



Land Reform as a Developmental Strategy: Consequences of the 1978 Land Nationalisation

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ABSTRACT

This paper identified critical and priority land issues in the country, goes to evaluate how these issues were addressed as developmental strategy and poverty alleviation strategy as contained in the land reform agenda. The paper evaluated land tenure system in Nigeria from the colonial era to the promulgation of the Land Use Act of 1978. The various factors that militated against the success of the Act and consequently led to the need for land reform is presented and discussed as developmental strategy and poverty alleviation strategy as contained in the land reform agenda. The issues discussed include the need for land reform, developmental strategies, reform evolution, obstacles and challenges of the land reform. Other issues are the changing institutional structures governing man's relation with land, intervention in the prevailing pattern of land ownership, control and usage in order to change the structure of holding, improve land productivity and broaden the distribution of benefits. In Nigeria the productive use of land for National development has suffered a lot of setback. The case had been marginalization; dislocation and fragmentation of small agricultural holdings leading to increased insecurity of land tenure.

Keywords: *Land Reform, Developmental, Strategy*

1. INTRODUCTION

Accurate inventory of spatial distribution of land resources is fundamental a successful implementation of land reform programme. This inventory is usually in the form of a comprehensive and robust spatial database that contains relevant information regarding the location, extent, shape, ownership and purpose of pieces of land parcels within a particular country. Reform must be based on enlightened or participatory discourse, best practice, accessibility, availability, affordability, security of tenure, timeless and ease of processing. Transactions of land titles should guide us in the enactment of a new land law if necessary. Land, its ownership and use has always played an important role in shaping the political, economic and social processes in the country. Land does not only form the basis of our wealth, but also our security, price and history. Major cause of insecurity, landlessness, homelessness and poverty in Nigeria are as a result of poor land policy also is as a result of inefficient urban and rural land use pattern and a fragmental system of land administration. This has severely restricted effective and efficient resources utilization and development.

Customary land tenure systems were in existence in Nigeria before the colonial era. In the Northern part of Nigeria, after the Fulani Jihad in the early 19th century, a quasi-feudal pattern was developed with the Emirs claiming ultimate title to land, with fief (holding of land parcel in return for services) holders. While In Southern Nigeria land was held by the community village or family. In general land was owned by extended lineage, individuals having only unstructured rights by virtue of their

membership of the group Mabogunje et al; (1998). Given the central nature of land and the problems found in many societies, within the country are mainly as a result of implementation of land reforms. Many countries of the world have undertaken sweeping land-reform. Land reform programmes can serve a number of purposes such as increase in productivity. Land reform in traditional settings improves the lives of families, typically among the poorest of the poor. Francis, (1984).

Nigeria with a population of about 150 million people, with a land mass of about 924,000 sq km has abundant human and Natural resources. Nigeria has all it takes to become the strongest economics in Africa.

In order to address the problems of poverty and to promote human dignity, equality, peace democracy and environmental stability for a sustainable development, the Millennium Development Goals 2000 (MDG) mandated all member nations to articulate strategies, policies and plans to facilitate the achievement of the millennium goal by the year 2015. In responses to the MDGs 2000 the then, Nigeria president Umar Musa Yar'adua, formulated the seven point agenda, one of which is Land Reform Since land is a major factor of production. Land reform implies an assumption that there are issues within the current land management system that need to be addressed. Some problems are creating momentum for change to positively bridge gaps in access to, and use of land in Nigeria. It is a fact that one of the problems faced by some Nigerians is that of landlessness. This is obviously tied to poverty or low economic status. Beyond landlessness even for those who hold or posses



land, many do not have secured title to the land. Legal title to the land may not be available or forthcoming. In essence one problem of land management is the issue of right to land or little of land. However, over the years Nigeria has reaped her land and the natural resources there on with insufficient care for the livelihood and well-being of her future generation.

The aim of this research work is to evaluate the consequences of the land use Act 1978 in order to adopt a new land reform as a developmental strategy in transforming Nigeria into a land market economy.

This will be addressed through the following objectives as proposed in land reform by Dale, (2001). The objectives are as follows.

