

Analysis of Land Tenure Regimes and Rights among the Local Farmers of Southeast, Nigeria

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Abstract

This study analyzed land tenure systems and rights as triggers of crop farmers and pastoralists' land use conflicts in 3 states (Abia, Enugu and Imo) of Southeast, Nigeria. The objectives were to identify and describe land tenure regimes in the study area; identify land tenure rights. Data were collected with structured questionnaire, complimented with oral interview from 300 crop farmers and analyzed using descriptive statistical tools such as percentages, presented in bar charts. The results showed that the predominant tenure system in the study area included inheritance (90.6%), purchase (87.6%), allocation (70.6%) and rent (68.3%), with various rights such as use and transfer rights. It is recommended that the land use decree of 1978 should be reviewed to address especially issues of land tenure; use and transfer of land, for easy understanding and implementation

Keywords: Land tenure; Land right; Conflicts; Crop farmers; Pastoralists

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Introduction

Land and labour constitute the major inputs used in production by an overwhelming majority of small farmers who cultivate between 0.10-5.99 hectares of land in Nigeria (Falusi and Olayide, 1980). Land continues to be the most important of these traditional farm inputs in production, since increases in farm output come primarily through bringing additional land into cultivation, also it is already estimated that, only about one-third of the cultivatable land in Nigeria is in actual cultivation (Olayemi, 1980, Eze, Konkwo, Orebiyi & Kadiri, 2011).

Land tenure system can be defined as the rights and institution that governs access to and use of land (Adams, 2001). Tenure system of land involve a system of rights, duties and responsibilities concerning the use, transfer, alienation and ownership security of land and its resources. A comprehensive definition of land tenure was postulated by Malinowskias the relationship of man to soil in the widest sense; that is, in so far as it is laid down in native laws and customs and in the measure in which it controls political life, affects the performance of public ceremonies and gives access to opportunities for recreation and sports. One can infer that, apart from producing a frame work for economic utilization of land in conformity with the native laws and customs the land tenure system constitutes a means of administrative control of socio-political life of the community. Another operational definition of land tenure as conceived by Timmons (1943) is that

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“land tenure is the relationship between individuals, and between individuals and society, growing out of the use of land. This includes relationships between mortgages (public and private) and mortgagors, landlords (public and, private) and tenants, operators and labourers through the use of police, eminent domain and tax powers in all instances where these relationships impinge upon rights in land.

Land is perhaps the single most important natural resource in the sense that it affects every aspect of a people's live; their food, clothing, and shelter; it is the base for producing raw material for the manufacturing industry. It is an important resource. No nation-city or rural area can survive as an entity without it. Thus, every person in a nation-the banker, the industrialist, the labourer, the educator, the student, the planner, the farmer has a vital stake in the country's land problems and its proper utilization (Olayiwola and Adeleye, 2006).

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The typical villager recognizes land in its entirety. To him, land is a home and workplace. He shares it with the entire biotic complex. He has learned through experience the futility of expecting or attempting to draw more from the land than he puts into it, hence he practices rotational (shifting) cultivation. In his wisdom, he develops respect for nature and treads humbly on the land. He understands only too well, contrary to the belief of urban speculators that he belongs to the land not the land to him. At death, he rests in literal peace inside the land (earth) which has nourished him all the days of his life (Olayiwola and Adeleye, 2006). The urbanite, on the other hand, expresses predominantly materialistic values. To him city land is simply a commodity to be grabbed, invaded, bought, sold and even stolen. The land is to be “owned” as a symbol of wealth, power and prestige.

Land serves as a social security function to most people because after all else have failed they could still return to their villages to stake a claim on a portion of the family land and raise crops on this for subsistence (Atiola, 2010). A land ownership and use policy must recognize the fact that the very existence of some people rests on their having access to a piece of land and any attempt to wrest this from them would be strongly resisted. It is in this light that attempt is made to examine Nigerian experience on the land tenure and the land reform issues.

