

Access to Land and Legal Security of Tenure: Implications and Impact on Rural Development in Abia State, Nigeria

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ABSTRACT

In the rural and communal settings, land rights are culturally attached to indigenous peoples in Nigeria, especially the inhabitants of the southern part of the country. Culturally, the customary land tenure system has generic value and security in such ways that it could be transferred from one owner to owner without restrictions. Security of land tenure is a vital ingredient that enhances the transferability of greater altitudes of investment. The study adopted a random sampling method and selected 1,061 house-owners and administered a set of structured questionnaires that contained questions that probed into issues on their accessibility to land and legal security of tenure. Another set of questionnaires was differently designed to elicit information from other stakeholders (Land managers, Town planning Agencies, Community/Family Heads, etc). Data obtained from the primary source were subjected to empirical analysis. The data were also complemented by secondary data. The findings revealed the socio-economic characteristics of the house-owners, means and duration of the period of land acquisition, determinants of access to land, and the implications on the securing planning permission, construction of illegal structures and the quality of construction. Finally, the paper recommended that tenure security in customary areas can be enhanced through the formalization of customary tenure. Governments should facilitate this process, initially where there is a demand for formalization. There is a need to harmonize reform efforts across customary and statutory law, regulations.

Keywords: Land, Access to Land, Security of Tenure, Statutory law, Customary law, Rural Land.

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INTRODUCTION

Land is a real property because it does not alter its value. It is regarded as tangible property hence, section two(one) of the conveyancing act defines property as rem which features include both realty and personally. Land is portrayed to comprise of land of all tenures, tenements, hereditaments, corporeal and incorporeal including but not limited to houses and other forms of constructions attached to land. Land tenure can be defined as the way by which land is held or owned within societies, or as indicated by a set of relationships whether legally or customarily, among people, as individuals or groups, with respect to land and other natural resources (FAO, 2005).

Land tenure has been defined as the mode by which land is held or owned or the set of relations among people

concerning the use of land and its products. Tribal, feudal, colonial, capitalists, socialists and religious societies have all evolved distinctive concepts concerning the tenure and use of land (Theodora, 2006). Countries that have been subject to colonialism have particular complex tenure arrangements especially in the urban areas, since indigenous and imposed tenure patterns may exist side by side or in the same area (Payne, 1997). Given this variety, it is important to review the mainland tenure concepts and systems which exist in developing countries and their operation in urban areas.

While land tenure is defined simply as the manner in which rights are held (Dale and McLaughlin, 1999) the concept of the customary land tenure has been defined

in many ways. According to Fisher (1993), customary land tenure has been defined by the United Nations as the rights to use or dispose of use-rights over land which rest neither on the exercise of brute force nor the evidence of rights guaranteed by government statutes but on the fact that those rights are recognized as legitimate by the community, rules governing the acquisition and transmission of these rights being usually explicit and generally known though not normally recorded in writing. As Fisher noted, the major characteristics of customary tenure is that the land is regarded as belonging not to an individual but the whole social group (Fisher, 1993).

Customary land tenure is also referred to as a system of land relation in which the ownership of the land is vested in a collective (whether a family, lineage or a clan) while the individual enjoys virtual unrestricted rights of usage. The head of such a collective or community is regarded as a symbol of the residuary, reversionary, and ultimate ownership of all land held by the collective (Mabogunje, 1992).

Historical information

An eminent Ghanaian lawyer aptly puts it this way that the customary land tenure is based on the belief that "land belongs to a vast family of which many are dead, few are living and countless numbers are still unborn". Hence under the customary land tenure, land is inalienable and the living must use the land so that the interests of the future unborn generations are not jeopardized. In the light of this, each member of the community has a right to occupy and use part of the land for his livelihood and no individual could alienate these rights to another (Ollenu, 1962 cited by Farvacque and Auslan, 1992). Payne (1997) in his research states that rights to land and property exist within a regime of rights. The key factor in any system of land tenure and property rights is therefore the relationship of an individual to the group, and different groups to each other and the state, and their collective impact on the land.

