

THE NIGERIAN LAND USE DECREE AND
AGRICULTURAL DEVELOPMENT IN RIVERS STATE

by

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A Thesis

submitted in partial fulfillment of the
requirements for the degree

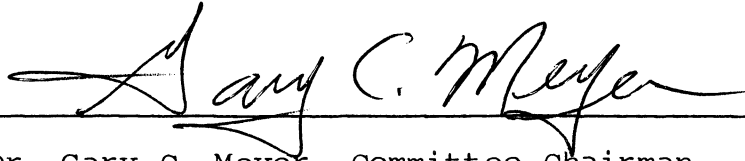
MASTER OF SCIENCE

College of Natural Resources

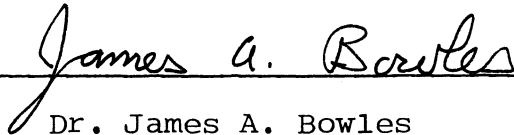
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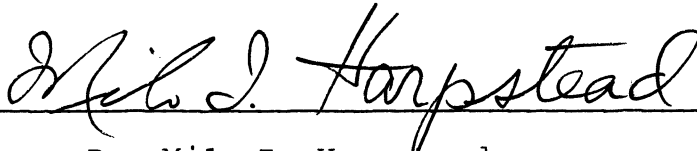
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ABSTRACT

Many developing countries view land reform as a key to modernization and economic advancement. The impediments to progress of traditional and archaic tenural systems of land ownership in both town and country may be obvious, but there is no one model for their alleviation or removal. Progress of land reform can range from outright nationalization and confiscation of private property as in some Marxist Third World States, to gradual, partial or piecemeal legislation initiated by others. While ownership of land may remain unaltered, a tax on idle or unproductive land can be imposed. The range of measures adopted or debated is in fact, endless and of engaging variety from one society to another. Wherever attempted however, land reform has tended to be an explosive issue, replete with sociological problems of considerable anxiety (Heath, 1970).

The purpose of this thesis is to examine some ramifications of the Land Use Decree promulgated by the Federal Military Government of Nigeria, while preserving the right of all Nigerians to a piece of the land. The thesis will introduce planners interested in Nigerian Agricultural Planning especially in Rivers State to:

- a. History of land tenure system in Nigeria and the inevitable problems encountered in the pursuit of economic development.
- b. The Land Use Decree, its objectives, drawbacks, and accomplishments.
- c. Agricultural development in the Rivers State under

the Land Use Decree and alternative strategies. A questionnaire field survey will be used to examine this objective.

To my mother,

Jane Sam, who gave me the moral support and motherly backing throughout my study in the United States of America.

ACKNOWLEDGEMENTS

I am grateful to my advisor and Committee Chairman, Dr. Gary Meyer, for his advice, patience, and help in drafting the questionnaire, its analysis, and the preparation of the manuscript. I also wish to thank committee members, Dr. James Bowles, Dr. Milo Harpstead, and Irving Korth, for their advice and review of the manuscript.

I am indebted to the Agricultural Department of the Rivers State Ministry of Agriculture and Natural Resources for responding quickly to the questionnaire in such a short notice. I also appreciate the efforts of Anita Wakeland in typing the questionnaire and final manuscript, and for keeping me alive during the course of my graduate studies.

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CHAPTER 1

LAND TENURE IN NIGERIA

Practically the only thing that is common to all the peoples who inhabit Nigeria is the communal ownership of land, and the absence of any conception of individual possession. The whole question of land tenure in Northern Nigeria was fully investigated by a committee appointed by the Secretary of State for the Colonies in 1910. It was clearly established by the evidence before the committee that the use of land by the inhabitants throughout the Protectorate could be, and was by custom, transferred and inherited, but that it was the use of the land, and not the land itself, which was thus dealt with... The actual difference lay in the power to revoke the original grant, and the evidence was overwhelming that this power always remained in the hands of the paramount chief. (Burns, 1968).

In Southern Nigeria the position was the same, and throughout the country the chiefs are considered as the trustees of the people, who are as a body the owners of the land. Among the Yorubas land belongs to the family and not to the tribe, the individual being entitled to the use of a portion of his family's estate. The principle, however, is identical, the family being the tribe only on a smaller scale, and the family itself having the use of the land by permission of the State, to whom the land would revert in the event of the extinction or outlawry of the family. The native conception appears to be that each head of a family is entitled to the enjoyment of sufficient land

within the limits of the village or other community to which he belongs for the support of his household. If the land he has occupied is exhausted, he is entitled to permission to occupy fresh land. If he has no land for instance, when he grows up and has a family of his own, he is entitled to permission to cultivate a new piece of land (R.N.N.L.C. 1910).

The use of this land was granted by the chiefs or elders of the tribe during the good behavior of the grantee and could be taken away from him if he failed in his duty to the State. The principal duty was that of defense or aggrandisement of the tribe (Temple, 1918). But so long as his obligations were met there was little danger of his being dispossessed, public opinion being too strong to be overridden by any but the most reckless tyrants. Indeed, the use of a farm often descends from father to son through many generations without in any way impairing the title of the tribe to the land or placing the later users in stronger position as regards ownership of the farm than that of their ancestors who were first granted use of it (FAO, 1965). The user is not permitted, in any circumstances, to sell the land or even transfer it to the use of another, without the sanction of the tribe trustees, the chiefs. According to native customary law, land is inalienable, and the sale of land is a crime against the State (Dennett, 1910). Indeed, all those acts of native chiefs, which, by means of treaties made with strangers, alienated the tribal lands are according to native law and custom, ultra vires (Temple, 1918).

It was the aim of the British administration in Nigeria to support the African idea of land tenure and to preserve for future generations the unlimited ownership of the land by the tribe as against any form of freehold. The opening up of the country and the influx of European money and ideas would, without government control, undoubtedly have resulted in the rapid acquisition by capitalists and speculators of the people's land. For very little would the improvident Africans barter away tomorrow's happiness, and comparatively trifling sums would have sufficed in the past to purchase from some of the chiefs the land they held in trust for their people and their people's children. Public opinion could not restrain them, as the tribe would probably be ignorant of the meaning of the sale itself until long after the transaction was complete, while the proceeds of the sale would become the property of the chiefs and not of the people-- the real owners of the land. Owing to climatic conditions in Nigeria, the country did not attract to it European settlers, and as a result of this Nigeria has escaped the serious problems of land tenure which have arisen in East Africa (Burns, 1968). There have been however, demands from commercial companies for freehold sites for business purposes and, in at least one case, for ranching; these demands were invariably rejected.

Freehold property existed therefore only in the colony (except in the case of the freeholds vested in the Niger Company, when their charter was revoked). Grants of land had been made by the King of Lagos before its cession in

1861, and these had been authenticated by the stamp of the British Consul; after the cession these grants were replaced by crown grants which gave title to the land. Lands in the colony which were not included in crown grants were held in communal tenure (L.C.J.C.P.C. 1915, 1921).

In the Northern Region the law vested the ownership of all land in the Governor, as a trustee for the people, and the Governor had the right of leasing such land to non-natives for a definite term of years (Baldwin, 1960). Land has thus been alienated to non-natives, to a very limited extent, for the purpose of tin-mining and for the building of business premises. So far as the people of Nigeria are concerned, the settlement of land disputes was left to the Native Authorities and the Native Courts, which gave full consideration to customary rights and preserved the native conception of land tenure (Burns, 1968).

In the Western and Eastern Regions, absolute ownership by non-natives has in some cases in the past been recognized by Government, but broadly speaking, it may be said that the only title that Government recognizes in a non-native is a leasehold title (T.L.N.C.P.E. 1916). Some long leases have been obtained by non-native corporations for rubber and oil-palm plantations, but these are exceptional and practically all the land remains in the hands of native owners.

This tenurial system of land by the community with the chiefs and elders serving as trustees continued into the post independent era. Nonetheless, this type of land owner-

ship brought with it some significant problems which are shaping the internal future of Nigeria.

General Problems of Communal Ownership of Land

In the Nigerian experience three problems became prominent after Nigeria got her independence from the British in 1960 (Floyd and Sule Olu, 1979).

A major constraint to Nigerian development after independence has been the difficulty of acquiring land for such building purposes as factories, office blocks, roads, bridges, fly-overs, low cost housing projects, homes for middle and upper income earners and similar schemes. As native customary law stipulated that land is inalienable, and the sale of land is a crime against the State, it became a rather tedious task to acquire land for any form of development. In the event that suitable sites have been identified, projects have been unduly delayed because of disputes over ownership rights and compensation among families and communities. A case in point is the twelve year old suit by the Koluama Community against Ikebiri concerning the Texaco Oil terminal located in between the two communities. The land on which the oil terminal and Ikebiri are located was given to Ikebiri by the elders and the chiefs of Koluama on a rental basis, but as time went on Ikebiri never made any payments. The question of who should collect compensation from the company is still unresolved. Similar disputes are surfacing in all parts of Nigeria with some resulting into war and rampage among communities.

Secondly, land speculation by shrewd individuals or groups has also been rife. For would-be developers, whether government bodies, companies, or private citizens, the toll in frustration and financial waste in all of this has been profound, with dissipation of a fair portion of the development capital before even a single foundation ditch was dug.

Thirdly, the land tenural system, coupled with other sociological factors, has hindered Nigerians from moving from one place to another. For instance, due to the communal or tribal ownership of land, it is difficult for a Nigerian from the South to move to the North or vice versa, and establish himself as part of that society. This has strengthened a chronic affinity for the place of birth or ancestral home. The killing of Ibos in the North by the Hausas during the civil war is reminiscent of the deeply ingrained tribal consciousness which is partly due to the land tenure system.

Agricultural Problems Under Communal Land Ownership

Earlier in the paper, I mentioned some of the problems that existed in traditional land tenure systems without making reference to agricultural problems. It is therefore imperative to mention the problems affecting implementation of agricultural development plans which existed in Nigeria and especially in Rivers State under communal ownership of land. The FAO, reporting on the status of agricultural development in Nigeria from 1965-1980, mentioned the following problems that occur in communal ownership of land.

(i) Resistance by Traditional Land-allocating Authorities to Treecrop Planting:

The traditional concepts regarding land usage evolved during the pre-cash-crop period when the cultivator's only requirements were in respect of land for the growing of annual food crops (FAO Report 1965). Accordingly, no difficulties were created by his loss of rights over any particular piece of land when he had finished harvesting his last food crops of the cultivation cycle. The introduction of permanent tree crops, such as cocoa, rubber and cultivated oil-palm, has raised complications. In the early stages of establishment of a tree crop plantation, food crop planting and thereby cultivation of the soil ceases when the trees have reached a certain size and their shade prevents the development of crops planted beneath them. According to traditional ideas, a tree is the property of the man who plants it, even when the land upon which it stands has reverted to the ownership of the group. In order to avoid having to come to grips with a new situation-- the planting of large blocks of trees-- which in effect must lead to recognition of permanent individual ownership of the land upon which they stand, most of the conservative allocators of land do all in their power to obstruct and prevent the planting of tree crops.

Over larger areas where land is communally owned by the clan there has been fierce resistance from the elders to any suggestion that any additional areas of land should be devoted to oil-palms. The argument advanced is that a

sufficiently high proportion of the land is now occupied by oil-palm groves and is unavailable for food production. Any planting of palms would further reduce the area available for food production, thus leading eventually to starvation (Ike, 1984). Moreover, palms planted by individuals would become the property of the individual and not be available for communal exploitation, as wild palms are.

It was very difficult to establish the acreages of tree crops proposed by the Food and Agricultural Organization before the promulgation of the land reform policy.

(ii) Maldistribution of Land Among Adjoining Communities:

Some communities (clans, villages, and families) still maintain claims to sole rights over areas of land far beyond their present capacity for utilization or exploitation. Others are now suffering from severe shortage of land for the use of their members. In the Rivers State, inter-community friction has already occurred: members of some of the more fortunate communities claiming larger areas of un-used land consider these to have been trespassed on by members of less fortunate groups who have inadequate land for subsistence within the boundaries of their traditionally cultivated areas. In the vicinity of some of the large towns in the Rivers State, such as Ahoada, Yenagoa, and Okrika, pressure on the land has reached the stage where people have been forced to leave their uneconomic holdings and move into the cities in search of wages, in spite of the severe under-employment and unemployment which already exist in them.

Many of these people have had to abandon farming because of insufficient land, although there was ample unexploited land within a short distance of their homes, though within the area of jurisdiction of a different community. It can thus be seen that a more rational system of allocation of land, in accordance with the needs of communities and individuals, is necessary if the best use is to be made of Nigeria's manpower.

(iii) Fragmentation of Holdings:

In some of the more over-populated districts of the Rivers State fragmentation of holdings has already come into being. This is likely to become a major obstacle to improve land use and more efficient farming practice in the future. The seriousness of this matter is realized through the promulgation of the land reform policy.

(iv) Lack of Security Tenure:

The African customary tenure system provided security and an adequate standard of living to the members of the community as long as they were purely subsistence cultivators with no contacts with a cash economy-- that is until the beginning of the present century (Helleiner, 1967). Up to this time the lack of health services also restricted the growth of the communities, so that adequate land was still available to follow the traditional system of shifting cultivation, i.e. abandoning land when its fertility has been depleted by the growing of succession crops.

