

# **LAND REFORM IN NIGERIA: PROGRESS, PROBLEMS & PROSPECTS**

By

Professor Akin L. Mabogunje

Chairman, Presidential Technical Committee for Land Reform

Address:

E-mail: [mabogun@skannet.com](mailto:mabogun@skannet.com)

Tel.: (+234) 803 555 7979

Microsoft Word 2007  
Compaq Presario V2000

Keywords: Nigeria, Land Reform Activities Presidential Committee

## **ABSTRACT**

The Nigerian Federal Government established a Presidential Technical Committee on April 2, 2009 to undertake the reform of the land tenure situation in the country following on the various problems emanating from the Land Use Act of 1978. That Act conferred on State Governors the custodian right to issue certificates of occupancy for land holders in their states but left out the majority already with possessory rights to their land. The present reform sets out essentially to rectify this and to provide registrable titles to all land owners in the country.

### **Introduction**

Although the Land Use Act of 1978 was meant to usher in a new land reform in Nigeria, it soon became a clog in the wheel of development over the years. This was more so because the Military Government which promulgated it also ensured it was embedded in the Constitution of the country. Thus, any attempt to rectify its inadequacies required a constitutional amendment. There were thus many protests both to have the Act expunged from the Constitution and to amend it in very many substantial way. It took the decision of the current President of the Federation to have land reform as one of the seven point agenda of his administration. This paper is, therefore, divided into six parts. The first discusses the land tenure situation before the Land Use Act of 1978. The second reviews the Land Use Act and some of the challenges it has thrown up over the years. The third then considers the

circumstances leading to the setting up of the Presidential Technical Committee on Land Reform in 2009 whilst the fourth examines the activities of the Committee since it was set up. The fifth considers the problems which the Committee is likely to meet in the process of executing its mandate. A concluding section reflects on the prospects before the proposed Land Reform Commission which, it is hoped, will soon take over from the Committee.

### **The Situation precedent to the Land Use Act of 1978**

At the beginning of the 20<sup>th</sup> century when Britain made a colony and protectorate of Nigeria, there was a multiplicity of land tenure systems in the country. Apart from the system in the Lagos colony where an English freehold system had been established following its annexation in 1861, these diverse systems can be grouped broadly into two (Meek, 1957). The first obtained in northern Nigeria where the colonial administration had placed all lands under the control and subject to the disposition of the Governor. This was on the basis that the Maliki Law operated by the Fulani over much of Hausaland in the 19<sup>th</sup> century confers on the colonial conquerors rights to the land of the conquered. Without the consent of the Governor, no title to occupation and use of land was valid. An Ordinance of 1910 (GoN, 1953: 105) directed that the Governor shall hold and administer the land for the use and common benefit of the native peoples. Any native or native community lawfully using and occupying land in accordance with native law and custom enjoys a right of occupancy protected by the Ordinance and no rent is paid in respect of such rights. In the case of all other persons, no title is valid which has not been conferred by the Governor, who is empowered to grant rights of occupancy for definite or indefinite terms, to impose conditions and to charge a rent. The Ordinance lays down maxima of 1,200 acres for agricultural grants and 12,500 acres for grazing purposes. By

contrast, in southern Nigeria, the second system recognised that land was owned by lineages or extended families. Individuals have only right of use on such family land. The only land held at the Governor's disposal was that which had been expressly acquired for public purposes as Crown land. The only control imposed by law on the lineages and other local land-holders was an obligation to seek the consent of Government when rights are being conveyed to aliens.

This land tenure system of southern Nigeria created a number of problems for land management in the country. First, it encouraged the practice of multiple sales of the same land to different buyers by land-owning families in the absence of a titling and appropriate registration mechanisms for transactions in land. Second, particularly after the nation's political independence, it led to tremendous land speculation and a sharp rise in the prices of land for urban and infrastructural development. Poor farming families were encouraged to part with their land for relatively small amount compared with what the speculators made from laying the land out for sale. This promoted increasing inequality in land ownership and increasing landlessness among the poorer segments of the population. Even after government had invoked its rights of eminent domain to compulsorily acquire and pay compensation for land for public purposes, the tendency grew for some owners of land to refuse to vacate their land. Based on the open system value of land which required cash compensation for land compulsorily acquired by government for public purposes, the increasing intervention of land speculators made the cost of acquisition to rise phenomenally.

