

The Dilemma of Restructuring the Land Governance System in Nigeria

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Key words: Land titling, Land Registration, Land governance, Systematic Land Titling and Registration

SUMMARY

Land reform is essentially the process of examining land management patterns, introducing regulations and understanding customs relating to land ownership and tenure. Several countries have adopted different approaches including changing the laws, transfer of ownership, redistribution of land holdings and development of clear land policies as a way of reforming land tenure and land administration processes. Several efforts have been made in the past in Nigeria to improve land governance. The current emphasis is to provide title to land holders because less than 3% of the land in Nigeria has been duly titled. Low level of title registration has been a disturbing truism. There are no compelling provisions for title registration in the prevailing National land law. The Land Use Act enacted in 1978 was intended to radically restructure land governance approach. It was arguably revolutionary but 35 years after, Nigeria is still grappling with the reform process.

The Federal Government of Nigeria constituted the Presidential Technical Committee on Land Reform to mid-wife fresh reforms in land. The work of the Committee is focused on providing title with greater ease to land holders. It is consequently piloting Systematic Land Titling and Registration (SLTR) in some States as a transparent, participatory and an all-inclusive fast method of issuing titles to land holders. Systematic Land Titling and Registration seeks to check the inherent problems of informal land transfers with poor documentation. It aims at delivering valid legal title to land holders at low costs, standardizing the system of land registration as well as building up a comprehensive database of land holdings. The idea is novel, requiring careful enlightenment to make it clearer for all the stakeholders to understand. Much progress is yet to be made because there are different dimensions of the challenges to its total success. There are institutional and socio-political obstacles whipping up mixed reactions about the intentions of the programme. There also appears to be some conflict between politics and technology. The problems of the poor implementation of the Land Use Act of 1978 appear to have resurfaced in the land reform process under a different garb.

This paper highlights the seeming conflict between socio-economic and technological factors in the implementation of SLTR and the steps adopted to address them against poor acceptance. Systematic Land Titling and Registration, though good is yet to be fully understood and embraced by stakeholders. The pilots were successful but comprehensive

implementation across the thirty-six States and the Federal Capital Territory, Abuja in Nigeria is yet to be executed.

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INTRODUCTION

Land remains an invaluable source of wealth. It is life for millions of people across Africa and many predominant agrarian economies because it is central to sustainable livelihood. Among nations, it is an indispensable factor in socio-economic development. The system of distribution, use and management is therefore very important. All over the world, the use of land and its allocation is a major concern in the society, requiring that the holding be backed up with legal title to ensure tenure security. Consequently, effective management of the land resource of a nation is very crucial. Every government aims to achieve a set of political objectives that would ensure social justice. Good land governance is therefore a key to security and national stability. Land governance is particularly concerned with defining and administering rights in land. It is concerned with decisions that are made about access to land and its use, the manner in which the decisions are implemented and the way competing interests are managed. It is central in managing diverse interests, competing claims and the process of inclusion or exclusion that relate to rights over land. An efficient land governance system is a sine qua non for national growth.

African nations have abundant land and natural resources but the pervading inefficient land administration system does not allow government and individual holders receive the optimum benefits from the land. As a result, while there are abundant agricultural and other invaluable land resources in sub-Saharan Africa, the poverty rate is still among the highest in the world. Half of the world's total holdings of usable uncultivated fertile land or 202 million hectares lie in Africa. The poor land governance system accounts for low economic advantage to land holders and poor revenue returns to Government. Reforms in land are expected to provide opportunity for fast, effective and low-cost approaches to registering and administering land (Byamugisha, 2014). The overall national advantage is improved market transactions in land, economic development and sustainable investment. However, this does not come easy because of political, cultural, technological and other challenges. There is often the multifarious dilemma arising from these challenges. These are the issues in focus in this paper.

OVERVIEW OF LAND GOVERNANCE SYSTEM IN NIGERIA

The word "governance" could mean different things in different circumstances. Governance at a general level refers to theories and issues of social coordination and the nature of guiding rules. It refers to new approaches to securing the optimum advantage from existing

management systems with emphasis on participatory and inclusive activities. Governance is therefore an integral feature of improved strategies to meet current needs of stakeholders.

