

Land Administration and Policy Issues in the Nigerian Scenario: An Overview

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ABSTRACT

The continuous conflict over land parcels between communities / various stakeholders has resulted in loss of several lives and properties in places where such crises occur. Mitigating this major social vice is a cadastral related problem that can be solved by adoption of relevant policies and land laws. This paper examines the various land laws and policies in operation in Nigeria and proposes modifications to them with a view to ensuring that sustainable land administration policies are adopted for the development of a national multipurpose cadaster. Issues of land legislation and land administration have been discussed with emphasis on the Nigerian scenario. Based on the outcomes of the review, the study recommends the adoption of the fit for purpose concept for Land registration in Nigeria.

Keywords: Multipurpose cadaster; Land Policy; Land Administration; Land Legislation; Land Information Management.

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1.0 INTRODUCTION

The importance of land as a resource for human existence and development has continued to make land a choice resource that is heavily guided by the use of appropriate state-wide legislation for the purpose of efficient administration (Banire, 2006; Otubu, 2018). The absence or sometimes weakness of the above has resulted in several cases of litigation, land related communal violence and eventually very high amount of economic and human loss (Mabogunje, 2012). Land Administration is defined as the process of determining, recording and disseminating information about ownership, value and use of land and its associated resources (Chaka, Putsoa and Mohafa, 2018). These processes include the determination (sometimes called 'adjudication') of land rights and other attributes, surveying and describing these, their detailed documentation, and the provision of relevant information for supporting land markets (UNECE, 1996). Land administration systems are concerned with the administration of land as a natural resource to ensure its sustainable use and development and are as such concerned with the social, legal, economic and technical framework within which land managers and administrators must operate (Stuedler, et al, 2004). In lay terms, land administration is primarily concerned with ensuring a system or framework within which land is made readily available for all citizens of a state. Achieving an efficient Land administration system requires that all policy and technical issues relating to the availability, use and preservation of land are properly harnessed in an integrated system. This paper presents a careful examination of the existing policy issues undermining effective land administration in Nigeria with a view to proposing a suitable alternative for land administration in Nigeria.

2.0 A NEW CONCEPT OF LAND ADMINISTRATION

Land Administration is defined as the process of determining, recording and disseminating information about ownership, value and use of land and its associated resources. A good practice of land administration benefits not only the present generation, but also posterity. It operates as the instrument to ensure equitable access to land by stakeholders within the policy framework of a country (Ukajeifo, 2008). Furthermore, it determines how government can offer security of tenure, regulate land markets, implement land reform, protect environment and levy land taxes to enhance the utility and value of land. A good land administration system will not only guarantee ownership and security of tenure; support land and property taxation; provide security for credit; develop and monitor land markets; reduce land disputes but also facilitate land reform; improve urban planning and infrastructure development and support environmental management (Feder and Feeny, 1991). Land administration includes the systems for land registration, land use planning, land management and property taxation (Williamson et al, 2010). In essence, land administration is an all-encompassing strategy which can be subdivided into multiple components.

The hierarchical structure presented in Figure 1 below presents a description of the components of a land administration system. In other words, Land administration involves both the technical and legislative issues of land management. While the technical issues relating to land are mostly institutional based (i.e directly related to professional standards, quality controls and expected benchmarks which are not to be determined by government policies); the legislations, policies and at times support institutions are set up by government acts and decrees. This relationship as shown in Figure 1 below describes both the functions and jurisdictions of the two major components of an efficient land administration system. The technical components of land administration shall not be considered in this paper since the focus of this work is to examine some policy issues around land administration in the Nigerian scenario.