However, whether in northern or southern Nigeria, land was considered by the people themselves largely within the nexus of a pre-capitalist social formation. For such social formations, not only kinship but allegiance to a local sovereign determines man's relation to

land. This is why in most Nigerian society, the position at the beginning of the 20<sup>th</sup> century was that land was not sold. To sell land to a stranger or migrant is to render the security of the community concerned a hostage to fortune. Hence, when the colonialist came, everywhere he went he was told that there was no tradition of alienating land. Indeed, such was the situation that the British Colonial Office (Colonial Office, 1916) had to set up a special Lands Committee to investigate the land tenure systems in all of its West African colonies in 1912 to confirm the general customary laws and practices with respect to land.

Yet, the extensive labor migrations that colonialism set in motion could not go on without land being alienated to strangers and migrants. Whether in the urban or rural areas, transactions in land gradually emerged in all parts of the country. Unlike in pre-capitalist society, such transactions also entailed the individualization of land. Such land remained in individual ownership until the demise of the owner when, through the inheritance law, it again became subject to multiple ownership claims. The introduction of perennial crops such as cocoa, rubber, planted oil palms, all of which meant fixed cultivation, replaced the transient traditional shifting cultivation under group control by an enduring right of individuals. By the same token, building a house in an urban area entailed establishing an enduring right on the particular plot of land. Thus, as the colonial era progressed, land alienation and sales not only grew in volume and geographical spread but also became the cause of considerable litigation and communal strife, often resulting in violent confrontation.

### **The Land Use Act and its Threats to Economic Development in Nigeria**

It was not surprising, therefore, that faced with these contrasting land tenure systems and the considerable hassle in getting land for public purposes especially in southern Nigeria, the military government sought to unify the two systems through the Land Use Decree of 1978 (Udo, 1990. The thrust of the Decree was largely to extend the northern system of land management to the whole country as a means of ensuring easier access to land for government and, ostensibly, for individuals. Seven of the more important provisions of that Decree are indicated below:

1. all land situated in the territory of each state in the country is vested in the Governor of the state. For southern Nigeria in particular, this means state appropriation of land from families and communities without any compensation except for economic crops and other betterment on the land.
2. all land control and management, including land allocation in urban areas come under the Governor of each state while land located in rural areas becomes the responsibility of the various local governments. *Only the Governor can declare parts of the state territory governed by him as an urban area by an order published in the state gazette;*
3. all land in urban areas is to be administered by a body know as the Land Use and Allocation Committee which has the responsibility of advising the Governor on the management of urban land; similarly, a Land Allocation Advisory Committee is provided to advise local governments in like manner;
4. all land which has already been developed remained the possession of the person in whom it was vested before the Act became effective;

5. the Governor is empowered to grant statutory certificate of occupancy (C of O) which would be for a definite term to any person for all purposes and rights of access to land under his control;
6. the maximum area of undeveloped land that any person could hold in any one urban area in a state is one half of an hectare; in the rural areas this must not exceed 500 hectares except with the permission of the governor;
7. the consent of the Governor must be secured for the transfer of a statutory right of occupancy through either mortgage or assignment. The consent of the Local government or that of the Governor in appropriate cases must also be obtained for the transfer of customary right of occupancy.

To ensure that this Decree will not be easily abrogated or amended by subsequent regimes, it was made an integral part of the 1979 Constitution and later again of the 1999 Constitution. Thus, although the Decree has made it easy for governments to acquire land for public purposes, drastically minimized the burden of land compensation and considerably reduced court litigations over land, it has, since its inception over two decades ago, created a new genre of serious problems for land management in the country. Nine of these are indicated below (Uchendo, 1979; Mabogunje, 2002):

- i) The Decree, as it stands, represents an abrogation of the right of ownership of land hitherto enjoyed by Nigerians, at least in the southern half of the country, and its nationalization by government is inconsistent with democratic practices and the operations of a free market economic system;

