Where the Dead are Buried: Property Rights and Poverty Alleviation in Africa

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ABSTRACT OF DISSERTATION

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ABSTRACT

This study examines a recent policy proposal that as a way out of poverty, third world countries should reform their present land policy to incorporate a cadastral system. The proponents of this policy reform have argued that the poorest nations of the world require formalization of property rights (specifically giving title to land to the poor) as a catalyst for economic development. These proponents argue further, that the establishment of such formal titling systems would result in more secure ownership of land. Such individualized property rights would enable the poor obtain credit from financial institutions through the use of the title as collateral for a loan.

For the most part, proponents of this policy recommendation have not considered in-depth, cultural or institutional factors that may affect the implementation of this policy. The literature indicates that while neoclassical economists have argued that cultural values play no role in economic development, some social scientists on the other hand see cultural values as powerful indications of a nation’s economic and social progress.

This study explores certain features that may affect the ownership and disposition of land rights in Africa. In particular, the study examines how land is acquired and the administrative process of obtaining title to such land. Since the main purpose of requiring formalized title is to enable the poor obtain credit from banks, the study also examines some ways by which credit is currently obtained despite a lack of widespread titling.

Nigeria is used in most instances as illustrative of the points and arguments raised.
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# TABLE OF CONTENTS

ABSTRACT ........................................................................................................................ 4

ACKNOWLEDGEMENTS ................................................................................................. 5

TABLE OF CONTENTS .................................................................................................... 6

LIST OF FIGURES ............................................................................................................ 8

LIST OF TABLES ............................................................................................................... 8

CHAPTER 1 ....................................................................................................................... 10
INTRODUCTION ................................................................................................................ 10
  1.1 Background .............................................................................................................. 10
  1.2 Entry Point .............................................................................................................. 15
  1.3 Framework For Methodology ................................................................................. 18
  1.4 Usefulness of Study ............................................................................................... 20

CHAPTER 2 ....................................................................................................................... 22
THE PROBLEMS, THE SOLUTIONS, AND THIS STUDY ................................................ 22
  2.1 The Problems .......................................................................................................... 22
  2.2 The Solutions .......................................................................................................... 30
  2.3 This study ................................................................................................................. 34
  2.4 Conclusion .............................................................................................................. 38

CHAPTER 3 ....................................................................................................................... 39
INSTITUTIONAL STRUCTURE ....................................................................................... 39
  3.1 Political, Legal and Credit Institutions ................................................................. 40
  3.2 Political Institutions .............................................................................................. 42
    3.2.1 Revenue Allocation ......................................................................................... 51
    3.2.2 Interest Groups .............................................................................................. 52
    3.2.3 Indigenous Institutions ............................................................................... 53
    3.2.4 Local Governments ....................................................................................... 56
  3.3 Credit Institutions .................................................................................................. 58
  3.4 Legal Institutions .................................................................................................... 64
  3.5 Theoretical Framework ......................................................................................... 67
  3.6 Conclusion .............................................................................................................. 72

CHAPTER 4 ....................................................................................................................... 75
LITERATURE REVIEW ................................................................................................. 75
  4.1.1 Studies on Property Rights .............................................................................. 76
7.1.4 Studies on Access to Land ................................................................. 211
7.1.5 Conclusion .................................................................................... 213
7.2 Summary of Principal Indications from the Study ............................ 215
7.3 Policy Recommendations and the Way Forward ............................... 218
7.4 Areas For Future Research ............................................................... 220
7.5 Conclusions .................................................................................... 222

REFERENCES .......................................................................................... 223

APPENDICES .......................................................................................... 233
   APPENDIX A: Survey Instrument .......................................................... 233
   APPENDIX B: State Official Questionnaire ............................................ 237
   APPENDIX C: Former Federal Official Questionnaire .......................... 240
   APPENDIX D: Local Chief Questionnaire ........................................... 242

LIST OF FIGURES

Figure 3.1: Map of Nigeria ................................................................. 47
Figure 5.1: Map of Benin City showing the Survey Area ....................... 142
Figure 6.1: Respondent’s Reason for Burial Preference ......................... 176
Figure 6.2: Response to Survey Question 21: The Practice of Burying People in Their Houses is Dictated by Customs and Culture .......................... 179
Figure 6.3: Response to Survey Question 23: People Do Not Like to Bury in the Cemeteries because the Cemeteries are in Disrepair ............................. 180
Figure 6.4: Response to Survey Question 17: If you have personally acquired land how was this land acquired ......................................................... 184
Figure 6.5: Response to Survey Question 23: It is more difficult for women to obtain land ................................................................. 185
Figure 6.6: Response to Survey Question 26: The procedure for obtaining certificate of occupancy is very cumbersome and tedious ................................. 189

LIST OF TABLES

Table 5.1: Socio-Demographic Characteristic of Respondents ............... 169
Table 6.1: Status of Parent, Places of Burial and Land Ownership ................ 174
Table 6.2: Preference for Burial Location by Gender, Education, Age, Income, and Marital Status ............................................................. 181
Table 6.3: Method by which Land is Acquired by Gender, Education, Age, Income, and Marital Status

Table 6.4: Response to Survey Question 24: Are You Familiar With the Land Use Act 1979

Table 6.5: Response to Survey Question 29: Do you think you require connections to obtain a certificate of occupancy

Table 6.6: Response to Survey Question 32: Which of the following do you use? Bank, Money Lender, Esusu or Tribal Society, Family Members

Table 6.7: Respondent Receives Money and Reasons for Receiving Money

Table 6.8: Respondent Sends Money and Reasons for Sending Money

Table 6.9: Choice of Bank by Gender, Education, Age, Income, and Marital Status
CHAPTER 1

INTRODUCTION

For the poor shall never cease out of the land: ....... Deuteronomy 15:11

1.1 Background

The United Nations Millennium Development Goals (MDGs) has provided a window for scholars and policy makers to once again examine issues of poverty and how best to resolve this pressing global problem. The MDGs includes halving extreme poverty and hunger, achieving universal primary education, promoting gender equality and empowering women, reducing child mortality, improving maternal health, combating HIV/AIDS, malaria and other diseases, ensuring environmental sustainability and developing a global partnership for development by 2015.\(^1\) By all indications, African countries will have the greatest difficulty in achieving the MDGs.

There are several policy recommendations on how best to eradicate poverty in developing or Third World countries.\(^2\) The policy proposal I am interested in, is the one which suggests that the establishment of formal titling systems would result in more secure ownership of land thereby improving the ability of the poor to obtain credit. For

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\(^2\) Several scholars take issue with the categorization of countries into “First World”, “Second World” and “Third World” especially with the breakup of the former Soviet Union. See for example, H Wiarda, *Political Development in Emerging Nations - Is There Still a Third World?* (Belmont: Thomson Wadsworth, 2004), who wonders if it is still necessary to categorize countries in such terms especially with the breakup of the former Soviet Union. However, I like a lot of other scholars will continue to use the term “Third World” to denote the poorest, least developed countries of the world.
the most part proponents of this policy recommendation have not considered in depth, cultural or institutional factors that may affect the implementation of this policy. If this proposed policy is to be adopted, it is of the utmost importance that policy makers examine both the cultural values and the “informal institutions” that affect land holdings in order to avoid any unintended consequences.

The primary aim of this study then is to investigate what, if any, role culture plays in the analysis of property rights as a factor or determinant for economic development in developing countries with specific emphasis on African countries and to highlight linkages if any between culture and economic development. Other secondary aims of this study would be to explore how the poor acquire property rights, the role bureaucrats play in this regard and the effect of institutions on property rights acquisition.

A proper study of this proposal must therefore include an examination of the following:

1. Does culture play any role in land issues in Africa?
2. If culture does play a role, what effect does it have on economic activities?
3. How do the poor acquire property?
4. What roles do institutions play?
5. How do the poor mobilize credit to meet their economic and social needs?

In this study, Africa refers to the 48 countries which make up Sub-Saharan Africa (with the exception of North Africa). The countries in this region share common socio-political and economic characteristics. Most of the countries are not economically developed, have a dual economy made up of the formal and informal and are usually ex-colonies.
Nigeria is used in most instances as illustrative of the points raised. To me Nigeria is a microcosm of most developing countries. I chose Nigeria for several reasons including the fact that it is a country made up of several ethnic groups with strong traditional and cultural beliefs as well as one of the largest public bureaucracies in Sub Saharan Africa. Another important consideration in choosing Nigeria is because I have prior knowledge of Nigeria and because of the ease of access in getting into the research community.

Koehn, in assessing public policy and administration in Africa, uses Nigeria as an example because in “structural terms, the country posses the largest public bureaucracy in Sub-Saharan Africa and a system organized in ways that are quite familiar to students of public administration in other former British colonies. Moreover, the ills and dilemmas of public policy making and execution reported elsewhere on the continent can be found in Nigeria………often in more pronounced form.” Additionally, Koehn states that “control over land is an important factor affecting the distribution of wealth as well as the structure of political power – especially when suitable land is in short supply…..” If formal property rights is an economic catalyst, then Nigeria which has an abundance of land but yet still so poor is a useful case study.

Within Nigeria, I selected the ancient city of Benin as my study site. This site was chosen because of the strong cultural traditions and values which epitomizes land ownership in Nigeria. In addition, although Benin is an urban area, there is a strong interaction between the more formal institutions and the traditional (informal)

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4 Ibid.
5 Ibid.
institutions. There is also a history of archeological and social science studies using Benin as the primary research site.

From both the literature and personal knowledge, I glean some features that pertain to land in Africa and explore these features to determine if they are indeed cultural and if so what effects they can have on property rights. These features include the dead being buried on residential properties and gender as a cultural structure; inheritance and primogeniture; usufructuary rights and metaphysical land. These features, which may affect ownership and disposition of land rights, will be explained in greater details in subsequent chapters and are by no means exhaustive, but they provide a starting point in investigating the role culture plays in the analysis of property rights as a factor for economic development.

I begin the study in Chapter 2 by discussing poverty in general and some of the common explanations in the literature as to why African countries are so poor. I then review some measures that have been taken to combat poverty in Africa and the failure so far of these policies in alleviating poverty on the continent. This research becomes even more pertinent as one considers the current economic, social and political conditions of most African countries and recent policy initiatives and statements made by top African policy makers on the policy proposal we are interested in exploring. A further discussion of this policy pronouncement is articulated in Chapter 2.

In Chapter 3, I discuss my theoretical framework. Despite the availability of numerous theoretical frameworks, for example rational choice theory, I decided to rely on

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the theory of institutions because I felt the theory best explains the roles both formal and informal institutions play in the economic development of third world countries. Additionally, because a careful consideration of institutions in Africa is critical to a successful implementation of the proposed policy I must utilize a framework that takes seriously the role of culture in economic development. I have limited the discussion on the institutional framework to political institutions, legal institutions and since the main purpose of requiring formal titling systems is that titling will enable the poor to obtain credit from formal institutions such as commercial banks, I examine some ways by which the poor presently obtain credit or financing despite a lack of widespread titling.

This study covers several disciplines sociology, law, public administration and development economics to mention a few key fields. Because each of these fields contains a voluminous literature, it would be impossible to delve extensively into a literature review of these key disciplines. I have therefore limited myself to attempting to condense this portion of the study in Chapter 4 by reviewing literature which I consider specifically and directly impact the primary research questions. I review empirical studies on the relationship between property rights and economic development including a review of the seminal work on property rights by De Soto. I also examine the competing definitions of “culture” by both Western and African scholars and the effects on economic development. In light of the assumption made by proponents of formal property rights that the poor own their property, I also consider it expedient to review how the poor currently obtain property.

1.2 Entry Point

As earlier stated, this study was conducted in the ancient city of Benin. My earliest childhood memories are of living at No. 20 2nd Cemetery Road, in Benin City ("No. 20") after the Nigerian civil war. No. 20 is a four apartment building about a block from the local cemetery. It was not uncommon then to see funeral processions go by and as kids we frequently danced with these funeral processions – not really concerned about life and death, or poverty and wealth.

Around this time frame, I also witnessed the funeral of my paternal grandfather who was killed during the Nigerian civil war. My grandfather is buried next to his mother in our family home in Asaba, Delta State. During the course of this study, my father died on December 9, 2004 and was buried on January 23, 2004 at his residence in Asaba, Delta State. My paternal grandmother who had died on December 3, 2003 is buried a few feet from my father’s grave and my father’s older sister who died a few months after my father is buried a few feet away from him. During my father’s funeral procession, it appeared to me that at least every other house in Asaba had a grave site, usually in the front yard of the property, and that some houses along the funeral route had been burnt. On inquiry, I was informed that the houses had been burnt in retaliation for alleged unlawful sale of said property.

My father’s funeral allowed me to combine my research methodology with some form of participant observation and thus I must admit that there was an element of subjectivity in my analysis. This experience also made me question everything I
understood (or thought I understood) and believed in prior to commencing this project. For example, who made the decision regarding where my father would be buried? How did he obtain the property where he built his house? Why was he buried at his residence? Who stood to inherit the property? What would the transfer of property mean for the financial future of his other children? My ponderings left me asking if this what the literature refers to as “the subservient attitude of the African” and the “unnecessary deference to authority and age.”

I was tempted during my brief stay in Asaba to move my research site from Benin City to Asaba, but I decided to remain in Benin City because of the ease of access in conducting my research. It was also more practical as I was born and raised in Benin City, my father owns a house there, I have a fairly good grasp of the language and have former colleagues who can provide contacts and access into the community. Because Benin and Asaba have very similar cultures I am also able to use some ethnographic data relatively interchangeably.

My study site Benin City is located in southern Nigeria. Nigeria, like most other African countries, in addition to being an ex-colony is also a pluralist society made up of a collection of people speaking different languages and searching for new identity as nation states. According to oral history, Benin City was established by the Yoruba Kingdom as an agricultural settlement in the 14th century. The people who inhabit this area speak the Edo language and are interchangeably referred to as either as the Bini’s or the Edos. By the 15th century, Benin had become a major trading kingdom with political

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and religious powers vested in the King or Oba who held elaborate court ceremonies as noted by the Europeans who visited Benin around this time. During the 17th century the Benin Kingdom stretched as far as the modern day Republic of Benin, parts of the Igbo speaking areas along the western bank of the River Niger and parts of the former Yoruba Kingdom.  

In terms of modern history, Benin City became a state capital in 1963 with the creation of Mid-Western State. Mid-Western State later became known as Bendel State with Benin City remaining the capital. Under the Babaginda regime, Bendel State was split into Edo State and Delta State with Benin City as the capital of Edo State and Asaba the capital of Delta State. Benin City is made up of 17,802 km and the population in 1991 was estimated at 762,700. More than a decade later, in 2004, the estimated population was just over 1.1 million.

Like many older Nigerian cities, the core of the city is the Oba’s palace and the Oba’s market which has superimposed on it the business district. Of great importance to our research design is the Benin Moat which has been described as “one of the world’s largest ancient earthwork” built between 1280 and 1295 A.D. By road transportation, Benin City links northern Nigerian cities with major cities in the South and in the East. I will elaborate on the significance of the Benin moat to my research design in subsequent chapters. I will also discuss in subsequent chapters, the institutional framework regarding property rights in Nigeria and Benin City in particular.

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10 This portion was largely obtained from www.countrystudies.us/nigeria
11 www.theworldgazetteer.com
1.3 Framework For Methodology

The materials used in this study can be divided into 3 groups. The primary data for the research was derived from a descriptive analysis of 3 clustered surveys administered in Nigeria. A second category of primary data was derived from analysis of in depth interviews of a former and a present public official knowledgeable about land policies both at the state and federal levels. These interviews were complemented by interviewing a Benin Chief on cultural issues as they pertain to land. The third group of data refers to the substantial amount of secondary information and data derived from various World Bank Reports and relevant published works of scholars of the New Institutional Economics.

The interview of the former senior public official was conducted in California in June 2007. The survey research, interview of a state public official and a Benin Chief were conducted in July and August of 2007. My prior visits to Nigeria were in December 2004 and January 2005. I was appalled during my visit in 2007 at the total breakdown in infrastructure and the high level of criminal activities. While social crimes like armed robbery are on the rise, economic crimes like corruption and advance fee fraud continue to capture world attention. Corruption is so endemic in Nigeria that it can be said to have become a part of the culture and Nigeria continues to be ranked by Transparency International as one of the most corrupt countries in the world13.

During my field trip, Nigeria appeared to me to be an oasis of street vendors. Everything was being sold on the streets, from water to medicine to food to clothing to

13 http://www.transparency.org/news_room/in_focus/2006/cpi_2006/cpi_table
tires and all sorts of paraphernalia thus reinforcing the literature that the informal economy would thrive where the cost of compliance with formality is high. On arrival in Nigeria, I traveled by road from Lagos to Benin City. The journey from Lagos to Benin City which should normally have taken about 3 hours took almost 8 hours. This experience makes it more of a reality to me that not only is the gap between rich countries and poor countries increasing, but that in fact the gap between the rich and the poor within poor countries is increasing even more rapidly and more glaringly. My travel experience and knowledge of Nigeria made the prospect of conducting research in Nigeria more daunting to me especially my ability to translate the practices and research methodology articulated in Western economies directly into the economies and culture of a developing economy.

The issue of trust affected my research design. Yeager describes a trip he took to Ecuador and he stated that because of a lack of trust most houses in Ecuador looked more like prisons from the outside. There were both security barriers and security guards in residential homes and there was also the fact that people did not trust other people outside the family circle.\(^\text{14}\) Benin City was not any different from the situation Yeager described. Due in large part to this lack of trust, my research design was altered from a household survey to a cluster survey of three churches. It was important to seek a public space where people gathered freely and safely and that I made use of informants, namely local priests and other people in the higher echelons of the church. I also felt comfortable using a cluster of three churches because research in Nigeria indicates that

two of the world religions (Christianity and Islam) which are widely practiced in Nigeria are politically irrelevant. Research further indicates that in fact in Nigeria, common ancestry and cultural cleavages are more important than religion which does not necessarily inform political discourse and action. My research methodology and considerations are more fully described in Chapter 5.

In Chapter 6, I summarize the study’s findings and relate these findings to the research questions and theoretical framework espoused in Chapter 3. In Chapter 7, I put forward some policy recommendations based on my findings. Also in this chapter I attempt an exposition of the future prospects of titling land as a means of poverty alleviation.

1.4 Usefulness of Study

This study is designed to contribute to the literature on property rights not only in Nigeria, but also in other developing countries with pluralist systems. I also hope to contribute to a greater understanding, especially to social scientists outside of Africa, of some of the cultural features or traditional values in Africa even in these so-called modern times and the cultural realities which may pose problems to in implementing the proposed policy under review. I raise important issues and questions which I believe will be of interest to public officials interested in the formulation, implementation and evaluation of economic and social policies.

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My ultimate aim is to bring a greater understanding to the stakeholders of the value of the land they own (whether formally or informally) so that while the stakeholders may be creating wealth (by owning landed property) they are not on the other hand destroying or impairing that wealth by values which are considered cultural.
CHAPTER 2
THE PROBLEMS, THE SOLUTIONS, AND THIS STUDY

Where You Live Should Not Determine Whether You Live or Die - Bono

2.1 The Problems

It is common to see on television in the United States, pictures of disease stricken hungry children in Africa with bloated stomachs and miserable looking mothers striving to stay alive as a commentator requests for funds for these Africans. Whether or not these pictures are an exaggeration, the fact still remains that poverty is deeply entrenched in Africa. Such is the case that the World Bank in putting a face to global poverty has referred to it as the “Africanization of global poverty” to indicate the magnitude and localization of poverty.16

The horrendous conditions under which people live in Third World countries, is best described, I believe by Wiarda. He eloquently portrays life in the Third World and the magnitude of poverty especially in Africa. He states:

“If you’ve never been to the Third World before, you’re likely to be shocked by what you see: the poverty, the squalor, the disease, the dirt, the grime, the inefficiency, the noise, the smells, the thick pollution, the chaos, the repression and frequent human rights violations, the low levels of literacy and health care, the malformed bodies of so many adults (usually from childhood diseases or broken bones that never received proper medical attention), and the malnourished, bloated stomachs (not from eating too much but from eating too little) of the children. The

poverty and backwardness are so overwhelming that it often seems too much, even hopeless……. These sights and sounds often leads the stranger to experience a “culture shock.”

About half of the world’s inhabitants live on less than $2 a day and about 1.2 billion live on less than $1 a day. About 24% of those who live on less than $1 a day live in sub-Saharan Africa. According to the World Bank, more and more African’s are living on less than $1 a day. There were 217 million poor Africans in 1987, this number rose to 291 million in 1998. By 2001 the number was an astronomical 316 million. The number of poor Africans is staggering when compared with the number of poor people living in Latin America or Asia and African countries continue to lag behind all other countries in the world in social services and markets. The World Bank concludes that “Africa as a whole is falling behind the rest of the world in the prevention of poverty and in some respects the problem is getting worse……”

African states appear to be trapped in poverty (“poverty traps”) described by the World Bank as “the mechanisms by which once people become poor they cannot escape it”. Women and children are disproportionately affected by poverty. Women and children work longer hours with little or nothing to show for all their labor and usually bear the brunt of the ills of society. According to the World Bank, “the poor have fewer

17 Wiarda, Political Development in Emerging Nations - Is There Still a Third World?
19 Ibid.
23 "African Poverty at the Millennium: Causes, Complexities and Challenges."
24 Ibid.
assets and are less likely to accumulate either physical or human capital and may also be excluded from their community’s social capital.”

So, why are some countries persistently poor? There are some common threads that run through the literature as to why countries, especially African countries, are so poor. According to Oswaldo De Rivero, “non viable economies” cannot attain economic development because the emphasis is no longer on raw materials and because these non viable economies lack technology. De Rivero specifically points the finger to tribal, ethnic and religious differences as the key causes for poverty in Africa.

De Rivero further states that many African countries “emerged without any national development options, due to the unfortunate coincidence of their independence with a technological revolution that needs less and less of the raw materials and the abundant supply of manpower that are their only comparative advantages.” Most of these countries prior to colonization were separate distinct ethnic groups and as such these countries became divided on ethnic or religious lines after independence. Instability and ethnic tensions were so great that national leaders concentrated their energies on cultivating the allegiance of the various groups, instead of solving strategic development problems.

The World Bank writes that “Conflict is a critical obstacle to development in Africa.” Some statistics by the World Bank indicates that one in four African countries presenty suffer from the effects of armed conflict; the number of African casualties of

26 Ibid.
conflict exceeds that of all other regions combined. In 2000, the total number of deaths reached 1,675,000 (Based on WHO data, 2001); about one-fifth of Africans live in countries severely disrupted by conflict; 46 percent of all developing countries affected by conflict are in Africa; approximately 15 million Africans are currently internally displaced; around 4.5 million have sought refuge in neighboring countries; for the average country in Africa, half of the indicators point to a risk of conflict; wars and insecurity are associated with increasing out-migration, humanitarian catastrophes, epidemics, HIV/AIDS, criminal and terrorist networks.29

Some of these wars have been funded with the mineral resources found in those African countries. More recently, conflict/blood diamonds have funded wars in Angola, the Democratic Republic of Congo, Liberia, Sierra Leone, and Cote d’Ivoire. It is interesting to note that the World Bank does not consider wars or conflicts in Africa to have been generated or fueled by ethnic rivalry, but by poverty. According to the World Bank, conflicts in Africa are generated by poverty, underdevelopment, lack of economic diversification, and political systems that marginalize most of population.30

Other scholars have attributed the lack of economic development to the African climate.31 Landes (1998) conducted a historical analysis of why some countries are rich and others poor. He considered some nations “winners” and the rest he groups as “losers.” These losers include the Middle East, Latin America, countries of the Communist-Soviet bloc and African countries. Landes describes the ills plaguing Africa as “bad government, unexpected sovereignty, backward technology, inadequate

29 Ibid.
education, bad climate, incompetent if not dishonest advice, poverty, hunger, disease, overpopulation – a plague of plagues.”  

Simply examining the overpopulation aspect, we find that Africa has the highest population growth rate in the world. The United Nations projects that the present population of 401 million in age groups 15 to 59 (2005 figures) will grow to 514 million in 2015 and 656 in 2025.  

African countries also operate a dual economy made up of the formal sector and the much larger informal economy. Estimates of the informal economy in Africa in 2000, indicates that the largest informal economies were to be found in Zimbabwe (59.4% of GDP), Tanzania (58.3% of GDP) and Nigeria (57.9% of GDP). African countries at the lower end of the spectrum include Botswana (33.4% of GDP) and Cameroon (32.8% of GDP). A significant feature of the informal economy in Africa is that income is usually unreported and therefore not taxed and illegal activities can thrive and go undetected.  

A body of theories (development theories) has evolved in the attempt to understand why some nations are poor and others are rich. I focus on two distinct development theories which I opine have serious economic and social implications for the way policies are formulated in poorer countries. Why can’t poor countries imitate the path of progress and the technology of richer countries? Economically advanced

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32 Ibid. p. 499
countries were at one time developing countries and had gone through stages to become economically and socially self-sufficient. This is the theory of development postulated by modernization theorists who state that development can be achieved by lesser developed nations following the processes or stages of development used by currently advanced economies. One way that this can be done is by developed countries providing aid to developing countries.

The dependency theory, formulated by the Economic Commission for Latin America (ECLA), presents a second view. This theory postulates that some nations are poor because some nations are rich. There are two groups of countries under this theory: the core group of countries which is made up the developed wealthier countries and the periphery countries which comprises of poor developing countries. While the core countries produce technologically manufactured goods, the periphery produces the raw materials. As described by Yeager, it was once thought that the poor periphery countries benefited from the rich developed countries through international trade and as such there was no requirement for the periphery to industrialize.\(^{36}\) Under the dependency theory, whatever benefits were obtained by the periphery from the core countries were insignificant unless the periphery countries themselves were able to manufacture goods and industrialize.

A practical example of divergent economic paths can be found in the World Bank’s analysis of the economic history of Indonesia and Nigeria\(^{37}\). Both countries had a lot of similarities and started off at almost the same pace, with similar large populations,

\(^{36}\) Yeager, *Institutions, Transition Economies, and Economic Development*.

an initial agriculture based economy, which changed to an oil based one, but whilst Indonesia has been able to attain some measure of economic independence, Nigeria is one of the poorest countries in the world. The conclusion seems to be that while Indonesia invested its revenue from oil and “shifted from “import-substituting industrialization” to a “non oil-exporting” economic policy, Nigeria practiced a “windfall management” policy.

An important point raised by the analysis is that Nigeria did not make reducing poverty a priority while Indonesia did. The World Bank attributes this contrast to the ideals held by the government of Indonesia and the expectation that the Indonesian public had of its government. It did not appear that Nigerians had any expectations from their government. While Indonesians would riot over the increase in the price of stable food, with the attendant result that the government would take steps to address the situation, such riots did not occur in Nigeria when food prices rose. Instead the Nigerian government chose a deliberate policy that would increase the price of food as a way of obtaining rent to finance political campaigns.

One of the most serious problems confronting African nations, especially Nigeria, is the issue of social and economic crime. I believe that a contributory factor to the rise in criminal activities is the failure of programs like the Structural Adjustment Program (SAP) and other austerity measures advocated by international donors which had promised that if the people only tightened their belts for now, there would be more prosperity and happiness for the larger populace in the near future (short term hardship for long term prosperity.)
These promises turned out to be nothing more than an illusion. With no welfare/social programs and no safety nets in place, people turned to the few more affluent members of their families for economic support. As a result, this created more stress on those family members to deviate from social norms. In addition, various Nigerian administrations had advocated for free education without providing legal opportunities and equal access for graduates to obtain employment. At the same time, the Nigerian society was evolving with a cultural accentuation on wealth and less emphasis on more socially accepted behavior. Within a matter of twenty years, Nigerians' involvement in crimes both domestically and internationally has become legendary.

Most of these crimes are economic in nature and include advance fee fraud more commonly known as 419 after the section of the criminal code dealing with the subject matter, human, drugs and arms trafficking, fraud, and corruption. Over the years, Nigeria has become almost ungovernable with laws on the books and few if anyone obeying them. In the pursuit of wealth, Nigerians have practically abandoned whatever cultural and social norms that once restricted deviant behaviors. With widening economic powers, people at the bottom of the social ladder strive to catch up with those at the top of the ladder either through armed robbery or petty corruption, while those at the top of the social ladder, seeking more wealth and striving to maintain their social status, commit more serious economic crimes, including bank fraud and grand corruption. Passas describes this impasse as the “pursuit of constantly moving targets” which produces systemic frustration.  

The emphasis on wealth in Nigeria causes a situation where few people have a realistic chance of attaining such wealth. The flaunting of wealth by politicians and members of the armed forces become a social reference for poorer people. People have joined the army or become politicians not necessarily to serve, but more as a path to wealth. As more people migrate from rural to urban areas and return home wealthy, seemingly nobody questions the sources of wealth and instead other people strive to be “just like them”.39

So far, I have provided the reader with a snap shot of the magnitude of poverty in Africa. I have also detailed some common themes in the literature as to why African countries are so poor. Some of these reasons range from lack of technological resources to lack of a national identity. Other reasons include wars, diseases, the climate and more recently a rise in social and economic crimes.

In the next section, I will provide the reader with some of the solutions that have been advanced to alleviate poverty in Africa and the successes or failures of these solutions.

2.2 The Solutions

Most countries, even those with developed economies, have pockets of poverty comparable to the overall poverty found in Africa. But while developed countries have usually drawn up their own policies to combat poverty, for example Lyndon Johnson’s


“War on Poverty” in the United States, policies to combat poverty in Africa are usually prescribed by donor agencies such as the World Bank and the International Monetary Fund (IMF).

It was once thought that with the discovery of oil and other natural resources African countries could in the future become very rich countries since the natural resources would stimulate the economy. Unfortunately the discovery of oil and other natural resources in Africa has become more of a curse than a blessing and has exacerbated rather than resolve the issue of poverty. Cross country research indicates that most countries with oil or minerals are subject to rent seeking and corruption and that such resources depress long term growth and negatively affects investment climate.\(^40\) Specific to Nigeria and the issue of natural resources, Sala-I-Martin states that “oil and the institutional deterioration that it has led to has perhaps been the single most important cause of Nigeria’s economic and political problems.”\(^41\)

The measures to combat poverty in Africa have included deregulation, privatization, austerity measures, SAP and other fiscal and monetary policies, none of which have produced much result in terms of sustainable development. As African countries delved deeper into economic crises, they had to resort to borrowing from foreign creditors, most notably the World Bank and the IMF. These loans came with


certain conditions attached to them including structural reforms of the local economy. The World Bank reports that between 1986 and 1991, twenty-nine Sub-Saharan African countries were involved in the structural adjustment program.\textsuperscript{42}

There was also the push for education as it was generally accepted that the more “human capital”, (defined as the stock of knowledge that people have learned and retained) that a country has, the more productive its labor force would be\textsuperscript{43}. Goals 2 and 3 of the Millennium Development Goals relate to education. Specifically, goal 2 Target 3 requires that by 2015, children will be able to complete a full course of primary schooling and Goal 3 Target 4 requires that gender disparity be eliminated by 2015. Data available from 154 countries indicate that 83 countries, predominately in Europe and North America, have already achieved or have a good chance of achieving the educational goals. Forty-three countries have made progress toward achieving the educational goals, notably Bangladesh, China, Egypt and Indonesia. Twenty-eight countries are in serious risk of not achieving any of the educational goals. These 28 countries are primarily in sub-Saharan Africa.\textsuperscript{44}

A somewhat troubling side note is the increasing number of trained and skilled Africans who leave the continent for jobs oversees after having been educated at great expense by their country of origin. It is estimated that about 20,000 professionals have left Africa every year since 1990, with over 300,000 highly qualified Africans in the Diaspora.\textsuperscript{45} At the same time, Africa spends US$4 billion annually on salaries for

\textsuperscript{43} Yeager, Institutions, Transition Economies, and Economic Development.
expatriate workers.\textsuperscript{46} Amongst the countries most affected by brain drain are Ethiopia which lost about 74.6\% of its human capital in a period of about 10 years (1980 to 1991); Nigeria lost over 30,000 skilled workers; and Ghana also lost a huge amount of its human capital.\textsuperscript{47}


With the recent transformation of the African Organization for Unity (OAU) into the African Union (AU) and the establishment of The New Partnership for Africa’s Development (NEPAD) it appears that Africa is now ready to take a more concise and deliberate policy formulation initiative to set its own development and economic policies. Like the Millennium Development Goals, the programs within the NEPAD document cover a host of socio-economic goals to be achieved by 2015. The NEPAD specifically targets reducing in half by 2015 the number of Africans living in absolute poverty.

Nigeria has also taken its own steps to reduce the incidence of poverty. The most important step undertaken by the government to reduce poverty is the creation in 2004 of The National Economic Empowerment and Development Strategy (NEEDS). The states

\textsuperscript{46} Ibid.
\textsuperscript{47} Ibid.
have similar poverty reduction policy know as State Economic Development Strategy (SEEDS). One of the goals of NEEDS is to “reduce the involvement of the federal government in the economy through privatisation, deregulation, liberalisation and the promotion of infrastructure development, particularly in the electricity, transport and water sectors.” 48 In addition, the government plans on using “key sectors of the economy to act as engines of growth.” 49 These key sectors include manufacturing, tourism, solid minerals and agriculture. In order to monitor and oversee the country progress toward achieving the MDG’s discussed in Chapter 1 the government has also established a Millennium Development Goals office. 50

2.3 This study

With the failure of most World Bank and IMF intervention strategies, developmental economists started paying closer attention to property rights as a means of alleviating poverty in Third World countries. Under this proposed policy, developing countries would reform their land policies to incorporate a cadastral system and with the formal title obtained from registering their land, poor people would be able to obtain credit facilities from financial institutions.

The chief proponent of this poverty alleviation measure is Hernando de Soto who claims that the bed-rock of capital as an economic tool is formal property law and

48 Nigeria, Country Profile, (The Economist Intelligence Unit, 2007). p. 30
49 Ibid.
without a system to differentiate and protect rightful ownership, capital is dead. In response to this proposal many Third World countries have called for land reforms and reevaluation of their land policies. Below are some policy statements made by top African policy makers and other world leaders. The referenced quotes are from the website of the Institute for Liberty and Democracy (ILD).

"I want the ILD to review Nigeria's property laws." —Olesegun Obasanjo, President of Nigeria At the International Conference on Financing for Development Monterrey, 21 March 2002

"... I should like to pay tribute to the pioneering work carried out by our good friend, Hernando de Soto, and the Institute for Liberty and Democracy (ILD). [...] Our resolve, and the aspirations of all those who are struggling to convert the assets they hold into valuable properties, must not be left in doubt." —Benjamin William Mkapa, President of the United Republic of Tanzania, At a property formalization awareness presentation, Dar es Salaam, 8 September 2003

"The ILD's project is beautiful —I will implement it." —Jean Bertrand Aristide, President of Haiti, Port-au-Prince, 11 April 2001

"Welcoming Mr. de Soto, President Kufuor said his visit should be seen as marking the beginning of a sustained interaction between Ghana and the ILD into the future by way of recapitalizing the poor in the society to achieve progress for themselves."
—John A. Kufuor, President of Ghana The Ghanaian TIMES front page Accra, January 24, 2002

"The Ghanaian traditional authorities not only understand the ILD's message but consider it a strategic pillar for creating wealth and reducing poverty."— UNDP report, Accra, 20 November 2002

"The most promising anti-poverty initiative in the world is that being advanced by the great Peruvian Economist, Hernando de Soto." —Bill Clinton, former President of the United States At World Congress on Information Technology Adelaide, Australia, 27 February 2002

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"In 1997, the World Bank loaned $37 million to help finance ILD's work. This loan has helped over four million Peruvians become part of the formal economy, and has created close to $6 billion in assets simply by getting property registered, titled, and valued. As a result, banks have been increasingly willing and able to make loans to applicants whom they had previously turned away because of the inability to verify asset and income data." —The World Bank Group DevNews Media Center, 23 July 2002


"[The ILD] is absolutely right, that we need to rethink how we capture economic growth and development." —Kofi Annan Secretary General of the United Nations OIT Press Conference, Geneva, 16 July 2001

"We must bring to life what Hernando de Soto has called "dead capital". This may mean strengthening laws on the enforcement of contracts, including foreclosure, and helping small farmers gain clear title to agricultural land." —Alan Larson, Under Secretary of State for Economic, Business and Agricultural Affairs, Remarks at the Conference on Financing For Development: The Role of the Global Economy in Combating Poverty, 29 January 2002

In the case of Nigeria, it appears that the country is seriously considering revising its property rights policy. The Economist Intelligence Unit (EIU) expects the new President of Nigeria, Umaru Yar’Adua to revise the country’s land property rights scheme. In 2007 the EIU stated: “Economic Policy: Government aims to extend land property rights

One key reform that Mr. Yar’Adua plans to make is the liberalisation of land ownership. On June 7th the new leader said that his administration intended to amend the Land Use Decree to enable Nigerians to use their land to secure bank loans. Under the existing law land belongs to the government, so it cannot be mortgaged to raise bank loans. Mr. Yar’Adua believes that millions of people would benefit from a change in the law, especially farmers on low income who presently cannot use their holding as an asset to access credit. For the reform to succeed, however, the government would also need to improve its system for land titling, as
many owners do not possess legal deeds, owning partly to the long and expensive procedures involved in registering property.”

