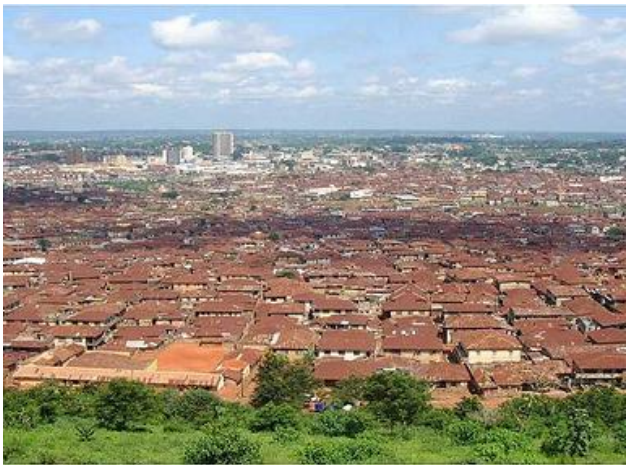

Improving Land Sector Governance in Nigeria

Implementation of the Land Governance Assessment Framework

Synthesis Report
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1 Introduction

With a population of more than 160 million people and significant reserves of natural resources, Nigeria has the potential to build a prosperous economy and well-functioning cities. However, key weaknesses in the land governance system represent potentially significant constraints on the country's ability to realize its full economic and social potential. Although recognition of land rights is high, formal registration of those rights remains extremely low, and the cost of registration is unaffordable for many land users. Nigeria's vibrant cities lack updated master plans to guide their growth and development, resulting in a proliferation of informal development. The management of public land still suffers from questions of transparency and appropriate compensation for expropriation, and land disputes brought before the court system often take years.

In order to evaluate and prioritize these issues more systematically, country experts utilized the Land Governance Assessment Framework (LGAF) developed by the World Bank and its partners. Indeed, LGAF analysis suggested that Nigeria's scores are low in comparison with other countries on the continent. This chapter synthesizes and summarizes the key findings of the LGAF process in Nigeria and outlines proposals for moving forward. The next section explains the methodology of the LGAF, while the third section provides background information on Nigeria and key issues in its land governance. The fourth section presents the results of the Nigeria LGAF panel discussions and validation meetings. Part five offers recommendations for prioritizing land policy improvements, and the final section concludes.

2 LGAF Methodology

The LGAF is a diagnostic tool that is implemented in a collaborative manner at the local level in order to benchmark land governance. This process helps to establish a consensus and priority actions on (i) gaps in existing evidence; (ii) areas for regulatory or institutional change, piloting of new approaches, and interventions to improve land governance on a broader scale; and (iii) criteria to assess the effectiveness of these measures. LGAF helps put in place a structure and process to systematically track progress in improving land governance over time.

The core version of the LGAF consists of 21 Land Governance Indicators (LGIs) covering 80 dimensions of land governance, grouped into five broad thematic areas:

1. Legal and institutional framework (LGI 1-6)
2. Land use planning, management, and taxation (LGI 7-11)
3. Management of public land (LGI 12-15)
4. Public provision of land information (LGI 16-19)
5. Dispute resolution and conflict management (LGI 20-21)

The LGAF also allows the inclusion of optional thematic modules that may be relevant to a specific country context. The Nigerian LGAF process included a module on large-scale land acquisition (LSLA), which contains 16 additional parameters. Each LGAF dimension is rated on a scale from A to D, with scoring options based on international best practice.

The LGAF was conducted by a five person team that included a County Coordinator and four Expert Investigators with backgrounds in law, regional planning, surveying, and agricultural economics. It was organised in close coordination with the Presidential Technical Committee on Land Reform (PTCLR), whose mandate is explained in Section 3.2.3. The assessment began in February 2011 with the preparation of background reports on land governance in Nigeria using existing literature and interviews with relevant professionals. The LGAF team then conducted nine one-day panels covering the thematic areas and LSLA module, with 3 to 5 experts each. A total of 37 experts from the public and private sectors took part in the panels. Panel members were asked for their own preliminary ratings for the LGIs, which were then discussed until the panel achieved consensus in the scoring of each dimension. A technical validation workshop and a policy dialogue were held over two days in November 2011 in Lagos. The next step will be to apply the LGAF at the state level.

3 Overview of Land Policy Issues in Nigeria

3.1 Nigeria: Background Information

3.1.1 Economy and geography

With over 160 million people, Nigeria is the most populous country in Africa. Nearly half of Nigerians live in cities, and population densities vary widely (from about 41 people/km^2 in Adamawa State to more than 2,480 in Lagos State). Nigeria has at least six cities with populations greater than 1 million, making controlled urbanization a significant challenge for the country.

Additionally, Nigeria is extremely diverse, with more than 350 ethnic groups. Of these, the largest are the Hausa-Fulani, Yoruba, and Ibo, who comprise majorities in the northern, western, and eastern regions respectively.[1] The population is almost evenly split between Christians and Muslims, with less than 2 percent adhering to other religions.

Nigeria is covered by two major types of vegetation – (i) the forest types found in the south and (ii) the savannah types covering the middle belt and northern part of Nigeria. The total amount of rainfall and the length of the wet season decrease progressively from the south to the northern part of the country. In the north, it has been estimated that that about 351,000 ha of land is lost to desertification each year.[2] Thus land management and policies need to reflect the heterogeneity of Nigeria from north to south, not only in terms of population and institutions, but also geography and climate.

Nigeria's GDP stood at 244 billion USD in 2011, and in 2012 the country experienced 6.7 percent growth in real GDP at factor cost.[3] Oil remains a critical component of the economy, accounting for 95 percent of foreign exchange earnings and 65 percent of budget revenues.[4] Indeed, since crude oil production took off in the early 1970s, the role of agriculture in the Nigerian economy has declined significantly. As a result, the country which was once food self-sufficient is now heavily dependent on food imports. Nonetheless, as oil production has contracted due to unrest in the Niger Delta region, economic growth since 2006 has been driven by the service and agricultural sectors.[5]

3.1.2 Governance system

Nigeria has witnessed a tumultuous political history since achieving independence from the United Kingdom in 1960, with civil war breaking out over the secessionist Biafra region in 1967. A succession of military coups began in the 1970s, formally ending with the restoration of civilian rule in May 1999. Not until 2007 did the country experience a peaceful transition of power from one civilian leader to another.

Today, Nigeria has a federal system of government consisting of three tiers: federal, state, and local. Each tier has independent executive, legislative, and judicial branches. At present,

[1] Economist Intelligence Unit, "Nigeria Country Profile," 2009.
[2] Lester, 2005.
[3] Economist Intelligence Unit, "Nigeria Country Report," June 2013.
[4] OPEC Annual Statistical Bulletin 2012. http://www.opec.org/opec_web/en/about_us/167.htm
[5] Economist Intelligence Unit, "Nigeria Country Report," June 2013.

there are 36 states and 774 local government units. The capital, Abuja, is located within an area known as the Federal Capital Territory (FCT). Enactments passed by the federal government are designated as *acts*, while those passed by the state legislature are referred to as *laws*. Those passed by the local government legislature are referred to as *by-laws*.

Over the past decade and a half, the judiciary has regained some of the independence it lost under military rule; however, issues of corruption and insufficient funding remain. Many members of the National Assembly have likewise been implicated in corruption schemes and criticized for the slow passage of legislation. The legislature tends to be less supportive of market reforms than the executive.[6]

3.2 Land Issues and Land Policy

3.2.1 Tenure typology

The four main categories of tenure in Nigeria are state/public, private, and communal lands, as summarized in the table below:

Table 1: Typologies of land tenure in Nigeria

Land Type	Total Land Area	% Total Land Area	Total Population	% Total Population
State/Public	138,565-184,754 km^2	10-15%	14-21 mil.	15-20%
Private	644,638-692,826 km^2	70-75%	105-112 mil.	75–80%
Communal	92,377 km^2	5%	7 mil.	10%

State/Public Landholding
This category of tenure consists of land whose ownership resides with the government – whether federal, state, or local – and the use of which is exclusively reserved for the general public beyond the claim of any private individual or group. State/public lands include plots used by a variety of government departments for a range of purposes, including health, housing, agriculture, recreation, education, roads, commercial development, industrial development, open space, and administration. Such land may be acquired through the revocation of existing private or communal rights to a plot of land (see Section 4.3), or through the donation of land by individuals, families, or communities for public use.

Private Landholding
Private landholding consists of: (i) family landholding; (ii) individual landholding; and (iii) customary tenancy. Family landholding is firmly established in both urban and rural communities.[7] The initial right to private landholdings may have arisen from first settlement, partition, distribution, or purchase. For this tenure type, there is usually no formal title to evidence ownership, but reliance on long, undisturbed acts of possession. A family may voluntarily register at the land registry.

[6] Economist Intelligence Unit, "Nigeria Country Profile," 2009.
[7] Since the decision of Nigerian court in Lewis v. Bankole the right of family as a significant mode of holding, owning and using of land is well recognised under the Nigerian law.

