

FEDERAL REPUBLIC OF NIGERIA

Personal ownership of land in Nigeria is recognized if the relevant law and custom of an area permit it. In addition, if the division of family-owned land is evident, this usually signifies an end to the communal or family ownership of the land.¹ Some English laws are still applicable in areas where customary property law is not applicable.

COUNTRY DATA

Population (per 1000):

*Total in 2004*²: 137,253

*Rural in 2002*³: 65,545

*Urban in 2002*⁴: 55,367

*Natural Resource Dependent Populations*⁵: 38,094

Indigenous (Original Long-Term Occupants):--

Land Use:

*Permanent Crops (1000 Ha, 2002)*⁶: 2,538

*Permanent Pasture (1000 Ha, 2002)*⁷: 39,200

*Forests and Woodlands (1000 Ha, 2000)*⁸: 13,517

*Forests Cover*⁹ (in 2000) 14.8% of land area

*Protected Areas (1000 Ha, 2003)*¹⁰: 5,502 (6.0% of land area)

*Non- Arable and Non- Permanent (1000 Ha, 2002)*¹¹: 58,077

*Agricultural Area (1000 Ha, 2002)*¹²: 72,200

*Arable and Permanent Crop (1000 Ha, 2002)*¹³: 33,000

*Arable Land (1000 Ha, 2002)*¹⁴: 30,200

State Land Classification:

*Protected Areas (1000 Ha, 2003)*¹⁵: 5,502 (6.0% of land area)

Coastal Line: 853km¹⁶

¹ N.O. Adedipe, J.E. Olawoye, E.S. Olarinde and A.Y. Okediran, Rural Communal Tenure Regimes and Private Landownership in Western Nigeria, Land reform 1997/2: Tenure regimes, W.Nigeria, <<http://www.fao.org/waicent/faoinfo/sustdev/Ltdirect/LR972/w6728t13.htm>>.

² "Nigeria" CIA World Fact Book. Viewed 09/15/06

<<https://www.cia.gov/cia/publications/factbook/geos/ni.html#People>>

³ FAO, FAOSTAT, Agricultural Data, population statistics <<http://faostat.fao.org/?alias=faostatclassic>>

⁴ *Id.*

⁵ FAO, FAOSTAT, Agricultural Data, population statistics <<http://faostat.fao.org/?alias=faostatclassic>>

⁶ FAO, FAOSTAT, Agriculture Data, land use statistics <<http://faostat.fao.org/?alias=faostatclassic>>

⁷ *Id.*

⁸ Food and Agriculture Organization of the U.N.: The State of the World's Forests 2003. Viewed 09/15/2006

<http://www.mongabay.com/forest_types_table.htm>

⁹ *Id.*

¹⁰ EarthTrends Country Profiles. Viewed 09/15/2006

<http://earthtrends.wri.org/pdf_library/country_profiles/bio_cou_566.pdf>

¹¹ FAO, FAOSTAT, Agriculture Data, land use statistics <<http://faostat.fao.org/?alias=faostatclassic>>

¹² *Id.*

¹³ *Id.*

¹⁴ *Id.*

¹⁵ EarthTrends Country Profiles. Viewed 09/15/2006

<http://earthtrends.wri.org/pdf_library/country_profiles/bio_cou_566.pdf>

Environmental and Human Rights International Agreements:

Nigeria is Party to the following international agreements: UN Convention on Biological Biodiversity, the Convention on Climate Change, Desertification Convention, Convention on Trade in Endangered Species of Wild Fauna and Flora, Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and their Disposal, Law of the Sea Convention, Marine Dumping, Marine Life Conservation, Nuclear Test Ban, Nuclear Safety, Vienna Convention for the Protection of the Ozone Layer, Wetlands, Oil Pollution Preparedness Marine and Coastal Environment, World Cultural and Natural Heritage, Continental Shelf, Fishing and Conservation of Living Resources, Joint Regulations on Fauna and Flora, Prohibition on Poisonous Gases and Bacteriological Methods of Warfare, International Covenant on Civil and Political Rights, The African Charter on Human and Peoples' Rights, The International Covenant on Economic, Social and Cultural Rights.

