THE IMPACT OF THE LAND USE DECREE 1978 ON LAND ADMINISTRATION IN BENDEL STATE

By

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DEDICATION

To my children

Nosakhare, Osarugue

Adesuwa and Edoseghe.

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CHAPTER ONE

1.00 INTRODUCTION

1.10 Introduction:

Land is a fundamental necessity of life because it is basic to man's production. It is the very foundation and framework on and within which social, political, cultural and economic activities of a nation depend. Consequently, land is the most valuable asset of the individual citizen and the nation.

In the state of nature, land with its ubiquitous character would have been the least cost desire of man because it is one of nature's free gifts. Unfortunately it is owned. Such proprietary attitudes have placed land in a special category when it comes to framing and execution of social policy, for undeniably land is a scarce resource.

Before 1978, little attention was given to land policy in Nigeria. The need for a firm policy on land becomes necessary in view of the fact that the Federal and State governments require land on an increasing scale for their development projects. This is also true of the private sector. In a brief statement on land policy, the Third National Development Plan (p. 239 vol 1) observed that another area of relative neglect in physical planning in Nigeria is land policy and that although legislation exists empowering government to acquire land compulsorily for public purposes, it has become difficult to do so at reasonable cost in some urban

areas. Therefore, many projects in the Second National National Development Plan failed because of the difficulty of obtaining land in the major urban centres.

In an inaugural lecture delivered at the University of Ibadan, Udo R.K. observed that it is "lack of land and to a lesser extent capital (which in any case can be obtained by using land as security) have been given as the excuse for such a few Nigerian graduates of agriculture taking up farming".[1] It becomes imperative that land should be made available to all farmers including graduate farmers who have been forced out of farming because of the difficulties of acquiring adequate farmland.

The Third National Development Plan further points out that even where land is readily available, the price is often prohibitive and compensation claimed and paid by governments have generally been much higher than the true opportunity cost of land. This situation has been aggravated by the activities of speculators who purchase land which they do not intend to develop, hold on to them till development has substantially increased their market value and then sell at abnormal profit. Speculative activities of this nature have continued unrestrained largely because of the absence of a firm land policy. According to Hargreaves "Land is a valuable asset, the use of which must be controlled in the public interest and land should no longer be solely a matter of the extent of the individual's rights in his land".[2]

1. Udo, R.K. (1977) Land Policy for Effective Management of the National Economy, p. 3.
2. Hargreaves, A. (1963) An Introduction to the Principles of land law, p. 34.

In order to check the artificial inflation of land value and minimise "unearned" income from land speculation, the Federal Military Government in March 29, 1978 promulgated the Land Use Decree. It is obviously clear that the government was inspired by the highest and most laudable of motives. But it can be argued that inspite of the above, there exists a gap between the expectations raised by the promulgation of the decree and the achievements.

As shall be seen in this study, there have not been much appreciable improvement on land acquisition and utilization by the government and individuals in Bendel State since the Decree came into being. A number of the provisions of the Decree conflict with the existing customary land laws, others conflict with individual rights and it is not surprising that it has been a subject of controversy since it was promulgated. Furthermore, the poor management as is reflected in inefficient administration and implementation of the land use decree has inhibited efforts in making land available for the people and the Federal Government. There is a general dissatisfaction of the population with the land use decree as it has slowed down the pace of development in the area and all these have negative impact on land administration in the State.

1.20 Statement of Problem:

Decisions taken about land are usually significant, particularly in a State like Bendel where about 70% of

the population are farmers. The government has realised that the problems which exist in respect of land are not due to scarcity but due to the system of land holding. (See Table 2.1). The awareness of the inequality created by land holding in the State was expressed in the preambles to the Land Use Decree ... "Whereas it is in the public interest that the rights of all Nigerians to the land of Nigeria be asserted and preserved by law: And whereas it is also in the public interest that the right of all Nigerians to use and enjoy land in Nigeria and the natural fruits thereof in sufficient quantity to enable them to provide for the sustenance of themselves and their families should be assured, protected and preserved".[3]

The Land Use Decree has smashed the basis of the customary land tenure and raised the hope of many prospective developers in the State. To many, it was a great relief that the process of acquiring land has been made easier than it had hitherto been but this has not been able to meet the aspiration of the people. Very insignificant percentage of the people who applied for parcel of land have got. In fact the parcels of land so far allocated are the unbuilt-up area in the Government Reserved Areas[4] of the State and beneficiaries are men and women highly placed in the State.

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3. Federal Republic of Nigeria Official Gazette: Decree No. 6 (1978), Vol 65, p. A49.

4. Land in G.R.A. was acquired by colonial administration as Residential area for Senior Government Officers.

In recent months an increasing number of people have expressed grave concern about the prospect for the land use decree in the State. Comments on pages of Newspapers with captions "Don criticises the Land Use Decree" "Who really owns the land"? "Revoke the Land Use Act" and so on, are all expressed opinions about the working of the decree. Therefore, it is imperative to identify the problems of land administration due to land use decree and propose possible solutions to the problems.

The problems hindering the effective implementation of the new land policy in Bendel State and their consequential impacts on land administration in the area has prompted the thesis which I hope will be of tremendous use in the implementation of the Land Use Decree.

1.30 Aim:

To examine and assess the impact of the Land Use Decree on land administration in Bendel State with a view to making proposals for introducing efficiency in land administration.

1.40 Objectives:

(i) To study the land laws existing in the State before the promulgation of the Land Use Decree 1978.

(ii) To appraise the land use decree 1978.

(iii) To evaluate the impact of the Land Use Decree on land administration in Bendel State.

(iv) To make recommendation towards a more efficient land administration in the State.

1.50 Scope and Limitation:

This study examines the existing land laws in Bendel and their impact on land administration in the State.

Land administration generally touches on a number of activities such as Land Reform, Housing, Town and Regional Planning, Estate Management, Land Development and Redevelopment. However, this study is limited to land administration as it relates to physical planning.

Also, four Local Government Areas: Isoko, Ndokwa, Bomadi and Burutu are not covered by this study.

1.60 Methodology of Research:

(i) Primary Source: Mainly through surveys by the use of questionnaire. Three sets of questionnaires were drawn and administered. The first set is designed for workers including civil servants, teachers and professionals. The second set is designed for government officials mainly concerned with land matters including the Ministry of Lands and Surveys, Land Use and Allocation Committee and Land Allocation Advisory Committees in Local Government Headquarters. The last set is for elders in communities, particularly the former plot allotment committees members and land owning families.

(ii) Secondary Source: Information were collected from official gazette, textbooks, journals, papers presented at seminars, Newspaper reports and government files.

(iii) Tertiary Source: Informal interviews with individuals, elders in communities and government officials.

(b) Delineation of Study Area.

Five zones were delineated (See Table 1). The criteria used for the categorisation of these areas are as follows:

(i) Each category is basically made up of the same ethnic group.

(ii) Since each zone comprises people having the same custom and tradition, it follows that the same customary laws will operate in the area.

TABLE 1: AREA CATEGORISATION.

ZONE	LOCAL GOVERNMENT INVOLVED	NO. OF LOCAL GOVT.	LANGUAGE SPOKEN
1	Oredo, Ovia, Ekpoma, Agbazilo and Orhionmwon	5	Edo
2	Aniocha, Ika, Oshimili and Ndokwa	4	Ibo
3	Akoko-Edo, Owan, and Etsako	3	Yoruba
4	Warri, Okpe, Ughelli, Isoko and Ethiope	5	Itsekiri and Urhobo
5	Bomadi and Burutu	2	Ijaw

(c) Thesis Structure;

It is a five chapter thesis and the work is divided into three sections.

Section One:

This is made up of chapter one. It is mainly an introductory background to the study. It involves the statement of problem and the need for carrying out the study; a clear definition of aim and objectives.

Section Two:

This is made up of chapters two and three. It deals with an understanding of the existing situation which includes the system of land holding, land use practices and land disposition. It also takes care of the elements of Land Use Decree.

Section Three:

This section is made up of the last two chapters *k* and 5 of the work. It involves major findings, proposals and recommendation for the efficient working of the Land Use Decree.

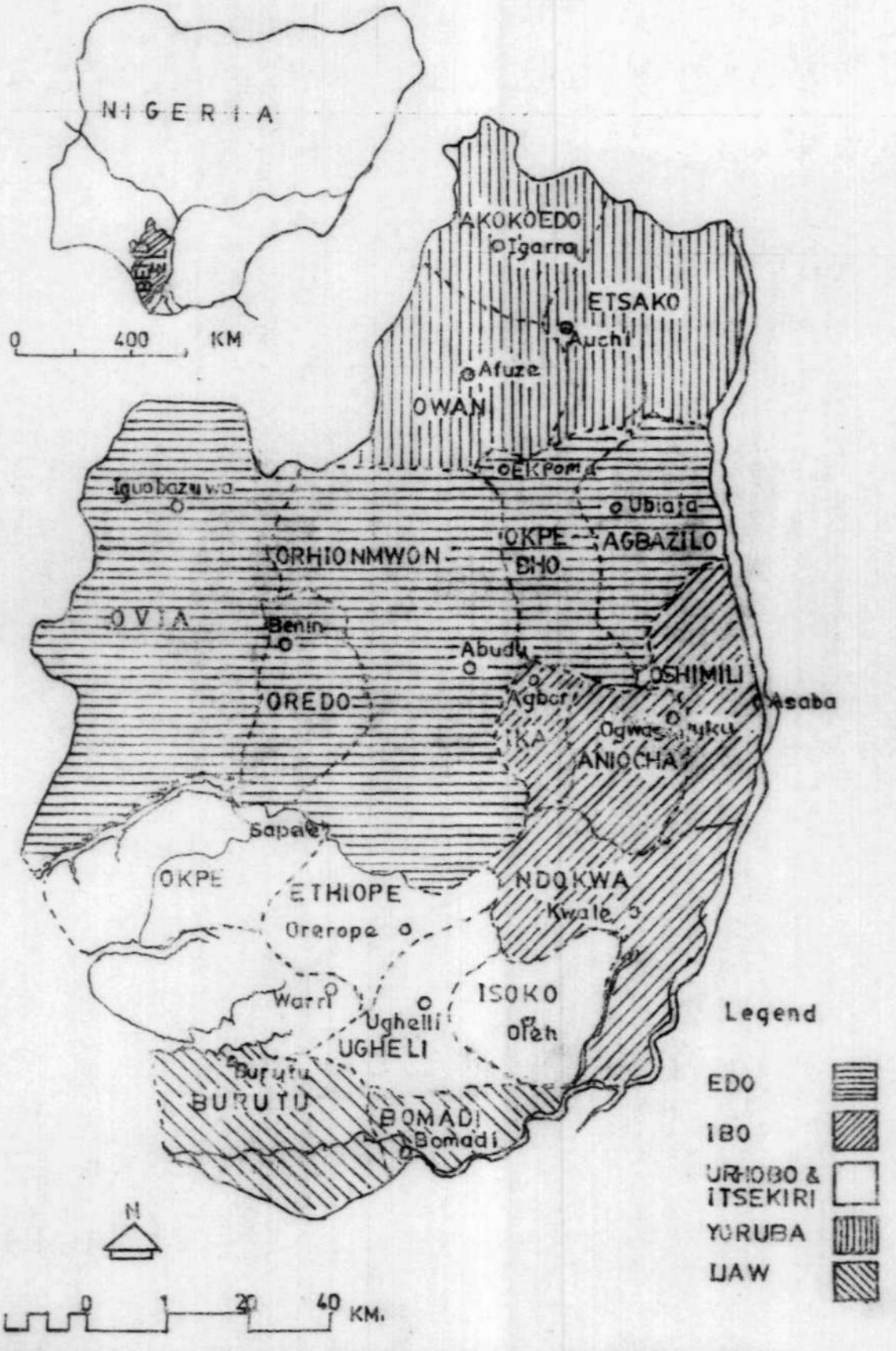


FIG.1.01: Bendel State Showing Ethnic Groups' Areas

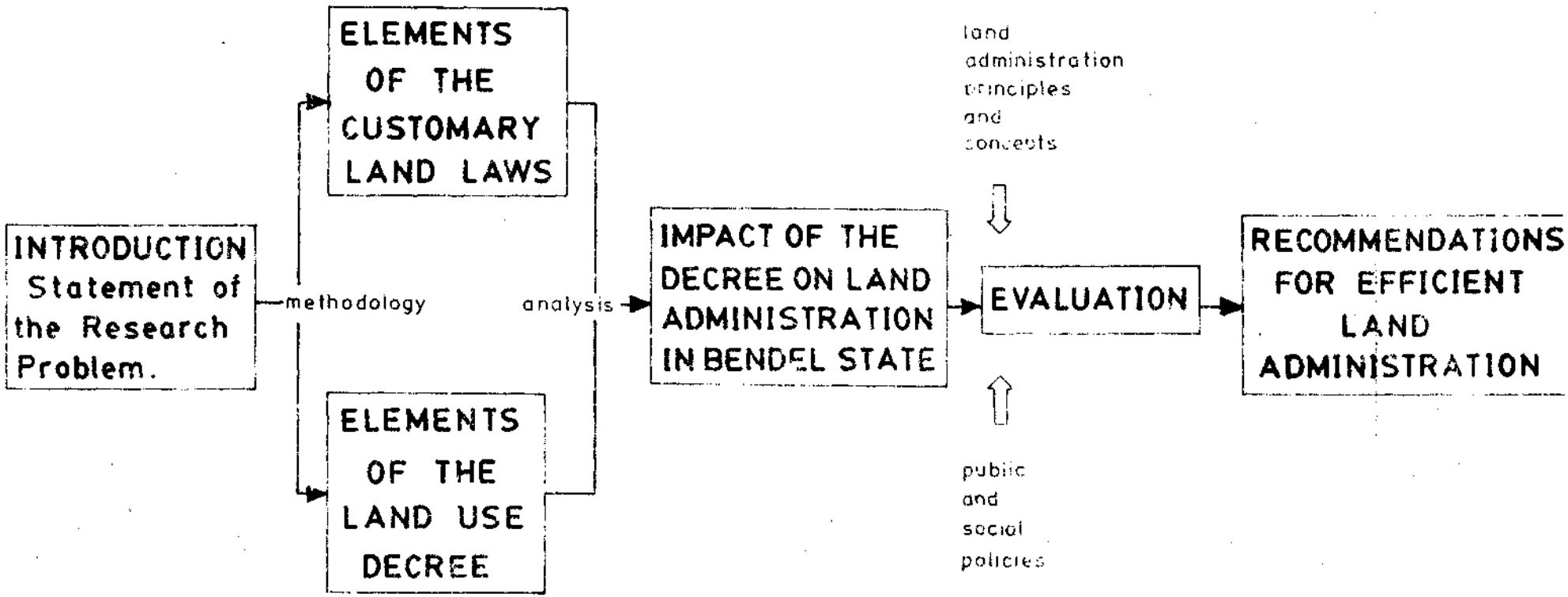


FIG. 1.02: Conceptual Framework of the Thesis.

CHAPTER TWO

2.00 CUSTOMARY LAND LAW: A Review of Existing Literature:

Customary land laws vary from one area to another in Bendel State. However, the common basic principles which underlie them are:

(i) Land is normally owned by a community or by a village or by a family but no individual has absolute ownership.

(ii) Chiefs are trustees of powers, not land owners. Rulers of communities have supervisory and administrative authority over communal lands for which they are called trustees of such land for the communities. Traditional rulers regulate and control grants of communal land. Members of the community who want grant of communal land must approach the chiefs who will consider their applications. Therefore, before land is alienated to 'strangers' his permission has to be obtained as shown in the judgement of Lord Haldane in Amodu Tijani V Secretary of Southern Nigeria.[5]

(iii) Through colonisation, the British ideas of property law have made important impact upon indigenous conceptions and this is largely due to:

(a) "the efforts of practising African lawyers trained in English law."

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5. (1921) 3 N L R 21.

(b) the change from the subsistence economy of the autonomous household or village to the market economy of cocoa and palm oil plantations of urban areas.

(c) increased pressure of population upon land consequent upon this change, has produced tendencies towards a partial break-up in the existing system and many individuals now own lands in their own right".[6]

(iv) The family was the real land holding unit in communities. This fact is confirmed by Dr. Umar G. Benna in the following way[7]:

(a) "that grants to individual members of the group or to strangers leave the ultimate title in the family.

(b) that land originally acquired by individual as his property devolves at his death upon all his children as family land under the indigenous system of tenure".

However, as shown in Table 2.1, communal ownership still features prominently in Edo and Yoruba speaking areas of Bendel State. Family ownership is predominant in Ibo, Urhobo and Itsekiri speaking area while recent

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6. Elias, T.O. (1971) Nigerian Land Law, p. 7.

7. Benna, U.G. (1973) The Legal Position of Land and Problem of Changing Land Value in Nigeria, p. 9.

situation shows increasing development of individual land ownership. This is even more significant in Ibo and Edo speaking areas with a percentage of 32 and 25 respectively.

TABLE 2.1: TYPES OF LAND OWNERSHIP BEFORE THE LAND USE DECREE 1978 IN BENDEL STATE.

Zones	Family Ownership	Communal Ownership	Individual Ownership
1. Edo	15.67%	58.95%	25.38%
2. Ibo	50.00%	17.31%	32.69%
3. Urhobo & Itsekiri	60.42%	27.08%	12.50%
4. Yoruba	10.00%	76.67%	13.33%

Source: Field Survey July-October 1983.

(v) Customarily, a family or a community member cannot dispose of land allocated to him without the consent of the family head or the traditional ruler of the community.

(vi) Places usually designated as communal lands are in fact places of worship - sacred to the deities, ancestral spirits, public places like the village squares and abandoned bush. Types of communal land ownership were categorised as "Natural persons, supernatural persons, corporate bodies and the State"[8] (ref. to Fig. 2.01).



PLATE: LAND: NIGERIANS HAVE A RIGHT TO ITS USE

(a) Natural Persons:

All free adult males and females of a community have legal capacity to own and enjoy the appropriate units of land permitted by their respective customs and traditions to be held in individual ownership.

(b) Supernatural Persons:

It refers to the numerous deities, ancestral spirits, certain oracles which 'own' some land in various parts of the State. In most communities, the deities and spirits are regarded as special agents of God charged with specific functions in the communities in which they exist. Some bush, market, squares, praying ground or grove are named after them in the villages.

(c) Corporate Bodies:

Corporate bodies have been defined as "entities which are hardly distinguishable from corporations in English law"[9]. Some of these such as town, the village, the patrineal groups, or the extended family - in their capacity as property owning groups are the nature of corporation sole. The Obi, Okpara, Ogene, Oba come under this head.

(d) State Land:

Since colonisation, State lands have emerged in some parts of the State. State land emerged through gift, grants, operation of a general enactment and compulsory acquisition.

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8. Umeh, J.A. (1973) Compulsory Acquisition of land and compensation in Nigeria, pp. 7-12.

9. Obi, S.N.C. (1963) The Ibo Law of Property, p. 27.

2.10 Elements of the Customary Land Law.

Acquisition of Rights and Interest:

The public and individual may acquire land in one of the following ways:

2.11 By Succession or Freehold Inheritance: A person can succeed to all or to part of the land held by his deceased father, brother, uncle, mother or other relatives. He may be the sole heir where there is primogeniture [10] or he may be a joint heir in which case he becomes individual owner on apportionment. As a rule a successor acquires the same right and interest as his predecessor had in land. Even if he is a joint successor, his rights and interest after partition are the same as those of the original holder. The difference lies in the quantum of the physical area to which he is entitled. If the deceased was an absolute owner (in the sense that nobody else had proprietary or beneficial interest in the piece of land in question) his successor whether sole or several heirs becomes an absolute owner of his separate portion. Freehold inheritance was predominant in a larger part of bendel State, with the exceptions of the Urbobos of Okpe and Itsekiri of Warri Local Government Areas.

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10. A system by which all real estate passes on from a father to the eldest son. The property of the Oba, Ovies, Obi and Enigies are inherited intact by the heir apparent.