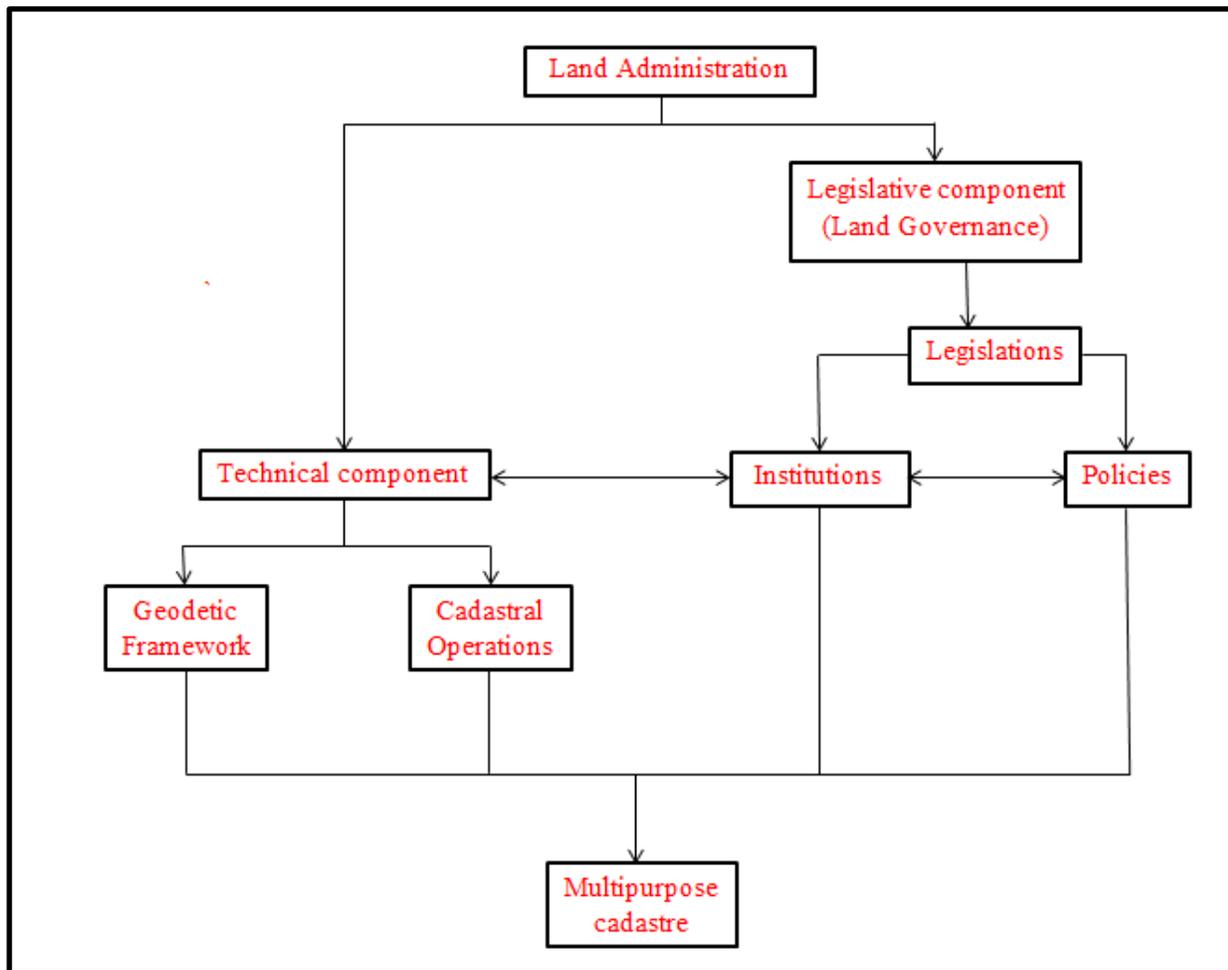


Figure 1: Overview of an efficient Land Administration System

In Nigeria, Land administration is performed under the Land Use Act. As observed by Otubu, 2018:

“The Land Use Act having vested all lands in the state in the governor provides for 3 pronged but uncoordinated regulatory institutions. Whilst section 46(1) of the Act empowers the National Council of States to make regulations for the purpose of carrying the Act into effect in some broad respect; subsection (2) of the same section invests the Governor with the powers, subject to subsection (1) to make regulations on other matters. Meanwhile, section 2 of the Act envisages the division of land in the State for administrative purposes between the State Governor and the

local government, assisted by advisory administrative committees set up by the authority. The Governor is to be assisted by the Land Use and Allocation Committee and the local government by the Land Allocation Advisory Committee.”

3.0 LAND LEGISLATION IN NIGERIA

No nation handles the issue of land management within its borders with levity (Datong, 1991). It is this nexus between land and economic prosperity of an individual and a nation that probably informed the constitutional provision respecting the inviolability of private property rights in various jurisdictions around the world (Otubu, 2007). Land legislation is therefore a subset of effective land governance and subsequently, land administration.

