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Functionality of the Town Planning Authorities in Effecting Urban and Regional Planning Laws and Control in Nigeria: The Case of Lagos State (Pp. 156-171)

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Abstract

Any Societies that lack laws and order are doomed to chaos and failure. Any Society with law and order in place but lacks effective implementation are also vulnerable to chaos and crises. Planning Laws and Ordinances are in place to control and regulate development and also to maintain perfect health of the society through their effective implementation. This paper examines the planning laws and ordinances available in Nigeria, with specific reference to the new Lagos State Urban and Regional Planning and Development Law 2010, the types and levels of the Planning Authorities and Agencies responsible for the implementation of the laws. It also appraises their activities so far in the area of implementation, their challenges and lastly, makes recommendation for improvement.

Introduction

Law is a discipline and profession concerned with the customs, practices, and rules of conduct that are recognized as binding by the community. Enforcement of the body of rules is through a controlling authority, such as a group of elders, a regent, a court, or a judiciary.

An ordinance is a law passed by a municipal government. A municipality, such as a city, town, village, or borough, is a political subdivision of a state within which a municipal corporation has been established to provide local government to a population in a defined area.

Ordinances constitute the subject matter of municipal law. The power of municipal governments to enact ordinances is derived from the state constitution or statutes or through the legislative grant of a municipal charter. The charter in large part dictates how much power elected officials have to regulate actions within the municipality. Municipalities that have been granted "home rule" charters by the legislature have the most authority to act. **If**, however, a municipality enacts an ordinance that exceeds its charter or is in conflict with state or federal law, the ordinance can be challenged in court and ruled void.

Even though most of the issues bothering ordinances have been taken care of by the new 2010 Law, many ordinances deal with maintaining public safety, health, morals, and general welfare, for example, a municipality may enact housing ordinances that set minimum standards of habitability. Other ordinances deal with fire and safety regulations that residential, commercial, and industrial property owners must follow. Many municipalities have enacted noise ordinances, which prohibit prescribed levels of noise after certain hours of the evening. Ordinances may also deal with public streets and sidewalks. They typically include regulations regarding parking, snow removal, and littering. Restrictions on pets, including "pooper scooper" and leash laws, are also governed by municipal ordinances.

One of the most significant areas of municipal law is zoning. Zoning ordinances constitute a master plan for land use within the municipality. A municipality is typically divided into residential, commercial, and industrial zoning districts. Zoning attempts to conserve the value of property and to encourage the most appropriate use of land throughout a particular locality.

In the past, many U.S. municipalities enacted a variety of ordinances regulating public morals and behavior. Many, such as ordinances that prohibited spitting on a public sidewalk, have been repealed or are rarely enforced.

Urban and Regional planning Laws and controls are formulated to order development, promote balance and orderliness in the urban and regional societies. The art and science of implementing law and order through effective coordination and control is known as Administration. This paper attempts to examine the:

- I. Awareness of the existence of urban development and planning regulations
- II. Degree of compliance in high-quality residential neighborhoods
- II. Degree of compliance in medium-quality residential neighborhoods
- III. Degree of compliance in low-quality residential neighborhoods

Town planning ordinances experience in Nigeria

The ordinances have experienced series of transformation since they started in the pre-colonial, through the colonial and post -colonial eras. They have been called laws, bye-laws, edicts, acts and decrees, depending on the ruling force at each of the eras.

Pre colonial era

Contemporary Planning started in Nigeria with Ordinances which were put in place during the colonial period by the then Colonial masters. Prior to this period traditional Nigerian settlement are structured according to the local custom and practice, the traditional land tenure system, the agrarian Nature of the economy and the existing mode of transportation. The Legal role as the trustee, beneficiary, allocator, the re-allocator and supervisor of are vested on the then ruler, and head of the communities such as the Obas, the Obis, the Ezes and the Emirs.

Traditional Nigerian settlements are established around the palaces of traditional rulers and the development and control of the total environment was the joint administrative responsibility of the entire community.

Colonial planning ordinances in Nigeria

In 1861 Lagos was ceded as an annexation of the British colony and consequently the 1863 Town Improvement Ordinance to control development and urban sanitation was promulgated.

After the Land proclamation act of 1900 by lord Luggard and the introduction of indirect rule system of the Northern Nigeria. And the

creation of the Government Reservation Areas in pursuant to the cantonment proclamation 1904, different planning standards were specified for various segment of the city with physical planning and infrastructure provisions concentrated in the European or Government reserved area.