The system of communal ownership is not suited to present day requirements in respect of the production of cash

crops. Until unrestricted individual rights of ownership and inheritance are formally recognized, the occupier of any piece of agricultural land has no real incentive to try to maintain or improve the fertility of the land which he is working (Hart, 1982). Also, as has already been observed, shifting cultivation has had to cease among many communities, as there is no longer any spare land on which they could move if present holdings were to be abandoned.

CHAPTER 2

THE NIGERIAN LAND USE DECREE

Military administration has a unique style of providing solutions to problems. Be they socio-economic, political, or physical, the approach always takes a military form (Olu Sule R.A. 1981). This is so because military administration is not supposed to be permanent but a temporary one at a time of emergency. It is within this context that 'decree or edicts' replace a democratic process of policy formation and implementation. The Land Use Decree thus was promulgated to curb the aforementioned problems and many others that resulted from the communal ownership of land.

The Nigerian Land Use Decree came into effect on the 29th of March, 1978. In a terse statement the then Nigerian Head of State, Lt. General Olusegun Obasanjo, declared that:

Whereas it is in the public interest that the rights of all Nigerians to use and enjoy land in Nigeria and the natural fruits thereof in sufficient quantities to enable them to provide for the sustenance of themselves and their families should be assured, protected and preserved... all land comprised in the territory of each state in the Federation is hereby vested in the Military Governor of that state and such land shall be held in trust for the use and common benefit of all Nigerians. (Nigerian Land Use Decree of 1978-see appendix 3.)

According to the decree, land already developed or in productive use "shall continue to be held by the person in whom it was vested immediately on the commencement of the decree". Where the land is undeveloped: "One plot or portion of the land not exceeding half a hectare (1.25 acres) in area shall continue to be held by the person in whom it was so vested... all rights formerly vested in the holder in

respect of the excess land shall be taken over by the Military Governor. "Compensation will be paid only in respect of infrastructural facilities already undertaken by individuals in anticipation of eventual development of their holdings."

The half-hectare holding appears to be a limit for residential land ownership in urban areas and townships where development has yet to be initiated. In rural areas, farmers and organizations wishing to develop agricultural land-- and with sufficient capital, labor and expertise-- may be granted up to 500 hectares (1,250 acres) for cropping and 5000 hectares (12,500 acres) for grazing, in addition to a half hectare (1.25 acres) residential plot.

All applications for land holdings in both urban and rural areas whether already developed or undeveloped, are to be processed by special Land Use and Allocation Committees, established in each of the 19 states of Nigeria. These committees will grant "Certificates of Occupancy" to those eligible to receive them. This is a rather ill-defined mechanism for redressing the grievances of citizens deprived of land.

On first reading, this bold if controversial decree appears to nationalize all territory within the Federal Republic of Nigeria. Essentially, the decree implies that no person whatever may, henceforth, own any land under his name and title or lease or rent it out. All land belongs to the state and the development of the land at any period of time shall be at the pleasure of the state by way of the instru-

ment of "Certificate of Occupancy"... Simply put, no area of land now belongs to individuals, families, communities or groups of persons, although the properties in the form of physical structures, crops etc., situated on the land remain those of the possessor of the "Certificate of Occupancy".

Problems in Implementing the Decree

In examining the land tenure system of Nigeria it is apparent that government policies are necessary to facilitate modernization and economic advancement, especially to address the problems resulting from the tedious task of acquiring land for industrial and agricultural development. Therefore, the promulgation of the Land Use Decree is a welcome and ambitious move by the Military Government to guarantee the philosophy of modernization and economic advancement.

Nevertheless, the de facto as distinct from the de jure situation in Nigeria land tenure has remained one of considerable confusion and complexity. For a great many reasons implementation of the decree has faced enormous, if not insurmountable difficulties (Floyd and Sule Olu, 1979). Among these are:

1. Cadastral and large scale topographic mapping for the entire country is far from complete. This is due to the lack of trained personnel in the technical division of the Ministry of Lands and Survey in each of the 19 states. There is also a shortage of mapping equipment to facilitate the exercise.
2. Existing property boundaries in agricultural areas,

particularly in the forested South, are seldom accurately surveyed due to the difficulty in conducting such surveys in the heavy vegetation of this region.

3. There is a dire shortage of trained surveyors who are of Nigerian origin. It is costly to maintain even a few expert surveyors in the tropical South as the cost benefit ratio of hiring them does not provide for any short term gain. However, the benefit in the long run will be significant. Even the few Nigerian surveyors would not wish to work in heavily forested South because of the varied and sometimes dangerous local disputes among communities and families.

4. Records of existing titles to land are often fragmentary, and litigation is frequent, although admittedly the decree might assist in alleviating the tedious process of enforcing existing land rights.

5. The administrative structure required to handle applications for certificates of occupancy is mind-boggling. The military is known to handle such matters firmly and fairly, and while this is true, the appointees to the Land Use and Allocation Committee, in the case of Rivers State, are civilians. Even if such a committee is chaired by a uniformed officer, the risk of corruption of officials engaged in handling such sensitive issues like this was not ruled out. Favoritism was the name of the game.

6. The decree was promulgated by the Federal Military Government before the last civilian government came

into power in October 1979. In its four year tenure of office the civilian administration loosely supported the Land Use Decree because of the controversial arguments raised against it by the various tribal groups. Even if they supported it politically, favoritism, tribalism, nepotism and bribery might have plagued its good intentions, as noted in the Daily Times of Nigeria (March 31st, 1978). Clumsy handling of the legislation can only add to the tensions of an already divided society.

7. Finally, traditional tribal rulers such as the Obas and chiefs, who claim to hold land in spiritual trust for their people (even if some of them have allegedly been guilty of selling land at exorbitant prices), are clearly alarmed at the new challenge to their authority (Floyd and Odu Sule, 1979). They muted their criticism due to military rule, but protested greatly during the civilian rule. This contributed to non-support of the decree.

Potential Advantages and Consequences of the Decree

To many Nigerians, this piece of legislation has a number of potential advantages and consequences that might aid in shaping industrial development and economic advancement in the country-- if ever it is fully implemented.

Earlier in this paper it was noted that one of the problems Nigerian development faced in communal or tribal ownership of land has been the difficulty in acquiring land for

building purposes. Disputes over ownership have always delayed projects when suitable sites have been identified. These disputes have not only helped in slowing down the industrial and economic development of the country but have kept Nigeria from breaking through the umbrella of under-development. As all land in excess of 1.25 acres throughout the Federation became vested in the Government of Nigeria, military and civilian alike, the existence of disputable land in the hands of the public is a foregone conclusion. Therefore land acquisition for development and any other purpose will no longer be a problem.

Another advantage of the Land Use Decree is assisting in speeding up the process of bringing construction (building) projects to earlier fruition. In the old tribal or communal land ownership system, land developers, whether government bodies, companies or private citizens, encountered a great toll of frustration and financial waste, with dissipation of a fair portion of the development capital before even a single foundation ditch was dug. Some projects were abandoned due to insufficient capital after much of it was wasted before the construction got underway. The land law has stopped and will continue to eliminate such frustrations and financial waste.

Predictably, the repercussion of the former tedious process of land acquisition, acting in concert with other economic factors, has been inflation, which has struck a crippling blow at Nigeria's plans for accelerated development. One way to check the mounting fiscal crisis in the

country is to control land transfers, to the ultimate benefit of the nation's 94 million or more inhabitants.

Another potentially beneficial and intriguing consequence of the Land Use Decree is the opportunity for a Nigerian from, for example, Rivers State or Anambra State in the Southeast to acquire land in, for example, Borno or Sokoto State, in the north of the country. According to the law an 'indigene' from any urban or rural locality in any part of Nigeria is entitled to acquire a half-hectare (1.25 acres) of residential land for a house in any other part of the Federal State. This is a generous allocation: 1.25 acres if divided into plots of 100 feet by 50 feet, will provide sites for six residences. This arrangement should facilitate the transfer of business men, Federal Government officials and others from one part of the country to another without domestic disruption. If this mobility were pursued on a large enough scale, the affinity of Nigerians for their birthplace and traditional ethnic region might be loosened leading to a greater sense of national consciousness and unification (Floyd and Olu Sule, 1979). To be realistic however, it may be many more years before the bitter inheritance of tribal animosities stemming from the Civil War (1967-1970), particularly between Ibo and Hausa, is finally overcome. Thus, there is a continuing reluctance on the part of most Nigerians to establish permanent settlement in a state other than that of their birthplace.

Finally, one of the beneficial consequences of the Land Use Decree is putting a rest to the frivolous arguments and

tensions that have arisen over the sharing of the national revenue, otherwise referred to as "Revenue Allocation". Each successive government that has ruled Nigeria, since her independence, has appointed a committee to draw up the best way to share revenue accruing from 'oil production'. I specifically referred to oil revenue because for over two decades, oil revenue has continuously contributed 95% of the country's total revenue. Owing to the communal or tribal ownership of land it has been argued that the national revenue should be shared on the basis of derivivity. Others argue that it should be based on population. Derivity was the basis on which revenue was shared until the discovery of oil in Nigeria. Derivity means that the place where most of the revenue is derived should be allocated more revenue than other places or states with less derivability. Since all land in the territory of each state of the country is vested in the Government of that state and is to be held in trust for the use and common benefit of all Nigerians, the argument about derivivity and commensurate revenue allocation has been rendered null and void, as have all other arguments. Nonetheless, since environmental hazards and property damages are often mishaps of the oil industry, a special fund or allocation has been made out to each state that produces oil or any other industry that is associated with such hazards and property damages.

CHAPTER 3

LAND USE DECREE AND AGRICULTURAL DEVELOPMENT IN THE RIVERS STATE

Introduction:

The improvement of agriculture provides the main hope for rapid development in many developing countries but the problems which it impose often seem almost insurmountable (Carter, 1964). The economic and social backwardness of the agricultural sector has driven many governments, including that of Nigeria, to adopt measures which they hope will short-cut the long and painful evolution to a scientific, commercially-orientated agricultural industry. The Land Use Decree has been claimed by its proponents as the vital ingredient which can transform the peasant farming sector into a vigorous propellant of the whole economy (Doriner, 1971). Experience to date in the Rivers State of Nigeria, however, has not shown full realization of these hopes.

This part of the thesis attempts to examine the effectiveness of the Land Use Decree through the use of questionnaires designed to explore agricultural development in the State in terms of cash and food crop production and acreages of farmland, both private and government owned. The survey will attempt to identify the reasons why the Land Use Decree might not have been fully implemented. Also, appropriate measures will be recommended to assist the Land Use Decree in the development of agriculture in the State.

Methods:

The Rivers State consists of two hundred agriculture districts with an agricultural office in each of these districts. A three page, thirteen item questionnaire was developed (Appendix 1). Initial questionnaires, two hundred in all, along with a cover letter, were mailed on March 20, 1985 to the Chief Agricultural Officer of the Rivers State Ministry of Agriculture, Fisheries and Natural Resources. The questionnaires were then distributed to the two hundred District Agricultural offices where each was asked to complete the survey and return it to the Chief Agricultural Officer. The Chief Agricultural Officer was requested to forward the questionnaires to the researcher as soon as they came in. Two follow-up letters were sent to the Chief Agricultural Officer between March 30th and May 20th, 1985 to remind the District Agricultural Officers (An additional copy of the original questionnaire was included with the follow-up letters).

Seven of the questions were designed to measure the effectiveness of the Land Use Decree as to implementation and its impact on agricultural productivity. The remaining six questions dealt with the educational needs of the agricultural sector and the needs of the rural farmers.

Results and Discussion:

Questionnaires were completed and returned by one hundred-forty (70%) of the two hundred district agricultural officers as of May 30th, 1985 (approximately two months

following the initial questionnaire mailings). No other correspondence was received from the other sixty officers.

Effectiveness of the Land Use Decree:

Questions one, two and three were designed to measure the effectiveness of the Land Use Decree in improving agricultural development and productivity in Rivers State. For question one, ninety-eight (98%) of the one hundred-forty respondents agreed that The Land Use Decree will or has improve(d) agricultural development in the State. The specific agricultural sectors on which improvement has been made are shown in Table 1. There has been a significant improvement in production levels of cash crops and acreage of government owned lands as perceived by the respondents. On the other hand, production levels of domestic or food crops has improved only slightly.

It may be argued that the trifling improvement in food production might be due largely to the fact that data on production level is not available for domestic food. Thus, if the farmers had been recording productivity of food crops annually, the level of response might have been different. However, the Nigerian food import bill from 1980 to 1983 shows that even if there was an increase in domestic food crop production, it may have been very negligible. From his examination of the situation in Nigeria, Dr. Folayan (1983) concluded that total production appears to either have fallen absolutely at least in relative terms vis-a-vis the population increase. Figures he cites (from the USDA) show

TABLE 1

Areas in which the Land Use Decree has affected an Improvement in Agriculture:

Areas of Agriculture	N(number of response)	% of Total Responses
1. Production levels of Cash crops	85	60.7
2. Production levels of Food crops	7	5.0
3. Acreage of Government owned land	30	21.4
4. Acreage of ENDB owned land	14	10.0
5. Acreage of small scale farmers land	14	10.0
	150	107.1

that output in 1980 was higher than in any of the preceding six years for all major food crops (rice, millet, maize, sorghum, cassava, yam); there was a major rise from 1978 to 1980 in the output of rice, one of the most important food items now and the one causing the most controversy. The 1980 Index of Food Production, on a basis of one hundred for 1969-71, was 115. This still suggests a fall relative to population.