As indicated by the above quotes, most discussions on reforming land tenure systems have largely ignored any cultural features or variables which may be crucial for the realization of this proposal. These features if not properly recognized and addressed may disrupt the proper adoption and implementation of this proposed policy. The assumption being made here is that the “informal owners” or the “poor” either own the land they occupy or that they have the ability to acquire landed property.

This study seeks to answer the following questions:

1. Are there any existing cultural values or constraints that may inhibit the use of property rights as a means of poverty alleviation?

2. How do the poor acquire property rights?

This study aims at exploring the cultural views/values of stakeholders as it pertains to land. In the course of my study, I also seek to explore credit facilities used by the stakeholders; the roles public officials play in the process of using land as a means of economic development and what institutions would be required for a successful implementation of the proposed policy.

It is not my aim to show or otherwise insinuate that African cultures or traditional values are in any way obstacles to economic development in Africa. Rather, what I aim to achieve is to study people in their cultural environment and to draw policy recommendations consistent with my findings. Throughout this study, the terms

“culture”, “tradition” and “indigenous” appear frequently and will most often be used interchangeably.

2.4 Conclusion

Numerous explanations for poverty in Africa have been postulated. I have reviewed some but by no means all of these hypotheses. However, as I have pointed out there are some common problems that are so glaring that they have caused a severe strain on the economic, political and social structures of African nations. The solutions so far advocated to alleviate poverty have had minimal success. It remains to be seen whether wide spread formalization of land in Africa will be the panacea.
A nation that grows over time does so because its institutions encourage and promote that growth - Yeager

In this chapter, I discuss the roles formal and informal institutions play in the development goals of Africa. I begin the chapter by providing an overview of the current institutional framework in Africa and then illustrate the points I raise by discussing in some depth the institutional structure of Nigeria. Wiarda summarizes the importance of institutions for Third World countries, by stating that:

“The problem for most developing nations is not just that have low levels of socio economic development but also weak institutions – especially those institutions that are supportive of democracy. Legislatures are weak and do not often serve as effective checks on excessive presidential authority. Courts and court systems are weak and often lack independence from police, military, or presidential powers. Local government is weak and lacks independent taxing and policymaking authority. Public bureaucracy is often unprofessional and is dominated by patronage, cronyism, and corruption. Both presidential and legislative staff are often weak, untrained, and inexperienced.”

Wiarda goes on to say that

“Society is often not pluralistic but dominated by narrow elite groups of government bureaucrats, religious leaders, military officers, and businessmen. Labor, peasant, indigenous, and women’s groups are usually small and poorly organized. Political parties are weak and, …..woefully unpopular. Civil society, interest groups, and associational life are frequently inchoate, poorly organized, and unable to make their members’ voices heard. At all levels of society – and this is a hallmark of underdevelopment – disorganization and weakness of institutions prevail. It is not just that major groups lack input into the political systems; it is also that often weak governments lack an institutional means to carry out

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54 Wiarda, Political Development in Emerging Nations - Is There Still a Third World? P. 104
policies at the local level in ways that have a positive effect on the grassroots population.”

As we shall see, in the example of Nigeria, the country continues to be plagued by ineffective institutions which can critically affect the pace and pathways of its developmental success. Nigeria inherited a number of institutions from Britain when it gained independence in 1960. These institutions included “a federal constitution, strong regional political parties, elaborate legislative and judicial organs, a pluralistic press, and an elected political executive that was supported by a modern bureaucracy.” In discussing the institutional framework of Nigeria, I have limited the discussion to political, legal and credit institutions as these are the institutions that have a direct bearing on the subject matter being explored. I employ the new institutional economics as my theoretical frame of reference. In concluding this chapter, I link this theory to Nigeria’s current institutional structure and how this would affect the proposed titling policy if it is adopted.

3.1 Political, Legal and Credit Institutions

Political processes in Nigeria have been almost viciously cyclical in nature from democratic elections to extended military regimes and back to democratic elections. This turnover in governments and extended military regimes in Nigeria may account largely

55 Ibid. p. 104
for the underdevelopment of the country.\textsuperscript{57} Therefore, a strong, stable and transparent government will be crucial for any development strategy to succeed in Nigeria.

In terms of territorial cleavages, Nigeria has more than 250 ethnic groups, 2 main religions, all accommodated within a federal structure. Osaghae states that “What makes these cleavages problematic for politics is that, on the one hand, they are mutually reinforcing and on the other, they tend to coincide with the major lines of socio-economic and political inequalities.”\textsuperscript{58} Osaghae goes on to state that it would be wrong to think of Nigeria’s plurality only in terms of primordial cleavages as there are other variables including class categories and interest groups that affect the political process in Nigeria.\textsuperscript{59} Interest groups will be discussed later on in this chapter.

It is important to discuss Nigeria’s political character because as Wairda puts it “there is a close correlation between economic, social, and political development…..countries that have high per-capital incomes and score high on the indices of social modernization also tend to be the most democratic. In contrast, those countries that have low per-capita income and low indices of literacy, life expectancy, urbanization, ….also tend to be nondemocratic.”\textsuperscript{60} As we shall see later on in this chapter, the issue of Nigeria’s political form continues to affect its developmental process.

\textsuperscript{57} Ibid.
\textsuperscript{59} Ibid.
\textsuperscript{60} Wiarda, \textit{Political Development in Emerging Nations - Is There Still a Third World?} p. 14
Enforcing property rights contracts requires a strong independent judiciary with competent, trained attorneys and judges.61 As Yeager so succinctly puts it, enforcement of contracts may be the most important variable in differences in economic performance among countries.62 I review the legal institutions in Africa again emphasizing on Nigeria’s dual legal system and the roles the legal system plays in the course of achieving the country’s development goals. The works of three scholars in this area were most helpful and I have drawn extensively from these literatures.63

The main purpose of requiring formal titling of land as articulated by proponents of the proposed policy is to enable the poor obtain credit from banks. I think it prudent to examine the credit institutions in Nigeria and some ways by which the poor presently obtain credit or financing despite a lack of widespread titling. Without an understanding of these institutions and the interplay with the cultural realities of Nigeria, one cannot truly evaluate the efficacy of the proposed titling policy.

3.2. Political Institutions

Africa’s political culture may have contributed to the abject poverty in the continent. Most African states with the exception of Ethiopia, Egypt and Liberia obtained independence in the 1960’s. As William Tordoff points out, African states for the most part, in addition to being ex-colonial, were also new states with old societies searching

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61 Yeager, *Institutions, Transition Economies, and Economic Development*.
62 Ibid.
for new identities as nation states.\textsuperscript{64} At independence, African states were made up of a collection of peoples speaking different languages and at different stages of social and political development.\textsuperscript{65} African states were also mainly rural with economies dependent on the world market; they did not have an established political culture and they had weak or no institutions.\textsuperscript{66}

Africa’s political experience can be divided into three distinct groupings: the participatory democracy of the early 1960’s, single party states and military dictatorship.\textsuperscript{67} Single party states and military dictatorship were usually characterized by “strong-man rule” which paved the way for most of Africa’s wealth to be stolen and banked in off shore havens with strong bank secrecy laws.\textsuperscript{68} Recently, there has been a push by western governments and multilateral agencies towards the adoption of democracy as the preferred form of government in Africa. Most African states now have some form of democracy both at the national and sub-national levels of government.\textsuperscript{69} By 2000, 43 out of 48 Sub Saharan African states had held multi-party elections.\textsuperscript{70} Before Africa was colonized, there were indigenous political systems in existence. These indigenous political systems continued to operate with the aforementioned three distinct groupings.

\begin{itemize}
\item \textsuperscript{64} Tordoff, \textit{Government and Politics in Africa}.
\item \textsuperscript{65} Ibid.
\item \textsuperscript{66} Ibid.
\item \textsuperscript{67} Ibid.
\item \textsuperscript{68} Landes, \textit{The Wealth and Poverty of Nations: Why Some Are So Rich and Some So Poor}.
\item \textsuperscript{69} R.L. Sklar and C.S. Whitaker, \textit{African Politics and Problems in Development} (Boulder: Lynne Rienner, 1991).
\item \textsuperscript{70} Shadrack Wanjala Nsong'o, "Contending Political Paradigms in Africa: Democratization Vs. Authoritarianism in Kenya and Zambia" (Ph.D. diss., Northeastern University, 2004).
\end{itemize}
Nigeria practices a federal style of governance which is widely viewed as the basis for stability and survival of the country.\footnote{Ugo M. Amoretti and Nancy Bermeo, eds., “Nigeria – Dilemmas of Federalism”, Federalism and Territorial Cleavages (Baltimore: The John Hopkins University Press).} Nigeria’s first experiment with federalism was a tripartite parliamentary system (“regional federalism”) made up of three regions: the northern region, the western and eastern regions in the south.\footnote{The period 1960 to 1966 is commonly referred to as “the 1st Republic”. For more readings see: Claude Ake, Democracy and Development in Africa (Washington D.C: Brookings Institute, 1995). ———, The Political Economy of Africa (London: Longman, 1981). See also, Mohamed M.A. Salih, African Political Parties: Evolution, Institutionalism and Governance, ed . (London: Pluto Press, 2003).} Under this style of federalism, the three regions were substantially self governing with the federal government retaining exclusive jurisdiction over issues of defense and security, foreign relations, and commercial and fiscal policies. A fourth region the Midwest was later created in 1963.

According to Suberu these regions were established based on tribal, religious and cultural distinctions.\footnote{Suberu, “Institutions, Political Culture, and Constitutionalism in Nigeria.”} The lines were drawn with the intent of granting political autonomy and security to the Hausa-Fulani in the North who were predominately Muslim, the Yorubas of the southwest who were almost evenly split on a religious basis as Muslims and Christians, but shared a common ancestry and the predominantly Christian Igbo of the southeast.\footnote{Ibid.} This regional federalism encouraged the polarization of Nigeria into ethnic blocs and Nigeria became in the words of Diamond, “the classic case of society rent and liberal democracy destroyed by ethnic conflict.”\footnote{Larry Diamond, "Class, Ethnicity, and the Democratic State: Nigeria, 1950-1966," Comparative Studies in Society and History 25, no. 3 (1983). p. 457-489.} Sklar states that the collapse of the 1st Republic was due to a “chronic imbalance between constitutional and
technological (including educational) power” in Nigeria.” This imbalance in constitutional powers led to the 1966 Nigerian civil war and the intervention of the military in Nigeria politics.

The intervention of the military in Nigerian politics and policy making process after the civil war paved the way for a “reorganization of the federal structure, the centralization of the political economy and the reconstitution of critical political institutions.”

Instead of the prior regional form of federalism, Nigeria moved to a form of state federalism with the creation of 12 states in 1967 and the creation of an additional 7 states in 1976. These additional seven states were carved out of larger existing states and they were almost exclusively drawn on ethnical and cultural lines.

After several years of almost continuous military rule, the federalist structure was once again changed to a more “American-style presidential system” with a uniform local government structure. This period (2nd republic) was ushered in under the 1979 constitution with Shehu Shagari as president. 4 years later, the military under Major General Muhammadu Buhari overthrew the Second Republic because of “economic mismanagement, widespread corruption, election fraud, and a general lack of concern for the problems of Nigerians.” Sklar, however, attributes the fall of the 2nd Republic to “a weak moral relationship between the culturally diverse and legitimated communities of

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77 Suberu, "Institutions, Political Culture, and Constitutionalism in Nigeria."
78 Ibid.
79 The 2nd Republic was from 1979 to 1983.
80 This annulled election period is referred to as the aborted 3rd Republic. U.S. Department of State, Bureau of African Affairs, June 2007 available at [http://www.state.gov/r/pa/ei/bgn/2836.htm#political]. Last accessed October 10, 2007
Nigeria and the country’s anomic central political organization.\(^{81}\) Either way, it is possible that the fall of the 2\(^{nd}\) Republic was a combination of the military’s claim of economic mismanagement and corruption and Sklar’s claim of an anomic federal government.

To the reader who is not very familiar with Nigeria’s political history, the next ten years I describe below would be extremely confusing. This era was characterized by coups and counter coups. Major General Buhari who had overthrown the 2\(^{nd}\) Republic was overthrown by Major General Ibrahim Babangida, (Babangida) in August 1985. The military under Babangida promised to return the country to civilian rule by 1993. On June 12, 1993 a presidential election was held. This election was deemed to be Nigeria’s fairest elections by most observers.\(^{82}\) The election was however annulled by the military until widespread rioting forced the military to hand over power to an “interim government” in August of 1993.

By November of 1993 the military was again in power when Sani Abacha overthrew the interim government of Ernest Shonekan. Sani Abacha would remain in power until June 1998 when he died. Upon the death of Sani Abacha, General Abdulsalami Abubakar took over power. Democratic elections were held in 1999 (3\(^{rd}\) Republic) and Olusegun Obasanjo, himself once a military ruler, was elected president. He was reelected president in 2003 and in April 2007 he became the first civilian

\(^{81}\) Sklar and Whitaker, *African Politics and Problems in Development*.
Olusegun Obasanjo was the first African military ruler to hand over power to a democratically elected government.

Figure 3.1: Map of Nigeria

Source: Compare Infobase Limited available at www.mapsofworld.com
Today, the federal capital of Nigeria is Abuja. There are presently 36 states (most of which are drawn along ethnic lines) and there are 774 local government areas in the country. The present 3rd Republic has a National Assembly that is bicameral, comprising of a 109-member Senate and a 360-seat House of Representatives. Each house has a term of four years. Each of the 36 states has an elected state governor and state legislature. Legislators are usually elected on “a plurality basis from more or less ethnically homogeneous, single-member constituencies” thereby ensuring that policies are usually self serving and narrow based.

A reoccurring sign of federalism in Nigeria is the growing visibility of state governors (in the current civilian administration) and the inherent friction between the federal government and the various states over allocation of resources, and also between the states and local governments. This friction between these three tiers of government will have a profound negative effect on the titling proposal if adopted especially if the titling proposal will be a source of immense revenue.

A study of Nigeria’s political institutions cannot be complete without mention being made of “Military federalism” in Nigeria. Between 1966 and 1999, with the exception of the 4 years of the 2nd Republic, Nigeria was ruled almost continuously by the military. Military federalism as practiced in Nigeria usually entailed the suspension of the constitution, all major policy making powers in the hands of the Supreme Military

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84 Country Report, Nigeria. (The Economist Intelligence Unit Limited, 2005).
86 http://www.state.gov/r/pa/ei/bgn/2836.htm#political U.S. Department of State Bureau of African Affairs, June 2007
Council in the center, and a ban on political parties. Under military federalism, state governors were usually military personnel appointed by the federal military government and the state governors carried out policies as formulated by the federal military government. With the return to democracy, state governors now have a measure of autonomy with their own policies which “differ from, or contradict, those provided by the federal government.” Military federalism also caused the erosion of state powers, but saw the entrenchment of local governments as the third tier of government.

Babangida’s military regime (1985 to 1993) is worthy of special mention because his regime prepared the way for the transition to the present civilian regime. Under Babangida fundamental structural changes were made in Nigeria’s policy making processes including the overhaul of the public bureaucracy in 1988. Babaginda introduced the art of “national debates” wherein senior policy maker, scholars and the general citizenry debated on key policy issues with the purpose of informing the government of the wishes of the Nigerian people. The end results of these debates were usually ignored by the military government. Intellectuals were also appointed to key policy positions in the Babaginda administration.

In paving the way to the aborted 3rd Republic, Babaginda’s military government established and funded two "grassroots" political parties and citizens had the options of joining either one of the parties: the National Republican Convention (NRC), whose ideology was "a little to the right," and the Social Democratic (SDP), whose ideology was "a little to the left." While there was initial resistance to the compulsory formation of a
two party system by the government, the system appeared to have worked well until Babaginda annulled the elections held on June 12th, 1993. Babaginda is also credited with trying to change Nigeria’s political culture by establishing in 1987, a bureaucratic agency, the Directorate of Social Mobilization to undertake mass political education and “democratic cultural reorientation” of Nigerians.  

Nigeria currently has a multi-party system. Sections 86 and 87 of the 1999 Nigerian constitution mandate that political parties are open to all Nigerians and the name of the party must not have any ethnic, religious or regional connotation. There are 37 registered political parties with 3 main ones. Overall, there does not appear to be any ideological differences between the 3 main parties which are seen “as vehicles for alliances of prominent politicians to secure positions of power.”

Suberu states that “The close constitutional regulation of party formation, along with the suspension of political party activities for much of the period of military rule, has left Nigeria with an unstable, shallow, contested, chaotic, and artificially deethnicized party system. Yet, while formally fulfilling constitutional requirements, Nigerian political parties have remained ethnic-bound: they have either been sectional in their actual or core support base, or have been fragmented internally along ethnic and regional lines.” Suberu goes on to state that in practice more informal strategies have been adopted to make these constitutional requirements work so that it is not uncommon to see

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92 Suberu, "Nigeria – Dilemmas of Federalism."
93 For a list of registered parties see the Independent National Electoral Commission website at www.inecnigeria.org/political/index.html
95 Suberu, "Nigeria – Dilemmas of Federalism."
that key positions including presidential and vice presidential nominations are usually filled on a “north-south and/or Christian-Muslim basis.”

3.2.1 Revenue Allocation

Oil revenue provides about 90 percent of export earning and 80 percent of public revenues since the early 1970’s. Oil revenues are consolidated into a federation account and shared between the federal government and the states and between the states and the local governments. The formula for sharing funds from the federation account is based on relative population rather than where the revenue is derived from. According to Suberu “although this redistributive federalism ensured a relatively more even geographical distribution of revenues, it increased the financial dependency of the states (and their localities) on the center, spawned a relentless pressure for new subunits as an easy avenue to oil revenues, and fueled a creeping sense of economic dispossession and political alienation in the minority-populated oil-rich sections.” The 1990’s has seen a growing agitation in these “oil rich sections” (the Niger Delta) of Nigeria for an increase in revenue allocation.

According to the EIU, in 2005, the federal government of Nigeria collected a total of N5.5 trillion (US$43bn) of which a total of N3 trillion was shared among the three tiers of governments. The federal government’s share was N1.24 trillion, the state governments received N628 billion while the local governments received N484 billion.

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96 Ibid.
97 Ibid.
N484 billion is kept in the “derivation fund” to be shared among the oil producing states.\textsuperscript{98}

\subsection*{3.2.2 Interest Groups}

With regard to the issue of Interest groups, their influence on major policy decisions in Nigeria is minimal. The major interest groups consist of professional associations including the Nigerian Bar Association and the Nigerian Medical Association. Professional associations are not predominately concerned with polity issues, but issues directly related to their members.\textsuperscript{99} Most professional associations are elitist, are located in urban areas and do not usually use violence in the pursuit of their demands.\textsuperscript{100}

Another important interest group is the trade groups represented by the Nigerian Labor Congress (NLC). The NLC is made up of about 100 varying unions. Once a very powerful interest group, the NLC’s powers was reduced by the military regime of Sani Abacha who appointed administrators to run the organization. According to the EIU, the NLC is once again becoming a major interest group. “Since 1999 the NLC has called six general strikes in response to increases in fuel prices, and on three occasions the administration was forced partially to reverse the new price levels.” In 2005, legislation

\begin{itemize}
\item \textsuperscript{98} Country Report, Nigeria Outlook for 2007-08.
\item \textsuperscript{99} A Country Study - Nigeria: Federalism and Intragovernmental Relations.
\item \textsuperscript{100} Ibid.
\end{itemize}
was passed limiting the right of the NLC to strike over issues not directly limited to work.¹⁰¹

There is some student activism under the umbrella of the National Association of Nigerian Students (NANS). NANS was proscribed in 1986. Prior to its being proscribed, NANS had led some very violent riots and protests against government policies. Like other protests led by the major interest groups, protests by NANS were usually centered around student issues like increase in the cost of university education, but there were also riots against the governments SAP policies and removal of government subsidy on fuel.¹⁰² To Koehn, the poor in Nigeria are not equipped to mobilize themselves to effectively affect the policy making process.¹⁰³

3.2.3 Indigenous Institutions

A glaring characteristic of African political institutions in general and Nigeria in particular is the indigenous political system that operates alongside Western political institutions. As stated above, Nigeria has 3 major ethnic groups and over 250 other ethnic groups. Chazan describes these ethnic groups as “politico-cultural units.”¹⁰⁴ These politico-cultural units had their own “traditional political culture” which according to Chazan continues to influence political organization and action in Africa.¹⁰⁵

¹⁰¹ Nigeria, Country Profile.
¹⁰² A Country Study - Nigeria: Federalism and Intragovernmental Relations.
¹⁰³ Koehn, Public Policy and Administration in Africa: Lessons from Nigeria.
¹⁰⁵ Ibid. Chazan defines traditional political culture as “those general political orientations and specific political values that dictate patterns of political behavior and institutional growth.”
cultural units are usually delineated by kinship, territorial contiguity and commitment to a common mythical-cultural symbol.\textsuperscript{106}

At the head of the traditional system of governance are the traditional rulers and below the traditional rulers the chiefs, family heads and age groups as the case may be. The traditional or indigenous system of governance has been formally recognized in Nigeria by the establishment of a “council of chiefs” in each state and at the federal level. The traditional rulers are the authority figures in the indigenous communities and final arbiter in communal affairs. Suberu states that traditional rulers are usually called upon to mediate in communal and national crises.\textsuperscript{107}

There are compelling reasons adduced why these traditional political institutions and the communal ties retard democracy and development in Africa as a whole, and Nigeria in particular. Vaughan sees the position of the traditional rulers in Nigerian politics as paradoxical because the traditional rulers are at the top of Nigeria’s traditional communities and they are expected to uphold traditional communal values including loyalty and support to kinsman, while at the same time supporting the modern state apparatus.\textsuperscript{108} Vaughan states that while traditional rulers “operate outside the purview of the State they retain the unquestionable ability either to accommodate and occasionally confront government policies, or to innovate outside the narrow confines of modern structures.”\textsuperscript{109}

\textsuperscript{106} Ibid.
\textsuperscript{107} Suberu, "Institutions, Political Culture, and Constitutionalism in Nigeria."
\textsuperscript{109} Ibid.
Another case made for the notion that the traditional system of governance may impede development is embedded in Joseph’s “prebendalism” thesis. In analyzing Nigeria’s political culture, Joseph makes use of the term “prebendalism” to describe the relationship between the State and the Nigerian society.110 Joseph defines “prebendalism” as:

“patterns of political behavior which rest on the justifying principle that such offices should be competed for and then utilized for the personal benefit of office holders as well as their reference or support group. The official public purpose of the office often becomes a secondary concern, however much that purpose might have been originally cited in its creation or during the periodic competition to fill it.”111

Thus, government officials are “expected to use the power and resources at their disposal to advance private and communal interest.”112 This communal interest is usually articulated by the traditional rulers or family heads. This leads one to a daunting and somewhat startling conclusion about Nigerian politics and public offices which is that “clientelism” and “prebendalism” are intrinsically linked and “reflect a social relationship which has also become a crucial element of the governmental process”113 Virtually nothing can be done especially in the public arena without some form of “connections” or relationship with office holders. These office holders are expected to use their

112 Osaghae, *Crippled Giant: Nigeria since Independence*..
113 Joseph, *Democracy and Prebendal Politics in Nigeria: The Rise and Fall of the Second Republic*. Joseph agrees with James C. Scott’s definition of “clientelism” which states “The patron-client relationship – an exchange relationship between roles – may be defined as a special case of dyadic (two-person) ties involving a largely instrumental friendship in which an individual of higher socio-economic status (patron) uses his own influence and resources to provide protection or benefits or both, for a person of lower status (client) who, for his part, reciprocates by offering general support and assistance, including personal services to the patron.”
government positions to promote their personal interests as well as the interests of members of their families and ethnic communities.

3.2.4 Local Governments

Local governments are the third tier of the executive branch of government. Not much attention has been given to this level of government both in the literature and by respective administrations in Nigeria. Local governments in Nigeria are defined as:

“Government at the local level exercised through representative councils established by law to exercise specific powers within defined areas. These powers should give the council substantial control over local affairs as well as the staff and institutional and financial powers to initiate and direct the provision of services and to determine and implement projects as to compliment the activities of the State and Federal Governments in their areas, and to ensure through devolution of functions to these councils and through the active participation of the people and their traditional institutions, that local initiative and response to local needs and conditions are maximized.”

On the average, there are about 150,000 people in each local government area. Each local government in Nigeria is further divided into wards. Local governments are given jurisdiction over matters of primary education, health, births, deaths and marriages as well as the construction and maintenance of cemeteries. Local governments are also in charge of collecting rates, establishment of markets as well as issuing television and radio licenses. The departments within the local governments are determine by the Governor of the state, but usually consists of Personnel Management; Health; Education, Finance, supplies, planning; Works and Survey and Agriculture and Natural Resources. Central

Administration department is responsible for registering births, deaths and marriages; the construction of cemeteries and burial grounds and resolution of land allocation disputes.\textsuperscript{115}

Koehn states that the structure of local governments in Nigeria is inherently weak because of the dual nature of supervision and the rigid hierarchy of administrative offices.\textsuperscript{116} There are no demarcations between political decisions and administrative matters and local government councilors who are usually politicians could be involved in administrative matters.\textsuperscript{117} Since local governments are presently responsible for the resolution of land allocation disputes and at least one of the cultural variables to be discussed in later chapters, the overlap of functions may have negative repercussions for any titling systems.

The ability of most local governments in Nigeria as in other countries in Africa to carry out their constitutionally mandated functions is constrained by funding and lack of trained personnel. Sources of revenue for local governments are from rates and fees levied on local markets, taxes on televisions and radios as well as allocations from federal and state governments. The federal allocation is fixed at 15\% of the federation account and the state grants 10\% of its revenue to the local governments.\textsuperscript{118}

There are several impediments to the smooth functioning of local governments in Nigeria. For example, morale is typically low among public servants in Nigeria, and this is especially true at the local government level. Federal and state governments intervene constantly in the affairs of local government, usually with negative effects. Other

\begin{thebibliography}{9}
\bibitem{Koehn} Koehn, \textit{Public Policy and Administration in Africa: Lessons from Nigeria}.
\bibitem{Ibid} Ibid.
\bibitem{Ibid} Ibid.
\bibitem{Osaghae} Osaghae, \textit{Crippled Giant: Nigeria since Independence}.
\end{thebibliography}
impediments to the smooth functioning of local governments include lack of a local
revenue base and misallocation (and misappropriation) of funds.\footnote{Koehn, \textit{Public Policy and Administration in Africa: Lessons from Nigeria.}}

3.3 Credit Institutions

Like almost everything else in Africa, the credit system is dualistic with both a
formal and some would say semi or outright informal system. The formal credit system
usually requires some form of licensing and regulation by the government and is usually
patterned after the financial system in the West. Indigenous (informal) credit institutions
are common in Africa and they are usually based on kinship or “sororital ties.”\footnote{Emily Chamlee-Wright, "Indigenous African Institutions and Economic Development," in \textit{The Revolution in Development Economics}, ed. James A. Dorn, Steve H. Hanke, and Alan A. Walters (Washington, D.C.: Cato Institute, 1998).} These
informal credit institutions perform “non-traditionalistic socio-economic functions” and
the funds obtained through these informal credit institutions are used to finance events
which are capital intensive, for example, education, weddings, business ventures and

The World Banks’ regional study \textit{Making Finance Work for Africa} attempts to
present a consistent policy on how best African countries can channel funds and financial
services to areas where they are most needed. The study finds that there are sufficient
similarities in the financial markets in Africa that would allow for generalization. For
one thing, the rate of savings in Africa is very low and for another, the size of the

\begin{thebibliography}{99}
\footnotesize
\item Koehn, \textit{Public Policy and Administration in Africa: Lessons from Nigeria.}
\end{thebibliography}
economies and financial systems is very small.\textsuperscript{122} Other similarities are the informality of the financial intermediaries and the markets within which the financial intermediaries operate. There are also similarities with “governance problems” especially in public institutions “which reduces the credibility and stability of government policy and increased the danger that policy goals will be subverted in implementation.” Citing other studies on the subject matter, the study states that most of the investment and strategic decisions in Africa are made by a few people because only these few have the resources to implement large scale plans.

Whether formal or informal, the financial system in Africa is shallow and a limited number of people have access to formal financial services. Fewer than 20 percent of African adults have an account with a formal financial intermediary and most African economies are predominately “cash and carry” societies.\textsuperscript{123}

It appears there is a market for providing formal credit services to the poor, however, the transaction costs for extending such services to the poor is too high. The banks have no way of ascertaining the credit risks to the poor. The poor themselves do not have repeat dealings with banks and as such have no established credit histories. There are also no third party credit rating institutions in most African countries. Fair debt collection practices are typically non-existent.

In her study of indigenous African credit institutions, Chamlee argues that western style formal credit institutions are not successful in meeting the financial needs

\textsuperscript{122} The study refers to this factor as “scale”, stating that “the problem of scale translates into a problem of high unit costs and even unaffordability of certain services.”

\textsuperscript{123} Honohan and Beck, \textit{Making Finance Work for Africa}. 
of Africans (especially women who are for the most part illiterate).\textsuperscript{124} She argues for more use of indigenous credit institutions. Chamlee states that most business activities are financed through the indigenous system rather than the formal banking institutions, which only provide financing for large scale industries and high volume import and export businesses.\textsuperscript{125}

A huge part of the informal credit market in Africa is the remittances received from wealthier family members living in the cities or living abroad. Remittances not only help the poor in Africa but also provide substantial revenue for African governments. Of the $80 billion remitted from developed to developing countries in 2002, 15\% or about $12 billion was remitted to Africa.\textsuperscript{126} It is believed that this amount may be substantially higher since most international remittances are underreported and domestic remittances not reported at all.\textsuperscript{127} In sub Saharan Africa, Nigeria is the highest single receiver of remittances. The informal means of remittance for example sending the money through friends or family members is high in Africa “because formal financial systems are weak or nonexistent.\textsuperscript{128}

The funds received by beneficiaries are usually used for household or individual consumption, including financing education or building a home. Funds can also be used for communal improvements usually updating or building clinics and improving

\textsuperscript{124} Chamlee-Wright, "Indigenous African Institutions and Economic Development."
\textsuperscript{125} Ibid.
\textsuperscript{127} International or external remittances refers to funds coming into the receiving African country usually from Africans in Diaspora and domestic or internal remittance refers to funds sent by Africans living within the country who have migrated from the rural areas to urban areas or from one rural area to another rural area.
\textsuperscript{128} Sander and Maimbo, "Migrant Labor Remittances in Africa: Reducing Obstacles to Developmental Contributions."
infrastructures like roads. Remittances are a deliberate poverty alleviating strategy undertaken by the poor. The World Bank states that “The high proportion of remittances devoted to consumption reflects that migration and remittances are part of the strategies of individual migrants and their families to escape poverty and raise their standard of living.”

Unlike the informal market, the formal credit market is highly regulated. In Nigeria, the formal credit market is made up of banks (commercial, merchant, universal banks and non-bank financial institutions), the capital market and the pension and insurance sectors. The Central Bank of Nigeria (CBN) is the apex regulatory agency while the Nigeria Deposit Insurance Corporation (NDIC) is charged with protecting depositor’s funds. With the introduction of the Structural Adjustment Program (SAP) in 1986, the Nigerian economy was deregulated, which led to rapid growth in the number of banks and financial institutions from a low of 41 banks in 1997 to 115 in 1997. However, systemic abuse, poor regulatory oversight and even poorer management by bank officers led to the failure of several banks and ensuing credibility issues. In 1998, the CBN had to liquidate 26 troubled banks bringing the total number of banks in Nigeria as of 2005 to 89.

The Nigerian government over the last five years has carried out extensive reforms of the financial markets including increasing the capital requirement of banks. Those banks which could not meet the increased capital requirements had to in most cases merge further decreasing the number of banks to 25. These reforms have been

129 Ibid.
130 *Nigeria, Country Profile.*
131 Ibid.
affected both in the banking, capital market and insurance sectors. Banks in Nigeria are now better capitalized since the minimum paid up capital was increased in 2005. The EIU states that “Although the new banks are clearly better capitalized and more efficient than their predecessors, the financial sector is still faced with many fundamental challenges, notably that the banks are extremely bureaucratic and that Nigeria remains a cash-based economy. This second issue is a major problem, as security concerns make the transport of cash highly complex. Also, the banking sector still serves only a small percentage of the population, the ability to make electronic payments is in its infancy, and the number of automated teller machines (cash points) is very limited.”

Generally, banks in Nigeria are highly liquid because lending is restricted due to poor or non-existent credit information on potential borrowers. The underlying infrastructure, especially information on the borrower and legal apparatus, are weak or non-existent. Financial products including mortgage loans are usually limited.

The Nigerian capital market is made up of the stock exchange, a commodities exchange, issuing houses, stock broking firms, registrars, trustees, investment advisers and portfolio/fund managers. The Securities and Exchange Commission (SEC) is the apex regulatory agency of the capital market. The Nigerian Stock Exchange (NSE) has eight branches with 204 companies listed at the end of June 2006. The stock market is presently thriving due in large part to the 1995 reforms which among other things removed restrictions on foreign ownership of Nigerian companies thereby making it

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132 Ibid.
133 Ibid.
possible for foreigners to invest more in Nigerian companies and the computerized of a central securities clearing system.\textsuperscript{134}

The insurance sector is regulated by the National Insurance Commission (NAICOM). There are over 100 insurance companies operating legally in Nigeria. The minimum capital requirements for these insurance companies was also raised in 2007 and as happened in the banking sector, these new capital requirement is expected to trigger mergers and the closures of companies that cannot meet the new capitalization requirements.\textsuperscript{135}

The reforms in the financial sector undertaken by the Nigerian government have been commended by the World Bank. In its study, \textit{Making Finance Work For Africa}, the World Bank states:

“A vivid recent example of a major policy initiative designed to improve sector performance—rather than please incumbent suppliers—is the consolidation of the Nigerian banking system resulting from the increase in minimum capital. This ownership shake-up may not have been welcomed by many incumbents, and there is the risk that the high entry barrier represented by the new minimum capital could reduce competition. It is too early to pass judgment, but if the end result is reduced rent seeking and greater professionalism by the elimination of numerous small banks, it will have been a good idea.”

While it appears that credit institutions are generally weak, reforms are also underway to strengthen these institutions.

\textsuperscript{134} Ibid.
\textsuperscript{135} Ibid.
3.4 Legal Institutions

Most countries in Africa including Nigeria have a dual legal system consisting of English law and local laws and customs. \(^{136}\) “Customary law”, “native law”, and “traditional law” are terms used interchangeably to refer to laws that reflect the culture, custom, tradition and accepted usage of the indigenes that the laws regulate, or as stated by some scholars, African laws are the laws of the indigenous societies in Africa. \(^{137}\) These laws for the most part affect social and civil life in Africa especially as pertaining to property, inheritance, birth, marriage and death.