Land governance can be defined as the range of political, cultural, institutional and administrative processes through which communities articulate and express their interests, ensure that their inputs are considered and integrated during implementation. Through an established land governance system, decision makers are held accountable in the delineation, management and administration of land rights as well as the monitoring of services delivered. It involves formal and informal actors in the decision-making, the implementation of the resolutions and the establishment and management of necessary structures that should be in place for such purposes. Good land governance allows for participation, fairness, decency, accountability, transparency, efficiency and value addition (Burn and DaIrymple, 2008).

The land administration system in Nigeria is essentially statutory, though there are a number of large real estate holdings but their root of title is principally from Government. There is often little or no input from the informal sector. The institutional setup is normally embedded in the public sector administration system from which the statutory control derives its legal authority. The participation of a wide range of stakeholders in making decisions about allocation and use of land is therefore limited. There may be opportunities for occasional debates and suggestions. There may also be opportunities for claims and counter claims, but such opportunities are more of exceptions than the rule. This is part of the desirable governance structure sought in different reform measures. The effort to introduce and implement different levels of reform is growing but inclusive decision-making forums are not universally available yet issues for land governance can be found within the three tiers of government - Federal, State and Local Governments - but the strategies and standards vary.

Like in many other African countries, land governance systems have not fully embraced modern technology that would enhance rapid inventory and improve efficiency. There is therefore a growing clamour for reform arrangements that would restructure the land governance system. Such land governance arrangement would integrate the system of land administration and the necessary infrastructure.

In Nigeria the main legal basis for land governance is the Land Use Act, Cap L4, LFN 2004. Until recently, the land administration process in Nigeria has been cumbersome and inefficient. Currently however, about 30% of the States in the country have commenced the computerization of the land records in the Ministries, although this does not necessarily add new title documents to the system. The effect of the new application of technology has not, however, been very significant in terms of volume and frequency of sustained transactions in land. There has been improvement in the tracking of ownership and revenue accruable. Though there is yet a low level of documentation of fresh land titles in Nigeria, there is an increasing effort in digitizing and repackaging of existing land records across the land agencies in the States. The titles already domiciled in these agencies at the Federal and State levels are being captured and stored in the computerized management setup. Though the current World Bank rating of Nigeria among other countries on land registration is dismal, there is hope of a sharp rise in the near future. There is a commendable effort through the

activities of the Presidential Technical Committee on Land Reform to improve the land governance infrastructure in the country. This involves the installation of Continuously Operating Reference Stations for the acquisition of survey data, description of land parcels and their occupancy, installation of digital land management equipment and management software as well as other necessary land rights infrastructure including map development, establishment of land registry at different levels of government and human resources development.

THE LAND REFORM EFFORT IN NIGERIA

Equitable land distribution ensures national security and social stability. It also helps alleviate poverty. Land reform is essentially the process of examining land management patterns, introducing regulations and understanding customs relating to land ownership and tenure. Several countries have adopted different approaches including changing the laws, transfer of ownership, redistribution of land holdings and development of clear land policies as a way of reforming land tenure and land administration processes. The current emphasis is to provide title to land holders because less than 3% of the land in Nigeria has been duly titled. Low level of title registration has been a disturbing truism. Unfortunately there are no compelling provisions for title registration in the prevailing national land law - the Land Use Act. The Act was intended to radically restructure land governance approach across the nation. It was arguably revolutionary but the expected reform process has not been completely realized. This is because of a number of inhibiting factors. While there is a consistent blame on the law, there has not been any significant focus on the content of the provisions and absence of essential infrastructure.

The effort of the Federal Government to design and implement a land reform programme has been recognized as very needful process to standardize activities and operations on land across the country. The programme of the current land reform Nigeria is not necessarily redistributing land but building a comprehensive inventory of all lands so as to strengthen the economic base of holders with recognizable title documents. Beyond social security and stability, there is economic empowerment as well as communal boundary adjudication. It has been generally acclaimed that a comprehensive land reform is critical for sustained economic development and poverty reduction. The UN-Habitat recognized that land reform is a critical necessity for the development of every nation and Article 75 of its agenda states that poverty is inversely related to access to land. Similarly, the World Bank emphasizes that without land reform and equitable access to land in a country, economic growth is limited. The introduction of the Land Reform programme by the Federal Government has been seen as a welcome development as it is expected to transform the Nigerian economy in a very significant way.