Individual landholding is becoming more common since the monetisation of the economy. Aside from purchasing land owned by others, an individual can also get an allocation from the government under the State Land scheme. Individual landholding is the principal form of landholding in urban areas.[8]

A private owner can secure his/her recognized rights by registering land or by obtaining a certificate of occupancy. When a private owner decides to create subsidiary tenure for another person, it is called a customary tenancy. This kind of private right to land confers the right to use land for an indefinite period to another.

Communal Landholding

Communal landholding implies that title to land is vested in the community.[9] The chief, or traditional ruler, is responsible for managing the land and administering it for the benefit of the community.[10] Generally, a member has equal rights to a portion of communal land upon which to build and to farm. No individual member of the community can claim ownership of any portion of such land as their own, but he/she does enjoy exclusive usage. Consequently, the traditional ruler cannot reallocate the land to another member without consultation and agreement of the original allottee. Today, communal landholding is becoming less common in urban and peri-urban areas, for two main reasons: First, the state has been acquiring land under various statutes for public use. Second, urban sprawl has led to many people purchasing lands within villages adjoining major cities.

3.2.2 History and current status of land policies

Prior to the British colonial administration, land management in Nigeria was based on the customs and traditions of various ethnic groups.[11] The right to allocate, transfer, and manage land was vested in the family head or traditional ruler.[12] Members only had the right of use to the land, which was heritable.[13] Although the rules of inheritance varied among ethnic groups, partible inheritance among male children was the most prevalent; [14] only a few ethnic groups allowed both male and female children to inherit land.

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[8] See Park (1963), Sources of Nigerian Law, p. 65.

[9] The decision of the Privy Council in Amodu Tijani v. Secretary of Southern Nigeria recognized the age long custom of Nigerian people to own, hold and use land in Nigeria communally. Similarly, interest under communal land can be registered by the community under the Land Instrument Law of each State or under the Registration of Title Law.

[10] For a seminal treatment of this holding, see Lord Haldine remark in Amodu Tijani's Case. See also GB Coker, Family Property Among the Yorubas (1966) 40; TO Elias, (1971) Nigerian Land Law 147. Chapter 5, CO Olawoye, Title to Land in Nigeria (1974).

[11] Otogbolu v Okeoluwa & Ors. (1981) 6 - 7 S.C.62, 76; Lewis v Bankole (1908) 1 N.L.R. 81 at 100 -101.

[12] All types of customary land tenure were guided by the principle that land belongs to God, the right of use belongs to the ancestors, the living and future generations. Craigwell – Hardy, E. S. (1939): The religious significance of Land. Royal Africa Society, 38: 114 – 123. In isolated cases only, land was owned by an individual. - AmoduTijani Ibid

[13] Famoriyo, S (1973): Land Tenure and Food Production in Nigeria. Consolidated report of the Land Tenure Inquiries 1968/1969, 1969/1970 and 1970/1971. Lagos, Government of Nigeria. Nwosu, A. C. (1991): The Impact of the Large-Scale Acquisition of Land on Small Holder Farmers in Nigeria. In C. Doss and C. Olson, eds. Issues in African Rural Development. Morrilton, AR, USA, Winrock International Institute for Agricultural Development; AmoduTijani v Secretary of Southern Nigeria (1921) A.C. 399; GB Coker, Family Property Among the Yorubas(1966) 40; Elias (n3 above);CO Olawoye Title to Land in Nigeria (1974) 26 - 38; Lewis v Bankole (n4 above).

[14] Very few ethnic groups, such as the Edo, apply "primogeniture" as an inheritance system in which only the first-born son can inherit in order to protect family land from further subdivision at the death of its owner.

In northern Nigeria, the indigenous land tenure system was replaced by Muslim Maliki Law after the area was conquered by the Fulani Caliphate of Sokoto in 1804. Under this system, ownership and control of the land was vested in the ruling class, while those living on the land were only given the right of use.

The colonial administration did not interfere with the existing customary land tenure system *per se*, but superimposed the British land administration laws on it.[15] In Northern Nigeria, the Muslim Maliki law system formed the basis for the Land and Native Proclamation of 1910, which declared all lands as public, to be held and administered by the governor for the common benefit of native peoples. In southern Nigeria, by contrast, land held by families and lineages was recognized, although the acquisition of land by an "alien" required the approval of the governor. Towards the end of the colonial administration, there was growing abuse of the customary tenure system by traditional rulers, who alienated community lands for personal benefit. This was especially the case in Western Nigeria. Although a law was enacted to divest traditional rulers of their customary powers to manage communal land, the law had little effect since the government lacked the means to monitor compliance.

When Nigeria gained independence in 1960, the ordinances enacted by the colonial administration remained in place, along with customary tenure systems. As demand for land increased, land speculators collaborated with *obas* (kings) and elite chiefs to purchase large tracts of communal and family lands.[16] Gradually, it became difficult to obtain land at a reasonable price, a situation exacerbated by the fact that most family and communal lands did not have identifiable boundaries.

In 1977, the military government established a Land Use Panel to examine different land tenure systems and recommend a uniform land policy for the country. This effort resulted in a decree that eventually became the Land Use Act (LUA), which is still the basic legal framework for land administration in Nigeria. The Act was incorporated into the constitution in 1979, and therefore requires a constitutional amendment to be altered.

The LUA sought to unify the land tenure system by extending the northern system to the rest of the country, with the objectives of curbing land speculation in urban areas and promoting investment in agriculture through secure land rights. It vested the management of land with state governors, replacing rights of ownership with rights of statutory occupancy and customary occupancy. Yet the LUA has many shortcomings, prompting a number of researchers, government officials, and members of civil society to suggest amendments and the outright elimination of specific sections of the Act.[17] Some have criticized its attempt to mix customary and statutory law, which requires determined collaboration of parties and expert legal craftsmanship. Moreover, no permanent institutional arrangement was established for its implementation, while the required regulations for its execution were never developed or passed by the National Council of States (NCS).

[15] Adalemo, I. A. (1993), Land Management In Nigeria, in Nigeria, Giant in the Tropics, edited by I. A. Adalemo & J. B. Boba, Gabumo Publishing, Vol. 1, pp 77- 80; Meek, C. K. (1957) "Land Tenure and Administration in Nigeria and the Cameroons," London, HMSO.

[16] Fabiyi, Y. L. (1984): "Land administration in Nigeria: Case studies of the implementation of the Land Use Decree (Act) in Ogun, Ondo and Oyo states of Nigeria." Agric. Admin. 17: 21-31.

[17] See the write-up by the EI on Land Tenure for this study on (i) the myths and realities of the Land Use Act; and (ii) the land use in Nigeria's development are reproduced as Annexes 7.5.1 and 7.5.2

3.2.3 Land management institutions

Under the LUA, much of the responsibility for land management lies with state and local governments. The Act divides all land into one of two categories: rural and urban. Each state is supposed to establish an *ad hoc* body, known as the Land Use and Allocation Committee, to advise the governor on the management of urban land. State governors are authorized to allocate and issue statutory occupancy rights for land in urban areas, as well as all other land under the control of local governments within the jurisdiction of the state. Local government councils are authorized to allocate land and issue customary right of occupancy for lands located within rural areas, and to this end, are expected to establish Land Allocation Advisory Committees. These committees replace the traditional institutions of *oba*-ship and chieftaincies in their roles as managers of communal land. These provisions are summarized in Table 2 below.

Table 2: Summary of the Provisions of the Land Use Act of Nigeria

Land Category	Land Rights	Level of Government	Responsible Body	Relevant Court
Urban	Statutory	State	Land Use and Allocation Committee	State High Court
Rural	Customary	Local	Land Allocation Advisory Committees	Customary Court (South); Area Court (North)

The LUA also prescribes that the State High Court has jurisdiction on matters relating to land in urban areas and land issued with a statutory right of occupancy. The Customary Court (in the South) or the Area Court (in the North) is in charge of customary land matters. The highest court is the Supreme Court.

The primary federal land management institution in Nigeria is the Federal Ministry of Lands, Housing, and Urban Development (FMLHUD). However, several other federal bodies also manage public land to carry out their activities and house ministry staff, including the Federal Ministries of Aviation, Defence, Education, and the Interior, as well as the Federal Capital Territory Authority and the Central Bank of Nigeria. Additional ministries manage government land for infrastructure and natural resources, such as the Federal Ministries of Agriculture and Rural Development, Power, Petroleum, Transportation, Water Resources, and Works.

In addition, in 2009 the federal government established the Presidential Technical Committee on Land Reform (PTCLR), with a mandate that includes:

- Collaborating with states to provide technical assistance for preparing land cadastral inventories nationwide;
- Determining individual "possessory" rights using best practices;
- Encouraging both state and local governments to establish an arbitration mechanism for land conflict resolution;
- Establishing and maintaining a national depository for land title holdings and records in all states and the federal capital territory; and
- Establishing a mechanism for land valuation in both urban and rural areas.

The PTCLR is expected to coordinate the individual efforts of all governments and develop a national land policy, eventually transforming into a National Land Reform Commission. Already, the PTCLR has mapped out a number of strategies: nationwide campaigns; investigating best practices for land titling and registration; and enhancing both institutional and human capacity.