In British colonized Africa, the dualism of English laws being administered alongside indigenous laws was as a result of a deliberate policy by the British colonialist to allow the colonies “to continue to live under their primeval laws and customs and of only introducing such changes in these as experience and social needs might dictate.” \(^{138}\)

Holleman states that customary laws in Africa share certain characteristics. \(^{139}\) Firstly customary law is expressed communally. This trait affects legal concepts such as personality, rights, duties and property. For example Holleman see this trait in dispute resolution in African communities. Holleman claimed that “The processing of disputes within African societies tends to be less often by adjudication than by methods which seek an agreed compromise between the disputants, primarily mediation and various forms of encouragement of negotiation” or in a worst case scenario by social pressure.

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\(^{136}\) In territories administered by the French, French laws through the administration of direct rule.


A second characteristic of customary law put forth by the author is that “customary law in Africa tends to be expressed concretely rather than abstractly.” And thirdly, customary law usually involves “emotional or magico-religious thought” instead of “rational, causal, unemotional or commercial thinking.”

Another characteristic of customary law is that it is generally unwritten and sometimes difficult to ascertain especially for “strangers” in the community who may become subject to the customary laws. Customary laws are usually enforced in lower courts styled “customary courts” which are presided over by “non-legally trained personnel, though higher courts are equally permitted to observe and to enforce the observance of rules of customary law....”

Since customary laws are for the most part administered side by side with the received colonial laws, complex issues arise relating to the “social significance of these laws, their relationship to received laws and to the state, and their significance for current aspirations to development.” For example in Nigeria, Elias attempts to summarize the causes for the difficulty in attempting to administer both types of legal systems. He states:

“The causes of the difficulty of integration of the two systems are many and sometimes complex. In the first place, local customary law (other than the Maliki Code of Islamic Law in the North) is dynamic rather than static; and this elasticity, far from being an all-round virtue, may in places lead to uncertainty and imprecision. This is more so because of the lack of written records of traditional rules. Secondly, there are some variations of details in the rules of customary law prevailing in the different communities in the country. This makes rather unreliable the application by judges of arguments from analogy, based upon the experience gained in

one part of the country, to another part, unless the same is backed up with knowledge of the real position. Thirdly, the local chiefs (or council of elders, as the case may be) do not often as judges in native courts keep pace with modern developments in their rapidly changing environments, thus making the task of synthesis between the old and the new legal ideas all the more difficult.  

Although customary laws are recognized, they are treated as a question of fact and the person alleging the custom has to prove its existence to the satisfaction of the court before the customary law can be applied. In addition, customary laws must not be repugnant to natural justice, equity and good conscience and must not be incompatible with any existing law or be against public policy.

The judicial system in Nigeria is set up to accommodate both the received English law and the indigenous customary law. Section 6 (1) of the 1999 Constitution establishes the court system in Nigeria. Although the Constitution also makes provision for the legislature to establish courts, the courts established by the legislature are subordinate to the courts established under the Constitution. The Supreme Court is the apex judicial body and its decisions on all federal and state matters are binding on all courts below it. The court directly below the Supreme Court is the Court of Appeal which hears appeals from the Federal High Courts, the High Court of the Federal Capital, Abuja and the High Courts of the several states. The Court of Appeal also hears appeals from the Customary Court of Appeal and the Sharia Court of Appeal. Below these courts are the Magistrate and District courts which are the lowest courts.

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142 Elias, *The Nigerian Legal System*.
143 Asein, *Introduction to the Nigerian Legal System*.
144 Ibid.
145 Islamic law is widely applied in Northern Nigeria and is considered customary law.
Laws in Nigeria are derived from the constitution, local enactments, and case law. Other sources of law in Nigeria include the received English law and the indigenous customary laws. The independence of the judiciary is guaranteed under the Nigerian constitution, however, the EIU observes that the independence of the Nigerian judiciary was severely curtailed in the military regimes which usually flouted court rulings.\textsuperscript{146} The EIU further states that even though the judiciary has regained some of its powers under the present civilian administration, “the judicial system is still deeply undermined by corruption and hugely under funded. This has resulted in poor administration of justice, including long delays in the hearing of cases.”\textsuperscript{147}

3.5 \hspace{1em} \textbf{Theoretical Framework}

My theoretical framework draws heavily on New Institutional Economics. One of the foremost scholar’s in institutional economics is Douglass North and his work as well as Yeager’s is important to the ideas reviewed in this section.

North defines institutions as consisting of formal rules, informal constraints—norms of behavior, conventions, and self-imposed codes of conduct—and their enforcement characteristics.\textsuperscript{148} According to North, institutions are “the rules of the game in a society or more formally are the humanly devised constraints that shape human interaction.”\textsuperscript{149} Institutions are significant to economic development. Effective

\textsuperscript{146}Nigeria, Country Profile.
\textsuperscript{147}Ibid.
\textsuperscript{149}Ibid.
institutions promote growth and reduce poverty.\textsuperscript{150} The World Bank states that there is a positive relationship between economic development and effective institutions.\textsuperscript{151}

As stated above, a country’s institutional framework is made up of formal rules, informal rules and enforcement systems.\textsuperscript{152} Formal rules are the written rules of society, for example contract laws, while informal rules are the unwritten rules of society, for example culture, and norms of behavior.\textsuperscript{153} Yeager states that, “Enforcement is an integral part of a nation’s institutional framework and may be the single most important element in explaining differences in economic performance”\textsuperscript{154}. In the case of Nigeria we saw in the preceding section that the issue of enforcement is linked to a weak judiciary which may be hard press to enforce property contracts. Yeager states that institutions can be discussed in the static or dynamic sense. Institutions in the static sense refer to transaction costs. Institutions also refer according to Yeager on how organizations can capture the gains from specialization.\textsuperscript{155} In the dynamic sense, institutions refer to the incentive structure used by an organization\textsuperscript{156}

Another useful framework for understanding my study is the Coase theorem.\textsuperscript{157} The theorem states that in a world of zero transaction costs, the efficient outcome always prevails. If people know what all their options are, understand exactly what attributes they are getting in a product, and know with certainty the outcome of each option, then everyone will exercise their options in a way that makes them as well off as possible.

\textsuperscript{151} Ibid.
\textsuperscript{152} North, Institutions, Institutional Change and Economic Performance.
\textsuperscript{153} Ibid.
\textsuperscript{154} Yeager, Institutions, Transition Economies, and Economic Development.
\textsuperscript{155} Ibid.
\textsuperscript{156} Ibid.
Transaction costs are the costs of negotiating, measuring, and enforcing exchanges. To Yeager, “_differences in enforcement costs across countries may be the single most important reason why some nations are wealthy and others are poor._”\(^{158}\)

Enforcement costs are lower in an environment where there is trust (reputation), the consumers have engaged in repeat transaction and there is competition. A situation where people can only trust members of their immediate family and are opportunistic towards others is known as ‘amoral familism’ and is found in many developing countries including Nigeria where transaction costs are high and the enforcement mechanisms weak.

According to North, the institutional framework in most third world countries produces “activities that promote redistributive rather than productive activity”\(^{159}\) By this, North means that the institutional framework is more likely to create monopolistic rather than competitive environment, thus restricting opportunities for wealth creation. According to North,” …..Such a path can persist because the transaction costs of the political and economic markets of those economies together with the subjective models of the actors do not lead them to move incrementally toward more efficient outcomes.”\(^{160}\)

All of these theories shed light on the problem of economic development and property rights in Nigeria. Some scholars see the problem of economic development not so much in terms of “poverty traps”, but rather “weak institutions trap.”\(^{161}\) According to Birdsall, “Countries without the political, economic, and social institutions that adapt to

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\(^{158}\) Yeager, _Institutions, Transition Economies, and Economic Development_. p. 27

\(^{159}\) North, _Institutions, Institutional Change and Economic Performance_.

\(^{160}\) Ibid.

\(^{161}\) Nancy Birdsall, "Do No Harm: Aid, Weak Institutions, and the Missing Middle in Africa," (2007), [http://www.cgdev.org/content/publications/detail/13115](http://www.cgdev.org/content/publications/detail/13115).
new constraints and opportunities, resolve conflicts and generate political compromises, provide checks on use of power......may enjoy growth.....but remain vulnerable to negative internal and external shocks.....”  162

To Birdsall, institutions need not always be formal. Institutions may take other forms for example “long standing trust” which is a good substitute “for the legally enforceable property titles and uncorrupted court system on which most advanced Western economies rely.” “Long standing trust” however, would only apply in close knit communities and is not widely recognized as a valid substitute for formal property rights in western analysis. 163 The World Bank seems to agree with Birdsall. According to the World Bank, “Informal institutions are relatively more important than formal ones in poorer countries……” 164 Yeager also opines on the issue of informal institutions. He states that because culture is so pervasive, informal institutions may be more important than formal and may influence the type of formal institutions a country has and the enforceability of formal rules. 165

The World Bank addresses the issue of institutions in its 2002 Report. 166 The World Development Report, 2002 (WDR 2002) focuses on how developing countries can build institutions that support economic development. 167 The discussion in Chapter 2 of WDR 2002 includes how more secure and transferable rural land institutions can be built. WDR 2002 also deals with how more effective and accessible rural financial institutions

162 Ibid
163 Birdsall, "Do No Harm: Aid, Weak Institutions, and the Missing Middle in Africa."
164 World Development Report 2002. p. 4
165 Yeager, Institutions, Transition Economies, and Economic Development.
167 The World Bank Report 2002 defines firms as key building blocks of markets, producing goods and providing services that form the basis of market exchange.
can be built. Although this part of the Report addresses farmers, it can be applied to general land issues in many developing economies.

WDR 2002 reemphasizes that where there is security of land tenure, a functioning land market would develop that enables the transfer of land from less efficient cultivators to more efficient cultivators, thereby raising productivity. In this Report, the World Bank does not necessarily advocate for formal land institutions in developing countries, but states that “Formal property rights systems enforced by the state are needed to reduce land disputes where population growth or demand for agricultural produce leads to competitive pressures on land or where transactions with those outside the community are common.”\(^{168}\)

Markets are essential for any economy to grow. According to Coase, “In order to carry out a market transaction, it is necessary to discover who it is that one wishes to deal with, to inform people that one wishes to deal and on what terms, to conduct negotiations leading up to a bargain, to draw up the contract……”\(^{169}\) North identifies three general types of markets. The first type of market he calls “local markets”. In this market, the parties have had repeat dealings, they have common cultural values and there is usually no third party enforcement. With high transaction costs, it is the shared norms or culture that keeps parties in check. His second type is “impersonal markets” with no third party enforcement. People in this type of market are usually from the same community or family members and the only enforcement mechanism is the integrity of the parties or the kinship ties. The final type of markets is “impersonal exchange” with third party enforcement.


enforcement. This type of market has been deemed to be necessary for capitalist growth.\textsuperscript{170}

All three types of markets that North identified can be found in Nigeria. “Local markets” and “impersonal markets” are usually common in the rural areas or among ethnic conclaves in the urban areas. The common cultural values become the enforcement mechanisms in cases of disputes. The “impersonal exchange” market though not common appears to be the type of market especially with regard to land that the government is advocating for under the titling proposal.

3.6 Conclusion

In this chapter, I attempt to pull together a wide array of themes and approaches dealing with property rights, institutions and development. I state in this chapter that effective institutions are essential to the thesis of using formalized property rights as a means of property alleviation. Following the World Bank’s lead, I state that these institutions need not always be formal to be effective.

I then review institutions which I consider essential for a successful implementation of the proposed policy. These institutions include political, credit and legal institutions. It is important not to lose sight of the fact that these institutions are the mechanisms through which the proposed policy will be implemented whether or not my study finds that culture is an important variable in the analysis of property rights as a factor for economic development.

\textsuperscript{170} North, \textit{Institutions, Institutional Change and Economic Performance}.
It is obvious from the foregoing description of the institutional framework of Nigeria, that serious reforms are still required in all areas. A politically stable and transparent government is crucial. Strong interest groups willing to call for and press for changes are required. As the World Bank states, “Sometimes, policymakers wishing to embark on reforms may have to create new institutions rather than modify existing ones.” In the following chapter I will discuss the existing administrative and traditional forms of acquiring property rights in Nigeria, including the formal titling system.

It seems almost absurd in light of the foregoing discussion, to formulate a policy to formalize land holding on the assumption that the populace would obtain credit from formal financial institutions, when the majority of the populace has no relationship with these institutions. The majority of people use cash and where the need for credit arises, most people depend on “informal” means for household consumption as well as community development projects. While the need for formal credit services may exist, the transaction cost for doing business with the poor is very high. In addition complementary institutions like credit rating and debt collection do not exist. It is acknowledged that reforms have been undertaken in the credit industry however, more is still required including making access to banking services available to the majority of the people and the willingness of the poor to use these credit facilities.

An impartial accessible legal system with trained lawyers and judges to enforce property contracts is a must. The ability of the poor to gain access to the formal court system (as opposed to the informal family or traditional dispute resolution system) and

for the courts to have the will to hear the case and enforce contracts may be the most important factor for a successful implementation of the proposed policy. Additionally, the judiciary has to be financially independent.

All of the above requires a deliberate and conscious decision on the part of government to change or strengthen institutions and remove bureaucratic steps or red tapes which hinder transparency. Interest groups are really not in a position to change these institutions and government must therefore have the political will to change the rules of the game including eliminating bureaucratic steps that are conducive to corruption. Citizens can also help effect changes in the institutional structure through the electoral process.
CHAPTER 4

LITERATURE REVIEW

“Is Succeeding at Capitalism a Cultural Thing?” - Hernando de Soto

Each of the key fields covered by this study – sociology, public administration, law and developmental economics - contains voluminous literature which would be impossible to cover in its entirety within the confines of my study. My intention then, is to cover in this chapter literature that I consider specifically and directly impact the primary research questions.

I begin the chapter by reviewing studies on the relationship between property rights and economic development including a review of the seminal work on property rights by Hernando de Soto. Along the way, I provide the reader with other materials on property rights, which while material, do not have a direct bearing on my research questions. In addition to reviewing de Soto’s work, I also review some other researches that have been conducted that are directly related to de Soto’s thesis.

Since this study involves an exploration of the effects of culture on property rights, I also examine the competing definitions of “culture” by both Western and African scholars and the effects of culture on economic development as stated by these scholars.

From the literature and personal experience, I glean some variables that pertain to land holdings in Africa. These variables include the dead being buried on residential properties and gender as a cultural structure. In discussing gender as a cultural structure, I also mention inheritance laws as these have a direct bearing on women’s ability to own land in Africa. These variables form the component “Culture and Land Issues” in the
data collection instruments. The instruments will be discussed in details in later chapters.

Since the titling proposal is based on the assumption that the poor own land, I also review literature on access to land, including the different types of land tenure systems in operation in Africa. Finally, I review literature on land tenure reforms in Africa as a means of poverty alleviation.

4.1.1 Studies on Property Rights

Some of the best known scholars of the modern property rights school of thought are Armen Alchian, Ronald Coase, and Harold Demsetz. These scholars emphasize that a system of private property rights is necessary for an effective and efficient economy. They also identify the circumstances that lead to the assignment and formation of property rights.\textsuperscript{172} Armen Alchian described property rights as “the exclusive authority to determine how a resource is used, whether that resource is owned by government or by individuals.”\textsuperscript{173}

Another scholar, David Friedman notes the similarities between three types of rights: “those that libertarian philosophers perceive as just; those that can be shown to be economically efficient; and those that are actually recognized and protected in western


societies.” Friedman believes that property rights are a consequence of strategic behavior and may exist without legal or moral support. He explains these similarities by setting out an account of property rights which is framed in terms of strategic self-interested behavior and which is designed to show why people are willing to defend their rights and respect those of others.

Richard Epstein also argues that property rules must be tailored to the kinds of resources whose use they are to govern. He rejects both the libertarian argument that all property should be private and the socialist argument that all property should be communal. Epstein states that “the decision whether some resource should be moved from the commons into private hands is to be made on grounds of economic efficiency.” In Epstein’s view, land, labor and moveable goods are best governed by private property rules, while roads and water are more efficiently handled as common property.

More recently, Hernando de Soto has argued that the bed-rock of capital as an economic tool is rational property law and without a system to differentiate and protect rightful ownership, capital is “dead”. This “dead capita” is commonly found in Third World countries. De Soto describes Third World countries as a “world where ownership of assets is difficult to trace and validate and is governed by no legally recognizable set of rules; where the assets’ potentially useful economic attributes have not been described or organized; where they cannot be used to obtain surplus value through multiple

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176 Ibid.
transactions because their unfixed nature and uncertainty leave too much room for misunderstanding, faulty recollection, and reversal of agreement – where most assets, in short, are dead capital.”

De Soto’s research indicates that very few people in the five Third World countries where he conducted his research had valid legal title to the property with the result that most “people’s resources are commercially and financially invisible” and operate outside the regulated formal economy and do not function according to supply and demand. De Soto uses Egypt as an example of a Third World country with “dead capital.” He states that “Outside Cairo, some of the poorest of the poor live in a district of old tombs called “the city of the dead.” But almost all of Cairo is a city of the dead – of dead capital, of assets that cannot be used to their fullest.”

In Third World countries, in de Soto’s view, land is used primarily for farming and shelter, unlike in the West where this same asset has a parallel life as capital outside the physical purpose for which it is used in the developing countries. Land in the West is used for more productive uses such as “collateral” for mortgage or for other forms of credit and public utilities. To de Soto, the $9.3 trillion of “dead capital” in Third World countries cannot be more productive because people have forgotten or maybe never realized that using the land as collateral “requires a very complex process” and because people have forgotten this process of obtaining capital from assets, 80% of the world’s population now lives in poverty.

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178 Ibid. p. 2. De Soto refers to this as “the mystery of the missing information.”
179 Ibid. p. 16
180 Ibid. p. 51
181 Ibid. p. 39
182 Ibid. p. 40
De Soto asks the ultimate question: “…if people in countries making the transition to capitalism are not pitiful beggars, are not helplessly trapped in obsolete ways and are not the uncritical prisoners of dysfunctional cultures, what is it that prevents capitalism from delivering to them the same wealth it has delivered to the West?”  

De Soto’s aim is to show that the major stumbling block to economic progress in the rest of the world is the rest of the world’s inability to produce capital. He also intends to show that most of the poor already possess the assets they need to make a success of capitalism.

To de Soto, poor people save immensely and the savings of the poor is several times greater than the foreign aid received by poor countries. However, the resources of the poor are held in “defective forms” usually in the form of “houses built on land whose ownership rights are not adequately recorded; unincorporated businesses with undefined liability; industries located where financiers and investors cannot see them. Because the rights to these possessions are not adequately documented, these assets cannot readily be turned into capital, cannot be traded outside of narrow local circles where people know and trust each other, cannot be used as collateral for a loan, and cannot be used as a share against an investment.”

In the West, according to de Soto, a “representational process” of documenting every piece of land allows this property to be used as collateral for credit. Third World countries do not have this representational process. Without this representation, the assets

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183 Ibid. pp. 4 - 5
184 Ibid. pp. 5 - 6
of the poor are “dead.” This representational process is what makes the West wealthier than the rest of the world. The effect of this is that although poor people have assets, they lack the process to represent their property and thus create capital. According to de Soto, “it is the unavailability of these essential representations that explains why people who have adapted every other Western inventions, from the paper clip to the nuclear reactor, have not been able to produce sufficient capital to make their domestic capitalism work. This is the mystery of capital.”

De Soto asks several pertinent questions. For example, he asks, “If there is so much dead capital in the world, and in the hands of so many people, why haven’t governments tried to tap into this potential wealth?” To de Soto, “What national leaders are missing is that people are spontaneously organizing themselves into separate, extralegal groups until government can provide them with one legal property system.” According to de Soto, the real cause of disorder in Third World countries in not population or urban growth, or a poor minority, “but an outmoded system of legal property.” He compares a formal property rights system to “a bridge……so well anchored in people’s own extralegal arrangements that they will gladly walk across to enter” the new social contract of formality.

On pockets of prosperity in the midst of such abject poverty as exists in Third World countries, de Soto opines that such pockets of prosperity do not mark a transition to capitalism, but rather “conceals an abysmal retardation in a nation’s capacity to create,

185 Ibid. p. 6
186 Ibid. p. 7
187 Ibid. p. 7
188 Ibid. p. 11
189 Ibid. p. 73
190 Ibid. p. 172
respect, and make available formal property rights to the majority of its citizens.” De Soto’s survey of third world countries indicates that there are no institutions that create incentives for people to seize economic opportunities. These people who could not operate within the law could not also hold property efficiently or enforce contracts through the courts or raise funds through other legal means and thus they could not achieve economies of scale. According to de Soto, “The disastrous economic effects of this legal apartheid are most strikingly visible in the lack of formal property rights over real estate.”

To de Soto, the problems of migration and “extralegality” currently faced by developing countries have previously been encountered by developed nations. Europe and North America were one time Third World Countries, with similar problems, “massive migrations, explosions of extralegal activity, political unrest, and general discontent with an antiquated legal system......” Using Massachusetts as an example, he shows that the U.S. also had bureaucratic and technical failures including a lack of a uniform surveying system. Conflicts could not be effectively resolved as the legal system could not handle the strain. To de Soto what the experiences of the West has shown is that stopgap measures to alleviate poverty will not work unless the government revises property systems. Another significance De Soto cites from the American experience of transforming informal land holdings to formal, is that technical details are not as important as “changes in political attitudes and in broad legal trends.”

De Soto describes his thesis as “an effort to reopen the exploration of the source

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191 Ibid. p. 75
192 Ibid. p. 83
193 Ibid. p. 108
194 Ibid. p. 150
of capital and thus explain how to correct the economic failures of poor countries. These failures have nothing to do with the deficiencies in cultural or genetic heritage.” De Soto in his own words is more concerned with “meta-rights” – “how to bring people who hold their assets by extralegal arrangements into the legal property system. How do you give people rights to legal property rights?” He came to the conclusion that “the transition to integrated legal property systems had little to do with technology......The crucial change had to do with adapting the law to the social and economic needs of the majority of the population.” According to de Soto, in each Third World country he studied, lawlessness was not so much about crime, but it was really “a collusion between rule making at the grassroots level and rule making at the top.”

In order to correct legal failure, third world countries must according to de Soto, find the “real social contracts on property”, integrate the social contract into the official law, and then craft a political strategy that makes reform possible. Therefore as a policy measure, de Soto recommends that governments of Third World countries who are seriously considering alleviating poverty in their countries by bringing dead capital, alive follow the process detailed below:

A. THE DISCOVERY STRATEGY

A.1 Identify, locate and classify extralegal assets (dead capital)
A. 1. 1 Develop local recruitment specifications to penetrate extralegal sector
A. 1. 2 Determine causes for the accumulation of extralegal assets so as to develop workable typologies

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195 Ibid. p. 106
196 Ibid. p. 107
197 Ibid. Figure 6.1 – Capitalization Process: Movement from Dead Capital to Live Capital. p. 161
A. 1.3 Locate economic sectors and geographic areas where extralegal activities are most prevalent

A.2 Quantify the actual and potential value of extralegal assets
   A.2.1 Develop appropriate methodologies to estimate the value of extralegal assets using information and data gathered in the field.
   A.2.2 Customize criteria to gather and process information and to confirm results
   A.2.3 Establish the importance of the value of extralegal assets

A.3 Analyze the interaction of the extralegal sector with the rest of society
   A.3.1 Research the relevant links between government and extralegal assets
   A.3.2 Research the relevant links between legal businesses and extralegal assets
   A.3.3 Identify processes where government has already successfully dealt with extralegal assets

A.4 Identify the extralegal norms that govern extralegal property
   A.4.1 Detect and decode the extralegal norms that define the manner in which property rights are held and exercised by the different extralegal communities in the country

A.5 Determine the costs of extralegality to the country
   A.5.1 The costs to the extralegal sector
   A.5.2 The costs to the legal business sector
   A.5.3 The costs to government

B. THE POLITICAL AND LEGAL STRATEGY

B.1 Ensure that the highest political level assumes responsibility for capitalization of the poor

B.2 Put into operation agencies that will permit rapid change
   B.2.1 Identify and connect with the capitalization process the different institutions that presently govern property rights or impinge upon their ability to generate surplus value.
   B.2.2 Design, obtain approval for, and put into operation agencies that will permit the rapid introduction of changes in the diverse processes required for capitalization. If possible, create a single organization having the sole mandate of capitalizing assets and decentralize offices to provide services throughout the country
B.2.3 Ensure that the capitalization process both incorporates the political priorities of the government and reflects a consensus within society that makes the process easily enforceable

B.3 Remove administrative and legal bottlenecks
B.3.1 Calculate the costs of capitalizing extralegal assets, including:
B.3.1.1 Requirements for permits at all levels of government
B.3.1.2 Requirements for and the amount of payments for these permits
B.3.1.3 The number of forms and other documents required
B.3.1.4 Requirements that cannot be met in practice
B.3.1.5 All other transaction costs, including time delays
B.3.2 Remove administrative and legal bottlenecks by identifying and modifying the institutions, statutes and practices that create unnecessary red tape

B.4 Build consensus between legal and extralegal sectors
B.4.1 Determine the points where extralegal norms coincide with the law so as to be able to draft statutes that recognize acceptable extralegal proofs of ownership with the support of extralegal communities
B.4.2 Ensure that the draft legal norms that incorporate extralegal property do so without compromising the level of security that the existing legal order now provides property that is duly recorded and effectively controlled so as to obtain acquiescence of the legal sector

B.5 Draft statutes and procedures that lower the costs of holding assets legally below those of holding them extralegally
B.5.1 Enact the statutes required for all property in a country to be governed by one consistent body of law and set of procedures
B.5.2 Broaden the definition of proofs of ownership to suit the new process, and consolidate into administratively manageable packages the statutes and procedures that will govern the capitalization process
B.5.3 Consolidate dispersed legislation into a single law
B.5.4 Develop institutions and procedures that permit economies of scale for all the activities which constitute the process of capitalization
B.5.5 Create an expedient and low-cost alternative to squatting and other forms of extralegal appropriation. Consolidate process and respect for the law by establishing incentives and disincentives aimed at encouraging legal and discouraging illegal (extralegal) conveyance
B.5.6 Design and implement administrative or private processes, to substitute judicial processes, where suitable, so as to encourage settlement of disputes with the law
B.6 Create mechanisms that will reduce risks associated with private investment, including credibility of titles and non-payment for public services

None of the above steps enumerated by de Soto consider any cultural factors. In fact, de Soto entirely dismisses the influence of culture. He states that “the suggestion that it is culture that explains the success of such diverse places as Japan, Switzerland, and California, and culture again that explains the relative poverty of such equally diverse places as China, Estonia, and Baja California is worse than inhumane; its is unconvincing. The disparity between the West and the rest of the world is far too great to be explained by culture alone.”

By way of conclusion, de Soto asks the all important question, “Is Succeeding at Capitalism a Cultural Thing?” De Soto does not think so. He states that “Throughout history people have confused the efficiency of the representational tools they have inherited to create surplus value with the inherent values of their culture. They forget that often what gives an edge to a particular group of people is the innovative use they make of a representational system developed by another culture.” He further states that “a great part of the research agenda needed to explain why capitalism fails outside the West remains mired in a mass of unexamined and largely untestable assumptions labeled “culture”, whose main effect is to allow too many of those who live in the privileged enclaves of this world to enjoy feeling superior.” According to him cultural arguments will no longer be effective “as the hard evidence of good political institutions and

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198 Ibid. p. 223
199 Ibid. p. 224
200 Ibid. p. 225
property law sink in.”

While de Soto dismisses the role that culture plays in using property rights as a factor in poverty alleviation, I intend to explore whether there are indeed any existing cultural values that may inhibit the use of property rights as a factor in alleviating poverty.

Not everyone is enamored with de Soto who has more than his fair share of critics. Other studies, for example, the research sponsored by the Infrastructure and Urban Development Group of the Department for International Development (DFID) was conducted with the aim of exploring the role of local land titling in poverty alleviation. The research was undertaken in two African countries (Zimbabwe and Botswana) and Trinidad in the Caribbean. Specifically the DFID wanted “to test de Soto’s thesis of a linkage between land titling and poverty alleviation improvements through exploring the life experiences and attitudes of residents in informal peri-urban settlements.”

The DFID’s research as interesting and illuminating as it was, did not however explore any cultural factors in depth except to state that the formality envisaged by de Soto would need to “interact with informal cultures and structures through the lives and strategies of individuals” and that while the “[s]tate may see itself as conferring property rights from above, ..these rights operate within basic kinship relations, between

\[201\] Ibid. p. 225
\[204\] Ibid. p. 5
\[205\] Ibid. p. 146
partners, generations and siblings." In addition, the research acknowledged that “[t]he challenge of providing secure tenure for the poor in a world of rapid population and urban growth requires an awareness of differing legal cultures and traditions, particularly in postcolonial and pluralist societies…..”

On de Soto’s methodology, Home and Lim state that:

“Academics have found his methodology and supporting research suspect, and have disputed his basic argument. He evades some difficult issues, such as the cost of cadastral reform, the future of communal land tenure systems and the colonial sanctioning of pre-emption. He does not much question the role of capitalism and land title in perpetuating colonial power structures and inequalities, and indeed in creating greater inequalities, as the poor are pushed out by larger, wealthier and possibly foreign investors attracted by the latent capital in land. He seems to conclude that the benefits outweigh the possible cost for poor people, who can chose how to use their new-found capital, but does not address other difficult aspects of land and property systems, such as the farm-size efficiency debate or the continued strength of large-scale hereditary landholding.”

De Soto’s imagery has also invoked severe criticism. Home opines that de Soto’s imagery of a formal property rights system as a bridge that poor people will gladly cross is optimistic and hides the fact that “such a system- converting oral into written, informal into formal, local into nation – will not be uniformly benign, neutral or free of power relationships and exploitation. The beneficiaries of informal systems may not wish to be integrated, preferring to preserve values and defend themselves against the penetrative forces of global capitalism and the modernizing nation-State.” In addition, Home states that “Integrating plural and informal property rights into one unified system

206 Ibid. p. 146
207 Ibid. p. 26
208 Ibid. p. 2
under State control may facilitate the spread of global capitalism and “open” land markets” which may be met with resistance.\textsuperscript{210} De Soto’s imagery according to Home does not recognize the “complexity and diversity of the poor” and de Soto’s imagery of “listening to the barking dogs” “devalues the contributions of humans….”\textsuperscript{211}

Another criticism leveled against de Soto’s thesis is that he does not consider the socio-economic impact of HIV/AIDS in the Third World especially Africa where it has “profound implications for families, land tenure and land reforms.”\textsuperscript{212} In addition, de Soto does not consider inheritance laws and practices in Africa.

De Soto is also accused of “promoting formal property systems at a time when the dominance of individualized land tenure in policy prescriptions by donor agencies is increasingly seen as having negative consequences for the poor.”\textsuperscript{213} While formalization is viewed as promoting inequality and contributing to landlessness, communal or informal rights is seen as providing “a form of social security for the poor, old and disabled…..”\textsuperscript{214}

Another criticism of de Soto’s proposal of formalization of title is that the proposal does not recognize the individual’s identification with land which enables the individual retain his cultural identity. Thus “the deliberate withholding of land from

\begin{flushright}
\textsuperscript{210} Ibid. p. 22 \\
\textsuperscript{211} Home and Lim, eds., \textit{Demystifying the Mystery of Capital: Land Tenure and Poverty in Africa and the Caribbean}. \\
\textsuperscript{212} Ibid. p. 7 \\
\textsuperscript{213} Ibid. p. 22 \\
\textsuperscript{214} Home, "Outside De Soto’s Bell Jar: Colonial/Postcolonial Land Law and the Exclusion of the Peri-Urban Poor." p. 22
\end{flushright}
State land-titling processes may become a means of preserving family and community cohesion and continuity.”

4.1.2 Definitional Issues

The World Bank defines culture as:

1. “particular shared values, beliefs, knowledge, skills and practices that underpin behavior by members of a social group at a particular point in time (with potentially good and bad effects on processes of poverty reduction); and

2. creative expression, skills, traditional knowledge and cultural resources that form part of the lives of people and societies, and can be a basis for social engagement and enterprise development for example, craft and design, oral and written history, music, drama, dance, visual arts, celebrations etc.”

Quoting from the World Commission on Culture and Development “Our Creative Diversity”, the World Bank states that “…culture is a whole complex of distinctive spiritual, material, intellectual and emotional features that characterize the society or societal group. It includes creative expression, oral history, language, literature, performing arts, fine arts and crafts, community practice, traditional healing methods, traditional natural resource management, celebrations and patterns of social interaction that contribute to group and individual welfare and, of course, material or built forms

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215 Home and Lim, eds., Demystifying the Mystery of Capital: Land Tenure and Poverty in Africa and the Caribbean. p. 22
such as sites, buildings, historic city centers, landscape, arts and objects.”

Harrison & Huntington define culture in the subjective sense as “the values, attitudes, beliefs, orientations, and underlying assumptions prevalent among people in a society.” The authors explore how culture in the subjective sense affects the extent to which and the ways in which societies achieve or fail to achieve economic and political development.

Landes defines culture “as the sum and the interaction of the values and attitudes of a group – thus the aspirations and ambitions of the members of the group, the relations between the members, between old and young people, between the genders, between rich and poor, the religious beliefs and relations between different faiths, the attitudes toward work and play, the value placed on different kinds of activities. Because these things….. have a lot to do with how rich and poor a society is.” Landes does not agree that all cultures are equally worthy or worth preserving, because not all cultures are “equally suited to successful high productivity in a material sense.” He terms these lesser culture “toxic culture.”

These toxic cultures according to Landes prevent the adherents from competing in a modern world. Landes does not blame culture for the lack of development in Africa, instead he points to the climate which he describes as “pestiferous”. Pestiferous climate according to Landes is the type of climate that “made labor distinctly disagreeable that

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led to extensive recourse to slavery or the abusive exploitation of women by men.”

Laitin on his part sees culture as having two faces. Laitin sees the “first face of culture” as being more in line with what social system theorists believe which is that embedded values of culture affect political and economic behavior. According to Laitin, to social system theorist, these cultural values are primordial and affect both individual and collective behavior. The second face of culture relates to the cultural symbols shared by a group. To Laitin, rational choice theorists, unlike social system theorist, align themselves more in line with the second face of culture and so when examining culture they look at the political use of cultural symbols shared by a group. Laitin sees individuals under the second face of culture as utility maximizers and being utility maximizers, such individuals will change their cultural identities if it will advance their political power and wealth.

Laitin conducts an extensive review of the works of Geertz and Cohen whom Laitin thinks are methodologically opposed in their examination of culture. According to Laitin, while Cohen only addresses the second face of culture (shared symbols as a source of political manipulation), Geertz looks at the interpretation (meaning) of culture which a group shares. Laitin says that to Cohen, “political entrepreneurs in all societies are rational when they use these shared symbols to enhance group cohesion.” Based on Laitin’s analysis of culture, culture can be “meanings” or “symbols” which have effects on the social, political and economic behaviors of a group.

Another definition of culture is that employed by Lassiter. His working definition
of “traditional African culture” is “generally widespread sub-Saharan African core values, beliefs, cultural themes and behaviors as they existed prior to European contact; and as they still exist, especially in the rural areas and to a lesser extent in the urban areas of Africa; and upon which many, if not most, fundamental thought processes and behaviors of contemporary sub-Saharan Africans are based and continue to be derived from.”

The terms tradition and culture are often used interchangeably. For example, Gyekye examines the definition given by certain scholars. He cites Acton as defining tradition as “a belief or practice transmitted from one generation to another and accepted as authoritative, or deferred to, without argument.” Gyekye also cites Edward Shils as defining tradition as “anything which is transmitted or handed down from the past to the present” while Samuel Fleischacker defines tradition as “a set of customs passed down over the generations, and a set of beliefs and values endorsing those customs.”

Gyekye, takes issues with these definition and instead prefers to address culture as constituting the content of tradition, that tradition consist of - is the bearer of-those cultural products that have persisted over generations of people. He believes that to say that “tradition is passed down” or “transmitted” means that it is “bequeathed” to the next generation with the expectation that that generation would preserve it. According to

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Gyeke, the preservation would however depend on the attitude the new generation adopts toward it and this therefore means that tradition is not automatic. He opines that the “continuity and survival of a pristine cultural product depends on the normative considerations that will be brought to bear on it by a subsequent generation........The desire or intention of a subsequent generation to preserve or abandon inherited cultural products often results from some kind of evaluation of those cultural products and the tradition they lead to.”

