



EVALUATION OF CHALLENGES IN THE ENFORCEMENT OF PLANNING AND DEVELOPMENT LAWS IN LAND DEVELOPMENT IN NIGERIA**

Abstract

Enforcement, essentially is a mechanism employed by planning institutions to control land use in order to bring about orderliness to enhance city image and healthy environment. Enforcement of planning and development laws in land development in Nigeria is marred by several challenges that impede effective governance and sustainable urbanization. The doctrinal research method is adopted in this article. The aim and objectives of this article is to evaluate the challenges in the enforcement of planning and development laws in land development in Nigeria. The identified challenges include corruption, inadequate funding, and poor coordination among agencies. Addressing these challenges require a comprehensive legislative reforms, public awareness campaigns, and improved coordination among government agencies to promote sustainable and inclusive land development in Nigeria.

Keywords: Sustainable Development, Challenges, Enforcement, Development law, Land Development.

1. Introduction

Land development has been fast growing and expanding since independence. Housing planning has become an important issue in recent times as a result of increasing population as well as urban migration in Nigeria. Much of the population growth is unplanned for and unregulated, hence, the enactment of laws to regulate planning and development in Nigeria.¹ Planning and development have become very sensitive and complex. This is because many of the communities are proximate to the capital cities in Nigeria, especially Port Harcourt and Lagos. These suburbs which formerly depended directly on land for sustenance in farming and agrarian businesses are turning into miniature housing estates to accommodate population up surge.² The emerging new cities were formerly rural communities engaged in subsistence or rural farming. The former agricultural users of these land are increasingly disappearing, giving way to the provision of residential, commercial and industrial users without infrastructural facilities.³ In the cities of Port Harcourt and Lagos, the increasing rate of development and its associated challenges tend to question the efficiency and the relevance of planning authorities in these cities.⁴

Nigeria has continued to increase in the rate and level of urbanization which has resulted to the emergence of slum settlements, unauthorized buildings and building standard.⁵ There is the need to make provision for the building of more houses to accommodate the growing population in accordance with the provisions of the several town and country planning legislation.⁶

Housing development has been an important aspect of land development process by past governments in Nigeria. During the colonial era, there were various urban and regional planning

* **John E Thompson**, PhD, LLM, BL, LLB, ACI Arb (UK), Lecturer, Department of Private/Property Law, Rivers State University, Port Harcourt. thommyj4@gmail.com, +2349023941284.

****Soibi George-Ibikiri**, PhD, LLM, BL, LLB, Senior Lecturer, Department of Private/Property Law, Rivers State University, Port Harcourt. soibiteinyim.george-ibikiri@ust.edu.ng, +2348033094054.

1 Land Use Act 1978, Cap L5 LFN 2004 (LUA), Town Planners (Registration) Act 1988, Cap T7 LFN 2004, Nigerian Urban and Regional Planning Act 1992, Cap N138 LFN 2004 (NURPA).

2 U Jack-Osimiri, 'The Development of Planning Laws; The Government and Private Sector Partnership' (A lecture delivered to the members of the Institute of Town Planners of Nigeria in Port Harcourt, Rivers State, Nigeria, 2019) 3.

3 Jack-Osimiri (n2).

4 OA Akeem and Others, 'Planning Regulations and Implementation Mechanisms in Post-Colonial Lagos' *Journal of Globalization Studies*, [2018] 9(2) 91.

5 AL Mabogunje, 'Towards an Urban Policy in Nigeria' [1974] *Nigerian Journal of Economic and Social Studies*, 16.

6 LUA (n1).



legislation which were enacted to take care of the planning and development of housing in Nigeria.⁷ These laws have been there but the challenge has been that of implementation and enforcement. Poor control of urban development in Nigeria is associated with urban poverty and the emergence of the informal sector. This has an effect on the implementation of planning laws in Nigeria.⁸ The consequence of urbanization is the shortage of housing. The prevailing poverty level in Nigeria indicates that whatever housing scheme a sizeable proportion of the low income group can afford to build may fall below the acceptable or the official minimum building standard. The increasing dominance of persons occupying positions of influence further means that in responding to the shortage of housing, land acquisition, fund mobilization, housing construction and so on are likely to take place outside the official regulatory framework. The end result in most cases are unauthorized and sub-standard housing.⁹ The official regulatory procedure on unauthorized housing has been outright demolition.¹⁰

Unauthorized housing units continue to spread rapidly thereby questioning the implementation methods of planning laws in Nigeria. The rising intensity of the problem of excessive urbanization in the metropolis of Port Harcourt and Lagos and the inability of planning authorities to control land use to ensure the harmonious development of the cities simply means that the planning laws in Rivers State and Lagos State are probably not supported by a legal framework to implement the laws. The article therefore, will x-ray the various factors that account for these challenges and suggest ways and means of curbing these menace.

2. Development Control Obstacles

Development control as an effective tool for urban management ensures that there is a sustainable growth and control of settlements that ensure for orderliness and adherence to standard. In Nigeria, development control requires special skills to tackle the daily challenges the planning authorities may be confronted with. These challenges are appraised hereunder as follows:

2.1 Conflict of Interest

Since Independence the conflict of interests, connivance and occasional laxity on the part of the planning authorities in the implementation of planning and development laws have been noticed. Planning officers in Lagos and Rivers States have been responsible for the gap between theory and practice.¹¹ Evidence of this assertion abound in the case of *Defacto Bakeries and Catering Limited v Ajilore*¹² wherein the plaintiffs/respondents carried out development in breach of the Ilupeju-Shomolu Planning scheme. Evidence was further established that the breach was advised and approved by an officer of the planning authority.