Current Environmental Issues:

- periodic droughts
- soil degradation
- rapid deforestation (due to uncontrolled logging)
- desertification
- air and water pollution
- oil pollution, oil spills (water, air and soil)
- industrial pollution, municipal waste generation and urban decay
- loss of arable land
- loss of flora and fauna
- rapid urbanization and population pressure
- erosion (coastal, marine gully, sheet erosion and land subsidence)
- flooding (coastal, river and urban flooding)
- inappropriate agricultural practices
- destruction of watersheds
- loss of biodiversity
- soil-crust formation caused by loss of water
- climatic change/ozone layer depletion

CONSTITUTION¹⁷**Article 7:**

- (1) The system of local government by democratically elected local government councils is under this Constitution guaranteed; and accordingly, the Government of every State shall, subject to section 8 of this Constitution, ensure their existence under a Law which provides for the establishment, structure, composition, finance and functions of such councils.
- (2) The person authorised by law to prescribe the area over which a local government council may exercise authority shall-
 - a. define such area as clearly as practicable; and

¹⁶ "Nigeria," Microsoft Encarta Online Encyclopedia 2004
<http://encarta.msn.com/text_761557915__1/Nigeria.html>

¹⁷ Nigeria Constitution. Available at:
<<http://www.nigeria-law.org/ConstitutionOfTheFederalRepublicOfNigeria.htm>>

- b. ensure, to the extent to which it may be reasonably justifiable than in defining such area regard is paid to –
 - (i) the common interest of the community in the area;
 - (ii) traditional association of the community; and
 - (iii) administrative convenience.

Article 15:

- (1) The motto of the Federal Republic of Nigeria shall be Unity and Faith, Peace and Progress.
- (2) Accordingly, national integration shall be actively encouraged, whilst discrimination on the grounds of place of origin, sex, religion, status, ethnic or linguistic association or ties shall be prohibited.
- (3) For the purpose of promoting national integration, it shall be the duty of the State to:
 - a. provide adequate facilities for and encourage free mobility of people, goods and services throughout the Federation.
 - b. secure full residence rights for every citizen in all parts of the Federation.

Article 19:

The foreign policy objectives shall be –

- c. respect for international law and treaty obligations as well as the seeking of settlement of international disputes by negotiation, mediation, conciliation, arbitration and adjudication; and

Article 20:

The State shall protect and improve the environment and safeguard the water, air and land, forest and wild life of Nigeria.

Article 21:

The State shall -

- a. protect, preserve and promote the Nigerian cultures which enhance human dignity and are consistent with the fundamental objectives as provided in this Chapter;

Article 42:

- (1) A citizen of Nigeria of a particular community, ethnic group, place of origin, sex, religion or political opinion, shall not, by reason only that he is such a person: -
 - a. be subjected either expressly by, or in the practical application of, any law in force in Nigeria or any executive or administrative action of the government, to disabilities or restrictions to which citizens of Nigeria of other communities, ethnic groups, places of origin, sex, religions or political opinions are not made subject; or
 - b. be accorded either expressly by, or in the practical application of, any law in force in Nigeria or any such executive or administrative action, any privilege or advantage that is not accorded to citizens of Nigeria of other communities, ethnic groups, places of origin, sex, religions or political opinions.

- (2) No citizen of Nigeria shall be subjected to any disability or deprivation merely by reason of the circumstances of his birth.

Article 44:

(1) No moveable property or any interest in an immovable property shall be taken possession of compulsorily and no right over or interest in any such property shall be acquired compulsorily in any part of Nigeria except in the manner and for the purposes prescribed by a law that, among other things –

- a. requires the prompt payment of compensation therefore and
- b. gives to any person claiming such compensation a right of access for the determination of his interest in the property and the amount of compensation to a court of law or tribunal or body having jurisdiction in that part of Nigeria.

POLICIES AND LAWS

Land Use Decree Act (1978)¹⁸

This act vests all land in the state through the office of the military governor of each state. The land is held in trust and administered through the government's authority to the use and benefit of all Nigerians.¹⁹ The opinion was that all forms of customary tenure systems were backward and not able to follow the demands of a fast changing agricultural sector.²⁰

Article 5: Principles of Land Tenure, Powers of the Governor and Local Governments and Rights of Occupiers

(1) It shall be lawful for the Governor in respect of the land, whether or not in an urban area—

- a. grant statutory rights of occupancy to any person for all purposes
- b. to grant easements appurtenant to statutory rights of occupancy;
- c. to demand rental for any such land granted to any person;
- d. to revise the said rental—
 - (i) at such intervals as may be specified in the certificate of occupancy, or
 - (ii) where no intervals are specified in the certificate of occupancy at any time during the term of the statutory right of occupancy;
- e. impose a penal rent for a breach of any covenant in a certificate of occupancy requiring the holder to develop or effect improvements on the land, the subject of the certificate of occupancy and to revise such penal rent as provided in section I9 of this Act;

¹⁸ Land Use Act (1990) <<http://www.nigeria-law.org/Land%20Use%20Act.htm>>.