Land governance is the process by which decisions are made regarding the access to and use of land, the manner in which those decisions are implemented and the way that conflicting interests are reconciled. Land governance includes the policies, processes and institutions by which land, property and natural resources are managed. This includes decisions on access to land, land rights, land use, and land development. Land governance is basically about determining and implementing sustainable land policies (FIG NO.45). According to Chaka, Putsoa and Mohafa (2018), land governance includes state structures such as land agencies, courts and ministries responsible for land, as well as non-statutory actors such as traditional bodies and informal agents. In other words, Land governance exists at the topmost layer in the hierarchy of the legislative component of land administration.

In Nigeria, requisite legislations that support the establishment and maintenance of cadastral systems date back to 1924 (ten years after the amalgamation of the Northern and Southern protectorates); with the enactment of the Land Registration Act No 36 of 1924. After the Land registration act, other land legislations that have evolved in chronological order are as follows:

- (i) The registration of titles Act No 13 of 1935
- (ii) Registered Lands Act of 1965

(iii) The Land use decree No 6 of 1978

The various land legislations arose as a result of defects noticed in the implementation of each of its preceding act. Up until 1978, the earlier acts were unable to ease accessibility of government and the vast majority of Nigerians to Land. The situation is especially more problematic in the Southern parts of Nigeria where 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 many of which have been well discussed in literatures (Dashe, 1987; Udo, 1990; Mabogunje, 2012). It is against this back drop, that abinitio; the Federal Government of Nigeria promulgated the Land Use Decree of 1978 in order to meet the following identified issues:

- i) Unify the contrasting land tenure systems obtainable in Nigeria
- ii) Minimize the hassle in getting land by both government and willing individuals for public purpose
- iii) Reduce the activities of land speculators and grabbers
- iv) Minimize the several cases of communal clash and litigations which have resulted in loss of several lives and properties.

As rightly observed by Mabogunje (2012):

“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”

Some of the problems caused by this decree include (Dashe, 1987; Mabogunje, 2002):

- i) The misuse of the powers by some governor in granting/denying consent to land acquisitions (depending on the applicants disposition to the government of the day);
- ii) Some state governors fail to establish the land use and allocation committee. However, even when the committee has been established, the members of such committee are usually mere government loyalists and not the seasoned professionals whose objective opinion is required;
- iii) A major issue with the Land use Decree is the constitution of the Land Use and allocation committee. By default, the decree merely considers the legislative issues associated with Land administration and clearly jettisons the roles and need for a land surveyor in the committee. This is a serious omission and has been the bane of several other misfits of the decree. This problem is further exacerbated by the abuse of powers by some governors who rather pock nose into the technical components of land administration thereby instigating land administration policies that compromise the sustainability of the state-wide land economy;
- iv) Attempt by 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) In some other cases, still in a bid to generate revenue, some governors have attempted to cheapen the process of securing titles at the detriment of technical standards, accuracy of title deed plans and internationally accepted best practice on cadastral surveys. This of course follows up on the constitutional defect in the composition of the Land Use and Allocation committee; thereby leading to situations where the state chief executive is often mis-advised.
- vi) Bureaucratic bottle-necks in securing titles due to the associated institutional gridlocks;

- vii) 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;

As it has been observed by Otubu (2018), the provisions of the Act ab initio have created a dichotomy in the land administrative set up across the country. This is because the Act is devoid of any uniformity, consistency and certainty. Each state is empowered to set up its own administrative structure on land administration. Consequently today, there are as many disparate land administration systems as there are States in Nigeria (Ukajejiofo, 2008); with each state coming up with different policies on land administration and title deed acquisition. Since there is no administrative structure, the applicable land administrative system will depend on which state of the country the land is or whether it belongs to the Federal, State or Local government. Some of such individual state policies that have been adopted across the country are presented in table 1 below:

Table 1: Some state government policies on Land administration

S/No	State	Policy adopted	Geopolitical zone	Year
1	Ogun	Home owners title acquisition program	South West	2014
2	Kaduna	Kaduna state title acquisition program	South South	2014
3	Niger	C of O Bonanza	North Central	2015

A strikingly important feature in most of these state based policies on Land reforms and administration was that rather than merely focusing on the establishment of institutions and policy frameworks; the policies state clearly the technicalities that would be used for the proposed schemes. This is a complete disregard for the importance and roles of technocrats in land administrative policy formulation and has been the bane behind the failure of most land administration schemes and policies in Nigeria. It could be assumed that this incessant disregard

for the sensitive nature of technical standards and requirements has been a major reason policy formulators often assume the role of the technocrats by either fixing cost of cadastral operation (cost control for services they are not rendering) or directly specifying methods to be used.