- ii) Many State Governments failed to establish the Land Use and Allocation Committee in their states for many years. This has hampered the steady and continuous delivery of land for building purposes;
- iii) Many Governors do not give the urgent attention needed to their responsibility of granting consent for land assignments or mortgaging, thereby impeding the development of an efficient land market and housing finance institutions in the country;
- iv) Equally serious is the attempt by some Governors to use the provision requiring their consent for assignments or mortgaging as a means of raising revenue for their States through imposing heavy charges for granting such consent, thereby again obstructing the development of an efficient land market and housing finance institutions in the country;
- v) At least in the case of one State, the attempt of the Governor to declare all land in his state as urban land gave rise to considerable absurdities in the operation of the land market;
- vi) The inconveniences and delays in securing Statutory Certificates of Occupancy have induced many land transactions among Nigerians to move to the informal market or be falsely dated as having been concluded before March 28, 1978, the operative date for the Land Use Decree;
- vii) The exclusion by the Decree of the rights of families or individuals to develop private lay-outs has led to the emergence of a disjointed, uncoordinated and incoherent

system of physical planning in Nigerian cities and a declining rate of housing provision in the country;

- viii) The power of Governors and the Local Governments to revoke any right of occupancy over land “for overriding public interest” has been used arbitrarily in the past and helps to underscore the fragility of the rights conferred by the Certificate;
- ix) In consequence of the above, there is increasing reluctance by both the Courts and the banks to accept the Statutory Certificate of Occupancy as a conclusive evidence of the title of the holder to the land nor as adequate security in an application for loan.

These various weaknesses of the Land-Use Decree of 1978 have become the major grounds on which many groups interested in the development of an efficient and effective system of land management in Nigeria have been agitating to have the Decree first, removed from being part of the Nigerian Constitution and second, subjected to the many amendments that have become necessary from the experience of operating it during the last quarter of a century. Most of this agitation have been largely on the gross inconvenience that a number of the provisions of the Decree have constituted for the effective transactions in land especially as it leaves the closing of such transactions subject to the arbitrary whims of Governors who have been known to be negligent in living up to their responsibility of signing the necessary documents at various stages of transactions in land. But, perhaps more fundamental than all of these complaints, is the threat that these exposures of national land management to the whims and caprices of individual Governors constitutes to the growth and development of the Nigerian economy.

It is perhaps instructive to note that many other African countries were engaged in some form of land reform especially in the 1970s and early 1980s. Of the 40 African countries noted, twenty saw land reform as the “nationalization” of land on behalf of the national community (Mabogunje, 1992: 20). These twenty countries accounted for nearly 75 per cent of the population in the region. It is thus, of interest, that almost three decades after, many of them are coming round to accepting that pushing for a serious free market economy requires a land reform that recognizes the rights of individuals or communities to land either freehold or for a relatively long-term duration and is prepared to document these rights in appropriate fashion.

#### **The Setting up of the Presidential Technical Committee on Land Reform**

Nigeria is one of such countries which had come round to appreciating the need for a new land reform. Indeed, the video documentary (courtesy of Mr. Klaus Dieninger) in respect of what is already happening in countries such as Rwanda and Namibia has been valuable in persuading Nigerians not only that such land reform can be undertaken in the country but also that the time for it is now. Initially, the appreciation of the need for land reform had come from the difficulties experienced as the country embarked on a major housing provisioning reform through mortgage financing. The previous administration had found that the Land Use Act by vesting State Governors with powers of consent to a mortgage transaction had put a major stumbling block on the effective development of a housing market in the country. This is apart from any problem of securing land and getting a Statutory Certificate of Occupancy from the government. Consequently, two types of land reform are being promoted in the country presently. The first involves expunging the Land Use Act of 1978 from the constitution and deleting those clauses that gave State Governors power to have to consent to mortgage

transactions and assignment of land. The second does not entail any such constitutional amendment. All it involves is to remove the uncertainties under which most Nigerians continue to enjoy their possessory rights to their land.

Two clauses of the Land Use Act of 1978 are critical in this regard. These are sections 34 (2) and 36 (2). The former relates to land in urban areas and states that:

“Where the land is developed, the land shall continue to be held by the person in whom it was vested immediately before the commencement of this Act **as if** the holder of the land was the holder of a statutory right of occupancy issued by the Governor under this Act”.

Similarly in respect of the vast majority of land owners living in rural areas, section 36 (2) states as follows:

“Any occupier or holder of such land, whether under customary rights of otherwise howsoever, shall if that was on the commencement of this act being used for agricultural purposes, continue to be entitled to possession of the land for use for agricultural purposes **as if** a customary right of occupancy had been granted to the occupier or holder thereof by the appropriate Local Government, and the reference in this subsection to land being used for agricultural purposes includes land which is, in accordance with the customary law of the locality concerned, allowed to lie fallow for purposes of recuperation of the soil.”