The Township Ordinance No. 29 of 1917 constituted to as the first attempt at introducing spatial orderliness in the Land Use pattern of Nigerian cities. It legalized the segregation of European from the African Residential Area and established a management order for different towns. It created the First, Second class towns. The second class towns were managed by the Local Authorities with ordinary powers to collect rates under the control of District officers of Assistant District officers.

In 1924, Town Planning Committees were established for the Northern and Southern Provinces mainly first class towns to initiate and develop planning schemes as well as approve building plans.

The role was performed by the Local Advisory board and Districts Officers in the second and third class towns respectively.

In 1928 the Lagos Executive Development Board (LEDB), was established and was charged with the development of Lagos territory. It was set up in 1928 under the Lagos Town Planning Ordinance of 1928 in response to the outbreak of bubonic plague. The LEDB is concerned with slum clearance at the Lagos Island, reclamation of Victoria Island, and the Housing Schemes at Apapa, Surulere south west Ikoyi and the Industrial Layout of Apapa, Iganmu and Ijora.

As applaud able as the LEDB was, it was not directly concerned with City Planning or provision or maintenance of public services. The Lagos City council is responsible for them.

The Colonial Government during the period of their ten years plan for development and welfare of 1946-1956, which marked the beginning of systematic development plan in Nigeria, enacted the Town and Country Planning ordinance No 4 of 1946 to provide for the planning, improvement and development of different parts of the Country through planning schemes carried out by planning agencies. Other related legislations during the colonial period were the Mineral Act of 1945, which touch on the issues of drainage and pollution (Land,

water, air), Public health law (1957) which was to control overcrowding, diseases and urban squalor, Land Development (Road) Law of 1948 on places of worship, acquisition, sale and disbursement of land and the Building Line Regulations of (1948). This later became chapter 24 of the Law of Nigeria. The Law was designed to provide positioning for buildings and other obstructions with reference to roads.

Post colonial experience

After the Colonialist gave the Country independence in 1960, the 1946 Town and country planning ordinance was retained. Also retained were the chapter 123 of the Town and Country planning Law of Western Nigeria of 1959, chapter 130 of the law of Northern Nigeria and Chapter 155 of the Law of Eastern Nigeria. As the law was retained so was the problem of discriminatory legislations.

Inappropriate Standard amidst of poor and ineffective administrative framework is exemplified during the post colonial eras as Planning was not given adequate attention during the first three development plan era of the country.

The first attempt at organising the administration and development of Land at the grassroots was the enactment of the Local Government Law (1976). The Law made town and country planning a Local Government affair. Thus the state Governments created a Local Planning Authority to control developments and initiate planning schemes at the Local levels. Land use decree No 6 of 1978 was established to curb land speculation, ease the process of Land Acquisition by the government, co-ordinate and formulate land tenure modernization.

Ten years later, Town Planning in Nigeria recorded a boost, with promulgation of Decree No 3 of 1988 establishing the Town Planners Registration Council (TOPREC). Decree 88 of 1992 was in 1992 to state clearly the functions of the Federal, State and Local Planning Authorities according to their areas of jurisdiction.

The land use act (chapter 202 of the laws of Nigeria 1978) and physical planning

The Preamble of the Act leads to the background of the Act. It states that "It is in the public interest that the rights of all Nigerians to the

land of Nigeria be asserted and preserved by Law the rights of all Nigerians to use and enjoy land in Nigeria and the natural fruits thereof in sufficient quantity to enable them provide for the sustenance of themselves and their families should be assured, protected and preserved(Cap 202, 1978)

It is An Act to Vest all Land compromised in the territory of each State (except land vested in the Federal government or its agencies) solely in the Governor of the State, who would hold such Land in trust for the people and would henceforth be responsible for allocation of land in all urban areas to individuals resident in the State and to organizations for residential, agriculture, commercial and other purposes while similar powers will with respect to non urban areas are conferred on Local Governments.(27th March 1978) Commencement.

With reference to physical planning there are two major areas of the Act that are of interest, they are the ownership of the Land and secondly the categorization of localities into urban and rural areas for effective development control.

Urban and regional planning decree 88 of 1992

The Nigeria Urban and Regional Planning (Decree No. 88, 1992) is the long awaited Planning law expected to guide orderly physical development in modern Nigeria. The birth of the Decree was preceded by forty – six year of outdated Town and Country Planning Law of 1946. The new law is thus expected to reinvigorate the dull and static Planning activities pervading the post independent physical development in Nigeria. Most, if not all section are therefore expected to be contemporary, new or least fit closely well with exiting planning issues in the country, land acquisition, disposal, transfer and so forth are some of the issues expected to be central in the new planning law. The new 2010 Lagos State Law have taken cognisance of all the existing laws and modernise it to suit the peculiar situation of Lagos State. Lagos State has the smallest size of land in Nigeria compared to its huge population size.