- To secure all dealings in land issues
- To ensure that the cost of all transaction in land issues are kept low.
- To ensure access and protection to land and credit facilities by the poor and rich.
- To ensure transparency in all dealings in land matters.
- To ensure that minority rights over land usage are protected.
- To ensure that environmental sustainability is supported.

The above objectives would be derived from the following research questions

- (a) Is there any need to review the land use Act 1978?
- (b) Which type of developmental strategy can we adopt in order to achieve a sustainable land reform programmes in Nigeria?
- (c) What is land tenure Reform?
- (d) How is land reform a developmental tool?
- (e) What are the major obstacles and challenges to land reform programmes in Nigeria?
- (f) Which type of indicators can we subject to evaluate land reform?
- (g) Is land reform a necessity in Nigeria?

Land reform in Nigeria will be of assistance in planning development and accessibility to land. The current problems encountered in securing land for development both by states and local governments will greatly be reduced. As a matter of fact, the poor will benefit in the land reform since land will become accessible by both, the rich and the poor. Hence the aim and objectives of this research study will go a long way in solving the current problems of securing land either by individuals or government.

The study sought to investigate the issues elaborated through reviewing available and existing documents from officials and other agencies. Snowball sampling techniques was used where each of the respondents interviewed were asked additional people for the interview. A number of consultative meetings were held with various stake holders, i.e. ministry of land and survey officials, farmers organizations, traditional leaders and the opinion leaders etc. On the current land reform agenda policy questions of the federal government, selected political party's functionaries were also asked of their views on the land reform questions as a political agenda.

Evolution of Land Distribution, Regulation and Administration in Nigeria

The land use Act, 1978 was enacted to address the importance of land to mankind and therefore provided viable management options to land administration in Nigeria. There were laudable goals and objectives for the enacting of the land use Act of 1978. An examination of these objectives shows how laudable they are. It is, however doubtful if other form of reform would depart radically from the set objectives. How far these objectives have been realized since the enactment of the land use Act remains doubtful a post-mortem from experience the Act has led to an avalanche of criticism.

The foregoing paragraphs examined the provisions of the land use Act with particular reference to the nature and the tenurial system created and the quantum of rights derivable there under. The paper also highlights the dictomy and divergence in the nature and duration of right created and the implication for the present and future implementation of the land use Act. This is particularly imperative given the disposition of the current government's desire to reform the land use Act after more than thirty years of operation.

There is need to look into the history of land tenure system in Northern and Southern Nigeria before the land use Act of 1978 was promulgated. The arrival of the Europeans in southern Nigeria in the late part of 19th century drastically changed the land holding system. As soon as the European traders, who were used to freehold began to acquire land parcel in Lagos colony, they did so with the concept that the transactions conferred on them absolute ownership and the right of alienation. The transaction in land by European leading to the introduction of English freehold system 1861 caused deep conflict between the customary system of land tenure and imported freehold system. The conflict resulted in endless and bitter allegation (Elias, 1971) However, the Northern protectorate was saved the experience of southern Nigeria. Lord Lugard who occupied Northern Nigeria as the turn of 19th century used the 'tools' he found locally for the administration of land holding. The Emirs who exercised 'proprietary' rights were appointed or re-appointed and given



letters of appointment which transferred their feudal pattern of land holding to the crown. The native Right proclamation of 1910 nationalized all land and placed it under the control and administration of the Governor in the interest of the indigenous population.

At independence the nation inherited the colonial pot-pourri land tenure system with their attendant problems. With the rapid economic development after independence the need to acquire various sizes of land for industrial and agricultural development became very acute. At the same time activities of land speculators and middlemen made land acquisition in urban areas very expensive and arduous task. However, in some rural areas various communities were eager to donate their lands for specific projects in order to attract development to their area.

It was in attempt to halt the constructing land tenure system in the country and the attendant allegations fraudulent practices and difficulty being experienced by various governments in accessing land for public good that the federal military government promulgated the land use decree (Act) 1978.

The land the Act 1978 sought for the first time, to unify the land tenure systems all over the country in addition to nationalizing land in the country's geographical space.