While food production increases are trifling under the Land Use Decree, cash crop production, especially palm produce, is on the rise very modestly. This compares very well with figures released by the Food and Agricultural Organization for palm produce up to 1980. Their figures show that

production levels of palm oil increased from 375,000 tons in 1975 to 533,100 tons in 1980 (a 42% increase), while palm kernel production increased from 200,900 tons to 235,900 tons over this period (a 17.4% increase). Also at this time exports of palm oil and kernels increased by 19.7 percent and 17.4 percent respectively. Local consumption of palm oil also increased by 19.3 percent with another 31.3 percent increase in inter-regional trade. Table 2 presents estimates of production levels of palm oil and kernels by various programs and schemes.

Nonetheless, a report released by the Nigerian government shows that instead of a palm oil and kernel exporting country, Nigeria had become a major importer of palm oil by 1983, importing 168,000 tons (West Africa Magazine, March 25, 1985). Nigeria has just signed a contract with Malaysia to be supplied with 100,000 tons of palm oil for a cost of 77 million dollars for 1985. The reasons for this turn around can be attributable to abandonment of tree crop farming in the oil boom, growth in urban areas, rise in some incomes, the Land Use Decree's ineffectiveness and a host of other socio-economic and political factors. At the same time it is possible that an increase in internal food trade may have absorbed some production which formerly went into exporting palm oil.

As to whether the Land Use Decree was tailored toward agricultural development in Nigeria, especially in the Rivers State, 126 (90%) of the responding officers answered in the negative. In spite of the fact that no reasons were given

TABLE 2

Estimates of Palm Produce from Existing Areas in Eastern Nigeria (especially in Rivers State):

Scheme/ Program		1975 Tons	1980 Tons	% Increase
ENDB Estates-	Oil	32,900	39,300	19.5
	Kernel	9,100	10,900	19.8
Farm settlements-	Oil	9,500	14,300	50.5
	Kernel	2,700	4,000	48.2
MOA Palm Grove Rehabilitation scheme	Oil	46,700	48,900	4.7
	Kernel	13,000	13,000	4.6
FAO New Planting Program-	Oil	6,900	36,900	434.8
	Kernel	1,900	10,200	436.8
FAO Rehabilitation Program-	Oil	36,200	164,200	353.6
	Kernel	13,500	45,600	237.8
SUB-TOTAL	Oil	132,200	303,600	129.7
	Kernel	40,200	84,300	109.7
Small holders Palm Grove-	Oil	243,300	229,500	5.7
	Kernel	160,700	151,600	5.7
TOTAL PRODUCTION	Oil	375,500	533,100	42.0
	Kernel	200,900	235,900	17.4
Consumption of Palm Oil (state)-		181,900	217,000	19.3
Inter-Regional trade-		16,000	21,000	31.3
Available Export	Oil	178,000	295,000	19.7
	Kernel	201,000	236,000	17.4

(see appendix 2 for further details of production estimates)

as to why they answered negatively, it is a common notion among Nigerians that the idea behind the decree's enactment was to once and for all eliminate revenue allocation problems (arguments) and to encourage movement among Nigerians.

Implementation of the Decree:

The survey asked the agricultural officers whether the Decree has been fully implemented. One hundred and thirty-three (95%) of the one hundred and forty respondents said that the Decree has not been fully implemented.

A study conducted by Floyd and Olu Sule (1979) concluded that the following factors hindered the full implementation of the Decree: opposition from traditional rulers, the process of land allocation, the lack of accurate surveys of existing boundaries in agricultural areas, lack of trained Nigerian surveyors, lack of support from the general public, fragmentation of records of existing titles to land, and lack of cadastral and large scale topographic mapping of the entire state / country. Agricultural officers were asked to rank in order of importance as many of the above factors that hindered the Decree's implementation in Rivers State. Table 3 shows that the most important factors prohibiting the full implementation of Land Use Decree in the state are: opposition from traditional rulers; the process of allocation of acquired lands; and the lack of accurate surveys of existing boundaries in agricultural areas.

Opposition from traditional rulers can be easily

TABLE 3

Factors Prohibiting the Decree's Implementation.

Factors	N (# of Response)	% Response	Rank #
Opposition from traditional rulers	63	45.0	1
Process of Allocation of acquired land	49	35.0	2
Lack of accurate surveys of existing boundaries in agricultural areas	25	17.9	3
Lack of trained Nigerian surveyors	12	8.6	4
Lack of support from the general public	9	6.4	5
Fragmentation of records of existing titles to land	7	5.0	6
Lack of Cadastral and large scale topographical mapping of the entire State / Country	7	5.0	7

resolved once these rulers are enlightened to the potential realization of the decree. However, one could not make the same argument for the process of obtaining the Certificate of Occupancy (process of land allocation). In his examination of the provisions for the allocation process in the Land Use Decree, Okpala (1979) concluded that land owned by the former East Central State Government, now Anambra and Imo States, was allocated to commissioners, their families, kith and kins.

The former East Central State was successively served by three commissioners for Land and Housing from 1970 to 1975. For purposes of this discussion, their regimes are referred to as C1, C2, and C3 in the order in which they served. These commissioners are statutorily responsible, among other things, for allocating state lands to citizens. In this regard there was a standing regulation in the then East Central State, that before land allocation could be made, there should be applications from the prospective allottees, and that this should follow public advertisements that plots would be allocated on state lands (ECSG, White Paper, 1976). Relative to these regulations, Table 4 shows the degree of compliance of the three successive commissioners.

In the regime of the two later commissioners, over 50% of the plots were allocated without advertisements. As a Board of Inquiry, established to examine land allocations found out, this resulted in the commissioners:

- i. Allocating larger numbers of plots to themselves,

their kith and kins, their friends and supporters, and this in turn led to:

- ii. Allocating plots to people who could not be said to have the means to develop them, and whose intentions were mainly to acquire plots.

One of the commissioners, for example, allocated a total of 1524 plots, and 40 (2.6%) of these were allocated to himself or his relatives / kinsmen. Another (C3) allocated 754 plots of which 15 (2.0%) were to himself. In these allocations too, there were 71 persons with more than two plots each.

TABLE 4

Proportion of State Lands Allocated Without Advertisements:

Regime	Total Plots Allocated	No. of Plots (allocated w/out advertisement)	% of Total (allocated w/out advertisement)
C1	371	6	1.6
C2	1524	807	53.0
C3	754	536	71.0

SOURCE:

Adopted from Okpala. Computed from ECSG, White Paper on Report of the Administrative Board of Inquiry into Plot Allocation. 1976. (P.4)

The main features of the allocation of state lands during this period were, as characterized by the Government

White Paper:

- i. The disproportionate and staggering number of plots allocated without advertisements. It is pertinent to point out that in this regard the present Land Use Decree does not provide for advertisements before land allocations are made. The consequences of not providing for this are detrimental to the achievement of the objectives of the scheme;
- ii. The large number of persons and groups of persons allocated two or more plots;
- iii. Allocations made to students (including minors) who were hardly in a position to develop their plots;
- iv. A most unseemly and blatant display of nepotism in the allocation of plots in state land.

As evidenced by the findings of the writer's survey that a significant number of agricultural officers identified the allocation process as a factor prohibiting the decree's implementation, it is apparent that the features identified by the Government White Paper are still continuing under the Land Use Decree. The effectiveness of the decree especially in the agricultural sector, will greatly bear upon this factor, because it is widely known that most of the farmers do not even know how to read or write. Thus the government must make provisions for advertisements and reach these farmers through other avenues that will make them part of the key players in the allocation process.

Programs and Policies Recommended to Assist the Decree:

The survey identified some major programs and policies that have been accredited with achieving optimum agricultural development and productivity in some developing and industrial countries. Agricultural officers were asked to recommend which of these programs are/is appropriate for Rivers State. One hundred and twenty (86%) of the officers recommended all of the following programs:

1. Mechanization of agriculture;
2. Agricultural marketing, credit and supply of production requisites;
3. Education and training in the field of food and agriculture;
4. Fertilizer use and requirements;
5. Irrigation farming.

Also, seven (5%) of the respondents recommended soil conservation as an avenue through which agricultural production could be improved.

Any combination of the above recommendation, if fully practiced, may be very beneficial to both the farmers and the state economy in terms of food production. Nonetheless, the mere pursuit of such programs, of which the Nigerian Land Use Decree is reminiscent, should be explored to their fullest. This means examining the pros and cons of these programs including the physical effects, benefits and costs, cash flows and their pay back times. Such meticulous examination of each program is necessary for them to be effective when implemented.

Benefits of the Land Use Decree to Farmers:

The ~~next~~ question deals with the benefits of the Land Use Decree to farmers. Agricultural officers were asked to respond to the statement: "Considering all aspects of the Land Use Decree, the policy has been beneficial to farmers". One hundred and twenty-six (90%) of the officers strongly disagreed with the statement. Although it is too soon to pass judgement on the decree as to its impact on farmers, the negative response by the officers further points out that the intentions of the decree have not been fully materialized in the agricultural sector. Until some measures are taken to involve the farmers as the decree sets out to do, it would not be of much help to farmers and consequently would become a failed venture on the part of policy makers.

Question seven on the survey asked the officers to provide comments on the Land Use Decree, especially those that would particularly be useful to policy makers or planners. One hundred and twelve of the one hundred and forty respondents (80%) commented on the decree. The major comments are:

1. The land allocation process has been unfair to farmers, that it benefited politicians and public servants or rather the privileged groups in the state at the expense of the farmers.
2. Land Decree or no Land Decree, farming will remain the same unless the government comes up with a better farm policy.
3. Improve the rural areas to insure the availability

of farm labor (curb farm labor migration into the cities.)

4. Land is concentrated in big farmers hands at the expense of small farmers. This increases the differentiation among farmers, with the growth of outsize estates and encroaching on land by enclosure as a possible outcome.
5. The National Government should establish food processing industries and require farmers to directly supply crops to these industries.
6. The cost of acquiring a state owned land has become too exhorbitant for small farmers and even for land developers.
7. Given time, the decree will work very well for agriculture.

The first itemized comment - it benefited the privileged class - strongly supports findings of a study done by Okpala (1979) in Lagos State. Until 1972, the Lagos Executive Development Board was the Town Planning Authority for Lagos, and it also controlled public land allocation in the city. The pattern of beneficiary distribution of a sample of its allocations among major socio-economic groups in the society is reflected in Table 5.

The table shows that politicians, lawyers, doctors and businessmen monopolized publicly allocated urban land resources. Although the table represents only a sample, it is representative of the general pattern of land allocation made by the agency. In most cases these lands were

compulsorily acquired from their owners (many of whom might have been poor) on a public purpose rationale, and the new beneficiaries got these plots at nominal rents.

The pattern depicted in Table 5, raises the possibility that public control of land could mean or result in the use of public instruments to assemble land for the elite, which given the traditional land tenure structure and problems, they would otherwise find difficult assembling for themselves.

Perhaps, the observation of the Sagoe Commission of Inquiry into the affairs of the Lagos Executive Development Board (LEDB), applied to a wider context, is relevant to a fair and socially desirable implementation of the present Land Use Decree. The commission observed that:

LEDB plots of land, being the very best at present available in Lagos, care should be taken that these plots of land, the genuineness of which is guaranteed by the state, should not fall into the hands of financiers to the detriment of the common man. We take the view that a scheme of this sort should cater for and build houses to suit the pocket of the common man whose interest, we are, the state has in mind. (RTNLEDB 1967).

Hitherto in Nigeria, there had not been a landed and landless class in the classical sense of the term. The traditional land tenure system (despite the problems it posed for developers), was in many ways an egalitarian one. Unless there is a definite change from the past pattern of beneficiary incidence in government controlled land resources, then the Land Use Decree is likely to succeed only in establishing the classical landed and landless classes in the society.

NOTE: The classifications in Table 5 are only very approximate, for most of the time these groups are not mutually exclusive. Most lawyers are politicians and most politicians belong to one other profession or

occupational group. In any case, the political class (including bureaucrats) make up 70 percent of the beneficiaries.

TABLE 5

Beneficiary Distribution of LEDB Plots Among Socio-economic Groups:

Socio-economic (Occupational) Groups	# of Beneficiaries	% of Total
Politicians and Public Servants	50	28.6
Institutional/Commercial firms	38	21.7
Businessmen - Trader		
Bankers and Traditional Chiefs	30	17.1
Lawyers and Judges	21	12.0
Medical Doctors	12	6.9
LEDB officials	10	5.7
University Academics	2	1.1
Classification Uncertain (farmers)	12	6.9
	175	100.0

Educational Needs of the Agricultural Sector:

Of the one hundred and forty agricultural officers that returned the questionnaires, one hundred and five (75%) have completed an Associate degree, twenty-eight (20%) have completed a Bachelor's degree, and seven (5%) have graduated from high school. None had a professional advanced degree. The major area of study for the bachelor's degree holders include Agricultural and Biological Sciences, and the

associate degree holders studied mainly Agricultural Extension.