Gyeke thus proposes a new definition as “a tradition is any cultural product that was created or pursued by past generations and that, having been accepted and preserved, in whole or in part, by successive generations, has been maintained to the present.”

Gyeke asserts that subsequent generations can critically evaluate an inherited tradition to refine the inherited tradition, “from the normative perspective of a present generation, in order to make that tradition more presentable to a contemporary cultural palate.” He further states that that the causal factors of cultural change or transformation of tradition are internally and externally induced. I whole heartedly agree with him, but add that one of the external factors can be economical.

Professor Wole Soyinka, a Nigerian Nobel Laureate seems to agree with Gyeke’s definition of culture. Professor Wole Soyinka was quoted by the World Bank as stating “culture is a matrix of infinite possibilities and choices….from within the same cultural matrix, we can extract arguments and strategies for degradation or ennoblement, for enslavement or liberation, for the suppression of productive potential or the

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228 Ibid. p. 221
229 Ibid. p. 221
230 Ibid. p. 222
4.2 Studies on Culture and Development

The literature is split on the effect culture has on economic development. Culture is regarded in the literature as either obstructing development or positively facilitating it. On the one hand, there are neoclassical economists who have generally paid more attention to capital and labor as the paramount requirements for economic growth and sociologists on the other hand who argue that cultural values are strongly indicative of economic and social progress. Fukuyama believes that economist have generally shied away from using culture because of the difficulty of measuring culture as a variable. According to Fukuyama, from this paradigm, “culture constitutes at most a kind of residual factor that one appeals to when other explanations fail.”

Interestingly, the World Bank has recently started paying more attention on culture as a factor in developmental program planning. In his opening Keynote Address at a conference held in Italy in 1999, Culture Counts: Financing, Resources, and the Economics of Culture in Sustainable Development, (Culture Counts Conference), the former World Bank President, James Wolfensohn stated that:

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233 Ibid.
“We are here today because development particularly alleviating poverty and enabling a strong civic culture cannot be successful without understanding and responding to people's values, traditions, social relationships and preserving the heritage that has meaning for them.”

Wolfensohn also stated that:

“Theyir culture - values, social relationships, ties of reciprocity, creative expression and knowledge can be among their most potent assets, and among the most ignored and devastated by development programs”

On the World Bank’s experience in developmental programs, the Wolfensohn said, “Over and over again, we have found that when we ignore the way of life of the poor, their values, relationships and culture, we cannot improve even their material condition.” Other interesting remarks made by the former World Bank President denoting the overall importance of culture in economic development include:

“…..And so it is that over the five years of my odyssey at the Bank, I have come to learn that culture indigenous to the countries in which we operate is a fundamental base on which development can occur……

And so I have become deeply committed to this issue of culture not as a question of elitism, not as a question of a passport to tables where people of education exist, but as a basic element in development.

……You cannot, you cannot come up with a plan for development that ignores environment and culture……

……What is crucial for us, as we think about culture and development, is to recognize that the maintenance of heritage, of culture, of individual history, is a mandatory building block on which development within countries and within our globe needs to occur.” 234

Mpho M. Malie, the Minister of Trade, Industry, and Marketing in Lesotho

234 Wolfensohn, "Opening Remarks."
provided at the Culture Counts Conference, what in my view is an illuminating example of what can occur at the implementation stage if cultural values are not considered in evaluating developmental programs. Mr. Malie referred to the term “toxic culture” referenced by Landes at the Culture Counts Conference and declared that this term has not been properly examined. Expatiating further on the need to examine culture in development programs, Mr. Malie discussed the Highland Water Project. This Highland Water project was developed under a bilateral agreement signed in 1986 between Lesotho and South Africa. The project was estimated to cost over US$3 billion. Under the terms of the agreement Lesotho was to supply water from its highlands to the industrial heartlands of South Africa.

Mr. Malie went on to explain that at the planning stage of the Highland Water Project, nobody had taken cognizance of any cultural values of the inhabitants of the villages where the dams were to be built.235 According to Mr. Malie, the Basuto who inhabited these villages had a “culture of pre-born and after births” buried on fire ash dumps. However, the place where fire ashes are thrown away “is a sacred place because the after-birth and stillborns are buried in those dumps. And nobody took cognizance of the fact that there was that culture, that belief, or that kind of practice…These supposedly ash dumps are sacred graves to the Basuto, and just moving those ash dumps was a very serious issue…But these things can make great projects fail because the cultural impacts or the beliefs of the people have not been properly considered.” 236

So what do African scholars think of culture and its effect on socio-economic

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235 Mr. Malie described these cultural values as “cultural taboos.”
236 For further reading on his address see, Mpho M. Malie, "The Cultural Impact of Development on Civil Societies and Indigenous Culture" (paper presented at the Culture Counts: Financing, Resources, and the Economics of Culture in Sustainable Development, Italy, 1999).
development? Is there such a thing as “African culture” or “African mentality” or “the way Africans think”? The literature seems to suggest that African scholars agree that there are psychological and cultural traits common to Africans. There does not appear to be a consensus however, on the issue whether or not these cultural traits aid in the socio-economic development of Africa.

There is understandably, a tension between the African traditional culture and institutions and the imported (formalized) western culture. Gyekye explores what is relevant or irrelevant in African traditions and the problems that confront the African as he struggles to fit into the “modern” world. According to Gyekye, the African is confronted with a myriad of problems and:

“to the extent that some of the problems are cultural – in the sense that they are causally related to cherished practices, habits, attitudes, and outlooks that derive from the inherited indigenous cultures – it can be said that such problems predate, and can hardly be said to have resulted from, the imposition of European colonial rule with its concomitant introduction of European cultural values and institutions. But it can also be said that some of the problems derive from attempts to grapple with, and adjust to, the aftermath of colonial rule and its institutions.”

Gyeky cites several problems on which philosophical attention can be devoted to. Of the several problems that Gyeky discusses, the problems I am interested in are “problems of reappraising inherited cultural traditions to help come to terms with the cultural realities of the time……….” Drawing examples from the Ghanaian cultural experience, Gyekye grapples with questions such as “How does an idea or a particular cultural practice or value become or ossify into a tradition? How do ideas and values

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238 Ibid. p. vii
239 Ibid. p. viii
previously considered alien by a people, find their way into the texture of their culture and thus become part of their tradition? What lies at the basis of different attitudes toward a cultural past?**240**

It appears that within the social sciences, some African scholars regard the labeling of African culture and personality as part of the Western propaganda to suppress and dominate Africans. Other scholars see African culture and personality as “cultural maladaptation” which has led to continued underdevelopment within the continent. I take a mid-point stand between these views. While I believe that there are some cultural values, for example female genital mutilation or the outcast (Osu) system commonly found among the Igbos that should be eradicated, I also believe that Africans continue to struggle with what cultural values are worth holding onto and cultural values that have been and are being imbibe from the West.241

Still on the issue of African culture and personality, Lassiter reviews selected writings of African scholars on what these scholars see as African cultural traits and the effects of these cultural traits on socioeconomic issues.242 Lassiter states that all scholarly African works he reviewed, emphasized that the “the African way of organizing and cognitively engaging the world derives from a strongly restrictive indigenous sociocultural milieu, and that this approach to social life and the broader world has been

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240 Ibid. p. 218
241 There might be some truth to this assertion. Consider for example, Chinua Achebe’s “Things Fall Apart” which is a gripping narrative of a colonized Igbo village in Eastern Nigeria. The narrative recounts the life and death of the village warrior Okonkwo, the Igbo culture and value system within a historical context. The novel is really about the conflicts between the Igbo culture toward the end of the 19th century with the imported culture and religion of the white man and the demise of the warrior Okonkwo who could not adapt to the new more powerful culture of the colonialist. Chinua Achebe, *Things Fall Apart* (New York: Ballantine Books, 1983 c 1959).
242 Lassiter, "African Culture and Personality: Bad Social Science, Effective Social Activism, or a Call to Reinvent Ethnology."
negatively effected by Western cultural influence.”243

One of the more relevant works he reviews is that of Nyasani.244 Lassiter, reviewing Nyasani work states that Nyasani views the African, Asian and European minds as being products of unique “cultural edifices” and “cultural streams” which stem from environmental conditioning and long standing cultural traditions.245 Lassiter also points out that Nyasani sees the African as being “Caught in a social pyramid characterized by a one-way vertical authority structure and a two-way horizontal family and communal support system, the African mind, beset with superstition and destabilized by Western acculturation, is relatively unilinear, uncritical, lacking in initiative and therefore “encapsulated”.246 Lassiter further states that Nyasani sees community norms as being “merely received but never subjected to the scrutiny of reason to establish their viability and practicability.”247 In the following section, I shall discuss in more details these so called African traits or typologies and the effects on development.

4.2.1 Cultural Typologies

Wiarda in examining the rise of the Newly Industrialized Countries (NICs) draws up a list of nine possible reasons for the rise of the NIC’s.248 These reasons or characteristics include a history of development; defeat in war and military occupation;

243 Ibid. p. 3
245 Lassiter, "African Culture and Personality: Bad Social Science, Effective Social Activism, or a Call to Reinvent Ethnology." p. 3
246 Ibid. p. 4
247 Ibid. p. 5
248 Wiarda, Political Development in Emerging Nations - Is There Still a Third World?
U.S. aid and influence; the right economic model; authoritarianism; institutional design; culture; resources; and the neighborhood.

On culture, Wiarda wonders whether there is something in Asian (Confucian) culture that helps explain the success of Asian economic development. Wiarda appears to think so even though prior scholarly thinking was that the Confucian culture, with “its emphasis on rank and hierarchy, respect for elders, and deference and conformity” prevented development. It appears that these cultural traits coupled with education, honor, loyalty, striving, hard work, and consensus aid in economic development.

To Wiarda, “culture matters!” He states that:

“It is not a coincidence that all of the most successful NICs are in the educated, hard-working, socially egalitarian, orderly, disciplined, efficient, mainly honest countries of Asia that are part of the Confucian ethos…..These countries may not only be contrasted on cultural grounds with the less-successful Third World areas of Africa, Latin America, and the Middle East, but also with the non-Confucian…..We need to know more about the specific cultural traits of the Asian success stories that have made their growth so dramatic.”

Etounga-Manguelle like Wairda also comes up with nine characteristics or typology of African culture. These characteristics may explain the chronic underdevelopment of the continent. He notes that Africa has a multiplicity of cultures or sub-cultures, but in spite of the difference in skin pigmentation and language "there is a foundation of shared values, attitudes, and institutions that brings together the nations

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249 Ibid. p.71
250 Ibid.
251 Ibid. p.71
south of the Sahara, and in many respects those to the north as well". A lot of what Etounga-Manguelle sees wrong with Africa hinges on the African culture and he wonders whether this culture is compatible with the demands faced by individuals and nations at the beginning of the twenty-first century.

Etounga-Manguelle notes these African traits as (1) Hierarchical distance; (2) the African’s weak control over uncertainties about the future; (3) seeing space and time as a single entity and not using his time in a rational manner; (4) the heavy weight of divinity on the individual and the community destiny; (5) the pervasive domination of the community over the individual; (6) excessive conviviality and rejection of open conflict particularly towards elders and those in authority; (7) inefficient homo economicus; (8) “the African is the intelligent human being that uses his intelligence least”; and (9) cannibalistic and totalitarian African societies.

Etounga-Manguelle’s analysis is worth discussing at length due to the importance of his typologies to my study. I paraphrase each of his typologies below:

1. **Hierarchical Distance**
   According to Etounga-Manguelle, because of hierarchical distance (the degree of verticality) in Africa’s tropical climate, survival and growth in Africa does not depend on human intervention and as such the society is static and politically centralized. Where national wealth exists, it is usually concentrated in the hands of elite. Subordinates consider their superiors to be different, that is, the superiors having a right to privilege and the best way to change this social system is to overthrow those who hold power.

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252 Etounga-Manguelle, "Does Africa Need a Cultural Adjustment Program."
2. **Control Over Uncertainty**

Africa appears to be a society with weak control over uncertainties, being conditioned to accept uncertainty about the future and taking each day as it comes. Africans have little enthusiasm for work and the behavior and opinions of others are tolerated because deep down people feel relatively secure in the status quo. The author opines that to the extent that Africans have control over uncertainty, the control is exercised only through religion. Africans immerse themselves in the present and demonstrate a lack of concern for tomorrow, not because of the strong community social structures, but because of a submission to ubiquitous and implacable divine will.

3. **The Tyranny Of Time**

The African sees space and time as a single entity. He quotes a Nigerian proverb which states that "A watch did not invent man" to indicate the Africans lack of appreciation for time. The Africans conception of time however can be a handicap because he is in competition with countries that do not have the same work methods and for which competition at the level of productivity passes through a more rational use of time. Since the African does not have a dynamic perception of the future, there is no planning, no foresight and no policy to affect the course of events.

4. **Indivisible Power And Authority**

In Africa, the force of religion weighs both on individual and on collective destiny. There is a propensity to equate all power with a divine authority. Africans will not accept changes in social standing: Dominant and dominated remain eternally in places allocated them and if born dominated, there is no right to power except by coup d'etat. The entire structure accepts as a natural fact the servitude imposed by the strong man of the moment
because African peoples are underdeveloped (that is passive, resigned, and cowardly).

5. **The Community Dominates The Individual**

African thought rejects any view of the individual as an autonomous and responsible being. The African is vertically rooted in his family, in the vital ancestor, if not in God; horizontally, he is linked to his group, to society, to the cosmos. The African can only develop and bloom through social and family life. The established belief system is absolute. The concept of African individualism does not exist in Africa's hyper-centralized traditional structures. According to the author, tribalism blooms in Africa because of both the negation of the individual and the precariousness of his situation in the absence of an operative set of individual rights and responsibilities.

6. **Excessive Conviviality And Rejection Of Open Conflict**

The African works to live, but does not live to work. The African demonstrates a propensity to feast that suggests that African societies are structured around pleasure: birth, baptism, marriage, birthday, promotion, election, return from a short or long trip, mourning, opening or closure of congress, traditional and religious feasts. One's income is not taken into account, the feast must be beautiful and include the maximum possible number of guests. Differences that are the basis for social life elsewhere are not perceived or are ignored to maintain ostensible social cohesion and this leads the African to avoid conflict (even though the continent is filled with armed conflict).

7. **Inefficient Homo Economicus**

What classifies a man in Africa is his intrinsic value and his birth. Because of the Africans concept of time, saving for the future has a lower priority than immediate consumption. Lest there be any attempt to accumulate wealth, those who receive a
regular salary have to finance the studies of brothers, cousins, nephews, and nieces, lodge newcomers and finance the multitude of ceremonies that fill social life.

8. The High Costs Of Irrationalism

African culture is all about preserving the status quo and managing conflict. The use of magic or sorcery to preserve the status quo is an indication of a society ruled by tension, fear and moral disorder. Witchcraft is both an instrument of social coercion and a political instrument to eliminate any opposition that might appear. In the view of the author, "the African is the intelligent being that uses his intelligence least - so long as he is happy to live life as it comes. In an Africa that refuses to link knowledge and activity, our authentic cultural identity ......lies behind our claim to the right to inefficiency in production, the right to corruption and the right to disrespect basic human rights."

9. Cannibalistic And Totalitarian Societies

Genocide, bloody civil wars, and rampant violent crimes suggest that Africans at all social levels are to some extent cannibalistic. The author does not feel that African totalitarianism was born with independence, but instead states that totalitarianism was inscribed in the foundations of African tribal cultures and it is a way of life.

Etounga-Manguelle feels that African culture must be regenerated through a process initiated from the inside that would allow Africans to remain themselves while being of their time. He states that humanistic values must be kept, but anything within the African that prevents a prosperous and just future through participation in the political process must be destroyed. This process according to Etounga-Manguelle would require institutions which have been established based on modified African cultures.

There appears to be some truth embedded in Etounga-Manguelle’s typology. For
example, it is true that Africans are generally late to functions and that wars have ravaged the continent, but to ascribe the totality of a continent’s development on the traditions and value systems is absurd. No doubt there are features of African culture that need to be addressed paramount of which in my mind is the glaring gender inequality which I will address in later chapters, but for the most part, any “givens” accepted by society are “givens” that enhance the lives of the people in that society, “givens” without which the individual in that society does not feel complete.

The Asians like Africans have similar cultural practices for example deference to authority figures. The irony is that while Etounga-Manguelle sees such a trait in a negative light, this same trait is viewed by scholars such as Wairda as aiding development. Throsby acknowledges that “…….it is also more generally recognized now that the contribution of cultural factors to Asian growth has probably been more important than many economists originally realized.”

African society like any other society will continue to struggle with societal values however, the challenge lies for African countries in adopting (or shall I say adapting) western politics and policies with indigenous cultures in improving the lives and well being of Africans.

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4.2.2 Cultural Variables

The cultural variables I discuss below are by no means exhaustive of socio-cultural phenomenon found in Africa. Some of these variables may in fact not be cultural in nature, but more of a function of political and administrative failures. These variables however, provide a starting point in investigating the role culture plays in the analysis of property rights as a factor or determinant of economic development.

4.2.2.(i) Where The Dead Are Buried

Geertz in his seminal work points out the difficulty faced by newly independent (or created) African states because of “primordial attachments.” He further states that:

“By a primordial attachment is meant one that stems from the “givens” – or, more precisely, as culture is inevitably involved in such matters, the assumed “givens” – of social existence: immediate contiguity and kin connection mainly, but beyond them the givenness that stems from being born into a particular religious community, speaking a particular language, or even a dialect of a language, and following particular social practices. These congruities of blood, speech, custom, and so on, are seen to have an ineffable, and at times overpowering, coerciveness in and of themselves.”

Is burying the dead on residential property a “given” and as such a primordial attachment? It is important and useful to note that Africans in conducting their social lives depend more on social capital as opposed to state sponsored welfare schemes found in western societies. Social safety nets are provided by the immediate or extended family and as such issues like births, deaths and marriages are often decided upon by the

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255 Geertz, ed., Old Societies and New States: The Quest for Modernity in Asia and Africa. p. 109
A “primordial attachment” that exists with respect to property may be found in the burial customs in Africa. For example, Ogada describing the situation in Kenya states:

“After the parents are dead and buried, a son may not sell the land where the parents have been buried and “turn his back” on their graves for a ‘stranger’ (buyer) to till the land. In practice, whoever buries the dead has the right to keep the particular portion of land, and the access for production.”

N.W. Thomas in 1920 described the burial custom of the Edo’s in Nigeria. He stated that:

“……….. As a rule the burial customs depend for their character upon whether the deceased has children or not; ……. The body is then taken to the back of the house, washed with native soap and lufa….The grave is dug by slaves, members of the family or neighbors – in the first or father’s room for a man, in the second or mother’s room for a woman….The non-performance or irregular performance of burial customs entails penalties both on the deceased and on the living.”

To Ogowewo, the burial on residential is an example of “dead capital.” He remarks that:

“In Benin City, a city in Edo State in Nigeria, due to poor local government services cemeteries have fallen into disuse with the consequence that residential premises are now used as places of burial for the deceased head of the household. This practice is so widespread that the point has now been reached where only the

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256 While the word “family” has a precise meaning in English, amongst Africans it translates into a man, his wives and children, his sons’ wives and children and as many near relatives as possible. See I. Chukwudozie Ezigbalike, “Cultural Issues in Land Information Systems,” Land Reform Bulletin (1996).


very poor are buried in cemeteries. But the consequences of this culture – rooted in tradition and given added impetus by poor local government – is that the capital in such properties is rendered “dead” (just as those that are buried in them) in the sense that the houses become unsuitable as security for loans. The amount of dead capital in Benin City must be mind-boggling considering that burials of the rich in cemeteries are the exception rather than the norm”.

If we follow the arguments advanced by the several scholars cited in the preceding section that “culture” or “tradition” are beliefs or practices handed down from one generation to another and deferred to by the latter generation, then it only remains to be seen whether the present generation in my survey population consider this phenomenon as cultural and if this practice is deemed cultural, how it affects economic development? I address this issue in the structured survey and in depth interviews conducted with a former public official in the Nigeria federal civil service and a current state public official in Benin City responsible for land issues. An incongruity I found in discussing with these two public officials was that they both wanted to be buried in their private residences as opposed to the cemetery. To the former senior public official, “the Benin’s do not have a culture of being buried in the cemetery” even as he acknowledged that some “bad boys” are beginning to exhume the bodies of their parents in order to sell the property to raise funds to emigrate to Europe.

4.2.2.(ii) Gender as a cultural structure

The role of women in global and national economic development continues to be a highly contested issue especially in Africa. The literature is fraught with discourses which indicate that the role of women in economic development is not fully appreciated and that women bear the brunt of poverty. Scott argues that “The definitions, conceptions and language used to define and describe political development are interwoven with masculine meanings and have the imprimatur of masculine preoccupations.” Scott further states that “women continue to be defined in terms of procreative, childrearing and “household economy” functions, but they are also made the new “targets” of government policies and the recipients of greater bureaucratic discipline and control.”

Almost twenty years ago, the World Bank made the following statement concerning African women:

“African women are the lead managers within the household for providing food, nutrition, water, health, education, and family planning to an extent greater than elsewhere in the developing world……..They have always been active in agriculture, trade and other economic pursuits……. But women's economic capabilities, and in particular their ability to manage family welfare, are being threatened. "Modernization" has shifted the balance of advantage against women…… Legal systems have discriminated in land titling, by putting newly registered land in men's names (in their purported role as head of household), often overriding women's traditional rights to land use; similarly, payments for family contract growing schemes are typically made to the male. It is often more difficult for women to gain access to information and technology services, resources, and credit. Agricultural extension

260 Catherine W. Scott, Gender and Development: Rethinking Modernization and Dependency Theory (Boulder: Lynne Rienner Publishers, Inc., 1995). p. 6
261 Ibid. p. 18
and formal financial institutions are biased toward a male clientele, despite women's importance as producers. Women have to pay higher prices for finance...... there is a wide gender gap in education. Lack of resources and pressures on time and energies put enormous constraints on the ability of women to maintain their own health and nutrition as well as that of their children.

As a result, women are less well equipped than men to take advantage of the better income-earning opportunities that have emerged in Africa. Despite the facts that food and nutrition are women's prime concern in Sub-Saharan Africa and that they are the principal participants in agriculture, women's independent farming has been relatively neglected. By contrast, women's family labor contribution has increased, but goes unpaid; in industry and trade women have been confined to small-scale operations in the informal sector; however vibrant these operations are and despite the trading empires built up by the most successful female entrepreneurs, women's average incomes are relatively low.  

It does not appear as though the lot of African women has improved in the interval since the World Bank made the above statement. By all indications, all over Africa women continue to bear the brunt of being poor and women more often than not are excluded from owning landed property since African societies are predominately patriarchal in nature. The Human Rights Watch illustrates the abuse women suffer in Africa with a case study of Kenya. The Human Rights Watch notes that:

“In sub-Saharan Africa, violations of women’s property rights are severe and pervasive. ...... In many African countries, women are excluded from inheriting, evicted from their lands and homes by in-laws, stripped of their possessions, and forced to engage in risky sexual practices in order to keep their property—all because they are women. When they divorce or separate from their husbands, they are frequently expelled from their homes with only their clothing. Married women can seldom stop their husbands from selling family property.........A number of factors contribute to

these violations. Chief among them are discriminatory laws and customs, biased attitudes, unresponsive authorities, ineffective courts, and other obstacles, such as the social stigma of being branded “greedy women” or “traitors of custom” if women assert their property rights.\(^{264}\)

Citing other scholars Ogada states that issues of gender equality and economic autonomy are usually labeled “cultural values” and therefore not to be questioned. Ali-Akpajiak and Pyke describe the hurdles often faced by women in trying to escape poverty. They describe these hurdles as being almost insurmountable including the women’s inability to access land or credit, thus leading to the “feminization of poverty.”\(^{265}\) In situations where women have been able to acquire landed property, they usually have to make extraneous arrangements to ensure that the land is passed on to a daughter who is childless. African women require land not only for production and as a source of livelihood, but they also require the land to ensure that they have a place to be buried when they are dead, especially if they are childless.

Ogada gives an example of this situation in Kenya. Ogada had asked in her interview of female respondents what the women would do with any landed property they had acquired. Ogada states:

“During interviews, I asked respondents what they would do with land property they had worked over the years to acquire. One mother told me that she had made a grown up daughter aware of the property that should belong to the daughter in case of the mother’s death. The respondent explained that she needed to take this step because the daughter is childless, and had been chased away from the husband’s home; the mother

wanted to be sure that her daughter would have a place the burial.”

In my view, the response of one of the female respondents in the DFID’s research synthesizes the dilemma of the African woman. The respondent states:

“…we women are really cursed, my father gave me authority to look after this plot because the only son he has (my brother) is still young. When he comes of age he will tell me to move out, no matter what development I could have carried out here. Land is not for us women, whether you are married or not. In your father’s home you do not have inheritance, especially land, it is only accumulated for your brothers, and in your home with your husband the property is his and the inheritance goes to his son. When he dies, no matter whether you are still alive, you know that after his death you lose the ownership and control of property.”

Ogada also states that in Kenya only about 5% of land titles are registered in women’s names. The situation is not any different in Nigeria. Koehn in a study of the land allocation patterns of two states in Northern Nigeria finds that age and gender have a direct bearing on one’s ability to have an application for land title processed and that “Access by women to the state-land allocation process is extremely limited”.

Another situation where the rights of African women to property may be negatively affected is with regards to the type of marriage she contracts. For example, it appears from the literature and case law in Nigeria that a woman’s right to property is

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267 Home and Lim, eds., Demystifying the Mystery of Capital: Land Tenure and Poverty in Africa and the Caribbean. p. 148

268 Koehn, Public Policy and Administration in Africa: Lessons from Nigeria. P. 176, footnote 22
more negatively impacted if the marriage was contracted under customary law than if the marriage was contracted under statutory law.\textsuperscript{269}

Where an individual dies testate (makes a will) the applicable federal laws are the Wills Amendment Act, 1852; The Wills Amendment Act 1937 and the Wills (Soldiers and Sailors) Act, 1918. States are allowed to enact their own laws and the applicable state law in our research site is the Wills Law, CAP 133, 1958 which is basically a reenactment of federal laws.\textsuperscript{270} If the testator and the widow were married under the Marriage Act, the estate of the deceased will be distributed under the Administration of Estates Law, 1959. On the other hand, if the widow had married the deceased under customary law, she cannot inherit her deceased husband’s landed property under customary law as she herself is part of the property to be inherited.\textsuperscript{271}

Under customary law, a widow only has possessory right to property acquired either solely or jointly with the deceased husband. This customary position has been affirmed by the Supreme Court in Nigeria in several instances.\textsuperscript{272} Numerous anecdotal cases abound where the widow (W1) was married for a number of years to the deceased with whom she made improvements to the landed property including building a house.

\textsuperscript{269} It should be noted that most people actually perform the marriage contract under both systems. The customary marriage is contracted first and then almost immediately after the civil ceremony is performed either in the church, marriage registry or in court. Notwithstanding, to all intents and purposes, when it comes to landed property, the widow is treated like the marriage was singularly customary and as such the property is divided under customary law.

\textsuperscript{270} This law however makes a provision that “The real or personal estate which cannot be disposed by the applicable customary law, cannot be disposed by will”. See section 3(1) of the Wills Law, 1958

\textsuperscript{271} See Oshilaja v. Oshilaja where the court stated that “the customary law that a widow cannot inherit her deceased husband’s property has become so notorious by frequent proof in the Courts that it has become judicially noticeable.” See also Suberu v. Sunmonu (1957) 2 FSC 33-35 and Omo Ogunkoya v. Omo Ogunkoya (1988) where the Court of Appeal held that widows are also chattels to be inherited by other members of the family. It appears though, that the courts are beginning to move away from supporting the customary law of disallowing women from inheriting land. See Mojekwu v. Mojekwu (1997) 7 NWLR 283

\textsuperscript{272} See Nezianya V. Okagbue, 358 All N.L.R. (1963); Nzekwu V. Nzekwu, 2 N.W.L.R. 373 (1989).
W1 however has no child with the deceased. The deceased later married another (usually) younger woman (W2) who promptly bears a male child.273 Upon the death of the husband W1 has to move out of the house and W2 and her male child move in. The male child inherits the house thereby disposing W1. The same conclusion would be reached if W1 has only female children for the deceased. In other situations, the widow is driven out of the matrimonial home by her deceased husband’s relatives.274

Of no less importance are the children of a deceased land owner who are excluded from inheriting landed property. Bentsi-Enchill states that “the inheritance law of a particular community may operate in such a way as to lead to excessive and uneconomic fragmentation of holdings.”275 As I have pointed out all along in this discussion, Nigeria has a plural legal system and as such inheritance can be determined under the appropriate statutory law or under customary law which as I have also noted are largely unwritten.

An essential principle of property law is that the property holder has the ability to voluntary alienate his property. Under customary law, this principle is strictly curtailed. For the most part, customary law determines who gets the property and as such the deceased holder cannot usually voluntarily devise his landed property to another who can make better use of it.

273 Polygamy is lawful under customary law
In Nigeria, inheritance is usually patrilineal and patrilocal. Patriarchal arrangements may be primogeniture in nature as obtains in our research site Benin City, where all of the property is inherited by the eldest son to the exclusion of all the other children. E. Bradbury in his anthropological study of the Edo’s states that “The house in which the father lives passes to his senior son who must, however, validate his claim to pass it on to his own son by organizing and bearing the greater part of the cost of his father’s mortuary rites.” Where the eldest son dies during the lifetime of his father, the landed property goes to the first son of the deceased eldest son. If the deceased eldest son did not have any male child, the property goes to the brother of the deceased, but never to female children. In this regard, the court in Nigeria has held that when devising property one must take note of any “customary law relating thereto” and the rule of primogeniture cannot be excluded. A testator cannot make a will which negates customary law.

4.3 Studies on Access to Land

The proposal to formalize property rights in Africa in order to enable the poor gain access to credit is being done under the assumption that the poor own the land. In light of this assumption, it is useful to note the methods by which landed property can be obtained in Africa. In addition to discussing the methods by which property can be accessed in Africa, I also discuss in this section, the types of land tenure reforms that

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277 The other situation that might arise which is not very common is ultimogeniture where all of the property is inherited by the youngest son.
279 See *Ogiamen v. Ogiamen* (1967) NMLR 245
have been carried out in Africa. I concentrate on post colonization tenure reforms. Post colonization land reforms have usually taken the form of nationalization of land by the state or individualization of land rights.

There are generally two ways (aside from private sales of land) in which landed property can be acquired in Africa. The first method I discuss is the customary system and the second method is through the state’s administrative apparatus. Access to land under the customary system is based on family lineage or “social identity”. This customary method of land acquisition is generally viewed as being informal since there is usually no document evidencing the transaction. The second method of land acquisition is patterned more on the western concept of individual ownership. This method bases ownership and access to land on the bureaucratic apparatus of the state and a piece of paper evidencing ownership. This second method or variants of it is viewed as being formal and conducive to development. The challenge then becomes how best to reconcile these two systems for maximum efficiency and development.

In my discussion of the modes of acquisition of property, the reader should bear in mind that I do not make a separate classification for property obtained in peri-urban areas or in urban slums. This is due to the fact that proponents of individual titling generally equate legality of tenure systems with formalization of title and as such any other tenure system outside of such (including customary tenure system) is seen as

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280 Variants of the administrative access may include allotment of land by the state or private sales which are then recognized (approved) by the state.

281 Peri-urban areas are defined as “as those areas surrounding towns and cities, within a daily commuting distance from the core and characterized by high interaction with it; they often concentrate along transport corridors as ribbon development, connecting a large city core to smaller town centres” Home, "Outside De Soto’s Bell Jar: Colonial/Postcolonial Land Law and the Exclusion of the Peri-Urban Poor." p. 23
illegal. Therefore under this view, customary tenure system would be an informal or “extralegal” system while the administrative tenure system would be viewed as formal and legal.

Access to land refers “to the ease or difficulty of acquiring rights in particular areas. Where there is broad access it is easy to acquire such rights; where access is restricted, these rights are hard to come by.” The argument I put forth in the following discussion is that, the issue at hand, should not only be about formalization of individualized property rights. I believe this construction is too narrow. I suggest rather, that the issue should be about the ability of the poor especially women to access property. If the poor cannot access property, how then can they formalize it?

The issues of land tenure and land reforms in Africa are very complex, polarizing and highly politicized. Clearly, as an economic and social asset, land affects livelihoods whether for poor rural families engaged in subsistence farming, the urban poor, or as part of a broader national development agenda proposed by government. The economic aspect of land is however, closely intertwined with the social aspect. Toulmin and Quan state that:

“…Authority over land, whether vested in the chiefs, or in government officials and political leaders, can in turn, lead directly to private economic benefits for those actors, derived from land accumulation, patronage and land transactions. The question of who gains access to land and on what terms can only be understood by seeing how control over land is embedded within the broader pattern of social relations.”

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282 See for example, the discussion by Celestine Nyamu-Musembi, Breathing Life into Dead Theories About Property Rights: De Soto and Land Relations in Rural Africa (Brighton: The Institute of Development Studies, 2006).
284 Camilla Toulmin and Julian Quan, eds., Evolving Land Rights, Policy and Tenure in Africa (London: DFID/IIEC/NRI, 2000). p. 6
There were several attempts in post colonial Africa to reform the customary land tenure system which was seen as being inimical to development. These land tenure reforms took varied forms such as the individualization of property rights in Kenya to the nationalization of all lands in Nigeria. In spite of these reforms, according to Bruce “indigenous tenure systems have continued to govern land use, and state ownership has been used primarily to give government a freer hand in land acquisition and distribution in development project areas.”

One factor that can shed some light on the issue of formalization of property rights in Africa is the attitude of Africans towards land. One can assert that there is a difference in attitude toward land between Africans and their Western counterparts. While the Westerner views land as a commodity to be bought and sold, Africans on the other hand have a spiritual and religious attachment to the land. An example of this religious attachment can be found among the Igbes of Eastern Nigeria. Among the Igbes, land and earth are synonymously translated as “Ala”, the Earth-goddess. Ezigbalik states that Ala is seen as the most significant and most cherished of all Igbo deities, being responsible for the place where one lives and plants crops. Another spiritual attachment

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285 Bruce enumerates these post independence land reforms as (1) individualization of tenure; (2) cooperativization of production; (3) reinstitutionalization of indigenous land tenure; (4) reform of inheritance law; and (5) nationalization and bureaucratization of land administration. See John W. Bruce, "A Perspective on Indigenous Land Tenure Systems and Land Concentration," in Land and Society in Contemporary Africa, ed. R. E. Downs and S.P. Reyna (Hanover: University Press of New England, 1988). p. 35-38

286 Ibid. p. 23

pointed out by Ezigbalike still using the Igbo example, is that ancestors are venerated and worshiped. Therefore the land where the ancestors are buried is a sacred place.

A further example of the role of the metaphysical in land issues can be found in Benin City where there are several large tracts of land reserved for the gods. It is also not uncommon to find houses with traditional religious symbols conspicuously displayed. These religious symbols also have a religious connotation to the land.

The Igbo example or the Edo example are similar, I am sure, to the several metaphysical belief systems regarding land that abound in Africa. These belief systems affect all facets of an individual’s socio-economic life, especially as it relates to land. Several significant issues are raised by these belief systems. First and foremost, it is crucial that discussions on land tenure reforms go beyond a mere recanting of institutional and legal challenges, but should incorporate cultural challenges. Secondly, it becomes obvious that even if these properties are of economic and commercial value, they will not normally be offered for sale or hypothecated. Thirdly, due to the social acceptance that these properties have special spiritual or metaphysical attributes, the properties become impaired and are harder to use as collateral for a bank loan or to be sold outright.