Similarly in *Savage & Another v Akinrinmade*,¹³ the court held that the housing authority gave approval for the construction of a building in a planning area without previously obtaining an order of the Minister of Lagos Affairs under the provisions of sections 18 and 23 of the Lagos Town Planning Act with respect to the development in the area. It was therefore found that the building obstructed the highway but the Court refused to order for its removal. The trial Court

⁷ FK Omole, 'Land Development and Planning Laws in Nigeria: The Historical Account' *Journal of Law, Policy and Globalization*, [2014] (8) 26.

⁸ Mabogunje (n5).

⁹ Ibid.

¹⁰ Ibid.

¹¹ Akeem and Others (n4).

¹² [1974] 11 SC 120.

¹³ [1964] LLR 238.



could not order for the removal of the offending building because according to the judge, it was a *fait accompli*. The Court further held that because the offence has been completed, there was nothing that could be done to punish the offender. In *K A Adebutu v Lagos City Council*,¹⁴ the plaintiff sought a mandatory injunction to compel the defendant to approve his building plan. The plaintiff alleged that the Deputy City Engineer refused to approve his building plan because he had contravened the building regulations in his discretionary judgment. The trial judge held that in deciding whether to approve the plan or not, the Deputy City Engineer took into cognizance and depended on extraneous matters not provided for in the building regulations. Omotola observes that the above instances show clearly that planning officials often act against the spirit of the planning regulations and these acts or omissions are motivated by their greed and selfish reasons.¹⁵

2.2. Bureaucracy

There is general apathy of citizen's participation in planning schemes in Nigeria. This is evident by the difficulty and delay experienced in obtaining plan approval from the planning institutions. There is lack of sufficient knowledge of the concept and objectives of the system of planning and development laws and land use control.¹⁶ Akeem and Others explain that the inadequacy of public participation in the formulation process of a planning scheme presupposes the minimal degree of awareness on planning regulations in Lagos State.¹⁷

The majority of the officials of the planning agencies are school certificate holders who have through long service, learned on the job with stereotyped bureaucratic ideas of doing things. The condition of work in the civil service is poor with relation to the public responsibilities of the planners, hence, the temptation for corrupt practices is high.¹⁸ This could explain as one of the reasons responsible for the corruption in land use control.¹⁹ The implementation of planning and development laws as well as planning regulations may not be achievable if the right human resources like law enforcement agencies such as the police, special courts or tribunals and appropriate sanctions are not deployed. The availability of enforcement agencies may probably enhance the efficiency and implementation of planning schemes. The population explosion with high human concentration of activities had severely affected the implementation of planning and development laws. The high concentration of human activities in the cities of Port Harcourt and Lagos have led to the frequent increase in the breach of existing land use control. The resulting urban congestion has brought about consequent shortages of essential facilities such as electricity supply and water supply among others.²⁰

2.3. Institutional Rivalry

There is lack of collaboration and coordination among planning institutions in Nigeria. Most times several institutions or organisations who are involved in achieving a single objective end up in confusion, in the roles and functions they are to carry out within different levels of government, in order to ensure orderly development. Fatusin observes that the situation in Lagos State was worse with the proliferation of agencies and boards in urban planning and development. These

¹⁴ Suit No LD /261/66 Per Alexander J.

¹⁵ JA Omotola, 'Planning Law in Nigeria' *Town Planning Review*, [1991] 13 (4) 381-398.

¹⁶ Akeem and Others (n4).

¹⁷ Ibid.

¹⁸ Omotola (n15).

¹⁹ Ibid.

²⁰ Omotola (n15).



agencies and boards produce independent action, unresolved responsibilities and a woeful result.²¹ It is also observed that the city does not have a common and uniform structural and citywide administration.²²

It should be stated that the same confusion was observed in FESTAC master plan with regard to the unclear institutional arrangements which define the responsibilities for monitoring, including arrangements for coordination between the various stakeholders responsible for implementation.²³ Although FESTAC was built and managed by the Federal Housing Authority, its status is still somewhat confusing as the Federal, State and Local Governments all lay claim to the management of the estate and occasionally issue the residents with various charges ranging from valuation fees, local government levies to tenement rates.²⁴ Another instance observed by Oduwaye, is the overlapping functions of the various environmental management agencies evident in the case of Lagos State Traffic Management Authority, Federal Road Safety Corps and Federal Road Maintenance Agency.²⁵

In the area of enforcement of planning laws, there is always a conflict between the Federal Government and the States. For instance, in zoning, the states do not feel bound by the zoning regulations of the Federal Government. This was the case in *Attorney-General Lagos State v Attorney-General of the Federal and 35 others*.²⁶ Furthermore, planning responsibilities in Nigeria are distributed amongst the Federal, State and Local Governments and this has contributed to minimizing the efficiency of enforcement.

2.4. Corruption

Corruption affects various strata of public activities including Planning and Development laws as well as Planning Regulations and planning of land use. The United Nations Human Settlements Programme defines corruption as the misuse of office and public office power for private gain.²⁷ Corruption may include bribery, fraud, favouritism, and nepotism. Nepotism is the abuse of discretion in favour of a third party in exchange of benefits given by the third party.²⁸

There are three types of corruption associated with the planning sector. They are the legislative and regulatory corruption, bureaucratic corruption and public works corruption. Legislative and regulatory corruption refer to the ways in which law makers can be influenced. Individuals or interest groups can bribe law makers to introduce or revise regulations that can change the economic benefits associated with certain situations.²⁹ Bureaucratic corruption in other words is referred to the corrupt acts of the appointed officials in their dealings with members of the public whereas public works corruption is the systemic graft associated with building public

²¹ A Fatusin, 'Urban Development Planning in Nigeria: Prospects and Challenges' *International Journal of Innovation and Scientific Research*, [2015] 13 (1) 243-248.