While the educational qualifications of these officers appear to be very encouraging, it is worth noting that more educational training is needed in agriculture. The mere fact that none of these officers has advanced professional degrees shows that they are limited to some extent in knowledge of crop productivity and soil management. Although a few of the officers may have had some introductory soil courses in their studies, their qualifications limit them in providing a sound and accurate advice to farmers on soil productivity and uses. The same applies to the application of fertilizers. The agricultural officer must be educated to understand the soil type and fertilizer requirements in order to give sound advice to the farmers. This may call for an advanced degree. Therefore to effect an increase in agricultural productivity, the officer must be educated to master the skills of agriculture and the government must be willing to encourage and support such education.

District Agricultural Officers Contact with the Farmers:

The officers were asked how frequently on the average they come into contact with the local farmer. The frequency of contact by the officers with the farmers is reflected in Table 6. This table shows that agricultural officers made contact with the local farmers three to six times per week on an average. Some officers made contact with the farmers seven to ten times per week.

TABLE 6

Frequency of Contact Between Agricultural Officers and
Local Farmers:

Frequency of contact per week	Number of Responses	% of Total Responses
0-2 times	14	10
3-6 times	98	70
7-10 times	21	15
Greater than 10 times	7	5
	140	100

This is very commendable on the part of the officers but the question now becomes: How many farmers are aware of the fact that there is an agricultural officer nearby and have sought the officers advice? It is common knowledge among agricultural officers that farmers in the rural areas have been very reluctant to take advantage of the officers' knowledge in farming. The reason for this is that the officer may some day ask them to pay tax on their income. In some cases he may also act as a collecting agent for financial institutions that loaned money to these farmers. Consequently most of the farmers very rarely come forward to the local office of the Agricultural Department despite all the public enlightenment campaigns undertaken by the department.

Thus while it is true that at the local level the

agricultural officers are making some improvement in their relationships with farmers, it may be argued that not very many farmers come forward to take advantage of the opportunities available. The State Government (Agricultural Department) must continuously keep up with their public enlightenment campaigns in the rural areas.

Decentralizing Agricultural Extension Staff to Grass Root Levels:

One hundred and five (75%) of the respondents emphasized the importance of decentralizing the Agricultural Extension staff to the rural areas. This is very important because extension workers have been used and are still used by most state governments to distribute farmers needs. Their functions range from mediating between local farmers and the government in distributing farm subsidies and agricultural supplies, to rural development efforts. More of their functions will be explored later. Through their rural development efforts, they have been able to build a trusting relationship with a majority of the rural communities.

Farmers Needs:

The Nigerian government has launched many agricultural programs and policies in conjunction with the FAO, all in the name of creating a self-reliant or rather self-sufficient society in food and agriculture (Wallace, 1980). These programs range from the creation of River Basin Development Authorities to establish irrigation farming under Gowon's

regime, to "Operation Feed the Nation" (OFN) pursued by the Obassanjo regime in the later 1970's. The ousted Shagari's civilian government initiated the "Green Revolution" which is currently thriving in shallow waters.

All of these programs underscore two facts: they all profess establishment of a self-sufficient country in food, and they were launched without any form of consultation with the rural farmers who hold about three-quarters of prime farm lands and who are directly involved with these programs.

On these grounds a question was administered to the agricultural officers to find out what kind of needs the local farmers mentioned to them on their day-to-day contact with the farmers. The needs were provided by this author, and agricultural officers were asked to rank in importance as many of the needs in the questionnaire that applied. The needs of the farmer are reflected in Table 7, which shows that the most important needs of the farmer include: farm subsidies and agricultural supplies; financial needs in form of loans and credits, and marketing channels.

Apart from substances such as fertilizer and insecticides, there are numerous other things which, if they could be made readily available to the farming community by good organization, would have a considerable effect in raising productivity. Some examples are: improved seed of annual crops, potential higher-yielding plants of perennial tree crops, or seeds of improved breeds, better breeding stocks of all types of animals. Yet another method of increasing productivity is by increasing the acreage under cultivation,

TABLE 7

Farmers Needs Ranked as to Importance

Farmers Needs	# of Responses	% of Responses	Rank #
Farm Subsidies and Agricultural Supplies -	80	57.1	1
Financial Needs (Loans, Credits) -	75	53.6	2
Marketing Channels -	50	35.7	3
Transportation -	30	21.4	4
Mechanical Needs (Tractor, etc.) -	20	14.3	5
	255	182.1	

and in furtherance of this aim, a great deal more could be done in mixed-farming which is based upon providing suitable farmers with local farm tools, for which the cost is repaid over a number of years (FOA Report, 1965).

Farm subsidies and agricultural supplies should be the responsibility of the extension staff. In Rivers State, farming equipment, fertilizers and insecticides were often unavailable unless farmers were prepared to travel a considerable distance. The decentralization of extension workers to the grass root level will eradicate or rather insure accessibility of agricultural supplies to the farmers.

It is sometimes objected that a government extension service is not very well suited to undertake essentially commercial operations such as those of supply (de Wilde, 1967).

People trained to do extension work may, of course, not be equally capable of handling supplies. However, personnel can be specially trained to perform this function. Moreover, the responsibility assumed by the extension service can be kept quite simple. Cooperative organizations and private traders may be formed to provide this service but, not very many of these organizations are trustworthy. Since extension workers have been able to establish meaningful relationships with farmers, they are in a better position to handle agricultural supplies.

The second most important need of the farmer is finance, as shown in Table 7. This includes loans and credits, which if well coordinated are likely to propel agricultural development to the forefront in Rivers State. However, a proper assessment of the role of credit is often difficult to make. First of all the sorry record of repayment that characterizes the administration of agricultural credits in many countries indicates how difficult it is to establish an effective credit system. There are instances where liberal credits have obviously acted as disincentives, an invitation or opportunity to the farmer to work less hard and to save less. At the same time one can also cite many cases where development efforts have been thwarted because farmers who were obviously trying to do their best did not have sufficient access to credit.

Despite the problems of repayment and less hard work associated with credit to farmers, the Rivers State farmers need some kind of agricultural credit to increase pro-

duction capacities. In the event that this becomes an agricultural program, the government should keep the rich dominant few who never farm but can get agricultural loans out of the program. This might be an area where the extension staff may play an important role. Extension staff should be given some responsibility to channel credit to the farmers. It should not generally be responsible for the actual extension of credit and, save for exceptional circumstances, for the collection of credits. However, extension workers are the only ones sufficiently acquainted with the farmer to advise the credit agency whether the loan applicant can make effective use of the credit. Similarly, the extension service can hardly escape some responsibility for ensuring that farmers use credits for which they are extended.

While extension staff may help with the security of loans to farmers, the only real effective way of recovering such loans made to farmers with no negotiable assets is through a lien on their crop sales. Therefore it would appear that the only organizations suitable for the supply of small amounts of short-term credit to large numbers of people whom it is desired to help must be those connected with the primary marketing process-agricultural marketing cooperative societies, the licensed buying agents of the marketing institutions or the operators of primary processing plants.

Briefly, the farmers can not produce effectively without available marketing channels. In the interest of

providing more satisfactory service and facilities, and in order to insure payment of the legal minimum prices to producers at primary markets the Rivers State government must establish marketing channels for export and domestic crops. Improved services such as adequate storage facilities at marketing points, should be provided directly to producers. Producer co-operatives should be encouraged to buy crops to secure better return to the farmers.

Transportation is important to link farmers to the various markets. This could be achieved by constructing a network of roads to link main roads to farmers. So far, the Rivers State government has been able to build a number of roads to link rural areas. With the easy acquisition of land provided under the Land Use Decree, the government should build more roads to every rural area in order to insure the transportation of food and cash crops to the urban areas where markets are available. Failure to build roads would be a general neglect of rural areas and the agricultural industry.

Finally, lack of education in agriculture and otherwise on the part of the farmers in the state has been one of the stumbling blocks to agricultural development in the state. With this in mind, the agricultural officers were asked whether the farmers need some exposure to agricultural education.

One hundred and thirty-three (95%) of the 140 respondents answered in the affirmative, and it was noted that this could be done accordingly through community leadership

education, agricultural shows, and farmer training centers, the later being the most important.

Community leadership education involves organized lectures and seminars conducted by personnel of the Ministry of Rural Development, Cooperatives and Social Welfare in the Rivers State. These lectures range from the role of leaders in rural development, to forming co-operative societies, to modern farming methods. The only problem is that not many farmers have the opportunity to participate in the one-week lectures. This is because the lectures are conducted at semi-urban areas instead of rural areas. Therefore, it is pertinent that these lectures be conducted at the rural level to allow farmers to participate.

The same thing applies to agricultural shows. They are viable avenues through which farmers can see and experience different kinds of farming equipment and how to use them. Also, farmers will be able to learn new farming techniques, meet financiers and establish contact with buyers of agricultural produce. The Agricultural Department must increase their efforts in decentralizing agricultural shows at the rural level.

For farmers themselves the most useful supplement to agricultural extension is likely to be the opportunity to participate in short term courses which can be reconciled with regular farming. Farm Training Centers (FTC's) have been established in Kenya, Uganda, and Tanzania. Testimony given by farmers, staff and extension workers as to the constructive contribution which the FTC's are making in

Kenya are impressive (de Wilde, 1967). The FTC's give brief courses of one to two weeks to practicing farmers both male and female. Their facilities are occasionally also used to give refresher courses to extension personnel and for special courses for co-operative and community development staff. Most of the farmers courses are devoted to general agricultural and animal husbandry with considerable courses devoted to particular crops.

The good thing about the FTC's is that they have a farm in which demonstration work is done thereby giving farmers the practical knowledge of farming. This should be something the Rivers State Ministry of Agriculture should be thinking of doing. However, the government should explore the areas of demand for training, location of training facilities, selection of trainees (both men and women), and staff training and conditions of service before embarking on such a program. Other areas to be explored should include concentration of training, balance between classroom and practical work, the curriculum, and the charges for attendance.

SUMMARY AND CONCLUSIONS

It is too soon to pass judgement on the effectiveness of the Nigerian Land Use Decree as to agricultural development in the Rivers State. Data available so far shows that there has been some increase in the production levels of cash crops, especially palm produce (Table 1). On the other hand, domestic food production shows a very negligible increase, with a general decline in total production since the early 1980's compared to the population increase. The reasons for the decline in total production may be attributable to many factors among which are abandonment of tree crop and food crop farming in the oil boom, growth in urban areas and rises in some incomes, and a host of other socio-political and economic factors.

The administrative structure required for the allocation of Certificate of Occupancy is also mind-boggling. Both the survey and the examples used by Okpala have attempted to argue that public ownership and control of land as embodied in the Land Use Decree of 1978, does not necessarily insure the achievement of those objectives envisaged by the Decree. If anything, previous experiences show that the reverse can be the case. The realisation of the potentials of the measure would obviously depend more on the degree of fairness, integrity and equity involved in the administration or implementation of the Decree, rather than on the fact of the decree as such. After all, most evils associated with private ownership and control are also inherent in public ownership and control, as evidenced by

the survey. The state or public, after all, is personified by the same fallible human beings (as in the examples used), as in private ownership. Human beings conceivably can and do often times exercise public authority in such a perverse manner that the resulting outcomes prove as undersirable as, or even worse than, the outcome of private or communal land ownership system that public control seeks to remedy. Thus the ideal expectations of public ownership and management objectives often get thwarted in the process of execution.

While these consequences are not inevitable, they nevertheless represent tendencies in the behavior of people in public office. This should surely be a warning to those who advance the proposition or hope that public ownership automatically implies land policies which are more productive and just than the traditional system of land ownership and control (Okpaḷa 1978). State power may not make men virtuous. Rather, it could put too much power into the hands of a few in a manner which towers above the petty powers of individual land owners (Walters et al 1974). The state as a bad landlord admits of no peaceful alternative.

The Land Use Decree of 1978, therefore, can not be an end in itself. It will be judged and justified only in so far as it is implemented in favor of the common good, rather than to protect or advance the interests of the already privileged. A high degree of fairness, integrity and equity are required for a successful and socially desirable outcome of the Decree. The past pattern of beneficiary incidence

of state and publicly controlled land allocation should not be prologue to the outcome of the new Land Use Decree.

With this in mind, individual state governments, including that of Rivers State should adopt the following measures to effect the implementation of the Decree:

- i. Encourage traditional rulers to more positively reorient their beliefs or attitudes toward the Decree.
- ii. Make provisions for advertisement of available land to the general public to involve everyone in the allocation process.
- iii. Provide penalty for those officials who allocate land illegally to families, kins and friends.

On the farm front, we have been able to establish that the reasons why government initiated agricultural programs are ineffective is their failure to include consultations with farmers before such programs are launched. The Land Use Decree is reminiscent of such programs. Therefore any future agricultural program must involve the farmers who are directly affected by the program.

The Land Use Decree on its own can not boost the agricultural industry to propel the state economy. The study has identified new but old dimensions through which the state can increase production levels. These are:

- i. Farmers should be trained in methods of food production through agricultural shows, community leadership education and establishment of farmer training centers.

