

POLICY CHANGE AND IMPLEMENTATION REGIMES: LESSONS FROM THE IMPLEMENTATION OF LAND POLICY CHANGE AT THE SUB NATIONAL LEVEL IN NIGERIA

By

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PART ONE

CHAPTER ONE

Introduction: Land (Property) Rights and Economic Development

Property rights is a crucial step in any attempt to stimulate business activities and generate economic growth. As Alston and Mueller (2008: 254) puts it “property rights matter because they determine resource use”. For instance, Hartwell (2015: 171) argues that when the administration of property rights is effective, it helps in promoting long term investments without fear of confiscation or violation from contractual agreement. A good administration can therefore incentivise businesses by signalling a credible commitment to protect property rights such as enforcing contractual obligations or it could conversely de-incentivise businesses if it allows for cumbersome procedures, whimsical decisions, rent seeking behaviour, and predation. The latter is especially more evident in the quality of property rights administration in developing countries, where institutions are generally characterised as weak or dysfunctional. For long, multilateral institutions such as the World Bank (WB) and International Monetary Fund (IMF) have been advising developing countries on the relevance of a sound framework governing land property rights.

In his pioneering work on how formalization of private property ownership generates wealth, Hernando de Soto (2000) argues that the first step towards generating wealth is to turn what he termed as 'dead asset' or 'dead capital' (which lies dormant all around us) into an entity of value by transforming such asset into a security, contract or title record. De Soto regards land formalization (in form of registers or titles) in developing countries as the key to lifting people out of poverty:

Even in the poorest nations the poor save...the value of savings among the poor is in fact, immense – forty times all the foreign aid received throughout the world since 1945...but they hold these resources in defective forms: houses built on land whose ownership rights are not adequately recorded, unincorporated businesses with undefined liability, industries located where financiers and investors cannot adequately see them. Because the rights to these possessions are not adequately documented, these assets cannot readily be turned into capital, cannot be traded outside of narrow local circles where people know and trust each other, cannot be used as collateral for a loan, and cannot be used as a share against an investment (p. 6)

De Soto argues further that formal property forces an individual to go beyond seeing his property such as a house as a "mere shelter and thus a dead asset and to see it as a live capital" (p. 48). To show how crucial property ownership is in the advancement of humanity, De Soto notes that:

Formal property is more than a system for titling, recording, and mapping assets—it is an instrument of thought, representing assets in such a way that people's minds can work on them to generate surplus value. That is why formal property must be universally accessible: to bring everyone into one social contract where they can cooperate to raise society's productivity (p. 231)

One of the major reasons why the west is wealthier than the rest of the world according de Soto was because it has succeeded in integrating much of the private assets held by its citizens into a single unified system - a feat which developing countries are yet to attain. For example, formalization has enabled individuals in the west to use property titles as collateral in obtaining loans for investment or formalization could also be used by the government for planning purposes such as debt collection, payment of taxes and provision of social services. However, this didn't happen overnight argues de Soto - it took several years of careful planning by politicians, legislators and judges of the 19th C western countries to "put together the scattered facts and rules that had governed property throughout cities, villages, buildings and farms and integrated them into one system" (p. 50-51).

Over time this integrated system has been perfected such that citizens in the west can now obtain information with regards to economic value, legal status or geographic characteristics of any asset or property of interest from the comfort of their homes. In addition, this integrated system has entrenched accountability by unmasking anonymity around who owns what or does what. For instance, individuals could be identified and sanctioned for engaging in undesirable conduct (such as not honouring obligations entered) and thereby induce compliance to rule of law. De Soto tries to demonstrate how a formalized property system entrenches accountability by contrasting what obtains in the advanced countries with that of developing countries:

a great deal of its power [formalization] comes from the accountability it creates, from the constraints it imposes, the rules it spawns, and the sanctions it can apply. In allowing people to see the economic and social potential of assets, formal property changed the perception in advanced societies of not only the potential rewards of using assets but also the dangers. Legal property invited commitment. The lack of legal property thus explains why citizens in developing countries cannot make profitable contracts with strangers, cannot get credit, insurance, or utilities services: They have no property to lose. Because they have no property to lose, they are taken seriously as contracting parties only by their immediate family and neighbours. Meanwhile, citizens of advanced nations can contract for practically anything that is reasonable, but the entry price is commitment. And commitment is better understood when backed up by a pledge of property, whether it be a mortgage, a lien, or any other form of security that protects the other contracting party (p. 53)

Rationalist institutional scholars of economic development also argue that one of the major ways through which development can be attained is through the effective and efficient institutionalization of property rights (Demsetz, 1967; North and Thomas, 1973; North 1981; De Long and Shleifer 1993; Hall and Jones 1999; Platteau 2000; Acemoglu et al 2001; Johnson et al 2002; Ho and Spoor 2006; Goldstein and Udry 2008; Galiani and Schargrodsky 2010; Janvry et al 2014; Wang et al 2015; Leight 2016). However, within the rationalist school thought opinions differ on how best institutions and policies could be designed and implemented such that the benefits accruing from private ownership rights are translated into overall economic development. Anafo (2015) synthesized these arguments into four (4) major approaches; first, there are those who argue that optimal productive use of private property or land is best achieved through securing individual rights (Cooter 1982; de Soto 2000; Demsetz 1967; The World Bank 2002; 2013). Secondly, others argue that land is more productive when the “benefits” and “burdens” is distributed among the members of society by the government through its “bureaucratic machinery” (Banik, 2008; Morsink, 1999). The third plank within the literature are

those who view land as better utilized when its governance is determined by “communally defined structures and institutions” (Dolsak and Ostrom 2003; Ostrom, 1990; Ostrom et al 2002). And finally, others argue that rather than approaching property or land governance from a “silo” perspective as suggested by the three approaches above, instead, the benefits from land can best be realized through an “integrated, contextualized, organismic and poly-rational” way (Anafo 2013; Chigara 2004; Davy 2009, 2012; Deininger 2003; Manji 2006 cited in Anafo 2015: *ibid*). Anafo’s empirical study in a municipality of Ghana shows that both ‘domestic’ and ‘external’ pressures shape the demand as well as the direction of land reforms.

Statement of Research Problem

The land administration system in Nigeria has over the years been perceived as grossly ineffective and inefficient such that government officials are often accused of capitalizing on the ‘gaps’ in the system to enrich themselves through illegal allocations of (or selling) land or property titles (Atilola 2010, Deininger 2003). The Nigerian economy has also been characterised as highly risky for investment because people lack confidence on the institutions of land governance. For example, revocations or confiscations of private land or property by officials of land agencies is a common occurrence and so also are land disputes which are not uncommon in Nigeria (Resnick and Okumo 2016, OECD 2015:78). The World Bank’s Ease of Doing Business (EoDB) index which relies on a number of factors (starting a business, dealing with construction permits, getting electricity, registering property, getting credit, protecting minority investors, paying taxes, trading across borders, enforcing contracts and resolving insolvency) to measure the quality of a country’s regulatory environment shows that Nigeria has over the years consistently ranked at the bottom of the rankings (DB 2018). More interesting is when some of the measurements (such as starting a business, dealing with construction permits, registering property and enforcing contracts) were replicated at the sub-national level in Nigeria (2008, 2010, 2014). The results show that it is easier to do business in some states than others and a major reason given as responsible for this disparity is that some states have improve the quality of their regulatory environment through reforms. This reform efforts had made them consistently ranked above others (DB 2014).

Research Question

How do some states succeed in implementing and sustaining a policy change, while others are less able to do so?

Objective of the Study

This study seeks to further our understanding of the factors that are critical to the success of policy change and durability by extending the portability of standard theories on the policy performance of 'policy regimes' beyond the usual boundaries of the European and American countries. Through a comparative analysis of the variations in the performance of the different policy designs adopted by some Nigerian states at the subnational level, it seeks to explore how implementation 'gaps' lead to unintended consequences.

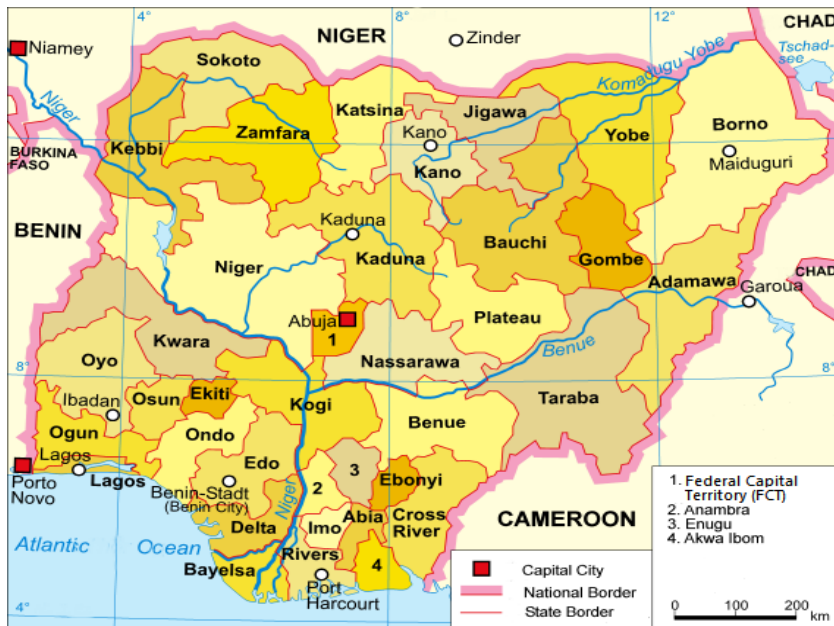
Scope and Focus of The Study

This study focuses on the implementation of the land titling (registration) project implemented by three Nigerian states (Nasarawa, Cross River and Niger). It is divided into three parts; the first part lays the groundwork of the study, it discusses the background of the study, state of the policy implementation research, the relevant implementation theories that constitute the theoretical framework and a review of relevant literature on land titling (registration). The second part deals with the methodology of empirical enquiry employed during fieldwork to gather data at the three (3) study locations - which includes the stories about processes leading up to the reforms of institutions of property (land) governance and subsequently the different institutional designs of the land titling projects adopted by the cases. And the final part is composed of the comparative analysis of the cases, the conclusion as well as recommendations of the study.

Political Structure of Nigeria

Nigeria operates a federal system of government, it is made up of 36 states divided into six (6) geopolitical regions (3 regions in the south and 3 in the north) respectively. Like the United States, Nigeria has three (3) arms of government (the executive, a bicameral legislature and a judiciary). The 1999 constitution (as amended) defines the powers, jurisdiction as well as competence of the federal, state and local governments viz a viz three levels; the exclusive list which is the sole preserve of the federal government (such as the control of the military, police, immigration and custom forces), the concurrent list which is a shared competence between the federal and state governments in areas such as education, and health and the residual list which is exercised at the state level (Baba 2015).

Figure 1 below shows the map of Nigeria with the 36 states and the Federal Capital Territory. **Fig 1: Map of Nigeria**



Source: Wikipedia

Land Administration in Nigeria: A Historical Journey

Adeniran (2013) argues that a sound system of land administration entrenches an equitable distribution of wealth and according to him land administration is simply about the making of and applying the rules of land or property ownership that serves to stimulate economic growth and development. Adeniran defines land administration as the process of determining, recording, disseminating and valuing information about the ownership of land when implementing a land policy management. It is both a process as well as an instrument used by government to offer security of tenure, regulate the land markets, and implement land reforms (p. 7).

Before the advent of the British colonial rule, land use and management practices vary with the traditions and customs of the different tribal groups that inhabit present day Nigeria. In many communities' lands were mostly held in trust by either the head of a family or a traditional ruler who in turn allocates, manages or transfers such lands to individuals on the basis of inheritance (Lewis v Bankole 1908; Craigwell Hardy E. S. 1939; GB Coker 1966; Famoriyo, S 1973; CO Olawoye 1974; Otogbolu v Okeoluwa and Ors 1981; Nwosu A. C. 1991 cited in Adeniran 2013). However, gradually these practices began to wane with the introduction of land reforms in some parts of Nigeria especially in the north. For instance, the establishment of the Sokoto caliphate saw the replacement of the existing "indigenous" ownership of land with that of the "Maliki" version of Islamic law. The newly created system vested "ownership and control" of all lands in the hands of the ruling class while those living on the land were only given "right of use". And even the British colonial administration

conquered the north, the it did not abolish this existing customary arrangement, but simply use the British laws alongside the Islamic ones.

In 1910, the caliphate system made a “land and native proclamation” which lays the foundation of the modern-day system of land governance in Nigeria. The proclamation effectively turned all lands into common resource (public) and henceforth held in trust and administered by the Governor General of the then colonial administration. But in the southern Nigeria the story was different, the customary tenure system of ownership subsisted and was recognized by the then colonial administration except in cases where “alien” (individuals not belonging to the community) indicates interest in which the Governor General’s approval for ownership must be sought. However, especially in south western Nigeria, the customary system of land administration was the subject of incessant abuse by traditional rulers (who often disposes individuals of their land rights) for personal gratifications and that even when a law was passed to strip traditional rulers of powers to administrate lands, this malpractices still persisted since there was no mechanism put in place to ensure compliance with the newly passed law (ibid; see also Adalemo I. A. 1993; Meek, C. K. 1957 ibid).

Creation of a Uniform System of Land Administration in Nigeria: The Land Use Act (1978)

Shortly after Nigeria gained independence from Britain in 1960, the colonial “ordinances” and the ‘customary’ laws continue to remain the main instruments of land administration in Nigeria (Adeleomo 1993). However, as Nigeria’s population increased over time, the demand for land went up and in turn this led to frequent land disputes among individuals since boundaries between privately owned lands and community owned lands were not clearly defined. In response, the then military government sought to address this and host of other land issues and in 1977 inaugurated a committee of land experts to proffer solutions, especially those that will result in a uniform land policy framework for whole the country. The result was the passage of a decree that eventually became the Land Use Act (LUA) in 1978 and was enshrined into the 1979 constitution. The LUA among other things sought to address the persistent issue of maladministration of land that bedevilled the customary system in the south. The idea was to extend the model of land administration existing in northern Nigeria to the south (ibid). Another different but related explanation for the reforms of the customary system of land administration to a statutory one was that the third (3rd) Nigeria National Development Plan of 1975-1980 identified lack of government’s ownership of lands was a barrier to achieving national development. For instance, Rasak (2011) argues that the second (2nd) National Development Plan of

1970-1974 failed because the then government could own lands to be use for development purposes because of the exorbitant amount of compensation claims made by land owners.

Towards addressing the persistent issue of misuse of land, a further three different expert panels were inaugurated by the government to study the situation and come up with recommendations. First the “Anti-inflation Task Force” was set up in 1975, and then followed by the “Rent Panel in 1976” and finally the “Land Use Panel of 1977 all of which culminated in the conception and design of the LUA. The passage of the Land Use Act (LUA) of in 1978 ushered in a new instruments of land administration in Nigeria, the LUA domiciled all lands under the control of the state governments that made up the federation (IPPA 2015). For example, Section 1 subsection 1 of the act states that:

all land comprised in the territory of each state in the federation are hereby vested in the Governor of the state and such land shall be held in trust and administered for the use and common benefit of all Nigerians in accordance with the provisions of this act
(S 1(1))

Under the LUA, (unless if delegated) only the governor has the final authority to issue the main instruments of land ownership such as the Certificate of Occupancy (CO) or Right of Occupancy (RO). Also, tenure over land is given to individuals on a lease hold basis with a tenancy period ranging from 50 to 99 years but with the option of renewal. In Nigeria, land is administered through two major ways; statutory (in both urban or non-urban areas) or customary right of occupancy (in non-urban areas). While the state governors are mandated by law to issue statutory rights of occupancy for the urban and non-urban areas, the local government are to issue customary rights of occupancy in rural areas. The LUA also requires that each state establishes an “ad-hoc” body known as the Land Use Allocation Committee (LUAC) that advises the state governor on land management issues including compensation claims and thus effectively ending the role of traditional rulers in administering communal lands. The LUA also mandated the “State High” courts to preside over land matters of statutory nature while the “Customary” courts in the south and “Area” courts in the north to preside over land matters of customary nature. Together with other support agencies, the act also mandates the Federal Ministry of Lands, Housing, and Urban Development (FMLHUD) to regulate land administration at the federal level (Adeniyi 2013: 9).

In some quarters, the LUA was widely commended and seen as a useful instrument that brought together the disparate land laws in the country under a unified framework, which could easily be applied across the entire federation (Nweke 1978; Yakubu 1986; N Tobi 1989 cited in Razak 2011). As Smith (1995) argues:

the conception of Land Use Act as a piece of legislation is far from being an emasculation of the pre-existing system of customary land tenure rather, it is meant to solve the various socio-economic problems associated with it, establish a uniform land policy to cater for the need of the society, eradicate the multifarious problem associated with the issue of title to land in Nigeria and ensure availability of land for agricultural and industrial development (ibid: 11)

In other quarters, the act was criticised on the grounds that the act has deprived many citizens of their over land ownership rights, by transferring all land rights to the government. As Nnamani (1989) tries to describe the LUA:

“I cannot think of any statute which has produced so many ambiguities, contradictions, absurdities and confusions as this Act has done” (ibid: 8).

Shortcomings of the Land Use Act (1978) and the demands for Change

The LUA has now been in existence for over 40 years, the act has now been regarded as obsolete and flawed. First, it is argued that act has failed to achieve the purpose for which it was originally set up to do as over 80% of lands in Nigeria are still administered under the “community-based customary laws”, which is largely based on “un-codified system of norms and principles”. Secondly, it has also been criticised as restrictive since it only gives partial (lease hold) ownership of lands to individuals and also citizens are only allowed a holding of 0.5 hectares of undeveloped urban land, 500 hectares of non-urban land and 5,000 hectares of grazing land respectively (IPPA 2015: 8; OECD: 74). Thirdly, most provisions of the act were seen as vague and susceptible to misinterpretation and manipulability by agencies tasked with land administration (Mabogunje 2007). Fourthly, some of the LUA clauses such as the “governor’s consent” has also been considered as causing gross inefficiency and thus causing huge delays and backlog of land applications which in turn discourages the public and investors from formalizing land property (OECD 2015: 74). For example, citing the case of Savannah Bank Ltd v. Ajilo, Obaseki (1990) tries to make a case against the ‘governor’s consent’ clause when he argues:

In my view and I agree with Chief Williams expression of anxiety over the implementation or consequences of the implementation of the consent provisions or clauses in the Act. It is bound to have a suffocating effect on the commercial life of the land and house owning class of the society who use their properties to raise loans and advances from Banks...These areas of the Land Use Act need urgent review to remove their problem nature (cited in Rasak 2011: 84)

Inducing Change from Above: Establishment of The Presidential Technical Committee on Land Reforms (PTCLR) at the Federal Level

Thus, following calls and pressure from both international (multilateral institutions) and domestic (citizens) for the reform of land institutions in Nigeria, the federal government initiated some policies aimed at strengthening the land governance framework. In 2007, a road map policy document titled the National Economic Empowerment and Development Strategy (NEEDS) was launched, with its medium-term implementation plan (the 7 Point Agenda) (OECD 2015). One of the major objectives of the 7-point policy agenda was the reform of the land tenure system to free up the vast expanse of lands held by government to private owners (Gadzama 2013). At the federal level, relevant agencies were brought together under one umbrella referred to as the “One Stop Shop” to codify and simplify the procedures on land registration for the public as well as investors. The Nigeria Company and Allied Matters Act (CAMA) of 1990 (the main instrument of regulating property registration at the federal level) was reformed to make it more business friendly. Administrative procedures that were considered obsolete or unnecessary in the CAMA act were either eliminated or merged, and land records and registrations forms that were in paper formats were digitized and made available online (OECD 2015).

In 2009, an eight-member panel of known as the Presidential Technical Committee on Land Reform (PTCLR) was inaugurated by the government of president Umaru Musa Yar’adua and given the mandate to collaborate and provide technical assistance to State and Local Governments in the following areas: (a) to undertake land cadastral nationwide (b) to determine individuals’ “possessory” rights using best practices and most appropriate technology to determine the process of identification of locations and registration of title holdings (c) to ensure that land cadastral boundaries and title holdings are demarcated in such a way that communities, hamlets, villages, village areas, towns, etc will be recognizable (d) to encourage and assist State and Local Governments to establish an arbitration/adjudication mechanism for land ownership conflict resolution (e) to make recommendations for the establishment of a National Depository for Land Title Holdings and Records in all States of the Federation and the Federal Capital Territory (f) to make recommendations for the establishment of a mechanism for land valuation in both urban and rural areas in all parts of the Federation and (g) to make any other recommendations that will ensure effective, simplified, sustainable and successful land administration in Nigeria (Mabogunje 2007; OECD 2015: 78)

These efforts culminated in the drafting of a roadmap to transform how land is administered in the country. The advocates the reforms argue that an effective way of realizing an efficient, transparent and secure way of capturing and storing all land data is through the deployment of technology. To do

this they suggest transforming the old system (the manual system) of land administration into a modern one (using the Geographic Information System (GIS)). For instance, using aerial photography, satellite imageries, Global Positioning System (GPS), digitalization of data using geographical information systems (GIS), vast expanse of land can be efficiently captured and mapped out. Towards this end the PTCLR established a technical sub-committee that comprises of experts specializing in Geographic Information Systems (GIS), Geomatics and Geoinformation to advise on technical issues that may arise during the execution of the mandate (Mabogunje 2007). The committee was mandated to work closely with the states and local governments in order to identify potential constraints that may impede the implementation of the proposed changes and to also legitimise the process. The PTCLR also recommended the establishment of the National Land Reform Commission (NLRC) which will replace the PTCLR. A bill titled “National Land Reform Commission Bill” was re-represented to the national parliament for passage (having failed to pass into law in its first attempt in 2010) (OECD 2015: 77).

Establishment of the Federal Land Information System (FELIS)

At the federal level the implementation of the land policy changes first began with the establishment of the Federal Land Information System (FELIS). The FELIS project was a pilot project that sought to among other things improve the system of “land transactions and administration” in the Federal Capital Territory (FCT). The Abuja Geographic Information System (AGIS) Agency was created and given the mandate to implement the FELIS project under the Electronic Data Capture Scheme (EDCS). The Federal government envisaged the replication of the FELIS project to the rest of the country by proceeding with the reforms in an incremental way. For instance, the project was further extended to two other states (Kano and Lagos). The federal government anticipated that the institutional and policy changes that will be implemented under the FELIS will help to entrench good governance in land administration in the country and thereby help accelerate development (Adeoye and Mensah 2008; Oboli and Akpoyoware 2010: 3). The project was designed to digitize and centralise all land and property records (especially those having survey information and title documents) in the country. The idea is to have information who owns what land or property, the location of such property, the type of tenure (commercial or residential) as well as any transactions carried out on such property (Adeniran 2013).

Responses from Below: The Reform of Land Institutions at the Sub-National Level and some Unintended Consequences

The structural characteristics of Nigeria with (a) a single legal framework (such as the Land Use act of 1978) shared by the states in the regulation of land property rights, but also (b) a federal system of governance that allows for states to adapt and implement national laws that suit their contexts and therefore characterised by different institutional features of the regulatory environment. With this kind of institutional arrangement, the success or failure of the proposed policy changes depends on the states themselves. This is because the land use act vested all powers of land administration on the state governors (Mabogunje 2007). Thus, while some states simply ignore the federal government's overtures for the proposed land reforms, others responded positively to the federal government's call by making changes to their land administration systems. For instance, most of those that implemented the reforms created new or amended existing land laws and also created specialized autonomous agencies that will drive the proposed reforms using modern system of land administration such as the GIS.

Furthermore, even among those states that implemented the land reforms there were differences in in terms of how they proceeded with the implementation. This was mainly due to contextual conditions within those states as well as the behaviour of organisations tasked with the implementation of the reforms. Though an important fact shared by all the cases covered in this study is the initial opposition to the reforms. For example, the newly created agencies met stiff resistance from their parent ministries. Officials in the parent ministries opposed this shift, and therefore not cooperating with the government's in the implementation of the new policy changes. While this resistance coming from the parent ministries fizzled out in some of the states such as in the case of Nasarawa and Niger states, in states like Cross River the resistance persisted. Some of the reasons for the resistance according officials interviewed at both the ministries and the agencies was that (a) the old system of land administration (characterised by all sorts of questionable practices) was beneficial to entrenched interests who often enrich themselves at the government's expense (b) fear of the unknown by some officials over the outcomes of the reforms such as loss of jobs. For instance, with regards to concerns over possible job losses, most of the core civil servants in the ministries were used to the manual system of land administration and thus the newly created (computerized) system as envisaged by the reforms may render them irrelevant in the new arrangement. In response to the opposition of the reforms, the states adopted different strategies to weaken the resistance and sabotage coming from the parent ministries. In some states for instance, staff were recruited and trained to work in the newly created agencies, and those staff of the parent ministry that cooperated

with the management (such as the commissioners of the ministries) were deployed to the newly created agencies and recalcitrant ones were either deployed to other ministries or disengaged.

Inter-agency rivalry was also rife among the relevant implementing bodies, especially between the parent ministries of lands and the newly created geographic information agencies. The problem of coordination between the parent ministries and the agencies posed a huge challenge to the reforms in some states. For example, problem of coordination played a key role in the set-backs experienced by the land reforms in Cross River state - to the extent that a crisis of mandate ensued between the state's ministry of lands and the Cross-River Geographic Information Agency (CRGIA). Closely following coordination problems was also the lack of funding and commitment. This severely curtailed the capacity of the implementing bodies to effectively carry out their mandate. Problem of funding and political commitment was a dominant view among officials interviewed and cited as responsible for the ineffective performances of the newly created land agencies. Furthermore, low technical capacity and in some cases non-compliance to the provisions of the regulations were also commonly cited by officials as issues that affected the implementation of the land policy changes at the sub national level.

CHAPTER TWO

Theoretical Framework

We often hear people mention words like the policy was 'successful' or was a 'failed' one, we often hear politicians or citizens say the agency just implemented what they simply like and not what we asked or want them to do. We also hear things like had the policy been done or implemented in this way or had we introduced some elements it will have been a different story entirely. This is the murky world of policy implementation where the designs of policies do not often gets translated into the intentions of their designers. The primary focus of this chapter is to explore relevant theories of policy implementation to answer our research question. We first employ theories of delegation or more specifically the principal agent theory to understand how policy implementation gets delegated in the first place. That is how elected officials issue instructions in form of policy (legislations or executive orders) to government departments or agencies (bureaucracy) to carry out or implement. Then we move to the domain of policy implementation research to trace developments in the field. We also look at how policy design, intentions, interorganizational relations and the political environment shapes policy implementation. All these are important consideration because the way delegated policies get implemented has profound effects on the outcomes of such policies

There is no single or unified framework in the field of policy implementation research that captures all the complexities of policy implementation (May 2012). This is especially problematic when we try to use a single framework such as the Principal Agent (PA) theory to explain or understand policy implementation problems in developing countries contexts (Huber and Shipan 2006) or try to use the PA theory in analysing autonomous or independent agencies where due to their features (supposed independence), agencies are mostly characterised as having ‘interdependent’ or ‘horizontal’ relationships in relating with other governmental bodies as opposed to having a ‘hierarchical’ or ‘vertical’ one (Maggetti and Papadopoulos 2018). As Bach et al (2012) argue “a further confounding factor for an unambiguous principal–agent view of the policy process is that there are layers of principals and agents, not just one relationship” (p. 188). As they put it “we argue that rational choice institutionalism and principal–agent accounts of delegation offer only limited insights into de facto bureaucratic autonomy” (p. 191).

To this end, we therefore assembled and incorporated different theories within the literature that are relevant to our work such as the policy regime framework (PRF), the principal agent theory (PA) of delegation, the New Public Management (NPM), and theories on agencification. We then narrow down to a comprehensive empirical review of relevant literature on the implementation of land titling reforms in developing countries. The aim is to examine (with the aim of uncovering) key factors that lead to the differential implementation of the land policy changes in the study locations. Thus, drawing on these theoretical frameworks, we carefully considered the intersection of policy design and implementation. Using empirical data, we look at whether policy design matter in shaping policy implementation in a developing country context. We applied these concepts to the different institutional designs of the land titling systems adopted by the cases under study, compare and analyse their similarities as well as their differences. The ultimate objective is to uncover which policy design features or factors (if any) matter for a successful and sustained implementation of the land policy changes introduced by the states under study. But first, we start with the fundamentals to understand how all these components tie together, that is we begin with how policy implementation gets delegated in the first place and then move on to the complexities of policy implementation.

Delegation Theories: Politico-Administrative Relations

At a more general level, the first thing to note is that in most formal organisations, institutional arrangement influences both the direction and content of delegation (Huber and Shipan 2002; Strom 2003; Lupia 2003). For instance, federal and unitary systems of governments differ considerably in terms of how policies are delegated and the channels through which accountability is communicated. In parliamentary systems, this relationship entails a “single chain” of delegation, while presidential

systems are characterised by “multiple chains” of delegation (Strom 2003). Furthermore, institutional arrangements also reflect the nature of the delegation relationship; for example delegation can be within an arm of government such as the legislature delegating policy task to its sub-committees, the presidency delegating to its agencies or delegation between arms of government such as the legislature delegating to executive ministries (Strom 2003: 65). Differences in institutional arrangements also structure how various levels of government relate with each other. For example, Huber and Shipan (2002) argue that since the powers of appointment resides with the executive, a governor or a president commands enormous influence over agencies. This therefore creates incentives for the legislature to write statutes (laws) to constrain the actions of the bureaucrats.

Delegation theories offer researchers a useful analytical tool in mapping and understanding the often conflictual as well as cooperative relationship in policy making and implementation. This relationship may revolve around accountability, informational, capacity and commitment issues. A prominent model that captures this complex relationship is the agency theory; the theory models this relationship as that between decision makers (principals) and bureaucrats or administrators (the agents). Though initially restricted to the economics literature (where it is used in insurance studies to analyse contractual obligations), the PA framework has evolved over the years and is now widely applied in the social sciences especially in the study of policy making in the political and public administration fields (Maggetti and Papadopoulos 2016; Sobol 2016; Kerwer 2005; Miller 2005; Waterman and Meier 1998).

Prior to the 1980s much of the classical principal agent theories on bureaucratic delegation (especially in the United States) mainly focus on studying relationship between autonomy and accountability of bureaucratic agencies. Specifically, the debates revolve around whether bureaucrats adhere to policy instructions as laid down by the congress in statutes in what is referred to as the “congressional dominance school”. Or whether the congress has abandoned its traditional role of overseeing agencies - the “congressional abdication school” (Pollack 2003:175). However, the early 1980s saw a notable turning point in these debates, where McCubbins and Schwartz (1984) published a seminal reply to critiques of the congressional dominance school. They argue that contrary to the dominant view, the legislature has not abdicated on its responsibility, but has rather simply found a better strategy of controlling the bureaucracy. They refer to this strategy as a congressional preference for “fire alarm” over “police patrol” as mechanism of controlling the bureaucracy (p. 165). The idea behind this intuition is that congress’s choice of the former over the latter is to find the most cost-effective control instrument (see also Damonte et al 2014; Huber and Shipan 2013; McCubbins, Noll, and Weingast 1987, 1989; Moe 1989; Romzek and Dubnik 1987).

These marked a significant shift in the underlying assumptions of the classical delegation theories within the discipline and thus second and third generation PA models emerged. These studies focus on investigating why and how principals design legislation to limit agency loss (Pollack 2003). This new school especially the ones concerned with bureaucratic politics argue that discretion and accountability should be seen as a means of realizing policy outcomes. This shift towards outcomes-based theorising brought back the importance of control in realising policy objectives – that is successful policy outcome(s) is regarded as a function of context conditioned by control, monitoring and reporting mechanisms (Bertelli 2012:11; Ora-orn Poocharoen 2013; Epstein and O'halloran 2006; Huber and Shipan 2002).

The Principal Agent Theory of Policy Delegation

Lupia (2003) defines delegation as “an act where one person or group, called a principal, relies on another person or group, called an agent, to act on the principal’s behalf” (p. 33). Delegation provide policy makers the mechanism of addressing a wide range of social problems concurrently – varied reasons are advanced by scholars as to why principals (the legislature or executive) delegate authority to bureaucrats. These reasons range from the principal lacking the time, information, and the requisite technical capacity or even to solve collective problems (Epstein and O’Halloran 1997; Strom 2003; Fox and Jordan 2009). Yet still, delegation could also occur because the leadership may seek credibility or legitimacy regarding certain policies and/or to avoid blames in case of an unpopular policy (Ross 1973; Jensen and Meckling 1976; Pollack 1997; Tallberg 2002 cited in Sobol 2016; Huber, Shipan and Pfahler 2001; Bertelli 2012).

This suggests that it is in the principal’s interest to grant the agent some form of authority to carry out an assigned mandate – yet delegation entails costs. For instance, as it is well established in the literature of the tendency for the principal to select the wrong agent “adverse selection” or the agent to shirks on his responsibility known as “moral hazard” (Sobol 2016:338; Rensick and Olumo 2016; Miller 2005:209; Strom 2003: 62). As Strom (2003) puts it

Any delegation of authority entails the risk that the agent may not faithfully pursue the principal’s interests. If the agent has preferences and incentives that are not perfectly compatible with those of the principal, delegation may generate agency problems” (p. 62).