4 Assessment of Land Governance in Nigeria

4.1 Legal and institutional framework

4.1.1 Continuum of rights

Recognition of a Continuum of Rights						
LGI	**#**	**Indicator**	**A**	**B**	**C**	**D**
1	i	Land tenure rights recognition in rural areas	■			
1	ii	Land tenure rights recognition in urban areas	■			
1	iii	Rural group rights recognition			■	
1	iv	Urban group rights recognition in informal areas			■	
1	v	Opportunities for tenure individualization			■	

The LUA protects the rights of Nigerians to the land through the recognition of both customary and statutory occupancy rights.[18] Through these two regimes, the existing legal framework recognizes land ownership rights held by more than 90% of the rural and urban population, according to LGAF participants.[19] Individual customary rights to inheritance, insofar as they are not discriminatory, are recognized and enforced over owned lands. The land rights of rural groups are also recognized. Yet the procedure for securing legal representation for these groups is not regulated by formal legislation, since non-urban group land rights are often held according to local customary rights. Also, some rural groups still do not have their rights recognized, such as migrant Fulani herdsmen who settle intermittently in communities along their grazing routes.

In urban areas, group rights within informal settlements are not recognized, despite the increase in the number of informal settlements from 42 in 1984 to roughly 100 in 2004.[20] In the city of Lagos alone, two-thirds of the population lives in informal settlements scattered throughout the city.[21] The state government of Lagos has established the Directorate of Land Regularization (under the Ministry of Lands) in order to address this problem; applicants can receive their Certificate of Occupancy within 30 working days from the date the Directorate receives evidence of payment of land charges. Yet the bureaucratic requirements for completing the application process may serve to dissuade many residents of informal settlements from pursuing this opportunity.

With respect to tenure individualization, the LUA stipulates that the transfer of the right of occupancy must have the consent of the governor or the approval of the appropriate local government. However, the details of this process vary across states, and in some states may

[18] The ownership rights of lands existing before the enactment of the LUA is also recognized as spelt out in Sections 34 and 36 of the Act.
[19] Many figures reported in percentage terms in this report are derived from the LGAF guidelines for assigning indicator scores from A to D. These are available in the LGAF Implementation Manual, found online at http://go.worldbank.org/ZM84TPLLH0. These numbers should be interpreted as careful estimates, based on the research and analysis of the LGAF team and expert panelists. Where this is the case, the text refers to the LGAF participants as the source of the estimate. Figures coming directly from external sources have been footnoted.
[20] UNCHS/Lagos State Government; UN-Habitat/Lagos State Government, 2004
[21] World Bank (2006). The World Bank Project Appraisal Document for the Lagos Metropolitan Development and Governance Project, 7 June 2006. p. 2; Olajide, O. (2010): Confronting the Lagos Informal Land Use: Issues and Challenges. www.corp.at/archive/ corp 2010_148.pdf 28/7/2011.

take years to complete. The process also lacks transparency: in addition to paying official fees, people are expected to make payment of some gratification to have their documents processed by officials. Indeed, the LUA vested all land (except land vested in the federal government or its agents) solely in the governor of the state, without any accountability mechanism. As a result, governors can allocate property at their discretion. With absolute, arbitrary economic and political power in their hands, governors can easily dispossess their political opponents and farmers. Since the procedures for tenure individualization are neither affordable nor clear, people often do not bother applying.

4.1.2 Enforcement of rights

Enforcement of Rights						
LGI	**#**	**Indicator**	**A**	**B**	**C**	**D**
2	i	Surveying/mapping and registration of claims on communal or indigenous land				■
2	ii	Registration of individually held properties in rural areas				■
2	iii	Registration of individually held properties in urban areas				■
2	iv	Women's rights are recognized in practice by the formal system (urban/rural)				■
2	v	Condominium regime that provides for appropriate management of common property			■	
2	vi	Compensation due to land use changes			■	

Less than 10% of communal or indigenous lands in rural areas have been demarcated, surveyed, and registered, according to LGAF participant estimates. Instead, traditional monuments and natural features are used to indicate the boundaries of indigenous and communal lands. There has been no uniform legal framework for the creation of a national lands registry, and state governors and local government councils have neither the resources nor the expertise necessary to prepare land cadastres. The few structured land recording systems that do exist at the local level are largely ineffective. Titles issued by local councils cannot be registered properly because they lack the precise delineation, size, and location of plots.

Registered lands comprise only 3% of the country's landmass and are located primarily in urban areas. The Nigerian government has taken a few steps to improve the registration system: the PTCLR is preparing a comprehensive inventory of individual land holdings and has undertaken land registration pilots in two states. Individual states will also be encouraged to reorganize their land agencies, especially their land registries, to synchronize with the proposed National Land Depository. Additionally, an indirect compulsory title registration is currently in operation, such that a certificate of occupancy is neither granted nor considered valid until the title is fully registered. Still, the cost and requirements of the registration process – in addition to popular suspicion of the government – dissuade most land users from formalizing their rights.

Nigeria also scores poorly on women's land rights. While the country does not have formal restrictions on land ownership based on gender, informal restrictions still exist. Women do enjoy land ownership rights in the north, particularly via inheritance, but this is often not the case in more southern regions. Similarly, although women in urban areas are generally able to register land in their names, this is less true in rural areas, where indigenous customs tend to

prevail. LGAF participants estimated that nationally, less than 15% of land registered to physical persons is registered in the name of a woman, either individually or jointly.

Ownership and registration of joint property is also recognized, but the arrangement for management and maintenance of such property is not established by law. Similarly, the law states that compensation for land use changes is compulsory; however, the compensation system is unclear, creating room for discretion and corruption in its application.

4.1.3 Mechanisms for recognition of rights

Mechanisms for Recognition of Rights						
LGI	**#**	**Indicator**	**A**	**B**	**C**	**D**
3	i	Use of non-documentary forms of evidence to recognize rights			■	
3	ii	Formal recognition of long-term, unchallenged possession				■
3	iii	First-time registration on demand is not restricted by inability to pay formal fees				■
3	iv	First-time registration does not entail significant informal fees			■	
3	v	Formalization of residential housing is feasible and affordable			■	
3	vi	Efficient and transparent process to formally recognize long-term unchallenged possession			■	

In the absence of documented evidence like receipts and sketches, the LUA permits 'any other sufficient description' of the land to be used to claim ownership rights. In fact, this has been the most prevalent method for claiming land ownership in the country, especially for land owned before 1978. However, non-documentary forms of evidence still hold less legal weight than documentary evidence.

Under the limitation law, the continuous illegal occupation of public land by an individual may be recognized if s/he has been on the land for more than twelve years.[22] Indeed, long-term, unchallenged possession of private and communal land can be registered upon the presentation of evidence of ownership, documented or otherwise.

Overall, the cost for first time registration of land for a typical urban property exceeds 5% of the property value. A number of factors affect the formal and informal costs of registering a title at the state or local level, including the location of the land, its accessibility, its size, and how quickly the title holder wants his/her title to be issued.[23] Part of this high cost is attributable to informal fees, which refer to money given to state officials as well as private land surveyors, estate surveyors, lawyers and other property management officials. The LGAF panel noted that the level of informal fees is approximately equal to the amount paid in formal fees.

Formalization of residential housing is possible. In Lagos State, for example, around 80 percent of applications for the recognition of informal housing are successful. However, the procedure for formalization is not universal, requires the presentation of documents that may be difficult to acquire, and may entail significant formal and informal fees. Combined, these

[22] Section 16(2) of the Limitation Law Cap.118 of Lagos State

[23] Interviews with legal practitioners in Cross-Rivers State and Benue State. This is also the practice in Lagos and states all over the country.

factors present significant barriers to housing formalization, particularly for low-income households, who comprise the majority of residents in informal settlements.

4.1.4 Restrictions on rights

Restrictions on Rights						
LGI	**#**	**Indicator**	**A**	**B**	**C**	**D**
4	i	Restrictions on urban land use, ownership, and transferability		■		
4	ii	Restrictions on rural land use, ownership, and transferability		■		

The LUA does contain provisions land restrictions on the basis of public interest, including restrictions on land transactions, land ownership, ownership types, and the size of holdings. In urban areas, land users cannot posses more than 0.5 ha of undeveloped land, in order to curb land speculation. Any lands held in excess of this limit are to be surrendered to the government. In rural areas, by contract, agricultural land remains under the jurisdiction of local governments, which have a ceiling on the amount of land that can be issued occupancy rights for residential and other purposes (500 hectares for agricultural purposes and 5,000 hectares for grazing purposes). These ceilings may be exceeded with the consent of the governor. In practice, however, land restrictions are rarely implemented and enforced, partly because both governors and local governments often lack information on lands and land users.