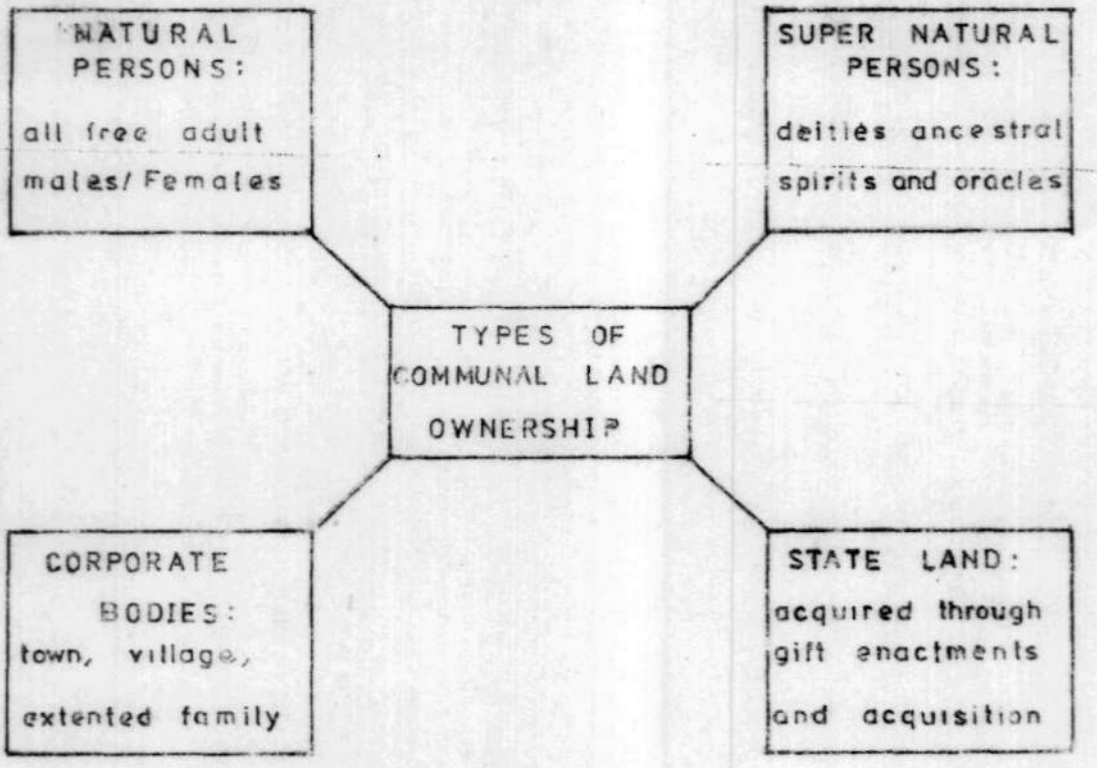


FIG. 2.01 Land Classification

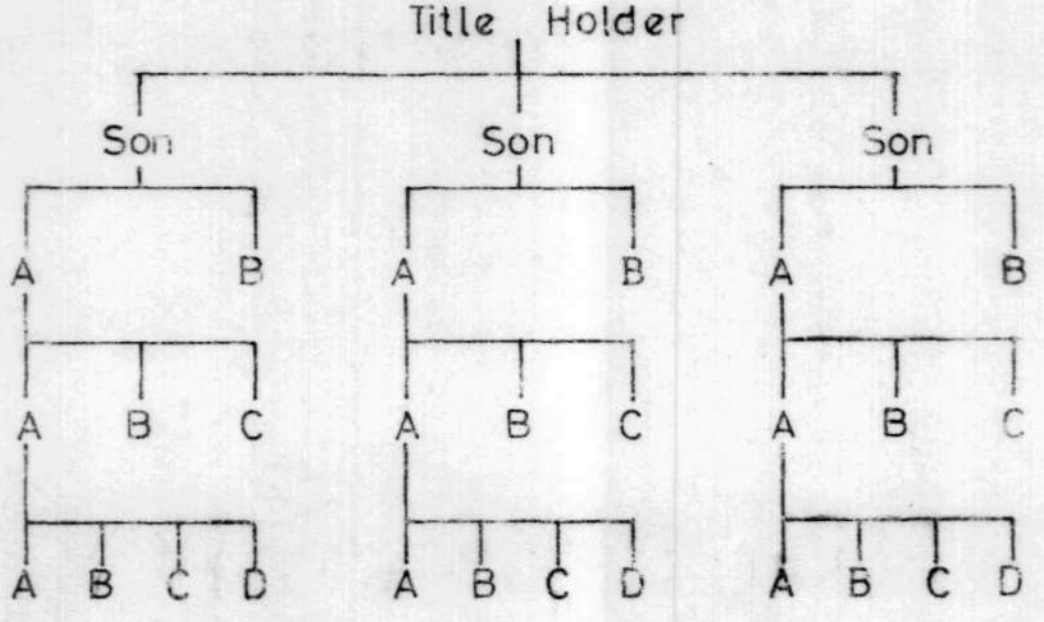


FIG 2.02 Land Acquisition By Inheritance

Note: Lengths of vertical A.B.C.D. represent relative ages of title holders issue in successive generations

Source: Field Survey July - October 1983

Figure 2.02 shows a sub-division of land among the siblings of a deceased freeholder. Before the customary laws were modified by the English laws female members of the family could not inherit land except where a landlord dies without leaving a son. In Ibo speaking areas, inheritance of real estate was by his brother or male paternal next of kin in the event of a landlord dying without a son .

2.12 Leasehold:

Lease was a recognised method of transfering and acquiring interest in land in Bendel State. Here, payments were agreed upon in advance. And once the grantee took possession, the land owner had an enforceable claim against him for the agreed rent. This may be paid in money or in kind according to the terms of the tenancy agreement. It may be added that over and above the economic rent there was always the traditional gift of kolanut or palm wine or both. In some cases too, a tribute in kind had to be made to the land owner at the termination of the tenancy or at regular intervals during his stay.

(i) Leases were of two main kinds:

(a) Lease of farmland

(b) Lease of building sites.

Lease of farmland may also be divided into two. There was the short lease usually granted for the duration of one farming season. In such agreement, the leasee agreed to cultivate the land for one year. As always,

there was an implied reservation of economic trees growing on the land in favour of the leassor. But the law also implied the right on the leassee's part to prune such trees to the fullest extent to allow sufficient sunshine into the farm. There is an implied obligation on the part of the leasee to take all reasonable steps to protect economic trees such as rubber, kolanuts, cocoa from total destruction or serious damage by fire.[11] The agreement terminated as soon as the crops were harvested.

The second type of lease of farmland was one in which no fixed duration was agreed upon but an annual rent (in money or in kind) was stipulated. "As a rule, a year's notice was required if the owner wanted to make use of the land. But in no circumstances may a land owner terminate a lease by ejecting the tenant while his crops were still on the land".[12] He must be allowed to reap his crops and remove his supporting sticks.

Akin to the leasing of farmland was the leasing of fishing pools, lakes and palm trees in Urhobo and Itsekiri speaking areas of Warri and Okpe Local Governments.

(ii) Lease of building sites:

A lease of a building site may take one of the two forms. It may be for a fixed period say five years. Here, the structure erected were usually in form of shanties or kiosk for the purpose of trade. The second which was for

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11. It is customary to burn the bush because of thickness before cultivation.

12. Obi, S.N. C. op. cit., p. 116.

the purpose of erecting a permanent structure had no fixed period. If fixed, it was usually for a duration of 25-50 years. In normal circumstance tenants could not be ejected from their dwellings if on long term lease. But with the advent of the written lease, tenants could be ejected at the expiration of the lease. However in the rural areas of Bendel State, indefinite lease is still predominant. (See Table 2.2).

2.13 Borrowing:

It was very common for a friend or relatives to approach members of the community for a temporary loan of a piece of land. This practice was very common in Rur -urban [13] areas of Bendel State. The duration was usually one or two years. The principle guiding this type of land transaction was that permanent crops requiring more than two seasons were not expected to be planted by the borrower. Consent of the landlord was sought at the beginning of every planting season and termination of the agreement was at a short notice. In most cases little or nothing will be paid for this type of tenancy. (See Table 2.2).

2.14 Purchase:

Land was inalienable under the customary law. As was shown earlier in this text, the inalienability of land in Bendel has been greatly modified. The purchase of land was a recognised transaction in practically all parts of the State. There was no law supporting the redeemption

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13. Villages located in the periphery of large metropolitan cities.

of a parcel of land already sold. The Ibos often appease the land which is purchased. The purchaser provides a hen or a goat and kolanut for a special ceremony. The animal and the kolanut were sacrificed to the 'Earth deity' and then consumed by all present. This served the double purpose of appeasing the outraged ancestors (whose land was being alienated) and providing evidence of purchase. In the past, any alienation of land without prior consent of the family or community would incure the contravener a serious penalty such as the forfeiture of his interest. Table 2.2 shows that land is purchased in all communities in the State.

TABLE 2.2: LAND TRANSACTION IN BENDEL STATE (Acquisition Before 1978).

	Zones	Gift	Purchase	Borrow-ing	Lease-hold	Free-hold Inheri-tance
1.	Edo	10.52%	16.04%	2.40%	9.64%	61.40%
2.	Ibo	13.61%	23.26%	6.95%	7.33%	48.85%
3.	Urhobo & Itsekiri	2.50%	19.50%	10.0%	57.50%	10.50%
4.	Yoruba	10.25%	21.0%	9.0%	9.75%	50.0%

Source: Field Survey July-October 1983.

2.15 Gift:

Customarily, the owner of a piece of land was free to dispose of it in any way he pleased, subject only to the overriding principle that land may not be alienated without prior consent of the family or community. It was therefore quite lawful for a community to make a free gift of a piece of land to another party for any purposes and upon any term not in conflict with the general principle of the customary law. The donee may be a kinsman, a resident stranger, a child or a wife.[14]

A father could also make a gift of land to his daughter on marriage. Usually gifts of land to kinsmen have as their motive a desire on the donor's part to side-step the normal rules of customary law governing gifts in general; "a title founded on a gift which can be proved, is an absolute title".[15] Olawoye C.O. (1974) made distinction between absolute gift and conditional gift. He argued that the effect of an absolute gift is the same as that of a sale. That the proposition made by Dr. Elias[16] that a donee of land enjoys perpetuity of tenure subject to good

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14. Land given to a wife becomes her individual property especially if she has no male child. In Edo and Ibo speaking areas female children did not inherit real property.

15. Obi, S.N.C. op. cit., p. 119.

16. Elias, T.O. ibid, p. 181.

behaviour, thereby implying that a gift is revocable upon misconduct, is not true of a donee under an absolute gift ..... that it was incompatible with the decision in Jegede V Eyinogun[17] where it was held that a family which had made an absolute transfer of its land by way of gift could not recall the land even upon misconduct.

The position of a grantee under a conditional gift was quite different. Only an occupational title passes undeer the gift. Where such was the case, a customary tenancy was said to be created. The incident of that form of tenure was that the grantee acquired a right of use which endures for an indefinate period of time and which was transmissible to his descendants. As Martindale J. observed in Etim V. Eke.[18]

2.20 Land Use Practices:

2.21 Public Land Use:

The procedure for acquiring land for public purpose was easier than for any other purpose. The acquisition of land for the siting of any educational institution, health clinics, postal agencies or public utilities often receives the blessing of the communities. Whenever a proposal was made for the acquisition of land for public use, the Oba summoned his chiefs to delibrate on the matter and choose

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17. Jegede V. Eyinogun (1959) 4 F.S.C., p. 273.

18. (1941) 16 N.L.R., 43 at p. 50.

an area for the project. Because the land belongs to the community, any area so chosen will have to be vacated by the occupants. Compensation was never made in cash to the persons who have lost their possession but they were usually allocated an area equivalent to their plot elsewhere. The strong spirit of self help in the State underlies this principle. Sites for community maternity, clinic, postal service and the like were always set aside in any layout.

2.22 Residential:

All land in Edo and Yoruba speaking areas was invested in the community. "An individual had only possessory title to the land he occupied. A person seeking such possessory title must apply for allocation from the Oba, and this was so even where he was purchasing from a person to whom the right of occupation had already been allocated".[19] In effect all disposition of land must be with the approval of the Oba. The application for his consent was usually processed through the ward council who would make recommendation to him. In most cases all the applications recommended by the ward members were subsequently approved by the Oba. Where, he had approved the occupational rights of an individual, he could not approve a grant of the same parcel of land to another person.

In Ibo, Itsekiri and Urhobo speaking areas where family ownership is predominant, individual acquire land

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19. Per Begho J. in Edokpayi V. Oke (1964) M.N.L.R. 53 at p. 54.

from the family groups. In this case, the head of the family gave consent to the applications.

Certain chieftaincy titles carry with them the right to reside in an official residence, usually referred to as palace. The palace together with the land appurtenant thereto was usually a vast expanse of land which was vested in the chief for the time being for his use and occupation during his tenure of office. Thus, land used for the public purposes of the community also attracted the incident of community ownership and it was to this that the term could be more meaningfully applied.

2.23 Agricultural Land:

Originally all titles to land in villages were founded upon first occupation and a person could only prove to be the rightful owner if he was able to show that he or his predecessor had earlier possession of it. In Bendel State, the right to appropriate vacant virgin land was the exclussive preserve of the members of the community. Under the customary law, farmlands were allocated to members of the community by the traditional authority.

Customary land law was practised more in the villages than in urban areas. Agriculture is also the greatest user of land in the rural areas. Farmers inherited large tracts of agricultural land and the same was transferred to their heirs at death. Inheritance system of farmland in Bendel encourages fragmentation instead of consolidation. There is a subdivision of land among

siblings at the death of a farmer and this leaves no substantial agricultural land to encourage meachnisation. (See Fig. 2.02).

2.24 Grazing:

In the past, no piece of land was allocated specifically for grazing in the State. Usually the herdsmen take their animals to areas where fresh grass could be found for grazing. The movement of the animals was strictly supervised to prevent them from invading people farms.

In Edo, Urhobo and Ibo speaking areas, there was no large scale rearing of animals. This was largely due to unfavourable geopgraphic factors. The forest was thick, the mangrove swamp was difficult to penetrate and infested with tsetse-flies and there was absence of grass favouring grazing.

Cattle rearing is practised in the vicinity of Akoko Edo, Owan and Etsako which lie at the northern part of the State.

2.25 Religious Land:

Allocation of land for the purpose of worshipping has been recognised from ancient times. In most communities separate lands are allocated to Islamic, Christian, Traditional religions. In the rural areas, different deities, ancestral spiritis have areas designated as unique bushes, groves and shrines. Most of the time, land owned by supernatural beings are actually

owned by the relevant communities for the veneration of these deities and usually held in trust for them by the deities chief priests.

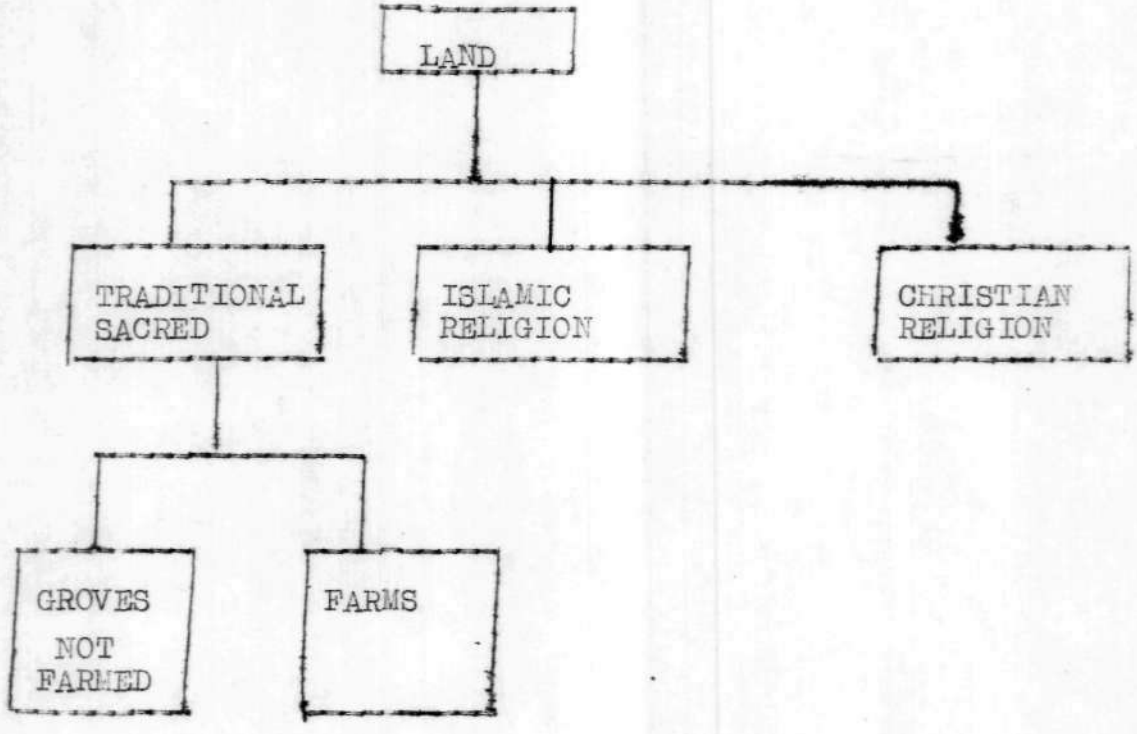


FIG. 2.03: LAND CLASS ON BASIS OF CONTROL

(i) Sacred Land:

This may either be (a) sacred groves which are neverfarmed or (b) ordinary farmland owned by and exploited on behalf of a given deity. A portion could be used as burial ground.

(b) Islamic and Christian allocation are meant for the construction of mosques and churches respectives.

2.26 Commercial/Industrial Land:

For industrial and commercial activities, vast area of land is required. Small scale industries such as poultry, pottery, weaving, carving, blacksmithing, quarrying are given priorities in the allocation of land. Where a very large expanse of land is required, application has to be made to the Oba in Edo speaking areas; Obi in Ibo speaking areas; Ovie in Urhobo speaking area and Olu in Itsekiri speaking communities. The traditional ruler in any of the communities regard it as bounden duty to honour the request.

2.27 Transport/Communication:

Consciously or unconsciously, transportation is given adequate treatment among land uses. Land is sufficiently reserved for road expansion and the laying of mains such as water pipes, electricity and telephone cables. Adequate building setback are maintained to allow for drainage facilities. Where new roads have to be constructed, owners of unexhausted improvements made on the land are consulted and occasionally compensation are paid.

2.30 Land Disposition:

2.31 Sale:

Sale is used here in the sense of a transfer of permanent rights over land for monetary consideration. The effect of a sale of land is that the totality of the interest of the grantor in the land is transferred to the grantee, the grantor ceasing to have any claims whatever on the land.

Sale of land means different thing to different people at different times. Before the advent of colonial masters, alienation by sales was unheard of in Bendel State. This was because land was said to be inalienable under the customary law. The prohibition of sale for value was explained on the consideration that land was God-given and that it was, therefore, wrong to make it a subject of commercial transactions.

The native laws and customs of Bendel communities have been modified from time to time, owing to the influences of various social and political agencies. One of the most obvious of such innovations was the sale of land. "Almost everywhere in the State, modern dealings had compelled a relaxation of the old systems and sales of land has become a part of the normal occurencies of everyday economic and legal activities".[20] (See Table 2.3).

2.32 Mortgage:

Mortgage, as understood in English law neither existed nor was practised in Ibo, Edo, Yoruba and Urhobo communities of Bendel State before colonisation. What the customary law had, was pledge which had a close resemblance with mortgage. Mortgage is a concept adopted from the English common law and has become a part and parcel of customary law.

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20. Ajisafe, Laws and Custom of the Yoruba people, Chapter IV, p. 7.

A mortgage is defined as "a conveyance of land or and assignment of chattels as a security for the repayment of a debt or the discharge of some other obligation for which it was given".[21] The essential principle of a mortgage is that upon repayment of a loan or the performance of some other obligation the interest shall be recovered. Many people in the State mortgaged their property to secure loan from the Banks and from individual money lenders. In such agreement, there is a conveyance of property to the mortgagee in the event of the mortgagor failure to pay the loan. There is right of foreclosure and usually of sale. In mortgage the original owner usually remain in possession of his property for the duration of the specific period in the agreement. Some problems concerning mortgage in Bendel was that some people did not bother about the recovery of the property morgaged especially when the money borrowed had been misappropriated or misused. (See Table 2.3).

2.33 Pledge:

Pledge consists of the transfer of property or land from one party to another either in return or as security for the discharge of an outstanding financial obligation. In a pledge, there is no right of foreclosure and no right of sale even after the agreed redemption time is up; the land remains redeemable for all time. In the words of

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21. See Gibson on Conveyancing 18th Edition (1959) p. 273.

Meek C.K. (1976) "a thing which is pledged is neverlost, once a pledge, always a pledge"[22]. Redemption is by payment of the original loan or discharge of the original obligation without interest.

Pledges were common feature in almost all communities in Bendel State. In Edo and Yoruba speaking areas, property usually pledged were land and economic crops such as cocoa, Kolanuts and rubber plantations. In Ibo, Urhobo and Itsekiri speaking areas, property usually pledged included land, fishing pools, and some economic crops like palm tree plantations. The concept of pledge is fast diminishing as a means of borrowing in the State. See Table 2.3.

