

Nigeria Agricultural Policy Project

Nigeria Land Governance Reform: What needs to be done to stimulate demand and support market growth?

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Introduction

Over the last decade, land tenure reform and enhanced tenure security have been given greater attention by African governments, including Nigeria, as policy tools to encourage agricultural growth and to alleviate poverty. Land tenure security can generate agricultural investment incentives and lead to increased agricultural productivity through three channels (Besely 1995). First, it promotes long term investment in land by reducing expropriation risk. Second, it encourages investment by lowering transaction costs and allowing more productive farmers to purchase or rent land from less productive farmers, making both parties better off. Third, it reduces asymmetric information about land ownership rights, allowing individuals to use their land as collateral for loans encouraging investment. Less than 3 percent of the land in Nigeria is formally registered leaving the vast majority of the population to deal with tenure insecurity and its attendant negative implications on land related investment and agricultural productivity. This brief will examine current land policy and administration in Nigeria, landholders demand for tenure security, and present recommendations to improve administration of land.

Current Land Administration

As Nigeria undergoes social (migration and urbanization) and economic transformation, there has been a general concern that property rights under traditional or customary tenure systems are inadequate to govern the evolving land sector. The Land Use Act (LUA) of 1978 nationalized control of all land ending private ownership and banning the purchase, sale, or rental of land. The law empowered state governors with management of statutory rights of occupancy for urban land and local governments with control over rural land management often governed by customary rights of occupancy creating a system that is dualistic in nature.

The customary tenure system differs from community to community though under most customary systems land is regarded as the property of the community and is administered by the village head, chief, or *oba* (head chief)

Key Policy Recommendations

- Bundle new systems for formalizing land rights with administrative and institutional reform packages to ensure sustainability.
- Enhance the human and capital resource capacity of all ministries and agencies involved in land administration services, including at the local level.
- Promote transparency through innovations with GIS and land digitization that also improve efficiency and reduce potential errors.
- Support existing customary tenure arrangements that function well, especially in rural areas with lower land values.

for the benefit of the community. All members of the community or family have equal rights to the land and all household members are entitled to use a portion of the land they gain through inheritance, allocation by chiefs, leasing, borrowing, pledge, or gift. In most rural areas women face challenges regarding land ownership and accessibility. Under customary law, women are not entitled to own land and women's land rights are dependent on their relationship with men. Even though women might have the right to use land under customary law, they are denied the right to inherit land, though, the extent of land rights of women varies among ethnic groups and religions. For example, in the northern part of Nigeria, divorced Muslim women are permitted to retain personal property, including land, and under Sharia law, widows can inherit their husbands' properties together with the children, though the share is small. Tenure security of women is weak in cases of polygamous marriages, since the husbands assign different fields to their wives each cropping season.

The LUA formalizes individual land rights in a Certificate of Occupancy, though several studies, including by the World Bank, rank Nigeria as the most difficult and expensive country in the world in terms of registering property. Once registered, subsequent land transactions

require the consent of the state governor or local governments providing officials with undue discretionary power over land allocation, impeding the development of efficient land markets and, in urban areas, housing development. Furthermore, vagueness in the LUA empowers state governors and local governments to revoke any rights of occupancy for “over-riding public interest” causing rent-seeking and corruption, thereby eroding tenure security. Surveys in Kano and Ondo states suggest that land related disputes among households and individuals are relatively uncommon, though a significant proportion of households, especially in rural areas, fear losing their land due to government expropriation suggesting lasting demand for certification (Ghebru et al. 2014). In addition, complex land transaction procedures have given rise to vibrant informal land markets, which increase the probability of fraud and unreliability of titles further reducing tenure security. This loss of tenure security has led to an increasing reluctance by banks to accept the certificate of occupancy as conclusive evidence of title for the landholder.

To address these issues and to improve efficiency of land administration, the Nigerian Federal Government established a Presidential Technical Committee for Land Reform (PTCLR) in 2009 to undertake systematic land tenure registration (SLTR) nationally and to make recommendations to ensure effective and simplified land administration in Nigeria. The titling program was developed with the expectation of revitalizing land markets in Nigeria, increasing investment opportunities, encouraging mortgage lending, assuring security of livelihoods and property, and reducing transaction costs for transfers of property rights.

Demand for Improved Land Tenure Security

IFPRI research suggests that there is variation in demand for land certificates. Households are generally more willing to pay for land certification if the land is purchased rather than inherited or acquired via a family gift. As such, urban residents generally have greater awareness of the possibility of registering their land and the contents of land laws and have a higher willingness to pay for a certificate of occupancy. Households that possess a certificate of occupancy is double in urban areas what it is in rural areas. Willingness to pay is also significantly higher for immigrant households than it is for indigenous households. Land of individuals or households acquired via traditional or customary institutions are normally without formal or other legally recognized documentation, but this system seems to be associated with a relative sense of tenure security.