4.3. 1 Land Tenure Systems

Adams defines land tenure as “the terms and conditions on which land is held,
used and transacted.” Defined another way, land tenure systems are, “sets of rules – at some times customs, at other laws – concerning peoples’ rights to land, together with the institutions that administer these rights and the resultant ways in which people hold the land.” From a historical perspective, these land tenure systems have risen due to the impact of colonialism and ecological/geographic factors. The reality of land tenure systems in operation in a lot of African countries is a dual system based on the foreign system received through colonization and the traditional indigenous system. The present policy proposal presented to governments of developing countries is to reform the land tenure system by formalizing the traditional indigenous system by presenting “owners” of such land with a certificate (title) as proof of ownership.

At this juncture, a clear demarcation should be drawn between the backdrop of de Soto’s study and the general premise under which land is held in Africa. As described by de Soto, under the 1824 Peruvian constitution, the poor who were mostly Peruvians of native origin were the legitimate owners of their land. However, the elites dispossessed the poor indigenes who usually got mandatory laws stating that the land was theirs. While the poor in Peru had the law, they did not get the representations (official titles) to show that the land was theirs. The situation in Peru is different from that in Africa where for the most part, the indigenous customary land system which was in operation before colonization, operates alongside the imported colonial land (Torrens) system. The

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289 Downs and Reyna, eds., Land and Society in Contemporary Africa.
290 “Ownership” in these instances is equated with individual ownership as opposed to group ownership.
291 As described by Robert Home, “a Torrens register incorporated six main attributes: security, simplicity, accuracy, expedition, cheapness and suitability. State survey departments mapped the colonial territories,
Torrens system imported by the English colonialist in West Africa required individualized title, while the indigenous customary system is more communal in nature.

For the most part, land tenure in Africa can be classified into the following broad categories.\(^{292}\) (a) countries that allow the acquisition of individual title with or without restrictions. For example, Cote d’Ivoire allows acquisition without restrictions, while Kenya and Malawi allow the acquisition of individual title with restrictions on the title holder; (b) countries that recognize different types of tenure. For example, in Senegal and Sudan the state recognizes individual titles and all other lands without titles are nationalized, while in Botswana, Ghana, Lesotho, Liberia, Mali, Sierra Leone, Swaziland, Uganda and Zimbabwe, there are individual title, indigenous systems and public lands. Under this second category is Cameroon which recognizes individual as well as group titles, indigenous systems and public lands and (c) countries such as Ethiopia, Mauritania, Nigeria, Tanzania, Zaire and Zambia that vests title to land in the state. In these countries, the individual only has rights of use and occupancy. As stated above, the social and economic reality of land tenure systems in these countries is that customary tenure system continues to operate alongside the more western concept whether or not recognized by the state.

4.3.2. Customary Access to Land

The terms “customary”, “Indigenous”, “traditional”, “communal” and “informal” are used interchangeably to refer to African customary land tenure. Customary land tenure has been variously described in the literature as “the rules accepted by a group of the ways in which land is held, used, transferred and transmitted. These rules may have the “force of law”, that is, they may be enforced by the courts of a country even though they (may be) unwritten and not incorporated, or specifically set out, in any statues.”

The allodial title to land under customary law is vested in the community or in a chief as “trustee for all the people.” This is the main characteristic of customary land tenure as the land is not allotted to the individual per se but to the family or group. According to Downs, under the customary tenure system, as a member of the family or the group, “If you wanted land, you asked for it; if you asked you got it.” The only people who were denied access according to Down under this system, “were those hounded out of society because they were judged to be witches or sorcerers.” Thus, the “primary claimants” who had access to land under the customary land system were typically male descendants of the previous landholder. To Reyna and Downs, “Africans,……were secure in their traditional, communal land tenure systems, which assured them access – and equitable access at that to their lands.”

Another characteristic of the customary land system is that families to whom land is allotted only have “usufructuary rights” in the land. Bennet thinks that the term

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294 Bentsi-Enchill, "Do African Systems of Land Tenure Require a Special Terminology? "
295 Ibid. p. 13
296 Ibid. p. 13
297 Ibid.
298 Ibid.
“usufruct” is misleading. He states that the term “Usufruct denotes a right in land terminable on the death of the holder but binding on all or any owners of the land. It does not permit the usufructuary unlimited right to exploit the land, which must be returned to the owner on expiry of the usufruct.” Bennet states further that this definition of usufruct is different from what actually obtains under the traditional African system of tenure. To Bennett the courts have modified the term “ownership” to “communal ownership” to best describe what pertains to African land system. This statement is best summarized in the land mark case Amodu Tijani v. The Secretary, Southern Province of Nigeria:

“Land belongs to the community, the village or the family, never to the individual. All the members of the community, village or family have an equal right to the land, but in every case the Chief or Headman of the community or village, or head of the family, has charge of the land, and in loose mode of speech is sometimes called the owner. He is to some extent in the position of a trustee, and as such holds the land for the use of the community or family…..That title is prima facie based, not on such individual ownership as English law has made familiar, but on communal usufructuary occupation, which may be so complete as to reduce any radical right in the Sovereign to one which only extends to comparatively limited rights of administrative interference.”

Another way of viewing the customary land tenure is Paul Harrison quotation of a Nigeria chief. Paul Harrison quoting the Nigerian chief said “The land belongs to a big family of which many members are dead, some are living, and innumerable others are still to be born”. He goes on to describe the traditional view of holding land as “….a man cannot own the land, because he did not make it: it was always there, a gift from the gods, in trust of the lineage. A man can own the fruit of the earth – crops and trees which

300 Ibid.
301 Amodu Tijani V. The Secretary, Southern Province of Nigeria, 2 A.C. 399 (1921).
he himself planted and tended. But he cannot dispose of his plot or sell it, There is no individual title to land, no market in real estate."\[302\]

Solodu distinguishes the African customary system from what obtains in the West. He states that although the African traditional land rights have features like heritability, security and transferability, this system is different from the Western property rights system because the traditional rights are usually informally recognized without any legal status. Solodu further states that even where there is legal recognition of traditional tenure claims, establishing and enforcing land rights usually occurs within informal local institutions.

The second difference between Western and African concept of land systems that Solodu points out is that “in the indigenous system, individual’s rights are conditioned by group rights or secondary rights which are encountered much less often in contemporary Western property systems.”\[303\] Since only the group under customary tenure can transfer land, it raises issues as to who has the right to alienate land on behalf of the family. This brings us back to the issue of transaction costs discussed in the theoretical framework. Bentsi-Enchill states that in indigenous societies, there are ways for example family meetings, funeral requirements and arbitration that ensure that decisions taken are considered to be those of the community or group.\[304\] Nyamu-Musembi also states that “A clan member who intends to sell land must satisfy the clan committee that he is in

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\[303\] Soludo, "Comparative Institutional Development: Lessons from Rural Land Markets in Africa."

\[304\] Bentsi-Enchill, "Do African Systems of Land Tenure Require a Special Terminology?."
agreement with his family members and that he has valid reasons for selling the land, and most important, that he will still have sufficient land left for his family needs.\footnote{305}

Group rights are more commonly associated with “communal tenure” which may refer to common ownership or groups rights may also be associated with the concept of "a right of commons" whereby each member of a group uses independently uses the land to the full extent. Some scholars view private ownership (as opposed to common ownership) as a better way of conserving resources and increasing productivity of land.\footnote{306}

Bruce states that it is erroneous to think of land tenure in Africa as being solely communal. In fact, he states that “Indigenous land tenure in Africa is communal …..only in exceptional cases. The vast majority of Africans farm as individuals and families. When they come together in larger groups for common labor it is usually for a particular, limited purpose.”\footnote{307}

As regards the concept of “a right of commons” and customary tenure in Africa, Bruce states that this is more applicable with respect to grazing land or areas for hunting and is not usually applicable to arable land. In Bruce’s view, another way of viewing “communal” which is most applicable in Africa is when there is “group control” or “group interest” over land that is apportioned for the exclusive use of individuals or families of the group. Bruce further states that the group may be an extended family, a lineage, a clan, a village, or a tribe which is usually defined by common descent, common residence, or some combination of the two principles. The group’s interest may

\footnote{305}{Nyamu-Musembi, \textit{Breathing Life into Dead Theories About Property Rights: De Soto and Land Relations in Rural Africa}.}
\footnote{307}{Bruce, "A Perspective on Indigenous Land Tenure Systems and Land Concentration." p. 24}
be framed as a property right or couched in political and administrative terms.”

After land is allotted to members of the community or group, the portions not allotted are vested in the chief or clan head who may then grant customary tenancies out of the unallotted portion of land to “strangers.” The concept of “strangers” is an important feature of land tenure in Africa which makes a distinction between members of the community and people who are not members of that community (“strangers.”) Under customary law, a community may grant a "stranger" the rights to a piece of land for housing or farming, but these rights are limited and do not usually extinguish the rights of the original owner or community. The stranger is not viewed as a member of the community and his stay is usually seen as temporary because the stranger still retains membership of his or her original ancestral home or community.

Some scholars claim that this classification has impeded rather than helped in economic development and has also fueled conflicts within states. For example, V.I Ogu’s research in Benin indicates that while the “Binis” have common allegiance to the Benin monarch and view the city as theirs, “non-Binis” do not have such an affinity and as such prefer to build their first houses in their places of origin. In fact Ogu goes on to state that even where there is an out right sale of land, “a Bini prospective buyer may be given preference over a non-Bini” buyer.

As much as it appears that every eligible person has, under customary tenure the

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308 Ibid. p. 25
310 In Nigeria, this classification is legitimized by the 1999 Nigerian constitution which makes a distinction between “indigenes” and “non-indigenes” ascribing membership of a community (state) on the basis of genealogy instead of residency.
ability to access land, the customary tenure has been viewed as inimical to economic growth. Toulmin and Quan state that “Customary land management has been perceived as an obstruction to development, because of the insecurity of land rights deemed to be inherent under such arrangements, and the view that land is too strongly associated with non-monetary cultural values in Africa.”

Therefore for a land to be used to access credit and for land markets to develop, it was felt that “kinship-based systems of customary tenure, in which land is not a saleable commodity” had to be converted “to formal, individual land titles which can be traded.”

A more recent trend is to view some aspects of customary tenure as compatible with economic growth. Toulmin and Quan cite some of these aspects of customary tenure as including the rights of inheritance which according to the authors provide incentives for land improvements; the security of customary land tenure especially in areas with low population density. Finally, Toulmin and Quan state that “The social acceptability of customary tenure arrangements is a paramount consideration in the process of their development…..Intra-community land loans, rentals, sharecropping and sales allow customary land users many of the efficiency advantages previously thought to be available only via individual titles and formal land markets while providing opportunities for land access for the landless.”

To Bentsi-Enchill “African systems of land tenure in general as compared with systems of tenure prevailing elsewhere present no special or extraordinary problems;

313 Ibid. p. 36
314 Ibid.
315 Ibid.  p. 36
their principal defects arise mainly from the fact that they have been mostly left to make their own informal adaptation, unaided or even officially obstructed, to changing circumstances.  

4.3.3 Administrative Access to Land

Kenya and Nigeria provide prime examples of administrative access to land by individualization as in the case of Kenya or by nationalization as in the case of Nigeria. In both cases the administrative structure or bureaucracy is involved. Nigeria and Kenya will be used to illustrate the challenges involved in implementing land use policy through the administrative structure. Both systems view the individual as having rights to the property, however, where nationalization of land is involved, the holder of the title to the land, only has rights of use and occupancy for a limited number of years.

In Africa, the administrative distribution of land and recording or titling of such land is usually implemented within a bloated bureaucracy manned by public officials. These public officials have been described in various literatures as “gate-keepers”, “non-career politicians”, “street-level bureaucrats” and de Soto refers to the public officials involved in land administration are “technocrats.”

Public servants play a very important role in the implementation of land policies. To a large extent the discretionary powers granted to them enables them determine who

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can use property rights as a means of alleviating poverty. Thus, according to Lipsky, the procedures and routines established by the street level bureaucrat and the ways and manner with which he copes with the ambiguities and work pressures becomes the public policy he carries out.\textsuperscript{321}

The extent to which African bureaucrats participate in policy initiation, formulation and outcomes depend to a large extent on the type and style of administration. For example, policy making under military regimes in Nigeria, tended to be more autocratic and dictatorial and as such, public servants were limited as to the discretion they had in implementing policies.

As much as African bureaucrats participate in policy initiation, formulation and outcomes, Koehn describes African bureaucrats as “active and adept at engaging in non-decision making.”\textsuperscript{322} Koehn further states that “Public administrators in Africa have been particularly effective in blocking or diverting pressures and incipient demands on the part of the rural and urban poor.”\textsuperscript{323} According to Koehn, “the most enduring feature of public administration throughout Nigeria and elsewhere in Africa is the central role which personal contacts play in getting the job done and in career success.”\textsuperscript{324} Koehn states that although there are very intelligent and dedicated civil servants in Africa, for the most part, “the public servant is frequently characterized as self serving, corrupt, power-hungry, and a burden to society.”\textsuperscript{325}

The current land tenure policy in Nigeria is articulated in the Land Use Act of

\textsuperscript{321} Lipsky, Street Level Bureaucracy: The Dilemmas of the Individual in Public Services. p. xii
\textsuperscript{322} Koehn, Public Policy and Administration in Africa: Lessons from Nigeria. p. 76
\textsuperscript{323} Ibid. p.76
\textsuperscript{324} Ibid. p.22
\textsuperscript{325} Ibid. p.1
1978 ("the LUA"). Section 1 of the Act states that:

“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 (emphasis added) in accordance with the provisions of the Decree”.

At the state level, the Act provides that the state Land Allocation Committees in urban areas would distribute land through the granting of Certificates of Occupancy. The Certificate of Occupancy usually refers to land situated in urban areas. Final authority to grant a certificate of occupancy is vested on the Governor of the State. At the rural level, the Local Government was empowered to grant a customary right of occupancy for either residential or commercial purposes. Under the LUA, all forms of ownership or rights to land in rural areas in place before the LUA are replaced by “rights of occupancy”.

These certificates of occupancy in theory put the holder on the path of wealth creation. Koehn states that “possession of a certificate of occupancy serves as the required “ticket for admission” to many of the most lucrative domestic opportunities for accumulating privately-held capital, commodities, status, and political power that are available in today in Nigeria.”

While the LUD has enabled the government carry out development projects including building bridges, hospitals and schools as well as agricultural schemes, for the

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326 This Act was formerly known as “The Land Use Decree.” The use of the word “Decree” connotes that the law was passed under military regime. The word “Decree” was later changed to “Act” under the civilian administration.
most part, land has been compulsory acquired from the poor as largess to those with economic and political clout. For the most part, where land has been allocated, they have been allocated to those with the means to manipulate the system. Vaughan states that”

“In those sections of the country where holders of state power were able to exert direct influence (especially in urban areas), the decree degenerated into a legal guarantee as state officials effectively barred the poor from statutory rights of occupancy. The main beneficiaries were politicians, military officers, senior bureaucrats and wealthy land speculators who now combine new legal channels with informal networks through which they exclusively control land matters.”

A case in point is the famous ocean side Lagos slum “Maroko”. The dwellers in Maroko were forcefully evicted and the land reallocated to the wealthier more educated elites and military officers.

Koehn also finds in his study of the land allocation process in two Northern states in Nigeria that:”the vast majority of the population are denied even admission to the land allocation process. Access is controlled principally through the imposition of the requirement that applicants must demonstrate sufficient financial capacity to complete appropriate improvements on a plot within a stipulated time period.” Koehn concludes by stating that the “process gate keepers” in Nigeria, have “applied land application procedures and requirements in the interest of public servants, private Nigerian businessmen, representatives of multinational firms. Poor rural and urban residents were effectively barred from all types of statutory rights of occupancy. These outcomes have

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been ensured primarily by restricting access and selectively controlling entry to the state land-allocation process.”

4.3.4 Land Tenure Reform and Poverty Alleviation

There is nothing new about de Soto’s proposal of linking individualized land title to wealth creation. The idea of individualized title was vigorously promoted in Africa in the 1980’s and 1990’s but was later abandoned with no apparent success. According to Quan, land reform from customary to individualized ownership was considered necessary because customary rules regarding land did not provide land users with enough security to encourage investments in land. In addition, land could not become a freely marketable asset if it was still hedged about by social constraints. Quan goes on to state that “The emergence of land markets was thought necessary to make sure that land could be transferred through sales to more efficient farmers, who would also be able to use the title deed as collateral for raising credit.”

Formalization of property rights usually entails the use of a cadastral system. Ezebalike defines a cadastral system as “a complete and up-to-date official register or inventory of land parcels in any state or jurisdiction containing information about the parcels regarding ownership, valuation, location, area, land use and usually buildings or

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331Ibid. p. 481
333Toulmin and Quan, eds., *Evolving Land Rights, Policy and Tenure in Africa.*
334Ibid.
structures thereon." Ezebalike further states that the current trend is for cadastral systems to be linked with title registration and landownership. Cadastral systems are also used by local government administration for city planning, assessment and collection of rates and management of utilities and transportation systems.336

Kenya provides a prime example of wholesale formalization of property rights. Reyna and Downs in summarizing the work of Parker Shipton writing on Kenya’s experience with private property rights write that

“Not only has the government’s program proved difficult to carry out, leaving control of the land substantially in the hands of local elders, but it has led to numerous conflicts whose resolutions tend to favor the wealthy and influential, stimulated the growth of a largely unregulated market in land, weakened the security of tenure for smallholders, and led to a degree of concentration of ownership or control, both according to wealth and gender- all without facilitating the granting of credit or leading to the increase in production that had been envisioned.”337

Other negative effects of individual land titling as experienced in Kenya include land grabbing by those in influential positions and the development of a large landless class.338 The story is no different in Nigeria, where the LUA which was meant that to ensure that all Nigerians had the ability to access land instead only favored those with political and economic influence and led to land speculation, fraudulent sales of land and multiple ownership in urban areas.339

Some scholars claim that the failure of titling in Africa was due partly to the strangle hold the customary system of land ownership has especially in the rural areas.

336 Ibid.
337 Downs and Reyna, eds., Land and Society in Contemporary Africa. p. 4
338 See Toulmin and Quan, eds., Evolving Land Rights, Policy and Tenure in Africa. p. 37 See also Nyamu-Musembi, Breathing Life into Dead Theories About Property Rights: De Soto and Land Relations in Rural Africa.
339 Vaughan, "Assessing Grassroots Politics and Community Development in Nigeria."
Bruce for example states that “access to land in most of rural Africa continues to be
determined by indigenous systems of land tenure, even where the state is the nominal
owner of the land.”

While de Soto is pushing for a formalization of “extralegal” property, it appears
that there is a growing consensus that the informal customary land tenure may not be as
inimical to economic growth as once thought. Toulmin and Quan further reinforce the
fact that individualized property rights as opposed to customary rights has only
“benefited powerful private interests, creating opportunities for land concentration in the
hands of political and other local elites…..”

Toulmin and Quan additionally state that there is no clear evidence to show that individual title to land has led to greater
agricultural growth and in “many cases, improvements in the supply of credit, to which
land titles supposedly enable greater access, have simply not been forthcoming for
smallholders.

Nyamu-Musembi states that de Soto’s argument that formalization of property
rights leads to access to credit and productivity has been debunked in Peru de Soto’s
home country and by empirical evidence. Nyamu-Musembi cites empirical study in a
sub sector of Kenya which indicates that only 3 per cent of 896 title holders had used
their titles to secure loans. A similar study in another sub sector of Kenya also found that
only 15 percent of the titles had been mortgaged to secure loans, 25 years after
formalization. Nyamu-Musembi also indicates that land markets exist in Africa “in the
absence of formal title, and informal transactions in land do take place in spite of formal

340 Bruce, "A Perspective on Indigenous Land Tenure Systems and Land Concentration." p. 23
341 Toulmin and Quan, eds., Evolving Land Rights, Policy and Tenure in Africa. p. 35
342 Ibid. p. 35
title. This market in land is regulated primarily by informal social structures and only marginally, if at all, by formal official structures that are supposed to regulate land transactions.”\textsuperscript{343}

In my opinion, Toulmin and Quan best summarize the link between land reform and economic growth. According to these scholars, “Changes in land tenure do not just involve a change in legislation. They require a much broader view of how law relates to public attitudes and behavior, as well as the institutions available to implement provisions of the new laws”\textsuperscript{344} Toulmin and Quan further state that “……legal changes need to reflect and support broader changes in the norms and values expressed within society.”\textsuperscript{345}

4.4 Conclusion

As part of the literature review, I have highlighted literature that advocates for the establishment of titling registries as a means of ascertaining the owners of landed property. With the title in hand authenticating their ownership, the poor can obtain credit facilities from financial institutions using the land as collateral. According to proponents, this measure can quickly and effectively alleviate poverty. I note that these advocates for formalization do not consider any cultural factors that may affect formalization.

I examined in this chapter, the competing definitions of culture and the role culture plays in economic development as articulated by the World Bank and Western as well as African scholars. The interesting point to note here is that there appears to be a

\textsuperscript{343} Nyamu-Musembi, \textit{Breathing Life into Dead Theories About Property Rights: De Soto and Land Relations in Rural Africa}. p.18
\textsuperscript{344} Toulmin and Quan, eds., \textit{Evolving Land Rights, Policy and Tenure in Africa}. p 8
\textsuperscript{345} Ibid. p. 8
growing awareness of the need to consider cultural factors (either positively or negatively) when planning developmental programs. I then reviewed literature on some cultural variables including the dead being buried on residential properties and the economic and social effects of this phenomenon.

The proposal for formalization is based on an assumption by proponents that the poor have access to land. I emphasize the pervasive and glaring inequality in the ability of the poor especially women to access property rights and credit whether under statutory law or customary law. A review of the literature indicates that formalization of property rights has led to increased conflicts, landlessness and increased insecurity. The literature suggests further that any social or economic benefits accruing to the poor from formalization are minimal at best. Land tenure reforms are expensive for African countries to implement and in most cases, the expertise are also unavailable. The people who benefit the most from formalization are not the poor, but rather the elites who can manipulate the system to grab land.

I conclude by suggesting that the framing of the policy measure to alleviate poverty in terms of titling may in fact be too restrictive. It may be preferable to frame the issue in terms of the poor’s ability (or shall I say inability) to access property and ipso facto credit.
CHAPTER 5
RESEARCH METHODOLOGY & DESIGN

....social scientists working in non-Western social and political environments must first decide whether it is best to borrow, modify, or invent research techniques – O’Barr

As I stated in Chapter 1, I spent my early childhood as well as a considerable amount of my early adulthood in the study site Benin City. I detailed in Chapter 1 my reasons for choosing Benin City as the study site including the fact that Benin has been the site of numerous anthropological and archeological researches. Other factors affecting my choice of Benin City as the research site includes the fact that in addition to being an urban area, the City retains a lot of its traditional culture and nomenclature including a strong attachment to the monarchy. I also emphasized in Chapter 1 that since I grew up in Benin City, with numerous contacts still residing in the City, it would be easier for me to gain access into the community. I stated also in Chapter 1, that although I could have moved the study site to another locale for example my tribal hometown Asaba, I resisted the urge because Asaba and Benin City share similar cultural traits.

My goal in this chapter is to present a more detailed account of my data collection methods and my rationale for choosing these methods. I also discuss in this chapter how I administered the survey instrument, the interviewing techniques I employed in the course of interviewing the respective bureaucrats and local chief, and my transcription and coding process.

To reiterate, the primary aim of my study is to investigate what, if any, role culture plays in the analysis of property rights as a factor for economic development in
developing countries. I explore here whether burying of the dead on residential property is a cultural phenomenon or if this practice is largely in response to the failure of local governance. Since the focus of the propose policy is to alleviate poverty by individualizing title to land, I examine within this context, how the poor acquire property rights, the role bureaucrats play in this regard and the effect of institutions on property rights acquisition.

5.1 Methodological Considerations

I use a mixed methods, albeit highly qualitative approach. According to Patton, a researcher’s study is strengthened when a mixed or combined method is used for a single problem.\(^{346}\) I do not begin my exploratory study with a preformulated hypothesis and this is acceptable, since according to Schutt, “Qualitative researchers typically begin their projects seeking not to test preformulated hypothesis but to discover what people think and how they act, and why in some social settings. Only after many observations do qualitative researchers try to develop general principles to account for their observations.”\(^{347}\)

It is important to note here that conducting any research in Africa comes with its peculiar problems ranging from the paucity of data and information to difficulties in selecting appropriate samples to epistemological and ethical issues.\(^{348}\) O’Barr states that

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there are three types of issues that should be of concern to researchers conducting research in “non-Western cultural and political settings.” The first issue O’Barr states deals with is the ethical implications of social research, while the second issue relates to the “epistemological questions raised by attempts to construct general theories which either apply across cultures or take into account the effects of culture on variable relationships.” O’Barr’s primary concern though and one which was of immense interest to me concerns considerations that have to be employed when “research techniques developed from studies in one culture are employed for studies in other environments.”

Regarding methodological problems that may arise when conducting research in developing countries, O’Barr asks whether the same research techniques can be used in different societies and “If not, how is it possible to assure the comparability or equivalence of the data produced by different research procedures?” O’Barr states that key problems which confront social scientists in any jurisdiction are often magnified in Africa. O’Barr further states that social scientist working in developing countries “must frequently borrow techniques developed and refined in the West…….They must learn what to borrow, and when and how to modify what they do borrow. They must also establish procedures for determining whether borrowed and/or modified research techniques produce reliable and valid data in the local non-Western setting where they work. Finally, if they conclude that established procedures used in the West are too particularistic for their needs, they face the greatest methodological challenge of all – the need to develop imaginative and innovative techniques and to assess the local applicability of those techniques carefully and rigorously.”
Another scholar, Van den Berghe opines that “The cardinal principle of research should be that methodology is ancillary: the research problem and setting should determine the methodology; the order should not, as is so often the case, be reversed.”

Van den Berghe further states that “What is at stake is not the availability of the data but the ability of the researcher to adapt old techniques and develop new ones to find practical solutions to specific problems.”

In order to avoid the pitfalls discussed above, O’Barr further offers some guidelines to researchers wishing to conduct surveys in Africa. He states that “First, investigators must make themselves aware of the problems that may result from applying survey research techniques outside the West. Second, after identifying potential problems, researchers must make explicit efforts to avoid these hazards. Third, they must carefully and rigorously evaluate their attempts to minimize bias and distortion.”

O’Barr’s study greatly influenced the methodology for my study. He advises the researcher to consider the cultural reality of Africa and where applicable to modify the standard Western research procedures to fit the exigencies of the African research site and research focus. Be sensitive, he says to the local conditions under which one works, but retain enough flexibility to be able to experiment with new techniques and methods during the course of one’s research. According to O’Barr, in all instances, the researcher should document his procedures and keep the reader informed.

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355 Ibid. p. 31
356 O’Barr, “Survey Research in Africa: It's Applications and Limits.” p. 18
357 Ibid.
A part of my research design involves the distribution of structured survey questionnaires in Benin City. The survey questionnaire is an adaptation of P. Kofo Makinwa’s study on rural urban migration.\textsuperscript{358} The survey instrument is located in Appendix A.

Benin City like most Nigerian cities can be distinctly divided into the “old” or indigenous area built around the Oba’s (monarch’s) palace and the “new” or more modern areas where most high level public servants, migrants, and expatriates live. Makinwa describes the morphology of Benin as:

“…… native or old Benin is defined as all areas bounded by the City Wall and Moat and First East Circular Road. Beginning from the junction of the Benin-Sapele road and the city moat and wall and proceeding westwards, this boundary follows the moat/wall, crosses Airport Road and hence to Oba Market Road. At this point the moat ends abruptly having been filed up (for about 400 metres) to its junction with Ibiwe Street. The boundary of Old Benin continues along the moat to its junction with the old Lagos Road and Dawson Road. From here the boundary deviates from the moat and follows Dawson Road across Mission Road, Forestry Road and Akpakpava Road to Igun Street. Thereafter, it follows First East Circular Road to its intersection with Sapele Road. New Benin is then defined as all other residual built-up areas of the town.”

Makinwa uses a stratified sample design based on the morphology of the City to conduct her study. According to Makinwa,

“Stratified sampling fractions of 1/3 and 2/3 were expected to yield 700 households in the indigenous section and 1,400 households from the new areas to make a total of 2,100 households. Operationally, the following steps were followed in making the sample selection. First, the 318 Census Enumeration Areas (E.A.’s) for the 1973 Census which are the clusters in the sampling frame were sorted out into two groups representing “old Benin” and “new Benin” respectively. From each of the two groups all Enumeration Areas made up solely of government offices, ministries, educational buildings, hospitals, hotels and other commercial houses were

\textsuperscript{358} Makinwa, \textit{Internal Migration and Rural Development in Nigeria: Lessons from Bendel State.}
eliminated so that the final two groups of E.A.’s from which random samples were selected are 74 for “old Benin” and 201 for “new Benin.” Households in every other house in the E.A. were interviewed.”

Makinwa goes on to define a household as “a person or group of persons who normally live together and eat together from the same pot.” See below for a map of Benin City showing the survey research site.

**Figure 5.1: Map of Benin City showing the Survey Area**

Source: http://www.gatheringofisrael.com/atlas/africa/West/NGA_benin.gif

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Ibid.
My original intention was to use Makinwa’s stratified sample design. I could not follow through on this intention for several reasons. The most pressing constraint was the political and economic climate of Nigeria in general and Benin City in particular. Benin City has a high crime rate and I anticipated that there would be a justifiable reluctance on the part of most households especially in the more affluent neighborhood to invite “strangers” into their homes. There might also be outright refusal by prospective respondents to answer the survey because of the fear on the part of the respondent that the government may be collecting data for the payment of ground rent required by the Land Use Act.

Other constraints which exist are that many people may be unwillingly to divulge “family secrets” or information which they consider may be used for personal gains and an inclination on the part of the respondents not to answer certain questions. In order to conduct a household survey, there would also be the need to generate a lot of publicity and awareness. A lack of financial resources would not enable me undertake such a task. There was also the issue of anonymity if the surveys were administered on a household basis.

Due to the constraints identified above, the sample was not chosen on a stratified basis. I needed a forum where people would gather freely and feel safe. A one stop forum if you will, where the questionnaire could be administered and quickly collected. The forum needed to be easily accessible by road and needed to assure some form of anonymity. While not completely innovative, I chose to gather my information from cluster samples. Following Makinwa’s lead, the research site was geographically divided into “Old Benin” and “New Benin.” Three clusters made of three catholic churches
situated along “primary” and “secondary” roads in Benin City were identified as the best sources for distributing the questionnaire.\textsuperscript{360} One church identified as “SJC” is situated in “Old Benin”, the other church “STC” is in “New Benin” while SPC lies in between “old Benin” and “New Benin” and is referred to as “mixed.”

The decision to use a cluster of churches for data collection brings up the issue of religion and political decisions. This is one of the questions Laitin addresses in his study of Christian and Muslim Yoruba’s in Nigeria. He asks “why, after a century of religious differentiation…… has religion not become a basis for collective political action in Yorubaland?”\textsuperscript{361} As Laitin concludes, “….religious subcultures have little relevance outside religious life. That religion can provide a basis for a particular vision of political life demonstrates its potential ideological force.” More importantly, Laitin concludes “that the very different frameworks in which church and mosque elders think about authority, community, responsibility, and equality did not infuse the secular political realm……”\textsuperscript{362} Laitin also states that “In the context of Nigerian politics, Muslim and Christian Yorubas see themselves culturally as Yorubas rather than as Muslims or Christians.”\textsuperscript{363} Laitin further states that “Many Yorubas emphasize not the religious beliefs, but the fact of common ancestry, conjoined with the belief that one’s ancestors define who one is.”\textsuperscript{364}

\textsuperscript{360} Ogu, “Enabling Strategy and Sustainable Urban Housing in Nigeria: Focus on Benin City.” Ogu describes primary roads in Benin as “wide and are usually roads that cut across and link the city with some other major cities in the country” and secondary roads as “those that often link sections or localities to the city centre.”
\textsuperscript{361} Laitin, Hegemony and Culture Politics and Religious Change among the Yoruba. p. xx
\textsuperscript{362} Ibid. p. 93
\textsuperscript{363} Ibid. p. 97
\textsuperscript{364} Ibid. p. 203
It is an important point that Laitin makes from his study, indicating that religious life does not cross into the political arena, and that common ancestry and culture play more of a role in one’s identity. Armed with the general outcomes of Laitin’s study and the fact that I had access into the community, I felt methodologically confident enough to go with the cluster of 3 churches. This method would greatly eliminate the constraints identified above, increase the response rate and greatly reduce cost.

Something else that should be pointed out is that there are no significant differences between participants in the clusters and the excluded population. As pointed out by Laitin’s study, the mode of worship is not a relevant characteristic. The excluded population shares the same characteristics (geographic location, ethnicity, age, education, economic status and views on culture) that are relevant to the research as the excluded population.

As I stated earlier, one of the methods by which I plan on obtaining my data is through the use of a survey instrument. According to Alreck and Settle, survey research method is used when it is the only way to gather the required information. Other circumstances which would warrant using a survey include the fact that surveys are an easier, faster and less expensive way to gather information. There is also a need to use surveys as a research method when secondary data is not available and when the information required can be obtained in a self-reported way. I decided to use a survey instrument to gather my data, since the circumstances of my research fit the above criteria.

There are scholars like Drake who contends that surveys are generally ill suited for research in Africa because survey research techniques are “based on the social structure, values, and political needs peculiar to Western society.”\textsuperscript{368} O’Barr in summarizing Drake’s work concludes that there are major differences in conducting surveys in Western societies as opposed to African societies. In the first place, “many people in societies with a low level of education and a limited information flow simply have not formed opinions on the issues which surveys frequently examine. Second, assumptions concerning the equivalence of opinions may not apply in those traditional societies where it is the accepted practice for elders or other local elites to speak for other people. Third, outside the West, interpersonal relations among strangers are of such a nature as to inhibit the expression of personal views and can therefore seriously compromise the interview situation. Finally, in many traditional societies people are located in inaccessible regions.”\textsuperscript{369} However, the general consensus in the literature I reviewed was that using survey data (with modifications) to collect data in Africa was better than no data at all.

A major challenge I encountered was determining the universe from which to draw my sample. Citing Kearl, Uwalaka states that sampling problems encountered in conducting research in Africa includes the fact that “there are usually no sampling frames, no census tracts with home addresses, and no comprehensive directories of who is where.”\textsuperscript{370} Uwalaka states further that any existing information is usually unreliable.\textsuperscript{371}

\textsuperscript{369} O’Barr, "Survey Research in Africa: It's Applications and Limits." p. 24
I reviewed several studies conducted in Africa which indicate that other researchers working in Africa have faced the problems described by Uwalaka and these researchers have applied different types of methodological modifications in arriving at their sample size.

One of such modifications is Mitchell’s study conducted in Ibadan, an older Nigerian city similar to Benin City. Ibadan has a traditional section, a newer modern section and a similar estimated population as Benin City as at the time Mitchell conducted his study.\(^{372}\) Mitchell’s study focused on studying the attitudes of the aladura’s, a Yoruba adaptation of Christian institutions. Mitchell’s study compared the attitude of the aladura’s with a control group of Christians and Muslims. His research design called for the interview of 100 people from the aladura and 200 other people comprised of Christians and Muslims as the control group. The important variables were religion, sex, education, and age.\(^{373}\) Mitchell had no census data of the area under study to use as a sampling frame - “no existing lists of people, such as voter lists or telephone lists that could be used as a guide”\(^{374}\) The houses were built close together, irregularly situated, most were not located on roads and the houses were numbered haphazardly.\(^{375}\) Mitchell’s solution was to adapt his sampling method by using aerial photograph of the area to select a random sample of 100 houses.

\(^{371}\) Uwalaka, "Conducting Survey Research in an African Country: Suggestions for Other Researchers ".  
\(^{373}\) Ibid. p. 101  
\(^{374}\) Ibid. p. 102  
\(^{375}\) Ibid.
Another example of a modification in choosing a sample is Cohen’s study in Northern Nigeria. Cohen was unable to use a random sampling and instead selected his sample based on “a stratified judgmental basis.” According to Cohen, “At each research site, local political authorities were asked to locate twenty-five men and twenty-five women. They were to range across all ages equally and to have been married at least once. Moreover, for each sex we asked to have eight “rich” people, eight “poor” people, and “nine” people who were “neither rich nor poor” (in the middle). Using household size, amount of bridewealth, occupation, and (for women) status of husband as a check, we later found that these guidelines were generally adhered to….