These provisions of the Act leave owners and occupiers of land everywhere in the country vulnerable to the claim of any other individuals who may succeed in getting a statutory or even customary right of occupancy over the land for which he was declared to have possessory right under the Act. For such individuals, lack of information, cost or fear of bureaucratic hassles likely to be involved have made them unable to avail themselves of the opportunity offered in Sections 34(3) and 36(3) to apply to the Governor or Local Government Chairman respectively for a formal statutory or customary certificate of occupancy. Essentially, it is this

anomaly in the Land Use Act, among other issues, that the Land Reform program of the present administration seeks to address.

Consequently, on April 2, 2009, the President inaugurated an 8-man Presidential Technical Committee on Land Reform with the following seven terms of reference:

- i. to collaborate and provide technical assistance to State and Local Governments to undertake land cadastral nationwide;
- ii. to determine individuals' "possessory" rights using best practices and most appropriate technology to determine the process of identification of locations and registration of title holdings;
- iii. to ensure that land cadastral boundaries and title holdings are demarcated in such a way that communities, hamlets, villages, village areas, towns, etc will be recognizable;
- iv. to encourage and assist State and Local Governments to establish an arbitration/adjudication mechanism for land ownership conflict resolution;
- v. to make recommendations for the establishment of a National Depository for Land Title Holdings and Records in all States of the Federation and the Federal Capital Territory;
- vi. to make recommendations for the establishment of a mechanism for land valuation in both urban and rural areas in all parts of the Federation; and
- vii. to make any other recommendations that will ensure effective, simplified, sustainable and successful land administration in Nigeria.

**Progress of Activities to date**

Over the last one year, the Committee had engaged in four major areas of activities. The first is developing a program of sensitization for the whole country; the second is determining the technical aspects of its task particularly those relating to the survey of parcels of land in the country on which individuals enjoy “possessory rights” (cadastral survey); the third is developing a capacity building program for the manpower required for this enormous national assignment whilst the fourth is undertaking pilot projects of one urban and one rural local government in one State in each of the six geopolitical zones in which the 36 States of the country have been grouped so as to begin to appreciate the various problems likely to be encountered as the work progresses.

One of the issues that became very clear as the Committee began its deliberations was that the assignment was long-term in its execution and generally beyond the scope of a normal Committee’s responsibility. As such, the government was alerted to the need to transform the Committee as soon as possible into a Commission. As an earnest of its commitment to the program, a draft Bill is already before the National Assembly for the establishment of a National Land Reform Commission. The sooner the Bill is passed, the better the prospect of long term sustainability for the land reform program which is bound to extend beyond the life of the present administration.

(a) The Sensitization Program: In order to persuade the entire population of the Federal Republic of Nigeria of the need to have an attitudinal change towards the land tenure situation, it was necessary to promote an understanding of the economic potentials encapsulated in modern land titling and registration. It was also important to build up enough confidence in the process to enable them to freely convert their land and property ownership

into a title registration system. This requires sensitizing them as to the use of the products of the improved land tenure system for wealth creation. Several categories of stakeholders were involved in the process. This begins with the National Economic Council (which comprises of all State Governors meeting under the chairmanship of the Vice-President of the Federation), the Association of Local Governments of Nigeria (ALGON), both of which are regarded as the 'trustees' of the nation's land under the Land Use Act of 1978. It continues with the Federal Executive Council, the Legislators (federal, state and LGAs), civil servants (state, federal and LGAs), public servants, organized private sector, professional bodies, civil society organizations, community-based organizations, traditional rulers and religious leaders and down the ladder to the individual land and property owners.

The strategy of sensitization involves the use of electronic and print media, presentations at meetings of critical stakeholders and consultations at different levels of society. This multi-faceted strategy is being deployed so as to foster and develop a national capacity for rapid dissemination, absorption and acceptance of the tenets of the land reform program. The theme and message of the program is that land reform seeks to empower Nigerians in all sectors of the economy to having easy access to incontestable Cs. of O. (as evidence of title over their land and properties). This empowerment should enable them to explore and utilize such title documents to promote their economic well-being whether in agriculture, commerce, industries, small scale enterprises, housing or real estate development. For State Governments, in particular, the empowerment entails providing them with more realistic information for managing their land resources, identifying how much is being used

economically and who are the users. Such management information also had great implications for the effectiveness of their tax revenue mobilization and fiscal capabilities.

