

Land nationalisation and rural land tenure in southwest Nigeria

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Summary

THE NIGERIAN Land Use Decree of 1978 nationalised all land in the country and notionally handed over its administration to committees constituted at state and local government level. One justification given for the Decree was the rationalisation of customary land tenure systems which were held to be a constraint on agricultural development. This paper considers the impact of the Decree on patterns of landholding and use in a community in the cocoa belt of southwest Nigeria. Analysis of the political conditions which govern the ownership and control of land indicates that the system of tenure as it existed prior to the Decree functioned as an equitable, stable and yet flexible means of regulating access to land. Suppositions about the defects of such customary tenure systems are shown to arise from fundamental misconceptions about the nature and operation of customary law. The Decree was ambiguous in key respects as to its implications for the continued validity of rural tenures, and introduced considerable confusion and uncertainty. In particular, tenancy became insecure with the deterioration of relationships between landowners and tenants as many tenants stopped paying ground rent. But for the most part, in the absence of effective structures for its administration, the impact of the Decree was slight. The legislation did nothing to 'rationalise' any of the supposed defects of customary tenure.

Introduction

Customary land tenure is frequently considered to be an impediment to agricultural development. The lack of secure and clearly defined rights is often held to lead to a disincentive or an inability to invest in agriculture, while the inflexibility of traditional systems is said to prevent the transfer of rights between groups and individuals and thus inhibit the mobility of factors of production. This paper, which is based on an analysis of the origins, intentions and effects of the Nigerian Land Use Decree of 1978 (Francis, 1984), questions two related assumptions: first that traditional tenure systems are a constraint on agricultural development and second that solutions to the 'problems' that such systems present are to be found in legislation at the national level.

The first section of this paper summarises the literature on the alleged defects of traditional systems of land tenure in Nigeria. The second section reviews the provisions of the Land Use Decree, which in 1978 nationalised all land in the country, and their implications for rural land tenure. Empirical evidence from the southwest Nigerian cocoa belt is used to show that arguments about the inappropriateness of traditional tenure institutions of the kind that legitimated the Decree are based on mistaken preconceptions about the nature and operation of customary law. This conclusion is confirmed by analysis of the actual effects of the Land Use Decree at the local level.

Land tenure as an economic constraint

During Nigeria's colonial period a number of different phases may be distinguished in the debate about land. These phases are marked by the changing relationships between Africans, administrators and commercial interests. In the early colonial period the attitude of the administration was one of indifference. However, as the state and commercial interests began to seek and obtain interests in land, the issue took on increasing importance, becoming a preoccupation of Nigeria's colonial administrators. From this period, the 'land question' figures repeatedly in colonial correspondence, memoranda, reports and enquiries. The main concern of the colonialists was with political stability rather than agricultural development, their fear being that the extensive alienation of interests in land to national or expatriate commercial interests would lead to landlessness and discontent. In Northern Nigeria, the Land and Native Rights Ordinance of 1910 vested all lands in the governor of Northern Nigeria. Similar legislation was proposed in some quarters for the south of the country, but this was strenuously, and in the end successfully, resisted by indigenous interests.

With political independence and the opening of the global debate on economic development, economic arguments came to dominate the debate about land tenure in Nigeria. Elements of these arguments are found in the literature of the colonial period, but the debate was now cast in a new framework. While Lloyd had noted in 1962 (p.3) that his research on land tenure was occasioned 'by a realisation that ignorance of the law had been seriously handicapping the commercial development of Western Nigeria', only a few years later Adegboye (n.d., p.42) was arguing in a much more radical vein that 'any society seeking land reform must make a choice between economic efficiency and retention of traditional ties and institutions'. From the late 1960s a number of Nigerian agricultural economists began to argue that customary forms of land tenure suffered from 'defects and inconsistencies' (Famoriyo, 1973a: 3) that militated against the most rational economic use of land. In the words of Oluwasanmi (1966: 23–55):

Social institutions may be so rigid as to constitute formidable barriers to agricultural production The traditional system of tenure may sometimes constitute a formidable obstacle to the enterprising farmer desirous of increasing the size of his farm business.

The literature on the shortcomings of customary forms of tenure is fairly large (see Adegboye, 1964; 1967; n.d.; Adeniyi, 1972a; 1972b; Fabiyi, 1974; Famoriyo, 1972; 1973a; 1973b; 1979; Ijaodola, 1970; Olatunbosun, 1975; Oluwasanmi, 1966; Osuntogun, 1976; Wells, 1974; Williams, 1978). The problems are generally given as relating to communal tenure, fragmentation, customary tenancy, and the use of land as collateral. A paper by Adegboye (1967), which enumerates most of the defects of customary tenure as found in the literature, is representative.