4.1.5 Clarity of institutional mandates

Clarity of Mandates						
LGI	**#**	**Indicator**	**A**	**B**	**C**	**D**
5	i	Separation of policy formulation, implementation, arbitration roles		■		
5	ii	Differentiated mandates across institutions			■	
5	iii	Differentiated responsibilities across levels of government		■		
5	iv	Information sharing across institutions		■		

Although there is separation of institutional roles between the state governors and local government councils, some overlap still occurs, often as a result of the ignorance of some institutions of the limits of their responsibilities. Horizontal overlap is particularly a concern across federal agencies that have some land management role. The FMLHUD holds the primarily responsibility for the development of federal land and housing units, but federal bodies like the Federal Airports Authority and the Army also develop housing estates to cater to their staff and to the general public. Similarly, the Registration of Lands Law of the Northern Nigeria (Abuja) and the Lands Registries (Miscellaneous Provisions) Act have established two distinct land registries for federal land, the Abuja Geographic Information System (AGIS) and Federal Land Information System (FELIS), respectively.

Some vertical overlap between levels of government also occurs. State governments have been accused of taking over the responsibilities of the local governments under the excuse that local governments lack sufficient funds and manpower. Cases where the certificates of occupancy given by the federal government are not acknowledged by the state also exist. Still, the respective mandates of federal, state, and local governments is generally clear, and the LGAF panel considered the extent of overlap to be fairly minor.

Information sharing is only possible at the headquarters of the registries located in the state capitals or the federal capital territory. There are many discrepancies in land registration procedures and recorded formats, which render information sharing difficult. Officials have also been known to hoard information with the intention to buy land and later sublease it to the public at exorbitant rates.

4.1.6 Equity and nondiscrimination

Equity and Non-Discrimination in the Decision-Making Process						
LGI	**#**	**Indicator**	**A**	**B**	**C**	**D**
6	i	Clear land policy developed in a participatory manner			■	
6	ii	Meaningful incorporation of equity goals			■	
6	iii	Cost of implementing policy is estimated, matched with benefits, and adequately resourced				■
6	iv	Regular public reports indicating progress in policy implementation				■

Land management policies – including the LUA, regional and urban land management plans within states, and rural land development plans created under the Directorate of Food, Road and Rural Infrastructure (DFFRI) – are rarely formulated in a participatory manner. In the few instances in which public consultations on land policy formulation were carried out, they have been conducted superficially. Often land decisions that affect a certain segment of the population are made without consultation with those affected.

The LUA in particular was enacted without an attempt to engage the public. Thus despite its good intentions, it remains generally unaccepted by the people. Indeed, many Nigerians simply buy and sell land without respect to the provisions of the LUA, whether out of ignorance, apathy, or outright rejection. Some even see the Act as a tool in the hands of government to exploit the people.

The LUA does incorporate some equity objectives, but these are not regularly and meaningfully monitored. The rights of women and indigenous groups in particular are considered, although measures could be improved. Nor does the Act discriminate between groups of people based on gender, status, or ethnic composition. However, the rights of migrants and the landless are not considered.

With regards to the *costing* and *reporting* of land policy implementation, the LGAF panel noted that there are no land use plans for rural lands, and the few existing urban plans are outdated. Thus, in the initial absence of funding land use plans, the panel inferred that there is no budget for implementation and reporting.

4.2 Land use planning, taxation, and management

4.2.1 Transparency of restrictions

Transparency of Land Use						
LGI	**#**	**Indicator**	**A**	**B**	**C**	**D**
7	i	Urban land use plans and changes to these are based on public input			■	
7	ii	Rural land use plans and changes to these are based on public input				■
7	iii	Public capture of benefits arising from changes in permitted land use			■	
7	iv	Speed of land use change				■

The government most often plans for the people, not with them. Some organize hearings in which the real stakeholders at the grassroots level are missing, while others seek public input only as plans are nearing completion. Even when community input is genuinely sought, the final plans may not reflect the wishes of the people. This is the case in both urban and rural areas, although the public in urban areas has a better chance of being heard.

Some public benefits arising from land use changes are captured, albeit not in a definite or regulated manner. State and local governments often capitalize on changes in land use like road improvements and increased commercial activities to raise their annual tenement rates, property taxes, and infrastructure development charges. However, these increases are discretionary, as the precise rationale for a given increase is not documented. Moreover, the payment of these levies does not automatically benefit the payer, as the levies are deposited into a central purse and redistributed without taking cognizance of the areas with the highest contributions.

LGAF participants estimated that less than 30% of land that has had a change in land use assignment in the past 3 years has in fact changed to its designated use. Government agents most often rely on their personal experiences or unreliable planning information to satisfy political exigencies or developers' wishes to formulate changes in land use of an area which is very often unsustainable.

4.2.2 Efficiency in the planning process

Efficiency of Land Use Planning						
LGI	**#**	**Indicator**	**A**	**B**	**C**	**D**
8	i	Process for planned urban development in the largest city				■
8	ii	Process for planned urban development in the next 4 largest cities				■
8	iii	Ability of urban planning to cope with urban growth			■	
8	iv	Plot size adherence			■	
8	v	Use plans for specific land classes (forest, pastures, etc.) are in line with use				■

With more than 8 million people, Lagos is the largest city in Nigeria, and yet it has no up-to-date land use plan. Instead, the 1985 master plan is being used to guide land use management in the city. In recent years, the Lagos State Physical Planning and Development Authority has begun preparing model city plans for different parts of the city, and its restructuring may help improve the planning situation. Still, the need to prepare an accurate master plan covering the

whole of city cannot be overemphasized, as uncoordinated development and the proliferation of informal settlements has rendered service delivery nearly impossible.

Similarly, none of the next four largest cities (Kano, Ibadan, Kaduna, and Port Harcourt) have recent master plans. The most common planning documents are lower level plans, like subject and layout plans, which are typically disjointed and uncoordinated. Like all cities in the country, they are developing in an ad hoc manner.

Significant land use changes are occurring throughout the country, particularly the conversion from residential to commercial premises in urban areas and from agricultural to residential land use in urban fringes and rural areas. In the absence of regional plans and control mechanisms, these changes are largely unchecked and erratic. Urban authorities struggle to cope with the increasing demand for serviced units and land, and yet the country lacks data on urban growth rates.

LGAF participants noted that only 50-70% of residential plots adhere to legislated plot size requirements. Most urban dwellers adhere to these regulations, since land is allocated by the government and by customary owners according to standard measurements. However, land users rarely adhere to the permitted percentage of building cover on a plot of land. Additionally, users of plots along major roads often erect shops illegally in order to generate additional income.

While forest and other rural agricultural lands are typically expected to be 25% of the total land in standard land use plans for any country, such lands cover a meager 9.9% of all land in Nigeria.[24] This situation is due to the absence of a national land use plan and the ineffectiveness of monitoring agencies, with most areas presently being cleared for agricultural cultivation. LGAF participants estimated that more than 50% of lands set aside for specific uses are being used for other purposes.

4.2.3 Speed and predictability

Speed and Predictability						
LGI	**#**	**Indicator**	**A**	**B**	**C**	**D**
9	i	Requirements for building permits are affordable/transparent			■	
9	ii	Time to get building permit			■	

Obtaining a building permit requires the completion of nine separate steps. Although these requirements are technically justified, the cost of completing them is not affordable for many potential applicants. Moreover, the lack of master plans, poor quality of planning equipment, and inadequate staff in planning authorities contribute to a permit process that relies on the discretion of planning officials. The time required to obtain a building permit varies across states, with some states able to issue permits within a week and others requiring more than six months. Virtually all applications for building permits receive a decision within one year.

The effect of this cumbersome process has been to discourage prospective developers from seeking building permits. As a result, there have been numerous illegal developments and building collapses in major cities. In addition, these obstacles may lead not only to the

[24] World Bank (2010) Forest area (% of land area) http://data.worldbank.org/indicator/AG.LND.FRST.ZS 4/8/2011

arbitrary treatment of land users, but also an inefficient allocation of land, which can hinder investment and economic development. Furthermore, an opaque and lengthy process may facilitate the rent seeking behaviour of administration officers to the detriment of land users.

4.2.4 Transparency of valuations

Transparency of Valuation						
LGI	**#**	**Indicator**	**A**	**B**	**C**	**D**
10	i	Clear process of property valuation			■	
10	ii	Public availability of valuation rolls			■	

Nigeria has a dearth of property valuation professionals. Most states rely on non-professionals for property valuations (with the exceptions of Lagos, Kano, Rivers, and Abuja, which have relatively high numbers of valuers). This results in confusion in service delivery, especially in property categorization. The lack of standard rules for valuation also leads to variations in land use charges across and even within states, as well as divergences between published and market values. Without a clear process of property categorization and valuation, tax officials have a fair amount of discretion in carrying out their duties. The LGAF panel underscored that many of this issues may be attributed to insufficient monitoring and enforcement of existing valuation laws, in addition to unlegislated land tax rates.

The tenement edict states that valuation rolls should be publicly accessible. However, most states do not have valuation rolls; even where they exist, they may not be easily accessed by the public, and property owners may be unaware of their responsibilities. Lagos State is an exception in this regard: it maintains a record of properties assessed, and the land use charge office has a list of property valuations and the tax responsibilities of the land users.