Land is a basic natural resource. It supports all human activities and it is from it that all other economic resources are derived. It can hardly be renewed or increased without adverse consequences, and therefore must be judiciously and efficiently managed in a sustainable manner for the use and good of all, it is for this reason that different countries the world over have evolved land tenure systems to protect various “interests” in land and for effective land governance and management (Atiola, 2010). Several land tenure systems had been operated in various regions of Nigeria from the colonial era to the promulgation of the Land Use Act in 1978. The proposed land reform programme of the Federal government is an attempt to address, in a holistic manner, the inadequacies of the subsisting land tenure systems so as to make it a veritable vehicle of economic empowerment and development.

Farmer-herdsmen conflict has remained the most preponderant resource-use conflict in Nigeria (Ajuwon, 2004; Fasona & Omojola, 2005). The necessity to provide food of crop and animal origin, as well as raw materials for industry and export in order to meet ever-growing demands, has led to both intensification and extensification of land use (Nyong & Fiki, 2005). The competition of these two agricultural land user-groups, however, has often times turned into serious overt and covert manifestation of hostilities and social friction in many parts of Nigeria. The conflicts have demonstrated high potential to exacerbate the insecurity and food crisis particularly in rural communities where most of the conflicts are localized, with reverberating consequences nationwide (Isah, 2012).

The above situation reveals that land is central to continuity of life, indispensable in physical development and complex in social relations of production in the economic world. In other words, to every land, there is the social-cultural dimension. As a result, conflict over land is often combined with strong economics, spatial, cultural and emotional values. (Magel, 2001; Abegunde, 2011). There are

indications that man's complex socio-economic, cultural and physical attachments to land have placed land in a sensitive and unique position. Conflicting interests among communities to secure territories, conserve socio-economic resource and carry out physical development activities and practice customs and traditions on land have given birth to untold crises over the ages (Abegunde, 2010). In another dimension, these have resulted in conflicts that have affected millions of people and resulted in lost opportunities in terms of social disorder, economic depression and destruction of housing and basic infrastructure in the physical development of communities (Justino, 2004; Abegunde, 2011).

Land so pervasively underpins human activity that it usually plays some role during war and civil violence. Land-related issues figure into many violent disputes around the world. Ongoing communal violence in Nigeria and Sudan is tied to competition over scarce fertile land and poor resource governance. Disputes over access to land and valuable mineral resources drove wars in Liberia and Sierra Leone, and the nearly 25-year war in Sri Lanka was fought over geographic claims to an ethnic homeland for the country's minority population. Understanding the role land plays in the conflicts of so many nations can help policymakers develop strategies to ease tensions among groups, limit conflict, and potentially avoid violence and the poverty trap that comes from cyclical violence (Collier, *et al.* 2003). Failure to address these bedrock issues have increased the likelihood of conflicts and perpetuate poverty. Land is the object of competition in a number of potentially overlapping ways: as an economic asset, as a connection with identity and social legitimacy, and as political territory. Competition over land and its resources is at the center of the nexus between land and conflict. Competition can occur between any number and type of identity groups, whether based on ethnicity, religion, class, gender, or generation. When that competition involves groups of people, rather than individuals, the risk of larger-scale violence increases. Some conflicts grow directly out of competition for land, but land is often not the sole cause of conflict; other factors, such as ethnic or religious tensions or political marginalization contribute to conflict (Baranyi and Weitzner, 2001).

When land lacks adequate legal, institutional, and traditional/customary protection it becomes a commodity easily subject to manipulation and abuse. Weak governance leads to weak tenure systems, often depriving individuals and communities of essential rights and access to land and other natural assets and contributing to poor land and resource management practices, which further degrades the limited resource base. Resolving land injustices may be a stated objective of a war or civil violence. The objective may be achieved, but more often it is not. In such cases, the competition over land may be repressed during the post-conflict period, only to erupt later. The violence may at the same time have transformed the conflict, so that the role land plays and even the players change. War, with its major displacements of civilian populations, can give rise to new conflict over the land to which the displaced have resorted for refuge and sustenance, or when displaced persons try to return to lands they fled and find them occupied by others.

