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**NSSP Working Paper # 22**

## **Challenges of Land Governance in Nigeria: Insights from a Case Study in Ondo State**

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## **WORKING PAPERS**

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- Enhanced knowledge, information, data, and tools for the analysis, design, and implementation of pro-poor, gender-sensitive, and environmentally sustainable agricultural and rural development policies and strategies in Nigeria;
- Strengthened capacity for government agencies, research institutions, and other stakeholders to carry out and use applied research that directly informs agricultural and rural policies and strategies; and
- Improved communication linkages and consultations between policymakers, policy analysts, and policy beneficiaries on agricultural and rural development policy issues.

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## Table of Contents

Abstract	5
1. Introduction .....	6
2. Conceptual Framework .....	6
2.1 Functions of Nigerian Land Administration .....	7
2.2 A Framework for Analyzing Land Administration Institutions.....	8
3. A Profile of Ondo State.....	12
3.1 Macrolevel Conditions for Land Governance.....	12
3.2 Background Information about Ondo State .....	13
3.3 Land Tenure in Ondo State .....	13
3.3.1 Types of Landholding .....	13
3.3.2 Evolution of Land Tenure.....	15
3.3.3 Women’s Rights to Land .....	16
3.3.4 Land Registration.....	17
3.3.5 Rights to Transfer Land .....	17
4. Methodology .....	17
5. Land Administration in Ondo State: An Institutional Map.....	19
6. Land Registration Case Studies .....	21
6.1 A Case of Agricultural Land Registration .....	21
6.2 A Case of Residential Land Registration.....	23
6.3 Analysis.....	26
6.3.1 Governance Challenges in Land Registration.....	26
6.3.2 Lack of Procedures for Registering Rural Land .....	28
6.3.3 Implications for the Proposed Pilot Project on Land Registration .....	28
7. Land Acquisition Case Studies .....	29
7.1 Land Acquisition for Military Use.....	30
7.2 Land Acquisition for the Olokola Free Trade Zone.....	31
7.3 Analysis.....	31
7.3.1 Governance Challenges .....	31
7.3.2 Implications for the Proposed Pilot Project on Land Registration .....	32
8. Concluding Remarks.....	32
9. Annex 1: Detailed Descriptions of the Transactions .....	36

## List of Tables

Table 1—Functions of the land administration .....	7
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## List of Figures

Figure 1—Conceptual framework .....	9
Figure 2—Governance indicators for Nigeria .....	12
Figure 3—Ondo state .....	15
Figure 4—Institutional setup of land administration in Ondo State .....	20
Figure 5—Actors, decision links and fund flows in a case of registering agricultural land.....	22
Figure 6—Actors, decision links and fund flows in a case of registering residential land in a rural community .....	24

## Annex 1

Figure A-1—Process of obtaining a Certificate of Statutory Occupancy for agricultural land.....	36
Box A-1—Steps involved in acquisition of Certificate of Statutory Occupancy for agricultural land .....	37
Figure A-2—Process of obtaining a Certificate of Statutory Occupancy for residential land .....	38
Box A-2—Steps involved in acquisition of Certificate of Statutory Occupancy for residential land .....	39
Figure A-3—Process of land acquisition for military purposes .....	41
Figure A-4—Military land acquisition: Influence of actors and types of links between them.....	42
Figure A-5—Steps involved in land acquisition for Free Trade Zone .....	43
Figure A-6—Free Trade Zone land acquisition: Influence of actors and types of linkages between them .....	44

## **Abstract**

This paper presents the findings of a case study on land governance in the Ondo State of Nigeria. A conceptual framework based on concepts of organizational theory is presented to guide the study. The empirical part of the study focuses on two cases of land registration and two cases of land acquisition. A participatory mapping method called “Process Net-Map” was used to identify the actors and the processes involved. The study shows that the costs of land registration are around 10 percent of the land value if landowners have access to intermediaries and if they can pay for privately provided land services in cash. Otherwise, landowners may incur much higher costs due to governance problems. In the case of land acquisition by the state, the study found that major problems do not arise because of a lack of land registration, but rather because of governance problems involved in the disbursement of compensation funds. The study discusses the implications of the findings for land governance reforms in Ondo State.

**Keywords:** Nigeria, land acquisition, land registration, land governance

## **1. Introduction**

Land governance plays an important role in economic development. It is widely acknowledged that security of land tenure is essential to realize the unique potential that agriculture offers for small-holder-based development and poverty reduction (World Bank, 2007). The recent global rush for agricultural land makes it even more important to provide security of land tenure. In principle, both customary and modern institutions can provide security of tenure for smallholders, but both are confronted with governance challenges. Moreover, the shift from customary to modern forms of tenure security requires a process of land registration, which involves its own set of governance challenges as well as substantial costs.

In Nigeria, the main legal basis for land governance is the Land Use Act of 1978, which limited the role of customary authority in land governance and gave the state a prominent role for in the administration of land resources. The act also aimed to prevent land speculation by imposing far-reaching restrictions on land transactions. However, as discussed in Section 2, many authors have pointed out that the law has major shortcomings in both its contents and implementation. With regard to security of tenure for smallholder agriculture, the act makes provisions for the registration of rural land using the instrument of Customary Certificates of Occupancy, which are supposed to be issued by local governments. However, less than 3 percent of the country's land resources are formally registered (Adeniyi, 2011: 8), indicating a far-reaching failure of the act and the institutions in charge of its implementation.

After decades of neglect, the past few years have seen an increasing political will to address the longstanding Nigeria's land governance problems. In 2010, a Presidential Technical Committee was set up to find solutions to these problems. The committee plans to implement pilot projects for land registration in two Nigerian states, including Ondo, with both urban and rural land. Moreover, a far-reaching revision of the law is now before the National Assembly.

With a view to informing these reform efforts, the International Food Policy Research Institute (IFPRI), in collaboration with the University of Hohenheim in Germany and with financial support from the World Bank and USAID, analyzed Nigerian land governance issues, using qualitative and quantitative research methods. This Working Paper is an output from this research. It is based on qualitative research on land governance issues in rural areas of the state of Ondo. This paper has three objectives: (1) to present a conceptual framework for the analysis of land governance problems; (2) to document current processes of land registration and identify their governance challenges; and (3) to identify the governance problems arising in the course of land acquisition that is managed by the state.

The conceptual framework draws on the organizational assessment literature. The empirical part is based on a participatory mapping method called Process Net-Map, which was originally developed by Schiffer and Waale (2008) and subsequently modified by IFPRI's Governance Research Team to analyze governance issues.

Section 2 of this paper presents the conceptual framework used for this study. Section 3 describes the study methodology. Section 4 presents the results, which are discussed in Section 5. Section 6 concludes.

## **2. Conceptual Framework**

The conceptual framework presented here aims to explain the performance of the institutions that administer land transactions. The framework applies the definition by Dale and McLaughlin

(1999: 1), according to which *land administration* refers “to those public sector activities required to support the alienation, development, use, valuation and transfer of land.” The term *agencies in charge of land administration*, or in short *land-related agencies* is used to refer to all organizations, including customary ones, in charge of carrying out these public sector activities. They may include departments of ministries at federal and state levels, departments of local governments, autonomous agencies, committees, customary organizations, as well as those private organizations and civil society organizations that have been entrusted with carrying out public functions related to land administration.

## 2.1 Functions of Nigerian Land Administration

The functions of land administration in Nigeria can be divided into four types: (1) juridical, (2) regulatory, (3) fiscal, and (4) informational (Dale & McLaughlin, 1999: 10). These functions are related to the three key aspects of land that every country needs to manage: tenure, value and use (ibid.: 8). Juridical functions refer to land tenure, regulatory functions to land use, and fiscal functions to land value. Information management functions are integral to each of these components. Table 1 further describes these functions. Traditionally, these functions of land administration fall in the domains of different ministries. Land ownership is typically handled by ministries of justice or the interior, while land use and information functions fall in the domain of ministries in charge of planning, development, agriculture, forestry and environment. Functions related to land values are usually handled by ministries of finance.

**Table 1—Functions of the land administration**

Type	Activities involved
Juridical functions	<ul style="list-style-type: none"> <li>• Registration of land rights</li> <li>• Original determination and adjudication of existing land rights</li> <li>• Allocation of land</li> <li>• Redistribution of land</li> <li>• Delimitation of parcels for which rights are allocated</li> <li>• Demarcation of boundaries on the ground</li> <li>• Description of boundaries graphically, numerically or in writing</li> <li>• Resolving doubts and disputes over land</li> </ul>
Regulatory functions	<ul style="list-style-type: none"> <li>• Developing and enforcing restrictions on land use and development <ul style="list-style-type: none"> <li>○ Zoning regulations</li> <li>○ Designation of areas of special interest (such as areas protected for nature conservation)</li> </ul> </li> <li>• Developing and enforcing restrictions on land transfer <ul style="list-style-type: none"> <li>○ Regulations regarding the sale of land</li> <li>○ Regulations regarding the lease of land</li> </ul> </li> </ul>
Fiscal functions	<ul style="list-style-type: none"> <li>• Valuation of land</li> <li>• Collection of land taxes</li> </ul>
Information management functions	<ul style="list-style-type: none"> <li>• Maintaining the cadaster (fiscal, juridical, multi-purpose)</li> <li>• Managing zoning and other information systems that facilitate planning and enforcement of regulations</li> </ul>

Source: Authors, based on Dale et al. (1999: 10-12).

## 2.2 A Framework for Analyzing Land Administration Institutions

This section describes the conceptual framework we used to analyze land administration institutions. Figure 1 illustrates this framework, which draws on standard approaches in organizational assessment (such as Lusthaus, Adrien, Anderson, Carden, & Montalván, 2002) and specific applications to the agricultural sector (such as Birner et al., 2006). The design of organizations in charge of land administration should contribute to maximizing their performance, which is indicated by Box K in the framework. The boxes to the left of the performance box indicate how different factors act together to influence the organizational performance of the agencies in charge of land administration.

### 1) Mission and Functions

The starting point for assessing the design of land-related agencies is to identify the functions they are supposed to fulfill. Their mission and functions should derive from the land-related policies and laws of the country under consideration (Box B). These policies are influenced by macro-level factors as indicated in Box A of Figure 1. These include the political and administrative system of a country, its level of economic development as well as socio-cultural conditions. Land-related laws and policies are also influenced by existing types of land tenure and land use, and by the prevailing problems that need to be resolved (Box C). These problems may involve the efficiency, equity or sustainability of land use and are constrained or promoted by local political institutions and conditions (Box D).