Adegboye (1967) identifies defects in land tenure, farm tenancy and the provision of agricultural credit as obstacles to increasing productivity per acre and per farmer. With regard to land tenure he states that: 'The present structure of land tenure makes it virtually impossible for enterprising young farmers to mobilise their labour and capital as freely as they would like to' (p.340). This is so, we are told, because sales of land are rare, and thus the cultivator and his descendants are confined to family land, and because the division of land upon inheritance leads to holdings becoming uneconomic in size and productivity. The defects of customary farm tenancy are enumerated as follows: the terms of leases are often verbal and indefinite; the amount of tribute paid is governed more by the tenant's relationship to his landlord than by the fertility or location of the land; subleasing is common in some areas; and the tenant is sometimes forbidden to

plant permanent crops. Overall, the tenant's insecure position discourages him from making substantial investments of capital or labour in the land which he occupies. The principal problem with regard to agricultural credit is also held to stem from customary land tenure: 'A piece of land which is communally owned cannot be used for collateral' and thus the commercial banks do not lend to farmers (Adegboye, 1967: 340).

The solution adduced by Adegboye to the inadequacies of traditional forms of tenure was to vest all land in the Government and administer it through a Lands Commission and subsidiary committees. A similar ideology—belief in the irrationality of local custom combined with unbounded faith in the potential of bureaucratic intervention—is found in the writing of Famoriyo (1972: 56–65):

The problems may be considered as institutional barriers to development and stem largely from the failure to intervene in order to direct and streamline the customary tenure system so that it could become more conducive to economic development. If there had been objective intervention the result could conceivably have been the existence today of a powerful, dynamic and flexible land tenure system making a positive contribution to Nigeria's agricultural development The complexity of the land tenure system in Nigeria shows that it is a single aspect of Nigeria's agrarian structure. It clearly requires an intervention at both state and local levels The policy should consolidate the existing social situation This is saying that the policy should give due regard to farmers as individuals whose willing participation will promote the integration of the rural community, thus mobilizing it for the achievement of set goals.

These assumptions became part of the conventional wisdom of development planning. Thus the second national development plan states: 'The prevailing land tenure system in the country sometimes hinders agricultural development If Nigeria's agriculture is then to develop very rapidly and have the desired impact on the standard of living, there must be reform in the system of land tenure' (Ministry of Economic Development, 1970). According to the third plan: 'The underutilisation of agricultural land is itself a function of some institutional constraints, in particular, the land tenure system and seasonal labour shortages. The land tenure system is mainly responsible for fragmentation of holdings and the difficulties in mechanisation and modernisation of agricultural production' (Federal Ministry of Economic Development, 1975). However, neither plan made any concrete proposals for reform.

The land use decree

The Land Use Decree was promulgated on 29 March 1978 following the recommendations of a minority report of a panel appointed by the Federal Military Government of the time to advise on future land policy. With immediate effect, it vested all land in each state of the Federation in the governor of that state (Fed. Rep. of Nigeria, 1978).

The Decree distinguishes throughout between urban and non-urban (hereafter 'rural') land. In urban areas (to be so designated by the Governor of a state), land was to come under the control and management of the Governor, while in rural areas it was to fall under the appropriate local government. 'Land Use and Allocation Committees', appointed for each state by the Governor, were to advise on the administration of land in urban areas while 'Land Allocation Advisory Committees' were to exercise equivalent functions with regard to rural land. This paper is concerned principally with the provisions relating to rural land.

The Decree envisaged that 'rights of occupancy', which would appear to replace all previous forms of title, would form the basis upon which land was to be held. These rights were of two kinds: statutory and customary. Statutory rights of occupancy were to be granted by the Governor and related principally to urban areas. In contrast, a customary right of occupancy, according to the Decree, 'means the right of a person or community lawfully using or occupying land in accordance with customary law and includes a customary right of occupancy granted by Local Government under this Decree.' Local governments were empowered to grant customary rights of occupancy to any person or organisation for agricultural, residential and other purposes with the proviso that grants of land for agricultural or grazing purposes should not exceed 500 or 5000 hectares respectively without the consent of the State Governor. With the minor exception of land subject to Federal or State claims, the Decree also empowered the local government to 'enter upon, use and occupy for public purposes any land within the area of its jurisdiction' and to revoke any customary right of occupancy on any such land. The approval of the local government was to be required for the holder of a customary right of occupancy to alienate that right.