²² L Oduwaye, 'Challenges of Sustainable Physical Planning and Development in Metropolitan Lagos' *Journal of Sustainable Development*, [2009] 2 (1) 159-171.

²³ Akeem and Others (n4).

²⁴ A Adedokun, 'New Towns Development Concept, Success or Failure: A Case Study of FESTAC Town, Lagos' *International Journal of Research in Social Sciences*, [2013] 3 (4) 67-81.

²⁵ Oduwaye (n22).

²⁶ (2003) 12 NWLR (pt 833) 169.

²⁷ UN-HABITAT, 'Tools to Support Transparency in Local Governance. Urban Governance Toolkit Series' (Nairobi Kenya: UN-Habitat 2004) 2.

²⁸ *Ibid.*

²⁹ F Chiodelli and S Moroni, 'Corruption in Land Use Issues: A Crucial Challenge for Planning Theory and Practice' *Town Planning Research*, [2015] 86 (4) [2015] 86 (4) 437-455.



infrastructure and services. It should be stressed that individuals bribe bureaucrats either to speed up bureaucratic procedures or to obtain a service that is not supposed to be available.³⁰

Corruption has assumed a particularly salient dimension or role in the practice of urban planning administration in Nigeria. More recently there has been widespread reports of town planning officers' corruption in Nigeria's news.³¹ This prompted the Chairman of Senate Fact-finding Committee, Senator Dino Melaye to describe the situation as dangerous and discouraged the propensity of a primitive mindset of the people in the corridors of power who have disregarded the rule of law governing land development.³²

In 2019, Nigeria was ranked 146th most corrupt country in the world.³³ Nigeria's ranking from the survey evidences that there is a lack of accountability and transparency from public officers making corruptible acts more attractive and easier to get away with within the country's public sector.³⁴ Planning and development laws regulate the use and development of land in a particular area. In practice this oversight function is usually overseen by the planning institutions through planning regulations, development control instruments and the issuance of building permits. Planning institutions ensure that the permits are issued to developers only when they comply with the applicable laws and regulations. Furthermore, field inspectors are sent to construction sites to carry out inspection at various stages of development to ascertain that developers meet the conditions in the development plan approval granted to them. This process, however, has been abused by the planning authority with systemic corruption.³⁵ Bribery, fraud, favouritism, nepotism and abuse of office by town planning officers are common features of corruption allegations in the administration of town planning laws.³⁶

There are some concerns expressed about corruption in physical planning in Nigeria. According to the United Nations Department on Economic and Social Affairs (UNDESA), forty percent of people who dealt with officials of the planning authorities in Nigeria demanded and accepted bribe with respect to land services.³⁷ For instance, access to land and building permits have been rated as the most serious obstacle to business development in Nigeria.³⁸ The anti-corruption campaign in Lagos uncovered thousands of illegal land and building matters in 2017.³⁹ Emerging data information from Helplines operated by Transparency International (TI) further affirmed these findings that the majority of the anti-corruption complaints received were from urban areas.⁴⁰

³⁰ Chodelli and Moroni (n29).

³¹ B Ajisola, 'Distortion of Abuja Master Plan' *Punch Newspapers* 15 February 2016 <https://punchng.com/distortion-of-abuja-master-plan/> accessed 17 December 2021.

³² Senator Dino Melaye was a member of the 8th Nigeria's National Assembly.

³³ Transparency International, 'Corruption Perceptions Index' 2019 <https://www.transparency.org/cpi2019> accessed 17 December 2021.

³⁴ D Omonijo and Others, 'Social Perspectives in the Pervasiveness of Endemic Corruption in Nigeria' *Journal of Economics, Commerce and Management*, [2013] 1 (2) 1-26.

³⁵ F Chiodelli, 'The illicit side of Urban Development: Corruption and Organized Crime in the Field of Urban Planning' *Urban Studies*, [2018] 56 (8) 1611-1627.

³⁶ Transparency International, *Global Corruption Report. Water and Corruption* (United Kingdom: Cambridge University Press 2008) 2.

³⁷ United Nations Department on Economic Affairs, *World Urbanization Prospects* (New York: UNDESA Population Division 2011) 9.

³⁸ A Adediran, 'Dialectics of Urban Planning in Nigeria' (5th Urban Dialogue of the Department of Urban and Regional Planning, University of Lagos 2017) 5.

³⁹ *Ibid.*

⁴⁰ Transparency International (n36).



According to Adediran, Nigeria is ranked in the bottom quartile of all countries globally in terms of bureaucratic hurdles to register land and buildings.⁴¹ For instance, Lagos metropolis received one hundred and eighty thousand planning applications between 2005 and 2015 and fewer than twenty-five percent of these applications were processed.⁴²

The relationship between town planning officers and the public in Nigeria is not cordial.⁴³ It has been affirmed that where a public authority is adjudged to use fair procedures, they would view the authority as being legitimate and likely to comply with the laws.⁴⁴ When the public perceives or experiences unfairness, injustice, corruption, abuse of authority and power during the exercise of institutional functions, they are likely to disrespect such authority and become defiant, contemptuous and non-compliant with the laws.⁴⁵ It should be stressed that town planning officials' bias, favouritism and the extent of unfair treatment of people continue to play crucial roles in explaining public distrust towards the planning and development laws that had dragged the image of Nigeria's town planning authority in the mud.⁴⁶

Planning authority officials have historical records of corruption and the use of excessive unfair procedures in discharging their functions. Consequently, planning authority officials are regarded as corrupt officers who prefer to service their pockets rather than service the purse of the planning authority.⁴⁷ Chioldelli and Moroni observe that on several occasions, these officials have been accused of unfairness in dealing with citizens. Regrettably, there are cases of overwhelmingly soliciting, taking and receiving of bribes, extortion and cunning behaviour towards citizens.⁴⁸ Badiora argues that there is a gross disparity between how these planning authority officers treat families, friends and influential members of society as well as those who are ready to bribe their way and how they respond to the general public.⁴⁹

Jackson and Others further argue that evidence abound where there are strong indications of corruption, unfairness, procedural injustice and negative perceptions of the authority's activities. People tend to be distrustful of the law.⁵⁰ It should be emphasised that the lack of incentive on the part of government has contributed to the ineffective enforcement of planning authority to carry out their duties effectively. It should also be noted that some of the staff members of the planning authorities are sometimes involved in corrupt practices such as issuance of illegal approvals, permits and so on. This has minimized the confidence of the citizens on the activities of planning institutions.⁵¹

⁴¹ Adediran (n38).