In some countries such as Ghana, among the Akan tribes, the customary land tenure system is woven into the very fabric of the traditional society. It provided the economic basis for political power and also has serious social and religious implications. Land had an influence on the concepts of kinship, the family system and the entire field of social relationship. There is the belief that land is an ancestral trust committed to the living for the benefit of themselves and future generations. Traditional land rights are seen as being closely related, not just with economic factors but also political, social as well as religious factors. It is an egalitarian system, and as such its underlying principle is more of equity, fairness and security for members of the community than economic efficiency in the use of land (Annor, 1992)

Communal tenure is a traditional system created by those whose livelihood was often precarious and depend on access to land for survival, this land is either fragile or

need careful use to ensure an ecological balance (Boboya, 2015). This system of Customary land has long history not only in Africa but also in the Middle East and (once upon a time) North America, which has evolved from largely agricultural societies with little competition for land (Boboya, 2015).

The negative impact of land tenure systems and the access and utilization in Africa was due to the legacy of the colonial land policies. As a challenge in Africa, insecure land tenure or the lack of land ownership also restricts the farmers' access to credit that is required for improved land practices (Egemi, 2006). This lack of access to credit forces them to go for traditional land-use practices, despite their willingness to change. Thus, national policies influence the land-use systems by influencing institutional arrangements such as credit and marketing facilities, and infrastructure development. Statistical evidence of poverty trends and tendencies in relation to land tenure insecurity is strikingly clear in Africa. UN (2009) estimates that more than 45% of Sub-Saharan Africa's population now lives in poverty. Land in rural communities is not just a means of livelihood but also a source of wealth, tribal identity, social peace, and also source of conflict.

Historical conflicts and inequities over access and ownership of land rooted in colonial land dispossession are intense in countries such as South Africa, Namibia, Malawi, Kenya and Zimbabwe. Inequitable land distribution in Africa relates also to rural poverty and political instability. Increasing tensions over land are found in the ethnic violence in northern Ghana (1994-95), the land violence in the Tana River district of Kenya in 2001, the civil war in Rwanda, civil eruption in the Ivory Coast and Zimbabwe's land occupations and violence.

The current legal situation in Nigeria

As reflected in its major provisions, the Land Use Act of 1978 was enacted to nationalize land ownership in Nigeria as well as facilitate effective state control of the use and development of land. In the implementation of the Act in the past three and a half decades or so, the Act has progressively become a clog in the wheel of economic growth and development in the country. Currently, only an average of 23.1% of households in Nigeria own land (Namso et al., 2014). Which is the percentage distribution of households who are landowners in all the geopolitical zones in Nigeria. Utuama (2008) argued that the promulgation of the Land Use Act was aimed at redirecting the general philosophies of pre-existing land tenure systems in Nigeria through the application of uniform statutory regulation of ownership and control of land rights and to stimulate easier access to land for greater economic development as well as promote national social cohesion. In an attempt to harmonize the different land tenure systems previously existing in the country, the Act has created multiple forms of tenure resulting in insecurity of right of occupancy granted under the Act,

Table 1: Marital Status and Sex of Respondents

Marital Status	Number of Respondents		
	Male	Female	Total
Single	318 (35.5%)	43 (26.0%)	361 (34.0%)
Married	292 (32.6%)	46 (27.9%)	338 (31.9%)
Separated	161 (17.9%)	17 (10.3%)	178 (16.8%)
Divorce	67 (7.5%)	27 (16.4%)	94 (8.9%)
Widow/widower	58 (6.5%)	32 (19.4%)	90 (8.5%)
Total	896 (100%)	165 (100%)	1061 (100%)

Source: Author's Fieldwork, 2021.

excessive bureaucracy in shortcomings. This excessive bureaucracy has made land registration in the country very prohibitive (Namso et al., 2014).

As reported by World Bank (2014), Nigeria ranks among the lowest in terms of ease of registration of property title. While it will take twelve days and fifteen days to register property title in Rwanda and Botswana respectively, such title will take seventy-seven days to be registered in Nigeria.

In addition to excessive bureaucracy as depicted by its highest number of procedures required for property registration in sub-Saharan Africa (13 procedures as compared to 3 in Rwanda), the cost of property registration in Nigeria (20% of property value) is the highest when compared with those of other countries in the region. While such cost is 0.2% in Rwanda, it is 1.2%, 4.3% and 5.1% in Ghana, Kenya and Botswana respectively.