All land and related issues in the Decree are referred to the Land Use Act. Some relevant sections in the Decree in this context are:

- i. Conditions for grant of development permit by a Development Control Department (DCD) must conform to condition of issue

- of Certificate of Occupancy or a customary right of occupancy as provided for the Act (s. 36, Decree No. 88 of 1992). See also Part II sections 24-41 of the 2010 Lagos State Law.
- ii. The development Control Department in approving and rejecting a Development permission as provided for under section 34 of the Decree is to take into account matters of overriding public interest (s. 43 (2)(a) of the Decree). This is contained in Part III sections 45-48 of the 2010 Lagos State Law.
 - iii. Condition for compensation for revocation would only be if the application had complied with the requirement of the Act with respect to right of occupancy of the land on which a development was to take place (s. 43(2)(b) of the Decree No. 88, 1992). Contained in sections 42-44 and 77 of the 2010 Lagos State Law.
 - iv. The commission Board, or Authority (s. 5(a)(b)(c) of the Decree) responsible for physical planning at the federal, state and local government level respectively are empowered to revoke acquired occupancy to obtain any land in connection with approved urban or rural development plan. However such revocation must be in accordance with the relevant provisions of the Act (s. 75(2) of the Decree). This is also taken care by section 2(m) of the 2010 Lagos State Law.
 - v. All matter connected with the payment of compensation for the revocation of right of occupancy under part IV (Acquisition of land and Compensation) of the Decree are to be governed in accordance with the relevant provisions of the Act (s. 76(1) of the Decree).
 - vi. Urban area is defined in the Decree (s. 91) according to the definition in section 3 of the Act. See sections 42 and 77 of 2010 Lagos State Law.

The foregoing shows one discernible scenario: that is since development, of any form, takes place on the land, compliance with virtually all provisions of the Decree rests on the Act. The implication of this is obvious. Successful implementation of the contemporary planning legislation in Nigeria still depends on the workability of the

controversial Land Use Act.

Development control and planning regulations

Control of development (see sections 45-48 of the 2010 Lagos State Law) in any form in urban and rural areas is deeply rooted in the development process of the built environment in the country. Before the advent of colonial administration in the country, the traditional rules in the different regions controlled development according to the traditional ways of environment control measures. There were no specific written regulations as such but every form of development was in line with the approval of the family first and the community at large through the traditional rulers under the Nigeria customary law. Control of development was historically based on native law and custom and was legal, since customary law is law.

Through the rate of physical development was relatively low and the pattern was also rudimentary, it was evident that there were some measures of control of physical development what is still clear, however, going by the pattern of layouts and growth of many traditional cities and rural areas is that physical development before colonial rule was allowed without much restriction and co- ordination resulting in amorphous growth. The absence of a development plan of any type in many areas of the country as well as traditional way of ownership of land could have been responsible for this situation.

The first ever known form of development control measure in the country was through the 1863 Town improvement Ordinance of Lagos. Other town and country planning legislation before 1946 had similar orientation in control of development in the sense that they restricted enforcement of modern planning regulations as it were to just Lagos city area and more importantly, to the Government Reservation Areas (GRAs). In fact the Brazilian quarters of the Lagos City Island still retain its pre-colonial pattern till date. The 1928 Town Panning Ordinance only ameliorates the situation of haphazard development with the establishment of the Lagos Executive Development Board (LEDB). The LEDB through the ordinance was much concerned with slum clearance in Lagos Island and housing schemes in Surulere, Ikoyi, Apapa and industrial layouts at Ijora and Iganmu Development control activity of a federal planning agency like LEDB was completely absent.

The 1946 Ordinance not only empowers the government to establish local planning authorities but also explicitly made development control the main activity of the authorities. The Ordinance specifically prohibited carrying out of development without adequate planning permission from the planning authority. The scope of development control measures as contained in the 1946 ordinance is what is still widely practiced by public planning authorities in the country till date. However, between 1946 and 1992 there were several legislation relating to development control in form of building regulations building adoptive by-laws public health law and so on that had been enacted. Many of these building adoptive by-laws (i.e. the former Western State of Nigeria by-laws of 1960, No. 171 of 1960) made provision for air space, building lines density control and so on and are still in use till present time.

Administrative machinery for physical planning

The administration framework that establishes a federal planning commission, states planning boards and local planning authorities is expected to provide a coordinated and unified system for effective planning at all levels. This may take care of the problem of inter-ministerial, inter - agency and inter government cooperation which is a sine qua non for effective and pragmatic plan implementation. All staff for the local planning authorities especially the principal staff can be centrally employed and deployed to local planning authorities. This may give the staff greater sense of responsibility, better job security, increased productivity for the authorities and greater sense of belonging to a service which is state-wide in its coverage. By this it would be possible to integrate the machinery for economic planning with that of the physical planning.