In what is referred to as ‘agency loss’ in the literature, this cost is simply *the* “difference between what the principal wants and what the agent delivers” (Strom, Muller and Bergman 2006: 34). What is the principal to do in this case? McCubbins, Noll and Weingast (1987) argue that the often-problematic relationship between the principal and the agent is essentially that of “imperfect compliance”. In

other words, like Strom et al (2006), they argue that the problem for the principal is how to induce compliance by the agent in order to balance the “costs” and “benefits” of delegation (p. 247). One possible mechanism of realizing bureaucratic compliance argued the authors is through the “administrative procedure statutes”. This limits the range of policy actions an agency can take, for instance, the principal may design procedural guidelines that limit the informational advantage the agent enjoys over the principal. He may also “stack the deck” by enfranchising various interests such as the public, interest groups or courts in an agency decision making process (p. 244-255). Epstein and O’Halloran (2006) however add that politicians must allow for a certain level of agency loss “*since [they] have neither the time nor the expertise to micro-manage policy decisions, and by restricting flexibility, politicians limit the agency’s ability to adjust to changing circumstances*” (p. 84).

Control of the bureaucracy through administrative acts can either be done “ex ante” such as through “police patrol”, where the principal relies on traditional control instruments such as screening, selection, contract design, investigations and reviews to directly oversight the activities of the bureaucratic. Or could be done “ex post” or through “fire alarms” (McCubbins and Schwartz 1984) in which case the principal “enfranchises” third party such as interest groups, the public, courts, or a forum “to monitor the decisions of the bureaucracy and ring the alarm in case of drift” (Damonte et al 2014: 3; Brandsma and Schillemans 2012). There is no agreement within the literature as to which of the control instruments is more effective, it is a matter of design or trade-off between the two. For example, while some scholars argue that the fire alarm strategy is less costly and more effective than police patrol because the principal can rely on others such as the courts, investigative agencies, NGOs or the public to report on agency violations (McCubbins and Schwartz 1984). Others argue that ex post control instruments may not necessarily be better than ex-ante instruments, especially if we consider that when fire alarms detect policy drift, the costs of quelling the fire is so huge that the principal is better off if he had put in place mechanisms that prevents the fire from starting in the first instance (McNollgast 1987 cited in Wiseman and Wright 2015).

Accountability in Principal-Agent Relationship

Similarly, accountability is also central to understanding the outcomes of a delegated mandate. Accountability and discretion can be likened to two sides of a coin. In that “delegation involves endowing another party with the discretion to act...and accountability is meant to ensure that the exercise of discretion is checked” (Brandsma and Schillemans 2012). Accountability is conceptualized and modelled in diverse ways within the social sciences. For instance, some perspectives focus on the individual as primary unit of analysis, while others especially in the administrative and policy sciences mostly focus on institutional or systemic accountability such as the provision or regulation of public

goods by the government. From a broader perspective two major approaches can be discerned in the literature; one approach conceptualised accountability in normative terms - that is accountability as a “virtue”, which implies focusing on accountability as an outcome of interest (dependent variable) such as how individuals ought to conduct themselves. The second approach sees accountability as a “mechanism” or as a casual factor on the outcome (dependent variable) – this approach places emphasis not so much on the normative content of accountability, but on whether individuals were held to account following their action is what makes a difference in the outcome of interest. This latter approach (which is the focus of this project) suggests that although agencies may be allowed some form of discretionary powers in policy implementation, they may also be required to provide an explanation to a “forum” usually in form of superior(s) or a third party for actions taken in respect of a domain assigned to them (Bovens et al 2014: 6).

Similarly, Lupia (2003) argues that the term accountability has also found usage as a measure of ‘efficiency’ and ‘effectiveness’ in public sector governance, accountability in this regard is conceptualised as a “process of control” where the agent is said to be accountable in so far as the principal can influence his “actions”, this argues Lupia happens when the principal can sanction the agent behaviour (such as contract termination) due to incompetence or incapacity to achieve a stated goal. Thus, he defined accountability as:

An agent is accountable to a principal if the principal can exercise control over the agent and delegation is not accountable if the principal is unable to exercise control. If a principal in situation A exerts more control than a principal in situation B, then accountability is greater in situation A than it is in situation B (p.35)

Both perspectives offered by Bovens et al and Lupia are somewhat similar. Therefore, drawing on both perspectives, this project views accountability in delegation from a “control” perspective. Lindberg (2013) conceptualised the relationship between delegation and accountability as a simple set of assumptions that condition the interactions between the principal and the agent:

an agent or institution who is to give an account (A for agent), An area, responsibilities, or domain subject to accountability (D for domain); An agent or institution to whom A is to give account (P for principal); The right of P to require A to inform and explain/justify decisions regarding D; and the right of P to sanction A if A fails to inform or explain/justify decisions regarding D (p. 8).

Aside from identifying “who” is accountable (accountee) and “to whom” is he accountable to (accountor or forum), Bovens et al (2014) further added three (3) dimensions; first, the “what” of accountability, that is the nature of what is to be accounted for such as policy decision or compliance,

secondly, the “standards” such as rules and regulations by which to judge an actors actions and finally “why” which explains the nature of the relationship between the “actor” and the “forum” such as “mandatory accountability” found in most formal institutions or “voluntary accountability” where there is no formal obligation to be accountable to action and “quasi voluntary accountability” which lies somewhere between the two extremes. Furthermore, they argue that for accountability to qualify as an account rendering mechanism, it must contain at least 3 elements; (1) obligations on the actor to “inform” the forum by justifying and explaining on procedures followed, tasks performed or results of a given policy implemented, (2) “answerability” the ability of the forum to “question” on whether the actor’s action (or explanation) is adequate or legitimate and (3) by sanctioning or rewarding him, in which the forum “judge” the actor’s action as satisfactory through offering commendation and or rewards or undesirable by denouncement and sanctioning his behaviour (P. 9-12)

In short, the whole essence of institutional design of delegation argues Huber and Shipan (2006) is to devise the right kind of mechanism that addresses the “twin problems of preference divergence and information asymmetry” between the policy makers and policy implementers. In other words, the task for decision makers is to find the optimal strategy that leads to the “selection of the right type of agent and ensure that the agent exerts effort, utilizes expertise, and implements policy in keeping with political preferences of principals” (cited in Berry and Gersen 2010: 3).

Policy Delegation to Autonomous Agencies

Maggetti and Papadopoulos (2018) provide a refined view of the Principal Agent (PA) framework to understand delegation from politicians to autonomous agencies. Specifically, the authors argue that for the PA framework to be applied and properly understood in the context of autonomous agencies such as Independent Regulatory Agencies (IRA), there is need for refining some of the original postulations of the PA framework. They argue that evidence suggests that some of the practices of the IRAs tends to deviate from the normal expectations or assumptions of the PA framework. For example, the complexities of delegation may lead to other factors other those of the principal(s) that may “structure” the behaviours of regulators. And that as time goes on these independent agencies can acquire enormous political powers that may eventually “subvert the logic of delegation”. However, the authors suggest that this should not be misconstrued as “anomalies” of delegation, but a result of “systemic features” arising from post delegation relations between principals and their agents (p. 173).

Agency Autonomy and Control in Policy Implementation

The era of the New Public Management (NPM) which began in the 1980s (Bach et al 2012) ushered in what scholars in policy and administrative sciences referred to as “decentralisation” of the bureaucracy. In other words, large bureaucracies such as ministries were disaggregated into smaller “semi-autonomous” and “single purpose” entities independent of their parent bureaucratic organisations (Verschuere and Vancoppenolle 2012: 249). Decentralisation or disaggregation of bureaucracies according to Christensen and Lægreid (2007: 18) means that “authority and responsibility are delegated or transferred to lower levels, organisations or positions in the civil service” (cited in Verschuere and Vancoppenolle 2012: *ibid*). The idea behind this new kind of policy making arrangement is to “increase efficiency and effectiveness, enhance the autonomy of managers, place services closer to citizens, reduce political meddling and enable ministers to concentrate on the big policy issues” (Pollitt et al. 2005: 3 cited *ibid*). From a rational perspective for instance, Taliencio (2004) argues that the establishment of agencies may enhance efficiency such as raising the revenue generating capacity of developing countries (cited in Pollitt et al 2005). As Verschuere and Bach (2012) puts it “the main reform elements were hiving off executive organizations from ministerial bureaucracies (headed by a politically accountable minister), granting extended levels of managerial freedom, and introducing some kind of performance management” (p. 184). Thus, began a proliferation of autonomous or independent organizations commonly referred to as “agencification” in the literature – where tasks traditionally handled by government departments are now increasingly being transferred to agencies (Pollitt et al 2005; see also Verhoest et al. 2012; Pollitt and Talbot 2004).

In the NPM literature, these decentralized or disaggregated governmental ‘executive’ organisations have been given different names and meanings such as autonomous agencies, semi-autonomous agencies, Independent Regulatory Agencies (IRAs), or Quasi Non-Governmental Organisations (Quangos) (see Majone 1997; Maggetti 2009; Bach et al. 2012; Maggetti and Papadopoulos 2018). However, within the context of this research study, like Bach and his colleagues we simply refer to these governmental executive organizations as ‘agencies’, where Pollitt et al (2004: 10) defines them as “structurally separated from the government offices but “close enough to permit ministers/secretaries of state to alter the budgets and main operational goals of the organization”” (cited in Bach et al 2012: 184). As Thynne (2004: 96) puts it, agencies are “executive bodies, as well as those statutory bodies which are not incorporated and do not have responsibilities that rightly distance them from ministerial oversight and direction...They are all public law, non-ministerial organisations which relate to ministers or the government as agents to a principal” (cited *ibid*). Similarly, Majone (1997) refers to them as “quasi-independent” governmental bodies and defines

them as “specialized agencies that are independent of the central administration and not bound by civil service rules. Often such agencies combine legislative, judicial, and executive powers in more or less narrowly defined areas of policy making” (p. 140). Lægreid and Verhoest (2010) argues that to make an agency more autonomous involves “shifting decision-making competency from external actors to the agency itself by delegation, devolution, or decentralization” (p. 4).

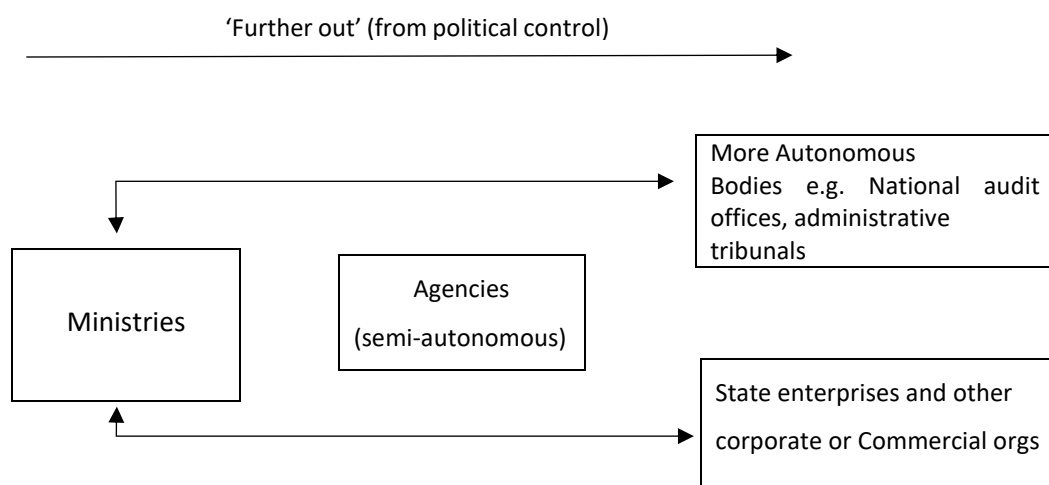
Bach et al (ibid) argued that agencies are primarily engaged in “some form of policy implementation, such as service delivery, regulation or exercising different kinds of public authority (see also Pollitt et al., 2004; Van Thiel, 2012; Thynne, 2004). These activities range from carrying out inspections, issuing licenses, paying benefits, carrying out scientific research and development programmes, regulating public utilities, maintaining public infrastructure, developing and operating databases, adjudicating on applications, to administering museums, protecting the environment, offering information services, running prisons, collecting taxes and many other functions (Pollitt et al 2005). Bach et al (ibid) argues that normally policies for these agencies are formulated at the “ministerial departments” which the authors refer to as the “parent ministries”. The ‘chief executives’ of these agencies are usually sourced from within the civil service, and are usually appointed by the government or the minister in charge of the relevant ministry. Although these agencies “operate at arm’s length from their political principals [i.e. ministries] and enjoy some degree of autonomy” in certain areas of their operations, but they have very little or no policy autonomy argued the authors.

However, the parent ministries under the direction and control of the ministers are responsible for supervising the activities of these agencies (ibid). Here we define ‘control’ as the “constraints which ministers/departments can impose to influence the actual use of this decision-making competency, in order to influence the decisions made” Lægreid and Verhoest (2010: 4). As Dan (2017: 13) argues “regardless of the type of public sector organization, autonomy is never absolute in a democratic society”. According to him therefore, “a more realistic term is to describe agencies in terms degree of autonomy such as semi or partial autonomy just like the literature suggests”. For instance, when an agency is privatized, which is often seen as having a significantly higher autonomy than other forms of organizational reforms - its autonomy is not absolute since it operates within a certain regulatory framework established and monitored by governmental regulatory agencies (see also Chawla et al., 1996; Verhoest, Van Thiel, Bouckaert, and Lægreid, 2012).

Bach (2012) argues that “policy autonomy” is a highly important dimension of ministry–agency relations because of its potential effect on the agency’s policy mandate” (p. 212). Although in the broadest sense, the concept of policy autonomy may refer to the “capacity to act independently from the control of other actors” (ibid). However, we are aware that ‘policy competences’ varies across roles and organisations, therefore like Bach et al, we focused on a narrow aspect of policy autonomy,

which the authors defined as the “degree of policy-making competency enjoyed by an agency in relation to its parent ministry” (p. 185; see also Verhoest et al 2004). Similarly, Pollitt et al (2005) defines agencies in terms of their degree of autonomy as “public organizations which have greater autonomy than the ‘normal’ divisions and directorates in the core of the ministry. This could be greater freedom with respect to finance, personnel, organization or any combination of these” (p. 9). The emphasis here argues Pollitt et al is the degree of “disaggregation or structural separation from the core of the ministry” and the degree of “autonomy or discretion or freedom in the use of finance or personnel or organization” are both defining features of agencies (ibid). Lægreid and Verhoest (2010) further distinguished between “managerial autonomy” which involves the “choice and use of financial, human, and other resources” and “policy autonomy” which involves the “objectives, target groups, policy instruments, quality and quantity of outputs, processes and procedures, issuing of general regulations, or decisions in individual cases”, carried out at the strategic or operational levels (p. 4). **Figure 1** below depicts the how agencies differ from ministries and other fully autonomous government bodies.

Figure 1 degree of disaggregation and autonomy



Source: Pollitt et al 2005

Bach et al (2012) further suggests distinguishing agency autonomy based on “formal” and “de facto” autonomy - where the “de facto autonomy” (or the actual policy autonomy an agency enjoys) may be different from its “formal policy autonomy” (or what its statute or legislations prescribes or “specify” as its “appropriate” policy making role) (ibid; see also Yesilkagit 2004). Agency autonomy has also been further categorised into five dimensions: legal status; relation with the government and the Congress; financial and organisational autonomy; staffing; and regulatory competences (Gilardi 2002; 2003; 2004 cited in Valdes 2011: 36). Furthermore, Lægreid and Verhoest (2010) argued that even within the same country, agencies having the same legal arrangement, may differ in respect to the degree of their ‘autonomy’ and ‘control’ (see also Verhoest et al. 2004a; Pollitt et al. 2004). Elsewhere, Valdes

(2011) see agency autonomy from an “instrumental” perspective, in which he suggests that its emergence and thus the degree of its independence depends on the “conflict between different actors involved in the process of [its] creation, who may have differing preferences” (p. 38). Valdes measured agency autonomy vis-a-vis its oversight ministry from two dimensions; the “legal status” of the agency, which he depicts as a continuum of formal legal rights (ibid). **Table 1** below shows this continuum of formal legal status of the agency.

Table 1 Degree of formal-legal autonomy

Autonomous body	Technical autonomy	Operational autonomy	Executive autonomy	Financial autonomy
Government body with Legal personality under the umbrella of the head ministry	Capacity to decide over methods and techniques	Capacity to decide over its resources, inputs and processes	Capacity to execute their actions directly	Capacity to negotiate its own budget directly with Congress

Growing autonomy



Source: Valdes 2011: 39

The second dimension, which Valdes labels as ‘Political’ is the degree to which politicians constrain or enhance the first dimension (legal) through controls and other means or the political autonomy granted to the agency which depends on the degree of latitude retained by the principal or the agency (ibid).

In the broadest sense, Majone 1997 argued that:

independent agencies can be monitored and kept politically accountable only by a combination of control instruments: clear and narrowly defined objectives, above all; but also, strict procedural requirements, judicial review (where appropriate), requirements to justify agency decisions in cost-benefit or cost-effectiveness terms, professional principles, expert opinion, transparency, and (again where appropriate) public participation. Legislative and executive oversight are not, of course, excluded, but any temptation to 'micromanage' the agency should be firmly resisted (p. 153)

Majone concludes his argument by quoting Moe (1987) “such a multi-pronged system of controls works properly, no one controls an independent agency, yet the agency is 'under control” (p. 154). Lægreid and Verhoest (2010) further advanced some of the techniques used in controlling agencies, these techniques include (1) structural control (hierarchical, market-like and/or network based) which

can be achieved by influencing the agencies' decisions through hierarchical and accountability lines through the agency head (chief executive or minister) or the supervisory board (2) financial control which is achieved by changing the level of budget granted to the agency, the composition of its income, and the level of risk-turnover to influence agency decisions (3) control achieved by making the agency compete with other organizations; (4) control achieved by creating cooperation networks of which the agency is part of (p. 5). Coordination especially in 'inter-organizational context' is another important concept in the governance of the public sector. Lægreid and Verhoest defines coordination as the "purposeful alignment of tasks and efforts of units in order to achieve a defined goal" (ibid). Its aim according to the authors, is to "create greater coherence in policy and to reduce redundancy, lacunae, and contradictions within and between policies (Peters 1998 cited ibid). They suggest that Inter-organizational coordination can be "vertical" or "horizontal" and is usually achieved by means of "hierarchical mechanisms, market incentives, contracts, network-like bargaining mechanisms and multi-level governance approaches" (Thompson et al. 1991; Peters 1998; Bouckaert et al. 2010 cited ibid). However, as the activities that governmental organizations handle becomes more complex problems of coordination grow because of information asymmetry. For instance, relevant organizations that are supposed to coordinate to solve problems may not know about what their other counterparts are doing. So also are the individuals involved, they may not or care very little about the actions of their counterparts elsewhere (Bouckaert et al 2010: 14).

In summary, this new kind of management system or agencification came with its own problems. For instance, Lægreid and Verhoest argued that the proliferation of agencies which in most cases lacks proper "coordination mechanisms", was perceived to have resulted in the fragmentation of government around the world (p.3, see also OECD 2002a; Verhoest et al. 2007b; Bouckaert et al. 2010). Furthermore, Majone (2010) suggest that instead of focusing on "why" agencies are created in the first place, we should focus on the "consequences" arising from delegating authority to agencies (p. 196). For example, there is a growing body of literature on the "unintended" consequences of agencification, which shows the "unintentional effects, the delays, and the frequent implementation problems occurring in public sector reforms" (ibid, see also McGowan and Wallace 1996; Pollitt and Bouckaert 2004). Therefore, a relevant question to ask is whether autonomous or independent agencies especially those dealing with regulation "can really deliver what they promise, in terms of credibility and efficiency, through a systematic comparative empirical perspective" (ibid). This, argues Majone is because powers are delegated to these agencies for "credibility" and "efficiency" reasons. For instance, in terms of credibility, agencies are perceived (by stakeholders) to be more consistent than politicians when it comes to delivering policies (such as services) in a timely manner because the latter are often seen as slow in decision making. On "efficiency" grounds they are perceived to be

“faster and more proficient than democratic institutions in producing policy outputs [that favours] the ‘public interest, and thereby help in reducing “decision-making costs” (p. 199).

Policy Implementation Research: Old to New

The field of implementation research is roughly divided into three (3) generations: the early (often generally referred to as the “pioneers, with a research tradition that usually focuses on ‘exploratory’ case studies. The second-generation studies often referred to as the “top-down” and “bottom-up” perspectives to policy implementation, where the bottom uppers view policy implementation as flowing from a hierarchical authority and the bottom uppers who see policy implementation as a diffused or network centric endeavour. And finally, the third-generation theories which basically synthesizes the earlier approaches and employ more sophisticated techniques such as comparative and statistically oriented research designs to systematically analyse policy implementation (Winter 2012).

First-Generation Theories of Policy Implementation

Beginning in the 1990s with the seminal work by Pressman and Wildavsky (1973), researchers on policy implementation in this period mainly focused on understanding some common policy problems such as ‘barriers’ and ‘failures’ associated with policy implementation (ibid: 266). For instance, Pressman and Wildavsky in their famous book ‘How Great Expectations in Washington are Dashed’, which is a case study on the implementation of a federal program to reduce unemployment among ethnic minorities in the United States called the Oakland Project - noted that the complex nature of the program due to its many implementing structures constituted a barrier to its implementation. For example, the presence of several actors such as the federal, regional, state, local governments, the courts, affected interests’ groups, private firms and the media not only “amplified” the problems, but also created many “decisions” and “veto” points that further complicated the program. In Winter’s words:

Pressman and Wildavsky convincingly showed that merely slightly different perspectives, priorities and time horizons among multiple actors with different missions in repeated and sequential decisions could cause delays, distortions and even failures in policy implementation (ibid.266).

Pressman and Wildavsky note further that implementation failures not only results from ‘bad’ implementation but also from the choice of ‘policy instruments’. Again using the implementation of Oakland project, the authors show that despite policy makers optimism of having put in place all

recipes for a successful implementation of a policy, the choice of implementation strategies or modalities could still jeopardize such a policy. For example, in the Oakland project the authors argue that failure of the project's implementation could have been mitigated or minimized had its designers chosen an "ex-post instruments" such as tying public expenditure spending to the actual number of minority workers employed instead of using "ex ante" instruments which relies on pre-negotiations with those affected and authorities involved in the implementation (ibid).

The first-generation theories were according to Winter mostly "explorative" and "inductive" case studies aimed at generating middle theories, these theories focus on very few variables such as the "number of actors" and "decisions points" and ties them with the "validity of the causal theory". Among these first-generation theories, one of the most important contributions is the work of Eugene Bardach (1977) titled "The Implementation Game". Bardach's work views policy implementation from a game theoretic perspective in which 'conflict' takes a central place in policy implementation. In other words, Bardach argued that when policies are implemented, actors play different kinds of games as they "pursue their own interests" (ibid). Other important contributions to the first-generation theories are the works of Hargrove (1975) who coined the "missing link paradigm" in policy implementation, as well as a host of other contributions such as Williams and Elmore (1976) (ibid).

Second Generation Theories: Top Down and Bottom Up Theories

The second-generation theories began in the early 1980s with the seminal work of Sabatier and Mazamian (1981; 1986). The Sabatier and Mazamian framework focuses on three (3) key aspects of implementation: (a) the tractability of the policy problems addressed by legislation (b) the social problems addressed by the legislations and (c) the ability of the legislations to structure the implementation process. Together these three key aspects of policy are further decomposed into 17 variables (Winter 2012: 267). The top-top down approach to studying policy implementation usually focused on a specific policy decision such as a law, and thus view policy implementation from a "control" perspective. This perspective on policy implementation argues that the objectives of a "legislation" are best achieved when conflicts arising from the number of "decision" or "veto" points are "minimized" from "above". Therefore, a "structured" hierarchy of "authority" is usually established to drive implementation (ibid).

However, this view of implementation has been criticized especially the bottom uppers as "naive" and "unrealistic" due to its over reliance on the ability of the "proponents" of a policy to solely determine how it is implemented, and thereby ignoring the ability of its "opponents" that also interfere to structure the process (Moe 1989 cited ibid). The top-down approach has also been criticized as ignorant of the crucial role played by "front line staff" or "field workers" as they carry out policy

instructions, such as with regards to when they deliver social services, income transfers or enforcing the law to citizens or firms (ibid). For example, the theory of “street-level bureaucracy” advanced by Lipsky (1980) focused on the “discretionary” decision making that is common among street-level bureaucrats when delivering policies to citizens. And that it is the ‘discretion’ enjoyed by bureaucrats that makes them important actors in influencing the course of policy implementation. Winter suggests that Lipsky turned the policy process “upside-down” by claiming that the street level bureaucrats are the real policy makers. As Winter puts it:

Although trying to do their best, street level bureaucrats experience a gap between the demands made on them by legislative mandates, managers and citizens on the one hand, and their limited resources on the other. In this situation, they apply a number of coping mechanisms that systematically distort their work in relation to the intentions of the legislation. They could for example, ration services or prioritize tasks or clients... As time goes by, street level bureaucrats develop more cynical perceptions of clients and modify the policy objectives (p. 267-268)

The bottom-up model approaches policy problem from a network centric perspective by identifying a constellation of actors around a policy problem and then maps out the relationship between these actors. For example, Hull and Hjern (1987), utilized a combination of “snowball” and “socio metric” methods, to study the role of local networks in influencing policy implementation. Using this technique, the authors begin with the identification of the actors closest to the policy problem at hand and then gradually identify more and more actors that interact with the first set of actors that were initially identified. In the process, it enabled them map out both formal and informal network of implementing actors around the policy problem. Similarly, the “Backward Mapping Strategy” model developed Richard Elmore (1982) was also central to the development of the bottom-up approach to implementation. Though the model is often seen as more of a ‘prescriptive’ rather than a contribution to theory development (ibid).

Especially those following the tradition of Hull and Hjern (1987), the bottom up scholars focus their analysis on “actors” and “activities” starting from the bottom to the top. In what they referred to as an “inductive” approach to matching “outcomes” of politics and the “intention” of politics. Thus, the bottom up scholars following the footsteps of Hull and Hjern conduct “systematic analysis” where relevant stakeholders from the bottom to top are interviewed to elicit their opinions on the ‘purposes’ of relevant laws and their ‘achievements’, as well as their evaluation of where things went wrong or how different policies contributed in solving a given policy problem. Hull and Hjern further suggest mapping of ‘activities’ and implementation ‘structures’, although it is argued that this research strategy requires enormous resources to conduct (ibid).

Third Generation Theories: The Synthesizers

The debates on the various approaches to policy implementation has never really settled with each approach tending to “ignore the portion of reality explained by the other”. It is why for instance, Elmore (1985) later suggests combining the “forward mapping” or top-down with the “backward mapping” or bottom-up perspectives since each offer “valuable” insights into policy making. For example, policy makers need to consider both the “policy instruments” and the “resources” at their disposal as well as a consideration of the “structure” of the incentives facing target groups and staff working in the field who can tip the balance of these incentives (ibid: 269).

Other scholars tried to resolve these arguments through specifying the conditions under which one approach might be more relevant than the other on specific policy problems. For instance, Sabatier (1986) argues that the top down perspective is more suitable in policy areas with specific legislation or in situations that the policy problem is at least moderately structured. While the bottom up approach will be more relevant to situations where different policies are aimed at addressing a particular policy problem or where one is interested in understanding the dynamics of different local contexts (ibid). Further attempts aimed at synthesizing or unifying the previous theories of implementation includes that of Matland (1995) who argues that the “relative value” of the models especially the bottom-up and top-down perspectives depends on the degree of “ambiguity” and “conflict” in goals as well as means of achieving those goals. Matland for example argues that the top-down model is more appropriate when the policy is “clear” and conflict is “low”, it is also (the top-down) relevant when conflict is “high” and “ambiguity” is low such as in the case of the Sabatier-Mazamania framework. This as suggested by Matland makes the “structuring” of the policy implementation the more important (ibid). In the case of the bottom-up approach, a more accurate account of the implementation process according to Matland is when the policy is “ambiguous” and the conflict is “low”. Matland concludes that when both ‘conflict’ and ‘ambiguity’ are present i.e. high-high or low-low, then both approaches apply (ibid).

Sabatier (1986) also attempt to synthesize the literature by developing the Advocacy Coalition Framework (ACF). The ACF starts with a mapping of all actors (both public and private) actors involved with a policy problem at hand which also includes their concerns (both proponents and opponents). The framework then combines this starting point with top-downers focus on how socio-economic conditions and legal instruments constrain implementers behavior (ibid). Sabatier conceptualizes policy change as governmental action such as a legislation in form of a program through which its operation produces policy outputs (usually over a long-term period) that results in various impacts.

Winter (1990) and Winter and Nielsen (2008), in what they referred to as the “integrated implementation model” also made valuable contributions towards the further development of the implementation literature. The idea of their model was to bring together the most “fruitful” elements of the various strands of the implementation research into a unified framework. These elements include policy formulation, policy design, inter organizational relations, management, street level bureaucracy, will and capacity, target group behavior, socio-economic conditions and feedback mechanism as factors in explaining implementation outputs and outcomes. The first and second generation theories were also criticized as mostly focused on single case studies and often suffered from the problem of “too few cases and too many variables” or “over determination”. This is a situation where a few variables (usually one or two) explains all the variations in the outcome variable. Therefore, a call was made for more sophisticated and systematic approaches that test theories based on comparative case studies and statistical research designs. It has also been suggested researchers should focus on the ‘processes’ rather than on the ‘outputs’ or ‘outcomes’ of policy implementation (ibid:270; see also Goggin 1986; Lester and Goggin 1998).

Understanding the Complexities in Policy Implementation

A key tenet in policy studies maintains that the quality of policy performance depends on policymakers’ decisions (Lasswell 1951). A later literature emphasizes how these key decisions are often diffused along the whole policy-making cycle (Weiss 1982), and the special power of those policymakers who operate in the administrative domain closer to the intended recipients (Elmore 1979, van Meter and van Horn 1975, Hjern and Porter 1981). The administrative domain indeed is where regulations, expenditure, taxation, information are set and put into action, thus actually determining “who gets what, when, and how” (Salamon 2002). For example, Lipsky (1980) argues that the actions of bureaucrats most often than not diverge from the stated policies (or intentions) of those (principals) who design such policies (cited May 2007). Recent studies have begun to recognise the complexities involve in policy implementation which goes beyond simply seeing implementation as just following laid down policy instructions. As May (2015) puts it:

implementation is [the] recognition that governing entails far more than enacting policies and watching the chips fall as they may. Much rests after policy enactment on how policymakers and others advance the ideas that are central to a given policy approach, how institutional arrangements reinforce policy cohesion, and whether the approach engenders support or opposition among concerned interests (p. 280)

For the purpose of this research project, we define policy implementation from a federal system of governance perspective, where a implementation is viewed as a “series of subnational decisions and

actions directed toward putting a prior authoritative federal decision into practice” (Lester and Goggin 1998 cited in Winter 2012: 272). With this conceptualisation in mind, Lester and Goggin warned against conceptualising policy implementation in terms of ‘outputs’ and ‘outcomes’ or dichotomising implementation into ‘success’ or ‘failure’. Here implementation outputs is defined in terms of “policy content at a much more operational level than a law - it is a policy as is being delivered to the citizens” and he defines implementation outcome as the “consequences of implementation outputs or delivery behaviours” (ibid).

Although Winter agree with Lester and Goggin that defining policy implementation in terms of success-failure may be problematic, he however suggest that attention should be focused on “processes” leading to the outputs (i.e. delivery behaviours of implementers) and outcomes (such as change in behaviour or conditions of target populations). According to Winter, in so doing researchers will align themselves with the classical traditions of public policy research where policies are casted in terms of their “content”, their “causes” as well as their “consequences” (ibid, see also Dye 1976).

Winter argues that a common practice among policy researchers is conceptualising the outcome (or dependent variable) in terms of the “degree of goal achievement” and that this often pose problems in theory building. For example, the policy formulation process may likely account for variations in policy goals and the implementation process is likely to be explained by the variations in delivery behaviours (ibid). As he puts it:

Any attempt to make generalisations about goal achievement based on analysis of the behaviour or outcome of the implementation is dependent on the goal variable having a certain value. The generalisation may become invalid if policy goals changes. Therefore, generalisations about policy outputs are extremely relativistic because statements are conditioned by the goals that are formulated (ibid)

This according to Winter poses a serious problem especially if we consider that most policy makers are often more interested in making decisions on the “means” or “instruments” than on “goals”. goals argued Winter are often “invented” after the decisions on means have already been made to legitimize the means that were adopted and that “goals are not always expected or even intended to be achieved” (ibid). Winter further argues that using goal achievement as the outcome variable is difficult to operationalize because the concept of “goals” is vague and ambiguous and so is the difference between “official” and “latent” goals. For instance, he argues that while most policy legislations or statements comes with certain kind of goals to be achieved, many such policies often fail to specify these goals or standards of conduct for expected of the behaviour of the implementers. He cited the example of the Danish Agro environmental regulation where the goal was to generally

reduce the nitrate pollution of the aquatic environment to a certain level. While the regulation gave specific rules on how aquatic farmers should behave, it only required the implementers to inspect for compliance purposes. In this case, it is hard to measure the success of the policy since it must rely on implementation outputs such as changes in farmers' behaviour as a measure of success and thus ignoring other factors than outputs that may affect policy outcomes or effects (p.273 see also Rossi and Freeman 1989).