- ii. Farmers should be provided with some form of credits, agricultural supplies and marketing channels. In creating funds for fairness, the government must keep the rich dominant few who never farm but can get agricultural loans out of the program.
- iii. Finally, farmers should be educated to use fertilizer and mechanical equipment (both local and foreign if possible) on their farms by continuously training through the farmer training centers if and when they are established.

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QUESTIONNAIRE

PLEASE CHECK THE APPROPRIATE ANSWERS

1. Do you agree and/or believe that the Land Use Decree will or has improve(d) agricultural development in the State?

Yes___ No___ Don't Know___ Undecided___

If yes, in which of the following areas have you seen an increase or improvement?

- ___ Production levels of cash crops - cocoa, palm oil and kernel, and rubber plantations
- ___ Production levels of domestic crops - cassava, rice, yam, cocoa yam, plantain, citrus fruits, etc.,
- ___ Acreage of government owned farm lands
- ___ Acreage of Niger Delta Development Corporation farm lands
- ___ Acreage of small holders farm lands

2. Do you think that the Land Use Decree was tailored toward agricultural development?

Yes___ No___ Don't Know___ Undecided___

3. Has the decree been fully implemented?

Yes___ No___ Don't Know___ Undecided___

4. The following statements reflect some of the reasons why land use decrees have failed in some countries. Rank in order of importance (#1 to the most important) as many of the following factors that you believe may affect the Nigerian decree.

- ___ Lack of cadastral and large scale topographic mapping of the entire State/Country
- ___ Lack of accurate survey of existing property boundaries in agricultural areas
- ___ Lack of trained local Nigerian Surveyors
- ___ Fragmentation of records of existing title to land
- ___ Opposition from traditional rulers, obas, and chiefs
- ___ Lack of support from the general public
- ___ Mechanism for considering applications of Certificate of Occupancy
- ___ Other reasons _____

5. Would you recommend that Agricultural Extension Workers be decentralized to the grass root level?

Yes___ No___ Don't Know___ Undecided___

6. The following programs or policies have been accredited with achieving optimum agricultural development and productivity in some developing countries and industrial countries. Indicate which of the following is/are appropriate for Rivers State.

- ___ Mechanization of agriculture
- ___ Agricultural Marketing, Credit and Supply of production requisites
- ___ Education and training in the field of food and agriculture
- ___ Fertilizer use and requirements
- ___ Irrigation
- ___ Other programs _____
(specify)

7. Please respond to the following statement by checking the answer that best describes your feeling about the statement, "Considering all aspects of the Land Use Decree, the policy has been beneficial to farmers".

Strongly Agree___ Agree___ Undecided___
Disagree___ Strongly Disagree___

8. Please make any comments you wish about the Land Use Decree. We would particularly be interested in any comment you may have that you think would be useful to policy makers or planners.

QUESTIONS 9-13 FOR DISTRICT AGRICULTURAL OFFICERS AND ASSISTANTS

9. What is the highest educational qualification you have completed?

- ___ Professional degree (MD, LL.B, D.D.S; etc.)
- ___ Doctoral degree (Ph.D, Ed.D; etc.)
- ___ Masters degree
- ___ Bachelor's degree
- ___ Associate degree, certificate, HND, OND
- ___ High School Certificate
- ___ Elementary School Certificate

10. What is the major of your highest educational qualification?

Major _____ Date Graduated _____
(e.g. Agriculture) (Example, 1978)

11. On the average how frequently do you come in contact with the local farmers?

- ___ 0-2 times per week
- ___ 3-6 times per week
- ___ 7-10 times per week
- ___ more than 10 times per week

12. What kind of needs does the local farmer mention to you in your contact with him/her? Rank in order of importance (#1 to the most important) as many of the following needs that they mentioned.

- ___ Farm subsidies and agricultural supplies
- ___ Marketing Channels
- ___ Mechanical needs e.g. Tractors, etc.
- ___ Financial needs e.g. Loans (Credits)
- ___ Transportation needs
- ___ Other kinds of needs _____
(specify)

13. Do you think the local farmers need some exposure to agricultural education?

Yes ___ No ___ Don't Know ___ Undecided ___

If yes, which of the following ways would you recommend as a viable agricultural exposure?

- ___ Community leadership education
- ___ Agricultural shows
- ___ Farmers training Centers
- ___ Other programs _____
(specify)

PLEASE RETURN THE COMPLETED QUESTIONNAIRE IN THE ENCLOSED PRE-POSTED ENVELOPE TO : CHIEF AGRICULTURAL OFFICER
Ministry of Agricultural and
Natural Resources
Port Harcourt, Rivers State, Nigeria

THANK YOU FOR YOUR HELP!!!

TABLE 18. Programme for Oil-palm Development until 1979/80 (Eastern Nigeria)
(Production estimates on the basis of areas established up to 1965/66, and new plantings and replantings planned and proposed for 1966/67-1979/80)

Year	Eastern Nigeria Development Corporation (S.N.D.C.)			Farm Settlements			M.O.A. Palm Grove Rehabilitation Scheme			New Planting Programme (proposed by FAO)			Rehabilitation Programme (proposed by FAO)			Smallholders' Palm Groves		
	Area (acres)	Production Palm-oil (long tons)	Production Palm-kernels (long tons)	Area (acres)	Production Palm-oil (long tons)	Production Palm-kernels (long tons)	Area (acres)	Production Palm-oil (long tons)	Production Palm-kernels (long tons)	Area (acres)	Production Palm-oil (long tons)	Production Palm-kernels (long tons)	Area (acres)	Production Palm-oil (long tons)	Production Palm-kernels (long tons)	Area (acres)	Production Palm-oil (long tons)	Production Palm-kernels (long tons)
1964/65	(19,245) ¹	5,800	1,600	(1,890) ¹	—	—	(15,975) ¹	400	300	—	—	—	—	—	—	(2,784,000) ¹	295,100	194,900
1965/66	4,800	6,000	1,700	1,450	—	—	13,615	900	700	—	—	—	—	—	—	2,770,000	293,600	193,900
1966/67	13,927	6,600	1,800	3,000	100	30	25,000	2,000	1,400	—	—	—	—	—	—	2,745,000	291,000	192,200
1967/68	11,800	7,800	2,200	4,580	300	100	30,000	4,600	2,500	—	—	—	—	—	—	2,715,000	287,800	190,100
1968/69	4,600	9,900	2,700	5,880	700	200	—	7,900	3,500	10,000	—	—	40,000	700	600	2,675,000	281,000	185,600
1969/70	—	13,400	3,700	4,860	1,500	400	—	14,200	5,100	10,000	—	—	50,000	2,000	1,700	2,625,000	273,300	180,500
1970/71	—	17,800	4,900	3,060	2,700	700	—	22,700	7,000	10,000	—	—	50,000	3,700	3,200	2,575,000	265,600	175,400
1971/72	—	23,500	6,500	—	4,500	1,300	—	31,500	8,700	10,000	1,100	300	50,000	9,800	6,000	2,525,000	258,100	170,400
1972/73	—	28,900	8,000	—	6,900	1,900	—	41,700	11,600	10,000	2,900	800	50,000	18,500	8,600	2,475,000	250,600	165,500
1973/74	—	32,900	9,100	—	9,500	2,700	—	46,700	13,000	10,000	6,900	1,900	50,000	36,200	13,500	2,425,000	243,300	160,700
1974/75	—	35,600	9,900	—	11,800	3,300	—	48,900	13,600	10,000	11,900	3,300	50,000	60,400	20,300	2,375,000	236,000	155,900
1975/76	—	37,800	10,500	—	13,400	3,700	—	48,900	13,600	10,000	17,700	4,900	50,000	88,600	28,100	2,325,000	228,800	151,100
1976/77	—	39,000	10,800	—	14,100	3,900	—	48,900	13,600	10,000	24,200	6,700	50,000	117,500	36,100	2,275,000	221,800	146,500
1977/78	—	39,300	10,900	—	14,300	4,000	—	48,900	13,600	10,000	30,700	8,500	50,000	146,500	44,200	2,225,000	214,800	141,800
1978/79	—	39,300	10,900	—	14,300	4,000	—	48,900	13,600	10,000	37,300	10,400	50,000	175,400	52,200	2,175,000	207,900	137,300
1979/80	—	39,300	10,900	—	14,300	4,000	—	48,900	13,600	10,000	43,800	12,200	50,000	204,300	60,200	2,125,000	201,100	132,800
Total acreage by 1979/80 (Per cent of total acreage) (Per cent of total production)	54,370 (1.8)	(7.1)	(4.7)	24,720 (0.8)	(2.6)	(1.7)	85,000 (2.8)	(8.9)	(5.8)	120,000 (4.0)	(7.9)	(5.2)	590,000 (19.7)	(37.0)	(25.8)	2,125,000 (70.9)	(36.5)	(56.8)

Year	TOTAL EASTERN NIGERIA							
	Total area Plantings per year (acres)	Total area Cumulative area (acres)	Total production Palm-oil (long tons)	Total production Palm-kernels (long tons)	Consumption of palm-oil ² Eastern Nigeria (long tons)	Consumption of palm-oil ² Inter-regional trade (long tons)	Palm-oil available for export (long tons)	Palm-kernels available for export and/or local processing (long tons)
1964/65	(37,110) ¹	2,821,110	301,300	196,800	143,500	20,500	137,300	196,800
1965/66	20,275	2,827,385	301,500	197,000	147,100	21,000	133,500	197,000
1966/67	41,930	2,844,310	299,700	195,400	150,800	21,500	127,400	195,400
1967/68	46,380	2,860,690	300,500	194,900	154,400	22,000	124,100	194,900
1968/69	60,480	2,881,170	300,200	192,600	158,800	22,600	118,800	192,600
1969/70	64,860	2,896,030	304,400	191,400	163,200	23,200	118,000	191,400
1970/71	63,060	2,909,100	312,500	191,200	167,700	23,900	120,900	191,200
1971/72	60,000	2,919,100	328,500	193,200	172,300	24,600	131,600	193,200
1972/63	60,000	2,929,100	349,500	196,400	177,000	25,300	147,200	196,400
1973/74	60,000	2,939,100	375,500	200,900	181,900	26,000	167,600	200,900
1974/75	60,000	2,949,100	404,600	206,300	187,400	26,800	190,400	206,300
1975/76	60,000	2,959,100	435,200	211,900	193,000	27,600	214,600	211,900
1976/77	60,000	2,969,100	465,500	217,600	198,800	28,400	238,300	217,600
1977/78	60,000	2,979,100	494,500	223,000	204,700	29,200	260,600	223,000
1978/79	60,000	2,989,100	523,100	228,300	210,900	30,100	282,100	228,300
1979/80	60,000	2,999,100	551,700	233,700	217,200	31,000	303,500	233,700
Total acreage by 1979/80 (Per cent of total acreage) (Per cent of total production)		2,999,100 (100.0)	(100.0)	(100.0)				

¹ The figures in parentheses represent the acreage planted up to and including 1964/65.

² Including an estimated 10,000 tons marketed into adjoining countries.

Decree No. 6

[29th March 1978]

Commence-
ment.

WHEREAS it is in the public interest that the rights of all Nigerians to the land of Nigeria be asserted and preserved by law :

AND WHEREAS it is also in the public interest that the rights of all Nigerians to use and enjoy land in Nigeria and the natural fruits thereof in sufficient quantity to enable them to provide for the sustenance of themselves and their families should be assured, protected and preserved :

NOW THEREFORE, THE FEDERAL MILITARY GOVERNMENT hereby decrees as follows :—

PART I—GENERAL

1. Subject to the provisions of this Decree, all land comprised in the territory of each State in the Federation are hereby vested in the Military Governor of that 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 Decree.

Vesting of
all land in
the State.

2.—(1) As from the commencement of this Decree—

(a) all land in urban areas shall be under the control and management of the Military Governor of each State ; and

(b) all other land shall, subject to this Decree, be under the control and management of the Local Government within the area of jurisdiction of which the land is situated.

Control and
management
of land ;
advisory
bodies.

(2) There shall be established in each State a body to be known as “the Land Use and Allocation Committee” which shall have responsibility for—

(a) advising the Military Governor on any matter connected with the management of land to which paragraph (a) of subsection (1) above relates ;

(b) advising the Military Governor on any matter connected with the resettlement of persons affected by the revocation of rights of occupancy on the ground of overriding public interest under this Decree ; and

(c) determining disputes as to the amount of compensation payable under this Decree for improvements on land.

(3) The Land Use and Allocation Committee shall consist of such number of persons as the Military Governor may determine and shall include in its membership—

(a) not less than two persons possessing qualifications approved for appointment to the public service as estate surveyors or land officers and who have had such qualification for not less than five years ; and

(b) a legal practitioner.

(4) The Committee shall be presided over by such one of its members as may be designated by the Military Governor and, subject to such directions as may be given in that regard by the Military Governor, shall have power to regulate its proceedings.

(5) There shall also be established for each Local Government a body to be known as "the Land Allocation Advisory Committee" which shall consist of such persons as may be determined by the Military Governor acting after consultation with the Local Government and shall have responsibility for advising the Local Government on any matter connected with the management of land to which paragraph (b) of subsection (1) above relates.

Designation
of urban
areas.

3. Subject to such general conditions as may be specified in that behalf by the National Council of States, the Military Governor may for the purposes of this Decree by order published in the State *Gazette* designate the parts of the area of the territory of the State constituting land in an urban area.