### 2) Organization, Capacity, and Management

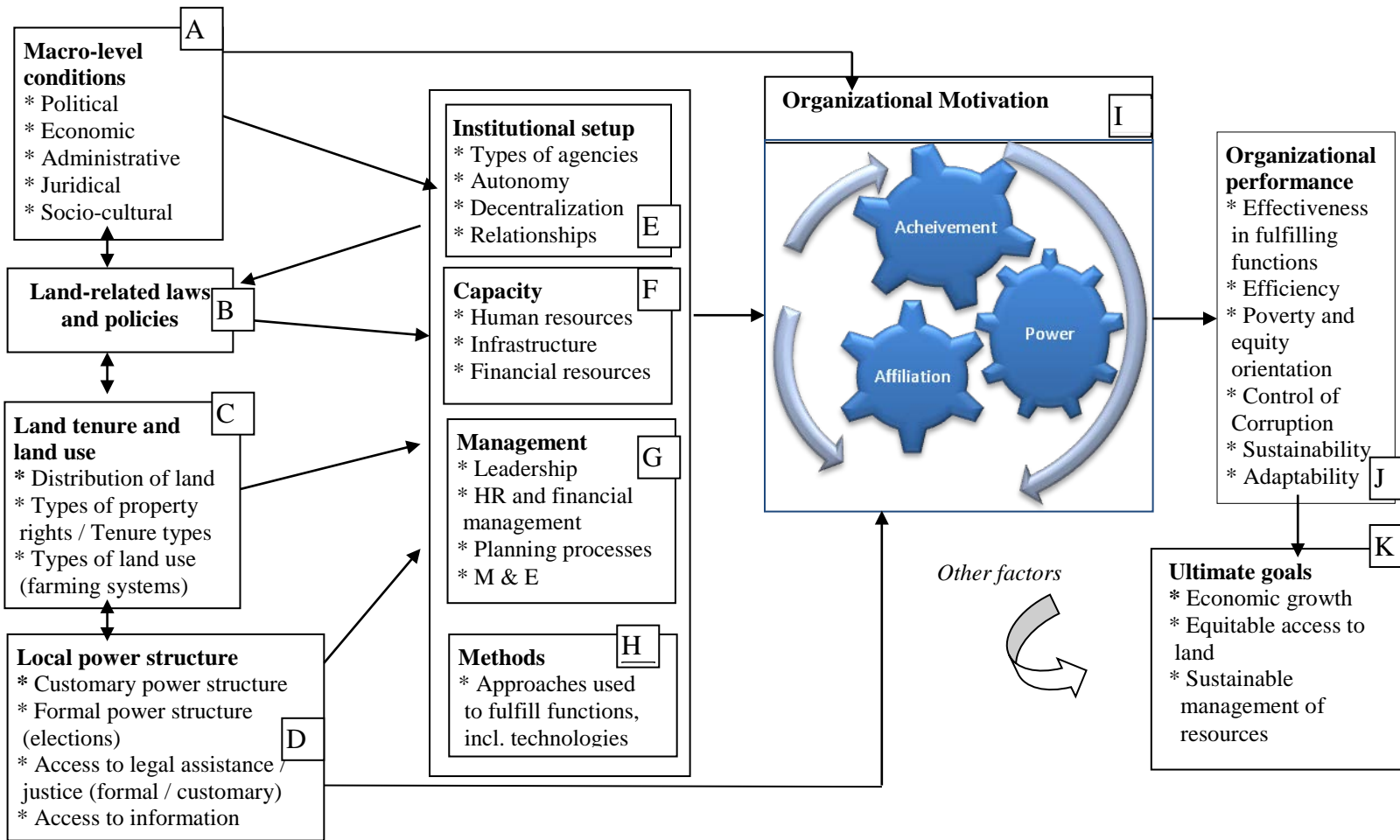
The mission and the functions land-related agencies are supposed to fulfill—together with macro-economic factors and the type of land-related problems to be solved—determine the appropriate organization, capacity and management of land-related agencies. Important aspects include the following:

#### *Institutional setup (Box E)*

The institutional setup of land-related agencies, which can also be referred to as governance structures, includes the following aspects:

- *Types of agencies:* The different functions of land administration could be organized in one ministry, or they could be distributed over several ministries.
- *Internal structure:* Important aspects of the internal structure of agencies under consideration include their internal organization (such as the types of departments that a ministry has), the levels of hierarchy within the organization, their degree of autonomy, their degree of decentralization, and their relation to regional and local governments.
- *Relations among different organizations:* A third aspect of the institutional setup of the agencies in charge of land administration refers to the relations and coordination mechanisms that exist among them, and between them and other organizations in the public sector, the private sector and civil society.

**Figure 1—Conceptual framework**



Source: Authors

The institutional setup of land-related agencies is typically embedded in the general system of public administration of a country, from which it draws its legal basis. Changes in the institutional setup therefore require legislative action, and they are often part of general public sector reforms, such as decentralization reforms. The institutional setup typically also reflects a historical legacy, which in many developing countries still relates to the colonial system of land administration that they have inherited. But it may also reflect the various trends of public sector reforms that have occurred in recent decades.

### ***Capacity (Box F)***

The mission and the functions that land-related agencies are supposed to fulfill also influence capacity in terms of human resources, physical infrastructure and financial resources that they require.

- *Human resources*: Numbers, qualifications and skills of the staff in different units and at different levels of land-related agencies;
- *Physical infrastructure*: Buildings, vehicles, communication infrastructure, and equipment that the agencies have to fulfill their functions;
- *Financial resources*: In addition to the amount of financial resources available for salaries, maintenance of infrastructure and investment, and operations, important aspects include the predictability and reliability of resource flows. Land-related agencies may also be able to generate their own revenues.

### ***Management (Box G)***

While institutional setup and capacity can be considered the hardware of land-related agencies, the way in which the resources available to an agency are managed can be considered to be the software. Important aspects of managing land-related agencies include the following:

- *Leadership* style that the managers of the agencies display at different levels;
- *Management of human resources*, including the strategies applied to create incentives, using rewards and sanctions, as well as the strategies to maintain and increase the level of skills and qualifications of the staff members;
- *Financial management* in terms of transparency, timeliness, accountability and auditing;
- *Planning processes* used at different levels, including coordination of these processes ; involvement of stakeholders, especially farmers' representatives, in the planning process; and alignment of planning with budgets and implementation activities;
- *Monitoring and evaluation* systems and the use of information from M&E for management purposes;
- *Information flows and coordination mechanisms* within and among agencies, and between agencies and other actors.

### ***Methods and Technologies (Box H)***

Land-related agencies can use different approaches or methods to fulfill their functions. For example, land records may be computerized, and land demarcation may employ various techniques, including the use of aerial photographs.

### 3) Organizational Motivation (Box I)

Different elements of organization, capacity, management and methods, as well as the external environment, can influence what can be called organizational motivation (cf. Lusthaus et al., 2002). It is important to acknowledge the organizational motivation and functioning of the agencies as an intermediate outcome that influences the performance of these agencies. This outcome is influenced by the wider institutional environment of the agencies, for example, by the general bureaucratic culture or the nature of the political interference that may take place. In pursuing institutional reforms, this intermediate outcome is often neglected, based on the assumption that by changing the institutional setup, the capacity, the management or the methods, better performance can be achieved. The extent to which such changes lead to better results, however, depends on the way in which the staff of agencies reacts to these changes. This framework highlights three aspects of organizational motivation:

- *Achievement*: Ideally, the main motivation of an organization and its staff would be the achievement of the organization's mission and objectives. However, this motivation may be compromised by the following two factors.
- *Affiliation*: The social and political system in which the members of land administration institutions operate often creates incentives for them to act according to affiliation. For example, managers may prefer to hire staff of the same ethnic group, or they may be inclined to grant favors based on political party affiliation.
- *Power*: The behavior of members of land administration institutions may be influenced by the motivation to exercise or increase power, even if this does not align with the achievement goals for the agency.

### 4) Organizational Performance (Box J)

The organizational performance of land administration institutions can be assessed in terms of economic, social and environmental dimensions. The following criteria can be used in this respect.

- *Effectiveness* in fulfilling the functions of land administration (see Table 1)
- *Efficiency in use of resources* required to fulfill defined functions;
- *Poverty and equity orientation* of the administration, taking gender equity into account;
- *Control of corruption*, considering that land administration institutions are often among those most affected by this problem.
- *Sustainability*

More specific performance indicators can be developed for the different functions that the land-related agencies oversee. The performance of the agencies influences the achievement of the ultimate goals, such as the promotion of agricultural development (Box K). To assess organizational performance, it is essential to collect indicators on these outcomes while taking into account that these outcomes are also influenced by factors that lie outside the control of land-related agencies.

The Land Governance Assessment Framework (LGAF) provides an elaborate tool for measuring the performance of the institutions in charge of land governance with regard to

the various functions they are expected to fulfill. The framework displayed in Figure 1 can be seen as an approach to identify the factors that influence the performance that is measured using the LGAF.

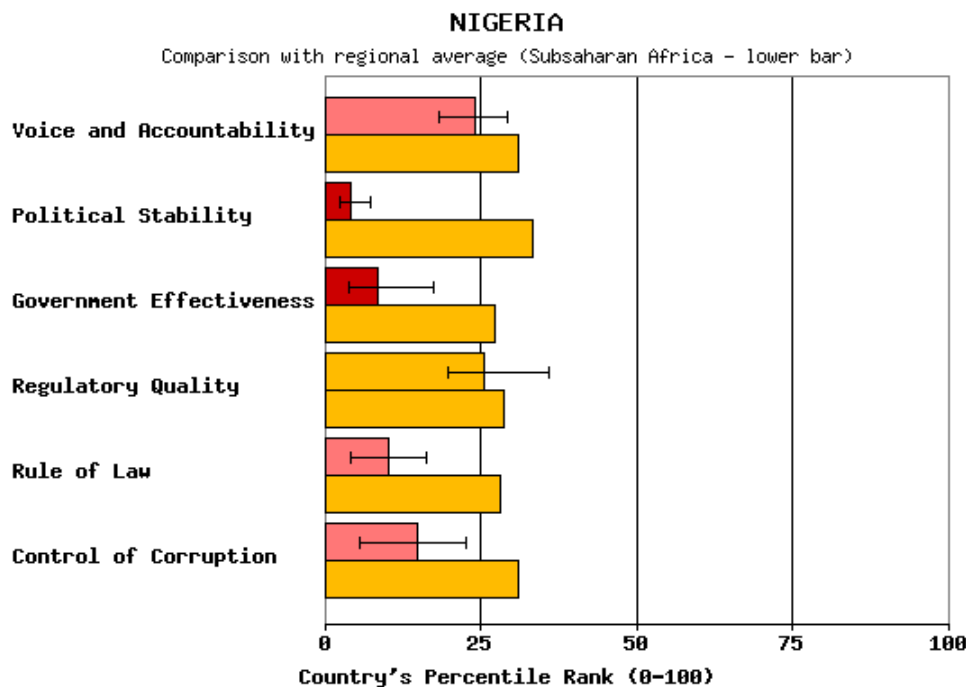
### 3. A Profile of Ondo State

The section provides some background information about Ondo state, in which the empirical research for this paper was conducted. Ondo state was selected because it is one of the two states where the Presidential Technical Committee on Land plans to implement its pilot project.

#### 3.1 Macrolevel Conditions for Land Governance

According to the conceptual framework, it is useful to consider macrolevel conditions as a starting point (Box A in Figure 1) for analyzing land governance. compares a set of governance indicators for Nigeria with the average values for sub-Saharan Africa. As shown in Figure 2, Nigeria ranks significantly below sub-Saharan Africa average on all indicators except for regulatory quality.

**Figure 2—Governance indicators for Nigeria**



Note: The bars for Nigeria display intervals for a 90% confidence level. The World Bank website, from which the diagram is downloaded, includes the following note: “The governance indicators presented here aggregate the views on the quality of governance provided by a large number of enterprise, citizen and expert survey respondents in industrial and developing countries. These data are gathered from a number of survey institutes, think tanks, non-governmental organizations, and international organizations.”

Source: Kaufmann et al. (2010).

The indicators indicate that low government effectiveness, limited rule of law and limited control of corruption constitute major governance challenges. Even though these indicators are not specific to land, one can assume that they affect land governance as well.