Winter noted that scholars of implementation research especially political scientists have for too long paid little attention to explaining policy implementation in terms of variations in outcomes. In his words, "Implementation studies can play an important role in seeking to explain these variations by various implementation factors such as the role of policy and organizational design" (p. 273 see also Hill 2006; Beer et al 2008; Winter et al 2008a). Though he also noted that new developments in the field of implementation research beginning from the 1990s especially those scholars studying law and society or regulation have examined some important aspects of implementation such as explaining variation in compliance (see Tyler 2006), firms (Parker and Nielsen 2012) and enforcement (Winter and May 2001; 2002; 2012), organizational performance (Boyne 2003; Meier and O'Toole 2007), interorganizational collaboration (Meier and O'Toole 2003, Lundin 2007, May and Winter 2007), Management behaviours and attitudes and capacity of street level bureaucrats (Riccuci 2005; Winter et al 2008b; May and Winter 2009; Schram et al 2009).

In all these different perspectives and arguments, the problem argued Winter is on how to "conceptualise and categorise the behaviour of implementers at different or generational levels". For example, one way of doing this according to winter is to assess the variations in the extent to which legislations (or statutes) that sets goals and/or standards for implementation practices have been met (p.274). Another way is to use "behavioural" concepts such as the role of street level bureaucrats in influencing the outcomes or outputs of policy (ibid, see also Lipsky 1980; Meier and O'Toole 2007; Winter 2002). Yet another way argued Winter, is to use a set of concepts that apply to very broad areas of policies. For instance, May and Winter (1999; 2000;2001; 2012) developed some concepts on regulatory enforcement at both the agency as well as the street bureaucrats' levels. They conceptualized these agency enforcement concepts as (a) Tools: which is the use of different enforcement measures such as sanctions, information and assistance and incentives (b) Priorities: which specifies whom to target and what to inspect for (c) Effort: which leverages on enforcement resources (ibid). The principal agent theory has also been extensively used by scholars to study "control problems" especially bothering on "information asymmetries" that often exists between political leaderships (principals) or designers of the mandate and the implementers of the mandate (agents or agencies) (ibid, see also Brehm and Gates 1997; Winter 2003; Winter et al 2008b).

Policy Design and Implementation

May (2012) argues that public policies “set forth courses of action for addressing problems or for providing public goods and services to segments of society” (p. 279). Policies, suggest May, comes in different forms such as through legislations, executive orders or other official acts. May defines policy design as:

a means of attaining or accomplishing a public policy goal contains a set of “intentions or goals”, a mix of “instruments” or “means” for accomplishing the intentions, a designation of governmental and/or non-governmental entities charged with carrying out the intentions, and an allocation of resources for the requisite task (ibid).

These deliberate “choices” made about the relevant policy instruments, the entities that carry out this task, the resources available to them as well as the kind of action(s) that are to be taken establishes the “blueprint” for policy implementation. And that the “path” taken is further signalled by the “labelling” of the policy, the “language” of communication employed to advance the policy goals and the choice of “monitoring” mechanism used by politicians after the policy has been enacted. Because of these actions taken, the link between politics and policy making spills into the arena of policy implementation (ibid, see also Bardach 1977; Nakamura and Smallwood 1980; Brodtkin 1990).

This politics-policy nexus argues May, continue to puzzle both policy and public administration scholars in trying to understand “how the implementation of a policy is shaped by both the design of the policy and the forces that influence the way the policy is carried out” (ibid). Apart from the general understanding of how policies work, very little is known about what constitutes a well-designed policy. For example, within the literature, while one school of thought focuses on the “assumptions” and “values” behind policy designs to understand how policy implementation unfolds (Bobrow and Dryzek 1987; Ingraham 1987; Linder and Peters 1984 cited ibid). Another set of scholars “catalogues” policy instruments which together constitutes elements of policies (Hood 1983; McDonnell and Elmore 1987; Salamon 1989; 2002; Schneider and Ingram 1990 cited ibid). Yet, a third set of scholarship looks at the way politics drives policy implementation and send “signals” about the desired courses of action (Elmore 1987; Goggin et al 1990; Smith and Ingram 2002 cited ibid). Still yet a fourth group of scholars considers how choices about policy targets and instruments shape the reactions to policies and eventually how durable they become (Patanashik 2008; Schnieder and Ingram 1997).

How Policy Design Influences Policy Implementation

To craft policies entails a long process of analysing the policy problem at hand, looking at different options available as well as the authoritative decisions taken to enact it (May 2012). Dryzek (1983: 346) defines policy design as the “the process of inventing, developing and fine tuning a course of action with the amelioration of some problem in mind” (ibid: 280). May argues that from a design point of view the contents of a given policy are matched to the political environment from which the said policy is formulated and implemented (see also Linder and Peters 1984; 1989; May 1991; Schneider and Ingram 1997). Although it is a widely-shared view among policy implementation scholars that policies “signal desired courses of action and structure implementation”, but what remains contentious argued May are the ways in which different designs of policies may “hinder” or “facilitate” implementation (p. 280). For instance, several implementation studies found that most implementation problems arose from a lack of or inadequate specification of the desired course of actions as well as a failure to include features capable of overcoming conflicts that may arise among those tasked with implementation. Similarly, other studies within this tradition further suggest that policy implementation may further be limited by the presence of “unclear” and “inconsistent” goals, ‘complex implementation structures’ such as multitude of actors, decision points and levels of actions and other non-statutory factors like intractability of the policy problem and an unsupportive political environment (ibid).

May argues that while some scholars within the policy implementation research calls for a “statutory coherence” in terms of clarity of goals and simple implementation structures (see Sabatier and Mazmanian 1981; 1983). He however noted that this line of thinking fails to consider the realities of the political environment which calls for policies with “multiple goals, vague language and complex implementation structures”. For instance, most preambles contained in many statutes are often found to be very vague such that they provide little or no guidance on actions to be taken. In addition, policy goals can be framed “broadly” or “narrowly”, they could be “opaque” or “symbolic” or even “hortatory” (Schneider and Ingram 1997 cited ibid). This according to May gives room for diverse groups to renegotiate goals during implementation. These renegotiations could take the form of “trimming”, “distorting”, “preventing” or even “adding” to the initial policy to an extent that the said policy becomes “unsupportable” or a “political burden” (Bardach 1977: 85 cited ibid).

To ameliorate these problems of policy ambiguity and complexities, other scholars within the implementation literature suggests three (3) sets of policy provisions. One set deals with those provisions that sought to build the ‘capacity’ of those tasked with policy implementation. These capacity building ‘instruments’ include funding, education, training and technical assistance. Another

set are those policy provisions that induces commitment to the basic goals of the policy among policy implementers, this commitment building instruments include publicizing the policy goals, enfranchising citizens to complain or report against poor implementation, sanctions against insubordination, cost sharing and incentives. And a final set of policy provisions that aid in signaling desired courses of action, which includes oversight mechanisms, and informing about best practices. Together these mechanisms constitute what Howlett (2000) referred to as “procedural” policy instruments aimed at policy implementers, rather than “substantive” instruments aimed at targets of policy (ibid: 281). However, May suggest that putting the above provisions in place does not guarantee a successful policy implementation since many policies are often characterized by “overlapping structures of authority and responsibilities”. Therefore, “shared governance is the norm rather than the exception”. Moreover, these challenges could be compounded by the well-known problems of implementation such as poor incentives structures, incapacity and mistrust that impedes implementation (Mcdermott 2006: 45 cited ibid).

How the Political Environment Affects Policy Design And Implementation

The political environment is crucial in understanding the design, implementation and outcome(s) of policies (May 2012). In depicting how different political environments impact on policy implementation May draws on an earlier work of his (May 1991), in which he suggests that it is important to conceptualize policy design and implementation as a continuum of two extremes of the political environment. He labels one extreme as “policies with publics” and the other as “policies without publics”. In so doing, he argues, it allows for understanding the differences in policy implementation as a matter of “degree” rather than on the presence or absence of relevant publics and related policy subsystems. For example, in ‘policies with publics’ May argues that there are “well-developed” coalitions of interest groups surrounding a particular issue, while in the case of ‘policies without publics’ the development of interest groups is “limited”, and it is usually restricted to technocrats and scientific communities. The absence of ‘publics’ in the latter in policy making is to ensure a “greater degree of autonomy” in implementation, so that target groups do not influence the course of implementation (p. 283).

May argues that rather than seeing policy design from a “technocratic” point of view, such as looking for the “best” design to address a policy problem. It is more fruitful to see policy design from a political perspective. According to May the political view sees policy design as an “art” of directing the energies of different implementers with the aim of fostering ‘agreement’ to work together towards achieving a ‘similar’ goal and to ‘mobilize’ constituencies in support of this goal. The latter according to May is very important in ensuring the “durability” of policies (ibid). For instance, recent researchers in the

field of implementation have begun to consider how 'interests' as well as the broader political environment affects the 'durability' of policy reforms' (see Patashnik 2008 cited *ibid*) and of policy regimes (Jochim and May 2010 cited *ibid*). As May puts it:

The process of policy design and implementation is not simply one of assembling parts and plugging in implementation machinery. The compromises that are necessary to gain support for a given policy explain why policy designs and implementation are often messy. Recognising these facts, however, does not negate the value of considering how choices made when designing policies potentially shapes implementation (p. 286)

This is because policies take different forms as they respond and adapt to the demands from the forces that shapes their implementation. These forces include those interests that have been mobilized to strongly support the policy and its implementation on the one hand, and those interests that seek to undermine the implementation of the said policy on the other hand. Which of these forces prevails depends on their "relative political power, their perceptions of benefits and burdens, and their resources" (p. 285). May therefore argues that how durable a policy becomes partly depends on the "degree to which a constituency is mobilized in support of the policy while limiting opposition" (*ibid*). He cited the reduction of pollution policy during the 1970s in the U.S. as an example of a strong implementation regime based on the strength of its pro environmental groups as well as the determination of the Environmental Protection Agency's to enforce the policy. As he puts it "the powerful forces behind this regime and their ties to political power, provided a basis at least initially for warding off opposition during implementation".

However, May further argues that as these forces "weaken" or get "altered", the durability of the regime behind the policy becomes "undermined" or "destabilized". For example, within the broader political environment new developments might be going on such as political realignments, or configuration of interests' groups may change that now have privileged access to political power. This was indeed the case with the pollution reduction policy where the emergence of a new coalition of pro-business interests found support during the Reagan administration and thus tipped the balance of power in their favor and thereby gradually weakened the influence of the pro-environmental regime that was in place since the 1970s (*ibid*, see also Andrews 1999:238-261).

How Policy Intentions Affects Implementation

May (2012) posed the following question: how does a policy intention affect its implementation? For example, is the intention of a policy to prevent harmful behaviors by restricting individuals from causing harm to themselves or others? Is the intention about providing benefits to a section of the

society? Or is it about a call to action in order to solve a problem? Policy intentions according to May “establish the goals and type of policy that is to be put in place” and that intentions also “establish the contours of political debate that shape the eventual politics of policy adoption and implementation” (p. 286). The latter definition is important in understanding the “dual” relation between politics and policy. For example, in a seminal work on typologies of policies, Lowi (1964; 1972) argues that “politics affect the design of policies but also the choice of policy affects the associated politics”. To demonstrate this Lowi classified different politics based on ‘distributive’, ‘redistributive’, and ‘regulatory’ policies and later added ‘constituent’ policies. Wilson (1973) further builds on Lowi’s framework by showing that perceptions on how the costs and benefits of a given policy are to be distributed poses different challenges to policy formulation and implementation. This can be seen for example in the different policy styles countries adopt that tend to reflect cross-national differences and approaches to policy implementation (ibid see also Greitens and Joaquin 2010). Beginning from the 70s and 80s scholars have since modified Lowi’s original typologies to have different mixes of policy types such as for instance regulatory policies that may also contain elements of redistribution in them. These developments in the field of policy sciences further help scholars in understanding policy differences across areas, organizations or even countries (Greitens and Joaquin 2010)

May argues that instead of explicitly setting policy directions, ‘intentions’ “sets boundaries around choices of instruments and implementation structures” (ibid see also Howlett 2009). That is why for example, a conservative politician may favor tax breaks while a liberal politician may instead prefer subsidies. Therefore, May suggest that it is important that policy ‘instruments’ or ‘means’ are designed in such a way that they are “consistent” with the intent’ or ‘goals’, otherwise the two may be incongruent with each other. He also suggests that the political environment (target groups and the implementers) must be ‘supportive’ of the policy intention, otherwise they may sabotage implementation. This is where building features of ‘commitment’ into the policy becomes crucial argues May (ibid). He concludes therefore, that “well-designed policies are necessary but not sufficient for improving implementation prospects (p. 289).

How Interorganizational Relations Affects Policy Implementation

Implementation problems are “thorniest” at the organizational level. This is because policy implementation “almost always require organizations to carry the burden of transforming general policy intent into an array of rules, routines and social processes that convert policy intention into action. This process is the core of what is meant by implementation” (O’Toole 2012: 293). Institutional settings argue O’Toole vary to a considerable degree (see also Saetren 2005). For instance, implementation can be carried out through a single organization (see also Torenvlied 2000) or through

multitude of organizations or parts of organizations (see also Winter and Nielsen 2008; Oosterwaal and Torenvlied 2011). O'Toole argues that although implementing policies through multiple organizations may enhance capacity but may also create complexities such that "impediments to concerted action becomes greater ceteris paribus and inducements to work together are typically fewer" (ibid).

In this case, to achieve a successful implementation according to O'Toole implies having to induce "cooperation" and "coordination" among interdependent actors facing adversity. He argues that typically ministries or government departments have incentives to concert their actions in mainly three (3) ways (a) Authority: actor B cooperates with actor A because B feels the obligation to do so (b) Common Interest: B cooperates with A because B feels that doing so towards the overall objectives would also serve B's own purposes (c) Exchange: B cooperates with A because B receives something else from A or from elsewhere, that makes it worthwhile to go along. Furthermore, the use of "formal authority" in form of "hierarchical institutional arrangements", affords administrators the 'authority' to coordinate actions, but they cannot rely completely rely on formal authority or hierarchy to induce cooperation argues O'Toole. They could also for example use other mechanisms of cooperation such as developing communication channels for a successful policy implementation (p. 296).

O'Toole argues that it is not the sheer number of organizational units per say that impedes successful policy implementation "Pressman-Wildavsky paradox" as earlier espoused by Pressman and Wildavsky (1984) - referred to as the. But the nature (or structure) of the prevailing interdependence required of implementing entities such as the pattern of the relationship as well as how they are linked to each other. He characterized these patterns of interdependence among implementing organizations into three (3) major types; sequential, reciprocal and pooled interdependence. For example, in a sequential arrangement whenever there is a 'delay' or 'Impediment' along the chain, implementation problems would be experienced and in that in this kind of arrangement (sequential) adding more organizational units increases the chance of having more "road blocks" to actions. Conversely, in a 'pooled' arrangement, increasing more organizational units enhances the prospects of implementation actions. Therefore, depending on the policy objective, the structural features of the interdependence is a difference maker in the outcomes of implementations argues O'Toole (p. 297).

Inducing Interorganizational Cooperation in Policy Implementation

Recognizing interorganizational patterns of relationship is a crucial first step for an effective policy implementation. A further step argued O'Toole, in ensuring effective implementation is a deliberate effort by those tasked with managing implementation to promote interaction between "counterparts" from relevant organizations and other stakeholders both in and out of government to build support

base, to negotiate, coordinate and sometimes even fend off influences capable of disrupting implementation (p. 298). O'Toole notes that this is typically done through 'common interest' building mechanism. The idea is that if each of the relevant implementing organizations share similar purposes about a policy and that they individually view their participation as essential to the success of the policy, then this shared interest to see to that the policy succeeds may be sufficient to generate effective implementation. However, O'Toole even though all the relevant organizations may share similar interest in the success of the policy, they may be reluctant to commit themselves to the policy unless they know that others are doing so. In other words, each organization may want to avoid the 'free rider' or 'collective action' problem. Especially when trust is 'low' even efforts to get the policy off the ground may be difficult in this case (ibid).

Some of the strategies for mitigating this includes "signaling" to stakeholders that everyone involved in the project share a sense of commitment in the success of the policy. Doing this may help douse the doubts that may arise argued O'Toole. "Framing" is another strategy that has been found to have profound effect on the perceptions of implementers. For instance, policy managers may 'focus' the attention of implementing organizations toward those areas that they mostly agree on so that trust is generated and thereby downplaying their differences. Other strategies for inducing cooperation including obtaining the "commitment" of relevant parties and making it public through publicity campaigns. "iteration" is another strategy to reduce 'coordination costs', increases 'understanding' and 'predictability' in implementation. A further strategy is introducing a "transparent" reporting system into the implementation so that all parties know what everyone else is doing (ibid)

Additional strategies include policy managers "monitoring" actions of those tasked with implementation to prevent free rider problem. So also, promoting "norms" that facilitate cooperation may also help in effective implementation. Another strategy is "decentralization" of large and complex decision making points into smaller units may also help promote cooperation. "Exchanges" between implementing organizations is also useful in effective implementation. For instance, exchanges might be built into work tasks such that it requires the joint inputs of different organizations and in the process, induce cooperation between them. Exchanges can also be encouraged by explicitly reminding relevant actors of the consequences that could result from not reaching agreements which for instance could result in a higher authority imposing its will on those involved (p. 301).

Policy Implementation in Federal Systems

Policies in most federal systems are mainly implemented through the bureaucratic machinery of government. Ferguson (2014) argues that these procedural acts vary considerably among the constituent units (states) within a federation. For instance, in the United States, governors exercise

administrative control through “statutes” or “executive orders”. While in some states, the governor can only review “*proposed*” administrative rules, in other states the governor has the power to also review “*existing*” administrative rules. Similarly, some states require the “*approval*” of the governor to put into effect proposed administrative rules, whereas in other states approval of the governor is not required to change administrative rules (Grady and Simon, 2002 *ibid*: 16).

The Nigerian Experience in Policy Implementation

In an empirical work on the experience of Nigeria in policy implementation, Makinde (2005) argues that the fundamental problem affecting policy implementation in developing countries is the “the widening gap between intentions and results” (p. 64). This ‘gap’ as conceptualised by Egonmwan (1984: 213) is the “widening of the distance between stated policy goals and the realisation of such planned goals” (cited in Makinde *ibid*: 65). From a general perspective, Honadle (1979) describe the problem of policy implementation as akin to masons who fail to adhere to building specifications thereby distorting the original “blue print” of a building plan. Honadle went on to highlight the general problem that commonly characterised policy implementation:

*Implementation is the nemesis of designers, it conjures up images of plans gone awry and of social carpenters and masons who fail to build to specifications and thereby distort the beautiful blue prints for progress which were handed to them. It provokes memories of “good” ideas that did not work and places the blame on the second (and second-class) member of the policy and administration team... (p.6, cited *ibid*).*

Makinde argues that the Nigerian experience is somewhat similar to Honadle’s analogy, he describes policy implementation in Nigeria as “the graveyard of policy where the intentions of the designers of policies are often undermined by a constellation of powerful forces of politics and administration...” (*ibid*, see also Egonmwan *ibid*). He further argues that a constellation of factors may have been responsible for these observed gaps in policy implementation - these factors could be the policy itself, those who make the policies (or designers of the policy) and the environment where the policies are made. In essence, Makinde’s argument is that much of the problem affecting policy making in developing countries is not that of policy formulation but of implementation. He gave two examples of policy implementation failure; the Better Life Program (BLP) under the General Babangida administration and that of the Family Support Programme (FSP) under General Abacha administration. He concluded that even though these policies have ‘laudable objectives’ as they were aimed to empower women economically, but had failed to achieve this aim due to a ‘faulty implementation process’ (p. 67).

Policy Change: Policy Regime Framework (PRF) Perspectives

This project further incorporates the Policy Regime Framework (PRF) into the theoretical framework in order to further help us understand the complexities of policy implementation (especially in developing countries contexts where implementation takes place within ‘weak institutions’). By weak institutions we inverted the definition of effective institutions as espoused by the OECD, to define weak institutions as characterised by a lack organizational capacity to deliver public services in a timely manner, have a slow and ineffective judiciary in dispensing justice and an ineffective oversight mechanism incapable of holding governmental organizations accountable to their mandates (see OECD definition of effective institutions). Specifically, the PRF allows for mapping and analysing how policy change especially at the implementation stage leads to intended or unintended consequences (Wilson 2000; May 2010; Jochim and May 2010; Jochim and May 2012; May et al 2011; 2012; 2013; May 2015; Dang 2017; Foran et al 2017). The PRF conceptualizes policy implementation as a governing arrangement for addressing “policy problems” that may or may not address such problems (emphasis added, May and Jochim 2013: 328). The Policy Regime Framework (PRF) allows for capturing the complexities of policy implementation, it is about how politics shapes the process of policy implementation (May and Jochim 2013 see also Wilson 2000; May 2010; Jochim and May 2010; Jochim and May 2012; May et al 2011; 2012; 2013; May 2015; Dang 2017; Foran et al 2017).

As an analytical tool, the PRF has been widely applied in the study of how governing arrangements works at different levels of government. For instance, the framework has been used by policy researchers to analyse policy change at the subnational level (Mossberger and Stoker 2001; Stone 1989 cited in May and Jochim 2013), at the national level (Esping-Anderson 1990; Kitschelt 1992 *ibid*), or at the international level (Krasner 1983; Kratochwil and Ruggie 1986; Martin and Simmons 1998 *ibid*). The PRF allows for mapping different strategies deployed by governments as they attempt to address public policy problems. In the policy sciences literature, the concept ‘policy regime’ is often conceived by scholars as a term used by scholars to understand a specific policy strategy used by governments in a specific policy domain (Wilson 2000; McGuinn 2006; Rodgers et al 2008; Sheingate 2009; Weaver, 2010 cited in May and Jochim 2013).

The concept has also been used by scholars to study different regulatory arrangements (Harris and Milkis 1989; Eisner 2000 *ibid*) or in the study of different approaches to implementation (Stoker 1991 *ibid*). For example, Stoker (1991) view a policy regime as a style of policy implementation which he defines as “arrangements for carrying out policies”. This may include among other things the coordination of activities between “multiple agencies and actors” (Howlett and Rayner’s 2006: 170 *ibid*) or as “policy regime logics” that links policy objectives with policy tools (Howlett 2009: 79 *ibid*).

Approaching policy implementation from a regime perspective allows for identifying the “realities of how a given set of problems is addressed and the political dynamics that are engendered by those realities” (May 2015: 278). Stoker (ibid) places policy regimes within the context of the different challenges often encountered by intergovernmental organisations as they attempt to implement a policy change (cited in May et al 2010: 310).

Although the concept ‘Regime’ was originally developed by and widely used in the International relations literature. It has also found usage in other domains such as comparative politics literature where it is conceptualised in terms of the “centrality of power and interest groups” in inducing “regime formation and change” (ibid). For example, it has been applied in comparative studies of “welfare and income support regimes” (ibid) to analyse differences among American states (Rogers et al 2008) or “regulatory regimes” (Eisner 1994 ibid). This centrality of power is conceptualised in terms of the strength of a policy regime, which May et al (2011) defined as the “ability of a given regime to focus attention of players within diverse subsystems on a shared vision so that they are ‘on the same page’ in addressing a given boundary-spanning problem” (p. 290 see also May 2015). Here policy subsystem is defined as a “confluence of interests and patterned relationships among legislators, administrators, and interest groups” (Freeman and Stevens 1987 cited in Lodhi 2017: 24) or as “established coalitions of interests who interact regularly over long periods to influence policy” (Sabatier and Smith 1993 cited in ibid). For this to be possible, a regime must be able to mobilize several forces with a “shared vision or purpose” to reach consensus about not only what is to be done to resolve policy problems but also how it is to be done, which according to the literature can be discerned through the “statements and actions” of the various interests around the policy. These shared ideas foster a common understanding between interests and is essential to securing both political as well as policy commitments or what May (ibid) referred to as the “glue” that binds the regime together.

However, May (ibid) argues that this “glue” that holds the policy regime together might be weak especially when the ideas behind it are not understood due to “vagueness” or lack the endorsement of stakeholders. For instance, some stakeholders within the regime may not share the same “sense of urgency or degree of buy in” with the policy regime (p. 291). Another perspective considered by the literature is the extent to which the institutional design of a policy regime is congruent with the objective(s) of the regime itself. Here institutional design is conceived of as the mechanisms put in place as a response to “institutional collective action problems” which bothers on issues of coordination, authority, or intergovernmental relationships, oversight entities and how they are configured to represent interests for purposes of oversight, specification of mechanisms for engaging the public, and how management structures are shared among implementing bodies (May 2015: 281 see also Feiock, 2013). May and Jochim (2013) further argues that no single institutional design can

achieve this in isolation of the prevailing relationships among diverse interests and the power of the uniting idea behind the policy regime, as the authors put it:

institutions—rules, norms, and organizations—interact with ideas and interests in order to achieve change; they do not operate independently of them. The analytic issue is the degree to which a given form fits the circumstances of a particular policy regime and serves to focus attention of policymakers in different subsystems. Stronger regimes have institutional designs that accomplish this (Lieberman 2002 cited in *ibid* see also Jochim and May 2010)

Like other fluid concepts in policy studies, policy regimes cannot be directly observed except its components like “institutional arrangements, interest alignments and ideas” and together these components constitute what is commonly referred to as policy regime (p. 428). Policy regime is viewed through the lens of any “authoritative decisions” taken as a measure against a set of ‘problems’ at some level of government, and that these problems are usually translated into policies by specifying (a) a set of intentions or goals (b) a mix of policy instruments for accomplishing these intentions and (c) the structure of implementing such policies. The authors suggest that the policy regime perspective starts with ‘problems’ rather than ‘policies’, and in this way affords policy makers the opportunity of considering “various combination of multiple laws, rules, and administrative actions that together specify relevant governing arrangements” (*ibid*: 429).

However, May and Jochim (2013) further notes that while it is not a guarantee a chosen governing arrangement will address a set of problems under consideration, a governing arrangement may be “highly disjointed” across states or local counties, may be “piecemeal” which only addresses a part of the problem or even a “layering” of new solutions on old ones in which case the authors regard this kind of policy regime as “nascent or ill informed”. For example, this was indeed the case with the childhood obesity problem in the United States where states and local counties responded to the obesity epidemic in “a loosely-connected policy regime that shares common policy ideas but no binding institutional structure” (*ibid*).

Wilson (2000) identifies four (4) key dimensions of a policy regime; first, the “power or arrangement of power” dimension, which involves the presence of one or more powerful interests that supports the policy regime. The second dimension is the “policy paradigm” dimension which “shapes the way problems are defined, the types of solutions offered, and the kinds of policies proposed” (p.257). Wilson likens a paradigm to a “lens that filters information and focuses attention” such that this lens defines the key assumptions made about the policy problem at hand such as its causes, magnitude of the problem at hand, how pervasive it is, those responsible for creating the problem or ameliorating

it, and the appropriate response mechanism to address the problem chosen by the government (ibid see also Gusfield 1981). The third dimension is the “policy making arrangements and the implementation structure” or the organizations and structures within the government that are mandated to address the policy problem. For instance, the policy making arrangement may include leaders of congressional committees, agencies, institutions, professional associations and organized interest involved in developing and maintaining the policy. While the implementation structure may include the agency tasked with implementing the policy, in some instances especially in federal systems state and local agencies may also be involved as implementing structures. And finally, the fourth dimension is the actual policy itself. The policy according to Wilson “embodies the goals of the policy regime” which contains the rules and regulation that guides the implementing agency thereby giving legitimacy to the policy itself (p. 258)

Policy regimes also foster short-term feedback to the designers of policies. This feedback mechanism provides important information to decision makers such as whether policies enacted are acceptable or unacceptable to relevant interests. This feedback mechanism according to May (2015) provides an important indication on (a) whether a given approach to addressing a set of problems is perceived as legitimate or not (b) advances a coherent set of ideas or is fragmented, and (c) is durable and able to sustain commitments beyond that of the initial policy enactments or fleeting (p. 281). Towards this end May further adds three (3) other dimensions to the policy regime framework, which includes “legitimacy”, “coherence” and “durability”. Although these dimensions may not guarantee the successful implementation of policies argued May, but they serve as important recipes for “political success” and thus lay the foundation for future “policy success” because they institutionalize the commitments of both policy makers and policy implementers (ibid).

These three (3) dimensions are further elaborated below; Policy ‘legitimacy’ is a function of how strongly a policy regime found support in its ideas, authority and institutions. A strong regime for instance may enhance policy legitimacy when its ideas are widely accepted, and its institutions and implementation structures serve to reinforce the regime. As May puts it “a sense of policy legitimacy is advanced when the commitments made by political actors are generally viewed as appropriate and just” (ibid: 282; see also Tyler 2006). Policy ‘coherence’ is conceived of as “consistency of actions in addressing a given set of policy problems or target groups”. These actions are realized through a “common sense of purpose” anchored on a strong idea and institutional structures that work together to reinforce this idea together with a ‘constituency’ that provides the political support for “consistent actions” to occur and be sustained (ibid; see also Schneider and Ingram 1997). In an earlier work, May and Jochim (2013) argue that a vague policy defeats policy coherence and thus undermines implementation success because it leaves room for relevant implementing structures to “reinterpret

fuzzy mandates” to suit their interests (p. 432 see also Bardach 1977). A shared sense of purpose can for instance help to address policy coordination problems that commonly affect most policy implementation structures:

A common purpose serves as a key mechanism for propelling consistent actions by key policy implementors. When they are “on the same page,” they will by definition be more likely to pursue actions that work toward common ends. Recognition of this leaves open the possibilities for regimes enhancing the “coordination problem” that is posed by disjointed implementation (p. 432)

Policy ‘durability’ dimension is defined by May as the “sustainability of political commitments over time...It reflects the longevity of political commitments for addressing a given set of problems”. Policy durability shows how long political commitments put in place to address policy problems are sustained over time. May argues that policies are said to be ‘durable’ when their “principal commitments”, objectives and the means of realizing such objectives remain “unaltered”, and when policy objectives and political commitments are “altered” they are said to be a ‘signal’ of a lack in policy durability. These commitments may come in form of a “path dependent institutional structures”, adequate funding, and a coalition of interest that is able to hold those tasked with policy implementation accountable and can resist any effort aimed at weakening oversight of their activities (May and Jochim 2013: 433). Sometimes policies may also fail to achieve desired objectives or purpose because of a “weak policy design”, in such situation institutional support for implementation becomes inadequate and conflicting (May 2015: 283; see also Wildavsky 1979; Patashnik and Zelizer 2013).

Using the American Patient Protection and Affordable Care Act or better known as Obamacare as example, May shows how policy regimes in place could potentially hinder the effective implementation of governance arrangements. May noted that four (4) years after the Obama care program came into effect a number of obstacles became evidently clear, these obstacles include (a) the provisions of the program were characterised as too complex to find “politically viable” solutions to the policy problem at hand (b) roll out of the program was not properly planned and managed such that there were many problems with health care enrolments as well as the difficulty in accessing the websites of both the federal and the states governments (c) the program was also highly politicised and bogged down by incessant conflicts over the provisions of the enacted legislations which threatened to “derail” the program itself. In essence, what May tries to show is that from a policy regime perspective, the “legitimacy” as well as the “durability” of the Obama care program was undermined by the growing “backlash” against the healthcare reforms and a lack of a strong “constituency” support (ibid p. 277-78).

A Review of Relevant Literature on the Implementation of Land Titling (Registration) Reforms in Developing Countries

Implementing a policy change is not as smooth as envisaged by most advocates of such change. Most changes are not without their costs, like most human endeavours winners and losers often emerge from the processes of policy change. For example, Deininger and Feder (2009) argue that reforms aimed at improving the institutions of land administration such as formalizing land property rights (or what is often referred to as Land titling) does not always translate into desired goals. This was due to what is referred to as “naïve top down approaches” in the literature, a situation in which policy makers simply prescribe solutions to policy problems without paying careful attention to concrete diagnosis of the issues at hand and the genuine demands coming from the bottom (grass root) (p. 234-258). Deininger and Feder further suggest that apart from paying special attention to an inclusive policy making, it also important that stakeholders are also actively engaged in the process. That is for it to be the case that reforms are effective, the ability to hold those in various levels of responsibility to account is crucial:

good governance is of overriding importance to ensure that clear property rights and institutions to administer them contribute to the desired socioeconomic outcomes instead of providing a means to enable elites and officials to usurp the rights of the poor and socially weak groups. This requires clear delineation of institutional responsibilities within the land administration system, an audit of regulatory requirements to ensure that these are justified, and that compliance is within the reach of target groups, transparent management and access to information, effective avenues to flag problems, and availability of accessible and accountable institutions to resolve conflicts and ensure enforcement (ibid, see also Easterly 2008).