The Land Use Act is anti-people and oppressive and cannot enhance sustainable development in any egalitarian society. Undoubtedly, the Act has also hindered the effective functioning and operation of the property markets in the country. By virtue of Section one of the Act, individuals cannot own freehold interest in land in Nigeria. Individuals can only be granted a right of occupancy for a maximum holding period of 99 years, subject to payment of ground rent to the government as fixed by the Governor. This has made private land ownership in the country insecure. It has also affected the efficiency of the property market (Namso et al., 2014; Julius and Abdullateef, 2013). This right of occupancy is a leasehold interest. The muddle made by this interpretation on the property markets in the country has resulted in ignorant trading and transfer of property rights by professionals and laymen alike as people continue to sell freehold interests in land.

The vesting of all land comprised in the territory of each state in the Federation of Nigeria in the Governor of that state implies that the Governor holds the absolute interest in land in each state of the Federation.

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RESEARCH METHODOLOGY

Information was sourced from two broad areas- the primary source and the secondary (archival data) source. The primary source shall provide direct information from interviews field surveys, questionnaires and opinion polls. While the secondary sources shall be from published materials, books, agency reports, journals and newspaper reports.

The multi-stage random sampling method was used for the administration of the house-owner questionnaire. The first stage was the identification of the 17 Local Government Areas (LGAs) that fall within Abia State according to their Senatorial District. At the second stage, a simple random sampling technique was used to select three enumeration areas (EAs) from each of the LGA. The selected EAs in each LGA are true representatives of high, medium and low-density residential areas respectively. At the end of the survey, 1,061 house-owners were interviewed.

RESULTS AND DISCUSSION

Sex and Marital Status of Respondents

The marital statuses of respondents are shown in Table 1. Those that are married form the majority was 31.9%. Only 34.0% of the entire respondents are single. While those that are separated constitute 16.8%, only 94 respondents (8.9%) are divorced. The widows and widowers constitute 8.5%.

Occupation and Income

The main occupations of the respondents as contained in Table 2 are trading with 21.1%. The fact that trading activities constitute the highest human activities as Abia city has being the commercial nerve of Nigeria. However, 76.3% of the traders are male while 16.4% that are female are mostly found in the informal sector. Craftsmanship and the self-employed (14.5%) is next in order of importance of occupation in Abia State. Those in the latter category are self-employed residents such as motor/motorcycle mechanics, panel beaters, bakers,

Table 2: Main Occupation.

Occupation	Number of Respondents		
	Male	Female	Total
Farming	121 (13.5%)	8 (4.9%)	129 (12.2%)
Craftsmanship/Self Employment	131 (14.6%)	23 (13.9%)	154 (14.5%)
Civil Service	61 (6.8%)	29 (17.6%)	90 (8.5%)
Teachers	78 (8.7%)	7 (4.2%)	85 (8.0%)
Trading	197 (21.9%)	27 (16.4%)	224 (21.1%)
Company worker	88(9.8%)	24 (14.5%)	112(10.6%)
Medical personnel	89 (9.9%)	21 (12.7%)	110(10.4%)
Not in workforce	48 (5.4%)	11 (6.7%)	59 (5.6%)
Unemployed	50 (5.6%)	6 (3.6%)	56 (5.3%)
Student	33 (3.7%)	9 (5.5%)	42 (3.8%)
Total	896 (100%)	165 (100%)	1061 (100%)

Source: Author's Fieldwork, 2021.

Table 3: Income per Month.

Income (N)	Number of Respondents		
	Male	Female	Total
<7,500	133 (14.8%)	45 (27.3%)	178 (16.8%)
7,5001-15,000	113 (12.6%)	35 (21.2%)	148 (13.9%)
15,001-30,000	148 (16.5%)	15 (9.1%)	163 (15.4%)
30,001-45,000	264 (29.5%)	38 (23.0%)	302 (28.5%)
Above 45,000	238 (26.6%)	32 (19.4%)	270 (25.4%)
Total	896 (100%)	165 (100%)	1061 (100%)

Source: Author's Fieldwork, 2021.

painters, bricklayers and hairdressers. Other occupations that are of relative importance are civil service with 8.5% and farming which constitutes only 12.2% of the entire respondents. Also included are teachers (8.0%), company workers (10.6%) and medical personnel (10.4%). The unemployment level is fairly high with 5.3% residents. Retirees account for 5.6% while students and apprentices constitute the remaining 3.8%. The implication of this is that the residents that are engaged in formal employment are more favored in the allocation of state-secured residential plots. The majority of residents that are engaged in business and other employments patronize the informal land market to access residential land without legal backing.