Consequently, the presentation at the National Economic Council was to secure the support of State Governors in three areas. These are to:

- Authorize state land agencies notably their departments of Land, Surveys, Land Registries, technically appropriate departments in State Universities and Polytechnics) to cooperate with the Presidential Technical Committee to ensure effective implementation of the Land Reform Program;
- Authorize State media, both radio and television as well as natural rulers in the States and Technical Heads of State Agencies for land administration with other relevant State Officials to support and collaborate with the Committee during its visits to the States for sensitizing their citizens and the general public on the necessity for the reform.
- Be willing to financially and otherwise support the land reform program within their states in line with the program of the Presidential Technical Committee;

The sensitization activities of the Presidential Technical Committee remains an on-going process since it must reflect different scales of operations. There is the general sensitization of the public which depends on the mass media which is what is currently being attended to. But there is also the specific sensitization effort of local communities at the village or neighbourhood level which is expected to be face to face at the point of execution . This requires special training of staff at local government level and is expected to be undertaken just before actual cadastral survey activities begin in particular localities. The support of the

State Directors of the National Orientation Agency has already been secured for this stage of the process when it is launched.

(b) Determination of Technical Requirements: The land reform program seeks “to ensure that land cadastral boundaries and title holdings are demarcated in such a way that communities, hamlets, villages, village areas, towns, etc will be recognizable”. This mandate requires a comprehensive cadastral survey of virtually the whole country. A cadastral survey is the mapping of a country on a scale large enough to show the land holdings of individuals or groups of individuals or corporate entities. Such a National Cadastration Program involves three sets of activities. The first set entails the field survey to identify the boundaries of land parcels and inventorize the possessory rights of individual or family groups or corporate bodies over the parcels of land. This must be done in the presence of all adjacent owners of such parcels of land in the community. The second set involves the time-defined process of clarification or adjudication where any such claims is a matter of dispute. This is done at the local office level where the contestants and witnesses can be easily mobilized. Where the claims are not contested or the contestation had been resolved, the rights of individuals to the parcels being presented for validation are assured through the issuance of a title or statutory certificate of occupancy by the appropriate authority. The third and final set is the confirmation of these claims (rights) through the registration of the title documents or statutory certificates of occupancy in the appropriate Land Registry.

To reduce costs and expedite the process, the Committee has been engaged in investigating the substantial use of modern information technology. This is expected to ensure efficient data capture and safeguard the integrity of information recorded. The application of these

new technological advances embraces the use of aerial photography, satellite imageries, global positioning systems (GPS) geographical information systems (GIS) computerization and software of various types. The Committee also established a Technical Sub-Committee including some renowned experts on the use of Geographic Information Systems (GIS), Geomatics and Geoinformation to advise on any technical issues that may arise from time to time in the execution of its terms of reference.

© Capacity Building Program: The collection, processing and structuring of spatial data into information that is useful for a nation-wide, multipurpose cadastre and its continuous updating remains a complex undertaking requiring different levels of skills and competence. For the field work itself, the skills required are essentially the ability to read and interpret aerial photographs and satellite imageries, use GPS and other instruments for boundary determination, and provide spatial data for points, lines and areal features generally. It is believed that these skills can be taught to persons with a minimum of a high school certificate over a three-month course period. Such persons whilst not professional surveyors, can be regarded as “para-surveyors” and the land reform program would need thousands and thousands of them. As such, a major challenge of the land reform program is to build up the required institutional and human capacity to undertake these assignments in every of the 36 States of the Federation.

The Committee, therefore, selected 8 institutions in the country to prepare a customized curriculum for this purpose and be ready to ‘train-the-trainers’ of these para-surveyors. Six of these institutions are Land Survey Departments in the following University or Polytechnic in each of the six geopolitical zones in the country.