Pastoralists rely on livestock mobility and communal land for their livelihoods. Land tenure is one of the main challenges pastoralists face and is the root of many conflicts. Rules on land tenure vary widely among countries, but most formal legal systems do not recognize or guarantee customary tenure rights. In a survey by Gomasasca and Cornelia Heine (2016), 42 per cent of the pastoralists said they owned land individually, while another 15 percent said their community owned it. But formal titles are rare: only 15 percent of the individual owners and six per cent of the community owners had formal titles. Customary ownership is far more common.

In the past, this lack of formal rights did not matter: outsiders regarded pastoral land as of little use. But this has changed: the discovery of oil and minerals, the expansion of intensive cropping, urbanisation and the designation of nature reserves and wildlife parks have boosted interest in pastoralist areas. Access to grazing land is vital for the pastoral mode of production. Pastoralists use few or no external inputs, and they exploit land which often is too marginal for other agricultural uses.

The foregoing shows that land in Africa is never just a commodity or a means of subsistence. It has so many other meanings, and combines being a factor of production with its role as family or community property, a capital asset and source of cultural identity and or citizenship. The vital importance of land issues to social and economic development in Africa is unquestionable as rights to it are very important and land units own is synonymous with life and prestige. To some individuals who are desperate for land resource access,

rights should not be defined to their disadvantage. Therefore land becomes a conflict-ridden resource and due to its many meanings, a sensitive issue in Africa. The question about rights to land and territories has also been the source of civil wars as well as wars between nations. The above situation therefore raises the research question: What land tenure rights exist in the study area? The broad objective of the study was to analyze the prevailing tenure systems and rights capable of causing agricultural land-use conflicts among crop farmers and pastoralists in Southeast Agro-ecological zone of Nigeria. The specific objectives were to:

1. To identify and describe land tenure regimes in the study zone,
2. To examine rights of respondents to land in the study area,

Methodology

This study was conducted in southeast agro-ecological zone of Nigeria, characterized by tropical rainforest. The Southeast agro-ecological zone lies within latitudes 5°N to 6°N of the equator and longitudes 6°E and 8°E of the Greenwich meridian. Southeast Nigeria is made up of five (5) states - Abia, Anambra, Ebonyi, Enugu and Imo. The zone occupies a total land mass of about 10,952,400 hectares with a population figure of 17,381,729 person in 2016 projected from 2006 National Population Commission Census figure (National Population Commission, 2006). There are two major seasons experienced in this zone. These are dry and rainy seasons. The dry season lasts between November and March, while the rainy season occurs between April and October. Again, there is also the growth of ever green succulent grasses for fodder and forage which draws the nomads to the zone. Hence, about 60-70% of the inhabitants of the zone are observed to engage in agriculture, mainly crop farming and animal rearing (Okoye., *et al.* 2010).

The Southeast agro-ecological zone has a research institute known as the National Root Crop Research Institute (NRCRI) located at Umudike, Abia State. The Southeast states have scintillating features. The climate is influenced by three major air masses namely; the equatorial maritime, the equatorial estuaries and the tropical continental air masses. The multi-stage (4-stage) sampling technique was adopted in the process of sample selection. The first stage was the purposive selection of three states from the Southeast agro ecological zone where cases of farmer-pastoralists conflicts have occurred and were reported. Here, Abia, Enugu and Imo States were selected since conflicts occurrences have been recorded and reported widely. Again, Enugu was selected because it is the gateway through which the nomads enter southeast from the North-central, settle and graze before moving to the other states of the Southeast. The second stage involved the purposive selection of the Local Government Areas where these conflicts occurred. In Abia State, two Local Government Areas were selected, namely Umunneochi and Ugwunagbo Areas.