## **3.2 Background Information about Ondo State**

Ondo state was created in February 1976 out of the Western State. It has a surface area of approximately 15,300 km<sup>2</sup>, which represents less than 2 percent of Nigeria's total surface area. There are 18 Local Government Areas (LGAs) in the state. The size of the LGAs varies from 1600 km<sup>2</sup> for Idanre to 180 km<sup>2</sup> for Ifedore.<sup>1</sup> The 2006 census estimated the Ondo state population at 3.5 million.<sup>2</sup> The state is predominately occupied by the Yoruba ethnic group, who are either indigenous or migrants from neighboring states. Agriculture employs an estimated 65 percent of the labor force and contributes more than 70 percent of the GDP for Ondo state.<sup>3</sup> The state has a variety of landscapes, ranging from coastline in and around Ilaje, Okititpupa and Ese-Ode LGAs, to undulations with considerable elevations in the Idanre hills in Idanre LGA and the Oka Hill in Akoko-South West LGA.

## **3.3 Land Tenure in Ondo State**

### ***3.3.1 Types of Landholding***

The land tenure regime in Ondo state is similar to the tenure regime in most of Nigeria's southwestern states. In the application of the Land Governance Assessment framework, Adeniyi (2011: 35) distinguishes three types of landholding in Nigeria:

- 1) Private Landholding
  - Family Landholding
  - Individual Landholding
  - Customary Tenancy
- 2) Public Landholding
- 3) Communal Landholding

*Private Land Tenure:* This type includes all lands that are not originally owned or held by the community. Private land tenure is legally recognized by the Land Use Act of 1978 and the customary laws of the land. Private land is either acquired through inheritance or purchase. The private owner has the right of use and can exclude others from his land, except for the state, which has the overarching authority to acquire private land for public use. According to Adeniyi (2011), private landholding can be further subdivided into, family landholding, individual landholding, and customary landing holding.

- *Family land holding* is the most prevalent of all the types of land tenure regimes in Ondo. In this sub-type, the entire family has use and possession of the land. The head of the family distributes the rights on a patriarchal lineage basis. This also forms the basis for agricultural land distribution among members of a particular lineage (Ademola, 1994). When all members of the family are farmers,

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<sup>1</sup> Ondo State Government SEEDS Steering Committee Report, 2005, p. 1.

<sup>2</sup> National Bureau of Statistics Annual Abstract of statistics 2009.

<sup>3</sup> Digest of Demographic Statistics of Ondo State- 2000, Research and Statistic Dept Ministry of Finance and Planning.

each male family member receives a proportion of the total land in relation to the total number of family members in the household (Aluko & Amidu, 2006)

- *Individual lands* include lands held by an individual with exclusive right of use. Individual landownership can be acquired through inheritance and through the partition of family land, or through purchase from state or from family. While the percentage of land that falls within this category cannot be ascertained from available data, it is the most common form of land tenure in urban areas.<sup>4</sup> However, individuals rarely own large tracts of agricultural land in Ondo, due to the extended nature of families and households.
- *Customary tenancy* is, according to Adeniyi (2011: 40) “a traditional system whereby a land-owning individual, family or community grants a right of occupation of land to another person or group of persons who are usually strangers or immigrants to live in or farm in return for which they acknowledge the title of their grantor by the payment of customary tribute. Under section 36(2) of the LUA, in non-urban areas, a customary landowner or occupier for agricultural or grazing purposes shall continue to use and enjoy the land for the same purpose as if the appropriate local government had granted him a customary right of occupancy.”

*Communal Landholding:* This type of landholding comprises land that is collectively owned and held in trust by headmen, chiefs or traditional rulers for the community members. According to Adeniyi (2011: 42), Ondo is among the states where this type of trusteeship has been incorporated into the law known as Land Rights Law, Cap. 24 Laws of Western Region, 1959. Examples of communal land are market squares, public squares, stool lands (i.e. land belonging to traditional authorities), and religious land. In Ondo state, the control and allocation of communal landholdings is vested in the *Obas*, i.e., the chiefs and the council of chiefs. These traditional authorities are trustees, responsible for exercising powers of ownership on behalf of the community in accordance with the trust investment. The *Deji* of Akure and his council members are the trustees of all communal lands in Akure and its surroundings. Large tracts of communal land are found in villages and communities, while only a few exist in urban areas. For example, public squares, markets, stool lands, religious lands, burial grounds, and common farmland are held under communal land tenure. The power to transfer land to individual members or migrants is vested in the head of the community and his chiefs in council.

*Public Landholding:* This type includes all land acquired and held by the state. Public land may be acquired compulsorily by the state government through the revocation of private or communal rights. The LUA gives the state governor the right of eminent domain, that is, the right to acquire land for public use. Communities, families or individuals may also donate land for use by any of the tiers of government. An example is the donation of land to Ondo state’s government by the communities, families and individuals who owned land in Alagbaka Akure South Local Government Area., Ondo state was created in 1976, and there was a need for land to create the state capital. Federal institutions are also located on public land. In these cases, land is acquired by the state on

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<sup>4</sup> Field interview in Akure Ondo state.

behalf of the federal government. Examples of such lands include military barracks, federal universities and colleges, airports, and housing estates. The record of these acquisitions is in the Federal Lands Registry located in the State Ministry of Lands and Housing.<sup>5</sup> Public lands are also acquired by state governments and by local governments for ministries, departments and agencies. They are registered in the respective state land registries and published in the government’s gazette.

**Figure 3—Ondo state**



Source: Office of the Speaker of the House of Representatives of the Federal Republic of Nigeria. Constituencies | Ondo State. *Office of the Speaker*. March 2011.

<[http://speakersoffice.gov.ng/constituencies\\_ondo.htm](http://speakersoffice.gov.ng/constituencies_ondo.htm)>

### 3.3.2 Evolution of Land Tenure

Prior to the promulgation of the LUA in 1978, both urban and rural land was owned, controlled and administered by the *Obas*, i.e. the chiefs, and by the families as social units. Within the family, the eldest male, referred to as the *Mogaji*, used to administer the land on behalf of the other members of his family. He received no remuneration for the service.

According to the customary system, an individual who receives a piece of land from the family for residential purposes obtains freehold tenure, which will remain so in perpetuity

<sup>5</sup> Personal Interview with Director of Lands and Housing Akure.

except for cases in which the government expropriates land. However, land rights under family ownership are not secure because they lack formal verifiable documents of ownership. The female child under this system has limited access and no rights over the land. Land deals and transfers by individual families are subject to royalty payments to the *Kabiесе*, a traditional functionary who has different names in different regions of the state. In Ondo's capital, the traditional head is called the *Deji* of Akure.

The promulgation of the LUA in 1978 abandoned the former landholding structure and introduced a property regime that allows various types of land holding, as specified above. Prevalent among these is the private property regime.<sup>6</sup> The property rights are held and controlled by families who are the original settlers, however individual ownership exists within the families (Ademola, 1994). Strangers or non-family members are also granted rights to use land for a specified period of time through the *Ishakole* land tenure system. Strangers are allowed the right of possession and use in perpetuity provided they perform the obligation of the lease contract.<sup>7</sup> Landowners require benefits-in-kind which can be drinks and cola nuts, bags of salt or goats as payments to obtain land rights (Renne, 1995). The village chief's permission is not needed for the right of use to be ceded to non-family members. An interesting feature of this system is that possessory rights over land are secured as long as the rent is paid either in cash or kind as defined by the family head. In the riverine areas of Ondo state, landownership is predominately communal, as no particular individual or family can exclusively lay claim to ownership.

The 1978 promulgation of the LUA introduced considerable changes in the traditional land tenure regime in the southwest of Nigeria (Ademola, 1994, Renne, 1995; Francis, 1984). Moreover, triggers of change in tenure include increasing population density and changes in farming conditions (Francis, 1984). Large-scale land acquisition can be seen as an additional trigger of change in land tenure.

### **3.3.3 Women's Rights to Land**

In Ondo state, women's rights to agricultural land are not defined (Martinez, 2011). In most cases, women are—according to custom—not entitled to land through inheritance (Ademola, 1994). However there are exceptions. Women are entitled to land through inheritance in their own lineage when there is no male child from her “gate” in a polygamous family (i.e., when her mother had no male children). Polygamy, therefore, influences access and rights over land, but this dimension is not clearly defined in Ondo state. In fact, the will of a landowner and decisions by the family elders can have a far-reaching influence on the way in which the land of a deceased person is distributed.<sup>8</sup> A women's right to land is secured through marriage as women depend on their husbands to acquire land rights. In support of this assertion, an empirical study carried out by Ademola (1994) revealed that 67 percent of women in Ondo state accessed land through marriage, 23 percent through inheritance and 10 percent acquired land rights through leasing.

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<sup>6</sup> Personal Field Interviews

<sup>7</sup> Personal Field Interviews

<sup>8</sup> Personal interview and survey

### **3.3.4 Land Registration**

For urban land, rights can be secured through a Certificate of Occupancy issued by the governor and registered under the formal Register of Deeds kept in the Ministry of Land and Housing. For rural lands, local governments can issue a Customary Certificate of Occupancy. Even though the law does not limit the time duration of occupancy specified in these certificates, it has become a common practice to limit the duration to 99 years (Adeniyi, 2011).

For rural land, the LUA of 1978, Section 6 (1) a, b, states that “it shall be lawful for a local government in respect of land which is not in an urban area to:

- a) grant customary rights of occupancy to any person or organization for the use of land in the local government areas for agricultural, residential and other purposes
- b) grant customary right of occupancy to any person or organization for the use of land for grazing purposes and such other purpose ancillary to agricultural purposes as may be customary in the local government concerned.”

In practice, most private landowners do not have a Certificate of Occupancy, and Customary Certificates of Occupancy are not issued, at all. According to study informants, people who have purchased land typically have only non-formalized purchase receipts as evidence. Transfers of land between individuals are possible, and they seem to be easy where interest in land has been formalized; but they are affected by conflict and litigation due to multiple sales.

### **3.3.5 Rights to Transfer Land**

While the LUA explicitly states that land cannot be transferred without the consent of the local government or state governor,<sup>9</sup> it is apparently quite common for land to be transferred to a third party within rural communities without this consent. However, land sales require the permission of chiefs or heads of family. Moreover, customary freeholds are not granted to people who do not belong to the local community. In principle, lease hold rights can be conferred to people who do not belong to the indigenous communities of Ondo state with the approval of the Ministry of Land and Housing.

A further analysis of land governance in Nigeria is provided in the Land Governance Assessment (LGAF) report (Adeniyi, 2011). Specifically in the case of Ondo state, there is also a paper on land registration and cadastral information (Akingbade, 2005), which is, however, based on data collected in 2004 and does not include changes that have taken place in the administration since that time.

## **4. Methodology**

For this study, two cases of land registration and two cases of land acquisition were selected. For both sets of cases, the goal was to allow for a comparison. For the two cases of land registration, one case of residential land in a rural area and one case of agricultural land was selected. In the cases of land acquisition, one took place before the establishment of the LUA and one took place thereafter. The cases were selected based on information provided from the Directorate of Land Services of the Ministry of Lands

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<sup>9</sup> Land Use Act Sect.21,

and Housing in Ondo state, which was asked to suggest typical cases that fulfilled these criteria. Such few cases do not allow for representativeness. However, the goal of this study was to identify the issues, challenges, and problems that arise with regard to land registration and acquisition so as to inform a subsequent quantitative study, which will aim for generating representative results. The selected cases are the following:

### **1) Land Registration**

- a. Ifedore Local Government Area (LGA): Residential Land Titling
- b. Owo LGA- Agricultural Land Titling Process Mapping

### **2) Land Acquisition**

- a. Akure South LGA – Military Acquisition 1973
- b. Ilaje LGA –Olokola Free Trade Zone Acquisition

Two methods of data collection were used for the case studies. The first method was the use of semi-structured interviews with members of the land administration in Ondo state, in particular, with staff in the Department of Land Services, the Department of the Surveyor General and Mapping and the Deeds Registry. The interviews focused on existing types of land tenure and the institutional arrangement of land administration in Ondo state. We also visited a local government to enquire about its activities and institutional setup (or rather lack thereof) regarding land administration.