- Rivers State University of Science and Tech. (South-South Zone)
- Univ. of Nigeria Nsukka (South East Zone)
- University of Lagos (South West Zone)
- Federal Univ. of Science & Tech. Minna (North Central Zone)
- Kaduna Polytechnic (North West Zone)
- Federal University of Technology, Yola (North East Zone)

Two other institutions, namely the Federal School of Surveying in Oyo and the Africa Regional Center for Training in Aerospace Sciences in Ile-Ife, because of their highly specialized capacity co-opted to co-ordinate and oversee the activities of the regional institutions. Working together over the last six months, these institutions have produced an agreed Training Manual for the “training-the-trainers” program of the Committee.

Since adjudication is also bound to be an essential part of the field-work requiring the services of elders and traditional leaders in communities, a manual is also being prepared for Adjudication Monitors. Their role is not exactly to adjudicate in cases of dispute but to see that disputed claims are being resolved appropriately on the spot or are being referred appropriately to higher authorities.

(c) The Pilot Projects: Nigeria is a federation of 36 States and 774 local government areas (LGAs). Its population, besides, belongs to numerous ethnic and linguistic groups. Although like communities in most other African countries, kinship relations form the basis of land tenure rights among all of these groups, even where a veneer of feudal rights are found as in parts of northern Nigeria, there is no basis for assuming that land tenure systems will be the same all over the country. Moreover, the situation in urban areas following on the large labor

migrations across the country from colonial times requires special attention. Consequently, one of the decisions of the Committee has been to undertake a pilot project covering the six geopolitical zones of the country. The scheme would involve one urban and one rural local government area in the State chosen in each geopolitical zone, making 12 out of the 774 local government areas in the country. The choice of participating local government areas is designed to bring out salient issues and problems from the wide variety of customary tenure systems existing in the country. The expectation is that the resolution of such issues and problems would facilitate the work of the Commission when it embarks on the nationwide program. The Pilot Scheme is also expected to provide the Committee with the learning and experience curve on which to replicate successes later in the program.

But perhaps more important is the expectation that the scheme would help to induce more support from State Governments in the promotion of the land reform program. One of the first requirements in embarking on the pilot scheme is thus for the State Government concerned to re-activate its Land Use and Allocation Committee and re-constitute it as the land reform agency in the State. To this end, the membership of the State Committee had had to be enlarged to include more functionaries of government and more representation of civil society. The current political hiccups in the country had delayed the passage of the 2010 National Budget and compelled the Committee to put on hold its program of pilot projects. It is thus not yet possible to even evaluate the success of this program but the enthusiasm with which both the State Governors and the representatives of various groups with whom the Presidential Technical Committee met gives hope that the pilot projects could eminently serve the purpose for which it was designed.

## **Problems Envisaged in Executing the Land Reform**

The problems envisaged in executing the present reform may be grouped under two broad heads. The first are problems emanating from the customary land tenure systems which still determine much of the practices in land holding especially in the rural areas. The second are problems relating to the operations of the Land Use Act itself since its inception.

The first set of problems relate to the determination of the actual land-owning entity, community conflicting claims, inheritance and gender issues, owner/tenant issues, and traditional pledging system. Although with minor variations, the traditional unit of land ownership in most parts of the country is the lineage or extended family. Individuals are assigned land parcels to use rather than to own. Over the years, especially the colonial period when different aspects of life became monetized and agricultural practices went beyond production for mere subsistence, land began to be individualized and to be bought and sold. Documents of various vintages became available indicating widespread alienation of land in urban and rural areas, albeit within an informal land market context. Thus, the land reform might thus still encounter situations where land ownership still resides in the extended family unit as distinct from individuals. The understanding is that such land would be so identified pending whenever the family decides to assign parcels of land to its members. It could also encounter situation of land alienation local recognized and accepted but with no backing by any formal document.

For many communities, however, beyond land already appropriated by extended families, there is still land still claimed as belonging to the community as a whole. Since these are land in a border zone with actual limits poorly defined , they tend to be the source of conflicts and

community clashes. In the colonial period, the administration persuaded the contending communities to agree to joint share of royalties from conversion of the area into forest reserves and its exploitation for timber export. In the absence of such options, the current Reform would seek to depend on pre-crisis adjudication through the mediation of the relevant traditional authorities.