Governors were empowered to revoke rights of occupancy for reasons of 'overriding public interest.' Such reasons included alienation by an occupier without requisite consent or approval; a breach of the conditions governing occupancy; or the requirement of the land by Federal, State, or local government for public purposes. Only in the last of these cases would any compensation be due to the holder, and then only for the value of 'unexhausted improvements' on the land and not for the land itself.

With regard to continued validity of customary forms of tenure, transfer and lease in the rural areas, the Decree left two key areas of ambiguity. The first was the question of the capacity of the holders of customary rights to land to alienate those rights. While the Decree defines customary rights of occupation to include 'the right of a person or community lawfully using or occupying land in accordance with customary law' and the transitional provisions of the Decree make the registration of such rights with local authorities optional, several other sections of the Decree either state or imply that the alienation of customary rights without the approval of the appropriate local government is illegal. The pronouncements of the executive on the purposes of the Decree were contradictory and did little to clarify the question.

The second key area of ambiguity with regard to rural land tenure was whether concurrent claims in rural land persisted after the enactment of the new law. No part of the Decree expressly abolished or outlawed the payment of rent in respect of customary tenures in land, but while the validity of mortgages and other encumbrances on urban land was explicitly reserved, this was not so for rural land. On the issue of collateral claims in rural land, however, the statements of the administration were consistent; there was no longer any obligation to pay ground rent in respect of rural lands after the Decree.

The impact of reform

Studies on the Land Use Decree have considered its impact in general or administrative terms (Fabiya, 1984; Uchendu, 1979; Udo, 1985), or in terms of its implications for judicial decisions in the higher courts (Omotola, 1983; 1984). None of the literature considers the consequences of this legislation at the local or farm level, where it was presumably meant to have its impact on productivity. Here I consider the effects of the Decree in the area of Ibokun, a community in the Ijesha area of Oyo State situated just within the northern limits of the cocoa belt. Ibokun is a town of some 8000 people, most of whom are primarily dependant on agriculture, especially

cocoa cultivation, for their living. Another 2500 or so people, almost exclusively migrant, cocoa-growing tenants renting land from indigenes, live in about 90 hamlets in the surrounding area. These immigrants have moved into the Ijesha area since the turn of the century from the Oyo culture area immediately to the north of Ibokun. They entered into agreements with local families and representatives of titled lineages for the use of land in exchange for the annual payment of several quarters of cocoa or its cash equivalent, a payment known locally as *isakole* and which was enforceable in the customary courts.

To what extent had the system of land tenure and distribution entailed by the history of settlement in the area been one whose inflexibility or inequity had inhibited the full economic use of land? A questionnaire administered to a random sample of 137 farmers in the Ibokun area in 1979 concerning their enterprises, and in particular their access to factors of production, included three questions that might have been answered by reference to land shortage ('Why did you not plant more cocoa than you did last year? Could you obtain more land for cocoa if you wanted? What are the main problems with your farming enterprise?'). The numbers of farmers who mentioned a shortage of land in response to any of these questions are given in Table 1 by their tenurial category.

Table 1. *Farmers' perception of land shortage by lineage membership.*

Lineage membership	Number suffering shortage	Sample size	Percentage suffering shortage
Three major titled lineages	11	25	44
Other titled lineages	12	25	48
Non-titled lineages	15	28	54
Tenants	33	59	56
All respondents	71	137	52

This Table suggests that there is little difference between the categories of informants with regard to their perceptions of land shortage. This indicates that those kin-based groups with access to large areas of land have not been able to monopolise their interests to the disadvantage of other natives of Ibokun, nor even of tenants. With regard to natives of Ibokun, the tendency for land to have become distributed among them so that the effects of shortage are felt fairly evenly throughout the farming population is due to genealogical, political and legal conditions of landholding which arise from two properties of the social and political system. The first of these properties is the relationship between personal choice, participation and lineage affiliation; the second that between political power and judicial decision-making.