The second method of data collection is a participatory mapping tool called Net-Map. This tool was developed to understand, visualize, discuss, and improve situations in which different actors influence outcomes.<sup>10</sup> The version of this tool used for this study is called Process Net-Map. The respondents are asked to identify each step of the process under consideration, in this case, land registration and land acquisition. The actors involved in each step, as identified by the respondents, are marked with actor-cards (stickers) on a large sheet of paper. Numbered arrows between the actors are used to indicate the steps in the process. Payments of money among the actors are also indicated in the maps. After all steps and the actors involved are mapped, the respondents are asked to rate the level of influence that the actors have on the outcome. This rating is visualized by stacks of checkers game pieces, or draughts, which leads to a three-dimensional map. The map is then used to ask respondents about the sources of influence for the different actors. As a final step, the map is used to discuss where potential governance problems arise in the process, and what strategies can be used to avoid them.

To analyze the maps, a computer program for visualizing social networks is used. For this purpose, the links between actors are divided into three categories: (1) links in which one actor makes a decision vis-à-vis another actor (such as, a decision to sell land, or a decision to issue a title); (2) links that represent a flow of financial resources; and (3) all other links, typically those representing the passing on of documents or information, but without involving relevant decisions. These distinctions among the different types of links are useful, because governance problems typically arise in relation to flows of financial resources and in relation to those with authority to make decisions.

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<sup>10</sup> <http://netmap.wordpress.com>

## 5. Land Administration in Ondo State: An Institutional Map

Figure 4 displays an organogram of the Ministry of Lands and Housing, which houses most of the formal institutions in charge of land administration. The LUA vests considerable power for land administration in the person of the state governor, who can, however, delegate this authority to the commissioner in charge of land. Next in rank is the permanent secretary, followed by the directors, who head the seven departments of the ministry. Of particular importance for land governance is the Department of Land Services, which has divisions for land allocation, acquisition, valuation, land use, and housing. The following figures are an indication of the capacity of this department: It employs 13 land officers, but has office space for only 10 of them. In terms of physical resources, the department has two cars and four computers (Dept. of Land Services, interview information, 2011).

This department also has area offices, which can be seen as part of a de-concentrated structure. These offices are located in different local government areas, but their staffs report directly to the department, and are not linked to the local government administration. The Survey and Mapping Department is headed by the surveyor general. Therefore, it is also referred to as the Surveyor General's Department. This department also has de-concentrated area offices, which are typically located in the same building as the area offices of the Department of Land Services.

The Deed Registry is another important department for land governance. One can note that in the case of Ondo state, most of the important functions of land administration (see Table 1) are located in the same ministry, rather than in different ministries as is often the case in other countries.

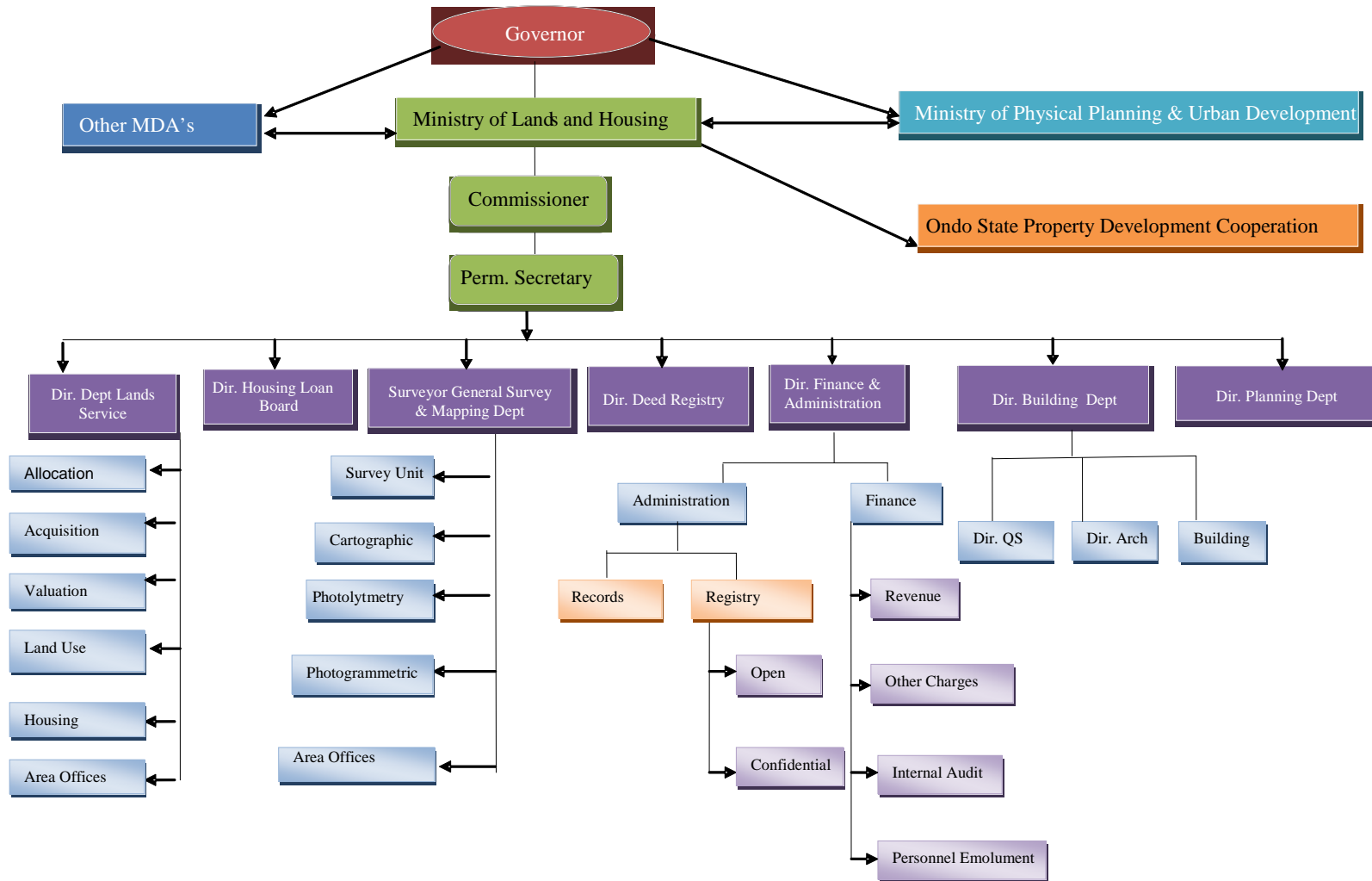
Each local government administration is supposed to have an Estate Department, in charge of issuing the Customary Certificate of Occupancy for rural land. However, according to the information collected for this study, none of the local government administrations has established such a department.<sup>11</sup>

According to the LUA, each state should set up a Land Use and Allocation Committee to advise the governor on the management of urban land. The local governments are expected to establish Land Allocation Advisory Committees to advise them on the management of rural areas within their respective local government area. This committee was expected to replace the customary institutions of land administration at the local level (Adenyi, 2011: 4). According to the information from the local government visited for this study, such an Advisory Committee had indeed been set up on an ad hoc basis. The committee was, however, only consulted in the case of a dispute over land tenure, and not in the process of land registration, since the local government had not engaged in registering rural land, as indicated above.

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<sup>11</sup> This information was cross-checked at Ifedore local government secretariat. The respondents confirmed that there is no personnel dealing with land issues at the local government, and that no Customary Certificates of Occupancy have been issued. Likewise, there is no relation between the secretariat and the Area Office of the Ministry of Lands and Housing. This office is not located on the premises of the local government secretariat.

**Figure 4—Institutional setup of land administration in Ondo State**



## 6. Land Registration Case Studies

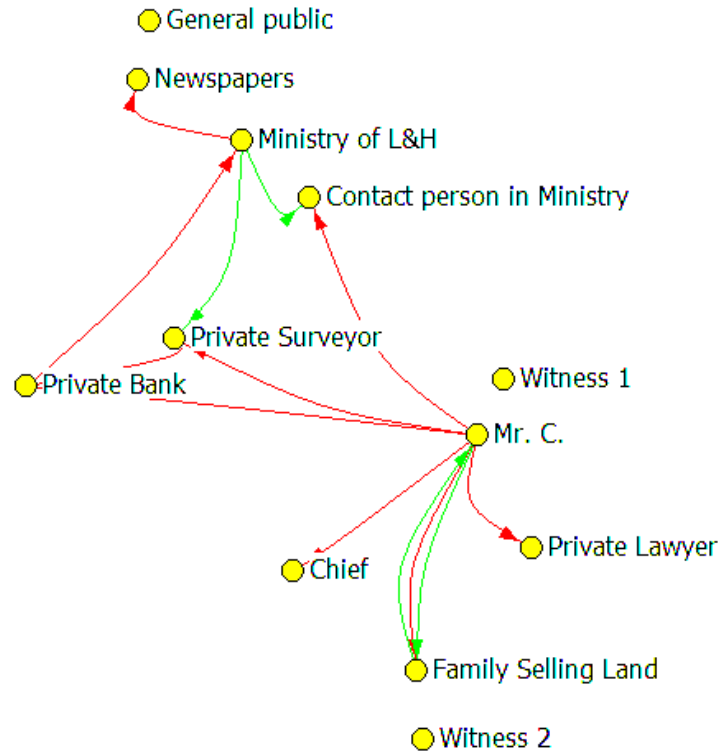
This section presents two cases in which individuals obtained a Certificate of Statutory Occupancy. The first deals with agricultural land, the second with a residential plot located in a village.

### 6.1 A Case of Agricultural Land Registration

The case study refers to a cocoa trader, referred to here as Mr. C., who bought a plot of 4 ha to grow cocoa. Figure 4 displays the process he used to obtain a Certificate of Occupancy for this plot. According to the Land Use Act, he would, in principle, then need to obtain a Customary Certificate of Occupancy for agricultural land. However, since the process to obtain this type of certificate is not established, he obtained the type of certificate that has been designed for urban land instead. The details of the steps that process Mr. C took to buy the land and subsequently to obtain the Certificate of Occupancy is displayed in Box A-1 in Annex 1. Mr. C. bought the land with help from the local chief in 1989. He used a private lawyer and two witnesses, in addition to the chief, to obtain a valid purchase agreement or contract. After the purchase (in the same year), he obtained an approved survey plan by contracting a private surveyor. He did not deal with any government authorities himself in this process. Many years later, in 2004, he decided to obtain a Certificate of Occupancy because he wanted to start investing in the land by planting cocoa trees. For this step, he interacted with a contact person from the Ministry of Lands and Housing who was his friend. According to Mr. C., he paid a nominal amount of money to his friend to manage the complex process of getting the certificate. This approach made it possible for Mr. C. to get the permit without having to interact with other officers in the ministry. Accordingly, he could not identify the different departments and steps involved within the ministry. The official fee to the ministry was made through a private bank. As shown in Figure 5, the ministry has to announce the land registration in the newspaper to inform the general public about the case.

Table 2 shows what it cost Mr. C. to register the land. As can be seen from the table, the largest cost, accounting for 12.5 percent of the land value, was incurred for the attainment of the approved survey plan. It was not possible in this case to gauge which share of this remained with the private surveyor and which share the private surveyor paid as official—or unofficial—fees to the Department of the Surveyor General. The next largest share, accounting for 10.0 percent of the land value, went to the private lawyer to obtain a legally valid purchase agreement.