In Enugu, Uzo-uwani, Nkanu West and Udi Local Government Areas were also selected for the study, while in Imo State, Ohaji/Egbema, Owerri West, and Okigwe Local Government Areas were chosen as well. The third involved the purposive selection of the communities in the Local Government Areas, where conflicts between crop farmers and pastoralists have occurred. In Abia, Isuochi and Lokpanta communities were chosen from Umunneochi Area, while Uturu was selected from Ugwunagbo Area. From Enugu State, Nimbo (Uzo-uwani), Ishi-ozalla (Nkanu West) and Ogui-Agueke (Udi) communities were chosen from the three Local Government Areas. From Imo State, Awarra and Umuapu (Ohaji/Egbema), Irete (Owerri West) and Ihube (Okigwe) communities were selected. The fourth stage involved the proportionate selection of 105 crop farmers from a total of 1050 affected farmers from Abia state, 69 crop farmers from a total of 695 crop farmers from Enugu state and a selection of 126 affected crop farmers from a total of 1260 affected farmers from Imo state. This gave a total sample size of 300 crop farmers selected from the household lists of 3,005 crop farmers affected by the conflicts obtained and compiled by various agencies of the three States (Office of the Governor on Peace and Conflict Resolution; Local Government and Chieftaincy affairs).

The household heads were used as the sampling unit. The household heads included widows who fend for themselves and family. Both primary and secondary data sources were used. The primary data were collected through questionnaire (survey), observation, and interview schedule. The data were collected from farmers, nomads, community leaders, youth leaders and the police. The secondary data were obtained from publications, such as research reports, academic journal and conference proceedings found relevant to this study. Descriptive statistical tools such as percentages presented in bar charts were used to achieve objectives 1, 2.

Results and Discussions

Land Tenure Systems in the Study Area

Figure 1 shows that a farmer may hold several units of farm land under different types of tenure as indicated by the multiple responses of the farmers. Land can be acquired in the southeast agro-ecological zone by purchase as indicated by 87.6 percent of the crop farmers. Purchase has the literal meaning which implies that the land holder obtained right to the land by paying cash for it. The decisions involved here are as in the exchange of any economic commodity. For example, sale price to bear some relationship to the size, quality and location of the land. Most people prefer to first offer their land to relatives and friends, but there are no restrictions as to whom they can sell to.

Focus group discussion showed that purchase of land occurred in all the villages and it is one of the easiest means of acquiring land in each of the villages. There is no doubt that increasing population on land and exposure of the rural community to urban capital would pave way for greater commercialization of interest in land. There is greater competition for land for both agricultural and urban use, partly due to increasing population and need for urban development.

Moreover, discussion with the farmers showed that land obtained by purchase has all the attributes of inherited land. Investigation revealed that farmers are generally reluctant to sell land, that land is apparently the last asset they would want to dispose of. Nevertheless, they are often compelled by economic needs to sell or pledge their land. In effect, purchase may well be an indicator of indigency in the rural sector. Virtually all farmers who brought land claimed the previous owners sold them their land because they have some financial problems

Inheritance is the easiest method of farm land acquisition as indicated by 90.6 percent response. Inheritance refers to the customary transfer of land to heirs on the death of the landholder. Inheritance is unquestionably among the most important ways of acquiring land in the area. It ranks second to purchase. The title acquired under inheritance is permanent and heritable. The holder of such title exercises full management rights over his holdings.

Other land acquisition methods indicated are rent (68.3%), allocation (70.6%), lease (56.6%), pledge (43.38), gift (34.3%), and exchange with 47.3% response. Rent occurs when land is acquired on negotiated terms involving agreement as to the amount of money to be paid and duration of use. When land is acquired by rent, the farmers control is limited and includes only the right to make physical use of the land and the income from it. The holder does not have permanent title to it or power of alienation in any way. Usually, he does not even have the right of growing tree crops on the land.

Pledge implies the landholder has acquired the right of use by giving a money loan. He would thus reserve the right of use of the land until the loan he guarantees is repaid. He never becomes the owner of the land unless by agreement. He is entitled to assume ownership title after a stipulated time, or if the owner decided to regard the transaction as a sale. Basically this confers temporary title similar to loan or rent.

Allocation refers to land allocated by the village head to members of the village and others on the basis of need and right as bonafide members of family. The land here is community owned and every individual member is entitled to have a share in this land. Widows of dead members are allocated land for farming to raise the children of their deceased kinsman. Wherever the family lands are, all bonafide members are entitled to them. Access to land here is customarily governed and individuals have use rights. Exchange of land exist in the study zone as two consenting parties mutually transfers to each other one or more parcels of land. This exchange is either to place the transferred plots closer to the location of the new owners, to give one party of new, larger and desired building site or cultivation space, or some other reasons. Payment of money may or may not be involved and ordinarily the exchange is permanent. Key informants in the area said though it is practiced, but not common nowadays because of the high value of speculative lands.