On the issue of inheritance, it is well-known that the claims of most people in Nigeria to particular parcels of land is based on inheritance. The prevailing system among most ethnic groups, however, is that of partible inheritance with strong gender bias in favour of male children. Primogeniture, as an inheritance system that protects parcels of land from further subdivision at the death of its owner, is limited to a very few ethnic groups in the country, the Edo being the most notable. The gender bias is perhaps most obvious in this case as only the first-born son can inherit the land. Elsewhere in the country, land inheritance in most ethnic groups is by the male children although a few groups allow land to be inherited by all the children, male or female. However, the growth of the market economy especially since colonial times have made it possible for women to be able to buy land if they do have the means. Since inheritance laws are more difficult to change, the expectation is that the land reform by facilitating the process of transforming land into major economic asset and bringing it into the mainstream of the free market economy would eventually assist in reducing the gender bias in the disposition of land in the country.

An equally serious problem is likely to be that between landowners and tenants especially long term tillers of the land. In olden days, the relationship between the two used to be mediated through a tribute paid in cash or kind that serves to confirm the relationship. The Land Use Act

of 1978 was said to have brought some disequilibrium into the former balance of rights and privileges enjoyed by tenants and landowners. This is because it failed to recognize the continued existence of customary tenancy as both a key feature of customary land tenure and a *de facto* recognition of the ownership rights of landlords by tenant farmers (Fabiya & Idowu, 1993). A 1991 judgment of the Supreme Court of Nigeria, however, ruled in favour of the continued entitlement of landowners and has significantly reduced the incidence of disputes arising from this uncertainty (Idowu, 2006). If such contested cases are encountered in the course of the land reform activities, they would have to be referred to adjudication, if need be, to the highest level.

Another variant of this problem can be anticipated where the system of land pledging (*jingima* in northern Nigeria) for raising money is a practice going back to the distant past. The holder of the land may redeem it as soon as he is able to repay the money although normally he will not be allowed to do so until after the harvest (Mortimore & Wilson, 1965). Such pledging of land tends to increase in frequency during bad years when farmers' financial resources are inadequate. Failure to redeem such pledged land over the years may culminate into final sale but may also remain unresolved especially if the landholder were to die and the children were initially not in a position to repay the debt. Ownership in such situation may become difficult to determine and would certainly require adjudication by the local leaders.

The second set of problems arise from the operations of the Land Use Act of 1978 itself. Perhaps the most serious of these may be the reluctance of Governors to actively support the reform activities. Since the Governors have been made the custodian of the land of their states, no serious reform can take place without their consent and active support. This is why

one of the strategies for overcoming this reluctance is to encourage that the very institution meant to promote land allocation in the states, that is, the Land Use and Allocation Committee is meant to become the arrow head of the land reform in the states. The Committee is still to find out how this proposal resonates with each state government.

Some difficulties can also be anticipated from the land surveying professionals who cannot appreciate the use of “para-surveyors”. For some of these, this aspect of the land reform program appears as if it is taking the meat out of the mouth of those entitled to it. They would want all the fieldwork contracted out to graduates of Survey Schools irrespective of the fact of the very limited number of such trained personnel. They are therefore questioning the quality of what is likely to be produced by para-surveyors who would have had only a concentrated three-month’s training. A more serious aspect of the concern raised by this group is whether the delimitation on the photographs or maps of the parcels to which an individual has demonstrated claims can be titled and registered without the usual surveyor’s beacons and more accurate measurements. These are issues which we intend to learn how other countries have dealt with them.

A very special type of problem is anticipated in the Kano closed-settled zone where farmers are known to be very unwilling to submit to the dictates of the Land Use Act which tends to remove their freehold rights in exchange for a tenure of limited, even if long, duration like 99 years. This is a region of Nigeria where farms, houses and building sites were freely sold long before the colonial period. The British colonial authorities had claimed that land in northern Nigeria belonged to the colonial government under the Maliki Law of conquest and had made any attempt to alienate land or land rights an offence, punishable by the Emir (Luning, 1961;

Mustapha & Meager, 2000:5). Polly Hill (1977), however, pointed out that, if the Hausa peasant knew that he did not own his land, he ignored the fact. People in both urban and rural areas continued to exchange land for money, leaving the colonial and contemporary land policy to rest on an historical fiction. There was some indication also that the current reform, in spite of the regularization that it may bring about, may be resisted because of the leasehold-type tenure it is offering rather than the freehold tenure to which the peasants were used.