Physical Planning at the state level should aims at an integrated approach over the affected territory. This is a continuous process which requires coordination monitoring evaluation and review at the different levels and functions. It also requires feedback from the people. The government at all levels must recognize that the planned development of the same degree as it involves physical and social planning to at least the same degree as it involves economic planning. The state governments are prepared to act accordingly with a real sense of urgency, to give fist priority to attacking problem of the utilization of state land resources and to formulating firm policy in this connection.

The administration of urban and regional planning has been in a state of flux in the state since their creation. Experience has however shown that unless the administration structure of physical planning is streamlined and responsibilities clearly defined, planning and orderly development of settlement will remain ineffective, while the ultimate object of securing a rational use of land would be far from realized. Moreover, securing proper sanitary conditions amenity and convenience, preserving building or other objects of architectural, historic or artistic interest and places of natural interest or beauty, and general protecting existing amenities whether in urban or rural areas as stated in planning laws would still remain a mirage.

Planning Laws and Ordinances in Nigeria are tools for controlling the use of land and factors relating to it. The Ordinances are in place for effective administrative purposes.

Generally the following are the functions of Planning Authorities

1. Preparation, revision, and implementation of comprehensive master plans, zoning ordinances. Subdivision regulations, and capital-improvement programs;
2. Review of environmental impacts of contemplated development and initiation of policies and courses of action to protect and preserve the natural environment;
3. Urban redevelopment planning in older communities for rehabilitation of salvageable sections and conservation of neighbourhoods of good quality;
4. Quantitative modeling of transportation demand and land use patterns, often with the technology of Geographic Information Systems;
5. Implementation of state and regional growth management program

Planning Administration in Nigeria takes place at three levels.

The functions of the Town Planning Authorities in Effecting Urban and Regional Planning Laws

1. The Federal
2. The State
3. The local

All these evolved from the levels of Government as established by the National Constitution of Nigeria. Under these levels of planning administration are Agencies and parastatals that carry out planning functions. Some of these functions include. Town Development, road design, housing, implementation of planning Laws among others.

According to the Nigerian Town and Country Planning decree No 3 of 1988, the Planning Agencies are to carry out the following functions.

- Plan Preparation and Administration
- Development Control
- Additional Control in special Places
- Acquisition of Land and payment of compensation.

Planning administration at the federal level

As established by the Urban and regional Planning decree of 1992, Planning Agencies at the federal levels are known as Commissions.

Examples of such Commissions are the Federal Planning Authority (FPA), Federal Housing Authority (FHA), Federal Ministry of Transportation and Federal Ministry of Works, Ministry of Environment and many more.

The problem with these Agencies is that there are conflict and duplication of functions.

Though most time at the State and local Levels enforcement of planning ordinances and standards by the planning agencies at these levels are geared and revenues generations, for defaulters will face fines in forms of penal fees or total demolition of their development.

They are also to perform planning functions as stipulated in the decree, except when it is not within their jurisdiction.

The State planning Agencies functions include

- Formulation of Regional plan
- Sub-regional Plan
- Urban Plan
- Local Plan

- Subject Plan

The Local Planning Agencies functions Includes

- Formulation of Town Plan
- Rural Area Plan Local Plan
- Subject plan.

In all planning Agencies see into the overall welfare and properly arranged human settlements through the use or Laws and Control measures.

Planning administration at the local government level

Planning Administration at the Local Government Level (see Part I section 2(m) of the 2010 Law) is carried out by the Local Planning Authority, which is a direct arm of the State planning Board. They are to monitor all the development of the land within their jurisdiction with constant report to the State planning Board. The 2010 Law has included local government building control. What gives the Local Planning Authorities the control is they are the ones that can only recommend approval for any development, except if there is an overwriting interest from the state level. They are to report all cases requiring Demolition or restructuring that are beyond the limit of the power of the local government to the state planning board. Such cases are faulty canals that spread over more than a local government, faulty Arterial roads within the Local Government; they also report cases of slum and blighted areas that need urgent attention. They represent the State planning authority at Local Level. They also generate revenues true the collection of development approval processing fees and collection of penal fees from planning law contraveners. The CEO is the head of the Local Planning Authority.