Ibokun sees itself as a town of patrilineages, and access to land is held to be derived from membership of one of these groups. In practice, however, links which later become rationalised as agnatic are publicly established and maintained through exercise of the rights and acceptance of the obligations of lineage membership and through participation in the ceremonies, reciprocities and formalities which are the substance of communal life. These include the payment of bridewealth, the sponsoring of naming ceremonies, the exchange of gifts at funerals, the acts of succession and inheritance and the acceptance of liability for the debts of a deceased, and the contesting of lineage titles. In cases of dispute it is such concrete and public evidences of participation rather than any abstract issue of paternity which concern

litigants and adjudicators alike. In practice, therefore, there is considerable flexibility and individual choice in the matter of lineage membership, which may be established from the basis of such links as matrilineal kinship, coresidence or cooperation in labour groups. This has meant, in turn, that those groups with the most to offer in terms of material, political and mystical resources have attracted the most members. Thus, about one-third of the town's population now trace their descent to one of the three major titles which are also the major controllers of land. (Excluding minor ones, there are over a hundred titles in Ibokun).

Competition and conflict both between and within these lineages often takes the form of disputes over the ownership and control of land. During the colonial period this tendency was exaggerated as control over land assumed increasing political importance. This was partly because of the emerging economic value of rights in land and partly because of colonial judicial conceptions, which accepted disputes over land (as opposed to, say, title disputes) as appropriate causes in the native courts. Within the lower courts, however, the establishment and maintenance of claims over land remained, as they always had been, largely a political affair. This was so not only because the flexibility of genealogical status and the multiplicity of the forms of evidence by which it was publicly established left ample room for manipulation, but also because of the political conditions of litigation.

In spite of the formal recognition given to some Ibokun chiefs through their integration into the colonial native court system, they remained unable or unwilling to interfere too directly in the affairs of other lineages or to attempt to impose judicial decisions that might prove unpopular. At the same time, norms governing landholding and inheritance, being themselves diffuse, flexible and multiple (except where tenants were involved); could be used to justify any of a number of outcomes to a particular dispute. A typical strategy on the part of native court judges in disputes between natives of Ibokun was to eschew norms of a decisive and quasi-legal nature and, exhorting the litigants to cooperation and compromise by stressing their kinship (no matter how distant or fictitious to allow a solution to surface which was generally acceptable given the balance of power between the parties concerned. Thus, those whose influence enabled them to mobilise sufficient witnesses and supporters could make substantial gains from litigation.

Table 1 also indicates that such problems of land shortage as confront migrant tenants are little greater than those faced by natives of the Ibokun area. Thus lineages and households with excess land available have been willing to allow tenants to farm it even if this has resulted in recent years in some sections of those lineages themselves not having as much land at their disposal as they might have wished. This fairly equitable distribution of land between natives and tenants also has its origins in the political conditions of litigation and the normative indeterminacy which characterises it, but for rather different, if not opposite, reasons from those outlined above. The flexibility inherent in the normative repertoire, in particular relating to the establishment of relationships construed as genealogical, has meant that indigenes, given sufficient support, may draw upon links such as matrilineality or coresidence in constructing their claims to land. But no such options have ever been open to tenants. Residing almost exclusively in hamlets and little involved in the political or social life of Ibokun, they maintain their primary affiliations with the town whence they or their ancestors originated. It is in those communities that they marry, build their houses, contest titles, spend their festivals and their retirement, and eventually are buried. Lacking manipulable connections such as marriage, kinship or coresidence and further distinguished by their dialect and facial scars, their status as immigrants is beyond repudiation in court. This is precisely why those with land available have allowed it to such immigrants, for as strangers they lack the means to construct claims to the ownership of land in competition with the grantor. The briefest acquaintance with local litigation

confirms that should a landowner allow other natives the use of land he might eventually be unable to sustain his own claims to it. Tenants, on the other hand, are useful as witnesses in the event of a dispute, for the acts of granting land and receiving *isakole* are accepted in court as two of the strongest kinds of evidence for the ownership of land. Since early in the colonial period it has been the practice for many natives of Ibokun to spend the greater part of their working lives outside the community (typically engaged in trade) and thus the granting of land to tenants was an effective way of securing and maintaining claims to land. Similarly, migrant competition between communities has encouraged the granting of land to *isakole*-paying migrants in the attempt to consolidate contested territorial claims.

The above account of the sociopolitical factors conditioning the terms on which land is held in Ibokun demonstrates that the assertion that customary forms of tenure inhibit access to land in any simple sense is based upon fundamental misconceptions about the operation of customary legal rules. Given the political dynamic underlying the ownership and control of land, it is clearly invalid to speak of farmers being restricted in their farming enterprises by the defects and inconsistencies of an inflexible system of customary tenure. Rather, the opposite is the case: the various levels of normative indeterminacy in lineage recruitment and in litigation have allowed individuals a variety of means of asserting rights to land. Similarly, they have meant that lineages of declining strength and population could not sustain their claims to land against those of rising fortunes. These processes have led to land being distributed according to the needs and powers of its holders.