2.34 Lease:

Outright sale of landed property was not common in Warri and Sapele, instead, lease was the predominant type of land disposition in the area. Any parcel of lands disposed of by either Ukumagba family, Esi family, Okpe communal land trust or Itsekiri land trust were by leasehold. As can be seen on Table 2.3 below, almost 73% of land disposition in Itsekiri and Urhobo speaking area was through lease. The Edos, Ibos, and Yorubas also lease their landed property to companies and industrial organisations.

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22. Meek, C.K. (1946) Land Law and Custom in the colonies, p. 256.

TABLE 2.3: LAND DISPOSITION BEFORE 1978.

	Area	Sale	Mortgage	Lease	Pledge
1.	Edo	50.94%	30.18%	17.93%	0.95%
2.	Ibo	54.06%	24.32%	18.92%	2.70%
3.	Urhobo & Itsekiri	5.40%	18.92%	72.68%	3.0%
4.	Yoruba	60.0%	10.0%	27.55%	2.45%

2.35 Licence:

Another form of tenancy found in Bendel State is licence. It was one of the simplest forms of land disposition which was usually a temporary disposition. A licence could be granted to a tenant to tap off palm wine for a period of six to twelve months. A fisherman could also be given permission to use a fishing pond for a specific monthly payment. A licence could be withdrawn from the tenant on basis of non-compliance with the element of the agreement. Poor performance or careless handling of material involved in the agreement could lead to its termination. In Edo and Yoruba speaking areas licence for the extraction of building materials such as gravels, stones were usually granted. Ibos, living along the bank of the river Niger, the Urhobo and Itsekiri normally grant licences for fishing, felling of timbers and rubber taping in their areas.

2.40 Administrative Policy and Machinery:

Land administration under the traditional set up vary from one Local Government Area to another. It was better organised in urban areas than rural areas. The reason being that the urban economy was monetised and pressure on land was higher in urban area than rural area. In short there was no land speculation in rural areas. Benin, Warri and Sapele had better constituted administrative machinery than in any other local government in the State. Each of the above shall be examined accordingly.

In Edo, the administrative organ operated directly under the Oba of Benin. He appointed members to the plot allotment committees constituted in each ward. In appointing some of them, he must take account of the proposals of the representatives of the landlords from the area the committee was formed. Before the promulgation of the land use decree, twenty of such wards committees existed in Benin City.[23]

1. Layout scheme 1 of Evbareke Area.
2. Layout for ward 22/J
3. Iwogban village layout zone 3
4. Uhunmwu Idumu layout ward 18/A
5. Uhunmwu Idunmu layout ward 18/B

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23. Memorandum submitted by the Technical body of the Ministry of Land and Surveys to the Land Use and Allocation Committee on the implementation of the Land Use Decree 1978.

6. New Benin layout ward 7/E
7. Ward 19/A old cementry
8. Ward 19/B Ogba Road.
9. Ward 21/I West Circular.
10. Ward 10/E East Circular.
11. Ward 10/K North Circular.
12. Ward 20/K Ekenwan Road.
13. Ward I Ihogbe.
14. Evbareke Ward Scheme II.
15. Layout of Chanilia Ward 23/L
16. Ward I/A Iguosa Village.
17. Ward 18/H Ugbekun Quarters.
18. Ward 37/B G.R.A.
19. Royal layout.
20. Igbhiwiyisi Eweka ward layout.

The ward committees instituted had direct link with members of the public wanting to acquire parcel of land. Applications were received from interested people, proceased by the committee and recommendations were made to the Oba. The Oba gave the final approval. It is important here to emphasise that no plan could ever be registered with the Bendel Development and Property Authority without the Oba's approval. The Organisational chart of the administrative body shows the Oba at the apex, there was a secretary, chiefs representing the wards. (See Figure 2.04 (a))

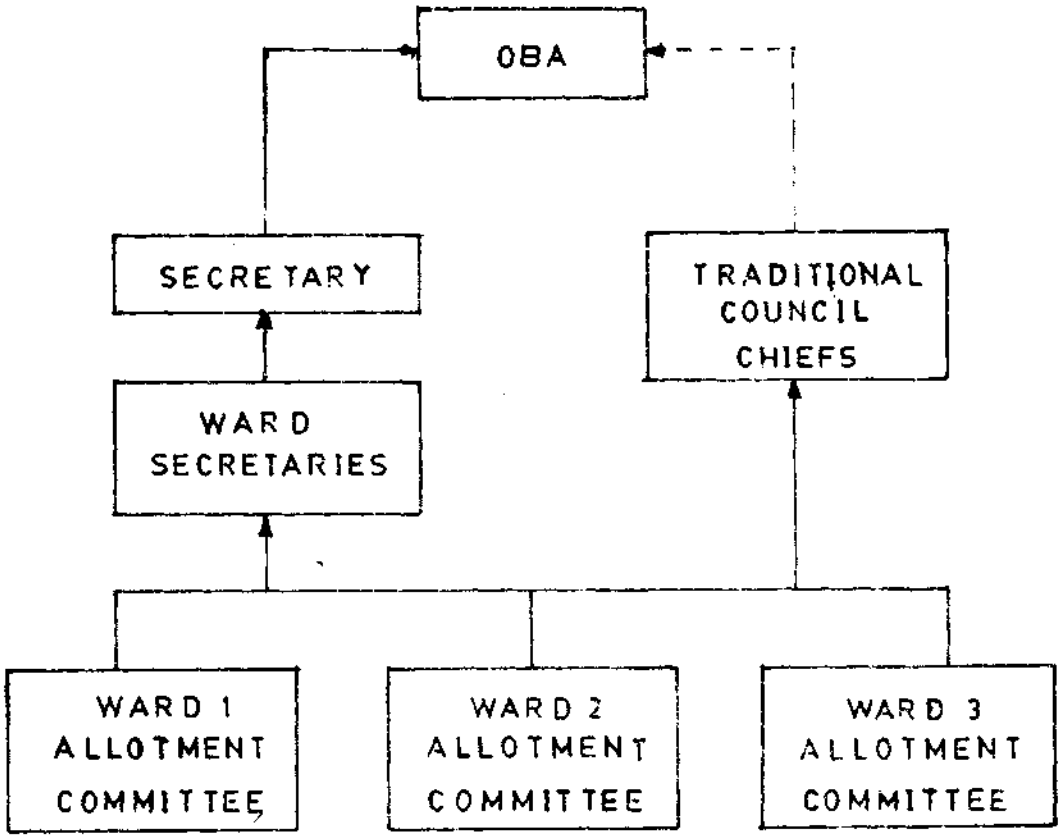


FIG. 2.04a: Customary Land Administration In Edo speaking Areas Of Bendel State

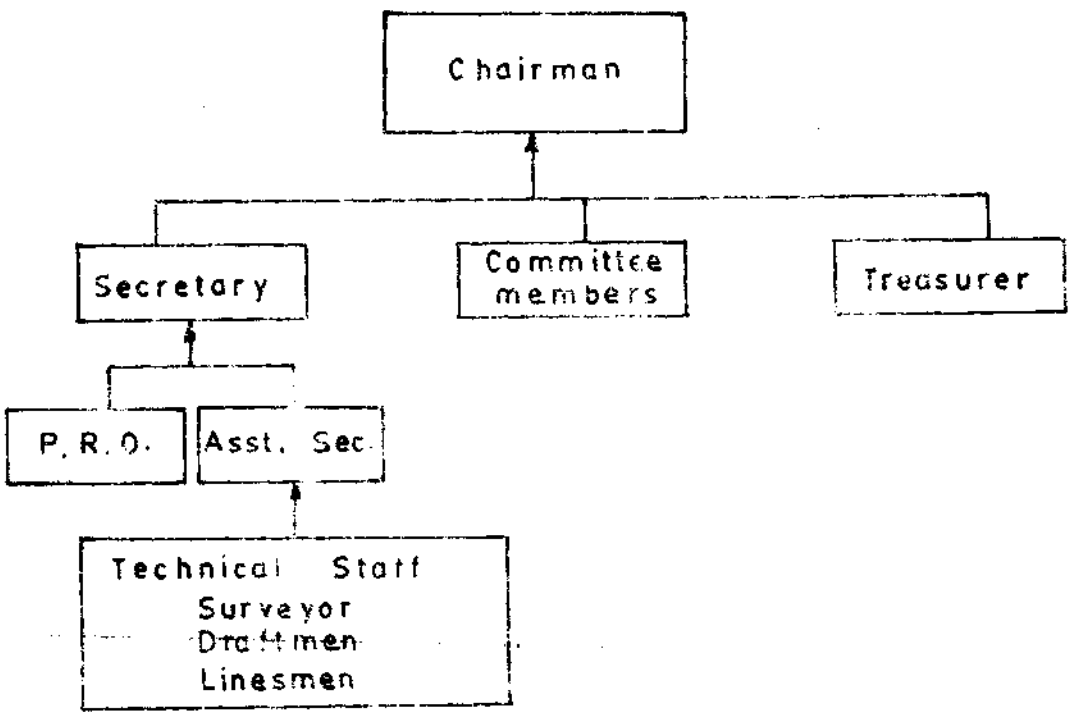


FIG. 2.04 b: Customary Land Administration At Ward Level

Source: Field Survey July - October 1983

The major functions of the body were to consider applications and allocate plots to applicants; to settle disputes arising from land matters; to plan and determine the siting of projects in the communities; to resettle people whose land were acquired for development projects in the communities.

At the ward level, there was also administrative set up for the management of land. (See Figure 2.04(b)).

The chairman was assisted by a secretary, public relation officer and a treasurer. There was technical staff responsible for the preparation of layout and demarcation of plots to be allocated to the applicants. A copy of the layout from each ward was usually sent to the Planning Authority for study, correction and approval. It was only when the layout was approved for any of the wards, that the plot demarcation could be performed. In order to demarcate the plots in an area, the service of a qualified surveyor was always hired.

2.41 The Sapele Urban Development Area (Sapele Okpe Communal Land) Trust:

The Sapele Okpe Communal Land Trust was given a legal statutory recognition in 1959.[24] The trust was set up to minimise a lot of litigations arising from land matters in Sapele and its local environs. The trust was well organised and legally backed. It had nine elected members with a chairman. Directly under him was the Secretary/Trasurer and seven other members.

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24. Law of Bendel State of Nigeria 1976 Vol. II W.R.L.N. 220 1959 3.3. (1) (a).

Vesting of Communal Rights:

(i) ... there shall be vested in the trustees by virtue of section 5 of the law and this instrument all rights in or overland in the area of the Sapele Urban Development Committee that are exercisable on behalf of Sapele Okpe Community by any chief or chiefs associated with that community or by any other persons associated with that community including any right exercisable on behalf of Okpe community by such persons.[25]

(a) to demise land for a term of years;

(b) to accept surrenders to leases so granted;

(c) as reversioner of any lease so granted.

(2) The said rights shall not include any rights exercisable by any person in respect of family land on behalf of the family.

(3) The account of the fund shall be maintained at a Bank approved by the representative committee.

(4) There shall be established a Sapele Okpe Lands Representative Committee. The committee shall consist of the following members:

(a) Ex-officia members

The Trustees	- 9
The solicitor to the trustees	- 1
The Secretary/Treasurer	- 1

25. Law of Bendel State ibid, p. 693.

(b) Representing the Odogun of Sapele Okpe - 5

(c) Representing other Sapele Okpe interest - 10

(d) Representing Sapele Okpe Union - 1

(e) Representing Sapele Township - 10

(f) Representing other interest - 1

Appointment of members of the representative committee other than ex-officio members shall be made by the chairman of the trustees. (See Figure 2.05 for administrative set up).

2.42 The Warri Division (Itsekiri Communal Lands) Trust.

The Itsekiri land trust was also set up by a statute. The Itsekiri communal lands trust was instituted to administer all lands in Warri on behalf of and for the benefit of Itsekiri community.

(i) The corporate name of the trustees shall be the Itsekiri communal land trustees.[26]

(ii) Trustees are hereby appointed for carrying the order into effect and the following shall be the trustees for the time being.

1. The Trust had a chairman and eight members.
2. There were rules contained in the schedule to the instrument of the trust. This guides the proceedings of the trustees at their meetings.

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26. Laws of Bendel State Chapter 42, W.R.L.N. 96 of 1959 p. 697.

(3) There was trust fund which was maintained at a Bank approved by the representative committee.

(4) All revenue received in consequence of the exercise of the communal rights was disposed of for the following purposes:

(a) defraying the expenses of the trustees in carrying into effect the order (including the management of any lands over which rights of disposition were exercisable and the conduct of legal proceedings in connection with rights vested by this instrument).

(b) the advancement of the education or culture or maintenance of the tradition of the Itsekiri community.

(c) Any moneys in the fund not for the time being required for the foregoing purposes may be invested in securities authorised for the investment of trust funds.

2. There was a representative committee consisting of 47 members who shall be appointed by the Olu of Warri in the following proportions to represent the following interests:

(a) The trustees - 9

(b) The Secretary/Treasuer - 1

(c) Representing the Ojoyes - 8

(d) Representing Ode Itsekirit Area - 4

(e) Representing Warri Urban District - 3

(f) Representing Benin-River Itsekiri - 6

(g) Representing Koko area community - 2

(h) Representing Gborodo council - 3

(i) Representing Itsekiri interests not otherwise represented - 9

(See Figure 2.06 for administrative set up).

2.43 Customary Land Administration in Owan Local Government Areas.

The plot allotment committees for the Yoruba speaking areas were organised along with those found in Edo speaking areas. All applications for land acquisition were made to the Oba through the ward allotment committee. The committee composed of the Oba (Chairman), the Secretary, the Treasurer and seven mebers. With the exception of the Oba, all the other members of the committee were elected for a five year term. The functions of the committee included:

(a) Processing and allocation of plots to organisations and individuals.

(b) Checking irregularities in plot allocation.

(c) Settling disputes arising from land matters.

All revenue realised from land transactions were paid into the community treasury for the development of the community.

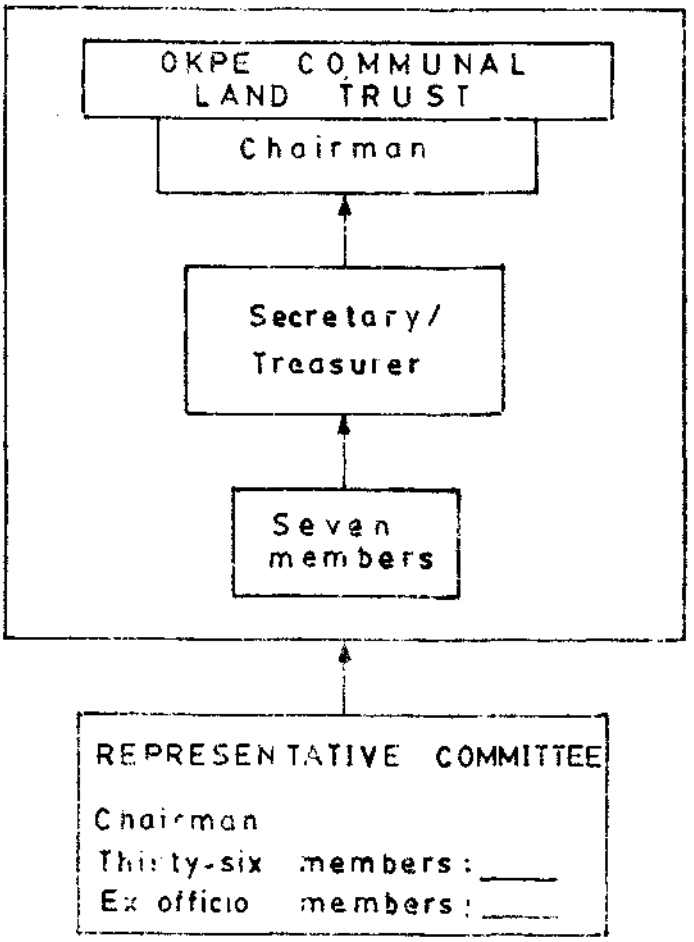


FIG 2.05 Administrative And Organisational Chart Of Okpe Communal Land Trust

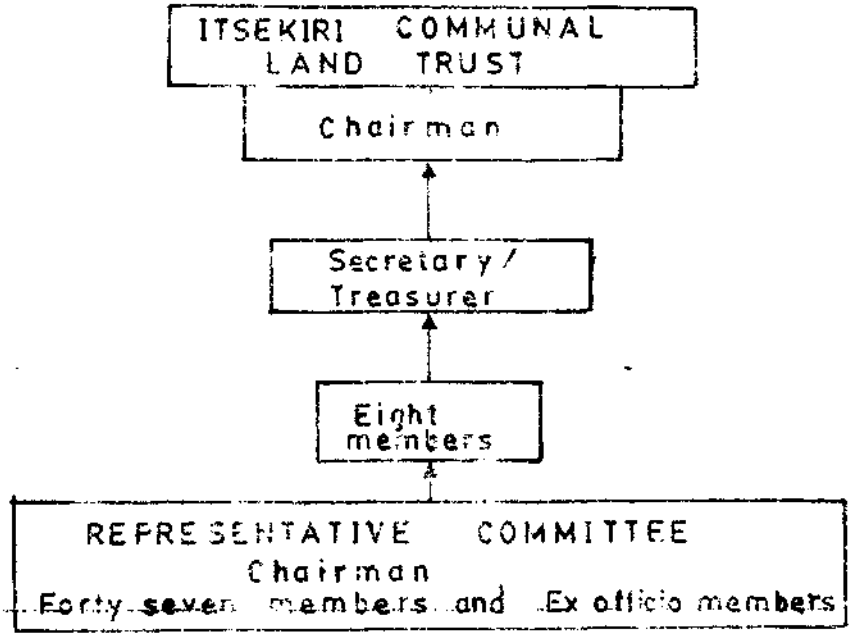


FIG 2.06 Adminstrative And Organisational Chart Of Itsekiri Land Trust.

Source: Field Survey July - October 1983

2.44 Owa-Nta Community Land Registry:

Unlike those discussed earlier, Owa-Nta community land registry was not a plot allotment committee. The Ibos have a segmentary lineage system. All the people born in a village believe themselves to have descended ultimately from a common ancestor. Family property, therefore was a uniform tenure of landholding in the areas. Each family was responsible for the sale of its land.

Land registries were organised on clan basis. For example, there were two land registries in Agbor alone. Owa-Nta community land registry for Owa-Agbor and the Ogbe-Mude land registry for Agbor-Obi.

Because of the non-cordination of the families in land sales, there were instances of two brothers selling one parcel of land to two or more persons. This brought conflicts and litigations. Thus, land registries were instituted to check some irregularities and disputes arising from land in the areas.

Any parcel of land sold by any family was registered with either Owa-Nta or Ogbe-Mude community land registries. It was the responsibility of the registries to investigate and check their registers to know whether such parcel of land had been sold to some one else or not.

CHAPTER THREE

3.00 ELEMENTS OF THE LAND USE DECREE 1978:

The most radical element of the land use decree is that the old system of ownership of land by individuals, clan head, chief or Oba holding land in trust for the family and community gave way to a new concept of the government owning all land both developed and undeveloped. People can only acquire a right of use. The Bendel Stateof Nigeria was greatly affected by this change as shown in chapter 2. Prior to the promulgation of the land use decree, lands in the State were either communally, family or individually owned.

Another remarkable feature of the land use decree is the change of authority responsible for the administration of land. Since ownership of land changed it follows logically that the authority for its allocation and administration should change as well. The Governor of the State is the ultimate authority in granting a right of occupancy.

Under the transitional provisions of the Decree, land already developed shall continue to be held by theperson it was vested immediately before the commencement of the Decree as if the holder of the land was the holder of a statutory right of occupancy. Those who are activily occupying a piece of land for farming purposes are deemed to have customary right of occupancy on the land. Section 34, subsections (1) and (2).

3.10 Land Acquisition:

"As from the commencement of this Decree, all land in urban areas shall be under the control and management of the Military Governor of each State and all other land shall, subject to this Decree, be under the control and management of the Local Government within the area of jurisdiction of which the land is situated".[27]

To enable the public and individual to acquire land in urban areas, the decree provided for the establishment of a body knowas "the Land Use and Allocation Committee". At the Local Government level, a body known as "the Land Allocation Advisory Committee acting in consultation with the Local Government shall have responsibility for advising the Local Government on any matter connected with the management of land. Thus, any person wishing to acquire any parcel of land both in urban as well as rural areas have to go through the above mentioned institutionalised bodies. The only qualifications are that the applicant must be a Nigerian and not below 21 years old (section 7). Plots are normally allocated on the principle of one man, one plot.