Income per Month

The result of the analysis of the income distribution of respondents is contained in Table 3. As shown in the table, 16.8% of the residents earn N7, 500 or less per month. Those earning between N7,500- up N15,000 constitute 13.9%, N15,001- N30,000 (15.4%), N15,001- N45,000 (28.5%) and more than N45, 000, 25.4%. Most of the respondents have to supplement their meager income with secondary activities before they can have access to legal sites. The importance of income to this study is vital because respondents with higher income

are more likely to have access to residential land with legal security because of the cost involved while the low-income earner finds it difficult to secure access to legal sites; this means the poorer residents (mostly women) secure access in unplanned sites, that are lacking in basic amenities for sustainable development. This situation can only improve if the process and cost are reduced.

Pattern of Access to Residential Land

Accessibility 'per se' is one of the most frequently used terms and yet little defined in urban and regional studies. Also viewed from the same perspective, accessibility has a number of dimensions, thereby making it to face both definitional and measurement problems. In the context of this study "access" could best be described as the availability and affordability of secured residential land. Pattern of access to house types, housing facilities, residential land and legal security of tenure are examined.

Sources of Securing of Plots

Respondents' interviewed claimed to have acquired land for housing development by a different variety of means. As shown in Table 4, 19.7% acquired land in private

Table 4: Land Acquisition.

	Number of Respondents		
	Male	Female	Total %
Public Formal	314 (35.0%)	59 (35.8%)	373 (35.2%)
Private Formal	289 (32.3%)	34 (20.6%)	323 (30.4%)
Private Informal	159 (17.4%)	50 (30.3%)	209 (19.7%)
Ratified Area	134 (15.1%)	22 (13.3%)	156 (14.7%)
Total	896 (100%)	165 (100%)	1061 (100%)

Source: Author’s Fieldwork, 2021.

Table 5: Time Taken to Acquired Residential Land (in weeks).

Time Taken (weeks)	Number of Respondents		
	Male	Female	Total %
1-4	198 (22.1%)	45 (27.3%)	243 (22.9%)
5-12	100 (11.2%)	12 (7.3%)	112 (10.6%)
13-24	247 (27.6%)	14 (8.5%)	261(24.6%)
25-48	51 (5.7%)	40 (24.2%)	91 (8.6%)
49 – 72	73 (8.1%)	18 (10.9%)	91 (8.6%)
above 72	227(25.3%)	36 (21.8%)	263 (24.8%)
Total	896 (100%)	165 (100%)	1061 (100%)

Source: Author’s Fieldwork, 2021.

informal land market through private purchase from original owners, land speculators, members of land owning families as well as land grabbers and their agents.

Other land acquired through these ways, 35.2% of respondents acquired land from the state through statutory allocation made by the LUAC. 30.4% acquire land in the private formal land market through organized land developers. Only 14.7% of the entire respondents acquired land in areas designated by the Abia State Government as ratified areas. Yet the principal law guiding ownership and use of land in Abia, that is the Land Use Act specifies Government as the owner of the land from which individuals are supposed to obtain permission before use. This result shows that accessibility to land for residential uses from the public is small. It also indicates that land belongs to families. It is noted that the solution requires the replacement of the market mechanism with an alternative system of land acquisition and land use determination based upon public ownership and control.

Duration for the Acquisition of Plots

The number of weeks taken to acquire land by respondents is contained in Table 5. 243 respondents (22.9%) claimed to have acquired their residential plots between one to four weeks of search for them especially from private sources. Another 10.6% of respondents acquired their residential plots between 5-12 weeks, 13-24 weeks (24.6%), 25-48 weeks (8.6%), 49-72 weeks (8.6%) and more than 72 weeks (24.8%). The implication of this is that the Period of land acquisition has an impact

on the number of houses that are produced annually. The shorter the period involved in acquiring land, the better, for development activities to take off. Without secured access, the production of housing development cannot take place.

However, further investigation shows that the land transaction is more complex than this. Acquisition appears simply because the majority of landowners obtained their land from unofficial sources such as individuals and families. Thus, when land is purchased by people, they still need to perfect the title document by obtaining a certificate of occupancy as specified by the Land Use Act. Besides, the fact that processing of this title document takes at least 6 months, makes room for double payment for the same plot of land. Apart from those lands acquired from Government directly, field investigation reveals that owners will pay the initial owner of the land and also pay the Government to obtain the title document.

