

Chapter 29

Nigeria's Legal Instruments for Land and Water Use: Implications for National Development

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ABSTRACT

This chapter critically assesses the administration of land and water resources in Nigeria. Reasons why the Land Use Act has not met its objectives are discussed. It also assesses reasons why, despite abundant water resources, numerous laws, and multiple governing institutions, Nigeria is still struggling to meet the national demand for water supply. The chapter concludes by suggesting specific amendments to the administration of both land and water resources. The main thrust of the suggested amendments is to address the current situation where government arrogates absolute authority on all land and water resources to itself. It is suggested that the government should consider adopting a multi-lateral relationship where government, private investors, traditional landowners, and prospective land buyers are co-decision makers in charting the future for the administration of land and water resources. This is aimed at eliminating associated problems such as delays, tenure insecurity, and proliferation of peri-urbanization in the current system.

INTRODUCTION

The discourse opened with a background into how land issues have been handled by ancient civilizations, some western civilizations and now Nigeria, a developing nation. The next section introduces the Land Use Act (LUA) of 1978, which is the predominant legal instrument for the administration of land matters in Nigeria. Its objectives and shortcoming are analyzed. Further, laws and policies that govern water resources in the country are mentioned and discussed. Problems confronting the optimum development of the water resources sector of the nation are identified. The chapter argues that throughout

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human history, the control of land has always been about serving the interests of the government and the interests of a few privileged persons. It further argues that since the people recognize and patronize customary laws more than the statutory laws on land and water issues, government should cede control of both resources to the traditional custodians of land, while collaborating with a broad range of stakeholders to chart out the future of resource use and administration in Nigeria. While suggesting that the traditional land owners should be accepted as partners in progress with the government, the discourse also enumerated a workable pattern for the relationship by recommending that traditional land owners should be trained on the specifications of the laws. They should also be held accountable for developments that fall outside of the master plan since they are directly involved in most on-site developmental projects and benefit from them. The aim of the chapter, therefore, is to identify reasons why Nigeria's current model of land and water administration has not functioned optimally. Further, the authors have proposed specific changes and modifications to current practice that would help prospective land buyers and investors in realizing their goals and aspirations.

BACKGROUND

Land is one of the core factors of production. The generation of wealth and other economic advantages cannot be separated from land use rights. Centuries ago, Smith (1776) in his well cited publication defined wealth as the 'annual produce of land and labour'. Since all labour is carried out on land, it is therefore evident that the latter dictates the conditions for the execution of the former. That is, labour is dependent on the availability of material resources. Most material resources required for production are recovered from the land. This explains why history is filled with the struggle for the control of land. As far back as 4500 BC, governments of civilizations like Sumer and Egypt reserved the absolute control of land in the monarch or representatives of the people (Cahill, 2010). In modern times, research shows that just 36 monarchs control a third of the entire land on earth, with three of the leading land owning monarchs being Queen Elizabeth II (6.7 billion acres), King Abdallah of Saudi Arabia (580 million acres) and the Pope (117 million acres) (Cahill, 2010). Aside from monarchs, individuals and corporations also struggle to take control of land. These classes of people are often the wealthy elite in society. It is reported that 36, 000 individuals (0.6% of the total population) in England control a third of the land in England and Wales (Cohen, 2010). In USA, it was observed that wealthy individuals from different parts of the globe who were seeking for ways to protect their wealth from inflation and political witch hunting took advantage of the bargain prices of land in Texas and bought vast expanses (Worcester, 2006). These individuals have then held onto ownership of these lands while indigenous farmers who need the land but lack the required capital and land are compelled to pay rent to these investors. These migrant but wealthy land owners have subsequently dictated and inflated the price of land (Worcester, 2006). With most of the land in the world being controlled by a few, the larger population is compelled to labour for subsistence and part with rent on a perpetual basis. In the hope of redressing inequality, some modern governments have attempted to reform land laws with the promise of empowering the less privileged. The fact is that these reforms only tend to tighten the control of few privileged people on the land and on the resources found on them (Worcester, 2006). One such resource of importance is water.

Water on earth may be classified as fresh or saline water. The former (which is comprised of rivers, lakes, streams, glaciers, brooks and groundwater) is approximately 2.59% of the total available volume of water on earth. Saline water, which is comprised mainly of oceans and seas, constitutes 97.41%

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