3.11 Inheritance:

The Land Use Decree adequately provides for the devolution of the rights of an occupier upon death, Section 24, paragraph (b) prohibits the subdivision of land on the death of the occupier, except with the consent of the Military Governor. "Any transaction or any instrument which purports to confer on or vest in any person any

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27. Federal Republic of Nigeria Official Gazette, Section 2 (a) and (b), p. A49.

interest or right over land other than in accordance with the provisions of this Decree shall be null and void" section 26.

However, in the event of the death of tenant, devolution of a right of occupancy shall in general follow the customary law except some other operative law is more appropriate in the neighbourhood at the time.

3.12 Leasehold:

Section 22 clearly explains that it shall not be lawful for the holder of a statutory right of occupancy granted by the Military Governor to alienate his right of occupancy or any part of it by assignment, mortgage, transfer of possession, sublease or otherwise without the consent of the Governor.

It is observed that all through the Decree, the power to acquire land or lease it is strictly restrictive to the instrument. The statutory right of occupancy itself is only a right of occupation which carries the power equivalent to lease in the customary tenure system. In order to transfer the whole or any part of the land for which certificate has been gtanted, application has to be made to the Governor. The procedure is as cumbersome as that of obtaining the statutory right of occupancy itself.

3.13 Purchase:

The Land Use Decree did not make any provision for the acquisition of land by purchase because it prohibits any form of alienation. However, where a holder of a statutory right of occupancy decides to transfer his right to

a purchaser for the remaining duration of his right of occupancy, he can apply to the Governor for consent. "The Military Governor when giving his consent to an assignment may require the holder to submit an instrument executed in evidence of the assignment and the holder shall when so required, deliver the said instrument to the Governor in order that the consent given may be signified by endorsement thereon". (Section 22 (2)).

3.14 Rent:

Another important type of land acquisition recognised by the Land Use Decree is rent. In fixing rents, the efforts of the tenant or his predecessors shall be ignored. In assessing rent, the comparison method shall be used, that is regard shall be had to rent previously fixed or the rent passing for comparable properties in the area. In cases of default, penal rents in addition to normal rent may be imposed on the tenant and such penal rents may be revised annually if the breach persists section 19, subsection (1) paragraphs (a) and (b). Where penal rent is revised, the new rent shall not be in excess of twice the rent paid in the preceding year. The right of occupancy, statutory or customary, may be revoked in lieu of a penal rent. In the event of revocation, a pro-rata refund may be made to the tenant in respect of the period for which payment had been made but which the tenant is not allowed to enjoy by virtue of revocation. The Governor is also free to grant a right of

occupancy free of rent or at a reduced rent where he is satisfied that it would be in the public interest to do so (section 17). This will enable voluntary organisations like the Red Cross Society, Boys Brigade and the Nigerian Scout Movements to have land free of rent and this would alleviate some of the financial problems faced by such organisations.

3.15 Gift:

Although the Land Use Decree did not make any provision for any alienation by gift but it is implied in the Decree that a father or mother or a family can assign any portion of their land to a son or a daughter. The important thing about it is that the party involved should make a formal request to the Governor for a consent (section 22). In all parts of Bendel State, gifts of land may be made to a son or a daughter for his or her excellent performance in any sphere of life. The Land Use Decree has not in any way made this unlawful.

3.20 Land Use Practices:

3.21 Public Land Use:

Right from 1917, the government was vested with the power to acquire land compulsorily for public use. The power of compulsory acquisition was reinforced by some other statutes such as the Town and Country Planning Laws (1946) and the Land Use Decree (1978). Under the Land Use Decree, the State Government is much more than before

empowered to acquire land for public use. The provisions of the Decree are drastic so far as the provisions on acquisition go. The Government can now take over land without paying compensation. The government is only required to pay for improvements or unexhausted improvements made on the land. The Governor could allocate land for purposes beneficial to the community. With the Land Use Decree, a situation such as happened in Ereku V. Governor of Midwest State would not arise.[28] In that case, an oil company, Mc Dermatt Overseas Inc. had wanted a piece of land in Warri Division for his operations. There was a dispute between the Itsekiri communal land Trustees as to the ownership of the land which made the acquisition by the company difficult. To remedy the situation the Government published an acquisition notice stating that the land was acquired for public purposes and later granted a 99 year lease of the land to the company. The supreme court held that the acquisition was for the private purpose of the company and was therefore ultra vires as it was not acquired for public purpose. It mattered not that the purpose of the company was beneficial to the public. Land for the construction of hospitals, clinic, maternity, post offices, schools and public utilities are examples of public landuse existing in almost every community.

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28. Olawoye, C.O. (1982) Report of National Workshop, p. 15.

3.22 Residential:

The Decree allows citizens in their individual capacity to hold an interest in land. Section 5 empowers the Governor to grant a right of occupancy to anyone in respect of any land whether or not in urban area; while section 6 empowers the Local Government to grant customary right of occupancy. A successful applicant is only entitled to one plot or portion of land not exceeding half hectare in area.

The procedure for the issuance of a certificate of occupancy are classified under two headings:

(i) Issuance in respect of grants made by the Military Governor under section 5(1) of the Land Use Decree 1978.

(ii) Issuance in respect of cases coming under section 34 of the Decree, that is, where land was privately acquired before the commencement of the Decree.

See Appendix III for detailed procedure for the issuance of certificate of occupancy.

3.23 Agriculture:

The power to allocate agricultural land to applicants was delegated to Local Governments under section 6(1) (2) of the Land Use Decree. More than 70% of the people of Bendel State are farmers and as such every community benefits from this provision. By December 31, 1983, the Land Allocation Advisory Committee which is the first tier to authority with regards to granting of right of use on

Rural land has not yet been established in some Local Government Areas of the State.

In non-urban areas, a person may hold up to 500 hectares for agricultural purposes, this quantity is regarded as the maximum figure since the circumstance of particular areas will guide the Local Government Authorities on what can be granted to a single individual or organisation. The ceiling of 500 hectares for agricultural purposes is a disadvantage to some communities in Bendel State. The Yoruba of Owan and Etsako are cocoa farmers with vast area planted with cocoa, oranges, kolanuts, oranges and other economic crops. In Edo, Urhobo, Ibo speaking areas, individual rubber estate covering more than 500 hectares is not uncommon. An area of 500 hectare is also too low for companies who have money to invest in the plantation of palm trees on a large scale.

The advantage of the Land Use Decree on agricultural land in the State is that land covered by a customary right of occupancy cannot be fragmented on the death of the grantee. The land must continue to be managed as an economic entity and as well provide opportunity for mechanisation. This may prove difficult to implement as long as successors are many. This is much more difficult in rural areas where people are polygamous.

TABLE 3.1(a): LAND USE PRACTICES 1978-83
CERTIFICATE OF OCCUPANCY FOR FRESH LAND.

Purpose for which obtained	Residential	Agricultural	Grazing	Commercial	Industrial
Number of applications	242	21	-	48	25
Number of successful applications	17	7	-	8	5
% Successful	7.02%	33.3%	-	16.6%	24%

Source: Field Survey July-October 1983.

In the interview conducted between July and October 1983, it was established that not much success has been made in area of land acquisition in the State. Among the 242 respondents, only 17 applicants were successful in obtaining a statutory right of occupancy for residential purpose and this was just 7.02%. For agricultural land use 33.3% of the applicants interviewed received certificate of occupancy while 28% of the applicants were successful in the case of industrial land use. See Table 3.1(a) above.

TABLE 3.1(b): CERTIFICATE OF OCCUPANCY FOR EXISTING LAND 1978-83.

Purpose for which obtained	Residential	Agricultural	Grazing	Commercial	Industrial
Number applied	129	25	-	37	15
Number granted	70	9	-	17	3
% Granted	54.3%	36%	-	45%	20%

Source: Field Survey July-October 1983.

More achievements were recorded in the issuance of certificate of occupancy for land already acquired before 1978. The reason for this is not far feshed. The land had already been acquired by the respective applicants and all that the Land Use and Allocation Committee needed was to issue the certificates. The survey conducted showed that 54.3% of the applicants for residential purpose got their certificates. For other land uses, agriculture had 36%, commerce 45% while industrial land use secured 20% (See Table 3.1(b) above).

3.24 Grazing:

For the purpose of grazing animals, an individual can acqure a parcel of land up to 5000hectares (section 6 (2). Most of the farmers in Bendel State are food crops farmers. It is only in the Yoruba speaking areas - Owan and Etsako Local Governments that farmers take to large scale rearing of animals. In the survey conducted, no farmer or respondent applied for certificate of occupancy. Animals reared in these areas are not confined to an area. They are led out to graze any where the grass was fresh.

3.30 Land Disposition:

3.31 Sale:

Outright sale of land is prohibited by the Land Use Decree. The fact is that no individual or group of individuals have absolute rights of ownership since the promulgation of the Land Use Decree 1978. The greatest

interest one can have is right of use for 99 years. Section 21 clearly states that it shall not be lawful for any customary right of occupancy or any part thereof to be alienated by sale. The sale of land in Bendel State is fast declining as can be seen in figure 3.01 below. Land is still being sold in all the communities in the State and in most cases, the agreement are pre-dated to before the effective date of the decree (March 29, 1978). In Edo speaking areas, the percentage has fallen from 81 to 33; 28 to 14 in Ibo speaking areas, 23 to 17 in Urhobo speaking areas while in Yoruba area, the decline is from 11 to 9.

It must be remembered that one of the problems which existed before the Land Use Decree 1978, was that some influential people were able to acquire several plots, some of which they subsequently transferred at colossal profits. Thus, although the 1978 land law aspires to stop land speculation, it is a fact that land is still being sold in the "Black Market". However, the efficiency of the Decree in the sphere of land speculation will greatly depend on the integrity and co-operation of the members of the Land Use and Allocation Committee.

In Bendel State, the survey conducted reveals that the processing of an application can take many years in certain cases while in exceptionaly speedy cases, about six to nine months is perhaps the quickest, one could reasonably expect.

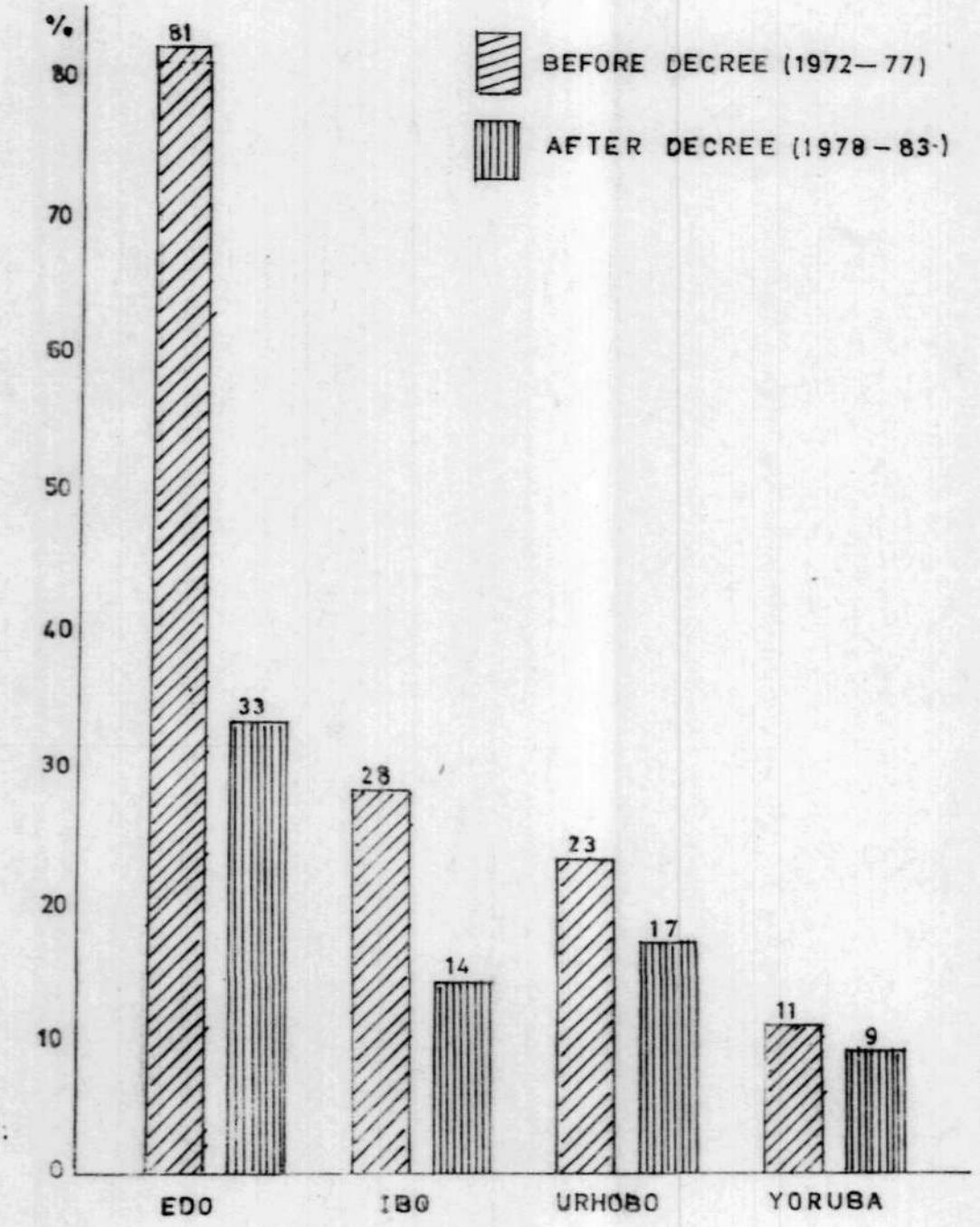


FIG. 3.01 TREND IN LAND SALES BY PRIVATE LAND OWNERS BEFORE AND AFTER LAND USE DECREE 1978

Source: Field Survey July - October 1983

3.32 Mortgage:

The statutory rights of occupancy granted for the use of a parcel of land cannot be mortgage to any persons or organisation without the consent of the Governor section 22 (1)(a). Subject to the fulfilment of the conditions of a grant, occupiers have exclussive rights of possession and quiet enjoyment of the land in respect of which they have statutory right of occupancy. During his tenure, the holder or occupier has all rights to the improvements on the land and subject to the prior consent of the Governor, the occupier may mortgage any improvements which have been made on the land in accordance with the conditions of the grant. Mortgage is therefore one of the commonest land transactions since 1978 for people wishing to borrow money from the Bank in Bendel State.

3.33 Licence:

The Governor can grant licence for the extraction of building materials in appropriate circumstance but the area in such a grant shall not exceed 400 hectares and the grantee shall not transfer such licence without the consent of the Governor. "An unauthorised transfer of any licence shall be null and void" (Section 12, subsection 4). With this provision, a person granted licence can remove or extract therefrom any stone, gravel, clay, sand or any other substance that may be required for building or for the manufacture of building materials. Any such licence may be granted for such period and subject to such conditions as the Governor may think proper or as may be prescribed.

3.40 Administrative Policy and Machinery:

Administrative policies represent some course of actions adopted by a State or its Governments as to the manner in which its urban and rural land resources are held and used in the interest of many rather than a few. The policies may be in form of Acts, Laws, and Regulations. For instance, the Land Acquisition Ordinance 1917, the Town and Country Planning Ordinance of 1946, Town and Country Planning Law 1959 (Cap. 165 for Bendel State) and the Land Use Decree 1978. Justification for the adoption of land use policies is usually based on reasons.

Prior to the promulgation of the Land Use Decree in 1978, land in Nigeria was held in two different ways. In the southern parts of the country to which Bendel State belongs, absolute land ownership existed together with leases granted by the State in respect of State lands. In Northern States on the other hand, land ownership was vested in the State Governments as operated under the Land Tenure Act 1962. Great problems were encountered by the government in land acquisition especially in Bendel State. Blunt refusal by land owners to give out their lands for public use and the difficulty and cost involved in payment of compensation where such land were acquired featured prominently. It was against this background that the Federal Government in May 1977 felt the necessity to reform the existing system of land tenure in the country and a land use panel was set up to look into this.

The panel recommended and the government accepted a uniform land tenure system for the country.

3.41 Machinery for the Land Use Decree Implementation:

In Bendel State, there is no specific law made for the administration of the Land Use Decree other than the system provided in the Decree. "All land in urban areas shall be under the control and management of the Military Governor" Section 2 (1)(a) and (b). For this purpose a body known as the "Land Use and Allocation Committee" was established which shall among other things have responsibility for advising the Governor on all matters in respect of the management of land, resettlement of persons affected by revocation of rights of occupancy on the ground of overriding public interest and determining disputes as to the amount of compensation payable for improvements on land.

In respect of lands in non-urban areas, control and management will be by the Local Government within the area of jurisdiction of which the land is situated. For this purpose a body know as the "Land Allocation Advisory Committee" has been established to advise the Local Government on any matter connected with the management and administration of land. By empowering the Local Government to control and administer land within its area of jurisdiction, the government has placed in a body coversant with the economic problems of an area

the responsibility of sharing out land to meet the needs of the people in the State. Also a cumbersome bureaucracy is avoided which would result from a complete centralisation. Figure 3.02 below shows the organisational set up of the Land Use and Allocation Committee.

In non-urban areas, the responsibility of granting customary rights of occupancy to any person, organisation for any purpose rest with the Local Government and "there shall also be estbalished for each Local Government a body to be known as the "Land Allocation Advisory Committee". (Section 2(5)). Figure 3.03 shows the organisational set up of the Land Allocation Advisory Committee.

One of the main functions of the Land Use and Allocation Committee is to determine the disputes as to the amount of compensation payable for improvement on land. Although section 47(2) expressly states that "no court shall have jurisdiction to inquire into any question concerning or partaining tc the amount or adeauacy of any compensation paid or tc be paid in respect of land which is compulsorily acquired by the Government",[29] however, the High Court has power in all proceedings emanating from grants of statutory rights of occupancy so long as the quantum of compensation is not the issue to be decided. For example, the High Court has power to deal with proceedings to ascertain

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29. Federal Gazette, ibid, p. A64.