Wealth does not seem to play a significant difference in household’s willingness to pay for a certification of occupancy justifying a registration and certification

program that treats all participants equally in securing land rights and the amount to be paid for the certificate. The fact that households have higher willingness to pay for legal documentation on some types of land plots than for others implies that the land registration and certification program should be designed in a sufficiently flexible manner to better recognize existing customary land rights. It should target parcels for which perceived tenure insecurity could be higher, such as parcels acquired via purchase. However, a proposed systematic approach to land registration and certification needs to be designed to accommodate within-household parcel level variations in the willingness to pay for the Certificates of Occupancy (CfO).

Improving Land Management

While most households are willing to pay for documentation to safeguard land rights, land registration is still uncommon suggesting that administration of the certification process can be improved. Assessments of land administrative service delivery in eight Nigerian states found that there is a significant lack of awareness among beneficiaries about the processes and procedures of land administration. Most land administration service providers are centralized at the state level, with the exception of a few LGA offices that serve rural areas. Additionally, the dominant means of access to land administration institutions is direct contact benefiting urban residents, while online communication appears to be limited. Consequently, it was found that urban residents had greater knowledge of land administration policies. The stark differences in legal knowledge of land administration procedures between rural and urban-based beneficiaries suggests significant information asymmetry that may expose marginalized groups to “elite capture” whereby more powerful groups acquire land rights at the expense of those marginalized. Overcoming this informational constraint is key to improving land administration service delivery.

Despite a broad need for reform, progress on implementation has unfolded to very different degrees across Nigerian states (Resnick and Okumo 2017). Table 1 provides a summary of six indicators for assessing the implementation status of SLTR thus far based on the semi-structured interviews. Higher levels of SLTR implementation are measured by whether a state has established the requisite technological and spatial data infrastructure, proceeded with the functional titling and uptake of CfOs, and demonstrated financial commitment by integrating SLTR into the state budget and disbursing fiscal resources towards it. Kano and Jigawa have proceeded the furthest, followed by Cross River state though Kaduna, Ondo, and especially Katsina have faltered.

The varying degree of implementation can partially be explained by three collective factors. In some instances, bureaucratic autonomy and expertise within the Ministry has been bypassed in favor of creating new agencies or ceding functions to consultants, undermining the long-term sustainability of reforms. A second factor is the lack continuity of reform-minded government administrations that are more likely to sustain long-term projects and minimize implementation delays when electoral turnover occurs. Thirdly, resources supporting land initiatives are a prerequisite, both internally and from the donor community, though have frequently been insufficient to operationalize tenure reforms. This suggests that in a place as vast and politically fragmented as Nigeria, donors should

not spread their resources too thin if sustainable implementation of land governance is their main objective.

Of those households that have undertaken the land registration process, only 30 percent were satisfied with the services received. Most found that the land registration process took a very long time, with many interviewees stating that it took more than two years to complete. While most respondents reported receiving an official receipt for the registration service charge, corruption and unofficial fee payments seem to be widespread in the land registration process. What makes the situation worse is that the majority of respondents are not aware of any mechanism for public feedback to express their level of satisfaction.

Table 1: Status of SLTR implementation across select Nigerian States

Indicators of implementation	Cross River	Jigawa	Kaduna	Kano	Katsina	Ondo
GIS set up	Yes	Partially	Yes	Yes	No	No
Land records digitized	Yes	Partially	Yes	Yes	No	Yes
Certificates of Occupancy titled	Yes	Yes	Yes	Yes	No	Yes
Certificates of Occupancy issued	Yes	Yes	No	Yes	No	No ^b
Budget line for SLTR	Yes	Yes	No	Yes	No	No
Continued cash release for SLTR	No	Yes	No	Yes	No	No
SLTR still ongoing? ^a	Partially	Yes	No	Yes	No	No

Notes: ^aAs of December 2016, ^b Only three CfOs were issued in Ondo.

Policy Recommendations

Despite Nigeria undertaking a range of land policy reforms over the past decade or so, the legal and institutional frameworks for land administration and service delivery in Nigeria are not effective in delivering necessary functions to land owners and other end users. Failure to address such issues are likely to undermine any possible positive economic and social outcomes of land administration reforms. Under these circumstances, committing public resources to raise awareness and public sensitization about the legal and procedural aspects of land administration is a low-cost option to reinforce efforts to reform land governance in Nigeria.

It is also imperative that new systems for formalizing land rights should be bundled with administrative and institutional reform packages to ensure sustainability. These measures should include enhancing the human and

capital resource capacity of all ministries and agencies involved in land administration services, including at the local level. Moreover, the lack of transparency in the process and lengthy period in processing times for land registration is associated with the lack of effective and sustainable land information systems such as geographic information systems (GIS). Innovations with GIS and land digitization can enable governments to move away from fragile manual, paper-based systems and gain a better understanding of land ownership and distribution. In addition to their overall impact in enhancing the effectiveness and efficiency of land administration service deliveries, these same tools will also help promote transparency, reduce transaction costs, and ultimately minimize, or even eliminate, the payment of unofficial fees and other corrupt practices in land

administration. Lastly, customary tenure systems appear to function well in rural areas with lower land values. Maintaining this status quo while prioritizing more active land markets may offer a pragmatic solution to help prioritize SLTR implementation to safeguard land rights.

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