⁴² Lagos State Ministry of Physical Planning, Lagos Urbanization and Physical Development Facts, No 2015/3 Ikeja, Lagos, Nigeria.

⁴³ Al Badiora, 'Issues in Planning Practice in Nigeria, First Urban and Regional Planning Students Association of Nigeria Symposium' (2017 Wesley University Ondo) 2.

⁴⁴ M Hough and Others, 'Legitimacy, Trust and Compliance: An Empirical Test of Procedural Justice Theory using the European Social Survey' in J Tankebe and A Liebling (eds), *Legitimacy and Criminal Justice: An International Exploration* (Oxford: Oxford University Press 2013) 326-352.

⁴⁵ J Jackson and Others, 'Corruption and Police Legitimacy in Lahore, Pakistan' *British Journal of Criminology*, [2014] 541067-1088 <https://doi.org/10.1093/bjc/azu069> accessed 17 December 2021.

⁴⁶ Badiora (n43).

⁴⁷ Chioldelli and Moroni (n29).

⁴⁸ Ibid.

⁴⁹ Badiora (n43).

⁵⁰ Jackson and Others (n45).

⁵¹ CJ Okongwu and ES Imoisi, Planning Law as a Tool for Sustainable Development in Nigeria *AJLHR*, [2021] 5(2)107-122.



2.5. Ignorance, Illiteracy and Poverty

The increase in urban poverty is a major concern to effective land use practices and control. According to World Bank estimates worldwide, about thirty percent of poor people live in urban areas such as Port Harcourt and Lagos.⁵² It could be argued that most of the urban poor live in slum and squatter settlements without adequate access to basic infrastructural facilities like clean water, healthcare services and hygienic environment.⁵³ Majority of the slum dwellers came to the city in search for jobs. It is clear that as a result of increase in population, only very few people could get steady jobs with commensurate wages in the formal sector of the economy given the fact that majority of the urban poor are semi-illiterates and illiterates. The only means of survival is in the informal sector where they engage in all forms of trade ranging from displaying their wares or goods on the road side setbacks, hawk on the streets and so on. They also carry out unauthorized development such as building of small shops attached to residential building setbacks and setbacks of public utilities. Every available space is utilized for commercial purposes.

2.6. Operational Inadequacy

The operations of the planning institutions have been hampered by the paucity of qualified personnel to man the affairs of their authority or agency. This has led to the abysmal performance of the planning institutions in the management and control of the cities.⁵⁴ Based on the observation of a senior officer at the directorate cadre of the Ministry of Urban Development and Physical Planning, the Planning Institutions in Rivers State is operating with a staff strength of fifty members with less than thirty qualified Town Planners to manage a population of about over one million persons resident in the city of Port Harcourt.⁵⁵

The responsibility of administering and controlling the growth of the city of Port Harcourt is majorly carried out by *ad-hoc* staff that possess limited skill and knowledge of urban growth management. These category of personnel are employed by the managers of the planning institutions on pay-as-you-go basis daily. This is a gross disservice to the people and the planning profession because these hirelings apply brute force to enforce compliance and implementation.⁵⁶ Due to the limited staff strength, the planning institutions have resorted to development control skewed towards the approval of planning permit, service of contravention notice, demolition of shanties and unapproved developments, thereby neglecting other areas of development control.⁵⁷

It should be emphasised that the Development Control Department (DCD) is poorly equipped without modern facilities and lack of working tools to tackle contemporary urban growth challenges.⁵⁸ According to Brown and Chikagbum, the DCD does not have adequate operational vehicles. They have only five operational vehicles and hire other vehicles on daily basis.⁵⁹ Urban planning activities need well qualified personnel in the building industry such as Architects,

⁵² O Aluko, 'Development Control in Lagos State: An Assessment of Public Compliance to Space Standards for Urban Development' *African Research Review; International Multidisciplinary Journal, Ethiopia*, [2011] 5 (5) 169-184.

⁵³ *Ibid.*

⁵⁴ I Brown and W Chikagbum, 'Urban Growth: Challenges, Management and Planning Implication in Port Harcourt Municipality' *Journal of Global Ecology and Environment*, [2017] 6 (4) 135-148.

⁵⁵ *Ibid.*

⁵⁶ *Ibid.*

⁵⁷ Brown and Chikagbum (n54).

⁵⁸ J F Odekunle and Others, 'The Problems and Challenges of Development Control in Abeokuta-West Zonal Planning Area, Ogun State, Nigeria' *African Journal of Economics and Sustainable Development*, [2019] 2 (1) 9-27; V E Lekwot and Others, 'The Nature, Scope and Dimensions of Development Control, Tools and Machineries in Urban Planning in Nigeria' *International Journal of Innovative Environmental Studies Research*, [2013] 1 (1) 48-54.