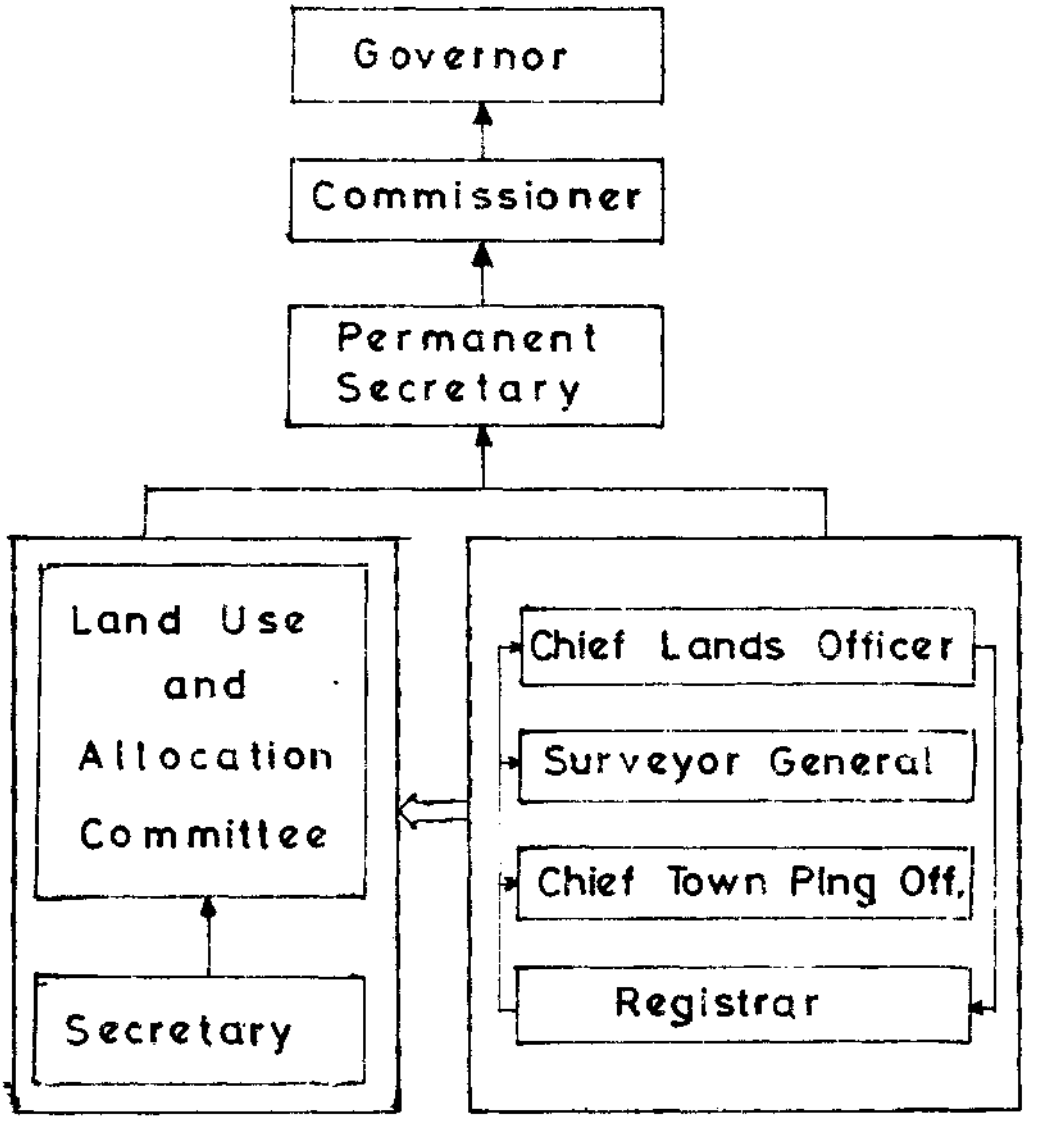


FIG 3.02 Administration, Management And Control Of Land In Bendel State (Urban Level)

Source: Field Survey July - October 1983

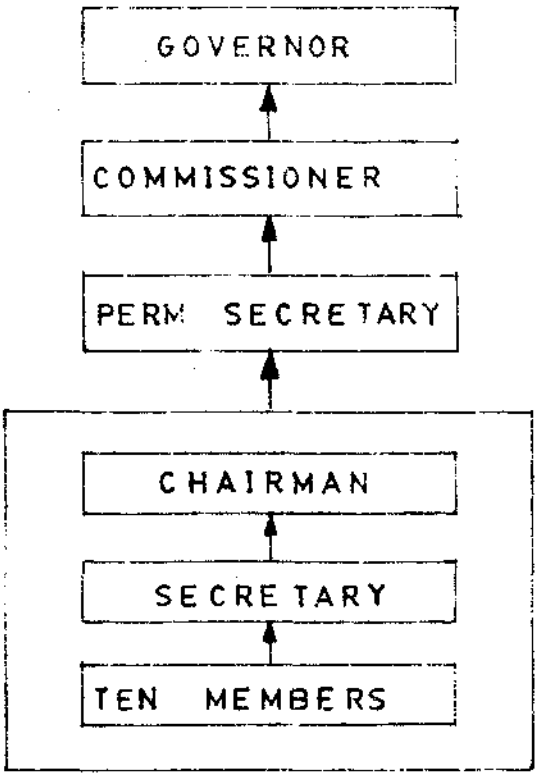


FIG 3.03 Administration And Control Of Land At Local Government Level In Bendel State. (Land Use Advisory Committee)

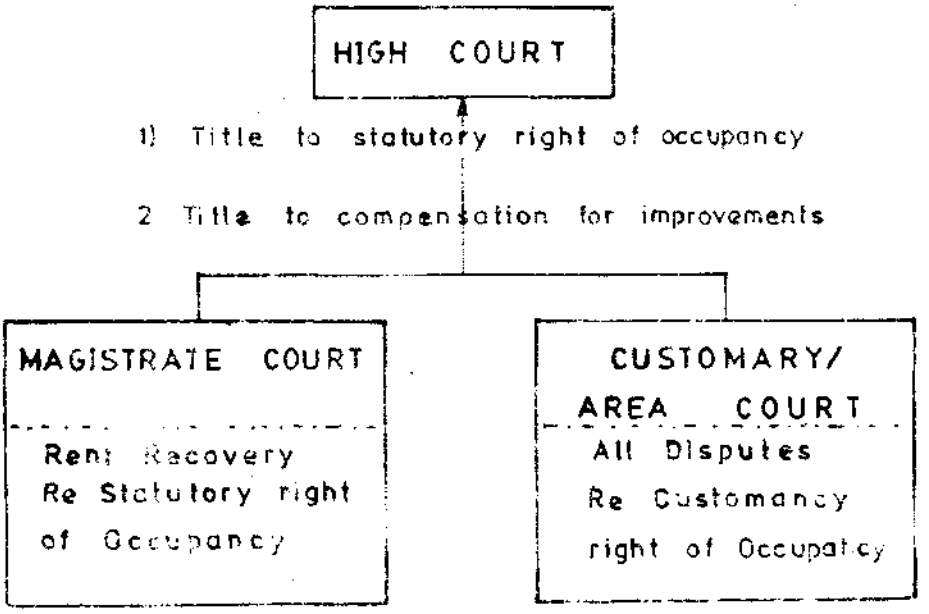


FIG 3.04 JURISDICTION OF THE COURTS ON LAND MATTERS

Source: Field Survey July - October 1983

any issue as to whom compensation should be paid for improvements. Any litigation in respect of any question pertaining to title or interest in any land commenced prior to the Decree continues to be decided by the courts. Customary and area courts are given power to deal with disputes arising out of customary right of occupancy granted by Local Government while the Magistrate Courts have power over rent recovery cases in respect of statutory right of occupancy (See Sections 41 and 42 and Figure 3.04).

CHAPTER FOUR

4.00 IMPACT OF THE LAND USE DECREE ON LAND ADMINISTRATION.

4.10 Administrative Impact:

The Land Use Decree whether as applied in Bendel State or Nigeria as a whole touches on administrative, economic, political and social activities and these activities have both positive and negative impact on land administration.

The decree has created a single and uniform land administrative body for Bendel State. Before 1978, policies and principles of land administration varied from one community to mother. For example in Edo speaking areas, there existed plot allotment committees which were usually chairman by the Obas; there was Okpe Communal Land Trust with elected members in Sapele O kpe Local Government Area; the Itsekiri Land Trust with elected members existed in Warri Local Government Area; the Owa-Nta Communal Land Registry and the Ogbe-Mude Communal Land Registry both existed in Ibo speaking area of the State (all fully treated in chapter two). All the above mentioned administrative bodies had been brought under one umbrella by the Land Use Decree 1978. The Land Use and Allocation Committee for urban areas and the Land Allocation Advisory Committee for rural areas. The functions and powers of these bodies are one and the same all over the country (see chapter three). Thus, from the above, it is clear that the Land Use Decree has made

a significant impact on land administration by streamlining the procedure for land acquisition, dispostion, control and management of urban as well as rural lands in the State.

From the government perspective, the decree has removed all its headaches. It vests all lands in the State Governor. Compensation is no longer paid for land but payment is made on improvements or unexhausted improvements on land. The amount paid as compensation cannot be challenged in any court of law in the country section 47(2). The government can now allocate land for all purposes beneficial to the community without the difficulty of paying exorbitant compensation to owners. With the land use decree, a situation like that in Eruku V. Governor of Midwest State[30] should not arise again.

4.11 Impact of Administrative Policies:

These represent the official guiding principles of actions adopted by a State or its government as to the manner in which its urban and rural land resources are held and used in the interest of the public. The policies may be in form of Acts, Laws and Regulation. For instance, Rent Control Edicts, Zoning Ordinances, Town and Country Planning Laws, Land Taxation Policies and the Land Use Decree 1978. As a case in point, the Land Use Decree is briefly examined as a government policy measure of institutional reform.

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30. Olawoye, C.O. (1982) Report of National Workshop, ibid., p. 15; Chapter three of this study.

The institutional factor constitutes the most subtle yet the most decisive factor that make an impact upon land resource management in the State. "The institutional factor is concerned with the role of man in his socio-cultural environment, the role which forces of social and collective action plays in influencing the behaviour of man as a member of the family, a group and a community".[31]

4.12 Administrative Workability:

One of the criteria which any land use policies must meet inorder to succeed is "administrative workability" (Barlowe 1978.) It is clear from the writings of many onservers that there is much to be done to make the administration of the land policy more workable in the State. A number of problems may be noted in relation to making it administratively workable and these are:

(a) Allegations are abound that there is discrimination in dealing with people; that the powerful, rich and influential are favoured at the expense of

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31. Dr. Famoriyo Segun (1982) Factors Impinging upon Land Resource Management in Nigeria, p. 6.

of the poor by the Land Use and Allocation Committee.

(b) Lack of understanding (by officials) of the nature of their functions, for example the Land Use and Allocation Committee and the Land Allocation Advisory Committee.

(c) There is the important question regarding who recommends to the Governor, decisions regarding urban boundaries (Igbozurike 1980, Famoriyo 1981). Adequate provisions were made for the allocation of land to prospective developers but this is yet to be achieved in Bendel State (See Figure 4.01, Table 4.1). Statistics available from the office of the Land Use and Allocation Committee show that about 11.55% of the applicants benefited from land allocation between March 29th 1978 to December, 31st 1983. It is pertinent to note that although the land transaction system in Warri is leasehold as was before the Land Use Decree, the administrative arrangement under the Decree appears to have constraints on the success of land allocation in the area. The same source also disclosed that applicants seeking certificates of occupancy for existing plots and structure are much more successful, (See Figure 4.02). The highest number of certificates of occupancy have been obtained for residential land use (See Figure 4.03)

TABLE 4.1: STATUTORY RIGHT OF OCCUPANCY. BENEFICIARIES FOR FRESH LAND ALLOCATION 1978-1983 IN SIX LOCAL GOVERNMENT HEADQUARTERS IN BENDEL STATE.

YEAR	BENIN		AUCHI		WARRI		UGHELLI		ASABA		SAPELE		TOTAL		% Age
	Applied	Granted	Applied	Granted	Applied	Granted	Applied	Granted	Applied	Granted	Applied	Granted	A	G	
1978	420	-	25	-	103	-	-	-	6	-	23	-	577	-	-
1979	580	-	10	-	112	-	8	-	9	-	37	-	756	-	-
1980	439	94	60	-	241	12	12	-	14	-	80	-	846	106	12.52
1981	448	137	78	1	256	8	38	-	26	-	132	5	978	151	15.43
1982	650	298	79	2	293	11	45	-	23	2	106	2	1196	315	26.33
1983	943	89	88	-	274	10	52	2	29	1	111	2	1497	104	6.94
	3480	618	340	3	1279	41	155	2	107	3	489	9	5850	676	11.55
		18%		1%		3%		1%		3%		2%		11.55%	

Source: Land Use and Allocation Committee, Ministry of Land and Surveys, Benin City.

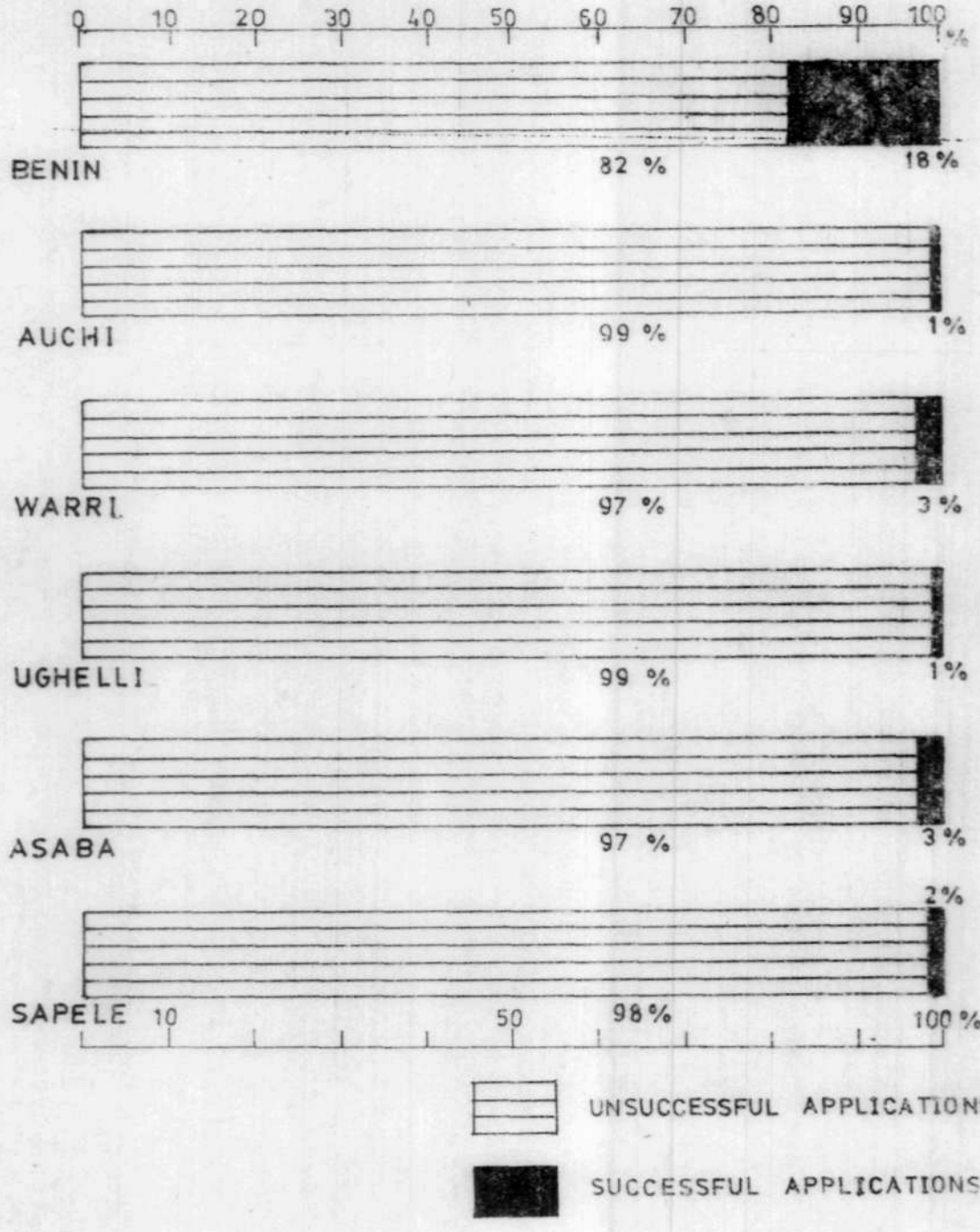


FIG 4.01 Statutory Right Of Occupancy: Beneficiaries From Fresh Allocation Of Land (1978 1983) In Six Local Govt. Headquarters In Bendel State.

Source: Ministry Of Lands and Surveys (Town Planning Division) Benin City

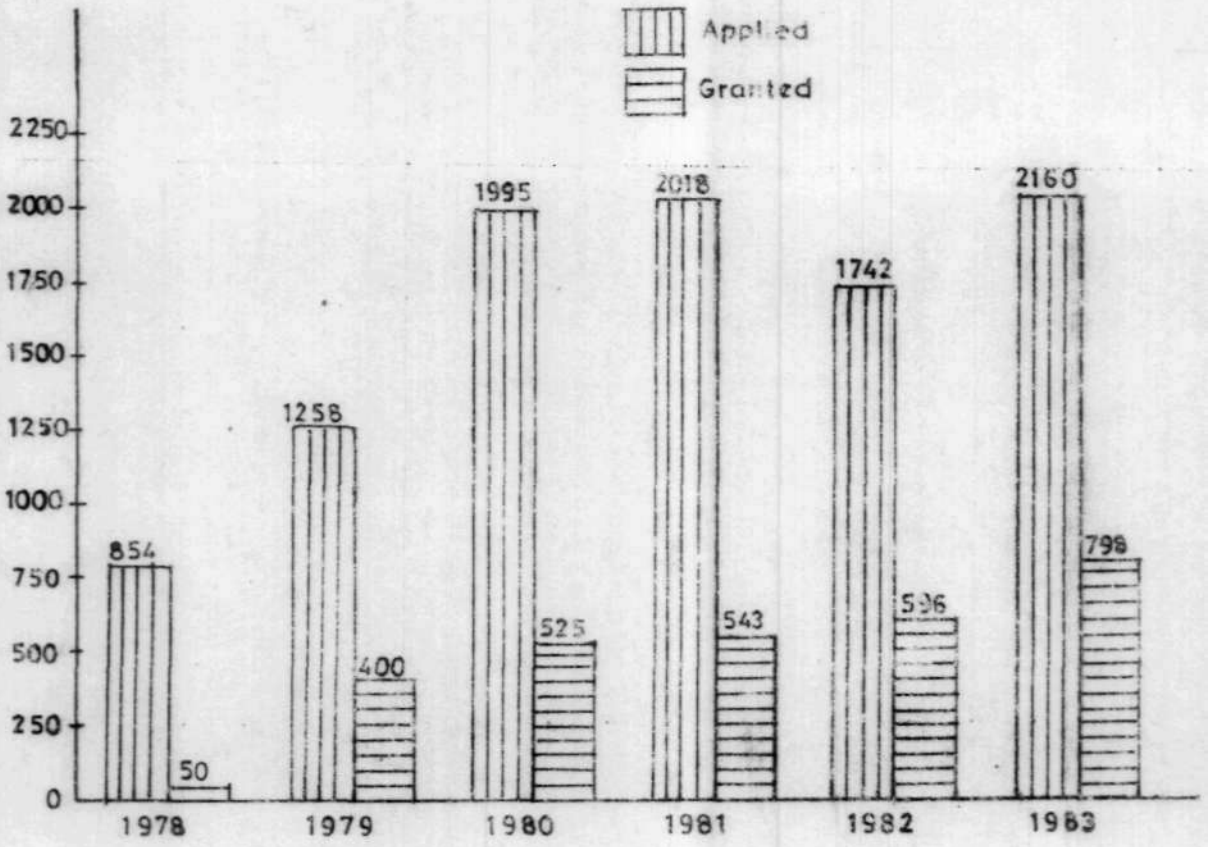


FIG 4.02: Beneficiaries From The Statutory Right Of Occupancy. (Land Acquired Before 1978)

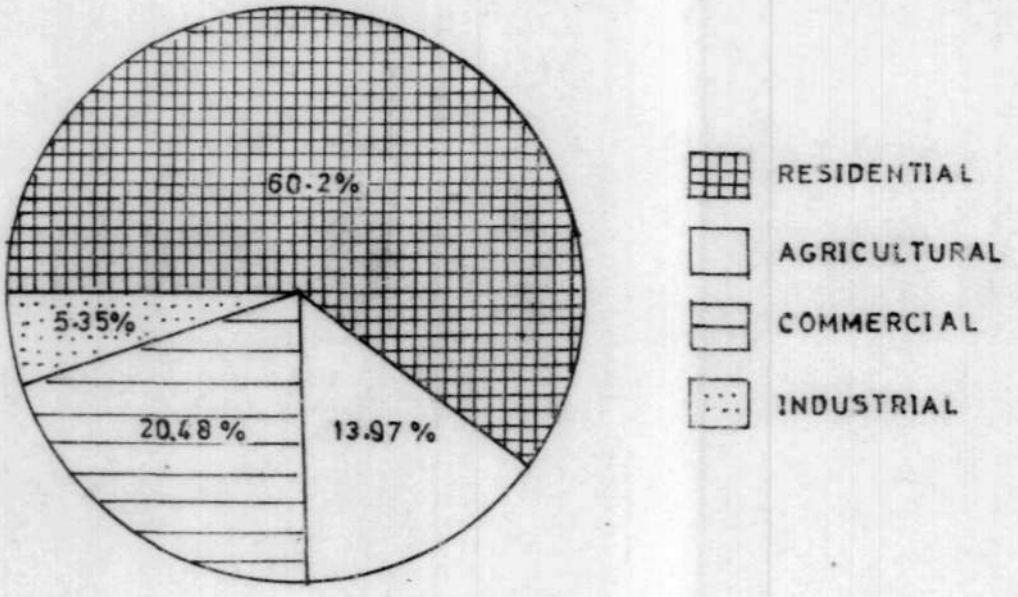


FIG 4.03: PURPOSES FOR WHICH LAND WAS ACQUIRED 1978 — 1983

Source: Ministry of Lands and Surveys, Benin City.

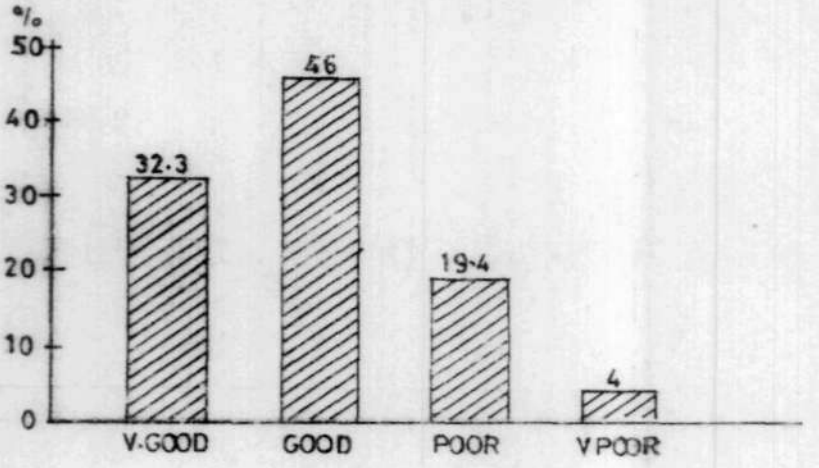
The implication of all the above, is that the Decree as a land policy has not yet achieved some of the objectives set for it in Bendel State. Applicants have been encountering difficulties in getting lands allocated to them. The process of allocation is very slow. Consequently many development projects are affected. A lot of developers are dissatisfied with administrative process in the State.