¹⁹ See FN 1

²⁰ Philippe Lavigne Delville, Harmonising Formal Law and Customary Land Rights in French-Speaking West Africa, in *Evolving Land Rights, Policy and Tenure in Africa*, Box 5.4, p.105 (C. Toulmin and J. Quan).

Article 6: Power of Local Government in relation to land not in urban areas

- (1) It shall be lawful for a Local Government in respect of land not in an urban area—
- a. to grant customary rights of occupancy to any person or organisation for the use of land in the Local Government Area for agricultural, residential and other purposes;
 - b. to grant customary rights of occupancy to any person or organisation for the use of land for grazing purposes and such other purposes ancillary to agricultural purposes as may be customary in the Local Government Area concerned.
- (2) No single customary right of occupancy shall be granted in respect of an area of land in excess of 500 hectares if granted for agricultural purposes, or 5,000 hectares if granted for grazing purposes, except with the consent of the Governor.

Article 14: Exclusive rights of occupiers

Subject to the other provisions of this Act and of any laws relating to way leaves, to prospecting for minerals or mineral oils or to mining or to oil pipelines and subject to the terms and conditions of any contract made under section 8 of this Act, the occupier shall have exclusive rights to the land the subject of the statutory right of occupancy against all persons other than the Governor.

Communal Land Rights Vesting in Trustee Law of Western Nigeria was enacted in 1959, as a consequence of repeated abuses by tribal chiefs. This law separated the traditional chiefs of their customary powers to manage the land. It further vested all these powers in a board of trustees, which is appointed by the government. As a consequence, the government will be responsible for the dealings in communal land matters.²¹

Oil Pipelines Act (1990)²²**Article 21: Compensation where local community interested**

Where the interests injuriously affected are those of a local community, the court may order the compensation to be paid to any chief, headman or member of that community on behalf of such community or that it be paid in accordance with a scheme of distribution approved by the court or that it be paid into a fund to be administered by a person approved by the court on trust for application to the general, social or educational benefit and advancement of that community or any section thereof.

Grazing Reserve Law (1965)

The 1965 Grazing Reserve Law was enacted to give legal backing to the acquisition of grazing reserves. This gave the then regional government and native authorities powers to acquire native land and constitute it into grazing reserves. The 1978 Federal Land Use Decree further extended this law and specified the categories of land that could be used for grazing and agricultural purposes.

The National Agricultural Policy of 1988 indicated that a minimum of 10% of the national territory (about 9.83 million hectares, of which 20% was to be low lying fadama) would be acquired and constituted into grazing reserves for lease allocation to herders. It also specified the limits of authority of the different levels of the government.

Although this represents a conscious effort by the central government to protect pastoralism, the policy has not been enforced. As a result, only about 313 grazing reserves covering a total of 2.82 million ha, had been acquired. Of these, about 52 reserves were gazetted by 1998, mainly in the northern states.

²¹ See FN1 at 3.

²² Oil Pipeline Act (1990) <<http://www.nigeria-law.org/Oil%20Pipelines%20Act.htm>>.

Despite 'gazettement', almost all reserves have been encroached by crop farmers and other users. The responsible authorities have failed to reserve fadama lands for grazing purposes.

While the comprehensive legal provisions should provide an enabling environment for pastoral development, they have not been fully implemented. This can be attributed either to political motivation on part of the authorities or ineffective lobbying from pastoral groups.²³

COMMUNITY MANAGEMENT AGREEMENTS

The government of Nigeria received a loan in 2000 from the World Bank for a community-based poverty reduction project.²⁴ The purpose of the project is to increase and strengthen the participation of communities in various programs. In earlier programs, many communities, especially those in rural areas lacked technical skills, capacity and adequate funding to design, implement and continue programs.²⁵ Acknowledging the need to incorporate communities further, the government came up with a poverty reduction strategy document called “Community Action Program for Poverty Alleviation” (CAPP), prepared by the National Planning Commission (NPC). CAPP was adopted by the government in 1996, followed by the development of a poverty reduction framework, which will be finalized soon.

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²³ Dr. Junaidu A. Maina, Management of Common Property Resources for Sustainable Livestock Production in Nigeria, Paper presented at the DFID Workshop on Land Tenure, Poverty and Sustainable Development in Sub-Saharan Africa 16th -19th February 1999 U.K.

²⁴ World Bank, Community-Based Poverty Reduction Program, Report No. PID8969.

²⁵ *Id* at p.2.

- Dr. Junaidu A. Maina, Management of Common Property Resources for Sustainable Livestock Production in Nigeria, Paper presented at the DFID Workshop on Land Tenure, Poverty and Sustainable Development in Sub-Saharan Africa 16th -19th February 1999 U.K.
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