⁵⁹ *Ibid.*



Surveyors, Building Inspectors, Drawing Technicians, Land Valuation Officers, Site Officers and a host of Field Officers. These are lacking in the urban areas.⁶⁰

The operational agencies in most cases are not carried along and fully involved while developing urban plans, master plans, commercial and residential layouts and the likes. Successive governments in Nigeria have been hiring consultants to develop plans.⁶¹ Izueke and Eme observe that the use of consultants and non-involvement of operational agencies pose a serious challenge to urban planning in Nigeria.⁶²

A major challenge of urban governance is how to make adequate infrastructure available and to ensure that the available ones are working and functional. The increase in population growth affects the urban dwellers sustainable road networks, residential accommodation, electricity, potable water, markets, recreation, motor parks and so on. Existing infrastructure easily wear out and come under a deplorable state arising from continuous pressure mounted on them by the ever increasing utilisation.⁶³ Azu asserts that city administrators are worried about how to increase the level of infrastructure to take care of the teeming urban population as well as maintaining the existing ones.⁶⁴

Logistics challenges such as lack of moving vans, bad road networks and absence of good master plan are among some of the bottlenecks faced by planning institutions. Ifediora asserts that these challenges are more experienced by the staff of the local planning authority, when the needed logistics are not there.⁶⁵ Planning institutions need moving vans to move around for enforcement, the same can be said about good roads, if the institution's vehicles and the roads are bad, they still cannot perform their development control functions.

Personnel constraint may also affect the staff of the planning institution. Personnel constraint may be by way of poor education, poor salary and so on. It should be stated that where staff are poorly enumerated, they could be easily corrupted by some developers to allow them continue their development despite the apparent danger and incompatible nature of the project. Some unscrupulous developers use thugs to scare enforcement officers from doing their jobs.⁶⁶

2.7. Institutional Challenges

There is no strong institutional framework for urban growth management and development control because the Rivers State Physical Planning and Development Law which provides for development control is not yet fully operational in the state.⁶⁷ There is no clear policy direction put in place to direct urban growth and management in respect of development and developers alike. There has been no well-established Planning Board at the state level as well as Planning Authorities at the local government levels. The Planning Tribunal which is responsible for resolving disputes arising from contravention of planning and development laws has not been established.⁶⁸

⁶⁰ EMC Izueke and O I Eme, 'Urban Planning Problems in Nigeria: A Case of Onitsha Metropolis of Anambra State' *Singaporean Journal of Business Economics and Management Studies*, [2013] 1 (1) 41-59.

⁶¹ Izueke and Eme (n60).

⁶² Ibid.

⁶³ VN Azu, 'Issues and Challenges of Urban Governance in Africa: The Nigerian Experience' *Global Journal of Political Science and Administration*, [2018] 6 (2) 1-12.

⁶⁴ Azu (n63).

⁶⁵ O Ifediora, 'Development Control Challenges and Land Use Compatibility: Professionals Concerns and Implications for Health and Safety' (Conference Paper 2019).

⁶⁶ Ibid.

⁶⁷ Rivers State Physical Planning and Development Law No 6 2003, ss70-103.

⁶⁸ Brown and Chikagbum (n54).



The non-compliance with the provisions of the extant law has made physical planning, urban growth management and development control very challenging in Port Harcourt. It should be stated that the operations of Town Planners in Port Harcourt are not coordinated as the practice of planning is done without consideration of extant practice guidelines.⁶⁹ The deliberate refusal to institutionalize and make operational the Rivers State Physical Planning and Development law by successive governments has greatly affected the management of the growth of the city.⁷⁰

Institutional constraint which includes lack of motivation, insufficient funding, lack of political will, government insensitivity and poor administration. The institutional constraint affects the officials of the planning institutions because where there is no proper motivation to staff handling enforcement, the staff cannot perform effectively. The same can be said about inadequate funding if the physical planning ministry and the authority are not properly funded. There is a limit to what they can do.

2.8. Political Challenges

Urban growth management and development control in Rivers State has been highly politicised. The political class over the years have deliberately refused to appoint a Town Planner with vast knowledge of urban and country planning and built environment to manage the urban growth in the Ministry of Urban and Physical Planning as well as the constitution of the planning board.⁷¹ This has affected the capacity of the personnel deployed to the Ministry to carry out enforcement development regulations due to political interference. Akeem and Others observe that there is no doubt that there is weak urban governance in Nigeria because there is lack of appreciation of planning orientation by participants in the political sector at the various governmental levels.⁷² Local planning authorities in Lagos are subject to excessive political interference in matters relating to development control even though they are the closest to the people and they are supposed to wield more influence on the people.⁷³

There is a lack of intensive public participatory planning approach. Planning generally is often practised by the elites. The planner or decision-maker is at the top directing activities with little regard for public opinion. The opinion of the people whose lives would be affected by planning policies are rarely taken into consideration.⁷⁴ Yahaya and Ishiak observe that the focus of planning for cities is mainly national government control. Local personnel and the people who will benefit from the planning policy's input and advise are neglected in decision-making and policy implementation. This in most cases make people exhibit serious resistance when such policies emerge.⁷⁵ Consequently, the inhabitants of the coastal areas in Lagos have lost confidence in government especially those of them that live in the slums and shanties. The inhabitants of these areas are disappointed in the provision of essential facilities such as pipe-borne water, access roads and drainages. This has invariably, brought untold hardship, displacement, pains and agony to the inhabitants of these coastal areas.⁷⁶

⁶⁹ Brown and Chikagbum (n54).

⁷⁰ Ibid.

⁷¹ Ibid.

⁷² Akeem and Others (n4).

⁷³ Fatusin (n21).

⁷⁴ Fatusin (n21).

⁷⁵ O Yahaya and Y Ishiak, 'Effective Urban Land Use Planning in Nigeria: Issues and Constraints' *Journal of Environmental Management and Safety*, [2013] 4 (2) 103-114.