Again, in some parts of Imo and Abia States, land is used in exchange for the murder of a person by the offending party in order to compensate for the life lost. As in the case of land exchange, land acquired as a gift has been relatively rare in Nigeria in recent times. In times past, it was widely done. But due to scarcity of land and population pressure, it is rarely done these days. It was also observed during discussion that many of the farmers have given part of their holdings to other farmers by selling, pledge, and renting them out as those who sold or pledged land said they did so to solve some financial problems which involved raising small amounts of money such as bride price money, labour, tax or even for subsistence needs. There was no evidence that land was sold or pledge for production purposes. This means that farmers still find it easier to gain access to land through the customary land tenure arrangement rather than formal state laws, especially in the rural and peri-urban areas where farming activities take place. This is as a result of the strong traditional attachment to land which farmers and rural inhabitants still hold. The above findings are in line with Famoriyo (1980) and Ifediora, (2014) who stated that the basis of landholding in Nigeria is the family. Family heads grant land-use rights for food production to members of the family, as well as to "strangers" who are found worthy in the community at large. The grants of land made to the individual entitles him and his children after him to use the land. Neither the grantee nor his children may alienate the land. When an individual land user dies, other family members continue use of the land.

In eastern Nigeria, private individuals as well as institutions exercise ownership right according to customary and statutory land tenure. Individuals become entitled to parts of family land by virtue of birth into a family or clan. They can also enjoy absolute rights of ownership on the basis of being the first to clear and occupy a plot of land. Under statutory law, any individual or registered group can own land. Bishop and Toussaint (1958) identified the following categories of land users: owner-occupier, share tenants, cash tenants, mortgage owners and part owner. Timmons (1943) highlighted the following social relations in the study area: customary landlords/customary tenants, pledgers/pledgees and landowners/farm labourers. The most common modes of land acquisition in eastern Nigeria are through purchase, inheritance, and in some areas rent and pledging among others. Acquisition through gift is less common, and even less common is acquisition through marriage or borrowing. In a typical community, the right to inherit land is the major form of social security. Land acquisition by inheritance is usually patrilineal, but in rare cases a matrilineal system is practiced. The amount of land inherited depends on position in the family and the number of wives and brothers. In monogamous families, the eldest son (okpara) has a preferential allocation of residential plot, and inherits his father's homes as the new family head. As the population increases, fragmentation of plots occurs. In rare cases, a system of primogeniture is adopted whereby only the eldest son inherits. If there is no son, the deceased man's wife holds the land in trust until she dies, when it is inherited by the man's younger brother. A man's personal land, family land, and common land are all inheritable (Arua and okorji, 1997).

Women normally cannot own or inherit land under customary law, although they retain use rights during their lifetime as long as they remain in the husband's household (Arua, 1978). When a man dies, his farmland is shared out according to the laws and customs of the community. Clans are permitted to administer, supervise, project and finally partition the landed property among the heirs of the deceased (Nzimiro, 1973).

Land right systems in study area

Again, the farmers have several rights to land depending on the tenure type as well. Figure 2, shows that usufructuary right (use right) is the most common type of right to farmers as indicated by 81.6 percent response. This form of right allows an individual farmer right to use the said land for the period agreed upon only after which, the land reverts to its original owner. Other forms of rights are control right (53.3%) and transfer right (44.6%) which applies to individuals who have absolute right to the land. These individual farmers can sell, pledge, lease and transfer, the land to others. They can also exclude or prevent others from using the land. Discussions with key informants show that customary land rights established the basis for access to land resources and the opportunity to use land for productive purposes. Anyone wishing to cultivate a field or an area of land has to seek permission from the village chief or the eldest male member of the area, who will either allocate a field or suggest a family that can be approached for the right to use one of their fields for any purpose.