In a similar line of argument, Manji (2010) argues that the land policy reforms implemented in many developing countries in the 1990s failed simply because of the failure of the designers of the reforms to take into consideration crucial elements that are fundamental to the successes (or failure) of policy reforms. For example, in many African countries such as Tanzania, Uganda, Namibia, Malawi, Eritrea, Mozambique and South Africa, the land reforms were considered as cases of sluggish implementation or stalled implementation. Manji argues that these land reforms failed because in most cases policy makers focus on pushing through legislations and thus neglecting other elements such as ‘capacity’ that are fundamental. For instance, the capacity of those tasked with translating these legislations into reality is often not given prominent attention. Capacity to deliver on the desired aims of a policy on the part of its implementers plays a significant role in shaping the implementation processes and

ultimately the outcomes of policy reforms. To support this line of thought Manji quoted Coldham (2000: 76) whom had expressed some concerns about a newly land act just passed in Uganda in 1998 and the envisaged difficulties that will be encountered if the act was to be implemented without first addressing some fundamental issues:

It will be essential to train the cadres who will be responsible for implementing the Act. In addition to increasing significantly the number of surveyors, planners and registrars, it will be essential to train the members of all the new administrative bodies ... destined to play a central role in the process ... the Act's provisions are detailed and sometimes complex and ... their effective implementation will require a knowledge of both the general law and customary law. While an extensive recruitment and training exercise will add substantially the cost, the land reform programme is already controversial and, if it is carried out in a way that is insensitive or inept, it will leave behind a legacy of disputes and bitterness.

These views are also partly supported by a World Bank (WB) study conducted in the 1980s to review the performances of the land titling projects supported by the bank in some developing countries. Some of the major findings of the review shows that the implementation of the reforms was hampered by conflicting priorities among relevant implementing organisations, the lack of institutional capacity or support available to agencies and complex nature of the reforms with titling as just a component of the reforms (WB 1992 cited in Holstein 1996).

In a study of the implementation of a Tanzanian Land Act, Biddulph (2018) found that there was a lack of 'political commitment' by actors at the national level in complying with the community driven approach advocated by the "1999 Village Land Act". The act sought to prioritise securing the land rights of local communities and those tasked with its implementation instead favoured securing the rights of international investors who are mostly from the conservation, agricultural and tourism sectors (p. 55). This phenomenon is what Collins et al (2017) termed as "Glocalization", where global markets and institutions actively engage in "glocal pressures" to capture and redirect the implementation of land reforms that favours large scale commercial developments as opposed to small scale individualised development and thereby effectively thwarting efforts aimed at improving the local conditions of vulnerable individuals in local communities (p. 2). The authors conclude that the Tanzanian example demonstrate that no matter how robust the designs of land reforms are, they will almost fail if the needs of local communities are not taken into consideration. This view supports a similar finding about the implementation of PROCEDE land tiling program in Mexico, the PROCEDE program was considered as successful because during its implementation the Mexican government

took into consideration the concerns of various interests and thus co-opted the existing institutions and practices that it met on ground (Bouquet 2009 cited in Sikor and Muller 2009).

In another study on the implementation experience on the reform of land law in Uganda, McAuslan (2003) gave a detailed account of how the reforms stripped the old guards (the Ministry of Water, Lands and Environment (MWLE)) of their control over land administration and transferred it to a newly created entity. What subsequently ensued was what McAuslan termed as “bureaucratic sabotage”, where the old bureaucrats strategically hijacked the agenda, direction and ultimately determine the outcomes of reform efforts:

senior members of the Directorate of Lands were openly and continually hostile to the project. This hostility ultimately stymied the project's activities and goals, as well as on the morale of the members of the project's secretariat... [they were] undermining a project designed to assist in the speedy implementation of the Land Act by attacking it from the outside, and then, once that had proved successful and control had been obtained of the project, emasculating it and its outputs from the inside... Implementation of the act was painted as donor driven and not putting the interests of Ugandans first. Opposition was portrayed as patriotic and being concerned with national “ownership” of the process of implementation (p. 16-27)

The result argued McAuslan was at best a case of an incomplete reform caused by deep divisions among different implementing bodies competing to outdo each other in the capture of the new mandate. Sitte (2006) also found that the lack of ‘inter-agency cooperation and coordination’ was a major barrier in the successful implementation of the land titling reforms in Ghana. Sitte noted that the existing agencies administering land felt that the reforms had stripped them of their mandate and transferred it to another agency, therefore inter-agency rivalry ensued. This became the norm between the relevant land agencies and consequently information sharing became a difficult undertaken between them (see also Ehwi and Asante 2016). In another related study of implementation of land reforms in Malaysia, Kelm et al (2017) also noted that despite successes recorded with the reforms, “inter” and “intra” communication between implementing agencies remains a huge challenge. Also, in another study on land reforms in Guinea, Durand-Lasserve (2003) noted that land administrators find it difficult to transition into the newly created and decentralized system of land property registration system, due to the direct benefits such as ‘power’ and ‘money’ they derive from the old “centralist and non-transparent administrative culture” system (p. 8).

Durand-Lasserve (2003) further argue that most African countries lack the ‘administrative organization’ to realize an ‘efficient land market systems’ because core elements of efficiency such as

the existence of an accurate, updated, transparent, accessible land information systems and simple land registration procedures are mostly missing. In addition, he also suggests that African countries lack extensive stakeholder “acceptance of proposed measures” and a “favourable political environment” to develop ‘formal land markets’ (p. 4). In another empirical study of land markets and institutions in West Africa, Durand- Lasserre and Selod (2013) found a lot of irregularities in land administration in Bamako, Mali, these irregularities were characterized by a wide gap between what the land rules stipulate and what administrators implement. For example, officials were found to be in breach of the rules and regulations when carrying out “lotissement” (land resettlement schemes) by engaging in selective allocation of resettlement lands based on people’s political affiliations or to those who are more likely to vote for the incumbent mayoral candidate. In addition, officials also often contravene urban planning rules and regulations through the allocation of publicly demarcated lands such as parks or commercial zones for residential use or double allocation of the same *lettre d’attribution* (property or land title) to two or more individuals which often result in conflicts (p. 34-35).

Wubneh (2018) also found that the ‘ambiguity’ in the Ethiopian land laws afforded local land officials a considerable level of discretion in implementing land policies, to the extent that breach of procedural rules and regulations was a common practice among officials. Schmidt and Zakayo (2018) suggest that the degree to which reforms to formalize property or land titles succeed depends on the different perceptions individuals with a stake hold. These concerns according to the authors range from limited awareness, to fears of losing property in case of bankruptcy or concerns about high interest rates charged on loans, the characteristics of the local economy, land property market as well as the legal, bureaucratic and political environment (see also Cortula et al 2004; Fernandes and Smolka 2004; Byabato 2005; Fernandes 2009; Monkkonen 2016). In a comparative study on the effectiveness of land reforms implemented in Kenya, Ghana and Vietnam, Narh et al (2016) noted that an important lesson learned and needs to be taken seriously in future reforms was that ‘power’ influences the outcomes of land reforms in developing countries. In other words, the authors suggest that outcomes of reforms (either positive or negative) is heavily influenced by those in political authority who could for example use their “power and connections” to either strengthen the processes of policy implementation to achieve desired results or manipulate and derail the processes and thus result in failed implementation. For instance, in the case of Vietnam it was the “political will” and the “financial incentives” coming from the political authorities that mitigated any potential risk of implementation failure and thus sustained and ensured the successful realization of the reform’s objectives. In contrast, however, this was not the case in either Ghana or Kenya (p. 10-13).

Cotula et al (2004) found that a combination of lack of “human” and “financial” resource capacity was responsible for slowing down the implementation of land reforms in Niger and Uganda. For example, the land commission in Niger, despite being in existence for over ten (10) years only managed to issue a few land titles. Backlogs of accumulated applications for land titles waiting to be processed and land peasants were so overwhelming that locals have resorted to going through the local chiefs as an alternative means of acquiring land titles. Lack of capacity was also found to have impacted on the land reforms implemented in Ghana, where many land administrators lacked the necessary skills to use modern land administration equipment like the Geographic Information System (GIS). Coupled with this was also a pervasive lack of maintenance culture, where equipment can completely break down before repairs are undertaken (Karikari et al. 2005 see also Mahama 2001; Kasanga and Kotey 2001; Collins et al 2017). Ubink and Quan (2008) found a lack of ‘political will’ by the political authorities to support Land Sector Agencies (LSAs) to hold local chiefs accountable in the administration of land in Ghana’s local jurisdictions. Knox and Tanner (2011) also found the problems of ‘political will’ ‘capacity’ and ‘awareness’ as huge barriers in the implementation of land titling reforms in Mozambique, in their own words:

limited capacity and lack of political will have handicapped public-sector implementation of the law in Mozambique. The rural land administration lacks trained personnel and specialized equipment, and the country does not have a unified land administration strategy or land information management system. Meanwhile, rural citizens remain unaware of their land rights under the law or how to have them recorded. Where residents are aware of their rights, the costs of identifying and recording DUATs are often prohibitive.

Furthermore, Knox and Tanner (ibid) also note that lack of awareness of land policies and regulations constitute a barrier to successful implementation of land reforms and recommended that awareness raising campaigns on radio stations should be embarked upon in local dialects in areas with low literacy levels and language barriers. The authors argue that this was the strategy that helped increase awareness in the South African Land Restitution Program. For example, the local dialect awareness campaigns recorded an increase in claims over restitutions from 25,000 to about 70,000 by peasants (p. 31, see also Mngxitama 1999; Sitte 2006; Jones-Casey and Knox 2011; Collins et al 2017). In a study on the experiences in the implementation of land reforms in Ghana, Spichiger and Austin (2014) found that the decentralization of land administration reforms to regional districts has helped reduce the time taken to formalize (register) land by individuals and that the backlog of land related cases in the courts has also reduced significantly. Arko-Adjei 2006 also found a lack of public “awareness” on how to formalise their land as well as absence of a “participatory approach” in the

making of land regulations in the Ghanaian land administration system as impediments to an effective and transparent system of land administration.

However, Obeng-Odoom (2016), note that although some visible improvements may be observed when land reforms are implemented such as improvement in access to information on land, reduction in administrative delays, increased efficiency in processing land titles and creation of more courts or land registries to cater for rising demands in lands. They also note that reforms may also produce other unintended consequences. For example, the Ghanaian experience with land reforms was that over time, land disputes remained on the rise, security over land tenure continue to dwindle, unfair and inadequate land compensation was a common occurrence, the reforms continue to favour the rich over the poor and a growing speculative land market. Rebueta-Teh (2005) findings on land administration in the Philippines shows that 'strong support' and active 'participation' of relevant stakeholders are crucial to the success of land reforms. The author argues that a high-level political support by the government as well as a strong partnership between the highest and the lowest levels of officials were some of the crucial success recipes in the implementation of land titling reforms in the Philippines. In areas where this element of support is absent the authors found "resistance" was a major constraint on the implementation of land reforms. For example, official within the agencies were sabotaging all efforts aimed at moving the reforms forward to the extent that it stalled, and the government was unable to pass the proposed land use act into law. Similarly, Fernandes and Smolka (2004) also found evidence that both officials of the judiciary as well as the public vehemently resisted the land titling reforms implemented in some Latin America countries.

In another related study of the experiences of Thailand on land titling projects, Bowman (2004) noted that the factors that made it possible for considering the Thailand's land titling project as a success story was that; First, only a single agency (the Thai Department of Lands) was given the mandate to implement the land titling reforms. Secondly, early on into the implementation of the land reforms the Thai Department of Lands focused more on the simpler aspects of the titling project that could be implemented quickly and are devoid of controversies and conflicts. This strategy according to the authors made it possible for the implementers to acquire the necessary experience in handling more complex areas of the reforms that are highly controversial. For instance, the institutional aspect of the reforms that were seen as conflictual were only introduced much later when significant progress has been made on the technical aspects. Thirdly, at the design stage of the project human resource capacity was identified as a crucial element to the successful implementation of the reforms, therefore adequate attention was paid on staff capacity trainings within the implementing agency. Fourthly, there was also a strong support and commitment by both the Thai government as well interest groups which facilitated the smooth implementation of the reforms. And finally, an "appropriate reward"

system was also incorporated into the system so that field staff are discouraged from engaging in behaviours capable of jeopardising the “quality or quantity of work or establish an informal reward system” for themselves (p. 7-10). Elsewhere in another related study, Holstein (1996) also found “staff incentives” as key to the successful implementation of land titling and registration projects in Indonesia, Laos and Thailand. Holsten noted that staff involved in the project were meeting key project targets because the project objectives were tied with monetary incentives such as rewards for performance.

In another similar a study on the implementation of land formalization program in selected districts of Moshi, Tanzania, Schmidt and Zakayo (2018) observed that communities characterised by active public engagement (between land administrators and communities) and a leadership that is very strict in monitoring the implementation and enforcement of the land reforms, recorded higher levels of title deeds registrations - as compared to those districts with poor community leadership and a lack of public engagement (p. 22-25 see also Kombe & Kreibich, 2000; Magigi & Majani 2006; Magigi, 2013). In Papua New Guinea, Chand (2017) also found that agencies in charge of regulating land were able to achieve credibility in land titling reforms by ensuring they had a “buy-in” (another word for support) of the communities through extensive consultations. This “inclusive process” allowed for robust discussions and debates across all stakeholders and that these consultations were as important as the final outcome (p. 418).

Njoh et al (2018) identified “cumbersome, vague and costly” rules and regulations in use were key institutional impediments to the effective delivery of land titling and registration system in Cameroon. For instance, they found that in general people (especially women) often felt discouraged to come forward because of the complex administrative procedures they have to go through to formalize their property titles. In another study, Fernandes (2009) found that a lack of “institutional integration” as barrier to effective implementation of land reforms and that efforts aimed at bringing relevant land agencies together under one umbrella (one stop shop) so that administrative procedures could be made easier to the public and investors were often costly, stringent and lengthy processes. For example, according to Fernandes in many cities of Latin America, lack of ‘institutional integration’ was responsible for severe delays in registration such that it usually takes up to five (5) years to formalize a property (p. 305; see also Ward 1999; Osman and Manuh 2005; Durand-Lasserve and Payne 2006).

Smolka and Mullhy (2007) identified a lack of “public access” to land information or the inability of land administrators to make available such information to the public, combined with “discontinuity” in policy implementation were barriers to the effective implementation of land policies in Latin America. The authors further argue that even in situation where there is availability of information a general lack of capacity to look for such information, organize it and make use of it for public purposes

was a major problem for administrators. They also suggest that policies don't get successfully implemented because most often "petty political or economic interests" supersedes "technical quality or social relevance" considerations when it comes to implementation (p. 5). As Deininger and Feder (2009) will argue by making such information available to the public it could also help to boost the revenue generating capacity of agencies, as it was shown by the significant improvements on revenues generated from land transactions in Eastern Europe when land reforms were implemented during the 1990s (see also Bouquet 2009). Also, in a study of the land administrative practices in ten (10) African countries as bench marked against global best practices, Deininger et al (2014: 84) had this to say about just one of the elements (availability of information):

In many of our countries, available information on land ownership, especially spatial records, is partial, unreliable, not updated, and not shared between public agencies, giving rise to duplication and opening opportunities for fraud and weak governance. High transfer taxes, together with surveyor and notary fees, either drive transactions into informality or lead to under-valuation and fraud (p. 84)

PART TWO

CHAPTER THREE

Research Design and Methodology of Empirical Inquiry

This research study employed the case study method of inquiry in the study locations. Yin (2009) defines a case study as "an empirical inquiry that investigates a contemporary phenomenon in depth and within its real-life context, especially when the boundaries between phenomenon and context are not clearly evident" (p. 36). In a similar vein, Goodrick (2014) defines a case study as "an in-depth examination, often undertaken over time...such as a policy, programme, intervention or implementation process (p. 1). The case study method Yin argues allows for mapping out "scope conditions" - for grounding an object of inquiry or a phenomenon within its context by offering a pragmatic way of understanding a given phenomenon within its context especially when the said phenomenon is intertwined and difficult to distinguish it from its context. It is an approach that is suitable in coping with a "technically distinctive situation in which there will be many more variables of interest than data points...multiple sources of evidence, and...the prior development of theoretical propositions to guide data collection and analysis" (ibid p. 37). As Gerring (2007) argues, the strength

of the case study method rests on its 'implicit' ability to link "micro" with the "macro" aspects of social phenomena- it is a method that enables us "gain better understanding of the whole by focusing on a key part" (p. 15). Gerring went further to argue that case study analysis "focuses on a small number of cases that are expected to provide insight into a causal relationship" (p. 86).

Specifically, we employed the comparative case study approach to analyse the cases under study. Beasley and Kaarbo (1999) defined the comparative case study method as a "systematic comparison of two or more data points (cases) obtained using the case study method" (p. 372). The justification for a comparative analysis of the cases is guided by the project's research question and its guiding assumptions which requires selecting cases that reflect the conditions (or factors) under which different configuration of factors structure the implementation behaviour of the land agencies in the study locations. This research strategy according to Huber, Shipan and Piferler (2001) allows for explicit theorizing and a structured investigation in variations of institutional designs within federal systems. Adopting this approach at the subnational level offers us the advantage of a "controlled comparisons" that may aid in strengthening the internal validity of the study (Snyder 2001: 94). For example, the approach allows to select and match cases so as to detect the presence or absence of key factors that may help explain key differences across cases (Freundreis, 1983 cited in van der Heijden 2013: 45). Thus, we modelled the different implementation styles adopted by the cases (the selected Nigerian states) under study based on the reform 'processes' that prevailed in the study locations, and which in turn led to their adoption of different institutional designs and how the implementation behaviours of agencies tasked with implementing a policy change also contributed to the outcomes. Doing this enabled us to unpack and thus identify which configuration of factors leads to a better implementation of the land titling (registration) reforms.

Thus, following George and Bennett (2005), a 'structured' and 'focused' comparison was used in the collection of data. By 'structured' the method requires *"asking a set of standardized, general questions of each case...These questions must be carefully developed to reflect the research objective and theoretical focus of the inquiry. The use of a set of general questions is necessary to ensure the acquisition of comparable data in comparative studies.* By 'focused' it requires that the study should be *"undertaken with a specific research objective in mind and a theoretical focus appropriate for that objective...to adopt a different focus, to develop and use a different theoretical framework, and to identify a different set of data requirements"* (p. 181-86).

Over a period of seven (7) months, we conducted a field work in the three (3) study locations triangulating (documentary evidence, interviews and observation) and a 'nested' strategy at two (organizational and individual) levels (Guest et al 2013: 84) to collect data at the study locations. We also ensured there is 'variability' in the collected data to detect key similarities as well as differences

among the cases (Yin 2009). This strategy helped us add rigour and richness in the process (Denzin 2012). As Gerring (2007) argues:

the case study should not be defined by a distinctive method of data collection but rather by the goals of the research relative to the scope of the research terrain. Evidence for a case study may be drawn from an existing dataset or set of texts or may be the product of original research by the investigator. Written sources may be primary or secondary. Evidence may be quantitative, qualitative, or a mixture of both, Evidence may be experiments, from “ethnographic” field research, from unstructured interviews, or from highly structured surveys (p. 68)

We also employed a ‘content-driven (exploratory) document analyses’ approach to incorporate new concepts and themes that emerged during the field work in order to account for aspects of the fieldwork findings not accounted for by the theoretical framework (Guest et al 2013). This is also in line with Neuman (2014) suggestion that in qualitative data analysis, concepts and evidence are often treated as “mutually interdependent”, therefore cases are defined by both “data and theory” (p. 344). Thus, following Neuman’s and Guest et al approaches, the cases were built from the theoretical framework as well as the evidence that emerged from the field work and thus became the basis for explaining the factors that contributed to the divergent implementation of the land policy changes by the cases under study.

In addition, we also employed an “in-depth” interview technique to gain further valuable insights from land officials on their perceptions of the workings of their organizations. According to Guest et al (2013) in-depth interviews are well suited to asking questions about “polarizing, sensitive, confidential, or highly personal topics”. Thus, we adopted this technique as suggested by Guest and his colleagues to not only elicit the opinions of staff within their organisations on “processes, norms, decision making”, but also their “beliefs, interpretations, motivations, expectations, hopes, and fears” about their jobs (p. 288). We specifically, designed a ‘semi structured close ended interview’ questionnaire and administered it on a total of thirty (30) (ten (10) in each state) officials at different levels in the parent ministries (ministry of lands) as well as the newly created agencies (NAGIS, CRGIA and NIGIS). We also paid special attention to ensuring that the interview questions were developed from the theoretical concepts. Furthermore, like Guest et al (2013), we not only ensured that the questions asked were the same in all the study locations but also paid special care on the wording of the questions so that they are as similar as possible across all levels of those interviewed. The selection the interviewees was also done randomly, and we segmented them into three (3) groups:

1. Upper level officials: comprising members of the advisory committees, commissioners of land, permanent secretaries and directors of departments within the ministries and agencies
2. Middle level officials: comprising heads of units/sections, coordinators and supervisors within the ministries and agencies
3. Lower level officials: comprising land administration officers from relevant departments within ministries and agencies

We began each interview by following the protocols of conducting an academic interview such as informing the respondents of the aims and objective of the study, the reasons for conducting the interview as well as the protection of the respondent's privacy (anonymity). We also assured respondents of guaranteeing their anonymity by protecting any information collected as provided for under the European Standards of Data Protection. The interviews were documented using a combination of 'note taking' and 'audio recording', as Guest et al (2013) suggests doing this helps to:

capture a complete verbal record of the interview sessions...recording greatly improves the quality of the data collected and is a requirement for analytic approaches that require verbatim data, such as many forms of text analysis.

The aims of the interview were to (a) corroborate documentary evidence (land laws and regulations) with oral accounts of officials within the ministries and agencies (b) understand how officials' task with policy implementation perceive and interpret institutional rules and regulations, and (c) more interesting to uncover what potential factors are crucial in instilling a culture of policy continuity in Nigeria. As Guest et al (2013) argued "through qualitative inquiry, a researcher can more directly document why individuals behave in a certain way, because the participants themselves can make that causal connection explicit" (p. 78). The overall objective was to draw useful lessons on what specific policy implementation factors combine to make it possible for a successful and sustained implementation of a policy change in the context of a developing country.

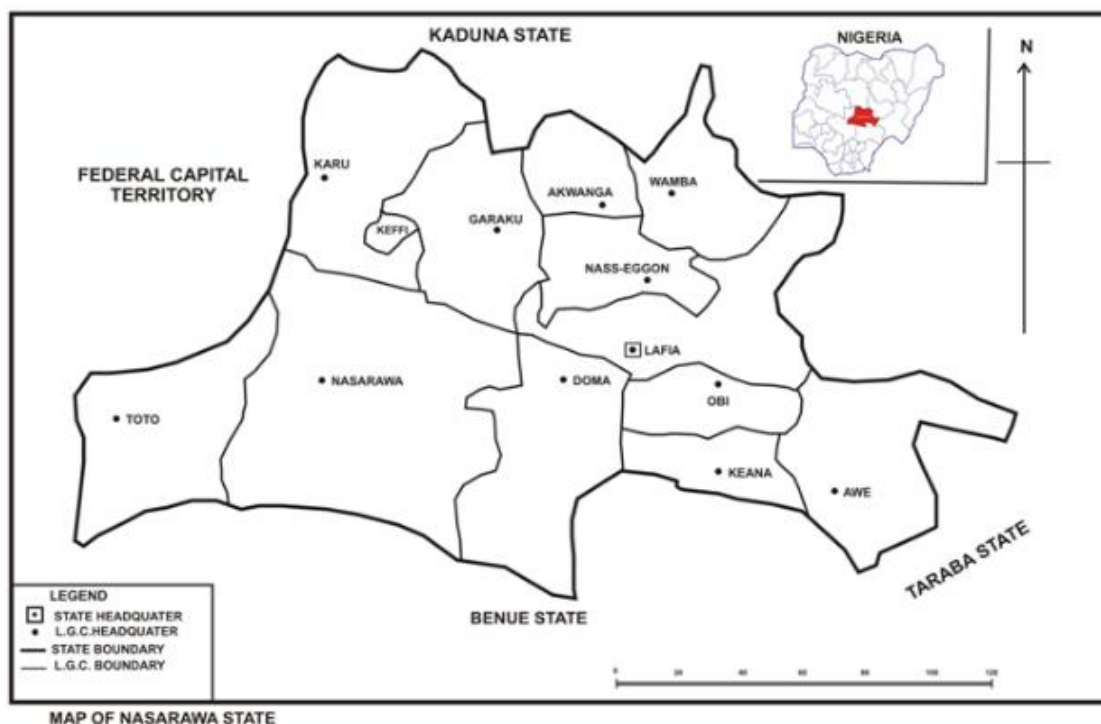
Implementation Regimes (Ideas, Institutional Arrangements and Interests): The Implementation of Land Policy Changes at the Subnational Level in Nigeria

Nasarawa State

Brief Profile of Nasarawa State

Nasarawa State emerged as a province with the British colonisation of the territories of Northern Nigeria in the 1900s, initially it was referred to as the lower Benue province with its headquarters situated at Akpanaja. In 1902, its name was changed to Nasarawa province and its headquarters moved to Nasarawa town. By 1926, the British colonial administration merged the provinces of Nasarawa, Mubi and Bauchi into a single province called Plateau province, shortly after Nigeria's independence in 1960, plateau province was further merged with another province known as the Benue province to form the Benue Plateau State as part of the 12 states created by the then Military regime of General Yakubu Gowon in 1967. In 1976, the Nigerian military headed by General Murtala Mohammed further created additional seven (7) states resulting in nineteen (19) states thereby splitting the Benue-Plateau state as Benue and Plateau states respectively. In 1996, the military regime of General Sani Abacha created Nasarawa state out of Plateau state and its capital was moved to Lafia (Nasarawa.gov.ng)

With a total land mass area of 26,875.59 sq km and bordered by six (6) states (Kaduna, Plateau, Taraba, Benue, Kogi and the Federal Capital Territory, Abuja), Nasarawa state is located in the central region of Nigeria. It comprises 13 local governments with a population of over two (2) million inhabitants, and agriculture is its major economic activity.



Source: Labaris et al 2014

Reconstructing the Processes Leading to the Reforms of Institutions of Land Administration in the State

Nasarawa state's proximity to Abuja (Nigeria's capital) presents it with both geographical advantages and challenges. An apparent advantage this proximity confers on the state, is its much lower cost of living compared to its next-door neighbour Abuja. For instance, a 500 sqm² property in Asokoro district of Abuja cost about five hundred (500) million-naira, while the same 500 sqm² piece of land a stone throw in neighbouring Karu district of Nasarawa state cost just about two (2) million naira (w 12). This therefore makes Nasarawa state an attractive option for low income earners to live in Nasarawa and instead commute daily to work in Abuja. However, this advantage also come with its costs, such as it has also led to an explosion of population in some of the towns in Nasarawa (especially those closest to Abuja). It has for example created problems such as the growth of "unplanned" and "unregulated" settlements (popularly known as slums) in towns like Karu and Keffi (Jibril 2014: 2).

Further compounding the problem is the widespread abuse of the system of land administration in the state. It is widely perceived that land administration in Nasarawa is dominated by corrupt officials of the ministry of lands as well as other private individuals popularly referred to as "land grabbers". These "land grabbers" posing as land or property agents often collude with officials of the ministry of lands to illegally allocate or sell land or property land to unsuspecting people (w 14). The ministry of

lands was widely seen as a cesspool of corruption, which in turn generated a general lack of public confidence in how land is administered in the state. Some of the ministry's officials we interviewed stated that apart from the impunity that was ongoing at the ministry, politicians were also found to be culpable. These politicians working at the highest levels of authority often abuse their privileges by using land as a weapon to gain political patronage or to fight perceived political enemies. For instance, they could revoke land belonging to certain individuals or influence officials in charge of lands to delay or refuse to grant individuals the opportunity to formalize their property such as obtaining a certificate of occupancy. Here the perception according to some of the interviewees was that some of the politicians use land or property as a weapon to fight enemies. For example, those in position of influence often politically disagree with as enemies especially if such individuals own a property or land, they see such a person as capable of using such property as a collateral to secure bank loans in order to fight those in power (w 13). A senior management official paints a picture of what obtains in the state prior to the land reforms:

we had staff that were outright corrupt, at that time we were the most corrupt ministry because you need to grease palms [pay bribes] for your files to move. i had always said either they [the staff] didn't understand the project or lack the will...resistance to the reforms naturally came from those who benefit from the old system of doing things, of course there is no question about that corruption thrives in chaotic situations, that is where some people benefit from the prevailing circumstances and when you are introducing reforms naturally even your staff will resist it. In fact, the resistance was so much so that you had to have the heart of a lion to deal with it, i recalled in one of our meetings a management staff told me that i should be careful not to step on toes [those who benefit from the status quo]. But the system is not perfect up to this moment there is still pockets of resistance here and there, but over the years they have learnt that i am not willing to accept any sabotage and anybody who stands in the way of implementing these reforms will have himself surely to blame (w 12)

The state government blame this stagnation in the institutions governing land on the failure of past governments to properly regulate the land sector in the state. Therefore, in response to the challenges and opportunities the land sector presented to Nasarawa state, both in terms of a growing unregulated and a corrupt land sector and a rising demand on land due to the state's proximity to the Nigeria's capital (Abuja). The government initiated some reforms aimed at making the state an attractive investment destination. To this end, the Nasarawa Development Platform (NDP) Project was launched in 2011 to introduce a modern system of land administration in the state (Edmead et al 2013)

The administrative and legislative aspects of the reforms were handled by the ministry of lands and the governor's office, while the technical aspect was initially contracted to SIVAN Nigeria Ltd to among other things (1) set up the Land Information System (LIS) (2) capture the entire topography of the state using aerial telephoto (3) the geographical mapping of the whole state into districts using Geographic Information System (GIS). However, early into the implementation of the reforms it was discovered SIVAN was failing to deliver on the technical components of the project, so the government through the ministry of lands terminated the contract and a fresh contract (worth 2.7 billion naira) was awarded to SIRAJ Engineering Ltd. The contract was redesigned and new implementation guidelines (using incremental steps) were issued (w 14). Although it is to be noted here that at the initial implementation phase of the project it generated controversy because the government decided to raise the ground rents (fees charged on land or property). This move became not unpopular with the public, but also it did not resonate well with the traditional institutions in the state. As one management official of NAGIS tries to justify the increase:

when we raised our land rates, people felt why should we do that, and it became an issue and even to some extent went to the house of assembly and we stood our grounds and justify why we had to do that. For instance, when you spend a hundred to a hundred and fifty thousand naira (100,000 - 150,000) to process your land title in Abuja, why wouldn't you spend about twenty to twenty-five thousand naira (20,000 – 25,000) across the border on the other side [Nasarawa]? (w 12)

Most people felt that it was unjustifiable for the government to have increased the fees by over 300% of the original fees. People were used to the old system where it takes only a few thousands of naira to formalize their land or property titles. For instance, in the past it usually takes about fifteen thousand (15,000) naira to get a C of O, but with the present arrangement people have to now part with about seventy thousand (70,000) naira to obtain a C of O. Another higher ranking official of the agency also tries to defend the new tariffs:

although they [the public] don't take into consideration the delays in processing of land titles has been drastically reduced, for instance, between 1999-2007 only about 270 land titles were officially issued, compared to 1300 titles issued between 2007-2015. And the enhanced security features incorporated into the titles is a further check on land fraudsters (w 14).

In addition, officials of the ministry of lands were as well opposed to the proposed reforms and therefore were not cooperating with the government's efforts to implement the new land regulations. Some of the reasons given for the resistance by officials of the lands ministry include (a) wanting the

status quo to remain (the benefits derived by entrenched interests who often enrich themselves at the detriment of the government) (b) fear of the unknown by some officials of the ministry over the outcomes of the reforms such as loss of job. Most of the core civil servants of the ministry were used to the manual system of land administration and thus felt the proposed reforms (a computerized system as envisaged by the designers) may make them irrelevant in the new arrangement (w 14). The management of the ministry had to come up with measures to counter the opposition. Some of the strategies the management employed include recruiting new staff to work at the newly created agency while existing staff of the ministry (who could not fit into the new system) were either deployed to other ministries or disengaged. Some staff of the ministry that showed interest in participating, were co-opted by the management and the implementation of the reforms proceeded in incremental steps. A senior official tries to describe some of the challenges faced by the management as they try to push forward the reforms:

when we came on board we had a lot of resistance, i am not proud to say this but in the process, we had to let some staff go, especially those who had become recalcitrant, we had to bring in new persons and train them differently from the old system and now you have a hybrid of the old and the new and to us it works perfectly. We had staff that were dismissed out rightly and some were transferred away from the ministry, some of them retired, and some that felt they could not exist in a very transparent space voluntarily left, we identified the few committed staff that were willing to work and asked them to join us in the reforms, initially we had less than 10 staff that were willing and they were working from 7:30am to 7:00 pm. But subsequently other staff eventually saw the good in it and key in (w 12)

Another higher-ranking official attested to this when he said:

that was where the commissioner did a marvellous job, in the sense that he used a carrot and stick approach to get what he wants, he was so coercive to a level that he threatened some people before he was able to push through the reforms (w 13).