To the end the act vested all land in the territory of each state in the governor of the state to hold in trust for the citizens. It created a statutory title to land known as the statutory lease hold in the urban areas and customary right of occupancy in the rural areas to be granted by the governor or the local government chairman respectively. Evidence of title is covered by certificate of occupancy issued to every lease holder.

Before March 1978, land holding in the northern states of Nigeria had been governed by the land tenure law 1962. Thus law had reproduced most of the features of its predecessor, the land and native right ordinance which had been introduced in the protectorate in 1910 following the recommendations of Northern Nigeria lands Committee. The land and native rights Ordinance had declared all land in Northern Nigeria to be under the control and subject to the disposition of the Governor to be held and administered for the use and common benefit of the Natives of Northern Nigeria. Radical title thus, becoming vested in the state the occupiers interest became known in terms which the law, rejecting the notion of English common Law, define a new as right of occupancy. The governor was given the power to grant and revoke such rights of occupancy, and to demand rents. In exercising the powers conferred upon him by the law, however, the governor was to have due regard to the native laws and customs existing in the district in which such land is situated.

In the southern states of the federation there had been hitherto been little legislative interference in the land tenure in the colonial or post colonial periods. The attempts during the early parts of the colonial period to impose a law of the Northern Nigeria kind on the south were foiled by vigorous campaign on the part of African interests which presented a view of immemorial native custom incompatible with the extension of state powers over land. The native lands Acquisition Ordinance of 1900 had restricted the transfer of rights in land to aliens. While the public/lands acquisition ordinance of 1917 empowered the Governor to obtain lands for public purposes, but otherwise in the south form of land were allowed to persist or develop as they would.

The idea of implementing a uniform policy of land Nationalization appears to have first been suggested to the government by the Anti-inflation task force which had been appointed by the administration brought to power in the coup of July 1975. In the event, the government did not accept this body's recommendation that all land be vested in the state and the future transactions should require the approval of the respective state government.

However, it accepted in principle the recommendation of a subsequent inquiry that urban land be subject to such restrictions, and appointed a land use panel to advice on future land policy. The main report of the panel advised in unequivocal terms against either the nationalization of land or the extension of land tenure system of the Northern states of the country as a whole. However, a minority report was submitted stating that, the idea of government being the Custodian of land in the Northern state is germane and should remain as an acceptable base land use; the military government endorsed the recommendations of the minority report. And so the decree was promulgated, (Francis, 1984).

The Implications of Some Sections of the Land Use Decree

Transactions in land in the Northern Nigeria contains evidence that sale of land were occurring even before the colonial occupation of the country. There were distinct arrangements by which land could be rented or pledged.

As under the land use decree, it was unlawful to alienate land which was subject of statutory right of occupancy without the governors' consent, such consent was not required in the case of a customary right of occupancy unless a native sought to alienate land to a non-native.

However, the equivalent provision of the land use degree relating to the capacity of the holders of customary right to alienate those right are confusing. Several sections of the Decree could appear to have no bearing on the question.



Section 21 (b) states that, customary right of occupancy may not be alienated without the approval of the appropriate local government.

Section 28 (39) states that, alienation of customary rights of occupancy without such approval constitutes grounds for the governor to revoke the right of occupancy.

Section 26 states that, any transaction or instrument which purports to confer or vest in any person any interest or right over land other than in accordance with the provisions of this decree shall be null and void.

Section 36 refers to occupied rural land. Sub-section (5) states that, No land to which this section shall be sub-divided or laid out in plots and no such land shall be transferred to any person by the person in whom the land was vested as aforesaid. It seems that even the consent of the Governor or the local government could not make such a transfer legal.

These provisions all seem to restrict the right of holders of rural land to deal in their interest.

Other official statements of the decree's implications on the status of customary form of land tenure were equally confusing. In this regard the Decree's definition of Customary right of occupancy implies that the precepts of Customary law are allowed to continue. A number of sections in the decree relating to rural land made distinction between holder and occupier of such land.

Section 6 (5) speaks of the holder and the occupier being entitled to compensation for the value of unexhausted improvement on land taken over for public purpose according to their respective interest.