⁷⁶ T Agbola and AM Jinadu, 'Forced Eviction and Forced Relocation in Nigeria: The Experience of those Evicted from Maroko in 1990' *Environment and Urbanization*, [1997] 9 2 271-288.



It should be stated that some political office holders interfere with certain developments even when such developments do not conform with the minimum requirements. These political office holders use their positions in society and government to truncate certain development that are marked for demolition or meant to be discontinued to remain where they are.⁷⁷ Ogbonna and Others observe that interference by political actors in the physical planning ministry play a major role in frustrating planning regulation.⁷⁸ Highly placed individuals often use their political connections to influence planning authorities over their properties which are in breach of planning regulation.⁷⁹ This has equally led to the distortion of master plan of some cities in Nigeria. In Lagos and Port Harcourt in particular, there has been tremendous illegal conversion of Government Reserved Areas from residential to commercial or industrial areas. This anomaly has constituted security risk and has adversely affected urban planning.⁸⁰

2.9. Environmental and Social Challenges

The environmental and social impact of the economic dynamism of the non-formal sector have become a source of concern for urban governance. Besides the challenge of providing appropriate sites for garbage dump, development control is also concerned with how to enforce waste management regulations, dredging and sand filling regulations especially getting urban dwellers to use the approved dump site. It has not been easy directing individual households, artisans, street traders and industries who dispose their waste indiscriminately against laid down regulations. Apart from that, carbon dioxide emitted from automobiles together with the indiscriminate waste disposal, smell from poultry farms, noise from entertainment stall, heavily degrade the environment with different levels of pollution, thereby constituting health hazards as well as reducing the quality of life of urban dwellers.⁸¹ The same is applicable to the indiscriminate erection of buildings, both permanent and temporary accommodation which have given rise to the growth of slum in many parts of the city. Consequently, the non-enforcement of zoning regulation for commercial, residential, agricultural and so on has affected the control of arbitrary location of industries, illegal oil bunkering, street trading and hawking. Other indiscriminate economic activities further constitute a challenge to the city administration.⁸²

2.10. Poor Funding

Finance is the life wire of every organisation. The success and failure of any organisation will largely depend on the disposable revenue of the organisation. For there to be an enforcement of development control there must be adequate finance to carry out the task. Government in Nigeria is confronted with the challenge of raising funds to finance a programme of sustainable urban governance.⁸³ Azu observes that urban administration sometimes suffer shortage of fund due to paucity of fund, embezzlement and financial misappropriation, misplaced priorities and or improper financial planning.⁸⁴ Ogbonna and Others argue that inadequate funding is also responsible for the inability to pay staff salaries and this has grossly affected planning activities.⁸⁵

⁷⁷ Ifediora (n65).

⁷⁸ CG Ogbonna and Others, 'Property Development and Land Use Planning Regulations in Nigeria' *International Journal of Environment, Agriculture and Biotechnology*, [2017] 2 (4) 1694-1707.

⁷⁹ *Ibid.*

⁸⁰ Izueke and Eme (n60).

⁸¹ Azu (n63).

⁸² *Ibid.*

⁸³ *Ibid.*

⁸⁴ *Ibid.*

⁸⁵ Ogbonna and Others (n78).



Tongue lashing the non-enforcement of development control in Ibadan, the former Governor of Oyo State, Olagunsoye Oyinmola, states that “the State Town Planners were planning nothing except disaster for the people. They have sacrificed their professionalism at the altar of money; all potential zones of disaster in Ibadan have been approved for building of houses and other structures ...”⁸⁶

The common contraventions highlighted above are the consequences of neglect, poor management, inadequate and absence of urban development policy or absence of mechanism for the enforcement of development control.⁸⁷ This is without reference to whether this self-acclaimed freedom contradicts government regulations or infringe on the rights of others.⁸⁸ Therefore, most urban dwellers especially those who belong to the informal sector engage themselves in any economic activity and adopt any lifestyle that may please them without minding its consequences on the environment.⁸⁹ This is the reason why this category of urban dwellers can establish their businesses anywhere, any time and any how without taking into cognisance government regulations on establishing different kinds of business.

2.11. Non-Availability of Planning Schemes

Lack of planning scheme to guide physical development, makes it difficult for planning authorities to take decision on the compatibility of land use. However, planning authorities or institutions make it mandatory for developers with large parcels of land to submit layout plan for approval, but most times few developers comply with the regulation.⁹⁰ This invariably has led to disjointed layouts or developments that are incompatible to land use. Odekunle and Others suggest that there should be need to encourage physical development schemes or layouts in a planning zone.⁹¹

Ogundele and Others argue that part of the problem is lack of contemporary land use maps, where it may be necessary to track and reflect the trend of development. Faulty framework instituted for the control of development has been the bane of development control in contemporary Nigeria.⁹² There is the lack of detailed enforcement mechanisms. For there to be functional and enforceable planning laws, there must be detailed mechanisms put in place by the planning institutions.

2.12. Lack of Organised Public Enlightenment

According to Ifediora, public constraint on development includes, inadequate public enlightenment, disobedience to law, poverty, no sanction for defaulters, political interference and so on.⁹³ Many developers who embark on certain kinds of development are not properly enlightened and they are also not aware that some kinds of development are either permitted or not in a particular zone. Some developers even do not know about minimum standards and setbacks.⁹⁴ While some

⁸⁶ *Ogbonna and Others (n78)*.

⁸⁷ EB Itam and AE Archibong, ‘Environmental Degradation: Formless Urbanization as the Base of the Urban Environment’ (2003 A Paper presented at a Seminar organized by the Department of Estate Management, Cross River University of Technology, Calabar) 3.