The Presidential Technical Committee on Land Reform is currently undertaking the Federal Government's land reform programme. The objectives of the land reform programme are as follows:

- i) To facilitate easy access to incontestable Certificate of Occupancy;
- ii) To ensure land tenure security and facilitate hitch-free land transfers and transactions;
- iii) To optimize the use of land as a source of revenue to both Government and individuals;

iv) To provide basic information on land-use development and build up a proper cadastral database.

Principally, the Committee is to collaborate with and provide technical assistance to States and Local Governments to undertake development of cadastre nationwide. It is also to determine individual “possessory” rights using best practices and most appropriate technology in the process of identification of locations and registration of title holdings among other things. Systematic Land Titling and Registration (STLR) was adopted as the best approach to title registration in Nigeria. It is described as:

“... the process whereby throughout an expressly designated area all of the land rights both public and private and whether they amount to full ownership or not, are authoritatively ascertained in one operation by an officer(s) specially appointed for the purpose.” (From S. Rowton Simpson 1976, section 11.8)

In simpler terms, it is defined as:

“... land registration which applies area-by-area, village-by-village and parcel-by-parcel approach (including adjudication) with one-visit-per-parcel principle applied (overall stressing publicity and participation.”

The principle of STLR is that the documentation of titles held over a given area, community, village or town shall be systematically covered in such a way that individual holdings shall be clearly identified, measured and documented and no parcel shall be without an identified owner. This is also to be done in the most transparent way such that the owner together with his/her adjoining neighbours shall agree on the extent of their land and confirm the boundaries of the piece of land. Ultimately it is a reliable, inclusive, transparent, participatory and cost-effective approach. Chances of litigation are reduced to the barest minimum as the identification of the boundaries are done by land owners/neighbours themselves. By the process a large number of titles are brought into the Registry database. It provides a ready inventory of land holdings and the holders within a specified area.

The process uses simple technology and is to be scaled by individual States to ensure full national coverage. The title documents are to be issued by the Local Governments for parcels within rural areas and the State Governments for parcels within urban areas as prescribed by the subsisting law. The title registration is also to be done by the appropriate authorities within their jurisdictions. The accruable revenue shall be collected and managed by the relevant tier of Government.

This programme is currently being piloted in two States of the Federation: Ondo State, being a typical forest region and Kano State being a typical savannah region. The target of the pilot programme is to capture at least 5,000 parcels of land from each of three Local Governments in Ondo State and two in Kano State, making a total of 25,000 parcels of land as the target of the pilot stage. The field workers were also sourced from the State and Local Governments concerned and a total of 30 field workers were deployed in each Local Government Area. The field work is expected to last three months. The Presidential Technical Committee on Land

Reform provided most of the equipment for the Systematic Land Titling and Registration (SLTR) Pilot Offices.

Table 1 below indicates the field report from the three local governments in Ondo State.

PROGRESS REPORT ON PILOT PROJECT IN ONDO STATE, MARCH 14 2014

AKURE SOUTH LGA

No.	SLTR Activity in Akure South LGA	Total to previous week (7 Mar 2014)	Totals this week	Total to date (14 Mar 2014)
1	Parcels demarcated with GPS	3736	538	4274
2	Parcel records gathered	1392	113	1505
3	Parcels digitised in SOLA	2735	458	3193
4	Claim forms lodged in SOLA	977	88	1065
5	Disputes lodged	0	0	0
6	Parcels in public display	0	229	229
7	Parcels completed public display	0	0	0
8	Certificates printed	0	0	0

IFEDORE LGA

No.	SLTR Activity in Ifedore LGA	Total to previous week (7 Mar 2014)	Totals this week	Total to date (14 Mar 2014)
1	Parcels demarcated with GPS	1571	376	1947
2	Parcel records gathered	620	275	895
3	Parcels digitised in SOLA	603	203	806
4	Claim forms lodged in SOLA	201	58	259
5	Disputes lodged	0	0	0
6	Parcels in public display	0	0	0
7	Parcels completed public display	0	0	0
8	Certificates printed	0	0	0

AKURE NORTH LGA

No.	SLTR Activity in Akure North LGA	Total to previous week (7 Mar 2014)	Totals this week	Total to date (14 Mar 2014)
1	Parcels demarcated with GPS	906	415	1321
2	Parcel records gathered	557	187	744
3	Parcels digitised in SOLA	520	299	819
4	Claim forms lodged in SOLA	119	87	206
5	Disputes lodged	6	0	6
6	Parcels in public display	0	0	0
7	Parcels completed public display	0	0	0
8	Certificates printed	0	0	0