Applicable
law for the
interim
management
of land.

4. Until other provisions are made in that behalf and, subject to the provisions of this Decree, land under the control and management of the Military Governor under this Decree shall be administered—

(a) in the case of any State where the Land Tenure Law of the former Northern Nigeria applies, in accordance with the provisions of that Law ; and

(b) in every other case, in accordance with the provisions of the State Land Law applicable in respect of State land in the State,

and the provisions of the Land Tenure Law or the State Land Law, as the case may be, shall have effect with such modifications as would bring those Laws into conformity with this Decree or its general intentment.

PART II—PRINCIPLES OF LAND TENURE, POWERS OF MILITARY GOVERNOR AND LOCAL GOVERNMENTS, AND RIGHTS OF OCCUPIERS

Powers of
the Military
Governor in
relation to
land.

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

(a) to grant statutory rights of occupancy to any person for all purposes ;

(b) to grant easements appurtenant to statutory rights of occupancy ;

(c) to demand rental for any such land granted to any person ;

(d) to revise the said rental—

(i) at such intervals as may be specified in the certificate of occupancy ;
or

(ii) where no intervals are specified in the certificate of occupancy at any time during the term of the statutory right of occupancy ;

(e) to impose a penal rent for a breach of any covenant in a certificate of occupancy requiring the holder to develop or effect improvements on the land the subject of the certificate of occupancy and to revise such penal rent as provided in section 19 ;

(f) to impose a penal rent for a breach of any condition, express or implied, which precludes the holder of a statutory right of occupancy from alienating the right of occupancy or any part thereof by sale, mortgage, transfer of possession, sub-lease or bequest or otherwise howsoever without the prior consent of the Military Governor ;

(g) to waive, wholly or partially, except as otherwise prescribed, all or any of the covenants or conditions to which a statutory right of occupancy is subject where, owing to special circumstances, compliance therewith would be impossible or great hardship would be imposed upon the holder ;

(h) to extend except as otherwise prescribed, the time to the holder of a statutory right of occupancy for performing any of the conditions of the right of occupancy upon such terms and conditions as he may think fit.

(2) Upon the grant of a statutory right of occupancy under the provisions of subsection (1) of this section, all existing rights to the use and occupation of the land which is the subject of the statutory right of occupancy shall be extinguished.

6.—(1) It shall be lawful for a Local Government in respect of land not in an urban area—

(a) to grant customary rights of occupancy to any person or organisation for the use of land in the Local Government area for agricultural, residential and other purposes ;

(b) to grant customary rights of occupancy to any person or organisation for the use of land for grazing purposes and such other purposes ancillary to agricultural purposes as may be customary in the Local Government area concerned.

(2) No single customary right of occupancy shall be granted in respect of an area of land in excess of 500 hectares if granted for agricultural purposes, or 5,000 hectares if granted for grazing purposes, except with the consent of the Military Governor.

(3) It shall be lawful for a Local Government to enter upon, use and occupy for public purposes any land within the area of its jurisdiction which is not—

(a) land within an area declared to be an urban area pursuant to section 3 of this Decree ;

(b) the subject of a statutory right of occupancy ;

(c) within any area compulsorily acquired by the Government of the Federation or of the State concerned ;

(d) the subject of any laws relating to minerals or mineral oils, and for the purpose to revoke any customary right of occupancy on any such land.

(4) The Local Government shall have exclusive rights to the lands so occupied against all persons except the Military Governor.

(5) The holder and the occupier according to their respective interests of any customary right of occupancy revoked under subsection (2) shall be entitled to compensation for the value at the date of revocation of their unexhausted improvements.

(6) Where land in respect of which a customary right of occupancy is revoked under this Decree was used for agricultural purposes by the holder, the Local Government shall allocate to such holder alternative land for use for the same purpose.

Powers of
Local
Government
in relation
to land not
in urban
areas.

(7) If a Local Government refuses or neglects within a reasonable time to pay compensation to a holder and an occupier according to their respective interests under the provisions of subsection (5), the Military Governor may proceed to the assessment of compensation under section 29 and direct the Local Government to pay the amount of such compensation to the holder and occupier according to their respective interests.

Restriction
on rights
of persons
under age
of 21.

7. It shall not be lawful for the Military Governor to grant a statutory right of occupancy or consent to the assignment or subletting of a statutory right of occupancy to a person under the age of twenty-one years :

Provided that—

(a) where a guardian or trustee for a person under the age of 21 has been duly appointed for such purpose the Military Governor may grant or consent to the assignment or subletting of a statutory right of occupancy to such guardian or trustee on behalf of such person under age ;

(b) a person under the age of twenty-one years upon whom a statutory right of occupancy devolves on the death of the holder shall have the same liabilities and obligations under and in respect of his right of occupancy as if he were of full age notwithstanding the fact that no guardian or trustee has been appointed for him.

Special
contracts.

8. Statutory right of occupancy granted under the provisions of section 5 (1) (a) shall be for a definite term and may be granted subject to the terms of any contract which may be made by the Military Governor and the holder not being inconsistent with the provisions of this Decree.

Certificates
of occu-
pancy.

9.—(1) It shall be lawful for the Military Governor—

(a) when granting a statutory right of occupancy to any person ; or

(b) when any person is in occupation of land under a customary right of occupancy and applies in the prescribed manner ; or

(c) when any person is entitled to a statutory right of occupancy,
to issue a certificate under his hand in evidence of such right of occupancy.

(2) Such certificate shall be termed a certificate of occupancy and there shall be paid therefor by the person in whose name it is issued, such fee (if any) as may be prescribed.

(3) If the person in whose name a certificate of occupancy is issued, without lawful excuse, refuses or neglects to accept and pay for the certificate, the Military Governor may cancel the certificate and recover from such person any expenses incidental thereto, and in the case of a certificate evidencing a statutory right of occupancy to be granted under paragraph (a) of subsection (1) the Military Governor may revoke the statutory right of occupancy.

(4) The terms and conditions of a certificate of occupancy granted under this Decree and which has been accepted by the holder shall be enforceable against the holder and his successors in title, notwithstanding that the acceptance of such terms and conditions is not evidenced by the signature of the holder or is evidenced by the signature only or, in the case of a corporation, is evidenced by the signature only of some person purporting to accept on behalf of the corporation.

Conditions
and
provisions
implied in
certificates of
occupancy.

10. Every certificate of occupancy shall be deemed to contain provisions to the following effect—

(a) that the holder binds himself to pay to the Military Governor the amount found to be payable in respect of any unexhausted improvements existing on the land at the date of his entering into occupation ;

(b) that the holder binds himself to pay to the Military Governor the rent fixed by the Military Governor and any rent which may be agreed or fixed on revision in accordance with the provisions of section 16.

11. The Military Governor or any public officer duly authorised by the Military Governor in that behalf shall have the power to enter upon and inspect the land comprised in any statutory right of occupancy or any improvements effected thereon at any reasonable hours in the day time and the occupier shall permit and give free access to the Military Governor or any such officer so to enter and inspect.

Power of Military Governor or public officer to enter and inspect land and improvements.

12.—(1) It shall be lawful for the Military Governor to grant a licence to any person to enter upon any land which is not the subject of a statutory right of occupancy or of a mining lease, mining right or exclusive prospecting licence granted under the Minerals Act or any other enactment, and remove or extract therefrom any stone, gravel, clay, sand or other similar substance (not being a mineral within the meaning assigned to that term in the Minerals Act) that may be required for building or for the manufacture of building materials.

Power of Military Governor to grant licences to take building materials.

(2) Any such licence may be granted for such period and subject to such conditions as the Military Governor may think proper or as may be prescribed.

(3) No such licence shall be granted in respect of an area exceeding 400 hectares.

(4) It shall not be lawful for any licensee to transfer his licence in any manner whatsoever without the consent of the Military Governor first had and obtained, and any such transfer effected without the consent of the Military Governor shall be null and void.

(5) The Military Governor may cancel any such licence if the licensee fails to comply with any of the conditions of the licence.

13.—(1) The occupier of a statutory right of occupancy shall at all times maintain in good and substantial repair to the satisfaction of the Military Governor, or of such public officer as the Military Governor may appoint in that behalf, all beacons or other land marks by which the boundaries of the land comprised in the statutory right of occupancy are defined and in default of his so doing the Military Governor or such public officer as aforesaid may by notice in writing require the occupier to define the boundaries in the manner and within the time specified in such notice.

Duty of occupier of statutory right of occupancy to maintain beacons.

(2) If the occupier of a statutory right of occupancy fails to comply with a notice served under subsection (1) of this section he shall be liable to pay the expenses (if any) incurred by the Military Governor in defining the boundaries which the occupier has neglected to define.

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

Exclusive rights of occupiers.

The right to improvements.

15. During the term of a statutory right of occupancy the holder—

(a) shall have the sole right to and absolute possession of all the improvements on the land ;

(b) may, subject to the prior consent of the Military Governor, transfer, assign or mortgage any improvements on the land which have been effected pursuant to the terms and conditions of the certificate of occupancy relating to the land.

PART III—RENTS

Principles to be observed in fixing and revising rents.

16. In determining the amount of the original rent to be fixed for any particular land and the amount of the revised rent to be fixed on any subsequent revision of rent, the Military Governor—

(a) shall take into consideration the rent previously fixed in respect of any other like land in the immediate neighbourhood, and shall have regard to all the circumstances of the case ;

(b) shall not take into consideration any value due to capital expended upon the land by the same or any previous occupier during his term or terms of occupancy, or any increase in the value of the land the rental of which is under consideration, due to the employment of such capital.

Power of Military Governor to grant rights of occupancy free of rent or at reduced rent.

17.—(1) The Military Governor may grant a statutory right of occupancy free of rent or at a reduced rent in any case in which he is satisfied that it would be in the public interest to do so.

(2) Where a statutory right of occupancy has been granted free of rent the Military Governor may, subject to the express provisions of the certificate of occupancy, nevertheless impose a rent in respect of the land the subject of the right of occupancy if and when he may think fit.

Acceptance of rent not to operate as a waiver of forfeiture.

18. Subject to the provisions of sections 20 and 21, the acceptance by or on behalf of the Military Governor of any rent shall not operate as a waiver by the Military Governor of any forfeiture accruing by reason of the breach of any covenant or condition, express or implied, in any certificate of occupancy granted under this Decree.

Penal rent.

19.—(1) When in any certificate of occupancy the holder has covenanted to develop or effect improvements on the land the subject of the certificate of occupancy and has committed a breach of such covenant the Military Governor may—

(a) at the time of such breach or at any time thereafter, so long as the breach remains unremedied, fix a penal rent which shall be payable for twelve months from the date of such breach ; and

(b) on the expiration of twelve months from the date of such breach and on the expiration of every subsequent twelve months so long as the breach continues revise the penal rent to be paid.

(2) Such penal rent or any revision thereof shall be in addition to the rent reserved by the certificate of occupancy and shall be recoverable as rent :

Provided that the first penal rent fixed shall not exceed the rent so reserved and any revised penal rent shall not exceed double the penal rent payable in respect of the twelve months preceding the date of revision.

(3) If the Military Governor fixes or revises a penal rent he shall cause a notice in writing to be sent to the holder informing him of the amount thereof and the rent so fixed or revised shall commence to be payable one calendar month from the date of the receipt of such notice.

(4) If the breach for which a penal rent has been imposed is remedied before the expiration of the period for which such rent has been paid, the Military Governor may in his discretion refund such portion of the penal rent paid for such period as he may think fit.

(5) The fact that a penal rent or a revised penal rent has been imposed shall not preclude the Military Governor, in lieu of fixing a subsequent penal rent, from revoking the statutory right of occupancy :

Provided that the statutory right of occupancy shall not be revoked during the period for which a penal rent has been paid.

20.—(1) If there has been any breach of any of the provisions of section 22 or 23 the Military Governor may in lieu of revoking the statutory right of occupancy concerned demand that the holder shall pay an additional and penal rent for and in respect of each day during which the land the subject of the statutory right of occupancy or any portion thereof or any buildings or other works erected thereon shall be or remain in the possession, control or occupation of any person whomsoever other than the holder.

Additional
penal rent
for unlawful
alienation.

(2) Such additional and penal rent shall be payable upon demand and shall be recoverable as rent.

(3) The acceptance by or on behalf of the Military Governor of any such additional and penal rent shall not operate as a waiver by the Military Governor of any breach of section 22 or 23 which may continue after the date up to and in respect of which such additional and penal rent has been paid or is due and owing and the Military Governor shall accordingly be entitled to exercise in respect of any such continuing breach all or any of the powers conferred upon him by this Decree.

PART IV—ALIENATION AND SURRENDER OF RIGHTS OF OCCUPANCY

21. It shall not be lawful for any customary right of occupancy or any part thereof to be alienated by assignment, mortgage, transfer of possession, sublease or otherwise howsoever—

Prohibition
of alienation
of customary
right of
occupancy
except with
requisite
consent or
approval.

(a) without the consent of the Military Governor in cases where the property is to be sold by or under the order of any court under the provisions of the applicable Sheriffs and Civil Process Law ; or

(b) in other cases without the approval of the appropriate Local Government.