### **Conclusion: Prospects before the Land Reform Commission**

There is no doubt that land reform for a country the size of Nigeria is bound to be a long and tortuous venture touching virtually all parts of the country. As such, it is a task beyond the scope of a Committee and requires the setting up of a Commission which could guide and coordinate the process across the length and breadth of the country. Such a Commission has already been proposed and a Bill to establish it is currently before the National Assembly. A Commission would guarantee the land reform process a firm, legal and sustainable institutional foundation and ensure for it more secure and robust funding. It would also ensure that the land tenure laws, the operating regulations and procedures for land transactions are made uniform, open and 'business friendly' so as to facilitate and promote modern economic and developmental processes with minimum bureaucratic hindrance.

Security of tenure and property rights of citizens are an important foundation for economic development. For many of these, land titles are the main sources of collateralization for obtaining credit from informal and established financial institutions. Consequently, securing property rights and land titles is particularly relevant for all socio-economic classes in the nation's economy but especially to the farmers whose pervasive poverty to date derives from

not having definitive property rights appropriate to a market economy. Furthermore, fees and taxes on such landed properties are very important sources of revenue for governments particularly at the State and Local Government levels. A national programme that thus sets out to enhance and secure the property rights of all groups in the society can only end up creating a “WIN-WIN” situation in the country. Funding Land Reform programme should therefore be a national effort to be borne by all three tiers of government in proportion to their capabilities.

For a country striving to be one of the twenty largest economies in the world by the year 2020, the situation with respect to property rights and transactions in land still leaves very much to be desired. The World Bank publication on “Doing Business in Nigeria 2010” rated Nigeria 178<sup>th</sup> out of 183 economies in respect of difficulties of registering properties in the country. This is because “a large share of property in the country is not formally registered [whilst] informal titles cannot be used as security in obtaining loans which limits financing opportunities for businesses” especially small and medium-size enterprises. If Nigeria is to meet the challenges of competing effectively in an increasingly globalizing world, it is thus imperative that it gives very urgent and sustained attention to promoting its land reform program in all of its ramifications.

## REFERENCES

Colonial Office, *Report of the West African Lands Committee, 1912*, (London: HMSO, 1916)

GoN (Government of Nigeria), *The Nigeria Handbook*, (Lagos: Government Printer, 1953)

Fabiyi, Y.L. & E. O. Idowu, “Land and Tree Tenure in Nigeria” in World Bank, *Population, Agriculture and Environment, World Bank Study*, 54: 99, May 5, 1993)

Idowu, E. O., "Land Conflict Management under a Tree Cropping System: The case of *Theobroma cacao* in Southwestern Nigeria", *Cardozo Journal of Conflict Resolution*, vol. 8, no.1, pp. 143 -158, 2006

Luning, H. A., *An Agro-Economic Survey in Katsina Province*, (Kaduna: Government Printer, 1961)

Mabogunje, Akin L., *Perspective on Urban Land and Urban Management Policies in sub-Saharan Africa*, (Washington D.C.: The World Bank Technical Paper No. 196. 1992)

Mabogunje, Akin L., "Land Management in Nigeria: Issues, Opportunities and Threats", Paper presented at the National Conference on Land Management and Taxation, Department of Estate Management, University of Lagos, July 16, 2002

Meek, C. K., *Land Tenure and Administration in Nigeria and the Cameroons*, (London, HMSO, 1957)

Mortimore, M. J. and J. Wilson, *Land and People in the Kano Close-Settled Zone*, (Zaria: Ahmadu Bello University, Department of Geography, Occasional Paper No. 1, March, 1965)

Mustapha, A. R. and Kate Meagher, *Agrarian Production, Public Policy and the State in Kano Region, 1900-2000*, (Crewkerne, Somerset: Drylands Research Working Paper 35, 2000)

Uchendu, V. C., "State, Land and Society in Nigeria: A Critical Assessment of the Land Use Decree, 1978" *Journal of African Studies*, vol. 6, pp. 62 -74, 1979

Udo, Reuben K., *Land Use Policy and Land Ownership in Nigeria*, Lagos, Ebieakwa Ventures, 1990.

World Bank, *Doing Business 2010 Nigeria: Comparing Regulation in 183 Economies*, Washington D.C.: The World Bank, 2010