Methodology for measuring the functionality of the town planning authorities in effecting urban and regional planning laws and control in Lagos state

Functionality is the measure of the usefulness, effectiveness and efficiency of a factor in achieving what it is meant for. The functionality of the town planning agencies can be measured using the Environmental Planning Management (EPM) Process. The EPM process is rightly described as a the steps needed to carry out and implement environment

management plans for the purpose of ensuring that achievements in social, economic and physical development last for the benefit of the present and future generations.

According to the UNCHS 1996, it is an articulated analytical framework and logical structure which facilitates better understanding of the dynamism of urban development and environmental issues and helps in evolving convincing guidelines or strategies for intervention. The EPM process is made up of both the descriptive (analytical) and prescriptive (normative) mechanisms for responsive urban management. The analytical framework of the process provides vigorous examination of the actual process of urban and environmental development, while the prescriptive framework provides guidelines for decision making and action for improving the process of urban environmental planning and management.

The EPM is designed to achieve the followings

- I. To identify urban environmental issues before they become uncontrollable and too expensive to deal with.
- II. To agree to strategies and actions to resolve identified environmental issue among all those whose cooperation is required.
- III. To implement strategies through coordinated public and private actions.

Justification for using the EPM

The fact that the EPM has the frame work of the description of urban problem and also the prescriptive frame work for the solution makes it a good measurement process for the functionality of the planning agencies. The Planning Agencies have identified problematic areas and they are prescribed Law and ordinances to control them, so as to avoid chaotic and uncontrollability. Through the EPM also the strategies arrived at which are the ordinances could be implemented coordinated public and private actions.

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The planning authorities' efforts in the study area

Planning Agencies and Authorities in the State have tried in many ways to achieve a perfect environment.

- Making master plans for the states and cities (done by the state for the LPA)
- Zoning Land uses (There are now areas strictly for commercial Purposes and the roads and rail way lines are now free of street trader making clearer access for road user. Commuter buses now have their own garages not as when the park haphazardly before State Government Intervention)
- Providing planning Schemes(Housing Estates , also done by the state for LGA) examples of which are LSDPC, DAIRY FARM ESTATES
- Creation of circulation routes, with collaborative efforts of relevant agencies
- Formulation of policies that can solve infrastructural deficiency problems
- Carrying out urban regeneration to stop the issues of slums and blight areas
- Making laws and order
- Doing many more.

Areas that still requires attention

Despite these efforts, a lot of settlements in the study are still experience flooding which is as result of blocked drainages example of which is Oke-koto area where the capitol road collects and empties vehicles to Pen cinema and lyana Ipaja road, though restructuring work is on is progress on the Capitol road as the time of writing this paper. Urban slums, street trading and so on are still in some core area of Old Oko Oba, and Olabua section of the Orile road.

However planning Authorities have been limited to the physical environment in times past, but nowadays they find themselves as key agents in solving the holistic environmental issues. Government has created policies and bodies that will assist the planning Agencies in place like Lagos. They have the Environmental Protection Agencies, The Lagos state waste Management Authorities, the Lagos state road maintenance authorities, the water from management authorities, the

tourism boards, The Kick against indiscipline (KAI) task forces and more, so as to achieve a perfect environment.

A magical event occurred in a place called Oshodi in Lagos state of recent, anyone familiar with that area will know the place that as at two years ago to be a place of business agglomeration, evidently filled with features of urban decay, homes for hoodlums and pick pockets, little space for vehicular and human traffic. It was a place of lawlessness.

Today the place has been transformed from one of the dirtiest places on earth to one of the neatest places on earth. The Laws and ordinances for the right of way, environmental and public health were there before the area became an eyesore, but their implementation using all agencies, though it was forceful achieved the great results.

The planners and the public

- The environment is a complex one, thus exhibiting complex problems
- The perception and psychology of the people about planning laws and orders and planning in general
- The lawlessness of the populace
- Failures of the ethical system.
- Inconsistence on rules and policies.
- Over acting and over reacting
- Lack of required will for Actions.
- Lack of understanding of the core areas of activities and specialization

Conclusion and recommendations

It is observed that Planning Authorities alone cannot enforce all the planning ordinances and laws that are to be implemented to achieve a desirable environment. It is therefore important for planning authorities to seek for **team work and collaboration** with other relevant fields in order to enhance capacity building to improve functionality.

- Planners and planning agencies often dabbles and double up into filling the gap other professions such as transportation and landscape design making the task almost burdensome or doing thing haphazardly. In the light of this planning Authorities should involve and employ other land related professionals

- Planning Authorities should also have members of the Executive arm of government working with monitoring sections of the planning Agencies that will make quick arrest of environmental law offences examples of which are the sanitary inspector and Special Forces that kick against in indiscipline.
- Planning Agencies should also be loyal to duty avoiding kick whatever form it may appear.

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