To give legitimacy to the reforms and therefore assuage the fears coming from the public and the traditional authorities, the state government embarked on massive publicity campaigns. The publicity campaigns were aimed at convincing stakeholders on why the reforms were necessary so as to make the state's land administration system a more efficient and transparent one. As one senior official puts it:

The thing about the NAGIS bill is its public outreach we were out there from the beginning; several ads on newspapers and online and we also use to organise what

we call town hall meetings across Nasarawa state to enlighten people about what NAGIS is all about. So i think that sort of publicity gave us a leverage to showcase an organisation that nobody knows about, so people were already familiar with us and when the issue of the bill came up and asked people to participate what we got was not resistance but accolades (w 14)

To further consolidate on the progress made so far, the government also felt the need to institutionalize the reforms. An executive sponsored bill for the establishment of the agency to implement the proposed new regulations was sent to the state house of assembly. However, the bill initially suffered some setbacks, which according officials was because at the time it was proposed to the legislature, the governor had defected from the ruling party (which controls the state legislature) and thus the bill was defeated. However, the 2015 elections saw the governor's party having a majority in the legislature, and thus provided an opportunity for the executive to push through the bill a second time:

...that was why initially they [the legislature] never pay attention to NAGIS bill, as of then the relationship between the executive and the legislature was frosty. But with the coming of the new administration from day one there was a good relationship between the two arms [executive and legislature] and they passed the bill in less than 2 years (w 13)

The government also sponsored a public hearing to further give legitimacy to the bill so that it doesn't get unnecessarily delayed at the state house of assembly. As one management official remarked:

... [the stakeholders] thought that their interests will not be covered by the bill, so what we did was to ensure that they [state legislature] organise a public hearing with stakeholders across Nasarawa state and beyond to come and give their views on what they think. For instance, i think at the state assembly out of so many submissions made, it was only one person that objected to the passage of the bill and he couldn't give his reasons why the bill should not be passed...we were constantly in dialogue with the lawmakers and emphasizing on the importance of the bill, so it was more of a collaborative effort... despite the delays it was eventually passed, because almost 90% [legislative members] were in support of the NAGIS bill (w 12)

Another perspective shared by many officials was that strong commitment showed by the management of the ministry also ensured successful implementation of the reforms. For instance, a management official told me that there was a strict supervision by the management on the proper

utilization of resources committed to the reforms. This implies that funds meant for implementation are not diverted to other purposes outside of the reform objectives:

coming from a different background as a hands-on person i prefer to go to the field and see what is happening but some people prefer a different style, for instance some prefer staying in the office. When I was a member of the transition committee of the reforms one of the things I observed was that the process was all muddled up, we have a system, but people hardly follow procedures and when I was brought in i saw an opportunity to correct things, so i read so much about modern land administration...

(w 12)

The management also ensured that they eliminated redundant and unnecessary administrative processes or reduced them to a minimum and even in some instances eliminated them altogether. For example, the land registration procedures were streamlined into a single document for easier understanding and application. Also, the time and number of procedures it takes to register a land or property were greatly reduced, so also was the establishment of a customer service centre to attend to public enquiries. Staff of the agency were trained on customer relations to better handle the public and a website was also created where information about the agency regulations and activities could be accessed twenty (24) hours a day (w 13). As one management declares:

arguably we offer the best services to clients and if you observe we run the place like a bank, we are transparent, when you enter the ambience of the place and the manner you are received, and the language used, and you can't have our staff yell at someone because they are properly trained (w 12)

A secure electronic system of land administration was also put in place, and staff were given different levels of administrative access (based on their various job functions) so as to restrict access on who is authorised to access what documents: As a staff reported:

every single activity is being monitored and we can produce a report showing who goes where, who logged on at a particular time. These are parameters set to ensure that the system is highly secured so that staff do not go outside of their scheduled duties (w 14)

Some of the interviewed officials further reported that the management used a combination of carrot (rewarding those staff that put in efforts in their jobs) and stick (discouraging undesirable behaviour) approach to further elicit staff cooperation. For instance, whenever revenue targets were met, those concerned were usually given bonuses in order to encourage others to emulate them. Similarly, when targets for processing land titles are met, the management usually organise meetings with staff to

celebrate the successes achieved (w 15). Staff of the agency could also receive knocks (such as criticisms or warnings from the management) when too many procedural errors are made or when revenue targets are not met (w 16). These incentives according to the agency's officials greatly improved land administration in the state, and in turn instilled public confidence in the process. For instance, the situation in the past was that it usually takes up to three (3) years for an individual to get a C of O, but with the current system, officials claimed that once an application meets all requirements, a C of O is processed within weeks. A management staff tries to compare what currently obtains with what happens prior to the reforms:

... i can proudly tell you that today you can see how the system works seamlessly... if you were here 4-5 years ago we use to have a thousand files here [pointing to a shelf in his office] waiting to be signed, now we have a computerized system and offices are transparent in their dealings, staff are not allowed to keep their files for over 24hrs, all our offices are open so that you could see what someone is doing, of course there could be a few who might be doing it [illegal practices] but on the whole am very proud to say that this has been reduced to the barest minimum (w 12)

However, some officials also admitted that the issue of "land grabbing" remains a huge challenge for the land administrative bodies in the state. And that despite the ongoing public enlightenment campaigns associated with the risks of transacting on an unregistered land or property, many still don't verify the authenticity of land or property before going into transactions (w 14). Furthermore, other officials claim that it was the government's determination to make the reforms a reality that made the difference, because despite the enormity of the challenges the agency faced (such as lean resources and a lack of support from development partners) the reforms pressed on. As one senior official disclosed:

when you are doing reforms it also comes at a cost, you are doing a project that is important to partners such as the world bank...we wished the bank had given us a grant to support the project and we did went round to ask partners for support, if partner organisations had supported us it will have discounted the costs of implementation of the program but we had no support and the state government had invested billions of naira in the project (w 12)

Another major achievement of the reforms according to officials was that the reforms embedded the newly created LIS with a fraud detection mechanism. Some officials claimed that they are confident that the new system can detect any attempts by officials to illegally engage in fraud can be detected. For example, they argued that the new platform is designed to monitor and record all activities of land

officers such that if anyone engages in any dishonest transaction with regards to land, he or she will be detected and will be called upon to explain why he carried out such an action. This according to them was why for instance early into the implementation of the reforms, positive results were observed:

within the first year we started seeing changes, for example in April 2012 revenues jumped from 35 million naira that was what was generated in the [previous year before the reforms in 2011] to about 300 million naira and now we are currently generating 6 billion naira [annually], I did not initiate the project in the first place, but i studied it very well i dedicated so much time and effort to ensure the success of the project (w 13)

However, a dominant concern expressed by the officials of the land agency is that this new arrangement may also come with its own challenges. For instance, as an IT based system, the agency is aware it could experience technical breakdowns or could be compromised (especially if those currently managing the project are no longer there). This fear expressed by the officials was due to the experience with a similar past land reforms project implemented in Abuja (more specifically the Abuja Geographic Information System (AGIS)). After a few years of its existence, the AGIS project became an example of an abandoned project, because when a new management took over the project in 2007 it began to falter. It is important to note here that coincidentally the consultants currently handling the NAGIS project handled the AGIS project in Abuja. One management official tries to describe what the AGIS used to look like in its hey days:

at the time in Abuja a staff cannot enter into the system and manipulate land titling fees, but today in AGIS people can do that, the initial program [the AGIS] with all its safeguard is now the subject of fraudulent abuse (w 14)

The story according to those we had discussion with was that shortly after the consultants handling the AGIS project left, it started failing because all the administrative controls and checks put in place were largely abandoned by the new management that took over the project. Staff of the AGIS who previously have no access or restricted access to crucial areas of the land administration platform suddenly found themselves with privileged access to areas they are not supposed to handle. And thus, began a systemic and widespread abuse of the AGIS. Alarming, those that currently manage the NAGIS project fear that the same problem does not befall it by the time they leave:

presently their contract [the consultants] expired in October 2017, but we are hoping it will be extended, we hope that by the time these people leave [the consultants] those who are going to manage the place will be strict and thorough just like as it is currently.

Our concern is that since we are in a democratic era [where government changes through electoral cycles] the person that may be at the helm of affairs may decide to sacrifice those that know and had been managing the system and bring his own people [nepotism] who may well be novices and with such kind of people the system can easily be compromised. Though we have put in place people that will take over from us so that the system will endure but that does not mean that the system may not change given uncertainty about future political events (w 14).

Institutional Design of The Nasarawa Geographic Information Service (NAGIS)

The Nasarawa Geographic Information Service (NAGIS) informally began operations with the implementation of a new land policy in 2012. However, the law establishing the agency was formally passed in 2017, the law establishing the agency states:

there is hereby established a body to be known as Nasarawa Geographic Information Service (in this law referred to as "NAGIS" to exercise the functions and powers, and pursue the objectives assigned to it by this law...NAGIS shall be a body corporate with perpetual succession and a common seal and may sue and be sued in its corporate name (s 2 (1)(2)).

The agency was established as an autonomous body mandated with powers to recruit, train and remunerate its staff and can also enter transactions with a third party while carrying out its functions (s 9)). It also has the mandate to exercise the following functions (a) create and compile all electronic land registration instruments (b) manage cadastral maps and datasets using the Geographic Information System (GIS) and the Land Information System (LIS) platforms, as well as serve as a source of survey information (c) process statutory Rights of Occupancy (RO), Certificate of Occupancy (CO), and issue grants of consents signed by the governor (d) provide support to the Land Use and Allocation Committee (LUAC) by facilitating its operations in the state as well as in each Local Government Area (LGA) of the state (e) provide administrative and technical support for the processing of grants of customary rights of occupancy (s 7 (1) (2) (3) (4)).

In addition, it is also within the agency's domain of competence to (f) acquire, own, dispose of or charge interests on fixed assets under its care (g) set standards in relation to the quality and format of geospatial information utilized by the state and local governments (h) bid for and accept grants made by international development agencies, and act as the state's delivery agent on GIS based projects to other states in Nigeria, as well as the federal government (i) enter into collaboration with

academic institutions within Nigeria and internationally for the purposes of developing its staff capacity (j) charge fees for services it renders (k) subject to the approval of the Governor enter into other obligations in pursuance of the delivery of its services (s 9). To exercise the above functions without any hindrance, the NAGIS law explicitly states that obstructing or not complying with the agency in performing the functions conferred to it by the law constitute an offence which is liable to a fine of up to five hundred thousand-naira (500,000) or an imprisonment of six (6) months or even both (s 21). The NAGIS law also stipulates the conditions for commencing litigation against the agency in a court of law, the provision states that:

no suit shall be commenced against NAGIS before the expiration of a period of one month after written notice of intention to commence the suit shall have been served upon NAGIS by the intending plaintiff and the notice shall clearly and explicitly be stated (misc. 22)

Political Control of the Agency

By the position he occupies (as the chief executive officer of the state) the governor automatically assumes overall control of all instruments of land administration in the state. Section 1 subsection 1 of the land use act of 1978 states:

all land comprised in the territory of each state in the federation are hereby vested in the Governor of the state and such land shall be held in trust and administered for the use and common benefit of all Nigerians in accordance with the provisions of this act

The NAGIS law also affirms the earlier powers granted the state governor by the Land use act of 1978, the NAGIS act also made the state governor the final approving authority of the most important instruments of land regulation in the state. The governor is the only authority that grants the Right of Occupancy (RO) and Certificate of Ownership (CO) to individuals or corporate bodies (s 5 (1)). The NAGIS law further stipulates that the agency “shall be domiciled under the office of the governor of Nasarawa state” (s 2 (2)), thereby effectively reinforcing the Governor’s overall control of the agency. Furthermore, it also empowers the governor to direct the agency or its Advisory Board to carry out other subsidiary functions, and it explicitly states that the agency and/or the advisory board shall comply with such instructions coming from the governor (s 19). However, some of these powers conferred on the governor are usually exercised through proxies. For instance, the governor is required to appoint a governing board that acts on his behalf to supervise and make policies and regulations for the agency, as the provisions of the NAGIS law states:

there is hereby established for NAGIS an advisory Board which shall consist of members appointed by the Governor (s 3 (1)) ...the Advisory Board may, with the approval of the Governor, make such regulations as necessary or expedient for carrying into effect the provisions of this law (s 20)

The advisory board exercise these powers through a periodic review of the agency's regulatory policies and making appropriate policy recommendations in line with the state government's objective of realizing an efficient land administrative system in the state. Furthermore, the board is also mandated to periodically convene a quarterly meeting with the management of the agency (headed by the DG of the agency) to discuss and review the business plan and budget of the agency, make recommendations and necessary adjustments to the agency's regulatory policies. The advisory board is to also receive a quarterly report of the agency's operations, review the report and if necessarily make further recommendations to the governor for action. However, the law also requires that any decision taken by the board over matters concerning the agency is to be done within three working days after the sitting of the board (s 6). Decisions of the board are binding on the agency if the board attains a minimum quorum of four (4) members including its chairman (suppl. 14). The law also sets out the specific criterion for the recruitment of members of the advisory board:

...should have cognate experience of modern public service institutions, and/or land administration, and/or any related field of geographical sciences or Information Technology (s 3 (2)).

The advisory board is headed by a chairman who serve on a part time basis and is composed of members representing different relevant groups such as a representative of the Nigerian Bar Association (NBA) in the state; a representative of the Institute of Chartered Accountants Nigeria (ICAN); a representative from a Non-Governmental Organization (NGO); a representative specifically selected from an NGO focused on women; a representative from the state's traditional rulers council; a representative from the Nasarawa Chamber of Commerce, Industry, Mines and Agriculture; a representative of the Nigerian Institute of Estate Surveyors and Valuers and finally the DG of NAGIS who shall also be on the board, whom the provision specifically states that he:

... attends as a member except that he shall not be entitled to vote or count towards a quorum (s 3 (3)).

The provisions also stipulate the maximum period the advisory members are to serve as well as how a member can be removed from office:

members shall hold office for a period of four years, renewable for a further period of four years only...a member may be removed from office by the Governor if he is

satisfied that it is not in the interest of NAGIS or the interest of the public that the member should continue in office (s 4 (3)).

Members of the board are also required by law to declare any personal interests capable of conflicting with their professional judgement and decision or that of the board and that such a member shall abstain from voting on matters related to that (misc. 27)

Administrative Control of the Agency

The agency is headed by a Director General (DG), who is the chief executive and accounting officer of the agency and responsible for the execution of the agency's policies as well as its management. The DG coordinates the implementation the agency's business plans and budget and submits it for review to the advisory board at least three (3) months before the commencement of every financial year. In addition, the DG is also required by law to submit a quarterly report of the agency's activities to the advisory board for review and may be called upon by the state Governor to perform other ad-hoc duties (s 13 (1)). Although the law is silent on who appoints the DG and the qualifications required of such position, it did however states that the DG shall serve a maximum two terms of four years each (s 13 (2)) and specifies the conditions under which he could be removed from office:

the Director General may be removed from office for inability to discharge the functions of the office (whether arising from infirmity of mind or body or any other cause) or for gross misconduct (s 13(3)).

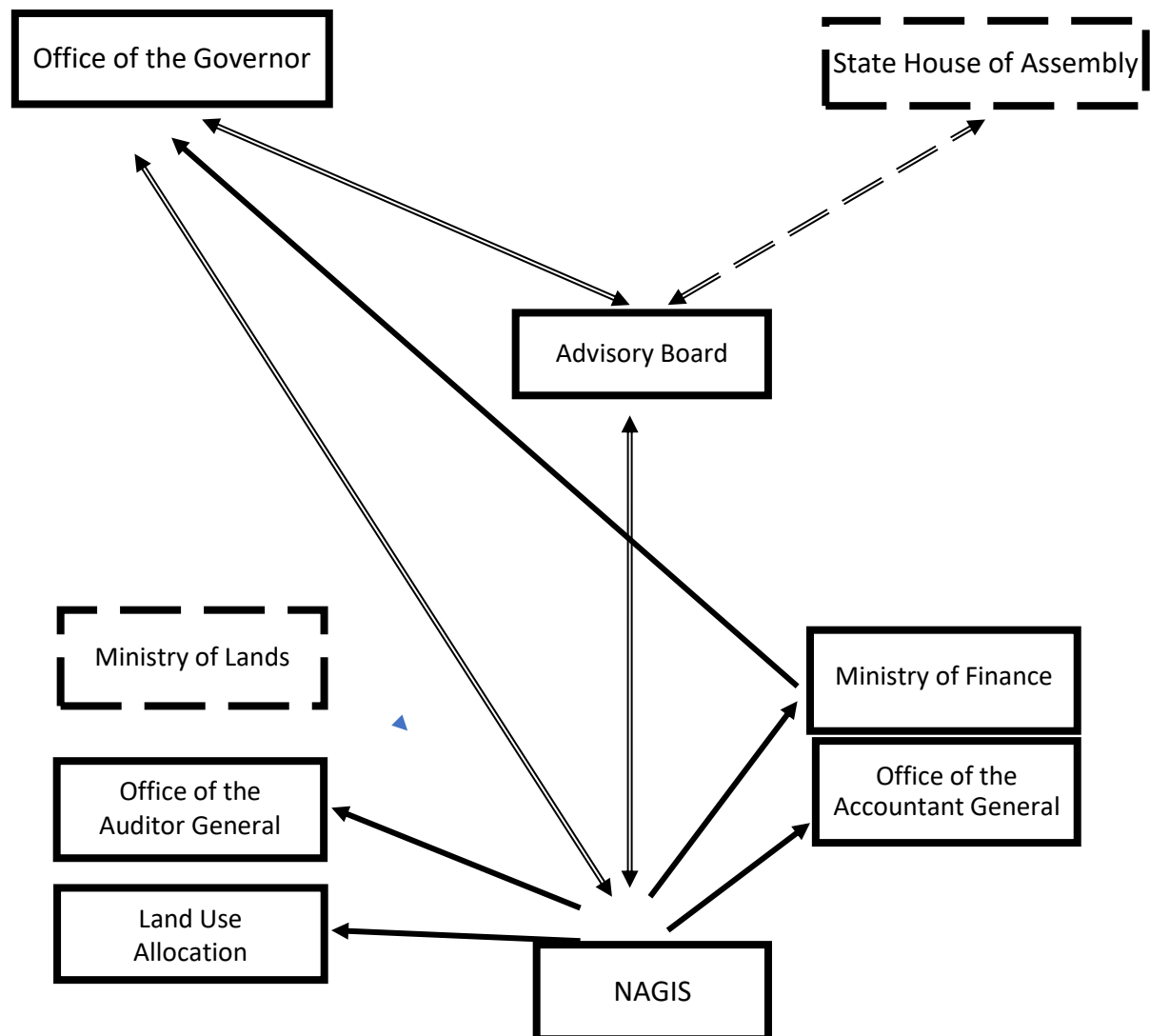
The law requires that the agency operates a single financial account known as the "NAGIS Fund Account" from which it shall draw all its budgetary allocations and make fiscal appropriations. The account is to be opened on behalf of the agency by the office of the accountant general of the state. The provisions further stipulate that all revenues generated by the agency are to be deposited into the "NAGIS Fund Account" and that the account shall be audited annually with any unspent funds transferred back to the state treasury account (ss 14 and 15). The agency is also required by law to present its budget estimates for the next fiscal year to the state's ministry of finance who in turn submits the budget to the governor all of which shall be done not later than the 30th September of every year (s 16 (2)). In addition to the statutory allocation the agency receives from the state's treasury, with the consent of the governor the agency is also permitted by law to raise additional funds from both domestic and external sources:

subject to the approval of the Governor, NAGIS may from time to time borrow by way of overdraft or otherwise such sums as it may require for the effective discharge of its

functions under this law...grant charges, including charges over immovable property, as security for its obligations (s 10).

The agency can also collaborate with academic or other relevant organizations for the purposes of acquiring or sharing knowledge or professional expertise. It can receive grants or donations or technical assistance both in cash and kind if such are consistent with the agency's mandate and does not compromise on its regulatory functions (s 11). The law also spells out the timing as well as the guidelines in auditing the accounts of the agency. For instance, the agency is required by law to prepare a yearly financial report of its activities in the previous year not later than three months after end of each financial year. And that the DG shall submit this report together with its annual profit and loss accounts, and its audit report to the governor (s 17(1)). The accounts of the agency are to be audited by the auditor general or persons appointed by the auditor general not later than four (4) months after the end of the financial year (s 17(4)). **Figure 2** below, depicts the formal structure of control of the agency.

Figure 2: FORMAL GOVERNANCE STRUCTURE OF THE NAGIS



Keys: \longleftrightarrow indicates a top down (command) and a bottom up (reporting) relationship between actors
 \longrightarrow indicates only a bottom up (reporting) relationship between actors
 $\cdots\cdots$ indicates the actor is not formally part of the governance of the agency.

Source (own illustration)

Staff Perceptions on the Internal Workings of the Agency

Funding and other Support to the Agency

A consistent viewpoint among management staff was that of a general satisfaction with the level of support the agency receives from the state government. Especially regarding the funding of its operations, officials reported that whenever the agency makes request to the state government, they

are promptly approved by the state governor. This support according to agency was crucial in enabling the smooth operations of the agency. Some of the various responses coming from the agency's officials includes:

we get adequate funding from the government and the political will is there...the project was so dear to the governor's heart...despite lean resources due to the recession because the reform was solely financed by the state government, the state the governor was very interested in the project and supported us generously and without his support we wouldn't have gotten to where we are today and that's why the project succeeded, every credit goes to him. 'As a regulatory agency' [changed some wordings to mask respondent identity] 'we' do the proposals and he does the approvals" (w 12).

the agency is fully funded by government, without any external assistance we wouldn't have been here. For instance, generators [to provide constant power to the agency], vehicles [for running the operations of the agency], production equipment [machines needed to process lands documents i.e. charting of survey plans etc], are capital intensive (w 12).

the governor is always happy with the ministry, that is why he is cooperating with us all the time consenting to our demands such as funding, equipment etc (w 13).

this is the governor's baby [referring to the agency], if there is anything he is proud of is NAGIS we are the yielding fruit in the state that is why he regularly visit us. Apart from the revenue aspect, we also help the government in geographic mapping. for instance, during the Ombatse crisis [ethnic militia cleansing] of 2014/2015 we help provided the security agencies with the [geographical] mapping of entry and exits points of the whole state and other important landmarks that the governor was so happy about. [In 2017] we also developed the smart city geospatial map (w 14).

Top management officials of the agency stated that one of the reasons responsible for its performance was the presence of a highly-motivated staff which according to them was due to the government's provision of a modern and fully equipped conducive working environment. In addition, they also claim that regular payment staff salaries further reinforce this. As some official remarked:

in fact, this is the first time in my life that i have where salaries of staff are embedded in the project contract and there is a plan to migrate all the staff into the mainstream civil service where their salaries will be paid by the state government but for now their salaries reside with the project (w 14).

staff are given all the necessary tools such as computers, trainings [on the job capacity building], in short, we are given what we need to do our job (w 16)

Oversight of the Agency's Activities

Senior officials of the agency reported that not only does the commissioner of lands regularly hold meetings with the agency to discuss its activities, but that the state governor receive regular briefings on the operations of the agency:

we have to inform the governor by submitting monthly reports concerning our activities to the governor and we also hold regular meetings in the ministry (w 12).

Some officials also reported often seeing the governor at the agency, as one official declared “the governor regularly come in unscheduled visits” and when he was asked to specify on average the number of such visits by the governor he mentions: “say quarterly [four times] in a year” (w 14). This was also corroborated by other officials of the agency:

for the governor to visit your agency at least three times a year means he is very interested in the agency (w 13).

because the governor comes two to three times a year and in place there are consultants [those handling the IT component of the NAGIS project] checking what we do on behalf of the management (w 16).

At the mid and lower levels, there was also a general feeling that the management is very meticulous with work tasks, as indicated by some their responses:

even if a staff mistakenly skipped a step, he will be referred back to correct it, the procedures must be 100% complied with (w 15).

my boss doesn't joke with me when it comes to writing reports, when he gives me work he always wants it done at the right time and whenever any activity took place a report must be written and submitted to him (w 17)

whenever we have special activities [such as meetings or seminars] my supervisor always asked us to cover the event and report to him (w 18).

The Agency's Loyalty Norms

A recurrent view among the management staff of the agency, was the perception that the agency is more obligated to the government than to the public. As one management staff remarked:

this is a government organisation, in the land use act it says all lands is vested in the governor, therefore whatever we do his excellency [the governor] must approve of it and if we are to do anything concerning land administration policies we must consult with the governor (w 13).

Similarly, among the middle and lower staff there was also a general feeling of obligation to their bosses than to the public:

as civil servants we are more of a hierarchical organisation, so obeying instructions is a must. For instance, if I have a customer in front of me and my supervisor ask me to do something, I have to stop whatever I am doing and attend to him and come back later to the customer (w 18).

Officials reported that the reason for this feeling of obligation to the government was due to the technical nature of their jobs. They suggest that the agency is mostly composed professionals such as surveyors and town planners who consider their bosses as more important than the public when it comes to taking decisions on land matters. Some officers declared:

because I take directives from him [director], we work according to policy (w 16).

I am more answerable to my supervisor because I receive instructions from him (w 17)

Discretion in Decision Making at the Agency

A dominant view among management officials was that in general the agency does not independently take decisions outside of their mandate. And that any new policy or regulatory decision the agency is about to take must first be communicated to the state governor before such a decision is taken:

we often consult the governor before taking decisions outside our mandate, otherwise we stay within limit (w 13)

especially decisions that affects the public, we must first consult with the governor (w 14).

we have to inform the governor, we have to brief him [the governor] even in case of an emergency decision (w 14).

At the middle and lower levels, there is also a feeling of obligation to notify their bosses before taking decisions. Staff reported that the management does not allow them take independent decisions regarding their jobs and that they only take decisions within the scope of what their job functions specifies. Several officers expressed these feelings:

we strictly follow laid down procedures, i constantly consult with my superior before taking any action in the unit (w 16)

whatever I decide, and my supervisor learnt of it he normally does not concur [disagrees] with me (w 17)

here we don't take independent decisions, all what we do we have to adhere to established guidelines (w 16).

I am required to explain in detail to supervisor in whatever processes I follow concerning land registration, i have to strictly follow instructions given by my supervisor, although I feel free but whatever I do I cannot go out of the rules (w 18).

When further asked to give specific examples, one staff had this to say:

every morning I must see Mr [name withheld] and briefed him and he usually asked me to inform him on my unit's previous day activities, therefore it means I report to him every day, as I mentioned earlier the only time that i don't have to inform him of what I am doing is when I change the order of which work gets more priority in my unit (w 15).

Public Access to Information on the Activities of the Agency

Most of the senior officials of the agency reported that information on the regulatory activities of the agency is always in the public domain and that such information is easily accessible to the public. They mentioned some of the ways the agency informs the public about its activities which includes organising town hall meetings with the local people, placing advertisements on newspapers, TV and radio. When asked to provide specific instances of such activities some of the senior official had this to say:

the agency always provides documents, we are a repository of land documents therefore we are obliged to supply the public with requests (w 13)

we have a dedicated customer service unit and shelves that display all of our agency's activities. In fact because of FOI [Freedom of Information Act] we have to abide by whatever the public ask except if it is a classified information (w 14)

However, officials at the mid-level and lower levels reported mixed feelings about public access to the agency's information, while some reported that the public is not adequately informed about the regulatory guidelines of the agency:

the public are not adequately aware of the agency's activities, despite our sensitization and enlightenment campaigns the rules and regulations are still not very clear to the public (w 15)

most of the locals have no knowledge of the rules and regulations, that is why sometimes we embark on enlightenment campaigns (w 18)

Others reported that the public is well informed about the regulations:

if you go to the customer care, all information the public should have is provided there, flyers are there, and our staff are always on seat to attend to or provide clarifications to the public (w 16)

we are here to serve the people, we are here for them that's why we place information on social media, TV, radio, newspapers notices board and even on our website (w 17)

after putting out notices in the media, we also paste in all the key public places for the public to see. We also have archival records though not many of such records (w 15)

most of the time the agency staff go out to enlighten the public through house to house visitations. For instance, out of the 13 local governments in the state NAGIS has 6 zonal offices in order to be closer to the people in those areas (w 17)

How the Agency Makes Regulatory Decisions

The dominant view among management officials was that land policies or regulations are usually decided internally and the public is informed afterwards. Some of the officials interviewed, reported that the agency informs the public of such decisions through notices or gazettes. Some of the officials disclosed that the reason the agency usually decides on the regulation internally is that the agency assumes it is acting in public interest:

we don't generally pre-notify the public because we generate our policies based on lesson learnt as we deal with the public...we don't need to often inform them on what we are about to decide, we decide in the public interests (w 13).

when we wanted to introduce property registration we visited the head chief ruler of Karu [a traditional ruler of a local government], who in turn invited local chiefs and market women and enlighten them on the benefits of regularizing [formalizing] their property. That is why now we have no any hitches whenever we embark on our site activities (w 14)

whenever we are coming out with fresh initiatives or guidelines we often put out adverts in the media because this is a service organisation (w 16).

Clarity of the Agency's Regulatory Mandate

A commonly held view by the agency's management officials was that the rules and regulations guiding land administration in the state are detailed and easy to comprehend by both the staff and the public:

we have regulations and processes, for every process we have a guideline, for instance to title land that belongs to an individual or a person is consenting his land for mortgage purposes and we expect our staff to follow strictly on those guidelines and if you go outside those guidelines then right away the alarm bells go off [referring to how the IT system is configured to call the attention of supervisors when an officer goes beyond his level of access to the (Land Information System) (LIS)] (w 12)

we have procedures and guidelines manual specifically prepared for guiding both staff and the public (w 13)

Those interviewed at the middle and lower levels also reported that the regulations are clear enough and not difficult to apply:

I think it's easy to follow because we know the guidelines very well of which we explain to the customer in detail, it's not difficult we have the rules stated so we just follow what it says, we only encounter difficulties in cases of land dispute between individuals and even with that there are procedures for resolving the issue (w 18)

A staff even went further to demonstrate his understanding of what the regulations says about registering a land:

before opening a file [an application to register a land or property] you must have your agreement letter between parties to land transactions, you must have a site plan and a change of ownership letter duly signed by the local authorities. And here in NAGIS there is site inspection where a team of town planners inspect the property and make sure all regulations are followed before we process the application (w 16).

Compliance with Administrative Procedures and Enforcing Sanctions at the Agency

While some officials of the agency reported that cases of non-compliance are dealt with swiftly and severely:

once a staff violate any of our laws we sanction immediately to serve as a deterrent to others (w 13)

sometimes our bosses are too harsh on us concerning what we are supposed to do, once a staff violates any rules here the management punish him", of recent we had a staff that quarrelled with his supervisor over a wrong doing a panel was setup to investigate it and knowing what the outcome is he left because he knows the outcome (w 17).

Others reported that sanctions are not often strictly applied, that the management follows the substantive rules of the state civil service which provided guidance on how civil servants are to sanctioned. This was indicated by the responses below:

when you report a case on irregularity first the staff will be warned, and so far, we are fresh graduates that is why ministry staff are not brought in to contaminate staff with bureaucracy and insubordination behaviours (w 16).

most time before a staff is punished he goes through series of warnings like two or three times and most times people adjust their behaviour (w 18).

it rarely happens that staff are found to engage in serious offenses that warrant straight punishment. However, there are often cases of mistakes in workflow that staff are normally warned to pay attention (w 15)

if a staff or an applicant under or over declare the dimensions of a property to suit his interests. In such cases, we just warn because with the system we have we can take the dimensions based on aerial photograph of the site and then warn the staff not to do such again since we can always detect it (w 14)

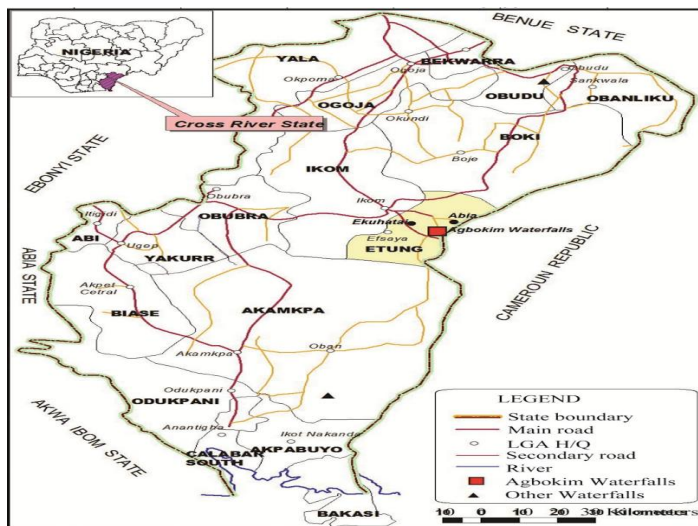
CHAPTER FOUR

Cross River State

Brief Profile of Cross River State

Cross River State is a coastal state in the south-south region of Nigeria, named after a confluence river, which passes through the state. The state covers a 20,156 square kilometres of land area and shares boundaries with Benue and Ebonyi states to the north, Abia State to the west, the Cameroon Republic to the east and Akwa-Ibom and the Atlantic Ocean to the south.