Figure 4.04 shows a very poor level of satisfaction with the performance of the Land Use and Allocation Committee - body whose responsibility it is to allocate land.

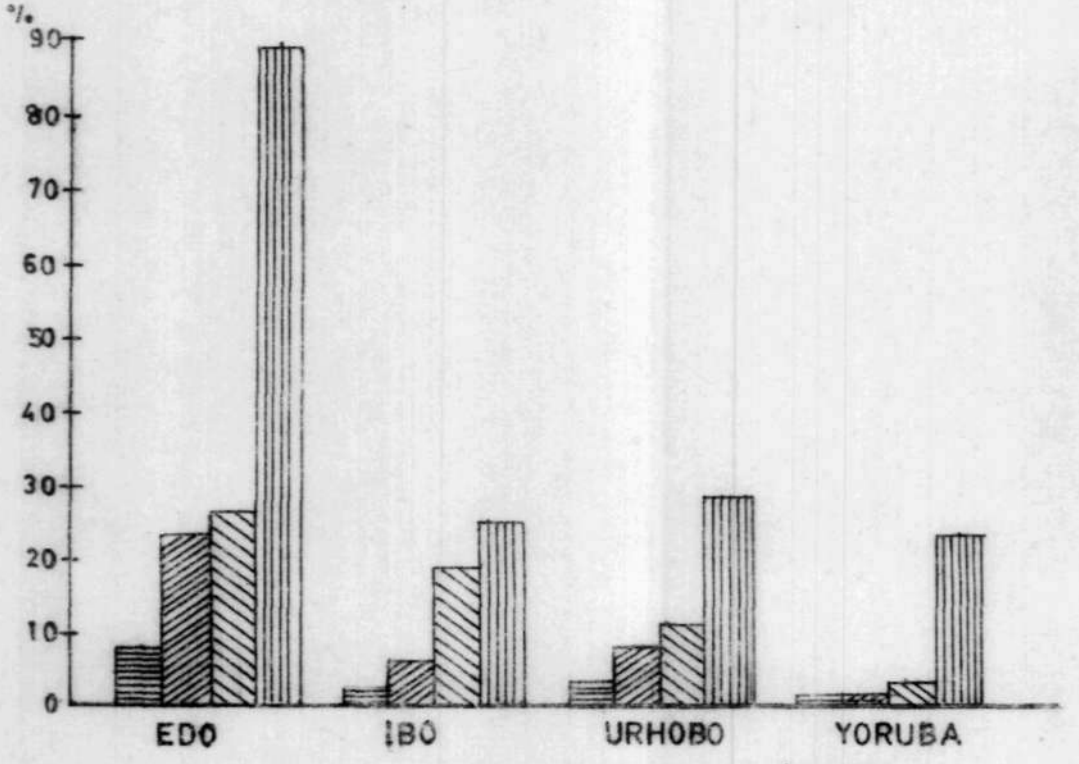
4.13 Land Use Control Machinery - Composition of Allocation Committees:

For the purpose of land administration throughout the Federation, the decree provides for the establishment in each State, two categories of Advisory Committees. The are the Land Use and Allocation Committee and the Land Allocation Advisory Committees.

Although the decree (section 2) has made specific provision as to the minimum number and the calibre of that minimum number of persons to be appointed to the committee without further guidance, the appointments being made by the State Governments



Degree of Public Response To Land Use Decree In Bendel State



LEGEND	Average Satisfaction
EFFICIENT	5 %
V.GOOD	14 %
GOOD	21 %
POOR	60 %

FIG. 404: Level Of Public Satisfaction With The Administrative Process.

Source: Field Survey July - October 1983

to the Land Use and Allocation Committee appear to indicate that there is some confusion or misunderstanding as to the real intent of the Decree in this respect and more particularly as to the style of working adopted by the committee for the realisation of the objective of the decree.

The committee is a planning and working committee which is to assist the chief lands officer and the commissioner for lands in arriving at the best methods of identifying, mapping, allocating, surveying, recording and registering all lands, the management and control of land. For the committee to succeed, it should truly be a technical committee, properly constituted, a majority of the membership of the committee should be confined to persons who are professionally knowledgeable in land administration. The preponderance of lay land administrators on the committee in Bendel State led to the misrepresentation of the objectives of the decree. Secondly, another problem which beset the administration was lack of local participation. lack of consideration of the the socio-cultural background of the people whose lands were being administered, also have some impacts on land administration in the State.

4.20 Impact on Planning Schemes and Layouts:

In the Land Use Decree, the State Governor was expected to declare some principal towns of his State

as urban where people could be allocated not more than 1/2 hectare of undeveloped land. No person or group of persons have the right to subdivide or layout any urban area and transfer any plot therein to any other person without the consent of the Governor. This means that no person or family or company can prepare the layout of any land which is more than 1/2 hectare in any urban area and submit same to the Government for approval as was being done before the promulgation of the Decree. (Section 34(7)).

It is regretable to observe that although urban areas have been delcared in Bendel State, little or no efforts have been made to establish planning scheme and layout plots for allocation to the public. It could be argued here that the framing of planning schemes and the layout of plots are the responsibilities of the planning authority but the fact remains that the the Planning Authority can do little in this respect without the government first acquiring the area for the purpose of the schemes. There is no provision in the Land Use Decree 1978 that a State Governor should cause a State or Regional Plan, any Master Plan or any scheme or layout development plan to be prepared after declaring an area as urban area in a State. Before any area is designated as urban area in any State, the Land Use Decree gave no criteria nor any guidelines to be used.

4.30 Impact on Development Control:

In the realm of Town Planning, contravention means an illegal or unauthorised development having no approved plan. Any structure, that is, building or shed erected anywhere above the ground without any approval is a contravention. Because of the failure of the Land Use and Allocation Committee to survey the area regarded as undeveloped and because of their inability to compensate owners of unexhausted development and consequently acquiring the land, only few applicants have been allocated plots of land. (See Table 4.1 and Figure 4.01). In the six most developed local government headquarters in the State, only a total of 676 applicants out of 5,850 were allocated plots as at 31st December 1983. This is only 11.55% success.

This development has great impact on land administration in the State. Prospective developers who have been queuing up for government allocation of land and having lost hope of getting any, have no alternative than to go to land speculators who still continue to sell and lease out land to developers. Many areas are being developed without any layout development plan and this results in haphazard developments.

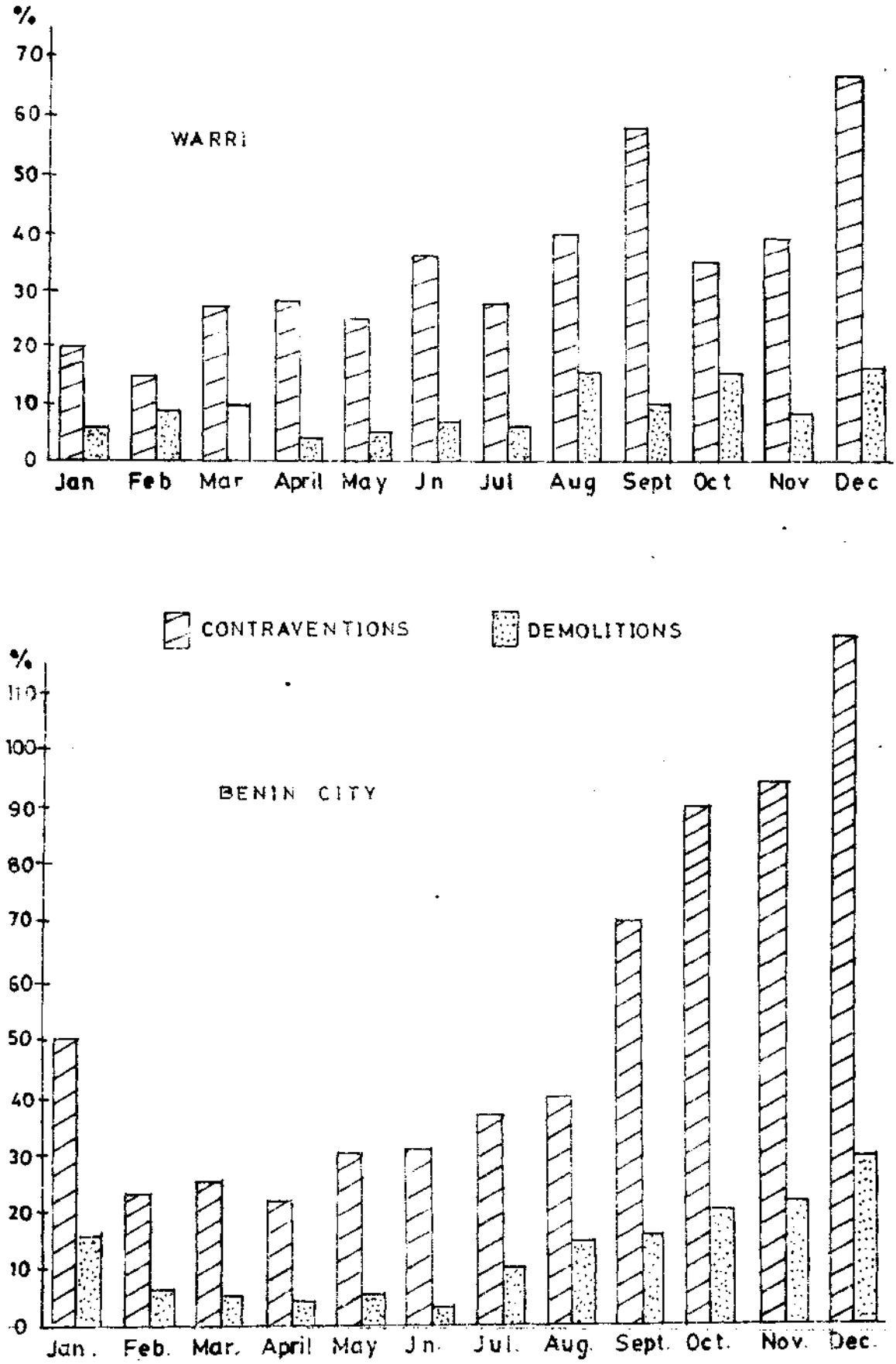


FIG 4.05 : ILLEGAL DEVELOPMENTS IN TWO LOCAL GOVERNMENT HEADQUARTERS IN BENDEL STATE. (JANUARY DECEMBER 1982)

Source: Ministry of Lands and Surveys, Benin City

Figure 4.05 shows an increasing wave of contraventions as a result of unapproved plans. Since the plots were illegally acquired, the developers do not have legal certificate to register and process their plans.

Section 43 of the Land Use Decree is inimical to good planning and detrimental to orderly development. It does not say anything about anyone who contravenes in non-urban areas of the State. It recommends a fine of ₦5,000 or one year imprisonment for contraveners in urban areas. Since the "law delay" is one of the major legal problems yet to be resolved in this country, it is likely that it will take months or years before a single case of contravention can be finalised in the court of law. No government has enough lawyers to proscute the thousands of cases of contravention in the State. There is no provision in the Decree that contraventions should be demolished by any Planning Authority. Any State who complies with the provisions of section 43 of the Decree will have numerous contraventions. In such a State, development control will be a difficult or an impossible thing to do.

Table 4.2 shows contraventions in two Local Government Headquarters in the State.

TABLE 4.2: RETURNS OF CONTRAVENTION/DEMOLITION NOTICES OF ILLEGAL DEVELOPMENTS IN TWO LOCAL GOVERNMENT HEADQUARTERS IN 1982.

Month	Benin City		Warri	
	Contraventions	Demolition	Contraventions	Demolition
January	50	16	20	6
February	23	6	15	9
March	25	5	27	10
April	22	4	28	4
May	30	5	25	5
June	31	3	36	7
July	37	10	28	6
August	40	15	40	15
September	70	16	58	10
October	90	20	35	15
November	94	22	39	8
December	110	30	67	16

Source: Contravention/Demolition Files. Ministry of Lands and Surveys (Town Planning Division) Benin City.

Unplanned physical development characterises some of the residential layouts in these areas. Such developments have also given rise to construction of roads and extension of services to all directions of town through individual personal efforts. When physical extension occurs on spontaneous basis, spatial growth is expressed through different and usually

unorganised structure and shelters at peripheral locations of the town. This does not augur well for well co-ordinated and orderly development of the cities. Disorderly growth at the periphery causes disturbing degree of disorderliness on the landscape. Evidence of these are to be found in awkward irregular size buildings along regular setback from major streets. No conscious efforts on the part of developers to align building along roads and streets. The circulation pattern is not only generally circuitous but often discontinous. Many roads end up in blind alleys. Environmental problems are seen in congested traffic sprawling houses, general pressure on land uses manifested by use competition and non-comforming uses, limitation on open spaces, shapeless and formless structure in the city are among such problems which help the city to lose its character and beauty.

4.40 Economic Impact:

4.41 Access to Credit Facilities:

Another impact of the Land Use Decree is that no one has absolute ownership of land like the "free simple absolute in possession" which prevailed in the State before 1978. Since the individual has users right over the land, there is a limit to what he can do with it. The out right sale of land is prohibited. What an individual can allienate is the customary or statutory right of occupancy. Land held underthe Decree, cannot be mortgaged without

the consent of the Governor and section 22(a) and (b) specifically discourages mortgage transactions. Hitherto, commercial banks attached much importance to landed property as a collateral for the procurement of loans but the frequency of the revocation of the certificate of occupancy leaves much to be desired. Bank Managers no longer rely on landed property as a security for granting loans.

Moreover, it is no longer possible for anyone to use the value of his land as his contribution to property investment as hitherto had been the case. Several people had in the past used their land as their capital contribution for investment purposes in an industrial or commercial undertaken either with foreigners or industrialists.

4.42 Impact on Property:

The procedure for securing land by private developers is very lengthy, cumbersome and time consuming under the land use decree. It takes at least between six months to five years to obtain a certificate of occupancy. It therefore follows that the period of development of any particular dwelling unit must be extended. The impact of the extension of the period of development is the reduction of the number of houses that would have been available to the public at a particular time. The bureaucratic redtapeof the civil service in public matters

sustain this claim. People resort to buying land in the "black market" and the fact is that land is not cheap to buy in "black market". This frustrates the efforts of people and property development suffers.

4.43 Impact of the Decree on Rural Land Economics:

The rural area is predominantly agricultural set up and it calls for great need to rationalise land in a manner that will facilitate optimum production and high economic return to producers. The impact of the Land Use Decree is not much felt in the rural areas. Adequacy or availability of land is essential for agricultural development and growth. Where land is held by a few, leaving vast majority of people with little or no land may lead to a condition of sharp decline in crops yields as well as in the amount of food crops available for consumption or other crops available for exports.

The maintenance of balance between the rural and urban areas in terms of meeting land requirements has not been achieved. Indeed, what has been the case is rapid urbanisation intensified by rural-urban migration in Bendel State. These problems are easily observable. For instance, it is clearly seen that many of the towns in the State for example Benin City, Warri, Sapele, Asaba, Agbor and Auchi are being overcrowded. The over concentration of land in few hands due to strong adherence to the traditional

land holding system, in contravention of the decree, or inavailability of land to individuals coupled with inadequate infrastructure in the rural areas conduces rural producers to low production and accentuates the drift to towns.

4.50 Political Impact:

The Land Use Decree is specifically meant to effect a structural change in the system of land tenure, to achieve fast economic and social transformation and counteract economic inequality caused by the appropriation of rising land value by the so-called land owners and speculators. Also it seeks to make land easily and cheaply available for the government and private programmes of development. The emphasis of the decree is on economic and social development, but its political impacts are equally far reaching. By introducing a uniform land policy for the whole country in general and Bendel in particular, the Decree has encouraged greater movement of people from one area to another, strengthened inter-ethnic relation and thus promoted the cause of national integration.

Hitherto, in urban areas, especially those which have large indigenous populations, the local land owners or the so-called 'sons of the soil' assert traditional land rights tenaciously and often place artificial restrictions on the availability of land for much needed planned development.

4.51 Political Acceptibility:

A second condition which any land policy must meet to achieve success is political acceptibility (Barlowe 1978.) On the question of whether the Decree is politically acceptable, one should note that this depends on the group concerned. Illustratively, traditional rulers in Bendel State have vehemently attacked the Decree, arguing that they are in control of all lands within their jurisdiction. Some have openly spoken against the Decree. "Those who hailed the Decree were however, initially the dispossessed citizens and their champions are students and radical scholars" (Igbozurike 1980). It is diffucult to assess the efficacy of this criterion in Nigeria where policies generally come from the top down. Also, Igbozurike (1980) drew attention to the fact that the land use panel did not visit the rural areas. This constitutes an error of omission since most Bendelities live in rural areas. It is safe to add that most rural people are unaware of a policy that has changed the basis of land ownerhsip in the State.

4.52 Conflict between the Federal Government and the Bendel State Government:

There is lack of understanding and clarity as to the exact relationship between the Federal and the State Government with regards to the Land Use Decree. Section 1 of the Decree vests in the Governor of the State ownership of all land. It also vests in the

Governor the power to revoke a right of occupancy on any piece of land. Before the Decree came into force, the Federal Government could compulsorily acquire land under cap. 167 for its requirements. It is true that this power still exists and that the Federal Government could resort to it since this law has not been repealed by the land use decree. However, part V, section 28(4) clearly states that "the Governor shall revoke a right of occupancy in the event of the issue of a notice by or on behalf of the Head of Federal Government if such notice declares such land to be required by the Government for public purposes".[32] What this means in practice is that action by the relevant State Governor is indispensable. Under circumstances of partisan politics, as experience has shown, the former civilian government in Bendel State invoked this sub-section in 1981 and created problems for the Federal Government to acquire land for the construction of low cost housing in the State.

In fact, the impact of the Decree in the State is very well noticed; for, whereas many states had between 3000 to 4000 housing units built between 1979-1983, Bendel State had less than 1000 housing units and were constructed on the plot acquired in the State by the Federal Government in the First Republic 1960-1965. The State Government also refused

32. Official Gazettee: Ibid, p. A-57.

to make land available for the construction of Benin-Owena River Basin Development Authority's Secretariat in Benin City. The present site along Benin-Sapele road was donated to the Federal Government by the Oba of Benin when it became clear that plans were being made to remove the headquarters to Akure in Ondo State on ground that the State Government had refused to make land available to the Authority. These and other prblems associated with the decree tend to lend much credence to the assertion that certain provisions in the decree need to be reviewed.

4.60 Social Impacts:

4.61 Stoppage of Discrimination in Land Allocation:

The most stricking social impact of the Land Use Decree is that it had put a stop on discrimination against fellow Nigerians who are regarded as non-natives. This discrimination was more pronounced in the Ibo speaking area of Bendel State. For example in Asaba, non-natives were not allowed to acquire a parcel of land on absolute basis before the promulgation of Land Use Decree. Onitsha is only seperated from Asaba by the River Niger but the indigenes of Onitsha were often discriminated against in plot allocation.

The last of the four criteria which a land policy must meet for its effective working is whether "the policy is in conflict with accepted culture, attitudes, customs and traditions of the people" (Barlowe 1978). The decree abolished the concept

of family ownership of land in the State and tried to unify the basis of ownership with what was existing in the North in accordance with the 1962 land tenure law. Before 1978, the concepts of family ownership of land and in alienability of land existed in Bendel State. So also were the concepts of landlordism and tenancies. These existed under the customary land tenure system. They are therefore parts of the traditions, culture and customs of the people.

However, it can be argued that the decree leaving the alloaction of land in the Rural Areas in the hands of the Land Allocation Advisory Committee in the Local Government, shows an indication of the need to preserve accepted custom, culture and traditions in the committee's composition and actions.

4.62 Reduction of Land Litigation:

The greater impact of the land use decree is that it has drastically minimised land litigations in the State. Many citizens had spent their hard earned money on the purchase of landed properties which turned out to be simple purchase of law suit. Before 1978, there were several cases where a single piece of land was sold to two or more persons. Land cases provided the quickest money making venture for lawyers in the State. As far back as 1951 the West African Court of Appeal had observed in a case that "the case is indeed in this respect like many which come before

the court: one in which the Oloto family either by inadvertence or design sell or purport to sell the same piece of land at different times to different persons. It passes my comprehension how in these days, when such disputes have come before this court over and over again, any person will purchase land from this family without the most careful investigation, for more often than not they purchase a law suit and very often that is all they get".[33]

Bloody fights at building sites for the rightful ownership of landed property were common occurences in the State before 1978. If well implemented, there is no gain saying that the State has more to gain than to lose in the land use decree.