⁸⁸ Azu (n63).

⁸⁹ *Ibid*.

⁹⁰ JF Odekunle and Others, ‘The Problems and Challenges of Development Control in Abeokuta-West Zonal Planning Area, Ogun State, Nigeria’ *African Journal of Economics and Sustainable Development*, [2019] 2 (1) 9-27.

⁹¹ *Ibid*.

⁹² F Ogundele and Others, ‘Challenges and Prospects of Physical Development Control: A Case of FESTAC Town, Lagos, Nigeria’ *African Journal of Political Science and International Relations*, [2011] 5 (4) 174-178.

⁹³ Ifediora (n65).

⁹⁴ *Ibid*.



developers are conscious of it and exhibit lackadaisical attitude that they could do anything and get away with it. Some developers still are even arrogant to the planning officials on site and get away with it without sanction being meted out on the defaulters.⁹⁵

2.13. Non-Manifestation of Political Will

Apart from weak legislation and outdated planning techniques, planning institutions often do not have the capacity to plan and enforce development regulations due to political interference. According to Fatusin, there is no doubt that there is weak urban governance in Nigeria, because there is a lack of appreciation of planning orientation by participants in the political space at the Federal, State and Local levels.⁹⁶ Local planning authorities in Nigeria, particularly, in Lagos are subject to excessive political interference in matters concerning development control even though they are the closest to the masses and are supposed to wield more power.⁹⁷

Successive governments have exhibited a lack of political will over the years. Government is more interested in the revenue accruable from the planning authorities, this is because they are considered as revenue generating agencies.

2.14. Lack of Public Participation in Planning

There is a lack of intensive public participatory planning approach. Planning in general is often done by the elites in Nigeria. The planner or decision-maker is at the top directing activities with little consideration for the opinion of the masses. The participation of the masses whose lives are affected by planning policies is not a prominent feature of the Nigerian scene.⁹⁸ The issues of development control as a whole arise from the gradual deviation from master plan on the distortion, alteration and deviation from planning standards. The violators of planning schemes include both the public and private sectors assisted by the inefficiency, indisciplined staff and compromises made by planning institutions in charge of development control. Where the planning institutions take charge of their responsibility in creating public awareness of the role of the public, meaningful contribution in terms of participation in planning activities may be encouraged.

There is a lack of public perception of planning laws, the citizenry has a negative understanding of planning laws. The law is perceived to be a means to further exploit the citizens. The citizens do not see the rationale to comply with the law. The law is also seen as an instrument of oppression by the authorities. However, for the few persons that tend to comply, their experiences are not always cherry news. They often complain of bureaucratic bottlenecks in the process of obtaining planning approvals and delays.

2.15 Inappropriate Legislation and Access to Land

The poor is constrained by ignorance in land use regulations, planning and building standards to have access to land. It should be emphasised that while these regulations attempt to ensure citizens' health, safety and welfare by strictly controlling land and building standards, the regulation forces the very poor they seek to protect into completely unregulated informal sector.⁹⁹ In Port Harcourt and Lagos cities, most of the residential schemes are not accessible to the urban poor, yet the urban poor constitutes the majority of the population. In other words space standards shrinks as houses are developed on marginal land, floor plain, open spaces and watershed for shelter, utility setbacks

⁹⁵ Ibid.

⁹⁶ Fatusin (n21).

⁹⁷ Ibid.

⁹⁸ Fatusin (n21).

⁹⁹ Aluko (n52).



and so on.¹⁰⁰ Consequently, planning ends up being unsustainable as people do not feel a sense of responsibility to their environment.

2.16 Weak Enforcement of the Law

The planning authority compromises with the enforcement of illegal structures because of the corrupt nature of their operations. There is a lack of dedicated and competent staff to enforce planning regulations. As a result of this factor, conflicting land uses such as the infiltration of commercial land uses is the order of the moment. Poor aesthetics and unsightly cityscape, high building density and high rate of building collapse and the springing up of shanties in planned areas is the order of the day.¹⁰¹ Furthermore, the increasing rate of population expansion and poor physical development control has overwhelmed planning agencies in Port Harcourt and Lagos. For example, more people especially the poor live in ecologically vulnerable areas such as Ajah, Makoko and Amukoko but to mention a few in Lagos and Bundu, Timber waterfront and Nembe waterfront in Port Harcourt where there is absence of planning scheme.

Despite public notice against the contravention of town planning laws, the regulatory agency has been less aggressive in law enforcement. More often than not, it is professionally questionable for some of its actions in the course of carrying out its official duties. The enforcement of planning and development laws seem to be at the whims and caprices of those saddled with such responsibility. It should be stated that some of their actions border on high handedness, double standard, delay tactics and selective enforcement.¹⁰²

2.17. Poor Title Registration and Tenure Security

The lack of good title registration and tenure documentation is a serious setback on efficient urban land management in Nigeria as a whole.¹⁰³ A major impediment to poor title land registration system is the inability of land owners to gain access to formal credit sources. In addition, the cost of registration and related procedures in most cases may breed a cynical attitude in using the formal process.¹⁰⁴

2.18 Inconsistency, Non-Integration and Absence of Regulation of Privately-Owned Estate

Regulatory agencies have turned a blind eye to the several contraventions of planning and development laws being committed by some land owners in their zones. This ranges from shifting of building lines, abandonment, construction of permanent structures on road setbacks and other non-compliance with the planning regulations. Aluko argues that as glaring as these contraventions are, the regulatory agency has been foot dragging in arresting offenders.¹⁰⁵

In Port Harcourt and Lagos cities, these contraventions are common. Open and air spaces requirements are flagrantly breached. Some residential buildings are constructed without consideration for air space and privacy. In *Kragulamus v Kolawole Oyesile*¹⁰⁶ the claimant brought an action against the defendant on the ground that fumes from the defendant's machines caused damage to his bedroom and that such fumes were offensive. Aluko argues that in some cases, the air space between buildings is less than one metre. The closeness of buildings portends a dangerous

¹⁰⁰ Ibid.