What of the other specific features of customary land tenure which have been regarded as the proper objects of reform? On the question of fragmentation, the survey referred to above found that on average each informant farmed only 2.1 plots. This would not seem to indicate a serious problem of fragmentation especially if it is borne in mind that it is a long established practice in the Yoruba culture area for cultivators to maintain one farm near their urban residence and another in the hamlets. In any case, the Land Use Decree explicitly states that succession to customary rights of occupancy is to be governed by local customary law, and would thus appear to have no effect on customary inheritance practices.

Adegboye (1966) asserts that the institution of customary tenancy is insecure, its terms being verbal and indefinite; that the rent paid is governed more by the landlord's relationship to his tenant than by the fertility and location of the land in question; that sub-leasing is common in some areas; and that the planting of permanent crops is sometimes forbidden. None of these have force in the area under consideration. The verbal form which tenancy takes is not here due, as Adegboye asserts elsewhere (1966: 450), to 'illiteracy'. Written agreements, usually framed by public letter writers, are commonly entered into in other circumstances, for example when cocoa trees are rented out. However, such agreements are simply considered unnecessary for ordinary tenancies over vacant land. Tenants have not for a generation been precluded from planting permanent crops on the land allocated to them and have only occasionally been subject to eviction, and then almost always for strong reasons and with compensation for their crops. The massive investment in cocoa by tenants on Ibokun land bespeaks their sense of security.

Neither does Adegboye's assertion that the level of rents is determined by social rather than economic criteria hold here. According to the norms which regulated tenure and were enforced by customary courts prior to the enactment of the Decree, rates of *isakole* were explicitly related to the size and productivity of the land rented and the crops grown on it—i.e. economic rather than interpersonal factors determined the level of rents. In the event of a dispute about the level

of rent to be paid, courts would often inspect the land in question and their decisions were related explicitly to the income to be expected from it. After the Decree, given the public statements of the administration that ground rent could no longer be demanded in respect of rural land, the customary courts (which received no other guidance on the Decree's interpretation) became unable to enforce the payment of *isakole*.

In the customary courts with jurisdiction over the Ibokun area, for a year after the enactment of the Decree all cases concerning interests in land were adjourned. In May 1979, several cases in which *isakole* was claimed were re-opened in the Grade B Court. The court ruled that it was unable to give judgement on the cases at present as they were 'connected with the Land Use Decree which prohibits the receiving of *isakole* from tenants'. (The judge added parenthetically but off the record that should the Decree be changed the following day the case would still be there.)

The reaction of tenants to the Decree was varied. Some refused outright to pay further *isakole*, some refused but were later persuaded to change their minds, others paid a reduced amount or sought new agreements with landowners, while yet others paid the usual sum. The conditions of uncertainty created by the Decree made many tenants unwilling to discuss the question, but in 1979, of the 34 cases on which I believe my information to be reliable, 16 had continued to pay *isakole* after the enactment of the Decree and 18 had not.

Each tenant's decision as to whether or not to continue to pay *isakole* appears to have been made in the light of his assessment of the political situation of which he was a part at a particularly local level, the most important factor in which was his estimation of the potential disadvantage of alienating the landowner. Just as the tenants had done, the landowners reacted to the Decree in a variety of ways; some did not even make any request for *isakole* from their tenants while others not only demanded it, but sought to use the channels of traditional authority, and sometimes the police, in pressing their claims. Sometimes tenants found that they had misjudged the amount of pressure which a landowner could bring to bear and decided to pay up after an initial refusal.

Apart from the possibility of such direct pressure there were a number of other reasons for which tenants might be unwilling to incur the ill-will of the landowners. Many tenants had already planted all the land which they had been allocated with permanent crops and were dependent upon separate grants of land for the cultivation of food crops. Such grants were made for the cultivation of seasonal crops only and, more importantly, were always temporary, usually being made for one or 2 years only. Thus for many tenants, access to land for food crops was contingent upon the goodwill of landowners. It was also common for tenants to rent cocoa trees from landowners which the latter had planted themselves; the refusal to pay *isakole* would have jeopardised such arrangements.