Since there was no sampling frame I could use and due to the constraints enumerated above, I decided to use a cluster sample. Schutt states that “Cluster sampling is useful when a sampling frame of elements is not available, as often is the case for large population spread out across a wide geographic area or among many different organizations.” He defines a cluster as “a naturally occurring, mixed aggregate of elements of the population, with each elements appearing in one and only one cluster.”

A list of parishioners was not easily available, however, based on information received from contacts and by visual observation, it is estimated that excluding individuals under 18, SPC has about 900 parishioners, SJC 600 and STC 400. Most Western literature on research methodology I reviewed used a 90% to a 99% confidence

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377 Ibid.
378 Ibid. p. 110
379 Ibid. p. 110
380 Ibid.
level. However, my research on previous social science researches conducted in Africa indicates that this level of confidence is usually difficult to attain in Africa. According to Frankfort-Nachmias and Leon-Guerrero, confidence intervals can be constructed for any level of confidence, but the most common ones are the 90%, 95% and 99%. My aim then, was to attain a 90% level of confidence and a confidence interval of between 5% and 10%. The expected target sample was therefore between 84 – 250 responses.

5.2 Ethical Considerations

Ethical issues are minimal. The study’s survey instrument did not ask for identifying information from the respondent. Anonymity and confidentiality are assured because street locations were only used to identify the geographic location of the respondent and for coding purposes. Respondents cannot be linked to their responses. In a continued effort to ensure the confidentiality of the respondents, I reminded participants in the consent form and on the survey instrument not to identify themselves by name when answering the questionnaire. I also in the survey instrument stated that answers to questions are strictly confidential.

The public officials and Chief were also assured of the confidential nature of the interviews. In situations where the interviewees requested not to be audio taped, their requests were duly respected.

5.3 Survey Implementation

A major focus of the research design is the self administered survey. I estimated that the survey could be completed by the respondents within 10 to 15 minutes. Informal pre-testing was conducted by asking my mother and a few Nigerian friends to review the survey. Misconceptions and suggestions were few and only warranted the age group being categorized and a category included on the questionnaire for other forms of marriage.

I recruited a lead contact and six other assistants to help in the administration of the surveys. All six individuals spoke English fluently as well as the local (Edo) language and Pidgin English which is widely spoken in Benin City. I spoke to the assistants by telephone several times before my trip to Nigeria. Two days after I arrived in Nigeria, I met up with the assistants to conduct a formal training.

The training included explaining the background of my study, its aims and goals; responsibilities of the assistants; and explaining each item on the questionnaire. I cautioned the assistants that their main responsibilities were to hand out the questionnaire, peruse the questionnaire when submitted by respondents and hand out the gifts to respondents at the end of the exercise. The assistants were also to provide translation services and where necessary assist in writing down the respondents’ answers especially where the respondent is not literate. The assistants were cautioned not to impose or suggest answers to the respondents.
Prior to my field trip, I sent an introductory letter as well as the unsigned consent form to the parish priest of each of the clusters explaining the purpose of the survey and the intended goals. The information was published in the churches for 3 consecutive weeks, generating publicity for the project. The survey was administered on Sunday after each church celebration. A total of 150 questionnaires were distributed in each cluster. Stationary was provided as incentives, however, it appeared from the number of stationary left after the surveys were distributed, that respondents were more interested in answering the surveys than in the gifts.

In order to ensure that the same respondents did not complete the survey more than once, the surveys were only distributed on one Sunday although, allowance was made for those respondents who indicated that they could not immediately fill out and return the questionnaire to submit the surveys when possible, to the lead contact. The surveys that I could not come back to the United States with were later mailed to me.

In all, I received a total of 243 completed survey questionnaires. Of the three clusters, the highest response rate was received from SPC. I believe that the fact that I grew up in the SPC cluster and still have family and friends who attend that church was a contributing factor in the number of completed surveys.

5.4 Description of Survey Instrument

There are three sections to the survey. The first section sought demographic information on the respondent; the second section deals with land and cultural issues, while the third section has questions dealing with the respondents access to credit. When I originally designed the survey, I wanted to include questions in the culture and land
section specifically to find out how many of the respondents would be willing to buy “dead” property. In light of the literature which suggests including only questions directly relating to the research question, I knew it was important to keep the survey brief and I therefore excluded such questions.

In the section titled “DEMOGRAPHIC INFORMATION” I sought information about the respondent’s background including the respondent’s gender and marital status. Since Nigeria recognizes customary law and statutory marriages, I asked what type of marriage the respondent had contracted. The type of marriage contracted may affect the ability of women to inherit or access land.

A requirement for participating in the survey was that the participant must be at least 18 years old. The ages of the participants were grouped into categories which I classify as youths (18 - 30) young adults (31- 40), adults (41-50), older adults (51-65) and seniors (above 65 years old). These categorizations are for convenience purposes and do not necessarily conform to any official classifications.

I also grouped the income of the respondents into categories. Wages in Nigeria are paid on a monthly basis and as such the questionnaire asked the respondents to state their monthly income. The income is stated in Naira (N) which is Nigeria’s national currency. As of the date I obtained approval from the University’s Institutional Review Board, the informal exchange rate of the Naira against the U.S. dollar was N1 to $100. I estimated that N3,000 is about $30 per month which amounts to about $1 a day.

This breakdown of the income of the respondents masks the intricacies and the complexities involved in arriving at household or individual incomes in Nigeria. Some of the intricacies and complexities include the fact that although women are a powerful
potential source of income, their incomes are not included in official figures in arriving at household incomes. Also, the income figures do not account for the informal economy which plays a large role in the lives of the poor. The income figures do not also account for the high cost of living in Nigeria. Having said this, it is possible to have an idea of what the stakeholders consider to be their spendable income.

One last point to note on the income category is that for ease of reference I classified the individuals based on their income as “poor” those earning less than N3,000 a month; “lower income” those participants earning between N3,001 to N5,000; “middle income” participants in the N5,001 to N10,000 income bracket and “upper middle income” those participants who earn more than N10,000 per month. The reader should bear in mind that these are only my classification and these classifications bear no resemblance to any official classification. If truth be told, most of the participants would officially be regarded as poor, since the World Bank data indicates that 70% of Nigerians live on $1 a day.

I asked the respondent’s to state their level of education, and their employment status. The response scale for the employment question was a yes/no dichotomy. I also used a yes/no dichotomy for the response scale whether the participant thought it was difficulty to get a job without “connections.” It is interesting to point out here that employment status may be classified as “private”, which would include individuals who are self employed and those employed by private firms. Employment status can also be classified as “public” which would include government officials and military and police officers. Kohn adds an interesting third category which he calls “lower-status
Koehn cites housewives, farmers and drivers as belonging to the category of “lower-status occupation.”

Other demographic information I sought in this section are the respondent’s place of birth, and the respondent’s ethnicity. If they did not consider themselves to be Bini’s, participants were asked if they planned on returning to their “home town” someday. From examining the respondent’s answers, it appears as though there was some confusion regarding this question. While considering themselves to be ethnically Bini’s, there were participants who did not consider Benin City to be their “home town”. Rather, they considered their “home towns” to be the villages and hamlets surrounding Benin City, from which they originally hailed from. These participants therefore, while technically Bini’s, indicated their desire to return to their home towns which were located outside of Benin City. It is my opinion that the respondent’s willingness to buy property in Benin City or any other Nigerian city or town where he is regarded as a “stranger” may be dependent on whether or not he plans on returning to his home town.

I also wanted to know the type of building structure the respondents occupied. Ogu states that housing type is “sometimes a reflection of cultural affiliations, ties and extended family relations. Ogu sees the family compound houses as being primarily located in the indigenous or traditional sections of the city while all other housing types like duplex apartments are located in the high income neighborhoods. Participants were required to choose from the following housing types: “Roomy house” more popularly referred to as “face me I face you”; “Family compound house”, “Duplex apartment”; “flat

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383 Ibid.
apartment”; and “Non duplex or bungalow”. Ogu describes a roomy house as consisting of rooms that open to a common central corridor with the rooms usually facing one another.\textsuperscript{384} Ogu states further that family compound houses usually have rooms that open to a spacious parlour and can also consists of clustering of houses. Residents in family compound houses usually share a common ancestry.\textsuperscript{385}

Section 2 is titled “CULTURE AND LAND ISSUES”. Included in this section were questions about the respondent’s possession of landed property and the method of acquiring such property. I asked the respondent’s opinion on whether the practice of burying in residential property is cultural or a failure of local governance. This section also inquired about the respondent’s preference for burial (cemetery or home) and the reason for their preference. I also wanted to know the respondent’s attitude toward the ability of women to access property and if the procedure for obtaining title to property is cumbersome.

Since the push for formalization of property rights is to enable the poor obtain credit, the third section titled “ACCESS TO CREDIT” asked respondents to check off all the types of credit facilities they used. I also attempted to find out the level of fund remittances into and outside of Benin by asking whether the respondents receive funds from friends or family members who live outside Benin and whether the respondents sends money to friends and relatives who live outside of Benin. Respondents were then asked to check off from a predetermined list, all the reasons for either receiving or sending money.

\textsuperscript{384} Ogu, "Enabling Strategy and Sustainable Urban Housing in Nigeria: Focus on Benin City."
\textsuperscript{385} Ibid.
I revised my codebook after I had reviewed the completed survey questionnaire. I then personally inputted the respondents answers into an excel spread sheet – a task I can only describe as being extremely tedious and time consuming. I then checked and rechecked for errors before uploading the data into SAS for further analysis.

5.5 Interviews

As part of this study, I interviewed a former senior and a present public official knowledgeable about land policies both at the federal and state levels. Koehn’s research on state land allocation in two northern Nigerian states was adopted in formulating the interview questions for the public officials. The interview questions are contained in Appendixes B and C. These interviews were complemented by interviewing a Benin Chief on cultural land issues. See Appendix D for the interview questions for the chief. The interview of the former senior public official was conducted in California in June 2007, while the interview of the state public official and Benin chief were conducted in late July/early August of 2007.

I was able to gain access to the former federal senior public official who I shall address as “John” through his son whom I knew several years ago when I resided in Nigeria and with whom I had maintained a friendship. I was fortunate that John paid a visit to the United States soon after I received the university’s Institutional Review Board’s approval. I obtained John’s telephone number in the United States from his son

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386 Koehn, Public Policy and Administration in Africa: Lessons from Nigeria. See also ———, “State Land Allocation and Class Formation in Nigeria.”
and called John to introduce myself and the purpose of my research. I told him I was friends with his son and asked if he would be willing to meet with me at a time and place convenient to him to be interviewed. John asked for some time to think about it and I suspect, possibly conduct some background checks on me. He eventually sent me an email expressing interest in the subject matter and his willingness to be interviewed.

I mailed the consent form and the interview questions to John and after several weeks, we eventually met in California for the interview. I had anticipated that the interview would be concluded in about two hours, but I had not reckoned with the inordinate amount of time spent in general discussions and inquiry into the welfare of mutual family friends. On hindsight, I should have anticipated that I would be invited to dinner with the host family after the completion of the interview which eventually took about four hours.

John consented to be audio recorded and requested that his wife be present during the interview, although she declined to be tape recorded. The periods during which she commented the tape recorder was turned off, although she allowed me to take notes. Her comments were generally very insightful and helpful. The tone of the interview was very conversational and at times the interviewee veered off to give me the background reasoning or to give a proverb before directly answering the question.

I divided the interview questions into 4 broad sections. The first section sought background information on John, for example his educational and professional qualifications and his job functions when he was employed by the federal government. In the second section of the interview questions, I was interested in John’s opinion on the administrative and customary access to land. For example, did John think that one
required “connections” to obtain a piece of property in Nigeria? Did John think one
required “connections” to obtain a certificate of occupancy? What was John’s opinion on
the ability of women to obtain property either under the Land Use Act or under
customary law?

I titled the third section of the interview question “Institutional Arrangement.” In
this section, I asked John to talk about the types of institutions that would be needed if
Nigeria is to formalize property ownership. I also wanted to know how many licensed
surveyors there are in Nigeria and if there were any survey standards.

John was very interested in talking about the fourth section which I titled
“Cultural Values.” In this section, I wanted to know if there were any cultural values
inhibiting land policy in Nigeria. John discussed at some length, why people were buried
on residential properties and discussed his views on this phenomena including anecdotal
stories of why people were buried in cemeteries as opposed to residential properties. He
pointed out emphatically that the Benin’s do not have a culture of burying in cemeteries
and that in fact the present GRA where the more affluent people now reside in Benin City
use to be reserved for burying strangers. John and his wife were very interested in the
last question I had to ask which, was whether there were any other alternatives apart from
formalization of property rights that could be used to advance the interest of the poor.

On Sunday evening, I paid a visit to the local chief, whom I shall address as
“Chief.” I chose Sunday evening because it was much cooler in terms of the temperature,
and Sunday evenings was usually a relaxing and convenient time to entertain visitors. I
wanted to interview Chief because he was knowledgeable about customs and traditions as
it pertains to land. Chief’s interview questions were divided into 4 parts. Section A
solicited background information on Chief. In Section B, I asked the Chief if he thought that there were any cultural values inhibiting land policy in Nigeria. We also discussed the phenomenon of people being buried on residential properties and the procedures for doing this. The questions in Section C, included questions on the procedures for obtaining land as well as the procedures for resolving land conflicts.

Like John’s interview, the interview with Chief lasted well over 3 hours. The first thirty minutes we spent chatting about the United States and how things had changed so much in Nigeria. I had sent the interview questions ahead of time to Chief and he had written out his answers to the interview questions. Although he had consented to being audio taped, he changed his mind due “to the changing times.” He however consented to my taking notes and also consented to my keeping his notes on the interview questions.

The interview with “Peter” the state public official was starkly different in terms of tone and attitude from the other two interviews. I met with Peter in his office at noon time which was about the time he took his lunch. He was very abrupt and to the point. Again, although he had initially consented to being audio taped, he changed his mind, but allowed me to take notes. He prefaced most of his answers by saying that the answers were his personal opinion and would always remind me that he was not answering the questions in his official capacity. The interview questions I discussed with Peter were very similar to the ones I had administered to John however, I believe that John was more candid and forthright with his answers than Peter was.

Since I had an audio record of my interview with John couple with the notes I took during the interview, I did not right away transcribe his interview. The Chief and Peter’s interviews were transcribed within a year. After transcribing the interviews I
looked for patterns and key categories, including any similarities or differences between the surveys and the answers given by Chief and the two public officials.

Unlike the survey instrument, I did not quantify the answers derived from the interviews of John, Peter and Chief. I preferred, rather to weave the answers into the findings and analysis of the quantified survey responses to provide a fuller, richer picture of the complex cultural realities affecting land in Nigeria.

5.6 Demographic Description of Clusters

The data for the self-reporting questionnaire were derived from respondents located in 3 clusters. I begin by providing demographic information about the three cluster based on the responses of the participants. The demographic questions relate to geographic location, gender, marital status, age, income, education, employment and ethnic factors that may influence the respondent’s perceptions of culture and land issues. I coded these key variables in order to make it easier to analyze the data.

On the issue of ethnicity, it is estimated that there are about 250 ethnic groups in Nigeria of which the Igbos, Hausa/Fulani and Yorubas make up the largest groups. Of the total respondents, 32 (13%) reported their ethnicity as Yoruba, while Igbos made up 43 (18%) of the total respondents. As expected, since the study site is Benin City, the Bini’s made up an overwhelming number 80 (33%) of the respondents. Other ethnic groups represented in the study sample, are the Urhobos and the Ishan’s with 17 respondents (7%) each and Hausa/Fulani with 6 (2%) respondents. While this breakdown does not reflect the totality of the actual ethnic grouping in Nigeria, it does
comprise at least the major and some minor ethnic groups and makes it possible for me to arrive at certain deductions on culture and land issues.

The survey instrument also requested the respondents to state their street address. The respondents were requested to state their street location for two reasons. The first reason was to enable me identify the geographic location of the respondent. As discussed in chapter 5, using the Benin moat, the city could be divided into two distinct areas “Old Benin” and “New Benin”, thus the street location would enable me determine if the respondent lived in “Old Benin” or in “New Benin.” This provides a nice segue into my second reason for requesting the street location. The geographic area where the respondent resides will be used as a factor for further analysis of the respondent’s perception of land and culture. For example, is there a difference in cultural perceptions toward land from residents in the traditional area of “Old Benin” as opposed to the residents of the newer migrant area of “New Benin”?

In the sections below, I will provide further details on the clusters. The first cluster I describe is STC located in “Old Benin”, followed by a demographic description of the respondents located in SJC which is in “New Benin.” The last cluster I describe is SPC. SPC is what I term “mixed” because it is made up of individuals who reside in the newer more affluent section of the City and residents from the traditional section close to the center of the City.
5.6.1 STC Cluster

67 participants in STC located in New Benin took part in the survey. Of this number, 43 (64%) were men, while 24 (36%) were women. 27 respondents (40%) indicated that they were single, 5 (7%) described their marital status as partnered, meaning they were living together. 31 respondents (46%) considered themselves married, 2 respondents (2%) are separated and 2 (2%) are divorced. Further analysis indicates that those who indicated that they were married, were either married under customary law, or both customary law and civil law.

The participants in the STC cluster were fairly young. There were 23 respondents (34%) between the ages of 18 to 30. 19 respondents (28%) indicated they were between the ages of 31 – 40, while 10 respondents (15%) were aged 41 – 50. 12 respondents (18%) were between the age of 51 -65, while only 2 respondents (3%) indicated that they were over 65 years old.

In my categorization of income, the lowest category of income is less than N3,000 per month. 8 participants (12%) indicated that they fall into this category while 12 participants (18%) are in the next lower income category of N3,001 – N5,000. The middle income category had 15 participants (22%), while the upper middle income category had the majority of participants (48%) reporting their income to be greater than N10,000 a month.

A majority (85%) of the participants in the STC cluster are employed. When asked if they thought it was difficult obtaining a job without “connections”, 48
respondents (72%) thought that a person required “connections” to obtain a job, while the remaining 27% did not think that “connections” was necessary in order to obtain a job.

Participants were also asked to state the highest level of education they had completed. Only 2 participants indicated that they had not had any type of education, while the highest number (34%) responded that they had had a university education.

Participants were asked to state their ethnicity and if they did not consider themselves to be Bini’s if they planned on returning to their “home town” someday. 33 respondents (49%) indicated that they planned on returning to their home towns, 4 (6%) planned on staying in Benin City, while 14 (21%) were not sure if they would return to their home towns.

In terms of the type of housing structures, 19 respondents (28%) stated that they lived in roomy houses, 11 (16%) lived in family compound houses, and duplex apartment respectively. 4 respondents (6%) lived in bungalows. The majority of the respondents (31%) lived in flat apartments. 8 of these houses where the respondents resided were estimated to have been built before 1960, 40 of the houses were built between 1961 and 2000, while 19 of the houses occupied by respondents were built after 2000.

Participants were also asked if they had any land they personally acquired. In the STC cluster, 29 respondents (43%) indicated they had land they personally acquired, while 37 respondents (55%) did not have land that they had personally acquired.

Participants were further asked if they owned any house in Benin or elsewhere. The majority of respondent’s (70%) in the STC cluster did not own a house either in Benin City or elsewhere.
There were a total of 80 respondents in the SJC cluster located in Old Benin. The respondents were made up of 48 men and 32 women. 30 respondents (29%) indicated that they were single and 10 respondents (9%) described their marital status as partnered, meaning they were living together without a formal marriage ceremony. 37 respondents (58%) considered themselves married. Further analysis indicates that those who indicated that they were married, were either married under customary law, or both customary law and civil law.

In terms of age category, there were 32 respondents (40%) in the SJC cluster between the ages of 18 -30. 22 respondents (28%) were aged between 31- 40 and 18 of the respondents (23%) were between the ages of 41-50. The 51 – 65 age group had 6 respondents (8%) while there were 2 respondents (3%) over the age of 65.

Regarding their income, 15 respondents (19%) earn less than N3,000 a month. 19 respondents (24%) earn between N3,000 to N5,000, while 18 respondents (23%) earn between N5,001 to N10,000. A majority of the respondents (35%) indicated that they earn over N10,000. A majority of the participants (85%) in the SJC cluster are employed. When asked if they thought it was difficult obtaining a job without “connections”, an overwhelming majority (84%) thought that a person required “connections” to obtain a job.

Regarding the respondent’s level of education, 3 respondents (4%) indicated that they did not have any formal education. 15 respondents (19%) indicated they had attended primary school, 27 respondents (34%) had secondary school education, 15
respondents (19%) had a vocational education, while 11 respondents (14%) attended a university.

Participants were asked to state their ethnicity and if they did not consider themselves to be Bini’s, if they planned on someday returning to their “home town.” 30 respondents (38%) indicated that they planned on returning to their home towns, 2 respondents (3%) planned on staying in Benin City, while 23 (29%) were not sure if they would return to their home towns.

In terms of the type of housing structures, 36 respondents (45%) lived in roomy houses, 16 respondents (20%) lived in family compound houses, 7 respondents (9%) lived in duplex apartment, and 17 respondents (21%) lived in flat apartment. The majority of dwelling structures (78%) are estimated to have been built between 1961 and 2000. 11 (14%) of houses occupied by the respondents were estimated to have been built before 1960, while 6 of the houses (8%) occupied by respondents were built after 2000.

Participants were also asked if they had any land they personally acquired. In the SJC cluster, 28 respondents (35%) indicated they had land they personally acquired. 52 respondents (65%) did not have land that they had personally acquired. Participants were further asked if they owned any house in Benin or elsewhere. The majority of respondent’s (66%) in the SJC cluster did not own a house either in Benin City or elsewhere.

5.6.3 SPC Cluster

There were a total of 96 respondents in the SPC “mixed” cluster. The respondents were made up of 62 men and 34 women. In terms of age category, there
were 15 respondents (16%) in the SPC cluster between the ages of 18 -30. 37 respondents (39%) were aged between 31- 40 and 36 of the surveyed respondents (38%) were between the ages of 41-50. The 51 – 65 age category had 7 respondents (7%).

An overwhelming majority (76%) of the respondents reported they were married. 16 respondents (17%) indicated that they were single, 6 (6%) described their marital status as partnered, while less than 3% were either separated or divorced.

In terms of monthly income, an overwhelming majority of respondents in the SPC cluster (85%) earn over N10,000. A majority (97%) of the participants in the SPC cluster are employed. When asked if they thought it was difficult obtaining a job without “connections”, 77 respondents (80%) thought that a person required “connections” to obtain a job.

When asked what type of school they had attended, slightly over one half (59%) had attended a university, while 24 (25%) had a vocational education. 11 respondents (11%) indicated they had no formal education and 4 respondents (4%) had a secondary school education.

Participants were asked to state their ethnicity and if they did not consider themselves to be Bini’s, if they planned on returning to their “home town” someday. 46 respondents (48%) indicated that they planned on returning to their home towns, while 12 respondents (13%) were not sure if they would return to their home towns.

The respondents were almost evenly split in terms of the type of housing structures they occupied. 41 respondents (43%) lived in flat apartments, while 40 respondents (42%) lived in duplex apartments. 5% of the respondents lived in either family compound houses or inn bungalows. 50 of the houses occupied by respondents
were built between 1961 and 2000, while 45 of the houses occupied by respondents were built after 2000.

Participants were also asked if they had any land they personally acquired. In the SPC cluster, 68 respondents (71%) indicated they had personally acquired land. The remaining 28% of respondents did not have any personally acquired land. When asked if they owned any house in Benin City or elsewhere, participants were almost evenly divided. 47 respondents (48%) owned a house either in Benin City or elsewhere, while 49 (51%) respondents did not own houses.

5.6.4 Total Demographic Characteristics

In sum, there were a total of 243 completed surveys. The total number of respondents consisted of 153 men (63%) and 90 women (37%) with ages ranging from 18 to above 65. Those respondents ages 18 -30 comprised 70 (29%) of the total respondents. There were 78 (32%) who were between the ages of 31- 40, 64 respondents (26%) were aged between 41-50 and 25 (10%) of the respondents were in the category of respondents in the 51-65 age group. There were only 5 respondents who indicated that they were above 65 years old.

Customary law marriages are given legal recognition in Nigeria as well as marriage celebrated under the statute. Most African countries including Nigeria recognize both traditional and western types of marriage contracts. As indicated in the literature review, the type of marriage contract entered into by a woman can determine her ability to access landed property. In most instances couples would chose multiple ceremonies.
71 (29%) of the total respondents indicated they were single, 21 (9%) were partnered, 141 (58%) were married, 5 (2%) separated and 5 (2%) were divorced.

A further analysis of the data indicates that of the respondents who were married, 5% indicated their marriage type as mutual consent, 8% had done only the customary form of marriage, 21% had celebrated their marriage under customary law and registry, 30% by customary law and in the church. See Table 5.1 below for a summary of the socio-demographic characteristics of the respondents.

Individual income for respondents ranged from less than N3,000 to over N10,000. 58% of the respondents indicated that they earned over N10,000, 17% of the respondents earned between N5,001 to N10,000, while 14% had income of between N3,000 to N5,000 and 10% of the respondents earned less than N3,000.

As can be seen from table 5.1, there were very few participants over the age of 65 in the study sample. My assumption is that many people in that age group may not have been literate. I also feel that most of the people in the age group over 65 years of age, even where literate may have been uncomfortable with answering questions that referenced their mortality. Further analysis would be performed in the next chapter, to see if an individual’s age influences their perceptions of culture and land issues.

Participants were also asked to state the highest level of education they had attained. The majority of respondents (37.45%) indicated they have a minimum of a bachelors’ degree which is not surprising considering the fact that there are at least 3 institutions of higher education in and around Benin City. Like income or age, an individual’s level of education may influence their perception of culture and land issues.
I will be able to test this variable in the next chapter based on the responses from the participants.

Table 5.1: Socio-Demographic Characteristics of Respondents

<table>
<thead>
<tr>
<th></th>
<th>F</th>
<th>Percentage</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Gender</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Male</td>
<td>153</td>
<td>65%</td>
</tr>
<tr>
<td>Female</td>
<td>90</td>
<td>37%</td>
</tr>
<tr>
<td><strong>Education</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>None</td>
<td>16</td>
<td>7%</td>
</tr>
<tr>
<td>Primary</td>
<td>21</td>
<td>9%</td>
</tr>
<tr>
<td>Secondary</td>
<td>51</td>
<td>21%</td>
</tr>
<tr>
<td>Vocational</td>
<td>48</td>
<td>20%</td>
</tr>
<tr>
<td>University</td>
<td>91</td>
<td>37%</td>
</tr>
<tr>
<td><strong>Age</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>18-30</td>
<td>70</td>
<td>29%</td>
</tr>
<tr>
<td>31-40</td>
<td>78</td>
<td>32%</td>
</tr>
<tr>
<td>41-50</td>
<td>64</td>
<td>26%</td>
</tr>
<tr>
<td>51-65</td>
<td>25</td>
<td>10%</td>
</tr>
<tr>
<td>&gt;65</td>
<td>5</td>
<td>2%</td>
</tr>
<tr>
<td><strong>Income</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>&lt;N3,000</td>
<td>25</td>
<td>10%</td>
</tr>
<tr>
<td>N3,001-N5,000</td>
<td>34</td>
<td>14%</td>
</tr>
<tr>
<td>N5,001-N10,001</td>
<td>42</td>
<td>17%</td>
</tr>
<tr>
<td>&gt;N10,000</td>
<td>142</td>
<td>58%</td>
</tr>
<tr>
<td><strong>Marital Status</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Single</td>
<td>71</td>
<td>29%</td>
</tr>
<tr>
<td>Partnered</td>
<td>21</td>
<td>9%</td>
</tr>
<tr>
<td>Married</td>
<td>141</td>
<td>58%</td>
</tr>
<tr>
<td>Separated</td>
<td>5</td>
<td>2%</td>
</tr>
<tr>
<td>Divorced</td>
<td>5</td>
<td>2%</td>
</tr>
<tr>
<td><strong>Marriage Type</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Mutual consent</td>
<td>13</td>
<td>5%</td>
</tr>
<tr>
<td>Customary</td>
<td>19</td>
<td>8%</td>
</tr>
<tr>
<td>Customary &amp; Registry</td>
<td>51</td>
<td>21%</td>
</tr>
<tr>
<td>Customary &amp; Church</td>
<td>70</td>
<td>30%</td>
</tr>
</tbody>
</table>

Respondents were asked if they were currently employed, what type of jobs they did and if they thought it was difficult to obtain a job in Benin without connections. An overwhelming majority of the respondents (90%) were employed. In terms of the ability
of an individual to obtain a job without connections, 192 (79%) of the total respondents indicated that one required some sort of “connections” in order to secure a job.

Survey respondents were asked to indicate their ethnicity and whether they planned on returning to their home towns. The decision whether or not to buy a piece of property if an individual is considered “a stranger” may depend on whether or not the respondent plans on remaining in Benin City permanently. Of the 165 respondents who did not consider their ethnicity to be Bini, 45% responded that they would return to their home towns, 3% indicated that they would not return, while 20% of the respondents were not sure if they would return.

5.7 Conclusion

In this chapter, I have detailed the methodology for this study and described the participants. In the following chapter, I will provide a more detailed analysis of my data. In that chapter, I identify and select my variables and note any relationship between the independent and dependent variables using cross tabulations.
CHAPTER 6
ANALYSIS AND PRINCIPAL FINDINGS

*Land belongs to the community, the village or the family, never to the individual. All members of the community, village or family have an equal right to the land...*
- *Amodu Tijani v. The Secretary, Southern Province of Nigeria*

My plan in this chapter is to provide a more in depth analysis of my data and my principal findings. To reiterate, my study involves the examination of a proposed policy whereby developing countries would reform their land policies by formalizing land titles. Such formalized titles would enable poor people to obtain credit from formal credit institutions. De Soto’s thesis, which is the basis of this policy pronouncement, does not reference any cultural variables which may play a role in the implementation of the proposed policy. In fact de Soto specifically rules out any cultural factors as affecting land policies. Other studies that have been conducted on the basis of de Soto’s thesis while throwing light on some land policy issues, also fail to address in depth any cultural variables. My research aim is to explore the cultural views/values of stakeholders as they pertain to land. A secondary aim is to study the poor’s ability to access land and credit.

In conducting my analysis, I utilize 3 types of data. The primary data for the research is derived from an analysis of a self administered survey. I refer to secondary information and data derived from various World Bank Reports as well as relevant scholarly works. The final data I utilize is made up of in depth interviews of a former high level official in the federal ministry who was responsible for land issues and a current state official directly involved in the implementation of land policies. Since my study involves cultural factors and land policies, the interviews of the “street level
bureaucrats” were complemented by interviewing a Benin chief knowledgeable about land and cultural issues.

Recall that my first research question asks whether there are any existing cultural values or constraints that may inhibit the use of property rights as a means of poverty alleviation, while my second research asks how the poor acquire property rights. I analyzed a total of 243 completed surveys to provide answers to these research questions. Where applicable, the answers provided by the public officials and local chief were used as text to complement the answers of the participants to the survey.

The key independent variables utilized for analysis are gender, age, income, educational level and marital status. In order to clearly articulate the research findings, the research analysis and findings are divided into 3 sections. The first section provides my analysis and findings on existing cultural values that may inhibit the use of property rights as a means of poverty alleviation. The dependent variable in the first section is preference for burial. Is there a relationship between income category, property ownership and choice of burial site? Is this relationship the same at different educational levels?

The second section discusses the analysis and findings on how the survey respondents access property rights. The key variables were tested to see how many respondents, especially women accessed property rights. What procedures did the respondents use to access property? Are there differences in the method of acquisition at different income, age, and educational levels? Is there also a difference in the ability of the sexes to access property?
The third section deals with institutional arrangements regarding property rights including any institutional constraints that may exist. This section also contains the analysis and findings on the respondents access to formal credit institutions. The cultural and institutional findings provided by this exploratory study may identify those variables that could adversely affect the proposed titling policy.

6.1 On Culture and Land Issues

The evaluation of the first research question, are there any existing cultural values or constraints that may inhibit the use of property rights as a means of poverty alleviation, is based on data collected from the second section of the survey titled “CULTURE AND LAND ISSUES.” This section sought to explore further the phenomenon of burial on residential properties and whether this phenomenon is driven by culture. In addition, the questions in the section sought to establish the effect such phenomenon has on the ability to use land to alleviate poverty. See Table 6.1 for a summary of the results of the survey section.
### Table 6.1: Status of Parents, Places of Burial, and Land Ownership

<table>
<thead>
<tr>
<th></th>
<th>F</th>
<th>Percentage</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Respondent’s Mother</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Living place of origin</td>
<td>90</td>
<td>37%</td>
</tr>
<tr>
<td>Living in Benin</td>
<td>60</td>
<td>25%</td>
</tr>
<tr>
<td>Elsewhere</td>
<td>20</td>
<td>8%</td>
</tr>
<tr>
<td>Deceased</td>
<td>72</td>
<td>30%</td>
</tr>
<tr>
<td><strong>Respondent’s Father</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Living place of origin</td>
<td>83</td>
<td>34%</td>
</tr>
<tr>
<td>Living in Benin</td>
<td>42</td>
<td>17%</td>
</tr>
<tr>
<td>Elsewhere</td>
<td>8</td>
<td>3%</td>
</tr>
<tr>
<td>Deceased</td>
<td>109</td>
<td>45%</td>
</tr>
<tr>
<td><strong>Respondents deceased parents buried:</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Cemetery</td>
<td>41</td>
<td>17%</td>
</tr>
<tr>
<td>Home</td>
<td>101</td>
<td>42%</td>
</tr>
<tr>
<td><strong>Respondents preference for Burial</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Cemetery</td>
<td>85</td>
<td>35%</td>
</tr>
<tr>
<td>Home</td>
<td>119</td>
<td>42%</td>
</tr>
<tr>
<td><strong>Anybody buried in respondents current residence</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Yes</td>
<td>117</td>
<td>48%</td>
</tr>
<tr>
<td>No</td>
<td>125</td>
<td>51%</td>
</tr>
<tr>
<td><strong>Does respondent have any personally acquired land</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Yes</td>
<td>126</td>
<td>53%</td>
</tr>
<tr>
<td>No</td>
<td>116</td>
<td>48%</td>
</tr>
</tbody>
</table>

In total, 17% of the respondents’ parents were buried in the cemetery, and 42% of the respondents’ parents were buried in their homes. The respondents were further asked if there were any bodies buried on the respondent’s current place of residence. Overall, 48% of respondents answered yes, while 15% of respondents indicated no.

When respondents were asked about their preference for a burial site and the reason for such preference, 35% of respondents indicated that their preference would be to be buried in a cemetery, while 49% indicated their preference as their homes. An
unexpected finding in this regard was in the SJC cluster which is in the older section of the city. I expected that the overwhelming preference here would be for burial in the house. Contrary to my expectation, a little 46% of the respondents preferred to be buried in the cemetery, while 41% chose their homes.

Based on the above analysis, I have established that there are Nigerians who would bury the dead on residential properties. This phenomenon of burial on residential properties may impede the economic viability of the land. Is the phenomenon of burying on residential property driven by culture or a breakdown of local governance? To answer these questions, respondents were presented with an open ended question as to the reason for their preference for a burial site. I thematically coded the respondents’ answer as to the reason for their choice of a burial place under four focal themes. The first focal theme was coded “culture.” This category included statements that were indicative of culture or tradition. It also included the respondents’ references to their “customs.” For example statements made by the respondents such as, “It is the tradition of my people” or “It is not normal to be buried in the cemetery”, and “That’s what we do in my family” would be coded “culture.”

An alternative to the practice as “culture,” were individuals who embraced “modernity” which was my second coding category on this question. This designation held statements that were indicative of a move away from tradition or that stemmed from perceptions of modernity or progress. Examples of this perception of modernity include statements such as: “I don’t want to be with the living, but prefer a private cemetery because I can afford it” or “It [cemetery] is more decent for burial,” “more modern” or “more appropriate,” and “it is progressive.”
The third set of responses was coded “failure of local government”. This category comprised statements made by the respondents that were indicative of insecurity about the cemeteries or that the cemeteries were unkempt.