The State was created on May 27, 1967 from the former Eastern Region, by the military regime of General Yakubu Gowon. The state was officially granted state status in 1976 by the then military regime of General Murtala Mohammed (www.crossriverstate.gov.ng). The state has an estimated population of over 3 million people and is divided into 18 local government areas, these include Abi, Akamkpa, Akpabuyo Bakassi, Bekwarra, Biase, Boki, Calabar Municipal, Calabar South, Etung, Ikom, Obanliku, Obubra, Obudu, Odukpani, Ogoja, Yakuur, Yala (Ogundijo 2015).



Source: Ikpi and Offem 2012

Ejagham and Efik are the two major languages widely spoken in the state and its economy is predominantly agricultural and where about 40% of the population are actively engaged the agricultural sector. Some of the major crops cultivated in the state include cassava, yams, rice, plantain, banana, cocoyam, maize, cocoa, rubber, groundnut and palm produce. Its main livestock

production are cattle, goats, and pigs and mineral resources in the state include limestone, titanium, iron ore and crude oil (www.lawyard.ng).

Reconstructing the Processes Leading to the Reforms of Institutions of Land Administration in the State

Experience over the years has shown that the manual system of land administration presided over by the ministry of lands in Cross River state is seen as too bureaucratic and characterised by irregularities (w 7). It is also common knowledge that officials of the ministry of lands often engage in all sorts of questionable practices to manipulate the system for personal gains and thereby denying the public of good services and the state government of vital revenues (w 7). There were calls from several quarters both within and outside the government for the reform of the existing system of land administration into an efficient and transparent one. The idea according to the proponents of the reforms is that doing this will entrench sanity and public confidence in the system. Those within government felt that unlike the manual system which is to manipulate by officials, the introduction of a computerised system of land administration will minimise fraud since most administrative procedures will be automated. For example, with the automated system according to them land registration fees is automatically programmed to generate a fixed amount and thereby act as a constraint on the ability of officials tasked with registering lands or property to alter figures. The aim is to block revenue leakages in the system and thus raise the overall revenues accruing from the land sector in the state (w 3).

In 2009, the state government headed by the then governor (Senator Liyel Imoke) set in motion series of reform efforts aimed at placing the state among leading states on ease of doing business in the country. The idea according to the government was simple; if "land transactions [could] be made quickly, transparently and with confidence" through establishing a single independent agency to be known as "one stop shop", then the state can favourably compete with other states in Nigeria as a leading investment destination (Edmead 2013: 9). To achieve this objective, the state government came up with four strategies (a) reduced the cost of acquiring land by at least 10% (b) reduced the number of procedures and days it takes to formally register a land (c) make the process of administering land a more transparent and accountable one (d) institutionalized property rights to attract foreign investments to achieve (ibid).

The reforms were consolidated in 2011, with the transmission of a proposed bill by state government to the state house of assembly for the establishment of the Cross-River Geographic Information Agency (CRGIA). The CRGIA bill was passed into law as CRGIA Law No 2 of 2012 and it sets out the

proposed changes to the land administration system of the state. Thus, began the processes for the establishment of a modern system of land administration (using the Geographic Information System (GIS)) in the state. To this end the state government invested about \$6.3 million with a contract awarded to technical consultants Tec Bridge Nig Ltd and Thomson Reuters of USA to setup a modern system of land administration system in the state using the Geographic Information System (GIS). The objective is to (1) reduce the turnaround time for processing land title documents, as the manual system of land titling that was in use was time consuming and therefore the computerised system as envisaged will significantly reduce the volume of work as well as time taken to produce land titles (2) it was also envisaged that the new system will help eliminate fraud since all relevant organizations tasked with the various processes of land administration in the state will be brought under a unified system, so that whatever any single agency or official within the agencies are doing they are being monitored (w 7).

The reforms were implemented in two stages; the first stage called the “fast track stage” involves the setting up and building of the virtual and physical infrastructure such as workstations for the recertification of land titles. And the second stage referred to as the “re-engineering stage” was supposed to be the phase where all the relevant bodies in charge of land administration in the state are connected to a central land database. For instance, the re-engineering stage was envisaged to connect both the ministry of lands and the CRIGIA in sharing information, so that the land administration architecture can support communication across land bodies virtually (w 3). However, it is to be noted that the implementation of the reforms began to stall from 2015 due to the conflict that ensued between the parent ministry of lands and the newly created agency as the reforms proceeded (w 7).

The Implementation of the Reforms and the Resultant Disagreement Over Mandate

To understand how the implementation of the reforms resulted in conflict between the parent ministry and the newly created agency, we need to go back a little to the period before the establishment of the CRGIA. Prior to the reforms, the ministry of lands administers all instruments of land registrations such as processing applications for Certificate of Occupancy (CO) or Right of Occupancy (RO) in the state. The process usually starts with the ministry acquiring large parcel of land on behalf of the government and divides it into smaller plots and invites the Land Use Allocation Committee (LUAC) to notify the public of the availability of such lands for allocation. The LUAC is a committee enshrined in the Land Use Act of 1978, with the mandate of:

(a)... advising the governor on any matter connected with the management of land (b) advising the governor on any matter connected with the resettlement of persons affected by the revocation of rights of occupancy on the grounds of overriding public interest under this act; and (c) determining conflicts as to the amount of compensation payable under this act for improvements [done] on land (State Land Laws Part 1: L4-3)

However, when the CRGIA was created, some of the core functions previously handled by the ministry of lands were transferred to it. However, the elections of 2015 saw a change of government as well as a new leadership at the ministry of lands. The new commissioner of lands reverted some of these core functions that were earlier ceded to the CRGIA back to the ministry. For example, the issuance of land application forms was given back to the ministry. The ministry claims that since it is the responsibility of the LUAC to notify and allocate lands to the public as stipulated in section 3 of the 1978 land use act, it is only natural that the LUAC also issue land application forms (w 3). The CRGIA on the other hand disagreed with the ministry and claims that it is the only agency mandated by the law to charge fees for the processing land registration and which also includes the issuance of land application forms. The officials of the CRGIA claims that it is not the statutory responsibility of the LUAC issue application forms and by implication also charge fees. It instead argues that the responsibility of LUAC is that of providing policy advice to the governor on land allocation and compensation claims where the government has acquired lands belonging to individuals (w 7).

These claims over mandate by both sides marks the beginning of an acrimonious relationship between the parent ministry and the CRGIA. The agency felt its autonomy has been threatened, by accusing the ministry of refusing to allow it fully to exercise its mandate. A management staff of the CRGIA declared:

we are yet to be autonomous, for example according to the law we should prepare consent [processing application for granting rights to transact on land] instead of the ministry, but in reality, this is not the case (w 4)

This has also affected how officials in the two organisations perceived oversight of the agency. In other words, there are disagreement as to which political authority is to oversee the agency's activities. For example, a dominant view among the ministry officials is that the commissioner of lands has the powers to make regulations as well supervise the activities of the CRGIA, as one senior official of the ministry states:

for me the commissioner represents the governor in overseeing the ministry and the agency...every Monday all departments heads and units meet with the commissioner and give him updates of their activities who in turn reports to the governor (w 6)

However, a contrasting view held by senior officials of the CRGIA was that advisory board is mandated to perform this function and not the commissioner, as a management official of the CRGIA asserts:

they [the ministry] are not involved in running the agency, theirs is at the policy level, if it becomes very regular the issue of autonomy is at stake (w 2)

the commissioner on his own cannot just direct us on what we should do, he doesn't have such powers at best anything he wants done he can write to us through the governing board (w 7).

The dominant view among officials of the agency is that the parent ministry wants to keep agency under its control since the agency is now generating revenues that by far surpassed what the ministry was generating prior to the creation of the agency. For instance, in the past, the annual revenues generated by the ministry (as claimed by some officials of the CRGIA) has never surpassed five hundred million naira (500m), as compared to that of the CRGIA where in 2016 alone, it generated a whopping one billion eight hundred million naira (1.8bn) (w 4). Therefore, the CRGIA felt that the ministry is doing all it can to frustrate any efforts aimed at ensuring the agency is fully autonomous from the ministry, as one official puts it:

the former governor was so passionate about us [the CRGIA] so much so that for him we should be completely be autonomous from the ministry of land (w 5).

The crisis had reached an all-time low such that there is currently little or no cooperation between the two to coordinate on the regulation of the land sector in the state, as one official told me:

even administrative procedures such as files exchange meant for processing land documents are returned unsigned [by the ministry], in the last administration things were not this bad, but now it is so bad that it looks as though the commissioner himself is involved in this (w 7).

As at the time of writing this chapter, both parties have gone before the state house of assembly seeking further clarifications over mandate, but the state's legislature is yet to pass any resolution on the matter (W 4). Officials of the CRGIA felt that the ministry of lands refuses to allow the reforms work because it benefits from the status quo. To buttress this claim, an official of the CRGIA cited a case of an individual who paid seven hundred and fifty thousand naira (750,000) for a C of O but couldn't get his C of O and when a follow up was done on his file the only evidence found of payment was eleven-naira sixty kobo (11.60). He further asserts:

so, do you expect such a people to allow you to come change things for the better? that is exactly what is going on [impunity and corruption], so it will take extra ordinary

courage for someone to sanitise that place by not allowing things to go the way they are currently (w 7).

The agency also accused the commissioner of lands of high handedness by refusing to constitute the governing board which according to them is the body mandated to supervise the activities of the agency. An official of the agency told me that in the previous administration, when the governing board was in existence this was not the case (w 7). The management of the agency felt the problem would have been sorted out if the advisory board was in place (note that the board was dissolved in 2015 with the inauguration of a new government and a new one is yet to be constituted). The thinking according to some senior officials of the agency was that since by law the board is constituted of diverse interests, the agency might get a fair hearing, as one management official states:

...doing this may help check the dictatorial tendencies of the commissioner [of lands] and if he [commissioner of lands] insists on having his way then the whole world will see that he is being autocratic... and i think that is why he doesn't want the board constituted (w 7)

The Institutional Design of the Cross-River Geographic Information Agency (CRGIA)

Law No 2 of 2012 formally established the Cross-River Geographic Information Agency (CRGIA) and transferred some core functions previously handled by the state's ministry of lands to the newly created agency. A governing board and management officials were appointed, staff were also recruited and trained. The agency the agency formally commenced operations in 2012 (w 7). Part 1 of the of the CRGIA Law states:

there is hereby established the Cross-River State Geographic Information Agency...a body corporate with separate legal personality and a common seal and may sue and be sued in its corporate name (s 1 (1) (2)).

By the law establishing it, the agency is to operate as autonomous entity, it has the mandate to decide its own internal matters such as funding, recruitment, and sets both the rules of staff conduct as well as sanction independent of the state civil service rules and regulations of the state:

the staff of the agency shall function outside the state civil service structure and recruitment, retention and discipline of staff of the agency shall be conducted in accordance with the terms and conditions of service of the agency as approved by the Governor or contained in the regulations made pursuant to this law (s 21 (2))

The CRGIA law also grants the agency the mandate to retain five percent (5%) of the total revenues it generates to fund its operations. In addition, the agency can also source funding from the state government's budget and other sources such as grants or contributions which shall be accounted for by the agency (s 17 (1)(2)). Some of the core functions carried out by the agency under the CRGIA law are (a) establishing and regulating standards on land related data in the state (b) creating and compiling land registry records and registering land instruments (c) serve as repository of land and survey information and data charge fees for services related to these (k) processing of Rights of Occupancy (RO), issuance of Certificates of Occupancy (C of O), and granting of consent to land transactions (d) providing support to the activities of the Land Use Allocation Committee (LUAC) at the state level as and in each Local Government Area (LGA) (e) providing administrative support for the processing of grants of customary rights of occupancy and (f) perform other functions related to the discharge of its responsibilities (s 2).

The CRGIA is also mandated to (g) acquire, own, dispose or charge interests on fixed assets (h) enter into contract with third party in the discharge of its functions (i) sets the direction and standards on geospatial information adopted by the state government and local government councils (j) charge fees, for rendering its services to clients (k) obligations subject to the approval of the state governor can raise funds externally by entering into agreements with other entities (l) grant charges including charges over immovable property as security for its obligations (m) compile and collate information about land within the domain of the state, and to provide products and services derived from that information to the government and the general public (s 4). Although the law is silent on the penalty imposed on individuals in case of any deliberate attempt aimed at obstructing the agency from carrying out its mandate. It does however anticipate a possibility of legal action brought against the agency, in which case it states who should represent the agency in a court of law:

in any civil action or proceeding [brought against it], the agency may at any time be represented in court by a state counsel or a legal practitioner approved by the attorney general of the state (misc. 23).

Political Control of the Agency

By the position he occupies as the chief executive officer of the state, the governor automatically assumes overall control of all instruments of land administration in the state. For example, the state governor is the final approving authority in the granting of RO as well as approval of CO of lands to individuals or corporate organisations (s 5 (1)). Section 1 subsection 1 of the land use act of 1978 states that:

all land comprised in the territory of each state in the federation are hereby vested in the Governor of the state and such land shall be held in trust and administered for the use and common benefit of all Nigerians in accordance with the provisions of this act

In addition to these powers, the CRGIA law also grants the state governor the powers to direct the agency to carry out other subsidiary duties:

the Governor may give to the Agency directives of a general or specific nature with respect to the performance by the Agency of its functions under this law (s 24).

However, some of the powers of the governor over the agency are exercised by proxy, for instance, the governor appoints a governing board that acts on his behalf to supervise and make policies and regulations for the agency such as (a) formulating policies for the agency to achieve the objective of the government such as an efficient system of land administration in the state (b) vetting the financial accounts and annual reports of the agency prior to submission to the state governor (c) approving the business plan and budget of the agency (d) providing advice and guidance to the head of the agency (s 7). To exercise this mandate, the advisory board under the direction of its chairman is required to meet at least once every three months to discuss and review the activities of the agency (s 12), and that whatever was decided in such meetings of the advisory board shall be valid and binding upon the agency provided board members present at the meeting have met a minimum criterion of seven members (s 13).

Other provisions of the CRGIA law that further enabled for political control of the agency, is with regards to the revenues it generates. For instance, not only is the governor authorised to demand and be provided information about the agency's activities, but the state legislature is as well authorised to review the agency's financial accounts as well as its operations:

copies of the [agency's] accounts, auditor's report and annual report [of the agency's operations] shall be submitted by the [management] board to the Governor and to the State House of Assembly (s 17(5))

Although the CRGIA law is silent with respect to the qualifications of those who are to be recruited into the advisory board, but it does stipulates that the advisory board shall be composed of the following members: the commissioner of lands as the chair, the director general of the agency, the surveyor general of the state, the director of town planning, the special adviser to the governor on security, a chairman of a local government council representing other local government councils, a representative of the ministry of agriculture, a representative of the ministry of environment, a representative of the forestry commission, a representative of the ministry of finance and four representatives from the private sector, one of whom shall be from an NGO with cognate experience

in land administrative nominated by the state governor (s 6). The law further specifies that the tenure in which the board shall serve in office is a maximum of two terms of four years (s 8) and that in case a board member is found to have committed a misconduct or is convicted, upon recommendation by a disciplinary committee such member may be removed from office by the governor (s 9).

Administrative Control of the Agency

At the administrative level, the commissioner of lands (subject to the approval of the governor of the state and the state house of assembly) may make certain regulations for the agency, for example, the commissioner may (a) set the fees and charges for the payment of services the agency renders to the public as well as set the pre-conditions and the procedures for calculating such fees and charges (b) recommend the forms and formats of documents and how these documents should be procured or authenticated by the agency in the course of carrying out its regulatory mandate (c) the commissioner may also make other regulations that are necessary for the effective operations and performance of the agency (s 20; s21 (1)(2)(3)).

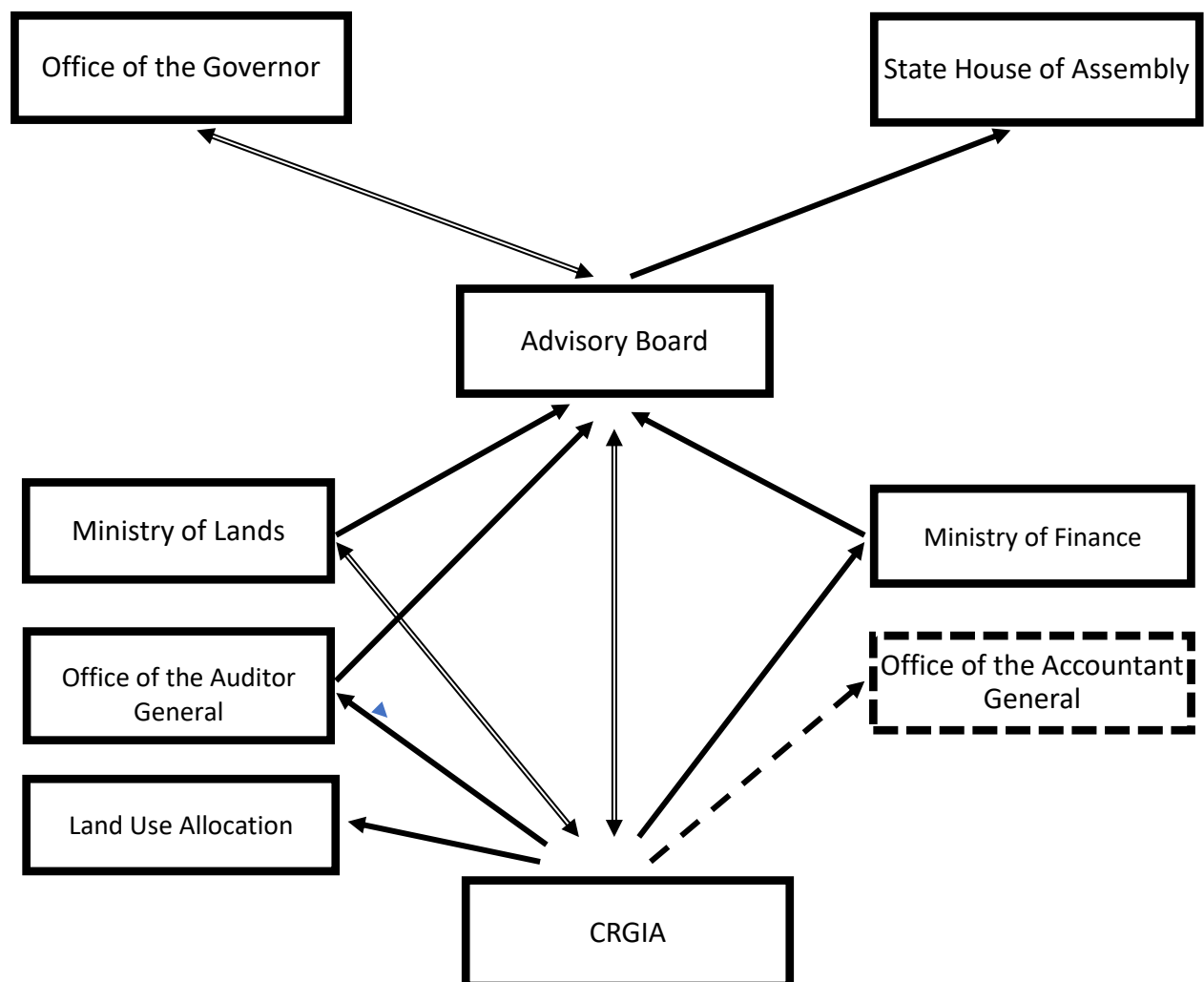
Next in line in the hierarchy of administrative command is the Director General (DG) who acts as head of the agency. The DG (also appointed by the state governor) is mandated to (a) provide an account of the agency activities (b) be responsible for implementing the decisions of the advisory board as well as overseeing the administrative activities of the agency and (c) perform other subsidiary duties assigned to him by the advisory board (s 14 (1)(2)). The CRGIA law also spells out the qualifications required to be the DG, it says the:

[DG] shall have a degree or equivalent qualification in the physical or social sciences or law, and at least ten years' relevant post qualification experience five of which must be in management position (s 14 (3)).

The CRGIA law also provided for a secretary to the agency who is to also act as its legal adviser and whose function is to (a) organise and keep minutes of meetings of the advisory board (b) heads the legal department of the agency and performs other ad-hoc duties assigned to him by the DG or the advisory board (s 15 (1)(2)). The law also requires that the secretary should be a qualified lawyer with a minimum of ten (10) years post qualification experience (s 15 (3)). The various departments of the agency are headed by directors who communicate the various decisions of the management to staff and ensure compliance with such decisions. And finally, there are units within each department that are headed by unit heads who monitor and supervise the activities of staff under the different units and reports to the directors of departments. Together these different components carry out the regulatory mandate of the agency in accordance with the provisions of the CRGIA law.

The agency's financial year runs annually (between January and December) and it is required by law to present to the advisory board its budget for the following year not later than September 30th of every year (s 18 (1)(2)). The agency is also required to reflect in its financial accounts a full record of profit and losses incurred and that such accounts are to be audited (not later than six months after the preceding financial year) by the state auditor general or auditors appointed by the auditor general. The auditor general is also empowered by law to initiate investigations into the financial transactions of the agency if he has cause to do so. Furthermore, the agency is also required to prepare an annual report of activities it carried out during the previous year not later than three months into the current year (s 19 (1)(2)(3)(4)). **Figure 3** below, depicts the formal structure of control of the agency.

Figure 3: FORMAL GOVERNANCE STRUCTURE OF THE CRGIA



Keys: \longleftrightarrow indicates a top down (command) and a bottom up (reporting) relationship between actors
 \longrightarrow indicates only a bottom up (reporting) relationship between actors
 indicates the actor is not formally part of the governance of the agency.

Source (own illustration)

Staff Perceptions on the Internal Workings of the Agency

Funding and other Support to the Agency

At the management level, senior officials of the ministry and the CRGIA had a consensus that underfunding partly account for the land administration bodies dwindling performance. Most officials agreed that they don't get adequate funding support from the state government, as one senior official of the ministry tries to defend the ministry's lack lustre performance:

the governor expressed his displeasure that the ministry is slow in carrying out its duties, but he forgets that he refuses to release funds to the ministry to enable us to perform our functions (w 3).

For instance, all revenues generated by the CRGIA, goes directly to the state government's central treasury account, and that not even the 5% to run its operations stipulated by the law is given to the agency. Thus, the agency can neither fund its operations nor even pay the salaries of its staff. One high-ranking official of the CRGIA describes the situation as akin to "putting money in a bottomless pit", he goes on to state that:

how the money is spent can only be explained by the accountant general of the state, nothing come to us... in order for this place not to shut down completely people are personally sacrificing their money to run this place...management staff often personally give money to staff to go outside and print or photocopy documents... in the last 3 years operational funds for vehicles have not being paid (w 4)

These challenges were also re-echoed by other management officials when they told a story of how the agency was operating at optimum until the new government came into power in 2015 and thus a change of leadership at the ministry. A senior official noted that within a period of just two (2) years the agency has gone from one with bright prospects to one of bleak future. The officials I discussed with told me that in the first few years of its operation, the agency was so funded and functional that it cannot even experience five (5) minutes of power failure. But according to him, today the agency cannot even pay its energy bills such that incessant power cuts from the power company are often experienced by the agency. He further adds whenever such situation happens the management usually resort to personally raising funds among themselves in order to tip the power company to restore back power. Other officials' further shed light on the current situation facing the agency:

a customer will walk in no paper, ink and the computer dead [not functional] to offer any services (w 7).

the processes are characterised by a lot of difficulties, for instance the CRGIA was created to operate 24hrs but it is currently operating below average [sub optimally] due to broken equipment and light problem [incessant power outages], in fact the problem is so bad that staff cannot even access their computers due to lack of power (w 5)

As at the time of writing this chapter officials stated that the agency's staff salaries have not being paid in the last 12 months (w 7). A further challenge the agency currently faces was that of lack of working tools such as servers and computers, officials reported that even the equipment for processing land titles is currently domiciled in the governor's office not at the agency further making the process of issuing land titles less efficient and time consuming (w 3).

Oversight of the Agency's Activities

A commonly held view among officials was a lack of effective oversight on the activities of the agency, officials of the agency are of the view that the ongoing acrimony between the two organisations partly accounts for the inability of the ministry to effectively supervise the activities of the agency. The responses aptly capture these feelings:

because of the crisis with the ministry, we have a conflict relationship with our supposed oversight ministry (w 4).

i remembered the [name and title withheld] told me that over 2 years now the commissioner has been promising to constitute the board but up to now he hasn't done so, yet he is supposed to be the chairman of the board... the way i see it is not in the interest of the commissioner for the governing board to exist (w 7)

Furthermore, there was also a widely-held view among officials that the governor as well as the state legislature does not give enough attention to the activities of the organisations in charge of administering land in the state, one higher-ranking officials claims that:

the governor hardly visits the ministry, the only time i saw the governor is when he came to the secretariat [the secretariat is where all government ministries are located] wanting to catch late comers (w 3)

A CRGIA official also states a similar feeling:

presently the governor has never been here [referring to the CRGIA] since he was inaugurated [in 2015], he seems disinterested in the agency (w 5)

The same view was also expressed about the state house of assembly, one official had this to say:

it was only when staff protested [over salary] that i saw the members of the assembly [legislators] (w 4)

This feeling of poor attention of the political authorities on the activities of the land regulatory organisations also cascaded down among the middle and lower levels. A consistently held belief among the mid and lower levels staff was that of a lax atmosphere within their organisations, especially in terms of scrutiny on what specific administrative procedures staff follow as they perform their job functions:

since the work is not there due to poor working environment, therefore they [management] don't expect much from us (w 8)

Another officer reported:

sometimes when we go out for field work and we have a stipulated date to report back [on what we did], but my supervisor is not too strict on date [deadline] so we can report several days after the given date [deadline]... (w 10)

Other staff revealed that even though some of them are committed to their jobs, but their supervisors hardly show interest in what they are doing:

i always do my reports because that is what is expected of me even though my supervisor doesn't always ask about it (w 11)

The Agency's Loyalty Norms

While the dominant view among officials of the parent ministry was a feeling of obligation to the government over the public, as reflected by the various responses of those interviewed:

the Governor oversees us directly...we have a duty to ensure that he is informed of what is happening in terms of revenue generation and challenges we are facing, we are only open to the public to render services to them, but we don't have a duty to report to the public on our internal activities, they are only given services concerning land registration (w 1).

whenever i have a task to do [as instructed by my director] if it conflicts with the public, i [still] go with my director (w 6).

we are more answerable to the committee [referring to the LUAC] ... (w 3)

In contrast, a feeling obligation to both the government as well as the public was a commonly held view among officials of the agency:

we primarily serve the public...they make inputs and their inputs influence our policy decisions (w 4).

our board is not that influential in terms of policy direction, in fact at the moment we don't even have a governing board since it was dissolved in 2015 (w 2).

Another official puts it slightly different:

primarily i am answerable to my director who in turn is mandated to be answerable to the public (w 7).

This was also true with officials at the middle and lower levels staff of the parent ministry and that of the CRGIA. For example, while the dominant view within the parent ministry was that obligation to senior colleagues than to the public - as indicated by their responses:

[i am more answerable to my director] because he [the director] gives the directives on what we should do based on our schedule of duties (w 8)

Another officer went a little further to describe how he feels about the public and his boss with regards to his job functions:

my director allocates assignments to do, and so we report back to him based on instructions he gave, i consider the public as spectators while my supervisor as a teammate (w 10)

However, mid and lower levels officials of the agency mentioned that even though they feel a sense of obligation to their superiors, but they also feel obliged to the public, as one officer puts it:

because this organisation is service delivery based, therefore i have to attend to the public before my supervisor (w 11)

Discretion in Decision Making at the Agency

A widely-held view among senior officials of both the parent ministry and that of the agency was that taking a discretionary decision depends on the weight attached to such a decision. According officials in some decisions, the agency usually informs the governor or the advisory board before taking a decision. While in other circumstances decisions are often taken without having to first inform the governor or the board. For example, if a decision is a minor one such as reviewing of land fees, it is mostly taken without first informing the governor. However, in major decisions such as allocation of land for infrastructural or commercial purposes, the governor must be pre-informed, and his approval sought before the decision is taken (w 3). As one high-ranking level staff declared:

if we are to make any major policy decision it has to be approved from above [the governor's office], the management cannot just sit and make policy without the consent or approval of the governor (w 5).

Another management official affirms this when he stated:

without informing the governing board we are breaching procedures...major decisions are approved by him [the governor] as far as land matters are concerned, while [in] minor ones [decisions] I inform him [governor] afterwards (w 1).

In addition, another recurring view when it comes to discretionary decision making by officials is to do with the nature of the land regulatory bodies. For example, officials reported that because the regulatory functions they perform are highly technical in nature, they could decide on the contents of land regulations without having to first inform relevant stakeholders (such as the public or businesses). This was also true among the middle level officials within the various departments. Officials at this level also reported they don't have to first inform the management before taking decisions in their various departments, but only required to inform the management of whatever decisions they have taken. As some officials declared:

i don't need to get permission to instruct my staff [and] i had issues with the management [whenever i don't inform them], so i have to give up in the interest of the management, i don't have to inform before the decision but after the decision it is mandatory to inform them, as a manager i have a level of discretion (w 7).

in my professional capacity, I don't have to take decisions jointly with them [the management], but I have to inform them, I have to share the information of whatever I do with them (w 7)

Other mid-level officers also reported similar feelings:

because he [my director] is a professional colleague, he understands what it takes to do the job in terms of the challenges we face, so he gives room for us to use our professional experience to solve problems (w 10)

because he [head of unit] trust me to do the right thing, therefore he does not always keep checking on me (w 11)

However, opinions were divided at the lower levels about taking discretionary decisions. While some reported a feeling of not obligated to inform their supervisors before taking decisions:

we are already well informed through experience; therefore, we don't always have to explain the procedures we follow because it is expected we know the guidelines (w 8).

because i know my job functions, therefore i don't have to explain to my supervisor on the specific steps i take [in registering a land] (w 11)

... [in general, i take decisions independently] except in areas where i make mistakes and he [the supervisor] corrects it (w 9)

Other officers however reported a feeling of obligation to inform their supervisors before taking any decision:

my supervisor is more knowledgeable and experienced than i do, right? therefore i relate with him in detail on every step i take concerning land registration (w 10)

I always inform the management, for example to select staff that will accomplish a certain task, I always inform the management on the number and who gets what done, so if I want 5 staff for instance the management can decide to increase or decrease their number (w 6)

he [the director] is the head, so taking decisions without his consent amounts to insubordination (w 8)

If my supervisor is absent and there is a certain job to be done which requires his approval, if i do it without his consent and when he comes back he usually shows his displeasure, therefore i usually wait for him to approve (w 9)

Public Access to Information on the Activities of the Agency

In terms of how accessibility of information on the activities of the agency, officials interviewed consistently reported that information on the agency activities is easily accessible to the public. Some of the responses among others include:

if we don't provide information that pertains to interests of our clients, land matters are sensitive we could be taken to court, therefore we provide information and documents that are relevant to the public (w 1).

we are bound by the FOI [freedom of information] act to avail the public of all the procedures and guidelines concerning land registration (w 6)

applying for any document or information the public must always be provided to (w 4)

A further probe on those interviewed at both the ministry and the agency shows some of the major ways the agency provides access to information. For instance, officials mentioned a client services desk at the ministry, dedicated to providing information on land registration procedures to the public

(w 2). The CRGIA also has a marketing and public relations department that provides similar services to the public (w 7). However, some of the official disclosed that not all information on the agency or the ministry's operations is publicly accessible. For instance, they suggest that access to information depends on the motive behind the request and whether there are any official restrictions placed on such information, as on senior official in the ministry states:

in government we have classified documents i.e. top secret, restricted and secret etc., therefore we have a duty to protect government secrets...unless an approval is obtained for documents that are classified before the public can have access to them. But we have public documents that the public can access such as legal search on property (w 3).

provided we know the purpose for which such documents are requested, anybody with a clear motive...we have no reason to hide the documents from him (w 5).