This technical disregard that has in most cases resulted in failure of land administration policies arise due to the poor representation of the surveying profession in the membership of the Land Use and Allocation committee. As rightly noted by Dashe (1987), there is an apparent total disregard for the profession of Land surveying by the Act.

4.0 RECOMMENDATIONS OF THE LANDS REFORMS COMMITTEE

Based on defects noticed in the implementation of the Act, there have been calls by several Nigerians for the amendment of the Land Use Decree which later metamorphosed into the Land Use Act, chapter 202 of the LFN of 1990. In response to the call, the 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.

The committee in its findings recommended the following:

- a) Sensitization of the relevant government institutions on the need to ease collection of Certificate of Occupancy (C of O) by the public. To achieve this, all known administrative bottle necks should be eliminated thereby boosting integrity and security of ownership within the free land market;
- b) Ensure that state governments support land reform programs within their states. To achieve this, state governors are to provide the needed financial, institutional review and policy documents that will enhance collection of titles for landed properties by the public;
- c) Enhance and promote the building of relevant technical requirements for efficient land administration within the state. This is to be achieved by providing the needed financial

support for the establishment of relevant framework upon which the cadastral system should rely.

- d) Establishment and maintenance of relevant institutions that would continue to boost and evolve workable technical solutions towards improving acquisition of land, security of tenure and land administration across the country in general.

5.0 CONCLUSION

This paper examined some of the legislative issues associated land administration in Nigeria. Generally, the paper identified that the powers given to the governor by the Act is too much. The paper further identified that while the Act attempts to make provision for checks and balances on the actions of the governor, the Land Use and Allocation committee charged with such responsibility by the Act are mostly non-existent and where they exist, are mere appendages of the governor.

Another major finding of this paper is the fact that land administration involves two components (i.e the legislative and technical components). While the legislative component should basically evolve policies and institutions, the technical components are determined, enforced and performed by the established institutions (who of course have the required professional competencies). Unfortunately, state governors in the discharge of their administrative functions include elements of the technical components into their task without recourse to relevant institutions and stakeholders. This leaves room for several technical loopholes during the implementation of established government policies which eventually might lead to failure of such systems.

It has also been clearly seen that the technical component of land administration involves both the geodetic framework and the cadastral operations. It is at the level of establishment, maintenance and improvement of geodetic framework that the state is often required for funding and manpower recruitment. This is so because, the geodetic framework forms the base upon which all

other cadastral operations rely. For this reason, very cost and subsequently accuracy is required in the establishment such geodetic frame work.

Based on the findings of this paper, the following recommendations are suggested:

- 1) The composition of the Land Use and Allocation committee should be revised. By virtue of this revision, the land surveyor should be a statutory member of the committee. Furthermore, in order to ensure that true technocrats are assigned into the committee, the membership of the committee should be by nominations made to the governor from the requisite professional bodies and technocrat associations.
- 2) Land policy makers should ensure proper synergy between their proposed policies and the required technical operations. This can be achieved through the requisite established institutions constituted by the policy makers. The institutions would be charged with the responsibility to harmonize facts from requisite stakeholders before legislations and policies are enacted.
- 3) In line with the recommendations of the Land reforms committee, state governors should build relevant technical capacity required for the efficient land administration. By this, government should ensure that the geodetic frameworks upon which the subsequent cadastral operations would rely is well established. This is to be done through adequate funding and staffing of all relevant legislatively established institutions.
- 4) In line with the desire by most state governors to cheapen the production of title deed plan or TDP (a fundamental technical document upon which the title depends), state survey institutions should explore suitable avenues for the incorporation of fit-for-purpose surveys in their cadastral operations. Possible options of cheap techniques and procedures of land surveys should be explored. Be that as it may, the issues of observational and production accuracy, beacon establishment on site, preservation of bearings and distances of land boundaries and orientation of properties must never be compromised by whatever methodology is to be adopted. Based on these considerations, the institutions may determine new standards and requirements for survey plans to be accepted as TDP's for

purpose of obtaining title for landed properties. Therefore, it might be concluded that while it is the duty of state government administrators to determine legislations as well as formulate policies and institutions for the effective implementation of the legislations; it is expected that the institutions should be allowed (having been empowered by the government) to drive the necessary technicalities required for achieving of the laid down policies.

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