The fourth category was denominated “property rights”. This category was comprised of statements made by the respondents that were indicative of securing the land or showing ownership of the land. For example, “It is your land by being buried there,” “So that no one will sell it”, and “for my properties to be retained.” As displayed by Figure 6.1, a higher percentage of respondents’ reason for their preference was due to their culture/tradition.

![Figure 6.1: Respondent’s Reason for Burial Preference](image)

During the in depth interviews, I also posed similar questions concerning land and culture to the interviewees. All the interviewees were aware of the phenomenon of people being buried on residential properties. All were of the opinion that this
phenomenon was more a cultural fact than a failure of local governance. As stated by John, the Bini’s do not have a culture of burying in the cemeteries. While acknowledging that the cemeteries were generally unkempt, he stated that there were expensive private cemeteries that people could utilize. However, according to John, this practice of burying in the cemetery was more of an exception than a norm. When I inquired about the economic effect of this phenomenon, John replied that it would be difficult to obtain a loan using the land as collateral.

According to John, it would also be near impossible to sell the land or any house built on it because a loved one is buried there. It appears that Nigeria’s bad economic condition, is also spurring people to move away from the culture of burying the dead on residential properties. Both public officials detailed the recent trend of youths (described by John as “bad boys”) of exhuming their parents from residential properties and removing the bodies for burial elsewhere. This is being done in an attempt to sell the properties to raise funds to emigrate overseas.

During the interview, I asked Chief if he thought that there were any cultural values inhibiting land policies in Nigeria. He stated that “There is a lot of confusion between traditional title to land versus the contemporary procedures. People can buy land from the chiefs and the land belongs to them and yet other people have to go to the local government to buy land, the same land that belongs to the people of that community and not the government.” The Chief did not consider the dead being buried on residential property as a cultural value that would inhibit the optimum use of land; neither did he have any issue with the traditional system of accessing land. According to Chief, “if there is an issue with the way land is held traditionally, it’s probably when the family has
become very large and due to the way land is inherited, it can lead to smaller pieces of land. The land gets divided up so many times that sometimes one can’t even really do anything with the land.”

Being in Chief’s view, a cultural issue, he intimated that the ability to be buried on your land confirms your identity with that community – “It shows respect for the departed to be buried in homes as against burying them in a public cemetery which in its own way suggests that the departed did not own land. I myself as a chief I have to be buried in my house.” Although, according to Chief, anybody could be buried on residential property in Benin, most non Bini’s prefer to be buried in their own ancestral homes, that is, the place where their lineage originates from. He cited several examples of non Bini’s who were buried on residential properties in Benin City because they had resided in Benin City for several years. In any case, the Chief pointed out that the permission of the Oba (King) was required before one could be buried on residential property and that the dead person must not have been an enemy of the Oba.

In order to further confirm that the phenomenon of burying on residential properties was a cultural practice, respondents were presented with the statement that the practice of burying people in their houses is dictated by customs and culture. (See Question 21, Appendix A) As indicated by figure 6.2 below, an overwhelming 91% of respondents agreed with the statement.
Earlier in this study, I had stated that one of the functions of local governments under the Nigerian constitution is the upkeep and repair of cemeteries. Survey respondents were asked if people do not like to bury in the cemetery because the cemeteries are in disrepair. Respondents chose one of four Likert scale categories: “strongly agree”, “somewhat agree”, “somewhat disagree” and “strongly disagree.” As indicated by figure 6.3, 88% of the respondents either strongly agreed or somewhat agreed with the statement.
A cross tabulation and Chi-Square tests was performed to investigate the relationships between preference for burial location and gender, education, age, income and marital status. While I expected that the more educated an individual is, the more likely the person’s cultural perception would change regarding place of burial, the chi square test indicates that the strength of association between these variables was not significant. Table 6.4 displays the results of the Chi-Square test.
Table 6.2: Preference for Burial Location by Gender, Education, Age, Income and Marital Status

<table>
<thead>
<tr>
<th>Table of place buried by key variables</th>
<th>Cemetery</th>
<th>House</th>
<th>N</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Gender</strong></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Male</td>
<td>44 (18%)</td>
<td>91(37%)</td>
<td>135</td>
</tr>
<tr>
<td>Female</td>
<td>41 (17%)</td>
<td>28(11%)</td>
<td>69</td>
</tr>
<tr>
<td><strong>Education</strong></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>None</td>
<td>3 (1%)</td>
<td>8 (3%)</td>
<td>11</td>
</tr>
<tr>
<td>Primary</td>
<td>13 (5%)</td>
<td>6 (2%)</td>
<td>19</td>
</tr>
<tr>
<td>Secondary</td>
<td>21 (9%)</td>
<td>21 (9%)</td>
<td>42</td>
</tr>
<tr>
<td>Vocational</td>
<td>19 (8%)</td>
<td>21 (9%)</td>
<td>31</td>
</tr>
<tr>
<td>University</td>
<td>25 (10%)</td>
<td>55 (23%)</td>
<td>80</td>
</tr>
<tr>
<td><strong>Age</strong></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>18-30</td>
<td>31 (13%)</td>
<td>23 (9%)</td>
<td>54</td>
</tr>
<tr>
<td>31-40</td>
<td>26 (11%)</td>
<td>36 (15%)</td>
<td>62</td>
</tr>
<tr>
<td>41-50</td>
<td>14 (6%)</td>
<td>45 (19%)</td>
<td>59</td>
</tr>
<tr>
<td>51-65</td>
<td>12 (5%)</td>
<td>12 (5%)</td>
<td>24</td>
</tr>
<tr>
<td>&gt;65</td>
<td>2 (1%)</td>
<td>3 (1%)</td>
<td>5</td>
</tr>
<tr>
<td><strong>Income</strong></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>&lt;N3,000</td>
<td>9 (4%)</td>
<td>8 (3%)</td>
<td>17</td>
</tr>
<tr>
<td>N3,001-N5,000</td>
<td>16 (7%)</td>
<td>12 (5%)</td>
<td>28</td>
</tr>
<tr>
<td>N5,001-N5,001-N10,000</td>
<td>21 (9%)</td>
<td>13 (5%)</td>
<td>34</td>
</tr>
<tr>
<td>&gt;N10,000</td>
<td>39 (16%)</td>
<td>86 (35%)</td>
<td>125</td>
</tr>
<tr>
<td><strong>Marital Status</strong></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Single</td>
<td>34 (14%)</td>
<td>19 (8%)</td>
<td>53</td>
</tr>
<tr>
<td>Partnered</td>
<td>9 (4%)</td>
<td>11 (5%)</td>
<td>20</td>
</tr>
<tr>
<td>Married</td>
<td>36 (15%)</td>
<td>87 (36%)</td>
<td>123</td>
</tr>
<tr>
<td>Separated</td>
<td>2 (1%)</td>
<td>1 (%)</td>
<td>3</td>
</tr>
<tr>
<td>Divorced</td>
<td>4 (2%)</td>
<td>1 (%)</td>
<td>5</td>
</tr>
</tbody>
</table>

* Significant at p=0.1

In conclusion, the study’s findings under this section are: firstly that the phenomenon of burying the dead on residential properties is considered to be a cultural value of the Nigerians interviewed; secondly the fact that the dead are buried on residential properties may impair the use of the properties as collateral for a bank loan. Burying the dead on residential properties inhibits the ability of property owners to sell the properties out rightly. The fact that the cemeteries are in disrepair may contribute to
decisions to using residential properties for burials. Finally, gender, age, income and marital status are statistically significant to the choice of burial location.

6.2 On Access to Land and Property Rights

The proposed policy is addressed at enabling the poor formalize ownership of their land. My second research question seeks to explore how the poor acquire property rights in land. In order to find out how the poor access land, the “gate keepers” were asked to discuss the methods and procedures for obtaining land in Nigeria and the procedure for obtaining title to that land. While there were similarities in the answers provided by John and Peter they appeared to answer the question from different perspectives.

John was very technical and extremely informative about the process. He provided very extensive background information on the Land Use Act including information on the several meetings he had attended prior to the enactment of the Act. John pointed out differences in the original intent and the actual effects of the Act after enactment. According to John, prior to the Land Use Act, there was really no uniformity in the way one could access land. For example, he said, in the Northern part of Nigeria, there was a different system which the then federal military government essentially copied to become the Land Use Act. This system in the northern part of Nigeria was inherently different from what obtained in the more traditional areas like Benin City in the southern part of Nigeria.
In Benin City, according to John, prior to the Land Use Act, the city was divided into wards with a ward head in charge of a committee that allocated land. All land in Benin was vested in the Oba. Any person wishing to purchase a piece of property went to the allocation committee of the ward where the property was located. After payment of the purchase price, the buyer was taken to the property and beacons were used to demarcate the property. After the purchase price had been paid, the necessary documents were drawn up and sent to the Oba’s palace for his approval and signature. The buyer held the property as freehold and he/she could do with the property as they pleased. In the rural areas, anybody who required a piece of property could also get one through the head of the family/village head. However, if there were cash crops on the property in addition to the payment of the land, the buyer had to pay for the cash crops.

Once land was allocated under the Ward system or the family system, the land was essentially held as freehold unless that family member was excommunicated. This is not the case under the Land Use Act where holders are not owners of the land, but more of tenants for a period of 99 years and as holders have to pay ground rent to the government.387

Another way that people could access land was by outright sale of the land. Peter stated that even where the process of obtaining land was by a private sale, the parties required the consent of the governor prior to alienation of the land. According to Peter, under this system of purchasing land, you had to be wealthy because for the most part, the buyer had to pay cash for the land and as such bank loans were infrequently used. It

387 John described this arrangement whereby the holder has the esteemed titled known as a certificate of occupancy as “possessory title leasehold.”
was only in instances where the buyer was employed by the government or a bank or oil company that he could obtain a loan from his employers to buy land.

The Chief discussed how land was acquired customarily. By custom, as long as you were from that village, you were entitled to a piece of land. First sons are automatically guaranteed their fathers landed properties. Any male who wanted a piece of property was given one, although as the family got larger, the land got smaller in size. In other instances, the person could be given land in “the bush.”

In an attempt to find out how widespread ownership of land is, survey participants were asked if they had any personally acquired land. A little more than one-half (53%) of the respondents answered yes; the remainder said they had not personally acquired any land. 14% of people surveyed acquired their property under customary law, while 5% received an allotment from the government. Nearly a majority (46%) obtained their property by private purchase. (See Figure 6.4)

**Figure 6.4: Response to Survey Question 17 - If you have personally acquired land how was this land acquired?**

![Bar Chart](image)
One of the arguments I put forth in this study, is that the issue at hand should not only be about formalization of individualized property rights. The issue should also include the ability of the poor especially women to access problem. When presented with the statement that it was more difficult for women in general and widows in particular to obtain land, an overwhelming majority of the respondents agreed that it was more difficult for women to access land. The results are displayed in figure 6.5.

Figure 6.5: Response to Survey Question 23 - It is more difficult for women to obtain land

<table>
<thead>
<tr>
<th>Response</th>
<th>Count</th>
<th>Percentage</th>
</tr>
</thead>
<tbody>
<tr>
<td>Strongly Agree</td>
<td>124</td>
<td>51.03%</td>
</tr>
<tr>
<td>Somewhat Agree</td>
<td>90</td>
<td>37.04%</td>
</tr>
<tr>
<td>Somewhat Disagree</td>
<td>21</td>
<td>8.64%</td>
</tr>
<tr>
<td>Strongly Disagree</td>
<td>7</td>
<td>2.88%</td>
</tr>
</tbody>
</table>

The responses of the survey participants are markedly different from the answers of the public officials and chief. During the interview, I asked Peter if he thought that women found it harder to obtain land. He emphatically stated no and said that provided a female applicant met the financial responsibility requirements, she was as likely to be allocated a piece of land as a male. According to Peter, it was easier for women under
the bureaucratic system to be allocated land than under the customary system as the bureaucratic system was “gender blind.” The Chief on the other hand did not see any requirements for women to own land personally because customarily, women are taken care of either by her husband or by her son.

The results of the Chi-Square test investigating the relationship between the method by which land is acquired by gender, education, age, income and marital status is displayed in Table 6.3. The Chi Square test indicates a significance value of $p<.01$ supporting a conclusion that there is a significant relation between gender and the method of accessing land.
Table 6.3: Method by Which Land is Acquired by Sex, Education, Age, Income, and Marital Status

<table>
<thead>
<tr>
<th></th>
<th>Customary</th>
<th>Government Allocation</th>
<th>Outright Sale</th>
<th>Other Methods</th>
<th>N</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Gender</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Male</td>
<td>22 (9%)</td>
<td>7 (3%)</td>
<td>52 (21%)</td>
<td>11 (5%)</td>
<td>92</td>
</tr>
<tr>
<td>Female</td>
<td>13 (5%)</td>
<td>6 (2%)</td>
<td>15 (6%)</td>
<td>2 (1%)</td>
<td>36</td>
</tr>
<tr>
<td><strong>Education</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>None</td>
<td>5 (2%)</td>
<td>0 (0%)</td>
<td>3 (1%)</td>
<td>1 (0%)</td>
<td>9</td>
</tr>
<tr>
<td>Primary</td>
<td>1 (0%)</td>
<td>0 (0%)</td>
<td>0 (0%)</td>
<td>0 (0%)</td>
<td>1</td>
</tr>
<tr>
<td>Secondary</td>
<td>4 (2%)</td>
<td>5 (2%)</td>
<td>1 (0%)</td>
<td>0 (0%)</td>
<td>10</td>
</tr>
<tr>
<td>Vocational</td>
<td>8 (3%)</td>
<td>2 (1%)</td>
<td>15 (6%)</td>
<td>3 (1%)</td>
<td>28</td>
</tr>
<tr>
<td>University</td>
<td>13 (5%)</td>
<td>6 (2%)</td>
<td>44 (18%)</td>
<td>9 (4%)</td>
<td>72</td>
</tr>
<tr>
<td><strong>Age</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>18-30</td>
<td>2 (1%)</td>
<td>2 (1%)</td>
<td>6 (2%)</td>
<td>0 (0%)</td>
<td>10</td>
</tr>
<tr>
<td>31-40</td>
<td>15 (6%)</td>
<td>4 (2%)</td>
<td>19 (8%)</td>
<td>1 (0%)</td>
<td>39</td>
</tr>
<tr>
<td>41-50</td>
<td>11 (5%)</td>
<td>2 (1%)</td>
<td>34 (14%)</td>
<td>11 (5%)</td>
<td>58</td>
</tr>
<tr>
<td>51-65</td>
<td>4 (2%)</td>
<td>5 (2%)</td>
<td>7 (3%)</td>
<td>1 (0%)</td>
<td>17</td>
</tr>
<tr>
<td>&gt;65</td>
<td>3 (1%)</td>
<td>0 (0%)</td>
<td>1 (0%)</td>
<td>0 (0%)</td>
<td>4</td>
</tr>
<tr>
<td><strong>Income</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>&lt;N3,000</td>
<td>0 (0%)</td>
<td>1 (0%)</td>
<td>0 (0%)</td>
<td>0 (0%)</td>
<td>1</td>
</tr>
<tr>
<td>N3,001-N5,000</td>
<td>1 (0%)</td>
<td>0 (%-0)</td>
<td>1 (0%)</td>
<td>0 (0%)</td>
<td>2</td>
</tr>
<tr>
<td>N5,001-</td>
<td>5 (2%)</td>
<td>3 (1%)</td>
<td>3 (1%)</td>
<td>0 (0%)</td>
<td>11</td>
</tr>
<tr>
<td>N10,001</td>
<td>29 (12%)</td>
<td>9 (4%)</td>
<td>63 (26%)</td>
<td>13 (5%)</td>
<td>114</td>
</tr>
<tr>
<td>&gt;N10,000</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>Marital Status</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Single</td>
<td>2 (1%)</td>
<td>4 (2%)</td>
<td>5 (0%)</td>
<td>0 (0%)</td>
<td>11</td>
</tr>
<tr>
<td>Partnered</td>
<td>3 (1%)</td>
<td>0 (0%)</td>
<td>4 (0%)</td>
<td>0 (0%)</td>
<td>7</td>
</tr>
<tr>
<td>Married</td>
<td>27 (11%)</td>
<td>8 (3%)</td>
<td>56 (5%)</td>
<td>13 (5%)</td>
<td>104</td>
</tr>
<tr>
<td>Separated</td>
<td>0 (0%)</td>
<td>1 (0%)</td>
<td>1 (0%)</td>
<td>0 (0%)</td>
<td>2</td>
</tr>
<tr>
<td>Divorced</td>
<td>3 (0%)</td>
<td>0 (0%)</td>
<td>1 (0%)</td>
<td>0 (0%)</td>
<td>4</td>
</tr>
</tbody>
</table>

*Significant at p = .01
6.2.1 Title to Land

The Land Use Act of 1976 governs the acquisition and disposal of land in Nigeria. How familiar were Nigerians with the law? Less than half (42%) of the respondents were familiar with the Land Use Act. See table 6.4.

Table 6.4 - Response to Survey Question 24 - Are you familiar with the Land Use Act 1979

<table>
<thead>
<tr>
<th>Familiar with the Land Use Act</th>
<th>F</th>
<th>As percentage of Total Respondents</th>
</tr>
</thead>
<tbody>
<tr>
<td>Yes</td>
<td>102</td>
<td>42%</td>
</tr>
<tr>
<td>No</td>
<td>126</td>
<td>52%</td>
</tr>
<tr>
<td>Not Sure</td>
<td>13</td>
<td>5%</td>
</tr>
<tr>
<td>Total</td>
<td>241</td>
<td></td>
</tr>
</tbody>
</table>

John and Peter were of course very familiar with the Land Use Act since they either were at one time or are currently implementers of the Act. In our in depth discussion of the advantages and disadvantages of the Land Use Act, Peter thought that its disadvantages were outweighed by the advantages. One of the advantages of the Land Use Act according to Peter, was that many people including “strangers” and women were able to obtain land in other areas of Nigeria, outside of their places of origin.

John on the other hand, questioned the benefits of the Land Use Act stating that the number of people who have been able to acquire land under the Act is miniscule. One of the disadvantages of the Land Use Act that John cites, is that the title obtained under the Act, did not really ensure security of tenure since the government has power to
revoke the title. People always lived in fear of successive administration revoking their titles. Another disadvantage is that awardees had a limited number of years to build an acceptable structure on the land, failing which the title would be revoked. He opined that the fact that applicants who had been awarded a certificate of occupancy had a limited number of years to build – an expensive venture – was very restrictive.

Titling programs have to be made as simple, efficient and fast as possible in order to ensure transparency and remove the opportunity for corrupt practices. The survey sought to find out the degree of difficulty in obtaining title to land (Certificate of Occupancy.) As portrayed by figure 6.6, a little over half of the respondents (57%) thought the procedure was cumbersome.

![Figure 6.6- Response to Survey Question 26 - The Procedure for Obtaining a Certificate of Occupancy is very Cumbersome and tedious](image)

When asked if the procedure for obtaining title to land is cumbersome, both public officials agreed that it was cumbersome. John described the process as
“daunting.” Legal assistance which the poor cannot afford is required in order to obtain title to land. Peter also agreed that obtaining title is “a long process.” Although Peter could not (or shall I say would not) give me an exact number of applications for certificates of occupancy that had been processed within the last one year, he stated that the figure ran into “thousands.” The procedure to obtain title to land in a private sale, is just as cumbersome and tedious as in an allotment by the government. The governor’s consent is required in a private sale of land. In addition to the consent form, a certified copy of the deed of assignment, approved building plan and tax clearance certificate are also required to be submitted for processing the title. The fees for title to land run into thousands of Naira way above the annual income of the average Nigerian. These fees include consent fee, charting fee, administrative fee, stamp duty fee, capital gains tax, registration fee, endorsement fee and land use fee.

The claim has been made elsewhere in this study, that prebendalism and clientelism greatly affect the way public offices in Nigeria function. Survey respondents were asked if it was necessary to have “connections” before title to land can be obtained. As indicated by Table 6.5, in order to obtain title to land, an overwhelming number of the respondents (73%) thought an individual required “connections” to obtain the title.

<table>
<thead>
<tr>
<th>Connections required for certificate of occupancy</th>
<th>f</th>
<th>As percentage of Total Respondents</th>
</tr>
</thead>
<tbody>
<tr>
<td>Yes</td>
<td>177</td>
<td>73%</td>
</tr>
<tr>
<td>No</td>
<td>65</td>
<td>27%</td>
</tr>
<tr>
<td>Total</td>
<td>242</td>
<td>100%</td>
</tr>
</tbody>
</table>
Regarding the respondent’s perception of the ease of accessing land in Benin City, 63% of the respondents thought it was difficult obtaining land in Benin City, while 40% thought it was not difficult. Another way I sought to find out how difficult it was to access property rights was to ask participants if they thought one required “connections” to obtain a piece of land. 67% of the respondents indicated that you need “connections” to obtain a piece of land.

Respondents were also asked if they would support a plan to revise the land registration process. 58% of the respondents indicated they would support such a plan, while the remaining respondents indicated they were opposed to such a plan. I was surprised by the fact that in the SJC cluster, which is located in the older more traditional section of the city, that more respondents (58%) indicated that they would support a plan to revise the land registration process.

Several reasons were given by participants for the need to revise the land registration process. The general theme for revision was the need to make the registration process easier, faster, cheaper and more transparent. Theme statements include “To make it easier and more transparent”; “it is stressful and time consuming”; “because the process is being politicized by the government in power”; “it is shrouded in mystery”; “the process only favors the wealthy”; “with the present system one is still not sure if one has possession”; and “the process should be upgraded to meet up with modern day realities”.

The survey respondents who did not want the land registration process revised fall into three groups. There were those respondents who felt a total overhaul was not necessary, just some modification. Such respondents made statements like, “it has to be
modified.” The second group includes respondents who while not wanting the process revised, admitted that they did not know much about the registration process. These respondents made statements such as “I am not informed about the land registration process”; “I don’t know anything about land registration”; and “I am not aware about this process.” The final group comprised respondents who did not want the land registration process revised because it has been effective and efficient. Such respondents made statements like “It has performed well since it was enacted”; “A change might complicate the process”; “the corruption there has to do with the people in charge”; and “people have benefited from it.”

I also asked the “gate keepers” and the Chief if they would support a plan to revise the Land Use Act. While Peter refrained from answering the question, John said the Land Use Act had to be amended due to the several disadvantages and the fact that it only benefitted a handful of influential people. John however, opined that amending the Act would be difficult since the Act is a part of the Nigerian constitution.

### 6.2.2 Findings

To a large extent my findings reflect the general trend of the literature on the poor’s ability to access land. The findings of the study include the fact that it is more difficult for women to obtain access to land either under the administrative system or under the customary system. Most of the surveyed respondents are not familiar with the law governing the administrative access to land and the general view is that it is very difficult to obtain access to land under this system. The administrative procedure for obtaining
title to land is very cumbersome, time consuming and expensive. The title obtained under this system does not guarantee security of title as it can be revoked by the government. The indication is that it is easier for the poor to access land under the customary system than under the administrative system. The study also finds a significant relationship between gender, education, age, income and marital status to the method by which land is acquired.

6.3 On Institutions and Property Rights

Access to credit can be a critical factor in obtaining land, even in a developing country such as Nigeria. Since the proposed policy hinges on the poor’s ability to use his/her title as collateral for loans from banks, the survey sought to obtain information on the “informal” and “formal” means of obtaining credit. Participants were instructed to choose all the answers that were applicable to them from a list of formal and informal credit institutions. The formal credit institution listed was “bank”, while the informal institutions are “Esusu/tribal society”, “money lender” and “family members.”

Tribal societies are colloquially referred to in Nigeria as “meeting.” In addition to being a forum for socialization, these meetings also act as safety nets to members in times of financial difficulties. See Table 6.6 for a summary of the different methods used by the respondents to access credit.

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388“Esusu” is a rotating savings and loan scheme. Members to the scheme contribute a set amount of money either on a daily, weekly or monthly to a “pot” which is kept by a member of the scheme. Each member takes it in turn to receive the whole “pot” until every member has had a turn.
Table 6.6: Respondents Access to Credit

<table>
<thead>
<tr>
<th>Choice of Credit Facility</th>
<th>f</th>
<th>Percentage</th>
</tr>
</thead>
<tbody>
<tr>
<td>Bank</td>
<td>144</td>
<td>59%</td>
</tr>
<tr>
<td>Money Lender</td>
<td>9</td>
<td>4%</td>
</tr>
<tr>
<td>Esusu/tribal society</td>
<td>99</td>
<td>40%</td>
</tr>
<tr>
<td>Family Members</td>
<td>141</td>
<td>58%</td>
</tr>
</tbody>
</table>

A further attempt to find out how respondents access credit was created by asking respondents if they receive money from friends or relatives who live outside of Benin. Respondents were instructed to check all the answers that were applicable for requiring these funds. Overall, 34% of the surveyed respondents receive money from friends and families who live outside the city. See Table 6.7 for a summary.

Table 6.7: Respondents Receives Money and Reasons for Receiving Money

<table>
<thead>
<tr>
<th>Respondent receives money from friends/families</th>
<th>Yes</th>
<th>No</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>83</td>
<td>159</td>
</tr>
<tr>
<td></td>
<td>34%</td>
<td>65%</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Respondent’s reason for receiving money</th>
<th>Unemployment</th>
<th>Weddings</th>
<th>Burial</th>
<th>Illness</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>14</td>
<td>22</td>
<td>25</td>
<td>38</td>
</tr>
<tr>
<td></td>
<td>6%</td>
<td>9%</td>
<td>10%</td>
<td>16%</td>
</tr>
</tbody>
</table>

Respondents were additionally asked if they sent money to friends and families who live outside of Benin City. Respondents were instructed to check all the reasons that were applicable for sending these funds. 56% of the surveyed respondents sent money to friends and families who live outside the city. See Table 6.8 for a summary.
Table 6.8: Respondents Sends Money and Reasons for Sending Money

<table>
<thead>
<tr>
<th>Respondent sends money to friends/family</th>
<th>Yes</th>
<th>No</th>
<th>56%</th>
<th>44%</th>
</tr>
</thead>
<tbody>
<tr>
<td>Yes</td>
<td>136</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>No</td>
<td>106</td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Respondent’s reason for sending money</th>
<th>Illness</th>
<th>School fees</th>
<th>Village improvement</th>
<th>Weddings</th>
<th>Burial</th>
<th>Build a house</th>
<th>12%</th>
<th>28%</th>
<th>5%</th>
<th>22%</th>
<th>39%</th>
<th>30%</th>
</tr>
</thead>
<tbody>
<tr>
<td>Illness</td>
<td>28</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>12%</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>School fees</td>
<td>68</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>28%</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Village improvement</td>
<td>13</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>5%</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Weddings</td>
<td>53</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>22%</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Burial</td>
<td>95</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>39%</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Build a house</td>
<td>72</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>30%</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

The respondents reasons for either sending money out of Benin City or receiving money from family and friends living outside of the city include unemployment, weddings, school fees, burials, and illness. There was an open category of “other” whereby respondents stated specific reasons for receiving money. Most of the reasons indicated by the respondents who chose the other category was “general help” and to defray the cost of setting up a business.

The Chi-Square test indicates that there is a statistical significance between education, age, income and marital status to choice of bank. See Table 6.9.
Table 6.9: Choice of Bank by Gender, Education, Age, Income and Marital Status

<table>
<thead>
<tr>
<th></th>
<th>Bank</th>
<th>As percent of Total Respondents</th>
<th>N</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Gender</strong></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Male</td>
<td>97</td>
<td>40%</td>
<td>144</td>
</tr>
<tr>
<td>Female</td>
<td>47</td>
<td>19%</td>
<td></td>
</tr>
<tr>
<td><strong>Education</strong></td>
<td></td>
<td></td>
<td>137</td>
</tr>
<tr>
<td>None</td>
<td>9</td>
<td>4%</td>
<td></td>
</tr>
<tr>
<td>Primary</td>
<td>2</td>
<td>1%</td>
<td></td>
</tr>
<tr>
<td>Secondary</td>
<td>12</td>
<td>5%</td>
<td></td>
</tr>
<tr>
<td>Vocational</td>
<td>29</td>
<td>12%</td>
<td></td>
</tr>
<tr>
<td>University</td>
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<td>35%</td>
<td></td>
</tr>
<tr>
<td><strong>Age</strong></td>
<td></td>
<td></td>
<td>144</td>
</tr>
<tr>
<td>18-30</td>
<td>22</td>
<td>9%</td>
<td></td>
</tr>
<tr>
<td>31-40</td>
<td>53</td>
<td>22%</td>
<td></td>
</tr>
<tr>
<td>41-50</td>
<td>54</td>
<td>22%</td>
<td></td>
</tr>
<tr>
<td>51-65</td>
<td>13</td>
<td>5%</td>
<td></td>
</tr>
<tr>
<td>&gt;65</td>
<td>2</td>
<td>1%</td>
<td></td>
</tr>
<tr>
<td><strong>Income</strong></td>
<td></td>
<td></td>
<td>144</td>
</tr>
<tr>
<td>&lt;N3,000</td>
<td>4</td>
<td>2%</td>
<td></td>
</tr>
<tr>
<td>N3,001-N5,000</td>
<td>3</td>
<td>1%</td>
<td></td>
</tr>
<tr>
<td>N5,001-N10,001</td>
<td>12</td>
<td>5%</td>
<td></td>
</tr>
<tr>
<td>&gt;N10,000</td>
<td>125</td>
<td>51%</td>
<td></td>
</tr>
<tr>
<td><strong>Marital Status</strong></td>
<td></td>
<td></td>
<td>144</td>
</tr>
<tr>
<td>Single</td>
<td>21</td>
<td>9%</td>
<td></td>
</tr>
<tr>
<td>Partnered</td>
<td>12</td>
<td>5%</td>
<td></td>
</tr>
<tr>
<td>Married</td>
<td>107</td>
<td>44%</td>
<td></td>
</tr>
<tr>
<td>Separated</td>
<td>3</td>
<td>1%</td>
<td></td>
</tr>
<tr>
<td>Divorced</td>
<td>1</td>
<td>0%</td>
<td></td>
</tr>
</tbody>
</table>

* Significant at p=0.1

6.3.1 Institutional Constraints

Aside from cultural issues in the discussion on using title to land as a means of alleviating poverty, there are also issues of adequate infrastructures that are required for a successful titling program. Both “gate keepers” agreed that the survey industry was very important for a successful titling program. However, according to Peter, a lot of surveyors still used the traditional methods of surveying and surveyors need to be trained.
on more modern techniques. The most important institutional constraint that John identified is that Nigeria is “poorly mapped.” Additionally, the country lacks modern technology tools including Global Positioning Satellites. Funding for the ministries/agencies responsible for land matters, especially at the state and local levels is another constraint identified by John.

Legal institutions also play a critical role in an effective titling program. I wanted to find out from the Chief how land disputes are resolved. I trained as a lawyer in Nigeria, and thought it would be more beneficial to discuss the role of legal institutions in the implementation of land policies with a non-lawyer. When I asked the Chief about the procedure for settling land disputes, he stated that the elders in the family would arbitrate and try to settle the dispute. If the dispute is not resolved by the elders, the dispute is referred to the Oba whose decision is final. Regarding disputes that had arisen due to a fraudulent sale of land, the Chief’s response was “that is why a prospective buyer has to do his homework well. People in the community know the true owners of the land; that is why a buyer has to go through the right channel. On the issue of resolving land disputes through the formal court system, the Chief acknowledged that litigants do go to court to settle land disputes. However, as he puts it:

“It takes years and years. You have to be very rich to do that. Anyway, what good is a court order to you when it cannot be effected. The other party will not let you rest. They will break your blocks and scattered your sand. Many people have been killed because of this. It is best to let the palace (Oba) settle the matter.”
6.3.2 Findings

The findings in this section are that, the institutions required for a successful implementation of land policies are generally lacking in Nigeria. Where institutions exist, they are usually weak and ineffective.

A key institution to a successful titling program is an effective enforcement institution. This study finds that rather than use the western style court system, the respondents preferred to use the indigenous system to settle land disputes.

The titling proposal is premised on the ability of the poor to obtain credit from formal banking institutions. The data indicates that while many of the respondents had formal banking relationships, this relationship was limited to the wealthier respondents. The data also indicates that the majority of the respondents preferred to use the informal institutions for example tribal societies and family members to access credit.

The Chi-Square test indicates that education, age, income and marital status are statistically significant to the use of a banking institution.

6.4 Conclusion

This study explores the cultural effect on a proposed policy to formalize land ownership as a means of alleviating poverty. The data indicates that the phenomenon of burying the dead on residential properties is driven by the culture and tradition of the respondents. The interviewees – 2 public officials and a local chief – were aware of the phenomenon of the dead being buried on residential properties. While acknowledging
that the cemeteries were generally unkempt, all 3 interviewees attributed burial on residential properties to culture. The economic effect of this phenomenon is that with or without title, the land is impaired as collateral for a loan. In addition, burial on residential properties makes it very difficult if not near impossible to sell the land out rightly.

Nearly all of the respondents (91%) agreed that the practice of burying the dead on residential property is derived from cultural influences. 88% of the surveyed individuals also indicated that people do not like being buried in cemeteries because of the unkempt state. It therefore appears that in addition to being a cultural value, the fact that the dead are buried on residential properties may also be driven by a failure of local government to carry out one of its functions of maintaining cemeteries.

Since the proposed policy is addressed at enabling the poor formalize ownership of their landed property, my second research question explores how the poor acquire property rights in land. The literature and interview with two public officials and a local chief indicates that the primary mode of accessing land is through customary law. For the surveyed respondents, their primary mode of accessing land is by private sales. The study finds that women find it just as difficult either under the customary system or the administrative process to obtain land. The study also finds that one requires “connections” to obtain title to land and that the procedure for obtaining such title is cumbersome.

A successful implementation of the titling proposal requires strong, effective administrative, credit and legal institutions. The data indicates that institutions where they exist are usually weak and ineffective. The technology including modern survey
techniques are lacking. On the issues of legal and credit institutions, for the most part, respondents prefer to settle land disputes and access credit through the informal indigenous systems.

In the next chapter, I shall discuss the policy implications of the above findings and suggest some recommendations.
CHAPTER 7

CONCLUSIONS

Over and over again, we have found that when we ignore the way of life of the poor, their values, relationships and culture, we cannot improve even their material condition – James D. Wolfensohn

The challenge of providing secure tenure for the poor in a world of rapid population and urban growth requires an awareness of differing legal cultures and traditions, particularly in postcolonial and pluralist societies - Robert Home and Hilary Lim

In this chapter, I present a summary and conclusions of the major findings of this study. I begin in Section 7.1 by presenting a summary of the major literature I reviewed and connect the literature to my findings. In Section 7.2, I summarize my principal findings and in the following Section 7.3, I connect the literature to my findings and discuss the policy implications of these findings. I also in this section, discuss the limitations of my study and as well as future research possibilities.

Land tenure systems and the ability to hold and use land are vital not only for agricultural production, but land tenure systems also provide for the most part, the only means of livelihood for poor people in third world countries. The discussion on the use of land as a means of poverty alleviation has once again gained prominence with the proclamation of the United Nations Millennium Development Goals which calls for the eradication of poverty by 2015.

Proponents have called for the formalization of land holdings as a means of not only ensuring security of ownership, but as means of obtaining credit from formal financial institutions. In response to this proposal, many third world countries have
called for a reevaluation of their land policies. For example, the EIU cites a key reform of the newly elected Nigerian government as liberalizing the land law to enable poor Nigerian farmers to access credit (see chapter 2, section 2.3.) The proponents of this measure have for the most part ignored any cultural underpinnings, especially in Africa, that may affect the ability to hold or sell land.

My objectives in this study were: (1) to explore whether culture plays any role in land issues in Africa; (2) If culture does play a role, to discuss what effect it has on economic development planning; (3) to explore how the poor acquire property? (4) to discuss the institutional framework affecting land; and (5) to explore how the poor mobilize credit to meet their economic and social needs despite a lack of individualized titling programs.