Similarly, middle and lower levels officials also expressed a consistent view that information on the regulatory activities of the agency (especially with regards to the land registration guidelines and procedures) are always available to the public. Some of the responses includes:

we do a lot of publicity, [upon] entering [the agency] you meet client services unit that ask you what you want and then tell you everything [required documents] that you need to provide for the registration to be done [referring to information of registering a land] (w 7)

the registry office which is there for conducting search is always accessible to the members of the public (w 8)

Some of the officers also disclosed that public apathy in requesting for information was a persistent challenge. They reported that people rarely come forward to request for such information even though it is available (w 10). Furthermore, a staff disclosed to me that in certain situations the statutory bodies does not give accurate information to the public especially regarding the payment of compensation over government acquisition of private property. In other words, the government usually under value property belonging to individuals when paying for compensation claims and when the officer was probed further to give specific examples on this, he said:

in terms of valuation [on property or land] for [payment of] compensation, we don't usually give accurate information to the public otherwise the public could take us to courts (w 9)

How the Agency Makes Regulatory Decisions

A recurrent view among senior officials in both the parent ministry and the agency was that new regulations are often designed internally. For instance, the usual practice according to those interviewed was that the public is only notified of new regulations when they have been already decided:

we roll out policies, we don't have to inform the public...there was a time we came out with a policy that for one to obtain a consent [government approval] you must show a layout plan because...people build anyhow (w 3)

we often put out notices on land policies and guidelines through gazette and they are all in the public domain all you have to do is ask for it (w 6)

we always put out notices to the public whenever we have new guidelines coming out (w 7)

A major reason given by officials as responsible for this recurrent practice was because the land agencies lack the resources to organise forums where policy or regulatory proposals could be publicly deliberated upon before they are rolled out. As one officer laments:

the sensitization is not there because of poor incentives... no [operational] vehicles to take us round to inform the public, no air jingles [advertisements] (w 8)

lack of public participation in the making of land regulations in turn has led to inadequate understanding of the land regulations by the public, as suggested by some officials:

i am not sure if most of the public are aware of the procedures and guidelines on land registration (w 11).

most times the property owners don't know the importance of [land] registration, [most are not aware that land] registration gives them access to loans and also gives them backing in courts [serves as surety] (w 9)

Clarity of the Agency's Regulatory Mandate

Responses on the extent to which the regulations are clearly stated in the statutes were mixed at the senior level. For example, while some of the officials interviewed claimed the rules and regulations are detailed enough:

the law clearly states this (w 4)

we have land registrations guidelines and procedural manual (w 3)

In contrast, other officials were of the view that some aspects of regulations are ambiguous such that officials often interpret the laws differently. When further asked to give specific examples, the current dispute over mandate between the ministry of lands and the CRGIA was cited as evidence of ambiguity in the land rules and regulations:

by law we are supposed to process C of O's, collect ground rents revenues [taxes on land ownership] and process consent [approval to transfer ownership of land], but the ministry is also claiming such mandate, so there is need for the house [state legislature] to look into this and the committee on public accounts [legislative committee] has agreed on the need to review the law further (w 5)

[there is the need] for a better understanding [of the regulations] by both staff and the public (w 1)

Similarly, mixed feelings were also reported by the middle and lower levels officials on the clarity of the land regulations and procedures. While some indicated that the regulations are easily understood and applied by staff:

land registration is a laid down procedure and if you follow the procedures it is easy (w 8)

the [land registration] procedures have defined steps that staff follow (w 11).

Other officers reported that in certain situations the regulations are silent on which instruments to use and therefore they often go outside the regulatory provisions to solve problems. When probed further to give specific examples one staff states:

in the case of consent [an instrument of land administration] which is not part of the law, sometimes we create the guidelines and procedures ourselves for the smooth operation of our functions... it has gradually become the norm (w 7)

other officers also indicated that the regulations are so complex that staff often commit procedural errors, some of which often incur costs to the government, as one official disclosed:

we have different kinds of documents to be registered which sometimes makes us commit mistakes and people take us to court (w 9)

Another view shared by many officers was that some aspects of the regulations discourage formalization of land titles. For example, the procedure on conducting search on land or property requires that an individual pays a fee to a private lawyer to conduct a search on property of interest so that it is not a subject of litigation. According to officials, experience has shown that this procedure is considered by many people as too demanding and therefore discourages people from formalizing

their land or property titles. The perception is that many see this as the government shifting administrative costs to the public and therefore shying away from its responsibility (w 9 & w10).

Compliance with Administrative Procedures and Enforcing Sanctions at the Agency

Opinions about how the management deals with non-compliance issues such as violation of regulatory and administrative procedures differ among those interviewed. Though a dominant view among officials both at the senior level as well as the mid and lower levels was that applications of sanctions not only depends on the severity of the offence but also whether the offender was a first time or serial offender. Officials indicated that in general the management prefer to first issue warnings rather than punishing staff straight away. The reason for these according officials in both the ministry and the agency was that the substantive rules of the state civil service guide the administration of staff conduct, which spelt out the specific steps to follow in dealing with cases of administrative misconduct.

For example, the civil service rules require that a first-time offender be issued a verbal warning, and if he commits another offence he is to be issued a query. But If he becomes a repeated offender a recommendation may be made for his suspension or dismissal. However, all this steps depends on what the relevant authorities decide on what to do with a case, such as whether to apply sanctions or ignore it (w 3). Some examples of how the authorities handle cases of misconduct as provided by those interviewed includes:

we had a case of a lady who connived with some surveyors and gave a report of a land as free she was dismissed...staff can be dismissed for altering a document... but we also have a staff [who] took a whole file to a market woman [sold an office file containing vital documents] selling Akara [bean cake], he was given a warning based on compassionate grounds (w 3).

we have had cases of dismissal and suspensions, in fact we currently have a case of a staff who fraudulently deceived some people on letter of [land] allocation which was forged, so we recommended sack [dismissal] as a committee constituted to look into his case (w 6).

At the middle and lower officer levels, feelings of leniency in terms of enforcing sanctions differed among the ministry and the CRGIA staff. While most officers of the CRGIA felt that the management

of the agency is strict when it comes to enforcement of sanctions, as indicated by the various responses:

cases of violation [of rules and regulations] is outright dismissal, for example my staff was found engaged in fraudulent practices and was dismissed, even my driver was dismissed in similar circumstances (w 7)

even late coming is punished, committing an offence warranting dismissal is always carried out (w 9)

staff have been dismissed [but] if it were in the civil service they will probably be warned or redeployed (w 11)

Those interviewed at the ministry in contrast reported a general feeling of leniency by the management when it comes to enforcing sanctions, one officer declared:

we work as a team therefore the management needs us and usually temper justice with mercy in whatever punishment they give (w 10)

Other officers mentioned that suspension or dismissal remains the last option in the minds of the management, as one officer outlines:

we have civil service rules whereby if you violate any of the rules you are issued a query and when you can't convince the management then you will be punished (w 8)

CHAPTER FIVE

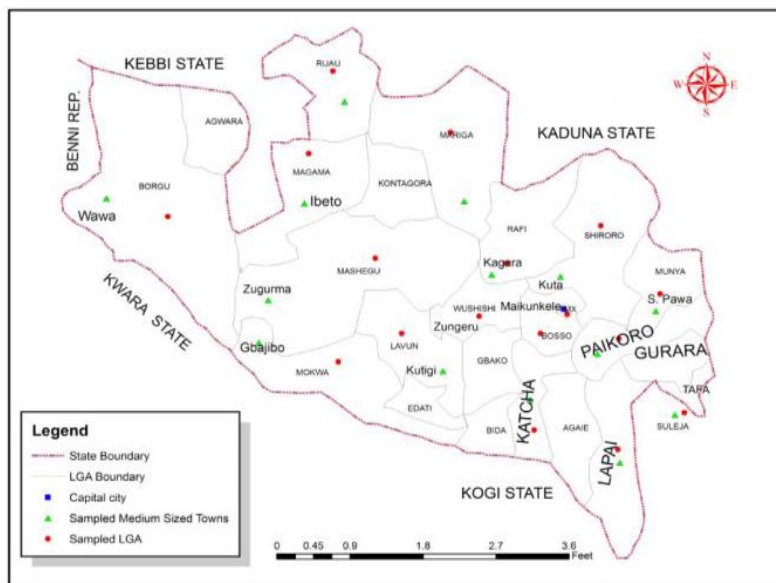
Niger State

Brief Profile of Niger State

The area known as Niger State today was originally part of the defunct North-western state which was one of the twelve states initially created in 1967. In 1976 the military regime of General Murtala Muhammed regime divided the old North-western state into Sokoto and Niger states. In terms of landmass Niger State is the largest state in Nigeria and is popularly referred to as the “Power State” because of the existence of three hydroelectric power stations in the state namely the Shiroro, Kainji and Jebba power stations. Niger State is made up of twenty-five Local Government Areas (LGAs). These include Agaie, Agwara, Bida, Borgu, Bosso, Chanchaga, Edati, Gbako, Gurara, Katcha, Kotangora,

Lapai, Lavum, Magama, Mariga, Mashegu, Mokwa, Muya, Paikoro, Rafi, Rijau, Shiroro, Suleja, Tafa, and Wushishi LGAs respectively (www.nigerstate.gov.ng)

Located in north-central geopolitical zone of Nigeria, the State lies on the 3.20° East and longitude 11.30° North covering a total land area of 76, 469.903 Square Kilometers (about 10% of the total land area of Nigeria) out of which about 85% is arable. The State is bordered to the North by Zamfara State, West by Kebbi State, South by Kogi State, South West by Kwara State, North-East by Kaduna State and South East by FCT. The State also has an International Boundary with the Republic of Benin along Agwara and Borgu LGAs to the Northwest (www.nigerstate.gov.ng)



Source: Audu and Usman (2015)

Reconstructing the Processes Leading to the Reforms of Institutions of Land Administration in the State

A major rationale behind the reforms of the institutions of land administration in Niger state was that the procedures of conducting search and verification of landed property for the purposes of acquisition are too cumbersome and riddled with severe delays and unnecessary procedures. The procedures of registering land were so cumbersome and characterised by extreme cases of missing files such that on average it takes about 3 to 5 years to process a Certificate of Occupancy (CO). The process also lacked transparency, as there was no clarity between what the public paid for land or property registration and the actual revenues going to the government coffers. An official of the ministry of lands had this to say about the state of land administration Niger prior to the reforms “In the past if you come looking for ten (10) files, you hardly get one” (w 23).

Also, a widespread phenomenon prior to the reforms was the issue of “double allocation of land”, which is basically a situation in which land officers allocate the same piece of land to different individuals. This phenomenon according officials has resulted in incessant disputes and litigations between the ministry and individuals, and in turn it created a general lack of public confidence in how land is administered in the state (ibid). The Niger state government therefore felt there is an urgent need to reform the processes of administering land so that public confidence can be restored in the system. For instance, the government envisaged that after the reforms, an application for a CO should be processed within a reasonable period of time in order to restore public confidence in the system. However, the challenge was how to convince the public that the government means business as one official stated:

...is getting to convince people to accept the new changes and gaining their confidence back after years of neglect and a pervasive lack of trust in the institutions of land administration in the state (W 19).

Despite the numerous challenges of the land sector, the state government pressed ahead with the reforms by setting in motion the processes that towards changing the existing institutions of land administration in the state. In 2009, a two hundred million-naira (NGN 200,000,000) contract was awarded to technical consultant (Sivan Designs Ltd) to execute the technical component (computerization of the land administration system) of the reforms. The reforms culminated with the merging of the lands department of the parent ministry with the newly created agency (the Niger State Geographic Information System (NIGIS)), in 2012. The newly created entity was given the responsibility of preparing the core instruments of land administrations such as consent, certificate of ownership, property search and verification, and surveys and production of land maps. Furthermore, in 2014, another forty-nine million naira (NGN 49,000,000) was approved for for the upgrade of the NIGIS technical infrastructure to cater for the anticipated increase in the volume of land registration applications (W 23).

However, at the initial stage the reforms did not go smoothly, as many officials of the parent ministry were opposed to the reforms and thus were refusing to cooperate with the authorities in the implementation of the reforms, as one high-ranking official disclosed:

hoarding of information was a major problem for us, staff engaged in uncooperative attitude towards disclosing relevant information that will help push forward the reforms (w 22)

A major reason for the initial resistance according to the official was the misperceptions by officials of the ministry over jobs security. Many of them felt their jobs may be taken away from them as result of the reforms, the official went further to state:

our major challenge was the misunderstanding of the reforms, staff lack a general sense of what we want to do, so what the management did was to look at those that can be changed and try to explain to them what we really wanted to do and also co-opt those against the reforms by assuring them of being part of the new system and to some extent the strategy worked as it reduced the level of uncooperative attitude initially exhibited by those opposed to the reforms, thereby allowing for the reforms to sail through (ibid)

There were also disagreements among the proponents about how the reforms were to be implemented. For instance, some of the officials are of the view that the lands department of the ministry shouldn't have been merged with the newly created agency (NIGIS). Their argument is that the merger has led to shortage of capacity, especially staff with expertise at the ministry (w 19; w 21; w 22). Nevertheless, the reforms proceeded as planned, and a bill was presented to the state house of assembly for consideration, as one official tries to describe how the bill was presented:

We look for other [land] laws to compare and we told the house of assembly how we needed it done. A public hearing was organised. Initially there was opposition especially by professional bodies like estate surveyors were adamant at the beginning but had to give up and cooperate (w 23)

Institutional Design of the Niger State Geographic Information Agency (NIGIS)

NIGIS was conceived of and designed by the state government (in conjunction with its development partner the GIZ), as a one stop shop agency that is designed to capably provide a fast track land transactions and investments, improve revenue generation from the land sector, as well as an auditing process that provides a trail of who is doing what at any time. The government hopes to achieve these objectives through a number of strategies; eliminating or substantially reducing the bureaucratic bottlenecks and delays around the process of land administration in the state, prompt response to public enquiries and demands, upgrade the land administration infrastructure from an analogue to a digital one, control unplanned growth of settlements through spatial planning (Ministry of lands).

In 2012, a bill for the establishment of the Niger State Geographic Information Service Agency (NIGIS) was passed by the state house of assembly (legislature) and subsequently approved by the state governor in 2013, the NIGIS law states:

there is hereby established an agency to be known as Niger State Geographic Information Systems Agency (in this law referred to as "the Agency") to exercise the functions and powers, and pursue the objectives assigned to it by this law...the body shall be a body corporate with perpetual succession and a common seal and may sue and be sued in its corporate name and hold, acquire and dispose of any property or interest in property, movable or immovable (s 3 (1) (2(a)(b))).

The NIGIS law established the agency is a semi-autonomous agency through the provisions of its various sections which spelt out the powers of the agency vis a vis staff recruitment, discipline and promotion. For instance, one of the provisions states that:

The agency may from time to time, appoint such other employees as it may deem necessary, to enable the agency effectively to perform its function (s 11 (1)).

The agency is however constraint to exercise these powers in consultation with other mandated bodies such as the state's civil service commission, its advisory board. Yet still, it should do so subject to the final approval of the governor. This thereby effectively placed the powers of the agency over its officials under the control and supervision of other authorised bodies such as the state civil service commission:

The staff of the agency...shall be appointed upon such terms and conditions of service as the agency may, after consultation with the Niger State Civil Service Commission...promote and control the staff of the agency as may appear to the agency necessary or expedient and dismiss, terminate, consider the resignation or withdrawal of appointment and exercise disciplinary control over the staff of the agency, other than the general manager...The staff of the agency shall be public officers of the state, as defined in the civil service commission (s 11 (2)(3(a)(b)) (5))

The employment of the staff of the agency shall be governed by the terms and conditions generally applicable to officers in the public service of the state (s 12 (3))

The governing board also has mandate to decide on the terms of staff recruitment into the agency:

The board may specifically delegate to the General manager, the power to appoint such categories of staff of the agency as the board may from time to time specify (s 4)

As well as the state governor who has the final say in approving staff recruitment:

Staff regulations issued by the agency...shall have no effect until approved by the Governor and published in the Gazette (s 12 (3))

Some of the functions the agency is mandated to perform includes (a) maintain, generate, manage and provide information on land transactions (b) register land instruments, regulate and control the instrument of conducting search on land property (c) produce certificate of occupancy (d) carry out subsidiary functions assigned to it by the governor (e) introduce, implement and sustain best practices of keeping land records and certification land titles in the state (f) receive, conduct due diligence on and verification of applications for the issuance of certificate of occupancy or the grant of other rights over land or subsequent transactions in land, within the state and forward same to the authority (g) develop and maintain a database of all land within the state particularly with respect to land title and title history, location, size, use and other related indicators (h) permit access to existing data on land for the purpose of conducting title searches for the public at a fee to be prescribed from time to time (i) undertake all such other activities as are required for the efficient discharge of its duties.

Other duties mandated on the agency include (j) develop and maintain a geographic information system or such other appropriate system and structures in the state for research, land management and development planning (k) acquire develop and manage software and hardware for storing, assembling, manipulating and displaying geographically referenced material (l) establish a central geographic information clearing house to maintain map inventories on current and planned geographic and spatial information system, establish and manage a directory or geographic information and the resources available within the state (n) coordinate geographic information systems projects, including participating in the development and maintenance of base maps and geographic information systems within the state (o) provide consulting services and technical assistance, education and training on the application and use of geographic information technologies (p) maintain, update and interpret geographic information systems standards (q) review and submit to the Governor for approval all proposed geographic information systems projects within the state (r) pursue funding strategies to continually develop and maintain up-to-date geographic information systems solutions for the state (s 5 (1)(2)(3)(4); s6 (1)(2))

In discharging the above functions, the provisions of section 7 of the law explicitly states that the agency (a) shall have a right to all relevant geographic information records of any person within the state and (b) may by a written notice, serve any person request to furnish or caused to be furnished geographic information or other similar information held by or available to such persons, on such matters as may be specified in the notice and (c) it shall be the duty of any person required to furnish information pursuant to provisions of the section to comply with the notice within the period in the notice or where no period is specified in the notice within a reasonable period (s7 (1)(2)).

And section 17 of the law further stipulates the penalties imposed on any individual who attempts to prevent the agency from executing its mandate:

Any person who (a) wilfully obstructs the agency or any authorized officer of the agency in the exercise of any of the powers conferred on the agency by this law; or (b) fails to comply with any lawful enquiry or requirements made by an authorized officer in accordance with the provisions of this law shall be guilty of an offence and shall be liable upon conviction to a fine of two hundred and fifty thousand naira or imprisonment for a term not exceeding six months or to both such fine and imprisonment (s 17 (a)(b))

In addition, the law also provides a detailed guideline of how litigation could be brought against the agency in a court of law:

no suit shall be commenced against the Agency before the expiration of a period of one month after written notice of intention to commence the suit shall have been served upon the agency by the intending plaintiff or his agent and the notice shall clearly and clearly and explicitly state (a) the cause of action (b) the particulars of claim and (c) the relief which he claims... shall be served upon the agency in connection with any suit by or brought against the agency shall be served by delivery of same to the secretary of the agency (s 18 (1)(2))

Political Control of the Agency

By the position he occupies as the chief executive officer of the state, the governor automatically assumes overall control of all instruments of land administration in the state. For example, the state governor is the final approving authority in granting of right of occupancy as well as approval of certificate of ownership of lands to individuals or corporate organisations (s 5 (1)). Section 1 subsection 1 of the land use act of 1978 states that:

all land comprised in the territory of each state in the federation are hereby vested in the Governor of the state and such land shall be held in trust and administered for the use and common benefit of all Nigerians in accordance with the provisions of this act

The land use act therefore effectively makes the state governor the final approving authority over the most important instruments of land regulations such as certificate of occupancy or right of occupancy. However, some of the powers of the governor over the agency are exercised by proxy, for instance, the governor appoints a governing board that acts on his behalf to supervise and make policies and regulations for the agency:

There is hereby established for the agency, a governing board to be responsible for the general policies of the agency... (s 4 (1))

The board may subject to the approval of Governor make regulations for the effective operation of this and the due administration thereof (s 16)

Although the law establishing the agency is silent on the specific mandate given to the governing board in providing the overall regulatory and policy direction for the agency, it does however spell out how the members of the board are to be recruited, remunerated and sanctioned (if found guilty of committing an offence), the law states that the board shall be composed of (a) a chairman with cognate experience in land related matters (b) the general manager of the agency (c) two persons (one of whom shall be a practitioner of land related matters) from each of the three senatorial zones of the state (d) a representative from the Niger state urban development board not below the rank of director (e) a representative of the ministry of justice not below the rank of a director (f) a representative of ministry of lands and housing not below the rank of director. All the members of the board according to the provisions are to be appointed by the governor and shall serve on a part time basis except for the General Manager of the agency (s 4 (1) (a-f)).

The law also stipulates that the board members serve for an initial period of 4 years, of which may be renewable for a further 4 years only. The law also provides for how a member may cease to act in his capacity as a board member. For instance, a member of the board may resign from the board by notifying the governor in writing and in case of death the governor shall appoint another member to complete the remainder of the term of the said member. The Governor is also empowered to remove any member from office if he considers such a member as acting contrary to the agency's or the public interests. The emoluments, allowances and benefits are also to be determined by the Governor board members (s 3 (a-c) and s 4). The board is also required to have a Secretary whom shall have a 10 years post legal practice qualification experience and who also doubles as the agency's secretary. The secretary is mandated to (a) issue notices of meetings of the governing board (b) keep the records of the proceedings of the board (c) carry out such duties as the chairman or the board may from time to time direct him (s 10 (2) (a-c)).

Administrative Control of the Agency

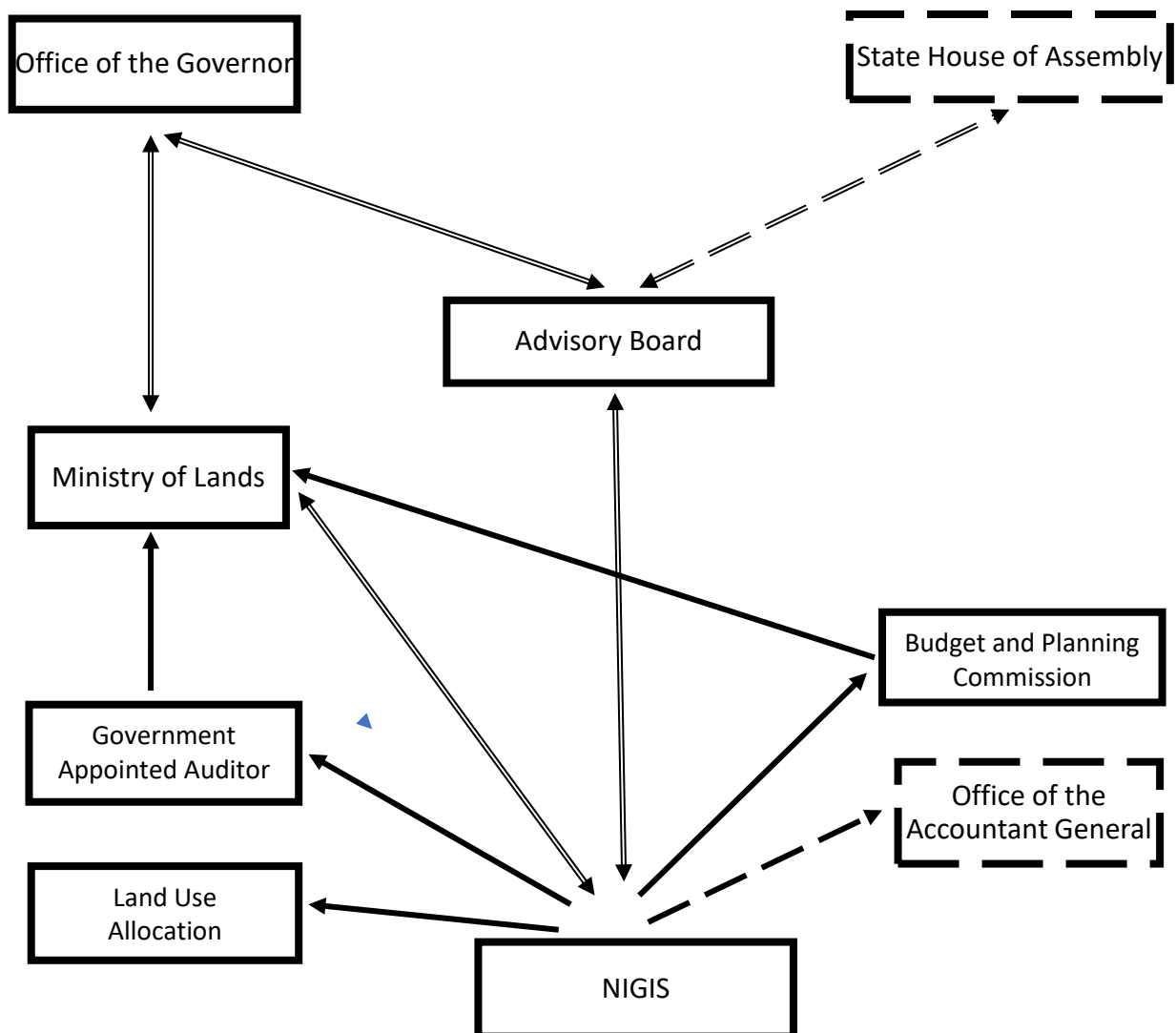
A General Manager (appointed by the Governor) acts as the chief executive officer of the agency (s 9 (1)), he is to have a cognate experience of no less than 15 years in either geographic information systems or land related matters (s 9 (2)). The general manager is mandated to oversee the daily administration of the agency as well as the execution of the policies and practices of the agency under

the supervision and control of the governing board (s 9 (3)). He shall also hold office for a term of 4 years and renewable for another 4 years or such terms together with his emoluments as specified by the governor on his letter of appointment. In addition, the general manager is also mandated to make other administrative policies that may aid the provisions of the law establishing the agency especially with regards to matters that concern geographic information systems (s 9 (4)(5)(6)). However, the law is silent on who should or how the general manager is to be removed from office, such as in situations where he is found to be unfit to continue carrying out the mandate bestowed on him.

Under the requirements of the NIGIS law, the agency is mandated to establish and maintain a financial account known as “the fund”, which shall consist of (a) the initial take off grant from the state government (b) other funds such as a subventions provided by the government (c) fees and other charges received by the agency from its regulatory activities (d) all other funds accruing to the agency by way of grants, gifts, testamentary dispositions, endowments, bequest and donations made to it (e) income from any investment or other property acquired by or vested in the agency and (f) any other fund accruing to the agency (s 13 (1)(a-f)). The fund shall be managed in accordance with the rules prescribed by the state governor in accordance with the provisions of the law such as the way the assets of the funds are held, how payments are made into the fund account and how record of transactions is properly kept (s 13(2)). In addition, subject to the approval of the governor, the agency is also allowed to raise funds through borrowing to enable it effectively to execute its mandate (s 13(3)). It may also accept gifts, grants or donations such as land, money or property from any person on terms acceptable to the agency provided such is done in good faith and not contravention of the law (s 13 (4)(5)).

The NAGIS law also requires that the agency prepare its annual budgetary income (revenues expected to accrue into the agency’s fund) and spending estimates for the incoming year before the end of every year September of each year (s 14(1)). Adhere to accounting standards by keeping proper records of its financial accounts and the agency fund account shall be audited at the end of each by auditors appointed by the governor who are to be paid by the agency (s 14 (2)(3)). In addition, every mid-year (specifically June 30th) the reports of the agency’s audited accounts, its activities as well as its administration during the preceding year, are to be submitted to the state governor through the commissioner of lands whose comments shall form a part of the reports submitted to the governor (s 15 (1)(3)). **Figure 4** below, depicts the formal control structure of the agency; the different arrows indicate the kind of administrative mandate an authority has over the agency and the obligation placed on the agency to answer such authority:

Figure 4: FORMAL GOVERNANCE STRUCTURE OF THE NIGIS



Keys: \longleftrightarrow indicates a top down (command) and a bottom up (reporting) relationship between actors
 \longrightarrow indicates only a bottom up (reporting) relationship between actors
 \cdots indicates the actor is not formally part of the governance structure of the agency.

Source (own illustration)

Staff Perceptions on the Internal Workings of the Agency

Funding and other Support to the Agency

A recurrent phrase amongst most officials interviewed at the management level was that the agency lacks adequate funding to effectively execute its mandate. For example, the agency does not have a

special budgetary allocation that comes directly from the government treasury. Instead, it is funded from the parent ministry's budget. As a governing board member of the agency reveals:

they [the agency] generate significant revenues but the percentage they are given of the money they generate is too small because they are an appendage [under] of the ministry which they have no control over (w 20)

Therefore, the agency further relies on external support from international development organisations such as the German agency for International Development Cooperation (GIZ) to supplement its income which is still not adequate to cover for the shortfalls. The GIZ for instance not only provided the funds for the agency's staff trainings on new system of land administration such as the geographic information system, but also donated the equipment needed for operating the GIS platform such as computers, GPS devices, data capturing machines, printers etc. Officials of the agency further complained that frequent power outages meant that these donated equipment cannot be fully utilized (w 23). As one management official laments:

funds were so scarce that it often severely impacted on the ability of the ministry and the agency to mobilize officers for field work, for example, office working tools such as computers, survey equipment were wholly inadequate, for instance, handheld GPS to be given to officers for field work were not enough at the headquarters not to talk of the ones to supply to local area offices (w 19)

This was further compounded by a lack of staff capacity as no fresh recruitments were made into the new agency, the ministry simply deployed existing staff to the newly created agency:

we didn't go outside the ministry to source for staff it was the same officials of ministry of lands and housing that are still in NIGIS...we felt that this can reduce cost for the government (w 22)

This further placed constraints on important departments (such as the survey and cartography departments) within the ministry since a significant number of its staff have been deployed to the new agency. While most of the remaining staff have either reached the mandatory retirement age or some have even died and there was no fresh recruitment into the service to replace them (w 19). Another dominant view among the middle and lower levels officials was also a feeling of poor working environment. One staff reported "staff are only provided the basic tools to work with though working conditions, in short some important things are lacking". And when further probed to give specific example of what he meant by lacking he mentioned, "offices and furniture" (w 24). Another staff affirms this when he also mentions "lack of enough working tools" (w 25). Other officers reported lack of operational vehicles as hampering their ability to conduct site inspections and also carry out

sensitization tour in communities about the agency's activities with regards to regulating land (w 26). Another officer also reports the same challenge:

...we have only one operational vehicle which only the manager uses so we are demobilised, poor working environment having undergone training capacity (w 27)

Another staff reported:

... staff are not well motivated, working equipment are hardly provided sometimes staff go out of their way to personally purchase working equipment to their jobs (w 28)

Oversight of the Agency's Activities

The advisory board of the agency was inaugurated in 2012 and functioned up to 2015 when it was dissolved with the change of government and since then a new board has not been inaugurated (w 23). We tracked and interviewed some members of the advisory that served in the previous administration, those interviewed were of the view that the agency had a harmonious relationship with the board. They stated that the board regularly receive briefings from the agency on its activities and that the agency also complies with any Terms of Reference (TOR) drawn up by the board to provide policy directions:

We hold meetings with the agency regularly, by law we are supposed to meet monthly... but in fact we even changed the meetings [with the agency] to monthly so that members will understand thoroughly the workings of the agency (w 20)

Another board member reported:

The management brief us quarterly and if there is anything happening we are sent notices (w 21)

This was also corroborated by other management officials of the agency. For instance, a senior official mentioned that the advisory board members even surpassed the number of sittings they are required by law to meet - as almost every month the board meets. When further asked to describe how the board relates with the agency the official said:

They usually ask of updates on our progress and challenges we face, and discuss where we are heading, for instance in 2014 it was through their efforts based on the information we provided concerning our challenges that they took it up to the governor through the commissioner [the chairman of the board] and some funds were approved for us (w 23)

There was also consensus among most officials that there is a harmonious relationship between the ministry and the agency, officials in both the ministry and the agency mentioned that the ministry supervises and monitors the activities of the agency. For instance, a monthly meeting between the ministry and the agency to discuss issues such as revenues generated is common. And that this ensured there is no communication gap between the two organisations. As one management official of the agency states:

As an agency under the ministry we report to the commissioner because access to the governor is difficult even if the law provides for that (w 23)

In addition, most administrative competences are shared between the ministry and the agency. For instance, the procedures for applying the instruments of land regulations such as the granting of consent or certificate of occupancy usually begins at the agency, passes through the ministry for the commissioner's approval and terminates at the governor's office for final approval (w 23). However, since 2015 when a new government came into power the advisory board has not been constituted, most officials reported the absence of board since 2015 (w 22; w 25; w 26).

