricultural improvement or modernization.

Case of Nigeria

The Federal Government of Nigeria is aware of the problems posed by land tenure in Nigerian agriculture. So is the Federal Ministry of Agriculture and Rural Development (16).

For example, the Federal Government has recently published a decree, constituting a major change in the structure of the country's land use.

Cited as the Land Use Decree of 1978, the decree considered it «in the public interest that the rights of all Nigerians to the land of Nigeria be asserted and preserved by law».

The decree is in eight parts of 51 sections (17). Objectives of the decree are as follows:

- 1 To facilitate rapid economic and social transformation of the country through a rationalization of land use.
- 2 To enable State Governments bring about proper control and administration of land for the benefit of their people,
- 3 To curb the incidence of rising land prices arising from activities of speculators particularly in urban areas,
- 4 To remove a main cause of social and economic inequality,
- 5 To provide an incentive to development by providing easy access to land for the State and the people.

The decree vests all land in the urban areas of each state in the Military Governor of that state while rural lands are vested in the Local Governments exercising jurisdiction in the particular areas. In the urban areas, the decree provides for the establishment of a Land Use Allocation Committee to advise the Military Governor generally on matters relating to control and management of urban lands. The Committee is also to advise on issues such as revocation of rights of occupancy,

compensation, resettlements, and so on.

In the rural areas, a Land Allocation Advisory Committee advises the local government generally on issues relating to effective management of land. The Governor is empowered «to grant statutory rights of occupancy, to any person for all purposes», and to issue certificates of occupancy, levy rents, impose penalties, extend, curtail or waive conditions pertaining to statutory rights of occupancy in the urban areas (18).

On the other hand, in the rural areas, local governments are empowered to grant customary rights of occupancy to individuals or organisations for agricultural, residential and other purposes. Customary grants are however limited to 5,000 ha for grazing land.

Owners of developed land were to receive certificates of occupancy while owners of land undeveloped before March 29, 1978 were limited to half a hectare of land (1.25 acres) as a maximum.

Although implementation of the decree is presently at an early stage, there have been criticisms levelled at it from various sources. While, a writer has called it «unnecessary», stating that

«...It is difficult to imagine how a people deprived of the right of ownership of land and left with only the precarious licence of occupancy and use, can continue in a private enterprise society to maintain the incentive which has sustained the country until its present stage of economic development...», yet another writer argues that the decree is «not socialist enough» and that

«...For a government measure to benefit the masses, in the long-run, the State itself must first be socialist» (19).

Either of the two contrasting points of view can only be correctly assessed empirically given a reasonable period of implementation of the decree.

It is sufficient at this point to stress that the terms of the decree, if adequately implemented would sufficiently stabilize the state of the nation's agricultural land by controlling the amount of land that can be usefully exploited by any single person. In this sense, 500 ha and 5,000 ha for agricultural and grazing land respectively would tend to deprive many smallholders of their smallholdings except only where acquisition of these large areas is in bush and thick forest areas that have to be cleared.

SECTION II LAND USE AND COMPULSORY ACQUISITION

Concept of Land Use

It is essential in this section before proceeding to discuss the effects of compulsory acquisition on the smallholder to first attempt to define the concept of land use, explain it historically and functionally, and relate it to the question of adopted farming systems in Nigeria.

According to VINK (1975), «land use is any kind of permanent or cyclic human needs either material or spiritual or both, from the complex of natural artificial resources which together are called «land».

This definition excludes those who are non-sedentary land users for VINK explained further;

«True nomads with no fixed habitat do not practice land

use; they do not systematically apply their energies to any specific tract of land; and they themselves are a natural part of an ecosystem, as are other living organisms. Land carries ecosystems; land use is the application of human controls, in a relatively systematic manner, to the key elements within an ecosystem in order to derive benefit from it» (my emphasis) (20).

VINK'S definition recognises the dynamic nature of land and land use and emphasises the importance of man within the ecosystem. The efforts of man are crucial determinants of what happens to land eventually, for his influence may have favorable or adverse effects on land as an ecosystem.

In the first section of this paper, we discussed largely the question of man's relationship to man as well as the man-to-land relationship through an existing land tenure system. Man influences and is also influenced by these relationships immediately he sets out to exert effort or labour on the land. In doing so, man brings upon the land his own customs, beliefs, ideology, politics, and so on. This suggests two facts: firstly that land use is a complex phenomenon which cannot be discussed separately from land. Secondly, that the close and reciprocal relationship between land tenure and land use must be recognised and that this close relationship shows itself in the various aspects of land use which exist as in geographical, sociological, economic, political, ecological aspects and so on.

Within the broadest context, land use is capable of being classified into: Rural land use (agriculture, forestry, fisheries; livestock including wild life management); and Urban Cum Industrial land use (towns, villages, highways, industrial complexes and mining and quarrying).

Land use classifications depend upon the choice criterion and so will vary from one society to another. Using, for example, the criterion of degree of intensity, BOSERUP (1966) adopts a five-fold classification. Firstly, the forest fallow cultivation in which 1-2 year cultivation is followed by periods of fallow as long as 20-25 years in duration.