22. It shall not be lawful for the holder of a statutory right of occupancy granted by the Military Governor to alienate his right of occupancy or any part thereof by assignment, mortgage, transfer of possession, sublease or otherwise howsoever without the consent of the Military Governor first had and obtained :

Prohibition
of alienation
of statutory
right of
occupancy
without
consent of
Military
Governor.

Provided that the consent of the Military Governor—

(a) shall not be required to the creation of a legal mortgage over a statutory right of occupancy in favour of a person in whose favour an equitable mortgage over the right of occupancy has already been created with the consent of the Military Governor ;

(b) shall not be required to the reconveyance or release by a mortgagee to a holder or occupier of a statutory right of occupancy which that holder or occupier has mortgaged to that mortgagee with the consent of the Military Governor ;

(c) to the renewal of a sub-lease shall not be presumed by reason only of his having consented to the grant of a sub-lease containing an option to renew the same.

(2) The Military Governor when giving his consent to an assignment, mortgage or sub-lease may require the holder of a statutory right of occupancy to submit an instrument executed in evidence of the assignment, mortgage or sub-lease and the holder shall when so required deliver the said instrument to the Military Governor in order that the consent given by the Military Governor under subsection (1) may be signified by endorsement thereon.

Sub-under-leases.

23.—(1) A sub-lessee of a statutory right of occupancy may, with the prior consent of the Military Governor and with the approval of the holder of the statutory right of occupancy, demise by way of sub-underlease to another person the land comprised in the sub-lease held by him or any portion of the land.

(2) The provisions of subsection (2) of section 22 shall apply *mutatis mutandis* to any transaction effected under subsection (1) of this section as if it were a sub-lease granted under section 22.

Devolution of rights of occupancy on death.

24. The devolution of the rights of an occupier upon death shall—

(a) in the case of a customary right of occupancy, unless non customary law or any other customary law applies be regulated by the customary law existing in the locality in which the land is situated ; and

(b) in the case of a statutory right of occupancy (unless any non customary law or other customary law applies) be regulated by the customary law of the deceased occupier at the time of his death relating to the distribution of property of like nature to a right of occupancy :

Provided that—

(a) no customary law prohibiting, restricting or regulating the devolution on death to any particular class of persons or the right to occupy any land shall operate to deprive any person of any beneficial interest in such land (other than the right to occupy the same) or in the proceeds of sale thereof to which he may be entitled under the rules of inheritance of any other customary law ;

(b) a statutory right of occupancy shall not be divided into two or more parts on devolution by the death of the occupier, except with the consent of the Military Governor.

Effect of deed or will where non-customary law applies.

25. In the case of the devolution or transfer of rights to which any non-customary law applies, no deed or will shall operate to create any proprietary right over land except that of a plain transfer of the whole of the rights of occupation over the whole of the land.

Null and void transactions and instruments.

26. Any transaction or any instrument which purports to confer on or vest in any person any interest or right over land other than in accordance with the provisions of this Decree shall be null and void.

Surrender of statutory rights of occupancy.

27. The Military Governor may accept on such terms and conditions as he may think proper the surrender of any statutory right of occupancy granted under this Decree.

PART V—REVOCATION OF RIGHTS OF OCCUPANCY
AND COMPENSATION THEREFOR

28.—(1) It shall be lawful for the Military Governor to revoke a right of occupancy for overriding public interest.

Power of
Military
Governor to
revoke rights
of occup-
ancy.

(2) Overriding public interest in the case of a statutory right of occupancy means—

(a) the alienation by the occupier by assignment, mortgage, transfer of possession, sublease, or otherwise of any right of occupancy or part thereof contrary to the provisions of this Decree or of any regulations made thereunder ;

(b) the requirement of the land by the Government of the State or by a Local Government in the State, in either case for public purposes within the State, or the requirement of the land by the Government of the Federation for public purposes of the Federation ;

(c) the requirement of the land for mining purposes or oil pipelines or for any purpose connected therewith.

(3) Overriding public interest in the case of a customary right of occupancy means—

(a) the requirement of the land by the Government of the State or by a Local Government in the State, in either case for public purposes within the State, or the requirement of the land by the Government of the Federation for public purposes of the Federation ;

(b) the requirement of the land for mining purposes or oil pipelines or for any purpose connected therewith ;

(c) the requirement of the land for the extraction of building materials ;

(d) the alienation by the occupier by sale, assignment, mortgage, transfer of possession, sublease, bequest or otherwise of the right of occupancy without the requisite consent or approval.

(4) The Military Governor shall revoke a right of occupancy in the event of the issue of a notice by or on behalf of the Head of the Federal Military Government if such notice declares such land to be required by the Government for public purposes.

(5) The Military Governor may revoke a statutory right of occupancy on the ground of—

(a) a breach of any of the provisions which a certificate of occupancy is by section 10 deemed to contain ;

(b) a breach of any term contained in the certificate of occupancy or in any special contract made under section 8 ;

(c) a refusal or neglect to accept and pay for a certificate which was issued in evidence of a right of occupancy but has been cancelled by the Military Governor under subsection (3) of section 10.

(6) The revocation of a right of occupancy shall be signified under the hand of a public officer duly authorised in that behalf by the Military Governor and notice thereof shall be given to the holder.

(7) The title of the holder of a right of occupancy shall be extinguished on receipt by him of a notice given under subsection (5) or on such later date as may be stated in the notice.

Compensation payable on revocation of right of occupancy by Military Governor in certain cases.

29.—(1) If a right of occupancy is revoked for the cause set out in paragraph (b) of subsection (2) of section 28 or in paragraph (a) or (c) of subsection (3) of the same section, the holder and the occupier shall be entitled to compensation for the value at the date of revocation of their unexhausted improvements.

(2) If a right of occupancy is revoked for the cause set out in paragraph (c) of subsection (2) of section 28 or in paragraph (b) of subsection (3) of the same section the holder and the occupier shall be entitled to compensation under the appropriate provisions of the Minerals Act or the Mineral Oils Act or any legislation replacing the same.

(3) If the holder or the occupier entitled to compensation under this section is a community the Military Governor may direct that any compensation payable to it shall be paid—

(a) to the community ; or

(b) to the chief or leader of the community to be disposed of by him for the benefit of the community in accordance with the applicable customary law ; or

(c) into some fund specified by the Military Governor for the purpose of being utilised or applied for the benefit of the community.

(4) Compensation under subsection (1) of this section shall be, as respects—

(a) the land, for an amount equal to the rent, if any, paid by the occupier during the year in which the right of occupancy was revoked ;

(b) buildings, installation or improvements thereon, for the amount of the replacement cost of the building, installation or improvement, that is to say, such cost as may be assessed on the basis of the prescribed method of assessment as determined by the appropriate officer less any depreciation, together with interest at the bank rate for delayed payment of compensation and in respect of any improvement in the nature of reclamation works, being such cost thereof as may be substantiated by documentary evidence and proof to the satisfaction of the appropriate officer ;

(c) crops on land apart from any building, installation or improvement thereon, for an amount equal to the value as prescribed and determined by the appropriate officer.

(5) Where the land in respect of which a right of occupancy has been revoked forms part of a larger area the compensation payable shall be computed as in subsection (4) (a) above less a proportionate amount calculated in relation to that part of the area not affected by the revocation but of which the portion revoked forms a part and any interest payable shall be assessed and computed in the like manner.

(6) Where there is any building, installation or improvement or crops on the land to which subsection (5) applies, then compensation shall be computed as specified hereunder, that is as respects—

(a) such land, on the basis specified in that subsection ;

(b) any building, installation or improvement or crops thereon (or any combination of two or all of those things) on the basis specified in that subsection and subsection (4) above, or so much of those provisions as are applicable,

and any interest payable under those provisions shall be computed in like manner.

(7) For the purposes of this section, "installation" means any mechanical apparatus set up or put in position for use or materials set up in or on land or other equipment, but excludes any fixture in or on any building.

30. Where there arises any dispute as to the amount of compensation calculated in accordance with the provisions of section 29, such dispute shall be referred to the appropriate Land Use and Allocation Committee.

31. The provisions of the Public Lands Acquisition (Miscellaneous Provisions) Decree 1976 shall not apply in respect of any land vested in, or taken over by, the Military Governor or any Local Government pursuant to this Decree or the right of occupancy to which is revoked under the provisions of this Decree but shall continue to apply in respect of land compulsorily acquired before the commencement of this Decree.

32. The revocation of a statutory right of occupancy shall not operate to extinguish any debt due to the Government under or in respect of such right of occupancy.

33.—(1) Where a right of occupancy in respect of any developed land on which a residential building has been erected is revoked under this Decree the Military Governor or the Local Government, as the case may be, may in his or its discretion offer in lieu of compensation payable in accordance with the provisions of this Decree resettlement in any other place or area by way of a reasonable alternative accommodation (if appropriate in the circumstances).

(2) Where the value of any alternative accommodation as determined by the appropriate officer or the Land Use and Allocation Committee is higher than the compensation payable under this Decree the parties concerned may by agreement require that the excess in value in relation to the property concerned shall be treated as a loan which the person affected shall refund or repay to the Government in the prescribed manner.

(3) Where a person accepts a resettlement pursuant to subsection (1) of this section his right to compensation shall be deemed to have been duly satisfied and no further compensation shall be payable to such person.

PART VI—TRANSITIONAL AND OTHER RELATED PROVISIONS

34.—(1) The following provisions of this section shall have effect in respect of land in an urban area vested in any person immediately before the commencement of this Decree.

(2) Where the land is developed the land shall continue to be held by the person in whom it was vested immediately before the commencement of this Decree as if the holder of the land was the holder of a statutory right of occupancy issued by the Military Governor under this Decree.

(3) In respect of land to which subsection (2) of this section applies there shall be issued by the Military Governor on application to him in the prescribed form a certificate of occupancy if the Military Governor is satisfied that the land was, immediately before the commencement of this Decree, vested in that person.

Reference of dispute as to compensation.

Exclusion of the application of the Public Lands Acquisition (Miscellaneous Provisions) Decree 1976.

1976 No. 31.

Debt due to Government not extinguished by revocation.

Option to accept resettlement in case of revocation of right of occupancy.

Transitional provisions on land in urban areas.

(4) Where the land to which subsection (2) of this section applies was subject to any mortgage, legal or equitable, or any encumbrance or interest valid in law such land shall continue to be so subject and the certificate of occupancy issued, shall indicate that the land is so subject, unless the continued operation of the encumbrance or interest would in the opinion of the Military Governor be inconsistent with the provisions, or general intendment of this Decree.

(5) Where on the commencement of this Decree the land is undeveloped, then—

(a) one plot or portion of the land not exceeding half hectare in area shall subject to subsection (6) below, continue to be held by the person in whom the land was so vested as if the holder of the land was the holder of a statutory right of occupancy granted by the Military Governor in respect of the plot or portion as aforesaid under this Decree ; and

(b) all the rights formerly vested in the holder in respect of the excess of the land shall on the commencement of this Decree be extinguished and the excess of the land shall be taken over by the Military Governor and administered as provided in this Decree.

(6) Paragraph (a) of subsection (5) above shall not apply in the case of any person who was on the commencement of this Decree also the holder of any undeveloped land elsewhere in any urban area in the State and in respect of such a person all his holdings of undeveloped land in any urban area in the State shall be considered together and out of the undeveloped land so considered together—

(a) one plot or portion not exceeding $\frac{1}{4}$ hectare in area shall continue to be held by such a person as if a right of occupancy had been granted to him by the Military Governor in respect of that plot or portion ; and

(b) the remainder of the land (so considered together) in excess of $\frac{1}{4}$ hectare shall be taken over by the Military Governor and administered in accordance with this Decree and the rights formerly vested in the holder in respect of such land shall be extinguished.

(7) No land to which subsection (5) (a) or (6) above applies held by any person shall be further subdivided or laid out in plots and no such land shall be transferred to any person except with the prior consent in writing of the Military Governor.

(8) Any instrument purporting to transfer any undeveloped land in contravention of subsection (7) above shall be void and of no effect whatsoever in law and any party to any such instrument shall be guilty of an offence and liable on conviction to imprisonment for one year or a fine of ₦5,000.

(9) In relation to land to which subsection (5) (a) or (6) (a) applies there shall be issued by the Military Governor on application therefor in the prescribed form a certificate of occupancy if the Military Governor is satisfied that the land was immediately before the commencement of this Decree vested in that person.

Compensation for improvements in certain cases.

35.—(1) Section 34 of this section shall have effect notwithstanding that the land in question was held under a leasehold, whether customary or otherwise, and formed part of an estate laid out by any person, group or family in whom the leasehold interest or reversion in respect of the land was vested immediately before the commencement of this Decree so however

on, group of family in whom the leasehold interest or reversion was vested that if there has been any improvements on the land effected by the person ; as aforesaid the Military Governor shall, in respect of the improvements, pay to that person, group or family compensation computed as specified in section 29 of this Decree.

(2) There shall be deducted from the compensation payable under subsection (1) of this section any levy by way of development or similar charges paid in respect of the improvements on the land by the lessee to the person, group or family in whom the leasehold interest or reversion was vested and the amount to be deducted shall be determined by the Military Governor taking into consideration all the circumstances of the case.