Tenants were also hesitant to break with usual practice because of their uncertainty about the future of the Land Use Decree as well as the intentions towards it on the part of the enacting government and its successors (uncertainty which landowners exploited fully in their arguments). The prospect of a change in the administration in the near future and the cynicism about the goals and effects of government policies, which earlier experiences had made general among farmers, led many to comply with custom to ensure their future security of tenure.

In subsequent years, with the Decree remaining on the statute books, fewer and fewer tenants continued to pay *isakole*. In February 1980 all of the customary courts in Oyo state, including

the two serving the Ibokun area, were dissolved. Thus even the threat of pending court action was removed. By 1985, only the tenants of the most influential landowners were still paying *isakole*, and this apparently at a lower level than before the Decree. Towards the end of that year, however, a customary court was re-established in Ibokun, its bench consisting of three traditional rulers who were also major landowners. Although it was by no means clear that this court could adjudicate in cases involving *isakole*, its establishment encouraged Ibokun landowners to reassert their claims, and in the first months since the court's opening a number of tenants were sued for arrears of *isakole*. Most of these opted to settle out of court.

Thus the Decree, rather than introducing any economic rationalisation of rents in fact did the reverse. It made the payment of *isakole* a much more personal and political issue than it had been previously. In addition, the strained relationships which resulted between landowners and tenants made the position of the latter insecure, and many were told to leave the land which they were cultivating.

The third major feature of customary tenure that has been held to constitute an obstacle to agricultural development was that land could not be used as collateral. Here, too, some confusion was created, but certificates of occupancy issued under the Decree, even if obtained (which would have been both optional and tortuous), would appear to be less suitable as collateral than even the most tenuous claims to traditional tenure. For, legally, land no longer has a market value and its ownership is vested in the state. The prospective borrower is, of course, left with any improvements on the land. The mortgage of these however requires, according to the provisions of the Decree relating to rural land, the approval of the local government (for improvements on urban land the consent of the Governor would be needed). Furthermore, if on failure of the mortgagor to honour his debt a court ordered the sale of his property, the consent of the Governor would be required before it could proceed even if such property were on rural land. To both potential creditors and borrowers, the bureaucratic implications of such procedures would be discouraging. By customary arrangements, in contrast, the mortgaging of cocoa trees has long been a widespread and effective means of raising cash for capital or other expenditure.

Conclusions

The effects of the Decree thus bear no relation (beyond being predominantly in the reverse direction) to the supposed objectives of rational intervention in customary tenure. In the Ibokun area, the main effect of the Decree was to change the relationship between landowners and tenants, introducing uncertainty, insecurity and conflict. Otherwise, the consequences of this potentially radical legislation were rather slight. Whatever the correct interpretation of the Decree's provisions on customary tenure, the allocation of land for houses continued as before, as did practices such as the division of land among segments of descent groups. The sale of land, although it had never been very common in the area, also continued. (In urban areas, the conditions of dubious legality created by the Decree in fact led to a rise in the price of land). Thus if the Decree had any effect on the distribution of land, it was purely incidental.

Two sets of conclusions may be drawn from this case study. These relate respectively to customary tenure systems and to legislative intervention by the state. It has been shown that assertions about the shortcomings of traditional land tenure have been based upon misconceptions about how those systems functioned. In the area considered here (and this is an area where agricultural activity is intense), customary arrangements have functioned as equitable, stable and yet flexible means of regulating access to land. This is not to claim either

that customary tenures are never a constraint on agricultural expansion, or that they are inherently just or egalitarian. However, assertions on the extent to which they inhibit production must be based firstly on a thorough understanding of the way in which rules governing access to land operate in practice and secondly on a clear idea of what alternative systems are administratively and politically viable. Customary rules do not operate in an equivalent manner to laws, rather they are applied in the context of specific and concrete claims and actions. This gives customary tenure a flexibility which the interpretation of its rules as legal tenets disregards. Social scientists, if they are to participate in the formulation of appropriate land policies, must go beyond the simple stereotypes of depicting traditional tenures as 'communal', 'inflexible' or 'insecure', and examine in detail the actual operation of such systems and the political dynamics which underlie them. This implies intensive research at the local level.

On the question of legislated reform, the local effects of state law have been shown to be unpredictable. The intentions behind the Land Use Decree were, and have remained, obscure, and the somewhat arbitrary local effects of the law make it difficult to interpret its general significance. The massive notional powers over land given to government-appointed committees introduce a statism which operates beyond the rule of law. Nevertheless, the lack of administrative capacity on the part of the state has meant that the impact of the Decree has so far been slight, and it seems likely to remain a dead letter.

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