TABLE 1

BENEFITS OF SYSTEMATIC LAND TITLING AND REGISTRATION (SLTR)

1. SLTR enables government to deliver title to individuals at a reasonably low cost;
2. It helps to improve the security of tenure, support the growth of land market and provide public access to land records
3. It enables Government to have a comprehensive inventory of land and the holders within a given territory. This is because it provides a complete map of land in a jurisdiction or country.
4. It allows the use of GPS to determine boundary locations. The base map provides invaluable input into land valuation, land taxation and identification of encroachment.
5. Land titling is completed relatively quickly (15-20years) especially where there is political will.
6. It can be a common tool for standardising land titling and registration in Nigeria, facilitating national consistency and mainstreaming innovative methods arising from individual experiences.
7. The software offers seamless interaction with officers of different Departments and thereby minimizes time spent in training.
8. It saves costs to the Government in the long run in terms of title registration and land transfers (Ukaejiofo, 2013).

CHALLENGES AND DILEMMAS

Though there is clamour for innovations, strategies and technology required for improved land administration and management, there has "been a pervading misunderstanding of the content and extent of reforms required. Thoughts about the supposed improvements were concentrated on technology and repackaging of existing title documents. Though the computerization programme elicited some measure of resistance from government employees the introduction of a number of structural changes through the land reform programme has raised political, social, technological and technical challenges. These challenges are discussed to give insight to their nature and implications.

1.0 Political challenges

Land is socially embedded, and in Africa it has historical, cultural, social and spiritual significance to the communities and individual holders. It is the foundation for shelter in urban areas and the source of livelihood in rural areas. Land issues are therefore sensitive, demanding careful handling to avoid social and political conflicts. Under the existing law, Governors and traditional rulers have used land to political advantage. It has therefore been difficult to accept reforms that would likely impede or diminish their authority and influence. They have not therefore been forthcoming to accept the reform programme. Consequently, penetrating the communities entails heavy sensitisation programmes. Extra time has to be taken to explain and convince the political leaders. Because of their political influence, their understanding or misunderstanding of the programme could sway the co-operation or non-cooperation of the people. In many circumstances, the traditional rulers have to be given unequivocal assurance, almost writing a certificate and in some cases, incentivized. The Governors also have to be assured of their total control of the process.

2.0 Social challenges

The socio-cultural ideologies of a particular group of people are deeply intertwined with their political and human rights system. Land is the principal source of livelihood to rural dwellers because of agricultural production. Secure land rights in urban areas also helps in poverty alleviation and sustainable property rights regime. Every land holder or occupier therefore needs an assurance or a guarantee that his occupancy shall not be infringed upon. Many land holders feel threatened by the chance of reform which direction is not clearly understood. Because of the difficulty in securing an alternative site for settlement, there is a resistance to an untested change. Where the cost of providing title to land is high as it presently exists around the country, the fear of high cost of obtaining such title following reform programmes in land leads to overt rejection by land owners. Even the promise of reduced fees is received with a lot of doubt, and sometimes considered deceitful. Consequently, cooperation is also lacking. To address this, the need for greater awareness campaigns arose.

3.0 Technological challenges

Effort is being made to introduce or to install essential cadastral infrastructure to ease map production and delineation of land parcels. The Continuously Operating Reference Stations (CORS) has been installed in a number of locations across the country to help provide relevant data for map production. These stations are essentially introduced in the States by the Federal Government. Some of the equipment, like the high-end GPS required to receive and download the data is not commonly available in the States. The man power necessary for tracking, interpreting and applying the data are required to be trained. Part of the dilemma is whether or not such installations should be invested in. The Federal Government of Nigeria, through the Presidential Technical Committee on Land Reform, installed this equipment in the States where the pilot land reform programme is located as a way of improving cadastral infrastructure and suitable officers have been trained to read and use the data.

To be able to map the areas concerned satellite imageries were used to provide the map of the areas covered by the pilot programme. Basic training on the use of equipment and data capture procedures were undertaken. Methods of resolving minor conflicts and interpersonal relationship with stakeholders are essential training programmes.