**Figure 5—Actors, decision links and fund flows in a case of registering agricultural land**



*Note:* Red colors indicate flows of financial resources and green color links indicate decisions.  
Source: Authors

The costs of registering the land were almost an order of magnitude lower (less than 2 percent of the land value) than the cost incurred for obtaining the approved survey plan (Table 2). However, in this case, the landowner may have benefitted from the fact that he had a friend in the Ministry of Lands and Housing. This friend may have been able to reduce or eliminate the unofficial costs that might otherwise have arisen in this process.

**Table 2—Costs involved in obtaining Certificate of Occupancy for agricultural land in studied case (Naira)**

	per ha	total
Purchase price of the land (1989)	200,000	800,000
Land value today	600,000	2,400,000
Costs for private lawyer	20,000	80,000
Remuneration for the chief		10,000
Expenses to get approved survey plan in 1989	25,000	100,000
Expenses to get approved survey plan, current	50,000	200,000
Official expenses to get Certificate of Occupancy (2005)		36,000
Remuneration for contact person in Ministry		5,000
<b>Expenses as percentage of land value</b>		
Valid purchase agreement (1989)		10.0%
Approved survey plan (1989)		12.5%
Certificate of Occupancy (2005), official costs		1.5%
Certificate of Occupancy (2005), total costs		1.7%

Source: Authors, based on case study information

## **6.2 A Case of Residential Land Registration**

This case study refers to a local chief, referred to here as Chief B, who bought a piece of land of approximately 1.5 ha from Chief A in a community located in the Ifedore Local Government Area. Chief B bought this land in 1990 with the goal of establishing a residential building. The land administration in Ondo state uses the unit of the “plot” for residential land. The land bought by Chief B (1.5 ha) corresponds to 22 plots in this system.

Figure 6 displays the actors, decision links and fund flows involved in the process. A more detailed map is shown in Figure A-2. The steps of the process are displayed in detail in Box A-2. Chief B bought the land from Chief A without the assistance of any other chiefs in 1990, but they used the services of the court at Ifedore to legalize the purchase agreement through an affidavit sworn in court. Subsequently, Chief B used the services of a private surveyor to obtain an approved survey plan. The procedure was similar to the case of the agricultural land indicated above. The surveyor used the theodolite method to carry out the survey, and he also dealt with the Department of the Surveyor General to get the survey plan officially approved.

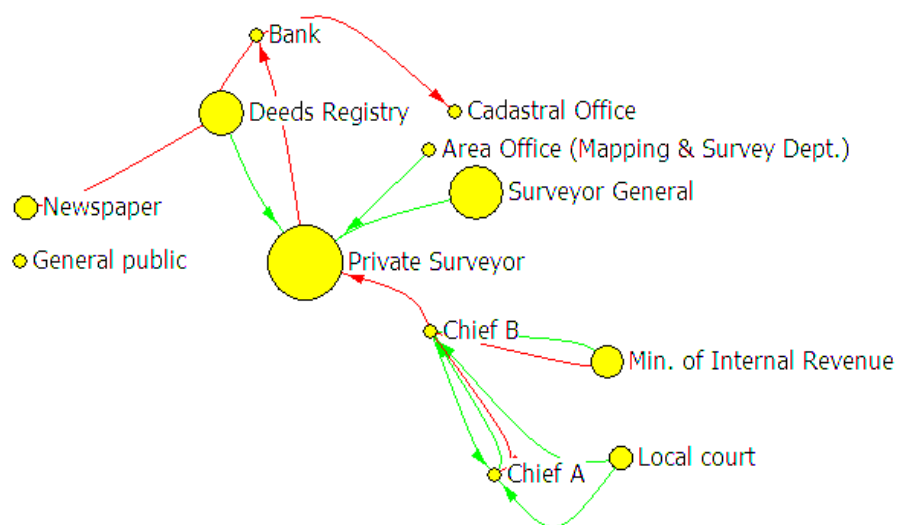
According to this case study, it is common for the private surveyor to obtain a share of the land in those cases where the clients are not able to pay the fees of the private surveyor in cash, or where they prefer to give him land instead. The share of land that the private surveyor in this case study typically receives is one third. The surveyor can then sell this land later on.

Chief B also contracted the same private surveyor to obtain a Certificate of Occupancy for the land he had bought from Chief A. Chief B preferred this approach to directly dealing with the government officials responsible for issuing such certificates. According to the private surveyor, acting through him reduces the time and the cost that are

otherwise involved for landowners to register their land. This is especially true, he said, if the landowner does not know the administrative system and has no connections to anyone in the system. The only government office that Chief B had to approach personally was the Internal Revenue Service for his tax clearance, since this is one of the requirements for land registration. As remuneration for his services in land registration, the private surveyor involved in this case does not take land. Instead, he demanded for his service 10 percent of the fee that has to be paid to the Ministry of Lands and Housing. Unlike the case of land survey, he demands the entire payment up front for providing this service.

While the approval of the survey plan did not involve a site visit by staff from the Department of Land Services or the Department of Survey and Planning, the issuance of a Certificate of Occupancy did involve such a visit. For this purpose, a staff member from the Area Office of the Department of Survey and Planning visited the site. This visit was facilitated by the private surveyor as part of his services to his client. In fact, he drove the staff member to the site. The staff member’s only task was to check whether the measurements were correct. He did not talk to neighbors or consult with local authorities about whether the boundaries are contested. As in the case of agricultural land, the application for the Certificate of Occupancy is announced in the newspapers by the Ministry of Land and Housing. In this case, the period for objections was specified as three months.

**Figure 6—Actors, decision links and fund flows in a case of registering residential land in a rural community**



*Note:* Red colors indicate flows of financial resources and green color links indicate decisions. The size of the dots indicates the perceived influence of the different actors on outcome of the process.

Source: Authors

As can be seen in Figure 6, all official payments to the Ministry of Lands and Housing (Cadastral Office and Deeds Registry) are made through a private bank. In this case, the private surveyor made those payments on behalf of his client. According to additional information about land registration procedure (not included in the Net-Map as this is an

internal process), it is the Commissioner, on behalf of the governor, who has to sign off on the Certificate of Occupancy.

In this case, the respondents were asked to rate the influence of the different actors on the outcome, which was defined as the ability of Chief B to obtain the Certificate of Occupancy in a reasonable amount of time. Not surprisingly, as indicated in Figure 6, it was the private surveyor in this case who was perceived as having the highest influence on this outcome. Next in importance were the Department of the Surveyor General and the Deeds Registry. Other actors were seen to have a minor influence.

**Table 3—Costs involved in obtaining Certificate of Occupancy for a case of residential land (Naira)**

<b>Costs involved in 1990</b>	<b>In 1990</b>
Purchase price of the land (1.5 ha)	3,300,000
Costs for legalizing purchase agreement: court fees	1.5
Fee to get survey plan approved: N2.5/sqm	37,500
Official land titling fees	250,000
Service charge for surveyor (10% of official land titling fee)	25,000
Service charge for surveyor to produce survey plan (flat rate)	15,000
<b><i>Expenses as percentage of total land value in 1990</i></b>	
Validation of purchase agreement	Negligible
Obtaining approved survey plan	2%
Certificate of Occupancy, official	8%
Certificate of Occupancy, total	10%
<b>Costs involved, current</b>	<b>Current</b>
Purchase price of the land (1.5ha current) 22 plots in all	7,700,000
Costs for legalizing purchase agreement: Court fees	10,000
Fee to get survey plan approved: N5/sqm	75,000
Official land titling fees	280,000
Service Charge for Surveyor (10% of official registration fee)	28,000
Service Charge for Surveyor to produce survey plan (flat rate)	70,000
<b><i>Expenses as percentage of total land value, current</i></b>	
Validation of purchase agreement	0.1%
Obtaining approved survey plan	2%
Certificate of Occupancy, official	4%
Certificate of Occupancy, total	5%

Source: Authors, based on case study information

Table 3 displays the costs involved in this case of land registration. The upper part shows the costs that were incurred in 1990. In the lower part of the table, the current costs are shown. One can see that, as a percentage of the total land value, the share of the costs incurred for the registration of the residential land was lower than in the case of agricultural land. In current prices, the percentage is even lower. However, this is only

the case because the chief who bought the land was able to pay in cash. If the chief would have had to compensate the surveyor by giving him a third of the land, the cost of registration would have been significantly higher.

### **6.3 Analysis**

#### ***6.3.1 Governance Challenges in Land Registration***

Based on the mapping of the land registration processes in the two cases, a number of governance challenges can be identified. Based on the case studies, it appears useful to consider two steps of land registration. The first step is obtaining an approved survey plan, which involves surveying the land and getting the plan approved by the Department of Survey and Mapping. The second step is getting a Certificate of Occupancy, which is registered in the Deeds Registry.

#### ***Use of Private Services and Intermediaries***

The use of intermediaries is a common strategy that citizens use to deal with the problems of directly interacting with a public sector institution. In both cases studied here, the landowners used intermediaries to get their land registered.

Both landowners used the services of a private surveyor to obtain an approved survey plan. The respondents held different views as to whether it is the task of the Department of Survey and Mapping to carry out the survey work as part of its services, or whether it is the responsibility of the landowner to hire a private surveyor for conducting the survey, implying that the task of the department is limited to the approval of a survey map produced by a private surveyor. The study by Akingabade on land administration and cadastral information in Ondo state (2005) indicates that the landowners are expected to use a registered private surveyor for conducting such surveys, rather than relying on the Department of Survey and Mapping to carry out this task. Hence, the intermediary part of the private surveyor's function only refers to his assistance to the landowner in getting the survey plan approved by the Surveyor General.

The case study evidence suggests that the transaction costs arising for this service are particularly high if the landowner faces cash constraints. In this situation, it seems customary that private surveyors take up to one third of the land as remuneration for their services. If the landowner is able to pay cash, the price for the service seems in the range of 10 percent. It is important to note that this amount covers both the costs involved in actually doing the survey as well as the fees paid to the Ministry of Lands and Housing.

For the second step, the registration of the land in the Deeds Registry and the issuing of a Certificate of Occupancy, the two landowners used intermediaries as well. In the case of the agricultural land, the applicant had the advantage of personally knowing a staff member in the Ministry of Lands and Housing who could handle the process for him. In the other case, the landowner used the private surveyor for the service. In both cases, the additional costs imposed by the use of these intermediaries seemed, limited, especially if compared to the costs incurred for surveying the land.

In case that the person who wants to obtain a Certificate of Occupancy has purchased the land, he or she also needs to have a legal document concerning the purchase, and the costs of obtaining this document need to be considered, as well. Failure to obtain this

type of document when buying the land will also be an obstacle to registering it later on. For this step, no intermediary was used in either of the two cases. In one case, an affidavit was sworn in front of a local court, and the fees involved were rather low since the court still uses a fee of 1.5 Naira that was set many years ago. However, even using the current rates, the fee is rather low if expressed as share of the land value (0.1 percent). In the other case, where a private lawyer was used, the fee was substantial, amounting to 10 percent of the land value.

### ***Entry Points for Extra Payments and Delays***

The landowners in these two cases, a business man in one and a chief in the other, are certainly not the type of people who are easily taken advantage of by public officials or private service providers. The analysis of the procedures used for surveying land and registering it nevertheless identifies potential entry points for governance problems, even though these problems were not prevalent in these cases.