The Agency's Loyalty Norms

According to senior officials of the agency each actor involved in land administration in the state acts in accordance with the mandate given to them. For example, some of the advisory board members interviewed reported the board only relates with the government:

we don't have anything to do with the public because we advise, and the government implements (w 21)

...we are there as the watch dog of the government so that the enabling law is properly implemented (w 20)

Similarly, especially with regards to policy formulation, the management officials at the agency also reported a general obligation to report to formal authorities:

It [the agency] was established on statutes and based on that it is working according to the rules and regulation establishing it (w 22)

For example, officials reported that the advisory board directs on how policies are to be implemented and when probed on whether lack of public input into the agency's policy making process may overlook some concerns by the public, one management official puts it this way:

For me I feel they [advisory board] acts in the public interests, both the agency and the advisory board are working in the interests of the public, we listen to the public and

try to adjust. We only give information that is relevant to the public, for instance the public can only ask for information related to land acquisition procedures. For accountability purposes relevant government bodies like the Code of Conduct Bureau is the body that can request for such information. So, we are only answerable to the public to the extent to which that affects them (w 23)

At the mid and lower levels of the agency, there was also a general feeling of obligation towards the authorities rather than the public:

nature of the civil service does not allow you to report to the public, you are to be seen not be heard, only the political heads like the commissioner are answerable to the public, therefore i am more answerable to my director (w 24)

I answer my general manager first before the public because we work together, for our work to be successful there is need to cooperate with each other (w 25)

Anything or decision I must brief him first, he is the first person I report to (w 26)

Due to the nature of my job which is very technical I must ensure that I use my professional judgement to decide on what is in the public interests like deciding on where structures are to be erected to shield the public from danger. They [public] might not want it but we must do it. The nature of my job also does not need much contact with the public (w 27)

[Because of] hierarchy in public service whatever my boss decides is binding on me than that of the public because the public service is configured to have little or no contact with the public (w 28)

Discretion in Decision Making at the Agency

Officials at the management levels reported that in general the agency enjoys a considerable freedom to take regulatory and administrative decisions without excessive interference from its parent ministry or the political authorities:

The agency is designed to be self-sustaining and the ministry only supervises it (w 22)

Another management official of the agency affirms the agency's autonomy in taking regulatory as well as administrative decisions, when probed further to give specific examples he said this:

For instance, I have complete autonomy to process certificate of occupancy or consent [referring to the agency's freedom to process instruments of land administration

without hindrance from the parent ministry], another example is that just a week ago, I requested somebody to be removed from here for misconduct (w 23)

This was also indicated by some members of the advisory board interviewed, they reported the agency enjoys discretionary decision making. Their argument is that by merging the lands department of the ministry with the agency, effectively transferred more responsibilities and thus discretion to the agency. For example, instruments of regulations such as compensation, acquisition and survey formerly handled by the ministry through the lands department are now handled by the agency as a result of the merger. The advisory board members I had interviews with told me that the board even wrote a memo to the governor recommending a review of the merger so that the merger does not place too much burden on the agency and slows down the process of administrating the regulations, but the recommendation was not approved by the governor (w 21).

Similar responses were also reported at the mid and lower levels of the agency, most of the officers at the middle levels such as those heading units within departments indicated that they usually decide on how the various units under their commands are run. For example, when one of the interviewees was asked to describe how he runs his unit he stated:

I manage the staff under me such as bringing innovative ideas on how to move the unit forward, but all within the limits of the civil service rules (w 24)

Another mid-level officer said:

My GM [general manager] allows me to take decisions in my unit without first having to inform him (w 25)

Yet still, another officer further confirms the independence staff of the agency enjoy with regard to taking independent decisions:

The management gives me the opportunity that suits how I carry out my job, it [the management] gives me freehand in choosing who and how to carry out tasks (w 26)

The responses from officers at the lower levels of the agency were mixed, while some staff at this level also reported a general feeling of independence in taking decisions regarding their various job schedules. For instance, one of the interviewed officials reported that even though administrative procedures are hierarchical, but in general contrary opinions regarding administrative matters are welcomed and if convinced their bosses usually approved their decisions and if not, such decisions are reviewed (w 27). Another officer reported that he can suggest to his boss to approve decisions he considers the best options to improve services such as consent to mortgage or transfer of land or property, but such suggestion depends on the final decision taken by his boss (w 28).

The management wants results, so if they give you an assignment, how you will go about doing it is your business, just bring them what they want (w 22)

Other officials of the agency also reported that regardless of whether a decision is made at collective or at individual levels, in general people do not take decisions independently of those who supervise over them. Starting with the advisory board, some officials indicated that the agency always keeps them informed on any policy or regulation it is about to take decision on (W 20; 21). Opinions about discretionary decision making also differ among higher-ranking officials, while some felt the obligation to inform superiors before taking decisions, as one officials state:

I have always informed the management before taking major decisions if I really don't want to be in trouble, for instance when we had the advisory board it was important for us to carry them along to know what we are doing so that they don't deal with us (w 23)

However, most officials at the mid and lower levels reported they usually don't take discretionary decisions in isolation of their departmental or unit heads, some of these responses include:

If it's a decision that affects the management I will be facing insubordination, but if it is a minor decision the management simply want to get the job done regardless of how I do it (w 24)

Any decisions we take we have to inform our superiors because these are decisions that affect the public. However, sometimes I take decisions without informing my superior especially minor ones that I know don't have any significant impact (w 25)

And when asked to give specific instances of how decisions are taken with the explicit permission of their supervisors, one officer had this to say:

Of recent we had issues with some youths while working on site, we had to stop the job we were doing while I come back to inform the management before taking any decision (w 26)

Similarly, other officers also reported obligation to give detail accounts how they apply the regulations in the field to their supervisors:

I have to explain in detail [to my supervisor] because if anything goes sour my supervisor takes the heat, therefore he must be in the clear picture (w 27)

However, in situations where the regulations are silent on what instruments of the regulations to apply while carrying out their jobs, some staff reported taking decisions outside the regulations. For instance, one interviewed staff stated that in exceptional circumstances such as when a land or

property title has exchanged hands between many people and the original owners could not be found, they are sometimes asked by their senior colleagues to advise on the best possible way to handle such matters (w 28).

Public Access to Information on the Activities of the Agency

There was a general agreement among management officials that the agency often carries along the public concerning the activities of the land regulatory bodies, one management official said:

They [the agency] advertise their activities on TV and radio talks which I once participated, they also do flyers [leaflets] and neighbourhood visitations to get information across to the public (w 20)

There is a weekly programme sponsored by the ministry of lands called "land matters" where the various heads of departments [of the ministry] engages the public of the activities of the ministry (w 24)

When the public come for information we provide them such [information] and we also do sensitization (w 22)

A management official tries to contrast the past situation with the current one, he stated that prior to the establishment of the agency, officials of the ministry of lands often hide information to the public, but that presently the public is availed of any information it requests (w 21). This was also corroborated by another official when stated that the agency publishes on its website statistics on the number of land registration certificate made, processed, collected and those awaiting collection. Doing this according to him affords the public the opportunity to track the total number of C of O's signed by the governor and are ready for collection, or those awaiting the signature of the governor or those Cos that have already been collected by awardees. And that as soon as a CO is signed by the governor, text messages are sent out to respective applicants to come forward for collection (W 22).

This was also true across the responses from the mid and lower levels officials of the agency, in general staff reported that information about the agency activities is easily accessible to the public:

Documents are there for the public, so I don't think there is any reason to hide them (w 25)

Whenever the public come they are informed about the land registration guidelines and procedures (w 26)

NIGIS [the agency] is always open for enquiries Monday to Friday and if you can't come [to the agency], our website is open 24 hours and we have app on Google store and Facebook [page] (w 28)

However, some of the interviewed staff also reported that despite the availability of information there is public apathy in coming forward to ask for information, for instance one staff had this to say:

Is available [information] but most people are not aware of such documents or their rights [to ask for information] (w 26)

Initially the public is not well informed, therefore don't see the need to register their lands...but slowly things are getting better (w 27)

A lot of people don't have access to internet to search for information on land titling procedures, also TV and Radio advertisements are inadequate (w 28)

One of the interviewed official went in detail to reveal the dilemma the agency faces regarding the lack of public interest in undergoing the procedures of registering their land:

They are available [information] because we have pamphlets, on air advertisements etc, but the information dissemination is not very effective, [but] the irony is that majority of the public doesn't seem to care. People don't bother to go through the guidelines they prefer to give gratification [bribes] to staff to do the procedures for them such as court affidavits or statutory declaration of age. These are things the individual should do himself (w 27)

How the Agency Makes Land Regulations

Management officials reported that the public is always notified of new land regulations rolled out by the agency. This according to them is that public is often notified of new policies and guidelines through the mass media such as announcements on Newspapers, TV and Radio or sending bulk Short Message Service (SMS) to the public (w 20). As an advisory board member states "during the period of my tenure I have witnessed NIGIS [the agency] always putting notices on TV and Radio" (w 21). However, it is also interesting to note that the formulation as well as the contents of the regulations are often decided within the agency without public inputs into the process, as one management official declared:

Often, we make the policy decisions and later we inform the public about our decisions (w 22)

Officials at the mid and lower levels, also reported that the public is usually post-notified rather than pre-notified of new land regulations and policies as indicated by the different responses from those interviewed:

When we wanted to introduce the land bonanza [a discount on land fees to incentivise people to formalize their land titles] the public was notified, and we even extended the period and the management team went around all the 8 traditional councils to enlighten the public (w 26)

We often notify the public, for instance whenever we are coming out with new guidelines we call for public comments through adverts on newspapers and radio. However, sometimes we take decisions by ourselves having in mind that those decisions are in the best public interest. For example, whenever we want to acquire land for public projects such as dams, roads or housing estates, first we have to go to a district head concerned inform him and seek his consent, then all the stakeholders such as farmers and land owners are contacted and invited. We tell them our mission and then we do the assessments and then paste the notices so that anybody that has a complaint can come forward (w 25)

Clarity of the Agency's Regulatory Mandate

Views about the clarity of the procedures of registering land were mixed among higher-ranking officials, while some reported there is need for the procedures to be more specific, others reported that the procedures are clear and detailed. For instance, while some of higher-ranking management officials interviewed stated that the regulations are complete:

The laws are clearly stated (w 20)

We have looked at the regulations in other states [of Nigeria] and discovered that Niger state's [regulations] are quite comprehensive (w 21)

Other management officials reported a need for some aspects of the procedures be further reviewed, as one higher-ranking official remarked:

Some of the procedures evolved based on experience in the day to day running of the agency [norms] (w 22)

Another higher-ranking management official of the agency declared:

Yes, guidelines and procedures should be clearly stated, so it should be provided (w 23)

In contrast, all officials interviewed at both the mid and lower levels reported that the land registration procedures are detailed and clearly stated:

The land use act is properly stated, there are ethics that guide all professionals in the ministry such as town planners, surveyors etc (w 24)

Another mid-level officer stated “everything [the land registration procedures] is clearly stated” and when probed further to demonstrate why he considers the procedures clearly stated, he had this to say:

For instance, guidelines for land registration states that a person must fill a land form either electronically via the website or download and fill it manually, then a land officer opens a file for the customer with his passport. Even the recent staff deployed here if you ask them what the procedures for land registration are, they would be able to tell you the complete steps (w 25)

Another mid-level officer had this comment about staff in his unit:

Staff know the procedures of land [registration], they can't tell me they don't know it because if one procedure is missing the whole thing [process] is compromised (w 26)

Lower level officers also reported the land registration procedures are easy to comprehend by staff:

They are very easy to understand, however sometimes when it comes to land or property that is subject to litigation is where you use your judgement to solve problems outside of the procedures (w 27)

The procedures are clearly spelt out, documents that are required to process a land can easily be obtained... (w 28)

Compliance with Administrative Procedures and Enforcing Sanctions at the Agency

Those interviewed at the advisory board as well among higher-ranking officials of the agency indicated that in general staff of the agency often complied with the land regulations and administrative procedures. While the advisory board members indicated that the management of the agency generally complies with the board's instructions:

The agency always complies with our advice and is responsive to public complaints (w 20)

We did not have any issues with the management throughout our tenure (w 21)

However, at the management level opinions about the way sanctions are enforced at the agency were mixed; while some officials reported that sanctions are strictly enforced, such as when a staff is found to have violated the regulations he or she is punished right away. When further asked to give specific example, one management official remarked that:

the ministry recently sanctioned some officers with a termination of appointment over a fraudulent allocation of a piece of land in Gidan Kwano local government (w 23).

Other officials reported that except in cases where a staff is found to have consistently violate instructions, in general the management prefer to warn than sanction officials (w 22). Furthermore, even more interesting to note was that at the mid and lower levels except for one official who reported that staff are always sanctioned through redeployments or demotions though also admitted that dismissals were a rare occurrence (w 24). Other officials interviewed also reported that in general the management is lenient when it comes to enforcing sanctions violation of the regulations, most of the time staff are warned (w 25). For example, according some of the staff even when a staff is found to be involved in a corrupt act he may still be warned by the management, as some officials attempt to describe the process:

Sometimes a staff may be in corrupt cases but will be warned several times, if he continues [even] after several warnings, a query is then issued and that is all. And if he is queried up to 3 times a disciplinary committee is set up that will deal with the staff using extant civil service rules (w 28).

When a staff defraud somebody and when reported to the management he might just be asked to pay back the individual rather than be suspended or dismissed, a normal Nigerian thing (w 27)

A staff was recently queried and warned as opposed to being suspended and asked not to repeat such (w 26).

PART THREE

CHAPTER SIX

Comparative Analysis of Land Policy Regimes in the Study Locations

The evidence from the field observations as well as accounts given by officials at different levels of the parent ministries and the agencies, point to some important dimensions that appeared to have conditioned how the land policy changes were implemented at the study locations. First, the findings suggest that the behaviours of relevant actors matter more for the implementation than does the different designs of the regulations adopted by the states. For instance, the implementation of the policy changes was very context specific such that much of what occurred during the implementation of the reforms was a function of the different actions taken by the political authorities and the implementing bodies rather than that of the rules in use. For instance, while all the states under study had in their land laws a provision which requires the state governors to appoint an advisory board with the mandate to provide general policy direction as well as oversight on the land agencies. Niger state was the only state that complied with this provision, yet Nasarawa state (despite its non-compliance to this provision) appeared to have outperformed both Niger and Cross Rivers state in terms of regulatory making and oversight.

One possible explanation for this was the willingness of the Nasarawa state government and the ministry of lands to actively oversight the agency. This seemed to have compensated for the absence of the advisory board in Nasarawa state. A consistently held view among staff was that of a relatively successful reform. This according to them was made possible by a credibly sustained commitment from the political leadership as well as the existence of an effective cooperation and coordination between the agency and the parent ministry. The agency also aligned its conduct with the goals of the authorities. In addition, the agency management also ensured that staff within various departments and units are strictly monitored. In the case of Cross River conversely, the advisory the advisory board neither existed nor was the state government or the parent ministry willing to step in and fill the created vacuum. Moreover, the acrimony over mandate between the agency and its parent ministry further compounded the problem for the agency and worsened an already bad situation. The dominant view among staff of the agency was that of a failed reform. They reported a general lack of commitment from the political leadership, together with the existing discordant relationship therefore

ensured an ineffective cooperation and coordination between the agency and its parent ministry. Overtime time the agency realized the state government was not willing to provide the agency the needed support to thrive and therefore, lost confidence in the system and was no longer putting in any effort to ensure that the state government's objectives were aligned with theirs.

In the case of Niger state, the dominant view was that of a mixed bag outcome. Officials repeatedly mentioned that despite a good working relationship between the parent ministry and the agency, a lack of sustained commitment by the political leadership had prevented the full realization of the reform objectives. A limited support the agency receives from an external donor (the GIZ) and a harmonious relationship between the agency and its parent ministry was what gave the land reforms some impetus. These revelations coming from officials of the land bodies were further corroborated by the observations we made in the study locations. For instance, in terms of resource capability, a visit to the NAGIS in Nasarawa indicates that the state government has made tremendous efforts towards creating an enabling environment for the reforms to succeed. For example, despite the general power shortages in the country, we observed that the agency was powered twenty (24) hours a day using generators. In contrast, in Cross River and Niger states we observed that sometimes the land agencies could go without power for days since they must rely on the power company because they lack the funds to provide an alternative source of power. Similarly, we also observed that the Land agency in Nasarawa state is fully equipped with modern working tools and staff capacity building trainings are regularly undertaken. However, Niger state, resources were so meagre that that the agency relies not only relies on external donors (such as the GIZ) for working equipment but also the funding of staff capacity building trainings. This was also true in Cross River; the land agency's situation was even worse than that of the land agency in Niger state because it neither gets funding from the state government nor from any external donor support.

A further important finding is to do with the different interpretations, perceptions and understanding of the land rules and regulations by officials. Officials of the parent ministries noticeably differed with officials of the agencies in how they perceived, interpret, and therefore understand the land regulations. For example, while the dominant view was that of a feeling of being more obligated to the government than to the public among staff in the parent ministries. In contrast, the dominant view among staff within the agencies was that of a feeling obliged both the public and the government. This was also true with regards to enforcing sanctions in cases of non-compliance, a recurrent view among ministry officials was that of lax enforcement by superiors, while officials of the agency repeatedly reported a swift enforcement of sanction. Furthermore, from the analysis of the land laws, we also observed that the regulations heavily focused on the executive arm than other arms such as the judiciary or the legislature. For instance, the state governor features prominently as the central

figure in land matters, again suggesting the reforms like the earlier land reforms such as the Land Use Act of 1978 concentrated powers on the state governors. For instance, we conducted a line by line analysis of all the provisions of the regulations in the study states and found that the 'legislature' was only mentioned once in Cross River state while Nasarawa and Niger states had zero mentions of the state legislature in their respective land laws. This was also true of public participation in the making of the land regulations, again none of the land laws had a mention of public participation in all the three study locations. This seem to coincide with the dominant view among officials who see the government or their senior colleagues as more important to them when it comes to implementing the land regulations than does the public.

In terms of discretion in taking decisions at the collective (agency) as well as at individual levels, while the dominant view among officials of the land agencies in some states such as Cross River and Niger states was that of exercising moderate discretion. In contrast, most officials of the land agency in Nasarawa state reported having a low discretionary authority in taking decisions (both at the agency and individual levels). Officials within agencies in Cross River and Nasarawa states repeatedly mentioned instances where they have first taken decisions and then informed superiors of such decisions afterwards or sometimes even if they take decisions outside of the regulatory mandate of their organisations their senior colleagues are not too strict about punishing such decisions. On the other hand, a recurrent view among staff of the land agency in Nasarawa was that any decision a staff takes without first having to communicate with superiors are strictly discouraged and punished.

Public accessibility to information about the agencies activities is observed to be very high in Nasarawa and Niger states, while in Cross River the activities of the land agency is found to be less visible to the public. For example, while both Nasarawa and Niger states have a functional website that is available 24 hours to the public and made available information on land instruments such as land registration forms or procedures for formalizing a property titles. They also regularly engage and inform the public on the activities of the agencies via town hall meetings, TV, Radio and Newspaper adverts. The land agency in Cross River lacks a functional website as of the time of writing of this project, a customer could only have to physically visit the agency to access any information. In addition, due severe shortage of funds, the agency does not also regularly engage with and inform the public on its activities such through town hall mediums, TV or Radio. This observation was also substantiated by some of the views among officials of the agency that the public is not adequately aware of the land regulations in the state.

Compliance with regulatory and administrative instructions among officials is observed to be high in Nasarawa, but low in both Cross River and Niger states respectively. Some of the reasons responsible for this is that most lower and mid-levels officials at NAGIS in Nasarawa state reported that regardless

of whether an offence was committed in error or deliberate, their senior colleagues do not take cases of non-compliance lightly. While in Cross River and Niger states the dominant views among officials were at best mixed. On the one hand, there were those who felt that their senior colleagues were lenient when it comes to punishing non-compliance. Some of the staff adduced reasons such as the management was aware of the challenges staff faced such as poor working environment and several months of unpaid salaries and thus the general lax attitude by the management to sanction staff. On the other, there were those who disagree and instead reported strict enforcement of sanctions by their senior colleagues and that staff strictly comply with administrative and regulatory instructions.

In addition, the management of the land agency in Nasarawa state also employed a carrot and stick approach to induce staff compliance with administrative and regulatory instructions. For example, when a staff, unit or department within the agency meets a performance target or recorded less errors in their jobs, they are often rewarded in cash or in kind by the management and when they perform badly or found to have made unacceptable errors they usually receive knocks. This kind of incentive-based mechanism was observed to be absent in Niger and Cross River states. Another crucial finding is the pervasive lack of continuity in the implementation of the land reforms, this is more pronounced as was the case of Cross Rivers and Niger states. For instances, at the beginning of the reforms the reforms gathered pace and looked promising after a few years' cracks start to appear. Based on the interviews we had with various officials we understood that some of the reasons responsible for this are change in government (the 2015 elections) which comes with different political actors with different agendas and priorities as was the case with Cross River and Niger states. Conflicts among implementing agencies and lack of political will and commitment (especially in Cross River and Niger states) were also cited as reasons for the lack of continuity. **Table 2** below shows the patterns of similarities and differences discerned across the cases based on the key explanatory factors that emerged during the field work.

EXPLANATORY FACTORS	NAGIS (NASARAWA STATE)	CRGIA (CROSS-RIVER STATE)	NIGIS (NIGER STATE)
Resource Capability of the Agency	<p>high as indicated by:</p> <p>presence of a sustained commitment by the government in adequately funding the agency</p> <p>adequate working tools i.e. computers, printers, chairs, desks etc</p> <p>regular power supply using alternative (generators)</p> <p>availability of operational vehicles to conduct field work</p> <p>high staff capacity building training</p> <p>absence of support from an external donor</p>	<p>Low as indicated by:</p> <p>absence of a sustained commitment by the government in adequately funding the agency</p> <p>inadequate working tools i.e. computers, printers, chairs, desks etc</p> <p>irregular power supply from power company</p> <p>non-availability of operational vehicles to conduct field work</p> <p>low staff capacity building training</p> <p>absence of support from an external donor</p>	<p>medium as indicated by:</p> <p>absence of a sustained commitment by the government in adequately funding the agency</p> <p>moderate working tools i.e. computers, printers, chairs, desks etc</p> <p>irregular power supply from power company</p> <p>non-availability of operational vehicles to conduct field work</p> <p>moderate staff capacity building training</p> <p>presence of support from an external donor</p>
Oversight and Control of the Agency	<p>high as indicated by:</p> <p>presence of regular visits of the state governor to the agency</p> <p>presence of regular visits of the commissioner to the agency</p> <p>absence of regular visits by the state legislature</p> <p>absence of regular meetings between the agency and the advisory board</p>	<p>low as indicated by:</p> <p>absence of regular visits of the state governor to the agency</p> <p>absence of regular visits of the commissioner to the agency</p> <p>absence of regular visits by the state legislature</p> <p>absence of regular meetings between the agency and the advisory board</p>	<p>medium as indicated:</p> <p>absence of regular visits of the state governor to the agency</p> <p>presence of regular visits of the commissioner to the agency</p> <p>absence of regular visits by the state legislature</p> <p>presence of regular meetings between the agency and the advisory board</p>

	high supervision of staff activities by senior officials within departments and units	low supervision of staff activities by senior officials within departments and units	low supervision of staff activities by senior officials within departments and units
Agency Rule Making	<p>only the executive arm is enfranchised as the reporting forum</p> <p>absence of public participation in regulatory and policy making (decided internally)</p> <p>a dominant feeling of loyalty to the government than to the public among staff</p>	<p>both the executive and the legislative arms is enfranchised as the reporting forum</p> <p>absence of public participation in regulatory and policy making (decided internally)</p> <p>a mixed feeling of loyalty to both the government and the public among staff</p>	<p>only the executive arm is enfranchised as the reporting forum</p> <p>absence of public participation in regulatory and policy making (decided internally)</p> <p>a dominant feeling of loyalty to the government than to the public among staff</p>
Discretion in Decision Making	low discretion as indicated by the dominant view among staff of the agency	medium discretion as indicated by mixed views among staff of the agency	medium discretion as indicated by mixed views among staff of the agency
Access to Agency Information	high as indicated by presence of an active website, presence of customer care unit, presence of massive public engagement through town hall meetings, tv, radio and newspaper, presence of statistics on land applications, registration and titling	low as indicated by absence of an active website, presence of customer care unit, absence of massive public engagement through town hall meetings, tv, radio and newspaper, absence of statistics on land applications, registration and titling	high as indicated by presence of an active website, presence of customer care unit, presence of massive public engagement through town hall meetings, tv, radio and newspaper, presence of statistics on land applications, registration and titling
Interests Support	high as indicated by the dominant view among staff of the agency	medium as indicated by the mixed views among staff of the agency	medium as indicated by the mixed views among staff of the agency
Political Commitment	high as indicated by a sustained commitment of the political leadership to provide enabling support to the agency	low as indicated by a dissipated commitment of the political leadership to provide enabling support to the agency	medium as indicated by inconsistent commitment of the political leadership to provide enabling support to the agency
Enforcement of Sanctions and Compliance	<p>high enforcement indicated by swift enforcement of sanctions in cases of non-compliance to administrative or regulatory instructions</p> <p>high compliance due to presence of an incentive-based mechanism that encourages compliance</p>	<p>low enforcement indicated by lax enforcement of sanctions in cases of non-compliance to administrative or regulatory instructions</p> <p>low compliance due to absence of an incentive-based mechanism that encourages compliance</p>	<p>low enforcement indicated by lax enforcement of sanctions in cases of non-compliance to administrative or regulatory instructions</p> <p>low compliance due to absence of an incentive-based mechanism that encourages compliance</p>

Inter-Agency Coordination and Cooperation	<p>high coordination and cooperation indicated by:</p> <p>presence of regular meetings and exchanges of information between the parent ministry and the agency</p> <p>absence of conflict over mandate between the parent ministry and the agency</p>	<p>low coordination and cooperation indicated by:</p> <p>absence of regular meetings and exchanges of information between the parent ministry and the agency</p> <p>presence of conflict over mandate between the parent ministry and the agency</p>	<p>high coordination and cooperation indicated by:</p> <p>presence of regular meetings and exchanges of information between the parent ministry and the agency</p> <p>absence of conflict over mandate between the parent ministry and the agency</p>
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Discussion, Conclusion and Recommendation

Several important observations followed from the comparative analysis of the cases. First, the analysis suggest that political commitment is crucial factor for a successful implementation of policy change. This means that those in political authority must go beyond just enacting laws by actively participating at every stage of the policy process until stability is achieved and even after that policy makers should continue to engage in the oversight of those tasked with implementation so as to maintain control and thus forestall any possibilities of policy deviation. Secondly, the major task of the political heads (such as commissioners or director generals) should be strictly devoid of partisanship but that of providing a sound policy direction and supervision of agencies under their ministries or agencies. When political heads begin to sabotage agencies for personal interests, this may cause crisis as was the case with Cross River state where the land reforms can at best be described as akin to throwing away the baby with the bath water. This finding is in stark contrast to an earlier argument put forward by Painter and Yee (2011) where they suggest that segmentation of “policy fields” and “processes” can be used as a mechanism to avoid competition over control of policy, which would inevitably create conflict within a political and administrative elite that highly values consensus and cooperation” (Bach et al 2012: 190). For instance, this segmentation of policy was what led to a long-drawn conflict between the parent ministry and the newly created agency under its supervision in Cross-River state. And thus, political control over the process of implementation was lost and the implementation stalled.

A similar finding by the Office of Public Services Reform also concluded that the “main problem in achieving more effective performance is that some agencies have become disconnected from their departments” (Office of Public Services Reform, 2002: 6 cited in Pollitt et al 2005: 22). Furthermore, our finding also seems to be in line with the argument by Handke (2012), that “high salience reduces policy autonomy because the ministry takes over activities previously performed by the agency” (ibid: 189). It also seems to resonate with the argument by Pollitt et al (2005) that it is very difficult to find a balance between “active steering of agencies by parent ministries which the authors assume as “desirable” and “micromanagement” which they see as “undesirable” to the agencies (p. 22).

Thirdly, pledging allegiance to the governor or government may have detrimental effect on accountability, as reflected by the dominant view among officials. It is intriguing to note that most officials serves as primarily responsible to the government than to the public. This implies that the land agencies may only pay attention to the government’s demands and therefore beholding to the governor or government. The implication of which is that officials often see themselves as rendering service to the government rather than to the public. Also, crucially missing is the opportunity for the

public to have a say in the making of the regulations or bring issues of accountability to the public domain, this is important because this will not only make the public have a say on issues that directly affect them such as how land regulations should be designed, but will also empower them monitor the activities of the agencies and can report instances of any agency drift. Absence of public participation in the making of the regulations may create a sense of loyalty among land administrative agencies towards the government rather than being neutral. Furthermore, for fear of being sanctioned by their senior colleagues, frontlines officers felt often lack the courage to express their views on issues of critical importance to the public. This is akin to what many scholars studying agencies termed as “agency capture”, where due to its speciality on particular policy areas such as land administration in our cases, the agency “identify more strongly with the other specialists that they deal with... than with the citizens they are supposed to serve” (Pollitt et al 2005: 4).

Fourthly, by their institutional design, the newly created land agencies are shielded from public scrutiny, therefore the land regulations are made without much of public participation. In all the study states, there was no single provision enfranchising the public to participate in the making of land regulations or policies. And because the public has not been enfranchised by the land laws, is not surprising that many officials reported that the public know very little about the operations of the land agencies. This finding contradicts a key explanation in the delegation literature as to why politicians delegate powers to independent agencies. For instance, Majone (1997) noted that in the delegation literature, a major reason for delegating to independent agencies is that “an agency structure may favour public participation” such as carrying out consultations with the public through public hearings which is largely absent in government departments (such as ministries) (p. 142). This is contrary to what we found in the laws establishing these agencies, we found no any mention of public consultations or hearing with regards to policy making in all the study locations.

Furthermore, another key explanation for delegating to independent agencies in the literature is that they provide “greater policy continuity”, because unlike ministries which are headed by cabinet ministers, agencies are shielded from electoral turnovers (ibid: 143). Yet, we found that election cycles affected most of the cases in the study locations. For example, many officials we interviewed at the agencies blamed government turn overs as partly responsible for their decline and thus lack of performance. They argued that their performance (or success) depends on the government in power; if the government is interested, the agencies do well and if it is not the case, they do badly (as with Cross River state) or at best moderately (as is the case with Niger state). In short, officials suggested that the agencies are only independent on paper, but in reality, it is the government of the day that decides how the agencies perform. This finding seems to coincide with other studies in the literature such as a case study of policy reforms conducted by Verschuere, D. Vancoppenolle (2012) in Flanders

region of Belgium, where their findings also suggest that “reforms often unfold differently than was intended on paper” (p. 257, see also Christensen & Lægreid 2007; Pollitt & Bouckaert, 2011).

Fifthly, with exception of Cross River state, where the land agency is required to also report its operations to the state house of assembly (legislature), the rest of the cases (Nasarawa and Niger states) has no single mention of the state legislature as part of the governance structure of the agencies. Also, it is important note that most of time the advisory board has been largely absent in regulatory, policy making and oversight of the land agencies. What is surprising in all the cases we considered is that despite the land laws explicitly making provisions for the establishment of an advisory board to provide policy directions as well as oversight the activities of the land agencies, yet this important body remained largely absent. Even in situations where the advisory board seemed to have briefly existed, as was the case in Niger state, they were often side-lined by powerful officials where their role largely remained symbolic. Again, this finding seems to resonate with Verschuere, D. Vancoppenolle (2012) as cited above.

Sixth, some sections of the land legislation are too vague such that officials resort to taking regulatory decisions outside of the regulations because the mandate given to agencies to implement policies are somewhat ambiguous and conflicting. This is alarming because institutions begin to weaken when relevant implementing bodies have different interpretations of the land laws and therefore perceptions about how to proceed with implementation (May 2012). Clarity is key here especially in terms of who is in charge of what role because that’s where the confusion about who is responsible for what sets in. For instance, when we ask officials of the land agencies to whom they think their agency report to, while some mentioned the governor, others mentioned the advisory board. There is also no strict enforcement of sanctions to ensure compliance to the provisions of the land laws. We also found that often when officials are found to be in breach of the regulations, they are mostly warned than sanctioned. Although enforcement of sanctions alone may not always compel people into complying with the laws, it could go a long way in reducing fraud related incidents in land administration. In addition, there is also the need for the land agencies to come up with innovative ideas in form of incentives such as rewarding good behaviour and performance as the case in Nasarawa state where this has evidently helped in raising staff performance. Putting staff welfare at the forefront through regular payment of staff salaries and entitlements, celebrating and rewarding staff achievements etc. are all positive incentives for inducing staff motivation. This was indeed the case in the implementation of the land titling reforms in Thailand where positive incentivisation of implementing staff was partly responsible for the success of the reforms (Bowman 2004).

In conclusion therefore, these findings suggests that in a weak institutional context, rules and regulations in use are insufficient for a high-quality land administration to occur unless there is (a)

credible commitment by the political leadership to capacitate but also control (through regular oversight and swift enforcement of sanctions) implementing organizations tasked with policy mandate or regulations and that (b) these implementing organizations complies with the mandate by actively cooperating and coordinating with each other to effectively and efficiently execute this mandate. As Pollitt et al (2005) also note that although it is important to consider the “formal design” of institutions as important, but they also suggest that “the strategies pursued by [the] management, frequently have far more influence on how a given organization behaves than does the generality of its organizational form (p. 24). Or what Bach et al (2012) argued “formal and structural explanations must be supplemented by theoretical understandings of the informal dimensions of agency roles and contributions within a wider social and political context” (p. 187). Some important future research directions are to explore “how can agencies best be ‘steered’ by their parent ministries?” or what are the conditions under which agencies perform well (or badly)? (Pollitt et al 2005: 13)

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