Section 36 (2) speaks of the holder or occupier, of rural land being used for agricultural purpose could continue in possession of it as if a customary right of occupancy had been granted him. Section 36 (2) states that, the occupier may apply to the local government for registration of his right on the rural land. However, the same sub-section states that, the local government could issue the holder or occupier with a customary right of occupancy once they were satisfied that he was entitled to the possession of such land whether under customary rights or otherwise howsoever.

On the issue of collateral claims in rural land there is no obligation to pay ground rent in respect of rural land after the decrees promulgation, such provisions are sometimes misinterpreted for example, the transitional provision limit any individuals continuing interest in undeveloped urban to half a hectare in any state, yet, no limit was placed upon the area of developed land by an individual nor upon the size of future grant

of undeveloped land. Furthermore, the decree's definition of developed land appears, even the generous 500 and 5000 hectare limit on new grant of land for agricultural and grazing purpose respectively apply only to single grant made without the permission' of the Governors. There was no limit to the number of such grants which could be made nor of the permission that was obtained upon the size (Land Use Act, 1978).

Need for the Review of Land Use Act 1978

For developmental purposes in developing nation like Nigeria, there is need for land reform and reform can only be achieved if the law governing the acquisition of land is changed and directed towards national goal.

In order to achieve land reform agenda which is a tool for National development, then in all areas where the land use Act of 1978 had failed need to be reviewed (Abubakar, 2012).

The inadequacies and problems of the act made many stakeholders call for a review of the Act. The Act has not succeeded in making land readily available to all Nigerian as intended; it has on the other hand posed a great hindrance to access to land in addition to impeding the creation of a dynamic land market even in the urban where its implementation is concentrated. It is an attempt to assist the rural dwellers in turning their assets to capital by granting of titles to their land that the federal government in May 2007 set up a technical committee on land reform to address the shortcomings of the land use Act to create the much needed land market economy (Akinroye, 2011).

The act recognized the right of land owners in the rural areas to hold as if they are holders of customary right of occupancy. However, the Act has not improved the lives of such rural dwellers, since their rights (Assets) are not covered by titles to enable them access capital. The federal government has been made to realize that there could be no true development without the economic empowerment of the rural dwellers through conversion of their natural assets, to capital by granting titles to their landholdings and creating an open land market economy

Necessity of Land Reform in Nigeria

In every developed nation there is a system for recording land ownership and facilities for land transfer. Land has cultural as well as economic importance and its proper management is crucial to the present and future of every society. There are many instances that show the cultural importance of land, not least of which is the reluctance of many ethnic groups to open up their land markets to foreigners. Land is something that often transcends economic sense as is evidenced by the way nations and individuals fight and sometimes die for what they regard as their land.



Poverty in the third world countries is not as a result of any lack of intelligence, hard work or entrepreneurial skills; it is rather because so many citizens are barred from access to land. (Akinroye.2012)

Barred from access to land means here the citizens have dead capital, which cannot be used at present to create wealth. In developing countries like ours land has been put aside, land has never been formally registered, they possessed no title and so they may have no access to credit facilities. The people seem poor because their main asset, land, is not recognized as security for loan. Land reform therefore is the starting point for many people to escape from the poverty (Anijonu et al.2011).

Strategy for Land Reform Development

Economic development is frequently identified with economic growth. Although, increased investment and enlarged markets are basic requirements, development also involves complex process and procedures of institutional changes, re-distribution of economic and political power, and concerted, deliberate public policy efforts for redistributing the gains and losses inherent in economic growth overtime, and largely as a result of national objectives redefined.

Presently, land reform, employment creation and the increased income distribution have become increasingly pressing issue. Thus, development must be conceived as the expansion of opportunities and the enhancement of human capacities needed to exploit them. Hence, if the concept of development is too narrow, important policy questions are often ignored or not even recognized.