From the funding and decision links in Figure 5 (agricultural land) and Figure 6 (residential land) one can derive the following implications:

- A family selling agricultural land may be in a vulnerable situation if the family has limited access to information about land values, and if there is collusion between the person who wants to buy the land and the chief who is facilitating this deal (Figure 5). The extent of this problem depends on the mechanisms that the community can use to hold their chief accountable. The problem of people losing their land because of a chief's actions is, however, less prevalent than in countries such as Ghana, where the chief remains the formal owner of the land and can sell it.
- The fact that a private lawyer can demand 10 percent of the land value for his services (Figure 5) points to limitations in the supply of this type of service or to a lack of regulation. The alternative, using a local court to swear an *affidavit*, was definitely less expensive in the second case. However, people involved in the local court may also demand extra fees for their service.
- Likewise, the fact that a private surveyor can charge one third of the land value for his services also points to a supply constraint in this service or a lack of regulation. Obviously, private surveyors can take advantage of their clients' lack of access to financial services.
- The Ministry of Land and Housing does not have a one-stop-office, which encourages the use of intermediaries as shown above. Entry points for demanding extra payments or holding up the process exist where decisions have to be made. As can be seen from the process maps and the descriptions, the two main decisions are the approval of the survey plan and the decision to register the land in the Deeds Registry and issue the Certificate of Occupancy.
- Field inspection also creates entry points for extra payments. Moreover, if the private surveyor facilitates the field visit of the area office staff, one can assume that this creates an entry point for collusion. The requirement that payments to the public administration be made through commercial banks may limit, but does not necessarily abolish, entry points for extra payments from applicants or intermediaries to public officials.

- The step of announcing applications of Certificates of Occupancy in the public newspapers can be seen as an important mechanism to create transparency. However, this mechanism does not seem appropriate for rural land, where few community members may be able to access and read newspapers.

Overall, the two cases suggest that the high cost of obtaining the services from private sector service providers (lawyers, surveyors, intermediaries) that were needed to register land seemed to be a bigger constraint than delays and extra payments that might be demanded by the public administration, even though entry points for the latter problems clearly exist. The case studies could not establish with certainty the amount of money that the private intermediaries have to pass on to the public administration as part of their intermediary role. However, the private lawyer who charged 10 percent of the land value did not have to pass on any funds to public entities for his service. Likewise, the fact that a surveyor can choose to charge either 10 percent of fees in cash or one third of the land suggests that, in the latter case, he would be able to retain a substantial value of the land for himself.

### ***6.3.2 Lack of Procedures for Registering Rural Land***

A striking feature of the current land registration system is the fact that specific procedures for registering rural land through the local governments do not exist, even many decades after the LUA established provisions for this purpose. The reasons may be seen at both the demand-side and the supply-side of this service. At the demand side, rural land users may not be aware of the possibility of such a mechanism and they may, therefore, not demand this local service. They may also see disadvantages associated with a Certificate of Occupancy issued for a period of 99 years if they perceive their current land tenure under the customary system to be in perpetuity.

On the supply-side, one needs to place the local governments' lack of interest of local in setting up estate offices and issuing certificates for Customary Certificates of Occupancy in the wider system of local governance in Nigeria. At present, the local governments have, in practice, rather limited autonomy. According to our interviews with local government representatives, they even have to have the procurement of small items such as stationary approved by the State Ministry of Local Government and Chieftaincy Affairs. One can also assume that the state governors do not have strong incentives to devolve to the local governments some of the substantial powers that the LUA conferred to them. Phrased in terms of the framework displayed in Figure 1, the power dimension among the motivational factors (Box I of Figure 1) certainly plays a role in this respect.

### ***6.3.3 Implications for the Proposed Pilot Project on Land Registration***

The proposed pilot project of the Presidential Technical Commission needs to address the challenge arising from the fact that no institutional structure for land registration exists at the local government level.

- There is a need to design an appropriate institutional setup for land registration and to build human resources and financial capacity for this at the local government level. This applies to permanent institutional structures as well as to institutional bodies that

may have to be set up temporarily for the registration process, such as village-level adjudication committees.

- The chairman of the local council may gain additional authority from the power to sign Customary Certificates of Occupancy (the type of certificates foreseen to be issued for land in rural areas). So far, only the state governor had the power to handle land matters on behalf of the state. It may be useful to think about the checks and balances and the accountability mechanisms that can be built into the land registration process at the local level so as to ensure that this new authority is not misused. In terms of the conceptual framework (Figure 1, Box I), the question is how to ensure that the process is driven by achievement goals rather than by the goals related to power and affiliations.
- Strategies that may address expected governance challenges include a composition of the committees to be set up for land registration that ensures checks and balances, the establishment of conflict resolution and complaint mechanisms (such as a telephone hotline and the creation of awareness and transparency. Since newspapers play a limited role in rural areas, other strategies, such as radio-based awareness campaigns, may be used for this purpose.
- The survey to be carried out as a baseline for the pilot project may provide more information about agricultural landowners' knowledge about land registration and about their views. The survey can also be used to collect the opinions of local community members on questions such as who should be represented on land allocation and adjudication committees and what types of complaint and conflict resolution procedures might work. Likewise, the survey might be used to gauge in landowners' willingness to pay for land registration. In view of the important gender dimension of land, it will be useful to interview male and female household members separately on these issues.
- The technologies now used for land surveying are a major cost factor in the system. Therefore, it will be important to explore alternative approaches, such as methods that use aerial photographs and satellite imagery, as the Presidential Technical Committee already plans to do.
- The provision of land services by the private sector, including surveyors, is already characterized by supply constraints and high costs, so it will be important to develop alternative solutions, such as using well-trained field assistants who can take up important functions in the registration process. The Presidential Technical Committee is already considering this option. As is to be expected, such measures will and already have provoked criticism from the surveyors' professional association. However, so far, the committee has been able to deal with such criticism by making adjustments such as dropping the term para-surveyors and calling the staff who will do the respective tasks field assistants.

## **7. Land Acquisition Case Studies**

The LUA allows for land acquisition by the government for public use, or for use in the public interest. The goal of conducting case studies on this topic was to find out how the procedures involved in land acquisition affect land security. According to the Ministry of

Lands and Housing in Ondo state, almost 90 percent of land acquired by the state is used for residential or industrial purposes. So far, less than 10 percent of land acquisition with involvement of the state was for agricultural production.<sup>12</sup>

### **7.1 Land Acquisition for Military Use**

We selected this case to identify the procedures of land acquisition that existed before the 1978 LUA. In this case, an area of approximately 8,100 hectares was acquired for the purpose of building army barracks and other installations for the second infantry division of Akure.

Figure A-3 in the Annex describes the steps involved in the process in detail. The Annex also presents a map of the actors involved and the links between them (Figure A-4). The land was compulsorily acquired in 1973 under Decree 39 of the 1969 Land Requisition Law of Nigeria. A total of 73 families, comprising 793 persons in four communities in the Akure South Local Government Area, were affected by the acquisition.

The process started by a visit of the minister of defense to the traditional authority, the *Deji* of Akure, to demand land for the purpose specified above. Officers from the Ministry of Defense and the Ministry of Agriculture were involved in the site selection. A private surveyor was contracted to carry out the perimeter survey. The landowners in the area formed an association and submitted a petition to the military governor against the land acquisition. They referred to the agricultural value of the land to defend their point. They also hired two private attorneys to represent their interests. Meanwhile, the Ministry of Agriculture, in collaboration with the Ministry of Defense, carried out an assessment of the crops and other investments on the land under consideration. The Chief Federal Land Officer in the ministry of Works and Housing computed the compensation figures on this basis and sent them to the Ministry of Defense to prepare the payments.

The Ministry of Defense then released the funds to the Debt Settlement Committee, which released a first installment of compensation to the two lawyers hired by the landowners. However, one of the two lawyers misappropriated the compensation funds, which resulted in a court case against him, both by the Defense Ministry and the other attorney of the landowners. Ultimately, the landowners received the compensation payments, ten years after the public sector had taken possession of the land. Moreover, the military never used the full amount of the land acquired for the specified purposes.

More than 30 years after this acquisition by the public sector, a major share of the land is still not used for its specified purpose. Currently the unused portion of land is shared among the military personnel, who lease it to landless families or migrants who are interested in farming for a fee that is mutually agreed upon by the different parties, depending on their relationships. In this case, the original landowners were able to organize themselves into a farmers' association, which may have increased their influence level as a group vis-a-vis the military governor and the *Deji* of Akure. Still, this organizational power did not prevent major delays in the payment.

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<sup>12</sup> Department of Lands Services Department Ministry of Lands and Housing, interview information, 2011.

## **7.2 Land Acquisition for the Olokola Free Trade Zone**

This project is a public-private partnership with 40 percent government participation. It was planned as a multipurpose deep sea port complex and a free trade zone, and it is expected to serve as an oil and logistics base as well as an Export Processing Zone. The project is also a partnership between Ogun and Ondo states, with each acquiring 10,000 hectares for the project. In Ondo state, fourteen communities were affected by this project. Farming and fishing is their major occupation. Figure A-5 in the Annex displays the different steps involved in the process of land acquisition in this case. The actors and their links are presented in Figure A-6. A major conflict developed between the communities to be resettled and the government and the communities resisted the resettlement. As shown in Figure A-5, all steps that are required for a government land acquisition have been carried out. The disbursement of the money for compensation had been authorized. However, in 2011 when we conducted this case study, the payments to the affected community had not been made. However, as in the case of the military acquisition, the landowners hired a private attorney to defend their rights, and they had to pay him.

The project was affected by a change of government. The government that had planned and pursued the project lost power in 2009, and the new government had other development priorities. To resolve the current conflict between the affected communities and the government, a committee has been set up to review and recommend the best way to resettle and compensate the affected communities. However, as of 2011, the committee had not been able to resolve the conflict.

## **7.3 Analysis**

### **7.3.1 Governance Challenges**

Our analysis of the two land acquisition cases reveals a number of governance challenges. According to the interviewees, the main problem was not a misidentification of the landowners—that was not a major problem—or that the government was not prepared, in principle, to pay compensation—it was. There were also efforts to create transparency. Notices of the planned acquisitions were published in the national newspapers and in official gazettes for the general public to note. The notices were also published at public places, such as churches, mosques, post offices, market squares, *Oba* palaces, in the communities affected by the acquisition. The governance problems rather arose in determining the compensation and disbursing the payments to the landowners in a transparent way. In the first case, it took many years before the compensation payments reached the landowners. In the second case, the payments had not been made years after all other steps of land acquisition had taken place.

One of the governance challenges revealed by these cases is that there are no standard procedures or avenues to lodge complaints. Likewise, there are no advocacy organizations that can represent the rural poor at the instance of acquisition. The only avenue for aggrieved communities in Ondo state has been to lodge complaints with the Public Complaints Commission of Abuja.

With regard to dispute resolution, the law (LUA, 1978 section 29 and 30) “provides that such disputes as to the amount of compensation calculated in accordance with the

provision of section 29 shall be referred to the appropriate Land Use and Allocation Committee”. The non-existence of these committees in the State has prolonged disputes over compensation. However, as in the case of Olokola Free Trade Zone, an ad hoc committee was set up to determine the compensation. However, no agreement was reached and the case was eventually referred to a court of law, which prolonged the respective procedures.

The maps of the actors (Figure A-4 and Figure A-6 in the Annex) also show that the number of actors involved in land acquisition cases is rather large. For example, the Ministry of Agriculture estimates the compensation for the crops grown on the land to be acquired. The Ministry of Justice and its state lawyers become involved in dispute settlements that involve public authorities. While the involvement of different actors provides opportunities for creating checks and balances, such complex institutional settings also increase the opportunities for demanding unofficial payments and for prolonging the processes involved.