4.2.5 Tax collection efficiency

Tax collection efficiency						
LGI	**#**	**Indicator**	**A**	**B**	**C**	**D**
11	i	Property tax exemptions justified		■		
11	ii	Completeness of tax roll				■
11	iii	Assessed property taxes are collected			■	
11	iv	Taxes higher than cost of collection				■

Nigeria has property tax exemptions for religious properties and public buildings, such as hospitals, schools, and other non-profit organizations, under the rationale that these institutions serve the general public and do not earn profits. However, the application of these exemptions is not always consistent. For example, a religious property might be changed to commercial use, and the absence of an effective monitoring agency means that this change might go unnoticed. There are also discretional exemptions such as *gratis*, which is based on the property owner's affiliation with the government. Thus, while many exemptions are justified on equity and efficiency grounds, they are not always applied in a transparent and consistent manner.

Tax rolls are available in most states, although they may not be accessible to the public. These rolls are often outdated, and in some cases they aggregate lands and apply flat rates without considering the type or value of the property. Updating the tax rolls is also difficult

due to extensive informal land transactions and the uncontrolled development of informal settlements. LGAF participants estimated that less than 50% of property holders liable for land/property tax are listed on the tax roll, and only 50%-70% of assessed property taxes are collected. Local governments are often unable to collect taxes, in part because of low quality of professionals in valuation and tax offices. The cost of collection in most cases exceeds the amount collected.

4.3 Management of Public Land

4.3.1 Identification of public land

Identification of Public Land						
LGI	**#**	**Indicator**	**A**	**B**	**C**	**D**
12	i	Public land ownership is justified and implemented at the appropriate level of government			■	
12	ii	Complete recording of publicly held land			■	
12	iii	Assignment of management responsibility for public land			■	
12	iv	Resources available to comply with responsibilities				■
12	v	Inventory of public land is accessible to the public			■	
12	vi	Key information on land concessions is accessible to the public		■		

Public land ownership in Nigeria is justified, as all levels of government hold such land in trust for the public good. The problem lies in management, especially the partial or non-implementation of land-related laws. As noted in Section 4.1.5, some confusion over directives and the lack of supervisory bodies have resulted in overlapping or misplaced land management responsibilities within and across levels of government. For instance, the National Council of States is charged with designating lands as "urban;" to date, however, the Council has failed to exercise this mandate. States have instead prescribed their own conditions. Similarly, state governments often assume the role of granting certificates of occupancy even where the land in question falls under the mandate of a local council. This is partly due to the lack of land registries maintained by local governments.

Government institutions, especially federal agencies, usually know the locations of public lands in their possession throughout the country. Registries in Lagos and Abuja even have records of public lands acquired during the colonial era, dating back to 1863. However, physical identification of state lands on maps and on the ground is still problematic, especially for plots for which the government has no immediate development plans. The lack of demarcation in some areas has led to popular encroachment on state lands.

The LGAF panel noted that only in a few states (notably Lagos, Imo, and the FCT) are land management institutions well-funded, as discussed in Section 4.4.3. Insufficient funding leads to additional problems, like inadequate numbers of and training for personnel.

The public often has poor access to information about government land, particularly given the lack of digitized records in most land registries. Likewise, information on land concessions and lands available for concession tends to be published solely in print media, reducing its accessibility. Moreover, information on concessions remains uncoordinated, since public land

management is fragmented among an array of state institutions. This makes such information even less accessible to the public.

4.3.2 Justification of expropriation

Incidence of Expropriation						
LGI	**#**	**Indicator**	**A**	**B**	**C**	**D**
13	i	Transfer of expropriated land to private interests			■	
13	ii	Speed of use of expropriated land			■	

The LGAF panel noted that between 30% and 50% of lands expropriated in the last three years is used for private purposes, although the percentages vary depending on the land use category. For instance, land expropriated for residential purposes frequently ends up in private hands, while land designated for industrial and educational uses are less frequently transferred to the private sector. Agricultural lands fall between these two, although the share winding up as private seems to be increasing, as in the case of expropriated land acquired by commercial farmers and estate developers in Kwara and Abuja. Indeed, the general view of Nigerians is that expropriation is unfair; it is seen as an example of dispossessing the poor to elevate the rich, since in most cases lands expropriated from lower income groups are allocated to wealthier interests.

Expropriated land is often not transferred to its designated use in a timely fashion. In some cases, funding constraints mean that developers are not able to take effective possession of sites that have been duly acquired and allocated, especially those designated for private estate development. In other cases, lands purchased by the government to curb speculation remain unused for long periods of time, prompting some former owners to resell the land to the unsuspecting public. Similarly, expropriated owners who have not received timely compensation may resume occupation of their plots over time, making it cumbersome to evacuate and develop the sites.

4.3.3 Transparency of expropriation procedures

Transparency of Procedures						
LGI	**#**	**Indicator**	**A**	**B**	**C**	**D**
14	i	Compensation for expropriation of ownership			■	
14	ii	Compensation for expropriation of all rights			■	
14	iii	Promptness of compensation				■
14	iv	Independent and accessible avenues for appeal against expropriation				■
14	v	Appealing expropriation is time-bounded			■	

Overall, Nigeria scores fairly poorly on the transparency of its expropriation procedures. Both registered and unregistered properties may be eligible for compensation, although the amount of compensation depends on the negotiating power of land users and/or their agents and the provisions of the LUA. Thus people with certain unregistered rights – including grazing and gathering forest products – are usually not granted compensation.

The speed at which compensations are paid is also very slow. This may be attributed to poor budgetary allocations to institutions with the responsibility for land acquisition. For example, in the preparation of the 2010 budget, the legislature reduced the original allocation of N400

million to the FMLHUD intended to reduce its backlog of compensation claims – resulting in delays for payments from expropriations dating back to the 1990s. Thus LGAF participants estimated that less than 50% of expropriated landholders receive compensation within one year. Delayed payments leave room for encroachment and erroneous claims to expropriated plots by people within the acquisition area. Inadequate compensation for expropriated and environmentally degraded land is also a recurring issue.

The only available avenue for appeals against expropriation is the Land Use and Allocation Committee, which is under the control of each state government. Under the LUA, no court has jurisdiction to inquire into questions of the amount or adequacy of compensation, which are to be handled by the Committee instead. LGAF participants estimated that a first instance decision has been reached for 30% to 50% of the complaints about expropriation lodged during the last three years.

4.3.4 Allocation of public land

Transparent Processes for Divestiture						
LGI	**#**	**Indicator**	**A**	**B**	**C**	**D**
15	i	Openness of public land transactions				■
15	ii	Collection of payments for public leases			■	
15	iii	Modalities of lease/sale of public land		■		

Generally speaking, land acquisition is meant to be requisitioned through the relevant land ministry at the federal and state levels. For instance, under the Public Private Partnership (PPP) of the FMLHUD, sites are to be advertised in newspapers and in the Federal Tenders (Procurement) Journals, and the applicants are to be thoroughly appraised before a selection is made. However, these types of procedures are not always followed. In some cases, sales or leases of public land are not openly advertised, while in others, only those who can afford to pay an exorbitant premium charge are able to approach the allocating authority.

Allocations of lands intended for residential or commercial use tend to be conducted through open tender or auction, while allocations of land for manufacturing and tourism tend to be allocated through other means. LGAF panelists estimated that land in all use categories tends to be allocated for less than 50% of market prices.

Government policy requires that all lease payments for public land must be collected at the time the offer is accepted, since land charges are an important source of revenue for the government (especially in Lagos State and the FCT). Technically, offers may not be processed further and may even lapse without payment. However, there are still cases in which private parties begin to develop public lands before completing the required documents and processes. This may be attributed to the corrupt practices of certain officials and the poor monitoring of public lands.

With reference to the modalities of lease or sale of public lands, it was noted that instances where public lands (like residential units) are publicly divested at market prices abound in the country.

A survey of fees for public lands across different states suggests that only some types of public land are generally divested at market prices in a transparent process. It is evident that there are different charges for different land uses, and it is difficult to establish common

methods for determining the charges. Many states seem to base their charges on the exigencies of the time. Still, there are no restrictions based on the status of the investor (foreign vs. domestic).

4.4 Public provision of land information

4.4.1 Completeness

Completeness of Registry Information						
LGI	**#**	**Indicator**	**A**	**B**	**C**	**D**
16	i	Mapping of registry records				■
16	ii	Relevant private encumbrances	■			
16	iii	Relevant public restrictions			■	
16	iv	Searchability of the registry	■			
16	v	Accessibility of registry records		■		
16	vi	Timely response to requests			■	

The land registration system in Nigeria is in a parlous state: most registries are physically insecure and could easily be destroyed by water, fire damage, or even insect attacks. Land registries are only functional at the federal level and in a few states. Local government registries are either non-existent or regarded as unreliable, since they issue customary titles that do not contain the full technical survey description of the land concerned. The federal and state land registries are thus the ultimate custodians of valid title documents, as no title is registered unless the appropriate checks have been carried out.

LGAF participants estimated that less than 5% of records for privately held land registered in the registry are readily identifiable in maps in the registry or cadastre. Although an insignificant part of the whole country is registered, all titles that are in the registry can be classified as reliable because they contain complete land records, including the technical and legal description of title registered.