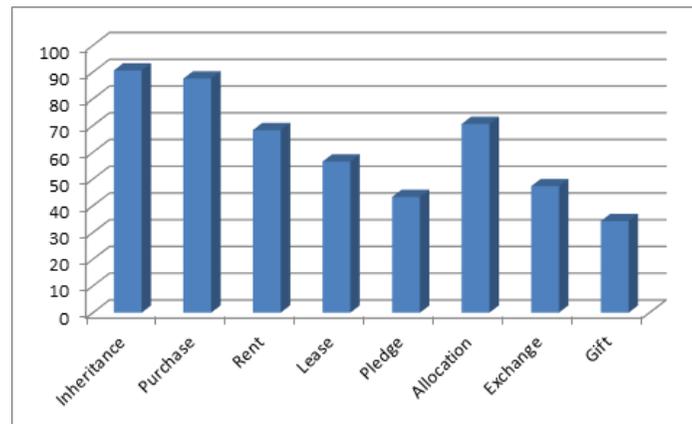


Figure 1: Land tenure/right systems in study area (Field survey, 2016).

Several changes have taken place in the land tenure and right systems. The cultural/customary procedures and rules are eroding with the introduction of modern tenure brought about by formal state laws and selfish individual in authority. The pastoralists see land and pasture as free gift of nature without a human owner. They encroach lands and settlements claiming that the farmers should not control them. Without recourse to customary rules, they enter any type of land to graze their animals. The farmers, who are the original owners feel slighted and not recognized by the nomads. In the process of preventing those (nomads) from use of the land, conflicts occur.

To corroborate the results above, the Focus Group Discussion and discussion with key informants revealed that land becomes a family property by first clearing and settling on it. According to them, fore-fathers simply cultivated unused land over which nobody had established claim. This gave them absolute right of ownership on the basis of being the first to clear and occupy it. This agrees with Amaechi (1987) that initial acquisition of land was accomplished by settlement on virgin land by a group of individuals. Individuals subsequently became entitled to parts of family land by virtue of birth into the family or clan (Arua and Okorji, 1997). The interview held with key informants indicated also that a farmer may hold several units under different land tenure arrangement. These include purchase, inheritance, rent, pledge, allocation, exchange and gift and these confer different land right systems.

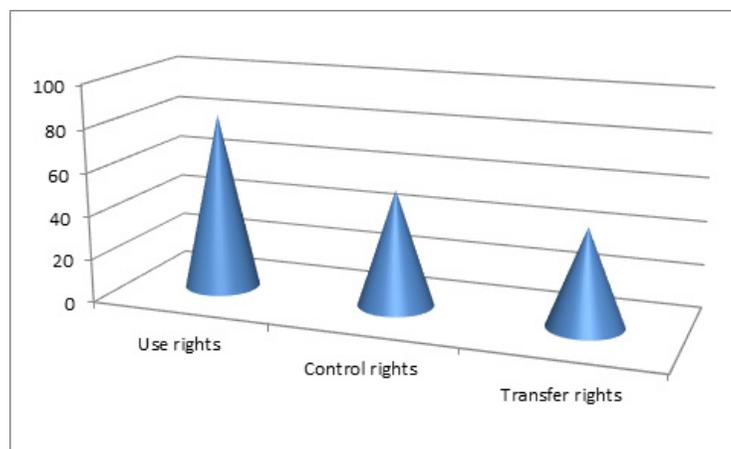


Figure 2: Land right systems in study area (Field survey, 2016).

Conclusion

This research result showed that a farmer could hold several plots of farm land under different tenure systems. The predominant tenure regimes included inheritance with 90.6% and purchase with 87.6%. Rent, pledge, lease, gift, allocation and exchange were other

forms of land tenure. The rights systems were use right, control and transfer rights. The fact that land is controlled customarily angers the pastoralists who could not seek permission from the native owners before use of land. The native owners see this as a neglect of their status, thus confronting the pastoralists who fight back. It is recommended that the land Use Decree of 1978 should be reviewed to address especially issues of land tenure; use and transfer of land, for easy understanding and implementation.

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