It has reduced or halted the growing incidence of indiscriminate subdivision of land into plots for erecting mainly residential building/land covered by a statutory or customary right of occupancy cannot be fragmented on the death of the grantee. It must be managed as an economic entity. Figure 4.06 shows a graphic representation of the impact of the land use decree on land administration in Bendel State.

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33. Verity, Ag. P. in Ogunbambi V. Abowab (1951) 13 W.A.C.A. 222 at 223.

4.70 Distinction between Administrative Problems in Urban and Rural Areas.

4.71 Administrative Problems in Urban Areas:

There is much demand for residential, commercial and industrial land in urban areas because it is enterprising and investments on such land yields quick returns. There is competition for land and this encourages speculation in defiance of the provision of the land use decree.

Private developers often contravene the Town Planning building regulations and bye-laws in their bid to maximise the use of their parcels of land. Building set backs are sometimes not observed and sometimes access roads are encroached upon. All these make land administration very difficult in urban areas.

There is absence of cadastral survey in the state. Only a few land-lords survey their individual plot of land. There is also absence of land registration in the state. Land registration is a prerequisite to an efficient land administration because it enables the government to know the areas occupied by people and the area that is surplus.

In urban areas it is not uncommon for dishonest land lords transferring their parcels of land to more than one buyers. This results in land litigation and the court has to intervene in order to decide who has a valid legal title to land.

Taxation on such land whose title is not decided is difficult to levy and collect, and this make administration difficult.

4.72 Administrative Problems in Rural Area:

A great number of the rural inhabitants are not educated and do not know much about the existence and provisions of the land use decree. Rural inhabitants still hold tenanciously to ownership of land according to traditional laws, which they occupy. This explains the occasional border disputes between neighbouring communities. Non-indegenes in villages are still regarded as strangers and landless. Access to land is difficult and the Land Allocation Advisory Committees are yet to get the co-operation of the former land owners.

There is a great communal attachment to land in the rural areas. A greater percentage of the available land is usually cultivated or planted with Cocoa, Rubber, Palm and other economic crops which are of permanent nature. The definition of developments (section 50) in the land use decree makes it difficult to determine which land is not developed in Bendel State, and this poses a great problem to the management, control and administration of land in the state.

Exorbitant compensation has to be paid on acquisition of any land in the rural areas. The government is at present not financially strong enough to embank on land acquisition.

Land fragmentation is another problem which makes land administration difficult in the rural areas. For example, on the death of a title holder of land his landed property is sub-divided among his heirs leaving no substantial areas to any of them. This creates the problem of insufficient land for large scale farming or mechanisation.

Table 4.03: THE IMPACT OF THE LAND USE DECREE ON LAND ADMINISTRATION (SUMMARISED)

	Positive Impact	Negative Impact
1. Administrative Impact	a) Vests all land in the State in the Governor. b) Provides a uniform land administrative body. c) No exorbitant compensation on land.	a) Amount paid on compensation cannot be challenged in any Court of Law. b) Traditional Rulers not represented in the land use and allocation and the land allocation advisory committees c) The powerful and the rich are favoured than the poor. d) Bureacratic procedure makes property development suffer.
2. Impact on Planning Schemes and Layouts.	Principal towns in the State are declared urban areas.	Rate of development reduced owing to the absence of Master Plans, schemes and Layout Plans which are prerequisites under the decree for land acquisition.
3. Impact on Development Control	a) Reduction in land speculation. b) Recommends punishments for contraveners in urban areas.	a) No punishment for contraveners in rural areas. b) Increased unanthorised development. c) Numberous contraventions especially in urban areas.

Table 4.03: (Cont.):

	Positive Impact	Negative Impact
4. Economic Impact	a) Access to credit facilities b) Provides a new source of revenue for State Governments.	a) Banks do not rely on landed property as a collateral because of fear of revocation of the certificate of occupancy. b) High cost of Master Plan preparation (financial and human resources). c) Impact on rural land economy d) Lack of balance between urban and rural areas.
5. Political Impact	Promotes interethnic relations.	Oreated conflicts between the Federal and State Governments.
6. Social Impact	a) Stoppage of discrimination in land allocation b) Reduction in land litigat litigation. c) Halted land fragmentation.	

CHAPTER FIVE

5.00 RECOMMENDATION FOR EFFICIENT LAND ADMINISTRATION.

5.10 General Development:

For the efficient land administration in Bendel State more planning areas are proposed to be declared. By such declarations, more areas will be opened to development in the State. Urban areas should well be demarcated from the rural areas. The suburbs of the towns have always been the areas of conflict between the land use and Allocation Committee of the urban areas and the Land Allocation Advisory Committee of the rural areas. Dominant and intensive influence regions of the major urban areas should be identified as a basis for effective planning and planning administration.

The use of cadastral system is also proposed for an efficient land administration in the State. The introduction of cadastral system is of the utmost importance for two reasons:

(a) Enacting legislations will always be circumvented in the State because an efficent cadastral system which is the basis of real land control is absent.

(b) The Decreee is futile of application in the rural areas because there is no cadastral map to show which land is vacant and which is not. "You cannot administer what you do not know".

A Mapping Advisory Board is therefore proposed to be set up. The board which should consists of experts from discipline of land surveying, photogrametry

cartography, planning, geography, land economics is to facilitate the successful implementation of the Land Use Decree.

5.20 Layout and Planning Schemes:

The declaration of planning areas will enable the planning authorities to set up planning schemes for the area. It will promote controlled rapid development and by so doing, the government will ensure that land required for development is available and that the land will be used for the specific purpose for which it is zoned.

Usually when planning schemes are framed, the extent of the area are not only defined, regulations of development and use of the land to which the scheme relates are made. Moreover, the size, the height, spacing, building line of buildings, the objects which may be fixed to buildings, the location of building, the reservation or allocation of any particular land are well specified. In order to achieve this, funds should be made available to the Planning Authority for the preparation of master plans for urban and growth centres in the State within the context of regional plans.

5.30 Development Control:

In view of the rapid development of the urban areas and their rather depressed and poor state, effective planning and strong adherence to planning laws in urban areas are essential and in line with the land policy.

The question of land development control should be taken seriously especially areas which are at the pheripher of urban centres where the illegal developers flout the provisions of the Land Use Decree. There is need for strong measures to discourage contraventions. This could be done by forcing developers to comply and fixing heavy penalty for any offender.

5.40 Expeditious Land Allocation System:

This is one of the greatest determinants of the usefulness and ultimate validity of the Decree. If the initial acceptability of the Decree is not to be turned into opprobrium, the Land Allocation system must be seen to respond quickly and fairly to demands for land. It is the general intention of the Decree to make land readily available for all purposes. So long as the Decree is seen not to achieve this, it will lose the acceptability it had with the general public. The Land Allocation Machinery is seen to be less expeditious or more sluggish than the system it has replaced and hence there appear to be frustration and cries for a return to the system prevalent in the State before the commencement of the Decree.

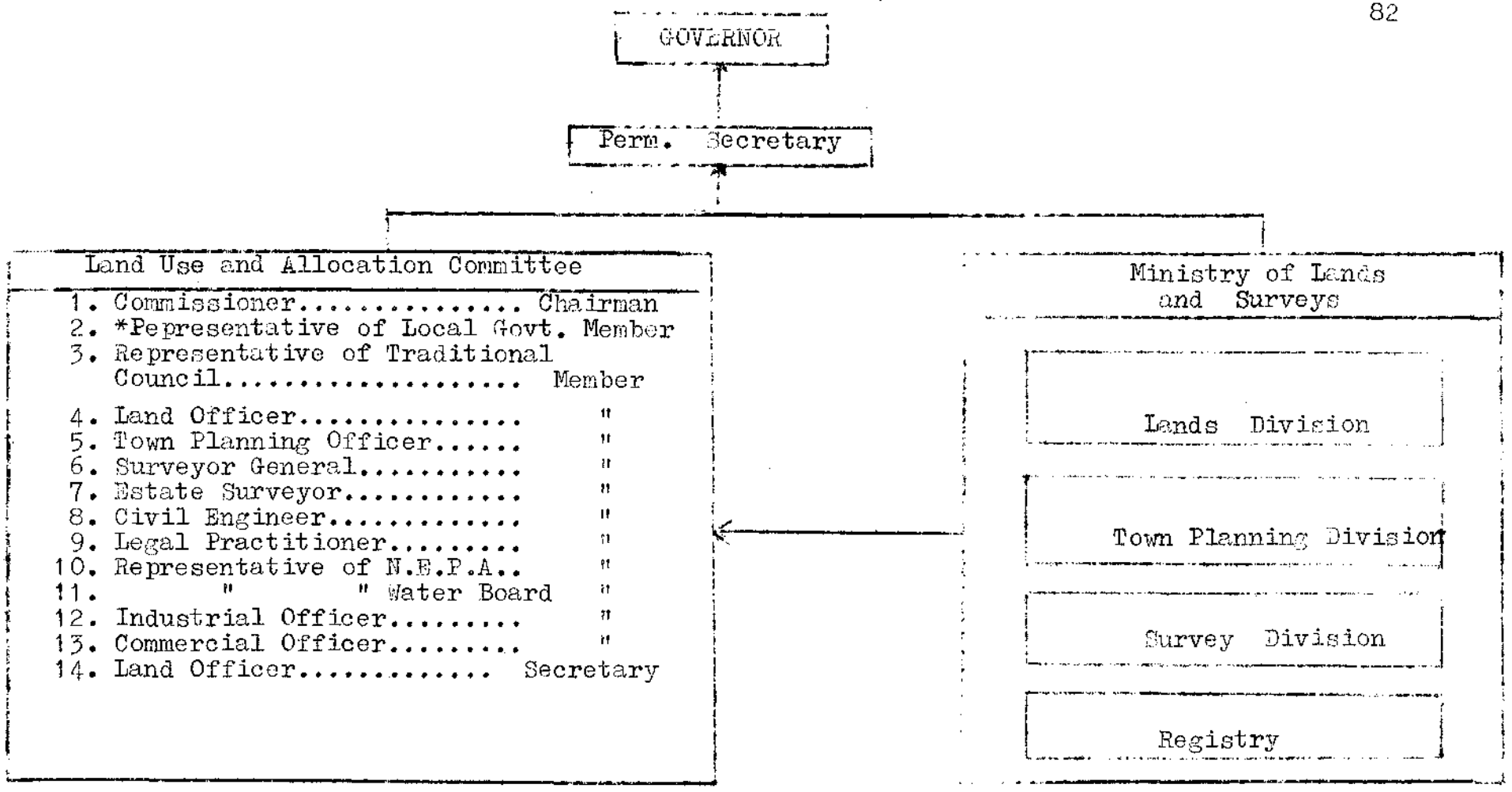
It is suggested that a period of three months is adequate for an application to be determined. Where the application exceeds this period, the applicants should be informed of the constraints which hindered the processing and determination of his application.

The Land Use and Allocation Committee should be broadened to include men of proven integrity and professionals. See Figure 5.01 for the proposed compostion.

Personnel and equipments of the Ministry of lands and Surveys should be provided to enable the committee enjoy the services of all the Technical Arms of that Ministry which will render effective and complementary assistance to the committee (See Figure 5.01).

It is also proposed that Traditional Rulers should be co-opted into membership of the Land Allocation Advisory Committees at Local Government levels. The chairman of each committee should be the most senior traditional ruler in the Local Government, that is, the chairman or member of the traditional council. The inclusion of the traditional rulers will bring the land use decree to the grassroot level and ensure local participation which had hitherto been absent. Moreover, the rural inhabitants will now be acquainted with the provisions of the Land Use Decree and the need to obtain the certificate of occupancy.

The co-opting of the traditional rulers into the Land Allocation Advisory has been introduced in Kwara State and shown to be successful. Figure 5.02 shows the suggested composition of the Land Allocation Advisory Committee.



*Applicable to Urban Areas that are also Local Governments.

Fig. 5.01: PROPOSED ADMINISTRATIVE MACHINERY FOR LAND ALLOCATION AT URBAN LEVEL

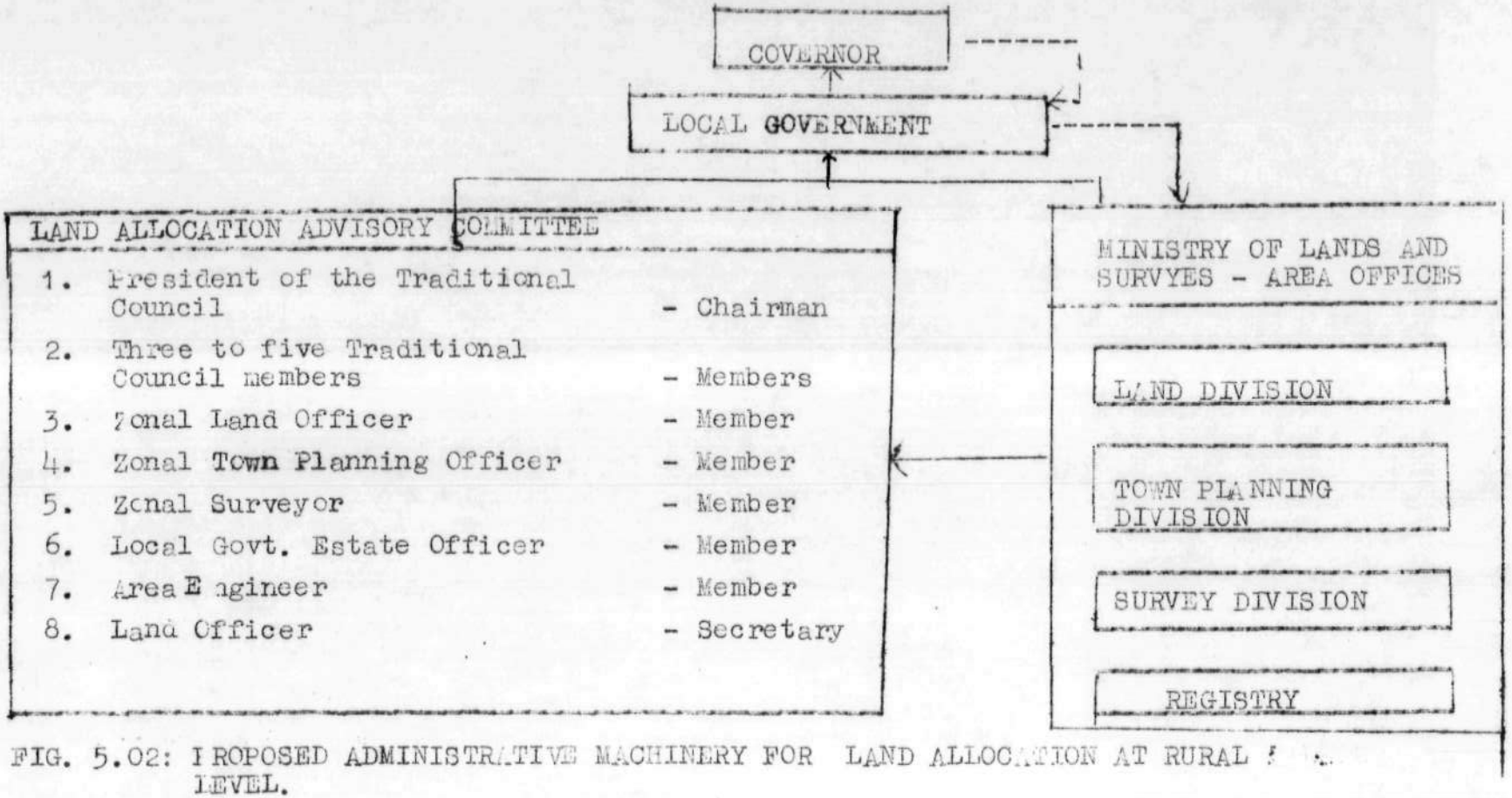


FIG. 5.02: PROPOSED ADMINISTRATIVE MACHINERY FOR LAND ALLOCATION AT RURAL LEVEL.

5.50 Introduction of Land Registration:

It is proposed that all parcels of land in the State be brought under land registration law because land registration constitutes a strong weapon in the realm of land administration. Thus, it is suggested that the State should embark on a programme of compulsory registration of rights in all urban and rural land. Records of all land area, land use, land allocations made to anyone under the decree should be documented. This should enable the government determine the land occupied by people and the undeveloped land. This could be accompanied by a programme of enlightenment of the masses. At present, it is safe to state that majority of Nigerians, especially ruralites, have no idea of the Land Use Decree.

5.60 Conflict between the Federal and the State Government.

It is proposed that land should be vested in the Federal Government. The State Governors would be delegated by the President to administer and control land in their States for the benefit of the people. Vesting the control of land in the Federal Government would provide:

(a) Uniform machinery for the implementation of the Land Use Decree.

(b) The crisis between the Federal and State Governments over land would be avoided.

Alternatively there should be a review of section 28(4) to allow some additions to be made. The addition should emphasis that State Governments should always make land available for **any** Federal project without any objections or restrictions.

5.70 Defective Provisions in the Decree:

(i) Section 7 of the Decree should be modified. The basis for fixing age limits is not quite clear and logical. Section 7 says "It shall not be lawful for the Military Governor to grant a statutory right of occupancy or consent to the assignment or subletting of a statutory right of occupancy to a person under the age of twenty-one years: provided that - where a guardian or trusteee for a person under the age of 21 has been duly appointed for such purpose the Military Governor may grant or consent to assignment of a statutory right of occupancy to such guardian or trustee on behalf of such person **under** age".

It is surprising that a person who is 18 years old can be registered as a voter for the purpose of election[34] in Nigeria, can **marry** and be married but he cannot own a farmland. What is the rational for him to get

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34. Federal Republic of Nigeria. The Constitution of the Federal Republic of Nigeria section 71(2) p. 27.

a guardian or trustee before he can be granted a parcel of land to farm for the up keep of his wife and children. A person of 18 years and above is an adult and should not be prevented from owning a landed property.

(ii) Section 43 should be detailed out to include "any person who contravenes in non-urban areas should be liable on conviction to imprisonment or a fine" just in the same way as contraveners are treated in urban areas. It is proposed that any development that is made without any planning permission should be demolished and the cost of demolition recovered from the owners. This will minimise the present flagrant disregard to planning laws and regulation of the land use decree in the State.

(iv) Section 47 should be reviewed to allow any agrieved persons who consider their compensation inadequate seek redress in the law court. The Land Use Decree should not be more powerful than the Supreme Court of Nigeria neither should it be above the Constitution of the Federal Republic of Nigeria as section 47 provides at present.

5.80 Payment for Compensation:

Compensation procedure is defective. The government has good intention and the amount paid as

compensation is attractive enough but the actual money paid does not get to the affected owners in many cases. Assessments of property for compensation should be made in the presence of the land owners or their bonafide representative. Payments should be made in bulk at one time and should be through the commercial bank.

5.90 General Recommendations:

(a) It is suggested that applicants for fresh allocation of land should have a satisfactory proof that he or she has not got one before or except there is a satisfactory proof that an earlier allocation has been fully developed or that it is inadequate for the purpose.

(b) The State should encourage the training of land officers, Estate Surveyors, Urban and Regional Planners, Land Economists, etc. to cope with the present demand for proper land administration. The officers should also be equipped with materials with which to work. The government should be prepared to bear the initial cost of administering the Decree and not rely on plot allocation fee which is at present very minimal. For the financial implications of the Decree (See Appendix IV and V).

Which were prepared and submitted to the government for the effective take off of the Land Use Decree in 1980 by the Technical body of the Ministry of Lands and Surveys, Benin City but not implemented up to now. Figure 5.03 shows a summary of recommendations.

5.91 OTHER PROPOSALS FOR SOLVING LAND ADMINISTRATIVE PROBLEMS IN URBAN AND RURAL AREAS.

5.92 Proposals for Urban Areas:

It is proposed that strict adherence and enforcement of the planning regulations should be taken seriously to check contraventions. Land speculators should be prosecuted in the court and fined for contravening the provisions of the Land Use Decree.

All land in the state should be surveyed and registered with the government. This will enable the government to know which land is occupied and what quantity is vacant. This will also make it easier for the government to encorce the provisions of the land use decree.

Land taxation should be introduced to raise revenue for the government.

5.93 Proposals for Rural Areas:

It is proposed that public enlightenment campaign should be organised by the Land Allocation Advisory Committee in their Local Government Areas to educate the rural masses on the need to obtain the certificate of occupancy for their parcels of land.

All land in each local government areas should be surveyed and registered. The area specified for each farmer (500 hectares) should be enforced without delay to enable the government to know the surplus land in the state.