For the presence of records on private encumbrance in the registry, all existing land registries have intelligence sheets where economically relevant information about any land registered is recorded. Thus, as long as a parcel of land is registered, any encumbrance on it is recorded and can be verified at low cost by any interested party. Relevant public restrictions or charges are also recorded, but not in a consistent and reliable manner. Public restrictions and charges like easement rights, building codes, and changes of use may not be readily found in the registry records, perhaps because such restrictions are mostly not plot-specific.

While most land registries are kept on paper, some states have begun to computerize their registries. Still, both types of registries are searchable, using either the name of the landholder or the description of the parcel. Fees for searching or verifying records in the Registry are also relatively affordable, ranging from N500-N5,000 (US$3.10-US$31).

Not all information recorded in the registry is open to the public, due to privities of contract between land holders and the granting authority. Copies or extracts of documents recording property rights can only be obtained by intermediaries (professionals such as surveyors and

lawyers) and by those who can demonstrate an interest in the property (the title holder or his/her nominee), upon payment of the necessary formal fee.

Requests for access to records in the registry also often take a long time, typically longer than one week. Requests are usually made to the minister or commissioner in charge of lands with the attention of the director of lands, and this official procedure often delays the response to requests. Those submitting requests are also required to take the proof of payment to the registry physically after paying the processing fees, which also creates delays. There are also problems of poor infrastructure and manpower.

4.4.2 Reliability

Reliability of Registry Records						
LGI	**#**	**Indicator**	**A**	**B**	**C**	**D**
17	i	Registry focus on client satisfaction				
17	ii	Cadastral/registry info up-to-date				

Most land registries lack standard service procedures, and even where they exist, the processing times for applications are not specified, codified, or made public. Instead, service procedures are at the discretion of officials in the different departments/units in the registry. New registration applications are expected to take fewer than 21 days to process in federal and most state registries;[25] however, it typically takes about 86 days to register a property in the country.[26] The establishment of SERVICOM, a "service compact" reform initiative intended to improve the quality of services in federal institutions, has not yet helped to reduce this delay.

As previously noted, land registry records contain plot descriptions and ownership information. Similarly, most subsequent transactions on land with title documents require the consent of the allocating authority, which implies that registry records can be updated as these transactions are concluded. Despite these provisions, poor infrastructure in the registries makes updating records difficult. Delays in processing times and the cost of official transfers may also dissuade title holders and assignees from conducting subsequent transactions through the government system. This implies that less than 50% of the ownership information in the registry/cadastre is in fact up-to-date.

4.4.3 Cost-effectiveness, accessibility, and sustainability

Cost Effectiveness, Accessibility, and Sustainability						
LGI	**#**	**Indicator**	**A**	**B**	**C**	**D**
18	i	Cost of registering a property transfer				
18	ii	Financial sustainability of registry				
18	iii	Capital investment in the system to record rights				

[25] Federal land registry procedure http://www.felis.gov.ng/faq.asp; Lagos land registry procedure http://www.lagosstate.gov.ng/index.

[26] World Bank, "Doing Business in Nigeria," http://www.doingbusiness.org/data/exploreeconomies/nigeria/#registering-property

Overall, the cost for registering a property transfer may be as much as 20.8% of the property value.[27] It is difficult to assess the financial sustainability of land registries, since most operate within land ministries. Typically, land registries must deposit their revenues into a central treasury, while salaries and other operating costs are paid out of allocations from the ministries' budgets. Thus even registries that generate sufficient revenue to sustain their operations (such as the Federal Land Registry and those in Lagos, Niger, and Ogun States) are limited to budgetary allocations, which are often inadequate. Many registries do not generate sufficient revenues in any case, and sometimes the government does not receive the full revenues it is due because of corruption.

There is little to no capital investment in land records systems. Most registries are housed in dilapidated buildings, with obsolete or poorly maintained equipment. Some federal and state ministries have begun to invest in the computerization of registries, but these investments have been inconsistent and sometimes contractor-driven, without sufficient consideration for the specific needs of the ministry. Internet services are available but unreliable. A range of new capital investments are required to modernize land registration systems.

4.4.4 Transparency of service costs

Transparency of Service Costs						
LGI	**#**	**Indicator**	**A**	**B**	**C**	**D**
19	i	Schedule of fees for services is public			■	
19	ii	Informal payments discouraged		■		

Although the schedule of fees is typically publicly accessible, receipts may not be issued for all transactions, particularly for informal fees charged to fast-track the registration process. Fee procedures also vary throughout the country. Similarly, mechanisms to detect and deal with misconduct in registries do exist, including the Public Service Rules (PSR), Financial Regulations (FR), and SERVICOM, among others. What is lacking, however, is the appropriate execution and enforcement of these regulations and mechanisms. Often, cases are not dealt with systematically or promptly.

4.5 Dispute resolution and conflict management

4.5.1 Assignment of Responsibility for Dispute Resolution

Assignment of Responsibility for Dispute Resolution						
LGI	**#**	**Indicator**	**A**	**B**	**C**	**D**
20	i	Accessibility of conflict resolution mechanisms		■		
20	ii	Informal or community based dispute resolution	■			
20	iii	Forum shopping		■		
20	iv	Possibility of appeals			■	

Land-related conflicts abound in Nigeria. The sale of communal land has led to several litigations because in the absence of formal registration, private landholders can sell the same land to different people simultaneously. Conflicts also arise when families claim the same

[27] Doing Business in Nigeria Report (2011). www.doingbusiness.org/data/exploreeconomies/nigeria/

portion of land as having been allotted to them by the community head. Inter-communal land conflicts can also arise from boundary disputes.

Land conflicts can be resolved through a number of different formal and informal institutions in Nigeria. Formal forums for dispute resolution include customary courts, magistrate courts, state high courts, and alternative dispute resolution centers. Area and customary courts operate at the state level and have the power to resolve conflicts regarding land subject to customary rights of occupancy. They are relatively accessible to rural dwellers and resolve disputes faster and at a lower cost, as their proceedings are less formal. Magistrate courts are similar, but can handle claims exceeding N500 (US$3.3) up to around N10 million (US$65,359.50). Because cases typically involve lawyers, high court proceedings are generally more formal, more expensive, but also more effective than customary courts. The high court in each state retains jurisdiction over disputes involving urban land with statutory rights of occupancy.

Alternative dispute resolution centers include the Citizen Mediation Centre (CMC) and multi-door courthouses, which were introduced to improve access to justice in Nigeria. The CMC has nine centers in Lagos, while multi-door courthouses are available in Abuja, Lagos, Kano, and Cross-River, among other states. CMC services are free and easily accessible for locals. 94% of all the cases handled at the CMC in 2010 were land/tenancy related conflicts.[28] By contrast, multi-door courthouses charge for their arbitration services.

Informal institutions for addressing land-related conflicts include the community or village heads, family heads, family gatherings, and age groups. Such institutions are less expensive than formal ones and thus more accessible. Their primary disadvantages are the use of dialogue in settling disputes and the absence of legal mans of enforcement.

Although parallel avenues for dispute resolution exist, cases cannot be pursued concurrently through different channels. Still, the failure or unsatisfactory resolution of a conflict in the informal institutions often leads to the transfer of such cases to the formal institutions. Additionally, evidence and rulings may be shared between institutions so as to minimize the scope for forum shopping.

It takes an average of 511 days and around 36.3% of the value of a claim to resolve a dispute through the courts, from the time of filing until the delivery of the judgment.[29] The LGAF panel noted that this average might be generous, since an appeal may take more than two years before it is completed. Thus while an appeals process exists, the costs are high and it takes a long time to achieve resolution.

4.5.2 Pending conflict level

Low Level of Pending Conflicts						
LGI	**#**	**Indicator**	**A**	**B**	**C**	**D**
21	i	Conflict resolution in the formal legal system		■		
21	ii	Speed of conflict resolution in the formal system				■
21	iii	Long-standing conflicts (unresolved cases older than 5 years)				■

[28] Citizen Mediation Centre (CMC) 2010: Annual Report
[29] Doing Business in Nigeria Report (2011). www.doingbusiness.org/data/exploreeconomies/nigeria/

Most land disputes occur in rural areas and are resolved quickly by customary courts, if not by local elders or chiefs. In states with nomadic Fulani, like Sokoto, Kebbi, and Zamfara in northwestern Nigeria, land disputes in the local courts constitute only a small proportion of civil complaints.[30] However, land disputes are commonly addressed in formal courts in Lagos and Benue States.[31] For instance, in 2010, a total of 141 land-related cases were filed by individuals and corporate bodies in the Lagos judicial division, with another 364 land matters filed in the Ikeja judicial division (the capital of Lagos State).[32] Thus the LGAF panel concluded that for the country as a whole, land disputes represent between 10% and 30% of total cases in the formal court system.

Disputes in Lagos state are often protracted, lasting 10 years or more. Analyses of court records and interviews with judges, the Court Registrar, and judicial assistants in Lagos revealed that less than 50% of cases in the first-instance court reach a decision within one year. Moreover, most cases are long-standing, i.e. last longer than five years, as illustrated in Table 2. Of 41 cases resolved by the Lagos State High Court in the first quarter of 2011, 25 (i.e. 61%) had durations longer than five years.