Though many States have embarked on computerization of their land records, there has not been any institution assigned to monitor the standards in such a way that integration would be easier and compatible. The software application has been at the discretion of the implementing authority, whether at the Federal or State Government level. Different land management authorities adopt any software that appeals to them, based on their area of interest or focus. Many operators within these land management authorities are therefore unwilling to accept a different software from what they are used to. The land reform programme adopted SOLA software, developed by Food and Agriculture Organisation. It requires adaptation to be able to integrate it or conveniently adopt it for the land administration process. While not being out rightly rejected, the operators run with the dilemma or either continue with what they have, or migrate to the new system. The needed adjustments in the new system are also issues of concern because retraining and clearer understanding is required. On the whole, however, the software has been accepted for implementation and is being adopted.

To ensure a proper understanding of the SLTR operations, Presidential Technical Committee on Land Reform, with assistance from Growth and Empowerment in States which is funded by the DFID, developed both the training and operational manuals to guide the SLTR officers. It has also prepared Regulations to guide the implementation of sections of the Land Use Act as required by S.46 of the Act. The available manpower base can be trained formally and informally for both the field work and data analysis at the back end.

4.0 Technical Challenges

Land governance involves both the land administration infrastructure and the requisite expertise together with the appropriate digital infrastructure. Some of the professionals are concerned about the future of their careers where the land reform project provides title documents to all occupiers. The feeling has been that the issuance of title documents to all will limit the level of services that may be demanded by the land holders. Consequently, some of the professionals, especially the land surveyors are not giving complete support to the project. The principal argument is against the use of general boundary which Systematic Land Titling and Registration adopts against precise survey for the description of a given parcel which is a current method of delineating land parcels for title documentation. This argument has lingered for some time but these experts are being made to understand that while Systematic Land Titling and Registration would provide a comprehensive inventory for first titling with general boundary, subsequent transactions would require precise survey. Consequently, the subsequent activities on the land would provide opportunities for the practice of surveyors.

5.0 Institutional Challenges

Land governance institutions are embedded in the public service system, which is often bogged down with bureaucracy. It has also not been properly extended to the lowest tier of Government, which is the Local Government Authority. Some of the operational units or arms charged under law to operate certain aspects of the Land Governance problems are in many cases, not in existence. For instance, the Land Use and Allocation Committee at the State and Federal Government level and Land Use Advisory Committee, which is established at the Local Government level; do not exist in some of the states and nearly all the Local Governments in the country. The Land Use and Allocation Committee, and Land Use Advisory Committee are to recommend the allocation of land and advice on all other matters that may be referred to them. Their non-existence or, where they exist, but are not functional does not help the land governance institution. Part of the infrastructure required is to establish Land Registries in all the Local Governments, make the Registries at the state levels functional and request the State and local Governments to establish the appropriate committees as prescribed by subsisting land law.

6.0 Funding

The funding of the project has substantially been done by the Federal Government, with assistance from Growth and Empowerment in States (GEMS3) funded by UK Department for International Development (DFID). The funding has been in the form of technical equipment

for field work and database operations. Capacity building and human resource development has also been borne by the Federal Government. While the States are willing to undertake the land reform project, they did not make necessary budgetary provisions while the pilot projects were being undertaken. Funding has consequently been part of the challenges. The States are being encouraged to make provisions for scaling up the reform programmes in the States.

It is expected that the charges for the preparation of title shall be kept low, so the revenue generation from the new titles may not necessarily cover the cost of implementation, it is however expected that the industry that may arise from the project will provide enough planning information for the State Government and subsequently in the production of its annual registration profile.

CONCLUSION

A transparent and investment oriented reform in land is the key to unlocking wealth in Nigeria. An effective land administration system is necessary for “good governance” with respect to land by:

- 1) Giving government capacity to manage a valuable natural resource
- 2) Sustaining the rule of law by regulating real estate and land markets
- 3) Providing security for landowners but also for national and international investors and the finance sector
- 4) Assisting the development of labour markets by easing labour mobility
- 5) Assisting the development of financial markets by providing collateral security
- 6) Assisting in the creation of new business entrants
- 7) Providing government with a source of revenue which may be used for a variety of purposes
- 8) Bringing transparency to the allocation, distribution and other transactions with land,
- 9) It may also contribute to the “alleviation of poverty” by providing collateral for mortgage purposes.

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11/12

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