There are questions to ask about a country's development; what has been happening to poverty? What has been happening to unemployment? What has been happening to inequality? If all three of these have declined from higher levels, then beyond doubts this has been a period of development for the country concerned. But, if one or two of these central problems have been growing worse, especially if all three have, it would be strange to call the result development, even if per capita income is doubled (Francis,1984).There are four key strategies for a sustainable development that is; integrating environmental concerns in planning and decision-making at all levels of administration, broader participation of stakeholders in the management and protection of natural resources, equitable access to productive resources and resources by issuance of ancestral domain titles to indigenous people and promotion of technology based production of natural resources. Experience has shown that development cannot take root in a situation where agrarian reform is haphazard and directionless. For crusade to

become agrarian reform, the programme should have a comprehensive policy and regulatory framework, institutional development and capacity building, a systematic and transparent land management, registration plan, civic and human rights education, civic participation and self development, capacity for land management and sustainable development. Basic human rights must not be sacrificed on the altar, of political expedient attempts to correct past and perceived inequalities, granted that unequal distribution and access to land are barriers to peaceful, sustainable development.

Land Tenure Reform

Land tenure institutions and their reforms have direct bearing on the questions of development. Land tenure embodies those legal and contractual or customary arrangements where by people in farming gain access to productive opportunities on the land. It constitutes the rules and procedures governing the rights, duties, liberties and exposures of individuals and group in the use and control over the basic resources of land and water. In short land tenure, institutions help to shape the pattern of income distribution in the farm sector.

Land reform means changing and restricting these rules and procedures in an attempt to make the land tenure system consistent with the overall requirements of economic development. In non-industrial societies land represent the principle form of wealth and the principles source of economic and political power; the land tenure reflects social class structures and relations.

Land reforms has an essential core means, which concerns significant and purposeful changes in land tenure, changes in ownership and control of land and water resources .Specific measure may include expropriation of large estates and the distribution of land among the tillers , either for individuals ownership operation or for collective use; abolition or improvement in tenancy condition by converting tenants into owners or by reducing rental payments, issuance of land titles to the tillers to provide them with greater security and transformation of tribal and other traditional forms of tenure in the interest of the cultivators of the land.

The guiding principle of land reform has been the tillers of the land. The cultivators must have the opportunity for full participation in determining the procedure by which rights in land are defined, how these rights are exercised and how they are changed. Conflicts among the several parties holding any interest in a particular track of land (owner, tenant, and labourer, local and state government) must be subjected to impersonal and objective means of adjudication, rather than adhering to



resolutions that are discriminatory in manner, favouring those individuals or groups with the most influence and power.

Reform and Development

Land reform is often viewed as an instrument primarily for the achievement of greater equity and social justice. Land reform improves the prospects for raising production and productivity since new incentives for increased work and investment are created as a result of the more equitable distribution.

Land reform and its potentialities must be viewed within the overall requirement of development. The redistributions of property rights in land can break down certain rigidities within a society and set the stage for a different organization in the agricultural sector (Dele,2000).

While land reform is not a sufficient measure for development, it needs to be accompanied by many other programmes, it is often essential for providing a stable base for the country's future economic and political development.

Evaluation of Land Reform

Land reform may be evaluated in a more objective manner by way of asking and answering these questions;

1. Is private property of any sort legitimate? If so, is landownership legitimate and are historic property right in Nigeria legitimate?
2. Even if property rights are legitimate do they allow for a protect against expropriation? Do they entitle the property owner to partial or complete compensation of expropriated land?
3. How should property right be weighed against other rights such as the right to life and liberty?
4. What constitute a fair land reform?
5. Who should adjudicate land ownership disputes?
6. What are the social, economic and political effects of land reform?

Obstacles to Land Reform

The economics and political power associated with landed interest is one of the key obstacles to Land reform which inevitably involves tough political decisions and confrontations. The complexities and political nature of the process have been well stated. Unfortunately, some of our current discussion of land reform in the under -developed countries proceeds as though this reform were something that the government proclaims on any fine morning;that it gives land to tenants, as it might give pensions to old soldiers or as it might reform the administration of justice. In fact Land reform is a revolutionary step- it passes power, property, and status from one group in the community to another. If the government of a country is dominated or strongly

influenced by landholding group, the one that is losing its prerogative, no one should expect effective land legislation. The world is composed of many different kinds of people, but those who own land are not so different whether they live in America, China, or Russia etc.