Table 3: Duration of Disputes in Lagos State High Court, Quarter 1, 2011

Duration	No of cases	%
1 – 5 years	16	39
6 – 10 years	12	29
Above 10 years	13	32%
Total	41	100

Reasons for these delays in court include an unsteady electricity supply, the absence or inadequacy of judges, the extension of cases by lawyers, and inadequate operational facilities.

4.6 Large-Scale Land Acquisitions

Large-scale Acquisition of Land Rights						
LGI	**#**	**Indicator**	**A**	**B**	**C**	**D**
PLI	1	Most forest land is mapped and rights are registered				■
PLI	2	Conflicts generated by land acquisition and how these are addressed				■
PLI	3	Land use restrictions on rural land parcels generally identifiable				■
PLI	4	Public institutions in land acquisition operate in a clear and consistent manner				■
PLI	5	Incentives for investors are clear, transparent, and consistent			■	
PLI	6	Benefit sharing mechanisms for investments in agriculture			■	
PLI	7	Direct and transparent negotiations between right holders and investors			■	

[30] A. Waters-Bayer and E. Taylor-Powell; Settlement and land use by Fulani pastoralists in case study areas
[31] Because Lagos State has been designated as urban, customary land rights are effectively abolished. Thus all claims in the state involve statutory rights of occupancy, over which the Lagos State High Court maintains jurisdiction. Refer to Table 2.
[32] Data obtained from the records section of the Lagos judicial division of the Lagos State High Court

PLI	8	Information required from investors to assess projects on public/community land			■	
PLI	9	Information provided for cases of land acquisition on public/community land			■	
PLI	10	Contractual provisions on benefits and risks sharing regarding acquisition of land				■
PLI	11	Duration of procedure to obtain approval for a project		■		
PLI	12	Social requirements for large scale investments in agriculture				■
PLI	13	Environmental requirements for large scale investments in agriculture				■
PLI	14	Procedures for economically, environmentally, and socially beneficial investments			■	
PLI	15	Compliance with safeguards related to investment in agriculture				■
PLI	16	Procedures to complain if agricultural investors do not comply with requirements				■

Only government-owned forest lands have been surveyed and registered, including reserve areas in Ekiti, Ogun, and a number of other states. Forest lands owned by communities – which represent the majority of forest lands in the country – are rarely surveyed or registered, although though their location and boundaries are known to the owners.

Some restrictions on rural land parcels are easily identified, such as restrictions on the use of land with high-tension wires, electricity transformers, and oil pipelines, for example. Yet many restrictions are customary, and thus not clearly identifiable. For instance, landholders in the cocoa belt of southwestern Nigeria do not allow tenants to plant permanent crops on rented lands.

The LUA established a procedure for large-scale land acquisition, including the conditions under which such acquisition can occur, the procedure for compensation, and guidelines for the resolution of conflicts regarding the amount of compensation. However, deviations from this procedure are common: compensation is usually slow, if paid at all; the Land Use and Allocation Committees that are to resolve conflicts are rarely established; and the principle of overriding public interest is seldom considered in the justification of acquisitions. Moreover, the state sometimes takes a predominant role in acquisition. For example, former President Obasanjo facilitated the acquisition of land by Zimbabwean farmers, with the government promising to resettle and compensate affected communities. The procedure for reviewing and responding to request for approval of a project can be somewhat lengthy, with most receiving a response within six months.

In addition, the government has instituted a number of incentives to stimulate foreign and domestic investment, including public lands for free trade zones and tax incentives for a variety of corporate behaviors (investment in infrastructure, location in disadvantaged areas, high labor/capital ratios, etc.).[33] Still, regulations on incentives for investors remain unclear, and their applicability is negotiated on a case-by-case basis in a way that is often discretionary. Moreover, every state of the federation has its own provisions on the type and

[33] Doing Business in Nigeria (2008) World Bank and IFC, and Nigerian Investment Promotion Commission 2006.

amount of incentives to be given to promote investments, further reducing transparency and consistency.

Procedures are in place for public institutions to identify and select transfers of public or community lands that will be economically, socially, and environmentally beneficial; however, these procedures are typically implemented with discretion, partly due to inadequate personnel and partly to interference from the political and business elite. Although investors are consistently required to provide information on company background or financial/technical analyses, this information is not always sufficient to assess the viability and benefits of the project. Necessary information may not be reported in a bid to reduce costs, and such infractions go unnoticed due to poor monitoring. Furthermore, even where investors comply with information provision requirements, information concerning the impact of the investment on local communities and the environment is not publicly disclosed.

There are no specific rules or laws in place to ensure that communities benefit from investments in their areas. Some governments negotiate memoranda of understanding with host communities and investors specifying the social investments the companies are required to provide. However, these MOUs are rarely monitored and enforced. Indeed, despite the requirement for investors to conduct an Environmental and Social Impact Assessment (ESIA), they are not compelled to specify how the benefits and risks of the investment will be shared with affected communities, and social safeguard requirements are not clearly specified. Environmental safeguard standards are better defined, but often not enforced. Because of overlaps in the responsibilities of Federal and State Environmental Protection Agencies and other land management institutions, monitoring of compliance with environmental safeguards for agricultural investments remains weak.

Conflicts related to land acquisition are relatively frequent. For example, in some cases land acquired by the government for forest and agricultural development has been allocated to individuals who then used the land for other purposes, resulting in tensions between the communities whose lands were acquired and the new landholders. The landholders may need to make additional payments to the communities in order to resolve the conflict. Often, local level resolution is difficult to achieve, and court involvement may become necessary. The inability to address these conflicts transparently and expeditiously often results in long-pending disputes, with occasional degeneration into communal clashes and loss of lives.

The LGAF panel concluded that there is no clear process by which affected parties or the public at large can lodge complaints regarding investor compliance with safeguards. This is partly because large-scale land acquisition by the private sector is a relatively new phenomenon in Nigeria,[34] and there has not yet been a notable case of a complaint against a private investor. However, court reform efforts since 2004 have focused on contract dispute resolution, with new rules incorporating elements aimed at expediting the process: front loading of evidence, pre-trial hearings, and deadlines for actions.

[34] Previously, most large-scale land acquisition was done by the government, such as the acquisition of land for Okitipupa Oil Palm Plc.

5 Policy Recommendations

Land governance in Nigeria is very weak with regards to most LGAF dimensions, including the enforcements of rights and mechanisms for recognition; land use planning, valuation and tax collection; public lands inventory and expropriation procedures; registration processes; and large-scale land acquisitions.

In terms of the legal framework, a variety of land rights are legally recognised through customary and statutory tenure regimes. However, none of the key pieces of regulation envisaged to enhance implementation of the LUA were passed since the inception of the law in 1978. Moreover, the absence of information on the spatial extent of most rights causes a lack of clarity and makes their enforcement very difficult. To enable the National Council of States to pass needed regulations to improve the situation and to monitor land system performance in the country, a National Land Commission needs to be established and made responsible for providing technical assistance to the National Council of States and to coordinate and monitor of land sector performance. Pending the establishment of such a commission, the PTCLR should carry out pilot studies to generate experience and evidence to inform the development of the required key regulations for land registration and survey/mapping.

With regards to the institutional framework, the current high degree of both vertical and horizontal overlap among land sector institutions creates confusion and a high level of transaction costs, which seriously undermines good land governance. To correct this situation, an evaluative study to identify the nature, type and effects of both vertical and horizontal overlap should be carried out, with actionable recommendations.

Land use plans at all levels are a rarity in Nigeria; the level of urban informal development is very high. Land use planning that is taking place is inefficient and largely not transparent. Land valuation is also lacking in transparency and not cost-effective. There is also an absence of property tax administration. There is a need to: (i) prepare strategic land use development plans with adequate implementation and enforcement regulations; and sensitize the public on their existence and importance; (ii) review planning standards, plot size, land use class, and adoption of model plans for public use; and (iii) develop, disseminate, and implement transparent systems for property tax administration, assessment, and collection for use by local governments.

Due to the lack of information on the location and extent of public land it is impossible to properly manage and protect this critical asset. Moreover, a large number of acquisitions occurs without prompt and adequate compensation, thus leaving those losing land worse off. There is no mechanism for independent appeal even though the land is often not utilized for a public purpose. Divestiture of public land is less transparent and therefore does not generate revenues for the public sector.

To improve the situation it is necessary to (i) undertake a comprehensive inventory of land owned by all tiers of government; (ii) harmonize various legislations into a clear single simple process for acquisition of land by all government agencies to ensure due process for land acquisition by requiring publicity, adequate and prompt compensation in line with global best practice and ensure availability of independent avenues for appeal. Put in place sanctions for misbehaviour; and (iii) ensure publicity of the detailed agreement, including schedules of applicable charges.

Public provision of land information is an important element of good land governance. In Nigeria however, the low level of registered parcels (less than 3% of the country covered) and the incomplete spatial reference of registry information fosters conflict, corruption, undermines investment, land market functioning, and housing finance. In addition, lack of processes for automatic updating undermines the value of the land registry as a tool for private sector development.