36.—(1) The following provisions of this section shall have effect in respect of land not in an urban area which was immediately before the commencement of this Decree held or occupied by any person.

Transitional provisions on land not in urban areas.

(2) Any occupier or holder of such land, whether under customary rights or otherwise howsoever, shall if that land was on the commencement of this Decree being used for agricultural purposes continue to be entitled to possession of the land for use for agricultural purposes as if a customary right of occupancy had been granted to the occupier or holder thereof by the appropriate Local Government and the reference in this subsection to land being used for agricultural purposes includes land which is, in accordance with the customary of the locality concerned, allowed to lie fallow for purposes of recuperation of the soil.

(3) On the production to the Local Government by the occupier of such land, at his discretion, of a sketch or diagram or other sufficient description of the land in question and on application therefor in the prescribed form from the Local Government shall if satisfied that the occupier or holder was entitled to the possession of such land whether under customary rights or otherwise howsoever, and that the land was being used for agricultural purposes at the commencement of this Decree register the holder or occupier as one to whom a customary right of occupancy had been issued in respect of the land in question.

(4) Where the land is developed, the land shall continue to be held by the person whom it was vested immediately before the commencement of this Decree as if the holder of the land was the holder of a customary right of occupancy issued by the Local Government, and if the holder or occupier of such developed land, at his discretion, produces a sketch or diagram showing the area of the land so developed the Local Government shall if satisfied that that person immediately before the commencement of this Decree has the land vested in him register the holder or occupier as one in respect of whom a customary right of occupancy has been granted by the Local Government.

(5) No land to which this section applies shall be sub-divided or laid out in plots and no such land shall be transferred to any person by the person in whom the land was vested as aforesaid.

(6) Any instrument purporting to transfer any land to which this section relates shall be void and of no effect whatsoever in law and every party to any such instrument shall be guilty of an offence and shall on conviction to a fine of ₦5,000 or to imprisonment for 1 year.

Penalty for false claims, etc. in respect of land.

37. If any person other than one in whom any land was lawfully vested immediately before the commencement of this Decree enters any land in purported exercise of any right in relation to possession of the land or makes any false claim in respect of the land to the Military Governor or any Local Government for any purpose under this section, he shall be guilty of an offence and liable on conviction to an imprisonment for one year or to a fine of ₦5,000.

Preservation of power of Military Governor to revoke rights of occupancy.

38. Nothing in this Part shall be construed as precluding the exercise by the Military Governor or as the case may be the Local Government concerned of the powers to revoke, in accordance with the applicable provisions of this Decree, rights of occupancy, whether statutory or customary, in respect to any land to which this Part relates.

PART VII.—JURISDICTION OF HIGH COURTS AND OTHER COURTS

Jurisdiction of High Courts.

39.—(1) The High Court shall have exclusive original jurisdiction in respect of the following proceedings :—

(a) proceedings in respect of any land the subject of a statutory right of occupancy granted by the Military Governor or deemed to be granted by him under this Decree ; and for the purposes of this paragraph proceedings includes proceedings for a declaration of title to a statutory right of occupancy ;

(b) proceedings to determine any question as to the persons entitled to compensation payable for improvements on land under this Decree.

(2) All laws, including rules of court, regulating the practice and procedure of the High Court shall apply in respect of proceedings to which this section relates and the laws shall have effect with such modifications as would enable effect to be given to the provisions of this section.

Special provisions in respect of pending proceedings.

40. Where on the commencement of this Decree proceedings had been commenced or were pending in any court or tribunal (whether at first instance or on appeal) in respect of any question concerning or pertaining to title to any and or interest therein such proceedings may be continued and be finally disposed of by the court concerned but any order or decision of the court shall only be as respects the entitlement of either of the parties to the proceedings to a right of occupancy, whether statutory or customary, in respect of such land as provided in this Decree.

Jurisdiction of area courts or customary courts, etc.

41. An area court or customary court or other court of equivalent jurisdiction in a State shall have jurisdiction in respect of proceedings in respect of a customary right of occupancy granted by a Local Government under this Decree ; and for the purposes of this paragraph proceedings includes proceedings for a declaration of title to a customary right of occupancy and all laws including rules of court regulating practice and procedure of such courts shall have effect with such modifications as would enable effect to be given to this section.

Proceedings for recovery of rent in respect of certificate of occupancy, etc.

42.—(1) Proceedings for the recovery of rent payable in respect of any certificate of occupancy may be taken before a Magistrates Court of competent jurisdiction by and in the name of the Chief Lands Officer or by and in the name of any other officer appointed by the Military Governor in that behalf.

(2) Proceedings for the recovery of rent payable in respect of any customary right of occupancy may be taken by and in the name of the Local Government concerned in the area court or customary court or any court of equivalent jurisdiction.

PART VIII—SUPPLEMENTAL

43.—(1) Save as permitted under section 34 of this Decree, as from the commencement of this Decree no person shall in an urban area—

(a) erect any building, wall, fence or other structure upon ; or

(b) enclose, obstruct, cultivate or do any act on or in relation to, any land which is not the subject of a right of occupancy or licence lawfully held by him or in respect of which he has not received the permission of the Military Governor to enter and erect improvements prior to the grant to him of a right of occupancy.

Prohibition of and penalties for unauthorised use of land.

(2) Any person who contravenes any of the provisions of subsection (1) shall on being required by the Military Governor so to do and within the period of time fixed by the Military Governor, remove any building, wall, fence, obstruction, structure or thing which he may have caused to be placed on the land and he shall put the land in the same condition as nearly as may be in which it was before such contravention.

(3) Any person who contravenes any of the provisions of subsection (1) shall be guilty of an offence and liable on conviction to imprisonment for one year or to a fine of ₦5,000.

(4) Any person who fails or refuses to comply with a requirement made by the Military Governor under subsection (2) shall be guilty of an offence and liable on conviction to a fine of ₦100 for each day during which he makes default in complying with the requirement of the Military Governor.

44. Any notice required by this Decree to be served on any person shall be effectively served on him—

(a) by delivering it to the person on whom it is to be served ; or

(b) by leaving it at the usual or last known place of abode of that person ; or

(c) by sending it in a prepaid registered letter addressed to that person at his usual or last known place of abode ; or

(d) in the case of an incorporated company or body, by delivering it to the secretary or clerk of the company or body at its registered or principal office or sending it in a prepaid registered letter addressed to the secretary or clerk of the company or body at that office ; or

(e) if it is not practicable after reasonable inquiry to ascertain the name or address of a holder or occupier of land on whom it should be served, by addressing it to him by the description of "holder" or "occupier" of the premises (naming them) to which it relates, and by delivering it to some person on the premises or, if there is no person on the premises to whom it can be delivered, by affixing it, or a copy of it, to some conspicuous part of the premises.

Service of notices.

45.—(1) The Military Governor may delegate to the State Commissioner all or any of the powers conferred on the Military Governor by this Decree, subject to such restrictions, conditions and qualifications, not being inconsistent with the provisions, or general intendment, of this Decree as the Military Governor may specify.

Delegation of powers.

(2) Where the power to grant certificates has been delegated to the State Commissioner such certificates shall be expressed to be granted on behalf of the Military Governor.

Power to
make regu-
lations.

46.—(1) The National Council of States may make regulations for the purpose of carrying this Decree into effect and particularly with regard to the following matters—

- (a) the transfer by assignment or otherwise howsoever of any rights of occupancy, whether statutory or customary, including the conditions applicable to the transfer of such rights to persons who are not Nigerians ;
- (b) the terms and conditions upon which special contracts may be made under section 8 ;
- (c) the grant of certificates of occupancy under section 9 ;
- (d) the grant of temporary rights of occupancy ;
- (e) the method of assessment of compensation for the purposes of section 29 of this Decree.

(2) The Military Governor may, subject to subsection (1) make regulations with regard to the following matters :—

- (a) the method of application for any licence or permit and the terms and conditions under which licences may be granted ;
- (b) the procedure to be observed in revising rents ;
- (c) the fees to be paid for any matter or thing done under this Decree ;
- (d) the forms to be used for any document or purpose.

Exclusion
of certain
proceedings.

47.—(1) This Decree shall have effect notwithstanding anything to the contrary in any law or rule of law including the Constitution of the Federation or of a State and, without prejudice to the generality of the foregoing, no court shall have jurisdiction to inquire into :—

- (a) any question concerning or pertaining to the vesting of all land in the Military Governor in accordance with the provisions of this Decree ; or
- (b) any question concerning or pertaining to the right of the Military Governor to grant a statutory right of occupancy in accordance with the provisions of this Decree ; or
- (c) any question concerning or pertaining to the right of a Local Government to grant a customary right of occupancy under this Decree.

(2) No court shall have jurisdiction to inquire into any question concerning or pertaining to the amount or adequacy of any compensation paid or to be paid under this Decree.

Modifica-
tion of
existing laws.

48. All existing law relating to the registration of title to, or interest in, land or the transfer of title to or any interest in land shall have effect subject to such modifications (whether by way of addition, alteration or omission) as will bring those laws into conformity with this Decree or its general intentment.

Exemption
with respect
to Federal
Government
lands, etc.

49.—(1) Nothing in this Decree shall affect any title to land whether developed or undeveloped held by the Federal Government or any agency of the Federal Government at the commencement of this Decree and, accordingly, any such land shall continue to vest in the Federal Government or the agency concerned.

(2) In this section, "agency" includes any statutory corporation or any other statutory body (whether corporate or unincorporate) or any company wholly-owned by the Federal Government.

50.—(1) In this Decree, unless the context otherwise requires:—

Interpreta-
tion.

"agricultural purposes" includes the planting of any crops of economic value ;

"appropriate officer" means the Chief Lands officer of a State and in the case of the Federal Capital Territory means the Chief Federal Lands Officer ;

"customary right of occupancy" means the right of a person or community lawfully using or occupying land in accordance with customary law and includes a customary right of occupancy granted by a Local Government under this Decree ;

"developed land" means land where there exists any physical improvement in the nature of road development services, water, electricity, drainage, building, structure or such improvement that may enhance the value of the land for industrial, agricultural or residential purposes ;

"easement" means a right annexed to land to utilize other land in different holding in a particular manner (not involving the taking of any part of the natural produce of that land or of any part of its soil) or to prevent the holder of the other land from utilizing his land in a particular manner ;

"Government" means the Government of the Federation or the Government of a State ;

"grazing purposes" includes only such agricultural operations as are required for growing fodder for livestock on the grazing area ;

"High Court" means the High Court of the State concerned ;

"holder" in relation to a right of occupancy, means a person entitled to a right of occupancy and includes any person to whom a right of occupancy has been validly assigned or has validly passed on the death of a holder but does not include any person to whom a right of occupancy has been sold or transferred without a valid assignment, nor a mortgagee, sub-lessee or sub-underlessee ;

"improvements" or "unexhausted improvements" means anything of any quality permanently attached to the land, directly resulting from the expenditure of capital or labour by an occupier or any person acting on his behalf, and increasing the productive capacity, the utility or the amenity thereof and includes buildings, plantations of longlived crops or trees, fencing, wells, roads and irrigation or reclamation works, but does not include the result of ordinary cultivation other than growing produce ;

"interest at the bank rate" means a simple interest payable at the rate per cent per annum at which the Central Bank of Nigeria will rediscount bills of exchange ;

"Local Government" means the appropriate Local Government or any other body having or exercising the powers of a Local Government as provided by law in respect of the area where the land in question is situated ;

"Military Governor" means the Military Governor of the State concerned ;

"mortgage" includes a second and subsequent mortgage and equitable mortgage ;

"occupier" means any person lawfully occupying land under customary law and a person using or occupying land in accordance with customary law and includes the sub-lessee or sub-underlessee of a holder ;

"public purposes" includes—

- (a) for exclusive Government use or for general public use ;
- (b) for use by any body corporate directly established by law or by any body corporate registered under the Companies Decree 1968 as respects which the Government owns shares, stocks or debentures ;
- (c) for or in connection with sanitary improvements of any kind ;
- (d) for obtaining control over land contiguous to any part or over land the value of which will be enhanced by the construction of any railway, road or other public work or convenience about to be undertaken or provided by the Government ;
- (e) for obtaining control over land required for or in connection with development of telecommunications or provision of electricity ;
- (f) for obtaining control over land required for or in connection with mining purposes ;
- (g) for obtaining control over land required for or in connection with planned urban or rural development or settlement ;
- (h) for obtaining control over land required for or in connection with economic, industrial or agricultural development ;
- (i) for educational and other social services ;

"statutory right of occupancy" means a right of occupancy granted by the Military Governor under this Decree ;

"urban area" means such area of the State as may be designated as such by the Military Governor pursuant to section 3 of this Decree ;

"sub-lease" includes a sub-underlessee.

(2) The powers of a Military Governor under this Decree shall, in respect of land comprised in the Federal Capital Territory or any land held or vested in the Federal Government in any State, be exercisable by the Head of the Federal Military Government or any Federal Commissioner designated by him in that behalf and references in this Decree to Military Governor shall be construed accordingly.

Citation.

51. This Decree may be cited as the Land Use Decree 1978.

MADE at Lagos this 29th day of March 1978.

LT-GENERAL O. OBASANJO,
*Head of the Federal Military Government,
Commander-in-Chief of the Armed Forces,
Federal Republic of Nigeria*