¹⁰¹ Aluko (n52).

¹⁰² Ibid.

¹⁰³ Ibid.

¹⁰⁴ Ibid.

¹⁰⁵ Aluko (n52).

¹⁰⁶ (1973) 3 UILR 96.



domino effect, should there be any incident of fire outbreak, most of these buildings do not have any escape route.¹⁰⁷

Metropolitan Lagos and Port Harcourt have witnessed increasing rate of transformation from residential serenity to that of commercial hub. The entire land use of these cities are fast changing in character and landscape precipitated by incompatible development. The change of use sometimes creates more problems than they intend to solve. For example, residential buildings converted to shopping malls in a busy traffic road are without a parking space. These conversions contribute heavily to the traffic congestion experienced in such routes especially in peak hours.

The problems of development control in Port Harcourt and Lagos arise from gradual deviation from the master plan, distortion, alteration and deviation from planning standards. The main violators include the public and private sectors aided by the inefficiency, indisciplined planning officials and compromises made by other government agents in charge of development control.

Planning institutions have not done enough in terms of planning new emerging areas in the expanding cities. Berrisford observes that planning law has a poor record in Africa to which Nigeria is not an exception.¹⁰⁸ Essentially, legislation is designed to protect the public from the negative aspects of urban land development by the state to enhance the value of land. Nonetheless, in most cases the same law is used to protect land owned by the wealthy and also used to penalise and intimidate the disadvantaged. Berrisford further contends that laws made to protect public spaces and facilities to improve civic life are seldom enforced as intended.¹⁰⁹ There are three indicators of failed enforcement of planning control in Nigerian cities such as the predominance of illegal structures, the use of planning and building laws against vulnerable groups and inviolate elites.¹¹⁰ The power and mighty operate largely unperturbed by the planning agencies. Any negative impact on neighbours or the public interest are glossed over. It is a culture of impunity which has created the perception that there are two laws; one for the wealthy and another for the not well-to-do.¹¹¹

For there to be an effective planning and development law, urban legislation should be implementable, administratively open, fair and impartial, coherent, clear, comprehensive and certain. According to Berrisford and McAuslan, there should be no point in legislating a law that addresses a wide range of concerns on paper but could not be implemented because of lack of capacity and political will.¹¹² The scholars extensively contend that an implementation plan ought to be in place before a draft legislation enters the parliamentary process.¹¹³ The implementation plan should consider the many actions needed to implement the new law and be pragmatic about the citizens and the institutions available to do so. The implementation plan should match the type of urban legal reform.

An administrative system that jettisons the principles of administrative justice is more likely to negatively affect the urban poor than the wealthy in the society or the politically connected because the former group is less able to exercise its rights through the courts and other formal processes.¹¹⁴ To ensure that there is administrative openness, fairness and impartiality in the way

¹⁰⁷ Aluko (n52).

¹⁰⁸ S Berrisford, 'How to Make Planning Law for Africa' *Africa Research Institute*, [2013] 2.

¹⁰⁹ Berrisford (n108).

¹¹⁰ *Ibid.*

¹¹¹ *Ibid.*

¹¹² S Berrisford and P McAuslan, *Cities Alliance, United Nations Human Settlements Programme (UN- Habitat) and Urban Land Mark* (African Centre for Cities 2017) 48.

¹¹³ *Ibid.*

¹¹⁴ *Ibid.*



a proposed legislation should apply, there should be due consideration before decisions are made, hearings should be conducted in accordance with recognised principles of administrative justice, allegations of misconduct of officials should be independently and thoroughly investigated and proper internal checks should be put in place.

3. Conclusion

The enforcement of planning and development laws in land development in Nigeria is confronted with a myriad of challenges that undermine effective governance and sustainable urbanization. These challenges range from inadequate legal frameworks and pervasive corruption to lack of awareness, inadequate funding, poor inter-agency coordination and collaboration. Addressing these multifaceted challenges demand a holistic approach that includes comprehensive legislative reforms, capacity building initiatives, public awareness campaigns, and enhanced coordination among government agencies. By tackling these issues head-on, Nigeria can foster a more sustainable, equitable, and resilient land development landscape that meets the needs of its growing population and promotes long-term socio-economic development.

4. Recommendations

Based on the identified challenges in the enforcement of planning and development laws in land development in Nigeria, the following suggestions are proposed to enhance governance and promote sustainable urbanization.

1. Inter-Agency Coordination should be encouraged. This will strengthen collaboration and coordination among government agencies saddled with land use planning, development control, and enforcement to avoid overlapping responsibilities and improved efficiency.
2. Enhanced funding will further boost the effective control of planning institutions. The allocation of adequate resources and secured funding for government agencies responsible for enforcement of planning and development laws will improve monitoring, compliance, and enforcement activities.
3. Judicial reforms are an indispensable mechanism to effectively control land development in Nigeria. Government should expedite judicial processes related to land disputes and violations of planning laws by establishing special courts or tribunals and implementing measures to reduce case backlog and delays.
4. Sustainable Urban planning should be activated by planning institutions. The planning agencies should adopt sustainable urban planning practices that prioritize inclusive development, environmental conservation, and resilience to mitigate the adverse effects of rapid urbanization.

By the implementation of these recommendations, Nigeria can overcome the existing challenges in the enforcement of planning and development laws and pave the way for a more sustainable, equitable, and prosperous land development landscape that can benefit all her citizens.