Proposed actions to improve the situation include the use of software tools to manage textual and spatial data jointly and to link existing ones; develop procedures for systematic expansion of registered area by building on the results of pilot study; study and recommend processes and requirements to streamline and control different registration services and based on this, establish a registry service charter (including sanctions and avenue for appeal) that is publicly available and binding on both user and officials; and (iv) design and implement awareness campaign as well as training programs for officials.

In the area of dispute resolution and conflict management, lack of awareness of the rights and avenues to enforce them reduces the ability to access and properly utilize land especially for vulnerable groups. In addition, the existence of high level of pending conflicts undermines investment and efficiency of land use. Actions required include: (i) disseminate existing laws and sensitize different groups about their rights under the law and ways to enforce them (ii) link spatial and textual data (see above) to reduce boundary disputes; (iii) mainstream traditional institutions and the Alternative Dispute Resolution (ADR) into the justice system to reduce backlogs and improve access to justice, especially for vulnerable groups; and (iv) increase the ability of formal institutions to speedily resolve dispute by building capacity and rationalizing assignment of responsibilities.

6 Conclusion

The implementation of LGAF in Nigeria came at a time when the government was searching for a structure to lend credibility and cohesiveness to its rather ad hoc reform efforts undertaken since 2009. The LGAF served to highlight the most pressing issues in land governance in a structured, cohesive way, and the approach ensured that the concerns of all stakeholders were properly accounted for. The LGAF assessment revealed the poor state of land governance in Nigeria, which was acknowledged by all experts participating in the process. Of the 88 regular dimensions included in the LGAF, Nigeria scored a C or D on 69. Likewise, 15 out of 16 of the indicators for land-scale land acquisition received a C or D.

Still, the country does score well in some areas. Land policies do recognize the rights held by the majority of both rural and urban populations. Relevant private encumbrances are recorded for rights that have been registered, and registry records can be searched by both the name of the right-holder and the parcel. Additionally, Nigerians have access to an informal or community-based system to resolve land disputes in an equitable manner. Decisions made by this system have some recognition in the formal judicial or administrative dispute resolution system.

In terms of the way forward, discussions during the policy dialogue centered on three main areas. First, there was agreement on the need to assign clear institutional responsibility for coordination of the follow-up process, in particular, inputs into the ongoing debate about revising key parts of the LUA. At the same time, it was agreed that in the interim the PTCLR, which includes representatives from relevant institutions as well as the states, should take the agenda forward and also be responsible for monitoring follow-up, in order not to delay the process until a coordinating institution is established.

Second, given the importance of revising regulations based on field-based evidence rather than abstract reasoning, the meeting recommended that pilot registration should start immediately in a number of states, with the possibility of quickly expanding to other regions to ensure geographic and ethnic representativeness. Members of the PTCLR indicated interest by the Governors of Ondo and Kano state in supporting such pilots. A draft manual for this purpose had already been prepared, and the PTCLR is actively seeking input into making this manual more useful in light of international experience.

Finally, the meeting agreed that, in addition to mapping of public land, publication of details on land allocations will be critical to ensure the reliability of land records and transparency in land allocations. It was therefore agreed that a format to do so and to monitor compliance would be highly desirable with respect to large-scale transfers of land to investors.

The findings and the recommendations of the LGAF study have created a sense of urgency and are potentially capable of revolutionizing land governance in Nigeria. For this to happen, the report must be widely circulated among the major stakeholders (public and private organizations, professional bodies, academia, civil society organisations, and non-governmental organizations). The PTCLR is taking forward the lessons that emerged from LGAF, which is another step towards the reform of land governance in Nigeria. State-level LGAFs are being planned, which will be followed by pilot activities such as around systematic registration of rights. This will be accompanied by rigorous monitoring and impact evaluations.

7 Policy matrix

POLICY ISSUE	ACTION PLANS	MONITORING INDICATORS
1. LEGAL AND INSTITUTIONAL FRAMEWORK		
▪ More than 30 years after its passage, none of the key pieces of regulation envisaged in the Land Use Act (LUA) (Sections 3 and 46) has been passed. This has seriously undermined good land governance and effective land use planning in the country. ▪ A high degree of vertical and horizontal overlap among land institutions creates confusion, high levels of transaction costs, and undermines good governance in the sector.	▪ To enable the National Council of States to pass needed regulations and to monitor land system performance on a regular basis, a National Land Commission as a technical body with representation from key actors needs to be established. Pending the establishment of the National Land Commission, the Presidential Technical Committee on Land Reform (PTCLR) should carry out the tasks below. ▪ Conduct and carefully evaluate pilot studies in relevant areas to provide evidence to inform the drafting of key regulations for land registration and survey/mapping in two states within one year. ▪ Carry out a study to identify horizontal and vertical overlaps in the land system and recommend solutions.	▪ Establishment of the Commission ▪ Evaluation of results of the pilots available ▪ Regulations drafted ▪ Provision of information and institutional arrangements to monitor outcomes. ▪ Study conducted and recommendations disseminated & discussed. - % increase of land registration, leases and land transfers, C of Os - reduced boundary conflicts - reduction in transaction costs and time - reduction of vertical and horizontal overlaps
2. LAND USE PLANNING, MANAGEMENT AND TAXATION		
▪ While land use plans are necessary to guide development in urban and rural areas, they are mostly unavailable leading to haphazard growth. ▪ Absence of property tax administration, assessment and	▪ Prepare strategic land use development plans with adequate implementation and enforcement regulations; sensitize the public on their existence, importance and use of the same. ▪ Review planning standards, plot size, land use	▪ Initial establishment of land use development plans. ▪ Mechanism to monitor compliance with plans in place and results monitored/publicised. ▪ Property tax guidelines available, explained

collection hinders decentralization and effective provision of local services.	class, and adoption of model plans for public use. ▪ Develop, disseminate, and help implement transparent systems for property tax administration, assessment, and collection for use by local governments at different sizes.	to and understood by citizens, professionals (e.g. estate surveyors and valuers), and local governments. ▪ Increase in property tax assessments and actual collection. ▪ Number of states that have land use plans, land administration machinery and property tax rolls.
3. PUBLIC LAND MANAGEMENT		
▪ Lack of information on the location and extent of public land makes it impossible to properly manage and protect this critical asset. ▪ A large number of acquisitions occurs without prompt and adequate compensation, thus leaving those losing land worse off, with no mechanism for independent appeal even though the land is often not utilized for a public purpose. ▪ Divestiture of public land is less transparent and therefore does not generate revenues for the public sector.	▪ Undertake a comprehensive inventory of land owned by all tiers of government. ▪ Harmonize various legislations into a clear single simple process for acquisition of land by all government agencies to ensure due process for land acquisition by requiring publicity, adequate and prompt compensation in line with global best practice and ensure availability of independent avenues for appeal. Put in place sanctions for misbehaviour. ▪ Ensure publicity of the detailed agreement, including schedules of applicable charges.	▪ Inventory has been established and mechanisms to maintain it currently exist. ▪ Legislation to regulate expropriation has been enacted and is effectively applied. ▪ Share of allocations of government (public) land and transactions that are advertised.
4. PUBLIC PROVISION OF LAND INFORMATION		
▪ The low level of registered parcels (less than 3% of the country covered) and the incomplete spatial reference of registry information fosters conflict, corruption, undermines investment, land market functioning,	▪ Establish software tools to manage textual and spatial data jointly and to link existing ones. ▪ Building on the pilot study results, develop procedures for systematic expansion of registered areas.	▪ Share of registry records with textual and spatial information integrated. ▪ Share of the land under private use that is registered and mapped.

and housing finance. ▪ Lack of processes for automatic updating undermines the value of the land registry as a tool for private sector development.	▪ Study and recommend processes and requirements to streamline and control different registration services and based on this, establish a registry service charter (including sanctions and avenue for appeal) that is publicly available and binding on both user and officials. ▪ Design and implement awareness campaign as well as training programs for officials. ▪ Make transparency issues more comprehensive by publishing list of all allottees upon or at allocation. ▪ Ensure implementation of global best practice on access to public land information.	▪ Implementation of service charter leads to higher levels of customer satisfaction.
5. DISPUTE RESOLUTION AND CONFLICT MANAGEMENT		
▪ Lack of awareness of the rights and avenues to enforce them reduces the ability to access and properly utilize land especially for vulnerable groups. ▪ High level of pending conflicts undermines investment and efficiency of land use.	▪ Disseminate existing laws and sensitize different groups about their rights under the law and ways to enforce them. ▪ Link spatial and textual data (see above) to reduce boundary disputes. ▪ Mainstream traditional institutions and the Alternative Dispute Resolution (ADR) into the justice system to reduce backlogs and improve access to justice, especially for vulnerable groups. ▪ Increase the ability of formal institutions to speedily resolve dispute by building capacity and rationalizing assignment of responsibilities.	▪ Knowledge of relevant legal provisions and avenues for enforcement in the population and specific groups (e.g. women). ▪ Reduction of backlog of conflicts. ▪ Number of new conflicts reaching the formal system decreases.