Secondly, the bush fallow system in which periods of cultivation may vary from 1-2 years or 6-8 years and then the land is left to revert to bush for another period of 6-8 years.

Thirdly, the short fallow system in which fallow lasts only for a few years to be invaded by grasses.

Fourthly, the system of annual cropping in which the land is left uncultivated for some months, between the harvesting of one crop and the cultivation of the next one.

Lastly, is the system of multiple cropping which is the most intensive form of land use. Under this system, the same plot of land carries two or more successive crops every year (21).

Although most of these systems of land use are practiced in many parts of Nigeria, the most prevalent form of land use is for agriculture and it is based upon the bush-fallow system, that is, the second in BOSERUP'S typology of land use above. Forms of cropping in Nigeria are sole cropping, double cropping, multiple cropping (in irrigated areas), mixed cropping and intercropping (22).

Agricultural Land Use In Nigeria

Agricultural land use in Nigeria may take one of the following forms:

market gardening, commercial food crop farming, plantation agriculture (eg., rubber, cocoa, palm products, forest products), subsistence agriculture, forest clearing and

forest culture, fishing (and part time farming), hunting zones, poultry farming, livestock and pastoral activity, collection and gathering.

Problems relating to the practice of bush fallow system in Nigeria are firstly, to maintain soil fertility in view of increased population and urbanization, secondly, acceptability of innovation by farmers, thirdly, the widening gap between food demands by an increasing population «vis-a-vis» the slow pace of growth of agricultural production, and fourthly, shortening for fallow brought about by rapid population. This results in loss of soil cover and erosion. The bush fallow system is practised in different forms in all parts of the country.

Apart from the bush fallow system, there is the system of sedentary cultivation practised in densely populated areas where intensive cultivation is coupled with use of manure for livestock.

The third farming system in Nigeria is that of terrace agriculture. This system is practised in the hilly areas and represents adaptation of people to a difficult environment. The idea is to build terraces so as to minimise extensive use of land and to avoid the danger of erosion. The system depends upon organic wastes to build up soil fertility.

The fourth system involves mixed farming and balances stock and crops on individual holdings. Problem to be overcome here is that of nomadism, integration of livestock with arable crops and eradicating the tse-tse fly.

The fifth system is that of intensive irrigated cultivation. Sugar cane, rice and vegetables are grown on seasonally flooded (fadama) lands.

In many parts of the country, the potentiality of increasing production through irrigation exists where there is inadequate rainfall. The five farming systems have been classified into two main groups. The first group consists of crops such as cereals, legumes, root crops and tubers, citrus, cocoa, palms, cashew and coffee and are the rainfed crops of the rain forest south of Nigeria (23).

The second group consists of irrigated crops such as sugar-cane and swamp rice, maize, sorghum, wheat as well as legumes, fruits and vegetables. It is believed that continuous production of this group of crops is possible through availability of improved irrigation system.

EFFECTS OF COMPULSORY ACQUISITION OF LAND

Land acquisition by the State for «public purposes» is extraneous to the terms, conditions and working rules of the Nigerian customary tenure systems although the latter made provisions — before the emergence of the nation - state - for allocating areas of land for specific purposes. Such purposes were firewood gathering, defence and performance of certain rituals.

Also, there were lands set aside as «bad bush», that is, lands that remained uncleared for the reason that farming was forbidden there. Such lands served as abode for dead bodies of the most abominable members of society.

In modern times, lands may be compulsorily acquired in Nigeria by Federal or State Governments, Local Governments, Local Government authorities or statutory bodies vested with the powers of compulsory acquisition. The process of compulsory acquisition has been defined as «the coercive taking of private lands (individual or communal) or estates and interests in those lands for public purposes» (24). The Federal Government is empowered to exercise these powers all over the Federation. But the object of acquisition must be for «public purpose» which was defined to mean land required for rural or urban development generally.

The effects of compulsory acquisition on smallholders are:

- 1 It dislocates their production programmes on the land.
 - 2 It is disruptive on the social life of farmers' families.
 - 3 The farmer may have to be moved to less-fertile lands thus affecting his level of productivity per acre/hectare.
 - 4 Delay in payment of compensation money is detrimental to the welfare of farmers.
 - 5 Even when compensation has been paid, its inadequacy constitutes a major income problem for the farmer.
- Apart from these effects, lands acquired from farmers in the oil-producing areas and given to oil companies have had the following effects on smallholder farmers:

- 1 Unemployment of aged farmers.
- 2 Depleted fertility in some rural areas.
- 3 Accelerated perishability of crops.
- 4 Resultant high cost of living for farmers.
- 5 Inadequate maintenance of lands carrying pipelines.
- 6 Danger of oil-wells.

CONCLUSION

This brief presentation has highlighted the importance of land as well as the complexity of land use in a developing (poor) country like Nigeria.

Because of its economic and political importance, any policies made on land use and tenure must relate to the existing situation in a country, the needs of the country for development and the welfare of the people. Thus land policies in a predominantly agrarian country like Nigeria must give considerable regard to the needs of farmers. The policies should guarantee access to opportunities made possible by the existence of the nation's supply of agricultural land.

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