I planned on achieving the study’s objectives in three ways. First, primary data was collected from a field survey conducted in Benin City, Nigeria. Nigeria was chosen because it is a country made up of several ethnic cleavages with strong traditional attachments. Nigeria also has one of the largest public bureaucracies in Africa. The second way I planned on achieving the study’s objectives was by conducting interviews with two “gate keepers” knowledgeable about land policies at the state and federal levels. These interviews were complemented by interviewing a Benin Chief on cultural issues that pertain to land. Data collected from the field survey was analyzed using descriptive statistics, and inferential statistic analysis to test the relationships between the key variables. In addition, I presented graphical illustrations of the relationships of these variables. Lastly, a substantial amount of secondary data was collected through a
literature review. Where applicable, the data obtained from the literature review was used to corroborate my findings.

7.1 Summary of the Literature Review

My study covers four key fields – sociology, public administration, law and developmental economics. For ease of reference, I divided the literature in these fields into studies on property rights, studies on culture and development, and studies on access to land.

7.1.1 Studies on Property Rights

The chief proponent of the titling policy is Hernando de Soto. De Soto argues that the bed-rock of capital as an economic tool is a rational property law which differentiates and protects rightful ownership. De Soto’s research indicates that very few people in the five third World countries where he conducted his research had valid legal title to their property. He addresses such informal titles as “dead” capital. He cites Cairo as an example of a city with dead capital. De Soto describes Cairo as a city of the dead because in addition to the tomb of the dead, Cairo is made up of dead capital – assets that cannot be used to their fullest (See chapter 4, section 4.1.)

To de Soto, land in the West is used for more productive uses such as “collateral” for mortgage or for other forms of credit unlike what obtains in third world countries.

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where there is no “representational process” of documenting land. Without this representation, the assets of the poor are “dead.” This representational process is what makes the West wealthier than the rest of the world. Therefore as a policy measure, De Soto recommends that governments of third world countries who are seriously considering alleviating poverty in their countries by bringing dead capital, alive follow the process which he describes as ”the discovery strategy” and the “political and legal strategy.” (See chapter 4, section 4.1.) The processes of bringing “dead capital” to live as enumerated by de Soto does not consider any cultural or social strategy.

Several criticisms have been leveled against de Soto’s thesis. Most of the criticisms centers around de Soto’s methodology, his use of imagery to describe the poor and more specifically, the fact that he is promoting formal property systems when such systems have been shown to have negative effects on the poor.\textsuperscript{390}

7.1.2 Institutions

Effective institutions are essential to the thesis of using formalized property rights as a means of property alleviation. Institutions which are considered essential for a successful implementation of the proposed policy include political, credit and legal institutions. While some scholars have argued that these institutions have to be formal, other scholars think that institutions need not always be formal to be effective. To these

\textsuperscript{390} Home and Lim, eds., Demystifying the Mystery of Capital: Land Tenure and Poverty in Africa and the Caribbean.
scholars, informal institutions may influence the type of formal institutions and enforceability of formal laws of a country.

In Nigeria, local governments are the political institution primarily responsible for granting customary rights of occupancy, the resolution of land allocation disputes and the maintenance of cemeteries. The overlap of these functions entrusted to local governments may have negative repercussions for a titling system in Nigeria for several reasons. In the first place, morale is typically low among public servants in Nigeria, and this is especially true at the local government level which is usually underfunded. There is also a lack of trained personnel and the infrastructure to carry out the numerous functions it is entrusted with. (See chapter 3, section 2.2.4)

In Nigeria, as in most African countries, the indigenous societies have their own “traditional political culture” which continues to influence the political, social and economic arena. The influence of the heads of these traditional unit’s spills over from the villages to the highest public bureaucracy. Public office holders who belong to a particular group are expected to use their offices to benefit other members of the group.

As such the ability to be connected to someone in public office in order to obtain services has become an intrinsic part of the governmental process. The conclusion that can be reached regarding public offices in Nigeria and most African states is that “clientelism” is intrinsically linked with the governmental processes. Virtually nothing can be done in the public service without some form of “connections” or relationship with office holders. (See chapter 3, section 3.2.3.) This lack of “connections” essentially means that the poor are almost from the onset barred from accessing land and the title to such land.
Issues of “clietelism” and “prebendalism” are also closely related to the issue of corruption, the bane of Nigeria. People join the public service, not necessarily to serve, but as a means of obtaining “a share of the national cake.” Corruption is so deeply entrenched in Nigeria, that it can be said to be a part of the political and social culture. Corruption also affects the way public institutions are run in Nigeria as well as the processes for obtaining public service. Another factor that has aided the entrenchment of corruption in Nigeria is the discovery of oil. Oil has become more of a curse than a blessing in Nigeria leading to rent seeking and an ever deepening divide between the “haves” and the “haves not.”

The literature indicates that when it comes to formal financial institutions, very few people in Africa have any relationships with financial institutions. The majority of people use cash and where the need for credit arises, most people depend on “informal” means of accessing credit both for household consumption as well as community development projects. While the need for formal credit services may exist, the transaction cost for doing business with the poor is very high. In addition, complementary institutions like credit rating and debt collection agencies do not exist. The banks have no way of ascertaining the credit risks to the poor. The poor themselves do not have repeat dealings with banks and as such have no established credit histories.

Some scholars have argued that western style formal financial institutions are not successful in meeting the financial needs of Africans. This is especially true when it comes to the financial needs of African women who are for the most part illiterate. Most business activities in Africa, according to these scholars are financed through the indigenous system rather than the formal banking institutions. Another way that people
access credit in Africa is through remittances (inflow and outflow of funds from family and friends.) External and internal remittances are a source of credit, not only for poorer relatives and friends, but are also a source of revenue for African governments. The funds received by beneficiaries are usually used for household consumption and community improvements. The World Bank notes that remittances are used by individuals and families to escape poverty. (See chapter 3, section 3.3.)

For a successful titling program, there must exist, an impartial, easily accessible legal system. There must be trained lawyers and judges to enforce the property contracts. There must also be an enforcement mechanism by which orders of the courts are carried out. The ability of the poor to gain access to the formal court system (as opposed to the informal family or traditional dispute resolution system) and for the courts to have the will to hear the case and enforce contracts may be the most important factor for a successful implementation of the proposed policy. (See Chapter 3, section 3.4) Additionally, the judiciary has to be financially independent.

Most judicial systems in African countries are set up to accommodate both the received English law and the indigenous customary law. It appears though, that the customary laws are usually considered inferior to the received western law. The reluctance of the government to place the customary laws on the same footing as the received English laws, may have negative consequences for any titling system. The indications are that the communities are more likely to enforce orders through societal pressures and coercion.
7.1.3 Studies on Culture and Development

There are varying definitions of culture. This study agrees with Gyeke’s definition of culture as being a product that has been handed down by previous generations, but subsequent generations can decide whether or not to accept that product in whole or in part.\(^{391}\) (See chapter 4, section 4.1.2.)

There are also widely varying opinions in the literature as to the effect culture has on economic development. Some scholars opine that not all cultures are worth preserving because not all culture can lead to high material productivity. These cultures that do not lead to economic development have been termed “toxic culture.” (See chapter 4, section 4.2.1)

Others have taken issue with the terminology of “toxic culture” and state that if these so called “toxic culture” are not evaluated, they can derail development programs. An example of such lack of an examination of culture in economic planning is the US$3 billion Highland Water project between Lesotho and South Africa. In that situation, the inhabitants “culture of pre-born and after births” was not evaluated and the project almost failed. (See chapter 4, section 4.4.1.)

It appears that within the social sciences, some African scholars regard the labeling of African culture and personality as part of the Western propaganda to suppress and dominate Africans. Other scholars see African culture and personality as “cultural maladaptation” which has led to continued underdevelopment within the continent. (See chapter 4, section 4.2)

Interestingly, the World Bank has recently started paying more attention on culture as a factor in developmental program planning. For example, in his opening Keynote Address at a conference held in Italy in 1999, *Culture Counts: Financing, Resources, and the Economics of Culture in Sustainable Development*, the former World Bank President, James Wolfensohn stated that:

“We are here today because development particularly alleviating poverty and enabling a strong civic culture cannot be successful without understanding and responding to people's values, traditions, social relationships and preserving the heritage that has meaning for them.”

In this study, I discussed certain cultural features affecting land in Africa. These features are by no means exhaustive, but they provide a starting point in investigating the role culture plays in the analysis of property rights as a factor for economic development. One of these cultural features is the phenomenon of burying the dead on residential properties. African societies have been described as having certain “givens” or “primordial attachments” which are based on blood ties, kinship, and custom among others. A “primordial attachment” that exists with respect to property may be found in the burial customs in Africa. From East Africa to West Africa, it is customary for the first son to bury deceased parents and for the property on which the deceased parents are buried not to be sold, even in times of dire need. It also appears to be a cultural reality for the first son to inherit the deceased parents landed property to the exclusion of the other children of the deceased. (See chapter 4, section 4.2.2) The inability of the other
siblings to inherit means that for those siblings, formalization of land rights is not a means of alleviating poverty.

The other cultural feature that is discussed in this study concerns the rights and abilities of women to own landed property. While the literature indicates that most people continue to access land primarily through the customary system and not the administrative system, it appears that this is not the case for African women. The literature is fraught with discourse on the inability of African women to access property rights. Human Rights Watch notes that most women in Africa are excluded from inheriting or owning land and are discriminated against by customary laws and civil laws. Some scholars insist that the process of “feminization” of poverty is further assisted by customary law, under which women are not allowed to own landed property. The literature also indicates that the African woman’s ability to access land under the administrative system is no better than under the customary system. Only a limited number of land titles are registered in women’s names. (See chapter 4, section 4.2.2.)

Another situation where the rights of African women to landed property may be negatively affected is with regards to the type of marriage she contracts. For example, it appears from the literature and case law in Nigeria that a woman’s right to property is more negatively impacted if the marriage was contracted under customary law than if the marriage was contracted under statutory law. Scholars have noted that in Nigeria under the Married Women’s Property Act, a woman married under statutory law may have a right to a portion of her deceased husband’s property, however, she must produce documentary evidence of her financial contributions to the property during the marriage. It appears from the literature, that, a source of accessing land by a woman is through
inheritance of a portion of her deceased father’s land. In Nigeria, some indigenous communities allow a daughter of the deceased to inherit a portion, but the widow or a divorced wife cannot.

7.1.4 Studies on Access to Land

The issues of land tenure and land reforms in Africa are very complex, polarizing and highly politicized. Clearly, as an economic and social asset, land affects livelihoods whether for poor rural families engaged in subsistence farming, the urban poor, or as part of a broader national development agenda proposed by government. The reality of land tenure systems in operation in a lot of African countries is a dual system based on the foreign system received through colonization and the traditional indigenous system. (See chapter 4, section 4.3.1)

One factor that can shed some light on the issue of formalization of property rights in Africa is the attitude of Africans towards land. One can assert that there is a difference in attitude toward land between Africans and their Western counterparts. While the Westerner views land as a commodity to be bought and sold, which is why de Soto can describe land in the West as having a parallel life. Africans on the other hand have a spiritual and religious attachment to the land.

Access to land under the customary system is based on family lineage or “social identity” with that community. This customary method of land acquisition is generally viewed as being informal since there is usually no document evidencing the transaction. Another characteristic of the customary land system is that families to whom land is
allotted only have “usufructuary rights” in the land. The customary system of land rights in Africa is best described by the court in the case of *Amodu Tijani* as belonging to the community, the village or the family, but never to the individual. (See chapter 4, section 4.3.2)

The second method of land acquisition in Africa is patterned more on the western concept of individual ownership. This method bases ownership and access to land on the bureaucratic apparatus of the state and a piece of paper evidencing ownership. This second method or variants of it is viewed as being formal and conducive to development.

Kenya and Nigeria provide prime examples of administrative access to land by individualization as in the case of Kenya or by nationalization as in the case of Nigeria. In Africa, the administrative distribution of land and recording or titling of such land is usually implemented by public officials who have wide discretions regarding the implementation of land policies. The literature indicates that in Nigeria for example, public officials have usually applied the land law to the benefit of the wealthier class to the exclusion of the rural and urban poor. Studies have also found that the benefit to the poor of nationalizing land has been minimal at best.

There is nothing new about de Soto’s proposal of linking individualized land title to wealth creation. This idea of individualized title has been applied in Africa and did not appear to work. The indication from the literature is that land especially in rural communities in Africa that access to land continues to be dictated by custom and tradition even in countries where land has been nationalized. Studies have shown that only a small number of title holders have used their title to secure loans. Studies have also shown that in spite of the lack of formal title, transactions in land still occur. In such situations, the
land is regulated by informal social structures and hardly ever by formal official structures charged with the regulation of land issues.

7.1.5 Conclusion

The literature indicates that in Africa, burying the dead on residential properties is a cultural phenomenon. N. W. Thomas writing almost a hundred years ago observed this phenomenon in Benin City. The ability of the first son to bury his father, effectively ensures that the first son inherits the landed property. Culture however, demands that the land where the parents are buried cannot be sold. The “dead” property therefore becomes impaired as collateral for a bank loan with or without title.

The literature also indicates that the refusal to evaluate local customs and traditions may have a disastrous effect on development programs. This is evidenced by the “culture of pre-born and after births” of the Basuto’s in the Highland Water Project. In my opinion, the policy proposal being discussed does not reflect or respect the cultural norms of the stakeholders. Such a policy that is not culturally grounded will not succeed and as such cannot be used to alleviate poverty.

The policy proposal for the formalization of property rights in Africa, rests on two key assumptions. One assumption is that the institutional framework for such a policy exists. These institutions at a minimum are, the administrative apparatus as well as the technology to implement the policy; an impartial judiciary to enforce the property contracts; and formal credit institutions to lend money. The literature indicates, on the
contrary, that these institutions do not exist or that where they do exist, they are very weak.

The literature also indicates that “connections” is a required ingredient for obtaining services. The poor however, do not have the necessary “connections” to access the administrative apparatus. In addition, the poor do not have the funds to obtain legal services. When it comes to obtaining credit, the poor do not have banking relationships with the formal credit institutions. The banks on the other hand, have little or no information on prospective clients as there are no credit rating institutions. In addition, the transaction costs for dealing with the poor is high. Since they do not have banking relationships, the proposed policy is unlikely to benefit the majority of poor people.

The second key assumption of the proposed policy is that the poor own their property. However, the literature indicates that this is not necessarily true. While more males can access land through the customary system, women are in double jeopardy. They are discriminated against when it comes to land acquisition both by customary law as well as civil law. The discrimination faced by women is best summarized by one of the women in the literature who said “Land is not for us women, whether you are married or not. In your father’s home you do not have inheritance, especially land, it is only accumulated for your brothers, and in your home with your husband the property is his and the inheritance goes to his son. When he dies, no matter whether you are still alive, you know that after his death you lose the ownership and control of property.” (See chapter 4, section 4.2.2.)

The literature therefore supports my argument that the discussion should not only be about titling of land, but it should also include a discussion on the ability of the poor
especially women to access land. In the following subsection, I follow up on this argument with the findings of the study.

### 7.2 Summary of Principal Indications from the Study

Table 7.1 presents the variables used in the analysis and a summary of the findings. As illustrated by Table 7.1, the statistical analysis indicates that in most cases, the key independent variables – gender, age, income, education and marital statues were statistically significant to the dependent variables – preference for burial; method of accessing of land; and access to formal banks.

<table>
<thead>
<tr>
<th>Independent variables used for Analysis</th>
<th>Dependent Variable</th>
<th>Significance</th>
</tr>
</thead>
<tbody>
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<td><strong>Culture – Preference for Burial</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Gender</td>
<td></td>
<td>+</td>
</tr>
<tr>
<td>Education</td>
<td></td>
<td>**</td>
</tr>
<tr>
<td>Age</td>
<td></td>
<td>+</td>
</tr>
<tr>
<td>Income</td>
<td></td>
<td>+</td>
</tr>
<tr>
<td>Marital Status</td>
<td></td>
<td>+</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th><strong>Access to Land – Method by Which Land is Acquired</strong></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Gender</td>
<td>+</td>
</tr>
<tr>
<td>Education</td>
<td>+</td>
</tr>
<tr>
<td>Age</td>
<td>+</td>
</tr>
<tr>
<td>Income</td>
<td>+</td>
</tr>
<tr>
<td>Marital Status</td>
<td>+</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th><strong>Access to Formal Credit – Bank</strong></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Gender</td>
<td>**</td>
</tr>
<tr>
<td>Education</td>
<td>+</td>
</tr>
<tr>
<td>Age</td>
<td>+</td>
</tr>
<tr>
<td>Income</td>
<td>+</td>
</tr>
<tr>
<td>Marital Status</td>
<td>+</td>
</tr>
</tbody>
</table>

* Significant at p=0.1
** Not significant
On the issue of where the dead are buried, the respondents who had deceased parents, indicated that, 17% were buried in the cemetery, while an overwhelming 42% of respondents stated that their parents were buried on residential properties. Regarding their choice of a burial site, 35% of respondents indicated a cemetery, while 49% indicated they would prefer to be buried in the house. The results of this study showed that a majority of the respondent’s choice of a burial site was due to their culture or tradition. This study also showed that an overwhelming 91% of respondent agreed that the practice of burying the deceased in houses is dictated by culture and custom. The finding of this study therefore supports the contention that the phenomenon of burying the dead on residential properties is a cultural value of the stakeholders.

The study also considered the variables gender, education, age, income and marital status against the dependent variable, preference for burial location. The result of the study indicates that those respondents in the 18 – 30 age category prefer to be buried in the cemetery, as opposed to the older respondents who chose the house. Thus this finding confirms Gyekye’s definition of culture being reappraised by the latter generation. (See chapter 4, section 4.1.2.) It appears that the younger generations in the study are reappraising the “inherited cultural traditions” of being buried on residential property by preferring to be buried in cemetery. In order to deal with current economic realities, these younger generations (“bad boys” according to one interviewee) are exhuming their parents for reburial elsewhere in order to sell the land.

The results of the study also indicate that in addition to age, that there is a significant relation between the variables gender, income and marital status to the culture of being buried on residential properties. Education was found to be the only non-
significant variable. In other words, how educated a person is, does not affect his/her burial preference. This reinforces my point about the pervasiveness of culture.

On the issue of access land, the study finds that, 53% of the respondents had land that they personally acquired. The majority of the respondents (46%) who had personally acquired land acquired such land by private sale. This result differs from the literature, where it was found that the majority of land holders obtain their land through customary access. Regarding the ability of women to access land, an overwhelming 88% of respondents agreed that it was more difficult for women to access land. This finding is in line with the literature.

The Chi square test result indicates that the differences between males and females in terms of their abilities to access land (method acquired) is statistically significant. This leads to the conclusion that it is more difficult for women to acquire land. The study indicates that the relationship between education, age, income and marital status are statistically significant to the method by which land is acquired.

Most of the respondents (52%) were not familiar with the Land Use Act which is the federal law that controls the acquisition and disposition of land. A majority of the respondents (57%) agreed that the procedure for obtaining title is cumbersome. This finding is in line with the literature on obtaining title to land in Nigeria. The study also indicates that “connections” is required to obtain title to land.

The proposed titling policy is grounded on the ability of the poor to obtain credit from formal institutions by using their titles as collateral for a loan. This study indicates that a majority (58%) of respondents belongs to their tribal society and as such could access credit through such associations without requiring a banking relationship. The
study also shows that respondents also accessed credit through family members and friends by way of remittances. These remittances are used for capital intensive projects like weddings, funerals, building houses and payment of school fees. While many of the respondents indicated that they had banking relationships, this was limited to the wealthier respondents in the study.

Prior research in Africa indicates that titling of land does not improve access to credit for the poor. This study shows that while 40% of males had relationships with bank compared to 19% of females, the Chi-Square test indicate that this relationship is not significant.

7.3 Policy Recommendations and the Way Forward

My goal in this study was to study a recent policy proposal that as a way of alleviating poverty third world countries should establish formal titling systems which would enable the poor access credit. The study met the objectives of exploring whether culture plays any role in land issues in Africa; the effect culture has on economic development planning; how the poor acquire property; the institutional framework affecting land; and how the poor mobilize credit to meet their economic and social needs despite a lack of widespread titling. As I stated earlier on in the study, my aim is not suggest that African cultural values are in any way inimical to economic development. Rather, my aim is to explore cultural realities and to draw policy recommendations consistent with my findings.
The study finds that “culture matters.” De Soto recommends that governments of Third World countries who are serious about alleviating poverty by bringing dead capital alive should have a “Discovery Strategy” and a “Political and Legal Strategy.” This study finds that in addition to the two strategies enumerated by de Soto, there should also be a “Cultural Strategy”.

The cultural value of burying the dead on residential properties can inhibit the optimal use of land. Government can address this problem by adequately funding local governments to carry out their constitutionally assigned functions. The study also finds that women continue to bear the brunt of poverty with neither the education, nor the land to alleviate poverty. Culture aids in suppressing the rights of women to own land. In addition, women find it just as hard to access land through the administrative system.

Serious policy reforms as well as programs directly targeted at women are crucial in order to reduce the incidence of “feminization of poverty.” Poverty Alleviation Programs should include at a minimum, providing formal education to women and providing women with the ability to access credit in the form of micro finance. Laws and statutes referring to and deeming women “property” should be repealed. Women should be provided with the ability to access a transparent judicial system. Finally, there should be an increase awareness of the rights of women under the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW).

Not only does “culture matter”, institutions also do matter. As aptly stated by Yeager, “….If the country lacks institutional infrastructure at all levels, no government,
no matter if it is democratic, can be effective in carrying out public policy.”\cite{Yeager2000} As stated elsewhere in this study, property rights institutions in Nigeria are either lacking or weak. It is obvious from the foregoing description of the institutional framework of Nigeria, that serious reforms are still required in all areas. A politically stable and transparent government is crucial. Strong interest groups willing to call for and press for changes are required. As the World Bank states, “Sometimes, policymakers wishing to embark on reforms may have to create new institutions rather than modify existing ones.”\cite{WorldBank2002} The government of Nigeria would need to decide on whether to create entirely new institutions for titling land or to modify the existing institutions.

There should be a strengthening of local informal institutions as well as the staffing and funding of local government. Alongside this, should be the education of surveyors and other technocrats that would be required to implement the policy. A titling program also requires effective technology including mapping softwares and satellite systems. While credit institutions are weak, it is expected that with continuing reforms, education and outreach, the prospects are high for the use of these institutions.

### 7.4 Areas For Future Research

While the research design and modifications I use are by themselves novel, there are several limitations. The first limitation is the paucity of data. It is generally very difficult

\footnote{Yeager, \textit{Institutions, Transition Economies, and Economic Development}.}

\footnote{World Development Report 2002.}
obtaining statistical and economic data on Nigeria, and where such information is available they cannot be readily verified.

The second limitation is the sample size. It is easier to generalize with a larger sample size. The primary data for this study was obtained from voluntary self administered survey. Since the sample size is small (243) compared to the 1991 estimated population of Benin City (762,700), it is possible that the survey results may only be representative of the respondents who voluntarily chose to participate. However, the findings of this study provide valuable insight, as to the role cultural factors play in economic development.

As is the case in most inter disciplinary studies, trying to fit four major disciplines, that is, sociology, law, public administration and development economics into one research study made it very difficult for me to provide an in-depth analysis of any one of these fields. Additionally, the cultural features discussed are by no means exhaustive. Although, these features provide a starting point in investigating the role culture plays in the analysis of property rights as a factor for economic development, more in-depth study is required of other African cultures affecting land.

This study does not also take into account land allocation patterns in all 36 Nigerian states. Studies have been conducted in two northern Nigerian states, however, this research was done over twenty years ago. Although still relevant, more current studies is required to ascertain the land allocation patterns and bureaucratic processes in Nigeria.
An indicated by this study, most people prefer to access credit through remittances from family and friends. Future studies on remittance patterns and ways and means of coordinating the informal and formal credit markets is required.

7.5 Conclusions

While I am not against the titling policy, this study shows that for policy makers intent on reforming land policies along the line of individualized title, a “one size fits all” approach cannot be utilized. Policy makers must evaluate local institutions (both formal and informal) as well as cultural norms and traditions in the design, formulation and implementation of such a policy.

Land reforms in Africa, especially in Nigeria have not necessarily benefited the poor. This study, like other studies find that the procedure and processes for obtaining individual titles to land are cumbersome. For the proposed policy to be successful, cultural values have to be evaluated and bureaucratic red tapes must be minimized.

Individual titling have to be harmonized with customary land tenure. A way of harmonizing these two systems may include registration of customary rights at the village level with the traditional and family heads as trustees.
REFERENCES


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APPENDICES

APPENDIX A – Survey Instrument

Please state your Street location in Benin ________________

Thank you for participating in this survey. Your participation is entirely voluntary. Please do not include your name. All questions contained in this questionnaire are strictly confidential.

**DEMOGRAPHIC INFORMATION**

1. **Sex of the respondent**
   - [ ] Male
   - [ ] Female

2. **Marital status:**
   - [ ] Single
   - [ ] Partnered
   - [ ] Married
   - [ ] Separated

3. **If married, what type of marriage best describes your form of marriage**
   - [ ] Mutual Consent
   - [ ] Customary
   - [ ] Customary and Registry
   - [ ] Customary and Church
   - [ ] Other (Specify) ___________________

4. **Are you between the ages of:**
   - [ ] 18-30
   - [ ] 31-40
   - [ ] 41-50
   - [ ] 51-65
   - [ ] Above 65

5. **If you have any of the listed, please state the total number that you have**
   - Television _____
   - Electric Fan _____
   - Radio _____
   - Tape Recorder _____
   - Air Conditioner _____
   - Refrigerator _____
   - Sewing machine _____
   - Car _____
   - Bicycle _____
   - Motorcycle ______
   - Wrist Watch ______
   - Beds ______
   - Clock _____
   - Camera______

6. **Is your monthly income in Naira**
   - [ ] Less than N3,000 a month
   - [ ] Between N3,001 to N5,000 a month
   - [ ] Between N5,001 to N10,000 a month
   - [ ] Above N10,000

7. **State the highest level of education you have completed**
   - Type of School ___________
   - Year in that school_________
   - Highest certificate/diploma ___________

8. **Are you currently employed?**
   - [ ] Yes
   - [ ] No

   (a) If employed what is your occupation (position and activity)? ____________________________

   (b) Do you think it is difficult to get a job without “connections”
   - [ ] Yes
   - [ ] No
9. Where were you, your mother and your father born?

You __________________  Mother __________________  Father ______________

10. What ethnic group do you feel you belong to? ____________________________________________

11. If you are not Bini, do you plan on returning permanently to your “home town” someday?

☐ Yes  ☐ No  ☐ Not Sure

**CULTURE AND LAND ISSUES**

<table>
<thead>
<tr>
<th>Are your parents still living?</th>
<th>Your Mother</th>
<th>Your Father</th>
</tr>
</thead>
<tbody>
<tr>
<td>☐ Living at place of origin</td>
<td>☐ Living at place of origin</td>
<td></td>
</tr>
<tr>
<td>☐ Living in this city</td>
<td>☐ Living in this city</td>
<td></td>
</tr>
<tr>
<td>☐ Elsewhere not place of origin</td>
<td>☐ Elsewhere not place of origin</td>
<td></td>
</tr>
<tr>
<td>☐ Deceased</td>
<td>☐ Deceased</td>
<td></td>
</tr>
</tbody>
</table>

13. If your parents are deceased, are they

☐ Buried in cemetery  ☐ Buried in their homes

14. What type of house do you presently reside in?

☐ Roomy house (“face me I face you”)  ☐ Family compound house

☐ Duplex apartment  ☐ Flat apartment

☐ Non duplex or Bungalow

15. What would you estimate the age of the house to be?


16. Do you have any land you personally acquired?

☐ Yes  ☐ No

17. If Yes, was this land acquired:

☐ Under customary law  ☐ Government allocation

☐ Outright sale from a seller  ☐ Other ________________________

18. Do you own any house in Benin or elsewhere?

☐ Yes  ☐ No
19. If you own a house, would you rather be buried
   [ ] in the cemetery – why
   [ ] in the house – why

20. Is there any body buried on the property you presently reside?  [ ] Yes  [ ] No

21. The practice of burying people in their houses is dictated by customs and culture.
   [ ] Strongly Agree  [ ] Somewhat Agree  [ ] Somewhat Disagree  [ ] Strongly Disagree

22. People do not like to bury in the cemeteries because the cemeteries are in disrepair
   [ ] Strongly Agree  [ ] Somewhat Agree  [ ] Somewhat Disagree  [ ] Strongly Disagree

23. It is more difficult for women in general and widows in particular to obtain land
   [ ] Strongly Agree  [ ] Somewhat Agree  [ ] Somewhat Disagree  [ ] Strongly Disagree

24. Are you familiar with the Land Use Act 1979?
   [ ] Yes  [ ] No  [ ] Not sure

26. The procedure for obtaining a certificate of occupancy is very cumbersome and tedious
   [ ] Strongly Agree  [ ] Somewhat Agree  [ ] Neutral  [ ] Somewhat disagree  [ ] Strongly disagree

27. Do you think it is difficult to obtain land in Benin?  [ ] Yes  [ ] No

28. Do you think you require “connections” to get a piece of property in Benin?  [ ] Yes  [ ] No

29. Do you think you require “connections” to obtain a certificate of occupancy?  [ ] Yes  [ ] No

30. Would you support a plan to revise the land registration process?  [ ] Yes  [ ] No

   If YES, why ________________________________________________________________

   If NO, why ________________________________________________________________
### ACCESS TO CREDIT

**31. Do you belong to your tribal society ("meeting") in this city?**  
- ☐ Yes  
- ☐ No

**32. Which of the following do you use? Check all that is applicable**  
- ☐ bank  
- ☐ money lender  
- ☐ Esusu or tribal society  
- ☐ Family members

**33. Do you receive money from friends or relatives who live outside of Benin?**  
- ☐ Yes  
- ☐ No  

**If YES - why was it necessary? Check all that is applicable**  
- ☐ Unemployment  
- ☐ Weddings  
- ☐ Burials  
- ☐ Illness  
- ☐ Other, please specify ___________

**34. Do you send money out of Benin to friends or relatives?**  
- ☐ Yes  
- ☐ No  

**If YES, why was this money sent? Check all that is applicable**  
- ☐ Illness  
- ☐ School fees  
- ☐ Village improvement  
- ☐ Weddings  
- ☐ Burial  
- ☐ To build a house
APPENDIX B State Official Questionnaire

A. Background Information
1. What is/was your title and primary function/responsibility?
2. What is your educational background?
3. What is your current occupation?

B. Administrative
1. What is the process for obtaining title to residential plots in Benin?
2. Who are the members of the allocation committee?
3. Who designates the members?
4. What are the functions of the allocation committee?
5. How often does committee meet/How many land use and allocation committee meetings
6. What is the process for applying for a certificate of occupancy?
7. Are there any financial requirements/Breakdown of charges and fees?
8. Who makes the final award?
9. Can the governor be petitioned directly by an applicant?
10. How many customary rights of occupancy applications have been processed?
11. How many statutory rights of occupancy have been granted?
12. How many have converted from customary to statutory rights of occupancy?
13. What are the advantages of the present Land Allocation Practice in Benin?
14. What are the disadvantages of the present Land Allocation Practice in Benin?
15. What are the financial/administrative costs for formal land titling program?
16. Do you think you require “connections” to get a piece of property in Benin?
17. Do you think you require “connections” to obtain a certificate of occupancy?
18. Would you support a plan to revise the land registration process?
   If yes: ___________________________
   If No: ___________________________

C. Institutional Arrangement
1. What types of institutions will be needed?
2. How are land disputes settled? Are there any issues of enforcement?
3. How many licensed surveyors are there in Benin?
4. Are there any survey standards (survey precision)?

D. Cultural Values
1. Do you think that there are any cultural values inhibiting land policy in Benin?
   Please elaborate
2. Are you aware that people are buried on residential plots?
3. Why do you think this is done?
4. Is any approval required before this can be done? If yes, from who?
5. What agency/dept is in charge of cemeteries?
6. What roles if any do NGO’s/other interest groups play in land issues?
7. Do women find it harder to obtain land?
8. What are alternative approaches to advancing the interests of the poor?
9. Would you say that under our customary law that some people may be excluded from owning land?

10. Would you say that under the Land Use Act, some people may be excluded from owning land?

11. Are there gender differences in the ability to obtain land either customarily or under the Land Use Act?
APPENDIX C Former Federal Official Questionnaire

A. Background Information
1. What is/was your title and primary function/responsibility?
2. What is your educational background?
3. What is your current occupation?

B. Administrative
1. Generally, what is/are the procedure(s) for obtaining land in Nigeria?
2. What is the procedure for obtaining title to that land?
3. What are the financial requirements (if any)?
4. What are the advantages of the present Land Allocation Practice?
5. What are the disadvantages of the present Land Allocation Practice?
6. Do you think the present procedure for obtaining title to land is cumbersome?
7. Do you think there is a relationship (negative or positive) between the customary way of obtaining land and the land use decree?
8. Would you say that under our customary law that some people may be excluded from owning land?
9. Would you say that under the Land Use Act, some people may be excluded from owning land?
10. Are there gender differences in the ability to obtain land either customarily or under the Land Use Act?
11. Do you think you require “connections” to obtain a piece of property in Nigeria?
12. Do you think you require “connections” to obtain a certificate of occupancy?

13. Would you support a plan to revise the land registration process?
   If yes: ___________________________
   If No: ___________________________

C. Institutional Arrangement

1. What types of institutions will be needed if we are to formalize property ownership in Nigeria? What about enforcement costs?

2. What are the financial/administrative costs for formal land titling program?

3. How many licensed surveyors are there in Nigeria?

4. Are there any survey standards (survey precision)?

D. Cultural Values

1. Do you think that there are any cultural values inhibiting land policy in Nigeria?
   Please elaborate

2. Are you aware that people are buried on residential plots?

3. Why do you think this is done?

4. Is any approval required before this can be done? If yes, from who?

5. What agency/dept is in charge of cemeteries?

6. What roles if any do NGO’s/other interest groups play in land issues

7. Do you think that NGO’s and other interest groups can play a better role in land issues?

8. What other cultural factors do you think inhibits the optimal use of land in Nigeria?

9. Are there any alternative approaches in advancing the interests of the poor?
APPENDIX D - Local Chief Questionnaire

A. Background Information

1. What is your title and primary function/responsibility?
2. What is your educational background?
3. What you consider are the most important traditional values of the Benin’s?
4. Please elaborate on the traditional burial ceremony of the Benin’s

B. Cultural Values

1. Do you think that there are any cultural values inhibiting land policy in Nigeria?
   Please elaborate
2. Are you aware that people are buried on residential properties?
3. Why do you think this is done?
4. Is any approval required before this can be done? If yes, from who?
5. What agency/dept is in charge of cemeteries?
6. What other cultural factors do you think inhibits the optimal use of land in Nigeria?
7. How are land disputes resolved in Benin City?
8. What roles if any do NGO’s/other interest groups play in land issues?
9. Do you think that NGO’s and other interest groups can play a better role in land issues?
10. Are there any alternative approaches in advancing the interests of the poor?
B. **Administrative**

1. Generally, what is the procedure for obtaining land in Benin?
2. What is the procedure for obtaining title to that land?
4. What are the advantages of the present Land Allocation Practice?
5. What are the disadvantages of the present Land Allocation Practice?
6. Do you think the present procedure for obtaining title to land is cumbersome?
7. Do you think there is a relationship (negative or positive) between the customary way of obtaining land and the land use decree?
8. Would you say that under our customary law that some people may be excluded from owning land?
9. Would you say that under the Land Use Act, some people may be excluded from owning land?
10. Are there gender differences in the ability to obtain land either customarily or under the Land Use Act?
11. Do you think you require “connections” to obtain a piece of property in Nigeria?
12. Do you think you require “connections” to obtain a certificate of occupancy?
13. Would you support a plan to revise the land registration process?
   - If yes: ___________________________
   - If No: ___________________________