There is lack of organization by the peasant farmers; this is often reflected by intolerance by opposers to such who stand to lose, if reforms are implemented,(Fransis,1984).

Complex and excessive legalistic procedures often reconfirm the peasants' lack of faith in the government that has always, in their view, acted in bad faith and foreign to their own interest. It may be better to have no land reform law than to have one that further undermines the peasant' confidence in government and calls to question governments' honesty, sincerity and integrity.

Other factor which may impede the implementation of land reform includes lack of records on the quality, physical location, land measurement and boundary identification. Such records must be established and verified by the state, and the state must enforce and protect the registered rights in specific and identifiable property, whether held by an individual or group.

At present it is, difficult to know or determine who owns what, this issue is critical in most of the less developed countries. Finally, there is lack of relevant statistical data for indicators i.e. unemployment, income distribution, poverty, inequality etc.

Challenges for Land Reform Programme

The following are the various challenges facing land reform and agrarian reform.

1. Willing Seller-Willing Buyer principle; it may take a long time to negotiate land price of current land owners.
2. Claim dispute; it is a long process to mediate and resolve claim disputes.
3. Capacity; there is lack of institutional capacity for community legal entities (Trust).
4. Beneficiary selection; it is lengthy process and time consuming process to select the rightful beneficiaries for land redistribution.
5. Resettlement support; it requires enough resource and time to effectively facilitate post-resettlement support to new land owners.
6. Monitoring and evaluation; the programme lacks a reliable monitoring system and evaluation thereof.
7. Policy; there are gaps in the current policies which compromise effective implementation of land reform programme.
8. Different political views; there may be lack of common conscious among political parties on land reform issues.



2. CONCLUSION

It was clear that the issues pertaining to land are central to the resolution of a number of areas that affects the economic well being of the country. It is therefore essential that clarity of purpose is exercised in dealing with land question not only as a political but as an economic entity for the good of the country.

For as successful and sustainable land reform programme in Nigeria, it is imperative that a regime of land use policy and land planning must be respected by all stakeholders, legal frame work that will include a review of the land use Act- others that land is held as a right according to whatever tenure conditions defined in the reform process. Participation of the various stakeholders and professional must be ensured.

The adoption of mapping and geo-informatics practices must be ensured.

Suggestions

The government has to adopt a strategy of improving the livelihood of poor communities and provide access to basic human infrastructure and services to build a sustainable urban community.

The government has to embark on long term programme to improve the processes and infrastructure for better cadastre, record keeping and information dissemination.

There is need to review those laws /policies to craft a consistent and socially acceptable land policy framework that would support the requirement of sustainable growth, equity and poverty alleviation.

There is need to computerize all aspects of land registry, in that, there is no complete set of cadastral maps that show titled and untitled properties and the boundaries of private and public. The most convenient way for a person to obtain information about land is to visit the site, make enquiries and have the land resurveyed to check boundaries.

Besides, information in land registry is not easily accessible. Title records in the Registry of deeds, which is the ultimate repository of land titles, cannot be matched with parcel or cadastral map numbers.

There should be national standards and method of real property valuation.

There is also need to improve the land management system, in that, poor land management can erode public confidence and trust in titling and land registration and this may put the poor, especially at a great disadvantage; under the current land registration system.

The prospect of credible compensation for the taking of privately owned land is a very important measure. Lack of resource to provide compensation in some instances would otherwise limit possible land reform success. Compensation reduces landowners' opposition and thus, legitimizes reform; it may substantially reduce the amount of grass-root pressure necessary to accomplish the degree of a given reform.

Public education and Technical assistance in a way can improve reform measures. That is educating the public and policy- makers that land reform can bring extensive social benefits and that specific solutions to the technical issues of land reform may help crystallize the will of the people to adopt land reform.

Outside support may be another important measure that may be adopted. Support and encouragement from outside plays an important role in land reform as it evident in Russian and Kirghizstan. The decision to adopt and implement an effective land reform results from a combination of the above mentioned measures and perhaps of others as well(Anejionu, 2011).

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