In terms of the conceptual framework displayed in Figure 1, the case study suggests that major problems arise due to management problems (Box G) and macro-level conditions, such as shortcomings in the general administrative and juridical system (Box A). Unlike the cases of land registration described earlier, the land owners were not able to use affiliation (Box I), that is, connections to possible intermediaries, to influence the outcome to their favor.

### ***7.3.2 Implications for the Proposed Pilot Project on Land Registration***

It is not clear from these two cases whether land registration would indeed help the landowners to secure compensation in cases of land appropriation by the state more quickly than they do in the current situation, without land registration. According to the case study evidence, the identification of the landowners was not the main obstacle in either of the two cases. In fact, the provisions in the LUA that recognize the customary rights of the citizens who use land for agricultural purposes seemed to be effective in so far as the respective government institutions were willing to pay compensation to the landowners. The governance problems rather occurred in the process of actually disbursing compensation payments to the respective landowners. In both cases, the landowners resorted to private attorneys to defend their claims, but in neither of the two cases did the investment associated with this step resolve the problem of delayed compensation payments.

For the proposed case study, one can conclude that the process of land registration alone may not be sufficient to increase land security in cases of land appropriation by the state. The land registration process would rather have to be accompanied by reforms that strengthen the voice of landowners vis-à-vis the public administration in charge of disbursing compensation payments. Reducing the complexity of the processes involved and establishing a complaint mechanism that is easily accessible to the land-owners could be important elements in such a reform.

## **8. Concluding Remarks**

The case studies we present throw light on the land governance challenges that exist in Ondo state. Obviously, the case study methodology used does not make it possible to

generate statistically representative insights regarding the extent to which the different governance problems prevail. Likewise, the transaction costs identified in this study can only indicate the order of magnitude of such costs, rather than generating representative figures. The goal of this study was not to generate statistical data, but rather to focus on two important functions of land administration institutions—land registration and land acquisition—and to identify possible governance challenges from an in-depth analysis of the processes involved. Further research, including survey-based research, will be needed to establish the extent to which the problems we identified in this study prevail. The information we presented here can inform the design of such further studies. Moreover, our findings can inform current efforts to reform the land administration in Ondo state, such as the planned pilot project on land registration. Overall, our paper spotlights the need to address governance challenges not only among public sector service providers, but also in the private sector. Reforms in both sectors are certainly needed to improve land governance for the rural poor. The paper also indicates that local governments play a rather limited, if not completely nonexistent role in providing services such as land registration, even though the LUA assigned them this role more than 30 years ago. Bringing land services closer to the rural people by involving local governments is, therefore, a promising strategy. Moreover, there is scope for community-based approaches that increase the capacity of the rural poor to demand land-related services and to hold service providers—both public and private ones—accountable.

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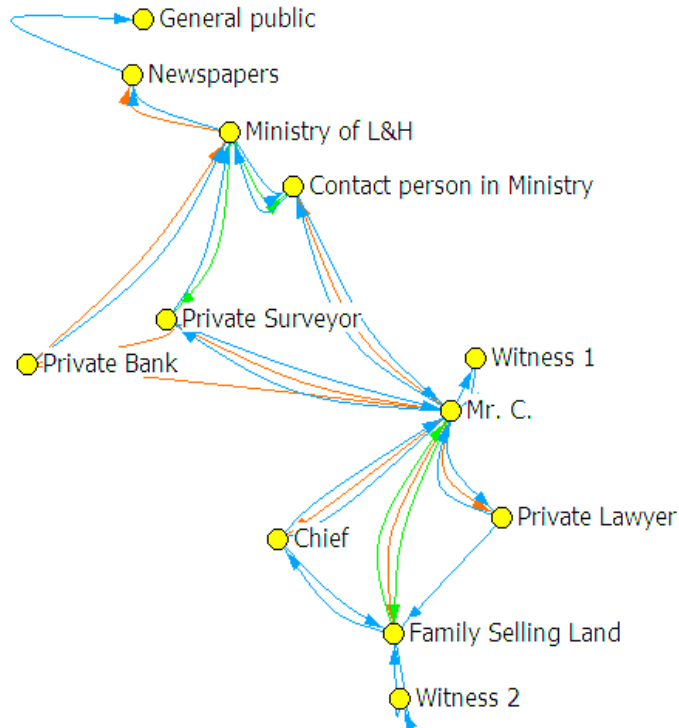
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## 9. Annex 1: Detailed Descriptions of the Transactions

### *Case 1: Registration of Rural Land*

**Figure A-1—Process of obtaining a Certificate of Statutory Occupancy for agricultural land**



*Note:* Links in red indicate flows of financial resources, links in blue indicate decisions, and links in green indicate other relations, such as passing on of information or documents.

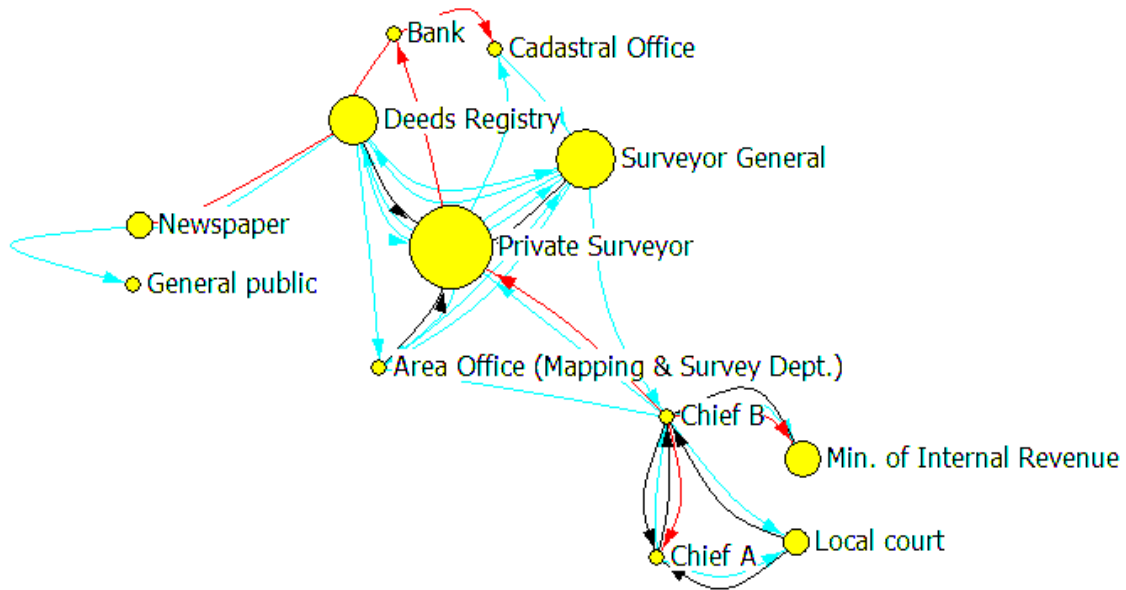
Source: Authors

**Box A-1—Steps involved in acquisition of Certificate of Statutory Occupancy for agricultural land**

- 1) Mr. C. contacts chief in the area he is interested in and asks for his help in identifying land for sale.
- 2) Chief identifies a family that is willing to sell land (this step takes one week).
- 3) Mr. C. negotiates with head of the family and agrees on the price (the chief oversees the negotiations).
- 4) Mr. C. contacts a private lawyer for drafting a purchase agreement. The lawyer receives 10 percent of the land value.
- 5) Mr. C. brings a private witness and the family also brings a private witness for signing the purchase agreement.
- 6) Mr. C. makes a nominal payment as appreciation for the chief's effort in locating land.
- 7) Mr. contacts a private surveyor to survey the land.
- 8) The private surveyor conducts the survey and then contacts the Department of the Surveyor General to approve the so-called survey plan.
- 9) Mr. C. contacts the Department of the Surveyor General with approved survey plan to negotiate for site inspection.
- 10) Mr. C. contacts friend in Ministry of Lands and Housing to help him register the land. With his assistance, Mr. C. fills relevant documents, including purchase agreement and approved survey plan, and submits his application.
- 11) Mr. C. makes payment to bank to obtain certificate
- 12) Ministry places announcement in the newspapers, specifying a time period of 21 days for objections.
- 13) Certificate of Occupancy issued by the Ministry

**Case 2: Registration of Residential Land**

**Figure A-2—Process of obtaining a Certificate of Statutory Occupancy for residential land**



*Note:* Links in red indicate flows of financial resources, links in green indicate decisions, and links in blue indicate other relations, such as passing on of information or documents. The size of the dots representing the actors indicates the perceived influence of the actor on the outcome of the process.

Source: Authors

## **Box A-2—Steps involved in acquisition of Certificate of Statutory Occupancy for residential land**

### **Steps involved in getting approved survey plan**

- 1) Chief B purchases land from Chief A in 1990.
- 2) Chief B contracts a private surveyor to survey the land. He agrees to pay the surveyor an upfront payment to get the land surveyed. In cases where clients do not have access to financial resources, private surveyors get a share as high as one third of the land as remuneration for their service.
- 3) The surveyor and his assistants conduct the survey (using theodolite), which involves cutting the vegetation along the boundaries and setting markers around the boundary.
- 4) The surveyor then submits the survey plan to the Department of the Surveyor General for approval.
- 5) The cadastral officer carries out a valuation of the land and establishes the assessment fee for the survey plan to be paid on that basis. In 1990, the fee was set at 2.5 Naira per m<sup>2</sup>, currently the official fee is 5 Naira per m<sup>2</sup>.
- 6) As part of the approval of the plan, the cadastral officer checks the so-called red copy of the survey plan with the master plan to ensure that the coordinates match. In principle, the Area Office of the Dept. of Survey and Mapping carries out a field inspection as part of this process. However, this step did not take place in the case under consideration.
- 7) The cadastral officer calculates the assessment fee to be paid.
- 8) The private surveyor makes the payment on behalf of his client and submits the receipt together with the survey plan to the Department of the Surveyor General.
- 9) The survey plan is signed by the Surveyor General.
- 10) The approved plan is then returned to the private surveyor, who passes it on to his client (Chief B).
- 11) Chief B, who has only paid an advance, makes the final payment to the private surveyor for his help obtaining an approved survey plan.