Cost of plots

The initial cost of land as shown in Table 6 indicates that 17.6% of the entire respondents acquired their residential plots for Two hundred thousand or less. While another 10.4 percent paid between N200,001 and N500,000 for their plots, 17.6% claimed to have acquired their plots at prices that range between N500,001 and N1 million. 7.3% of respondents paid between N1.1 – and N1.5 million for residential land, 19.9% (N1.6 - N3 million), 7.3% (N3.1 - N6 million) as 14.5% (N5.1 - N10 million). Only 5.4% of the respondents got their residential plots for more than N10 million. The

Table 6: Initial Cost of Residential Plot (N)

Cost (N)	Number of Respondents		
	Male	Female	Total %
200,000	182 (20.3%)	5 (3.0%)	187 (17.6%)
200,001-500,000	100 (11.2%)	10 (6.1%)	110 (10.4%)
500,001-1 million	162 (18.1%)	25 (15.2%)	187 (17.6%)
1.1-1.5 million	62 (6.9%)	15 (9.1%)	77 (7.3%)
1.6-3 million	192 (21.4%)	20 (12.1%)	212 (19.9%)
3.1-5 million	42(4.7%)	35 (21.2%)	77 (7.3%)
5.1-10 million	124 (13.8%)	30 (18.2%)	154 (14.5%)
Above 10 million	32 (3.6%)	25 (15.2%)	57 (5.4%)
Total	896 (100%)	165 (100%)	1061 (100%)

Source: Author's Fieldwork, 2021.

implication of this indicates that the cost of land in Abia State is very high and beyond the reach of the majority of the people that belong to the low-income groups (most especially women) who may not have access to land for housing development. Only 17.6% of the respondents have access to land with an initial cost of Two hundred thousand or less. Hence, there is need to fashion out a programme that will facilitate home ownership by majority of the women class and indeed the poor income group.

CONCLUSION

Tenure security rather than just property rights is the cornerstone to rural economic development. Obtaining secure property rights is critical to smallholder development and equitable growth. With a system of property rights that is viewed as legitimate, smallholders can use their claim for collateral for agricultural inputs, improvements, innovations, and the expansion of their enterprises.

To achieve tenure security, however, property rights are only effective when combined with other measures, such as affordable access to legal services, trustworthy land administration, and honest, fair, and gender-neutral enforcement and judicial systems. Without these additional conditions, property rights alone have minimal impact on land tenure security and the commitment of smallholders, particularly women, to invest in improvements or innovations. There is a need for continuous recognition by policy-makers that a vibrant agricultural and rural sector, underpinned by land reform, will provide the catalyst for improving living standards in Africa.

RECOMMENDATIONS

The government must put in place an ICT- enable programme to facilitate the development of a seamless land use and administration policy in order to galvanize the economy, improve government-citizen relationships and broaden the revenue base of the state.

Gender inclusiveness inland projects is essential if the outcomes are to truly enhance security and effective access to land resources and the benefits from those resources. To ensure that project outcomes reflect the initial goals and do not have unintended negative impacts on men or women, the donor community and international organizations, should take on the following responsibilities at a minimum.

National land policies in Africa should promote equitable access to land for the people who form 80% of food processors in Africa. However, many of them lack secure land use rights and equitable access to finance, insurance, education and land. Improved land utilization requires coordinated efforts across African governments sectors and administrative levels to develop effective, decentralized processes for decision-making. Blanket land utilization recommendations are not feasible, and improved land-use information systems would lead to more informed guidelines for different sub-regions.

Research in West Africa shows that, in an attempt to secure their land claims, many farmers are now seeking to document their land transactions through written contracts, formal witnessing or endorsement by customary chiefs and government officials. Supporting these efforts by linking them to formal land administration systems and clarifying the rights and duties of the two parties may help address one of the main drawbacks to informal tenancies: the disincentive to invest in the land. I advise many African countries to study such initiatives and use them as it will improve rural community situations and may lead to rural development.

Tenure security in customary areas can also be increased through improved governance, decentralization of land administration and greater empowerment of farmers. To begin to address tenure insecurity among women, there is a need to harmonize reform efforts across customary and statutory law, regulations and access to judicial systems.

Nigeria governments should be encouraged to underwrite the security of land tenure widely recognized public goods by providing the legal and institutional capacity needed for just, equitable and efficient land administration and, where necessary, intervening in the land market to make reforms related to land distribution.

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