Exorbitant compensations are usually caused by over-valuation of property by the valuers during assessments. Dishonest valuers also receive kick-backs from crops owners in order to inflate the value of their property. It is suggested that crops should be counted by Town Planners during site analysis and plot layouts. The enumerated crops statistics should be sent through the government to valuers who will complete the assessment using the fixed rates.

Land fragmentation could be checked by enforcing section 34, sub-section 7 of the Land Use Decree which states that no land allocated to any person shall be further sub-divided or laid out in plots and no such land shall be transferred to any person except with the prior consent in writing of the Military Governor.

CONCLUSION:

Land is the most important and most valuable resource of the country and it is therefore the duty of the government to ensure that the resource is carefully managed for the benefit of all citizens. The present pressure on land in most States and the prospects for land in the future are such that the government must maintain its firm hold, control and management of land.

It has been observed that the numerous procedures that have to be followed in land acquisition as well as the very high compensation that are demanded from investors have dampened their enthusiasm to invest in Bendel State. Consequently, commercial, industrial and agricultural ventures that would have been established in the State by private investors have either be suspended or sited elsewhere. The ultimate loser as a result of the unhelpful tactics of the land speculators have been the common man who would have benefited immensely from the establishments of such projects. Therefore, the need to improve the efficient working of the Land Use Decree in Bendel State needs no further emphasis in view of the ever increasing demand for land in the execution of their activities.

This research study does not advocate the abrogation of the Land Use Decree, because to all intents and purpose, it was timely and laudable. In order to achieve its well spelt out objectives, it is of utmost importance that the machinery for executing the Decree, the responsibility of which the State Land Use and Allocation Committee is charged with, should be put into proper motion without further delay.

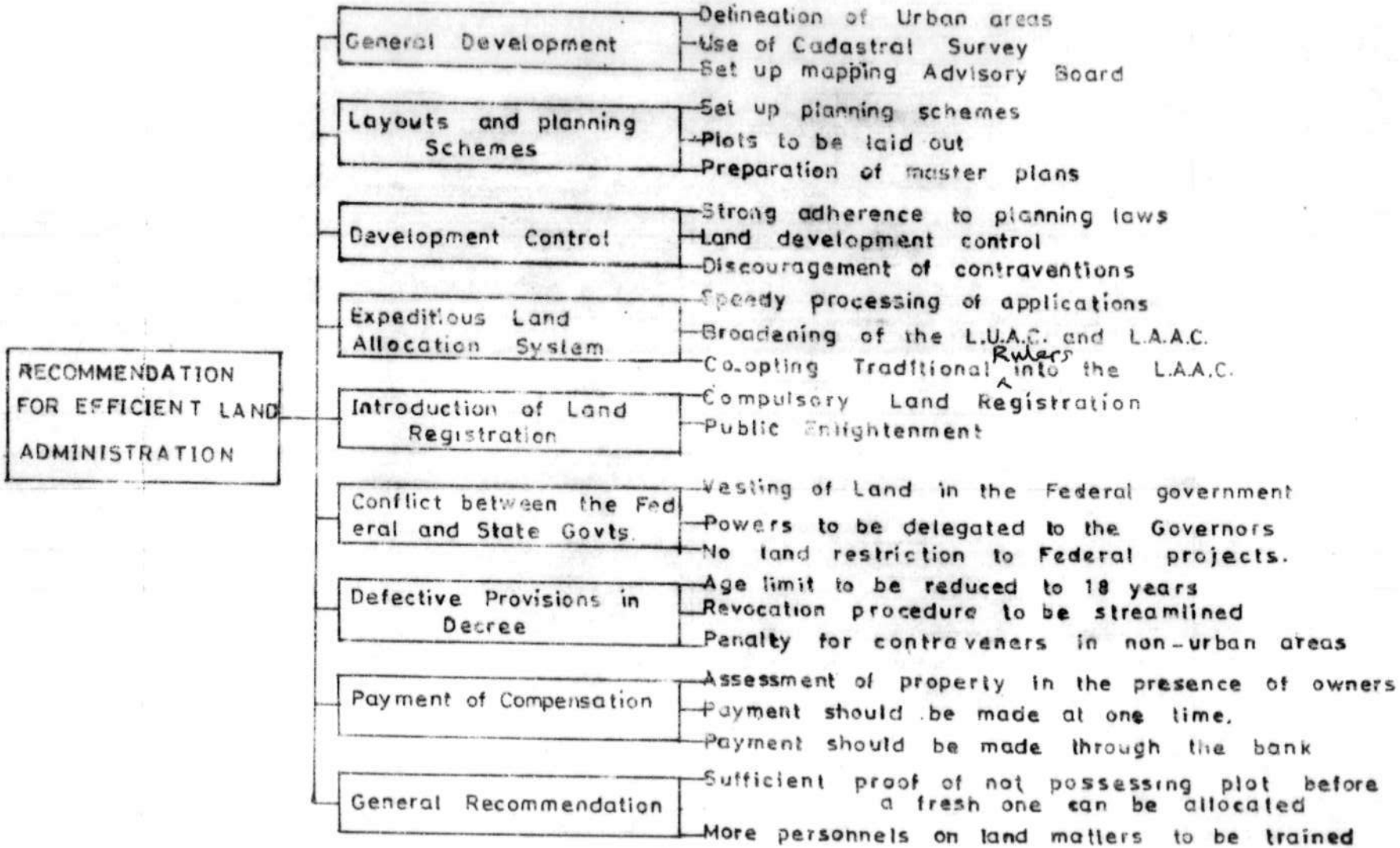


FIG. 5.03: Recommendations for efficient land administration in Bendel state. (Summarised)

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APPENDIX I

TERMINOLOGIES AND DEFINITIONS

(i) Land: The term land is used and seen to encompass not only the soil that is cultivated or that which provides building sites but also all that can be dug beneath it including crude oil and even lakes both natural and man-made. Under the customary law, land does not include things growing on or attached to the soil. Therefore, neither economic trees nor houses form a part of the land on which they stand.

(ii) Land Ownership: By ownership of land is meant entitlement to the maximum bundle of rights and interests that can exist in or be exercised over an area of the earth surface in a given society (Coker 1966).

(iii) Allotment and Allocation: Allotment is used in this work to mean a permanent disposition of land. Allocation means granting a portion of familys land to a member of the family or someone for a determinable interest. The grantee therefore has rights of user and employment but not absolute right in land.

(iv) Pledges: Pledges in customary law is the delivery of possession and cutody of property real or personal by a person to his creditor to hold and use until the debt due is paid. Something pledged is not lost because it is redeemable.

(v) Customary Rights of Occupancy: It is defined as the title of a native or native community using or occupying native land in accordance with native law and custom.

(vi) Statutory Rights of Occupancy: It simply refers to the system of land holding in society. "Tenure" formed from latin word "tenuare" meaning to hold. It is used interchangeably with customary land holding system.

(vii) Community: A community is a group of people living in one place or district considered as a whole.

Communal land is therefore land in which the entire community has an individual and proprietary interest.

APPENDIX II

QUESTIONNAIRE I (For Public Servants of all Cadres)

1. Name of Locality ----------
2. Name of respondent ---------
3. Sex ----- Male ----- Female -------
4. Age 0-15 yrs -------- 16-25 yrs ----
   26-54 yrs ---------- 55 + yrs -----
5. Marital Status ----- Single -------- Married----
6. Do you have a house? Yes ---- No -------
7. If Yes, when was it built?
   i. Before the promulgation of Land Use Decree 1978 --------
   ii. After the promulgation of Land Use Decree 1978 ------
8. Who allocated the plot to you?
   i. The ward plot allotment committee------
   ii. The Land Use and Allocation Committee ----
   iii. The Land Allocation Advisory Committee ---
   iv. Transferred to me by individual -----
   v. Family ownership (iheritance) -------
   vi. Any Other ----------
9. Do you own a plot of land? Yes --- No ---
10. When was it acquired?
    i. Before 1978 ----
    ii. After 1978 -----
11. Who allocated the plot to you?
    i. The ward plot allotment committee ---
    ii. The Land Use and Allocation Committee ----
    iii. The Land Allocation Advisory Committee ---
    iv. Transferred to me by individual -----
    v. Family ownership (inheritance) ------
    vi. Any Other ----------
12. In what area is your house or plot located?
    i. Within Urban Area ---------
    ii. Within non-Urban Area -----
13. If you have not owned any house, have you applied for any piece of land?
    Yes ---------- No ---------

14. If yes, when did you apply?

    i. Between 1978 and 1979 --------

    ii. Between 1980 and 1981 --------

    iii. Between 1982 and 1983 --------

15. Have you been allocated any? Yes ----- No ---

16. If you have not been allocated any plot since you applied, what do you think is responsible for it? ---------

    i. The Land Use and Allocation Committee is just too busy --------

    ii. The committee has not started allocating land ---------

    iii. I don't know what is responsible -----

    iv. Any other reason --------

17. What is the dimension of the plot which you have got or wish to acquire?

    i. 30.5m by 30.5m (100' x 100') ----------

    ii. 30.5m by 30.5m x 5 ($\frac{1}{2}$ hectare) --------

    iii. 500 hectares ---------

    iv. 5000 hectares --------

18. If your plot was acquired or your house was built before the land use decree 1978, have you obtained the certificate of occupancy in respect of such land? Yes --- No ---

19. If yes, how long did it take you to obtain it?

    i. 1-6 months --------

    ii. 7-12 months --------

    iii. 13-18 months -------

    iv. Specific time ------

20. If yes, how much do you pay annually as rent for such a piece of land?

    i. ₦25 ii. ₦50 iii. ₦100 ₦150

21. If 'No' why have you not applied for the certificate of occupancy (comment please) -------

22. Has the process of acquiring land become easier since 1978?

    i. Yes ---- ii. No. ----- iii. I don't know ---

23. Was any piece of land acquired by the Government in your area before 1978? Yes ---- No -----

24. If 'yes', for what purpose was such a piece of land acquired?

i. For the purpose of building school ---

ii. For the purpose of building hospital ---

iii. For the purpose of building post office/ postal agency -------

iv. For Commercial/Industiral purpose -----

v. For other public interest ----

25. Has the government acquired any piece of land in your area since the promulgation of the Land Use Decree 1978? Yes ------- No -----

26. If 'yes', for what purpose was such land acquired?

i. For the Purpose of building school ----

ii. For the purpose of building hospital/ clinic ----------

iii For building post office/postal agency ---

iv. For commercial/industrial purpose -----

v. For other public interest ---------

27. What pattern of land ownership do you have in your area before 1978?

i. Freehold --------

ii. Leasehold -------

iii. Communally owned --------

iv. Family owned ----------

28. For what purpose is land usually acquired in your area?

i. Residential ---------

ii. Agricultural -----

iii. Grazing ---------

iv. Commercial --------

v. Industrial --------

vi. Others ----------

29. By what method was land disposed of in your area before 1978?

i. By sale ---------

ii. By lease --------

iii. By mortgage ----

iv. By pledge

v. Others ---- -----

30. By what method was land disposed of after 1978?

i. By sale ----------

ii. By lease ----------

iii. By mortgage ------

iv. By pledge --------

v. Others ----------

QUESTIONNAIRE II

(For public servants connected with land matters especially the Land Use and Allocation Committee and Land Allocation Advisory Committee.

1. Name of respondent ----------
2. Official address ----------
3. Sex: Male ---------- Female ---------
4. Age 0-15 yrs ---------- 16-25 yrs ------
   26-54 yrs ---------- 55+ yrs -------
5. Marital Status ------- Single -------- Married ---
6. Do you own a house or a plot? Yes --- No ---
7. If 'yes', when was the plot acquired?
   i. Before the promulgation of the land use decree 1978 ----------
   ii, After the promulgation of the Land Use Decree 1978 ----------
8. If before the promulgation of the Land Use Decree 1978, how did you acquire the plot?
   i. By gift ----------
   ii. By purchase ----------
   iii. By borrowing ----------
   iv. By inheritance --------
   v. Any other ----------
9. If after 1978, who allocated the plot to you?
   i. The traditional ruler ---------
   ii. The ward plot allotment committee -----
   iii. The Land Use and Allocation Committee ---
   iv. Transferred to me by individual -------
   v. Family ownership inheritance ----------
   vi. Any other ----------
10. In what area is your plot located?
    i. Within urban area ----------
    ii. With non-urban area. ----------
11. As a member of the Land Use Allocation Committee, how many people do you think have applied for fresh piece of land since 1979.

i. Estimated between 1000-2000 people ----

ii. Estimated between 2000-4000 people ----

iii. Estimate between 4000-6000 people -----

iv. Estimated to be above 6000 people -----

12. How many applicants have actually been allocated plots?

i. Estimated between 200-400 applicants ---

ii. Estimated between 400-600 applicants ---

iii. Estimated between 600-800 applicants ---

iv. Estimated to be above 800 applicants ---

13. Do you think that the process of acquiring land has become easier since 1978?

i. Yes --- ii. No --- iii. I don't know ---

14. If 'yes', what major successes have you recorded (please comment ----------

15. If 'no', what do you think is responsible for the difficulties? (Please comment)

---

16. What has been the attitude of the public towards the Land Use Decree in your area?

i. Very good co-operation --------

ii. Good cooperation ----------

iii. Poor co-operation ----------

iv. Very poor co-operation --------

17. To what extent can you say, that land use decree hasachieved its objectives in Bendel State?

i. 10% - 20% achievement

ii. 20% - 40% achievement

iii. 40% - 60% achievement

iv. Above 80% achievement

18. What suggestions can you offer for a greater achievement of the objectives of the Land Use Decree? ----------

19. For what purpose is land usually acquired in your area?

i. Residential ----------

ii. Agricultural ----------

iii. Grazing ----------

iv. Commercial ----------

v. Industrial ---------- vi. Others -------

20. By what method did you dispose of your land before 1978?

i. By sale ----------

ii. By lease ----------

iii. By mortgage ----------

iv. By pledge ----------

v. By sharing it among children ----------

QUESTIONNAIRE III

(For elders in the communities especially the former plot allotment committee members).

1. Name of locality ----------
2. Name of respondent ----------
3. Sex: Male ---------- Female --------
4. Age 0-15 yrs ---------
   16-25 yrs ---------
   26-54 yrs ---------
   55+ yrs ----------
5. Marital status: Married ------- Single -----
6. Do you own a house or a plot? Yes --- No ---
7. If 'yes', when was the plot acquired?
   i. Before 1978 --------
   ii. After 1978 ---------
8. If before 1978, how did you acquire the plot?
   i. By gift ---------
   ii. By borrowing -----
   iii. By inheritance ----
   iv. Any other ---------
9. If after 1978, who allocated the plot to you?
   i. The traditional ruler ----------
   ii. The ward plot allotment committee -----
   iii. The Land Use and Allocation Committee ---
   iv. Transferred to me by individual -------
   v. Family ownership(inheritance)
   vi. Any other ----------
10. For what purpose did you acquire the land?
   i. Residential ----------
   ii. Agricultural ----------
   iii. Grazing ----------
   iv. Commercial ----------
   v. Industrial
   vi. Others ----------
11. By what method did you dispose of land before 1978?
   i. By sale ----------
   ii. By lease ----------
   iii. By mortgage -------
   iv. By pledge ---------
   v. By sharing it among children ----------

12. As one of the Elders in the community in what way have you contributed to the development of your area?

    i. By allocating land for the building of school ----------

    ii. By allocating land for the construction of market stalls --------

    iii. By allocating land for sporting centres ----

    iv. Other purpose ----------

13. Have you experienced any difficulties in land allocation since 1978? (comment please)

    ----

14. What aspects of the Land Use Decree do you object to? (Note that the decree has come to stay) ----------

15. What proposals do you want the government to incorporate into the decree to make it work more effectively (comment please) ----------

    ----

APPENDIX III

A. ISSUANCE OF CERTIFICATES OF OCCUPANCY IN RESPECT OF GRANTS MADE UNDER SECTIONS (1) OF THE LAND USE DECREE 1978.

The procedure is as follows:

(i) The applicant obtains an application form with ₦5 for Residential and ₦25 for commercial and industrial purposes.

(ii) After the completion of the form, the applicant returns same to the Secretary, Land Use and Allocation Committee.

(iii) The Land Use and Allocation Committee holds periodic meetings, at which among other things, plot allocation exercises are undertaken.

(iv) On approval of some applications, the allottees are informed through the Secretary of the Land Use and Allocation Committee and are requested to make necessary deposits against the first year's ground rents and deed fees etc. within a period usually specified in the letter of allocation.

(v) On payment of the deposits the allottees would later be requested to furnish the Secretary with passport size photographs for endorsement on the certificates.

vi. When all necessary fees had been collected, the certificates of occupancy would subsequently be prepared and forwarded for execution by the Military Governor.

vii. The last process was to forward such executed certificates for stamping and registration.

viii. Finally, the originals of the certificates would be forwarded to the allottees for safe keeping.

B. ISSUANCE IN RESPECT OF CASES COMING UNDER SECTION 34 OF THE LAND USE DECREE 1978 - Where land was privately acquired before the commencement of the Decree.

The applicant obtained a form for ₦5.00 for Residential and ₦25.00 for Commercial/ Industrial purposes. This has to be completed and returned to the Secretary, Land Use and Allocation Committee with the following:

(a) A tax clearance certificate for three years consecutively.

(b) Two passport size photographs of the applicant.

(c) Three copies of the survey site plan of the land.

(d) Photocopy of evidence of ownership - Conveyance, Agreement, Purchase Receipt or leasehold ground rent receipt.

(e) Photocopy of the Approved Building Plan (if already built).

(ii) Where there was no dispute on the land the application for the issuance of the certificate of occupancy would be advertised in the local newspapers, giving objectors 21 days within which to lodge their objections against such applications with the Land Use and Allocation Committee.

(iii) If no objection was received within the period of 21 days as specified in (ii) above, the application was regarded as having satisfied all necessary requirements, and therefore recommended for approval and issuance of certificate of occupancy.

(iv) Where objection was received, the parties involved would be advised to refer the dispute to the High Court for declaration of title to the statutory right of occupancy sought. See Fig. 3.04.

APPENDIX IV

COST OF PREPARING MASTER PLANS FOR THE VARIOUS URBAN CENTRES, BASED ON THE NIGERIAN INSTITUTE OF TOWN PLANNERS CONSULTANCY CHARGES.

(a)	First 200 hectares	₦350	per ha.
(b)	Next 800 "	₦200	" "
(c)	Next 1,000 "	₦150	" "
(d)	Next 2,000 "	₦100	" "
(e)	Next 4,000 "	₦ 50	" "
(f)	Next 5,000 "	₦ 30	" "

(g) Thus the cost of preparing master plans for each Urban Centres runs as follows:

1. Benin City
   Area : 324 km^2 = 32,400 hectares
   Cost: ₦1,512,000

2. Warri/Effurun
   Area: 83.72 km^2 = 8,372 "
   Cost: ₦791,160

3. Sapele
   Area: 148 km^2 = 14,800 "
   Cost: ₦984,000

4. Ughelli
   Area: 31.51 km^2 = 3,151 "
   Cost: ₦495,100

5. Auchi/Jattu
   Area: 30.474 km^2 = 3047.40 "
   Cost: ₦484,740

6. Uromi/Uhiaja
   Area: 34.22 km^2 = 3,422 "
   Cost: ₦522,200

7. Agbor & Owa
   Area: 56.56 km^2 = 5,656 "
   Cost: ₦622,800

8. Asaba
   Area: 31.82 km^2 = 3,182 "
   Cost: ₦498,200

9. Ogwashi-Uku
   Area: 12.566 km^2 = 1256.6 "
   Cost: ₦268,490

Grand Total = ₦6,178,690.00 Total Ha. 75,287.0

APPENDIX V

LARGE-SCALE MAPPING REQUIREMENTS FOR THE DECLARED URBAN AREALS

Urban Area	Area Sq.km	Photography		Cost of Mapping	Total Cost
		Cost of Aerial Photomaps	Cost of Producing Photomaps		
Benin City	324.0	₦32,400	₦162,000	₦2,5000.00	₦2694,400
Warri/Effurun	83.72	₦ 8,372	₦ 41,860	₦1,000000	₦1,050232
Sapele	148.0	₦14,800	₦ 74,000	₦ 400,000	₦4888,800
Ughelli	31.51	₦ 3151	₦15,755	₦700,000	₦718906
Auchi/Jattu	30.47	₦ 3047	₦15,232	₦600,000	₦618279
Uromi/Ubiaja	34.22	₦ 3422	₦17,110	₦1,200,000	₦1220532
Agbor/Owa	56.56	₦ 5656	₦28,280	₦200,000	₦233936
Asaba	31.82	₦ 3182	₦15,910	₦900,000	₦919092
Ogwashi-Uku	12.57	₦ 1256	₦ 6,283	₦700,000	₦707539
				Grand Total	₦8,651,716