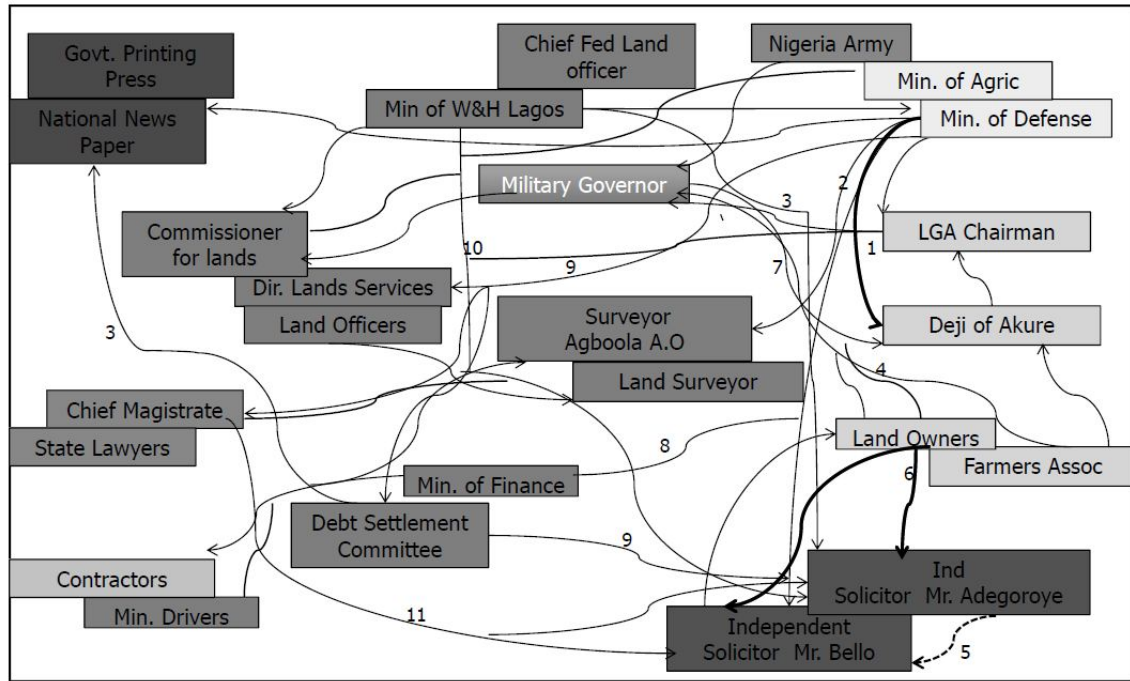
### **Steps involved in getting the Certificate of Occupancy**

- 12) Chief B asks the same private surveyor to obtain a Certificate of Occupancy for him.
- 13) The private surveyor agrees and assesses the costs. He estimates that the cost of obtaining the registration is 250,000 Naira for 1.5 ha. He adds a fee of 10 percent of this for his services. Chief B has to pay the entire sum up front to private surveyor. For this transaction, the private surveyor does not accept payment in the form of land.
- 14) The private surveyor submits the approved survey plan to the Deed Registry.
- 15) The Deed Registry passes on the application to the Dept. of Survey and Mapping (headed by the surveyor general) for a process called registration of the survey plan, which is a requirement for the issuance of a Certificate of Occupancy.
- 16) The Dept. of Survey and Mapping contacts its area office in charge of the Ifedore LGA. The private surveyor goes with area officer for site inspection. They take a copy of the approved plan to check whether measurements are correct.
- 17) The area officer then writes a report to surveyor general.
- 18) The surveyor general signs off the report as proof of his approval that checks have been carried out on-site.
- 19) The private surveyor pays the registration fee to the bank on behalf of his client.

- 20) The private surveyor compiles the application for the Certificate of Occupancy, which requires the following documents: a copy of the approved survey plan, a certificate of tax clearance for the past three years, three passport photographs of the landowner, a purchase agreement between the original landowner and Chief B (sworn affidavit).
- 21) Chief B pays the court costs needed to obtain the affidavit that formalizes the purchase agreement between the buyer and the seller.
- 22) The private surveyor submits the forms and all documentation to the Deeds Registry.
- 23) The Deeds Registry checks the documents for correctness.
- 24) The Registry publishes the application notice in the national newspaper for three months.
- 25) The Deeds Registry prepares the Certificate of Occupancy.
- 26) The private surveyor collects the certificate and passes it on to his client. He also signs on his client's behalf that he obtained the certificate.
- 27) A copy of the Certificate is sent to the Area Office of the Department of Survey and Planning.

**Case 3: Military Land Acquisition**

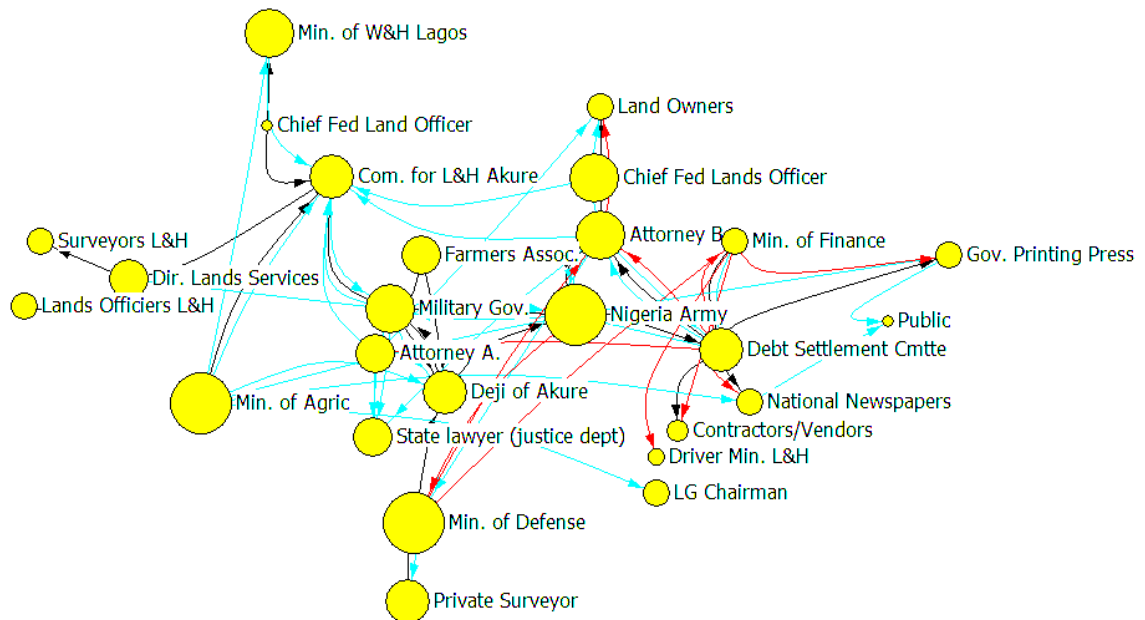
**Figure A-3—Process of land acquisition for military purposes**



- |  |  |
|--|--|
| 1. Request for land/advocacy               | 7. Advocacy                                    |
| 2. Authority to survey land                | 8. Authorization of payment                    |
| 3. Advertisement and Gazetting             | 9. Payment to solicitors                       |
| 4. Petition against compulsory acquisition | 10. Investigation of solicitors irregularities |
| 5. Conflict over compensation payment      | 11. Court cases over representation disputes   |
| 6. Contract private solicitor              | 12. Second rounds of perimeter survey          |

Source: Authors

**Figure A-4—Military land acquisition: Influence of actors and types of links between them**

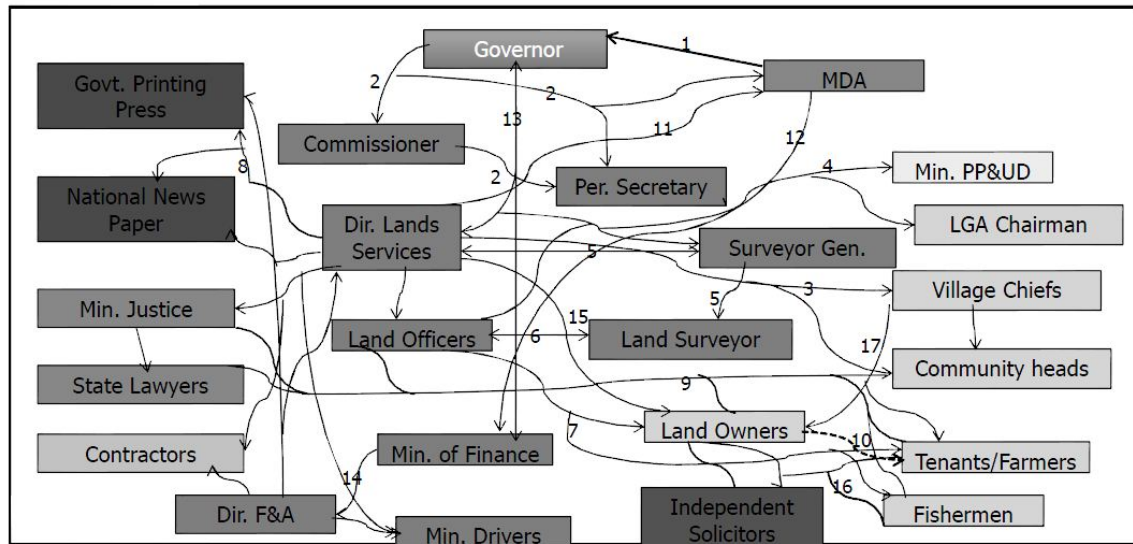


*Note:* Links in red indicate flows of financial resources, links in green indicate decisions, and links in blue indicate other relations such as passing on of information or documents. The size of the dots representing the actors indicates the perceived influence of the actor on the outcome of the process.

Source: Authors

**Case 4: Land Acquisition for Free Trade Zone**

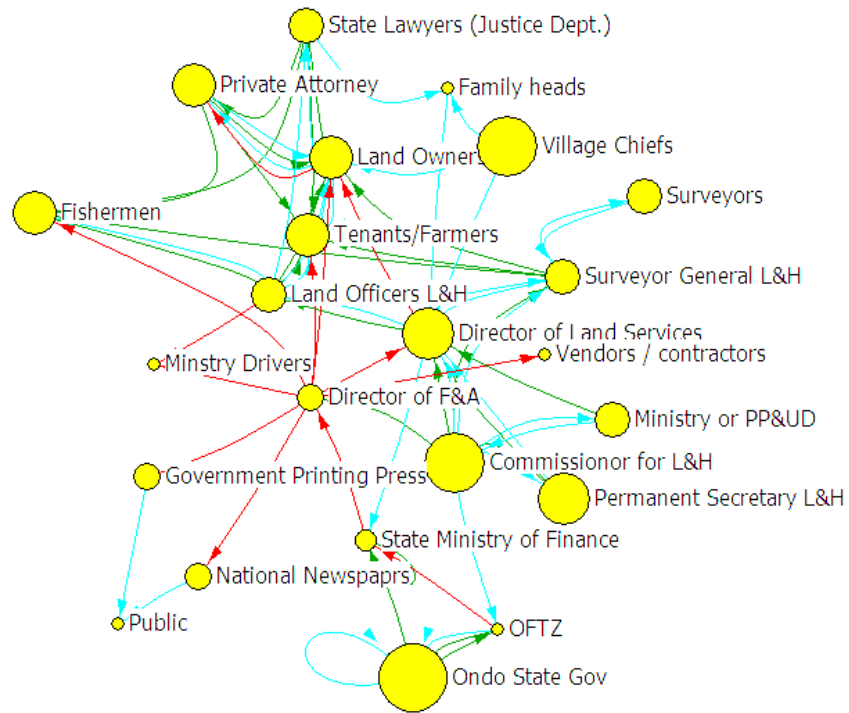
**Figure A-5—Steps involved in land acquisition for Free Trade Zone**



- |   |   |
|---|---|
| <ol style="list-style-type: none"> <li>1. Requisition for Land</li> <li>2. Approval for acquisition</li> <li>3. Advocacy visits and awareness creation</li> <li>4. Site Selection</li> <li>5. Perimeter Survey</li> <li>6. Survey description</li> <li>7. Serve acquisition notice</li> <li>8. Advertisement and Gazetting</li> <li>9. Title clearance</li> <li>10. Conflict over compensation</li> </ol> | <ol style="list-style-type: none"> <li>11. Compensation figure sent to MDA</li> <li>12. Authorization for payment</li> <li>13. Governors Authorization for payment</li> <li>14. Release fund for DFA Min of Lands &amp; Housing</li> <li>15. Indemnity Certification &amp; final Compensation</li> <li>16. Payment for Solicitors Services</li> <li>17. Sensitization and awareness to avoid conflicts</li> </ol> |
|---|---|

Source: Authors

**Figure A-6—Free Trade Zone land acquisition: Influence of actors and types of linkages between them**



*Note:* Links in red indicate flows of financial resources, links in green indicate decisions, and links in blue indicate other relations, such as passing on of information or documents. The size of the dots representing the actors indicates the perceived influence of the actor on the outcome of the process.

Source: Authors